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The Humanity of the Talmud:
Reading for Ethics in Bavli 'Avoda Zara

By

Mira Beth Wasserman

A dissertation submitted in partial satisfaction of the
requirements for the degree of

Joint Doctor of Philosophy
with Graduate Theological Union, Berkeley

in

Jewish Studies

in the

Graduate Division

of the

University of California, Berkeley

Committee in charge:

Professor Daniel Boyarin, chair
Professor Chana Kronfeld
Professor Naomi Seidman
Professor Kenneth Bamberger

Spring 2014

Abstract

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Professor Daniel Boyarin, chair

In this dissertation, I argue that there is an ethical dimension to the Babylonian Talmud, and that literary analysis is the approach best suited to uncover it. Paying special attention to the discursive forms of the Talmud, I show how juxtapositions of narrative and legal dialectics cooperate in generating the Talmud's distinctive ethics, which I characterize as an attentiveness to the “exceptional particulars” of life.

To demonstrate the features and rewards of a literary approach, I offer a sustained reading of a single tractate from the Babylonian Talmud, *'Avoda Zara* (AZ). AZ and other talmudic discussions about non-Jews offer a rich resource for considerations of ethics because they are centrally concerned with constituting social relationships and with examining aspects of human experience that exceed the domain of Jewish law. AZ investigates what distinguishes Jews from non-Jews, what Jews and non-Jews share in common, and what it means to be a human being.

I read AZ as a cohesive literary work unified by the overarching project of examining the place of humanity in the cosmos. The talmudic materials are organized as a journey down the cosmic chain of being, from the supernal realm of souls and spirit, to the material world of embodied, animal existence, to the inanimate domain of physical objects. In tracing this descent, I discover in AZ the outlines of a rabbinic anthropology that affirms the common humanity of Jews and non-Jews, and highlights the role of Jewish law in constituting Jewish difference.

As I make my way through AZ, I bring the talmudic text into dialogue with critical insights and issues from philosophy and literary theory. Pointing to ways that the editors of AZ engage the philosophic currents of their time, I challenge the prevailing characterization of the Bavli editors as inwardly focused. Even more important, I explore how AZ engages the critical questions of our time-- questions of identity and alterity, of universalism and particularism, of justice and community.

For Steve

בכל יום של חיינו יחדיו קהלת מוחק שורה מספרו.
--יהודה עמיחי

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Preface

In this dissertation, I argue that there is an ethical dimension to the Babylonian Talmud, and that literary analysis is the approach best suited to uncover it. To demonstrate the features and rewards of a literary approach, I offer a sustained reading of a single tractate from the Babylonian Talmud, *Avoda Zara* (AZ). AZ and other talmudic discussions about non-Jews offer a rich resource for considerations of ethics because they are centrally concerned with constituting social relationships and with examining aspects of human experience that exceed the domain of Jewish law. I read AZ as a sustained deliberation about what distinguishes Jews from non-Jews, about what Jews and non-Jews share in common, and more profoundly, about what it means to be human.

As I make my way through AZ, I bring the talmudic text into dialogue with critical insights and issues from modern philosophy and literary theory. Sometimes, the talmudic discussion enhances or enlarges contemporary discussions of ethics; sometimes, critical theory helps me account for distinctive features of the talmudic text. Paying special attention to the discursive forms of the Talmud, I show how juxtapositions of narrative and legal dialectics cooperate in generating the Talmud's distinctive ethics, which I characterize as an attentiveness to the “exceptional particulars” of life.

The structure of the dissertation is as follows: In Chapter I, I describe the features of a literary approach, define what I mean by “the ethical,” and make a case for regarding talmudic treatments of non-Jews as exemplary of the Bavli's engagement with ethics. In this introductory chapter, I highlight three talmudic passages that have been sites of contestation in interfaith relations and in the history of the Talmud's reception: b. Baba Kama 38a, b. Baba Kama 113a-b, and b. Sanhedrin 56a-60a.

The remainder of the dissertation offers a sustained reading of AZ. I read the talmudic tractate as a cohesive literary work that pursues one principal project, investigating the place of humanity in the cosmos. The talmudic materials are organized as a journey down the cosmic chain of being, from the supernal realm of souls and spirit, to the material world of embodied, animal existence, to the inanimate domain of physical objects. In tracing this descent, I discover in AZ the outlines of a rabbinic anthropology that affirms the common humanity of Jews and non-Jews, and highlights the role of Jewish law in constituting Jewish difference.

In Chapter II, I examine six narrative traditions from *Lifney 'Eydeyhem*, the first chapter of AZ. Drawing on the critical insights of literary theorist Mikhail Bakhtin, I explore the intertextual connections among these stories, and show how they work together to generate an expansive vision of human redemption. I argue that the forms of talmudic storytelling shape an ethical vision that is characterized by openness, multivocality, and contingency.

In Chapter III, I turn to *'Eyn Ma'amidim*, the second chapter of AZ. Drawing on critical scholarship from the emerging field of animal studies, I highlight the ways that the Bavli uses animal motifs to emphasize commonalities among women, non-Jews, and non-human animals. I describe the way the Bavli develops a concept of law as that which raises Jews above a mere animal existence.

In Chapter IV, I confront the issue that preoccupies AZ above all else, the laws of *yeyn nesekh*, or “libation wine.” I examine the legal dialectics and narrative traditions about Gentile wine in *'Eyn Ma'amidim* and propose that the secrecy and stringency that characterize this body of law reflect rabbinic anxieties about the common human experiences that link Jews and non-Jews. I argue that insofar as they aim to erect social boundaries between Jews and non-Jews, the laws of *yeyn nesekh* acknowledge the absence of essential differences distinguishing Jews from others.

In Chapter V, I examine the treatment of idols and other objects in *Kol Ha-tzlamim* and *Rabbi Yishma'el*, the third and fourth chapters of AZ, in light of new critical scholarship about inanimate things. I argue that the Bavli's distinctive outlook on the connection between objects and people reflects

the influences of both their tannaitic predecessors and their non-Jewish contemporaries, philosophers and scholastics in the pagan, Christian, and Zoroastrian worlds.

In Chapter VI, I describe a shift in AZ's focus at the end of the tractate, as the editors turn their attention away from the construction of boundaries between Jews and non-Jews, and toward the construction of boundaries between rabbis and other Jews. I conclude the dissertation with an analysis of the tractate's closing story, which brings together themes of identity and difference, and of ethics and law. Reading this concluding narrative as an instantiation of a distinctive talmudic ethos, I call attention to how it attends to the particulars of human relationship.

A Note on Sources, Usage, and Transliteration

This dissertation is built on close readings of talmudic passages. I present translations of these texts within the body of my argument, and provide all the sources in their original languages (Hebrew and Aramaic) in the notes. Because the Talmud's discussions of non-Jews have been thoroughly re-worked by censors, the manuscript traditions that I rely on can sometimes differ significantly from the standard print editions. I discuss this issue in Chapter I, and thereafter only address variations between the print and manuscript traditions when they are directly relevant to my argument.

All of my citations from AZ are from the JTS Rab 15 manuscript, unless I specify otherwise. When citing passages from other tractates, I indicate which manuscript I use. Wherever possible, my citations of the Mishna reflect the versions preserved in talmudic manuscripts. When there is significant variation among the manuscript traditions for a particular source, I indicate as much in the notes. My talmudic citations are all drawn from The Sol and Evelyn Henkind Talmud Text Databank, an invaluable resource provided by the The Saul Lieberman Institute of Talmud Research of the Jewish Theological Seminary. Wherever possible, I have checked the transcriptions against photocopies of the manuscripts.

All of the translations are my own, though I often consult with the Soncino translation into English, and with the Steinsaltz translation into Hebrew. For biblical texts, I consult the New JPS translation.

In referring to rabbinic texts, I use “m.” to refer to a passage from the Mishna; “t.” to refer to a passage from the Tosefta; “y.” to refer to a passage from the Yerushalmi, or Palestinian Talmud; and “b.” to refer to the Babylonian Talmud. When “Mishna” is capitalized it refers to the work as a whole; “mishna” refers to an individual statement within the Mishna. I use the terms “Talmud,” “Gemara,” and “Bavli” interchangeably to refer to the Babylonian Talmud.

In recent decades, critical Talmud scholarship has identified redactional layers within the Babylonian Talmud. (I discuss these scholarly advances in Chapter I.) There is a growing consensus that the Talmud emerged from the hands of anonymous editors who lived in a period subsequent to the era of the Amoraim, the rabbinic authorities whose names appear in the Talmud. Some scholars call these anonymous editors the “Stammaim,” a new coinage that is based on the traditional designation of the anonymous voice of the Talmud as “the Stam” (the “unmarked” or “impersonal”). Since the field has not unanimously embraced this model of belated redaction, I avoid this terminology when I am not directly engaging the relevant scholarship. Instead, I refer to the anonymous voice of the Talmud either as “The Bavli,” “the Stam,” or “the anonymous editors.”

I have adopted a system of transliteration that allows me to distinguish among the following consonants in rendering Hebrew or Aramaic words and phrases:

’ = ḥ	‘ = ḥ	tz = ṣ
h = ḥ	kh = ḥ	

Vowels and other consonants are expressed phonetically. I do not transliterate final “ḥ” and “ḥ”. Prefixes are set off with a hyphen. I do not employ this transliteration system for proper names, but rather use the conventional spellings.

For reasons of style, I have adopted the convention of referring to the talmudic chapters of AZ by the traditional names used in the Bavli itself, rather than by number. These are the traditional designations of AZ's five chapters:

- Chapter 1: *Lifney 'Eydeyhem*
Chapter 2: *'Eyn Ma'amidim*
Chapter 3: *Kol Ha-tzlamim*
Chapter 4: *Rabbi Yishma'el*
Chapter 5: *Ha-sokher 'et Ha-po'el*

Chapter I: The Talmud Uncensored

Once the government [of Rome] dispatched two soldiers and said to them, “Go disguise yourselves as Jews and examine their Torah—what is its nature?”

They went to Rabban Gamliel in Usha. They read Scripture and studied the *Mishna*, *midrash*, *halakhot*, and *hagadot*. At the time of their departure, they said, “All of your Torah is beautiful and praiseworthy, except for one thing—that the stolen property of a non-Jew is permitted, and of a Jew is prohibited. But we will not report this thing to the government.”

Sifre Deuteronomy 344¹

Is the Talmud Ethical?

My goal in this dissertation is to elaborate an ethics of the Talmud. I hope both to uncover new insights about what the Talmud says and how it says it, and to suggest some ways that reading the Talmud can contribute to contemporary conversations about ethics. At the heart of my project are two related proposals: first, that talmudic discourse has something special to offer the study of ethics, and second, that a literary approach to the Talmud can help us identify a distinctive rabbinic ethos, a particular outlook on human experience and relationships. The Talmud is a vast work, however, and I cannot hope to do justice to more than a small fraction of it. My strategy therefore will be to examine just one part of the talmudic corpus—the very part that the Roman spies in the story above identify as the most troubling aspect of Jewish teaching—the Talmud's treatment of non-Jews.

The body of this dissertation offers a sustained reading of a single tractate from the Babylonian Talmud, *Avoda Zara (AZ)*. “*Avoda Zara*” can be translated “foreign worship,” and while the tractate purports to address issues of idolatry, I will argue for reading it as an extended deliberation about what distinguishes Jews from other people, and, more broadly, about what it means to be human. *AZ* is not, however, the only place in the Talmud where differences between Jews and non-Jews are discussed. In this introductory chapter, I examine several key passages from elsewhere in the Talmud that address the legal status of non-Jews. Close readings of these passages help me make my case for reading the Babylonian Talmud as a work of ethics, and demonstrate that the Talmud's discussions of non-Jews offer a particularly rich sample for study. In this chapter, I confront the problem of the Talmud's particularism, and argue that though the Talmud is not universalist, it is deeply engaged with general

¹ My translation. Throughout this dissertation, I translate the word “ישראל” as “Jew,” whenever it refers to an individual; I translate the word “גוי” as “non-Jew” or “Gentile,” using the terms interchangeably. This approach reflects the insights of Ishay Rosen-Zvi and Adi Ophir, who argue that in the rabbinic period “goy” and Jew come to function in polar opposition, in contrast to biblical and post-biblical conceptions of Jewish difference that recognized diverse non-Jewish nations. See Rosen-Zvi and Ophir, “Goy: Toward a Genealogy,” *Diné Israel* 28 (2011), 69-122.

וכבר שלחה מלכות שני סרדיטיאות ואמרה להם לכו ועשו עצמכם יהודים וראו תורתם מה טיבה הלכו אצל רבן גמליאל לאושא וקראו את המקרא ושנו את המשנה מדרש הלכות והגדות בשעת פטירתם אמרו להם כל התורה נאה ומשובחת חוץ מדבר אחד זה שאתם אומרים גזילו של גוי מותר ושל ישראל אסור ודבר זה אין אנו מודיעים למלכות.

ethical questions about human responsibility and relationships nonetheless.

I realize that on the face of it, the Talmud, the classic repository of both Jewish law and lore, would seem to be one of the most obvious places to look for guidance on Jewish ethics. Many authors and teachers have indeed mined the Talmud for ethical teachings: Some extract stories of the sages that exemplify such precepts as filial piety and generosity toward the poor. Others cite aphorisms, homilies, and points of law that convey moral values. Contemporary ethicists have used case studies drawn from the Talmud to generate ethical principles they can apply to thorny new conundrums in medical ethics. But while many teachers and scholars put the Talmud to ethical use, they tend to be highly selective in their engagement with the work, treating the Talmud as little more than a grab-bag of edifying insights, a Jewish treasury of quotations. Like the Roman spies in the story above, they simply don't report on the Talmud's internal conflicts and contradictions, or on its apparent lapses of judgment and manners. As this dissertation will make clear, there are lots of such lapses. The Babylonian Talmud is a vast and complicated work, as dense as it is sprawling, and yet artful and shot-through with ethical import. What distinguishes my project from other investigations of ethics in the Talmud is my interest in describing the ethical vision that emerges from the discursive practices that characterize the Bavli as a whole. Paying special attention to the Bavli's particular mix of forms, voices and materials, I will not turn away from rabbinic characters, or texts, behaving badly. I will try to learn from them without apologizing for them.

In this introductory chapter, I examine three passages, b. Baba Kama 113a-113b, b. Sanhedrin 56a-60a, and b. Baba Kama 38a. All of these talmudic discussions respond to the same ethical conundrum, namely, what appears to be a double standard in rabbinic law as it pertains to Gentiles. Some of the rabbinic authorities who appear within these passages relate to the differential treatment of Jews and Gentiles as a difficulty, and others do not. As I will show, these particular passages figure prominently in the long history of the Talmud's reception within and beyond the Jewish community.

The passage from b. BK 113a-b does double duty as my first talmudic reading: It exemplifies the kind of troubling material that we will encounter in examining the Talmud's treatment of non-Jews, and it illustrates the pitfalls of extracting ethical insights from stories or rulings that are taken out of their talmudic contexts. The text comes from a relatively short sugya, or unit of talmudic deliberation. The sugya opens with a terse dialectical exchange about the local mishna, veers into broader legal themes, and ends with a short narrative. I will demonstrate the difference that context makes by first considering the narrative in isolation. After that, I will restore the narrative to its talmudic context, and read it as part of the sugya's deliberations. This exercise will illustrate how the consideration of context dramatically re-casts the reading experience, and points to a nearly opposite perspective in the realm of ethics.

The hero of the narrative is Rav Ashi, the fourth-fifth century leader of the rabbinic academy at Sura who is traditionally credited with editing the Talmud. When such a religious exemplar is shown to be duplicitous in his dealings with a Gentile neighbor, this raises questions about the ethics of the talmudic authorities, and about the ethics of the Talmud itself. Examination of this short passage will thus convey us to the central question of this introductory chapter: Is the Talmud ethical?

Two Readings of Rabbinic Double Talk (Baba Kama 113a-b)

Rav Ashi was going downstream in a boat. He saw there were certain branches of grapevine that were hanging outside a vineyard, and hanging from them were bunches of grapes.

He said to his servant, "Go and look: If they belong to a Jew, do not take them. If they belong to a non-Jew, take them. "

That very non-Jew heard, and said to him, “From a non-Jew it is permitted [to steal]?”

He [Rav Ashi] answered, “This is what I meant to say to him: If it is a non-Jew, take [the grapes], since he [the non-Jew] would accept money, but if it is a Jew, do not take them, since he [the Jew] would not accept money.”²

Rav Ashi is sailing along when he notices some tantalizing clusters of grapes hanging outside a vineyard. The story confronts us with what appears to be a straightforward test of our hero's mettle: Will the rabbi bow to temptation and steal the fruit, or will he resist temptation and thereby confirm his role as moral exemplar? Almost immediately, however, things get more complicated, as Rav Ashi instructs his servant to investigate the identity of the vineyard's owner: Is he a Jew or a non-Jew? If he is a non-Jew, take the fruit! Little does Rav Ashi realize that the owner—a non-Jew—is within earshot. It is a “gotcha” moment, as the vintner catches the rabbi with his hand in the proverbial cookie-jar, announcing his intent to steal the grapes. As readers, we jump to the same conclusions that the vineyard-owner does: Apparently Rav Ashi has no compunctions about stealing from a Gentile! But for the offended vineyard-owner, the incident is even more broadly implicating. At issue is not simply the moral failing of one individual, but the integrity of the system of law that he represents. Does rabbinic law permit stealing from a non-Jew? The non-Jew presumes that Rav Ashi is poised to steal his grapes, and he interprets this act not as a breach of Jewish law on Rav Ashi's part, but as a reflection of Jewish law.

In the end, however, Rav Ashi is given the last word: Things are not as they seem, he explains, and the vineyard-owner—and we readers as well—are shown to have rushed too quickly to judgement. The rabbi explains that he had no intention of stealing the grapes—far from it! So reluctant is he to take that which does not belong to him that he merely wished to ascertain whether the owner of the grapes would be amenable to being paid. Were the owner a Jew, the rabbi suggests, his deference to Rav Ashi's position—or perhaps his inherent sense of generosity—would impede him from accepting the payment that Rav Ashi is determined to offer.³ A non-Jew, however, would be open to such a transaction. According to Rav Ashi, it was all a big misunderstanding.

When this story is read on its own, Rav Ashi's closing words are doubly chastening, as we are corrected both for having suspected the rabbi of stealing, and for having suspected Jewish law of discriminating against Gentiles. As readers, we are cast in the subject position of the non-Jew, and exposed for having rushed to judgment, just like the vineyard-owner. The story suggests that there are differences between Jews and non-Jews, but these differences are matters of sensibility and culture, and are not instituted by law. Whether we read the distinction Rav Ashi makes between Jews and Gentiles as a judgment about the moral superiority of Jews, or as a sensitive appraisal of power relations, his closing words effectively put our worst suspicions to rest. He was not intending to steal. While it is possible that Rav Ashi's explanation is simply a cover-up, an excuse that he quickly manufactures upon being caught, the shape of the narrative effectively forestalls this reading when it gives Rav Ashi the

2 b. Bava Kama 113b, my translation from the Hamburg manuscript, as presented in the Lieberman database:

רב אשי הו?ה? שפיל ואזיל בארבא חזא הנהו שבשי דגופנא דתלו לבר מפרדיסא ותלו בהו קטופי
אמי ליה לשמעיה סליק חזי אי דישראל הוא לא תיתי ואי דגוי הוא איתי
שמעיה ההוא גוי אמי ליה דגוי שרי

אמי ליה הכי קאמינא ליה אי דגוי הוא איתי דשקיל דמי ואי דישראל הוא לא תיתי דלא שקיל דמי

3 Yet another possibility that some commentators raise is that Jewish law would have allowed such produce to be taken, but that non-Jewish owners would not have known or felt bound by this Jewish norm. This proposal, however, smacks of apologetics.

final word. What seemed for a moment to be a story about a great rabbi's moral failing, and then to be a story about rabbinic law's moral failing, comes instead to illustrate Rav Ashi's inordinate integrity. This, in any case, seems the most plausible reading when the story is read on its own.

A much different reading suggests itself when the story is read in its talmudic context at the end of a sugya. As it happens, Rav Ashi figures prominently in these deliberations, and he opines on the very issue of whether it is lawful to trick a non-Jew. For the sake of clarity, I'll briefly outline the steps leading up to Rav Ashi's entrance into the conversation. This is how the sugya unfolds, beginning on b. BK 113a:

1. The Mishna rules that the money a tax-collector collects may not be used for making charitable contributions or even for making change; the implication is that these monies were acquired illegitimately.
2. The anonymous editorial voice of the Talmud notes that this mishna seems to conflict with the general principle articulated by Shmuel, that "The law of the sovereign is the law." If the government can legitimately make law, what is illegitimate about collecting government taxes?
3. Two alternative opinions are proposed to resolve the apparent conflict between the local mishna and Shmuel's principle:
 - a) The opinion of Shmuel, reported by Rav Hanina son of Rav Kahana: The Mishna speaks of a tax-collector who operates without any limit set by the state.
 - b) The opinion of the house of R. Yannai: The Mishna speaks of a tax-collector who acts entirely on his own authority.
4. The editor raises the possibility that the two opinions above might have been articulated in reference to two other rulings concerning tax-collectors; these rulings also seem to conflict with Shmuel's affirmation of the government's legitimate legal authority:
 - a) It is permitted to hide from a tax-collector.
 - b) It is permitted to lie under oath to the tax-collector, swearing that one's property has already been designated for the king or the priest even if that is not the case.

It is at this turn in the argument that Rav Ashi appears. The editor cites Rav Ashi as one who offers a third possible explanation for why it is permitted to deceive a tax-collector. According to Rav Ashi, the deception is permitted only because the tax-collector is a non-Jew! In support of Rav Ashi's opinion, the editor cites the following baraita, a tradition dating from the Tanna'im that is not collected in the Mishna:

A Jew and a non-Jew come before you in court. If you can vindicate him (i.e. the Jew) according to the laws of Israel, vindicate him and say to him (the non-Jew), "Such is our law." (If you can vindicate him) according to the laws of the nations of the world, vindicate him and say to him (the non-Jew), "Such is *your* law." And if not, approach him through indirection. These are the words of R. Yishmael.
R. Akiva says: One does not approach him through indirection because of the desecration of the name (of God).⁴

⁴ b. BK 113a, ms. Hamburg (The round brackets indicate my insertions):

ישראל וגוי שבאו לפניך לדין אם אתה יכול לזכותו בדין ישראל זכה ואמור לו כך דיננו בדיני אומות העולם זכה ואמור לו כך דינכם ואם לאו באין עליו בעקפין דברי ר' ישמעאל ר' עקיבה או אין באין עליו בעקפי מפני חלול השם

Rav Ashi thus appears to embrace a tradition that subscribes to a fundamental difference between Jews and non-Jews when it comes to their legal standing. According to Rav Ashi, who can be understood to follow either R. Yishmael or R. Akiva, Jewish interests trump considerations of justice.⁵ Permission to deceive and defraud Gentiles is written into Jewish law. Of course, not all agree on the extent of this. According to Rabbi Akiva, it would be a desecration of God's name for God's people to engage in outright trickery, here called “indirection.” Even so, as the deliberation continues, the anonymous editor extrapolates that even according to R. Akiva, the real objection to deceiving Gentiles in court is not an inherent claim about justice, but rather a kind of public relations issue. Were it not for the very serious problem of desecrating God's name, R. Akiva too would apparently allow the wholesale if covert deception of Gentiles in a court of law.

Concern about the desecration of God's name, or *hilul ha-shem*, is an issue that bears further consideration. Like its opposite, the sanctification of God's name, or *kidush ha-shem*, the concept of *hilul ha-shem* engages the public reception of Jewish religious acts. Because rabbinic literature designates acts of martyrdom as “dying for the sake of *kidush ha-shem*,” in medieval Jewish culture, martyrdom becomes the primary referent for the term *kidush ha-shem*. In the Talmud, however, martyrdom is but the most extreme of a whole spectrum of behaviors in which Jews are charged with promoting God on a public stage. The presence of an audience changes the dimensions of Jewish responsibility, so that acts that would be allowed in private are prohibited from being performed in public.⁶ While this principle operates in the presence of a Jewish public, it is further intensified when the audience is not Jewish, particularly when oppressive foreign powers actively prohibit the observance of Jewish law. The principle of *kidush ha-shem* dictates that the presence of non-Jewish onlookers activates a heightened standard for Jewish behavior. By the same token, in this sugya, the concept functions as a justification for a degraded standard in circumstances where Jewish actions are hidden from the eyes of non-Jews. Here, when *hilul ha-shem* is invoked to proscribe the mistreatment of non-Jews, the very terminology suggests that the victimization of non-Jews is of secondary concern. The primary interest is in non-Jews as an audience for Jewish religious performance. Here, non-Jews are not regarded as subjects in themselves, but rather as outsiders looking in and passing judgment on the Jews' relationship with God.

From its consideration of *hilul ha-shem*, the sugya moves on to investigate what specific protections—if any—Jewish law accords to non-Jews when it comes to their property. It presents deliberations about three related legal questions: Is one permitted to steal from non-Jews? Is one

5 To be clear, when I speak of Rav Ashi, Rabbi Ishmael, and Rabbi Akiva here, I am relating to them as characters in the text, rather than as historical personages. Though I don't question the historical existence of these figures, it is my view that a healthy suspicion about the Bavli's attributions is appropriate, so that individual sources don't necessarily reflect historical realities, though an accumulation of sources might. Sometimes, parallel rabbinic texts offer some degree of confirmation of an authority's opinion, and in connection to this text in particular, there is a body of relevant research. Marc Hirshman argues that the schools of R. Akiva and R. Yishmael held contrasting views on whether the laws of the Torah addressed Gentiles as well as Jews, a claim that is based on readings of Halakhic midrash. See Marc Hirschman, “*Torah le-khol ba'ey ha-'olam*”: *zerem universalis be-sifrut ha-tana'im ve-yahaso le-hokhmat ha-'amim* (Tel Aviv: Ha-Kibutz ha-me'uchad, 1999), and “Rabbinic Universalism in the Second and Third Centuries,” *Harvard Theological Review* 93:2 (April, 2000), 101-15. In *Sifre Devarim*, a work that traditional scholarship associates with the school of Akiva, there is a tradition that resembles this baraita, connected with R. Yishmael: “This was the approach of R. Yishmael when a Jew and a Gentile would come before him for judgment. Whether according to the laws of Israel, or according to the laws of the nations of the world, he would find in favor of the Jew. 'What does it matter to me? Doesn't Torah say thus: *Listen among your brothers!*'” (*Sifre Devarim, parshat Devarim* 16, my translation.) In the continuation of the tradition, R. Yishmael's approach is criticized. It is complicated but not impossible to square this tradition with Hirshman's view that R. Yishmael's school are the universalists. In any case, it might well be that the baraita in BK has absorbed some later editorial comment that emphasizes the aggressiveness of the approach ascribed to R. Yishmael.

6 The relevant discussions beyond this sugya are on b. San 74a-b and on b. AZ 27b.

required to return their lost property? Is it permissible to profit from their mistakes during business transactions? None of these questions is decisively resolved.⁷ Though Rav Ashi is not mentioned by name again—not until the story of the grapes, which concludes the entire sugya—the whole flow of the deliberation turns on the citation of his opinion. Note the pivot in the topics under debate: Before Rav Ashi's opinion is mentioned, the theme of the discussion is the legitimacy of government tax collectors; after Rav Ashi's opinion, the topic is the property rights of non-Jews. Rav Ashi's opinion shifts the discussion from politics and power relations to interpersonal ethics. For the remainder of the sugya, at issue is not the justice of imperial power, but rather personal and business relationships between individual Jews and non-Jews. Given the pivotal role Rav Ashi's opinion plays in the trajectory of the passage, when the sugya circles back to him for a second time, this time as the main character in the story about the grapes, his legal opinion is fresh in our minds. The legal deliberations that constitute the sugya provide the background for understanding the story, and dramatically influence its interpretation.

It is only the reader who arrives at the story by way of the preceding legal discussion who knows where Rav Ashi stands when it comes to the legal status of Gentiles. Only those who have a prior understanding of his views can see him winking at us. Rav Ashi believes, we know, that it is permissible to deceive Gentiles. Presumably, he is sympathetic to the view articulated within the sugya that permits one to trick, cheat, and rob non-Jews, so long as one takes care not to dishonor God's name. Reading against this background, we can recognize in the story of Rav Ashi's encounter with the non-Jewish vintner a vivid illustration of precisely the kind of high-minded swindle that R. Yishmael advocates in courts of law—a triumph for the arts of indirection. Rav Ashi proves a virtuoso in negotiating his legal prerogatives: He will happily swindle non-Jews, but only if he does not get caught. Faced with the prospect of bringing dishonor to God and God's law, he relies on his wits to persuade his Gentile audience that he is honorable and that the law of the Torah is beyond reproach. His story thus exemplifies a plausible, if crass, reading of the sugya as a whole: Do what you will to non-Jews and their property, so long as you don't give them a bad impression of the Jews.

Read alone, the story of Rav Ashi reads as a dull hagiographic tale, offering pallid lessons in virtue: “Resist temptation,” and “Do not steal.” In the context of a longer deliberation about the rights of non-Jews, it becomes an infinitely richer story, full of reversals and irony. The sugya is the chamber which allows the protest at the heart of the story to reverberate: “From a non-Jew it is permitted to steal?!” Unlike the non-Jewish character who voices this question within the narrative, the student of the sugya knows how apt the protest is, for indeed there is a long-standing rabbinic tradition that not only writes this double standard into law, but also seeks to conceal it from non-Jews. Given Rav Ashi's approval of such deception within the sugya, the umbrage that the non-Jewish vintner takes at Rav Ashi's move to steal his grapes is better placed than he knows. As the culmination of the sugya, the story offers as a critique of Rav Ashi's unbridled promotion of Jewish privilege. The non-Jewish character within the story serves as a mouthpiece for the talmudic storyteller's compunctions about the partiality of Jewish law.

One reason I cite this sugya is to illustrate the importance of reading the Talmud's narratives and legal dialectics in concert, an important methodological point that I will return to in Chapter II. Talmudic discourse takes the form of dialectic, and this means that any excerpted passage read in isolation from context is reductive and misleading.⁸ At the same time, this passage illustrates some of

7 Talmudic commentators who fixed the law in later generations prohibited Jews from stealing from Gentiles, citing concerns about the desecration of the Name of God raised in this passage. The passage played a central role in Jewish-Christian disputation in the medieval period, and provided fodder for anti-Jewish discourse. The language of *h'ilul ha-shem* might well encode anxiety about Jewish communal vulnerability given the high stakes of interfaith relations in Christian Europe.

8 The methodological point is emphasized by Jeffrey Rubenstein in *Talmudic Stories: Narrative Art, Composition, and*

the difficulties inherent in my project, raising critical questions about the plausibility of reading the Talmud for ethics. Even if one is persuaded by my claim that the story of Rav Ashi offers a critique of a legal double-standard with regard to Gentiles, the sugya nonetheless confirms that when it comes to the topic of Jewish-Gentile difference, the outlook of the talmudic authorities is very distant from contemporary sensibilities. Can one look to the Talmud for ethical insights when its authorities explicitly promote policies of deception and partiality with regard to non-Jews?

To say that the (mis)treatment of non-Jews in this passage conflicts with contemporary liberal values of egalitarianism is by no means to disparage the Talmud. The Talmud, after all, is the product of a distant time and place, and can best be understood in relation to its own cultural contexts. If the opinion assigned to R. Yishmael truly originates in his times, we can understand his crafty approach to defeating non-Jews through cleverness as a resourceful adaptation to life under a repressive Roman regime. Rav Ashi, though he lived in a far more secure setting in fifth century Babylonia, was also the subject of a vast empire; meeting this Babylonian rabbinic authority in the guise of a trickster figure offers rich material for literary and historic analysis, to be sure. The sugya's shift in the characterization of the non-Jew, from the imperial official who collects taxes to the property owner sitting in his private vineyard, invites an analysis of power relations as an additional extenuating factor. These considerations confirm that the Talmud's discussions of non-Jews offer a rich resource for the study of rabbinic culture. The question that arises, however, is how these materials can contribute to contemporary considerations of ethics. What kind of ethical wisdom can one expect to find in a work that seems to promote xenophobia and duplicity? If the content of the Talmud is so problematic from an ethical perspective, why press it into the service of ethics at all? What can we hope to gain?

Over the course of this dissertation, I hope to demonstrate that there is much to be gained from bringing an ethical lens to the study of the Talmud. My interest is not so much in evaluating the behavior or teachings of authorities such as Rav Ashi, but rather in examining the ways in which their stories and legal traditions are conveyed. When I characterize the Bavli as an ethical work, I do not mean to compare it to classical works of ethics in the Aristotelian tradition, where ethics is pursued through deduction and propositional argumentation. In the Bavli, ethical ideas are conveyed through narrative illustrations, normative statements, dialectical arguments, and the juxtapositions and connections the editors forge among these various modes of discourse. I discover the ethics of the Talmud not in the content of the talmudic authorities' teachings, but rather in the Talmud's modes of discourse, in the distinctive ways the Bavli engages its readers as it intertwines storytelling and legal reasoning.

In the passage above, an ethical critique of Rav Ashi's position emerges only when the story is read alongside the accompanying dialectic. Here, reading for ethics means following the Bavli's prompts, and shifting our perspective back and forth from an insider's view, to the experience of an outsider. The Bavli not only invites us to evaluate the great rabbi from the perspective of a non-Jew, it equips us with the requisite interpretive tools for penetrating Rav Ashi's acts of "indirection." It is the realization of the non-Jewish vintner's potential victimization—and our sympathy with his protestations—that animates the Bavli's internal critique. Any propositional statement evaluating the ethics of Rav Ashi's behavior—whether to convict him or to justify his actions—would necessarily flatten the thickness of the Bavli's presentation. In the interplay of story and dialectic, the Bavli has constructed a reading experience that mimics the richness of interpersonal relations in the world, involving us in the experience of others, highlighting the gap between what someone says and what he means, and calling attention to the various social norms, cultural idioms, and personal desires that mediate any encounter with another person. It is in this rich rendering of interpersonal exchange that I locate the ethical

Culture (Baltimore: Johns Hopkins University Press, 1999). For an account of the Bavli's multivocality and dialogism, see Daniel Boyarin, *Socrates and the Fat Rabbis* (Chicago: University of Chicago Press, 2009).

content of this passage.

Ultimately, the value of investigating the Talmud in this way will be measured on the strength of my readings of Talmud. My approach builds on earlier efforts to bring rabbinic literature into conversation with ethical thought. Two brief excursions with modern Jewish thinkers will help me define the contours of my project: Samuel Holdheim and Emmanuel Levinas lived and wrote in different corners of Europe during very different moments in Jewish history. Perusing the Talmud for ethical insights, they came to nearly opposite conclusions about what the Talmud has to offer.

Is There Ethics in the Talmud? Two Modern Views

Samuel Holdheim (1806-1860), one of the early leaders of Reform Judaism, was a distinguished talmudist who lived during the first flush of Jewish enlightenment and emancipation in Germany. Educated in traditional rabbinical academies through his early adulthood, he came to believe that the Talmud was an obstacle, rather than a boon to ethical attainment. In 1845, he expressed disdain for attempts by his contemporaries to read Enlightenment values into traditional Jewish texts. He believed intellectual honesty demanded rejecting the Talmud outright:

Reform must avoid as much as possible to press the banner of progress into the rigid hands of the Talmud. The time has to come when one feels strong enough vis-à-vis the Talmud to oppose it, in the knowledge of having gone far beyond it. One must not with every forward step drag along the heavy tomes and, without even opening them, wait for some innocent remark, therewith to prove the foundations of progress.⁹

Holdheim is allergic to apologetics, and this leads him to declare the Talmud obsolete. Here he suggests that Talmud study can have no role in a Judaism committed to universal freedom and enlightenment. Holdheim is one who would point to the folly of using the Talmud's occasional “innocent” remark—like Rav Ashi's protestation to the Gentile vineyard-owner — as evidence that the Talmud reflects modern, universal values.

Holdheim's call for abandoning the heavy tomes of Talmud was largely fulfilled, and for over a century, the Talmud remained untaught and inaccessible to many liberal Jews. To a certain degree, my dissertation project is a contemporary Reform rabbi's retort to Holdheim, an effort to demonstrate the rewards that the Talmud holds out to modern readers, no matter what their religious commitments. To be sure, the contents of the Talmud often offend modern ethical sensibilities. I will seek to demonstrate, however, that other aspects of the Bavli can arouse and enrich our ethical discernment and imagination, especially when we approach the Bavli as we would another work of literature. I will argue that Talmud study offers an education in ethics, even when it conveys hateful views.

Holdheim is famously remembered for the words, “The Talmud speaks with the ideology of its own time, and for that time it was right. I speak from the higher ideology of my time, and for this age, I am right.”¹⁰ From our perch in the twenty-first century, Holdheim's faith in human progress seems tragically misplaced. Writing on the other side of the near destruction of European Jewry, Emmanuel Levinas (1906-1995) eschewed the Western philosophic tradition that Holdheim so fervently embraced, and promoted Talmud study as a corrective to the dangers of the totalizing claims of philosophy and

9 From Samuel Holdheim, “The Authority of the Present” (1845) as reproduced in *The Reform Judaism Reader: North American Documents*, eds. Michael A. Meyer and Gunther Plaut (New York: UAHC Press, 2001), 13.

10 Holdheim, 13.

ideology:

The great strength of the Talmud's casuistry is to be the special discipline which seeks in the particular the precise moment in which the general principle runs the risk of becoming its own contrary, and watches over the general in the light of the particular. This protects us from ideology.¹¹

Levinas thus valorizes the very aspect of the Talmud that so many of Holdheim's contemporaries disparage—its engagement with the details of ritual and law. For Levinas, all ideology is suspect, and so are the abstractions of rational thought; what the Talmud offers is instead is close engagement with interpersonal relations, which is where he locates ethics. In his talmudic readings and Jewish essays, Levinas suggests that the Talmud's mode of argumentation, its method of study, and the content of its laws and stories all cooperate in training its readers in ethical responsibility.

Levinas attempts to immunize himself from the accusation of forcing his interpretations when he reflects on the forceful nature of all interpretation, comparing his efforts to Raba, who rubbed his foot until it spurted blood.¹² The specific mode of “rubbing” that Levinas employs is his reading of “Israel” as referring to all humanity, even in the face of glaring statements of Jewish exceptionalism. Thus, in “Judaism and Revolution,” he glosses “the descendants of Abraham, Isaac and Jacob,” as a reference to all humans who are awake to their ethical responsibilities:

Do not become alarmed. We are not in the presence of a racist idea here. I have it from an eminent master: each time Israel is mentioned in the Talmud one is certainly free to understand by it a particular ethnic group which is probably fulfilling an incomparable destiny. But to interpret in this manner would be to reduce the general principle in the idea enunciated in the Talmudic passage, to forget that Israel means a people who has received the Law and, as a result, a human nature which has reached the fullness of its responsibilities and its self-consciousness. The descendants of Abraham, Isaac and Jacob are human beings who are no longer childlike.¹³

Levinas might here be aligning himself with a particular exegetical tradition, that of the thirteenth century Provencal scholar, R. Menachem Ha-Me'iri, whose approach to the Talmud's partitioning of Jews from non-Jews we will examine later on. But Levinas does not acknowledge the exertions or the patrimony behind his readings; he evades the plain contextual meaning of the Talmud when it frustrates the ethical lesson he is intent to find.

Levinas and Holdheim are my twin interlocutors as I navigate between rejectionism on the one hand and apology on the other, seeking to bring the Talmud into conversation with contemporary ethics. I take to heart Levinas's warnings against abstraction into empty generalities, and it is Holdheim's repudiation of anachronism that reminds me of the otherness of the texts we will confront. The project before me is thus two-fold: to offer plausible readings of talmudic texts as products and reflections of their own cultural contexts, and to indicate some ways in which these texts might enrich contemporary

11 Emmanuel Levinas, *Beyond the Subject*, translated by Gary D. Mole (Bloomington: Indiana University Press, 1994), 79.

12 Levinas, *Nine Talmudic Readings* (Bloomington and Indianapolis: Indiana University Press, 1990), 47.

13 *Ibid.*, 98.

discussions about justice and human relationships.

The task of interpreting talmudic texts in light of the cultural contexts from which they emerged is made possible by great advances in talmudic scholarship in recent decades: New insights into the Talmud's redactional history,¹⁴ new research into the historical settings of the Talmud's composition in Sasanian Persia,¹⁵ digitization, and increased access to manuscripts offer an array of philological tools to aid the interpretive project. Even more importantly, leading talmudists and a new generation of scholars offer models for reading the Bavli as literature, as cultural production, and as theory.¹⁶ These tools and approaches make it possible for critical readers of the Talmud to situate its discourse in the cultures of late antiquity.

The task of bringing this discourse into conversation with contemporary concerns is more difficult, and there are fewer models.¹⁷ The Talmud has figured prominently in the fields of Jewish ethics, Jewish thought, and the history of halakha, and I engage some of this scholarship below. In all these disciplines, however, there is a tendency to abstract the Bavli's content into conceptual formulations, a move that neutralizes the particular discursive qualities and dialectical forms that distinguish the Bavli from other works. I will argue that in reading the Talmud for ethics, analysis of

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- 14 David Halivni and Shamma Friedman share the credit for advancing a new understanding of how the Babylonian Talmud was composed which has over time emerged as a consensus view in the academic study of Talmud. Each of their projects begins with the observation that the Bavli is a layered document, and that it is generally possible to distinguish between the succinct apodictic traditions that the Talmud cites in the name of specific authorities (*meymrot*), and the anonymous glosses which comment on these *meymrot* and arrange them into dialectical arguments (the work of the *Stam*). Together, Friedman and Halivni have brought to light the degree to which the anonymous editors of the Talmud are its true creators. Friedman's work has focused on developing methodologies to differentiate between the Bavli's strata. He summarizes his approach in "Wonder Not at a Gloss in which the Name of an Amora is Mentioned": The Amoraic Statements and the Anonymous Material in the Sugyot of the Bavli Revisited" (Hebrew), *Melekheth Mahshevet: Studies in the Redaction and Development of Talmudic Literature*, ed. Aron Shemesh and Aron Amit (Ramat Gan: Bar Ilan University Press, 2011), 101-44. Halivni has attempted to locate the activities of the Stam in history, revising his chronology several times. He coined the term "Stamma'im" to refer to those generations of anonymous editors who essentially created the Talmud. His latest periodization of the Talmud's emergence has the Stamma'im creating the Talmud between 550 and 750 CE, making the Talmud a much later work than was traditionally thought. See David Halivni, "Aspects of the Formation of the Talmud," *Creation and Composition: The Contribution of the Bavli Redactors to the Aggadah*, ed. Jeffrey Rubenstein (Tubingen: Mohr Siebeck, 2005), 339-60. Other scholars have built on the redactional approach in a variety of ways. While there is growing consensus that the Talmud's redaction was the work of late, anonymous editors, some prominent scholars argue for a continual process of redaction throughout the Amoraic period. See, for example, Yerahmiel (Robert) Brody, "Toward the Dating of Anonymous Portions of the Babylonian Talmud" (Hebrew), *Sidra* 24-25 (2010), 71-81.
- 15 See Shai Secunda, *The Iranian Talmud: Reading the Bavli in its Sasanian Context* (Philadelphia: University of Pennsylvania Press, 2014), and his bibliography.
- 16 I will have occasion below to engage some of this new scholarship in a variety of ways. Most influential for me is the work of Daniel Boyarin. Among his other lasting contributions to the field is the marriage he made between cultural studies and the Talmud, when he cut through long-standing debates about whether the Talmud should best be approached as literature or history and demonstrated how to read talmudic narratives and dialectics as reflective of deep cultural tensions and broad cultural projects. He initiates this approach in *Carnal Israel: Reading Sex in Talmudic Culture* (Berkeley: University of California Press, 1993), and re-visits it with finer-grained critical attention to talmudic discourse and rhetoric in *Socrates and the Fat Rabbis* (Chicago: University of Chicago Press, 2009).
- 17 In recent years, there has been a new focus on ethics in rabbinics scholarship. Of special note is the pioneering work of Jonathan Wyn Schofer who reads rabbinic works such as Avot de-Rabbi Natan in light of virtue ethics in *The Making of A Sage: A Study in Rabbinic Ethics* (Madison: University of Wisconsin Press, 2005) and *Confronting Vulnerability: The Body and the Divine in Rabbinic Ethics* (Chicago: University of Chicago Press, 2010). Tzvi Novick offers a fresh approach in his rigorous analysis of how Tannaitic legal literature conveys ethical norms in *What is Good and What God Demands: Normative Structures in Tannaitic Literature* (Leiden: Brill, 2010). Aryeh Cohen's readings of discrete Bavli sugyot engage, critique, and extend Levinas's project of reading the Talmud for ethics in *Justice in the City*, (Brighton: Academic Studies Press, 2012).

how the Bavli speaks is critical to any attempt to understand what it says. Considerations of the Bavli's multiform discursive mix and multivocality are of central importance.

Defining Ethics

I draw a provisional definition of ethics from the writings of Paul Ricoeur, whose oeuvre brings philosophical discourse into conversation with religious hermeneutics. For Ricoeur, ethics is “aiming at the good life, with and for others, with just institutions.”¹⁸ Distinguishing between ethics and morality, Ricoeur associates ethics with a broad vision and a teleological aim, and morality with the specific norms that govern life with others. In his conception, ethics is an overarching vision that both grounds and orients moral imperatives.¹⁹ From the outset, this definition arouses a host of questions in relation to the Talmud. As we have already seen, there is a distinction between Jews and non-Jews enshrined in Jewish legal tradition. In the passage from Baba Kama we examined above, Gentile property rights received different protections under the law than Jewish property rights, and—at least for some authorities—Jewish interests trumped juridical procedures in a rabbinic court of law. If ethics aims toward a life “with and for others,” must *all* others be included in this vision? Can the Talmud's vision of the good life be exclusive to Jews, and still be ethical? Can “just institutions” safeguard justice for some litigants and not others and still be just? Another way of asking this question is whether a norm must be universally applied to be considered ethical.²⁰

The particularism of the Talmud's orientation is perhaps the greatest challenge in bringing the Talmud into conversation with contemporary ethics. Since Kant, universalism has become a tacit prerequisite for any ethical claim. For all their differences, Holdheim and Levinas share this commitment to universalism. It is the particularism of the Talmud that leads Holdheim to reject the Talmud and that requires Levinas to “rub” at his talmudic texts with such vigor. What political theorist Gordon Lafer identifies as the defining trait of American liberalism is an apt characterization of most modern ethicists, within and beyond the Jewish community:

I take John Rawls to be describing a deep truth about American political culture when he asserts that our “firmest convictions. . . of social justice” rest on a belief that each individual's demands must be treated with equal concern. For liberal theory, the fundamental unit of political life is the individual, and therefore however justice may be defined, one of its core attributes must be that it is applied to all individuals uniformly; to suggest that we recognize differential obligations to discrete sets of individuals is to violate a primary tenet of fairness. . . In this context, mainstream thought has come to view particularist morality as both dangerous and offensive.²¹

18 Paul Ricoeur, *Oneself As Another*, translated by Kathleen Blamey (Chicago: University of Chicago Press, 1992), 172.

19 Ricoeur addresses the relationship between ethics and morality, and the primacy of ethics over morality in the seventh and eighth studies of *Oneself*, 169-239. While I find his definitions useful and resonant, I do not adopt his entire approach, which is in some places very technical, and does not sufficiently address the relationship between law and morality which is centrally relevant to any consideration of the Talmud.

20 This insistence on universalism does not surface in Ricoeur's definitions of ethics, but it is central to his conception of morality, which he identifies with the deontological realm. For Ricoeur, morality is defined as a set of imperatives governing social relationships that can be universally applied.

21 Gordon Lafer, “Universalism and Particularism in Jewish Law: Making Sense of Political Loyalties,” in *Jewish Identity*, ed. David Theo Goldberg and Michael Krausz (Philadelphia: Temple University Press, 1993), 178-79.

By the standards of liberal theory, the particularism that pervades the Talmud disqualifies it as a resource for ethics. I will nonetheless be arguing, as Lafer does, that the Talmud has a distinctive contribution to make to ethical deliberations.

While the Talmud does not conform to contemporary liberal values of equality and fairness, it addresses other aspects of human existence which liberalism's focus on the individual obscures. For Lafer, it is the Talmud's very particularism which makes it such a valuable resource for thinking about human relationality and community. Emphasizing how ethical imperatives arise within particular relationships and circles of communal concern, Lafer argues that the particularism enshrined by Jewish law can serve as a model for a communitarian ethics that honors the differential claims that strangers, neighbors, and kin place upon the individual. To my mind, Lafer downplays the Talmud's power to offend, but his approach is resonant nonetheless. While some of the material we will encounter on our tour through the Bavli defies basic notions of humane decency, other materials enliven and nuance possibilities for human relationship in striking ways. As we have already seen in the Talmud's depiction of Rav Ashi above, a particularist outlook does not forestall expressions of empathy with others, or concern about justice. To the degree that the Bavli can expand or deepen contemporary discussions of ethics, its chief contribution is in its particularism: in its fine-grained depictions of social interaction, its explication of exceptions to the rules, and its penchant for specific cases rather than general principles.

But alongside the question of the Talmud's particularistic orientation, there is an even more fundamental question that emerges from Ricoeur's definition of ethics: Does the Talmud allow us to speak of a vision of "the good life" at all? Perhaps the very concept is a foreign intrusion, akin to infiltrating the Sages' study house with Roman soldiers in disguise. In the classical Greek tradition, "the good life" brings together notions of personal welfare and self-realization with other more social virtues. While this sense of *eudaimonia* is no doubt part of what Ricoeur has in mind, his emphasis on life with others and on justice suggests that "the good" requires interpersonal connection and participation in community. To say that such a concept of "the good" might be foreign to the Talmud is not to suggest that the talmudic authorities or editors would judge any vision of such personal and communal flourishing as "bad," it is simply to acknowledge that the category of "the good" is not a focus of the Talmud's deliberations. The Talmud's prominent categories are those that define halakha: What is pure and impure, permitted and prohibited, exempt and liable. For the Talmud, "the good life" might simply mean a life that is lived out within the "four cubits" of Jewish law.

Given the prominence of halakha in structuring rabbinic thought and experience, it is no surprise that discussions of whether one can speak of Jewish ethics at all generally turn on the question of how ethics relates to law. A central question that has engrossed the field of Jewish ethics is whether distinctions of the permitted and prohibited, exempt and liable exhaust the Talmud's normative categories. The issue is succinctly captured in the title of an oft-quoted article by Aharon Lichtenstein, "Does Jewish Tradition Recognize an Ethic Independent of Halakhah?"²² In surveying considerations of this question, Louis E. Newman discovers a range of responses: Some identify ethics with a supererogatory realm that transcends halakha;²³ some understand ethics as folded into halakha as a

22 Aharon Lichtenstein, "Does Jewish Tradition Recognize an Ethic Independent of Halakhah?" *Contemporary Jewish Ethics*, ed. Menachem Mark Kellner (New York: Sanhedrin Press, 1978), 102-124. Lichtenstein affirms that there is such an ethics to be found in Judaism. Eugene Borowitz offers a liberal retort to Lichtenstein, arguing that so long as ethical considerations are secondary to legal imperatives, they cannot properly be considered ethical at all in "The Authority of the Ethical Impulse in 'Halakhah,'" *Studies in Jewish Philosophy*, ed. Norbert M. Samuelson (Lanham, MD: University Press of America, 1987), 489-506.

23 This is what Lichtenstein seems to argue—his question is clearer than his answer—and it is a view both Lichtenstein and Newman assign to Maimonides. Louis E. Newman, *Past Imperatives: Studies in the History and Theory of Jewish Ethics* (Albany: SUNY Press, 1998), 34-6.

feature of legal responsibility;²⁴ others take a diachronic approach, and argue that over time the supererogatory claims of ethics are transformed into legal imperatives of halakha.²⁵ Newman argues that this range of responses reflects divergent conceptions of Jewish law: On the one hand, halakha can be understood as an expression of divine will, a path toward redemption. In this maximalist conception, halakha embraces all the virtues associated with the divine, and has a breadth and teleological orientation in which an ethical vision is already built in. On the other hand, when halakha is construed more narrowly as a system of civic jurisprudence, ethics is located outside of halakha.²⁶ Newman's insight brings to light the degree to which the debate over the relationship between halakha and ethics recapitulates longstanding debates within the philosophy of law about the relationship between law and ethics: In natural law theory, law is rooted in the divine order, and is necessarily good and just. For legal positivists, on the other hand, law is utterly distinct from ethics, and is simply the expression of authoritative procedures, which may or may not yield rulings that are good or fair.²⁷

For Lichtenstein and the others who address the question of how halakha addresses ethical concerns, “ethics” plays out almost entirely in the deontological realm of norms, what Ricoeur identifies as “morality,” rather than “ethics.” Definitions of “ethics” and “morality” abound, and while the names Ricoeur assigns to the two concepts he discusses are arbitrary, the differentiation that he makes between them is meaningful. The distinction between what he calls “ethics” and “morality” points to the sense in which the fullness of human experience exceeds rule-bound behavior. In addressing “ethics” in the Talmud, I mean to engage precisely that aspect of human life that lies beyond—or beneath—any system of rules.

Most discussions of Jewish ethics relate to ethics as a system of imperatives, either co-extensive with halakha, or in some way exceeding the dictates of law. Can we speak of a broad ethical vision in the Talmud, a sense of “the good life” that orients or grounds the Talmud's engagement with the normative realm? I argue that we can, and that a literary approach to the Talmud is the best way to get at it. While the labels “the ethical,” or “the good,” are indeed foreign to the talmudic idiom, in the mix

24 Newman ascribes this view to Nachmanides, 35. Tzvi Novick suggests that a similar attitude can be discovered in the Tannaitic sources themselves; he demonstrates the extent to which ethical concern is encoded in the very language of the Mishna, which, he argues, conveys a far wider array of normative attitudes than the black-and-white distinction of permitted vs. prohibited behavior. See Novick, 15-34.

25 This is the view ascribed to Menachem Elon in Newman, 37.

26 Newman 39. Compare a similar observation that Steven Fraade makes in his trenchant analysis of early rabbinic texts that focus on the precise question that engages the talmudic texts surveyed in this chapter—how does Jewish law treat non-Jewish subjects? Noting the divergent attitudes in the texts he surveys, Fraade discerns that some of these texts relate to Jewish law as a system that sets Jews apart from others within an exclusive “nomian” space while others view halakha as an expression of God who governs all people. See Steven Fraade, “Navigating the Anomalous: Non-Jews at the Intersection of Early Rabbinic Law and Narrative,” *The Other in Jewish Thought and History: Constructions of Jewish Culture and Identity*, ed. Laurence J. Silberstein and Robert J. Cohn (New York: New York University Press, 1994), 146. Marc Hirshman makes a related argument when he describes the universalism he discerns in the school of Rabbi Yishmael, which relates to Torah as a law for all people. See Hirshman, “Rabbinic Universalism” and “*Torah le-khol ha-‘olam*.”

27 Robert P. George offers an overview of these approaches in “What is Law? A Century of Arguments,” *Morality, Justice, and the Law: The Continuing Debate*, eds. M. Katherine B. Darmer and Robert M. Baird (Amherst: Prometheus Books, 2007), 37-53. In addition to the classic debate between proponents of natural law and positivists, there are more recent approaches which add further nuance. Most important might be the approach of Ronald Dworkin, who sustains a critique of legal positivism without subscribing to natural law theory. For him, law is saturated with ethics. See Dworkin, *Justice for Hedgehogs* (Cambridge, Mass.: Harvard University Press, 2011). The legal theorist who has had the greatest influence on rabbinic scholarship is Robert Cover, who reads law as discourse about meaning. See *Narrative, Violence, and the Law: The Essays of Robert Cover*, eds. Martha Minow, Michael Ryan, and Austin Sarat (Ann Arbor: University of Michigan Press, 1992). Suzanne Last Stone relates theories of law to new research in Halakha in “Preface,” *Diné Israel: Studies in Halakhah and Jewish Law* 24 (2007), 3-5.

of voices and forms that constitute the Talmud, there is a pervasive sense that human life is bigger, that human relationship is messier, and that human experience is far more particular than a discussion of norms alone can capture.²⁸ In the Bavli, as in lived experience, “the good” does not always speak in the imperative. In engaging the Talmud's ethics, I am investigating the ways that the Bavli mixes statutes, stories, interpretation and dialectic so as to address aspects of human life and relationship that exceed the dictates of Jewish law.

Discussions about non-Jews are contexts in which the Talmud looks beyond the limits of halakha, and engages broad questions about what it means to be human. The rabbinic tradition that non-Jews are bound by a distinctive set of imperatives, the Noahide commandments, provides an occasion for the Talmud to address issues of particularism and universalism, and of ethics and law in its own, rabbinic idiom. In modern times, Jewish thinkers such as Moses Mendelssohn and Hermann Cohen seized on the concept of Noahide commandments as evidence for a kernel of universalism in rabbinic tradition.²⁹ Within the Talmud itself however, the tradition evinces a wide variety of views and voices, including some that affirm commonalities among all people, and some that emphasize the absolute otherness of non-Jews.

