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A fortiori arguments in halachic give-and-take conversations in the Mishnah and Tosefta

Abstract

In halachic give-and-take conversations in the Mishnah and Tosefta, the sages-interlocutors use the *a fortiori* (*qal-vaxomer*) arguments. Following the previous description of *a fortiori* arguments that appear in the halachic give-and-take conversations in the Mishnah (Shemesh-Raiskin 2019, pp. 132–164), this article presents a corresponding description of those arguments in the Tosefta.

Chapter 2 presents the inventory of arguments in both compilations. In the various sections of Chapter 3 the discourse features of the arguments are described: elements that precede the *a fortiori* arguments (3.1), additions to the *a fortiori* arguments (3.2), responses to the arguments (3.3), and additions that appear after the arguments (3.4). In general, it was found that these elements are used more in the Tosefta than in the Mishnah. Chapter 4 presents the syntactic patterns of the *a fortiori* arguments in the halachic give-and-take conversations in the Mishnah and Tosefta. From the patterns which were found by Azar (1991) in his article about the *a fortiori* arguments in the Mishnah, the most frequent pattern in the arguments in both compilations is $\text{אם} + \text{ו} + \text{אִינּוֹ} + \text{מִ} + \text{אִם} + \text{לֹא} + \text{יִפְעַל}$ ($[= (\text{and}) \text{ what if} + S1 + \text{is it not logical} + \text{that-}S2]$), whereas the pattern $\text{אִם} + \text{ו} + \text{אִינּוֹ} + \text{מִ} + \text{אִם} + \text{לֹא} + \text{יִפְעַל}$ ($[= (\text{what}) \text{ if} + S1 (\text{positive}) + S2 (\text{negative: no} + \text{Yif'al})]$) is frequent only in the Mishnah. Another structure that appears in both compilations, is used to reject arguments, and is the most frequent of all the structures – $\text{אִם} + \text{ו} + \text{אִינּוֹ} + \text{מִ} + \text{אִם} + \text{לֹא} + \text{יִפְעַל}$ ($[= \text{No, if you (sing./pl.) have said in} + NP1 + \text{that-}S1 + \text{will you (sing./pl.) say in} + NP2 + \text{that-}S2]$).

Keywords

A fortiori arguments, *qal-vaxomer* arguments, halachic give-and-take conversations, Mishnah, Tosefta, discourse analysis, syntax, syntactic patterns, pragmatics.

1. Introduction

A fortiori (*qal-vaxomer*) arguments are a persuasive rhetorical technique used by an addressor to persuade an addressee by means of logic. *A fortiori* arguments belong to the area of argumentative-logical rhetoric. Azar (1991) characterizes the *a fortiori* statement as an illocutionary speech act (i.e. an act performed by the addressor), and defines it as follows:¹

A statement that is analogical to the logical statement, whereby if a statement **necessarily** gives rise to another statement, it is impossible for the first statement to be true and the second false. The first statement, which gives rise to a second statement, is a ‘stronger’ statement than the second one, and consequently, if the first is true, the second statement – the ‘weaker’ one – is also true (p. 8, originally in Hebrew).

A fortiori arguments can be found in various languages, including Hebrew, starting with biblical Hebrew. They are discussed in the research literature from various aspects, especially logical and rhetorical ones.²

Halachic give-and-take conversations in the Mishnah and Tosefta are conversations held among sages that deal with halachic subjects. In these conversations, the sages-interlocutors use the *a fortiori* techniques in their arguments. A description of *a fortiori* arguments appears in my book (Shemesh-Raiskin 2019, pp. 132–164), and includes a presentation of the inventory of all these arguments in the halachic give-and-take conversations in the Mishnah, as well as a discussion of their discourse features and syntactic structures.

This article will describe the *a fortiori* argument in the Tosefta, another text of a halachic nature similar to that of the Mishnah written in Tannaitic language. This description will include aspects similar to those included in the description of the *a fortiori* arguments in the Mishnah, and thus serves as a continuation of the previous description. In addition, a comparison will be drawn between the findings in the Tosefta and those in the Mishnah for various aspects of the description. This comparison may further contribute to the general discussion regarding the relationship between the Mishnah and the Tosefta, although this general question will not be addressed in the context of this article.³

¹ See similar definitions in various researchers, such as: Jacobs 1972, p. 221; Bishko 2008, p. 95; Goltzberg 2010, pp. 179–180.

² See in my book (Shemesh-Raiskin 2019, pp. 133–135) a description of the research regarding different aspects related to *a fortiori* arguments and references to the research literature dealing with them.

³ I would like to continue to describe the halachic give-and-take conversations in the Tosefta compared to the conversations in the Mishnah described in my book (Shemesh-Raiskin 2019), after which I will try to investigate the findings that arise from the comparison in light of the question regarding the relationship between the Mishnah and the Tosefta.

The description of the *a fortiori* arguments in the Mishnah – presented as noted in the previous description – was conducted based on a corpus of all the halachic give-and-take conversations in the Mishnah, i.e. 190 conversations that include 240 exchanges among interlocutors. The description of the *a fortiori* arguments in the Tosefta in this article is based on a corpus that includes the halachic give-and-take conversations that appear in three orders of the Tosefta: Zera'im, Moe'd and Nashim. This corpus involves 118 conversations that include 172 exchanges.

The different chapters of this article will describe the *a fortiori* arguments in the halachic give-and-take conversations in the Tosefta, compared to what is found in the Mishnah: Chapter 2 will present the inventory of arguments in both corpora, Chapter 3 will describe the discourse features of the arguments, and Chapter 4 – their syntactic structures. At the focus of the description are the *a fortiori* arguments in the halachic give-and-take conversations in the Tosefta, since the arguments in the Mishnah have already been covered in the previous description. Consequently, most of the examples presented in this article are taken from the Tosefta. The comparison to what is found in the Mishnah will mostly note only the essence of the findings of the study on the *a fortiori* arguments in the Mishnah, without details or examples, which as noted can be found in the previous description (Shemesh-Raiskin 2019, pp. 132–164).

2. The inventory of *a fortiori* arguments in halachic give-and-take discussions in the Mishnah and Tosefta

The various sections of this chapter will describe some of the general findings regarding the *a fortiori* arguments that appear in the Tosefta corpus and in the halachic give-and-take conversations in the Mishnah.

2.1. The extent of use of *a fortiori* arguments

A total of **47 *a fortiori* arguments** were found in the Tosefta corpus that was examined. These arguments appear in about one-fifth of the exchanges included in the corpus (21.5%, in 37 of 172 exchanges). This proportion of exchanges containing *a fortiori* arguments in the Tosefta is identical to what was found in the Mishnah: 71 *a fortiori* arguments were found in the halachic give-and-take conversations in the Mishnah, appearing in approximately one-fifth of the exchanges (21.25%, in 52 of 240 exchanges).⁴

⁴ In the description of the *a fortiori* arguments in the Mishnah, at first 70 *a fortiori* arguments were found, and further study of the arguments in the Tosefta found an additional argument in the Mishnah, which will be presented in Citation 17 in the description of Structure 7 in Chapter 4 below.

The use of *a fortiori* arguments is a prominent rhetorical device in halachic give-and-take conversations in both the Mishnah and Tosefta, comparable to a device that Meir (1992) found in disagreements that she examined in the Mishnah. Her study found that the citation of one or more biblical verses was found in 14% of the disagreements.

2.2. A comparison of the inventory of *a fortiori* arguments of conversations in the Tosefta with arguments in the Mishnah

A comparison of all the *a fortiori* arguments in the Tosefta corpus of conversations with all the arguments found in halachic give-and-take conversations in the Mishnah shows that some *a fortiori* arguments in the Tosefta appear in corresponding conversations in the Mishnah and the Tosefta, while some arguments in the Tosefta appear in conversations that have no corresponding conversation in the Mishnah.

About one-quarter of the arguments in the Tosefta (11 of 47 arguments = 23%⁵) appear in corresponding conversations in the Mishnah.⁶ A number of connections were found between these arguments that appear in corresponding conversations in both compilations:

1. Three identical *a fortiori* arguments in the Mishnah and Tosefta.

Citation 1 from the Tosefta contains an *a fortiori* argument made by אמרו לו ('They said to him'), which also appears in its parallel in the Mishnah (*m. Shevi'it* 7: 2). In the Mishnah, however, the second part of the exchange is missing, i.e. the words of R. Meir:⁷

⁵ These 11 *a fortiori* arguments appear in eight exchanges (in three exchanges in which two arguments are included in each exchange), that appeared in six conversations. In one of the conversations – 3 below – four arguments that are included in three exchanges appear.

⁶ In general terms, the corpus of halachic give-and-take conversations in the Tosefta that was examined contains 16 conversations that correspond to conversations in the Mishnah, which is 14% of all 118 conversations in the examined corpus in the Tosefta.

⁷ The citations from Tannaitic literature in this paper were collected from the Ma'agarim program 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 [...]. The translation of excerpts of the Tosefta into English is based mainly on Neusner (1981), and the translation of Mishnah excerpts – on Neusner (1988), with certain changes made for the purpose of clarity.

In the presentation of the conversations in the citations in this article, the inductive patterns at the start of the exchanges are emphasized (such as אמרו לו ['They said to him'] and אמר 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 sentence in Citation 1). 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.; in the translation into English in small Latin letters A, B, etc., such as in

1. ר' מאיר או': דמיהן מתבערין בראש שנה.

אמרו לו: להם אין ביעור קל וחומר לדמיהן. אמ' להם: מחמיר אני בדמיהן יותר מן העיקר.

R. Meir Says: The money [resulting from the sale of the produce] is removed any time before the New Year [of the eighth year].

They said to him: [The plants] are not subject to removal, so much the more so the money is not. **He said to them:** I adopt a more stringent position with regard to the money than to the produce itself. (*t. Shevi'it 5: 4*)

A further identical *a fortiori* argument appears in the words of Beit Hillel in the parallel conversations in the Mishnah and Tosefta (*m. Beitzah 1: 6* and *t. Yom Tov 1: 12*). In Citation 3 below, the first exchange A contains an *a fortiori* argument in the words of Beit Hillel: טהורה אסורה לזרים וטמאה אסורה לכהנים, מה טהורה עולה אף טמאה תעלה (‘A clean [heave-offering] is forbidden to non-priests, and unclean [heave-offering] is forbidden to priests, just as clean is neutralized, so unclean can be neutralized’), which is almost identical to a parallel argument in the Mishnah (*m. Terumot 5: 4*). In the Mishnah, however, the two words הוהיל (‘since’) and אף (‘also’) have been added to the argument: הוהיל וטהורה אסורה לזרים ואף טמאה (‘Since clean [heave-offering] is forbidden to non-priests, and also unclean [heave-offering] is forbidden to priests [...]').

2. Four arguments are found in the Tosefta in the part of the conversation not found in the Mishnah: Two exchanges in Conversation 3 below in the Tosefta (the second exchange B in the words of Beit Shammai and the third exchange C in the words of Beit Hillel) do not have parallel exchanges in the corresponding conversation in the Mishnah, and similarly, the second exchange B in Conversation 5 below in the Tosefta and the second part of the exchange in the Conversation 4 below in Tosefta.
3. Two different *a fortiori* arguments are different in content but constructed using the same syntactic pattern: both arguments appear in a single conversation in both parts of a single exchange; they are different from one another in content but constructed using the same syntactic pattern – the first, which appears in the words of R. Eliezer is made up of the pattern: ?... אינו דין ש... (‘[and] what if... is it not logical that...?’), and the second, in the words of R. ‘Aqiba: ?... ש... תאמר ב... ש... לא, אם אמרת ב... ש... תאמר ב... ש... (‘No, if you have said in... that... will you say in... that...?’) (Pattern F and Structure 6 respectively, and see the discussion on them in Chapter 4 below):⁸

Citation 3 below), and if the citation contains two conversations, they are numbered in the citation and in the translation into English with small Roman numerals at their start: I, II (as in Citation 10 below).

⁸ When this article presents corresponding citations in the Mishnah and Tosefta, they will be presented in corresponding columns, with the right column from the Tosefta, with the corresponding parts presented opposite one another.

2. שומרת יבם בין יבם אחד בין שני יבמין – ר' ליעזר או: יפר. ר' יהושע אומ': לאחד ולא לשנים. או: יפר. ר' יהושע אומ': לאחד ולא לשנים.

אמ' ר' אליעזר: מה אם אשה שקנה הוא לעצמו הרי הוא מפר נדריה, אשה שקנו לו שמים אינו דין שיפר נדריה? **אמ' ר' לעזר:** ומה אם אשה שאין >לי בה09 חלק עד שלא באת לרשותי, משבאת לרשותי ניגמרה לי, אשה שיש לי בה חלק עד שלא באת לרשותי, משבאת לרשותי אינו דין שנגמרה לי?

אמ' לו ר' עקיבא: לא, אם אמרת באשה שאין לי בה חלק עד שלא באת לרשותי, משבאת לרשותי ניגמרה לי, שכשם שאין לי בה חלק כך אין לאחרים בה חלק, תאמר באשה שיש לי בה חלק עד שלא באת לרשותי, ומשבאת לרשותי ניגמרה לי, שכשם שיש לי בה חלק כך יש לאחרים בה חלק?

A deceased childless brother's widow awaiting levirate marriage, whether with a single levir or with two levirs – R. Eliezer says: He annuls her vows. R. Joshua says: That is the case with one, but not with two. R. 'Aqiba says: That is the case neither with one nor with two.

A deceased childless brother's widow awaiting levirate marriage, whether with a single levir or with two levirs – R. Eliezer says: He annuls her vows. R. Joshua says: That is the case with one, but not with two. R. 'Aqiba says: That is the case neither with one nor with two.

Said R. Eliezer: Now if in the case of woman whom he acquired for himself, lo, he annuls her vow, a woman acquired for him by Heaven is it not logical that he would annul her vows?

Said R. Eliezer: Now in the case of a woman whom I have no part before she enters my domain, once she enters my domain, she is wholly in my power [so that I may annul her vows], in the case of a woman in whom I have some part before she comes into my domain [in that the woman cannot marry anyone other than the levir in the event that her childless husband dies], once she enters my domain, is it not logical that she should be wholly in my power?

Said R. 'Aqiba: No, if you have so stated the rule in regard to a woman whom he has acquired for himself, the fact is that others have no claim on her. But will you say the same in the case of

Said to him R. 'Aqiba: No, if you have so stated matters in the case of a woman in whom I have no part before she comes into my domain, while once she enters my domain, she is wholly within my power, for just as I have

a woman acquired in his behalf by Heaven, in whom others [other levirs] have a claim? (*m. Nedarim* 10: 6)

no part in her, so others have no part in her, but will you say the same of a woman in whom I have a part before she enters my domain, and who, once she enters my domain, is wholly within my power, for just as I have a part in her, so others [= other Levirs at that point] have a part in her? (*t. Nedarim* 6: 5)

It should be noted that despite the identical syntactical patterns of the two arguments in these parallel conversations, both arguments in the Tosefta contain longer and more complex versions (for a discussion of the syntactic variation in the second argument with שכשם ('for just as'), see the discussion on Structure 6 in Chapter 4 below).

4. Two different *a fortiori* arguments in content and also structured according to different syntactical patterns: one appears in this conversation between Beit Hillel and Beit Shammai, in the words of Beit Shammai in the first exchange in the Tosefta (which is the only exchange in the conversation in the Mishnah):

3. סאה תרומה שמיאה שנפלה למאה סאה תרומה טהורה – בית שמי אוסרין ובית הלל מתירין.

אמרו בית הלל לבית שמי: הוואיל לזרים וטמיאה אסורה לכהנים, מה טהורה עולה אף טמאה תעלה. אמרו להם בית שמי: לא, אם אמרתם בטהורה שהיא עולה מתוך החולין להאכל! לזרים!, תאמרו בטמאה שאין עולה מתוך החולין ליאכל לכהנים?

2. אמ' להם בית הלל: הרי טמאה שנפלה לתוך החולין תוכיח, שאין עולה מתוך החולין ליאכל לזרים, והרי היא עולה. אמרו להם בית שמי: לא, אם אמרתם בחולין שהתירן היתר מרובה, תאמרו בתרומה שהתירה היתר מועט?

3. אמרו להם בית הלל: וכי במה החמירה תורה, באוכלי תרומה לזרים או באוכלי תרומה לכהנים? באוכלי תרומה לזרים: טהור שאכל

את הטהור, וטהור שאכל את הטמא, וטמא שאכל את הטהור, וטמא שאכל את הטמא – כולם במיתה. ובאוכלי תרומה לכהנים: טהור שאכל את הטהור – !ב!מצותו, טהור שאכל את הטמא – בעשה, וטמא שאכל את הטהור וטמא שאכל את הטמא – בלא תעשה.

והלא דברים קל וחומר: ומה אם במקום שהחמירה תורה באוכלי תרומה לזרים, הרי היא עולה מתוך החולין להאכל לזרים, מקום שהקילה תורה באוכלי תרומה לכהנים, אינו <דין09> שתעלה מתוך החולין להיאכל לכהנים?

אחר שהו!רו! ר' ליעזר או': תרום ותרקב. וחכמי או': לאחר שהודו ר' אליעזר או': תירום ותישרף. אבדה במיעוטה. וחכמי אומ': אבדה במעוטה.

A *seah* of unclean heave-offering which fell into a hundred *seahs* of unclean heave-offering – the house of Shammai declare [the mixture] to be forbidden [for consumption by a priest], and the House of Hillel permit.

A *seah* of unclean heave-offering which fell into a hundred *seahs* of clean heave-offering – the house of Shammai declare [the mixture] to be forbidden [for consumption by a priest], and the House of Hillel permit.

Said the House of Hillel to the House of Shammai: Since clean [heave-offering] is forbidden to non-priests, and also unclean [heave-offering] is forbidden to priests, if clean is naturalized, so unclean can be neutralized.

^A Said the House of Hillel to the House of Shammai: Clean [heave-offering] is forbidden to non-priests, and unclean [heave-offering] is forbidden to priests, just as clean is neutralized, so unclean can be neutralized.

Said to them the House of Shammai: No, if unconsecrated produce, to which leniency applies and which is permitted to non-priests, neutralizes clean, should heave-offering, to which stringency applies and which is forbidden to non-priests, [have that same power and] neutralize unclean?

Said to them the House of Shammai: No, if you say [this] as regards clean, which is neutralized in unconsecrated produce [and then is] eaten by priests, will you say [that this is the case] for unclean, which is not neutralized in unconsecrated produce [and then] eaten by priests?

^B Said to them the House of Hillel: Lo, unclean which fell into unconsecrated produce will prove [the case], for it is not neutralized in unconsecrated produce [and then] eaten by non-priests,

but, lo, [even so], it is neutralized. **Said to them the House of Sammai:** No, if you say [this] as regards unconsecrated produce to which applies great leniency, will you say [it] for heave-offering, to which [only] slight leniency applies [in that it can be eaten by priests]?

