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“The Midrash is not the most important thing”
Revisiting the Principle of “Expounding a Layman’s
Language (מדרש לשון הדיוט)”

In the 4th chapter of Tosefta *Ketubbot*, there are some laws which are based on the unique doctrine of expounding a layman’s language (מדרש לשון הדיוט). In the exegetical literature and research, we can find three attitudes to understanding the doctrine. Some argue that the doctrine is used to enable a creative interpretation of a text written by laymen. Others argued that the doctrine is used to enable sages to read into a contractual text written by laymen an implied term. Some scholars suggest that the doctrine is used to enable the acceptance of invalid folk practices and make them valid by a fictitious interpretation of documents written by laymen in a way that would present the halakhic decision as based on the will of the parties and not as a retreat of the halakhah.

Scholars who have studied this doctrine have focused on one or two of the aforementioned laws. This study seeks, for the first time, to understand the doctrine and the way in which it was applied in each one of the laws based on it.

A critical analysis of the aforementioned approaches clarifies that each of them may explain some of the laws that are based on expounding a layman’s language, but raises logical, linguistic, and even halakhic difficulties when we try to apply it to other laws that are based on this doctrine.

This conclusion leads us to propose a new way of understanding the doctrine, according to which sages used this doctrine in order to make it easier to establish and assimilate controversial halakhic positions in the public and among the sages, through the use of the contractual text to present those positions as a fulfillment of the will of the parties to a contract.