The Seven Commandments of the Children of Noah (Excerpts from Sanhedrin 56a-57b)

Our Sages taught: seven commandments were the children of Noah commanded: Courts,³⁰ cursing the Name (of God),³¹ idolatry, sexual transgressions, bloodshed, theft, and (eating) a limb from a living animal.³²

Our reading commences with the Bavli's citation of a baraita. The source for this baraita is well-known: the Bavli here recapitulates the opening line of t. ‘Avoda Zara 8:4 almost verbatim. The

28 It is Barry Wimpfheimer's work on the distinction between stories and statutes that first initiated my interest in the confluence between literary forms and ethical insights. I am indebted to him for his demonstrations of how the Bavli's storytelling addresses “the messiness” of life, and for his nuanced reflections on the relationship between law and narrative in the Bavli. See Barry Scott Wimpfheimer, *Narrating the Law* (Philadelphia: University of Pennsylvania Press, 2011).

29 For a survey of rabbinic treatments of the Noahide laws and their interpretation in Jewish philosophic tradition, see David Novak, *The Image of the Non-Jew in Judaism: An Historical and Constructive Study of the Noahide Laws* (New York: The Edwin Mellen Press, 1983). It is striking to note that what is taken for a hint of universalist concern by enlightenment Jewish thinkers functions very differently in antiquity. Thus, Hirshman argues that the reason that the texts associated with Rabbi Yishmael's school do not mention the seven Noahide commandments is that the tradition only makes sense within the context of a particularistic ideology. The notion that only seven commandments address non-Jews conflicts with R. Yishmael's universalist belief that Torah addresses all people. See Hirshman, “Rabbinic Universalism,” 112.

30 The Aramaic is דִּינִין (*dinin*) which alternatively could be translated “laws.” This translation reflects the tradition of interpreting this commandment as the establishment of courts of law; this is the interpretation that is lodged in t. AZ 8:4, and is maintained throughout the Bavli and later commentaries. It is possible that the predominance of this interpretation reflects an early reading of this word as "דִּינִין" (*dayanin*), meaning judges, but there is no verification for this in the manuscripts.

31 In the Hebrew, a euphemism is used, and the text literally reads “blessing the Name.”

32 b. Sanhedrin 56a. The baraita extends beyond this citation, however, extending to the top of 56b. Here is the Hebrew as it appears in ms. Florence. (The round brackets in the translation are my additions):

תנו רבנן שבע מצות נצטוו לבני נח דינין וברכת השם וע"ז וגילוי עריות ושפיכות דמים וגזל ואבר מן החי

discussion begins in a typical manner, as the anonymous editorial voice inquires after the scriptural sources for the tradition. The response that is given is a surprising one:

From where (in Scripture) do these words come?
R. Yohanan said: From the verse *Then commanded the Lord God upon the human saying, "From every tree of the garden do eat."* (Gen 2:16)³³

Given the name that tradition assigns to this set of commandments, "the seven commandments of the children of Noah," one would have expected them to be derived from biblical passages relating to the story of Noah and his children. But R. Yohanan identifies Adam, not Noah, as the original recipient of the Noahide commandments. He presents a masterful act of midrashic hermeneutics, deriving each and every one of the baraita's seven commandments from a single word or phrase. As we will see, the precise mechanisms for deriving the commandments differ in every case. In most instances, the derivation turns on a verbal link between the word from Gen 2:16 and the explicit articulation of a commandment elsewhere in scripture. In other cases—particularly toward the end—R. Yohanan appeals to logical inference, rather than relying on verbal connections. For the sake of clarity in the translation that follows, I have numbered the commandments, italicized all scriptural citations, used **boldface** to indicate verbal connections, and provided full scriptural citations even where the original does not:

1. *Then **commanded** (ויצו):* These are the Courts, and so it says *For I have recognized him (Abraham) so that he might **command** (יצוה) his children and his progeny after him to keep the way of the Lord, doing righteousness and justice (משפט) (Gen 18:19).*
2. *The **Lord** (YHWH):* This is cursing the name of God, and so it says *The one who curses the name **Lord** (YHWH) will be put to death (Lev 24:16).*
3. ***God** (אלוהים):* This is idolatry, and so it says *You shall not have other **gods** (אלוהים) (Ex 20:3).*
4. *Upon the **human** (האדם):* This is **bloodshed**, and so it says, *The one who **sheds human** (האדם) **blood**, by humans shall his blood be shed (Gen 9:6).*
5. ***Saying** (לאמר):* This is sexual transgressions, as it says ***Saying thus:** If a man divorces his wife and she leaves him and marries another man, can he ever go back to her? . . . Now you have whored with many lovers. . . (Jer 3:1)*
6. *From every tree of the garden:* so he did not steal.
7. *Do eat:* but not limbs from living animals!³⁴

33 b. Sanhedrin 56b, ms. Florence:

מנהגי מילי אמ' ר' יוח' ויצו יי אלהים את האדם לאמר מכל עץ הגן אכול תאוכל

34 b. Sanhedrin 56b, ms. Florence:

ויצו אילו הדינין וכן הוא אומ' למען אשר יצו' את בניו ואת בת' אחריו ושמר' וגו'
יי זו ברכת השם דכת' ונוקב שם יי מות יומת
אלהים זו ע"ז וכן הוא אומ' לא יהיה לך אלהים אחרים
על האדם זו שפיכות דמים וכן הוא אומ' שופך דם האדם באדם דמו ישפך
לאמר זו גילוי עריות וכן הוא אומ' לאמר הן יש' איש את אשת' והל' מאתו והית' לאיש אחר
מכל עץ הגן אכו' תאכלו אכל (א) לא גזל

R. Yohanan's derivations of the seven Noahide commandments is a midrashic tour de force. From eleven Hebrew words of a single verse, he has derived all seven items. With one exception, he has been able to replicate the received order of the seven commandments, grafting each successive item from the baraita's list of commandments to successive words in the scriptural verse. (The one lapse in the order is when 4 and 5 are flipped; in the baraita, sexual transgression is listed before bloodshed, not after.) In five out of seven cases, the derivation turns on the appearance of the marked word from Gen 2:16 in another scriptural context. In all of these instances, the distant verse is thematically related to the commandment at hand. In the final two cases, R. Yohanan's interpretive energies seem exhausted, and rather than scouring scripture for verbal connections, he offers common-sense reasoning to make a link between the scriptural source and the commandment under discussion: The prohibition on stealing derives from the fact that Scripture records God's granting of permission to Adam to eat from the trees; it follows that Adam was not free to take any fruit until he was granted permission, that is, he is not allowed to steal. Regarding the final commandment, the prohibition on eating limbs of living animals, the logic is not nearly so tight. Later commentators go to great exertions to explicate specific lines of reasoning, but it is enough for me—and arguably for the Bavli—to highlight the thematic connection between the baraita's prohibition concerning food, and the verse's imperative regarding Adam's diet.

R. Yohanan satisfies the Bavli's compulsion to root the tannaitic sources in scripture, and he does this with great aplomb. The elegance and erudition of R. Yohanan's performance can initially distract a reader from the profundity of the themes that surface here. At first R. Yohanan reads Gen 2:16 as if he were cracking a code. The marked terms of the verse forge interpretive pathways to the distant reaches of scripture, conveying the reader away from the verse's plain meaning and narrative context. When we come to lines 6 and 7, however, R. Yohanan turns us back to the verse's narrative context in the Genesis story. It is at this precise moment, when R. Yohanan seems to exhaust his midrashic energies, that the significance of his interpretation peeks through. In these two lines, his common-sense reasoning takes the scriptural narrative into account. He reminds us: It is at this point in the story of God's creation of the human that God reveals to Adam what he is allowed to eat. What we might at first have taken as a mere exercise in identifying scriptural hooks for rabbinic rulings can now be appreciated as an imaginative re-interpretation of the Genesis story. R. Yohanan is not simply deriving the Noahide commandments from Adam's story, he is locating them in the world of that narrative. He is suggesting that from the moment God issued the first command to the first human, seven basic imperatives were already implicit.

I have already noted the surprise of finding the set of commandments named for Noah's children linked not to Noah, but to Adam. Inherent in the appellation “Commandments of the Children of Noah” is an attitude about why and how commandments enter the world. The very terminology suggests that these laws belong to the world's new beginning after the Flood, and that they are instituted as a corrective to humanity's corruption. Elsewhere in rabbinic literature, the Noahide laws are explicitly linked to Noah's story: The list of seven appears in Genesis Rabba's treatment of the ark's landing,³⁵ and later on in our very sugya, verses from the Noah story will predominate in the School of Menashe's derivations of their alternative list of seven Noahide commandments.³⁶ R. Yohanan's tradition challenges the conventional understanding of the biblical story when he locates the origins of law in the Garden of Eden. For R. Yohanan, God's commandments are part of God's plan for the world from the very beginning, woven into the very fabric of creation.

The verse which R. Yohanan so effectively unpacks is not simply the first mention of

תאכלו לא אבר מן החי

35 In the midst of commentary on Gen 8:19 (Gen Rab 34:8; Theodor-Albeck 317).

36 At the bottom of San 56b and the top of 57a.

“commandment” in the Bible. For the rabbinic reader, the words God speaks in Gen 2:16 might be the first words God ever addresses to a human being. While critical readers of the Bible take the first two chapters of Genesis as alternative accounts of creation, in the rabbinic imagination, they convey different moments in the unfolding of a single story.³⁷ God's first commandment in 2:16 is issued even before Eve is created, and thus, for rabbinic readers, it is temporally prior to God's blessing to both man and woman to be fertile and increase in Gen 1:28. For R. Yohanan, then, law enters the first human's experience before another human being does. God first trains Adam in the basic precepts of social relations, and only afterward provides him with a mate.

In R. Yohanan's understanding, no ethical life is possible outside the bounds of law. To return to those overarching questions that my definition of ethics prompted above: Can we speak of a vision of the good life outside of Jewish law? Can we speak of ethics in relation to some people, but not others? For R. Yohanan, Jewish law is but an instance of a larger phenomenon of commandedness that *all* humanity shares. In pushing the emergence of law back to the very dawn of humanity, R. Yohanan projects a vision of the good life which is inextricably intertwined with the condition of being commanded. A good life is a life that is bound by law, and subject to the judgments of both God and humans. For R. Yohanan, the state of being commanded is thus not a mark that distinguishes Jews from others; commandedness is rather the mark of humankind as a whole. In assigning the origins of the Noahide commandments to the dawn of humanity, R. Yohanan can thus be understood to be making two related claims: First, that legal obligation inheres in the condition of being human. Second, that commandedness embraces all people, not just Jews.³⁸

R. Yohanan's opinion is universalist in that it locates a common morality in divine imperatives that address all people. As the sugya continues, however, R. Yohanan's views are called into question:

Were the children of Noah indeed charged with the commandment of “Courts?!”

But consider this baraita: Ten commandments were commanded to Israel at Mara: Seven that the children of Noah had received, and added to these were “Courts,” shabbat, and honoring father and mother.

“Courts,” as it is written *There He established for them law and justice, and there he tested them.* (Ex 15:25)

“Shabbat, and honoring father and mother,” as it is written *As the Lord God has commanded you* (Deut 5: 12, 16—the commandments for Shabbat and honoring father and mother in the Decalogue), and Rav Yehuda said *As He has commanded you* refers back to Mara.

Rav Nahman said Rabba bar Abuha said: (When Courts is mentioned

37 In reading Gen 1-4 as a single narrative, rabbinic interpretations tend not to read the chapters chronologically, but rather to see Gen 1 as an encapsulation of Gen 2-3. Thus, in b. San 38b and parallels, all the tribulations in the lives of Adam and Eve as recounted in Gen 2-4 are inserted into the space of a single day, the “sixth day” of Gen 1: “R. Yohanan bar Hanina said: The day has twelve hours. The first hour, his dust was gathered. The second, his form was made. The third, his limbs were stretched. The fourth, breath was thrown into him. The fifth, he stood on his feet. The sixth, he assigned names. The seventh, he was coupled with Eve. The eighth, two entered the bed, and four came out. The ninth, commanded not to eat from the tree. The tenth, he corrupted. The eleventh, he was judged. The twelfth, he was afflicted, and went on his way.”

38 These views are not reflected in other rabbinic sources. For a striking contrast, see Mira Balberg's discussion of the treatment of non-Jews in tannaitic purity law, *Purity, Body, and Self in Early Rabbinic Literature* (Berkeley: University of California Press, 2014), 122-147. Balberg argues that in locating non-Jews outside of the purity system, the tannaitic relates to non-Jews as non-persons. In the conception that Balberg describes, to be a person is to be a subject of the law; excluded from the law, the non-Jew is not regarded as a subject. I am suggesting that R. Yohanan shares precisely this notion of personhood, but that he includes non-Jews rather than excludes them.

here,) it is meant only with respect to a quorum of judges, to witnesses, and to warning.³⁹

This section of the sugya turns on an apparent conflict between the initial baraita that listed the seven Noahide commandments above (the baraita that we identified with t. AZ 8:4; let's call it Baraita A), and another baraita that identifies “Courts” as a commandment that is imposed on Israel alone at the time when they are camped at Mara (Baraita B). We had earlier understood the commandment to establish courts of justice as an obligation devolving on all the children of Noah, but Baraita B suggests otherwise. As the passage demonstrates, there is some scriptural foundation for associating the origins of jurisprudence with Israel's stay at Mara—it is in the context of this story that the biblical narrator says, “There He established for them law and justice.” The question that engages this part of the sugya is whether Jewish tradition considers a justice system to be a universal obligation of all societies, or a unique feature of Jewish life. Does the commandment to establish courts devolve on all people, or is it a responsibility that distinguishes Israel from others?

Rav Nahman and Rabba bar Abuha offer a possible resolution to the conflict. Affirming both baraitot, they count “Courts” among the seven Noahide commandments, and explain that at Mara, the Israelites receive a new commandment, also named “Courts.” They propose that the “Courts” revealed to Israel at Mara refers to three legal institutions that distinguish the Jewish justice system from all other courts. These institutions are the very aspects of rabbinic jurisprudence which occupy much of Tractate Sanhedrin: “Quorum” (עדה) means that there are set numbers of judges required for the different categories of law. “Witnesses” (עדים) refers to the requirement of a minimum of two witnesses. “Warning” (התראה) stipulates that the accused cannot be convicted unless it is shown that he or she was specifically warned of the consequences of the crime.

As the passage continues, Rav Nahman and Rabba bar Abuha's proposal is promptly rejected. As the voice of the editor points out, it simply does not account for the language of Baraita B, in which new commandments are “added.” Indeed, what this proposal seems to be describing is not the addition of a new commandment at Mara, but the addition of new stipulations about what the commandment called “Courts” requires. Other alternative resolutions are similarly dismissed, and ultimately the conflict between Baraita A and Baraita B is shown to reflect an ancient disagreement among the tannaitic sages:

If so (referring to the proposed solution by Rav Nahman and Rabba bar Abuha above) why does the baraita say that Courts were “added?”

Rather, Rava said (in offering a second solution): This (“Courts”/ דינים) refers to the laws of levying fines (which were added at Mara).

Still, if this was the intended meaning, the baraita would have had to read, “They added *to* Courts,” (and not “They added Courts.”)

Rather, Rav Aha bar Yaakov said: This refers to the requirement to establish courts in each and every city and town.

But weren't the children of Noah charged with this too! The baraita (A)

39 b. San 56b, ms. Florence (The round brackets in the translation reflect my additions):

דיני בני נח ניצטוו עליה
והתניא עשר מצוות ניצטוו ישר' במרה שבע שקיבלו עליהן בני נח והוסיפו עליהן דינין ושבת וכבוד אב ואם
דינין דכת' שם שם לו חוק ומשפט ושם ניסהו
שבת וכיבוד אב ואם דכת' כאשר צוך ואמ' רב יהוד' כאשר צוך במרה
אמ' רב נחמ' אמ' רבה בר אבוב לא נצרכ' אלא לעדה (ו)עדים והתראה

says: Just as Israel was commanded to establish courts in every town and district, so too were the children of Noah commanded to establish courts in every town and district.⁴⁰

Rather, Rava said: This Tana (of baraita B) was a sage of the school of Menashe, which takes out “*dakh*”⁴¹ and puts in “*sakh!*”⁴²

For this was taught in the school of Menashe: Seven commandments were the children of Noah commanded: idolatry, and sexual transgressions, and bloodshed, theft, and limb from living animals, castration, and mixtures.⁴³

The back and forth of the argument thus conveys us to a tradition that is very different from the teaching of R. Yohanan examined above. Apparently, the school of Menashe maintained an alternative list of the seven Noahide commandments. Though there is a great deal in common between the two lists—five of the laws are identical—there is one very significant difference: The school of Menashe does not include “Courts” among the seven Noahide obligations. Within the local talmudic argument, this difference is significant, because “Courts” is the issue that signals the discrepancy between Baraita A and Baraita B. Conceptually, the difference reflects a striking divergence in how the relationship between ethics and law is formulated.

“Courts” is the one commandment enumerated in Baraita A which is a positive precept; the other six are prohibitions.⁴⁴ In a sense, it is this first commandment to establish courts of justice that provides the grounding for all the others. Courts will serve to authorize and enforce all other commandments. Courts of law effectively allow for divine decrees to enter human society; they make divine law practicable in the human realm. Without a system of jurisprudence, it is unclear how divine commandment could function as law at all. What then, can it mean for the School of Menashe to delete “Courts” from the list of obligations placed upon the children of Noah?

For the school of Menashe, Noahides are hemmed in by prohibition, but carry no charge to establish justice. The seven prohibitions included on the school of Menashe's list govern the established order of things: they uphold rights to life and property, and they protect boundaries of gender, sex and species. They constrain rather than encourage social behavior. I argued above that in pushing the Noahide commandments back to the days of Adam, R. Yohanan expresses a universalist conception of commandedness as a distinctive feature of human life. For the school of Menashe, the notion of law is

40 This statement appears in t. AZ 8:4, which is apparently the source for baraita A.

41 This is an acronym, a mnemonic for the two commandments *Dinim* and *birKhat ha-sheh*, Courts and Cursing God.

42 This acronym is for *Sirus* and *Kil'ayim*, or “Castration” and “Mixtures.” “Mixtures” refers to the scriptural proscription on cross-breeding animals and on mixing varieties of crops within individual fields. See Lev 19:19. The prohibitions of these mixtures and the prohibition of castration can both be seen as reflecting a commitment to the cosmic order established at creation, when male and female were distinguished and charged with procreation, and the various species were separated according to their kind.

43 b. San 56b, ms. Florence (The round brackets in the translation indicating my additions):

אי הכי מאי והוסיף עליהן דינין

אלא אמ' רבה לדיני קנסו'

אכתי הוסיפו בדינין מיבעי ליה

אלא אמ' רב אחא בר יעקב לא נצרכא אלא להושיב בתי דינין בכל פלך ופלך ובכל עיר ועיר

והא בני נח לא איפקוד והתניא כשם שניצטוו ישראל להושיב בתי דינין בכל פלך ופלך ובכל עיר ועיר ניצטוו בני נח

בתי דינין בכל פלך ופלך ובכל עיר ועיר

אלא אמ' רב פפא כי האי תנא תנא דבי מנשה הוא דמפיק דך ומעייל סך

דתנא דבי מנשה שבע מצות ניצטוו בני נח ע"ז וגילוי עריות ושפיכות דמים וגזל ואבר מן החי וסרוס וכלאים

44 Later in the sugya, in a section we will not examine on 58b-59a, the voice of the editor suggests that the Commandment “Courts” includes both a prohibition and a positive precept.

far more restricted that it is for R. Yohanan, and it does not function as a foundation for a common human morality in quite the same way. Thus, as our passage continues, the editor of the *sugya* discerns that Menashe must reject R. Yohanan's effort to root the commandments at the dawn of creation.

Concerning the Tana of the School of Menashe: If he expounds on the verse *Then commanded* (Gen 2:16), does he account for these (two additional commandments) as well? If he does not expound (on that verse), how does he derive these commandments?

Certainly, he does not expound on *Then commanded* (Gen 2:16)! Rather he finds each and every one of the commandments appearing in Scripture on its own, in its own right.⁴⁵

According to the editor, for the School of Menashe, there is no over-arching principle that governs the derivations of Noahide laws. Evidence for the commandments is scatter-shot through Scripture, with most of them introduced after the flood. For this school, then, there are laws, but there is no Law for anyone but Israel. Far from being an essential feature of human existence, inherent in social relationships and in ethical aspiration, laws are conceived as tripwires to hem in human misbehavior.

There is a stark difference between R. Yohanan, on the one hand, and the School of Menashe, on the other, in their views on the relationship between law and ethics, and also in how they conceive of the difference between Jews and Gentiles. As we have seen, according to the School of Menashe, the emergence of courts of law—the mechanism for human justice—comes to human history late in the game, and is restricted to Israel alone. The School of Menashe suggests that God never intended for people to make justice for themselves. In the absence of human agency, the Noahide laws function as decrees from above, imposing order on human society and relationships. To the degree that ethics is both social and aspirational—a vision of the Good that humans achieve in concert with others—this school does not seem to conceive of ethics at all.

With R. Yohanan we have law suffused with ethics, and with the Tana of Menashe's school, we have law absent ethics. In traversing the distance between these two opinions, the *sugya* touches down for a moment to consider a third possibility that falls conceptually between the two. Recall that when the conflict between Baraita A and Baraita B was first broached, Rav Nahman reported on Rabba bar Abuha's proposed resolution: Perhaps, he suggested, all the Children of Noah were charged with the establishment of courts, but only Israel received an additional commandment, elaborating proper juridical procedures. In Rabba bar Abuha's view, though all people share an obligation to pursue justice in courts of law, Israel is distinguished by the specific features of its legal system. While Rabba bar Abuha's suggestion was shown to be an unsatisfactory interpretation of Baraita B, a similar observation about what distinguishes rabbinic courts from other jurisdictions returns at the top of page 57b:

R. Yaakov bar Aha found written in a book of 'agadot from the House of Rav:

A Child of Noah is put to death by a single judge, by a single witness, without the requirement of having been warned, by the word of a man but not by the word of a woman, and even by a relative.⁴⁶

⁴⁵ b. San 56b, ms. Florence:

ותנא דבי מנשה אי דריש ויצו אפילו הנך נמי ואי לא דריש הני מנא ליה
לעולם לא דריש ויצו הני כל חדא וחדא באפי נפשיהו כתיבא

⁴⁶ b. San 57b, Florence ms:

אשכח ר' יעקב בר אחא כת[י]ב בספר אגדתא דבי רב בן נח נהרג בעד אחד ודיין אחד שלא בהתראה מפי

While this tradition focuses on the features of non-Jewish courts of law, it makes the same point as Rabba bar Abuha: Jewish jurisprudence is far more judicious in its deliberations over capital crimes than are non-Jewish courts. While Gentile law allows for a single judge to impose the death penalty on the basis of a single witness's testimony, Jewish courts are more cautious and discriminating in the pursuit of justice. The list above cannot be taken as a neutral catalog of procedural differences: As the word “even” (אפילו) makes clear, non-Jewish courts are here being evaluated, and judged to be less diligent in the pursuit of justice than the dictates of rabbinic law require. Thus, testimony of a relative is admitted, with no consideration of partiality. Testimony of a woman is not admitted, despite the valuable information only she might possess.⁴⁷ As the passage continues, it becomes clear that this account of the non-Jewish courts is by no means rooted in observation of how Roman or Sasanian courts actually functioned; it is entirely derived from verses in Scripture. Nonetheless, we can read this tradition, and many similar ones,⁴⁸ as reflections of the talmudic authorities' evaluations of what distinguishes their legal system from others. These traditions thus advance yet a third way to characterize the relationship between law and ethics. In this view, closest to what contemporary legal thinkers would characterize as the positivist approach, law and ethics are separate realms. Law is legitimate so long as it is rooted in authority, but it is not necessarily moral. Individual laws and whole legal systems can be evaluated on the basis of their fairness and their humaneness. Thus, ethics provides the broad horizon against which law is judged. While different nations and jurisdictions are bound by different laws, this view affirms that there is a universal standard of justice and morality that allows these different systems to be compared and judged. The teachings of Rabba bar Abuha and the School of Rav suggest that while Jewish laws are more exacting than Gentile procedures, Jews are not inherently more moral than others—Gentiles could, and should, do better.

In the space of less than two pages, then, the Talmud reflects a wide array of views both about what Jews and non-Jews hold in common, and about the relationship between law and ethics. Some might object that I am rubbing ancient words a bit too hard, assigning coherent theories to comments that are occasional musings. This might be. But I hope to have at least demonstrated that reflections about justice and discussions about ethics are not foreign to the Talmud. Deliberations about the Noahide commandments lend themselves to considerations of universalism and particularism because the designation of “Noahide” has two different senses for the rabbis: On the one hand, “Noahide” is the unmarked category which is used in opposition to the designation “Jew.” On the other hand, Noahides are the Jews' own forebears, and to speak of the Children of Noah is to reflect on the Jews' pre-Abrahamic origins.⁴⁹ The very terminology expresses a sense of Jewish difference even as it

איש ולא מפי אשה ואפילו מפי קרוב

47 It is striking that this is included on a list of what distinguishes Noahide law from rabbinic law, because the admissibility of women's testimony is by no means a settled matter in rabbinic legal discussions. While the Mishna seems to presume that women may not testify (see m. Rosh Hashana 1:8), there are multiple examples within the Bavli in which women's testimony is admissible. See for example, BK 114b, Yevamot 117b, Kidushin 73b. For a discussion of these sources, see Judith Hauptman, *Rereading the Rabbis: A Woman's Voice* (Boulder: Westview Press, 1998), 196-220. I have not found any talmudic discussion of women testifying in criminal proceedings, and that makes this text all the more interesting.

48 Compare this tradition to others in the Bavli that differentiate between Jewish and Gentile courts: In Gittin 28b-29a, the Bavli considers whether testimony that a woman's husband has been condemned to death suffices to allow her to re-marry. One possibility raised is that a Jewish court would re-open a case if some new testimony surfaces before an execution. On the other hand, another consideration is that a non-Jewish court would reverse a judgment due to a bribe. In a discussion of a similar case on Yevamot 25b, a non-Jewish court is characterized as “executing without carefully investigating,” “דלא דייקי וקטלי”.

49 Novak makes a similar point when he notes that the concept has what he calls a “double reference.” See *The Image of the Non-Jew*, vii-viii.

acknowledges a bond between Jews and other people. In deliberating about the nature of the obligations that devolve on non-Jews, the Bavli investigates what distinguishes Jews from non-Jews, even as it engages the broader question of what it means to be human. While there are important conceptual differences among the three accounts of Noahide law surveyed above—R. Yohanan's maximalist view, the School of Menashe's more restrictive view, and the mediating position promoted by R. Ya'akov bar Acha and Rabba Bar Abuha—they all regard non-Jews as subjects of law; in this, they grant non-Jews some degree of agency and accountability. The sugya as a whole conveys the tacit understanding that to be a human being is to be subject to divine commandment.

As we have already seen, however, it is folly to speak of the ethics of the Talmud as if the work reflects a single vision of what is good and right. In this very sugya, not far from R. Yohanan's exalted vision of a common humanity, we find the same troubling rulings about non-Jews' inferior status that we saw above, in BK 113. The Bavli takes note of a double standard pertaining to the laws of bloodshed and of theft that it traces back to the passage which is the locus classicus for talmudic treatments of Noahide Law, t. AZ 8:4-8. In the discussion that ensues, non-Jews are not depicted as subjects of the law, but rather as objects whose claims to life and property are not secured by Jewish law.

This is how the Tosefta elaborates upon the prohibitions of bloodshed and thievery:

And concerning bloodshed, in what manner [is the transgressor culpable]?

A non-Jew against a non-Jew, and a non-Jew against a Jew is liable; a Jew against a non-Jew is exempt.

And concerning theft in what manner [is the transgressor culpable]?

[In the case of] a kidnapper, a thief, [one who seizes] a beautiful [war captive], and the like: A non-Jew against a non-Jew, and a non-Jew against a Jew is prohibited; a Jew against a non-Jew is permitted.⁵⁰

According to this passage, there is a double standard that privileges Jews over non-Jews with regard to the Noahide prohibitions of bloodshed and theft: Thus, though both Jews and non-Jews are prohibited from shedding blood, if a Jew kills a non-Jew, he is exempt from punishment. Similarly, in the laws of theft, non-Jews are prohibited from stealing people or things from Jews, but Jews are not prohibited from stealing from non-Jews. While these two commandments are structured in the same way, however, there is a difference in how the levels of culpability are described. With regard to bloodshed, the Tosefta uses the designations “liable” (חייב) and “exempt” (פטור). In the case of theft, the terminology is different: A non-Jew is “prohibited” (אסור) from stealing from anyone, but a Jew is “permitted” (מותר) to steal from a non-Jew. As the Bavli will note, “exempt” is not a synonym for “permitted.” “Exemption” means that one is culpable, but for whatever reason, no penalty is applied. “Permitted,” implies that there is no prohibition.

The Bavli's discussion of this distinction comes in the context of a larger discussion about whether all seven of the Noahide commandments are capital offenses. There is a tradition that attests that they are indeed all punishable by death, but the language of the Tosefta suggests otherwise. As the

⁵⁰ Tosefta 8:4 (sometimes identified as 9:4 in printed editions):

ועל שפיכות דמים כיצד גוי בגוי גוי בישראל חייב ישראל בגוי פטור
על הגזילה כיצד גנב גזל יפת תואר וכן כיוצא בו
גוי בגוי גוי בישראל אסור ישראל בגוי מותר

editors point out, if the prohibition on theft was indeed punishable by death, wouldn't the Tosefta have used the same language in connection to theft as it did with regard to bloodshed? The editors pose the question: If the prohibition on bloodshed and the prohibition of theft are both capital crimes, why are they formulated with different legal terminology? The question proves to be purely rhetorical, for as the dialectic unfolds, the editors propose that there is indeed a reason for this distinction in language, but it moves in the opposite direction. The fact that the Tosefta uses the terminology “liable” (חייב) / “exempt” (פטור) in connection to bloodshed and “prohibited” (אסור) / “permitted” (מוותר) in connection to theft should not be read as an attenuation of Gentile culpability with regard to theft, but rather as an acknowledgement that Jews do not entirely escape culpability when they kill Gentiles. This is the force of the following comment:

But there (in connection with bloodshed), what else could it have said? Could it actually have said “prohibited” and “permitted” when there is this baraita (which explicitly states that a Jew is NOT permitted to kill a non-Jew?!):
A non-Jew or herders of small animals⁵¹: One does not save them (from a pit), but neither does one lower them (into a pit).⁵²

While the explicit question under discussion is the penalty that befalls non-Jewish offenders, the reasoning here turns on a consideration of how the law treats Jew who harm non-Jews. The anonymous editors here point out that when it comes to Jews acting against non-Jews, there is an important difference between crimes of bloodshed, which are explicitly prohibited, though not punished by execution, and theft, which is apparently not considered criminal at all. The Bavli here suggests that while tannaitic law extends no legal protection to Gentile property rights, it does offer the non-Jew a modicum of protection from violent attacks.

From the perspective of contemporary sensibilities, this minimal acknowledgment of Gentile claims is discomfiting in itself. In marked contrast to modern thinkers who press the Noahide commandments into service as a source for Jewish universalism, the Bavli validates the Jewish exceptionalism that the Tosefta writes into law. In the Bavli, the double standard with regard to non-Jews is not only upheld, it remains unchallenged. Here, the very baraita in which the editor locates the prohibition on killing non-Jews itself announces the degraded value of Gentile lives: Though Jews are prohibited from deliberate acts of murder, non-Jews are deemed unworthy of being saved from a pit. For readers today, it is hard to reconcile the morally repugnant content of the traditions treated here with the utter detachment of the editorial voice. In contrast to other sections of the sugya we examined above, here a vision of a common humanity seems utterly absent. There is no evaluative judgment of the traditions that are cited; the interpreter's horizon of concern remains interior to the rulings themselves. The editor pursues a detailed, deliberate legal analysis without registering any compunctions about the double standard written into the law.

This passage is one more example of the vexing disappointments the Talmud holds out to any ethicist who turns to this work seeking confirmation for her own moral views. The Talmud is far too various to corroborate any one perspective. Within a single sugya, we have encountered R. Yohanan's

51 According to Rashi, such herders are consistently regarded as thieves because they think nothing of letting their animals graze on other people's land.

52 b. San 57a, ms. Florence (The round brackets in the translation indicate my insertions.):

התם היכי ליתני ליתני אסור ומוותר והתניא הגוים והרועי בהמה דקה לא מעלין ולא מורדין

This same baraita appears in b. AZ 26b. For a brief discussion of its significance in that context, see my Chapter IV. The passage is also discussed in Boyarin, *Socrates*, 152-5.

sweeping vision of a common humanity, other authorities' considered deliberations about the justice of a range of jurisprudential procedures, and dehumanizing statements about Gentiles. When I describe my project as an elaboration of the ethics of the Talmud, I am not speaking about describing the ethical content of any one of these views. Neither am I primarily interested in offering moral judgments on the range of opinions preserved within the Talmud, though my judgments will doubtless peek through. Rather, I seek to offer an account of the ethos that allows for such a stunning clash of views within a single work. What do the Talmud's multiplicity of voices and variety of forms themselves convey about ethics? How do the forms and features of Talmudic discourse project a vision for a life with others?

The ethics I discover in the Talmud is not explicitly articulated within any single text or tradition; it is rather enacted through the orchestration of diverse texts and forms. It is for this reason that my focus throughout will not be on the various authorities identified with particular traditions and teachings, but rather on the anonymous voice that organizes all these these disparate materials into coherent literary units. In recent decades, there has been burgeoning research into the historic identity of the anonymous editors of the Talmud, variously known as “Stamma'im,” the Stam, or *stamma*, and sometimes spoken of as the voice of the Bavli itself. Thanks to the pioneering work of David Weiss-Halivni and Shamma Friedman,⁵³ it is now widely accepted that the Bavli emerged from the redactional work of relatively late generations of rabbinic authorities whose names we do not know. It is these anonymous editors who orchestrated the thousands of traditions they inherited into sustained arguments and works of literary coherence. This new understanding of the Talmud's redactional history has allowed scholars to attribute the distinctive genius of the Bavli to the anonymous editors who shaped, interpreted, and juxtaposed the bits of texts and traditions they inherited and arranged rather than to the Amoraic authorities whose names are attached to those traditions. It is the creative artistry and ethical imagination of these editors that we will discover through the synchronic approach that I will be pursuing here.

Is the Talmud ethical? If we adopt Ricoeur's definition of ethics as “aiming for the good life, with and for others, with just institutions,” the Talmud seems to fall short. While it does indeed contain within it articulations of such an aspiration—for example, in the tradition of R. Yohanan—we would be hard-pressed to find any such view that embraces the Talmud as a whole. The moral messages encoded in its contents are far too diverse. If, however, we shift our inquiry away from content to a consideration of the literary forms and social functions of the Talmud, an appreciation of the Talmud's contribution to ethics can come more sharply into view. I will argue that it is precisely in its juxtaposition of diverse voices and forms that the Talmud effectively models how life is to be lived with others. For the most part, the “others” that concern the Talmud are other rabbis, and the project of living with difference is limited to the rarefied world of scholarly discourse within the rabbinic academy. Occasionally, however, talmudic discourse admits more remote perspectives, and depicts the experience and perspectives of non-Jews, either real or imagined. It is these occasions that are the focus of this dissertation. Telling stories about non-Jews, or debating how Jewish law addresses them, the Bavli presses beyond “the four cubits” governed by halakha, and reveals an interest in human experience which cuts across the Jewish-Gentile divide. Both within its discursive world, and in the encounter between readers and text, the Talmud forges relationships, staging conversations across difference. In this way, the Talmud enacts its own ethics, initiating its readers into a world that is intensely engaged with others, with justice, and with the details of human experience.

53 See note 14 above.

On The Horns of a Dilemma (Baba Kama 38a)

In the final talmudic passage to be considered within this chapter, the Bavli explicitly challenges a double standard in Jewish law's treatment of non-Jews. This text includes the Bavli's re-working of the story of Roman spies presented in this chapter's epigraph.

The talmudic discussion centers on a distinction between Jews and non-Jews which the Mishna introduces into the laws of damages caused by an ox. According to Exodus 21:35-36, when one man's ox gores his neighbor's ox to death, the owner of the offending ox is liable to pay for half his neighbor's losses. If, however, the offending ox was known to be in the habit of goring, its owner is responsible for replacing the dead ox with a new one. The Mishna's elaboration of this biblical law introduces a legal distinction based on the identity of the oxen's owners:

An ox of a Jew who gores the ox of a non-Jew is exempt, and (the ox) of a non-Jew who gores the ox of a Jew, whether *tam* or *mu'ad*, he pays full damages.⁵⁴

“*Tam*” is a legal term for an ox who has no prior record of goring, and “*mu'ad*” refers to a repeat offender. In explicitly dispensing with this distinction of biblical law, the Mishna introduces a double standard with regard to Gentile property that is quite extreme. According to the Mishna, if a Jew—let's call him Reuven—owns an ox which is known to be dangerous, and that ox kills the ox belonging to a Jew named Shimon, then Reuven is responsible for replacing Shimon's ox. If however, Reuven's dangerous ox chooses to kill the ox belonging to the non-Jew John, then Reuven is entirely immune from all punishment. He owes John nothing. If, on the other hand, it is John's ox that kills Reuven's ox, John must replace Reuven's ox—even if John's ox had no history of goring, and John could never have anticipated that there would be any danger. According to the Mishna, whenever the ox of a Jew and the ox of a non-Jew tangle, the non-Jew is out an ox, no matter which ox is the aggressor, no matter how irresponsible the Jewish owner might have been.

The Bavli's discussion of this Mishna opens with the protestation that this double standard makes no sense. The editor presumes that the source for the rabbinic ruling is the biblical terminology of Ex 29:35, which institutes half-damages when one man's ox gores the ox of “his neighbor” (רעהו). But reading “his neighbor” as a designation exclusive to Jews does not on its own account for the Mishna's harshness toward the non-Jew, as the Bavli is quick to point out:

How can you escape this dilemma?:⁵⁵ If you read “his neighbor” as referring exclusively to a Jew, then when it is a non-Jew's (ox) who gores a Jew's, he should also be exempt! If, on the other hand, you read “his neighbor” as not necessarily referring to anyone in particular, then, even when a Jew's gores a non-Jew's, he (the Jew) should be culpable!⁵⁶

The Bavli's challenge pins the Mishna on the horns of a dilemma, pointing out that there is no plausible

54 The mishna is cited on b. BK 36a in ms. Hamburg:

שור של ישראל שנגח שור של נכרי פטור ושל נכרי שנגח שור של ישראל בין תם בין מועד משלם נזק שלם

55 This is my own idiomatic translation of the term “מה נפשך”.

56 b. Baba Kama 38a, ms. Hamburg:

מה נפשך אי רעהו דוקא דנכרי כי נגח דישי' נמי פטור אי רעהו לאו דוקא אפלו דישראל כי נגח דנכרי מיחייב

reading of the biblical verse that could simultaneously hold a Gentile responsible when his ox is the aggressor, and deny him all recourse when he is the victim. Either the Gentile falls outside the purview of the law, or inside it. There is no foundation for obligating him to a law that denies him every protection. In protesting the Mishna's double standard in the treatment of Gentiles, the Bavli frames its challenge as a problem of logic. The term “*ma nafshakh*” (מה נפשך) translated here as “How can you escape this dilemma,” is a technical term that recurs throughout the Talmud. It refers to a particular failure of reasoning, and highlights the internal inconsistency of a given statement. It is shorthand for saying, “You can't have it both ways.”

As the sugya continues, the Talmud addresses the challenge by citing a homiletical tradition which suggests that non-Jews forfeited the protections of Jewish law when they spurned the Noahide commandments:

Rabbi Abahu said: Scripture says, “He stood, and the earth shook, He saw, and He made the nations tremble (ויתר *va-yater*).” (Habakuk 3:6) What did He see? He saw that the Children of Noah were not fulfilling the seven commandments they had accepted upon themselves, so He stood and permitted (התיר *hitir*) their money to Israel.⁵⁷

R. Abahu's midrash plays on two different meanings of the word *hitir* התיר, the hiphil form of the Hebrew root נתר. In the biblical verse, the word means “to cause to shake,” but R. Abahu reads it as “to permit,” the most common usage of the word in mishnaic Hebrew. The homily transforms the prophet's description of God's power into a story from the annals of divine jurisprudence. According to R. Abahu, the nations of the world would have enjoyed the protections of divine law had they fulfilled their commitment to keep the Noahide commandments. When they spurned this minimal level of obligation, however, they denied themselves legal recourse. Halakha treats Gentiles harshly because of their own bad behavior in the mythic past.

In citing this and similar homiletical traditions, the Bavli justifies the halakha's preferential treatment of Jews by pointing to history. As a response to the challenge “How can you escape this dilemma?” (*ma nafshakh*), these homilies imply that the question of logical consistency is the wrong question. Issues of fairness cannot be considered in abstraction, but only in light of historical contingencies. In citing R. Abahu's teaching, the Bavli makes the argument that any double standard with regard to non-Jews should not be seen as reflecting either the justice or the logical coherence of Jewish law, but rather must be understood as a consequence of the non-Jews' own misdeeds. The double standard that privileges Jews over non-Jews is here justified on the grounds that it is a penalty that non-Jews brought upon themselves.

Whatever the merits of this argument, it is not the last word on the *ma nafshakh* dilemma within the sugya. As the sugya continues, the challenge of justifying the double standard is voiced again, and this time, it is placed in the mouths of non-Jewish characters. In re-telling the story of Roman spies in a rabbinic study house, the talmudic editors deploy narrative as a tool of ethical critique. My interpretation treats the version of the story that Eliezer Rosenthal identified as a distinctively Babylonian variant of the tradition.⁵⁸ It reads as follows:

⁵⁷ b. BK 38a, ms. Hamburg:

אמר אבהו אמר קרא עמד וימודד ארץ רא?ה? ויתר גוים

מה ראה ראה שבע מצות שקבלו עליהם בני נח ולא קיימום עמד התיר ממונן לישראל

⁵⁸ See Eliezer Shimshon Rosenthal, z”l, “Two Matters,” *Isac Leo Seeligman Volume*, eds. Yair Zuckovitch and Alexander Rofe, vol. 2 (Jerusalem: E. Rubinstein, 1982), 463-82. Rosenthal treats the Bavli materials on pages 471-72, and

Once the wicked government (of Rome) sent two officers to the sages of Israel.

They said to them, “Teach us your Torah.”

They read it once, twice, three times.

At the time of their departure, they said to them, “We have carefully examined your whole Torah and this thing that you say is true: 'An ox of a Jew who gores the ox of a non-Jew is exempt, and (the ox) of a non-Jew who gores the ox of a Jew, whether *tam* or *mu'ad*, he pays full damages. How can you escape this dilemma?: If you read *his neighbor* as referring exclusively to a Jew, then when it is a non-Jew's (ox) who gores a Jew's, let him be exempt! If, on the other hand, you read *his neighbor* as not necessarily referring to anyone in particular, then, even when a Jew's gores a non-Jew's, he (the Jew) should be culpable!' But we will not inform the government of this thing.”⁵⁹

The plot of this version of the story is very similar to the version in Sifre Deuteronomy that I cite in the epigraph above. In each of the two versions, the Roman government sends officials to investigate rabbinic teaching. The spies study diligently, and before taking their leave, they share their positive impressions with the rabbis. In each version, the spies highlight a single problematic teaching with regard to how Jewish law treats non-Jews,⁶⁰ but they reassure the rabbis that they will conceal the matter from their superiors. Despite their parallel plot-lines, however, there are slight variations that distinguish these two versions of the story from each other, and also from a third version that is preserved in the Yerushalmi.⁶¹ In what follows, I attend to the variations that distinguish the Bavli's version of the story from the two versions that are attested in the Palestinian sources. I propose that as inconsequential as the variations might seem, they nonetheless indicate a significant difference in how the Bavli addresses the problem of the inequitable treatment of non-Jews in Jewish law.

While it is impossible to re-construct the precise relationship between the versions in the

describes his critical discovery of a distinctive variant preserved in the Hamburg manuscript in note 39. He argues that Hamburg preserves the original Babylonian version of the story, and that the other Bavli manuscripts and prints preserve a version that was altered under the influence of the Palestinian version. He points out that there are indications in the Hamburg manuscript itself that someone tried to “correct” this variant, attempting to rid it of the features that distinguish it from all the other attestations of the story.

59 b. BK 38a, Hamburg manuscript, as presented by the Lieberman Institute. I was not able to examine the manuscript myself, but the notation below reflects Rosenthal's description. According to Rosenthal, the word הדבר (line 3) is crossed out, and the phrase חוץ מדבר זה is written in above the line. See Rosenthal, 471, note 39.:

1 וכבר שלחה מלכות הרשעה שני סרדיוטות אצל חכמי ישראל

2 אמרו להן למדונו תורתכם

3 קראו ושנו ושלו ובשעת פטירתן אמרו להן דקדקנו בכל תורתכם ואמת הוא (הדבר)[חוץ? מדבר זה]

4 שאתם אומ' שור של ישראל שנגח שור של נכרי פטור ושל נכרי שנגח של ישראל בין תם בין מועד משלם נזק

5 שלם מה נפשך אי רעהו דוקא אפלו דנכרי כי נגח דישראל ניפטר אי רעהו לאו דוקא אפלו דישראל כי נגח

6 דנכרי ניחייב ודבר זה אין אנו מודיעין אותו למלכות

60 In the Sifre, the one issue highlighted by the spies relates to Jewish law's leniency when Jews steal from Gentiles; in the Bavli, the one issue is the double standard with regard to damage done by oxen.

61 Palestinian Talmud Baba Kama 4:3 (4b). For an illuminating analysis of this version of the story, and a rich review of all its attestations in the sources, see Rosenthal. For a brief overview of all three versions and their interrelationship, and for further bibliography, see Christine Hayes, *Between the Babylonian and Palestinian Talmuds* (New York: Oxford University Press, 1997), 148-51. Steven Fraade treats the versions in Sifre Deuteronomy and in the Palestinian Talmud—as well as the Tannaitic sources behind many of the talmudic passages examined in this chapter—in “Navigating the Anomalous.”

Palestinian sources and the version here in the Bavli, my approach presumes that the Bavli's version is later, and that the differences that distinguish it from the other versions reflect artistic interventions on the part of the talmudic editor. Contributing to my sense that the Bavli's version is later is the fact that it includes a long passage that re-capitulates the sugya's *ma nafshakh* challenge,⁶² anonymous material that belongs to the final stages of the Bavli's formation. It therefore seems likely that the Bavli story took shape after the beginning of the sugya had gelled.⁶³ In inserting a citation of the anonymous talmudic voice into the world of the narrative, the Bavli storyteller re-shapes an existing narrative tradition to reflect its new contextualization within the sugya.

To better understand the changes wrought by the Bavli it is helpful to start with a consideration of the earlier Palestinian versions. Steven Fraade reads the version in Sifre Deuteronomy as an expression of the rabbis' internal grappling with the inequities of their own legal tradition:

Since the story in its present form can be presumed to be fictional, it may be argued that its rabbinic “authors” have projected onto the non-Jewish officials their own countervoice of discomfort with the rule permitting robbed gentile property. But they have also projected what they would like to hear from non-Jews about their *nomos*: 1) It is in sum pleasing and praiseworthy. 2) Its expression of God's unique love for Israel, to the disadvantage of the non-Jews, would not be so bothersome to the non-Jews if they would only cross the boundary into that *nomos* to experience it from within.⁶⁴

Fraade proposes that the story expresses rabbinic ambivalence about the halakhic treatment of Gentiles. It simultaneously registers both the rabbis' self-consciousness about how their laws must appear to outsiders, and their consoling fantasy that given an insider's view, even external critics would be (mostly) assuaged. Fraade suggests that the story effectively “decenters” the problem of the inequity, by presenting it as one small detail in a tradition that inspires admiration in every other respect.⁶⁵ To Fraade's insightful analysis, I would simply add the observation that the story not only highlights an inequity within the tradition; it suggests that there is no possible way to explain or justify it. The best the Jews can hope for is that it will not be discovered by the Gentile authorities. The story thus punts on the ethical problem, reframing it as a challenge of political finesse.

Fraade's reading of Sifre Deuteronomy accords well with the version of the story that appears in the Yerushalmi in every respect but one: While Sifre's spies identify just one problematic law, the version in the Yerushalmi enumerates four separate instances in which the halakha privileges Jews over non-Jews. They are:

62 I refer to the words that are cited by the spies: “How can you escape this dilemma?: If you read *his neighbor* as referring exclusively to a Jew, then when it is a non-Jew's (ox) who gores a Jew's, let him be exempt! If, on the other hand, you read *his neighbor* as not necessarily referring to anyone in particular, then, even when a Jew's gores a non-Jew's, he (the Jew) should be culpable!” These words repeat the anonymous statement that opens the sugya almost verbatim.

63 This is not, however, the only way to account for the evidence. There is another way to explain the repetition of the *מה נפשך* material that is far more intriguing, though it seems less likely: Perhaps the *מה נפשך* challenge originates within the narrative, and moves from there to the beginning of the sugya. This would mean that the non-Jewish characters are not ventriloquizing talmudic discourse, but rather that the talmudic editors are adopting the critique of the non-Jews. I find this reconstruction appealing because it attributes the current shape of the Talmud to interventions from non-Jewish readers. As we will see in the next section, such interventions do occur in a later period in the history of the Talmud's reception.

64 Fraade, 153-4.

65 Fraade, 154.

1. A Jewish woman may not serve as a midwife for a non-Jewish woman, but a non-Jewish woman may serve as midwife for a Jewish woman.
2. A Jewish woman may not serve as a wet-nurse for a non-Jewish child, but a non-Jewish woman may nurse a Jewish child.
3. Using the stolen property of a Jew is prohibited, but using the stolen property of a non-Jew is permitted.
4. A Jew whose ox gores the ox of a non-Jew is exempt, but a non-Jew pays full damages when his ox gores the ox of a Jew.

This accumulation of evidence of halakha's inequity means that this version of the story expresses a weightier ethical challenge than that posed by Sifre Deuteronomy's designation of just one problematic law, but the contours of the difficulty remain the same. The Yerushalmi's story is longer and has a more involved plot than the versions that appear in Sifre Deuteronomy and the Bavli.⁶⁶ For our purposes however, the most striking contrast between the version in the Yerushalmi and the version in the Bavli relates to Rosenthal's central insight about how the Yerushalmi characterizes the problem of inequity in Jewish law.

Rosenthal's article addresses a long-standing interpretive puzzle: In the Yerushalmi's version of the story, the spies enumerate four separate examples of problematic law, but they preface their list with the comment, "All of your Torah is beautiful and praiseworthy, except for these two matters that you say."⁶⁷ Why do they say "two matters," and then go on to list four? Rosenthal refutes suggestions that the discrepancy reflects sloppy editing, and argues that the Yerushalmi storyteller here translates a technical term from Greek rhetoric into Hebrew. According to Rosenthal, "two matters" is a literal translation of *δισσοὶ λόγοι*, a Greek term that describes a matter characterized by internal contradiction.⁶⁸ According to Rosenthal's interpretation, a better translation of the spies' words would be, "All of your Torah is beautiful and praiseworthy, except for these *dual matters* that you say." What unites the four examples of "dual matters" is that the four laws entail opposite rulings for Jews and Gentiles. As Rosenthal explains, from a Roman perspective, making such legal distinctions between Jews and Gentiles would make no sense, and so these rulings would seem to exemplify internal contradiction.⁶⁹ In using this terminology, the storyteller mimics a distinctively Hellenistic idiom, revealing a familiarity with the intellectual culture of Hellenistic Rome. Rosenthal's reading indicates that in this version of the story, the spies do not merely designate which laws are problematic, they characterize the problem with some precision. For the Yerushalmi's spies, the problem with a halakhic double standard is precisely its duality. Rosenthal's reading is illuminating not only for what it reveals about the Yerushalmi, but also because it allows for a more precise comparison with the Bavli's version of the story.

Among the elements that distinguish the Bavli from both the Yerushalmi and Sifre Deuteronomy are the following:

1. The object of the spies' evaluation: In both Sifre Deuteronomy and the Yerushalmi, the spies words offer an assessment of "all of your Torah." In contrast, in the Bavli, though the spies

⁶⁶ A full treatment of the story is beyond the scope of this inquiry, but see note 61 above for the relevant bibliography.

⁶⁷ y. BK 4:3 (4b), ms. Escorial, as presented in Rosenthal, 463:

כל תורה שלכם נאה ומשובחת היא חוץ משני דברים הלילו שאתם או'

⁶⁸ Rosenthal, 476-8.

⁶⁹ Rosenthal, 480.

examine all of Torah, they offer their appraisal of just one aspect of it: “We have carefully examined your whole Torah and this thing that you say is true.”⁷⁰

2. The terms of the spies' evaluation: In both Sifre Deuteronomy and the Yerushalmi, the spies judge Jewish teaching to be “beautiful and praiseworthy.” In the Bavli, one item from the Torah is judged to be “true.”
3. The spies' presentation of the problem: In both Sifre Deuteronomy and the Yerushalmi, the spies cite concise legal rulings that authorize the differential treatment of Jews and non-Jews. In the Bavli's version of the story, it is not only an inequitable ruling which the spies cite, but also the talmudic treatment of that ruling.

These three distinguishing features of the Bavli's version cooperate in shaping the Bavli's distinctive message.

As I read the Bavli version, the referent for the spies' positive assessment is not the initial line of the Misha that they cite, but rather the talmudic commentary, indicated in bold below:

“We have carefully examined your whole Torah and **this thing** that you say is true: 'An ox of a Jew who gores the ox of a non-Jew is exempt, and (the ox) of a non-Jew who gores the ox of a Jew, whether *tam* or *mu'ad*, he pays full damages. **How can you escape this dilemma?: If you read *his neighbor* as referring exclusively to a Jew, then when it is a non-Jew's (ox) who gores a Jew's, let him be exempt! If, on the other hand, you read *his neighbor* as not necessarily referring to anyone in particular, then, even when a Jew's gores a non-Jew's, he (the Jew) should be culpable!’”**

In citing this extended passage of talmudic dialectic, the spies voice their appreciation of the Bavli's critique. It is not the content of the mishnaic ruling that wins the spies' approval, but the talmudic articulation of the ruling's problematic inconsistency. The truth that the spies recognize is the diagnosis of a “*ma nafshakh*” interpretive bind. The Bavli storyteller imagines representatives of the non-Jewish world congratulating the Babylonian sages for so effectively identifying a problem in Jewish tradition.

While in both the Palestinian versions, the spies assess the content of Jewish law, in the Bavli, the spies do not evaluate halakhic dicta, but rather focus their appraisal on the talmudic commentary. This difference reflects a shift in rabbinic culture. For the Palestinian sages, Torah is the totality of Jewish tradition, delineated by the curriculum that the spies pursue; thus, according to Sifre Deuteronomy, “They read Scripture and studied the *Mishna*, *midrash*, *halakhot*, and *hagadot*.” For the Bavli, however, the meaning of Torah is different. Dialectical interrogation and deliberation displace statute and tradition as the core of rabbinic teaching. As Jeffrey Rubenstein points out in his portrait of the culture of the Babylonian Talmud, “Dialectical argumentation is among the clearest examples of a specifically Babylonian theme. . . . Because it was so important in their own culture, Bavli storytellers repeatedly added the theme to. . . . Palestinian stories about sages.”⁷¹ The story of the spies reflects the

70 To clarify: In the Palestinian versions, the spies initially offer a favorable assessment of the whole Torah, and then go on to cite discrete problems which they characterize as exceptions. In the Bavli, the spies' evaluation is restricted to a single matter.

71 Jeffrey Rubenstein, *The Culture of the Babylonian Talmud* (Baltimore: Johns Hopkins University Press, 2003), 45. See also his addendum on 47: “The thematizing of dialectics is not only Babylonian, but late Babylonian, i.e. Stammaitic.”

same cultural shift that Rubenstein observes in other stories that move from a Palestinian to a Babylonian rabbinic milieu. In the Bavli's version of the story, it is a distinctively Babylonian idiom that occupies the spies' attention and wins their approval.

The story of the spies offers a striking illustration of a shift in rabbinic culture in another respect as well. As Rosenthal points out, the designation of a law as a “dual matter” (שני דברים or *δισσοὶ λόγοι*) is substantively equivalent to the Bavli's articulation of the *ma nafshakh* interpretive dilemma.⁷² Both terms highlight the problem of internal contradiction, objecting to the double standard in Jewish law on the principle that “you can't have it both ways.” But while the Palestinian Talmud conveys this critique in the Hellenistic idiom of classical Greek rhetoric, the Bavli uses its own distinctive terminology. The difference reflects what Richard Kalmin characterizes as the “inward focus” of Babylonian talmudic culture.⁷³ In contrast to the Palestinian sages, who overtly engage Hellenistic culture, tell realistic stories about their interactions with non-Jews, and adopt an extensive vocabulary of Greek and Latin loan words, Kalmin argues that the Babylonian sages' “experience of the world depended as much on texts they learned and discussed as on observed reality. . . . Babylonian rabbis tended to look at the world around them through the prism of these texts, such that the finer points of the behavior of non-Jews often mattered little to them in determining their interactions and their descriptions of those interactions.”⁷⁴ Refracted through the prism of the Bavli's cultural insularity, the Roman spies become ventriloquists for the Bavli's anonymous editors, adopting the language and idiom of Babylonian sages. Even as the Bavli narrator uses non-Jewish characters to promote the universal truth of talmudic wisdom, he fashions these characters from the particular patterns of talmudic discourse.