^C **Said to them the House of Hillel:** But in what case was Torah stringent, in non-priests who eat heave-offering or priests who eat heave-offering? In non-priests who eat heave-offering: [whether it is] a clean [non-priest] who ate clean [heave-offering], or a clean who ate clean, or an unclean who ate unclean – they all are liable to death. But in priests who eat heave-offering – [if it is] a clean priest who ate unclean – this is as he is commanded: an unclean who ate clean, or an unclean who ate unclean – [he had transgressed] a positive commandment.

And is it not a *a fortiori* argument? If in a case in which Torah was stringent, that of non-priests who eat heave-offering, lo, it is neutralized in unconsecrated produce [and then] eaten by non-priests, in a case in which Torah is lenient, that of priests who eat heave-offering, it is not logical that it is neutralized in unconsecrated produce [and then] is eaten by priest?

After they had agreed: R. Eliezer says: Let it be raised up and burned. And sages say: It has been lost through its scantiness. (*m. Terumot* 5: 4)

After they had agreed: R. Eliezer says: Let it be raised up and burned. And sages say: It has been lost through its scantiness. (*t. Terumot* 6: 4)

The second case of *a fortiori* arguments that are different both in content and syntactical patterns appears in these parallel conversations between R. Eliezer and אמרו לו ('They said to him') in the words of R. Eliezer (the words of אמרו לו ['They said to him'] contain a further *a fortiori* argument in the Tosefta that does not appear in their words in the Mishnah):

האומר לאשתו: כל נדרים שתידורי מיכן עד
 שאבוא ממקום פלוני הרי הן קיימין – לא אמ'
 כלום. הרי הן מופרים – ר' אליעזר או': מופר.
 והכמ' אומ': אינו מופר.

חזר ר' ליעזר ודנו דין אחר: ומה אם במקום **אמ' ר' ליעזר:** אם הפר נדרים שבאו
 שאין מפר נדרי עצמו משנדר, הרי הוא מיפר לכלל אסור לא יפר נדרים שלא באו
 נדרי עצמו עד שלא ידור, מקום שמיפר נדרי לכלל אסור?
 אשתו +משנדרה, אינו דין שמיפר נדרי
 אשתו? <01 עד שלא תדור?
אמרו לו: ומה למפר נדרי עצמו עד שלא ידור, **אמרו לו:**
 שאם רצה להקים מקים, יפר נדרי אשתו עד
 שלא תדור, שאם רצה להקים אינו יכול?
 דבר אחר: "אישה יקימנו ואישה יפרנו" – את "אישה יקימנו ואישה יפרנו"; את שבא
 שבא לכלל הקם בא לכלל הפר, לא בא לכלל הקם לכלל הפר, לא בא לכלל הפר.
 הקם לא בא לכלל הפר.

He who says to his wife: All vows which
 you will vow from this time until I return
 from such-and-such a place, lo, they
 are confirmed – He has said nothing
 whatsoever. [If he says:] Lo, they are
 annulled – R. Eliezer says: It is annulled.
 And sages say: It is not annulled.

Said R. Eliezer: If he annulled
 vows which have the force of
 a prohibition, will he not annul
 vows which do not have the force
 of a prohibition?

They said to him:

R. Eliezer went and offered a different mode of argument: No, if in
 a situation in which he cannot annul his
 own vows before he has made them,
 lo, he has the power to annul his own
 vows before he has made them [by
 declaring them null in advance,] in
 a situation in which he may annul the
 vows of his wife once she has made
 them, is it not logical that he should
 be able to annul the vows of his wife
 before she makes them?

They said to him: Now if he is able
 to annul his own vows before he makes
 them, it is also true that if he wanted to
 confirm his vows [by actually making
 them], he also does confirm them, but
 may he annul the vows of his wife

before she actually vows, for if he wanted to confirm them [before she makes them], he has not got the power to do so?

Lo, Scripture says: “Her husband will confirm it and her husband will annul it” – That which enters the category of confirmation enters the category of annulment, that which does not enter into the category of confirmation does not enter into the category of annulment.

(*m. Nedarim* 10: 7)

Another matter: “Her husband will confirm it and her husband will annul it” – That which enters the category of confirmation enters the category of annulment, that which does not enter into the category of confirmation does not enter into the category of annulment. (*t. Nedarim* 6: 5–6)

It should be noted that in both of these citations, the arguments in the Mishnah are constructed in accordance with Pattern C, a pattern that is frequent only in the Mishnah, whereas the arguments in the Tosefta are made up of patterns that are frequent in both compilations – Structure 6 (in Citation 3) and Pattern F (in Citation 4) in its detailed form with *במקום* (‘in a case’) (for discussion on these two patterns and the detailed pattern with *במקום*, see Chapter 4 below). Furthermore, when comparing these arguments, we can see a similar difference between the arguments in the Mishnah and the Tosefta, which was also found in the comparison between the arguments in the corresponding conversations in the previous section C, i.e. that the arguments in the Tosefta are longer and more complex than those in the Mishnah.

The other *a fortiori* arguments in the Tosefta appear in conversations that don’t have corresponding ones in the Mishnah: some appear in conversations in the Tosefta which have, on the other hand, other discourse units without a conversation in the Mishnah (19 of 47 arguments = 40.5%), and some appear in conversations in the Tosefta for which no corresponding texts could be found in the Mishnah (17 of 47 arguments = 36%).

2.3. Where the *a fortiori* argument is situated within the exchange

An examination of where the *a fortiori* arguments are situated within the exchanges found that 43% of the arguments in the Tosefta corpus appear in both parts of the exchange (20 of 47 arguments), and approximately 57% of them appear in only one of them (27 arguments), i.e. in the words of the addressor or the addressee.⁹ For example, Conversation 3 above, in the first exchange A,

⁹ Of the 27 arguments that appear in only one part of the exchange, nine appear in the first part of the exchange, 15 appear in the second part, and three appear in the single part of a halved exchange, which contain only the words of the addressor.

has two *a fortiori* arguments in both parts of the exchange – in the words of Beit Hillel and in the words of Beit Shammai; and in the second exchange B in this conversation, the *a fortiori* argument appears only in the second part of the exchange – in the words of Beit Shammai. Regarding where the arguments are situated within the exchanges, the Tosefta and the Mishnah are similar: in the Mishnah, about half of the arguments appear in both parts of the exchange (36 of the 71 *a fortiori* arguments), and about half (35) appear in one of the two parts.

2.4. *A fortiori* arguments presented as alternatives to arguments

In the Tosefta, we found *a fortiori* arguments presented as alternatives to arguments – an alternative that the interlocutor presents to an argument made by another sage or an alternative that the interlocutor poses to counter a previous argument of his that is not an *a fortiori* argument.¹⁰

Two of these *a fortiori* arguments are an alternative to a previous argument made by another sage in a previous exchange: the first appears in the Tosefta in Conversation 5, in the second exchange B, when R. Ḥanina ben ‘Aqabya presents an *a fortiori* argument as an alternative to a previous argument that Rabban Gamaliel made in the previous exchange A in regard to a *gezerah shavah* argument (analogy or syllogism) stated before it, and R. Ḥanina presents an alternative *a fortiori* arguments to his argument: לא כך השיבן רבן גמלי', אלא ('Not in this manner did Rabban Gamaliel reply to them, but thus did he say to them [...]'):

5. אמ' ר' יהודה: אמרו לפני רבן גמליאל: הואיל וארוסה אמרו לפני רבן גמליאל: הואיל וזכה אשתו, ונשואה אשתו, מה זו מוכרה בטל אף זו באשה לא זכה בנכסים? מוכרה בטל. אמ' להם: בחדשים אנו בושין, אמ' להם: בחדשים אנו בושים אלא אלא שאתם מגלגלין עלינו את הישנים. שאתם מגלגלין עלינו את הישנים.
- אמ' ר' חנינא בן עקיבא:
- 3 לא כך השיבן רבן גמלי', אלא כך אמ' להם: לא, אם אמרתם בנשואה, שהוא זכיי במציאתה ובמעשה ידיה ובהפר נדריה, תאמרו בארוסה שאין זכיי במציאתה ובמעשה ידיה ובהפר נדריה?

¹⁰ These two uses of the presentation of *a fortiori* argument as an alternative were not found in the Mishnah, but one *a fortiori* argument was found (*m. Bava Kamma* 2: 5) in which the sage declares that the *a fortiori* argument that he is going to perform is different from the argument he presented in the previous exchange – מרגל – אני לא אדין קרן מקרן ואני אדין קרן מרגל ('I shall not derive the law for the damage caused by the horn [by analogy to] another case of damages caused by the horn; I shall derive the law covering damage caused by the horn from the law of damage caused by the foot').

Said R. Judah:

They stated before Rabban Gamaliel: Since [the husband-to-be] has acquired possession of the woman, shall he not acquire possession of the property?

He said to them: We are at a loss concerning the new[ly received property or goods]! Now will you turn our attention to the old ones? (*m. Ketubot* 8: 1)

Said R. Judah:

^A They stated before Rabban Gamaliel: Since, when she is betrothed, she is his wife, and when she is married, she is [equally, but no more] his wife, just as this one [the woman at the stage of the consummated marriage] sells off her property and the transaction is null, so that one [the woman at the stage of betrothal] sells off her property and the transaction is null. **He said to them:** We are at a loss concerning the new[ly received property or goods]! Now will you turn our attention to the old ones?

^B Said R. Ḥanina b. ‘Aqabya:

Not in this manner did Rabban Gamaliel reply to them, but thus did he say to them: No, if you have stated the rule concerning the woman in a fully consummated marriage, in which case the husband takes possession of the things which she finds and of the fruits of her labor and has the right to abrogate her vows, will you say the same rule in the case of betrothed women, of the things which she finds and of the fruits of her labor he does not take possession, and the vows of whom he has no right to abrogate? (*t. Ketubot* 8: 1)

The second case is Citation 6 in the third exchange C, in which Aba Saul presents an alternative *a fortiori* argument to Beit Hillel’s former *a fortiori* argument in the first exchange A: אבא שאול היה אומר בלשון אחרת משם בית הלל: [‘Aba Saul would say the tradition in other language in the name of the House of Hillel: Now if at the time [...]’]:

6. אי זו היא סמיכה שנחלקו עליה? בית שמאי או! אין סומכין ביום טוב, ושלמים החוגג בהן סומך עליהן מערב יום טוב. בית הלל או! מביאין שלמים ועולות וסומכין עליהן.
 * אמרו בית הלל: ומה אם בשעה שאי אתה מותר לעשות להדיוט, את מותר לעשות לגבוה, שעה שאתה מותר לעשות להדיוט, אי אתה מותר לעשות לגבוה? אמרו להם בית שמיי: נדרים ונדבות יוכיחו, שאתה מותר לעשות להדיוט, ואין אתה מותר לעשות לגבוה.

² אמרו להם בית הלל: לא, אם אמרתם בנדרים ונדבות שאין זמן קבוע, תאמרו בחגיגה שזמנא! קבוע? אמרו להן בית שמיי: אף חגיגה פעמים שאין זמנה קבוע, שמי שלא חג ביום טוב הראשון של חג חוגג את כל הרגל ויום טוב האחרון של חג.
³ אבא שאול היה אומרה בלשון אחרת משם בית הלל: ומה אם בשעה שכירתך סתומה, כירת רבך פתוחה, שעה שכירתך פתוחה, לא תהא כירת רבך פתוחה? דבר-אחר: שלא יהא שלחנך מלא ושלחן רבך ריקן.

Concerning what sort of laying on of hands did they differ? The House of Shammai say: They do not lay on the hands on the festival day, and so to peace-offerings, he who offers his festal-offering through them lays on hands upon them on the eve of the festival, and the House of Hillel say: They bring peace-offering and whole-offerings and lay hands on them.

^A **Said the House of Hillel:** Now if at a time at which you are permitted to prepare [food] for an ordinary person, you are permitted to prepare [food] for the Most High, at a time which you are permitted to prepare for ordinary person, should you not be permitted to prepare for the Most High? **Said the House of Shammai:** Sacrifices brought in in fulfillment of vows and as thank-offerings will prove the matter, for you are permitted to prepare for an ordinary person, but you are not permitted to prepare [these] for the Most High.

^B **Said to them the House of Hillel:** No, if you have stated the rule concerning sacrifices brought in fulfillment of vows and as thank-offerings, which are not subject to affixed time [for their offerings], will you state the same rule concerning the festal-offering, the time of which is fixed? **Said to them the House of Shammai:** Also in the case of the festal-offering, there are occasions at which its time is not fixed, for he who did not bring a festal-offering on the first day of the Festival inclusive [according to your theory] of the last festival day of the Festival.

^C **Aba Saul would say the tradition in other language in the name of the House of Hillel:** Now if at the time at which your oven is closed, the oven of your Master is open, at a time at which your oven is open, should not the oven of your Master be open? Another matter: Your table should not be loaded while your Master's table lies barren. (*t. Hagigah* 2: 10)

Two further *a fortiori* arguments in the Tosefta are presented as an alternative argument – דבר אחר ('another matter') – to a previous argument of the interlocutor himself which is not an *a fortiori* argument: in Citation 7 לו אמרו ('They said to him') pose an *a fortiori* argument as דבר אחר ('another matter') after their previous argument, and in Citation 8, R. 'Aqiba presents such argument in the fifth exchange E following his previous argument:

7. וכמה היא כדי העראה? [...]

ר' יהודה אומ': בעלה נאמן עליה מקל וחומר: ומה גדה, שחייבין על ביאתה כרת, בעלה נאמן עליה, סוטה שאין חייבין על ביאתה כרת, אינו דין שיהא בעלה נאמן עליה? אמרו לו: וכל שכן: הואיל ואין חייבין על ביאתה כרת, לא יהא בעלה נאמן עליה. דבר אחר: לא, אם אמרת בנדה, שיש לזה התר אחר איסורה, תאמר בסוטה, שאין לה היתר לאחר איסורה? וכן הוא אומ' "מים גנובים ימתקו" וגו'. (תוספתא סוטה א, ב)

And how much is sufficient time for sexual contact? [...]

R. Judah says: Her husband is trustworthy in regard to her [not to have sexual relation in time circumstance] on the basis of an argument *a fortiori*: Now if in the case of a menstruating woman, on account of sexual relations with whom one incurs the penalty of extirpation, her husband is trustworthy in regard to her, in the case of a accused wife, on account of which the husband does not incur the penalty of extirpation, is it not logical that her husband should be deemed trustworthy in regard to her? **They said to him:** Now all the more so: Since one does not incur the penalty of extirpation for having sexual relations with her, her husband really should not be deemed trustworthy in regard to her. Another matter: No, if you have said the rule in the case of the menstruating woman, who becomes permitted after she is prohibited, will you state the same rule in regard to the accused wife, who will never be permitted once she is prohibited? And so Scripture says: Stolen water is sweeter. (*t. Sotah* 1: 2)

8. המגרש את אשתו ואמ' לה: הרי את מותרת לכל אדם אלא לפלני – ר' ליעזר מתירה לינשא לכל אדם חוץ מאותו האיש. מודה ר' ליעזר שאם נשאת לאחר ונתארמלה או נתגרשה שמותרת לינשא לזו שנאסרה עליו. לאחר מיתתו של ר' ליעזר נכנסו ארבעה <זקנים>01 להשיב על דבריו: ר' טרפון ור' יוסה הגלילי ור' ליעזר בן עזריה ור' עקי'01.

א' אמ' + <ר' טרפון>01: הלכה ונשאת לאחיו, ומת בלא וולד – היאך זו מתיבמת לו? נמצא מתנה על מה שכת' בתורה, + <וכל המתנה על מה שכתוב בתורה>01 תנאו בטל. הא למדנו שאין זה כריתות.

ב' אמ' ר' יוסה הגלילי: היכן מצינו ערוה בתורה שמותרת לאחד ואסורה לאחד? אלא המותרת מותרת לכל אדם, והאסורה אסורה לכל אדם. הא למדנו שאין זו כריתות.

ג' ר' ליעזר בן עזריה אומ': "כריתות" – דבר הכורת בינו לבינה. הא למדנו שאין זו כריתות.

ד' אמ' ר' יוסה: רואה אני את דברי ר' ליעזר בן עזריה. נענה ר' שמעון בן ליעזר ואמ': הרי שהלכה וניסית לאחר וגירשה ואמ' לה: הרי את מותרת לכל אדם – היאך זה מתיר מה שאסר הראשון? הא למדתה שאין זה כריתות.

ה' ר' עקיבא אומ': היה זה שנאסרה עליו כהן, ומת המגרש – לא נמצאת אלמנה לו וגרושה לכל אחיו הכהנים? הא למדנו שאין זו כריתות. דבר אחר: את מי החמירה תורה – כלל גרושה או כלל אלמנה? חמורה גרושה! ש!אלמנה. מה אלמנה קלה נאסרה מן המותר

לה, גרושה חמורה אינו דין שתיאסר מן המותר לה? הא למדנו שאין זו כריתות. דבר-אחר: הלכה וניסית לאחר והיו לה! בניי הימנה ומת, כשהיא חוזרת לזה שנאסרה עליו, לא נמצאו בניו של ראשון ממזרין? הא למדנו שאין זו כריתות. 'ר' שמעון בן לעזר אומ': הלכה וניסית לאחר וגירשה ואמ' לה: הרי את מותרת לכל אדם – היאך זה מתיר מה שאסר הראשון? הא למדנו שאין זו כריתות.

He who divorces his wife and said to her: Lo, you are permitted [to marry] any man except for so-and-so – R. Eliezer permits her to marry any man except for that particular person. R. Eliezer concedes that if she married someone else and was widowed or divorced, that she is permitted to marry this person to whom she [originally] was forbidden. After the death of E. Eliezer, four elders came together to reply to his rulings: R. Tarfon, R. Yosé the Galilean, R. Eleazar b. 'Azariah, and R. 'Aqiba.

^A **Said R. Tarfon:** [If] she went and married his brother, and he dies childless – How is this woman going to enter into Levirate marriage with him? It will turn out that he has made a stipulation contrary to what is written in the Torah, [and] his condition is null. Thus have we learned that this is not a *cutting off*.

^B **Said R. Yosé the Galilean:** Where do we find a relationship of marriage in the Torah in which a woman is permitted to one and prohibited to another? But if she is permitted, she is permitted to every man, and if she is prohibited, she is prohibited to every man. Thus we learned that this is not a *cutting off*.

^C **R. Eleazar b. 'Azariah says:** *Cutting off* – something which severs the relationship between him and her. Thus we have learned that this is not a *cutting off*.

^D **Said R. Yosé:** I prefer the opinion of R. Eleazar b. 'Azariah. **R. Simeon b. Eleazar answered and said:** Lo, [if] she went and married someone else and he divorced her, and he said to her: Lo, you are permitted [to marry] any man – how will this permit what the first [husband] has prohibited? Thus you have learned that this is not a *cutting off*.