The cultural shifts that are manifested in the Bavli's re-telling of the story of the spies reflect historical changes in the circumstances of the Jews, and in their relationships with the non-Jewish authorities: Life for Jews in Sasanian Babylonia was very different than in Roman Palestine. For the purposes of this project, however, it is the shift in discursive practice that I would like to examine. My argument for a new approach to reading the Bavli begins with the broadly held observation that the Bavli reads differently than other rabbinic texts do, a contrast which is keenly captured in the changes the Bavli makes in re-telling the spy story. Differing forms of discourse call for different methods of interpretation, in ethics as well as other areas. So long as a rabbinic text is comprised exclusively of statutes and other pithy statements of rabbinic tradition, consideration of the content of those traditions makes sense. But a discursive culture that expresses itself through deliberative exchange and interrogation of received traditions evades straightforward analyses of content. The distinctive shape of the Bavli invites examination of form and function, rather than of content alone.

What does the Bavli's re-telling of the story of the spies convey about ethics? I suggested above that the Palestinian versions of the story adopt the perspective of non-Jews so as to give voice to internal rabbinic protests against the inequities of Jewish law. In the Bavli's version, when the non-Jewish characters cite the anonymous voice of the Stam, the otherness of this “countervoice”⁷⁵ disappears. Without diminishing the degree to which such ventriloquy denies the non-Jew a distinctive perspective, I read the “Bavliization” of the story as an internalization and ratification of the content of the ethical critique. In the Bavli, the voice of protest moves to the center of the sugya's deliberations, and at times represents the dominant voice of the editor. Ethical critique is constitutive of the Bavli, and this means that while the discursive culture of the Bavli might be inward-focused, its ethics is not solipsistic. In the Bavli's version of the story, the perspective of the spies mirrors the storyteller's

72 Rosenthal, 476.

73 Richard Kalmin, *Jewish Babylonia between Persia and Roman Palestine* (Oxford: Oxford University Press, 2006), 120.

74 Kalmin, 120.

75 I borrow this language from Fraade, 153.

perspective, which is focused in turn on what Jewish teaching means for non-Jews. In this regress of reflection and counter-reflection, the dualities of internal vs. external, and universalist vs. particularist break down, but an attentiveness to fairness and to human relationship is pervasive nonetheless.

Gentiles in the Talmud: A Short, Selective Reception History of The Talmud's Most Troubling Texts, Told Backwards

In re-telling the story of the spies, the Bavli intimates that talmudic discussions take shape under the watchful eyes of non-Jews. Whether this audience of others is real or imagined, it suggests that the Talmud offers a richer resource for the study of relationships between Jews and non-Jews than has previously been recognized. The literary treatments of Gentiles in the Talmud and the lived experience of Jewish-Gentile relations in history are thoroughly intertwined. Having now examined several key talmudic passages that depict non-Jews, in this closing section, I investigate the role of non-Jews in shaping the Talmud.

AZ and the sugyot from Baba Kama and Sanhedrin examined above are among the most contested texts within the Talmud. For centuries, these materials have attracted the attention and ire of non-Jewish readers. A recent controversy surrounding the first translation of the Talmud into Arabic is but the newest chapter in a long history of external criticism and internal debate about the Talmud's treatment of non-Jews. In a statement released shortly after the publication of the new translation, the Anti-Defamation League (ADL) objected to how Amir al Hafi characterizes the Talmud in the work's introduction:

In an effort to claim that the Talmud is an inherently racist text, the introduction repeatedly seeks to exploit and take out of context certain passages in the Talmud, including deceptively referring to injunctions that seem to “prove” that Jews regard non-Jews as inferior. . . . Elsewhere in the introduction, the reader is informed that the Talmud claims that non-Jews are inhuman, may be tricked or cheated, that it is permissible to kill them, and so on.⁷⁶

While there is indeed blatant anti-Semitism and errors of fact and interpretation in Amir al Hafi's introduction, his specific accusations about the Talmud's treatment of non-Jews are not so far off the mark. At issue is precisely the question that arises both in b. BK 113 and in b. Sanhedrin's treatment of the Noahide laws—is a double standard with regard to non-Jews written into Jewish law? The existence of such a double standard in the Talmud is an embarrassing and even dangerous political liability, and so it is not surprising that the ADL and other Jewish spokespersons are eager to minimize or deny it.

As we have already seen, the Talmud preserves a number of traditions that permit mistreatment of non-Jews. These particular talmudic texts have become a site for a mimetic circle of hatred and suspicion, as Jews accuse non-Jews of being hateful for accusing Jews of being hateful. It is quite plausible that the xenophobia in the Talmud is a Jewish response to domination and persecutions by non-Jews. At the same time, discovery of this xenophobia by non-Jews has sparked eruptions of anti-Semitic persecution in the past, including massive burnings of the Talmud in Paris and Italy.⁷⁷

⁷⁶ The statement was posted on Mon May 21, 2012 at <http://accessadl.blogspot.com/2012/05/new-arabic-translation-of-talmud.html>

⁷⁷ For an overview and analysis of the events surrounding the condemnation and burning of the Talmud in Paris in 1240,

Throughout this dissertation, I focus on texts that have already made their mark on history, often in destructive ways. This means that while I am ultimately going to be arguing that aspects of talmudic discourse can serve ethics, offering helpful models for human relations, I must confront the fact that the very passages I sample have in fact functioned much differently in the past.

To a certain degree, the troubled reception history of the materials I examine serves my argument: if I can find ethical meaning in AZ, how much the more so in the more self-evidently edifying parts of the talmudic corpus. Beyond this rhetorical utility, however, I hope to show that examining the Talmud's treatment of non-Jews for a distinctive talmudic ethos makes good conceptual sense. In this project, I use non-Jews to think with, reading the Talmud's discussions about non-Jews as discussions about what it means to be human. This strategy draws on David Novak's monograph on the image of the non-Jew in Judaism, where he identifies the concept of Noahide Law as a foundation for a philosophy of Judaism.⁷⁸ Arguing against those who describe philosophic inquiry as foreign to Judaism, Novak seeks to demonstrate that beginning in the rabbinic period, interpretations of the Noahide commandments have occasioned sustained and rational reflection on the nature of the human person, providing the rudiments of a philosophy inherent in Jewish teaching. Novak traces interpretations of the concept from its first articulation in the Tosefta, through the writings of medieval Jewish thinkers, and into the modern period in the work of Hermann Cohen and other Neo-Kantians. Even as I question some of Novak's readings, I seek to build on his central insight, that the rabbis' treatment of non-Jews reflects their thinking about what it means to be a person, and about what constitutes a good and meaningful life.

While I have emphasized the xenophobia that surfaces within the Talmud's treatment of Gentiles, Novak discovers within these same texts the foundations of a universalist ethos. Novak is a masterful reader of rabbinic texts. How, then, does he manage to evade the troubling double standard explicitly articulated in Sanhedrin's recapitulation of the Noahide laws of murder and thievery, in BK 113a-b's reports about Rav Ashi, and in BK 38a's discussion of goring oxen? Accounting for his readings opens a window on one of the most fascinating aspects of the reception history of these and similar talmudic texts. While in some instances, Novak's constructivist philosophic goals seem to have led him into the very trap decried by Samuel Holdheim--reading modern, liberal ideas back into the Talmud--often, something a bit more subtle and complicated is going on. As Novak himself points out, the standard print edition of the Talmud bears the imprint of the interventions of Christian censors.⁷⁹ Novak chooses to cite the standard, censored versions of the Talmud in which the most blatant xenophobia within the Talmud has been "corrected," rather than the older manuscript traditions. He thus unwittingly illustrates yet another reason I find this set of texts a particularly rich sample for an exploration of ethics: They complicate facile distinctions between ethics on the one hand and politics on the other; they demonstrate how difficult it can be to differentiate between internal Jewish

see Robert Chazan, "The Condemnation of the Talmud Reconsidered (1239-1248)," *Proceedings of the American Academy for Jewish Research*, vol. 55 (1988), 11-30. For a chronology and analysis of the rash of sixteenth century Talmud-burnings in Rome and other cities, see Amnon Raz-Krakotzkin, *The Censor; the Editor and the Text: The Catholic Church and the Shaping of the Jewish Canon in the Sixteenth Century*, trans. Jackie Feldman (Philadelphia: University of Pennsylvania Press, 2007). To the degree that Heinrich Heine is correct that "Where they burn books they will also ultimately burn people," one can discern a continuity between such acts of destruction of the Talmud and murderous brutalities against the Jews of Europe.

78 Novak, *The Image of the Non-Jew in Judaism*.

79 Novak, 60. While Novak identifies the talmudic censors as Christian, more recent scholarship suggests that the censors might have been Jews. Raz-Krakotzkin characterizes censorship as a complex process in which both Jews and Christians participated. Jews censored their own writings under the influence and intimidation of the Church. At the same time, Christians who were interested in claiming the Talmud as part of an expanded scholastic curriculum sought to purge the Talmud of its anti-Christian rhetoric.

deliberations and considerations of public relations and political expediency.

Novak's readings illustrate the difficulty in discerning where self-consciousness about inter-faith relations ends and bona fide intellectual or ethical interests begin. He provides this translation of the baraita we examined on BK 113a: "When a Jew and a Canaanite come to a legal dispute: if you can declare the Jew innocent by Jewish law then do so and say that this is *our* law; if by Canaanite law then do so and say this is *your* law."⁸⁰ This is his commentary:

Now the term "Canaanite" is only found in the later printed texts of the Talmud. . . . Despite the fact that Christian censorship undoubtedly led to the choice of the archaism "Canaanite" (it could not be misconstrued as anti-Christian), it nevertheless helps emphasize the difference between law-abiding gentiles and lawless ones. Just as the Canaanites of Biblical times were seen as being the very epitome of lawlessness and therefore, were denied the protection of Jewish law, so lawlessness leads to similar results in later times with any gentiles with whom Jews happen to come into contact. In other words, the later use of the term "Canaanite" is by analogy.⁸¹

Novak here does something remarkable: Even as he acknowledges that censors have replaced the word "non-Jew" (יגל) with the archaism "Canaanite," he uses this substitution as the hermeneutic key for interpreting the entire passage. He proposes that the distinction made in the manuscripts and early prints between Jews and non-Jews is in fact a distinction only between Jews, on the one hand, and *lawless* non-Jews on the other. With the help of the Christian censor, Novak thus makes two related claims about the disputed double standard in the Talmud's treatment of non-Jews: First, he argues that it does not in fact refer to *all* non-Jews, but only to a sub-category of them. Second, he offers a rationale for differential treatment, arguing that those whose behavior is not guided by law cannot appeal to the protections that law provides. As we will see, this is the very interpretation that was advanced by R. Menachem Ha-Me'iri. What is most striking to me about Novak's articulation is the central role he assigns to the censor, as if a sixteenth century Church official—likely one who was born and educated as a Jew and then converted—intuited the original intent of the ancient R. Yishmael. Though Novak seeks to demonstrate a universalist outlook inherent within Jewish teachings, what he has in fact demonstrated is the extent to which the Talmud itself has been re-shaped through contact with non-Jewish readers.

According to the historian Amnon Raz-Krakotzkin, it is not just the Talmud that was reshaped through the institution of church censorship in the sixteenth century; it is Judaism itself. In his study of the censorship of Hebrew books, Raz-Krakotzkin complicates the reigning view of censorship as a purely repressive measure and sets out to show the ways in which Jewish scholars and Church officials—many of them converts from Judaism—cooperated in re-formulating Jewish tradition:

What I have primarily sought to do in these pages is to demonstrate the similarities between the principles of censorship and the principles that have shaped modern European Jewish consciousness. The main concern of the censors was the expunging of anti-Christian passages from books. This was precisely parallel to moves within the Jewish community as it

80 Novak, 60. Emphases his.

81 Novak, 60.

redefined itself as a community within Europe. The censors' activity helps to mark the move away from the definition of the Jew as the anti-Christian toward a radically different perception embodied in the phrase "Judeo-Christian civilization."⁸²

While Raz-Krakotzkin grants that acceptance of the censors' changes by rabbinic authorities was largely an issue of expediency, he suggests that Jewish editors also shared an interest in ridding Hebrew books of anti-Christian polemics.⁸³ Jews could not have welcomed the repressive intrusions of the Church into the production of Hebrew literature, and yet Raz-Krakotzkin is persuasive in demonstrating how the specific changes wrought by censorship serve Jewish interests in the modern period. At the core of Raz-Krakotzkin's book is an argument for censorship as an engine of modernity. For my purposes, what is most striking to note is that the specific set of texts I will be examining in this dissertation absorbed the most sustained and thorough-going interventions by the censor. The same xenophobia which rankles contemporary ethical sensibilities gave offense in earlier periods to Christian officials, even as it elicited fear and embarrassment in Jews seeking toleration. Reading through the censors—restoring the voices of the authors and editors who created the Talmud in late antiquity—is thus a process of recovering the Talmud's power to offend.

In Raz-Krakotzkin's account, censorship of the Talmud emerged as a strategy for preserving the Talmud after a wave of Talmud-burnings swept the cities of Europe beginning in Rome on Rosh Hashana of September 1553. Though the Talmud was listed in the Catholic Church's first list of prohibited books in 1559 (*Index Librorum Prohibitorum*), the prohibition was modulated somewhat following the Council of Trent in a revised list known as *Index 1564*, which included the following caveat: "If [the composition] appears without its title 'Talmud,' and without the attacks and injuries directed against Christianity, it will be tolerated."⁸⁴ According to Raz-Krakotzkin, *Index 1564* set out a general framework for purging the Talmud of anti-Christian references that both Christians and Jews eventually came to embrace. Thus, in later printings, the appellation "Gemara" all but replaced "Talmud" on title pages. More fundamentally, designations of non-Jews by such generic terms as *goy* and *nokhri* were substituted with "akum" (אכּוּם), an acronym for "worshippers of stars and constellations," and by archaisms such as "Canaanite."

Through the intervention of Christian censors, the partition originally erected by the Talmud between Jews and all others was replaced by a new boundary, and this new line of division encompassed both Jews and Christians, setting them apart from idolators.⁸⁵ One infamous attempt to reshape the Talmud in light of the censors' guidelines resulted in the Basle Talmud, a version that deletes AZ in its entirety.⁸⁶ Though the Basle Talmud was never accepted by the Jewish community and never came to be published, later printings of AZ systematically replace generic designations of non-Jews—present on most every page of the tractate—with the narrower designation of "idolator." The censor thus effectively rids the Talmud in general and AZ in particular of its most troubling xenophobic content by projecting it into the past, identifying the despised Others of the Talmud as an all but extinct species, unrelated to contemporary non-Jews in Europe.

Long before Christian authorities insisted on inscribing changes into the text of the Talmud itself, rabbinic commentators anticipated these interventions when they characterized the Talmud's

82 Raz-Krakotzkin, viii.

83 Raz-Krakotzkin, 136-40.

84 Raz-Krakotzkin, 61.

85 Raz-Krakotzkin, 120-48

86 Marvin J. Heller, *Printing the Talmud: A History of the Earliest Printed Editions of the Talmud* (Brooklyn: Hasefer, 1992), 241-65.

harsh treatment of Gentiles as an artifact of a bygone world. Centuries before the censor substituted the term “idolators” for the Talmud’s generic category of “non-Jews,” R. Menachem Ha-Me’iri (1249-1315)⁸⁷ advanced just such an interpretation of talmudic terminology. As first demonstrated by historian Jacob Katz⁸⁸ and more recently elaborated and confirmed by Moshe Halbertal,⁸⁹ the Me’iri developed an approach to the whole body of law governing relations between Jews and non-Jews that set him apart from his predecessors and contemporaries. As Katz explains, all the medieval interpreters of the Talmud living in Christian Europe had to account for the fact that the practice of their own Jewish communities diverged from the laws set out in the Talmud regarding interactions with non-Jews. While other interpreters such as the Tosafists advanced local, casuistic⁹⁰ justifications for their communities’ breaches of talmudic law, the Me’iri developed a principled position of toleration which he applied broadly. For the Me’iri, the Talmud’s designations of non-Jews refer to the idol-worshipping Gentiles of talmudic times, but not to the Christian or Muslim monotheists of his own day.

The Me’iri’s treatment of the set of laws discussed in BK 113a-b is exemplary of his approach. As we saw above, that discussion, culminating with the story of Rav Ashi and the grapes, investigates the treatment of Gentile property according to Jewish law. Do Gentiles enjoy the same legal protections as Jews when it comes to laws of theft, to lost objects, to computational errors in business transactions? While the Talmud does not definitively resolve these legal questions, it surveys a range of opinions, and seems to uphold the proposition that there is differential treatment, at least in some areas of the law, so long as such treatment does not lead non-Jews to form negative judgements of God (*hilul ha-shem*). This is the Me’iri’s commentary on the talmudic discussion:

It is found that concerning even idol-worshippers and those who are not hedged in by the ways of the religions:⁹¹ It is prohibited to steal from them, and if an Israelite is sold to them (as a slave, to settle his debts), he may not leave without paying, and similarly it is prohibited to cancel their loans. Nevertheless, a person is not obligated to seek out their lost property, and even if one finds their lost property, he is not obligated to return it, for finding an object is a bit like a transaction, and its return would be an act of kindness, and we do not bend in kindness for one who has no religion. And so it is with a mistake (in a business transaction): If he (an idol-worshipper) made a mistake on his own, not through any trick or scheme, there is no necessity to restore (his loss). Despite this, if it becomes known to him, one is nonetheless obligated to restore (his loss). And so it is even with a lost object: So long as a delay (in its return) results in the profanation of God’s name, one must return the object.

But, (regarding) all those who are from nations hedged in by the ways of

87 The Me’iri’s death date is disputed. While earlier scholars put his death in 1306, Moshe Halbertal argues persuasively for 1315. See Moshe Halbertal, *Between Torah and Wisdom: Rabbi Menachem ha-Me’iri and the Maimonidean Halakhists in Provence* (Hebrew) (Jerusalem: Magnes, 2000), 14, note 12.

88 Jacob Katz, *Exclusiveness and Tolerance: Studies in Jewish-Gentile Relations in Medieval and Modern Times* (Oxford: Oxford University Press, 1961), 114-28.

89 Halbertal, 80-108.

90 This is Katz’s term, 115.

91 The Hebrew reads: **שאינם גְּדוּרִים בְּדַרְכֵי הַדָּתוֹת**. The Me’iri uses similar terminology throughout his talmudic commentaries, with slight variations.

religion⁹² and those who worship the Godhead⁹³ in any way: Even though their faith is distant from our faith, they are not included in this general rule. Rather, behold they are fully like Israel in these matters; even concerning lost objects and even concerning mistakes, and in all the other matters, there is no differentiation.⁹⁴

The Me'iri here makes two distinct interpretive moves. First, he boldly asserts that throughout the discussion, whenever the Talmud refers to the differential treatment of Gentiles (his Talmud likely referred to "*ha-goy*"), it is in fact referring only to those Gentiles who worship idols and "are not hedged in by the ways of the religions." When it comes to non-Jews who are monotheists, no matter how much their faith and traditions differ from Jewish teachings, those who live within religious restraints are treated exactly as Jews in the eyes of the law. Thus, the Me'iri transforms a talmudic passage that centers on the difference between Jews and non-Jews into an assertion of the absolute equality of Jews and other monotheists before the law. In a move that anticipates the changes that the censor later inscribes into the talmudic text, the Me'iri replaces the Talmud's distinction between Jew (*Yisra'el*) and non-Jew (*Goy*) with a distinction between those who are constrained by the dictates of religion, and those who are not.

The Me'iri's second contribution is not as innovative, but is nonetheless significant. Having re-valued "*Goy*" to mean "idol-worshipper," he offers a series of rulings on the treatment of idolators' property in the wide range of transactions under discussion in the Talmud. He begins by summarizing the protections that Jewish law offers idol-worshippers: It is forbidden to steal from idol-worshippers; to seize their Jewish indentured servants without paying for them; and to cancel their loans. From here, the Me'iri goes on to enumerate the protections that idol-worshippers do NOT enjoy: If a Jew finds an object that an idol-worshipper lost, the Jew is not obligated to return it; and if a Jew benefits from an error made by an idol-worshipper in a business transaction, the Jew is not obligated to correct the error. The Me'iri does introduce two caveats regarding these allowances, however: 1) The Jew is prohibited from deliberately tricking the idol-worshipper, or otherwise causing the mistake; 2) If the idol-worshipper is aware that a Jew is in possession of his lost object or of money lost through error, the Jew must restore the loss rather than allow the idol-worshipper to form a negative judgment of God (*hilul ha-shem*). Finally, the Me'iri offers a rationale for the differential treatment of idol-worshippers based on a tacit distinction between legal obligation and virtue that is supererogatory: Idol-worshippers do not elicit kindness beyond the letter of the law. Taken as a whole, the Me'iri's rulings stake out the most liberal readings that the talmudic discussion would seem to support; that is, his rulings err on the side of protecting idolators' claims whenever there is foundation for this in any of the opinions cited in the Talmud. Thus, not only does the Me'iri restrict the Talmud's double standard regarding Gentile property rights to an all but extinct sub-set of unsavory pagan Gentiles whose lawless behavior would seem to justify harsh treatment, he mitigates the differential treatment in most every category of law.

Jacob Katz characterizes the Me'iri as a "Man of Enlightenment," whose principled rejection of many of the Talmud's segregative laws was based on a positive evaluation of Christianity. Katz theorizes that the Me'iri learned this from his teachers, philosophers in the tradition of Maimonides who felt a kinship with Muslims and Christians who pursued philosophy.⁹⁵ He notes, however, that despite the Me'iri's principled stance of toleration, he refrains from introducing his principle into every

92 Note that here the terminology is slightly different than above: עממין הגדורים בדרכי הדת.

93 The Hebrew reads: עובדי האלוהות.

94 R. Menachem Ha-Me'iri, *Beyt Ha-Behira 'al Masekhet Bava Kama*, edited and annotated by Kalman Schlesinger (Jerusalem: 1963), 330. My translation. The round brackets indicate my additions.

95 Katz, 124.

realm of law in which it might have applied.⁹⁶ Moshe Halbertal affirms Katz's characterization of the Me'iri as a man of principle, and suggests that what Katz describes as an inconsistency or failure of nerve can in fact be otherwise understood. Halbertal distinguishes among different areas of law pertaining to relations between Jews and non-Jews, and proposes that the Me'iri in fact treats the various categories in different ways. He points out that the Me'iri's differentiation between people who are hemmed in by religion and people who are not pertains exclusively to civil and criminal law. When it comes to prohibitions that the Talmud associates with the prevention of intermarriage, the Me'iri allows for no new leniencies; he sustains the social distance ordained by the Talmud with Gentiles of all kinds, including both monotheists and idolators.⁹⁷ This suggests that even as the Me'iri rejects the notion that there are essential differences separating Jews from non-Jews, he nonetheless values social barriers that keep the Jewish community distinct.

As Halbertal explains, the Me'iri's changes directly engage the question of what constitutes the difference between Jews and non-Jews:

Does the discrimination that governs talmudic law in relation to the rights of non-Jews flow from the fact that they practice idolatry, so that non-Jews observing the seven Noahide commandments are governed by different rules? If so, the determination that a group of non-Jews do not practice idolatry changes their status. . . Alternatively, perhaps the denial of rights to non-Jews is not tied to their practice as idolators, but rather flows from the very fact that they are not Jewish. . . In other words: Is the line of division in halakha between Jew and non-Jew based on a conception of an ontological gap between Jews and non-Jews, or does it originate in the differences between the life path of monotheists and of idolators? ⁹⁸

Halbertal here zeroes in on the central ethical question that makes the talmudic texts we have examined so troubling: Precisely what accounts for the differential treatment of Jews and non-Jews when it comes to basic rights? Does the halakha conceive of Jews as essentially different from other people, or is the apparent inequality based on behavioral differences? If it is simply a matter of behavior, as the Me'iri holds, then the ethical difficulties largely recede: Non-Jews can and do secure the protections of Jewish law and the approbation of the Divine, and every human life can be considered infinitely valuable and potentially holy. If, on the other hand, Jews are essentially and constitutionally distinct from the rest of humanity, charges of racism might have some foundation. As we have seen, beginning with the Me'iri, there is a long tradition of talmudic interpreters who assert that there is no essential difference between Jews and non-Jews. The Christian censors went so far as to inscribe this interpretation into the talmudic text, and generations of Jewish printers and readers have chosen not to reverse the censors' changes.

Even as Halbertal encapsulates the ethical difficulties that confront us when we consider the Talmud's treatment of non-Jews, the abstraction of his analysis hovers at a distance from the roiling reversals and raucous contradictions of the Talmud's dialectics. As I have tried to demonstrate through my readings of three sugyot above, the very nature of talmudic discourse with its mix of opinions and its multiplicity of voices militates against resolving Halbertal's dilemma in any neat and unitary conceptual way. Any assertion of conceptual consistency over-reads certain traditions and under-reads

96 Katz, 126.

97 Halbertal, 83.

98 Halbertal, 84. My translation.

others, and disregards the Talmud's distinctive artistry, its dizzying dialectical reversals, and its penchant for inversion.

The Talmud's treatments of non-Jews do not simply describe social relationships, they constitute them. Our review of how these texts have been read by Jewish philosophers both modern and medieval, by early modern Christian censors, and by contemporary Muslim translators reveals the degree to which interpretations of these texts have both shaped and in turn *been* shaped by interfaith relationships. While the laws under discussion aim to separate Jews from non-Jews, we have seen how the task of interpreting them has sometimes brought Jews and non-Jews together. At the same time, conflicts about their interpretation continue to divide the Jewish community on core questions about what it means to be Jewish and the nature of Jewish responsibility. The texts that I examine in this dissertation have been (literally) incendiary in Jewish-Gentile relations, but they have also been productive within the fields of Jewish thought and Jewish law, generating rich reflections about ethics, about what distinguishes Jews from non-Jews, and about what constitutes a human being.

In the reception history of these texts, ethical deliberations and power relations are inextricably intertwined. Jewish readers have registered a range of responses to the Talmud's treatments of non-Jews, with some heartily subscribing to them, others expressing offense, and others pursuing apologetics. It is often difficult to determine to what degree Jews are troubled by the ethical implications of the Talmud's traditions, and to what degree they are embarrassed or concerned about reprisals. Clearly, public knowledge that Jewish texts are disparaging to non-Jews is not “good for the Jews”; at the same time, these texts are difficult for many Jews not simply because of bad public relations, but because they present teachings that conflict with their own values. Among Christian readers, as Raz-Krakotzkin demonstrates, the history of the Catholic Church's engagement with these texts is not simply a story of repression and persecution. While the surveillance and censorship of Jewish literature are forms of domination to be sure, in this case, the intrusions of the Church paradoxically made the Talmud more serviceable to Jews as a foundation for social relationships, for the pursuit of Jewish philosophy, for the modern projects of enlightenment and emancipation, and for the construction of Judaism as a separate (rather than rival) religion.

Throughout their reception history, the talmudic texts surveyed here have been stalked by the specters of self-consciousness (among Jews) and surveillance (by non-Jews). It is tempting to dismiss both impulses as antithetical to the pursuit of ethics, which we tend to think of as an expression of pure virtue, unclouded by considerations of position or power--in common parlance, ethics is pure, while politics is dirty. I am arguing against this conception. In defining ethics as “aiming for the good life, with and for others, with just institutions,” I am choosing to examine what these texts do for social relationships, and how they do it. I do not seek to evaluate the moral virtues or motivations of the texts' authors or transmitters, which are, in any case, inaccessible to us. As it happens, in the long history of deliberations over the status of non-Jews vis-à-vis Jewish law, there is no original moment when ethical considerations were free from calculations of political expediency. As the story of Roman spies in Rabban Gamliel's studyhouse indicates, concerns about Gentile surveillance are older than the Talmud itself. In antiquity, rabbis were already imagining the impressions their teachings would have on non-Jewish observers, conjuring government spies and using them both to express their own misgivings about a double standard in Jewish law, and to let themselves off the hook. Concern about the responses of others is always already built into the rabbinic discussions, in narratives featuring non-Jewish interlocutors, and in rulings which forswear the desecration of God's name (*hilul ha-shem*).

Ultimately, the greatest contribution that the Talmud makes to the pursuit of ethics might be its very resistance to abstracting the thickly textured weave of human experience and relationship into general principles, training our attention instead on the voices that demur, the exceptions to the rule, the extenuating circumstances, the inextricable dilemmas. But to venture to propose even this much is

already to step away from the rich particulars of the Talmud's distinctive discursive mix, and to lift off into that rarefied space governed by the twin angels of ultimacy and universalism. To try to say anything that is general enough to be even mostly true about the Talmud, or about the exigencies of human life, would be to resign myself to not saying much at all. The Talmud does not say any one thing about the human predicament, about what constitutes the difference between Jews and non-Jews, or about what prospects Jews and others have for finding common cause, but the many things that the Talmud says are colorful and interesting when read on their own, and even more complex, resonant, and profound when read in dialogue with each other.

Chapter II: The Sense of A Beginning

Perhaps the truth is that from the time of Creation, speech has not been cast as a social vessel to pass between two men; it has not been speech for its own sake. It may have always had its source in men sitting alone, speaking to themselves, as a spiritual need. . . The first man was not content until he had spoken *himself* aloud for himself to hear. . .

Hayim Nahman Bialik¹

The dialogical orientation is obviously a characteristic phenomenon of all discourse. It is the natural aim of all living discourse. Discourse comes upon the discourse of the other on all the roads that lead to its object, and it cannot but enter into intense and lively interaction with it. Only the mythical and totally alone Adam, approaching a virgin and still unspoken world with the very first discourse, could really avoid altogether this mutual reorientation with respect to the discourse of the other, that occurs on the way to the object.

Mikhail Bakhtin²

In this chapter, I turn to the text that will occupy me for the remainder of this dissertation, the Babylonian Talmud's *Tractate 'Avoda Zara* (AZ). As I hope to demonstrate over the course of ensuing chapters, the title "*Avoda Zara*," meaning "Idolatry," or literally "Foreign Worship" is a misnomer. While here and there within the tractate, the Bavli does indeed turn its attention to idol worship and other prohibited cultic practices, the tractate as a whole is far more centrally concerned with social relationships among Jews and non-Jews, regardless of the non-Jews' religious proclivities. To a certain degree, something similar could be said of the mishnaic tractate that gives the tractate its name: While much of the material in Mishna 'Avoda Zara is dedicated to distancing Jews from idolatrous activities and objects, the Mishna also includes rules governing relations between Jews and non-Jews in which idolatry does not explicitly play a role; the topic that gets the most attention by far within both the Mishna and the Bavli is the prohibition on Gentile wine, a legal conundrum that the Mishna itself intimates is rooted in a concern about social relationships, rather than with idolatry per se. (This will be the focus of Chapter IV.) In the Bavli's treatment of the tractate, discussions of the laws governing Jews' interactions with non-Jews grow ever more complex and nuanced, and are further ramified by a diversity of stories in which Gentile characters are variously depicted as bosom friends, violent fiends, moral exemplars and eternal enemies. Through a weave of legal dialectics and storytelling that extends, exceeds, and sometimes undermines the laws of the Mishna, AZ examines and probes social, economic, and political relationships between Jews and non-Jews, as well as between rabbis and other Jews.

That the Bavli wanders from AZ's explicit subject of idolatry is no surprise--digression is the Bavli's wont in every tractate. The specific argument that I will make in this and the ensuing chapters is that the Bavli's digressions here are not haphazard, but are rather the expression of a coherent literary

1 H. N. Bialik, "Revelment and Concealment in Language," as translated by Jacob Sloan in *Revelment and Concealment: Five Essays* (Ibis: Jerusalem, 2000), 18.

2 Mikhail Bakhtin, "Slovo v Roman," as cited and translated in Tzvetan Todorov, *Mikhail Bakhtin: The Dialogical Principle*, translated by Wlad Godzich (Minneapolis: University of Minnesota Press, 1984), 62. Cited in Daniel Boyarin, *Intertextuality and the Reading of Midrash* (Bloomington: Indiana University Press, 1990), 23.

project. In this chapter, the first of four in which I develop a sustained reading of AZ as a literary unit, I analyze a network of stories from the rich narrative material in *Lifney 'Eydeyhem*, the first chapter of the tractate. Through close readings of these stories, and of the verbal and thematic interconnections among them, I flesh out an approach to reading the Bavli as literature. In later chapters, I will extend this approach to treatment of the tractate's legal dialectics, exploring the interactions between narrative, dicta, and dialectics. Building on a generation of Bavli scholarship that has discerned artistry in what earlier readers had dismissed as mere accident, I will argue for reading AZ's apparent digressions from its announced theme as constitutive of a sustained deliberation about what precisely distinguishes Jews from non-Jews, and more profoundly, about what it means to be human. I will seek to show that over the course of the tractate as a whole, AZ uses the ancient concept of the great chain of being to explore the place of humanity in the universe, examining links between the human and the divine on the one hand, and among humans, animals, and objects on the other.

My larger task is to demonstrate the ways in which the Bavli's literary art is intricately tied to its ethical project. AZ exemplifies this in striking ways, not only because of its engagement with what it means to be human, but also because it is centrally concerned with constituting social relationships, both between Jews and non-Jews, and within the Jewish community. Ultimately, I will argue that apart from the thematics of individual tractates or chapters, the Bavli's discursive mix generates a distinctive mode of reading, an orientation toward what I call "exceptional particulars" that is ethical in itself. I will seek to demonstrate that when it comes to ethics, analysis of how the Bavli speaks is critical to any attempt to understand what it says.

Storytelling in *Lifney 'Eydeyhem*

My choice to focus on narrative is generated by the particular literary shape and content of AZ's first chapter, *Lifney 'Eydeyhem*. At the start of the chapter, moments of storytelling alternate with dialectical treatments of the Mishna, but then, as the chapter proceeds, narratives proliferate. Story begets story in extended chains of narratives that deviate from the topics and concerns raised by the Mishna. And there is something striking about these narrative flights—they are largely original to the Bavli. This means that by examining storytelling in *Lifney 'Eydeyhem*, I focus in on those places where the editors' literary interventions and distinctive vision can be discerned most clearly. In other chapters of AZ, the Bavli's redactors deploy their creative efforts differently, as we will see.

Because I am ultimately interested in developing an ethical reading of the tractate, I focus on the text of AZ in the form in which readers encounter it today. This emphasis on the final redacted form distinguishes my project from other important research on AZ in recent years, which has taken a diachronic approach. Both Christine Hayes and Alyssa Gray have looked to AZ in their investigations of the relationship between the Yerushalmi and the Bavli, and of how the Bavli took shape. Though the questions I bring to the tractate are different, my work builds on theirs, and complements theirs in several ways.

Hayes's work on AZ examines the legal materials within the tractate.³ She presents her findings as a corrective to the tendency of earlier scholars to attribute differences between the Bavli and Yerushalmi to differences in the cultural and political circumstances of Roman Palestine and Sasanian Babylonia, demonstrating that alongside these external factors are factors that inhere within the distinctive normative worlds of the two rabbinic communities. My focus on narrative in this chapter thus offers a complement to Hayes's incisive work on the distinctive legal culture expressed in the

³ Christine Elizabeth Hayes, *Between the Babylonian and Palestinian Talmuds: Accounting for Halakhic Difference in Selected Sugyot from Tractate Avodah Zarah* (New York: Oxford University Press, 1997).

Bavli: like her, I am interested in discerning a voice and a vision that are peculiar to the Bavli. While I am only secondarily interested in the Yerushalmi, I will from time to time look to it either as a counter-text, or as a source that the redactors of the Bavli re-work. I am able to do this far more effectively because of Gray's meticulous text-critical work in analyzing and describing the range of ways in which AZ engages the Yerushalmi.⁴ Gray argues that the editors of the Bavli were familiar with the Yerushalmi, and used it as a source. The methodology she develops entails a macro-analysis of the tractate as a whole, and the identification of those passages where the *talmudim* exceed their commentarial function, presenting material that is not “called for by the mishnah.”⁵ Gray points to extensive structural similarities between the Bavli and Yerushalmi that are not anticipated nor necessitated by the Mishna, and argues that these are places where the influence of the Yerushalmi over the Bavli is in evidence. In this chapter, I adopt the broad outlines of Gray's approach for very different ends. I examine narratives in the first chapter of AZ that are neither “called for by the Mishna” nor anticipated by the Yerushalmi, because these are sites where the distinctive artistry and ethical vision of the Bavli are easiest to discern.⁶

It is my contention that the editors of the Bavli are far less concerned with the topic of idolatry than they are with the issue of how to construe relationships with non-Jewish society and with non-Jewish individuals. It is this issue that leads them to probe the deeper questions of what exactly distinguishes Jews from non-Jews, and what all people share in common. One striking piece of evidence for my claim is the storytelling in the first chapter of AZ. A minority of these narratives discuss idolatry or forbidden worship practices, even when that is the explicit concern of the Mishna. Instead, these stories offer accounts of interactions between Jews and non-Jews, both as corporate entities, and as individuals. I will not treat all the stories of *Lifney 'Eydeyhem* at length, so I offer a brief survey here. The main themes of the stories include:

- 1) Future divine judgment of non-Jews and of non-Jewish nations⁷
- 2) Conflicts with *Minim*, or heretics⁸
- 3) Adam's first experiences of the world⁹
- 4) The friendship of Rabbi Yehuda Ha-Nasi with the Roman leader Antoninus¹⁰

4 Alyssa M. Gray, *A Talmud in Exile: The influence of Yerushalmi Avodah Zara on the Formation of Bavli Avodah Zara* (Providence: Brown Judaic Studies, 2005).

5 Gray, 34-7.

6 A second strategy for discerning the Bavli's distinctive voice is to examine the ways in which the Bavli reworks and revises Palestinian materials. For examples of this strategy, see Jeffrey Rubenstein, *The Culture of the Babylonian Talmud* (Baltimore: Johns Hopkins University Press, 2003), and more recently Shai Secunda, *The Iranian Talmud* (Philadelphia: University of Pennsylvania Press, 2014).

7 This category includes the story of the Judgment of the Nations (2a-3b) which I will examine below, and a story about a throng of converts in the messianic age (3b). Related to this theme is a story that appears on 8b that relates national history, relating that the Romans first secured their power by allying with Israel to defeat the Greeks; it also appears in the Yerushalmi.

8 R. Safra is persecuted by *Minim* when he fails to provide an interpretation for a scriptural verse (4a); R. Joshua b. Levy tries to curse a *Min* at an auspicious moment for cursing, but falls asleep (4b); a *Min* sends R. Yehuda Nesi'a a dinar on a Roman festival, and he must find a way to dispose of it (6b); and in the Yerushalmi at AZ 1:1, 39b); R. Eliezer is arrested by the Romans on charges of *Minut* and subsequently recalls an interaction with a Jesus-follower (16b). There is an extensive scholarly literature on what precisely “*Minut*,” commonly translated as “heresy,” signifies, and to what degree it refers to strains of Jewish-Christian religiosity in particular. See Daniel Boyarin's important re-evaluation of the topic in *Border Lines: The Partition of Judaeo-Christianity* (Philadelphia: University of Pennsylvania Press, 2004). He treats the R. Safra story and R. Eliezer story on pages 220-5.

9 On 8a the story of Adam's first experience of the nightfall follows directly on the heels of the story of his first experience of winter.

10 Beginning on 10a is a chain of six distinct stories of Antoninus and Rabbi. As noted below, these stories have received

- 5) Conversion¹¹
- 6) Roman persecution and Jewish martyrdom¹²
- 7) Sexual transgression¹³

While the mishnaic laws that provide the skeleton for the chapter regulate a range of economic activities that bring Jews and non-Jews into relationship—buying, selling, loaning, borrowing, leasing, and joint building projects—the stories engage a far greater breadth of interactions, from sex to friendship, to court trials, to torture and murder. Though the stories' themes all diverge from the explicit concerns of the Mishna, they do not all move in the same direction. In some of these stories, as we will see, non-Jews are depicted as violent fiends, and in others as beloved friends. Other stories suggest that non-Jews are not nearly the threat that are the *Minim*. Many of these stories, including stories of *Minim*, of conversion, and of powerful Romans securing life in the next world, attenuate the sharp boundary between Jews and non-Jews that the Mishna presumes. I will argue that in this opening chapter of AZ, the editors use such stories to push beyond the Mishna's concerns and engage a broad swath of questions about what it means to be human: What distinguishes Jews from non-Jews? Can, and should these differences be overcome? What qualities do all people share in common?

To a certain degree, tensions between the storytelling in the Bavli and the rules set out by the Mishna inhere in the different genres of narrative and law. For some narratologists, it is precisely the rule-breaking, exceptional aspect of stories that makes them worth telling.¹⁴ As Barry Wimpfheimer has demonstrated, law and narrative interact within the Bavli in complex ways.¹⁵ Sometimes, stories exemplify a statute, sometimes they serve to justify a law, and sometimes, they disrupt and undermine

extensive scholarly treatment. See for example, Daniel Boyarin, “Homotopia: The Feminized Jewish Man and the Lives of Women in Late Antiquity,” *differences: A Journal of Feminist Cultural Studies* 7.2 (Summer 1995), 41-71, and Alyssa Gray, “The Power Conferred by Distance from Power: Redaction and Meaning in b. A.Z. 10a-11a,” *Creation and Composition*, ed. Jeffrey L. Rubenstein (Tubingen: Mohr Siebeck, 2005), 23-69.

- 11 Including the story of future converts (3b); and an extended story of the convert Onkelos's success in persuading three cohorts of Roman soldiers to convert (11a). Some would additionally include the story of Ketī'a Ben Shalom's circumcision on the way to his martyrdom (10b). While I don't consider this a conversion per se for reasons discussed below, Ketī'a's story does intensify the salience of this theme.
- 12 R. Judah ben Bava is martyred for ordaining his students on 8b; Ketī'a bar Shalom is martyred on 10b; the description of a strange Roman ritual held once every 70 years features the relic of martyr R. Ishmael's scalped head (11b); R. Eliezer is arrested for *Minut* (16b); R. Hanina is arrested together with R. Elazar b. Perata on 17b; R. Hanina is arrested and sentenced together with his wife and daughter on 18a; he is put to death in a separate story on 18a; on 18a-b, R. Meir sets out to free his sister-in-law (R. Hanina's daughter) from the house of prostitution where she was sent by the Romans.
- 13 There is a brief story of a sinful woman who confesses incest to R. Hisda on 17a; it is followed by the long and involved story of Elazar b. Dordya's momentous visit to a prostitute on 17a; R. Hanina and R. Yonatan face the dilemma of walking past a place of prostitutions or a place of idolatry on 17a-b; R. Hanina's daughter takes pleasure in the admiration of Roman men on 18a; R. Meir saves her from a house of prostitution on 18a-b; R. Shimon b. Gamliel praises the beauty of a non-Jewish woman he sees on the Temple Mount (20a). Many of these narratives are treated by Daniel Boyarin, beginning with *Carnal Israel: Reading Sex in Talmudic Culture* (Berkeley: University of California Press, 1993).
- 14 William Labov has described the way storytellers signal a story's “tellability” through evaluative statements that depart from an account of what happened to offer explanations of why it is worth telling in the first place. The pioneering study was William Labov and Joshua Waletzky's “Narrative Analysis: Oral Versions of Personal Experience,” re-printed in a volume exploring its impact after 30 years, *Journal of Narrative and Life History* 7 (1997), 3-38. His observations about stories' tendencies to focus on a breach of norms have provided fertile ground for explorations of the relationship between narrative and law. For a succinct account of Labov's contribution, see Jerome Bruner, “The Narrative Construction of Reality,” *Critical Inquiry* 18 (Autumn 1991), 1-21.
- 15 Barry Wimpfheimer, *Narrating the Law* (Philadelphia: University of Pennsylvania Press, 2011).

the law.¹⁶ As we will see, stories introduce complexity and multivocality into the Bavli. A story enlarges our vision, conveying nuance and complexity through a vivid engagement with particular circumstances. The storytelling in AZ does not uniformly uphold rules, or oppose them, but rather probes and explores possibilities for human relationship and experience in ways that narrative is distinctively qualified to do.¹⁷

The past half-century has seen a rich flowering of theoretical work on narrative and its interactions with law, ethics, philosophy and theories of mind. There is a broad consensus that it does not suffice simply to define narrative as an ordered sequence of events.¹⁸ What accounts for narrative's power to draw readers and listeners in? What makes a story work as a story? For some, it is the experience of anticipation and surprise. Erving Goffman describes narrative as characterized by "unforetrollable unfoldings."¹⁹ A story unfolds as a successive series of choices; each decision forecloses a range of possible outcomes as it conveys the plot forward. If a story is to captivate the audience's attention, there must be an element of surprise to create suspense about how things might turn out. In the words of Paul Ricoeur: "The story's conclusion is the pole of attraction of the entire development. But a narrative conclusion can be neither deduced nor predicted. There is no story if our attention is not moved along by a thousand contingencies."²⁰ For folklorist Katharine Young, "It's this anticipation that hooks us into a world that thereby cracks open for us. We, the narratees, to some extent the narrator, are plunged into an alternate reality as an open-ended engagement such that as we move through the story, a world materializes around us."²¹ Young theorizes that the distinctive temporal qualities of narrative described by Goffman and Ricoeur captivate readers and listeners, effectively projecting the audience into other worlds. It is this experience of absorption in an alternative reality that distinguishes narrative from other kinds of discourse. Narrative is distinctly qualified to explore an ethical vision of life with others because it approximates the experience of life with others, plunging us into worlds where others live.²²

In Moshe Simon-Shoshan's recent work on tannaitic narrative, he points to the ways rabbinic traditions partake of some aspects of narrative even when they fall short of most generic definitions.²³ Though his research relates primarily to storytelling in the Mishna, his approach will serve us well in

16 Wimpfheimer, 14.

17 Wimpfheimer makes a similar point on p. 20.

18 For a discussion of competing definitions of narrative, see Luc Herman and Bart Vervaeck, *Handbook of Narrative Analysis* (Lincoln: University of Nebraska Press, 2005), 11-14. Many regard the representation of a series of events as necessary but not sufficient for constituting narrative. Herman and Vervaeck propose that the events must additionally be related to each other in ways that the reader considers significant.

19 Erving Goffman, *Frame Analysis* (New York: Harper Colophon Books, 1974), 508.

20 Paul Ricoeur, "Narrative Time," *Critical Inquiry* VII, 1 (Autumn 1980), 180.

21 Katharine Young, personal email communication, May 22, 2011.

22 Here I am drawing on Ricoeur's definition of ethics as "aiming toward the good life, with and for others, with just institutions," discussed in Chapter I. For his definition, see Paul Ricoeur, *Oneself As Another*, translated by Kathleen Blamey (Chicago: University of Chicago Press, 1992), 172. Ricoeur himself makes a similar point about the ethical potential of narrative in comparing narrative intelligibility to *phronesis*, Aristotle's term for a practical wisdom that operates at a lower level than *theoria*, in "Toward a Narrative Theology," *Figuring the Sacred: Religion, Narrative, and Imagination*, trans. David Pellauer, ed. Mark I. Wallace (Minneapolis: Fortress Press, 1995), 236-48. Martha Nussbaum similarly compares narrative to *phronesis* and argues for the distinctive ethical work that narrative accomplishes in generating empathy and in depicting a range of emotions. See the introduction to *Love's Knowledge: Essays on Philosophy and Literature* (New York: Oxford University Press, 1990) and also Martha Nussbaum, *Poetic Justice: The Literary Imagination and Public Life* (Boston: Beacon Press, 2004). Adam Zachary Newton pursues similar ideas, describing the connections between writer and reader and between reader and text as interpersonal relations in Adam Zachary Newton, *Narrative Ethics* (Cambridge: Harvard University Press, 1995), 3-33.

23 Moshe Simon-Shoshan, *Stories of the Law: Narrative Discourse and the Construction of Authority in the Mishnah* (Oxford: Oxford University Press, 2012).

investigating the Bavli. Simon-Shoshan relates to “narrativity” as a broad category, with two defining features: dynamism and specificity. He distinguishes among three levels of narrative: 1) A “story” is the most fully realized instance of narrative, and is defined as “any representation of a sequence of at least two interrelated events that occurred once and only once in the past.” 2) A “narrative” is “any sequence of two interrelated events, even if it lacks specificity.”²⁴ 3) Some texts that do not meet this threshold can nonetheless be described as “possessing narrativity.” Such texts might feature details that are exceptionally vivid, implicitly tying an event to a specific time and place.²⁵

In this chapter, I offer literary analyses of five stories and one narrative from the first chapter of AZ, paying special attention to the intertextual links among them. On its own, each of these narratives conjures up a world of human relationship. Together, they traverse a startling breadth of human possibilities, from mythic beginnings to eschatological ends, from birth to death, from the sublime to the ridiculous. Close readings of these stories will help me both to flesh out a literary approach to talmudic storytelling, and to make some preliminary observations about how the editors of this tractate use narrative to explore ethical questions.

Beginning with the End (AZ 2a-3b)

The Bavli is famous for starting in the middle of things, presuming that its readers bring knowledge of the whole of the work to each and every part.²⁶ This does not mean, however, that individual tractates do not have a discernible shape. Often, the beginning of a tractate displays intricate editorial artistry, with an opening sugya that introduces the over-arching themes of the tractate as a whole.²⁷ As I hope to demonstrate, this is the case in AZ. A complex weave of narrative and dialectic in the tractate's opening pages (2a-3b) not only announces the central theme of Jewish-Gentile relations, but also exemplifies the ways in which shifts of form and style shape meaning throughout the tractate.

My reading of the beginning of AZ builds on the insights of Jeffrey Rubenstein, who devotes an entire chapter of his book *Talmudic Stories* to the homiletical narrative that begins on AZ 2a (the first page of the tractate) and extends—with frequent interruptions in the storytelling—all the way to 3b.²⁸

24 Though he does not mention any examples from rabbinic literature in setting out this definitional scheme, later, Simon-Shoshan provides many examples. Oftentimes, a mishnaic passage will read like a story, except that it will use verbal forms that indicate that it is to be taken as prescriptive or iterative and not as an account of a one-time event. These passages are “dynamic,” but not “specific.” Another example: Ritual narratives are detailed sequences of ritual actions that were generally performed in the Temple each year. Though they are iterative, and therefore non-specific, they sometimes so closely approximate stories in their verbal forms that Simon-Shoshan calls them “pseudo-stories.” See Simon-Shoshan, 42-4.

25 Simon-Shoshan, 16-22.

26 See the description of the “Global Bavli Reader” in Zvi Septimus, “The Poetic Superstructure of the Babylonian Talmud and the Reader It Fashions” (PhD dissertation, UC Berkeley, 2011), 21-8.

27 The classic example of an “opening sugya” is Kidushin 2b-3a, identified by Sherira Gaon as an addition to the Bavli made by the Saboraim. Modern scholar Avraham Weiss proposed a list of such “opening sugyot,” which, like Kidushin 2b-3a, concentrate on extra-legal concerns and come at the beginnings of tractates or chapters. See Avraham Weiss, *Ha-Yetzira shel ha-Sabora'im (Helkam bi-Yetzirat ha-Talmud)* (Jerusalem: Magnes, 1953), 1-18. Yaakov Elman builds on Weiss's theory, and expands the list of opening sugyot in Elman, “The World of the 'Saboraim': Cultural Aspects of Post-Redactional Additions in the Bavli,” *Creation and Composition*, ed. Jeffrey L. Rubenstein (Mohr Siebeck: Tübingen, 2005), 383-415. Jeffrey Rubenstein suggests that AZ's opening should be classified as an “opening sugya” in *Talmudic Stories* (Baltimore: Johns Hopkins University Press, 1999), 212-42. His interest is not so much in the dating or authorship of the sugya, but rather in its literary qualities. Charlotte Fonrobert made a similar proposal for a literary reading of opening sugyot in an unpublished paper presented at Berkeley in February 2012.

28 The homiletical narrative does not actually open the tractate; it is preceded by a short dialectical exchange in which Rav and Shmuel debate whether the Hebrew word for “their feasts” is spelled with an *'aleph* (אֵיִדִּיָּה), and derives from the

Rubenstein effectively isolates the arc of an eschatological drama from what might otherwise read as a series of disconnected scenes punctuated by exegetical comments and brief dialectical exchanges.²⁹ The story depicts God's judgment of the non-Jewish nations at the end of days. Rubenstein breaks the story down into three parts which he titles “God Judges the Nations,” “The Nations Dispute God's Justness,” and “The Nations Reject Torah.”³⁰ The following is my summary of each section:

- I. “God Judges the Nations:” God sits in judgment, holding a Torah scroll in His lap, as one after another, the nations come before Him. God asks each nation for an account of their accomplishments in the realm of Torah. Rome comes in first, and argues that their achievements—establishing markets, building bathhouses, and amassing gold and silver—were all undertaken so that Israel could busy themselves with Torah. God rejects their account, judging that all their achievements were pursued not for the sake of Torah, but for their own selfish ends. Then Persia enters, and claims their chief accomplishments—bridges, cities and wars—were pursued for the sake of Israel and Torah. God rejects them as well. Other nations, not specified in the text, are likewise convicted.
- II. “The Nations Dispute God's Justness:” First, the nations object that they should not be held responsible for failing to meet the demands of the Torah, since it was never entrusted to them. God counters that they failed even to fulfill the seven commandments that were given to them directly. The nations then change their tack, arguing that Israel failed to fulfill the Torah as well. God tries to testify on Israel's behalf, but the nations object that neither God, nor Heaven and Earth can serve as witnesses on Israel's behalf because they are not disinterested. God then calls upon a series of biblical figures, all of them Gentiles, to testify that the Jews did indeed fulfill the Torah: Nimrod is called on behalf of Abraham, Laban for Jacob, Potiphar's wife for Joseph, Darius for Daniel, Nebuchadnezzar for Hananya, Mishael and Azarya, and finally, Job's neighbors on behalf of Israel generally. The nations then ask for another chance to fulfill the Torah.
- III. “The Nations Reject Torah:” God acquiesces, giving the nations the chance to prove themselves through the performance of a simple commandment, *suka*. The nations go and build booths on their roofs, but then when God sends a heat wave, they kick the *sukot* down and abandon the effort. God laughs at them.

What this plot summary alone does not convey is the way that the editors' frequent interruptions into the storytelling influence the experience of reading or hearing the story. As Rubenstein notes, the narrative flow of this extended passage is difficult to discern because “the BT redactors have annotated the story with numerous non-narrative comments that add explanations, pose questions, offer solutions and juxtapose related traditions—the typical features of talmudic discourse.”³¹ That Rubenstein is able to discern a narrative structure with a beginning, middle and end amid the oscillating cross-currents of

word for “disaster,” or is spelled with an *‘ayin* (עִי) and derives from the word for “testimony.” As Rubenstein demonstrates, this exchange and the succeeding narrative have been artfully linked and integrated through the repeated citation and interpretation of Is 43:9. It is for this reason that I follow Rubenstein in treating the extended passage, including the narrative, as an “opening sugya.”

29 Rubenstein's expert translation of this whole sugya does the work of separating out the narrative and non-narrative portions by banishing the non-narrative comments to footnotes; see 215-9. He reviews earlier scholarly efforts to distinguish between the sugya's narrative core and non-narrative additions in note 2 on 380.

30 Rubenstein, *Talmudic Stories*, 221-3.

31 Rubenstein, 212.

this roiling material speaks to his acuity as a reader, and also to the hardiness and potency of the narrative form. Beyond the structural connections that unite the parts of the story on the level of plot, Rubenstein identifies other elements that unify the narrative such as keywords that recur throughout the three parts of the story,³² and a concatenation of homiletical treatments of two scriptural passages, both eschatologically oriented, Is 43:9, and Ps 2:3-4.³³ All of these elements work together to convey a clear, unitary message about non-Jews: Ultimately, they will find no redemption. In Rubenstein's reading, the story serves not only to prosecute non-Jews, but also to highlight and elevate the central value of talmudic culture, Torah. Rubenstein sums up the story's central message as follows: "In brief, the gentiles receive no share in the world to come because they never fulfilled the Torah."³⁴ He argues that the story serves as an apt introduction to AZ for two reasons: First, because it addresses the theological issues raised by the Mishna's treatment of gentiles, and second, because it gives narrative expression to the negative view of Gentiles enshrined in mishnaic law.³⁵

I agree with Rubenstein that this sugya is an apt introduction to the tractate, but for somewhat different reasons. As I will demonstrate over the course of the ensuing chapters of this dissertation, AZ does not speak with one voice in its judgments about Gentiles, or about anything else for that matter. The opening story's prosecution of the nations is interrogated, challenged, and subverted in multiple ways, not just in the material that follows *after* the presentation of this extended courtroom narrative, but also in the frequent disruptions spliced into the telling of the story itself. In my view, the opening sugya can best be appreciated as an introduction to AZ when these frequent interruptions to the narrative flow are restored to the literary analysis. These insertions and digressions disrupt the coherence of the narrative, and undermine its unitary message. It is this very quality of disruption, challenge and multivocality which recommends the opening sugya as an introduction to AZ as a whole. In diverse ways that I will elaborate, as the Bavli proceeds through the tractate, it enlists narrative, law and dialectic to unsettle the judgments about non-Jews that are its patrimony from the Mishna. Far from supporting the Mishna's negative judgments about non-Jews, this opening sugya, like the tractate as a whole, raises questions about what ultimately distinguishes Jews from other people.

My slight departure from Rubenstein is thus in the relative significance I assign to the narrative versus non-narrative sections of the tractate's opening passage. Rubenstein's effectiveness in extracting a tight, cohesive narrative obscures the degree to which the sugya itself resists his exertions; as his recapitulation of the "digressive" material in the form of footnotes indicates, the non-narrative material rivals the narrative in sheer volume, word for word. Rubenstein himself points out that these excursions from the narrative form frequently "mobilize dissenting opinions from within the tradition and demonstrate that the issues are more complex than they appear."³⁶ He highlights one example: a tradition cited in the name of Rabbi Meir that directly opposes the narrative's exclusion of Gentiles from the realm of Torah and its rewards:

Is it not taught in a baraita: Rabbi Meir used to say: From whence do we know that a non-Jew who occupies himself with Torah is like the High Priest? Since it says, "(You shall keep My laws and My rules), by the pursuit of which a person shall live." (Lev 18:5) It does not say, "priests, Levites, and Israelites," but rather "a person!" This teaches that even a

32 Rubenstein, 220.

33 Rubenstein, 219.

34 Rubenstein, 238.

35 Rubenstein, 239.

36 Rubenstein, 239.

non-Jew who occupies himself with Torah is like the High Priest.³⁷

Rabbi Meir's assertion that Torah study effectively dissolves distinctions between Jews and non-Jews presents a stark contrast to the story's rejection of non-Jews as a class. Though the statement that follows the citation of Rabbi Meir's teaching upholds a distinction between Jews and non-Jews in the realm of reward and punishment, it offers a far more moderate position than the one dramatized in the story:

Rather, this comes to teach us that they do not receive reward equal to that of one who is commanded and fulfills the Torah, but rather reward appropriate to one who is *not* commanded and nevertheless fulfills the Torah.³⁸

This reasoned exchange, inserted into the middle of the story (in section II according to the plot summary above), suggests that non-Jews are not worthy of the same rewards as are Jews, but nonetheless challenges the story's depiction of non-Jews as an utterly irredeemable group.

In addition to the example highlighted by Rubenstein, another example of an aside that disrupts the story's prosecutorial treatment of non-Jews occurs a bit further on, when the anonymous voice of the editor objects to the storyteller's characterization of God: "But did you not say: The Holy One does not deal despotically with His creatures?!"³⁹ This challenge appears at the point in the story where God sends a heat wave to foil the Gentiles in their attempt to fulfill the precept of *Suka*. Locally, the comment resists the depiction of God as a double-crosser who would deliberately undermine human efforts to fulfill His commandment.⁴⁰ It also functions more broadly, calling into question the theological message dramatized within the story, that God summarily rejects everyone but Israel. These two examples demonstrate how frequent interruptions into the storytelling not only disrupt the esthetic experience of the story's narrative flow, but also challenge the messages conveyed by the story, point for point. From the beginning, then, the variegated forms and content of the opening sugya of AZ work together to resist readers' efforts to extract a unitary message.

There is yet another, more subtle way that this sugya evades facile interpretation, and it relates to oscillations in the tone of the storytelling, rather than to shifts in form. As laid out in Rubenstein's analysis, the drama of God's final confrontation with the nations unfolds in three distinct movements, or sections. The first two conjure up a courtroom setting, and cast God as judge. Though the nations are rejected, they are not belittled: They are given their day in court, and their claims and rebuttals are argued point for point. In these two sections, the storytelling is serious, and high-toned. In Section III,

37 b. AZ 3a, ms. JTS:

והתניא היה ר' מאיר אומ' מנין שאפי' גוי ועוסק בתורה הרי הוא ככהן גדול שנ' אשר יעשה אותם האדם וחי בהם כהנים לויי <..> וישראל לא נאמר אלא האדם מלמד שאפי' גוי ועוסק בתורה הרי הוא ככהן גדול

The extended exchange which includes this tradition also appears on b. Sanhedrin 59a. For examination of the origins of this tradition in halakhic midrash, see Marc Hirshman, "*Torah le-khol ba'ey ha-'olam*": *zerem 'universali be-sifrut ha-tana'im ve-yahaso le-hokhmat ha-'amim* (Tel Aviv: Ha-Kibutz ha-me'uchad, 1999).

38 b. AZ 3a, ms. JTS:

אלא שאין מקבלין [עליהן] שכר <..> כמצוה ועושה אלא כמי שאינו מצוה ועושה

(The word עליהן is written in above the line.)

39 My translation of the phrase is indebted to Rubenstein's rendering, 218. AZ 3a, JTS ms:

והאמרת אין הקב"ה בא בטרוניא עם בריותיו

40 Thematically, this debate over God's dealings with the Gentiles in the heavenly court can be compared to the deliberations about how rabbis are to treat non-Jews in rabbinic courts that we examined in Chapter I: Is it appropriate to foil non-Jews through indirection, or not?

the story changes settings and the action moves outside, to where the non-Jews build—and as quickly destroy—their rooftop booths. In this section, God ceases to play the role of a dispassionate judge when he enlists his cosmic powers to undermine the Gentiles' last-ditch efforts to merit redemption, and zaps them with an unseasonable heat-wave. What began as a solemn, serious story here veers into farce.⁴¹ The non-Jews are reduced to caricature, as to a person they kick their *sukot* down in frustration. Sections I and II depict the rejection of non-Jews from the next world as an expression of divine justice; Section III revels in their defeat, and gives us a laugh at their expense. Section III does not so much *resolve* the story, as *dissolve* it, when the reasoned rhetoric of the courtroom gives way to tricks and taunts.

The slide from solemnity to slapstick I am seeking to capture here is a subtle shift, difficult to sense and hard to describe, and I would not press this point too hard except that it provides a glimpse into the range of ways the Bavli's distinctive discursive practices make meaning. Central to my thesis is the claim that stories convey meaning differently than do statements of law or dialectical exchange. One possibility that a literary analysis opens up is the ability to pay careful attention not just to what the Bavli says, but to how it says it. Here, we are reminded that not all stories work the same way. As Daniel Boyarin has shown, the Bavli speaks in a cacophony of voices: some pious, some playful, some solemn, some ribald.⁴² The interplay between voices in the opening narrative of AZ is yet another illustration of just how apt an introduction this sugya is to the tractate as a whole.

In my view, this story cannot sustain the burden of carrying any one overarching message. Even when we set aside the multiple intrusions into the narrative, as Rubenstein's artful analysis and lay-out on the page help us to do, shifts in the tone and style of the storytelling strain the narrative structure. Assailed by argument and overcome with laughter, the narrative is pressed from without and from within. The story does a good job, nonetheless, of conveying AZ's preoccupation with non-Jews, and of registering the difficulty in reaching any hard and fast conclusions about what precisely differentiates Jews from other people. This opening sugya succeeds as an introduction precisely because it frustrates any effort to give it the last word.

A Story of Adam (AZ 8a)

Not long after the sprawling, digressive account of the final judgment which opens the tractate, one finds a much more compact story, this one focusing on humanity's beginnings. This tale of Adam is precisely the kind of story we might have expected to find in a tractate called “*Avoda Zara*” since it offers an etiology for the idolatrous practices of non-Jews. I read it as a foil for the opening sugya, a striking illustration of the road not taken by the editors who crafted the beginning of the tractate. This story's tight construction and strong narrative voice make the multivocality and disruptions of AZ's opening sugya all the more salient.

The story appears in the context of a gloss on the third mishna of the tractate, in which the feasts of the Gentiles are listed by name: “These are the festivals of the Gentiles: Calenda, and Saturnalia, Kratesis, the emperors' anniversary, (their) birthday, and the day of (their) death—the words of Rabbi Meir.”⁴³ The Bavli's commentary opens with a statement by Rav Hanan bar Rava who

41 Daniel Boyarin presents collisions of the serious and the comic as a distinguishing feature of the Bavli in *Socrates and the Fat Rabbis* (Chicago: University of Chicago Press, 2009). It is his characterization of these two voices or modes that shades my reading of two voices within this story. To be sure, the comedic voice here falls far short of the grotesque, ribald depictions of rabbinic corpulence in which Boyarin delights. Stay tuned for farts later on in this chapter.

42 Boyarin, *Socrates*, 19-32.

43 b. AZ 2a:

ואלו אידיהן של גוים קלנדא [נ"א ק?ל?ר.] וסטרגליא וקרטיסיס יום גנוסא של מלכים יום הלידה ויום המיתה

identifies Calenda as the eight days preceding the winter solstice, and Saturnalia as the eight days following the solstice. The Bavli then presents our story in the form of a baraita, identifying the origins of both these festivals in the first human being's response to the descent of the world's first winter:

The rabbis taught in a baraita: When the first human being saw the daytime diminishing more and more, he said, “Woe is me, perhaps because of my offense the world is diminishing and this is the death imposed by heaven, that the world should revert to chaos.” He sat and fasted for eight days. When the Tevet Solstice occurred and he noticed the daytime getting longer, he said, “This is the custom of the world.” He rose and made a holiday for eight days. In subsequent years, he observed both occasions as holidays. *He* established them for the sake of Heaven, but *they* established them for the sake of idolatry.⁴⁴

This story contrasts with the opening sugya's prosecution of non-Jews in a number of ways. While the opening sugya conjures up a scene from the end of time, this story goes back to the beginnings of humanity. An etiology for the particular Roman festivals cited in the Mishna's interdictions, it can also be read as an account of the existential origins of human worship in the twin impulses of terror and gratitude. When Adam first observes the shortening hours of daylight, he is filled with fear, and also with guilt; he sees the growing darkness as the unraveling of the cosmos, and assumes that it was his act of disobedience that brought about the world's undoing. When the solstice passes and the days begin to lengthen, Adam discovers his error: Far from signaling cataclysm, the seasonal darkness reflects the patterned cycles of nature. In this story, Adam realizes that he is not the center of the universe. What he took to be an expression of God's moral judgment was in fact a reflection of cosmic patterns. He responds to the realization of his own smallness vis-à-vis the universe with an act of piety, making a feast. What begins as a spontaneous expression of existential fear and gratitude becomes the basis for ritualized feasting in future years. According to the coda at the end of the narrative, Adam's calendar of worship in time transmutes into the idolatrous feasts of pagan Rome. While the coda draws a contrast between the righteous impulses of Adam and the idolatry of contemporary pagans, the very identification of Adam as the originator of pagan rites serves to humanize the pagans. In striking contrast to the depictions of Gentiles as villains in AZ's opening sugya, this story recognizes commonalities between Jews and pagans as the common children of Adam. It depicts God not as a judge, or as defender of Jews, but as the cosmic ruler of the natural world. In identifying the roots of idolatry in the penitential acts of Adam, this story invites its readers to imagine that even Adam's most errant idolatrous offspring might not be as utterly irredeemable as the story in the tractate's opening sugya suggests.

דברי ר' מאיר

My translation is based on the translation and interpretation by Peter Schäfer, who identifies the Greek and Latin names for the festivals, and provides brief explanations for their timing and observance in the Roman world. See Peter Schäfer, “Jews and Gentiles in Yerushalmi Avodah Zarah,” in *The Talmud Yerushalmi and Graeco-Roman Culture III*, ed. Peter Schäfer (Tubingen: Mohr Siebeck, 2002), 339, notes 10-11.

44 b. AZ 8a, ms. JTS. (In the passage below, square brackets indicate notes inscribed into the manuscript's margins; round brackets indicate the words have been crossed out in the manuscript. My translation reflects the “corrected” manuscript, including the words that are in the square brackets, but not in the round ones.):

תנו רבנן כיון שראה אדם הראשון יום ש(נ) [מ]תמעט והולך אמ' אוי לי בשביל שסרחתי עולם מתמעט והולך וזו היא [מיתה] שנקנסה עליו מן השמים וחוזר עולם לתהו ובהו ישב שמונה ימי בתעני' כיון שנפלה תקופת טבת וראה יום שמאריך והולך אמ' מנהגו של עולם הוא עמד (וישב) [ועשה] שמונה ימי טובי' לשנה אחרת עשאן לאלו לאלו ימי טובים הוא קבען לשם שמים והם קבעום לשום ע"ז

Beyond the opposing messages of the two stories are striking contrasts in form, and in temporality. The story of Adam's first winter is a tightly constructed narrative, with a beginning, middle, and end. Though a coda draws a connection between Adam and contemporary pagans, the narrative proper ends before the dawn of history, in the first year of human existence. The story harkens back to a pristine past, a mythic idyll, and this remote temporal setting is linked to its universal message: The story recovers a sense of possibility by conjuring a moment before the contingencies of history intervene. In contrast, the form and settings of the tractate's opening narrative tether the story of the Gentiles' final judgment to the contradictions and vacillations of historical time. Though projected into a distant future, the story of the Gentiles' judgment is cluttered with testimonials about taxes, roads, and the struggles of living under Rome and Persia. Its frequent interruptions and the dissolution into farce testify to the difficulty of making final judgments from within the flow of history. The unitary voice of the narrative is interrupted time and again, so that the opening sugya—unlike the story of Adam—evades resolution into a unified message.

I read these two contrasting traditions as two alternative beginnings to AZ. The story of Adam is a compact specimen of narrative form, topical in its focus on the origins of idolatry, and engages biblical myth in emphasizing the common origins of all people. The opening sugya's account of the Judgment of the Gentiles disrupts its own semblance of narrative form, oscillating between seriousness and farce, between final judgments and opposing voices, between prosecuting non-Jews and tripping them up so as to ridicule them. While both stories are included within the tractate's opening chapter, it is the more chaotic one that is given a far more prominent position. In choosing this beginning for the tractate, the editors were not merely choosing a negative portrayal of Gentiles over a more positive one. They were choosing to give prominence to veering forms and colliding voices, rather than to any cohesive vision of wholeness. Because AZ opens in the raucous way it does, by the time we come to the story of Adam, the idyll of his ordered world seems all the more distant and unrecoverable. The conjuring of a pristine world of pure speech and solitary vision is a striking departure from the riven discourse of the sugya with which the tractate opens.

Literary Approaches to the Bavli: Between Bialik and Bakhtin

The contrast between the two stories above are emblematic of two distinct approaches to language and literature that have shaped the study of the Bavli as literature over the last century. At the risk of being overly schematic, in this section, I enlist two literary giants of the last century, the Hebrew poet Hayim Nahman Bialik and the Russian literary theorist Mikhail Bakhtin, to serve as spokespersons for two contrasting positions. For reasons I hope will soon become clear, the pairing is not as odd as it might first appear.⁴⁵ Just over a hundred years ago, it was the poet Bialik who introduced the very notion of reading the Talmud as literature.⁴⁶ Much more recently, Bakhtin's concept of dialogism has enabled a new generation of Talmud scholars to describe the distinctive literary features of talmudic discourse. In different ways, in different times, Bialik and Bakhtin have each made

45 I am not the first to bring Bialik and Bakhtin into conversation. Zali Gurevitch notes the contrast between Bakhtin and Bialik's notions of language, poetry and prose in "Plurality in Dialogue: A Comment on Bakhtin," *Sociology* (2000) 34, 258.

46 Bialik's contributions are best appreciated alongside those of other prominent Jewish writers and scholars such as Louis Ginzberg, Micha Yosef Berdichevsky, and Yitzhak Heinemann. In different ways, all these thinkers looked to rabbinic texts as a resource for the creation of a national Jewish literature. A full treatment of their distinctive projects is beyond the scope of this study. For an incisive analysis of important differences in the anthological projects of Bialik and Berdichevsky, see Shachar M. Pinsker, *Literary Passports: The Making of Modernist Hebrew Fiction in Europe* (Stanford: Stanford University Press, 2011), 275-88.

a space for Talmud in the library of great world literature. Both of them changed the way we read the Talmud. Bringing them into conversation allows me to locate my own approach to reading the Talmud.

Bialik (1873-1934) and Bakhtin (1895-1975) emerged from congruent intellectual cultures, though the trajectories of their lives and studies moved in very different directions. Born just a couple of decades apart, both of them were shaped by formative experiences in the cosmopolitan city of Odessa, and also by their intermittent residence in provincial towns and villages at the edges of the Russian Empire--places which, to be sure, were hardly marginal to Jewish life, but were rather thriving intellectual centers. Bialik briefly distinguished himself as a Talmud student before he left the yeshiva for a lifetime of literary and intellectual leadership in secular, Zionist circles. In his poetry and essays, rabbinic literature serves both as a rich source for vocabulary, images, and themes, and as a site for personal struggle.

While Bakhtin's life brought him within the orbit of great centers of talmudic learning—he spent a good part of his childhood in Vilnius, a stone's throw from the Volozhin yeshiva where Bialik had studied in his youth—there is no evidence that he ever set his eyes upon a page of Talmud, or that he would have known what he was looking at if he did. Bakhtin lived and wrote in obscurity in the Soviet Union for most of his life, persecuted for his connections to the underground Russian Orthodox church, and was only discovered by scholars in the Soviet Union and the West shortly before his death. Posthumously, his writings on dialogism, heteroglossia, and the carnivalesque have had a profound influence on literary and cultural criticism. His approach to language, literature and ethics—developed in investigations of the novel—entered scholarly discussions about rabbinic literature through the mediation of Daniel Boyarin over two decades ago, and have provided a language for talking about the distinctive discursive qualities of rabbinic literature in general, and of the Bavli in particular.⁴⁷ Whether Bakhtin knew the Talmud or not, the Talmud offers a literary specimen that is perhaps even more attuned to his insights about language than the novels of Rabelais and Dostoevsky that served as Bakhtin's laboratory.

Though their literary sensibilities are different, Bialik and Bakhtin share certain insights about how discourse works. One striking similarity between the two thinkers emerges in the twin epigraphs to this chapter, above. Both Bialik and Bakhtin draw a contrast between Adamic speech and all other discourse. For Bialik, Adam's speech represents language in its truest, purest form. In the essay “Revelment and Concealment in Language,” Bialik celebrates language that emerges from the existential struggle and inspiration of the individual; once words enter the social domain, they are degraded, and serve not to reveal deep, personal truths, but rather to obscure the essence of things.⁴⁸ In this conception, Adam's speech epitomizes the expressive power of language, because it precedes all social discourse. In other writings, however, Bialik lauds the routine, social use of language as the key to its vital power. In the essay “*Hevley lashon*,” he writes, “The wealthiest of languages, if its assets are not commonly traded, handled and touched. . . every hour and every moment in both writing and speech, suffers a marred and miserable existence. . . Great is the power of living speech.”⁴⁹ It is this social aspect of language that Bakhtin emphasizes. For Bakhtin, language is a quintessentially social phenomenon, so that Adamic speech is no model for language, but rather the exceptional case. For Bakhtin, words become meaningful solely through social interchange, through their use and re-use;

47 Boyarin first looked to Bakhtin in *Intertextuality*, and Bakhtin's thought animates *Socrates* throughout. Bakhtin figures prominently in the work of younger scholars as well: Wimpfheimer engages Bakhtin's ethical thought, as well as dialogism, 13-15. Simon-Shoshan relates Bakhtin's dialogism to the Mishna, 62-63.

48 Bialik, “Revelment and Concealment in Language,” 11-26. The Hebrew is anthologized in H.N. Bialik, *Divrei Sifrut* (Tel Aviv: Dvir La-'am, 1961), 22-31.

49 H. N. Bialik, “*Hevley lashon*,” in *Kol Kitvey H. N. Bialik*. (Tel Aviv: Dvir, 1965), 197, as translated by Chana Kronfeld and Eric Zakim in Kronfeld, *On the Margins of Modernism* (Berkeley: University of California Press, 1996), 83.

thus, Adam's solitary speech is but a faint shadow of language, if it can be considered language of at all.⁵⁰ While Bialik's romanticism leads him to celebrate the solitary power of Adam's first words, both Bialik and Bakhtin describe social interchange as constitutive of the rich liveliness of language.

The confluence between Bialik's and Bakhtin's literary judgments suggests that they notice the same things about how literature works. Both, for example, identify poetry as the genre that comes closest to the solitary, single-voiced speech of Adam. Bialik celebrates the freshness and originality of poetic expression, which for him is inextricably linked to a striving after a unifying principle:

[Poets] spend all their days in pursuit of the unifying principle in things, of the solitary something, of the point that makes one body of all the images, of the fleeting moment that is never repeated.⁵¹

Contrast this to Bakhtin's more stolid description of poetic language:

The language of the poet is his language, he is utterly immersed in it, inseparable from it, he makes use of each form, each word, each expression according to its unmediated power to assign meaning (as it were, "without quotation marks"), that is as a pure and direct expression of his own intention.⁵²

For Bakhtin, as for Bialik, poetry is the solitary expression of an individual voice. For Bakhtin, however, this distinction is not a credit to poetry, but a cause for suspicion. Bakhtin draws a direct line between the solitary voice of the poetic genres and the political impulse toward totalitarianism: "The language of poetic genres, when they approach their stylistic limit, often becomes authoritarian, dogmatic and conservative, sealing itself off from the influence of extraliterary social dialects."⁵³ Though Bakhtin and Bialik describe the defining feature of poetic language in similar ways, they differ in how they judge both the literary and social value of lyric expression.

Contrasting sensibilities about language account for differences between the two writers' literary approaches, especially when it comes to the complex of practices that have come to be known as "intertextuality." Though Bakhtin himself did not coin the term, he is regarded by some as the pioneering theorist behind the approach.⁵⁴ Bialik proposes in "Revelment and Concealment" that that which is already said is "inert," dead.⁵⁵ For Bakhtin, all language is already said, and this does not make language inert, but dynamic:

Indeed, any concrete discourse (utterance) finds the object at which it was directed already as it were overlain with qualification, open to dispute, charged with value, already enveloped with an obscuring mist—or, on the contrary, by the "light" of alien words that have already been

50 M. M. Bakhtin "Discourse in the Novel," *The Dialogic Imagination*, ed. Michael Holquist (Austin: University of Texas, 1981), 259-422, especially 270-93.

51 Bialik, "Revelment and Concealment in Language," 24-5.

52 Bakhtin, "Discourse in the Novel," 285.

53 *Ibid.*, 287.

54 Thus, Graham Allen: "It is as viable to cite the Russian literary theorist M. M. Bakhtin as the originator, if not of the term 'intertextuality', then at least of the specific view of language which helped others articulate theories of intertextuality." In Allen, *Intertextuality: New Critical Idiom* (London: Routledge, 2000), 10.

55 Bialik, "Revelment and Concealment in Language," 25. In "*Hevley Lashon*," however, Bialik relates to the use and re-use of language very differently, characterizing it as a vital, vivifying force, 197-8.

spoken about it. It is entangled, shot through with shared thoughts, points of view, alien value judgments and accents. The word, directed toward its object, enters a dialogically agitated and tension-filled environment of alien words, value judgements and accents, weave in and out of complex interrelationships, merges with some, recoils from others, intersects with yet a third group. . . The living utterance. . . cannot fail to brush up against thousands of living dialogic threads, woven by socio-ideological consciousness around the given object of an utterance; it cannot fail to become an active participant in social dialogue.⁵⁶

“Dialogism” is the word Bakhtin uses to capture the way in which every utterance becomes meaningful in the context of social exchange; it refers to a quality that inheres in language generally, as every word, having already been used, is shot through with different shades of intention, value, and points of view representing different social positions. In describing the qualities of the various literary genres, Bakhtin contrasts genres that suppress the dialogic aspects of language—the various traditions of poetry—with genres that reproduce and accentuate them, such as the novel.⁵⁷

While Bakhtin develops his account of dialogism as part of his theory of the novel, his approach can help us appreciate the discursive qualities of the Bavli as well. The contrasts Bakhtin draws between the genre of epic on the one hand and novels on the other map onto my analysis of the two stories from AZ's opening chapter in interesting ways. While the chief distinction between epic and the novel relates to the quality of dialogism—a novel admits multiple voices, perspectives, accents, and dialects, while epic is related in a unitary voice—Bakhtin describes differences in their temporality as well. His description of epic could aptly serve as a description of how AZ's story of Adam conjures up a world as exalted as it is remote:

It is a world of “beginnings” and “peak times” in the national history, a world of fathers and founders of families, a world of “firsts” and “bests.” . . . The epic. . . has been from the beginning a poem about the past, and the authorial position immanent in the epic and constitutive for it. . . is the environment of a man speaking about a past that is to him inaccessible, the reverent point of view of a descendant.⁵⁸

Like the genre of epic, AZ's story of Adam offers a reverent glimpse of a unrecoverable mythic past. At the same time, the sprawling, disrupted story of the Gentiles' final judgment on AZ's opening pages closely approximates the temporal qualities and style that Bakhtin assigns to the novel. He points out that even when the theme of an ancient novel is serious, and even when it relates to myth, it

is portrayed without any distance, on the level of contemporary reality, in a zone of direct and even crude contact. Even where the past or myth serve as the subject of representation in these genres there is no epic distance, and contemporary reality provides the point of view. . . It is precisely laughter that destroys the epic, and in general destroys any hierarchical (distancing and valorized) distance.⁵⁹

56 Bakhtin, “Discourse in the Novel,” 276.

57 Ibid.

58 Bakhtin, “Epic and Novel,” *The Dialogic Imagination*, ed. by Michael Holquist (Austin: University of Texas, 1981), 13.

59 Ibid., 22-3.

Bakhtin's analysis suggests that AZ's opening story's descent into laughter is integrally related to the story's dialogic nature.⁶⁰ In its relation toward time, as in its admission of multiple voices, perspectives, and registers, this story banishes the reverential distance that characterizes epic.

Given the differences between their literary sensibilities, it should not surprise us that Bialik's writings suggest a nearly opposite evaluation of the two talmudic stories discussed above. Both stories appear in *Sefer Ha-'Agada*, the magisterial collection of rabbinic lore which Bialik edited together with Yehoshua Hana Ravnitsky. I read the editorial changes that Bialik and Ravnitsky make in presenting the stories as indices of Bialik's literary judgments.

Bialik is appropriately remembered as the figure who secured the status of rabbinic lore as the national belletristic literature of the Jews. In the essay "*Le-kinusa shel ha-'agada*," he proclaims, "The Hebrew written 'agada, is the main literary form of the Israelite nation, dominating creative literature, folklore, and personal writing for hundreds of years."⁶¹ Yet for all the literary merit he attributes to the 'agada, Bialik could be harsh in his evaluations of rabbinic literature. According to Bialik, the Jews' national treasure, the 'agada, had become largely inaccessible to modern Jews because of the haphazard way rabbinic stories, aphorisms, and homilies are organized and transmitted in the traditional sources:

The 'agadot included in the two talmuds come fragment by fragment, each kind mixed with unlike kind, coming together in a fleeting way that has no order. Most of the midrashic works and collections are arranged according to the scriptural portions, and there are no internal links or substantive connections among the 'agadot they contain. What all these sources have in common is that you never find a single topic treated in a complete way in one place.⁶²

According to Bialik, it is this problem of dispersion and disorganization which was the impetus for the creation of *Sefer Ha-'Agada*. The volume reflects Bialik's romantic obsession with restoring fragments to some organic unity.⁶³

Bialik and Ravnitzky use two overarching principles to organize the rabbinic sources in *Sefer Ha-'Agada*: In Volume I, they present episodes from the biblical and post-biblical past (Book I), and from the lives of the rabbis (Book II) in chronological order. In Volumes II and III, they arrange the sources topically, according to theme. As Yosef Heinemann demonstrates, the first volume of *Sefer Ha-'Agada* does more than simply arrange traditional sources in a more accessible order: The juxtaposition of texts in some instances effectively creates new narratives, forging plots, developing characters, and conveying themes that are not in the original sources.⁶⁴ And even as *Sefer Ha-'Agada* strings short narrative units together to form extended narratives, it programmatically breaks other literary units apart. For example, Heinemann points out that the editors consistently remove the scriptural verses which serve as the literary engines for homiletical forms such as the *petikhta* (proem), undermining the literary integrity and obscuring the artistry of the original sources.⁶⁵ In a similar way, traditions that

60 For a discussion of the close relationship between laughter and the dialogic, see Boyarin, *Socrates*, 1-32.

61 H. N. Bialik, "*Le-kinusa shel ha-'agada*," *Divrei Sifrut* (Tel Aviv: Dvir La-am, 1961), 70. My translation.

62 Bialik, "*Le-kinusa shel ha-'agada*," 74-5. My translation.

63 My thanks to Chana Kronfeld for pointing this out to me, and for calling my attention to the variety of ways Bialik's romanticism is expressed in his poetry and essays.

64 Yosef Heinemann, "*Al darkho shel Bialik be-'agada ha-talmudit*," *Molad* new series 6:31 (1974), 83-92, especially 90-1.

65 Heinemann, 86.

appear together as parts of extended sugyot in the Bavli are dispersed to different sections of *Sefer Ha-'Agada*. Thus, the narrative material from AZ's opening sugya appears in a section called "Israel and the Nations of the World" in Volume II, Book III, Chapter 1⁶⁶, while individual lines from the inserted dialectical material appear in three different segments of a section called "Good and Evil" in Volume II, Book IV, Chapter 11.⁶⁷ While Bialik critiques rabbinic literature for its dispersion and disorganization, careful examination reveals that *Sefer Ha-'Agada* does not *organize* rabbinic literature so much as *re-organize* it, forging an original literary creation that reflects Bialik's distinctive artistic and ideological vision.⁶⁸

As Yosef Heinemann points out, one central feature of Bialik's literary sensibility is his appreciation of epic poetry. Bialik expresses sore disappointment that rabbinic literature lacks the narrative sweep and thematic heft of the epic genre, lamenting that "in contrast to the poetry of Homer, 'agada is but a pile of crumbs and shards."⁶⁹ In his essay "*Halakha* and 'Agada," Bialik argues for the literary value of the Mishna *despite* the lack of epic material in it:

True, the epic is on a small scale; its narrative content is almost negligible. It is all descriptive—brief glimpses of the customs of a poor life, an unexciting daily round. . . The vigorous, heroic period, the epoch of splendid creation whereof the biblical epos tells—these had passed irrevocably out of life and literature alike.⁷⁰

Here and elsewhere, Bialik links the forms of Jewish literature to the circumstances of national life: Just as the lack of epic poetry in the rabbinic period corresponds to the loss of political vigor, so, Bialik suggests, the emergence of a strong Jewish nation necessitates a new national literature.⁷¹ This penchant for the epic form is one more striking way in which Bialik's literary tastes diverge from that of Bakhtin: While Bakhtin associates the epic form with the excesses of totalitarianism, Bialik values epic as an expression of a national spirit. Both writers associate strong nationalism with the epic.

Heinemann's analysis of Bialik's approach helps us appreciate the degree to which *Sefer Ha-'Agada* seeks to address and "correct" the very qualities that students of Bakhtin celebrate in talmudic literature: its intertextuality, and its multivocality. Bialik and Ravnitzky effectively unravel the exegetical and dialectical forms of the rabbinic sources, and then reshape the material into narrative and topical forms. They minimize the commentarial features of rabbinic literature, placing a premium on

66 Yehoshua Hana Ravnitzky and Hayim Nahman Bialik, *Sefer Ha-'Agada* (Berlin: Moriah, 1922), Vol. 2, 8, *siman* 26. This can be found in the English translation *The Book of Legends*, translated by William G. Braude (New York: Schocken, 1992), 339, section 34.

67 Ravnitzky and Bialik, *Sefer Ha-'Agada*, Vol. 2, p. 236, *siman* 201 and *siman* 204; p. 239, *siman* 222. Corresponding to *Book of Legends*, p. 562, section 250; p. 563, section 253; p. 565, section 276. Note that even those materials that appear in the same topical section do not appear together, but are separated.

68 For an assessment of Ravnitzky and Bialik's artistic achievement, see David Stern, "Introduction," *The Book of Legends* (New York: Schocken, 1992), xvii-xxii. For an insightful treatment of the confluence between Bialik's editorial project and his political ideology, see Israel Bartal, "The Ingathering of Traditions: Zionism's Anthology Project," *Prooftexts* 17:1 (January 1997), 77-93. For an analysis of *Sefer Ha-'Agada* in light of Bialik's theoretical writings and lectures on rabbinic literature, see Heinemann.

69 Heinemann, 84.

70 Bialik, "*Halachah* and *Agadah*," trans. Leon Simon, *Revelment and Concealment*, 78.

71 See Bartal, 79-89. In characterizing his editorial project as one of "ingathering" (סִיּוּם), Bialik suggests that his work will serve not only to make the sources broadly accessible, but also to vivify Hebrew literature, just as the Zionist campaign of ingathering exiles into Israel aimed to vivify the Jewish nation. Moreover, as Chana Kronfeld has pointed out to me, the anthology presents/invents a classical tradition that is comparable to the Greco-Roman models used for Western nationalisms.

original expression, a major value in romanticism. They atomize statements that appear as part of dialogical exchanges, obscuring rabbinic literature's penchant for juxtaposing conflicting views. While they do tolerate a certain amount of contradictions among the sources they string together, they arguably reshape rabbinic material so that it more closely resembles the narrative sweep of biblical narrative and Greek epic, and the rationalized organization of classical Greek philosophic writing. *Sefer Ha-'Agada* thus minimizes what Bakhtin has taught us to appreciate as the "dialogism" of rabbinic texts.

If the point of this exercise in contrasting Bialik and Bakhtin's approaches to language and literature was simply to demonstrate that Bakhtin's approach allows for a reading that is more closely attuned to the distinctive features of the Bavli, I could stop here, having demonstrated that it is Bakhtin, and not Bialik, who gives us the tools for analyzing and appreciating the way the opening sugya of AZ presents a jangle of voices, opinions, and languages. As this chapter continues, I will indeed increasingly look to Bakhtin for insights about the Bavli's distinctive discursive mix. But my intent is not simply to present Bialik as a straw man or as a foil for Bakhtin's more trendy approach. As it happens, new developments in talmudic studies mean that some of Heinemann's most incisive criticisms of Bialik are ripe for re-visiting. What critics have characterized as Bialik's imposition of (outmoded) romanticist tastes onto rabbinic literature can alternatively be appreciated as continuous with literary trends evidenced within the Bavli itself. The talmudic tale of Adam's first winter offers a case in point.

I have already remarked upon this story's pristine and balanced form; its rendering of a splendid, mythic past no doubt appealed to Bialik's appetite for epic. *Sefer Ha-'Agada* preserves the tale in toto, minus the baraita's coda about Adam's descendants falling into idolatrous ways.⁷² The story thus offers a striking counter-point to *Sefer Ha-'Agada's* noted tendency to clip rabbinic sources from their intertextual cords--in this instance, there is no scriptural citation to excise. And while the absence of a scriptural citation makes this story atypical of rabbinic literature in general, it is not entirely anomalous, either. As Joshua Levinson has recently argued, narrative considerations tend to overtake exegetical impulses when rabbinic stories are adapted from Palestinian materials and reshaped in the Bavli.⁷³ After surveying three distinct narrative traditions that move from Palestinian midrashic sources to the Bavli, Levinson summarizes his findings in terms of "two separate but related phenomena: the gradual detachment of the story from its exegetical base, and the growing dominance of the narrative dimension."⁷⁴ When we compare the Bavli's version of Adam's tale to its Palestinian parallel, we find that our story exemplifies both these tendencies.

While AZ identifies the story as a baraita, introducing it with the formulaic introduction of tannaitic materials (*tanu raban*), the only other extant version of the story is not in a tannaitic source, but rather in the Yerushalmi.⁷⁵ In the Yerushalmi, the story is attached to the same mishna as in the Bavli, but is deployed for different ends:

Rav said: *Calends* has been established by the first man. When he saw

72 *Sefer Ha-'Agada* (1922), Vol. I, 18, *siman* 53.

73 Joshua Levinson, "The Cultural Dignity of Narrative," in *Creation and Composition*, ed. Jeffrey Rubenstein (Tubingen: Mohr Siebeck, 2005), 361-81.

74 I. Levinson, 379.

75 While the provenance of the two sources alone cannot be taken as evidence that the Yerushalmi tradition is earlier, Gray points to a complex of similarities and differences among the parallel *sugyot* to argue that the Yerushalmi served as a model for the Bavli. Gray treats these materials in *A Talmud in Exile*, 43-50, and 101-6, where she also identifies another parallel from the Yerushalmi, Y. Berakhot 8:6, 12b. If the Yerushalmi does indeed preserve the source for the Bavli's re-worked narrative, the change exemplifies the decline of exegesis and the rise of narrative considerations which Levinson associates with the Bavli.

that the night was getting longer, he said, “Woe is me. Perhaps he, concerning whom it is written 'He shall strike at your head and you shall strike at their heel,' (Gen 3:15)--perhaps he is going to come and bite me!?' 'And I say: Surely darkness will strike me.' (Ps 139:11).”

When he saw the days were getting longer, he said, “*Calends!*” (which means) *kalon* (“How beautiful”--Greek) *dio* (“is the day!”--Latin).⁷⁶

This is clearly a version of the story which we saw in the Bavli, and yet there are some striking differences. Both stories offer an etymology for Roman festival practices: The Yerushalmi version emphasizes etymology, crediting Adam not just with initiating the *calendae*, but also for naming the occasion. The Bavli version does not mention the names of holidays, but rather offers an explanation for the cross-cultural phenomenon of holding religious feasts before and after the winter solstice. The Bavli version relates to broad themes of human experience, emotion, and religiosity, while the Yerushalmi is oriented toward the particulars of the specific festival at hand.

The two versions of the story relate very differently to Scripture. An act of exegesis is at the center of story in the Yerushalmi version, as Adam discerns a verbal link between God's curse of the snake (הוא יִשׁוּפֵךְ) and the Psalmist's evocation of darkness as a threat (וְאָמַר אֶךָ חֹשֶׁךְ יִשׁוּפֵנִי). Here, it is the association of darkness with the serpent, generated by a midrashic reading of scripture, that accounts for Adam's fear, and directly implicates Adam in bringing on this darkness. The Bavli version emphasizes Adam's sense of guilt without providing any exegetical basis for it: “Woe is me. Perhaps because of my offense the world is diminishing.”⁷⁷ In the Bavli, Adam is no exegete. His guilt and fear emerge from narrative considerations, not interpretive ones. While the Yerushalmi offers a tightly crafted, clever melding of exegesis and narrative, it is the Bavli version that conjures a fully realized narrative world, and breathes life into its character. The Bavli version succeeds as a story because readers don't need midrashic machinations to convince us that Adam was afraid of the dark.

If Levinson is right, and it is the Bavli's tendency to detach stories from their exegetical foundations, enlarging and enriching the elements of plot and character that make them work as stories, then Adam's winter tale is a prime example of this phenomenon. When Bialik and Ravnitzky selected the Bavli version for inclusion in *Sefer Ha-'Agada*, they did not need to excise a scriptural verse to maintain their aesthetic vision, because the Bavli had already done that work for them. Levinson's work suggests that what scholars such as Heinemann have identified as Bialik's imposition of modern literary tastes onto rabbinic materials can alternatively be understood as continuous with trends that emerge among the rabbis themselves during late antiquity, when a new literary sensibility emerges among the creators of the Bavli.

Approaching the Bavli as a work of literature is a relatively new development in the history of

76 y. AZ 1:2; 39c:

רב אמר קלנדס אדם הראשון התקינו כיון דחמא ליליית אריך אמר אי לי שמא שכתוב בו הוא יִשׁוּפֵךְ ראש ואתה תשופנו עקב שמא יבוא לנשכיני ואומר אך חושך יִשׁוּפֵנִי כיון דחמא איממא ארך אמר קלנדס קלון דיאו

This translation and the decoding of the bilingual Latin/Greek *notarikon* reflects the translation and interpretation of Peter Schäfer in “Jews and Gentiles in Yerushalmi Avodah Zarah,” 339. As Schäfer notes, Jacob Neusner provides a different interpretation of the etymology, reading “dio” as the Greek *dios* or the Latin *deus*, so that Adam's exclamation means not “How beautiful is the day!” but “Praise be to God!” I agree with Schäfer that the translation above fits better within the context of the story. Neusner's interpretation does resonate well, however, with the version of the story we find in the Bavli. It is possible that just such a reading (Praise be to God!) generated the very changes in the story as it appears in the Bavli. That is: the Bavli's version can be read as an interpretation of the Yerushalmi story that emphasizes the reverence of Adam's response.

77 In the Yerushalmi, it is not just Scripture that is interpreted. Deriving a creative etymology for “*Calends*” from a bilingual word play, the interpreter applies midrashic hermeneutics to a Latin term.

the Bavli's reception, and there is a sense in which Bialik and Bakhtin serve as book-ends in the short history of that approach. Though Bialik operated outside of the academy, as a popular writer, editor, and lecturer, he was among the first—and certainly the most influential—to convey the aesthetic aspect of texts that were previously valued exclusively for their religious or legal content. Thus, as early as 1917, in his essay “*Halakha and 'Agada*,” he reads excerpts from the Mishna and Tosefta as if they are poetry in an effort “to show how a trivial and uninteresting *halakha* may sometimes rise to the level of a symbol.”⁷⁸ Within the academy, a literary approach is not applied to rabbinic texts until much later. In Aryeh Cohen's review of the various critical approaches to the study of the Talmud, he credits talmudic scholar Avraham Weiss's investigations of literary formulations in the Bavli with laying the groundwork for a literary approach, but grants that Weiss himself was far more interested in questions of composition and redaction.⁷⁹ The recently deceased Yonah Fraenkel was likely the first to deliberately apply the theory and methods of literary criticism to talmudic literature, developing an original approach for analyzing and interpreting talmudic stories that was rooted in the New Criticism.⁸⁰ While Fraenkel's prodigious scholarship focused exclusively on narrative, a younger generation of scholars have argued for bringing literary questions to legal and dialectical materials as well, and have demonstrated the fruitfulness of applying literary analysis to ever larger swaths of text.⁸¹ A central figure in this field for the past generation, Daniel Boyarin has played a critical role in forging a conversation between rabbinic scholarship and literary theory. In training his attention on the interactions between texts and culture in late antiquity, Boyarin has effectively broken down the disciplinary walls separating historical investigation, literary studies, and redactional criticism.⁸² And, as I have already mentioned, among Boyarin's contributions is the posthumous introduction of Bakhtin to the Bavli.

However, long before Daniel Boyarin introduced Bakhtin's appreciation for dialogism into talmudic studies, Bialik discerned within rabbinic literature the very qualities that Bakhtin celebrates in the novel—a motley multitude of forms; a cacophony of voices; a coarseness of expression; an engagement with minutiae of everyday life. The critical difference is that while Bialik sometimes lamented these qualities, Bakhtin's heirs revel in them. While much of rabbinic literature disappointed

78 Bialik, “*Halachah and Aggadah*,” 62.

79 Aryeh Cohen, *Rereading Talmud: Gender, Law, and the Poetics of Sugyot* (Atlanta: Scholars Press, 1998), 8-20.

80 Fraenkel sets out his approach in *Darkhey ha-'agada ve-ha-midrash* (Givatayim: Yad La-Talmud, 1991) and in *Sipur ha-'agada: 'ahdut shel tokhen ve-tsura: kovetz mehkarim*. (Tel Aviv: Hakibbutz Hameuhad, 2001). Reviews of his work meld appreciation for his pioneering accomplishments and keen literary analysis with trenchant critiques of his New Critical approach. See for example Cohen, 71-89; Wimpfheimer, 37-40; Simon-Shoshan, 6-8; and Rubenstein, *Talmudic Stories*, 8-10.

81 The flowering of the field means that important works employing a literary approach are far too numerous to list. Among those I would single out are Cohen's work, which makes an important contribution by focusing on the sugya as the unit for literary analysis. David Kraemer offers literary readings of halakhic sugyot in *Reading the Rabbis: The Talmud as Literature* (New York: Oxford University Press, 1996). While Jeffrey Rubenstein's literary analyses are primarily focused on the Bavli's long narratives, he sets out to demonstrate how these stories function within their redactional contexts in *Talmudic Stories: Narrative Art, Composition, and Culture* (Baltimore: John Hopkins University Press, 1999) and *Stories of the Babylonian Talmud* (Baltimore: John Hopkins University Press, 2010). More recent works look beyond the sugya to larger units: Charlotte Fonrobert examines the tropes and concerns of the entire tractate *Nida* in *Menstrual Purity: Rabbinic and Christian Reconstructions of Biblical Gender* (Stanford: Stanford University Press, 2000), and she is using a similar approach in her current work on *Eruvin*. Julia Watts Belser examines the themes that unify *Tractate Ta'anit* in the forthcoming *Narrative Dialectics: Ecology and Theology in Bavli Ta'anit*. The most recent and ambitious advance is Zvi Septimus' argument for reading the Bavli as a whole as a literary unit in his 2011 dissertation, “The Poetic Superstructure of the Babylonian Talmud and the Reader It Fashions.”

82 *Carnal Israel: Reading Sex in Talmudic Culture* (Berkeley: UC Press, 1993) broke new ground in this regard, and his approach to the interactions between text and culture have been refined and elaborated in such works as *Border Lines* and *Socrates and the Fat Rabbis*.

Bialik's refined literary sensibilities, the fact that we now call works of midrash and talmud "literature" is in itself a measure of how profoundly Bialik has shaped our understanding of these texts. While we might object to Bialik's re-packaging of rabbinic sources that do not conform to his literary tastes, even at his most interventionist, Bialik has something to teach us about how to read the Bavli.

In the final analysis I hope it is not too facile to say that a literary approach to the Bavli needs both Bakhtin and Bialik, because the Bavli includes both the raucous jangle of voices and styles that we saw in AZ's opening pages, and the richly realized narrative world conjured by the story of Adam. Bakhtin's approach teaches us to attend to the Bavli's strange discursive mix, and gives us a language for engaging its rough and raucous style. Bialik is attuned to the sparkle and elevation of discrete units of literary art that stand out from the Bavli's roiling background like set jewels; in this, he is an important precursor to Fraenkel's New Critical approach. As we turn now to four additional narratives from AZ's first chapter, I will take my cues from both Bialik and Bakhtin. Following Bialik, I will first analyze each narrative as a unit unto itself, seeking to uncover its distinctive literary logic. In keeping with Bakhtin, I will then consider how each of these literary units participates in the larger discursive mix.

We have already seen two alternative beginnings to AZ that depict non-Jews in dramatically different ways: the opening sugya's narrative voice alternates between prosecuting and ridiculing them for their failings, even as other voices interrupt with more tolerant views; and the story of Adam acknowledges the common humanity of pagan idolators. As we make our way through the tractate's opening chapter, narrative depictions of Gentiles multiply. I will focus on several intersecting narratives where AZ's literary art is most prominently displayed. Intertextual links and thematic connections bring these disparate traditions into a sustained, open-ended conversation about possibilities for human relationships across difference.

Adam, Inside-Out and Upside-Down (AZ 11b)

The following tradition cannot formally be considered a story, but is nonetheless a narrative specimen as instructive as it is discomfiting.⁸³ Coming on the heels of the Gemara's expansive treatment of the list of occasions on which Jews are to keep their distance from idolators, this Amoraic tradition reports on yet another Roman festival:

- 1 Rav Yehuda said that Shmuel said:
- 2 There is another (festival) in Rome held once every seventy years.
- 3 They take a whole man, and make him ride upon a lame one.
- 4 And they dress him in Adam's clothes,
- 5 and place the scalp of Rabbi Yishmael on his head,
- 6 and hang a weight of four hundred zuz of gold around his neck,
- 7 and pave the markets in onyx,
- 8 and make a proclamation saying,
- 9 "*Sakh kiri plasteyr,*
- 10 the brother of our lord is a deceiver.
- 11 What is the benefit of trickery to the trickster, or of deception to the

83 According to Moshe Simon-Shoshan's scheme the source below would be considered a "narrative" rather than a "story"—the account is dynamic, but it lacks specificity, since it presents a recurring event, albeit one that occurs exceedingly rarely.

deceiver?”

12 One who saw this, saw it, and one who did not, did not.

13 And they would conclude like this:

14 “Woe to this one when this other one rises.”⁸⁴

The grotesque image of a human figure as a patchwork of bodies, skins, and minerals corresponds to the mix of languages that come together in this strange tradition. I have elected to leave line 9 untranslated both to convey the heteroglossia of the original, and because the translation of this apparently Greek phrase is a site of interpretive debate. Even so, this translation does not convey the full extent of the heteroglossia, because it does not distinguish between Hebrew and Aramaic. In the original, line 9 serves as a pivot for the narrative—most lines preceding line 9 are in Hebrew (except line 6), and everything following line 9 is in Aramaic. According to Simon-Shoshan's taxonomy, this account is not a fully realized story, because it is presented as a recurring event, and thus lacks specificity of time. Nonetheless, its recurrence is exceedingly infrequent, a point that is addressed within the tradition itself—“One who saw this, saw it, and one who did not, did not”—i.e., since the ritual happens just once every seventy years, if you miss a chance to see it, you will not have another opportunity in your lifetime. The vividness of the central image, coupled with the extreme rarity of the occurrence, heighten its narrative qualities.

The tradition presents multiple interpretive conundrums, beginning with the problem of translating line 9. There are two distinct interpretive approaches. The tendency within critical scholarship is to read line 10 as a word-for-word translation of line 9, from Greek into Aramaic. The only difficulty with this approach is that the first word “*sakh*” is not readily recognizable as an equivalent term for “brother,” in Greek or any other language.⁸⁵ Traditional commentaries, beginning with Rashi, understand the two lines as having two distinct meanings. According to Rashi, line 9 and line 10 are not equivalent, and the word “*sakh*” (סך) in line 9 is simply Hebrew for “sum,” or “accounting.” Rashi thus connects this tradition to a preceding sugya on 9a that calculates a date for the eschaton by dividing cosmic time into three eras: two millennia of chaos, two millennia of Torah, and two millennia of Messianic rule. Rashi explains that the “whole man” who rides on top represents Esau, ancestor of Rome, and the “lame one” who carries him is a stand-in for Jacob, the father of Israel. Jacob and Esau are thus the “brothers” to whom the pronouncement refers. In Rashi's understanding, the ritual that Shmuel here describes is an occasion on which the Romans publicly denounce and falsify the cherished Jewish claim that the children of Jacob will one day reverse their fortunes, and come to dominate Rome. Through their festival performance, the Romans enact the continuing domination of Rome over the crippled Jewish nation; they declare that the biblical Jacob's swindle of birthright and blessing was for naught, since biblical prophecies of Israel's future triumph are themselves lies.⁸⁶

84 AZ 11b, ms. JTS (Square brackets in the text below indicate insertions into the manuscript in another hand. I have included them in the main text of my translation. The round brackets in the translation indicate my own insertions.):

אמ' רב יהוד' אמ' שמואל עוד אחרת יש ברומי אחת לשבעים שנה מביאין אדם שלם ומרכיבין אותו על אדם
חיגר ומלבישין אותו בגדי אדם הראשון ומ<..>חין לו קרקאלפלו של ר' ישמעאל בראשו ותלו ליה [בצואריה]
מתקל ארבעה זוזי פיזא ומחפין את השוק באינך ומכריזין ואומ' סך קיב' פלסתר אחוה דמרנא זייפנא מאי
אהני ליה לרמאה ברמאותיה ולזייפא בזייפנותיה דחמי חמי ודלא חמי [לא] חמי ומסיימין בה הכי ווי ליה לדין
כד יקום דין

85 Michael Sokoloff does, however, make a plausible proposal in this regard, suggesting that line 9 might be a transliteration of the Greek κάσας κυρίου πλαστήρ. *A Dictionary of Jewish Babylonian Aramaic* (Ramat Gan: Bar Ilan University Press, 2002), 809 (s.v. סך).

86 My interpretation of Rashi's commentary reflects the incisive analysis of S. Rappaport, *Erekh Millin* (Prague, 1852), 30-32, (s.v. איד).

Rashi's interpretation raises as many problems as it solves. As a comment in Tosafot points out, it is unlikely that the Romans would have referred to Jacob as “*kiri*,” which is understood to mean “our lord.”⁸⁷ A similar objection is articulated by modern scholars as well. S. Rapaport points out that Rashi's interpretation makes no sense, from a historical perspective—the association of the crippled Jacob with Israel, and of the brawny Esau with Rome is a Jewish tradition, not a Roman one. Did the Romans even know the story of Jacob and Esau? Even if they did, why would they adopt a Jewish idiom to make their case against the Jews? Rapaport offers an alternative explanation, identifying the infrequent festival that Shmuel describes as the *Ludi Seculares*, an occasion documented in contemporary Roman sources. According to Rapaport, such a festival was indeed held during Shmuel's lifetime, in 247 C.E., and was the occasion on which the Emperor Phillipus made a public display of denouncing the military leader Decius, who was a rival for his crown. For Rapaport, it is Decius, not Israel, who is represented by the lame man and called a deceiver.⁸⁸

While Rapaport's account is historically plausible, it does not engage the powerful ways in which the grotesque ritual Shmuel describes has reverberated within the Jewish imagination for centuries. Almost every one of the vivid details that Shmuel relates itself participates in a long tradition of legend in literature; the limping gymnastics, the scalp of R. Yishmael, and the garments of Adam all appear in other texts that have come down to us. For example, the identifications of the lame man with Jacob and the whole man with Esau are far more ancient than Rashi's commentary. The martyrological traditions preserved in the *The Story of the Ten Martyrs*⁸⁹ inscribe these associations into their accounts of the ritual itself:

They (the Romans) place the head of R. Yishmael in the hand of the whole man. They call the whole man Esau and the lame one Jacob because of his limp. And they proclaim: “Woe to him when this one rises up for the sin of the other. Woe to Esau when Jacob rises up for the sin of R. Yishmael's head.”⁹⁰

Here, the association of the whole man with Esau and of the lame one with Jacob is made explicit, as is the prediction of their future role reversal. This tradition confirms that whatever actual event in Roman history Shmuel might have been witness to, the record of his gruesome account in the Bavli sparked a history of its own. In the history of the narrative's reception, the Roman festival parade becomes emblematic of Jewish suffering under Roman domination.

In the *Story of the Ten Martyrs*, the gruesome relic of R. Yishmael's martyrdom (and here it is his whole head as opposed to his scalp) is no mere passing detail, but a central element in the story--the future triumph of Israel is imagined as an act of revenge for R. Yishmael's decapitation. While the

87 But see S. Rapaport's masterful argument that Tosfot here misunderstands Rashi's gloss. Rapaport argues that according to Rashi's understanding, lines 9 and 10 are even more different than Tosfot realizes. Rapaport demonstrates that when Rashi glosses the word “*kiri*” with the Hebrew word “קִרְיָה”, he intends to indicate the plural for “קִרְיָה”—a reference to the reckoning of the end-time. The Tosafists, however, misread his comment as the singular *katzin*, meaning official or leader. According to Rapaport, Rashi reads “*kiri*” not as the Greek κυριου or “lord,” but rather as the Greek καιρος meaning “opportune time.” So while Rashi meant to render Line 9 as “the reckoning of the end-times is false,” his gloss has been widely taken to mean, “the reckoning of *our lord* is false.” It is on this basis that Rabbenu Tam argued for identifying the *katzin* as Isaac rather than Jacob in Tosafot. See S. Rapaport, 30-2, (s.v. קִרְיָה).

88 Rapaport, 30-2.

89 Ra'anana S. Boustana dates *The Story of the Ten Martyrs* to Byzantine Palestine between the late fifth and early seventh centuries. See Boustana, *From Martyr to Mystic* (Tubingen: Mohr Siebeck, 2005), 51-2.

90 The text and translation are provided by Boustana, 126.

Bavli itself includes just one other terse and passing reference to R. Yishmael's scalp,⁹¹ in other martyrological traditions such as *Midrash Shir Ha-Shirim*, the scalping of R. Yishmael likewise figures prominently. As Ra'anana Bousthan has pointed out, the dismemberment of R. Yishmael in these texts is intertwined with traditions about his other-worldly beauty, which are in turn connected to legends that credit Metatron for R. Yishmael's miraculous conception. Here is an excerpt from the account of R. Yishmael's demise in *Midrash Shir Ha-Shirim*:

. . . The executioner came and took them (R. Yishmael and R. Shimon ben Gamliel) and brought them before the wicked (emperor). When he saw them he decreed them for death, and wanted to kill R. Yishmael first.

R. Shimon ben Gamliel stood and said: "By your life, start with me first, because I am greater than he, since I am a prince, son of a prince."

He cut off the head of R. Shimon b. Gamliel, and his tongue was rolling in the dust. R. Yishmael took it and was hugging him, crying, and kissing him. He recited upon him this verse, "He has broken my teeth on gravel." (Lam 3:16)

At that moment, a matron turned her gaze and saw that R. Yishmael was handsome and as beautiful as Joseph.

She said to them, "Tell him to turn his gaze so that I can look upon him, and I will save him."

But R. Yishmael refused.

When she had said this a second time and a third, he said to them, "For the pleasure of a moment, I should lose my reward in the next world?"

When the wicked woman heard this, she said to them, "Remove the visage of his face."