^E **R. 'Aqiba says:** [If] this one to whom she was prohibited was a priest, and the one who divorced her died, she would turn out to be a widow to this one but a divorcee to all others of his brethren, the priests? Thus we have learned that this is not a *cutting off*. Another matter: To whom has the Torah applied a more stringent rule, the category of divorcees or the category of widows? A divorcee is subject to a more stringent rule than a widow. Now if the widow, who is subject to a less stringent rule, is prohibited from marrying someone who is permitted to her, a divorcee, who is subject to a more stringent rule, surely should be prohibited from marrying someone who is permitted to her! Thus we have learned that this is not *cutting off*. Another matter: [If] she went and married someone else and had children from him and he died, [then] if she goes back and marries this one to

whom she had been forbidden, will it not turn out that the children of the first husband are *mamzerim*? Thus, we have learned that this is not *cutting off*.

^F **R. Simeon b. Eleazar says:** [If] she went and married someone else, who divorced her, and who said to her: Lo, you are permitted [to marry] any man – how will this one permit that the first husband prohibited? Thus we have learned that this is not *cutting off*. (t. Gittin 7: 1–5)

2.5. The person making the *a fortiori* argument

In most of the arguments, the person making the *a fortiori* argument in the corpus examined in the Tosefta is an individual sage – 62% (29 of 47 arguments); the rest of the arguments are made by sages known as אמרו לו ('They said to him') (9 arguments = 19%), as well as by groups of interlocutors (9 arguments = 19%) – Beit Hillel and Beit Shammai. In this matter, the Tosefta and the Mishnah are similar: in the Mishnah too, most of the arguments are made by an individual sage (62% = 44 of 71 arguments); and the rest by אמרו לו ('They said to him') (16 arguments = 23%) and by groups of interlocutors (11 arguments = 15%).

The two compilations are also similar in regard to the identity of the individual sages making the *a fortiori* arguments: the three sages who are the most prominent in presenting the *a fortiori* arguments in the Mishnah are also the most prominent ones in the Tosefta: R. 'Aqiba (11 arguments in the Mishnah, 5 arguments in the Tosefta), R. Eliezer (9 in the Mishnah, 5 in the Tosefta), and R. Joshua (9 arguments in the Mishnah – two of which he argues together with Rabban Gamaliel, 4 in the Tosefta).

3. Discourse features of *a fortiori* arguments in the halachic give-and-take conversations in the Mishnah and Tosefta

Sometimes when the interlocutors in halachic give-and-take conversations offer *a fortiori* arguments, they add certain elements to them. These elements will be described in the sections of this chapter: Section 3.1 will present elements of different types that precede the *a fortiori* arguments in the words of the interlocutor making the argument, and Section 3.2 will present additions to the *a fortiori* arguments that appear in the words of the interlocutor after the presentation of the argument. Section 3.3 will discuss responses to the *a fortiori* arguments presented by the second interlocutor, and Section 3.4 will focus on additions that appear after the arguments. A brief comparison with the Mishnah will be presented; a breakdown and a demonstration from the Mishnah can be seen in the previous description of these elements in the Mishnah (Shemesh-Raiskin, 2019, pp. 154–163).

3.1. Elements that precede the *a fortiori* arguments

The interlocutor presenting his *a fortiori* argument sometimes precedes the argument with a further element. In the *a fortiori* arguments in the Tosefta, two elements preceding the argument and that relate to it directly could be found: a declaration regarding the *a fortiori* argument and a clarification regarding the similarity or difference between the items presented in the argument; also found was reference to a previous law or opinion. These elements will be presented with examples in the subsections below.

(A) Declaration regarding the *a fortiori* arguments

In 17% of the *a fortiori* arguments in the Tosefta (8 of 47 *a fortiori* arguments), the argument is preceded by a declaration made by the interlocutor that the argument that he will present is an *a fortiori* argument. In six of them, the argument is defined as קל וחומר ('*a fortiori*'): ¹¹ in Citation 3 above, in the third exchange C, Beit Hillel precedes their argument with the declaration והלא דברים קל וחומר ('And is it not an *a fortiori* argument?'), and in the two nearby conversations in Citation 10 below, R. Eliezer and R. 'Aqiba precede their arguments with the declaration והרי דברים קל וחומר ('Now the matter yields an *a fortiori* argument'); in Citation 7 above, R. Judah precedes his arguments with the claim: בעלה נאמן עליה מקל וחומר ('Her husband is trustworthy in regard to her on the basis of an *a fortiori* argument'). ¹² In two *a fortiori* arguments, the argument is defined as דין ('logic'): in Citation 15 below, Rabban Simeon Ben Gamaliel precedes his argument with the declaration ודין הוא ('And it is a matter of logic'), and in Citation 9 below in the first exchange A, Monobases precedes his argument – which is presented without an inductive pattern at its beginning – with the declaration והדין נותן שיהא פטור ('And reason suggests that he should be exempt').

The Mishnah also contains introductory declarations regarding the *a fortiori* arguments, but to a lesser extent – in 10% of the arguments (7 of 71 *a fortiori*

¹¹ Azar (1991, p. 10 and n. 3) explains that not every sentence in which the expression קל וחומר ('*a fortiori*') appears serves as an illocutionary act of an *a fortiori* argument, such as ורקיקה מקל וחומר ('And spitting [there likewise is forbidden, as is proven by an argument] *a minori ad majus*' – *m. Berakhot* 9: 5) – he considers it an addition of the reason for the prohibition rather than an *a fortiori* statement. On the other hand, Pattern A – צ' + קל וחומר + מ' + אש (מה) – contains an introductory clause that precedes the focus of the statement. On the other hand, he considers the sentence [...] חייב על כל אחת ואחת מקל וחומר: ומה אם הנידה [...] ('He is liable for an offering for each and every such action on the basis of an argument *a fortiori*: Now if in the case of a menstruating woman [...]') – *m. Keritot* 3: 10) to be a sentence the first part of which is a determination rather than an illocutionary utterance of *a fortiori*, followed by an *a fortiori* utterance ומה אם ('and what if...').

¹² And similarly, a preceding declaration can be found in these two arguments in the Tosefta: במאה מקל וחומר ('[That heave-offering is neutralized] in a hundred [parts of produce is proven] from an *a fortiori* argument' – *t. Terumot* 5: 8) and אסור לרכוב על גבי פרדה מקל וחומר ('It is prohibited to ride on the back of a mule from an *a fortiori* argument' – *t. Kil'ayim* 5: 6).

arguments): five of them contain a declaration that characterizes the argument as an *a fortiori* argument of the kind we find in the Tosefta – in four arguments, it is defined as קל וחומר (‘*a fortiori*’) (קל וחומר הוא), and in one argument, it is defined as ‘And it is a matter of logic’); in two other arguments, a declaration on the part of the interlocutor regarding the performance of the action of argumentation by him precedes the argument (אני לא אדין... ואני אדין [‘and I will discuss it’], [‘I will not discuss... and I will discuss...’]).

Further to the arguments in the Tosefta that contain a declaration preceding the *a fortiori* arguments, in four other arguments, an inductive pattern containing a verb of saying which characterizes the act of argumentation were found: in two of them – in Citation 4 above and in Citation 11 below, in the second exchange B – the pattern contains the verb חזר ר' ליעזר ודנו דין אחר (‘R. Eliezer went and offered a different mode of argument which is as follows’); and in two of them, it contains the verb השיב: in Citation 12 below in the second conversation II – השיב ר' לעזר בנו של ר' ליעזר הקפר (‘R. Eleazar son of R. Eliezer Haqqappar replied’) and in the Tosefta Pesahim 4: 8. A verb of saying is found only once in the Mishnah – the verb דן appears in an inductive pattern, at the beginning of a story describing an event in which an *a fortiori* argument was presented ([...] דנתי לפני [...]).

(B) Clarification regarding similarity or difference between the items presented in the *a fortiori* argument

15% of the *a fortiori* arguments in the Tosefta (7 of 47) are preceded by a statement clarifying the similarity or difference between the details presented in the argument.

In four of them, a similarity is presented between the details: in Citation 3 above, in the first exchange A, in the words of Beit Hillel – טהורה אסורה לזרים וטמאה אסורה לכהנים (‘Clean [heave-offering] is forbidden to non-priests, and unclean is forbidden to priests’); and with a slight variation in the corresponding conversation in the Mishnah as presented above), and in Citation 15 below in the words of Rabban Simeon Ben Gamaliel – כשם שהקמה מצלת את העומר כך העומר מציל את הקמה (‘Just as a standing [crop] protects a sheaf [from becoming subject to the law of the forgotten sheaf], so too a sheaf protects a standing [crop]’).¹³

In two other arguments, a difference between the details is presented: in Citation 11 below, in the second exchange, in the words of R. Eliezer: מציינו שמהמקדיש פסח באו שלמים ולא מהמקדיש שלמים בא פסח [coins for the purpose of] a Passover-sacrifice – he brings peace-offerings, but he who consecrates peace-offerings – he does not bring a Passover-sacrifice’);

¹³ In two additional arguments, the similarity between the details is presented in a clause starting with הואיל ו (‘since’): *t.* Pesahim 4: 8; *t.* Ta’anivot 1: 1.

and in Citation 9 below, in the first exchange A, in the words of Monobases, which do not begin with an inductive pattern (הואיל ושוגג חייב חטאת ומזיד חייב כרת) – ‘since one who performs a sin inadvertently is liable to a sin-offering, and one who does so deliberately is liable to extirpation’).

Another argument presents the stringency of one of the details: in Citation 3 above, in the third exchange C, the stringency of one detail is presented during a detailed argument made by Beit Hillel – first, they asked a rhetorical question regarding the degree of the stringency of two situations (וכי במה החמירה? וכי באוכלי תרומה לזרים או באוכלי תרומה לכהנים? [‘But in what case the Torah stringent, in non-priests who eat heave-offering or priests who eat heave-offering?’]), immediately followed by an answer that the stringent one is the first detail, followed by an explanation of the difference between the two situations, which includes two tetralemmas: באוכלי תרומה לזרים: טהור שאכל את הטהור, וטהור שאכל את הטמא, וטמא שאכל את הטהור, וטמא שאכל את הטמא – כולם במיתה. ובאוכלי תרומה לכהנים: טהור שאכל את הטהור – !במצותו, טהור שאכל את הטמא – בעשה, וטמא שאכל את הטהור וטמא שאכל את הטמא – בלא תעשה (‘In non-priests who eat heave-offering: a clean [non-priest] who ate clean [heave-offering], or a clean who ate clean, or an unclean who ate unclean – they all are liable to death. But in priests who eat heave-offerings: a clean priest who ate unclean – this is as he is commanded: an unclean who ate clean, or an unclean who ate unclean – [he had transgressed] a positive commandment’).

In comparison to the Tosefta, in the Mishnah we find only one clarification of the similarity between the details presented in the argument – in three arguments (= 4% of 71 *a fortiori* arguments), and the use of the previous element of this kind is limited compared to the Tosefta. A similar difference was found between the two compilations in regard to the previous element, presented in section (A) – the declaration regarding an *a fortiori* argument.

Nevertheless, it should be noted that the Mishnah contains a further element that precedes the arguments, one that cannot be found in the Tosefta: **the clarification of a principle regarding the *a fortiori* argument**. It appears in the Mishnah in two exchanges in a single conversation: דיו לבא מן הדין (‘A law inferred from an *a fortiori* cannot be more stringent than the source from which it is inferred’).¹⁴ The principle can be found only a single time in the Tosefta in the discourse unit of presentation of the view (*t. Gittin 2: 6*), but not in a halachic give-and-take conversation.

¹⁴ According to Goltzberg (2010, p. 186), *dayyo* is not added to the *a fortiori* argument in the Talmud, but is simply inherent in it, since the Talmud makes it clear that one should respect this principle. Maccoby (2010) claims, that the rule of *dayyo*, which is unknown to the Greek rhetorical use of a *fortiori*, makes the *a fortiori* argument an exact reasoning, and it is this that lifts the *qal va-chomer* from the status of rhetoric to that of science.

(C) Reference to a previous law or opinion

In 8% of the *a fortiori* arguments in the Tosefta (4 of 47), the interlocutor's argument is preceded by his reference to a previous law or opinion. Two arguments contain a rhetorical question regarding the law followed by an answer: in Conversation 8 above, in the fifth exchange E, R. 'Aqiba asks a rhetorical question about the law and then answers it: את מי החמירה תורה – כלל גרושה או כלל אלמנה? חמורה גרושה! שאלמנה (‘To whom has the Torah applied a more stringent rule, the category of divorcees or the category of widows? A divorcee is subject to a more stringent rule than a widow’), after which he presents his *a fortiori* argument. A similar situation can be found in R. 'Aqiba's argument in the second conversation II in Citation 10 below: וכי במה החמירה תורה, בעבודה, או בשבת? החמירה בעבודה יותר מבשבת, שעבודה דוחה את השבת ואין שבת דוחה אותה (‘Now in what regard did the Torah impose a more strict rule, in the case of the Temple service or in the case of the Sabbath? It was more strict in the case of the Temple service than in the case of the Sabbath, for the Temple service overrides [the prohibitions of] the Sabbath, and the Sabbath does not override it’). The conversation that precedes it in Citation 10 below also contains an introduction to parts of the argument: R. Eliezer presents a law and asks a rhetorical question about the reason for this law and then answers it: מילה דוחין (‘As to circumcision, on account of which they override the prohibitions of the Sabbath, why is this so? It is because they are liable if it is not done on time’), after which he presents his argument. A rhetorical question opposed to a previous argument appears in a further argument: מה תהא זו קלה מן השרץ? (‘Now why should this be less stringent than a creeping thing?’ – *t. Nazir* 5: 1).

A reference to a previous law or opinion is found in the Mishnah too, of various types, some of which are found in the Tosefta as well. Like the Tosefta, in the Mishnah, mention of a previous law can appear before some of the arguments (in two arguments from two nearby conversations – מציינו ש [‘we found that...’]), as well as a question regarding a previous law or opinion (in two arguments); also found in the Mishnah were contents not found in the Tosefta (each found in a different argument): an instruction regarding the performance of the argumentation act, an instruction that contain a characterization of the argument, a reprimand for an opinion and an explanation for a question.

From a breakdown of the elements that precede the *a fortiori* arguments in the Tosefta, presented in subsections (A)–(C) above, we find that the interlocutor presenting his argument may precede it with two elements that directly refer to it (the declaration regarding the argument and the presentation of the similarity or difference between details in the argument). Or he may precede the argument with a reference to a previous law or opinion (mention of the law and also

a rhetorical question about the previous law or opinion). When examining all the elements that precede the arguments in the Tosefta, it is evident that they are directly related to the argument, and that the references to the previous law or opinion are associated with the halachic discourse that the argument appears in it. All the elements are of a halachic and argumentative nature, and the interlocutor uses them in order to strengthen the position he is presenting in the halachic give-and-take conversation. Most of these elements can also be found in the Mishnah, in which we find, as noted, a further element – clarification of a principle regarding the argument. They are similar in nature in both compilations, but a comparison shows that the Tosefta tends to use these elements more than does so the Mishnah.

3.2. Additions to the *a fortiori* arguments

Further to all the elements with which the interlocutor may precede his *a fortiori* arguments in the Tosefta, as described in section 3.1 above, it was found that the person presenting the argument may sometimes provide additions to his argument. These additions appear in 21% of the arguments in the Tosefta (in 10 of 47 arguments), and they are of different types, as will be broken down and illustrated here.

The addition of דבר אחר ('another matter') appears in two *a fortiori* arguments after the argument: in Citation 4 above, in the words of לו אמרו ('They said to him'), we see an דבר אחר argument based on an expounding on verse דבר-אחר: 'אישה יקימנו ואישה יפרנו' – את שבא לכלל הקם בא לכלל הפר, לא בא לכלל הפר [‘Another matter: “Her husband will confirm it and her husband will annul it. That which enters the category of confirmation enters the category of annulment, that which does not enter into the category of confirmation does not enter into the category of annulment’]; whereas, on the other hand, in the corresponding conversation in the Mishnah, this argument appears in the same form, but without the *a fortiori* question and without דבר אחר, and thus, an addition of דבר אחר appears after the argument in Citation 6 above in the third exchange C – דבר-אחר: שלא יהא שלחנך מלא ושלחן רבך ריקן) – ‘Another matter: Your table should not be loaded while your Master’s table lies barren’).

In two other arguments, another statement appears after the *a fortiori* argument that includes an explanation and a repetition of the presentation of the opinion, for example, in Citation 11 below, in the third exchange C, in the words of R. Eliezer הואיל ואין כשר לשמו בשאר ימות השנה, אם שחטו אחרים לשמו) – בארבעה-עשר הרי זה פסול (‘Since it is not valid if it is offered under the proper designation on all other days of the year, if they slaughtered it for the purpose of other sacrifices on the fourteenth of Nissan, lo, this surely should be invalid’).

In three arguments, the conclusion of the argument appears after the *a fortiori* argument in the form of היא למדת/למדנו ש (‘Thus you/we have learned

that'), such as, for example, in the words of R. 'Aqiba in Citation 8 above, in the fifth exchange E (כריתות) – 'Thus we have learned that this is not cutting off') and also in Citation 10 below in the second conversation II (השבת) – 'Thus you have learned that a matter of doubt concerning the saving of life overrides the Sabbath').

In Conversation 11 below, in the first exchange A, in the words of R. Eliezer, we find a complex addition to the argument: an expression of wonderment at the opinion of the sage (!?אומר – 'now is this what you are saying?!'), followed by a suggested answer to his *a fortiori* question, which is made up of rhetorical question regarding the reason to another case, followed by an answer (לומ': מפני מה כשרו אחרים לשמו בשאר ימות השנה? שכן כשר הוא לשם אחרים) – 'But there is this to be said: On what account are animals other valid for its purpose on other days of the year? It is because it is valid when it is offered for the purpose of others'), followed by yet another rhetorical question regarding a possibility of the law in the case under discussion, followed by an answer (כשרו אחרים לשמו בארבעה-עשר, שאינו כשר לשם אחרים? אינו דין שיכשרו אחרים לשמו) – 'But will other sacrifices be valid for its sake on the fourteenth of Nissan, on which day it in fact is not valid for the sake of others? It is not logical that other sacrifices should be valid when offered for its purpose').

An examination of the additions to the *a fortiori* arguments in the Tosefta of all the types presented here shows that like all the elements that precede the argument – as discussed in section 3.1 – the additions that follow the argument are also directly related to it, have a halachic and argumentative nature, and the interlocutor uses them to strengthen his position in the halachic give-and-take conversation. Additions such as these were not found to be of frequent use in the *a fortiori* arguments in the Mishnah: an addition was found in one conversation in the Mishnah that presented a question about the law in a different case (הרי שנולדה טריפה מן הבטן מניין?) – 'Lo, that which is born as a terefah from the womb – how should we know [the rule that slaughtering it renders it clean]?' – Hulin 4: 4). As we saw in the description of the elements preceding the *a fortiori* argument in Section 3.1, the description of this element of additions to the *a fortiori* argument also shows that in the Tosefta, this element is used more frequently and is more varied than in the Mishnah. This leads us to ask: is this tendency on the part of the Tosefta to make greater use of elements preceding the *a fortiori* argument as well as elements following it indicative of a difference between the two compilations, such as more intense redaction or greater consolidation which was done in the Mishnah more than in the Tosefta? Further investigation of this question requires a review of additional aspects of the arguments, which will be presented in the description of the *a fortiori* arguments in this paper. This paper however will not present the general discussion regarding the connection between the Mishnah and the Tosefta, as noted in the introduction in Section 1 above.

3.3. Responses to the *a fortiori* arguments

In some cases, after hearing the *a fortiori* argument presented by the first interlocutor, the second interlocutor offers a response to the first interlocutor's argument. In the Tosefta, responses to *a fortiori* arguments were found in 15% of the arguments (in 7 of 47 arguments).

In five of the arguments, the responses are negative, that is the second interlocutor expressed opposition to the argument of the first. For example, in Citation 1 above, R. Meir is opposed to the argument presented by לו אמרו ('They said to him'), taking the view that the item they perceived as lenient should actually be considered more stringent: מחמיר אני בדמיהן יותר מן העיקר ('I adopt a more stringent position with regard to the money than to the produce itself'; this part is not found in the corresponding Mishnah); in Citation 10 below, in the first conversation I, לו אמרו ('They said to him') are opposed to the argument presented by R. Eliezer, who makes an *a fortiori* inference from the fact that since circumcision overrides the Sabbath, then danger to a life overrides the Sabbath, and they say to him: ממקו' שבאת ('From the very place from which you bring proof'), in other words, they maintain that it is possible from the example that he presented to prove exactly the opposite view; in Citation 14 below, in the third exchange C, R. Meir objects to the argument presented by לו אמרו ('They said to him') in the previous exchange, according to which, unlike the roof, the courtyard is a place in which the parts of the dwellers in it cannot be identified, and he argues using a rhetorical question that even in the courtyard that has identifying marks of some kind, it is possible to make this identification: הרי שהיתה חלוקה או שהיתה עשויה פסיפס, לא כל אחד ואחד? מכיר את שלו? ('If it was divided or if it was made in mosaics, will not everyone recognize what is his?'); and in Citation 6 above, in the second exchange B, Beit Shammai are opposed to the *a fortiori* argument presented by Beit Hillel and offer an alternative argument followed by an explanation: אף חגיגה פעמים שאין זמנה קבוע, שמי שלא חג ביום טוב הראשון של חג חוגג את כל הרגל ויום טוב האחרון של חג ('Also in the case of the festal-offering, there are occasions at which its time is not fixed, for he who did not bring a festal-offering on the first day of the Festival inclusive [according to your theory] of the last festival day of the Festival'). These negative responses to the *a fortiori* arguments, expressed by the second interlocutor, are halachically motivated.

In a further argument in the Tosefta, the second interlocutor expresses a positive response to the argument:

9. גר שנתגייר בין הגוים ועשה מלאכה בשבת – ר' עקיבא מחייב, ומונבו פוטר.

* והדין נותן שיהא פטור: הואיל ושוגג חייב חטאת ומזיד חייב כרת, מה מזיד אינו חייב עד שיבא לכלל ידיעה, אף שוגג לא יהא חייב עד שיבא לכלל ידיעה. אמ' לו ר' עקיבא:

מוסיף אני על דבריך: מה מזיד אינו חייב עד שיבא לכלל ידיעה בשעת מעשה, אף שוגג לא יהא חייב עד שיבא לכלל ידיעה בשעת מעשה.
אמ' לו: כל שכן שהוספת, אם בא לכלל ידיעה בשעת מעשה אף הוא אינו שוגג אלא מזיד.

A proselyte who converted while living among gentiles and who performed a prohibited act of labor on the Sabbath – R. 'Aqiba declares him liable, and Monobases declares him exempt.

^A And [Monobases argues] reason suggests that he should be exempt, since one who performs a sin inadvertently is liable to a sin-offering, and one who does so deliberately is liable to extirpation. Now just as one who performs a prohibited action deliberately is liable only when he does so informedly, so one who does an act inadvertently should be liable only when he does so informedly. **Said to him R. 'Aqiba:** I may even add to your argument. Now just as one who performs a prohibited action deliberately is liable only when he does so informedly at the very moment at which he does the action, so one who does a prohibited act inadvertently should be liable only when he does so informedly at the very moment at which he does the action.

^B **He said to him:** All the more so have you improved my argument. For if he should do the act informedly at the very moment in which he does it, then he in no way does it inadvertently, but he does it deliberately. (*t. Shabbath 8: 5*)

R. 'Aqiba responds positively to the *a fortiori* argument presented by Monobases (which is cited without an inductive pattern at the beginning) arguing that he could add to the previous speaker's argument: מוסיף אני על דבריך ('I may even add to your argument').

We can also find a nonverbal response on the part of the second interlocutor to the argument of the first in the Tosefta: יהודה בן פתירה לפניו (R. Judah b. Peterah remained silent before him' – *t. Nazir 5: 1*).

Responses to *a fortiori* arguments were found in the Mishnah too, but to a lesser extent – in 6% of the arguments (4 of 71): in two arguments, there was a negative response to the argument and in one – the response expressed a reservation; in one argument in the Mishnah, the clarification of the principle regarding the *a fortiori* argument is presented (דיו לבא מן הדין להיות כנדון) – 'A law inferred from an *a fortiori* cannot be more stringent than the source from which it is inferred'.

3.4. Additions appearing after the *a fortiori* arguments

After the *a fortiori* arguments are presented, sometimes there is an addition that is not part of the words of the interlocutor himself (as described in section 3.2), but rather a part that comes after the argument and relates to the process of the argument or to the argument itself. In the Tosefta, additions were found in three such arguments (= 6% of 47 arguments) and in the Mishnah in a single argument (= 1% of 71 arguments).

An addition clarifying the process of the argument is found once in each of the two compilations: עד כאן היתה תשובה ('Up to this point was the [valid] reply') – in Citation 14 below after the third exchange C, as well as in the Mishnah, Machshirim 6: 8). In the Tosefta, we can also find an addition that clarifies the matter regarding the argument – in Citation 12 below in the second conversation II: אמר ר' אבא: זה אחד מן הדברים שהיה ר' חייא אומר: אין לי תשובה, והשיב ר' לעזר ('Said R. Abba: This is one of the rulings concerning which R. Ḥiyya said: I have no reply, and concerning which R. Eleazar found a suitable reply'); and an addition noting agreement between the parties – in Citation 3 above, after the third exchange C: אחר שהודו ('After they had agreed [...]'); and in the corresponding Mishnah).

The various sections of Chapter 3 presented the additional elements that are appended to the *a fortiori* arguments in the Tosefta with a comparison to the situation in the Mishnah. It was found that in the arguments in the Tosefta, the remarks of the interlocutor contained elements preceding the argument (3.1), including two elements relating directly to the arguments – a declaration regarding the argument and the clarification of the similarity or difference between the items presented in it, and a further element – reference to a law or opinion that preceded the argument. The first two elements are more frequent in the Tosefta (in 17% and in 15% of the arguments in the corpus respectively) than in the Mishnah (10% and 4% respectively). These elements can be found both in the Mishnah and the Tosefta and they are used similarly in both compilations: they relate directly to the *a fortiori* argument of the interlocutor, are of a halachic and argumentative nature, and the interlocutor uses them to reinforce his halachic opinion. Thus, additions of various kinds were found in the *a fortiori* arguments in the Tosefta that the interlocutors appended to their arguments (3.2), and they too are more frequent in the Tosefta (in 21% of the arguments in the corpus), and are used in a manner similar to the use of the elements preceding the argument. The responses to the *a fortiori* arguments presented by the second interlocutor (3.3) were also more frequent in the Tosefta (in 15% of the arguments in the corpus) than in the Mishnah (6%). Both compilations make minimal use of additions after the presentation of the arguments, which relate to the process of the argument or the argument itself (3.4).

From the description of all the elements added to the *a fortiori* arguments as presented here, the arguments' halachic nature and persuasive goal aimed at

reinforcing the interlocutor's argument, it is evident that they contribute to the halachic and argumentative discourse of the halachic give and take. Furthermore, the description reveals various differences between the two compilations, and especially a preference on the part of the Tosefta to make far greater use of most of the elements than the Mishnah.

4. The syntactic patterns of *a fortiori* arguments in the Mishnah and Tosefta

Azar (1991) – All subsequent references in this chapter will refer to this article as “Azar” – devotes his article to a presentation of seven syntactic patterns used in the presentation of *a fortiori* arguments in the Mishnah.¹⁵ The examination of the syntactic structures of the *a fortiori* arguments that appear in halachic give-and-take conversations in the Mishnah, conducted in the previous study, found that of the 71 *a fortiori* arguments in the conversations in the Mishnah, 16 arguments appeared as examples of patterns in Azar's article, and that 29 additional arguments could be described as belonging to one of the patterns in his article (although in some cases, there is some doubt as to where exactly they belong because of a certain difference between the structure of a particular argument and the general pattern of its form in Azar). That is, 63% of the *a fortiori* arguments that appeared in the halachic give-and-take conversations in the Mishnah (45 arguments) can be considered to belong to one of the syntactic patterns that Azar presents. Consequently, the description of the syntactic patterns presented in the context of the previous study on *a fortiori* arguments in conversations in the Mishnah (Shemesh-Raiskin 2019, pp. 137–154) was based on the patterns in Azar's article, to which were added two other patterns of arguments that were found in arguments in conversations in the Mishnah, but did not appear in his article.

The description of the syntactic patterns in Azar's article also served as the basis for the examination of the *a fortiori* arguments in the corpus of conversations in the Tosefta, and to them were added further syntactic patterns of arguments that were not included in his article. Additionally, the examination will also include a comparison of the patterns found in the Tosefta with those found in the Mishnah (described at length in the previous research – see Shemesh-Raiskin, 2019, pp. 137–154).

Before providing a detailed breakdown of the syntactic patterns of *a fortiori* arguments in the corpus of conversations in the Tosefta, I will note that from

¹⁵ For review of the studies that deal with syntactic aspects of *a fortiori* arguments – Samely 2002 and Bishko 2008 – see Shemesh-Raiskin, 2019, pp. 137–140.

among the seven patterns that Azar enumerates in his article, two patterns were not found in the corpus of the halachic give-and-take conversations in the Tosefta:

1) Pattern B – *מג + על אחת כמה (וכמה) + מג + אם (מה) (ו) [= (And) (what) if + S1 + all the more so + S2]*

Pattern B does not appear in the *a fortiori* arguments in the halachic give-and-take conversations in either the Mishnah or Tosefta. As noted, Azar's article includes *a fortiori* arguments found in the entire Mishnah, and regarding Pattern B (pp. 12–13), Azar notes that it appears in the Mishnah only in Aggadic texts, but not in texts pertaining to halacha, which explains its absence in the halachic give-and-take conversations in both corpora.

2) Pattern D – *מג (חיובי – יפעל) + כיצד + מג (שלילי) [= S1 (negative) + how + S2 (positive – yif'al)]*

Azar (p. 14) considers Pattern D to be a supplementary pattern of Pattern C – *מג (שלילי : לא יפעל) + מג (חיובי) + אם (מה) [= (what) if + S1 (positive) + S2 (negative: no + Yif'al)]*, as will be presented below. In conversations in the Mishnah, we can find one argument in Pattern D על עצמו אינו נאמן, כיצד יהא? – נאמן על של אחרים? – 'He would not be trustworthy in what concerns himself, how then could he be trustworthy in what concerns others?' – Demai 2: 2). This argument also appears as an example of this pattern in Azar's article, and is the only example for this pattern in the article. On the other hand, Pattern C, which is the basic pattern, is the frequent one in the arguments in the conversations of the Mishnah, as will be shown below in the presentation of the pattern. Pattern D does not appear in the Tosefta, and its lack of appearance is understandable, because Pattern C – which, according to Azar, Pattern D supplements – is rare in the Tosefta.

Sections 1–5 below will present the five other patterns from Azar's article, that appear in the *a fortiori* arguments in the corpus of halachic give-and-take conversations in the Tosefta: Patterns A, C, E, F and G (in Azar's article they are numbered with Hebrew letters א–ה). Each pattern will be presented in its form as it appears in Azar's article, noting each one's frequency in the Mishnah, and it will be described with examples from arguments in the Tosefta. Following this, sections 6–7 will present two additional patterns found in arguments in the Tosefta that were not included in Azar's article.

1. Pattern A – *מג + קל והומר + צ"י + אם (מה) [= ((what) if) + S + a fortiori + PP]*

Pattern A is illustrated with five examples in Azar's article (pp. 9–12), one of which appears in an *a fortiori* argument in the Mishnah, with the others appearing in discourse units of other types: one in a halachic presentation of a view, and three examples in texts of wise sayings, which are of the moral rather than halachic nature. The example in the article that appears in an *a fortiori* argument in the Mishnah (*m. Shevi'it* 7: 2) appears identically in the Tosefta in

Conversation 1 above in the words of לו אמרו ('They said to him'): להם אין ביעור: קל והומר לדמיהן ('[The plants] are not subject to removal, so much the more so the money is not'). This is the only argument in the corpus of conversations in the Tosefta that is structured according to this pattern. Azar (p. 9) notes that the formulation of Pattern A contains a sentence that is a complete 'strong' halacha, which includes the subject of discussion and the law regarding it, followed by a prepositional phrase that is הבא מן הדין ('which is produced through argument'). He explains that this pattern does not contain an interpretation of the 'strong' side of S and the 'weak' side of the PP, because the assumption is that they are known and accepted by all.

Pattern A is then a rare pattern in *a fortiori* arguments in halachic give-and-take conversations in both the Mishnah and the Tosefta.

2. Pattern C – (מה) אם + 1ג (חיובי) + 2מ (שלילי: לא + יפעל) [= (what) if + S1 (positive) + S2 (negative: no + Yif'al)]

Pattern C is illustrated with seven examples in Azar's article (pp. 13–14), five of which appear in six *a fortiori* arguments in conversations in the Mishnah. The conversations in the Mishnah contain 11 additional arguments that can be considered to belong to this pattern (six of them are doubtful because the pattern used in them is not identical to this pattern – there is no אם ('if') or the second sentence positive rather than negative). From this it follows, that Pattern C appears in 17 *a fortiori* arguments in the Mishnah making it the most frequent pattern in it.

On the other hand, in the corpus of conversations in the Tosefta, only two *a fortiori* arguments were found constructed according to Pattern C, both of them appear in a single conversation – Conversation 6 above. The first appears in the first exchange A, in the words of Beit Hillel: ומה אם בשעה שאי אתה מותר לעשות להדיוט את מותר לעשות לגבוה, שעה שאתה מותר לעשות להדיוט אי אתה מותר לעשות לגבוה? ('Now if at a time when you are permitted to prepare [food] for an ordinary person, you are permitted to prepare for the Most High, at a time which you are permitted to prepare for ordinary person, should you not be permitted to prepare for the Most High?'). The second argument appears in the third exchange C, which is an alternative for the words of Beit Hillel cited from Abba Saul: ומה אם בשעה שכירתך סתומה, כירת רבך פתוחה, שעה שכירתך פתוחה, לא תהא כירת רבך פתוחה? ('Now what if at the time when your oven is closed, the oven of your Master is open, at a time at which your oven is open, should not the oven of your Master be open?'). If we look at these two sentences, compared to the structure of Pattern C – 2מ + 1ג + אם (מה) – we can see that both of them begin with ומה, i.e. in both the ו ('and') comes before the מה ('what') at the beginning of the structure. Furthermore – and even more striking – both of these sentences contain a variation of the pattern, where at the beginning of each sentence – S1 and S2 – there is a clause beginning with ש (ב)שעה ('at a time when'), thus

creating the detailed pattern $4מ + 3מ-ש + שעה + 2מ + 1מ-ש + בשעה + אה$ (ו)מה אה [= (and) if + at a time when + that-S1 + S2 + time + that-S3 + S4]. The use of $שעה$ (ב)שעה ש in this detailed pattern in the Tosefta is similar to the use of $בזמן$ ש and $מקום$ that Azar describes in his discussion of the patterns that appear in the Mishnah. In his discussion of Pattern C (p. 14), Azar presents an example with $ש$ בזמן ש twice (?[...]) $בזמן$ שאין כל גופו טמא [...] $בזמן$ שכל גופו טמא [...] when his entire body is not unclean [...]?’ – Nega‘im 13:10), and in his discussion of Pattern F Azar (p. 18) provides an example with $ש$ בזמן ש in the first part when the two parts are different (?[...]) $שני$ עמרים ובהן סאתים אינו דין ש[...] $שני$ עמרים ושכחו [...] two sheaves which contain two sheaves should not the judgment be that [...]?’ – Pe‘ah 6: 6). Similarly, Azar (p. 17) provides in Pattern F the detailed pattern with $במקום$, and see the discussion on this in the details of pattern F below.

3. Pattern E – $2מ + אף + 1מ + אה$ [= What if + S1 + also + S2]

Pattern E is illustrated with one example in Azar’s paper (pp. 14–15) that appears in an *a fortiori* argument in the conversations in the Mishnah. The conversations in the Mishnah contain ten additional arguments that can be considered to belong to this pattern (in nine of them, the structure is not identical to the pattern: either there is no אה [‘if’], or אף appears instead of אה). In other words, Pattern E appears in 11 *a fortiori* arguments in the conversations in the Mishnah.

Seven *a fortiori* arguments constructed in Pattern E were found in the Tosefta corpus, all beginning with מה without אה; for example, in Citation 3 above, an argument of this pattern appears in the first exchange A, in the words of Beit Hillel, which can also be found in the corresponding conversation in the Mishnah: מה טהורה עולה אף טמאה תעלה (‘just as clean is neutralized, so unclean can be neutralized’); in Citation 9 above, an argument using this pattern appears in the first exchange A in the words of Monobases: מה מזיד אינו חייב עד שיבא לכלל ידיעה, אף שוגג לא יהא חייב עד שיבא לכלל ידיעה (‘Now just as one who performs a prohibited action deliberately is liable only when he does so informedly, so one who does an act inadvertently should be liable only when he does so informedly’), and a second argument in this pattern comes in the words of R. ‘Aqiba: מה מזיד אינו חייב עד שיבא לכלל ידיעה בשעת מעשה, אף שוגג לא יהא חייב עד שיבא לכלל ידיעה בשעת מעשה (‘Now just as one who performs a prohibited action deliberately is liable only when he does so informedly at the very moment at which he does

¹⁶ Perez Fernandez (1997, p. 36) claims, that מה in sentences in the formulations: מה אף, אף מה... functions as part of a lexicalized expression introducing the first term in comparison sentences, which are common in rabbinic arguments that employ *gezerah shawah* or a *fortiori* deduction. He disagrees with Segal (1927, pp. 499–500), that מה in these sentences is an exclamatory that means ‘what!’.

the action, so one who does a prohibited act inadvertently should be liable 'only when he does so informedly at the very moment at which he does the action'); and in Citation 10 in the first conversation I below, the words of לו אמרו ('They said to him') contain an argument using this pattern: מה להלן ודיי ולא ספק, אף כאן ודיי ולא ספק ('Now just as in that case one overrides the prohibitions the Sabbath in the case of certainty [that it is the eighth day] and not in a case of doubt, so here, in a case of certainty – and not in a case of doubt, should they override the prohibitions of the Sabbath in the saving of life?').