They removed it beginning from the place of his beard. When they came to the place he would lay tefillin, he let out a great cry, and it shook the entire world.⁹²

Bousthan identifies this work as a product of Palestine dating approximately 700 to 1000 CE. While traditional commentaries use versions of this story to account for the shocking appearance of R. Yishmael's scalp in the Talmud, I would argue that the direction of influence goes in the other direction. It is not just the relative dating of the sources, but also striking similarities in narrative tropes that suggest that AZ is the *source* for the midrashic story: As we will see, later in this first chapter of AZ are several stories of martyrdom that bear striking similarity to the midrash's story above: In the story of the martyrdom of R. Hanina b. Teradyon (AZ 18a), for example, the rabbi refuses suggestions to ease his suffering, out of concern for his lot in the next world. In the story of Ketiva b. Shalom (AZ 17a), a Roman matron inserts herself in the lead-up to his execution. These common tropes suggest to me that the storyteller of *Midrash Shir Ha-Shirim* used materials he found in AZ to generate the story of R. Yishmael's gruesome death. The mention of R. Yishmael's scalp in our tradition can thus be seen as the

91 See b. Hullin 123a: "Our Rabbis taught: a [Roman] legion that travels from place to place and enters a house—that house is impure, for there is no legion that does not carry several scalps. And don't be astonished at this, for behold, the scalp of R. Yishmael was placed on the heads of kings."

92 My translation of *Midrash Shir Ha-Shirim* 1:3, based on the text in *Midrash Shir Ha-Shirim*, ed. E. Grunhut (Jerusalem, 1892) 4a-b.

engine for new storytelling in later periods.

I am suggesting that the *Story of the Ten Martyrs* and *Midrash Shir Ha-Shirim* use narrative to fill the gaps and fuse the ruptures that afflict the Bavli's depiction of a limping monster paraded through the onyx-paved marketplaces of Rome once every seventy years.⁹³ While the belated storytelling of these midrashic works addresses some of the difficulties of the talmudic tradition, they cannot account for all of the peculiarities, and neither do Rapaport's impressive historical investigations. All of these interpretive efforts aim to smooth incongruities, rationalize the grotesque, and translate the untranslatable. To my mind, however, the distinctive power of the Bavli's account is precisely its performance of gruesome incongruity.

Bakhtin's accounts of the carnivalesque offer one entryway into this strange tradition. Bakhtin's rhapsodies for carnival as a site of freedom and laughter are a far cry from the Bavli's description of Rome's morbid marketplace spectacle, to be sure. For Bakhtin, the medieval carnival represents an alternative reality where hierarchies are overturned, and where radical freedom, equality, and familiarity reign.⁹⁴ For the Bavli, the Roman festival is a site for the cruel display of tyranny, an intensification of the terror and degradation of the everyday. Despite this disjuncture, the central image of Shmuel's account—a whole man riding on a lame one—nonetheless accords with Bakhtin's account of carnival idioms. Bakhtin writes:

We find here a characteristic logic, the peculiar logic of the “inside out” (*à l'envers*), of the “turnabout,” of a continual shifting from top to bottom, from front to rear, of numerous parodies and travesties, humiliations, profanations, comic crowning and uncrownings.⁹⁵

In other contexts, Bakhtin makes special mention of two other relevant features of the carnival idiom—the mask⁹⁶ and the “cartwheel.”⁹⁷ His account helps us identify the incongruity of the image of a lame man carrying an intact one—it is upside-down, like a cartwheel. R. Yishmael's scalp resembles a mask, and is actually skin turned inside-out. Setting aside for a moment both the gruesome aspects of dismemberment and our contemporary sensibilities about disability, one can appreciate that on a purely imagistic level the Bavli has here drawn us a picture of a carnival clown: It is easy to imagine the loping gait of this awkward, masked giant. The very image of the lame man on the bottom and the

93 To this list, I could add *Pirke de-Rabbi Eliezer* (PRE), another late midrashic work which expounds upon yet another element of the Bavli tradition, the garments of Adam. PRE 24 provides a long vita for the garments which God prepared for Adam and Eve: They are handed down to Noah, who brings them onto the ark. After the Flood, Noah's son Ham take them, and eventually, he bequeathes them to Nimrod. Whenever Nimrod wore them, beasts and birds fell at his feet, so people take him to be a hero and give him the crown, and this is how he comes to be a wicked king. Generations later, Esau--another biblical figure known for his hunting prowess--sees Nimrod wearing Adam's clothes, and covets their power. He kills Nimrod, and steals Adam's clothes for himself. Esau's newly acquired clothes are then the very garments in which Rebecca (Gen 27:15) dresses Jacob when she tricks Isaac into giving Jacob Esau's blessing! While it might be tempting to identify this tradition as part of the background for the Bavli's mention of Adam's clothes in the context of Roman ritual, given the lateness of the source, and the elegant way it knits together the ragged fragments of the talmudic account, I think it is far more likely that this story of Adam's garments emerges, in part, in response to the strangeness of the talmudic account. PRE answers the question of how Rome (descended from Esau) comes to be in possession of Adam's clothes, just as *Midrash Shir Ha-Shirim* accounts for Rome's possession of R. Yishmael's scalp. In doing so, PRE tightens the association between the ritual performance and the characters of Esau and Jacob, an association that is not explicit in the Talmud.

94 Bakhtin, *Rabelais and His World*, trans. Helen Iswolsky (Bloomington: Indiana University Press, 1984), 10.

95 *Ibid.*, 11.

96 *Ibid.*, 39-40.

97 *Ibid.*, 353.

whole man on top scrambles our sense of hierarchy. While on a symbolic level, the subjugation of the weak makes sense, on an imagistic level, it is a confounding reversal of top and bottom to have the crippled do the heavy lifting. This is a macabre and gruesome instance of a turn-about, but it is an uncrowning nonetheless.

The uncrowning that interests me in our text does not relate to any reported activity by Romans in the ancient marketplace, but rather to the Jewish storytellers, and to their readers and listeners. Even if our text does relate some memory of an occasion that actually occurred, it certainly does not give us the access we would need to evaluate how it was experienced by participants. It is far more fruitful to explore how the *discursive* behavior of the Bavli makes use of carnivalesque for its own devices than to hypothesize about a historical occasion that might or might not lie behind the text. I take Shmuel's disturbing snippet of narrative as a performance in its own right, an act of discursive cartwheeling by Jews and for Jews. On one level, it acts to display and decry the cruel excesses of Roman domination—this is how the text has traditionally been understood. On another level, its incongruities effectively up-end the settled notions of Jewish self-understanding, ironically exposing how received teachings fall short in accounting for the Jews' plight. The tradition ends with a word of foreboding: “Woe to this one when this other one arises!” This line is generally taken to mean that the Romans will be sorry when the Jews eventually triumph. But the Jews are here represented by a broken, limping fool, hardly a figure to inspire confidence. The extreme picture of Jewish weakness exposes the emptiness of Jewish triumphalist fantasies, and the vivid emphasis on Roman brutality suggests that any future compensation will in any case be too little, too late. The tradition thus subtly up-ends rabbinic assurances that all wrongs will one day be righted, and that Israel will prevail again one day. It is thus not simply the Caesar who is uncrowned, but rabbinic authority as well.

I am suggesting that this text resembles parody, and that it travesties both rabbinic notions of eschatology and the hopeful universalism we saw in the elegaic story of Adam. My reading begins with an observation of the gruesome way the narrative imagines the Romans constructing a body out of scraps, patching together a lame man, a whole man, and a scalp, and then draping the motley creature with ancient clothes and a pricey bauble. The fragmented aspect of the central image, coupled with the text's linguistic shifts, call attention to the account's constructed nature, as a kind of intertextual collage. Though he masquerades in the sublime garments of Adam, the grotesque figure conjured by this tradition is actually a much closer relative of Frankenstein's monster. Here, as in Mary Shelley's *Frankenstein*, the patched-together creature within the narrative thematizes the intertextual construction of the text itself.

According to literary theorist Linda Hutcheon, parody is “a form of repetition with ironic critical distance, marking difference rather than similarity.”⁹⁸ Unlike satire, parody is an exclusively literary behavior—its “repetition is always of another discursive text.”⁹⁹ Mary Shelley's *Frankenstein* thus offers a good example of parody, recapitulating the story of the divine creation of humanity in the story of a scientist's creation of a new being. In one important scene, the monster studies Milton's *Paradise Lost* and recognizes both his kinship with and his differences from Adam: “Like Adam, I was apparently united by no link to any other being in existence; but his state was far different from mine in every other respect.”¹⁰⁰ In explicitly identifying the text which the novel repeats, the scene exemplifies the literary nature of the parodic repetition, even as it highlights the idea of difference. This example

98 Linda Hutcheon, *A Theory of Parody: The Teachings of Twentieth-Century Art Forms* (Urbana: University of Illinois Press, 2000), xii. Thanks to Holger Zellentin for introducing me to Hutcheon's approach. Zellentin engages Hutcheon and applies her insights to much older works of literature in *Rabbinic Parodies of Jewish and Christian Literature* (Tubingen: Mohr Siebeck, 2011). No doubt, his readings influence my reading here and elsewhere.

99 Hutcheon, 43.

100 Mary Shelley, *Frankenstein or the Modern Prometheus* (Oxford: Oxford World's Classics, 1998), 105.

brings out something else that scholars such as Hutcheon emphasize—that the text which the parody repeats is not necessarily the object of the parody's criticism, ridicule, or protest. The text being repeated might as easily be a weapon as a target.¹⁰¹ Here, Shelley's criticism is not aimed at Milton; she rather makes use of *Paradise Lost* to comment on the dangers and excesses of science.

In a similar way, I understand Shmuel's strange account to be emphasizing the ironic difference that separates the biblical Adam from the degraded state of human relations under Roman rule. Earlier in this talmudic chapter, the story of Adam's first winter highlights the common origins of both Jews and pagans. Here, the narrative points in the opposite direction: though the joint figure of the two men is draped with a single garment, Adam's clothes cannot cover over the differences between them. The text ironizes Adam's universalism by pronouncing the abiding difference between “this one,” representing Rome, and “this other one,” representing Israel. Though the two are identified as brothers, this relation too is ironized, as the unevenly matched twins are locked together in an uneasy display of rivalry and dependence. The tradition reflects back the wholeness and splendor of the earlier talmudic tale of Adam with a grotesque image of brokenness and brutality. It lays bare the irreconcilable ruptures of human experience, ugliness that even the most splendid garment cannot cover over. To the degree this tradition functions as parody, it does not aim its criticism at biblical or rabbinic portrayals of Adam but rather uses them to expose the incongruities between Jewish myth and the harsh reality of life under foreign rule.

The Bavli's account of Roman brutality on parade exposes a darker side of the carnivalesque than Bakhtin acknowledges. While for Bakhtin, the carnival levels hierarchies and promotes a life-affirming freedom, the Bavli illustrates that carnival can also unleash sadistic violence and meaningless reversals. Here, the carnival image of the grotesque holds a mirror up to pious affirmations of divine justice, exposing their distortions. It presents a picture of humanity that is as cruel and dark as one can imagine, but it is a picture that is ridiculous at the same time. Whatever origins this text might have in an actual festival performed on the streets of Rome, in its present talmudic context it functions as a fantastic act of discursive acrobatics that puts the literary art of the Bavli on display. At one and the same time, it performs the tremulous vulnerability of a tyrannized people, a flight of revenge fantasy, and an enactment of human failure that recasts Adam's fall as a clown's dive into the void.

This motley, fragmented narrative speaks to the challenges of assigning any one voice or view to the Bavli. While it exemplifies AZ's interest in the human predicament and in the question of what distinguishes Jews from non-Jews, it not only fails to answer the question, it turns the answers we have found elsewhere in this chapter inside-out and upside-down. Compared to the other two traditions we have examined, this one depicts pagan Rome in the harshest terms, but it does so with a wry smile. Arguably, it is not Roman tyranny but human cruelty that this tradition exposes. In doing so, it turns our attention to one element of human experience that pagans and Jews, the strong and the weak all share in common—embodiment in human flesh. Whole, crippled, or reduced to a scrap, it is the materiality of the human body that is here on display. As we turn now to a final network of stories from our chapter, we will see this interest in mortal flesh continue.

The Martyrdom of Rabbi Hanina ben Tradyon (AZ 18a)

Dispersed through the latter half of *Lifney 'Eydeyhem* are three stories of dramatic deaths that all end with the identical exclamation by Rabbi Yehuda Ha-Nasi: “There is one who acquires his world in a single hour, and there is one who acquires his world over the course of years.”¹⁰² Rabbi Yehuda Ha-

¹⁰¹Hutcheon, 50-2.

¹⁰²The line appears in the stories of Keti'a bar Shalom on AZ 10b, of Elazar ben Dordya on AZ 17a, and of Hanina ben

Nasi (or “Rabbi” as he is known in the Bavli) is not a character in any of these stories. In all three, he is portrayed as a witness to the events, and his words can be characterized as a statement of evaluation, an articulation of why the story is worth telling.¹⁰³ It is not clear if one story served as the original site for the statement before it migrated to the other two stories.¹⁰⁴ Whatever the process by which the stories took shape, we have no evidence of any version of any of these three traditions in which Rabbi's response does not appear. The closing line that these three stories share in common forges a strong link among them, inviting us to read them together.

The story of the martyrdom of Rabbi Hanina Ben Tradyon is the longest of the three traditions that include Rabbi's evaluative comment. The story appears in the closing pages of *Lifney 'Eydeyhem* alongside two alternative accounts of Rabbi Hanina's demise. These traditions about R. Hanina appear as part of a long chain of narratives beginning on b. AZ 16b and continuing onto 18b that offer interlinking accounts of various rabbis' dangerous encounters with the triple menaces of *Minut*, the Roman government, and sexual temptation. The three stories of R. Hanina's travails at the hands of the Romans are each governed by a distinctive narrative logic, and they offer differing accounts of the grounds for his punishment. In the first story, which begins on 17b, R. Hanina is arrested together with R. Elazar b. Prata, who escapes punishment through divine intervention, in contrast to R. Hanina who is sentenced to death. In this story, the Romans punish R. Hanina for disregarding their prohibition on Torah study, and the narrator implies that God does not intercede on R. Hanina's behalf because of his failings in the realm of acts of lovingkindness.¹⁰⁵ In the second story (17b-18a), R. Hanina is convicted together with his wife and daughter; he and his wife share responsibility for pronouncing God's name, and his daughter is guilty of having enjoyed the admiring glances of Roman men while she walked down the street. All three of them quiescently accept harsh punishments by the Romans, articulating their belief that God is the ultimate source of punishment, and justifying the divine decree. The third story, presented below, is the most developed of the three R. Hanina stories and offers yet another account of R. Hanina's offense and execution. Emphasizing the brutality of the Roman regime, this tradition portrays R. Hanina as innocent of all but the most minute of errors. The story is embedded in a web of intertextual connections: it is verbally and thematically linked to other stories of Roman persecution in the immediate context of the sugya; to the stories of Ketiva bar Shalom and Elazar ben Dordya, which share its closing line; and to the story that opens the tractate as a whole, the story of the

Tradyon on AZ 18a.

103For an account of what constitutes “evaluation” and how such statements relate why a story is worth telling see Labov and Waletzky, 28-35.

104Michal Bar-Asher Siegal argues that the line originates in Ben Dordya's story and was later appended to the other two stories. Her argument is based on her identification of a Christian monastic tradition as the source for the Ben Dordya story; the Christian story includes a closing line similar to the statement by Rabbi. I am not entirely persuaded by her recapitulation of how the tradition takes shape, in part because Rabbi's distinction between “one who acquires his world in a single hour,” and “one who acquires his world over the course of years” accords so well with R. Hanina's story, in which two characters matching these respective designations are welcomed to the next world together. Also, while she presumes that the movement of the line is unidirectional, from the Christian source to the Jewish one, it seems plausible to me that similar traditions could have arisen in parallel in the two religious cultures. I engage her arguments further, below. See Michal Bar-Asher Siegal, *Early Christian Monastic Literature and the Babylonian Talmud* (Cambridge: Cambridge University Press, 2013), 193-7. I thank her for sharing her manuscript with me before its publication.

105This story is treated by Richard Kalmin, who points out that the negative judgment of Torah study alone in the absence of acts of lovingkindness reflects the value system of the Palestinian sages, but not of the Babylonian ones. Kalmin demonstrates how the Babylonian redactors expand and revise that which confounds them in the original Palestinian source. See Kalmin, *Jewish Babylonia between Persia and Roman Palestine* (Oxford: Oxford University Press, 2006), 23-6. Boustán effectively captures the theological principles at work in this and other rabbinic martyrdom accounts in describing what he calls “The Peccadillo Motif.” He points out that “the puzzling gap between the insignificance of the sin committed and the enormity of its consequences is, in fact, a regular feature of rabbinic martyrology. . . . Within the martyrological genre, the more punctilious one's behavior, the more disastrous every sin proves to be.” See Boustán, 65.

Judgment of the Nations at the end of days.

Our sages taught: When Rabbi Yosi ben Kisma became ill, Rabbi Hanina ben Tradyon went to visit him.

He said to him: “Hanina, my brother, don't you know that this nation was granted sovereignty to rule by Heaven? For it destroyed His house and burned His sanctuary and killed His pious ones and destroyed His best ones, and still it persists! Yet I have heard that you gather assemblies in public, with a scroll of Torah resting in your lap, and you sit and expound!”

He said to him: “By Heaven, they will have mercy.”

He said: “I'm telling you words of reason, and you say to me, 'By Heaven, they will have mercy!?' I will be astonished if they don't burn you and the Torah scroll in fire.”

He said to him: “My Master, how am I doing with regard to life in the world to come?”

He said: “Is there something that has happened to you?”

He said: “I once mixed up Purim donations with charity donations, and distributed them to the poor.”

He said, “If that is all, may your lot be my lot, and your fate my fate.”

They said: It was not but a few days later that R. Yosi b. Kisma died, and all the great men of Rome went to bury him and honored him with a great eulogy, and upon their return they found R. Hanina ben Tradyon who was sitting and engaging in Torah, and gathering assemblies in public with a Torah scroll resting in his lap.

They took him and wrapped him in the Torah scroll, surrounded him with bundles of branches, and set them on fire. Then they took sponges of wool soaked with water and placed them on his heart, so that his soul would not expire quickly.

His daughter said to him: “Father, that I should see you like this!”

He said to her: “If I alone were burning, it would be difficult for me. Now that I am burning together with the Torah scroll, the One who will redress the offense to her will also redress the offense to me.”

His students said to him: “Our master, what do you see?”

He said to them: “The parchment is burning, and the letters are flying up.”

“You too, open your mouth so that the fire can enter you.”

He said to them: “It is best that the one gave it should take it away, and I should not injure myself.”

The executioner said to him: “Rabbi, if I add to the flame and take the wool sponges from your heart, will you bring me to life in the next world?”

He said to him: “Yes.”

“Swear to me.”

He swore to him.

Right away, he added to the flame and took the wool sponges from his heart, and his soul expired quickly. He too jumped and fell into the fire.

A *bat kol* came and said, “R. Hanina ben Tradyon and the executioner are invited to life in the next world.”

Rabbi wept and said: “There is one who acquires his world in a single hour, and there is one who acquires his world over the course of years.”¹⁰⁶

One striking thing to note about this story is the way its artful construction manipulates our experience of time, so that even as the plot moves inexorably to R. Hanina's fiery end, we are made to linger for long moments as witnesses to his slow and gruesome death. Almost every aspect of the plot is predicted in the opening scene, in which the dying R. Yosi ben Kisma warns R. Hanina that the Romans are certain to burn him and his Torah scroll if he persists in teaching Torah in public. During the course of their dialogue, R. Hanina implies that such an end is of little concern to him; much more pressing for him is the question of his prospects for life in the next world. As the plot unfolds, R. Yosi's fears and R. Hanina's hopes are each answered in turn: R. Hanina is indeed burned with his Torah scroll, as R. Yosi foretold, yet he is also rewarded a portion in the next world, as he had hoped and as R. Yosi had assured him would be the case.

In between the somber predictions of R. Yosi and their realization lies an extended scene of torture, in which the use of dialogue slows the pace of the narrative to match the experience of time in the narrated world. A succession of verbatim exchanges, first between R. Hanina and his daughter, then between R. Hanina and his students, and finally between R. Hanina and his executioner, forestalls the end we have been primed to expect. As readers, we are cast as bystanders to R. Hanina's suffering, experiencing his slow demise as if alongside his loved ones. When dialogue at long last gives way to narration, the quick and decisive actions of the executioner are conveyed in a rapid sequence of short phrases that shift our experience of time yet again. R. Hanina's death had been expected from the beginning, and its belated arrival comes as a relief. In contrast, the self-inflicted death of the executioner comes suddenly, with little warning. The brisk narration of the executioner's final acts

106 b. AZ 18a, JTS ms. (The square brackets below indicate marginal notes in the manuscript, and are included in the translation.):

תנו רבנן כשחלה ר' יוסי בן קיסמא הלך ר' חנינא בן תרדיון לבקרו אמ' לו חנינא אחי אי אתה יודע שאומה זו מן השמים המליכה והחריבה את ביתו ושרפה את היכלו והרגה את חסידיו ואבדה את טוביו ועדין היא קיימת ואני שמעתי עליך שאתה מקהיל קהלות ברבים וספר תורה מונח בחיקך ויושב ודורש אמ' לו מן השמים ירחמו אמ' לו אני אומ' לך דברי' של טעם ואתה אומ' לי מן השמים ירחמו תמה אני אם לא ישרפו אותך וספר תורה עמך אמ' לו ר' מה אני לעולם הבא אמ' לו כלום מעשה בא לידך אמ' לו מעות של פורים נתחלפו לי במעות של צדקה וחלקתים לעניים אמ' לו אם כן מחלקך יהא חלקי ומגורלך יהא גורלי אמרו לא היו ימים מועטים עד שמת ר' יוסי בן קיסמא והלכו כל גדולי רומי לקברו בחזרתן מצאוהו לר' חנינא [בן תרדיון] שיושב ועוסק בתורה ומקהיל קהלות ברבים וספר תורה מונח בחיקו כרכוהו [בספר תורה] והקיפוהו בחבילי זמורות והציתו בהן אש והביאו סיפוגין של צמר ושראום במים והניחום על לבו כדי שלא תצא נשמתו מהרה אמרה לו בתו אבא בכך אראך אמ' לה אילמלי לבדי נשרף היה הדבר קשה עכשו שנשרף הוא וספר תורה עמו מי שיבקש עלבונו של ספר תורה יבקש עלבוני אמרו לו תלמידיו [ר'] מה אתה רואה אמ' להן רואה אני אותיות פורחות וגוילין נשרפין אמרו לו פתח פיך ותכנס שלהבת כדי שתצא נשמתך מהרה אמ' להם מוטב שיטלה מי שנתנה ואל יחבל הוא בעצמו אמ' לו קלסטונירי [אחד] ר' אם אני מרבה לך בעצים ונטל סיפוגין של צמר מעל לך אתה מביאני לחיי העולם הבא אמ' לו הן השבע לי נשבע לו מיד הרבה לו בשלהבת ונטל סיפוגין של צמר מעל לבו ויצתה נשמתו ואף הוא קפץ לתוך האור ויצתה נשמתו יצתה בת קול ואמרה ר' חנינא [בן תרדיון] וקלסטונירי מזומנין לחיי העולם הבא בכה ר' ואמ' יש קונה עולמו בשעה אחת ויש קונה עולמו בכמה שנים

expresses the immediacy of his decision, and exemplifies the very temporal contrast that Rabbi's closing words of evaluation announce as a theme—some earn their rewards in a flash, while others accomplish them through the ponderous slog of time.

The story conveys its meaning through the strategic use of doubles and doubling. As we have seen, most every action that occurs is repeated twice, first in the form of a prediction or promise, and then as the action unfolds. This narrative feature is reflected within the narrated world, where the hero is paired with one double in the opening scene, and another double in the end. In the opening scene, the dying R. Yosi ben Kisma proclaims his sense of kinship with R. Hanina, calling him “My brother” and exclaiming, “May your lot be my lot, and your fate my fate!” In fact, R. Yosi serves as a foil for R. Hanina, and their lots diverge in most every way: R. Yosi counsels quiescence while R. Hanina chooses to openly defy Roman decrees; R. Yosi dies a natural death while R. Hanina is executed; R. Yosi attracts crowds of Roman leaders to his funeral, while R. Hanina draws assemblies of students. At the end of the story, R. Hanina is provided with another double—his executioner. Though the stations of these two differ in most every way—as Roman and Jew; as torturer and tortured—they come to an identical end, in death and in the world to come. Despite initial appearances, it is ultimately not the two rabbis who share a single lot, but rather the two who meet across a canyon of difference.

In between the opening and closing scenes, R. Hanina suffers his agonies alone, but here too, he has a double, albeit of a different kind—the Torah scroll. From the start of the story, R. Hanina is linked to this scroll. First Rabbi Yosi, and then the narrator describe him sitting “with the scroll resting in his lap” (מונח בחיקו). The image of the rabbi nestling the scroll conveys a sense of intimacy and emphasizes the materiality of the scroll, depicting Torah as an object to be cherished rather than as an abstract set of laws or teachings. During the execution, this image is reversed: the rabbi who had held the scroll in his embrace is now wrapped up within the scroll. R. Hanina is comforted by the scroll's participation in his execution. One aspect of the consolation is stated explicitly—the offense of burning a Torah is certain to incite divine retribution. Another aspect is implicit: R. Hanina is able to see the letters fly up even as the parchment burns. The scroll, like the rabbi, is thus composed of both body and spirit. Witnessing the separation of these elements in the scroll, the rabbi is reassured that though his body burns, his spirit will ascend to the next world.

How does this account relate to the other depictions of Romans and Jews we have seen? Like the strange image from the Roman festival, this story uses a gruesome account of torture to convey the brutality of Roman rule. Unlike that tradition, however, and unlike the opening sugya, which treats all Romans as an undifferentiated mass, this story distinguishes between the harshness of Roman rule, and the qualities of individual Roman functionaries. While in the opening sugya, God judges all non-Jewish nations to be irredeemable, here the *bat kol*'s pronouncement confirms that individual non-Jews—even the technicians of Roman brutality—can find their way into the next world through simple acts of mercy. In this story, the emphasis is on individual actions rather than corporate identities. Rabbi's closing pronouncement, “There is one. . . and there is one. . .” trains our attention on the singular lot of individuals rather than on the corporate fate of entire nations.

While the message of R. Hanina's story clashes with the message of the opening sugya, the two traditions share a motif that encourages us to read the two stories in concert. As noted above, when God convenes the nations at the end of days, He sits in judgement, holding a Torah scroll in His lap. So far as I can tell, this is the only talmudic tradition in which an image of God holding a scroll in His lap appears,¹⁰⁷ and the language matches the R. Hanina story rather closely. While the story of R. Hanina

¹⁰⁷In Avot deRabbi Natan, Version A, chap. 31, God holds a Torah scroll in his lap for the many years preceding the world's creation. The motif of a *person* holding the scroll in his lap while expounding appears in our story of R. Hanina on AZ 18a, and also in the story of Rabbi Akiva's martyrdom in b. Brachot 61b. A similar motif can be found in relation to the heretical Rabbi Elisha ben Abuya on b Hagiga 15b: “They used to say about Aher that when he would rise from

uses an agentless form (ספר תורה מונח לו בחיקו) of the same verb that that appears in the opening sugya: “In the future to come, the Holy One Blessed be He will bring a Torah scroll and place it in His lap (יביא הקב"ה ספר תורה ויניחה בחיקו), and say, 'Let anyone who engaged with her (the Torah) come and get her reward.'”¹⁰⁸ The close verbal match and shared image cements a link between the two, and allows us to use the story of R. Hanina as a key for interpreting puzzling features from the opening story.

I noted above that the opening story of God's final judgment of the nations was surprisingly harsh in its treatment of non-Jews; the redactors of the sugya themselves register reservations about the depiction of God when they interrupt the narrative with the objection, “But did you not say: The Holy One does not deal despotically with His creatures?!” (AZ 3a). Reading this story together with the story of R. Hanina's martyrdom, we find a justification, and even a prediction, of such harsh divine judgment. In the midst of his tortures, R. Hanina affirms that God will redress the offense to the Torah. I propose that we read the opening story of divine judgment as a spinning out of the very revenge fantasy that R. Hanina foretells. Taking the Torah scroll into His lap, God calls to mind the gruesome offense of the Romans, who killed and tortured Jews and sought to eradicate the Torah, and judges them accordingly. The Torah scroll—restored to wholeness in Heaven—stands witness to the gross offenses of imperial power. In the presence of this token of Roman brutality, the Gentiles' protests of innocence are rendered empty and weak. Read in the light R. Hanina's fiery execution, the opening sugya's courtroom narrative—a story which grants to the enemies of Torah a fair hearing as well as a second chance—becomes a story of divine largesse, rather than the tale of divine despotism that it had otherwise appeared to be.

On one level, the shared motif of the Torah in the lap serves as a cue for reading, a marker that can guide our interpretations of both stories. It is also possible that the shared motif is an actual clue about the story's redactional history. Scholars have long argued that AZ's opening sugya is a late addition to the tractate.¹⁰⁹ I have already observed that the dialectical exchanges that are spliced into the story have parallels elsewhere in the Bavli, and in tannaitic works. It is possible that in R. Hanina's story we have discovered the creative impulse behind the creation of the narrative. The redactors might have produced the opening story as a response to the story of R. Hanina's martyrdom.

However we understand the way the chapter came together, in its final redactional shape, R. Hanina's story offers a counter-balance to the opening sugya: The chapter opens with a fantastic vision of God's justice, and closes with a searing image of imperial injustice. It opens with a denial of Gentile redemption, and closes with an assurance that any person can secure a place in the next world in but a single hour. It opens in the heady space of heaven, in mythic time, and ends with a somber acknowledgement of human vulnerability in this world. God's Torah scroll and R. Hanina's Torah scroll together envelop a chapter engrossed with the questions of what distinguishes Jews from non-Jews, and what they share in common.

the Beit Midrash, many heretical books would fall from his lap.” The phrase “Taking a Torah scroll and holding it in his lap,” also occurs in m. Yoma 7:1, as part of an account of the High Priest's ceremonies on Yom Kippur, and in a parallel in m. Sota 7:7.

108 b. AZ 2a, ms. JTS:

לעתיד לבא יביא הקב"ה ספר תורה ויניחה בחיקו ואמ' כל מי שיעסוק בה יבא ויטול שכרה

109 See Rubenstein's discussion and bibliographic references in *Talmudic Stories*, 381, note 4, and 385, note 46. As Rubenstein notes, Asher Hilvitz dates the sugya to the Geonic period in “*Le-harkava shel drashat ha-'agada be-reish masekhet 'avoda zara*,” *Sinai* 80 (1977), 125-7.

Keti'a bar Shalom Crosses Over (AZ 10b)

Keti'a bar Shalom is another martyr whose death inspires Rabbi's exclamation, "There is one who acquires his world in a single hour, and there is one who acquires his world over the course of years." In contrast to the story of R. Hanina, which is characterized by repetition and doubling, the story of Keti'a is introduced by the Bavli as a singular tale, an exceptional instance of a Roman notable securing the next world:¹¹⁰

Keti'a bar Shalom: What was his story?

Concerning that Caesar who hated the Jews: He said to the prominent members of the imperial government, "If one has a sore¹¹¹ on his foot, shall he cut it off and live or leave it be and be troubled?"

They answered him: "He should cut it off and live."

Keti'a bar Shalom said to them: "First, you cannot do away with all of them.¹¹² And furthermore, they will call you a 'cut kingdom.'"

He answered: "You spoke well. Nevertheless, anyone who bests the king is thrown into a hollow furnace."

As they were taking him away, a matron said to him, "Woe to the ship that sails without paying the toll."¹¹³

He fell upon the head of his foreskin and cut it,¹¹⁴ saying: "I paid my toll, I passed and crossed over."

As they were throwing him in, he said, "All my possessions to R. Akiva and his colleagues."

R. Akiva came and expounded on the verse "And it shall be for Aaron and his sons," that it means one half for Aaron, and one half for his sons.

A *bat kol* came and said, "Keti'a bar Shalom is invited to life in the next world."

Rabbi wept and said: "There is one who acquires his world in a single hour, and there is one who acquires his world over the course of years."¹¹⁵

110 Keti'a's Roman identity is implied both by his station as an advisor to the emperor, and by his uncircumcised state. His Hebrew name is an unrealistic detail that announces the story's central themes: violence ("Keti'a" means "cut") and redemption ("Shalom" means "peace").

111 The print versions and JTS Rab 15 read נִמְנֵי which Rashi glosses as "dead flesh that is painful." Though the word commonly means "hair" or "bristle," "sore" seems best within this context. In Genesis Rabbah 46:11 (Theodor-Albeck 467), the midrash compares a foreskin to a sore, or נִמְנֵי hanging from the body. Marcus Jastrow derives נִמְנֵי from the Greek νομή meaning "ulcer." See Jastrow, *A Dictionary of the Targumim, the Talmud Babli and Yerushalmi and the Midrashic Literature* (New York: Title Publishing Co., 1943), 888.

112 ms. JTS Rab 15 includes an extensive marginal note that is largely illegible but likely corresponds to the following passage, which appears in Paris 1337 and in the Vilna print at this point in the story: "For it is written, 'For I have dispersed you like the four winds of the heaven.' (Zech 2:10) What does this mean? If it meant that they were scattered to the four corners of the world, then instead of saying, *like* the four winds, the verse would have had to say, *to* the four winds! Rather, it means that just as the world cannot be without winds, so the world cannot be without Israel." This material is absent from Munich 95.

113 A marginal note in ms. JTS here inserts, "He took the knife and cut his foreskin, and there are some who say."

114 A marginal note in ms. JTS here adds "with his teeth." This reflects the wording in Paris 1337. With these insertions, JTS reads just like Munich 95: "He took a knife and cut his foreskin. There are those who say: he bent his head over his foreskin and cut it with his teeth."

115 b. AZ 10b ms. JTS (Square brackets represent notes written in the margins; round brackets represent words which have

This story is intensely engaged with the materiality of the human body. The story opens with a hateful tyrant's comparison of the Jewish people to a painful sore, extending the familiar metaphor of the Empire as a body politic. The use of the metaphor reveals that the question he poses to his advisors—should the Jewish presence be tolerated?—is a rhetorical one. Who would tolerate a gruesome sore? Ketī'a alone resists the implications of the king's leading question, and as a consequence is charged with death in a furnace. In the second half of the story, the body becomes a tenor rather than a vehicle, as Ketī'a accepts a matron's counsel to “pay the toll” and circumcises himself in the moment before he dies. In cutting away his foreskin, the quintessentially Gentile body part, Ketī'a inverts the Caesar's announced intention to excise the Jews from the body of Rome, and cuts Gentileness from his own body instead. A single verbal root—קטע—meaning “to cut” unifies the entire story. Though Ketī'a cautions Caesar against being known as a “Cut Kingdom,” his own name announces his identification as one who is cut.

Like the story of R. Hanina, this story too is embedded in a web of textual connections within the chapter. In its immediate redactional context, it follows directly on the heels of a chain of stories that tell of the remarkable friendship of Rabbi and the Roman ruler Antoninus, and both Daniel Boyarin and Alyssa Gray have pointed to ways in which Ketī'a's story is integrated into that extended literary unit.¹¹⁶ Boyarin reads the crouching position of Ketī'a as he bends to circumcise himself as an echo of Antoninus' habit of bending low before Rabbi's bed, so as to serve as his footstool. He suggests that in bending over, both these Gentile characters symbolically exchange the phallic potency of Roman domination for the passive position that is culturally coded as both feminine and Jewish. This motif calls to mind the “degradation” that Bakhtin celebrates as a central feature of folk humor; for Bakhtin, such orientation toward the genitals and the nether parts of the body is expressive of the inexorable link between birth and death, and of the generative aspect of bodily existence.¹¹⁷ In this story, Ketī'a crouch toward the material body is juxtaposed with a call from a disembodied voice from on high. As in the story of Rabbi Hanina, the moment of martyrdom thus introduces a duality into human experience; it assails and destroys the material body, while delivering the person into a disembodied existence in the next world.

Contemporary scholars are divided over how to understand Ketī'a's act of circumcision. Gray follows Shaye Cohen in arguing that Ketī'a's act effects a conversion, pointing out that circumcision

been crossed out; ellipses are letters or words that are not legible):

קטיעא בר שלום מאי היא דהוא קיסר דהוה סאני להו ליהודאי אמ' להו (קיסר) לחשיבי דמלכותא מי שיש לו
 נימא ברגלו יקטענה ויחיה או יניחנה ויצטער אמרו לו יקטענה ויחיה אמ' ליה קטיעא בר שלום חדא דלא
 מצית מכלת לכולהו [דכתי' כי נא?ר? ... השמ' פרש... מאי קאמ' אי... ?ל?ארבע רוח... כארבע
 רוחות ... אלא כשם ... ב?ל?א ... לעולם בלא ...] ועוד [ד]קרו לך מלכא קטיעא אמ' ליה מימר שפיר קאמרת
 מיהו כל דזכי [ל]מלכא שדו ליה לקמו(?) [ניא] חלילא כדנקטיניה ואזלי אמרה ליה ההיא מטרוניתא ווי ל(י)ה
 לאילפא דאזלא בלא מיכסא [שקל סכינא ?ו?קטעיה לעורלתיה ואיכא דאמרי] נפל על ריש?א? דערליתיה
 וקטעה [בשיניה] אמ' יהבית מכסאי חלפית ועברית כי קא שדו ליה אמ' כל נכסי לר' עקיבא וחבריו יצא ר'
 עקיבא ודרש והיתה לאהרן ולבניו מחצה לאהרן ומחצה לבניו יצתה בת קול ואמרה קטיעא [בר שלום] מזומן
 לחיי עולם הבא בכה ר' ואמ' יש קונה עולמו בכמה שנים ויש קונה עולמו בשעה אחת

116 Boyarin, “Homotopia: The Feminized Jewish Man and the Lives of Women in Late Antiquity,” *differences: A Journal of Feminist Cultural Studies* 7.2 (Summer 1995), 41-81. Gray, “The Power Conferred by Distance from Power: Redaction and Meaning in b. A.Z. 10a-11a,” in *Creation and Composition*, ed. Jeffrey L. Rubenstein (Tubingen: Mohr Siebeck, 2005), 23-69. Their two readings are quite different. Boyarin offers a gender analysis, and examines the ways the stories construct Jewish masculinity. Gray reads the extended literary unit as an exploration of the moral danger of proximity to power, and argues that the Bavli takes a negative view of Rabbi for cozying up to the murderous Antoninus. In her reading, Ketī'a is held up as an exemplar because he distances himself from the brutality of the ruling government.

117 Bakhtin, *Rabelais*, 21.

suffices for conversion according to the halakha laid out in the Yerushalmi, and also according to R. Eliezer's minority view on b. Yevamot 46a.¹¹⁸ Boyarin, on the other hand, emphasizes the disjuncture between the world of the narrative, where Ketī'a becomes a Jew, and the normative world of halakha, where circumcision alone does not suffice.¹¹⁹ To a certain degree, the question of whether Ketī'a dies a Jew or not might seem critical to my project, as I seek to read this story as part of *Lifney 'Eydeyhem's* sustained engagement with the theme of Jewish/Gentile difference: If Ketī'a dies and enters the next world as a Gentile, this story conflicts with the message of the opening sugya, that non-Jews are irredeemable. If, on the other hand, Ketī'a becomes a Jew, this tale of conversion confirms the negative judgment of Gentiles qua Gentiles. In my view, however, the question of whether the circumcision is halakhically effective is the wrong question. The use of narrative in this chapter invites a mode of reading that is different from the reasoned analysis that halakhic dialectic requires, and it is reductive to read a story as if it is a proposition to be affirmed or negated. Following Boyarin, I read Ketī'a's circumcision as an intrepid, passionate act of identification with the Jewish people that falls outside the normative categories of halakhic analysis. This is why it provokes Rabbi's astonished cry: "There is one who acquires his world in a single hour, and there is one who acquires his world over the course of years." The force of Ketī'a's dramatic gesture in resisting the emperor and in circumcising himself propels him out of the established patterns of rabbinic thought and behavior, and impresses Rabbi with possibilities he had not previously considered. In my reading, Ketī'a dies as a non-Jew, not because his act falls short of the halakhic threshold, but because the extremity of his situation and his response exceeds the norms and boundaries that govern the circumstances of ordinary life.

Ketī'a's story subverts the boundary between Jews and non-Jews, and this is precisely what accounts for the story's power and "tellability" in the context of *Lifney 'Eydeyhem*. Who could deny a martyr entry into the next world? In the charged moment of Ketī'a's exceptional act of self-sacrifice, the normal categories of Jew and non-Jew do not suffice. Within the broader context of the chapter as a whole, Ketī'a's is one of several tales of martyrdom, and is easy assimilable into that recurring trope. The closing exclamation of Rabbi, recapitulated in the story of R. Hanina, invites us to compare Ketī'a to the twin martyrs of R. Hanina's story. As a Roman functionary who achieves redemption in a single hour, Ketī'a closely resembles R. Hanina's executioner, but as the hero of his own story, Ketī'a is also comparable to R. Hanina: Like the rabbi, he boldly and deliberately resists Roman rule; like the rabbi, he expounds Torah; and like the rabbi he is sentenced to death by burning. Once these two stories of martyrdom are brought together through the duplication of Rabbi's tearful exclamation, the sharp differentiation between categories is blurred. The juxtaposition of these two stories of martyrdom by the redactors of the tractate invites us to attend to two aspects of human existence that Jews and Gentiles are shown to hold in common—both are made of bodies of flesh, and both have the potential to escape their bodies for life in the next world.

Broken Spirit, Breaking Wind: Elazar ben Dordya (AZ 17a)

The final narrative I will treat in this chapter is the third in which Rabbi's exclamation appears, the story of Elazar Ben Dordya. The tale of a Jewish sinner who finds solitary redemption in the moment of death, this story diverges from the others I have presented in that it is not centrally engaged with non-Jews. Appearing as part of the extended chain of narratives that culminates with the martyrdom of R. Hanina, the story of Elazar b. Dordya is directly preceded by accounts of sexual and

118 Gray, "The Power Conferred," 58. See also Shaye J.D. Cohen, "The Conversion of Antoninus," *The Talmud Yerushalmi in Graeco-Roman Culture I*, ed. Peter Schäfer (Tubingen: J.C.B. Mohr, 1998), 141-71, especially 167.

119 Boyarin, "Homotopia," 50-51.

religious transgression. Under discussion in the dialectical exchange immediately preceding Ben Dordya's appearance is the question of whether death is a necessary component of repentance for all serious sins, or just for *minut*—as we will see, the editors insert a brief exchange in consideration of this question toward the end of the story, preceding Rabbi's words of evaluation. The richness of the narrative means that its resonances far exceed this question, however. As I will show, a network of textual connections with other stories within *Lifney 'Eydeyhem* invites us to consider Ben Dordya's story in relation to the themes and motifs that unite the chapter as a whole.

They used to say about Elazar ben Dardoya [Dordya]¹²⁰ that there was not a single prostitute left in the world that he had not been with. One day, [he heard that] there was a prostitute in one of the cities by the sea who charged [a purse full of] dinars as her fee. He [went and] set out toward her, crossing seven rivers.

In the midst of the act, she broke wind.

[A *bat kol* came out and]¹²¹ she said, “Just as this wind will not return to its place, so Elazar ben Dardoya will never be received in repentance.”

He went and sat among mountains and hills.

He said, “Mountains and hills, seek mercy for me!”

They said, “Before we seek mercy for you, we will seek it for ourselves, for it is written, 'The mountains will depart and the hills will be removed.'” (Is 54:10)

He said, “Heavens and earth, seek mercy for me!”

They said, “Before we seek mercy for you, we will seek it for ourselves, for it is written, 'For the heavens will vanish like smoke, and the earth will be worn out like a garment.’” (Is 51:6)

He said, “Sun and moon, seek mercy for me!”

[They said, “Before we seek mercy for you, we will seek it for ourselves, for it is written, 'Then the moon shall be embarrassed and the sun ashamed.’” (Is 24:23)

He said, “Stars and Constellations, seek mercy for me!”]¹²²

They said, “Before we seek mercy for you, we will seek it for ourselves, for it is written, 'And all the hosts of heaven shall molder away.’” (Is 34:4)

He said, “The matter depends on me alone.”

He put his head between his knees and sobbed and wept until his soul departed.

A *bat kol* came out and said, “Rabbi Elazar ben Dardoya is invited to life in the next world.”

120 Throughout this translation, the square brackets represent notes that appear in the margins of the JTS Rab. 15 manuscript. In this manuscript, the hero of the story is called “Ben Dardoya,” but a marginal note offers the spelling “Dordya.” Because the name appears as “Dordya” in the other manuscripts and in the print editions, all the secondary literature refers to him as “Dordya,” and so will I.

121 This marginal note in the JTS manuscript is the only witness to the appearance of a *bat kol* at this point in the story. In all the other manuscripts, as in the print editions, it is the prostitute who speaks.

122 The bracketed line is missing in the main text of JTS, but appears in a marginal note. Though the marginal note is barely legible, I have relied on the Munich and Paris manuscripts to reconstruct the passage.

[Now here was a case of a transgression and he did die!]¹²³

There too, since he was so involved in it, it resembled *minut*.

Rabbi wept and said, “There is one who acquires his world in a single hour, and there is one who acquires his world over the course of years.”

And Rabbi said, “It is not enough that masters of repentance are received [in repentance], they even have to be addressed as 'Rabbi!'”¹²⁴

Ben Dordya's penitential death is the culmination of a story of radical reversals, as a character that had fallen to shameful lows is suddenly exalted to vertiginous heights. As the story begins, Ben Dordya is a man whose only real distinction is in the breadth of his sexual experience, but since he pays for sex, it is questionable whether his exploits even in this area can be judged an achievement. The coarseness of his character is matched by the vulgarity of the narrative, whose plot turns on a fart. Ben Dordya's very name signifies his degraded station: “dordya” (דורדיא) is the Aramaic word for the lees, or sediment, that settle at the bottom of a wine barrel during the process of fermentation.¹²⁵ Ben Dordya represents the dregs of society, the bottom of the barrel. Even as the vulgarity of his story deflates the elevated prose of the martyrdom stories in close proximity, his story ultimately conveys the same message that the stories of Ketī‘a bar Shalom and R. Hanina do: no human being is irredeemable. If the degraded Ben Dordya can ascend to the next world, anyone can.

As Michal Bar-Asher Siegal observes, the story of Ben Dordya is an outlier among rabbinic accounts of repentance in that it depicts penitence as if it can be accomplished in an instant. Though death is identified as a possible component of repentance in m. Yoma 8:8, rabbinic stories tend to emphasize long and demanding penitential processes, rather than immediate paths to absolution. Siegal points out that while Ben Dordya's instant penance through death is exceptional within rabbinic literature, it is a regular motif within Christian storytelling.¹²⁶ She argues that Ben Dordya's story reflects Christian influence, and identifies a specific text from the *Apophtegmata Patrum* traditions of the desert fathers as the Bavli's probable source.¹²⁷ This Christian story tells of Paesia, an orphan girl who begins life within the church, but falls into a life of prostitution when she comes upon hard times. The monastic father John the Dwarf pays her a visit and persuades her that it is possible to repent. She

123 This bracketed line appears in a marginal note in the JTS manuscript. It appears in Paris 1337, but not in Munich 95.

124 AZ 17a, ms. JTS. The square brackets in the translation correspond to the square brackets in the text below, and indicate marginal notes in the manuscript:

אמרו עליו על אלעזר בן דרדויא [נ"א דורדיא] שלא הניח זונה בכל העולם כולו שלא בא עליה [שמע] פעם אחת [ש]היתה זונה אחת בכרכי הים ונטלת [כיס] דינרי' בשכרה [והלך] ועבר עליה שבעה נהרות בשעת הרגל דבר הפריחה [יצתה בת קול ו]אמ[רה] כשם שפרחא אינה חוזרת למקומה כך אלעזר בן דרדויא אין מקבלין אותו בתשובה הלך וישב בין הרים וגבעות אמ' הרים וגבעות בקשו עלי רחמים אמרו לו עד שאנו מבקשים רחמים עליך נבקש רחמים עלינו שנ' כי ההרים ימושו והגבעות תמוטינה אמ' שמים וארץ בקשו עלי רחמים אמרו לו עד שאנו מבקשים רחמים עליך נבקש רחמים על עצמנו שנ' כי שמים כעשן נמלחו אמ' חמה ולבנה בקשו עלי רחמים אמרו לו עד שאנו מבקשי' [רחמים עליך] ... על עצמנו שנ' ... ובושה החמה ... ומזלות בקשו ... אמרו לו עד ... רחמים עליך נבקש רחמים על עצמנו דכתי' ונמקו כל צבא השמים וגו' אמ' אין הדבר תלוי אלא בי הניח ראשו בין ברכיו וגעה בבכיה עד שיצתה נשמתו יצתה בת קול ואמרה ר' אלעזר בן דרדויא מזומן לחיי העולם הבא [והא הכא ר' אלעזר בעבירה הוה אביק ומית?י?] התם נמי כיון דאביק בה (נשמ) טובא כמינות דמיא בכה ר' ואמ' יש קונה עולמו בשעה אחת ויש קונה עולמו בכמה שנים אמ' ר' לא דיין לבעלי תשובה שמקבלין אותן [בתשובה] אלא שקורין אותן ר'

125 See AZ 34a.

126 Siegal, 179.

127 Ibid., 179.

follows him into the desert, where they set up camp for the night. In the middle of the night, Abba John awakes in time to see a lighted path reaching down from heaven, and angels carrying Paesia's soul away. Observing that she has died and her penitence has been accepted, he exclaims, "One single hour of repentance has brought her more than the penances of many who continue without showing such fervor in repentance."¹²⁸

Siegal identifies many points of correspondence between the stories of Paesia and Ben Dordya: both stories focus on the sin of prostitution; in both, the process of repentance is very short, and occurs in solitude outside; in both there is a heavenly sign to indicate that the repentance is accomplished; in both, a religious authority makes a very similar exclamation, remarking that for some, a single hour of repentance is as (or more) effective than the long, drawn-out processes of others.¹²⁹ Siegal's effectiveness in arguing for a relationship between these two traditions means that I do not need to address the question of whether Christian storytelling influenced the shaping of Ben Dordya's story. Instead, I seek to describe the contours of the intertextual relationship, moving from a search for origins to a discussion of intertextual practice.

I read the story of Ben Dordya as a parody of both Christian and Jewish hagiography. The first clue that the storyteller here burlesques sacred pieties is the discordant intrusion of the prostitute's fart. In tactfully overlooking this indelicacy, Siegal disregards the Bavli's most salient cue about how to read the intertextual relationship between Paesia and Ben Dordya. The prostitute's flatus does not merely deflate pious solemnities, it also signifies. When the prostitute (or the *bat kol*, according to the manuscript's marginal note) compares an accidental fart to Ben Dordya's errant spirit, she broaches an issue at the crux of Jewish-Christian polemics, the relationship between body and spirit. Implicit in the correlation of wind and soul is their common association with the Hebrew *ruah* (רוח), a word that never appears in the story, and yet animates the underlying logic of the parody. As Naomi Seidman points out, *ruah* "has a range of meanings, from wind to its metaphorical extensions as breath and, at a greater distance, spirit."¹³⁰ While Christians understand the term primarily as spirit, for Jews, the primary meanings are wind and breath, what Seidman calls the "'corporeal' significations" of *ruah*.¹³¹ To this spectrum of significations, we could add the sense of flatus, wind's most corporeal manifestation.¹³² As Seidman explains, though Jews make distinctions between body and spirit, they do not understand them as oppositional categories, as they are in the Platonic-Christian understanding, but rather as integrally connected.¹³³ It is this interconnection between body and spirit that the prostitute enacts when she breaks wind. Her fart pulls *ruah* down from the lofty exaltation to which it is banished by Christians, restoring it to the very seat of corporeality.

In classifying the particular intertextual relationship between Ben Dordya and Paesia as one of parody, I do not mean to imply that the Bavli is targeting its critique exclusively at Christianity. My reading of the parody is guided by Holger Zellentin's argument that even when rabbinic texts include marked references to Christian texts such as the Sermon on the Mount, the object of the rabbinic

128 Ibid., 182.

129 Ibid., 182-184. Siegal acknowledges that there are significant differences between the stories as well: For example, there is no parallel to Ben Dordya's conversations with mountains and hills and all the other elements in Paesia's story. In the Christian story, the penitent is a harlot, while the rabbinic story focuses on a man seeking sexual favors. While Paesia's penitence is sparked by John the Dwarf, in the Ben Dordya story, there is no religious authority encouraging repentance. Siegal, 185.

130 Naomi Seidman, *Faithful Renderings: Jewish Christian Difference and the Politics of Translation* (Chicago: University of Chicago Press, 2006), 112.

131 Seidman, 113. As Seidman explains, at the crux of this translation issue are the two communities' divergent readings of Genesis 1:2. For Christians, the presence of God's *ruah* at the moment of creation provides a scriptural foundation for the belief that the Holy Spirit participated in creation.

132 As Seidman points out, Rabelais makes this association explicit in his account of Pantagruel's visit to the Isle of Ruach, where all the inhabitants are afflicted by flatulence. See Seidman, 114.

133 Seidman, 113.

critique might well be focused within the Jewish community; aligning Jewish views or behaviors with religious tropes associated with Christianity is an especially effective way to marginalize them.¹³⁴ In adopting the Christian trope of the repentant prostitute, the Bavli storyteller targets tendencies within both Christian and Jewish sources to elevate spirit at the expense of the human body's materiality. The Christian source helps the rabbinic storyteller to take aim at the excesses of his own religious culture, and specifically at the tendencies of the rabbis themselves to promote spirit over body in their embrace of martyrdom.

I propose that the internal targets that the Ben Dordya story parodies are the rabbinic accounts of martyrdom that appear alongside Ben Dordya within *Lifney 'Eydeyhem*, including the stories of R. Hanina and of Keti'a bar Shalom. These narratives depict graphic violence against the human body, valorizing their heroes' embrace of suffering and death. In these and other talmudic tales of martyrdom, the martyr's ascent to the next world entails a separation from the body, which is not just degraded, but destroyed. AZ's stories of martyrdom elevate the values of spirit over body, and of heaven over earth in much the same way that Christian hagiographies like the story of Paesia do. It is this high seriousness that Ben Dordya's story effectively deflates. Ben Dordya's story targets the tendencies in Jewish martyrdom tales to locate the self in a disembodied, buoyant soul. Crouching in a fetal position, Ben Dordya counters the upward orientation of the martyrdom stories, and affirms the life-giving properties of the body. His debasement lowers the talmudic chapter's center of gravity.

Bakhtin's account of grotesque realism can help us understand precisely what distinguishes Ben Dordya from both his Christian relation, Paesia, and from his talmudic co-stars, R. Hanina and Keti'a bar Shalom. For Bakhtin, an orientation toward the body's nether regions means turning away from other-worldly concerns, and embracing bodily materiality and the generative powers of the earth:

“Upward” and “downward” have here an absolute and strictly topographical meaning. “Downward” is earth, “upward” is heaven. . . . To degrade also means to concern oneself with the lower stratum of the body, the life of the belly and the reproductive organs; it therefore relates to acts of defecation and copulation, conception, pregnancy and birth. Degradation digs a bodily grave for a new birth; it has not only a destructive, negative aspect, but also a regenerating one.¹³⁵

The correspondence that Bakhtin identifies between topographical space and the anatomical regions is in striking evidence in Ben Dordya's story: Initially, the fart and its lesson send him outside, where he looks upward and outward in seeking intercessors. He comes to learn, however, that redemption is not to be found in high places but in low ones, and then he bends down and expires with his head between his knees. His penitence is accomplished when he integrates body and spirit, allowing high and low to converge.

The humor and vulgarity of Ben Dordya's story put a different accent on the same themes and motifs we have identified in other, more solemn samples of storytelling in *Lifney 'Eydeyhem*. Like the other stories we have seen, this one too addresses the question of who can achieve life in the next world; rather than exploring whether redemption is possible for Gentiles, it focuses on a Jew with questionable prospects. The duality of body and spirit figures prominently here, as in the martyrdom stories of R. Hanina and Keti'a, though here the theme plays out differently, with the materiality of the body depicted through sex and flatulence rather than through torture and immolation. Alongside these parallel themes are a complex weave of intertextual markers that invite us to read Ben Dordya's story in relation to other stories in this chapter. The most salient of these links is Rabbi's exclamation, which

134 See especially Zellentin 137-66, and 233-6.

135 Mikhail Bakhtin, *Rabelais and His World*, trans. Helen Iswolsky (Bloomington: Indiana University Press, 1984), 21.

forges an association among Ben Dordya, Keti'a, R. Hanina, and R. Hanina's executioner.