Azar (pp. 14–15 and n. 12 on p. 15) considers Pattern E to be typical pattern for a *gezerah shavah* (analogy or syllogism) serving as an *a fortiori* argument, although he notes: "It is quite puzzling that it serves here as an *a fortiori* argument" (p. 15, originally in Hebrew). Bishko (2008, pp. 125–130 and n. 183 in p. 126) presents the formulation מה פסוקית צ"ש" + אף פסוקית צ"ש" + מה פסוקית צ"ש" [= *What NPI clause + so corresponding NP2 clause*] as a comparison pattern to transfer a feature – as *gezerah shavah* (analogy or syllogism), and she argues that the pattern has its origin in the *a fortiori* argument, since starting with the condition using the pattern of מה אם ('what if...') is a common form for an *a fortiori* argument. Bishko presents the differences between the *a fortiori* pattern and the analogy pattern: (1) מה + אם (what + if) introduces syntactic-pragmatic subordinate relations between a 'strong' argument and one that is less 'strong', whereas the word מה ('what') alone introduces coordination relations of equivalence inferred from the conditional subordinate relations in the *a fortiori* argument; (2) the second clause in the subordinate structure of the *a fortiori* argument is introduced by connectives such as אינו דין ש ('is it not logical that...?'), whereas the second coordinate clause in the coordination structure begins with the word of addition and emphasis אף ('also').¹⁷ Bishko believes that the *a fortiori* structure is a persuasive speech act used to explain a halachic argument by means of the argumentative-rhetorical technique of *a fortiori*, from which an analogy can be implied. The analogy structure, on the other hand, is a speech act of determination of halachic equivalence based on *a fortiori* relations and the clarification of the equivalence by presenting the subjects under discussion along with the shared halacha, with the equivalence formulation being clear and solid, and the analogy is explicit at its beginning. In light of this description, Bishko disagrees with Pattern E presented by Azar, because in her view it contains an impossible combination of a statement that starts

¹⁷ See in details the nine additional *a fortiori* arguments that might belong to this pattern, but are in a slightly different structure; they contain five sentences with מה and without אם in the first part, and have four sentences with מה and without אם in the first part and with ואף in the second part. The sentences of the first type are appropriate to the structure of the analogy that Bishko (2008) presents, and also in the sentences of the second type, the structure is almost appropriate to the structure of an analogy (with the exception of the form ואף instead of אף).

out with an *a fortiori* argument and continues with an analogy argument. From Azar's puzzlement quoted above, Bishko infers that Azar also felt uncomfortable with this pattern, and she suggests viewing it as an enigmatic pattern, but not because it is a formulation of an analogy, but rather because it is a hybrid formulation of two different types of arguments. In her view, ףא is not natural in the words of R. 'Aqiba in the citation from the Mishnah in Pesahim 6: 2 (מה אם הזייה שהיא משום שבות אינה דוחה את השבת, אף שחיטה שהיא משום מלאכה לא) – תדחה את השבת? – 'Now if sprinkling, which is prohibited by reason of Sabbath rest, does not override [the prohibitions of the Sabbath], slaughtering, which is prohibited by reason of constituting a prohibited act of labor – is it not logical that it too should not override the Sabbath?'), because it appears only in this example, which is the only example that Azar provides for this pattern, and also because it is stated in the words of R. 'Aqiba, which are uttered as a contrasting parallel to the words of R. Eliezer spoke before him, in which the word ףא does not appear. Bishko offers a solution to this difficulty, and it is to accept the versions of MS Paris, the First Printing Naples and the other Printed Editions of this citation, according to which R. 'Aqiba's words are formulated according to a typical *a fortiori* structure: $2\text{מ} + \text{ש} + 1\text{מ} + \text{אם}$ without the word ףא .

Pattern E is thus found in the Mishnah and the Tosefta, although there is a question regarding its form as can be seen from the discussions of Azar and Bishko presented here. Consequently it is somewhat problematic to include this pattern among the *a fortiori* patterns. It has nevertheless been included in this study in the description of the arguments in the Mishnah and Tosefta because of its inclusion as a pattern in Azar's article, albeit with reservation, which is a result of both the difficulty described, as well as the fact that in most of the arguments that appear in this structure in both compilations, the form of the general formulation of the structure and the form of the appearance of the structure in the arguments themselves are not identical (especially in terms of the absence of the word אם).

4. Pattern F – $2\text{מ}-\text{ש} + \text{אינו דין} + 1\text{מ} + \text{אם}$ (ר) [= (and) what if + S1 + is it not logical + that-S2]

Azar (pp. 15–18) provides 14 examples for this pattern, seven of which are included in the *a fortiori* arguments in the conversations in the Mishnah. There are eight additional arguments in the Mishnah that may be considered to belong to this pattern, and in all, 15 arguments from the Mishnah may be included in it.

In general terms, Azar does not relate in his article to the frequency of the patterns, and only in his discussion of Pattern F does he relate to the frequency of the pattern, noting that this is the most frequent one in the Mishnah, as well as the most elaborate one. According to his explanation, this pattern is constructed

so that it contains a complete parallel between the elements of the *a fortiori*. Azar details what is found in each S and presents the following detailed pattern: $[4\text{מ-ש} + \text{אינו דין} + 3\text{מ-ש} + 2\text{צש}]_{2\text{מ}} + [2\text{מ} + 1\text{מ-ש} + 1\text{צש}]_{1\text{מ}} + \text{אם (ו)מה} [= (\text{And}) \text{what if} + s_1 [NP1 + \text{that-S1} + S2] + s_2 [NP2 + \text{that-S3} + \text{is it not logical} + \text{that-S4}]]$. According to him, NP1 denotes the נידון ('subject under discussion'), that-S1 denotes a characteristic that turns the law S1 into a 'strong' law, S2 denotes the דין ('logic') of the נידון ('subject under discussion'); NP2 denotes הבא מן הדין ('that which is produced through argument'); that-S3 denotes the characteristic that turns the law S2 into a 'weaker' law than S1, and it is the opposite of that-S1; S4 denotes the דין ('logic') of הבא מן הדין ('that which is produced through argument'), which is equal to the דין ('logic') of the נידון ('subject under discussion'), that is, it is equal in its content to S2, אינו דין ש ('is it not logical') turns S4 into a negative rhetorical question whose intent is positive. This pattern contains a parallel between the elements of the *a fortiori*: NP1 = נידון, NP2 = הבא מן הדין, S1 = the 'strong' factor, S3 = the 'weak' factor, S2 = the דין of the נידון, S4 = the דין of הבא מן הדין.

In the corpus of the Tosefta, 13 *a fortiori* arguments in Pattern F were found, such as in Citation 2 above, an argument in this pattern appears in the words of R. Elazar/Eliezer: ומה אם אשה שאין לי בה חלק עד שלא באת לרשותי, משבאת לרשותי נגמרה לי, אשה שיש לי בה חלק עד שלא באת לרשותי, משבאת לרשותי אינו דין שנגמרה לי? ('Now in the case of a woman whom I have no part before she enters my domain, once she enters my domain, she is wholly in my power [so that I may annul her vows], in the case of a woman in whom I have some part before she comes into my domain, once she enters my domain, is it not logical that she should be wholly in my power?'). And on the other hand, in the corresponding conversation in the Mishnah, a different *a fortiori* argument appears, although it too is constructed according to this pattern: מה אם אשה שקנה הוא לעצמו הרי הוא מפר נדריה, אשה שקנו לו שמים אינו דין שיפר נדריה? ('Now if in the case of a woman whom he acquired for himself, lo, he annuls her vows, a woman who is acquired for him by Heaven, is it not logical that he should annul her vows?'); in Citation 11 below, in the first exchange A, an argument in this pattern appears in the words of R. Eliezer, and the same is true for Citation 15 below in the words of Rabban Simeon Ben Gamaliel.

In six of the arguments in the Tosefta, the word אם ('if') does not appear:¹⁸ in Citation 8 above, in the fifth exchange E, in the words of R. 'Aqiba: מה אלמנה קלה נאסרה מן המותר לה, גרושה חמורה אינו דין שתאסר מן המותר לה?¹⁹

¹⁸ In one argument, אם is found, but (ו)מה does not appear (*t. Kippurim* 1:16), and in MS Erfurt, אם is also missing there.

¹⁹ In this citation, there is use of the words קלה ('lenient') and חמורה ('stringent') without interpreting the 'strong' and 'weak' side; similarly, the words הקל and החמור serve in a different argument: מה שרץ הקל נזיר מגלח עליו [...] רביעית דם חמורה אינו דין שיהא נזיר מגלח עליו [...] ('Now if on

if the widow, who is subject to a less stringent rule, is prohibited from marrying someone who is permitted to her, a divorcee, who is subject to a more stringent rule, surely should be prohibited from marrying someone who is permitted to her!'); in Citation 10 below, in the second conversation II in the words of R. 'Aqiba: 'ומה עבודה שדוחה את השבת ספק נפשות דוחה אותה, שבת שעבודה דוחה אותה אינו? ומה עבודה שדוחה את השבת ספק נפשות דוחה אותה, שבת שעבודה דוחה אותה? דין שספק נפשות דוחה אותה? ('Now if the Temple service overrides the prohibitions of the Sabbath, and a matter of doubt concerning the safety of life overrides it, the Sabbath, which the Temple service overrides – all the more so should matters of doubt concerning the saving of life override it'), and in Citation 7 above in the words of R. Judah. In some of these citations, the word **אם** appears as an addition in some of the manuscripts: this is the case in Citation 11 below, in the first exchange A, in the words of R. Joshua – the interlocutor begins with [אם] ומה ('and what [if]') instead of ומה ('and what') in MS Erfurt and MS London, and this is the case in Citation 12 below in the first conversation I in the words of R. Yosé. Azar (p. 17) notes that one example was found in the Mishnah of an *a fortiori* argument according to Pattern F with the introduction מה ('what') instead of אם ('what if'): [...] ודין הוא: מה עור הפנים [...]: אמר ר' שמעון [...] ודין הוא: מה עור הפנים [...]: [...] And it is logical: If the skin of the face [...] – *m. Nega'im* 10: 9), but remarks in note 14, that in some of the sources it says מה אם ('what if') (MS Parma, MS Cambridge [Lowe] and First Printing Naples).

In three of the 13 arguments using this pattern in the Tosefta, a detailed structure of the pattern with במקום (ב) מה אם ('in a case') appears, for example in Citation 3 above, in the third exchange C, in the words of Beit Hillel: וממה במקום שהחמירה תורה באוכלי תרומה לזרים, הרי היא עולה מתוך החולין להאכל לזרים, במקום שהקילה תורה באוכלי תרומה לכהנים, אינו דין שתעלה מתוך החולין להיאכל לכהנים? ('If in a case in which Torah was stringent, that of non-priests who eat heave-offering, lo, it is neutralized in unconsecrated produce [and then] eaten by non-priests, in a case in which Torah is lenient, that of priests who eat heave-offering, it is not logical that it is neutralized in unconsecrated produce [and then] is eaten by a priest?'); and similarly, in Citation 4 above, in the words of R. Eliezer (in comparison to the different *a fortiori* argument that appears in the corresponding conversation in the Mishnah, which is constructed according to Pattern C). We can also find the detailed pattern with במקום in the Mishnah – in three arguments. Azar (p. 17) explains that the adverbial במקום comes instead of NP1, and מקום comes instead of NP2, providing the detailed pattern + *מה אם* (1) *מ* + *מ* + *ש-מ* + *מקום* + *מ* + *ש-מ* + *מקום* [= (And) what if + in a case + that-S1 + S2 + case + that-S3 + S4]; and he notes that במקום (ב) has a demonstrative role.

account of a dead creeping thing, which is of lesser weight, a Nazir cuts his hair [...] on account of a quarter-log of blood, which is more stringent, is it not logical that a Nazir should cut his hair [...]?' – *t. Nazir* 5: 1). Azar (p. 17) notes on an example from the Mishna in which there is a similar usage, with the verbs החמיר and הקל.

5. Pattern G – (ש-מ-2) (יפעל) + הוא + מן דין + אם [= *If + SI + is it not logical + that-S2 (yif'al)*]

Azar (p. 18) provides two examples for this pattern – without any further reference to it. Both examples appear in contexts that are not halachic give-and-take conversations – one is in the formulation of a law and the second in the presentation of a halachic view. In the halachic give-and-take conversations in the Mishnah, no *a fortiori* arguments were found using this pattern.

Three *a fortiori* arguments were found in the corpus of conversations in the Tosefta that can be viewed as belonging to this pattern, and in all, the structure is different from the pattern, as will be shown.

One argument using this pattern appears in the words of R. Eliezer in the first of two conversations in Citation 10 – I, and it begins with על ומה ('and what about') instead of the word אם ('if') used in this pattern (but in the First Printing and in MS London, the argument begins with על [אם] and in MS Erfurt with על):

10. אמ' ר' יוסה: מנין לפיקוח נפש שדוחה את השבת? [...] **I** ר' ליעזר או': מילה דוחין עליה את השבת, מפני מה? מפני שחייבין עליה כרת לאחר זמן. והרי דברים קל וחומר: ומה על אבר אחד ממנו דוחין את השבת, דין הוא שידחה שבת על כולו? אמרו לו: ממקו' שבאת: מה להלן ודיי ולא ספק, אף כאן ודיי ולא ספק. **II** אמ' ר' עקיבא: וכי במה החמירה תורה, בעבודה או בשבת? החמירה בעבודה יותר מבשבת, שעבודה דוחה את השבת ואין שבת דוחה אותה. והרי דברים קל וחומר: ומה עבודה שדוחה את השבת ספק נפשות דוחה אותה, שבת שעבודה דוחה אותה אינו דין שספק נפשות דוחה אותה? הא למדת שספק נפשות דוחה את השבת.

Said R. Yosé: How do we know that danger to life overrides the restrictions of the Sabbath? [...]

I R. Eliezer says: As to circumcision, on account of which they override the prohibitions of the Sabbath, why is this so? It is because they are liable to extirpation if it is not done on time. Now the matter yields an argument *a fortiori*: Now if on account of a single limb of a person they override the prohibitions of the Sabbath, is it not logical that one should override the prohibitions of the Sabbath on account of [the saving of] the whole of him? **They said to him:** From the very place from which you bring proof, we shall refute you. Now just as in that case one overrides the prohibitions the Sabbath in the case of certainty [that it is the eighth day] and not in a case of doubt, so here, in a case of certainty – and not in a case of doubt, should they override the prohibitions of the Sabbath in the saving of life?

II Said R. 'Aqiba: Now in what regard did the Torah impose a stricter rule, in the case of the Temple service or in the case of the Sabbath?

It was more in the case of the Temple service than in the case of the Sabbath, for the Temple service overrides [the prohibitions of] the Sabbath, and the Sabbath does not override it. Now the matter yields as argument *a fortiori*: Now if the Temple service overrides the prohibitions of the Sabbath, and a matter of doubt concerning the safety of life overrides it, the Sabbath, which the Temple service overrides – all the more so should matters of doubt concerning the saving of life overrides it. Thus you have learned that a matter of doubt concerning the saving of life overrides the Sabbath. (*t. Shabbat* 15: 16)

A second argument using this pattern appears in the words of R. Eliezer in Citation 11, in the second exchange B, and it begins with ומה instead of with אם:

11. שחטו אחרים לשמו בארבעה עשר – ר' ליעזר פוסל ור' יהושע מכשיר.

* **אמ' ר' יהושע:** ומה בשאר ימות השנה שאינו כשר לשמו, כשרו אחרים לשמו, ארבעה עשר שכשר לשמו, אינו דין שיכשרו אחרים לשמו? **אמ' לו ר' ליעזר:** ומה אם בשאר ימות השנה שאינו כשר לשמו, כשר הוא לשם אחרים, ארבעה-עשר שכשר לשמו, אינו דין שיכשר הוא לשם שמו ולשם אחרים? וכן אתה אומ'?! לומ': מפני מה כשרו אחרים לשמו בשאר ימות השנה? שכן כשר הוא לשם אחרים. יכשרו אחרים לשמו בארבעה-עשר, שאינו כשר לשם אחרים? אינו דין שיכשרו אחרים לשמו.

² **אמ' לו ר' יהושע:** הורעת כה פסח, ואתה נותן כה לשלמים. **חזר ר' ליעזר ודנו דין אחר:** מצינו! שמקדיש! פסח באו שלמים, ולא מהמקדיש שלמים בא פסח. ומה פסח שמהמקדישו באו שלמים אינו כשר לשם שלמים, שלמים שאין מהקדישן בא פסח דין הוא שלא יכשרו לשם פסח?

³ **אמ' לו ר' יהושע:** חטאת תוכיה, שאין! מהקדישה באו שלמים וכשרה לשם שלמים, אף אתה אל תתמה על השלמים, שאע"פ שאין מהקדישן בא פסח שלא יכשרו לשם פסח. **אמ' לו ר' ליעזר:** לא, אם אמרת בחטאת, שכן כשרה לשמה בשאר ימות השנה, תאמר בפסח שאינו כשר לשמו בשאר ימות השנה? הואיל ואין כשר לשמו בשאר ימות השנה, אם שחטו אחרים לשמו בארבעה-עשר הרי זה פסול.

[If people] slaughtered [animals which had been designated for] other [offerings] for its sake, on the fourteenth of Nissan – R. Eliezer declares [the sacrifice] invalid, and R. Joshua declares it valid.

^A **Said R. Joshua:** Now [if], on all other days of the year, on which it is not valid [to offer an animal-sacrifice] for its [the Passover's] purpose, [animals designated for] other [purposes] are valid [when offered] in the name of Passover, the fourteenth of Nissan, on which day it is valid for its purpose, is it not logical that other should be valid [when offered in] its name? **Said to him R. Eliezer:** Now if on all the other days of the year, on which it is not valid for its purpose, it is valid [when offered] for the

purpose of other, on the Fourteenth of Nissan, on which day it is valid for its purpose, is it not logical that it should be valid when offered both for its purpose and for the purpose of other as well – now is this what you are saying?! But there is this to be said: On what account are animals other valid for its purpose on other days of the year? It is because it is valid when it is offered for the purpose of other. But will other sacrifices be valid for its sake on the fourteenth of Nissan, on which day it in fact is not valid for the sake of other? It is not logical that other sacrifices should be valid when offered for its purpose.