There are other, more subtle connections among the stories as well: I sense in Ben Dordya's bending to put his head between his knees an echo of Keti'a's crouch to circumcise himself. For both Keti'a and Ben Dordya, wind figures prominently, with Keti'a comparing Israel to life-giving winds,¹³⁶ and Ben Dordya heeding the life-affirming message that emerges when the prostitute breaks wind. All three stories engage the fleshy materiality of the body. We have noted Ben Dordya's gravitation to his genitals. Keti'a's story begins with footsores, and then he, too, follows his penis to life in the next world. In the Hanina ben Tradyon tradition, materiality is focused not in the genitals but in the mouth and the lap: holding the scroll in his lap, the sage expresses the generative power of Torah; opening his mouth to the fatal flames, he makes his body a passive receptacle, an opening to life and death.¹³⁷ All three stories are oriented along a strong vertical axis, with their heroes falling down to their deaths, and then ascending to the next world. In all three stories, a female character appears at a critical turn in the plot: a matron encourages Keti'a to circumcise himself, a prostitute turns ben Dordya toward penitence, and Hanina's daughter cries out in his moment of torture. These women are all engaged with the physicality of the body, in contrast to the ethereal feminine voice of the *bat kol* who welcomes Ben Dordya and R. Hanina to the next world.

Intertextual connections among these three stories invite us to read them in concert, and forge an association among an incongruous collection of characters. Pious rabbi, righteous Gentile, and debauched Jew are a disparate group by any measure, but especially against the backdrop of a tractate that ostensibly aims to erect boundaries between Jews and Gentiles, and that opens with a vision of the non-Jewish nations as utterly irredeemable. This network of stories accentuates the commonalities among rabbis and sinners, Jews and Gentiles. Even as Ben Dordya deflates the pieties of neighboring stories, his vulgarity is redeemed and elevated through his association with martyr-heroes. Through its parodic inversion of hagiographic themes, Ben Dordya's story suggests that the extremity of the executioner's arena is not the only path to redemption; ordinary people in everyday circumstances are granted entry into the next world as well.

Through the juxtaposition of these stories, the redactors stage a reading experience that recapitulates the very insight pronounced by Rabbi within the narrated world, as we too confront surprising commonalities among diverse sets of people. For Rabbi, it is penitential death that is the great equalizer: "There is one who acquires his world in a single hour, and there is one who acquires his world over the course of years." Those of us outside the stories can discern a deeper, more protean place of connection—that we are all made of flesh and breath.

Narrative Ethics (The Moral of the Stories)

In investigating AZ, I seek to make two distinct contributions: First, to advance our appreciation of the Bavli's literary art by identifying the ways narrative, intertextuality and other discursive practices work together to define talmudic chapters and tractates as distinct literary units. And second, to demonstrate the ways such discursive practices can broaden and deepen conversations about ethics within and beyond the Jewish community. I have sought to demonstrate how patterns of storytelling in *Lifney 'Eydeyhem*—recurring tropes, themes, and images; and intertextual strategies like allusion and parody—give this chapter literary coherence, both as a unit in its own right, and as an introduction to

136 See note 112. The comparison of Israel to wind does not appear in the JTS manuscript cited above, but is in ms. Paris and in the print editions.

137 Bakhtin observes that when it comes to depictions of the grotesque body, "Next to the bowels and the genital organs is the mouth, through which enters the world to be swallowed up." *Rabelais*, 317.

AZ as a whole. How does this literary analysis contribute to the ethical project?

While the warp and the woof of the talmudic tractate are the mishnaic laws that legislate distance from non-Jews and regulate limited economic interactions, the stories that are woven into the fabric of this chapter engage questions about human nature, justice, and redemption. These narratives are not “called for by the Mishna,” and the breadth of their themes shapes the contours of the talmudic tractate as a literary project in its own right. The stories in *Lifney 'Eydeyhem* traverse the extremes of human experience, depicting people in the throes of intimacy and of brutality, at the beginning of life and at the end, in circumstances both sublime and ridiculous. They explore historic divisions that separate Jews from Gentiles, and probe the question of whether there are ontological differences between Jews and others. They raise the possibility that the rifts between peoples are ultimately insurmountable even as they expose the common elements of matter and spirit from which all people are made. These stories locate the legal discussion governing interactions with non-Jews within a broader, open-ended exploration of what distinguishes Jews from non-Jews and of what it means to be human.

Literary analysis contributes to a consideration of ethics by illuminating how the specific forms of talmudic discourse generate a distinctive ethical vision characterized by openness, multivocality, and contingency. Despite their richness, or rather *because* of it, the stories examined here do not make ethical arguments. Read individually or as part of a complex network, they cannot be reduced to propositional statements articulating abstract values or principles. Instead, these stories—like all stories—conjure up worlds of vivid particularity, highlighting the contingencies that shape human experience. In *Lifney 'Eydeyhem*, and in the Bavli generally, there is a confluence between ethical message and literary form.

My argument about how the Bavli's narratives do ethics closely parallels Julia Watts Belser's resonant account of how the Bavli's storytelling does theology. Her characterization of “agadic dialectics” contrasts the rich multivocality of the Bavli's storytelling both to the pursuit of systematic theology,¹³⁸ and to the dialectical drive toward resolution that governs halakhic passages in the Bavli.¹³⁹ She writes:

Throughout Bavli Ta'anit, aggadic narratives give expression to a complex, multivocal theology, a theology focused primarily on articulating profound, intractable questions, a theology that resists simplistic moralizing and definitive answers. . . . While isolated narratives may assert a certain didactic principle, the Bavli often deliberately destabilizes the moral voice of the single story by juxtaposing it with others that contest and undermine its principles.

. . . I argue that readers should not regard this complex, cacophonous voice as a sign of rabbinic disregard for questions of meaning or a case of sloppy editing, but as a distinct and deliberate form of theological expression. . . . Their theological voice hangs in the unclosed questions, in the evocative, unresolved lines of rabbinic story.¹⁴⁰

Belser's observations capture the ways the very nature of the Bavli's unsettled, unresolved discourse

138 Thanks to Julia Watts Belser for sharing the manuscript of her forthcoming book *Narrative Dialectics: Ecology and Theology in Bavli Ta'anit*. For the contrast she draws between theological discourse in the Bavli and systematic theology, see 11-3.

139 See especially Belser, 13-5 and 219-22.

140 Belser, 219.

projects a distinctive vision for theology and also for the ethics of human relationship. Beyond the thematics of any individual story, the multivocality of talmudic storytelling points to an ethics that resists easy answers, that engages conflict and seeks out difference and difficulty, that balks at coercion and at generalities that lose contact with the rich particulars of lived experience.

Within the narrative material I examined in this chapter, discrete stories do not simply conflict with each other in terms of the principles they animate, or the didactic messages they convey. They directly engage each other through marked intertextual connections. This means that the “dialectics” do not arise from juxtapositions imposed by readers seeking to arrange the stories in terms of their themes, they inhere in the textuality of the texts themselves. The stories do not merely conflict, but directly oppose, invert, and even mock each other. Fart jokes deflate sacred pieties. Revenge fantasies jostle up against tales of Roman executioners summoned to the next world. Mythic depictions of a common human ancestry disrupt divisions into “us” and “them.”

As we have seen, Bakhtin's approach to the congeries of literary strategies that has come to be called “intertextuality” is especially fitting for characterizing the particular literary strategies at work in this chapter. There is an ethical aspect to the novelistic worlds that Bakhtin celebrates. His accounts of carnival and of dialogism offer a compelling vision for how certain kinds of storytelling awaken vibrant, humane worlds of freedom and equality. In his account, carnival was “the second life of the people, who for a time entered the utopian realm of community, freedom, equality, and abundance.”¹⁴¹ In much the same way, the narrative art of the Bavli projects an alternative to a philosophic “marketplace of ideas,” and also to the *shakla ve-tarya*, or “give-and-take” of halakhic dialectics. The carnivalesque feast of voices in *Lifney 'Eydeyhem* raises questions, admits complexity, and introduces laughter, passion, and conflict into the Bavli's considerations of how Jews might conduct life with other humans.

The literary art of the Bavli is multiform. In *Lifney 'Eydeyhem*, storytelling creates a sense of a beginning for the tractate as a whole by extending the contours of the talmudic conversation far beyond the discrete legal concerns of the Mishna. In other chapters of AZ, narrative, dialectic, and intertextual strategies are deployed in different combinations to different effect. As we turn now to the second chapter of AZ, *'Eyn Ma'amidim*, we will see narrative and legal reasoning closely intertwined.

Throughout AZ, the place of humanity in the cosmos is plotted on a vertical axis, as a rung in the great chain of being that descends from the supernal realm down through sentient and non-sentient forms of existence. Probing human prospects for life in the next world, the narratives of *Lifney 'Eydeyhem* portray human beings as mergings of high and low, unions of material flesh and heavenly aspiration. With *'Eyn Ma'amidim*, the focus shifts downward. Investigating the commonalities that link humans to other animals, the talmudic deliberations take up the more bestial aspects of the human personality.

141 Bakhtin, *Rabelais*, 9.

Chapter III: Jews, Gentiles and Other Animals

Confined within this catch-all concept, within this vast encampment of the animal. . . (“the Animal” and not “animals”). . . are *all the living things* that man does not recognize as his fellows, his neighbors, or his brothers.

Jacques Derrida¹

Thinking with Animals

In recent years, the academy has been over-run by animals. As critical theorists re-evaluate the central affirmations of Enlightenment and modernism, they challenge the privileged position that Western philosophy once afforded the human subject, asking “Are humans really so different from other animals?” A growing number of scholars and activists point out that humanism’s disavowal of the connections and commonalities that link humans and animals is a conceptual error that has profound ethical implications.² It is easy to see how the denial of our kinship with animals hurts animals, encouraging environmental degradation, factory farming, and other institutionalized cruelty to animals. As theorists are increasingly pointing out, our thinking about animals and the animal also has repercussions for human welfare and sociality, conditioning the way we understand ourselves as human, and shaping the ways in which we relate to others.

New scholarship demonstrates how ideas about animals and the animal lurk in philosophy, literature, and in most every humanistic pursuit. In the Talmud too, animal-thinking informs rabbinic anthropology and social hierarchies, and is perhaps nowhere more in evidence than in *’Eyn Ma’amidim*, the material that will engage us in this chapter and the next. Over the course of this chapter and the next one, I will explore the diverse ways in which cattle, dogs, snakes and other creatures creep into discussions of human relationships. New theoretical literature about animals will provide a framework for examining how the Talmud invokes animals in its treatments of relationships between Jews and non-Jews, and between men and women. I will argue that a recurrent engagement with animal helps define *’Eyn Ma’amidim* as a discrete literary unit, and I will seek to show that in setting so many creatures slithering, scuttling, and prowling through this chapter, the talmudic editors are advancing the central theme of the tractate as a whole, exploring what it means to be human.

Identifying the turn to animals in *’Eyn Ma’amidim* is part of my larger argument for reading this talmudic tractate as a coherent literary work. In the previous chapter, I read a network of stories in *Lifney ’Eydeyhem* as a sustained deliberation about what it means to be human. I argued that the emphasis on martyr-stories and these stories’ explorations of the prospects for both Jews and non-Jews

1 Jacques Derrida, *The Animal That Therefore I Am*, edited by Marie-Louise Mallet, translated by David Wills (New York: Fordham University Press, 2008), 34.

2 There is a vast and growing number of works in critical animal studies. Derrida’s lectures on animals, collected and translated in *The Animal that Therefore I Am*, are foundational in the field. Others that have influenced my thinking include Mel Y. Chen, *Animacies: Biopolitics, Racial Mattering, and Queer Affect* (Durham, NC: Duke University Press, 2012), Kelly Oliver, *Animal Lessons: How They Teach Us to Be Human* (New York: Columbia University Press, 2009), Carrie Rohman, *Stalking the Subject: Modernism and the Animal* (New York: Columbia University Press, 2009), and the essays collected in *Species Matters: Humane Advocacy and Cultural Theory*, eds. Marianne DeKoven and Michael Lundblad (New York: Columbia University Press, 2012).

to achieve the next world reflect one central aspect of the rabbis' anthropology—their belief in the existence of a soul or essence that allows for life after death. Turning now to the second chapter of *AZ*, I will show how attention to broad questions about human nature persists. While *Lifney 'Eydeyhem* explores the interplay between body and spirit, pairing vivid images of fleshly existence with narratives celebrating disembodied life in the next world, *'Eyn Ma'amidim* is unified by a recurring motif of the bestial aspects of human existence. The theme of animality is announced by the opening sugya of the talmudic chapter, and, in ways that I will point out, is then interwoven throughout the chapter's treatment of the prohibitions on Gentile wine and food.

The composition of *'Eyn Ma'amidim* generates a different methodological approach than the narrative analyses that I pursued in my reading of *Lifney 'Eydeyhem*. Though *'Eyn Ma'amidim* is only slightly shorter—it begins at the bottom of 22a and ends on 40b—it includes far less narrative material, and is dominated by legal statutes and deliberations. The literary profile of *'Eyn Ma'amidim* thus offers a far more typical sample of the Bavli's discursive make-up than the narrative-rich *Lifney 'Eydeyhem*. Here, as is typical of the Bavli, citations of legal rulings attributed to named sages are embedded within the anonymous editors' deliberations about how these rulings relate to each other, and what the rationales for them might be. The stories that do appear in this chapter tend to be brief and slight, offering glimpses of realia that serve either to illustrate legal rulings, or to complicate legal arguments. Among the contributions I hope to make in treating this chapter in particular is the demonstration of how an examination of literary devices such as word-play, recurring motifs, allusion, and other intertextual strategies can be brought to bear in reading the Bavli's so-called “halakhic” passages.

My argument will unfold in two stages, over the course of Chapters III and IV. In Chapter III, I examine the opening sugya of *'Eyn Ma'amidim*, paying special attention to the animal thinking that it entails. I propose that this carefully constructed passage introduces themes and motifs that then wend their way through *'Eyn Ma'amidim* as a whole, tying the chapter into a cohesive literary unit. Focusing on one of these themes, the depiction of women, I demonstrate how Jewish women are compared to animals, just like non-Jews are. I conclude Chapter III with some preliminary observations about how intersections of gender, religion, and species differences shape the Bavli's vision of the role of Torah in distinguishing Jews from others. In Chapter IV, my study of *'Eyn Ma'amidim* continues, as I examine the Bavli's deliberations about the prohibitions on Gentile wine and show how motifs, themes, and concepts set out in the opening sugya provide a framework for elaborating this difficult body of law. Together, Chapters III and IV offer a sustained reading of *'Eyn Ma'amidim*, and demonstrate how rabbinic thinking about animals shapes the talmudic chapter as a whole.

Creeping Suspicions (Mishna *AZ* 2:1)

My elaboration of the Bavli's art begins with an examination of the literary terrain and conceptual structures that talmudic authorities inherit from the Mishna. Warm-blooded beasts are present in the very first mishna of *'Eyn Ma'amidim*. Here is how the mishnaic chapter begins:

We do not stable cattle in the stalls of Gentiles because they are suspected of bestiality. And a woman should not be privately secluded with them (Gentiles), because they are suspected of sexual transgression. And a person should not be privately secluded with them (Gentiles), because they are suspected of bloodshed.³

³ The mishna is cited on b. *AZ* 22a, and is rendered like this in ms JTS Rab. 15:

אין מעמידין בהמה בפונדקאות של גוים מפני שחשודין על הרביעה ולא תתיחד אשה עמה מפני שחשודין על

The mishna both limits Jews' interactions with Gentiles, and offers a rationale for legislating such social distance. According to the mishna, bestiality, sexual aggression and murder are so rampant among the non-Jewish population that Gentiles can be presumed to pursue these behaviors whenever they are given the opportunity. The mishna paints a picture of non-Jewish society as being bereft of the most basic semblance of law, ethics, and decency, and depicts non-Jews as lacking all moral compunctions. Read as an index of the Jewish experience, this tradition conveys a profound sense of Jewish vulnerability. The authors present the world ruled by non-Jews as a place pervaded by danger, where men and women are as powerless as cattle.

Judgments about animals lurk within language, and this makes the task of translating the mishna's Hebrew all the more difficult. The English word “bestiality” has at least three different meanings, and each sense of the word configures the relationship between animals and people in a different way. The most straightforward definition is “the condition of being a beast,” and this sense of the word is value-neutral, and relates only to animals qua animals. A second sense of “bestiality” comes into play when it is a trait or condition imputed to human beings: implicit in this use of the word is hierarchical thinking that degrades non-human animals and characterizes them as being violent and driven by impulse. When used in this way, as a synonym for brutality, depravity, or debasement, “bestiality” is a value-laden term that implies that humans should avoid acting like animals. Finally, there is the sense in which “bestiality” is used in the translation to the mishna, as a term for a sex act between a human and an animal. This sense of “bestiality” is also colored by value judgments, since it is an act that by definition can only be committed by a human being. When animals have sex with other animals, of their own kind or even across species lines, it is not called “bestiality.” The Hebrew term used in the Mishna, *revi'a* (רביעה), has a much narrower semantic field. While it is a term that is used exclusively in relation to the prohibition on sex between humans and animals,⁴ it does not convey the range of (negative) associations with animals that are implied in the English. So as not to color my interpretations of the Bavli with the animal-thinking that inheres in English, I use the term “bestiality” exclusively in reference to sex with animals, the English equivalent of *revi'a*.

Animals are present in the mishna in two distinct ways. First, they are explicitly present in the first line, as the objects of law--the living, breathing cows, goats, and sheep who are to be protected from the violations of Gentile stall-owners. But animals are also more subtly invoked as metonymic figures for human beings, both Jews and Gentiles. I am suggesting that the mention of bestiality in the first line of the mishna is not simply one among a series of examples of non-Jewish depravity, but rather serves as a prototype. In highlighting bestiality as the cardinal example of Gentile offense, the Mishna erects a comparison between non-human animals and other mammals. Gentiles are portrayed as (sexual) predators, in contrast to Jews, who are vulnerable and non-violent, like domestic beasts.

Read in this way, this mishna exemplifies a widespread tendency to use animal discourse to characterize groups of humans. A growing critical literature examines how the subjugation of animals is intimately connected to the assertion of social hierarchies among human groups,⁵ aiding and abetting

העריות ולא יתיחד אדם עמהן מפני שחשודין על שפיכות דמים

4 In the Mishna, the term is used exclusively for sex acts between humans and animals. A male animal that has sex with a female human is designated a *rove'a* (רובע), while an animal that has been sexually penetrated by a male human is a *nirva'* (נרבע). See m. San 1:4; m. Zev 9:3, m. Zev 14:2, and m. Tem 6:1. In the Bible, though both men and women are prohibited from having sex with animals, the root רבע is only used in reference to sex between women and male animals. See Lev 18:20 and Lev 20:15-16. In Lev 19:19, however, it occurs once in the hiph'il form, where it connotes the (human) act of breeding one species of animal with another.

5 Critical scholarship on “speciesism”—the elevation of human status and humans' interests over considerations of all other species—has exploded in recent years. Derrida's *The Animal that Therefore I Am* is foundational. For many of the

the degradation of women,⁶ blacks,⁷ and other groups.⁸ So long as humanity is set in opposition to the rest of the animal world, identifying any human individual or group with animals is necessarily pejorative. As Christopher Peterson points out, “One could catalogue a seemingly endless list of examples whereby animality converges with hierarchies of gender, class, nation, ethnicity, and sexuality. The potency of the animal trope lies precisely in its fungibility, its potential as a placeholder for virtually any excluded other.”⁹ Frequently, in the long history of Jewish-Gentile relations, Jews have been vilified through comparisons to animals. In the mishna above, the animal discourse is more subtle and complicated. In accusing non-Jews of bestial tendencies, the mishna disparages the non-Jew for his affinity with animals, suggesting that he is sub-human, depraved and violent. At the same time, the mishnaic author identifies with the abjection of cattle.

Close analysis of the mishna reveals that there are a number of intersecting hierarchies at work. The three clauses are arranged in ascending order of power, with the most vulnerable objects of the law mentioned first. In this hierarchical structure, “woman” occupies a position in between cattledom and personhood:

We do not stable *cattle* in the stalls of Gentiles because they are suspected of bestiality.

And a *woman* should not be privately secluded with them, because they are suspected of sexual transgression.

And a *person* should not be privately secluded with them, because they are suspected of bloodshed.

The continuum suggests that women fall somewhere in between the categories of the human and the animal. Do women mediate between the categories of “Jew” and “Gentile” as well? How gender might intersect with all these boundaries is a question that the Bavli's discussion will prompt us to consider later.

The intersecting hierarchies encoded in the mishna align with what linguists have identified as “the animacy scale,” a hierarchy of being that is encoded within the verbal forms of many languages. In a recent work that brings animal studies into communication with queer and disability studies, linguist and queer theorist Mel Y. Chen looks to the notion of “animacy” to investigate continuities among humans, animals, and things. Chen explains that “for linguists, animacy is the quality of liveness, sentience, or humanness of a noun or noun phrase that has grammatical, often syntactic,

scholars who engage Derrida, the very insistence on a human/animal divide reinforces habits of exclusion and exceptionalism, so that oppressive structures become inescapable. This is the central claim, for example, in Kelly Oliver's *Animal Lessons*, a survey of animals in modern and post-modern philosophy. Cary Wolfe takes a similar tack in considering the world of the university in particular in “Humane Advocacy and the Humanities: The Very Idea,” in *Species Matters: Humane Advocacy and Cultural Theory*, eds. Marianne DeKoven and Michael Lundblad (New York: Columbia University Press, 2012), 27-48. Other scholars focus more narrowly on how the abjection of animals intersects with colonialism, racism, misogyny and other systems of oppression. These studies tend to examine how animal language and images are used to degrade specific groups of peoples.

6 See, for example, Martha C. Nussbaum, “Compassion: Human and Animal,” in *Species Matters: Humane Advocacy and Cultural Theory*, eds. Marianne DeKoven and Michael Lundblad (New York: Columbia University Press, 2012), 139-72.

7 See, for example, Christopher Peterson, *Bestial Traces: Race, Sexuality, Animality* (New York: Fordham University Press, 2013).

8 Chen explores the intersections of critical animal studies, disability studies, queer studies and linguistics in *Animacies: Biopolitics, Racial Mattering, and Queer Affect*.

9 Peterson, 7.

consequences.”¹⁰ Across cultures, tacit understandings about the relative animacy of a whole range of beings are reflected in language itself. Humans are at the top of this hierarchy, followed by animals, inanimates, and incorporeal nouns, and within these broad categories, there are sub-categories, so that large animals rank higher than small animals who in turn rank higher than insects. Among humans, adults prevail over non-adults; males over females; the free over the enslaved; the able-bodied over the disabled; and the familiar over unfamiliar.¹¹ Chen rejects suggestions that the cross-linguistic evidence justifies such hierarchical thinking, pointing instead to its inevitable failings, political contingencies, and conceptual leakages. In Chen's words, “Above all, I claim that animacy is political, shaped by what or who counts as human, and what or who does not.”¹²

“What or who counts as human?” is precisely the question that I address to the talmudic editors as I make my way through *’Eyn Ma’amidim*. Chen's investigations into leakages and queerings of the well-patrolled boundaries between men and women, and among people, animals, and things inform my readings. I will argue that even as talmudic law imposes strict social segregation between Jews and non-Jews, the Bavli's discussions of these laws affirm continuities among Jews, non-Jews, and other creatures. Though the Mishna promptly leaves the topic of animals behind, animals continue to figure prominently in the Bavli's deliberations--not just in the Bavli's treatment of the mishna above, but throughout the talmudic chapter as a whole.

The Opening Sugya (AZ 22b)

Questions about the moral proclivities of Gentiles, about gender differences, and about the human-animal divide surface almost immediately in the talmudic discussion. The Bavli's treatment of the mishna above thus offers rich material for my investigation of how the talmudic editors construct their vision of humanity. From the outset however, it is important to distinguish between the questions that I bring to the text, and the ones that the talmudic editors pursue. The talmudic editors engage the mishna as a statement of law, and their interrogations address the legal applications of the mishnaic dicta, not their ethical implications. To the degree that the Bavli resists and complicates the mishna's characterizations of Jews and non-Jews—and later I will argue that the Bavli does indeed do this—these challenges are subtle and indirect, and only emerge through a sustained reading of the chapter as a whole, with special attention to what hides between the lines and below the surface. Understanding the Talmud on its own terms is thus a prerequisite for an ethical reading. This is the task I set for myself in this section. Here, I plot the course of what I call “the opening sugya” of *’Eyn Ma’amidim*, the first unit of argumentation about the first clause of m. AZ 2:1, on the topic of Gentile bestiality. Because of the length and complexity of the sugya's deliberations, this section is long, but it is important. It will serve as the foundation for my argument that the opening sugya introduces concepts and themes that recur throughout the talmudic chapter.

10 Chen, 24. To be more specific, Chen explains that Michael Silverstein was the first to advance the idea of an “animacy hierarchy” noting that in many languages, case markings on nouns are determined by how “animate” they are. Chen offers this characterization of his findings: “Silverstein observed that *less* animate subjects were *more* likely to receive special ergative marking, in a kind of communicative reassurance that such types of subjects could indeed possess the agentive or controlling capacities required to do the actions provided by the verb. More animate subjects did not need this marking and could receive regular nominative (unmarked) case. His observations resulted in a suggested 'hierarchy of animacy' from inanimate to third, second, and first personhood.” Chen, 25-6.

11 Chen, 26-7. This hierarchy of humans aligns with rabbinic texts in striking ways, for example in the threefold distinctions that are honored in the Morning Blessings (b. Menaḥot 43b), in which a worshipper praises God for making him free (not a slave), male (not a woman), and Jewish (not a Gentile.)

12 Chen, 30.

The entire opening sugya is propelled by a single difficulty. There appears to be a stark contradiction between the mishna above (m. AZ 2:1—I'll call it “our mishna”), and another teaching from the Tannaim. This other teaching is a baraita which reads:

We acquire cattle from them (i.e., from Gentiles) for sacrifice, without suspicion that the animals were used sexually, were set aside (for idolatrous sacrifice), or were themselves worshipped.¹³

While our mishna asserts a presumption of bestiality when it comes to non-Jews, the baraita here makes the opposite claim, affirming that Jews may purchase cattle from Gentiles free from any concern that the Gentile owners have subjected the animals to sexual intercourse. The conflict between the two traditions seems stark: Are Gentiles under suspicion of sleeping with cattle, or not? For the baraita, the issue is a ritual concern—cattle that have been used sexually or in idolatrous worship are “tainted” and may not be used as sacrificial offerings. Though the ritual issue is moot in the talmudic era, the question of whether there is a presumption of bestiality has ongoing practical implications for the laws governing business and trade. For the editors, at least initially, this is not an ontological question about the nature of non-Jews, nor is it a moral judgment. It is a question of jurisprudence that requires legal reasoning.

The challenge of how to resolve the apparent conflict between our mishna and the baraita will occupy the Bavli for quite some time. The opening sugya is but the first attempt to resolve the problem, and the only one we will examine in its entirety. All together, the editors present four distinct strategies for reconciling the conflict between the mishna and baraita.¹⁴ Unlike the other resolutions proposed, the solution proposed in the opening sugya is not identified with any single rabbinic authority, but rather emerges from the anonymous editors' orchestration of multiple named traditions into a dialectical exchange built on questions and answers, challenges and responses.¹⁵ As the sugya begins, the editors quote the problematic baraita, and indicate precisely where the conflict lies. Their first proposal for how to resolve the problem then follows:

They throw out the following contradictory teaching: “We acquire cattle

13 The baraita is from t. AZ 2:1, and appears on b. AZ 22b. Square brackets in my translation reflect my additions. My translation does not capture the original's specification of two distinct ways that bestiality might be practiced, with the animal in either the active sexual role, or the passive one:

לוקחין מהן בהמ' לקרבן ואין חוששין לא משום רובע ולא משום נרבע ולא משום מוקצה ולא משום נעבד

14 The first pass at reconciling the mishna and baraita, which I treat here, appears on AZ 22b. An alternative resolution, attributed to Ravina, is briefly entertained on 23a. A third effort, attributed to Rabbi Pedat is introduced on 23a. A fourth attempt is attributed to Rabbi Yohanan on 24b. Following a brief consideration of Rabbi Yohanan's suggestion, the Bavli engages in some fanciful scriptural interpretation (prompted by mention of the cows who carry the ark away from the Philistines in I Samuel 6:14) before turning its attention to the second clause of the mishna at the bottom of 25a.

15 In arguing for the distinctive artistry of the Bavli, it is instructive to compare the Bavli's approach to that of the Yerushalmi (y. AZ 2:1, 40c). While many of the individual statements that appear in the Bavli appear in the Yerushalmi as well, the material is arranged quite differently. The baraita which propels the Bavli's sugya is not cited in this context within the Yerushalmi at all. Rather, the initial question that propels the Yerushalmi's discussion is how the mishna's suspicions of Gentile bestiality square with the Sages' admission of red heifers belonging to Gentiles. The sugya in the Yerushalmi most closely resembles the resolution that is attributed to Rabbi Pedat in Bavli on 23a. In Alyssa Gray's classification of the various relationships that govern the Bavli's use of the Yerushalmi, she identifies the Yerushalmi sugya as one that is appropriated by the Bavli. I would argue instead that this is an instance of what she identifies as the Bavli building “a complex sugya using some materials marked as relevant by the Y. Avodah Zarah Redactors.” See Alyssa M. Gray, *A Talmud in Exile: The Influence of Yerushalmi Avodah Zarah on the Formation of Bavli Avodah Zarah* (Providence: Brown Judaic Studies, 2005), 243-244.

from them (i.e., from Gentiles) for sacrifice, without suspicion that the animals were used sexually, were set aside (for idolatrous sacrifice), or were themselves worshipped.”

This makes good sense with regard to being set aside and to being worshipped, for if the cattle had been set aside for sacrifice [or for being worshipped], they would not sell it, but when it comes to sexual use, there is surely grounds to be suspicious!

Rav Tahlifa said Rav Shela bar Avina said in the name of Rav: A Gentile has mercy on his own cattle, so it won't become barren.

This makes sense for females, but what can one say about males?

Rav Kahana said: (A Gentile has mercy on male animals as well,) because there is a danger of depleting the animal's flesh.¹⁶

As is their wont, the talmudic editors here interpret the baraita so as to reconcile the apparent conflict with the mishna without undermining the legal force of either tannaitic tradition. How is it, they ask, that the baraita can permit a Jew to purchase a sacrificial animal from a non-Jew, given the presumption articulated in the mishna that non-Jews are under suspicion for having sex with animals? To resolve what at first seems like a glaring conflict between the tannaitic sources, the editors cite a rationale attributed to Rav that serves to highlight an important difference between the cases described by the mishna and the baraita: While the mishna relates to animals owned by Jews, the baraita relates to animals owned by Gentiles. According to Rav, the reason Jews are permitted to purchase cattle from Gentiles for sacred use, though not permitted to stable their own animals with them, is because non-Jews would not risk harming animals that they themselves own. This is the proposal that will be tested and re-tested as the back-and-forth of the dialectic proceeds throughout this opening sugya.

In the section cited above, the anonymous editors raise an initial difficulty with Rav's explanation. They point out that Rav's line of reasoning only seems relevant to female cattle, whose fertility (they presume) would be jeopardized by sexual abuse. Without this concern of material harm at stake, what is to prevent a non-Jew who owns cattle from having sex with the male animals that he owns? What can account for the baraita's leniency in permitting Jews to purchase rams or bullocks from non-Jews? To answer this challenge, the editors cite a teaching from Rav Kahana. According to Rav Kahana, sex with men is harmful to male cattle as well as to female ones, in that it weakens their flesh. The initial proposal that ownership deters bestiality among non-Jews is thus sustained.

As the sugya continues, so too does this line of questioning, as the anonymous editors successively raise challenges and resolve them. The next series of objections relates to a set of traditions relating to Gentile shepherds.¹⁷ These teachings suggest that ownership or non-ownership of

16 b. AZ 22b. In my translation, the square brackets indicate marginal notes interpolated into the text of ms. JTS, and correspond to the source material presented below. The round brackets represent my own insertions.

רמיניה לוקחין מהן בהמ' לקרבן ואין חוששין לא משום רובע ולא משום נרבע ולא משום מוקצה ולא משום נעבד בשלמא מוקצה ונעבד אם איתה דאקצייה [...] איתא דפלחיה] לא הוה מזבין ל[יה] אלא רובע ונרבע ניחוש אמ' [רב] תחליפא אמ' [רב] שילא בר אבינא משמיה דרב גוי חס על בהמתו שלא תעקר הא תינח נקבות זכרים מאי איכא למימר אמ' רב כהנא הואיל ומכחישן בבשר

17 This is not the only place in our tractate that shepherds are portrayed as unsavory characters. In other talmudic contexts, shepherds are all but synonymous with thieves. Thus on AZ 26a-b, Jewish shepherds and non-Jews together comprise the category of a person whom one is not required to save from a pit. For a brief discussion of this sugya, see my Chapter IV, page 130 below.

animals is not the only criterion that determines whether a presumption of bestiality is in effect:

[But what about the baraita that teaches, “We acquire cattle from their shepherds”?!] Should we not suspect the (Gentile) shepherd of having sex with it (since the shepherds don't own the animals they watch)?

(Even though the shepherd doesn't own the cattle,) he nonetheless fears losing his wages (should he be found out.)

But [if so that would be the case for us as well, so] then why is it that according to another teaching, “We do not put cattle in the charge of their shepherds.” [Why not?] Did you not say the shepherd would fear losing his wages (and thus would not have sex with our animals)?

They (Gentiles), who are familiar with them (the shepherds), they (the shepherds) fear. We, who are not familiar with them, they do not fear.

Rabba said: This is the meaning of the popular saying, “As the stylus cuts the stone, one deceiver¹⁸ knows another.”¹⁹

In this round of dialectic, the editors first point out that the rationale proposed above—that Gentiles do not have sex with animals they themselves own—does not accord with a baraita that permits Jews to purchase animals from Gentile shepherds. These shepherds do not themselves own the animals in their care, and yet the presumption of bestiality does not apply to them. This means that ownership is not the only instance in which the presumption of bestiality is lifted. The editors resolve this difficulty by explaining that even though the shepherds do not own the flocks and herds in their charge, they have a strong financial interest in preserving the health and safety of the animals—if they harm the animals, they will not get paid. With this slight adjustment, the rationale for permitting Jews to buy sacrificial animals from non-Jews is sustained: While Gentiles do indeed harbor bestial tendencies, they bridle these sexual urges in order to protect their financial interests.

This resolution gives rise to another difficulty, however, because just as our mishna and our first baraita appear to conflict, so too does tannaitic tradition preserve seemingly conflicting rulings about the reliability of Gentile shepherds. While one baraita allows Jews to purchase animals from Gentile shepherds, another baraita prohibits Jews from employing Gentile shepherds to watch their own sheep. The editors point out how this stricture undermines the rationale they proposed: if fear of losing their

18 In the JTS manuscript, the main text reads רגלא (*ragla*) while a marginal note provides the alternative דגלא (*dagla*). I translate דגלא which I take to be a better reading. דגלא means “deceiver” or “liar” in Aramaic, and fits well with the context, which describes how shepherds exploit Jewish ignorance in deceiving Jewish cattle-owners. This is also the reading that appears in the *‘Arukh*. Though Rabenu Hananel has רגלא, Shraga Abramson uses the *‘Arukh* to reconstruct an earlier version of R. Hananel, in which דגלא appears. See Abramson, “*Le-ḥeker Ha-‘Arukh*,” *Leshonenu* 36 (1972), 126-8. The Munich and Paris manuscripts both have רגלא, as does Rashi, who interprets it as “tale-bearer.” According to Tosafot, Rabenu Tam prefers דגלא. See Abramson for alternative explanations of רגלא and for references to this aphorism in other post-talmudic sources.

19 b. AZ 22b, ms. JTS. The round brackets in the translation are my own insertions. The square brackets indicate marginal notes that have been added to the main text in ms. JTS, as reflected below. In my translation, I rely on mss. Munich and Paris to fill in ellipses that are unreadable in ms. JTS.

[..א דתניא לוקחי' ... מרועה שלהן] וליחוש דילמא רבעה רועה [רועה] מתירא משום הפסד שכרו ...?ה?כי אן נמי] ואלא הא דתניא ואין מוסרין בהמה לרועה שלהן [אמאי לא] הא אמרת רועה משום הפסד שכרו מירתת אינהו דידיעי בהו מירתתתי אן דלא ידעי' בהו לא מירתתתי אמ' רבא הינו דאמרי אינשי מכתבא גללא בזע ורגלא [דגלא] בחבריה ידע

wages deters Gentile shepherds from sleeping with the animals of their Gentile bosses, why can't Jewish cattle-owners likewise rest assured that their animals would be safe? To address this difficulty, the editors propose that Gentile shepherds are so confident of their ability to deceive their Jewish employers, they would be undeterred from having sex with animals belonging to Jews. According to the editors, non-Jews are more circumspect with each other, because they have first-hand knowledge of the villainy of which their fellow non-Jews are capable. Jews, however, being unfamiliar with the ways of non-Jews, are far easier to take advantage of. A popular aphorism reinforces this line of reasoning: "As the stylus cuts the stone, one deceiver knows another." Stone is a substance that is hard and strong, and can only be penetrated by a tool specially engineered for etching in stone—a metal stylus. So too, it takes a special degree of "sharpness," or cunning, to penetrate the deceptions of hardened criminals. It takes a deceiver to outwit a deceiver.²⁰ The aphorism reinforces the sense of Jewish vulnerability to Gentile villainy. According to the Bavli, the guilelessness of Jews that makes them vulnerable to deception in their interactions with non-Jews. Jewish law imposes a presumption of suspicion when it comes to Gentiles because it needs to compensate for Jewish credulity. In Gentiles' own internal dealings however, their sense of mutual suspicion precludes them from acting on their worst impulses.

In the process of resolving difficulties on the legal plane, the editors here appeal to some harsh judgments of the Gentile personality. Not only are non-Jews sexually depraved (this we knew from the mishna), they are circumspect about money, cunning, and deceptive. Absent fear of economic repercussions, Gentiles will have sex with animals, and then lie about it. The Bavli offers this negative characterization of non-Jews as if it is general knowledge, as inevitable as it is obvious. The discussion of Gentile shepherds suggests that it is not just Jews who are aware of differences between Jews and Gentiles; Gentiles sense these differences too, and they take advantage of them. The particular phrasing emphasizes a strong differentiation between "Us" and "Them"—"*They*, who are familiar with them, they fear. *We*, who are not familiar with them, they do not fear." The editors here reverse the power relations in the social realm, upholding a strong partition between Jews and Gentiles, and asserting that Jews are morally superior to others.

At this juncture, before continuing with the progress of the sugya, let me offer some broad observations about the distance traversed so far. Though the topic of the mishna and baraita—bestiality—might strike contemporary readers as especially lurid, even scandalous, the talmudic editors approach this material with the same set of interpretive tools they apply to all manner of legal material, and with their typical aplomb. Their deliberations pursue well-trodden paths of talmudic discourse: they raise difficulties, then resolve them. By ferreting out differences between the cases, they are able to uphold rulings that initially seem to conflict, but are shown to govern different circumstances. This is not to say, however, that the Bavli makes no value judgements, or that its conclusions are the necessary outcomes of dispassionate analysis. They are not. Confronting a mishna that seems to judge Gentiles harshly, and a baraita that is more lenient, the editors choose to uphold the mishna's suspicious outlook, identifying the more tolerant baraita as the exceptional case. Rationally speaking, it could have gone otherwise. The sugya could have limited the force and breadth of the mishna's suspicions, using the liberality of the baraita to suggest that Gentiles are not generally in the practice of sleeping with animals, but are only to be suspected of this in certain exceptional circumstances.²¹ Here, the

20 My interpretation of the Aramaic aphorism follows the *'Arukh*. This is the sense in which the expression is understood in other commentaries as well. See Abramson, 126-8. While the aphorism has the same general sense as the saying "It takes one to know one," it has a much narrower semantic field. Appealing to the specific physical properties of styluses and stone, the aphorism offers a vivid characterization of deceivers' incisive cunning.

21 Within the world of talmudic dialectics, this is not as absurd a notion as it might sound. One could posit, for example, the remarkable sexual allure of Jewish animals. In fact, later on this page, the sugya comes close to making precisely this claim, citing a rabbinic opinion that "The cattle animals of Jews are more dear to Gentiles than their own wives."

dispassionate tropes of the dialectical discourse serve to reinforce and rationalize the more extreme of the two tannaitic claims about Gentile character. Taken individually, the mishna vilifies non-Jews, and the baraita vindicates them. As contextualized within the opening talmudic argument, the mishna and the baraita are reconciled in such a way as to be doubly vilifying: Gentiles are always to be suspected of sexual deviance and deceit, except when their financial self-interest intervenes.

Returning now to the sugya, let's note that considerations of gender enter the discussion in two distinct stages. First, as we have already seen, the editors distinguish between male and female cattle: They argue that Gentiles refrain from having sex with the female animals they own for fear of making them barren, and that they refrain from sex with their male animals so as not to weaken the animals' flesh. Having established that both male and female beasts are vulnerable to physical and material consequences following upon sexual predation by human *males*, the talmudic editors next raise the question of gender in relation to the human offenders. Do the unspecified Gentiles of the baraita, identified merely by the masculine, plural pronomial suffix “for them” (מהם) relate to Gentile men exclusively, or to the general class of Gentiles, including both men and women?²² This is the question the editors pursue as the deliberation proceeds. The talmudic editors assume that bestial sex between a woman and an animal does not physically harm the animal:

We should not buy male animals from females, for perhaps she had bestial sex [with them] on top of her.

[We can say that] since she would be scared of causing an attachment to her²³ (in the animals, she would not have sex with them, and thus we need not suspect the female Gentile of having sex with male animals, and may buy them and use them for sacrifices.)

But here is a teaching from Rav Yosef that seems to conflict: “A widow should not raise a dog, and should not keep a rabbinical student with her as a boarder.” It is easy to understand that the rabbinical student is modest (and would not boast about an affair), but as for the dog, [why not? Since] wouldn't she be scared of inciting a sexual attraction for her in him?

[There,] Since when she throws him a piece of meat, he attaches himself to her, she says (to herself that) people will say, “That one who attaches himself to her, it is because of the meat that he is so attached.”²⁴

At issue here is the question of how the baraita could permit the male animals purchased from Gentile women to be used for sacrifices, given that the rationale provided earlier—that the profit motive

22 In Hebrew, the masculine plural can refer to a group of mixed gender, or to a group that is exclusively male.

23 The JTS ms. here differs from both Paris and Munich, which read **מסריך** and not **מסריך**. Since the word **מסריך** appears a few lines down, it seems likely that this is a scribal error. **מסריך** means to form an attachment, while **מגרי** means to incite a sexual attraction. While **מגרי** thus makes for a more colorful rendering, the sense of the argument does not change.

24 AZ 22b. The round brackets are my own insertions. The square brackets represent notes that are written in the margins of ms. JTS :

זכרים מנקבות לא ניזבון דילמא מרבעא [להו] עילוה [אמרי] כיון דמ(פ)[ס]ריך בה מירתתא ואלא הא דתני רב יוסף ארמלתא לא תרבי כלבא ולא תשרי בר בי רב באושפיזא בשלמא בר בי רב צניע אלא כלבא [אמאי לא כיון] דמיגרי בה מירתתא [התם] כיון דכי שדיא ליה אומצא מסריך בתרה (אמי)[אמרה] מימר קאמרי אינשי האי דמסריך בתרה משום אומצא דשדיא ליה

neutralizes the bestial proclivities of Gentiles—is not relevant, since sexual intercourse between a human female and a male animal would not physically damage the animal. To answer this difficulty, the editors propose that Gentile women are constrained from sleeping with animals for a different reason than their men are—while Gentile men refrain from bestiality so as not to damage their property, Gentile women hold back for fear of provoking an attachment in the animals.

What exactly are the women afraid of? The Bavli does not initially tell us. It is easy to imagine that a woman might fear for her safety, having inflamed the sexual attentions of a large and powerful beast. The continuation of the argument develops another line of reasoning however, and we can only extrapolate how the Bavli understands what the woman's precise fear is by reading on a bit further in the dialectic. In the back-and-forth of the sugya, the editors present a teaching of Rav Yosef as a challenge to the proposal that fear is a sufficient deterrent to bestiality in women. According to Rav Yosef's teaching, a widow may not raise a dog, and may not take in a rabbinical student as a boarder. As understood by the Bavli, this is because Rav Yosef understands that given an opportunity, the widow—a woman with no other sexual outlet—might sleep with the dog, or with the rabbinical student, and these improprieties must be avoided. Rav Yosef's dictum represents a challenge to the proposal that fear deters female bestiality, because it presumes that lustful women cannot be trusted with animals. If the fear of awakening the attraction of animals did indeed have sufficient deterrent power, then there would not be a problem with widows keeping dogs as pets.

The editors move quickly to neutralize the challenge posed by Rav Yosef, explaining that the case of the Gentile woman who would sell her sheep, goat, or cow for a Jewish sacrifice is different from the situations Rav Yosef addresses. It is at this point in the argument that the editors for the first time reveal how they construe the precise fear that constrains women's bestiality: This fear is not, we discover, a fear of physical harm, but rather a fear of social exposure. For the Bavli, the important difference between Rav Yosef's teaching and the baraita relates to the likelihood of a woman's sexual liaisons being discovered. In the case of Rav Yosef's rabbinical student, a widow could sleep with her young boarder with impunity, trusting that the young man would be discreet and not kiss-and-tell. This is why she is not permitted to have such a close-mouthed boarder. Similarly, if the widow kept a dog as a pet and then had sex with it, inflaming a passionate attachment in the canine, it is unlikely that the impropriety of her sex act would ever be exposed—one who witnessed the dog's attachment to the widow would likely assume it resulted from the meat that she fed him—and this is why the widow cannot be allowed to have a pet dog.²⁵ When it comes to cattle however, the logic behind Rav Yosef's rulings does not apply: Cattle animals are different from dogs, in that their attachment to human women could not so easily be explained away. Rav Yosef's dictum—at least as the Bavli understands it—serves as the key to understanding that the fear that restrains the Gentile woman from taking her male animals to bed is not a fear of physical harm, but rather a fear that the bestial acts might be discovered. The force of the talmudic argument is to suggest that if Gentile women were to sleep with their cattle, there would be some indication of this in the animals' behavior. Gentile women can thus be presumed to refrain from sleeping with their cattle, because they do not want to be found out. The Gentile woman's fear of inciting a sexual attachment in her animals is a fear of exposure; this concern inoculates her from acting on her bestial impulses, and ensures that her cattle are kosher for sacred use by Jews.

To sum up: By this point in the argument, the editors have effectively defended the rationale they proposed for the baraita, demonstrating that despite the mishna's considered suspicions of Gentiles' sexual proclivities, Jews may nonetheless be confident that the animals they purchase from non-Jews—from both men and women—have not been used sexually. In the cases of both men and

²⁵ There is a parallel discussion in b. BM 71a, where Rav Yosef's dictum is raised in the context of a discussion about whether proselytes and women may own slaves. I will examine this text and its implications below.

women, the talmudic editors propose that the bestial impulses that the mishna imputes to Gentiles are attenuated by social considerations. Gentile men are hemmed in for economic reasons, and do not sleep with their cattle for fear of damaging them physically and thereby diminishing their financial worth. Gentile women are motivated by considerations of reputation and social status, and do not sleep with animals for fear of being found out.²⁶ Gentile women, the Bavli suggests, know that bestiality is wrong, and even if they are insufficiently virtuous to refrain from such behavior in privacy, the prospect of being exposed provides sufficient motivation to hem in their deviant impulses. Relative to the men, Gentile women are here granted some measure of social delicacy and good taste.

It is at this point in the sugya, as the editors address gender differences, that they for the first time suggest that the differences between Jew and Gentile, between “Us” and “Them,” are not absolute. Gentile women are not quite as unscrupulous as their men, and neither are Jewish women quite so virtuous as Jewish men are. The suggestion that Jewish women are not beyond reproach is not explicit, but it is the clear implication of the editors' insertion of Rav Yosef's dictum. As a parallel passage from b. Bava Metzi'a 71a makes clear, the widow whom Rav Yosef addresses is not a Gentile woman, but a Jewish one. Though the explicit task of the talmudic passage is to provide a rationale for limited relations with Gentiles, the Bavli editors here appeal to a teaching that in itself has nothing to do with Gentiles—it is a teaching about Jewish women. With the entrance of women into the talmudic discussion, the partition between the category of Jew and Gentile begins to leak. The Bavli introduces a specter of suspicion that the Mishna does not anticipate—that it is not only Gentiles who have bestial tendencies, but Jews as well. If Jewish widows need be protected from their own pet desires, rabbinic anxieties about intercourse between people and animals apparently lie closer to home than the mishna indicated. Are Jewish women subject to the same animal drives that the mishna attributes to Gentiles? As the sugya continues, the editors raise this question explicitly. First though, they must account for one remaining permutation of Gentile-animal liaison they have not yet addressed:

Regarding female (cattle) with female (Gentiles): What is the rationale for not leaving them alone together?²⁷

Mar Ukva bar Hama said: “Because Gentiles can be found visiting the wives of their friends, and on occasion when one does not her in, he might have sex with an animal.”

Alternatively, I could say: Even if he finds his friend's wife in, he will nonetheless have sex with the cattle of a Jew, which he prefers, as a master has said: “The cattle of Israel are dearer to them than their own women,” for as Rabbi Yonanan has said, “In the moment that the serpent came upon Eve, he left his filth within her.”

26 This raises the question of whether the editors assume that there are gender differences among cattle. Perhaps the male animals that women might sleep with are taken to be more sexually excitable than female animals would be. Because Gentile male cattle owners have already been released from suspicion earlier in the argument, this is not something that the sugya directly addresses. There is, however, a subtle distinction made here with respect to human gender in that the bestial acts of men and women are characterized differently: Human men physically harm animals during bestial sex, while human women inflame animals sexually. The men are depicted as violent assailants, while the women are depicted as coquettes.

27 As Naomi Seidman points out to me, the language of “leaving them alone together” (מיחדין) already bespeaks the possibility of a sexual union. Even though the sense of the argument denies that female on female bestiality is a concern, the language here suggests otherwise.

Israel, in standing at Mount Sinai, had their filth cease. Gentiles, who did not stand at Mount Sinai, did not have their filth cease.²⁸

The final permutation of Gentile-cattle coupling that the sugya addresses is the case of a Jewish-owned female animal left in the care of a female Gentile. The editors' heteronormative presumption is that there is no potential for sexual dalliance between females, and so there is no apparent rationale for the mishna to prohibit the stalling of a cow, nanny-goat, or ewe in barns owned by a Gentile woman. Why, then, does the prohibition govern this case as well? The Bavli explains that the threat in such cases stems not from the Gentile woman who operates the stalls, but rather from Gentile men who might come around. The sugya offers two alternative rationales, painting a picture of Gentile masculinity which goes from bad to worse. According to the first account, the problem is that Gentile male sexuality is promiscuous and rapacious. Gentile men frequently seek out sex partners outside the bounds of marriage. If a Gentile man comes to a Gentile woman for sex and does not find her at home, he could very well seek sexual satisfaction with a female animal on the premises instead. The alternative rationale is even more extreme, alleging that bestial desires are the norm, and not the exception for Gentile men: a non-Jewish man might seek out cattle for sex even if a human female is available. Rav's hyperbole about the superiority of Jewish animals to Gentile women is a potent example of rabbinic swagger, as he simultaneously casts aspersions both on the sexual allure of Gentile women (less attractive than cattle), and on the moral character of Gentile men (they like to sleep with animals.) His statement is an invitation to return to the opening assertion of the mishna, the claim that bestiality is prevalent among Gentiles. As this unit of argumentation—the Bavli's first pass at reconciling the mishna and baraita—approaches its end, it grounds the mishna's allegation in biblical myth, tracing the bestial compulsion of non-Jews to an original liaison between Eve and the serpent in the Garden of Eden.

In Rabbi Yohanan's retelling of the Genesis story, the snake seduces Eve, and copulates with her. This is a striking revision of the biblical story, in which there is no sex between Eve and the snake, but only a verbal interaction in which the snake persuades Eve to transgress the divine command not to eat a certain fruit. The biblical story is rich with sexual innuendo, however, and the Bavli's editors were heirs to interpretive traditions that depict the snake in sexual terms.²⁹ The suggestion that Eve's error is indelibly inscribed in the human make-up, that she contracted a “filth” that is passed on through the generations, resembles Christian ideas of original sin. The innovation of Bavli here is to identify Eve's original sin not with lust generally, but with bestiality in particular. Rabbi Yohanan's statement not only promotes bestiality as the cardinal perversion among the whole array of sexual prohibitions in biblical law, it identifies bestial desire as somehow constitutive of humanity from the beginning. The insertion of primordial myth into the talmudic discussion raises the stakes of the talmudic argument, broaching the possibility that the behaviors under discussion should not be seen as individual lapses or even as

28 b. AZ 22b, according to ms. JTS. The round brackets are my own insertions.

נקבות אצל נקבות מאי טעמ' לא מיחדין אמ' רב עוקבא בר חמא מפני שהגוים מצויין אצל נשי חבריהן פעמים שאינו מוצאה רובעה ואיב' אימא אע"פ שמוצאה רובעה בהמת ישראל עדיפא ליה דאמ' מר חביבה עליהן בהמתן של ישראל יותר מנשותיהן דאמ' ר' יוחנן בשעה שבא נחש על חוה הטיל בה זוהמא ישראל שעמדו על הר סיני פסקה זוהמתן גוים שלא עמדו על הר סיני לא פסקה זוהמתן

29 Gary A. Anderson identifies a Christian apocryphal work from the second century, the Protevangelium of James 13:1, as the earliest text in which the serpent is imagined having sex with Eve. It is unclear if this could be the origin for the idea in the Bavli. There are other late Jewish texts in which the snake and Eve have sex—Targum Pseudo-Jonathan and Pirkey de-Rabbi Eliezer—but the difficulty in determining their provenance makes the direction of influence—if there is any—difficult to gauge. See Anderson, *The Genesis of Perfection* (Louisville: Westminster John Knox Press, 2001), 90-2. The Rabbi Yohanan tradition appears elsewhere in the Bavli, in Yevamot 103b and Shabbat 146a; ours is the only talmudic context in which bestiality is a theme within the surrounding discussion.

broad-scale failures of Gentile society, but rather as expressions of the essential human make-up. In this reading of the Genesis story, sexual desire for animals becomes the defining feature of Eve's progeny, an indelible stain on the human personality.

Now the editors must explicitly address the prospect that arose obliquely in the discussion of Jewish widows and their dogs above: Does bestial desire afflict Jews as well as Gentiles? Having provided an etiology that traces the bestial impulse back to the mother of all human life, this would seem to be the inescapable conclusion, and yet the editors protest that this is not the case. Reaching once again into the mythic past, they explain that the revelation at Mount Sinai neutralized the effects of Eve's sin. Torah counter-acts the base bestial impulse that characterizes humanity in general.

With the citation of R. Yohanan, the Bavli magnifies the Mishna's suspicions of Gentiles, suggesting that bestial desire is a constitutive element of the Gentile personality. But that is not all this passage does: The allegation of an original act of bestiality raises the possibility that some children of Eve are not the legitimate children of Adam, but were rather spawned by the serpent.³⁰ The revision of scripture thus gives narrative expression to the mishna's implication that Gentiles have an affinity with animals, raising the possibility that some humans are attracted to beasts because they come from beasts. While this allegation is not spelled out, I would argue that it is tacitly implied, and that the earlier discussion of Rabba's folk aphorism, with its suggestion that "It takes one to know one," primes us to make precisely this inference. At this point in the sugya, three distinct outlooks on non-Jews' relationships with animals are being held in the balance: 1) Non-Jews are literally attracted to animals; 2) Non-Jews are figuratively compared to animals; 3) Non-Jews are genetically descended from animals. Whether we choose to follow Rabbi Yohanan's re-written scripture to its logical conclusion or not, the tradition effectively attenuates the differences between (non-Jewish) humans and other animals. It might not be too extreme to say that for the editors of this passage, the intervention of Torah separates God's select from the mass of humans who would count dogs, sheep and snakes among their kith and kin.

Once again, I would like to step back, and note how the passage joins rational analysis with grotesque imagination. On the one hand, the legal dialectics are clear and well-argued: By this point in the sugya, the editors have successfully demonstrated that the baraita and the mishna are entirely reconcilable, in every permutation, and in doing so, have left open the possibility for dealing with Gentile cattle-sellers. At the same time, however, the passage's claims are extreme. The sugya imposes rational analytics onto content that is sodden with chauvinistic notions and taboo sex fantasies. As this unit of argumentation comes to a close, it culminates with two images that are even more lurid. The prompt for their inclusion is a well-reasoned question about how far the mishna's legislation extends: Does the presumption of Gentile bestiality extend to fowl as well as cattle? The answer strays into the realm of the pornographic:

It was asked of them: What is the law for fowls?
Come and hear what Rav Yehuda said that Shmuel said in the name of
Rabbi Hanina: "I saw a Gentile buy a goose [from the market], have sex
with it, strangle it, roast it, and eat it."
[Similarly,] R. Yirmiya of Difti said: "I saw an Arab who bought a flank

30 The suggestion seems less outlandish in light of a folk tradition which traces a wicked race of women to ancient acts of bestiality between Noah's sons and his animals. Dina Stein reads this folktale as a response to tensions and suggestions that inhere within the structure of the scriptural story of Noah. See Stein, "Noah, His Family, and Other Animals" (Hebrew), *Mirkamim: Tarbut, Sifrut, Folklor Le-Galit Hazan-Rokem*, eds. Hagar Salamon and Avigdor Shinan (Jerusalem: ha-Makhon le-mada'ey ha-Yahadut, Hebrew University, 2012), 1-20. I thank her for sharing the paper with me.

of meat from the market, cut into it so as to have sex with it, had sex with it, roasted it, and ate it.”³¹

The editors answer the legal question about fowl in the affirmative, but only indirectly, as they provide Rabbi Hanina's eyewitness account of Gentile bestiality. Given that rabbinic memory records a known instance of a Gentile having sex with a goose, it would seem that non-Jews can no more be trusted with birds than with cattle. For the purposes of deciding the law, it would have been enough to know that sexual liaisons between Gentiles and fowl do occur. Here, however, the report conveys much more: the Gentile in question not only has sex with the goose, he kills it, cooks it, and eats it afterward. The vividness of R. Hanina's narrative account exceeds the statement's dialectical function within the argument, and the effect of this cascade of details is to press the gross factor, confirming and extending the passage's degradation of Gentiles. R. Hanina's testimony depicts a non-Jew (or *the* non-Jew) contorting all semblance of human civilization, dissolving the fundamental norms of social behavior into a carnivorous carnality that cannot distinguish between sex and food. Astonishingly, however, before the sugya comes to its end, the editors provide yet a more extreme example of Gentile depravity. The inclusion of R. Yirmiya's statement does not answer any question or challenge posed for dialectical purposes, but rather reflects the logic of one-upmanship. R. Yirmiya's story exceeds even the excesses of R. Hanina, so that the sugya culminates in the rabbinic equivalent to a rhetorical game of “What's grosser than gross?” The chief difference between R. Yirmiya's account and that of R. Hanina's is that R. Yirmiya's offender copulates with meat that is already dead. (Count the taboos: necrophilia and bestiality!) The repellant power of the image reverses the logic of contemporary pornography, which imagines women's bodies as meat; here meat is imagined as sex object.³² As the opening sugya draws to a close, it moves from myth to the marketplace, offering eyewitness accounts to corroborate allegations about the moral debasement of non-Jews.

We have now worked through the basic moves of the talmudic chapter's opening sugya. Over the course of this passage, we can trace two different trajectories that move in different directions. On the surface, the editors offer a legal argument, propelled by claims and counter-claims, and organized around a central question about how to reconcile two conflicting legal traditions. The force of this argument is to carve out a space for a limited range of transactions with non-Jews—the purchase of their animals for sacrifices—despite a general principle of separation and suspicion. But even as the back-and-forth of this legal reasoning proceeds, another kind of argument unfolds through images and innuendo. Beyond and beneath the legal analysis, the bits and pieces of dicta, narrative, and inherited tradition assembled by the editors make a case for Gentile depravity that is deep and broad—so broad, in fact, that it implicates not only Gentiles, but the ancestors they share with Jews, and perhaps even some categories of Jews as well. In the next section, it is this level of argumentation I engage, as I explore what the discussion of bestiality might have to teach us about how the talmudic editors understand relationships between between Jews and Gentiles, and between humans and other animals.

31 AZ 22b. The square brackets mark marginal notes in the JTS ms:

איבעיא להו עופות מהו תא שמע דאמ' רב יהוד' אמ' שמואל משום ר' חנינא אני ראיתי גוי אחד שלקח אווז [מן השוק] רבעה חנקה צלאה ואכלה [אמ' ר' ירמיה מדפתי אני ראיתי ערבי אחד שלקח ירך אחד מן השוק וחקק בה כדי רביעה רבעה צלאה ואכלה

32 For a parallel to R. Yirmiya's tradition in contemporary literature, see Philip Roth's *Portnoy's Complaint*, where the adolescent Portnoy has a similar experience with a piece of liver.

Jews, Gentiles, and other Animals

In reviewing the basic moves of the first unit of dialectic above, I made some preliminary suggestions about how ideas about gender and animality creep into the Bavli's treatment of Gentile difference. Now I delve deeper, and unpack those ideas. Examining the opening sugya's thoroughgoing engagement with bestiality, I am guided by a set of questions that Wendy Doniger raises in her cross-cultural analysis of myths recounting trysts with animals (or with gods and humans masquerading as animals):

What is animal? What is human? Where (if anywhere) is the line between them? Is sex most deeply human or most deeply animal? Where on the continuum between human and animal do we locate our longings and fears? How do different cultures, classes, genres, periods, valorize some possibilities and constrain others?³³

These are the questions that animate my consideration of *'Eyn Ma'amidim*. My overarching argument is that ideas about the animal nature of non-Jews, women, and other humans skulk beneath the surface of this entire talmudic chapter's legal discussions, and coil around most every account of interpersonal encounter.

I find in this opening sugya the rudiments of a theory of human animality, an outlook on the nature of the human personality, on sex and gender, and on Jewish-Gentile difference that emphasizes continuities between human beings and other species, even as it distances Jewish men from other humans. I will not attempt to argue that this mode of thinking characterizes rabbinic thought generally, or even that it typifies the views of the Bavli's editors—such claims would require analysis of a much broader sampling of texts. I will seek to show, however, that this opening sugya sets out an understanding of human relations and difference that informs this talmudic chapter as a whole. Moreover, elucidating the particular outlook suggested in this sugya offers a discrete, heuristic benefit: Beyond the inherent interest of any investigation into human self-understanding, and beyond any specific ethical insights that emerge, this exercise will help us address interpretive difficulties that emerge later in *'Eyn Ma'amidim*, in the discussion of Gentile wine.

Even as I frame my inquiry in terms of the relation between the human and the animal, I am attentive to the poststructuralist critique which not only challenges the binary “human versus animal,” but seeks to deconstruct the term “animal” altogether. The problem with the concept of “the animal” is captured succinctly by Derrida in the passage which I've chosen as the epigraph for this chapter:

Confined within this catch-all concept, within this vast encampment of the animal, in this general singular, within the strict enclosure of this definite article (“the Animal” and not “animals”), as in a virgin forest, a zoo, a hunting or fishing ground, a paddock or an abattoir, a space of domestication, are *all the living things* that man does not recognize as his fellows, his neighbors, or his brothers. And that is so in spite of the infinite space that separates the lizard from the dog, the protozoon from the dolphin, the shark from the lamb, the parrot from the chimpanzee, the camel from the eagle, the squirrel from the tiger, the elephant from the cat, the ant from the silkworm, or the hedgehog from the echidna.³⁴

33 Wendy Doniger, *The Bedtrick: Tales of Sex and Masquerade* (Chicago: University of Chicago Press, 2000), 127.

34 Derrida, 34.

In this passage, Derrida points out that to speak about “the animal” is to speak about our understanding of what it is to be human. The very conceptualization of the animal is an act of human self-definition which both denies the vast diversity of the animal world and renounces humans' complex and variegated interactions and similarities with other species. Derrida thus alerts me to a violent prejudice and a lack of sympathy that lodges in the very language that I bring to the talmudic text. This prejudice is the heritage of Western thought, as Derrida points out.³⁵ One question that his critique prompts me to consider is to what degree does this same prejudice inhere in the Bavli, as well?

Turning back to our sugya, we find that while the passage is crawling with cattle, dogs, and snakes, in fact there is no one general term used here corresponding to the concept of “animal.” The mishna introduces the word *behema* (בהמה), a term that I consistently translate as “cattle,” to designate domesticated species of mammal that belong to the herd and farm: cows and oxen, sheep and goats.³⁶ A wild animal is not designated as a *behema*, but rather as a *haya* (חיה).³⁷ An animal companion such as a dog would not be considered a *behema* either.³⁸ The way rabbinic language organizes the animal world is one hint that rabbinic culture attends to the diversity of animal life in a way that Western thinking generally does not (at least according to Derrida). This might be explained, in part, as a legacy of biblical law, in which the classification of animals is central to both dietary restrictions³⁹ and to sacrificial law.⁴⁰ Elsewhere in the Bavli, we find traditions that penetrate beyond the taxonomies that organize ritual law and engage the distinctive traits of individual species. For example, in b. ‘Eruvin 100b, Rabbi Yohanan famously looks to diverse species' behaviors as models for social and sexual comportment: “If the Torah had not been given, we could have learnt modesty from the cat, the laws of theft from the ant, sexual interdictions from the dove, and good manners from the cock, who first coaxes (his mate) and then has sex.”⁴¹ Here, the Bavli expresses reverence for other animals as exemplars of natural law.⁴² Sensitivity to animal diversity animates the rabbinic imagination, providing

35 He traces the patrimony of this prejudice “from Aristotle to Lacan, and including Descartes, Kant, Heidegger, and Levinas” on 32, then treats each of these thinkers individually in the continuation of the work.

36 m. AZ 1:6 distinguishes between large *behema* (בהמה גסה), cows and oxen and possibly horses, and small *behema* (בהמה דקה), sheep and goats.

37 b. AZ 16a distinguishes between *behema* (בהמה) and *haya* (חיה), and further between large and small species of each. See also m. AZ 1:7, which specifies “One doesn't sell them bears or lions” without using a general term.

38 These distinctions among categories of animals can be fruitfully analyzed in light of anthropologist Edmund Leach's taxonomy of animals in which some are considered “too close” for eating, while others are considered “too far.” See Edmund Leach, “Anthropological Aspects of Language: Animal Categories and Verbal Abuse,” in *Reader in Comparative Religion: An Anthropological Approach*, 4th Edition, ed. William A. Lessa, et al (New York: Harper and Row, 1979), 153-66, and especially the chart on 159. For an investigation of the realia of pet-keeping among Jews in antiquity, and a survey of classical Jewish sources about dogs, see Joshua Schwartz, “Dogs in Jewish Society in the Second Temple Period, and in the Time of the Mishnah and Talmud,” *Journal of Jewish Studies* 55/2 (2004): 246-77.

39 For a classic account of how the dietary restrictions reflect a taxonomic system that expresses the cosmology of ancient Israel, see Mary Douglas, *Purity and Danger* (New York: Frederick A. Praeger, 1966), 41-57.

40 Jonathan Klawans points out that the laws of animal sacrifice in ancient Israel are under-theorized, and that much of the scholarship on sacrifice suffers from an evolutionist and/or supersessionist bias. This means that there are few scholarly treatments that engage the details of ritual procedures or their symbolic meanings. For a review of the scholarship on sacrifice, and an attempt to read sacrifice as a symbolic system, see Klawans, *Purity, Sacrifice, and the Temple: Symbolism and Supersessionism in the Study of Ancient Judaism* (Oxford: Oxford University Press, 2006).

41 ‘Eruvin 110b. Munich 95 reads:

א"ר יוחנן אלמלא לא ניתנה תורה למדנו צניעות מחתול וגזל מנמלה ועריות מיונה ודרך ארץ מתרגוגל שמפייסה
אחר כך בועל

42 R. Yohanan's tradition can be fruitfully compared to the talmudic discussions of the Noahide laws that I examined in Chapter I. Here, animals exemplify the very practices that elsewhere in the Bavli are shown to trip up non-Jews.

a rich store of metaphors.

R. Yohanan's appreciation for animal sex in 'Eruvin makes for a stark contrast with our sugya's account of sex acts between people and animals. Implicit in the transgressive nature of bestiality is a strong boundary separating humans from all other species. Even though the Bavli lacks an overarching term for "animal," I submit that the fact that the discourse in our sugya moves so swiftly and organically from a discussion of sex with cattle to a discussion of sex with dogs and from there to an interpretation of Eve's encounter with the snake suggests that there is some broader category, some underlying conceptual thinking at work here. Cattle, dogs and snakes are linked through their participation in that certain species of sexual transgression that the English language calls "bestiality" and that the Bavli sometimes names "*revi'a*" (רביעה), and sometimes simply illustrates through example. The flow of the talmudic argument that connects all these sexual transgressions indicates that the editors do have a clear notion of a line that not only separate humans from all other species, but also encloses all other species in a single category. The Bavli's discussion of bestiality designates that boundary in its breach.⁴³

I would argue that what distinguishes the Bavli both from the Western tradition of humanism that Derrida critiques and from the critical animal studies that follow in Derrida's wake is that it shows little interest in either protecting the boundary between humans and other animals, or in protesting it. The editors of the Bavli are not humanists, and they are not post-humanists. They keep sentry over another borderline far more vigilantly than they guard the human-animal divide, and that is the boundary separating Jews—and Jewish men, in particular—from all others. Continuities among beasts, Gentiles and women are self-evident to the talmudic editors, and this breadth of animal experience serves as the backdrop for promoting that which distinguishes Jewish males. While the Bavli thus escapes the "speciesism" that plagues Western philosophy, it does so by promoting an andro/ethnocentrism that will nonetheless make many contemporary readers squirm.

In the opening sugya, the coincidence of sexual themes and animal themes means that even as animals are sexualized, sex is "animalized." Gentile men, Gentile women, and Jewish widows are all characterized as being lascivious and broadly promiscuous: Gentile men are accused of frequenting other men's wives, as well as cattle; Gentile women would sleep with cattle if only they could keep it a secret; Jewish widows cannot be trusted to be left alone with dogs or male boarders. In all these examples, even when intra-human relations are being described, sexuality is depicted in terms of aggression and pursuit, and as an expression of unbridled impulse. The denigration of sex comes through most powerfully in the passage's allusion to the story of Eve, which re-imagines the biblical story so that the first and quintessential human offense against God is not disobedience, nor even the discovery of carnal knowledge in general, but rather bestial sex in particular. Inserting this specific offense into the mythic story of human origins, the Bavli here suggests that all human sexuality is somehow tainted, and more than this, that the filthiness of human sex is precisely its connection to animals. In the opening sugya, whenever humans pursue sex, they are turning away from God and cleaving to the animal.

To be sure, this characterization of sex is not the outlook one generally finds in the Bavli, where sex is affirmed as a realm of both pleasure and religious obligation.⁴⁴ The only explanation I can offer

43 Derrida points out the paradox whereby "bestiality" is within the exclusive purview of human beings: "One cannot speak—moreover, it has never been done—of the bêtise or bestiality of an animal. It would be an anthropomorphic projection of something that remains the preserve of man, as the single assurance, finally, and the single risk of what is 'proper to man.'" See Derrida, 41. His comment refers to what I identify above as the second meaning of the word "bestiality," in the sense of debasement or brutality, but it applies as well to acts of *revi'a*, the third sense of "bestiality." For the Bavli, whenever humans and other animals have sex, the human bears responsibility.

44 See the juicy texts collected and analyzed in Daniel Boyarin, *Carnal Israel: Reading Sex in Talmudic Culture* (Berkeley: University of California Press, 1993).

is that the degradation of sex here is a consequence of the xenophobia (expressed through speciesism) that is the foremost theme of the passage. Martha Nussbaum argues that one effect of denying one's kinship with animals is to distort relationships with one's fellow humans.⁴⁵ Here, the effort to distinguish Jews from non-Jews contorts and constrains the Bavli's depiction of human sexuality, narrowing the focus to sex that is debasing. The very focus on sex—an area of life that is common to animals, Gentiles and Jews—means, however, that the effects of this debasement are scattershot. Not only non-Jews are degraded, but Jews as well. As I pointed out in my analysis above, there are two points within the sugya where the possibility is raised that not only Gentiles, but also Jews are implicated in bestial desire. The possibility first emerges implicitly with the citation of Rav Yosef's ruling that Jewish widows may not keep dogs as pets. Later in the passage, the question of Jewish bestial desire is raised explicitly with regard to the common human heritage from Eve. Like a man who calls his own brother a son of a bitch, this sugya alleges that all the children of Eve are like animals, and then must contend with what this means for Jews, who are, after all, part of the human family. Because of the clear implications of Rav Yosef's dictum, and because of the association of Eve with womankind, the editors are far more effective in silencing the suggestion of bestial sex with respect to Jewish men than with regard to Jewish women. Bestial desire thus emerges as a point of contiguity between Jewish women and non-Jews, highlighting the distinctive claims the Bavli here makes on behalf of Jewish masculinity.

The editors of this sugya endow Jewish men with a distinctive sexual virtue—modesty—in their discussion of Rav Yosef's ruling. According to the peculiar logic of the sugya, however, “modesty” does not mean refraining from having sex, but merely from talking about it. This is, to be sure, not the usual understanding of the term, and the strangeness of the interpretation makes the reasoning in this part of the sugya seemed strained. But this is not the only context in the Bavli where Rav Yosef's teaching is cited, and the parallel discussion in Baba Metzia 71a not only confirms this reading, but also strengthens it. In Baba Metzia, Rav Yosef's dictum is cited in the context of a discussion about whether proselytes and women may own slaves. The following proposition is made: A Jewish woman may own male Canaanite slaves, but may not own a Hebrew slave. Here is the rationale: Because the Hebrew slave is modest (צניע), and would not divulge a sexual liaison, he may *not* be bought by a woman, for fear that she would sleep with him, undeterred by any concern that the affair would be exposed. The Canaanite slave is licentious (פריץ), however, and so he is permitted to be purchased by the woman, because her fear of being exposed will restrain her from sleeping with him. It is at this point in the discussion, that Rav Yosef's dictum is raised as a challenge: The editors analogize Rav Yosef's modest rabbinical student to the modest Hebrew slave, and Rav Yosef's pet dog to the Canaanite slave, and ask why the dog should *not* be allowed to a widow—surely fear that the dog would expose the widow's impropriety would deter her from taking advantage of the dog, in the same way that she is restrained from making advances on the Canaanite slave by her fear that he will kiss and tell? In response to this challenge, the editors offer precisely the explanation we saw in our sugya above, namely, that the widow could lead others to believe that the dog's attachment to her stems from his interest in the meat she feeds him, and not from a sexual attraction.

While the two talmudic passages read Rav Yosef's statement in similar ways, the Baba Metzia passage makes explicit that which remains implicit in AZ, namely, that Jewish men are distinguished from others by a particular quality of restraint. In both passages, the rabbinical student is identified as “modest” (צניע); in Baba Metzia, this quality is assigned to the Hebrew slave as well, in contrast to the Canaanite who is characterized as “licentious” (פריץ). But the “modesty” of the Jewish male is illustrated in a way that does not relate to sexual abstinence, per se. It is apparently presumed that every

45 Nussbaum, “Compassion,” 159-61.

male, whether Canaanite or Jew, whether human or animal, will engage in sex with a woman who makes herself available. The salient question in both talmudic treatments is not whether a man (or animal) will accept a woman's sexual advances, but rather whether having slept with her, he will publicize it afterward. The difference between the Jew and the non-Jew is not that one resists sexual temptation more effectively than the other—neither can be expected to do that, apparently—but rather that the Gentile will talk about his dalliances, while the Jew keeps mum. Note how the logic of the sugya shifts the focus from the likelihood of transgression, to the likelihood of being found out. The paired terms “modest” and “licentious” are effectively transposed from the realm of sexual behavior to the realm of verbal behavior, so that the “modesty” of the Hebrew slave (in BM 71a) or the rabbinical student (in AZ 22b) does not bespeak sexual restraint, per se, but rather verbal reticence. The virtue that these passages valorize and associate with Jewish men (BM 71a), and with rabbis in particular (AZ 22b), is not sexual continence, but rather verbal restraint.

The verbal restraint attributed to Jewish men is not unconnected to the animal, because there is a long history of identifying language as a trait that distinguishes humans from beasts, both in the Western philosophic tradition, and in rabbinic culture. This broadly held idea is conveyed succinctly in a comment in Genesis Rabbah:

Rabbi Yehoshua said in the name of Rabbi Hananya, the rabbis said in the name of Rabbi Elazar:

God created within the human four traits from above and four from below.

From below, he eats and drinks like an animal, reproduces like an animal, eliminates like an animal, and dies like an animal.

From above, he stands like the ministering angels, speaks, understands, and sees like the ministering angels.⁴⁶

This teaching imagines the human as a being that mediates between the divine realm and the animal world, partaking of the material, biological existence of animals, but also participating in a higher world of abstraction, perception, language, and cognition. It is this image of a continuum of existence extending from the divine world down into the world of animals that lies behind our sugya,⁴⁷ but in our sugya it is subjected to subtle re-calibrations. The Bavli editors refract the category of the human through the prism of gender and again through the prism of Jewishness so that the very features that conventionally distinguish humanity from the beasts are here used to distinguish Jewish males in particular from other human beings.

Our sugya puts control over language within the exclusive domain of the male Jew. In an interesting inversion of the trope that privileges speech as the distinction of humanity, here the distinguishing virtue of the rabbinical student, his command of language, is expressed through a deliberate reticence. On the chain of being that climbs from the animal to the angelic, women and Gentiles crouch toward the beasts, while Jewish men alone cling to the higher rungs. While all the

⁴⁶ Genesis Rabbah 14:3, Theodor-Albeck, 128:

ר' יהושע בשם ר' חננה רבנין בשם ר' אלעזר ברא בו ד' בריות מלמעלן וארבע מלמטן, מלמטן אוכל ושותה כבהמה פרה ורבה כבהמה מטיל גללים כבהמה ומת כבהמה, מלמעלן עומד כמלאכי השרת ומדבר ומבין ורואה כמלאכי השרת

⁴⁷ For a magisterial account of how the concept of “the great chain of being” emerged from a merging of Platonic and Aristotelian ideas and came to organize Western philosophic thought, see Arthur O. Lovejoy, *The Great Chain of Being: A Study of the History of an Idea* (Cambridge, MA: Harvard University Press, 1936). This continuum of existence also corresponds to the animacy scale that linguists have identified as being built into language. See Chen, 26-7.

human characters in our opening sugya are sexual beings, some humans' sexuality bespeaks proximity to animals more than others. Our sugya thus effectively cleaves apart the double inheritance that imparts to the human being equal parts of the higher and lower realms, emphasizing human proximity to animals in relation to Gentiles and to women, while attenuating that proximity for Jewish men by emphasizing the rabbinical student's power over language.⁴⁸ The editors of our sugya don't so much re-draw the boundaries of exclusion as re-name them, so that Jewish men alone occupy the top rung of animate existence, and other humans join other species in a largely undifferentiated mass.

To plot these positions on the hierarchy projected by Genesis Rabbah is to leave out important aspects of the sugya, however, because even as the editors make a case for male Jewish superiority, their arguments are intertwined with intimations that Jews and Gentiles are not as different as they claim. As noted above, the intersection of gender and the Jewish-Gentile divide induces leakages between categories. Even though the editorial voice of the Bavli expressly denies that Jews as well as Gentiles have inherited a bestial orientation from Eve, the situation of Jewish women remains uncertain. First, there is the disturbing matter of Rav Yosef's teaching, with its suggestion that bestial impulses persist among Jewish women, coming to the fore during widowhood. Second, according to the editors of our sugya, it is the covenant at Sinai that cancels the bestial impulse in Jews, but the degree to which the Sinai revelation makes a claim on the women of Israel is unclear.⁴⁹ The very effort to separate Jewish men from the animality that characterizes non-Jews and women undermines claims of male Jewish superiority, because women are, after all, the Jewish men's wives and mothers. The animal impulses that the sugya associates with Jewish women mean that Jewish men, even Rabbis, cannot wholly escape the very animality that is abhorred in non-Jews.

Another factor that presses against any facile schematization of Gentile-Jewish difference in the sugya is the nuanced way in which humans and other animals are characterized. Above, I noted that the Bavli never quite falls into the trap of herding the whole array of animal life within a single enclosure called "the animal." Despite my contention that there is some underlying concept of "the animal" at work here, evidenced by the structural identity between two instances of bestial intercourse—Gentile women and cattle, on the one hand, and Jewish widows and pet dogs, on the other—cattle and dogs are not the same. The Bavli is heir to a culture that has a long tradition of sorting and categorizing animal species, and the cattle that can be used for sacrifice and for meat are identified by the Bible as "pure cattle."⁵⁰ These species live just outside human habitation, in barns and stalls, and to have sex with them would mean leaving the home, crossing a threshold into a different realm.⁵¹ Pet dogs, on the other

48 Note that while the sugya draws an analogy between the rabbinical student and the dog, the dog is prohibited not because he keeps quiet like the rabbinical student, but because the widow can rely on others' misunderstanding the nature of the dog's attachment to her.

49 In recent decades, Jewish feminists have debated the questions of whether and to what degree Jewish women are in fact parties to the covenant contracted at Sinai. See for example Judith Plaskow, *Standing Again At Sinai: Judaism from a Feminist Perspective* (San Francisco: Harper and Row, 1990), especially pages 25-6. Later, I will suggest that the talmudic chapter anticipates this question, not only here, in the context of the opening sugya, but in other discussions of women, wives and widows in *'Eyn Ma'amidim*.

50 For example see Gen 7:2, which distinguishes between animals that are pure (טהור) and those that are not. Longer scriptural treatments in Lev 11 and Deut 14 identify animals that are prohibited from being eaten as impure (אטמ). Mary Douglas famously demonstrates the systemic logic whereby animals that maintain the mode of locomotion appropriate to their environment are considered pure, and those that evade categorization as typical land animals, fish, or birds are considered impure. See Douglas, *Purity and Danger*, 41-57.

51 My attention to the relative closeness and distance of animal species to human habitation is influenced by Edmund R. Leach's classifications of animals that are "very close" (pets); "tame, but not very close" (farm animals); "field animals"; and "remote wild animals." See Leach, 160. Leach uses this same scale of close-remote to categorize both the edibility of food, and the sexual accessibility of kin and non-kin. In the Bavli, these two categories of taboo intersect in intriguing ways, as we have seen. Also relevant here is the intriguing suggestion by Jonathan Z. Smith that the history of sacrifice

hand, live more closely with humans, and can never be mistaken for food.⁵² Dogs are carnivores, a feature that the Bavli highlights when it imagines a Jewish widow throwing her canine paramour a steak. This means that while there is a sense in which a dog is more wild than the cattle, it is wild in precisely the ways that humans are, in its appetites for meat, and for sex. Its love for meat means that it can be trained, and made to be loyal. In this, a dog is more a moral creature than an ox or sheep, who are wholly passive, dumb flesh. If like attracts like, the differences between dogs and cattle point to differences in the characterization of Jewish women and Gentile women: Sleeping with a beast of burden perhaps signifies a steeper fall from human civilization than sleeping with a canine companion. At the same time, the Jewish widow's affinity for dogs adds an element of ferocity to her characterization. The editors draw on tacit cultural knowledge about species differences to insinuate subtleties of human difference that arise from the intersections of gender, ethnic, and religious boundaries.⁵³

Beyond this, I would argue that it is not just species and group differences that the Bavli here engages, but also peculiar singularities that defy categorization altogether. This means that alongside the contributions of structuralist anthropologists like Douglas and Leach, who make taxonomies of species their stock-and-trade, we would do well to consider how post-structuralists approach the human-animal divide. In his work on animals, Derrida insists not only that we differentiate between the cat, the cow, the echidna and the ameba, but also between cats in general, and a particular cat:

The cat I am talking about is a real cat, truly, believe me, *a little cat*. It isn't the *figure* of a cat. It doesn't silently enter the bedroom as an allegory for all the cats on the earth, the felines that traverse our myths and religions, literature and fables.⁵⁴

Derrida devotes a good portion of one of his lectures to his pet cat, developing the peculiar dimensions of their inter-subjectivity over the course of several pages.⁵⁵ As he self-consciously explores the self-consciousness that his cat's gaze awakens in him, he gives texture and depth to his insistence that we regard animals as subjects and illustrates, by counter-example, the impoverishment of engaging “animals” in general.

The Bavli editors are expert in depicting the particulars of experience and relationship. Consider, for example, the precision with which they portray the hypothetical widow's bestial affair. With but a few words of manufactured inner dialogue, they convey both the perverse intimacy of the dog's connection and the widow's self-consciousness about the gaze of others: “Since when she throws him a piece of meat, he attaches himself to her, (she presumes that) people will say, 'that one who attaches himself to her, it is because of the meat that he is so attached.'” Within the Bavli, such snapshots of lived experience are interspersed within the dialectic. The editors do not pause to ponder the particulars, and they certainly don't generate theory from them, as does Derrida, but these sudden flashes of life are so precise and peculiar they strain against being generalized, even as the arguments pull in that direction. Consider another example: the depiction of the hypothetical rabbinical student who succumbs to his landlady's advances, and then holds his tongue about the affair—though all this

is intertwined with the history of animal domestication in “The Domestication of Sacrifice,” in *Violent Origins: Walter Burkert, René Girard, and Jonathan Z. Smith on Ritual Killing and Cultural Formation* (Stanford: Stanford University Press, 1987), 191-205. But see the word of caution about Smith's argument in Klawans, 59.

52 For a presentation of the realia of pet-keeping among Jews in antiquity, and a survey of classical Jewish sources about dogs, see Schwartz, “Dogs,” 246-77.

53 Thanks to Dina Stein for suggesting I pay attention to the differences among species in this passage.

54 Derrida, 6.

55 Derrida, 3-6, 9-14.

drama unfolds between the lines of a terse dialectical exchange, the vividness with which his situation is conveyed is almost cinematic. The immediacy and particularity of his circumstances militate against reading his character as merely emblematic. To be sure, these characters are still representative, unlike Derrida's particular little cat. But to the degree they participate in a taxonomic schema, the taxonomy they animate is exquisitely specific.

All this is to suggest that while the main thrust of the sugya's arguments effectively promotes the supremacy of Jewish men as a group, cross-currents in the sugya move in other directions. At the end of the sugya, comes yet another hint—albeit a subtle one—that it is not just women and Gentiles who harbor animal impulses, but Jewish men as well. The two graphic descriptions of non-Jews fornicating with their food no doubt serve, in the main, to demonstrate that a wide gulf separates Jews from Gentiles. The sense of revulsion that these stories elicit reinforces the very segregation from non-Jews that the rulings under discussion are legislating. But as noted above, the degree of detail provided about these cases far exceeds the demands of the dialectic. These stories do not simply repulse, they also titillate. To the degree that these images of sexual depravity are pornographic, in lingering over the gruesome spectacle, the editors expose their own prurience as voyeurs, serving up the fornications of others as a feast for the imagination. At the end of the opening sugya, these two rabbinic reports about non-Jewish depravity effectively join rabbi, Gentile, and animal in a strange threesome, so that no group entirely escapes the debasement to which animals are subject.

Here, then is what our investigation of the animal-thinking in this opening sugya has revealed: Undergirding the legal arguments for limiting interactions with non-Jews is a hierarchical understanding in which Jewish men occupy the highest rungs of animate existence, and women and Gentiles are degraded by their association with animals. In this antipodal scheme, sexuality and impulse are associated with brute animal existence, while language and law are promoted as the distinguishing features of rabbinic life. Yet even as the sugya argues for Jewish supremacy, the stories, images, and traditions that the editors deploy expose a world of unresolved questions, doubts and fears. In this shadowy realm, received notions about what separates the familiar and the foreign are challenged, as boundaries between the human and the animal are transgressed. The legal dialectics uphold the principle of segregation from Gentiles, but the storytelling testifies to a principle of attraction, and to the power and persistence of unruly impulse. Though the editors subscribe to a vision of humanity in which covenant and learning separate rabbis from others, they cannot fully escape their kinship with Gentiles, their intimacy with women, or the unruliness of their own sexuality.

The Opening Sugya and the Rest of the Chapter

We have now surveyed the twists and turns in the opening sugya's dialectic and probed the deeper understandings of human and animal difference that undergird the Bavli's legal reasoning. In this section, I begin to make my case that what I have been calling the “opening sugya” truly fulfills that precise literary function, serving as an introduction to *'Eyn Ma'amidim* in its entirety.⁵⁶ My argument is that the opening sugya is placed where it is because it so aptly anticipates the themes that unify the chapter. The special literary function of the opening sugya comes into sharp relief when we consider the macro-organization of *'Eyn Ma'amidim* as a whole.

There is something strange about the placement of this particular argument right at the outset of

56 For discussions of the opening sugya as a genre, see my Chapter II; Avraham Weiss, *Ha-Yetzira shel ha-Sabora'im (Helkam bi-Yetzirat ha-Talmud)* (Jerusalem: Magnes, 1953), 1-18; Yaakov Elman, “The World of the 'Saboraim': Cultural Aspects of Post-Redactional Additions in the Bavli” in *Creation and Compostion*, ed. Jeffrey L. Rubenstein (Mohr Siebeck: Tübingen, 2005), 383-415; and Jeffrey Rubenstein, *Talmudic Stories* (Baltimore: Johns Hopkins University Press, 1999), 212-42.

the chapter. As I noted above, the opening sugya is but the first of four successive attempts to resolve a single difficulty: Given that the Mishna places non-Jews under suspicion of bestiality, how is it that another tannaitic tradition allows animals that have been acquired from non-Jews to be offered as sacrifices? In the opening sugya, the editors effectively reconcile the discrepancy, upholding the Mishna's general caution about Gentile proclivities even as they demonstrate that animals purchased from non-Jews can nonetheless be presumed to be fit for sacrifice. Having solved the difficulty, one would expect the Bavli to move on to a consideration of the next clause of the Mishna. Instead, despite the success of the reasoned argumentation in the opening sugya, the editors present four alternative resolutions of the same difficulty, only to reject all of them: First (at the top of 23a), comes Ravina's proposal that the mishna sets a proactive standard (לכתחילה), while the baraita applies only retroactively (בדיעבד). When this line of reasoning proves untenable, another possible resolution is proposed, as Rabbi Pedat (in the middle of 23a) suggests that the stricter position of the mishna reflects the minority view of Rabbi Eliezer, while the baraita reflects the ruling of the majority of the sages. This proposal receives extended dialectical treatment, but the effort to reconcile it with a series of other teachings attributed to Rabbi Eliezer is shown to put undue strain on the common-sense interpretation of the sources. Finally, a fourth proposal, attributed to Rabbi Yohanan, is briefly considered on 24b, only to be summarily dispatched with the anonymous editorial statement, "Rather, it is evidently what was taught from the beginning."⁵⁷ Were it simply a matter of reconciling the baraita and the mishna, a very different sequence of material would be called for, in which the best resolution would be saved for the end.

I have defined my project as a synchronic reading of the tractate, and it is not my intention to try to re-construct the editorial processes by which the final version of this chapter took shape. From a literary perspective, however, there is much to be gained by attending to the artistry of the chapter's final organization. The anonymous editors invite their readers to attend to the choices made in shaping the chapter when they themselves belatedly remark upon the success of their opening sugya: "Rather, it is evidently what was taught from the beginning."⁵⁸ Why do the editors persist in offering new, ever more complex attempts to resolve a problem they have already solved? The arrangement of the four proposals does not seem arbitrary—the chapter begins with the resolution offered by the anonymous editors, then proceeds with three proposals identified with named authorities belonging to successively earlier generations. That is, as the chapter moves through the four proposals, we move back in time. Perhaps the governing logic is that if a solution is to be found among the venerated sages of earlier generations, that solution would be preferred.⁵⁹ The successive rejection of the earlier attempts effectively reinforces the editors' initial success. While this explanation is possible, it does not account for why the editors would not have begun with Rabbi Yohanan's proposal, then moved in chronological order through the various resolutions until the accumulation of failed attempts necessitated the intervention of the editors, who would then be shown to solve the problem handily, all other possibilities having already been exhausted. What then accounts for the placement of the unattributed, belated attempt to resolve the difficulty up front, at the very beginning of the chapter? My proposal is that this talmudic chapter opens as it does—despite the anomaly of resolving a problem before

57 אלא מחוורתא כדשנין מעיקרא AZ 24b.

58 The phrase recurs more than twenty times in the Bavli, and it remains to be investigated whether the literary considerations I'm proposing here would be relevant in any of these contexts.

59 To be clear, I am not suggesting that the solutions attributed to Ravina, R. Pedat, and R. Yohanan were actually proposed by them. In fact, the articulation of the question might very well be an innovation of the Bavli editors, so that the early authorities cannot have weighed in directly. The parallel passage in the Yerushalmi does not raise the question, or even cite the problematic baraita. The Yerushalmi does include much of the material that the Bavli enlists in investigating R. Pedat's suggestion, though in the Yerushalmi, R. Pedat is not named. For an extended analysis of the variety of ways that Bavli Avoda Zara uses the Yerushalmi, see Gray's *A Talmud in Exile*.

attention to the problem is exhausted—because this opening sugya so aptly introduces the salient themes and motifs of the chapter over all.⁶⁰

Most prominent among these themes is the engagement with animals and animality. It is to be expected that the Bavli's attention to cattle would carry on through every attempt to resolve the mishna's and baraita's conflicting assessments of bestiality among Gentiles. Indeed, these deliberations are replete with discussion of the laws governing sacrificial animals, and red heifers in particular. What is most striking about the animal theme, however, is its persistence beyond those deliberations where attention to cattle and to animal sacrifice is “called on by the mishna.”⁶¹ Here are some additional examples of the prominence of the animal theme within this chapter:

- A. In the longest, most involved narrative within the chapter, the Gentile Dama ben Netina is rewarded for his filial piety with the birth of a red heifer (AZ 23b-24a). Shamma Friedman suggests that the protagonist's name “Dama” echoes the redness of the calf; if this is so, the name exemplifies the chapter's identification of Gentiles with animals.⁶²
- B. On 24b, there is an extended discussion of cows who carry the ark back from the Phillistines in I Samuel 6—They are credited with singing a psalm of praise. This fanciful midrash is yet another example of how animals and humans are compared. Though elsewhere in the chapter, humans are degraded in their resemblance to cattle, here the cattle are exalted and anthropomorphized.
- C. The story of Ben Dama on 27b recounts Ben Dama's death from a snakebite when his uncle Rabbi Yishmael refuses to let him be healed by a *Min*. Rabbi Yishmael insinuates that such heretics are a worse threat than snakes, forging an association between snakes and the enemies of Israel.⁶³
- D. On 28a-29a, an extended collection of remedies for a wide range of maladies includes prescriptions drawn from both the plant and animal worlds. Prompted by the Mishna's ruling on using Gentile healers, the passage emphasizes the common organic existence of people and other living things, and lends itself to a consideration of the network of connections that tie human bodies to the natural world.
- E. Deliberations about the strictures governing the use of Gentile food and wine are riddled with discussion of snakes, on pages 30a, 30b and 35a.⁶⁴ As David Kraemer has noted, the persistent engagement with snakes connects these discussions to the story of the serpent in the opening sugya, and implicitly develops a comparison of Gentiles to snakes.⁶⁵

60 This proposal is impossible to prove, but comparison to the parallel sugya in the Yerushalmi is somewhat suggestive, especially given Gray's foundational work in demonstrating that the editors of the Bavli had access to a version of the Yerushalmi. The baraita whose apparent conflict with the mishna powers the Bavli's opening sugya is not cited in the Yerushalmi at all. Instead, the opening comments in the Yerushalmi relate the mishna to Rabbi Eliezer's opinion on the permissibility of purchasing animals for sacrifice from non-Jews. In the Bavli, much of this material is re-contextualized in what I have identified as the third pass at reconciling the mishna and the baraita; this third effort, assigned to R. Pedat, is a considerably longer, more complex, and arguably less successful attempt to reconcile the problem than the opening sugya reviewed above, perhaps because it attempts to absorb the Yerushalmi materials into new dialectical terrain. This also partly accounts for the question of why the Bavli would have included less successful attempts—it knows the Yerushalmi materials, and the value of tradition means that it cannot simply ignore them.

61 This is the language that Alyssa Gray uses to identify areas of talmudic innovation that are not generated by interpretive necessity. For a longer discussion, see my preceding chapter. Gray, 34-6.

62 See Shamma Friedman, “Dama ben Netinah—Regarding His Historical Character; A Chapter in the Study of Talmudic Aggada” (Hebrew), in *Talmudic Studies: Investigating the Sugya, Variant Readings and Aggada*, by Shamma Friedman (New York and Jerusalem: JTSA, 2010), 433-74, especially 454.

63 I examine this story in Chapter IV.

64 I examine these traditions in Chapter IV.

65 David Kraemer connects the snake motif to the theme of Gentile impurity rather than the theme of animality in *Jewish*

The recurrence of animal characters and animal figures—even when there is no longer any inherent connection between animals and the mishnaic ruling under discussion—is the most striking way that the opening sugya anticipates the rest of the chapter. As I will endeavor to show, the frequent mention of animals is not just a literary flourish, but reflects a deep and thoroughgoing engagement with the questions of what it means to be a person, and what it means to be a Jew. Even as the editors sustain the comparison of non-Jews and animals for the entire length of *'Eyn Ma'amidim*, here and there, they suggest that Jews are subject to animal impulses as well. The hierarchy of animate life constructed in the opening sugya thus informs the chapter as a whole.

The engagement with animals, and with snakes in particular, is the most prominent way that the opening sugya anticipates the rest of *'Eyn Ma'amidim*, but it is not the only element that recurs. Two other themes that I noted in the discussion of the opening sugya become increasingly central as the talmudic chapter unfolds. The first of these is the theme of secrecy and exposure. In the opening sugya, the particular virtue of the rabbinical student is his modesty in maintaining secrecy about his sexual affairs, and the threat of social exposure is identified as an effective deterrent to bad behavior. As we will see in our investigations of the rabbinic prohibitions on Gentile wine, secrecy and exposure figure prominently in the talmudic discussion throughout the second half of *'Eyn Ma'amidim*. The second theme relates to the liminal status of women generally, and of Jewish widows in particular. We saw hints in the opening sugya that Jewish women are subject to some of the same suspicions that govern the rabbis' relationships with Gentiles. As *'Eyn Ma'amidim* continues, we find explicit comparisons of widows and non-Jews, and an extended discussion of the degree to which Jewish women can be regarded as members of the covenanted community of Israel. All three of these themes—animality, secrecy, and the liminal status of Jewish women—recur throughout *'Eyn Ma'amidim*, as the Bavli sustains its engagement with the question of what it means to be a human animal, doggedly making a case for (male) Jewish difference.

Widows and Wives in Relation to the Covenant (AZ 27a, 30a, 39a)

In the opening sugya, to be Jewish emerges as a far more important distinction than to be human, as Gentiles are degraded to the debased status of animals. One question persists, however, and that is to what extent do Jewish women participate in the higher station that is assigned to Jews. Throughout the opening sugya, considerations of gender trouble the boundary between Jews and others because Jewish women are sometimes depicted as participating in the distinctive privileges of Jewishness, and are sometimes shown to resemble non-Jews much more. The first sign of ambivalence in relation to Jewish women is the mention of Rav Yosef's dictum, which effectively shifts the conversation from an interrogation of Gentile depravity to the sexual proclivities of Jewish widows. Bestiality can no longer be understood as the exclusive province of Gentiles; Jewish widows too are implicated in such animal urges. Later in the sugya, when the editorial voice insists that Sinai neutralizes the taint that Eve introduced into the human make-up, ambivalence with regard to Jewish women persists. There is a strong association between Eve and women generally in the rabbinic imagination, and the degree to which the revelation at Sinai addresses women is unclear.

The question of whether Jewish women can be considered full participants in the Sinai covenant emerged as a central concern of the Jewish feminist movement in the 1970s and 1980s, as feminist scholars such as Judith Plaskow and Rachel Adler brought a feminist lens to the biblical story.⁶⁶

Eating and Identity Through the Ages (New York: Routledge, 2007), 69-71. I examine these sources in Chapter IV.

⁶⁶ Adler reviews surveys the first decades of Jewish feminist scholarship in her introduction to *Engendering Judaism: An Inclusive Theology and Ethics* (Boston: Beacon Press, 1998), xiv-xxv.

Plaskow and Adler point out that while the biblical text presumes a male audience, the women of Israel are not clearly and deliberately excluded from the narrative of the revelation of Sinai, nor from the content of the laws that are revealed. In the biblical accounts, the presence of women is presumed, though they are not directly addressed, and it is this very invisibility, this presence that is also an absence, that adds to the ambiguity of the Jewish woman's status vis-à-vis the covenant.⁶⁷ Similarly, in our sugya, the editors do not explicitly address where Jewish women fall in relation to the line that separates Jews from Gentiles. Having already insinuated Jewish women's bestial impulses, the text's silence on whether the snake or Sinai defines their sexual drives becomes all the more striking. It is from this silence that the question of women's participation in the covenant of Israel arises.

If the opening sugya's silence on the ambiguous status of Jewish women were the last word, it would be arguable that what I have identified as a theme of the sugya is actually an imposition on the text, a critique from outside rather than a literary element of the sugya itself. As it happens, however, the question of Jewish women's membership within Israel that emerges obliquely in the opening sugya is explicitly addressed later in the chapter in several different ways. It is first articulated on page 27a in the context of a legal discussion of whether Gentiles may circumcise Jews. Here, the Bavli identifies Jewish females as a class that evades the usual legal and linguistic categories: Jewish women are identified as “Israel” though they are not circumcised.⁶⁸ Later, on page 30a, the editors focus in on Jewish widows in particular, developing a comparison between widows and non-Jews. Finally, on page 39a, the editors engage a related question: To what degree can rabbis' wives and widows be trusted to maintain their husbands' religious standards for their households? I will briefly consider each discussion in turn.

On page 27a, the ambiguous status of Jewish women with regard to the covenant of circumcision leads to a dispute about whether Jewish women are permitted to circumcise their sons. There are two traditions regarding the scriptural basis for prohibiting Gentiles from circumcising Jewish boys, and both are connected to the biblical story in which Abraham is first commanded to circumcise his sons. Daru Bar Papa says in the name of Rav that the source for the prohibition is in Genesis 17:9. There, God introduces the commandment of circumcision with the words “And as for you, you will keep my covenant, you and your offspring after you for generations.” Rav reads this verse's emphasis on “you” as designating that only those who are themselves subject to the covenant of circumcision may perform circumcision for others. Rabbi Yohanan points instead to Gen 17:13, reading the doubling of the root meaning “circumcision” in the phrase “let him surely be circumcised,”—המול ימול—not as a feature of biblical Hebrew grammar,⁶⁹ but rather as an indication that only those who are circumcised may perform circumcision: “(Only) the circumcised circumcise.” As the Gemara is quick to point out, the two derivations of the prohibition lead to practical differences in the application of the law, because “covenanted” and “circumcised,” though largely overlapping terms, denote different groups of people: Arab men are circumcised, but not parties to the covenant of circumcision. Conversely, a Jewish boy who is exempted from being circumcised because his brothers died as a result of the procedure is nonetheless a party to the covenant. It is in the course of explicating the exceptional case of this uncircumcised Jewish male that the Bavli introduces yet another ambiguous case—the Jewish woman:

1 Is it really the case that he (a Jewish man who was never circumcised

67 Plaskow, 32-3.

68 It is important to note, however, that in this realm the English and Hebrew terms do not line up. The Hebrew “*arelim*” is generally translated as “uncircumcised,” but in fact can be more precisely rendered as “fore-skinned.” While Jewish women are literally “uncircumcised,” they are not literally “*arelim*,” and neither are non-Jewish women.

69 An intensifying infinite absolute.

because his brothers died during the procedure) would not count (as being permitted to circumcise) according to the one who says the rule is based on “Circumcised circumcise” (המול ימול) (Gen 17:13)?

2 Does it not say in our Mishna: “Regarding one who takes an oath that he will not derive benefit from anyone who is circumcised: He is prohibited from deriving benefit from uncircumcised [Jews], and permitted to derive benefit from those who are circumcised from the other nations of the world.”

3 Therefore: Even though he is not circumcised, he is similar to those who are circumcised (and thus falls within the category of the “circumcised.”)

4 Rather, this is the practical difference between the two derivations of the prohibition on Gentiles performing circumcision: Woman.

5 For the one who said the derivation is from “And as for you, you will keep my covenant,” (Gen 17:9), she is *not* included, for a woman is not herself subject to circumcision.

6 For the one who said the derivation is from “Circumcised circumcise,” (Gen 17:13) she *is* included, for a woman is similar to one who is circumcised.⁷⁰

In this passage, the editors seek to define exactly where the practical difference between the two derivations of the prohibition on Gentiles performing circumcision lies. Is there a circumstance which would be permitted according to one biblical verse, and prohibited according to the other? The passage above opens with a challenge to the proposition that uncircumcised Jewish men fall between the categories in this way. Though it would seem that these males would indeed be excluded from the class of the “circumcised,” on the basis of a baraita drawn from m. Nedarim 3:11, the Bavli re-defines the class of people called “the circumcised” to include not only those who literally have circumcised penises, but also those “who *are similar to* the circumcised.” In literary terms, the Bavli here guides us to read “the circumcised” as a metonym, a figure of speech based on association and relation that is not to be taken literally.⁷¹ The semantics of “the circumcised” have shifted, so the term no longer denotes a physical state of the body.⁷² It is this reading of the term “circumcised” that then becomes the basis for

70 AZ 27a, with my explanatory notes in round brackets. Note that this reflects the text according to Munich 95:

ולמ"ד המל ימל ליכ' והתנן קונם שאיני נהני למולים אסור בערלי ישר' ומותר במולי אומו' העול' אלמ' אע"ג דלא מהיל כמאן דמהיל דמי אל' איכא ביניהו אש' למ"ד ואת' את בריתי תשמר ליכ' דאשה לאו בת מיל' הי' למ"ד המל ימל איכ' דאש' כמהיל' דמיא

In both the Munich and Paris manuscripts, as in the printed editions, there are three successive suggestions for what comprises the practical difference between the two scriptural derivations of the law excluding non-Jews from circumcising: the circumcised non-Jew, the uncircumcised Jew, and the Jewish woman. In the JTS manuscript, however, the second round of dialectic does not appear, and the sugya moves directly from the case of the circumcised non-Jew to the case of the Jewish woman. The JTS manuscript is the only witness in which this material is missing. Note, however, that line 3 does not appear in Paris 1337.

71 If the term was taken to refer only to circumcised Jewish men, it could perhaps be understood as synecdoche, with the part (the circumcised penis) standing in for the whole (Jewish man).

72 This move away from the literal and toward the figurative is especially striking given the centrality of circumcision—and its hermeneutics—in Jewish-Christian polemics. As Boyarin points out, Paul uses the term “the circumcision” to refer to Jews, and the terminology participates in his distinction between “Israel according to the flesh,” and “Israel

the Bavli's identification of woman as the exceptional case where the conflict between the two derivations of the law makes a practical difference.

According to one school of thought, Jewish women are prohibited from performing circumcision, because they, like Gentiles, are not parties to that covenant. The argument here is that in the verse “And as for you, you will keep my covenant, you and your offspring after you for generations” (Gen 17:9), the “you” does not address women, because the commandment to be circumcised is not directed to them. According to this line of reasoning, what differentiates the Jewish woman from the uncircumcised Jewish male is this: Though he might be exempted from the commandment for health reasons, the commandment is nonetheless addressed to him; she, however, is altogether excluded, and therefore prohibited from performing circumcision. According to the other school of thought, however, Jewish women are permitted to perform circumcision as members of the class of people called “circumcised.” This thinking is based on a particular reading of the phrase “Circumcised circumcise” (Gen 17:13), in which the “circumcised” is not an adjective to be taken literally, but rather an appellation that is synonymous with “Israel.” The two derivations of the prohibition thus point in two different directions. According to one derivation, women--like Gentiles--are prohibited from performing circumcisions. According to the other derivation, women are permitted to perform circumcisions on the basis of their membership in the community of Israel.

Through this exercise in legal reasoning, the Bavli addresses how the very language of Jewish-Gentile difference conveys the ambiguous status of Jewish women. A world partitioned between the “fore-skinned” (ערלים) and the “circumcised” (מולים) is a world in which women are rendered invisible. Women, as a class, evade this schema of categorization. Here, the Bavli confronts the problem which is only tacitly conveyed by the opening sugya—Jewish women fall between the categories of “us” and “them.” In this passage, the Bavli makes an effort to disambiguate, fixing the boundaries between groups in clear and practical ways. The effort only underlines the liminal status of Jewish women, however, because while they are included in the law according to one opinion of its scriptural derivation, they are excluded according to the other opinion. In some ways, Jewish women are more like Gentiles than Jews, but in other ways, they are considered full members of the Jewish people. Ironically, the moment in which the Bavli is most embracing of women in terms of practical law, affirming their membership in the Jewish people, is the very moment in which their otherness, their abnormality, is most on display: In proposing that the term “circumcised” be understood as a synonym for “Israel,” the Bavli simultaneously affirms the inclusion of women and reinforces maleness as the norm for Jewishness, naming the entire class of Jews after the circumcised members that only half the membership possesses.

Later in the chapter, on page 30a, when the Bavli's discussion once again circles back to the ambiguity of Jewish women's status, the focus is on widows in particular. As the editors develop a comparison between Jewish widows and Gentiles, the confluence between the two groups is subtly reinforced again through language, as a distinctive moniker for “pagan”—“Aramean” (ארמאה)—is coupled with the similar-sounding designation for widows, “*armalta*” (ארמלתא). In the following translation, I transliterate the two terms, so as to convey the extent of the word-play. The passage

according to the spirit.” In *Radical Jew*, Boyarin highlights the confluence between circumcision and written language in rabbinic thought, reading the circumcised male Jewish body as a sacred text. For the rabbis, insistence on physical circumcision expresses the primacy of the concrete, physical aspects of language. See *A Radical Jew: Paul and the Politics of Identity* (Berkeley: University of California Press, 1994), especially 13-38. See also Naomi Seidman's argument that circumcision provides a key for understanding Jewish translation in *Faithful Renderings: Jewish-Christian Difference and the Politics of Translation* (Chicago: University of Chicago Press, 2006), 73-114. There is a comparison to be made between how the Bavli metonymizes circumcision so as to allow for the inclusion of women and how Paul allegorizes circumcision so as to allow for the inclusion of Gentiles.

relates to a topic I will examine more closely in Chapter IV, the problem of exposure (גילוי); this refers to beverages that have been left uncovered, raising the possibility that they might have been polluted by snake venom:

Rav would not drink from the house of an *'Arama'a*. But he would drink from the house of an *'armalta*. He said: She holds onto the habits of the husband.

Shmuel would not drink water from the house of an *'armalta*. He said: Having no fear of a husband, she will not cover the water. But from the house of an *'Arama'a*, he would drink, for even if they are not careful about exposure, they are nonetheless careful about cleanliness.

Alternatively, there are those who say: Rav would not drink water from the house of an *'Arama'a*, but would drink from the house of an *'armalta*, while Shmuel would not drink water, not from the house of an *'Arama'a*, and not from the house of an *'armalta*.⁷³

Here, tradition treats non-Jews and Jewish widows as a matched pair. Formally, this comparison is conveyed through chiasmic inversion, as Rav's positions with regard to the safety of their respective stores of drinking water are the precise inverse of Shmuel's: Rav will drink from Jewish widows but not from pagans, while Shmuel will drink from pagans but not from widows. The symmetrical treatment by these two authorities—themselves regarded by tradition as a matched pair-- reinforces the association of widows with non-Jews. Their affiliation is further reinforced linguistically, through the assonance and alliteration that link *'Arama'a* and *'armalta*. The prosodic association forged by the sound pattern (*'ARaMA'A*–*'ARMAItA*) comes through especially strongly in the alternative tradition in which the terms follow fast upon each other twice in quick succession. *'Arama'a* is a somewhat unusual word with which to designate non-Jews,⁷⁴ and this reinforces my sense that it is employed for literary effect, advancing the association of Jewish widows with Gentiles that was first introduced in the opening sugya and that runs through this chapter as a whole.⁷⁵

In the opening sugya, though Jewish women as a class are implicated through their association with Eve, it is widows in particular who are addressed in Rav Yosef's dictum. Why are widows in

73 b. AZ 30a, JTS ms:

רב לא שתי מיא מבי ארמאה אבל מבי ארמלתא שתי אמ' סירכא דגברא נקיטא שמואל לא שתי מיא מבי ארמלתא אמ' לית לה אימתא דגברא ולא מכסיא מיא אבל מבי ארמאה שתי אמ' נהי דאגילויא לא קפדי אמנקיותא קפדי איכא דאמרי רב לא שתי מיא [] מבי ארמאה (אבל) מבי ארמלתא (שתי) שמואל לא שתי מיא (לא) (מבי ארמאה (ולא) [אבל] מבי ארמלתא [שתי])

74 Sokoloff defines it as “pagan” and lists nine uses of the term within our tractate, on 11a, 31b, 33b, 34b, 35b, 39a, 70a, and 75a, as well as several times on 30a. Michael Sokoloff, *A Dictionary of Jewish Babylonian Aramaic of the Talmudic and Geonic Periods* (Ramat-Gan: Bar Ilan University Press, 2002), 169. (Entries #1 ארמאה, #2 ארמאה, and ארמיותא.) In contrast, the term *Goy* appears over 300 times. (This sharp contrast is not reflected in the Vilna edition, however, because the term *Goy* has been systematically expunged by censors.)

75 To be sure, “*Arama'a*” is a more nuanced term than *Goy*; while *Goy* functions much as “non-Jew,” defined in opposition to *Yisrael*, or “Jew,” *Arama'a* denotes a pagan identity in positive terms. Jastrow suggests that etymologically, it might relate to Rome, and thus refer to a particular pagan tradition. Both he and Sokoloff (*ibid.*) also note that the term might relate to the biblical Arameans, or Syrians. For further discussion of the term, see Geza Vermes, “Leviticus 18:21 in Ancient Jewish Bible Exegesis,” *Studies in Memory of Joseph Heinemann*, edited by Jakob J. Petuchowski and Ezra Fleisher (Jerusalem: Magnes Press, 1981), 113-5.

particular singled out? In the context of the opening sugya, the implication is that they—unlike married women—have no regular sexual outlet, and are thus more vulnerable to bestial impulses. And unlike maidens, they are not under the authority of the father either. Our present passage suggests, however, that there might be more to it than that. Compared to a woman living in the household of her father or her husband, a widow has far greater autonomy in governing her kitchen and other aspects of ritual life. Widows' special circumstances as women who live independently of men make them especially helpful to think with.