^B **Said to him R. Joshua:** You have thereby diminished the power of the Passover-sacrifice, and you strengthen the power of peace-offerings.

R. Eliezer went and offered a different mode of argument: We find that he who consecrates [coins for the purpose of] a Passover-sacrifice – he brings peace-offerings, but he who consecrates peace-offerings – he does not bring a Passover-sacrifice. Now if a Passover, in the instance of which he who consecrates funds for it brings peace-offering, peace-offerings in the instance of which he who consecrates funds for them does not bring a Passover-sacrifice – is it logical that they should not be valid when brought under the designation of a Passover-offering?

^C **Said to him R. Joshua:** A sin-offering will prove the case, for he who consecrates it does not bring peace-offerings, but it is valid when offered under the designation of peace-offerings. So you too, do not be surprised that peace-offerings – even though he who consecrates offerings does not bring a Passover-sacrifice – they should be valid when offered under the correct designation of a Passover-sacrifice. **R. Eliezer said to him:** No, for if you have stated the rule in the case of a sin-offering, since it is valid when it is offered under its proper designation on all other days of the year, will you say the same rule of a Passover, which is not valid when it is offered under the correct designation on all the other days of the year? Since it is not valid if it is offered under the proper designation on all other days of the year, if they slaughtered it for the purpose of other sacrifices on the fourteenth of Nissan, lo, this surely should be invalid. (*t. Pesahim* 4, 5–6)

And the third argument in this pattern appears in citation 12 in the words of R. Elazar Ben R. Eliezer Haqqappar in the second conversation II, and it begins with למה instead of אם (in MS London it says ומה and in MS Erfurt למה מילה [‘why circumcision’]), and there is an addition in the argument itself of ש ... תאמר ב... (‘will you say in... that...’) and הואיל ו (‘since’) before the second clause (neither appear in MS London):

12. [...] ר' יוסה או': כוי אין שוחטין אותו ביום טוב מפני שהוא ספק, ואם שחטו אין מכסין את דמו.
I אמ' ר' יוסה: ומה מילה, שודאה דוחה את השבת, אין ספיקה דוחה את יום טוב, כסוי הדם, שאין ודאה דוחה את השבת, אינו דין שלא יהא ספיקו דוחה את יום טוב? **אמרו לו:** שופרות שבגבולין יוכיחו, שאין ודאן דוחה את השבת, וספיקן דוחה את יום טוב, הן יוכיחו לכסוי הדם, שאע"פ שאין ודאן דוחה את השבת, שיהא ספיקו דוחה את יום טוב.
II השיב ר' לעזר בנו של ר' ליעזר הקפר: מה למילה, שאין ספיקה דוחה את יום טוב, שאין ודאה דוחה את לילי יום טוב, תאמר בכסוי הדם, שודאה דוחה את לילי יום טוב, הואיל וודאו דוחה את + <לילי 09> יום טוב, דין הוא שיהא ספיקו דוחה את יום טוב?
 אמ' ר' אבא: זה אחד מן הדברים שהיה ר' חייא אומ': אין לי תשובה, והשיב ר' לעזר.

[...] R. Yosé says: As to a koy, they do not slaughter it on the festival day, because is subject to doubt, but if they have slaughtered it they do not cover up its blood.

I Said R. Yosé: Now if in the case of circumcision, which in a case in which it is certainly [required] does override the prohibitions of the Sabbath, in the case in which it is subject to doubt does not override the prohibitions of the festival, covering up the blood, which in a case of certainty does not override the prohibitions of the Sabbath, surely in a case of doubt should not override the prohibitions of the festival day. **They said to him:** Sounding the shofar in the provinces will prove the matter, for in a case of certainty it does not override the prohibitions of the Sabbath, but in a case of doubt it does override the prohibitions of the festival. This therefore proves the case as to covering up the blood [of a koy], for even though in a case of certainty it does not override the prohibitions of the Sabbath, in a case of doubt it [nonetheless] does override the prohibitions of the festival.

II R. Eleazar son of R. Eliezer Haqqappar replied: What is distinctive about circumcision, which in a matter of doubt does not override the prohibitions of the festival, is that in a matter of certainty it still will not override the prohibitions of the festival nights, will you say the same concerning the covering up of the blood, for a matter of certainty concerning it does override the prohibitions of the festival nights. Since a matter of certainty concerning it overrides the prohibitions of the festival, it surely is reasonable that a matter of doubt concerning it should override the prohibitions of the festival.

Said R. Abba: This is one of the rulings concerning which R. Hiyya said: I have no reply, and concerning which R. Eleazar found a suitable reply. (*t. Yom Tov 1: 5*)

As noted at the beginning of Section 4, the examination of the *a fortiori* arguments in the halachic give-and-take conversations in the Mishnah found that 63% of the arguments (45 of 71) could be considered to belong to one of

the syntactical patterns presented in Azar's article. In this examination of the *a fortiori* arguments that appear in the corpus of conversations in the Tosefta, it was found that a smaller percentage of the arguments – 55% (26 of 47) – could be considered to belong to one of Azar's patterns, and these have been presented here in patterns 1–5. The rest of the *a fortiori* arguments from the corpus of conversations in the Tosefta are not constructed according to the patterns found in Azar's article, but are expressed using two other syntactical structures, which can also be found in the arguments that appear in conversations in the Mishnah. These structures will be described here along with a comparison of what is found in the Mishnah.

A further structure should be noted here, one that appears in the *a fortiori* arguments in the halachic give-and-take conversations in the Mishnah, but does not appear in the arguments in the corpus of conversations in the Tosefta – the pattern **שמעת/שמענו ב+צ"ש + ש-מ + ורואה/רואים אני/אנו שהדברים קל וחומר [= I/we heard in+NP + that-S + and I/we see that the matters are a fortiori]**. This structure is found in four arguments in the Mishnah, which appear in three nearby mishnayot (mishnaic verses) (*m. Keritot* 3: 7–10), for example in the response to R. 'Aqiba's question:

13. שאלן ר' עקיבה: אבר המדולדל בבהמה מה הוא? אמ' לו: לא שמענו, אבל שמענו באבר המדולדל באדם שהוא טהור; כך היו מוכי שחין שבירושלם עושין: הולך לו ערב פסחים אצל הרופא וחוטכו עד שהוא מניח בו כסעורה ותוחבו בסירה ונמשך ממנו, והלה עושה פסחו והרופא עושה פסחו – ורואין אנו שהדברים קול וחומר.

R. 'Aqiba asks them: A limb is dangling from a beast – What is the rule? **They said to him:** We have not heard the rule [for that particular case], but we have heard the rule concerning a limb which is dangling from a man, that it is deemed clean. For so did the people afflicted with boils do in Jerusalem: He goes on the eve of Passover to a physician, and he [the physician] cuts [the boil] until he leaves on it a hair's breadth. And he sticks it onto a thorn. And he [the patient] pulls away from it. And this one would prepare his Passover, and the physician likewise would prepare his Passover. And we regard the matters as subject to a proof by an argument *a fortiori*. (*t. Keritot* 3: 8)

R. 'Aqiba asks a question aimed at learning the rule for a particular case: 'A limb is dangling from a beast – What is the rule?', in other words what is the rule regarding a limb torn off from an animal, and Rabban Gamaliel and R. Joshua at first claim that they do not know the rule in this case – לא שמענו ('We have not heard the rule'), but they do know

the rule in another case, that of a limb torn from a human body – שמענו באבר – המדולדל באדם שהוא טהור ('we have heard the rule concerning a limb which is dangling from a man, that it is deemed clean'), and that they believe that the rule of the second case, the more serious one, may be used in a way of *a fortiori* to determine the rule in the case that R. 'Aqiba was inquiring about, which is considered less stringent.

Azar does not include this structure as one of the patterns that he presents in his article, and nor does he relate to these arguments explicitly, but it appears that he does not consider them *a fortiori* arguments. In his discussion of Pattern A aforesaid, which includes the phrase קל וחומר ('*a fortiori*'), Azar (P. 10) maintains that not every sentence in which the words קל וחומר appear is included in this pattern and serves as an illocutionary act of *a fortiori*, and although he does not relate explicitly to this structure, it appears that his words appear to apply to it too, and that he does not relate to arguments in this structure as an *a fortiori* arguments. In the description of the *a fortiori* arguments in the halachic give-and-take conversations in this study, it was decided to include this structure among the syntactical patterns of the arguments, because it appears that the interlocutor who says ורואה אני שהדברים קל וחומר ('And I see that the matters are *a fortiori*') expresses by means of this structure that he believes that this is a case of *a fortiori*, even if this act has less illocutionary force than that contained in an explicit *a fortiori* arguments uttered according to the seven patterns noted in Azar's article.

Two additional structures, 6 and 7, which appear in the *a fortiori* arguments in the Mishnah and in the Tosefta, and which are not included in the patterns in Azar's article, will be described:

6. לא, אם אמרת/אמרתם ב+צ"ש 1 + תאמר/תאמרו ב+צ"ש 2 + ש-מ?2 [= *No, if you (sing./pl.) have said in+NP1 + that-S1 + will you (sing./pl.) say in+NP2 + that-S2*]

This structure is found in 38% of the *a fortiori* arguments in the Tosefta corpus (in 18 of 47 arguments), slightly more than the case in the Mishnah – 30% of the arguments (21 of 71), and similar to the Mishnah this structure takes two possible forms:

- (1) A structure in the singular that serves as an argument directed to a single addressee – לא, אם אמרת ב+צ"ש 1 + ש-מ?1 + תאמר ב+צ"ש 2 + ש-מ?2 – This structure is found in 11 arguments, for example in the above citations: in Citation 7 – in the words of אמרו לו ('they said to him') to R. Judah, cited in the argument of דבר אחר ('another matter'): לא, אם אמרת בנדה, שיש לזה התר אחר איסורה, תאמר בסוטה, שאין לה היתר לאחר איסורה? ('No, if you [sing.] have said the rule in the case of the menstruating woman, who becomes permitted after she is prohibited, will you state the

same rule in regard to the accused wife, who will never be permitted once she is prohibited?'); in Citation 11, in the third exchange C, in the words of R. Eliezer to R. Joshua, in Citation 2 in the words of R. 'Aqiba to R. Elazar and in Citation 14 below in the first exchange A and the second exchange B in the words of לו אמרו ('They said to him');

- (2) A structure in the plural that serves as an argument directed towards a number of addressees – 2מ-ש+ 2ש"צ+ תאמרו + 1מ-ש+ 1ש"צ+ אם אמרתם ב-צ"ש + 1ש"צ+ לא, אם אמרתם בנדורים ונדבות שאין זמן קבוע, לא, אם אמרתם בנדורים ונדבות שאין זמן קבוע, תאמרו בהגיגה שזמנן! קבוע? [= No, if you (pl.) have said in+NP1 + that-S1 + will you (pl.) say in+NP2 + that-S2] – This structure is found in seven arguments, for example in the above citations: in Citation 6, in the second exchange B, in the words of Beit Hillel to Beit Shammai: לא, אם אמרתם בנדורים ונדבות שאין זמן קבוע, תאמרו בהגיגה שזמנן! קבוע? ('No, if you [pl] have stated the rule concerning sacrifices brought in fulfillment of vows and as thank-offerings, which are not subject to an affixed time, will you state the same rule concerning the festal-offering, the time of which is fixed?'); In Citation 3, in the first exchange A and second exchange B, in the words of Beit Shammai to Beit Hillel, and in Citation 5 in the second exchange B in the words of Rabban Gamaliel to לו אמרו ('They said to him').

The Mishnah has 13 arguments that use this structure in the singular and eight in the plural.

Both in the Mishnah and the Tosefta, this structure serves to present the response of the interlocutor to a previous argument from another interlocutor, and is addressed to him directly. In the Tosefta, the argument preceding the *a fortiori* argument can be of different types, as will be presented and exemplified here:

Response to an *a fortiori* argument – in five arguments – for example, in Citation 2 above, the *a fortiori* argument of R. 'Aqiba in this structure comes in response to R. Elazar's *a fortiori* argument; and also, in Citations 3 (in the first exchange A) and 7 above;

Response to proof – in four arguments – for example, in Citation 3 above in the second exchange B, the *a fortiori* argument of Beit Shammai in this structure comes in response to proof presented by Beit Hillel; and also in Citations 6 (in the second exchange B) and 11 (in the third exchange C) above;

Response to a question ?...ש ... ב... מודים ('Do you (sing./pl.) not concede in... that...?') or to another question – in five arguments – for example in Citation 14 below in the first exchange A, the an *a fortiori* argument made by לו אמרו ('They said to him') comes in response to a question from R. Meir in the structure ?...ש ... ב... מודים, followed by an argument and another question אי אתם מודים באנשי חצר ששכחו ולא עירבו, שאסור להכניס ולהוציא מחצר לבתים ומבתים) – לחצר? [...] מה נשתנה גג מחצר? '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? [...] So what is the difference between the roof and the courtyard?');

Response to a *gezerah shavah* argument (analogy or syllogism) – in three arguments – for example, in Citation 5 above, in the second exchange B the *a fortiori* argument by Rabban Gamaliel in this structure comes in response to an analogy argument made by אמרו לו ('They said to him') in the previous exchange;

Response to an argument – in one argument – in Citation 14, in the second exchange B, the *a fortiori* argument presented by sages (אמרו לו ['They said to him']) comes in response to an argument made by R. Meir:

14. כל גגות העיר רשות אחת. אסור לעלות ולהוריד מחצר מגגות ומגגות לחצר. <וכלים>01 ששבתו בחצר מותרין ליטלטל בחצר. ושגגות 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? <וכלים>01 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. ר' שמעון או': הגג והמרפסת החצר והאכסדרה כולן רשות אחת הן.

All the roofs of a town are a single domain. It is prohibited to carry something up to or to bring something down from the courtyard to the roofs or from the roofs to the courtyard. 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 domain unto itself.

¹ **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?

² **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 recognize what is his [part of the courtyard], will you state the rule in the case of roofs, in which case each person recognizes what is his [part]?

^{III} **He said to them:** If it was divided or if it was made in mosaics, will not everyone recognize what is his?

Said R. Simeon b. Eleazar: Up to this point was the [valid] reply. R. Simeon says: The roof, balcony, courtyard, and portico all constitute a single domain. (*t. Eruvin* 7: 14)

In the Mishnah too, the arguments structured according to Structure 6 appear in response to arguments of similar types: an *a fortiori* argument – in 13 arguments; proof – in six arguments; an analogy argument – in one argument; and a question about the reason for a previous opinion – in one argument. Among the arguments that precede the *a fortiori* arguments that come in this structure in the Mishnah, the proportion of the *a fortiori* arguments is prominent – the *a fortiori* argument occurs before 62% of the *a fortiori* arguments in this structure (13 of 21 arguments). On the other hand, in the Tosefta corpus, it was found that the proportion of this element was much smaller than in the Mishnah – it occurs before 28% of the *a fortiori* arguments in this structure (5 of 18 arguments), and that two other elements preceding the *a fortiori* arguments are as prevalent as it is: proof and question. Perhaps this may be seen as a trend in the Mishnah to attribute Structure 6 mainly to the rejection of an *a fortiori* argument (and less so to the rejection of proof), in comparison to the Tosefta, which uses this structure to reject various elements to a similar degree (especially *a fortiori* arguments, proofs and questions).

A syntactical examination of the structure found that the structure לא, אם, אמרת/אמרתם + בצ"ש" + 1 + ש-מ + תאמר/תאמרו + בצ"ש" + ש-מ? occurs with **syntactic variations** in both compilations. One variation is the appearance of the causal particle שכן ('since') instead of ש ('that'). In the Tosefta, שכן comes instead of ש in the first clause in one argument (in Citation 11 above in the third exchange C, in the words of R. Eliezer: לא, אם אמרת בחטאת, שכן כשרה לשמה בשאר ימות השנה, תאמר בפסה שאינו כשר לשמו בשאר ימות השנה? – 'No, for if you have stated the rule in the case of a sin-offering, since it is valid when it is offered under its proper designation on all other days of the year, will you say the same rule of a Passover, which is not valid when it is offered under the correct designation on all the other days of the year?'), and in one argument it comes instead of it in the second clause (*t. Shabbat* 15: 10). In the Mishnah, שכן comes instead of ש in the first clause in five arguments, and comes instead of it in two clauses in a single argument.

Another syntactic variation is found in one argument in the Tosefta, which contains another causal clause beginning with שכשם ('for just as'), which comes after each of two clauses beginning with ש ('that') – in Citation 2 above (in the

two clauses in italics): לא, אם אמרת באשה שאין לי בה חלק עד שלא באת לרשותי, משבאת לרשותי נגמרה לי, שכשם שאין לי בה חלק כך אין לאחרים בה חלק, תאמר באשה שיש לי בה חלק עד שלא באת לרשותי, ומשבאת לרשותי נגמרה לי, שכשם שיש לי בה חלק כך יש בה חלק עד שלא באת לרשותי, ומשבאת לרשותי נגמרה לי, שכשם שיש לי בה חלק כך יש בה חלק? ('No, if you have so stated matters in the case of a woman in whom I have no part before she comes into my domain, while once she enters my domain, she is wholly within my power, *for just as I have no part in her, so others have no part in her*, but will you say the same of a woman in whom I have a part before she enters my domain, and who, once she enters my domain, is wholly within my power, *for just as I have a part in her, so others have a part in her?*'); It should be noted that in the corresponding argument in the Mishnah (*m. Nedarim* 10: 6), an argument different in content and constructed according to the same pattern appears, but the syntactic variation does not appear in it.

The **pragmatic use** of Structure 6 is to reject an *a fortiori* argument (or a previous argument of a different type, such as proof, question or an analogy). As noted, Azar does not include sentences using this structure in his article on *a fortiori* sentences, but rather in a different article on לפיכך ('therefore') in Mishnaic Hebrew, Azar (2012, pp. 116–119) discusses לא, אם אמרת ('No. If you said...') as sentences used to reject *a fortiori* or analogy arguments.²⁰ It was decided to include this structure among the other structures in the description of the *a fortiori* arguments in the halachic give-and-take conversations in the Mishnah and Tosefta, because the rejection of an *a fortiori* argument can also be related to as a type of an *a fortiori* argument, since the purpose of the rejection is to void the argument. The elements of this structure will be described, followed by an explanation of how it is constructed in a manner similar to *a fortiori* arguments, serving as a decisive reason to include it among these arguments.

Structure 6 is made up of two elements:

1. The negative particle לא ('no') which serves to reject the previous argument, and which means: 'it is impossible to argue here (an *a fortiori* or other argument)';
2. The rhetorical question אם אמרת/אמרתם ב+צ"ש 1ש+ש-מ 1 + תאמר/תאמרו ב+צ"ש 2מ-ש+ [= *If you (sing./pl.) have said in+NP1 + that-S1 + will you (sing./pl.) say in+NP2 + that-S2*], which serves to present the explanation for the rejection of the argument.

²⁰ Azar (2012, pp. 116–119) discusses the structure in his article on לפיכך ('therefore'), which appears in different sentences, including sentences having the structure לא, אם אמרת ('No. If you said...'). In his examples of this structure in his article, he does not include examples from the Mishnah and Tosefta, but rather from the Midrashei Halacha, because לפיכך does not appear in either of these two compilations.

The rhetorical question is made up of two parts: a conditional clause (1מ-ש+ 1ש"צ+ אמרת/אמרתם ב+ש"צ) and another clause (2ש"צ+ תאמר/תאמרו ב+ש"צ? 2מ-ש+). The conditional clause presents NP1, which is the case that was presented as lenient in the rejected argument, and after it the aspect in it that is stringent is presented in the clause (that-S1); the second clause presents NP2, which is the case that was presented as stringent in the rejected argument, and after it the aspect in which it is more lenient in comparison with NP1 is noted in the clause (that-S2).

The meaning of the rhetorical question is: 'you cannot argue that the first case (which was presented as a lenient case in the *a fortiori*) is lenient, and that the second one is stringent, because from a certain aspect, the first is actually more stringent than the second'. And in a manner closest to its literal form, this structure can be interpreted with the addition of supplements as: 'if you said that NP1 [is lenient, that is incorrect] because there is a more stringent way of looking at it, and you cannot say that NP2 [is stringent], because there is a more lenient way of looking at it'.²¹

The description of the elements of structure 6 shows that it is constructed in a form similar to that found in the patterns of the *a fortiori* sentences. Azar (p. 18) explains that *a fortiori* sentences are constructed as S1+S2, when S1 expresses an argument considered 'stronger' than the argument expressed in S2, and he adds that the condition is that S1 be a given that serves as an introduction to the innovation in S2. It can be said that in the argument that rejects the *a fortiori* in structure 6, the interlocutor does not accept the consensus that one case is more stringent than the other; accordingly he argues that the previous interlocutor who made the *a fortiori* argument (or any other argument) cannot make it, because from a certain aspect, NP1 is not more lenient than NP2, it is rather more stringent than it, which is why the law regarding NP2 cannot be inferred from it through *a fortiori*.

7. ?...ש ...ש ...למה (ו) [= (and) what of... that... that...?]

Similar to Structure 6, Structure 7 also serves to reject a previous argument, which is an *a fortiori* or analogy argument. However, unlike it, structure 7 is a rare structure in both compilations. Three *a fortiori* arguments using this structure were found in the Tosefta – in the first two arguments that will be presented (15 and 4), the argument rejects a previous *a fortiori* argument, and in the third argument (16), it rejects an analogy argument, as will be shown here.

At the beginning of Citation 15, there first appears in a *a fortiori* argument made by Rabban Gamaliel constructed according to Pattern F, followed by

²¹ See the description of the structure in Bishko (2008, p. 105); for a detailed discussion of the elements of the structure in the description of the structure in the Mishnah see Shemesh-Raiskin (2019, pp. 150–154).

a rejection of the argument by אמרו לו ('They said to him') constructed according to Structure 7:

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15. רבן שמעון בן גמליאל או': כשם שהקמה מצלת את העומר כך העומר מציל את הקמה. ודין הוא: מה אם קמה שהורע כח! עני! ²² בה הרי היא מצלת את העומר, עומר שייפה כח! עני! בו אינו דין שיציל את הקמה? אמ' לו: ר', מה לקמה שמצלת את העומר שהרי ייפה כח! עני! בו, יציל את הקמה שהרי ייפה כח עני בה?

R. Simeon b. Gamaliel says: Just as a standing [crop] protects a sheaf [from becoming subject to the law of the forgotten sheaf], so too a sheaf protects a standing [crop]. And it is a matter of logic: If a standing [crop], on which the householder has a strong claim, protects a sheaf, is it not logical that this [sheaf] protects a standing [crop]? **They said to him:** Rabbi, [if it is the case that] a standing [crop] protects a sheaf, because the householder has a strong claim [on the sheaf], can [a sheaf] protect a standing [crop], [even though] the poor has a stronger claim [on the standing crop]? (t. Pe'ah 3: 6)

Before Rabban Gamaliel's argument, he presents the similarity between two situations – 'Just as a standing [crop] protects a sheaf [from becoming subject to the law of the forgotten sheaf], so too a sheaf protects a standing [crop]'. In other words, he believes that just as the standing crop in the field protects the harvested sheaf from being subject to the law of the forgotten sheaf, so also the sheaf protects a standing crop. The *a fortiori* argument that follows is constructed according to Pattern F – 2מ-2 + ש-מ + דין + אינו + 1מ + אם + (ו)מה [= (and) what if + S1 + is it not logical + that-S2], and contains two elements as presented in the following two lines:

מה אם קמה שהורע כח! עני! בה הרי היא מצלת את העומר,
עומר שייפה כח! עני! בו אינו דין שיציל את הקמה?

If a standing [crop], on which the householder has a strong claim, protects a sheaf,
is it not logical that this [sheaf] protects a standing [crop]?

Rabban Gamaliel argues that the first situation, the more stringent one, is indicative of the second situation, which is the more lenient one: if the

²² The first three occurrences of the word עני in this citation appear in *Ma'agarim* between exclamation points to denote an error in the text, a text that needs to be corrected, etc. Lieberman (1992, pp. 52–53) believes that in all three cases, it should say [ב]עב"י instead of עני, i.e. the householder.

standing crop protects a sheaf, then the sheaf should protect the standing crop, because there is more stringency in the standing crop than in the sheaf – the householder has a weaker claim on the standing crop because the standing crop will be given in the future as gleanings, forgotten produce and corners of the field (לקט שכחה ופאה). However the householder has a stronger claim on the sheaf because it's already been harvested and consequently, no more corners of the field or gleanings will be given from it, only forgotten produce. Following this argument comes the argument rejecting it made by אמרו לו ('They said to him'), who disagree that the sheaf can protect the standing crop from the status of forgotten produce. Their argument is constructed according to Structure 7, and it has two elements that correspond to the two parts noted in the previous *a fortiori* argument:

מה לקמה שמצלת את העומר שהרי ייפה כה! עני! בו,
יציל את הקמה שהרי ייפה כה עני בה?

[if it is the case that] a standing [crop] protects a sheaf, because the householder has a strong claim [on the sheaf],
can [a sheaf] protect a standing [crop], [even though] the poor has a stronger claim [on the standing crop]?

According to this argument, the previous *a fortiori* argument should be rejected, i.e. it cannot be inferred from the first situation, which was presented as the more stringent in the previous argument (that the standing crop protects a sheaf), for the second situation, which was presented in it as being more lenient (that the sheaf protects the standing crop). This is because in the first situation the sheaf is protected, which the householder has a stronger claim on it, as explained earlier, whereas in the second situation, the standing crop is protected, which the poor has a stronger claim on it because of the Gifts to the Poor that is supposed to be given from it.

The ?...ש ...ש ... ל...מה (ו) rejection structure is constructed as a rhetorical question, and includes both elements of the argument that it rejects: the first element in it presents the first situation presented in the *a fortiori* argument, and the second one presents the second situation. Structure 7 can be broken down to include within it the two situations presented in the argument so that each of them appears as an NP in one part of the structure. The detailed structure will be ?2מ-ש + 2ש"צ + 1מ-ש + 1ש"צ ל...מה (ו) [= (and) what of+NP1 + that-S1 + NP2 + that-S2?]. The first part of the argument structure presents NP1, which is the case that is considered more stringent in the rejected argument, followed by the clause (that-S1) which denotes another aspect, from which this case is actually considered more lenient. The second part of the structure presents

NP2, which is the case that is considered more lenient in the rejected argument, followed by the second clause (that+S2)²³ which denotes another aspect, from which this case is considered to be a more stringent case in comparison to the first, and is the reason that the previous *a fortiori* argument is rejected. The structure of the rhetorical question can then be interpreted as follows: ‘what of NP1 that there is a certain law that applies to it because of a certain reason (a lenient aspect), should this law also apply to NP2?’, and the answer to the rhetorical question is negative, in other words, the law of the first case can not apply in the second case too, because the second case has a more stringent aspect, making it impossible to infer here using the *a fortiori* method.

The correspondence between the first *a fortiori* argument and the argument rejecting it in Structure 7 is expressed in the fact that the first element in the second argument – *1ש-מ + 1ש"צ+ל מה*, i.e. *מה לקמה שמצלת את העומר* (‘[if it is the case that] a standing [crop] protects a sheaf’) in this citation corresponds to the law stated in the first part of the rejected first argument, which is *מה אם קמה ש[...] הרי היא מצלת את העומר* (‘If a standing [crop] [...] protects a sheaf’). Similarly, the second element of the second argument in this citation – *2ש"צ + 2ש-מ?* – *יציל את הקמה שהרי ייפה כה עני בה?* (‘can [a sheaf] protect a standing [crop], [even though] the poor has a stronger claim [on the standing crop]?’) – corresponds to the law expressed in the second part of the rejected argument – *עומר ש[...] אינו דין שיציל את הקמה?* (‘is it not logical that this [sheaf] protects a standing [crop]?’).

In the second argument using Structure 7 too, which appears in Citation 4 above, the rejection argument is preceded by an *a fortiori* argument – the argument made by R. Eliezer, and it is also constructed according to Pattern F – *2ש-מ + 1מ + 1אם* (ו), and contains two parts:

ומה אם במקום שאין מפר נדרי עצמו משנדר, הרי הוא מיפר נדרי עצמו עד שלא ידור,
מקום שמיפר נדרי אשתו + <משנדרה, אינו דין שמיפר נדרי אשתו>01 עד שלא תדור?

No, if in a situation in which he cannot annul his own vows before he has made them, lo, he has the power to annul his own vows before he has made them,

in a situation in which he may annul the vows of his wife once she has made them, it is not logical that he should be able to annul the vows of his wife before she makes them?

R. Eliezer argues that if in the stringent case – regarding one’s own vow, in which there is no possibility of annulling the vow – the law is that he can annul

²³ The word *שהרי* appears in this citation instead of *ש*, and see more about it in the description of the syntactic variations later in the discussion of this structure.

the vow in advance, this should also be the law in the more lenient case – the vow of a wife that is annulled by her husband after she made the vow, and there too, the law should be that it can be acknowledged in advance. אמרו לו ('They said to him') reject this argument using an argument that is constructed according to Structure 7, which, as noted, contains two elements that correspond to the two parts of the rejected argument:

ומה למפר נדרי עצמו עד שלא ידור, שאם רצה להקים מקים,
יפר נדרי אשתו עד שלא תדור, שאם רצה להקים אינו יכול?

Now if he is able to annul his own vows before he makes them, it is also true that if he wanted to confirm his vows, he also does confirm them, but may he annul the vows of his wife before she actually vows, for if he wanted to confirm them, he has not got the power to do so?

This rejection disagrees that the second case can be inferred from the first case by means of the *a fortiori* method. According to the rejecting argument, in the first case there is a possibility of a person annulling his own vow, but there is also the possibility of upholding the vow without being able to annul it (if a person made a vow despite remembering the condition), and on the other hand, in the second case of annulling the vow, of a wife by her husband, there is no possibility of upholding the vow despite this (because before the vow, the husband did not have the authority to uphold his wife's vow).²⁴ The rejecting argument presents the first case along with the accepted law regarding it with the addition of the reason for it, followed by a rhetorical presentation of the argument that this law does not apply in the second case because it involves a different situation. According to the detailed breakdown of Structure 7 presented earlier – $?2מ-ש + 2ש"צ + 1מ-ש + 1ש"צ + ל(ז)מה$ – this argument can be described as follows: 'And what of NP1 (one who annuls his own vow) to which a certain law applies (he may annul his own vows in advance) because of a certain reason (because it is possible to uphold the vows), should this law also apply to NP2 (one who annuls his wife's vow)? No, because the second case has a more stringent aspect (the vow cannot be upheld)'.

Unlike the first two arguments in Structure 7, in the third argument in the Tosefta, which appears in Citation 16, the rejection is of an analogy argument rather than of an *a fortiori* argument. At the beginning of the citation, the views of R. Simeon and of R. Yosé are presented: R. Simeon argues that first fruits are exempt from the law of removal, whereas R. Yosé argues that they require removal. R. Yosé first presents the similarity between the second tithe and the

²⁴ See an explanation of this subject in Lieberman (1992, p. 119).

first fruits – they both require the recitation of a confession (מעשר שני טעון וידוי) – ‘the second tithe requires a confession and first fruits require a confession’), and then makes an analogy argument between them:

16. חומר בתרומה ובמעשר שני שאין בבכורים [...]

ר' שמעון אומ': בכורים פטורין מן הביעור. ר' יוסה אומ': מעשר שני טעון וידוי ובכורים טעונים וידוי, מה מעשר שני טעון ביעור אף בכורים טעונים ביעור.

אמ' לו ר' שמעון: מה למעשר שני טעון בעור, שכן דמיו טעונים ביעור, תאמר בבכורים, שאין דמיהן טעונים ביעור?

וכן היה ר' שמעון אומ': בכורין לא אסרו גדוליהן לאכל בירושלם [...]

[There are] stringencies [which apply] to heave-offering and to second tithe which do not [apply] to first fruits [...] R. Simeon says: First fruits are exempt from the law of removal. R. Yosé says: [Since] second tithe requires [the recitation of] a confession and first fruits [also] require a confession, then just as second tithe requires removal so first fruits [should] require removal.

Said to him R. Simeon: Now the second tithe requires removal because the coins used to redeem the second tithe require removal, will you say the same of first fruits, the [redemption] value of which does not require removal?

And so would R. Simeon say: First fruits – that which grows from them is not prohibited to be eaten in Jerusalem [...].

(*t. Bikkurim* 1: 7)

R. Yosé's analogy argument is made up of two parts:

מה מעשר שני טעון ביעור
אף בכורים טעונים ביעור

Just as second tithe requires removal
so first fruits [should] require removal

This argument is rejected in R. Simeon's argument, which is constructed according to Structure 7, which includes two elements that correspond to the parts of the previous analogy:

מה למעשר שני טעון בעור, שכן דמיו טעונים ביעור,
תאמר בבכורים, שאין דמיהן טעונים ביעור?

Now second tithe requires removal because the coins used to redeem second tithe require removal,
will you say the same of first fruits, the [redemption] value of which does not require removal?

According to this argument, the analogy between the second tithe and the first fruits should be rejected, because there is a difference between them: the money used to redeem the second tithe also requires removal, whereas the money used to redeem the first fruits does not. The detailed Structure 7 – $?2מ\text{-}ש + 2ש\text{'}\text{צ} + 1מ\text{-}ש + 1ש\text{'}\text{צ} + ל\text{'}\text{מ}ה(ו)$ – would be interpreted in this argument as follows: ‘And what of NP1 (the second tithe) to which a certain law applies (it requires removal) because of a certain reason (the money that redeems it requires removal), should then this law apply also to NP2 (first fruits)? No, because the second case involves a different situation (the money of the first fruits do not require removal)’.

The presentation of the three following arguments in Structure 7 in the Tosefta shows that this structure, which takes the form of a rhetorical question, serves to reject the previous *a fortiori* or analogy argument. When it serves to reject an *a fortiori* argument, it argues that it is impossible to infer from one case to another, because what is perceived as stringent is actually lenient and vice versa; and when it serves to reject an analogy argument, it argues that it is impossible to compare the two cases because they are quite different from one another. Structure 7 includes two elements that correspond with the two parts included in the argument that it is rejecting; the two cases in the rejected argument are represented in the two parts of Structure 7, and the $ש$ clause in each part illustrates the different situation in each of the cases, which is why the previous *a fortiori* or analogy argument should be rejected.

Two of the three arguments in Structure 7 – $2ש\text{'}\text{צ} + 1מ\text{-}ש + 1ש\text{'}\text{צ} + ל\text{'}\text{מ}ה(ו)$ – contain **syntactic variations**. In Citation 15 above, there is an addition of a $שהרי$ clause after the $1מ\text{-}ש$ clause, followed by the use of $שהרי$ instead of $ש$ at the beginning of the second clause: $מה לקמה שמצלת את העומר שהרי ייפה כח$ (‘[if it is the case that] a standing [crop] protects a sheaf, *because the householder has a strong claim [on the sheaf]*, can [a sheaf] protect a standing [crop], [even though] the poor has a stronger claim [on the standing crop]?’). And in Citation 16 above, there are two variations – the use of $שכן$ instead of $ש$ at the beginning of the first clause and the addition of $ב$ תאמר before NP2 before the second clause: $מה למעשר שני$ (‘Now a second tithe requires removal *because* the coins used to redeem second tithe require removal, *will you say the same of* first fruits, the [redemption] value of which does not require removal?’). The use of the causal particles $שכן$ and $שהרי$ instead of $ש$ expresses the status of the $ש$ clause as one that expresses a reason. In Structure 6, we also find the syntactic variation of the use of $שכן$ instead of $ש$, as described above. The addition of $ב$ תאמר before NP2 in the second part of the structure in this citation clarifies the rhetorical role of the question as of a rhetorical question aimed at rejecting the previous argument, and to which the

answer is no. תאמר ('Will you say') means 'it is impossible to say'. The use of the verb תאמר is also found in Structure 6 as part of the second element of the regular structure – 2ש"צ+ תאמר/תאמרו + 1ש-מ+ 1ש"צ+ ,לא, אם אמרת/אמרתם ב-ש"צ+ , and this structure is also of a rhetorical question, and the verb in it is also interpreted as 'it is impossible to say'.

In the previous description of the *a fortiori* arguments that appear in halachic give-and-take conversations in the Mishnah, Structure 7 was not included, in view of the fact that it was not found among the 70 *a fortiori* arguments included in the conversations in the Mishnah. Nevertheless, during the examination of the *a fortiori* arguments in the corpus of conversations in the Tosefta described in this article, Structure 7 was found in three arguments in the Tosefta, as noted, and as a part of the examination one argument in this structure was also found in the Mishnah, increasing the actual number of *a fortiori* arguments in the Mishnah from 70 to 71. The further argument in this structure in the Mishnah appears in Citation 17, which deals with the substitution of an animal dedicated as a sacrifice with another animal:

17. הכל ממירים [...] אין הכהנים ממירים לא בחטאת ולא באשם ולא בבכור.
 א אמ' ר' יוחנן בן נורי: וכי מפני מה אין ממירים בבכור? אמ' לו ר' עקיבה: חטאת ואשם מתנה לכהן והבכור מתנה לכהן, מה חטאת ואשם אין ממירין בהן אף הבכור לא ימירו בו.
 ב אמ' לו ר' יוחנן בן נורי: מה לו אינו מימיר בחטאת ובאשם שאין זכין בהן בחייהן, תאמר בבכור שזכין בו בחייו? אמ' לו ר' עקיבה: והלא כבר נאמ' "והיה הוא ותמורתו יהיה קודש", איכן קדושה חלה עליו? בבית הבעלים, אף תמורה בבית הבעלים.

All substitute [...] Priests do not effect a substitution in the case either of a sin offering or of a guilt offering or of a firstling.

^A **Said R. Yohanan ben Nuri:** And on what account do they [the priests] not effect a substitution in the case of a firstling? **Said to him R. 'Aqiba:** A sin offering and a guilt offering are a gift to the priest, and a firstling is a gift to the priest. Just as, in the case of a firstling, they should not effect a substitution, so in the case of a firstling, they should not effect a substitution.

^B **Said to him R. Yohanan ben Nuri:** What difference does it make that one does not effect a substitution in the case of a sin offering and a guilt offering, for in the case of these they [the priests] have no claim while they [the beasts] are alive, will you say the same in the case of the firstling, to which they [the priests] have a claim while [the firstling] is still alive? **Said to him R. 'Aqiba:** But has it not already been stated "Then both it and that for which it is changed shall be holy," at what

point does sanctity descend on to it? In the house of the owner, so the substitute [becomes holy] in the house of the owner. (*m. Temurah* 1: 1)

The first exchange A appears after the formulation of the law that the priests may substitute neither the animals given to them as sin and guilt offerings, nor firstlings given to them by Israelite. In the first exchange, R. Yohanan ben Nuri asks why it is forbidden for the priests to substitute a firstling, and in response R. 'Aqiba makes an *a fortiori* argument that comes after a presentation of the similarity between the sin and guilt offerings and the firstling, from whose meat the priest benefits, and his argument is constructed according to Pattern E – $2מ + אף + 1מ + אה$:

מה חטאת ואשם אין ממירין בהן
אף הבכור לא ימירו בו

Just as, in the case of a firstling, they should not effect a substitution,
so in the case of a firstling, they should not effect a substitution

According to this argument, just as a priest may not substitute an animal that has been dedicated as a sin or guilt offering with an ordinary animal, thus he may not substitute a firstling with an ordinary animal. In the second exchange B, R. Yohanan ben Nuri presents an argument that rejects the previous *a fortiori*, which includes two elements that correspond to the two parts of the rejected *a fortiori* argument:

מה לו אינו מימיר בהטאת ובאשם שאין זכין בהן בחייהן,
תאמר בבכור שזכין בו בחייו?

What difference does it make that one does not effect a substitution in the case of a sin offering and a guilt offering, for in the case of these they [the priests] have no claim while they [the beasts] are alive,
will you say the same in the case of the firstling, to which they [the priests] have a claim while [the firstling] is still alive?

According to this argument, the prohibition that applies to the substitution of animals sacrificed as sin and guilt offerings stems from the fact that the priest has no claim on them while they are alive, and may benefit from their meat only after their parts have been sacrificed on the altar, and hence he cannot substitute them because they are not yet his at this time. Regarding the firstling, however, the situation is different because when it is given to the priest it becomes entirely his, and that is why the law of the first case should not apply to the second case. According to the breakdown of Structure 7 presented earlier – $1מ(ז) + ל + צ"ש$

?2ג-ש + 2ש"ץ + 1ג-ש + – the argument can be interpreted as follows: And what of NP1 (animals given to be sin and guilt offerings)²⁵ to which a certain law applies (the priest may not substitute them with ordinary animals) because of a certain reason (they do not yet belong to the priest while they are alive, but only after they have been sacrificed), should then this law apply also to NP2 (a firstling given to a priest)? No, because the second case involves a different situation (the firstling becomes the property of the priest immediately after it has been given to him'). In this citation from the Mishnah, there is a syntactic variation that can be found in one of the citations in the Tosefta too – in Citation 16 as detailed above – when the verb תאמר בכבוד is added before NP2 – תאמר בכבוד? שזכין בו בהייו? ('will you say the same in the case of the firstling, to which they [the priests] have a claim while [the firstling] is still alive?').

To sum up Chapter 4, a table will be presented here summing up all the syntactic patterns of the *a fortiori* arguments in the halachic give-and-take conversations in the Mishnah and Tosefta. The table includes the seven patterns from Azar's article (including Pattern B which was not found in the conversations in the Mishnah and Tosefta, and which has been cited here only in order to provide a complete presentation of all seven patterns), followed by three additional structures which were not included in his article. The first seven patterns are presented in the order they appear in Azar's article numbered A–G, as they appear there (originally in Hebrew א–ז). These patterns as well as the additional structures are also numbered 1–7, in the table, as in this article.²⁶ The structures that were found only in the Mishnah and not in the Tosefta, as well as those cited in Azar's article, but which are not found in the halachic give-and-take conversations in either compilation are presented in the table without a number preceding them.

The number of arguments for each structure in the Mishnah and Tosefta is noted. The most frequent structures for each compilation are shaded, and their percentage of all the arguments is also noted. If there are changes from the basic structure – when a certain particle appears instead of another particle or when there is a detailed pattern or syntactic variation – these are noted in brief alongside the number of arguments with that structure that appear in the table.

The table will be followed by the findings that arise from it as well as the findings that arise from the detailed discussion of the structures in Chapter 4.

²⁵ It should be noted that in Kehati (2003) and in Albeck and Yalon (1988), the argument begins with מה לי instead of לו and Kehati interprets this as 'How does this law benefit me...?'.
²⁶ This numbering is not identical to the numbering used in the description of the structures in the Mishnah in the previous study (Shemesh-Raiskin 2019, pp. 137–154) because of the difference between the structures that were found in the two corpora.

Summary table – Syntactic patterns of a fortiori arguments
 in the Mishnah and Tosefta

	Syntactical structures	Compilations	
		Mishnah	Tosefta
The patterns in Azar (1991)	1. Pattern A + מ + (מה) אם קל וחומר + צ"י [= ((what) if) + S + a fortiori + PP]	1	1 in corresponding conversations
	Pattern B + מ + 1 + (מה) אם (ו) על אחת כמה וכמה (וכמה) + מ [= (And) (what) if + S1 + all the more so + S2]	–	–
	2. Pattern C + (מה) אם + מ (חיובי) 1 מ (שלילי): לא + יפעל) [= (what) if + S1 (positive) + S2 (negative: no + Yif'al)]	17 (= 24%) In 4 arguments – the second sentence is positive; in one argument – אם does not appear and the second sentence is positive; in one argument – אם does not appear and the first sentence is positive and the second negative	2 Both in one conversation; both in the detailed pattern with שעה ש (ב); both have ו before מה
	Pattern D + (שלילי) 1 מ כיצד + מ (חיובי – יפעל) [= S1 (negative) + how + S2 (positive – yif'al)]	1	–

	Syntactical structures	Compilations	
		Mishnah	Tosefta
	3. Pattern E מה אם + מ1 + אף + מ2 [= <i>What if + S1 + also + S2</i>]	11 In 9 arguments אם does not appear; in one argument מה appears instead of אם; 3 arguments have ואף	7 In 5 arguments אם does not appear; in 2 arguments מה appears instead of אם
	4. Pattern F (ו)מה אם + מ1 + אינו דין + ש-מ2 [= <i>(and) what if + S1 + is it not logical + that-S2</i>]	15 (= 21%) In 3 arguments – the detailed pattern with במקום	13 (= 28%) In 3 arguments – the detailed pattern with במקום; in 6 arguments אם does not appear; in one argument (ו)מה
	5. Pattern G אם + מ1 + דין הוא + ש-מ2 (יפעל) [= <i>If + S1 + is it not logical + that-S2 (yif'al)</i>]	–	3 In one argument – ומה על instead of אם; in one argument – ומה instead of אם; in one argument – ומה ל instead of אם
Additional structures	שמעתי/שמענו ב-צ"ש + ש-מ + ורואה/רואים אני/אנו שהדברים קל וחומר [= <i>I/we heard in+NP + that-S + and I/we see that the matters are a fortiori</i>]	4 from nearby mishnayot	–

	Syntactical structures	Compilations	
		Mishnah	Tosefta
	6. לא, אם אמרת/אמרתם ב+צ"ש + 1ש-מ + 1 תאמר/תאמרו ב+צ"ש + 2ש-מ? [= <i>No, if you (sing./pl.) have said in+NP1 + that-S1 + will you (sing./pl.) say in+NP2 + that-S2</i>]	21 (= 30%) In 5 arguments – שכן instead of ψ in the first clause; in one argument – שכן instead of ψ in 2 clauses	18 (= 38%) In one argument – שכן instead of ψ in the first clause; in one argument – שכן instead of ψ in the second clause
	7. (ו)מה ל... ש... ש...? [= <i>(and) what of... that... that...?</i>]	1 תאמר ב NP2 before the second clause	3 In one argument – addition of שכן after the first ψ clause and שהרי instead of ψ in the second clause; in one argument – שכן instead of ψ in the first clause and תאמר ב NP2 before the second clause
Total a fortiori arguments		71	47

Six of the seven patterns that Azar presents in his article can be found in the *a fortiori* arguments that appear in the halachic give-and-take conversations in the Mishnah and in the corpus of conversations in the Tosefta. Pattern B – $2\text{מ} + 1\text{ש} + \text{על אחת כמה וכמה}$ (וכמה) – is the only one that is not found in the arguments that appear in the conversations in the Mishnah and the Tosefta, and this finding seems reasonable, because Azar characterizes this pattern as one that only appears in Aggadic texts. Two of the six other patterns appear only in conversations in one of the two compilations, and they are rare in it: (1) Pattern D – $1\text{מ} + \text{שליילי} + \text{כיצד} + 2\text{מ} + \text{חיובי} - \text{יפעל}$ – appears only in the Mishnah; Azar characterizes it as a supplementary pattern of Pattern C, and

because Pattern C is itself rare in the Tosefta, it comes as no surprise that Pattern D is completely absent from it; (2) Pattern G – $+ I\text{ג} + \text{אם} + \text{דן} + \text{הוא} + \text{ש} - 2\text{ג} - \text{ש}$ (יפעל) – appears only in the Tosefta. In addition to these two patterns, there is one rare pattern that is found in both compilations, Pattern A – $+ \text{מ} + \text{קל} + \text{והומר} + \text{צ} - \text{אם}$ (מה) – and it appears only in a single argument in corresponding conversations in the Mishnah and Tosefta.

That leaves only three patterns from those that appear in Azar's article that occur in both compilations and of which at least in one they are not rare: Pattern C, Pattern E and Pattern F. Pattern E – $+ I\text{ג} + \text{אם} + \text{מה} - 2\text{ג} + \text{הא} + \text{ש}$ – can apparently be ignored as is explained in the discussion of it: the quoted from Azar (1991) and Bishko (2008) show that it is not a natural pattern for the expression of *a fortiori*, and even in an examination of the arguments from the conversations in both compilations which appear to belong to this pattern, it was found that it only appears in its form with certain variations. Regarding the two other patterns, C and F, Pattern C – $+ I\text{ג} + \text{אם}$ (מה) (חיובי) – is frequent only in the Mishnah (24%); and Pattern F – $+ I\text{ג} + \text{אם}$ (ו) – is frequent both in the Mishnah (21%) and in the Tosefta (28%). In other words, from among Azar's patterns, Pattern F is the most frequent pattern in the arguments in the halachic give-and-take conversations in the Mishnah and Tosefta, while Pattern C is frequent only in the Mishnah.

The frequency of Pattern F in the *a fortiori* arguments in the halachic give-and-take conversations in the Mishnah and Tosefta is expected, since Azar mentions in his article – which as noted focuses on the entire Mishnah, and not only on the halachic give-and-take conversations included in it – that Pattern F is the most frequent pattern in the Mishnah (whereas in the description of the other patterns, he does not refer to the subject of frequency).

In the Mishnah, Patterns C and F are similar in proportion (24% and 21% respectively), whereas in the Tosefta only Pattern F is frequent (28%). A possible explanation for this difference between the two compilations is that the choice of Pattern F in the Tosefta stems from the fact that the word דן appears in it, which clarifies lexically that an *a fortiori* argument is involved. The word דן appears also in Pattern G – $+ I\text{ג} + \text{אם} + \text{דן} + \text{הוא} + \text{ש} - 2\text{ג} - \text{ש}$ (יפעל), which, as noted, is found only in the Tosefta; it also appears in two arguments in the Tosefta in the declaration that precedes the argument: $\text{והוא} + \text{דן}$ ('And it is a matter of logic') and $\text{והדין} + \text{נותן} + \text{ש}$ ('And reason suggests that he should be exempt'), as noted in section 3.1 above. Perhaps a structure that includes the word דן was perceived as more transparent for the expression of *a fortiori*, and that is why it is the preferred structure in the Tosefta.

About 63% of the arguments in the halachic give-and-take conversations in the Mishnah can be categorized as belonging to the patterns presented in Azar's article (45 of 71 arguments), and 55% of the arguments in the corpus of conversations in the Tosefta. The rest of the arguments in the conversations

in the Mishnah and Tosefta are expressed using three additional syntactic structures. The additional structure שמעת/שמענו ב+צ"ש + ש-מ + ורואה/רואים אני/אנו שיהדברים קל וחומר is found in the Mishnah but not in the Tosefta; it is found in four arguments that appear in three nearby mishnayot (mishnaic verses) in the Mishnah, and serves to present an *a fortiori* argument. The two other structures serve to reject arguments, including an *a fortiori* argument: Structure 6 – ?מ-ש+ 2ש"צ+ תאמר/תאמרו ב+צ"ש + 1ש-מ + 1ש"צ+ אם אמרת/אמרתם ב+צ"ש – is frequent in both compilations (in 30% of the arguments in the Mishnah and 38% of the arguments in the Tosefta corpus), and is, in fact, the most frequent structure from among all the structures in each one of the compilations, whereas Structure 7 – ?...ש ...ש ... ל(י)מה – is rare in both. In all, both compilations make considerable use of both of these structures to reject arguments: in the Tosefta they are found in almost half of the *a fortiori* arguments in the corpus of conversations – in 45% of them (21 arguments), and in the Mishnah – in 31% of the arguments (22 arguments), fewer than in the Tosefta. We can see a greater trend in the Tosefta towards the use of arguments aimed at rejecting arguments than in the Mishnah.

5. Summary

Following the description of the *a fortiori* arguments that appear in the halachic give-and-take conversations in the Mishnah, presented in my book (Shemesh-Raiskin 2019, pp. 132–164), a corresponding description of the *a fortiori* arguments that appear in the corpus of halachic give-and-take conversations from the orders Zera'im, Mo'ed and Nashim of the Tosefta is presented in this article. This description of the arguments in the corpus of conversations in the Tosefta is aimed at both continuing the previous description of the arguments in the Mishnah and providing a comparison between the arguments that appear in the two compilations.

An examination of the inventory of *a fortiori* arguments in conversations in the Mishnah and Tosefta, which is presented in Section 2, showed first of all that the use of *a fortiori* arguments is a prominent rhetorical device in the halachic give-and-take conversations in both compilations: *a fortiori* arguments are found in about one-fifth of the exchanges between interlocutors in halachic give-and-take conversations in both of the compilations (2.1). The comparison of the inventory of arguments in the conversations in both compilations (2.2) showed that most of the *a fortiori* arguments in the conversations in the Tosefta appear in conversations that do not have corresponding conversations in the Mishnah. An examination of the arguments that appear in corresponding conversations in both the Mishnah and Tosefta found – among other things – two different corresponding arguments that are different from one another in content but

constructed using the same syntactic pattern and two corresponding arguments that are different from one another both in their contents and in their syntactical patterns; the comparison of these corresponding arguments showed that the arguments in the Tosefta are longer and more complex than the corresponding ones in the Mishnah. An examination of other characteristics of the *a fortiori* arguments, as described in other parts of section 2, shows that the arguments are similar in nature in both compilations in terms of where the arguments are situated within the exchanges (2.3) and those making the arguments (2.5).

The various sections of Chapter 3 specified the elements added to the *a fortiori* arguments, which are indicative of their discourse characteristics: elements preceding the *a fortiori* arguments appear in the words of the interlocutors making the arguments (3.1) as additions to the arguments (3.2). It was found that the elements that precede the argument, as well as those added to the argument, are directly connected to the argument, that they are of a halachic and argumentative nature, and that the interlocutor uses them to strengthen the halachic position that he represents in the conversation. In addition, responses to the arguments from the other interlocutor were found (3.3) as well as additions that appear after the arguments (3.4). The examination of all the elements in this chapter showed that they are used more in the Tosefta than in the Mishnah.

Chapter 4 focused on a description of the syntactic patterns of the *a fortiori* arguments in the halachic give-and-take conversations in the Mishnah and Tosefta. The patterns included six of the seven patterns that Azar (1991) found in his article on *a fortiori* arguments in the Mishnah (one pattern is found only in the Mishnah, and one pattern is not found in conversations in either of the two compilations). Also included were three additional structures (one of which is found only in the Mishnah), two of which serve to reject an argument.

From among the patterns that Azar found, the most frequent pattern in the arguments in the conversations in both compilations is Pattern F – $2מ-ש + אינו דין + 1מ + 2מ(ו)מה$ (21% in the Mishnah and 28% in the Tosefta); on the other hand, Pattern C – $2מ(שליילי: לא + יפעל) + 1מ(חיובי) + 2מ(מה)אם$ – is frequent only in the Mishnah (24%). Pattern F was characterized by Azar as the most frequent pattern in the entire Mishnah (and not only in the halachic give-and-take conversations). Structure 6 – $1מ-ש + 1ש"צ + 2מ(אמרת/אמרתם)ב + 2מ(ש"צ)ש-2מ?$ – is the most frequent of all the structures in both compilations (30% and 38% respectively), and is used to reject arguments of various kinds, including the *a fortiori* argument; in the Mishnah, the proportion of the *a fortiori* argument among the other types of arguments that are rejected is much greater than that found in the Tosefta (in 62% of the arguments with this structure in the Mishnah compared to 28% in the Tosefta). In the Tosefta, greater use was found of arguments aimed at rejecting arguments (45% in the Tosefta compared to 31% in the Mishnah).

This description of the *a fortiori* arguments in the halachic give-and-take conversations in the Tosefta, with a comparison to the situation in the Mishnah, is indicative of the nature of the arguments in the areas of discourse and syntax, and points to differences between the arguments in the two compilations. While this article did not discuss the general question of the relationship between the Mishnah and the Tosefta, its findings may contribute to the discussion of this question.

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