The rationale that Rav provides for trusting the safety of widows' drinking water is that widows maintain the practices of their late husbands. Shmuel, on the other hand, opines that absent the authority of a husband, widows will relax proper household standards. It is important to note that despite the practical difference between them, Rav and Shmuel are perfectly in accord with regard to the (un)trustworthiness of Jewish women: On their own, Jewish women are not to be trusted. To the degree that Jewish women can be presumed to maintain their households in keeping with Jewish law and hygiene standards, it is their husbands who are credited with safeguarding Jewish standards. For both Rav and Shmuel, Jewish husbands function as the thin blue line, hemming in the transgressive tendencies of Jewish women. The Bavli only equivocates with regard to whether the imposition of the husband's rule of law can be presumed to extend beyond his lifetime. On 27a, we saw a formal legalistic rationale for Jewish women's resemblance to Gentiles from the perspective of Jewish law; here, the editors indicate a deeper confluence between Gentiles and Jewish women. While Jewish women might be trained to maintain Jewish standards, their propriety will always be an expression of habit or submission rather than a direct engagement with commandments. In some profound way, the law qua law does not address Jewish women.

As the talmudic chapter continues to unfurl, it picks up this same line of reasoning once more, on page 39a:

Thus did Shmuel teach: The wife of a rabbi is as a rabbi.

We learned this in the Mishna, for the rabbis taught: The wife of a rabbi is as a rabbi. The daughter of a rabbi is as a rabbi. The slave of a rabbi is as a rabbi. When a rabbi dies, his wife, his children, and the people of his household are presumed (to maintain the rabbi's practice) until they give cause for suspicion.⁷⁶

The topic here is whether members of rabbis' households can be relied upon to sell foodstuffs and *tekhelet* (the blue dye for ritual fringes) in keeping with the strict standards of the rabbis themselves. Shmuel affirms that the authority of a rabbi extends to his whole household, a principle that is conveyed by tannaitic tradition as well. The baraita exceeds Shmuel's teaching in affirming that even after a rabbi dies, his widow and the surviving members of his household can be presumed to continue to maintain his practice and standards. (This accords with Rav's approach to a widow's drinking water on 30a above; Shmuel is the one who is dubious about the persistence of a husband's influence after death.) As the passage continues, it becomes clear that the force of the Bavli's argument is not to make

76 AZ 39a, from the JTS ms. (There is a parallel sugya in Bekhorot 30b.) The round brackets in the translation indicate my insertion:

הכי אמ' שמואל אשת חבר הרי היא כחבר תנינא להא דתנו רבנן אשת חבר הרי היא כחבר בתו של חבר הרי היא כחבר עבדו של חבר הרי הוא כחבר וחבר שמתו ובניו ובני ביתו הרי הן בחזקתן עד שיחשדו

I translate “*haver*” as “rabbi,” because this is the sense of the word when it is paired with its dual opposite “*am ha-’aretz*,” as it is in the surrounding sugya. See Yair Furstenberg, “*Am ha-’aretz* in Tannaitic Literature and Its Social Contexts” (Hebrew), *Zion* 78:3 (2013), 287-319, especially 293 and 309, and the bibliography in note 84.

a case for the trustworthiness of widows, but rather to convey the extent to which women's religious and moral comportment comes under the sway of their husbands. The unit concludes with the following story:

There was a woman who was married to a rabbi, and would fasten his tefillin onto his arm for him. When she married a tax-collector who was an *'am ha-'aretz*⁷⁷ (after the rabbi's death), she would fasten the tax-collector's knots to his arm.⁷⁸

While it is unclear what “the tax-collector's knots” are, the implication of the story is clear: A woman's piety is only as deep as her husband's influence, or, put a bit more positively, a woman's piety is turned to her husband. The same woman who comported herself with righteousness as the wife of a rabbi swiftly turned to the unsavory pursuits of her new husband, and with equal ardor. The story depicts the Jewish wife as an adjunct or accomplice to her husband's actions rather than as an agent of her own religious commitments.

In the accumulation of discussions about the religious behavior of Jewish wives and widows, a coherent picture begins to take shape. Jewish women have a peculiar relationship to Jewish law, and it sets them apart both from Jewish men, and from non-Jewish people. Like Jewish men (and unlike Gentiles), Jewish women participate in the performance of commandments, and are considered members of Israel on that basis. However, Jewish women's relationship to Torah comes at one remove, because it is mediated by their husbands who serve as the religious authorities for their households. In this sense, Jewish wives and widows can be seen as adjuncts to the covenant, rather than as direct participants. A wife lives fully under the sway of the commandments, but her relationship to Torah is contingent and indirect, and so her separation from non-Jewish life is only partial.

The chapter's recurrent engagements with the topic of Jewish wives and widows can help us flesh out the editors' vision of human nature and of Jewish-Gentile difference. In re-telling the story of Eve and the snake, the opening sugya suggests that a voracious sexuality—the heritage of a serpent-stepfather—characterizes all people until Torah intervenes in the lives of an elite few. In this vision, Sinai wedges itself between the covenanted minority and all the rest of creation, interrupting the supremacy of animal impulse among Jews alone. For Jewish females, however, the intervention of Torah is apparently less thoroughgoing than it is for males. So long as a Jewish woman is married, her husband's rule imposes order in her household, and holds her unruly appetites and impulses in check. But though the Jewish wife's marital status separates her from the rest of humanity, constitutionally, she remains as close to the animals as the Gentiles are; that is why in her widowhood, the special distinction of her Jewishness all but disappears. Widows wear the crown of Torah even more lightly than other Jewish women do, and so they resemble non-Jews the most. The special circumstances of the Jewish widow offer an instructive case study in how the editors of this chapter construct Jewish difference. Whether the editors are explicating the distinction between men and women, or constructing the boundary between Jews and Gentiles, Torah emerges as the important difference between groups.

77 The *'am ha-'aretz* is a Jew who does not follow rabbinic strictures. The term often appears in binary opposition with *haver*, which I have here translated as “rabbi.” I will return to these terms and examine what they convey about the constitution of the Jewish community in Chapter VI. For an examination of the terminology in tannaitic literature, see Furstenberg.

78 b. AZ 39a, from the JTS ms:

מעשה באשה אחת שהיתה נש[ו]אה לחבר והיתה קושרת (לו) תפלין על ידו ונשאת למוכס עם הארץ והיתה קושרת קשרי מוכס על ידו

Animal Husbands (AZ 36b)

According to a Bedouin folktale recounted by Dina Stein, the reason that human habitations continue to be plagued by violence and disorder is because of an original act of bestiality in biblical times.⁷⁹ In the folktale, Noah and his family emerge from the ark, and immediately recognize that the Flood has made for a shortage of human females. While Noah has three unmarried sons, he only has one daughter. To meet this demographic crisis, Noah enchants both his female dog and his female donkey, making the two animals appear exactly like his daughter. Noah's three sons marry the triplets, never knowing which bride is human, and which are animal. According to the folktale, any discord within a human household until today is a sure sign that the mistress of the house is not a real woman but rather belongs to a race of dogs or donkeys that traces back to Noah's magic trick. As fanciful as this story may seem, Stein argues that it is built on the same deep structures that undergird the biblical story of Noah. In her reading, the biblical myth is centrally concerned with upholding the partitions between the divine, human, and animal realms, and that's why the Flood comes as a consequence of sexual liaisons between humans and divine beings in the antediluvian world. The folktale expresses the unmentioned but ever-present threat of bestiality that lurks in Genesis's account of species jostled together in the ark's tight quarters, and exposes the failure of the ark-experiment to re-order humanity.⁸⁰ According to the story, strange pairings continue to beset the inhabited world, because humanity persists in ignorantly intermarrying with animals.

There are striking points of comparison between how the suspicion of bestiality functions in the folktale and in our talmudic chapter, but it is the differences that I find most illuminating. Both accounts are centrally concerned with partitioning human society, and use animals to cast aspersions on whole groups of people. Both trace human faults and frailties to original acts of bestiality—between Eve and the serpent in our sugya, and between Noah's sons and his animals in the folktale. Though both the folktale and the talmudic chapter associate women with animals, they do this in different ways: While the Bavli accuses women of wanting to sleep with animals, the folktale insinuates that two thirds of the world's women are actually animals in disguise. This difference is significant because it corresponds to two different outlooks on the nature of human-animal difference: Within the realm of the folktale, to be human is to be good, and to be animal is to be bad, and the distinction between humans and other animals is so stark, that it can only be traversed through an initial act of magic. This means that for the teller of the folktale, the infiltration of human households by animals is a curse that cannot be overcome. For the editors of the Bavli however, animality and humanity exist on a continuum, and while sexual liaisons between humans and animals are abhorrent, they are not exceptional. All humans are part beast, and helping Jews to overcome their inherent animal nature is the precise task of Torah. The black-and-white world evoked by the folktale provides an instructive contrast to the spectral subtleties of the talmudic chapter, where even the nastiest degradations of women and Gentiles nonetheless acknowledge commonalities and continuities among all people and animals.

I propose that even as the talmudic editors use animal invectives and accusations of bestiality to debase Gentiles and women, the distinction that they claim for Jewish males is best understood as a difference of degree, not a distinction in kind. According to the passages we have now examined, what Jewish women and Gentiles share in common with animals is manifested in their sexual impulses and their general disregard for the limits and safeguards imposed by law. There are hints within *ʿEyn Maʿamidim* that Jewish men are not immune from these tendencies, and that it is only the intervention of Torah which restrains their animal drives, and sets Jewish men apart. On 36b, a passing reference to

79 Stein, "Noah, His Family, and Other Animals."

80 Stein, 19.

the need to protect Jewish boys from sexual temptation suggests that the editors' insistence on Jewish male superiority belies their deep anxiety about the sexual drives that Jewish males share in common with others.

Though the tradition in question is brief, it presumes a store of knowledge about the biblical laws of impurity, and how the rabbis understood them.⁸¹ According to the Bible, Israelites can contract ritual impurity in a number of ways, and having been contaminated, they are precluded from participating in ceremonial life until they meet certain requirements, including the passage of time and set ritual procedures. Scale disease, menstrual blood, and other genital fluids are sources of impurity, as is exposure to a dead body. Contemporary scholars debate the degree to which the laws of impurity had any practical force in the rabbinic community, since the destruction of the Temple ended both the need for and the possibility of purifying rites.⁸² In the following tradition, a Babylonian 'Amora of the fourth generation, Rav Nahman bar Yitzhak, reports an ancient tradition that the disciples of Shammai expanded the laws of impurity by rabbinic decree. His report is cited in the midst of a discussion about the rabbinic prohibition on Gentile wine, another injunction that some attribute to the disciples of Shammai.⁸³

Rav Nahman bar Yitzhak said: They decreed regarding a Gentile child that he causes the impurity of a gonorrhoeic so that a Jewish child will not frequent his place, and he will not be able to train him in homosexual sex.⁸⁴

This tradition asserts that ancient rabbis expanded the laws of impurity with one goal in mind, to engineer social distance from Gentiles. According to Rav Nahman, early rabbis discerned a real threat in the prospect of intimacy among Jewish and Gentile boys. They feared that familiarity would breed sexual attraction, and homosexual liaisons. According to biblical law, contact with Gentiles is not a source of impurity, even when they do have genital emissions. Nonetheless, the laws of impurity offered early rabbis a structure for imposing distance between Jews and Gentiles, ensuring that their ruling would have some teeth. According to Rav Nahman, the arbitrary assignment of gonorrhoeic status

81 For a thorough-going study of biblical, post-biblical, and rabbinic understandings of impurity, and how this body of law constructs the nature of Jewish-Gentile difference, see Christine Hayes, *Gentile Impurities and Jewish Identities: Intermarriage from the Bible to the Talmud* (Oxford: Oxford University Press, 2002).

82 Hayes minimizes the practical implications of Gentile impurity in the rabbinic period, and this is part of her larger argument that the rabbis' development of rituals of conversion reflects their rejection of earlier views that locate Jewish identity in the blood. Her legal-formalism fails to recognize how the category of impurity functions as a literary trope, and as such, might continue to shape psychological attitudes and social realities even when impurity is no longer in effect as law. This is the force of David Kraemer's critique when he writes, "Particularly in the rabbinic period, after the destruction of the sanctum (where impurity has real consequences), the creation or extension of impurity would have had rhetorical consequences, seeking to persuade the observer to keep his or her distance from that which is marked as impure. This would replicate the intent of the prophets of Israel when they spoke of sinful Israel as impure (menstrually or otherwise). Hayes's distinctions are academic, not actual." See David Kraemer, *Jewish Eating and Identity Through the Ages* (New York: Routledge, 2007), 179, note 12.

83 The sugya in which this tradition is cited appears on AZ 36b. The sugya recounts a tradition of "Eighteen Things" that early rabbis enacted through rabbinic decree on one rare occasion when the disciples of Shammai dominated the disciples of Hillel. For a review of the handful of sources in which this tradition appears, see Gunter Stemberger, "Hananiah ben Hezekiah Ben Garon, the Eighteen Decrees and the Outbreak of War against Rome," in *Flores Florentino: Dead Sea Scrolls and Other Early Jewish Studies in Honour of Florentino Garcia Martinez*, ed.s Anthony Hilhorst, et al (Leiden: Brill, 2007), 691-703. I will return to this tradition, and examine the sugya in which it appears in Chapter IV.

84 AZ 36b, JTS ms:

אמ' רב נחמן בר יצחק גזרו על תינוק גוי שטמא בז[י]בה שלא יהא תינוק ישראל רגיל אצלו שלא ילמדנו למשכב זכור

to Gentile boys was a tactic for distancing Jewish boys from their Gentile peers, preventing the friendly intimacy that could lead to affection and attraction among the boys, and also precluding opportunities for homosexual trysts.

Rav Nahman's report, brief though it is, encapsulates an internal tension in the Bavli's depiction of Jewish-Gentile difference that runs through this chapter as a whole. On the one hand, the ruling that Gentile children are impure from infancy is an assertion of Gentile otherness; on the other hand, the ruling's rationale intimates that Jews and Gentiles are not really so different after all. The ruling and its rationale thus express opposing principles of repulsion and attraction with regard to non-Jews. First, let's briefly consider the principle of repulsion: In associating Gentile children with gonorrheic emissions, the ancient rabbis not only legislate social distance, they encourage an attitude of contempt and revulsion. To be sure, a legal-formalist would point out that the early rabbis surely were not suggesting that Gentile children actually experienced genital symptoms, but were merely invoking the statutory category of the gonorrheic, a relatively mild category of impurity. From a literary perspective, however, the association of non-Jewish boys with genital eruptions is especially potent because it resonates with degradations of non-Jewish males elsewhere in this chapter, reinforcing the image of the Gentile male as over-sexed, lascivious, and grossly carnal. (Remember the Gentile sleeping with a goose and then roasting and eating it?) Rav Nahman's tradition carries this whole body of repellent associations from grown men to boys, disrupting any sense of sympathy that a child's innocence and vulnerability, whatever his background, might elicit. The juridical intervention of the early rabbis is thus fortified by their powerful suggestion that non-Jewish difference is inborn, and that Gentiles are deprived from childhood. This is a harsh expression of the otherness of Gentiles, to be sure.

And yet, alongside this insistence on otherness is a striking intimation that the real concern with non-Jewish boys is not their difference from Jews, but their sameness. Through the imposition of Gentile impurity, the rabbis aim to prevent regular interactions between Jewish and Gentile children. In their imagination, familiarity does not breed contempt, but its opposite; they draw a straight line from familiarity to attraction to homosexual sex. On one level, this can be understood as an expression of concern about the corrupting influence of Gentiles—Gentiles are lascivious and dangerous, and Jewish boys must be protected from them. Such a reading does not quite account for the specificity of the rabbis' concern however—the rationale Rav Nahman provides is not that Gentiles will teach Jewish boys to sleep with prostitutes, or with animals, or to steal, kill, or worship idols, but rather that they will have sex together. The fact that Jewish boys must be separated from Gentile boys means that they are subject to the same sexual drives, and capable of the same sexual acts as their counterparts. The specific mention of homosexual sex emblemizes the problem of sameness, and suggests a certain parity between Jews and Gentiles. In much the same way that accusations of bestiality in the opening sugya are suggestive of an affinity between non-Jews and animals, here the specific mention of homosexuality bespeaks an affinity between Jewish and Gentile boys. The species of sex act is not incidental; it cuts to the heart of rabbinic fears. It suggests that the editors understand the whole complex of laws segregating Jews from Gentiles as the imposition of difference where none inheres. According to the rationale that Rav Nahman provides, the reason early rabbis had to step in and separate Jews from Gentiles is not that Gentiles are so threateningly different from Jews, but on the contrary, because they are so much the same. Subject to the same drives, inhabiting the same bodies, sharing the same common animality, Jewish males—like Jewish females—are indistinguishable from Gentiles until Jewish law intervenes.

In Rav Nahman's statement, as in this chapter as a whole, degrading characterizations of Gentile otherness coincide with subtle intimations that there is no essential difference between Jews and Gentiles. I read this push-and-pull throughout the chapter as an expression of a worldview in which the human condition is largely indistinguishable from the lot of the rest of animal life, and it is the

distinctive function of Torah to elevate its adherents, separating them from a beast-like existence. To be sure, the vividness and vociferousness with which the editors depict Gentile depravity all but overpower their restrained acknowledgement of a common humanity. In emphasizing these modest acknowledgments of a shared human condition, I do not mean to apologize for the prevailing messages of misogyny and xenophobia, but rather to more aptly characterize how the chapter expresses a coherent anthropology, despite the diversity of attitudes it brings together. In my reading, the insistence with which the editors pursue their denigrations of women, Gentiles, and animals is part and parcel of their self-identification as purveyors of Torah. According to the worldview I have sketched out, Jewish difference is not a given. The editors see Jewish distinction as hard-won, not to be taken for granted, and the ardor with which they assert their own superiority participates in the task of promoting Torah as the sieve which separates the wine from the dregs. The superiority the rabbis claim for themselves expresses their exclusive regard for Torah as an ultimate value.

It should be clear by now that in choosing animality as the overarching figure with which to characterize the human situation, the editors of this talmudic chapter were not expressing a high regard for animal life, or promoting the network of connections and dependencies which link humans to other species. The abjection of animals that characterizes so much of Western thought is very much present in this chapter, where the distinction that Torah affords Jewish males is their remoteness from the animality that characterizes both women and non-Jews. This double-move of imputing animality to others while denying it in oneself is aptly described by Martha Nussbaum, who adopts a coinage of primatologist Frans de Waal—“anthropodenial”—to describe the distinctly human tendency to deny that we are animals.⁸⁵ Nussbaum points out that when strangers are vilified as animals, xenophobia and the disavowal of the animal become mutually reinforcing. Even more pernicious is the way anthropodenial so often leads to violence against women. Nussbaum theorizes that “it's not enough to turn away from our own animality in revulsion: people seem to need a group of humans to bound themselves off against, who will come to symbolize the disgusting, the merely animal, thus bounding the dominant group off more securely from its own hated and feared traits. The underlying thought appears to be, 'If I can successfully distinguish myself from those animalistic humans, I am that much further away from being merely animal myself.’”⁸⁶ The Bavli certainly participates in some of these tendencies, as its characterization of both Gentiles and women makes clear. But I have tried to demonstrate that the denigration of animals and of other people is only part of the story of how *’Eyn Ma’amidim* engages animals. While the editors of this chapter are bothered and even shamed by their similarities with other animals, this common heritage is not denied, so much as resisted through the construction and reinforcement of statutory and social boundaries. Rabbinic law intervenes to separate Jews from Gentiles because for these rabbis, there is no difference between Jews and Gentiles outside of the law. The elaboration of laws of social and sexual segregation is a strategy for imposing differences which the Bavli editors here acknowledge do not inhere in nature.

Through close reading of selected passages from *’Eyn Ma’amidim*, I have tried to show that the theme of animality is centrally important to the talmudic editors' construction of the human being. While to a large degree, the anonymous editorial voice and the earlier rabbinic voices it cites are implicated in the disavowal of the animal in Jewish men, their disavowal is incomplete. The rabbis reveal themselves to be animal husbands in every sense: they own, eat and trade in animals; they are married to animals; and they are animals themselves. While Gentiles and Jewish women are denigrated for their kinship, attraction, and similarity to animals, the Bavli does not so much deny that Jewish men are animals, as emphasize the effectiveness of Torah in exalting Jewish men above their animal natures. Torah is the barrier separating Jews from others. Not only does this mean that there is no ontological

85 Nussbaum, 140, 156-61.

86 Nussbaum, 159.

difference between Jews and other people,⁸⁷ it also means that the constitution of Torah has profound implications for the constitution of the Jewish People, an issue that will come to the fore later in the talmudic tractate.

We have seen that throughout *'Eyn Ma'amidim*, the talmudic editors appeal to gender and species hierarchies to frame their discussion of differences and commonalities among Jews and non-Jews. It remains for me to demonstrate one of my central claims, that the array of themes introduced in the opening sugya recur throughout the talmudic chapter as a whole. So far, I have examined just two of these: the theme of animality, and the liminal status of Jewish wives and widows. Among the other elements that unify the talmudic chapter are a recurring snake motif, and the theme of secrecy and exposure. Turning now to the Bavli's discussion of the prohibitions on Gentile wine and food, I will show how all of these elements remain prominent as the talmudic chapter unfolds. Together these themes reveal the inherent difficulty in erecting boundaries between Jews and Gentiles—despite the social segregation imposed by Jewish law, some semblance of attraction always slithers through.

87 In this, the Bavli's construction of the difference between Jews and Gentiles differs from other views that were held among ancient Jews. My reading offers support for Christine Hayes' argument that rabbis understand Jewish identity as volitional, in contrast to biblical and sectarian sources that locate Jewishness in holy seed or blood. See Hayes, *Gentile Impurities and Jewish Identities*, especially 159-63.

Chapter IV: Leaky Vessels

. . . 'Good fences make good neighbors'. . .
'Why do they make good neighbors? Isn't it
Where there are cows?
But here there are no cows.
Before I built a wall I'd ask to know
What I was walling in or walling out,
And to whom I was like to give offence.
Something there is that doesn't love a wall,
That wants it down.' . . .

Robert Frost, "Mending Wall"

Mixed Drinks and Metaphors

In this chapter, I examine a particularly difficult area of Jewish law, the strictures governing the use of wine belonging to non-Jews. The topic of *yeyn nesekh*—literally, “libation wine”—not only dominates the second half of *'Eyn Ma'amidim*, which will be my focus here, it also emerges as the driving preoccupation of the tractate as a whole, engaging much of *Rabbi Yishma'el* and of *Ha-sokher 'et Ha-po'el* as well. Here, I confront two abiding conundrums of halakhic tradition: What is so threatening about Gentiles' wine, and why does it loom so large in tractate *'Avoda Zara*?

The preoccupation with Gentiles' wine is not an innovation of the Bavli, but rather begins with the Mishna. Recent scholarship remarks upon the obsessive quality of the Mishna's discussions about wine, noting that while this tractate is named for *'avoda zara*, or idolatry, prohibitions apply to any wine that non-Jews produce, touch, or even have access to, whether or not the wine has in fact been used for idolatrous libation. What accounts for wine's potency as the source of such overriding anxiety? What is it about wine that makes it eclipse all other concerns about idolatrous practice? The task I set for myself in this chapter is not to account for the Mishna's inordinate attention to Gentile wine, but rather to identify and elaborate the distinctive ways in which the Bavli editors account for it. Building on my argument in the last chapter, I demonstrate how the Bavli interprets the strictures on Gentile wine in the context of *'Eyn Ma'amidim*'s overall engagement with animals, animality, and the nature of Jewish-Gentile difference. Together, these two dissertation chapters demonstrate the literary unity and conceptual coherence of *'Eyn Ma'amidim*. While literary analysis alone cannot penetrate all the mysteries surrounding the laws of Gentile wine, it can help us uncover some important aspects that are otherwise obscured.

In the last chapter, I suggested that the recurring motif of animals throughout *'Ein Ma'amidim* conveys the editors' understanding of continuities linking Jews and non-Jews to other animals, in their materiality, sexuality, and impulsiveness. In this rabbinic anthropology, the important difference that distinguishes Jews from others is their embrace of Torah and their submission to Jewish law. Animality and law thus emerge as antipodes, and I read the whole of this talmudic chapter as an exploration of these two poles of human experience. The beginning of *'Eyn Ma'amidim* gives vivid expression to the animal aspects of human experience, and then, with the turn to laws governing the use of Gentiles' wine and food, the end of the chapter delves into law-making and law-keeping as the quintessential rabbinic pursuits. Recurring motifs of widows, snakes, and secrecy—all introduced within the opening sugya—

effectively knit *'Eyn Ma'amidim* into a unity, ensuring that we understand the explication of rabbinic legal activity within the context of a broader conception of what it means to be a human animal, the overarching theme of the talmudic chapter as a whole.

Legal reasoning and literary expressiveness meld in the Bavli's treatment of *yeyn neseekh* as both an instantiation of and an emblem for rabbinic law. My account of how these two discursive modes come together is informed by studies in Law and Literature, an interdisciplinary approach that investigates the broad range of connections between law and literature.¹ While most Law and Literature scholars move between disciplines and between textual corpora, bringing legal documents into communication with novels and poetry, in the context of talmudic literature, literary expression and legal argument are intertwined. In this chapter, as in the last, I endeavor to demonstrate the artistry with which the Bavli editors deploy such literary features as recurring motifs, narrative, and metaphor. It is this well-wrought craftsmanship which invites and rewards literary analysis, even of those passages that present themselves as mere reports of legal opinion, or as abstruse legal arguments. In ways that I will show, the same texts support simultaneous readings as legislation and as figuration, so that generic distinctions between the legal and the literary cannot be located in the text, but only in the interpretive stance of the reader.² Thus, the wine vessels that appear in the Bavli's discussions can be read both as actual containers addressed in rabbinic rulings, and as metaphors for the effectiveness of Jewish law in maintaining--"containing"--the separateness of the Jewish community. In this chapter, law is implicitly compared to a wall, a hedge, and a vessel for wine. Interpreting these figures means asking the poet's questions: What is being walled in? What is being walled out? However, unlike a metaphor in a poem, in the talmudic discussion, the figurative interpretation doesn't replace a literal reading, it supplements it. In all of these examples, the subject is not just The Law, but also *a* law, and the images are not simply figures, but also real objects addressed by particular statutes.

Within this chapter of the Bavli, the literary and the legal dissolve into each other. To appreciate the potent mixture that the Bavli serves up, it is necessary to first sample the Mishna's treatment of *yeyn nesech*, and the mix of narrative and law in this more ancient work. A survey of recent scholarly treatments of m. AZ will provide a foundation for my investigations of the Bavli's innovations. Following the treatment of the Mishna below, I organize my readings of the talmudic materials under two signs, Snakes and Secrets. Both of these motifs were introduced in the talmudic chapter's opening sugya, and both run through the chapter's discussions of the prohibitions on Gentile wine. Together they illustrate the furtive genius of AZ's anonymous editors.

Mishna 'Avoda Zara: What the Tannaim Say (and Don't Say) about Gentile Wine

Much of the recent scholarship on the mishnaic tractate 'Avoda Zara begins by remarking upon the dramatic difference between biblical and rabbinic attitudes toward idolatry and the people who practice it. Biblical law not only prohibits Israel from engaging in a whole range of practices it identifies with idolatry, it requires Israelites to utterly destroy idols when they come upon them. The

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- 1 Among these connections are: what law and literature share through their common use of language, narrative, metaphor; the centrality of interpretation to both; how literature portrays law in fiction and theater; how law governs literature through censorship, copyright, and other regulations; how law and literature relate to each other and to the cultures in which they are embedded, and which they construct. For a brief introduction to this scholarly movement, see Kieran Dolin, *A Critical Introduction to Law and Literature* (Cambridge: Cambridge University Press, 2007), especially 10-15.
 - 2 I am indebted to Barry Scott Wimpfheimer for this insight. He argues that distinctions between Halakha and Agada are best understood as reflections of different hermeneutics brought by the reader rather than as genre differences inherent in the text in *Narrating the Law: A Poetics of Talmudic Legal Stories* (Philadelphia: University of Pennsylvania Press, 2011), 31-40.

Mishna, however, presumes that Jews inhabit a world filled with idols. Mishna AZ calls on Jews simply to distance themselves from idolatry, and to avoid benefiting from idol worship at all costs. Scholars have accounted for this shift in different ways. In Seth Schwartz's view, the attenuation of the biblical precept reflects the rabbis' realpolitik—the Jews of Roman Palestine were in no position to destroy the deities of their rulers, and so they had to make accommodations to survive as a powerless minority as best they could.³ Moshe Halbertal argues, though, that the shift reflects a principled change in outlook; in his view, the innovation in rabbinic law results from a concerted effort on the part of the rabbis to create a common “neutral” space where Jews could interact with a broader, non-Jewish society.⁴ However we understand the rabbis' shift toward greater liberality, one interpretive conundrum remains: Against this background of accommodation and/or integration, what accounts for the severity of tannaitic prohibitions on the use of Gentiles' wine?

This is the precise question Noam Zohar addresses, and he seeks to account for the Mishna's strictures with regard to wine by offering a structuralist reading of m. AZ.⁵ Citing Halbertal, he characterizes m. AZ as dominated by two twin impulses, in the main: On the one hand, a concerted effort to distance Jews from the core practices of idolatrous worship; on the other, a wide berth for Jews to pursue social and economic interactions with non-Jewish neighbors. But then, Zohar notes, there is an abrupt shift: Beginning with the middle of m. AZ Chapter 4 (*Rabbi Yishma'el*), Gentiles are portrayed as lying in wait, determined to surreptitiously dedicate Jewish wine to idolatry.⁶ To account for this shift, Zohar re-visits Halbertal's description of how the Mishna aims to cultivate a neutral domain in which Jews can peacefully interact with their Gentile neighbors, and argues that what seems at first like a stark change in attitude toward Gentiles is in fact the flip-side of the liberalism that characterizes the majority of the tractate. For Zohar, the Mishna's openness to interaction with Gentiles in public, neutral spaces entails its correlative: a watchful, protective stance in the private realm where ritual takes place.

Zohar argues that the Mishna's apparent alarm regarding the threat of Gentile libation does not reflect any behavior that rabbis observed in pagan life, but is rather a projection of the rabbis' own behaviors and values onto the Gentiles. The special strictures relating to wine, Zohar explains, are a measure of wine's centrality to *Jewish* ritual. In Zohar's account, the Mishna's prohibitions on Gentiles coming into contact with wine are part and parcel of a coherent approach to Jewish-Gentile relations that upholds strong boundaries between public and private, and between the secular and the sacred. Wine is the currency of sacredness in the rabbinic imagination, and for this reason, it must be cordoned off from the profane realm where Jews and Gentiles pursue social and economic relationships. Zohar concludes that what at first looks like a shift within m. AZ is in fact internally consistent: Strict protection of the sacred does not conflict with Jewish participation in the marketplace, but is rather its pre-condition.⁷

3 Seth Schwartz, “Gamliel in Aphrodites' Bath,” in *The Talmud Yerushalmi and Graeco-Roman Culture*, I. ed. P. Schäfer (Tubingen: Mohr Siebeck, 1998), 203-17.

4 Moshe Halbertal, “Coexisting with the Enemy: Jews and Pagans in the Mishna,” *Tolerance and Intolerance in Early Judaism and Christianity*, ed. by G. Stanton and G. Stroumsa (Cambridge: Cambridge University Press, 1998), 158-72. Yishai Rosen-Zvi offers yet another account, arguing that the biblical concept of *herem* as destruction survives into the tannaitic period, and is advocated by R. Yishmael, though R. Akiva's school rejects it. According to Rosen-Zvi, the Mishna's liberalizing program bears the imprint of Rabbi Akiva, and is a polemical attempt to re-define *herem* as social distance rather than physical destruction. See Rosen-Zvi, “‘You Shall Surely Destroy All the Places’: Polemics About the Obligation to Destroy Idolatry in Tannaitic Literature” (Hebrew), *Reshit – Studies in Judaism* 1 (2009): 91-116.

5 Noam Zohar, “*Meḥitzot seviv merḥav tzibori meshutaf: ha-yahas la-goyim ve-le-tzalmeyhem ‘al pi mishnat ‘avoda zara*,” *Reshit: Studies in Judaism* I (2009), 145-64. Zohar characterizes his approach as a literary analysis of the Mishna rather than as “history of Halakha.” The designation “structuralist” is mine, not his.

6 Zohar, 146-7.

7 Zohar, 161-4.

Zohar's insightful cultural analysis lands him in very good company, among anthropologists like Mary Douglas, who identify drinking practices as constitutive of social life across diverse cultures.⁸ Anthropologists report that it is not just rabbinic Jews who are vigilant about sharing their alcohol. According to Dwight Heath, “the drinking of alcoholic beverages tends to be hedged about with rules concerning who may and may not drink how much of what, in what contexts, in the company of whom, and so forth. Often such rules are the focus of exceptionally strong emotions and sanctions.”⁹ Increasingly, drinking alcohol has come to be appreciated among anthropologists as a special realm which serves as a crucible for identity and culture.¹⁰ The anthropological evidence thus buttresses Zohar's suggestion that the Mishna's laws surrounding wine are integral both to the construction of Jewish identity, and to the negotiation of social boundaries. Zohar offers a compelling account for how the laws of Gentile wine function within rabbinic culture.

In my view, Zohar's account delivers both more and less than the literary analysis he promises. Analyzing the laws of Gentile wine in terms of their social and cultural functions goes a long way toward accounting for the intensity and extent of the Mishna's engagement with the topic. The compulsion to keep non-Jews at a distance from wine that seems so anomalous in the context of rabbinic writings would not, apparently, faze an ethnographer. But while the anthropological approach sheds light on the cultural work that these legal strictures achieve, it moves us away from the texts themselves. Though Zohar effectively abstracts a structure that rationalizes the laws of Gentile wine, it is important to note that the Mishna itself registers the difficulty that these laws present. Our first impression—that these laws defy rational explanation—is precisely the response that is modeled for us within the text of the Mishna itself. In the middle of m. AZ Chapter 2 (*ʿEyn Maʿamidim*), a catalog of prohibitions is interrupted by an extended story that takes the form of a dialogue between Rabbi Yehoshua and Rabbi Yishmael. As a brilliant analysis by Shlomo Naeh makes clear, the story confirms that contemporary readers' bafflement regarding the severity of these prohibitions is well-placed.¹¹ Naeh demonstrates how the text of the Mishna uses narrative and scriptural citation to convey a sense of mystery and alarm. My analysis of this mishnaic story below will serve us later when I examine how the Bavli enlists the story and its themes for its own literary purposes.

The narrative appears soon after the Mishna turns its attention to the laws governing Gentiles' wine and other foodstuffs. These laws are divided into several categories: Some substances—like wine—are doubly restricted; Jews may neither consume them directly, nor buy, sell, or otherwise benefit

8 See Mary Douglas, ed., *Constructive Drinking: Perspectives on Drink from Anthropology* (Cambridge: Cambridge University Press, 1987).

9 Dwight Heath, “A Decade of Development in the Anthropological Study of Alcohol Use,” *Constructive Drinking*, 47.

10 I cite the following synthesis of cross-cultural analyses at length because it so aptly accords with the centrality that Zohar assigns to wine in his reading of the Mishna: “In many societies, perhaps the majority, drinking alcohol is a key practice in the expression of identity, an element in the construction and dissemination of national and other cultures. And the roles of drinking, in terms of culture and identity, are not 'simply' (as if such things are simple) aspects of everyday life, that arena of discourse and action so beloved of ethnographers. Drinking is the veritable stuff of any and perhaps every level and type of culture, and is implicated in the behaviours, values, ideologies and histories of these cultures. In essence drinking is itself cultural; it is not so much an example of national and other cultural practices, in the sense that it is a performance of something that runs deeper in the national or ethnic makeup, as much as it is itself a bedrock of national and ethnic culture. As such it is an integral social, political and economic practice, a manifestation of the institutions, actions and values of culture.” Thomas M. Wilson, *Drinking Cultures: Alcohol and Identity* (New York: Berg, 2005), 3-4.

11 Shlomo Naeh, “*Tovim dodekha mi-yayin: A New Perspective on Mishna Avoda Zara 2:5*” (Hebrew), *Studies in Talmudic and Midrashic Literature in Memory of Tirzah Lifshitz*, eds. M. Bar-Asher et al. (Jerusalem: Bialik Institute, 2005), 411-34.

from them in any way.¹² Other substances are forbidden for eating, but not for benefit.¹³ Still others are altogether permitted.¹⁴ The narrative interrupts this classificatory scheme when it registers Rabbi Yishmael's perplexity regarding the prohibition of Gentiles' cheese:

Rabbi Yehuda said:

Rabbi Yishmael and Rabbi Yehoshua were walking along, when Rabbi Yishmael asked Rabbi Yehoshua a question: “For what reason did the rabbis prohibit the cheese of Gentiles?”¹⁵

Rabbi Yehoshua answered: “Because they curdle it in the stomach of a dead animal (which is not kosher).”

Rabbi Yishmael said to him: “But the stomach of a burnt offering is even more severely regarded than the stomach of a dead animal, and yet it was said that a priest with a healthy appetite may suck the contents of the stomach out! (Which would suggest that the status of the stomach itself should have no bearing on whether its contents may be eaten or not.)” . . .¹⁶

Rabbi Yehoshua said: “It is because they curdle it in the stomachs of calves used in idolatrous worship.”

Rabbi Yishmael said: “If this is so, why did the rabbis not prohibit benefiting from this cheese as well?”

Rabbi Yehoshua diverted him to another matter, and said, “Rabbi Yishmael, my brother, how do you read the verse: 'for your love (דודיך *dodekha*) (masculine) is better than wine,' (Song 1:2) or 'for your love (דודיך *dodayikh*) (feminine) is better'?”

He said: “For your love (דודיך *dodayikh*) (feminine) is better.”

Rabbi Yehoshua said: “That's not so, for look how the phrase's 'friend' guides our reading (in the continuation of the verse, where the masculine is used)--'the fragrance of your oils (שמניך *shmanekha* is masculine)' (Song 1:3).”¹⁷

12 m. AZ 2:3.

13 m. AZ 2:6.

14 m. AZ 2:7. In addition to these categories, the Mishna lists items whose classification is a matter of rabbinic dispute in m. AZ 2:4.

15 In the preceding mishna, there is a dispute regarding the prohibition on cheese prepared by Gentiles. The majority of rabbis prohibit Jews from eating Gentile cheese, though they permit Jews to sell it and otherwise to benefit from it. Rabbi Meir prohibits Jews both from eating and from benefiting from it.

16 The ellipsis replaces a demurrer of R. Yishmael's argument which interrupts the flow of the dialogue itself and is generally taken to be a later insertion into the story: “But in fact they did not allow him to do this and rather said one should not benefit from the stomach contents, but neither was it considered as serious a breach as *me'ila*.” In Hebrew:

ולא הודו לו אבל אמרו לא נהנין ולא מועלין

17 The story appears in m. AZ 2:5, which appears in ms. JTS 15 on 22a. In this manuscript, the name “R. Shimon” has been scratched out and replaced with “R. Yishmael.” In all the mishnaic manuscripts, the story features R. Yishmael, not R. Shimon, and my translation reflects that version as well. The round brackets in the translation are my insertions.

אמ' ר' יהודה שאל ר' (שמעון) [ישמעאל] את ר' יהושע כשהיו מהלכין בדרך מפני מה אסרו גבנת הגויים אמ' לו

In this story, Rabbi Yishmael expresses his dismay about rabbinic strictures, arguing vigorously against the view of the majority, and Rabbi Yehoshua tamps down his protestations, evading Rabbi Yishmael's pointed arguments. The story suggests that Rabbi Yishmael's objections are in fact well-founded: When Rabbi Yishmael points out the weakness of Rabbi Yehoshua's initial response, Rabbi Yehoshua quickly changes course and offers an alternative explanation, as if his first answer is not even worth defending. When Rabbi Yishmael points out that the second explanation is also problematic, Rabbi Yehoshua quickly changes course once again. This time, he does not even venture to offer any kind of direct response, but rather attempts to distract Rabbi Yishmael from the problem at hand, diverting him to a question of biblical interpretation. What the story effectively dramatizes is not so much a debate as a game of cat and mouse; though Rabbi Yishmael seems eager to lock horns and engage in a forceful, reasoned exchange, Rabbi Yehoshua seems far more interested in avoiding the substantive issues. Rabbi Yishmael is depicted as a sharp but naive student who has stumbled into an area where his probing is clearly not welcome. Rabbi Yehoshua is the knowing master, indulgent of his student's questions, but only to a point. He remains in control, so that in the end, Rabbi Yishmael's challenge is not answered, but it is neutralized.

Why is Rabbi Yehoshua so reluctant to engage? Is there indeed no good justification for the majority view? What precisely is at stake in this rabbinic debate about the prohibition on Gentile cheese? Shlomo Naeh's incisive reading answers all these questions. He begins by laying out a broad legal framework for understanding the welter of laws prohibiting the food and drink of Gentiles. As he explains it, the prohibited substances fall into two main classes:¹⁸

- 1) Some substances are prohibited independently of their association with Gentiles, by reason of their proximity to idolatry, or to other prohibitions, like *nevela* (an animal that dies naturally) or *trefa* (meat from an unkosher animal, or from a kosher animal that is not slaughtered appropriately). Were these same things in the hands of Jews, they would also be prohibited. It is not their belonging to non-Jews which is the issue, per se, but the fact that they breach a biblical prohibition.
- 2) Some things are proscribed purely by virtue of their proximity to Gentiles. Were they in the hands of Jews, there would be no issue. As Naeh makes clear, this class of prohibition is not biblically ordained, but is rather by rabbinic injunction.¹⁹

According to Naeh, in probing the grounds for the prohibition of Gentile cheese, Rabbi Yishmael is effectively asking whether cheese belongs to Class 1 or Class 2. If the problem with Gentiles' cheese is its contact with idol worship, it is hard to make sense of the rabbis' ruling that it can nonetheless be bought and sold by Jews. But if idolatry is not the concern, it is hard to understand why cheese should be prohibited at all. If Rabbi Yishmael's question hits a nerve, that might be because a related question

מפני שמעמידין אותה בקיבת נבלה אמ' לו והלא קיבת עולה חמורה מקיבת הנבלה ואמרו כהן שדעתו יפה שורפה חיה ולא הודו לו אבל אמרו לא נהנין ולא מועלין אמ' לו מפני שמעמידין אותה בקיבת עגלי ע"ז אמ' לו אם כן למה לא אסרוה בהנאה השיאו לדבר אחר אמ' לו ר' (שמעון) [ישמעאל] אחי היאך אתה קורא כי טובים דודיך מין או כי טובים דודיך אמ' לו כי טובים דודיך מין אמ' לו אין הדבר כן שהרי חברו מלמד עליו לריח שמניך טובים

18 Naeh, 422-3. This partitioning of the prohibitions into two classes is prevalent in halakhic treatments of the food and wine prohibitions. Zvi Arie Steinfeld uses different terminology, distinguishing between substances that are prohibited as "mixtures" and those that are prohibited in themselves, in "Dvarim shel goyim ha-²asurim ve-ha-mutarim ba-²akhila" *Sinai* 86:3-4 (Kislev-Tevet 1980), 149-51.

19 Naeh, 427.

could as easily be asked in relation to Gentile wine. Wine that is used in idolatrous libations—*yeyn nesekh*—is clearly prohibited by biblical law by virtue of its proximity to idolatry, and that is why the prohibition extends beyond consumption and includes all other benefits as well. But what are the grounds for prohibiting Gentile wine that is *not* used for idolatry? And why is the level of prohibition the same, regardless of whether the wine is implicated in idolatry or not? In Naeh's reading, Rabbi Yishmael reacts to the logical inconsistencies that riddle this body of law, and Rabbi Yehoshua responds to his precise difficulties, but he responds through a strategy of indirection.

Naeh proposes that what appears to be a diversionary tactic on the part of Rabbi Yehoshua is in fact a response, in code, to Rabbi Yishmael's core challenge. The key to the code is recognizing that the two halves of the dialogue are actually intimately connected.²⁰ Thus, when R. Yehoshua hits an impasse in accounting for the prohibition on Gentile cheese, his question about how to interpret the verse from Song of Songs engages the very halakhic question at hand, albeit in an oblique way. As Naeh explains, in rabbinic understanding, the Song is a dialogue between God, who speaks in the voice of the male lover, and the Congregation of Israel, who speaks as the female beloved. In the context of the Song, then, to ask what gender the possessive ending of a word takes is effectively to ask who is speaking, God or Israel. Naeh uncovers the brilliance of this mishnaic story when he points out that the two verses that it cites mention two of the very substances under discussion in the surrounding legal material—wine and oil:

1:2a Let him kiss me of the kisses of his mouth

1:2b For your love is better than wine.

1:3a Your oils have a good fragrance

1:3b Your name is like finest oil

1:3c Therefore do maidens love you.

According to Naeh, Rabbi Yehoshua's question to Rabbi Yishmael is code for the question: Does the prohibition on wine originate in the word of God, or does it come from the Congregation of Israel, i.e., is it biblically ordained, or is it a rabbinic injunction? In proposing that in Song 1:2b it is the voice of God who addresses Israel, Rabbi Yishmael expresses the view that the prohibition on wine—all Gentile wine—is biblically ordained. This is the view that Rabbi Yehoshua rejects. When Rabbi Yehoshua insists on reading 1:2b and 1:3a as one continuous statement in the human voice of Israel, he is asserting, in code, that wine and oil come under the same class of prohibition; they are neither of them biblically proscribed, and neither is cheese.²¹ Naeh points out that Rabbi Yehoshua responds to Rabbi Yishmael's difficulty with the incoherence of this area of law in two distinct ways: First, he indicates that the laws need not be internally consistent, because they are instituted by the rabbis, and not biblically ordained. Second, he signals that the true (belated, human) origins of these strictures need to be kept under wraps.

In Naeh's reading, Rabbi Yehoshua attributes the prohibitions in question to the rabbis, but does not explain why the rabbis imposed these strictures. The talmudic commentators make a proposal in this regard when they suggest that the food of Gentiles is prohibited so as to distance Jews from Gentile women: “They decreed against their bread and oil because of their wine; and against their wine because of their daughters, and against their daughters because of something else, and against something else,

20 Naeh, 417.

21 Ibid., 427. As Chana Kronfeld explains, in this interpretation, both the literal and figurative meanings are maintained, and “wine” functions as a junction word, operating in the domains of both the tenor and the vehicle.

because of something else.”²² While this talmudic tradition maintains secrecy regarding the ultimate and penultimate reasons for the rabbinic decrees, it makes plain that one problem with eating and drinking with Gentiles is that it lowers social boundaries, encouraging romantic liaisons with Gentile girls. I would argue that the mishnaic story already insinuates just such a concern when it draws from the erotic language of Song of Songs. Despite the rabbinic convention of reading the Song allegorically, the Mishna can't escape the sumptuousness of the poetry, in which erotic desire is vividly expressed through images of food and wine. In citing these verses in particular, Rabbi Yehoshua gestures toward the erotic. He hints that one reason tradition cloaks these laws in secrecy is that to probe them might stir up forbidden desire.

Rabbi Yehoshua's story functions as a rabbinic wink and nod, simultaneously acknowledging and obfuscating the inconsistencies that the Mishna writes into law. As Naeh's analysis demonstrates, the secret that Rabbi Yehoshua seeks to guard is the extent of rabbinic legal activism, the degree to which the prohibitions on food and wine are in fact thick hedges around biblical law, hedges that the rabbis themselves have planted. Naeh's close reading thus provides a valuable complement to Zohar's analysis of the laws of Gentile wine. Zohar theorizes about the function of these strictures, arguing that they aim to shore up the integrity of Jewish religious life within the context of robust social interaction with non-Jews. Naeh focuses on the reception of these laws within the rabbinic community, demonstrating that questions about the rationale for these laws are nearly as old as the laws themselves. Together these two scholars help us understand the mixture of law and narrative, stricture and secrecy, that the Mishna bequeathes to the talmudic authorities.

Gentile Wine in the Bavli

We are now in a position to appreciate the double-inheritance that the Bavli receives from the Mishna with regard to the rules of Gentile wine and food: On the one hand, a thicket of regulations whose origins and rationales are obscure, and on the other hand, a tradition of secrecy surrounding these rules. As we will see, the Bavli does not so much clear the tangle of legal questions that grow up around the Mishna's prohibitions of wine, as provide an artful trellis. In a stunning display of literary craft, the editors interweave their discussions of the prohibitions with the themes and motifs introduced in the chapter's opening sugya. They not only take up the theme of secrecy, but also thoroughly entwine their treatment of Gentile wine with the snake motif, coiling the animal theme of the opening mishna of *'Eyn Ma'amidim* through the chapter as a whole.

As others have observed, the talmudic editors did not inherit chapter-divisions that are self-evident; thematically, the five chapters of the mishnaic tractate divide into just three sections, with concerns about wine dominating parts of the first section as well as the last.²³ This tendency of the

22 b. AZ 36b:

גזרו על פתן ושמן משום יינן ועל יינן משום בנותיהן ועל בנותיהן משום דבר אחר ועל דבר אחר משום דבר אחר

I will return to this source below.

23 Though the mishnaic tractate has come down to us in five chapters, Peter Schäfer proposes that thematically it can be divided into three main sections:

1. Commercial relationships with Gentiles (m. AZ 1:1-2:10)
2. Pagan Idols (m. AZ 3:1-4:7)
3. Libation wine (m. AZ 4:8-5:15)

As Schäfer points out, however, this tripartite analysis obscures the degree to which Gentile wine dominates the tractate as a whole, because discussion of wine is not limited to Section 3 alone, but is also central to the end of Section 1. Peter Schäfer, “Jews and Gentiles in Yerushalmi Avodah Zarah,” in *The Talmud Yerushalmi and Graeco-Roman Culture III*, ed. Peter Schäfer (Tubingen: Mohr Siebeck, 2002), 335-54. The three main sections or “weaves” that Zohar describes in

Mishna's contents to overflow the tractate's divisions into chapters makes the coherence of individual talmudic chapters all the more remarkable. In *'Eyn Ma'amidim*, the opening sugya not only provides a bank of images, motifs and themes for the discussion of food and wine prohibitions, it also lays out the conceptual framework the editors use to contextualize the laws of Gentile wine within a broader investigation of how Torah and commandments distinguish Jews from Gentiles. The thematic unity of *'Eyn Ma'amidim* is one striking way that AZ exceeds its commentarial function as a gloss on the Mishna, and expresses its own literary art.

The recurring motifs that knit *'Eyn Ma'amidim* into a unity are not easily isolated from each other, and their inter-weaving is itself an expression of the editors' art. For the interpreter, however, this presents a particular challenge. In what follows, my expository goals require that I isolate themes that are tightly imbricated within the Bavli. I organize my analysis into three parts: Section I will serve as an introduction to the Bavli's deliberations, and examine how the Bavli thematizes the differentiation between scriptural and rabbinic authority for law. Section II focuses on snakes. Section III examines secrecy, as both a theme and a strategy within the text. As will immediately become evident, however, the talmudic materials resist the imposition of this structure—snakes lurk everywhere, and secrets abound.

Section I: Scriptural and Rabbinic Authority for Law

*Ben Dama's Snakebites (AZ 27b)*²⁴

As interpreted by Naeh, the mishnaic story of Rabbi Yehoshua and Rabbi Yishmael cited above is a coded discussion about whether the prohibition on Gentile cheese is scripturally based, or imposed by rabbinic injunction. In the Bavli, the distinction between these two levels of legal authority emerges as a theme before the Bavli first broaches the topic of Gentile wine and food. In the story of Ben Dama, we encounter the very Rabbi Yishmael who needles the elder Rabbi Yehoshua about Gentile cheese in the Mishna. Here, however, it is Rabbi Yishmael who plays the role of the aged sage, as he sternly defends rabbinic powers to decide the law:

And there is the story of Ben Dama, the son of Rabbi Yishmael's sister, who was bitten by a snake. Yaakov, a man of Kfar Skhanya, came to heal him, but Rabbi Yishmael would not let him.

Ben Dama said: “Yishmael, my brother, give him leave (to heal me), and I can provide proof from the Torah that this is indeed permitted.”

He did not have time to finish speaking, however, before his soul departed (and he died).

Rabbi Yishmael declaimed over him: “How fortunate you are, Ben Dama, that your body is pure, and your soul departed in purity, without transgressing the words of your colleagues, who used to say, 'One who breaks through a fence shall be bitten by a snake.'” (Ec 10:8)²⁵

his analysis of m. AZ correspond to Schäfer's breakdown. See Zohar, 146-7.

24 An earlier witness of this story is Tosefta Hullin 2:22-24.

25 b. AZ 27b. As this page of the JTS manuscript is missing, I rely on ms. Paris 1337. The round brackets are my own insertions.

ומעשה בבן דמה בן אחותו של ר' ישמעאל שהכישו נחש ובא יעקב איש כפר סכניא לרפותו ולא הניחו ר'

In this story, Ben Dama is on the verge of dying from a snakebite when he is drawn into a legal debate with his uncle Rabbi Yishmael about the permissibility of accepting healing from a *Minim*.²⁶ Ben Dama insists that this is permitted by Scripture, and pleads for his life on that basis but he dies before he can finish his argument. Rabbi Yishmael remains stalwart in upholding the rabbinic prohibition against being healed by *Minim*, to the point where he seems to rejoice in his nephew's death, which he reads as a confirmation of the biblical verse from Ecclesiastes. For Rabbi Yishmael's character, it is self-evident that the fence mentioned in Ecclesiastes is a metaphor for rabbinic law. According to Rabbi Yishmael's reading of the verse, one who transgresses rabbinic law will be punished by being bitten by a snake. Rabbi Yishmael gives thanks that his nephew avoided a breach of rabbinic law and thereby escaped the lethal punishment that the verse promises.

There is, however, a salient irony in Rabbi Yishmael's use of this particular verse, as Ben Dama has *already* been bitten by a snake, and it is death resulting from this snakebite that he is desperately trying to avoid. (The irony is not lost on the Bavli, whose anonymous voice interjects, “A snake did bite him in any case!”²⁷) Snakes link Ben Dama's story to other parts of *’Eyn Ma’amidim*: In Chapter III, I examined how the opening sugya deploys the serpent of the Garden of Eden in constructing a genealogy of Jewish-Gentile difference; later we will see that snakes figure prominently in the discussion of Gentile wine as well. In this story, there are two snakes: the literal snake whose bite launches the plot, and the metaphorical snake invoked by Rabbi Yishmael's citation of Ecclesiastes. For Rabbi Yishmael, the threat that this figurative snake represents is the danger of being drawn close to *Minim* or to the heresies they espouse, a danger more to be feared than actual snakebites. The double deployment of snakes simultaneously on both the figurative and literal planes invites closer attention to how other metaphors function within the story.

When Rabbi Yishmael's reads Ecclesiastes' fence as a metaphor for rabbinic law, his conception

ישמעאל אמ' לו ישמעאל אחי הנח לו ואני אביא לך ראיה מן התורה שהוא מותר ולא הספיק לגמור את הדבר
עד שיצתה נשמתו קרי עליה ר' ישמעאל אשריך בן דמה שגופך טהור ונשמתך יצתה בטהרה ולא עברת על
דברי חביריך שהיו אומ' ופורץ גדר ישכנו נחש

26 That Yaakov is a *Minim* is clear from the local context, where the story appears as an illustration of a baraita that teaches, “A person should not have exchanges with the *Minim*, nor receive healing from them, even for the sake of the life of an hour.” This same Yaakov character appears elsewhere in the tractate as well, on 17a, where he impresses Rabbi Eliezer with a clever biblical interpretation; Rabbi Eliezer is accused of *Minut* by the Roman authorities on the basis of that interaction. In the Munich, Paris, and JTS manuscripts for 17a, Yaakov is identified as “a disciple of Yeshu the Nazarite,” while the parallel story in t. Hullin 2.24 identifies Yaakov as a follower of “Yeshu ben Pantera.” There is a large secondary literature dedicated to the identification of the *Minim*. In the Bavli, they are generally associated with Christians, while in earlier rabbinic texts they are now understood to designate a broad variety of sectarians and heretics. For helpful reviews of relevant rabbinic texts and scholarly discussions, see Stuart S. Miller, “The *Minim* of Sepphoris Reconsidered,” *Harvard Theological Review* 86:4 (1993), 377-402; and Richard Kalmin, “Christians and Heretics in Rabbinic Literature of Late Antiquity,” *Harvard Theological Review* 87:2 (1994): 155-69. Daniel Boyarin can be credited with shifting the scholarly conversation from the question of “Who were the *Minim*?” to the question of how the language of heresy participates in the construction of Jewish identity. He makes a persuasive case for the shift in the meaning of “*Min*” from a designation for Jews with heretical views to a designation for Gentiles, especially Christian ones, in *Border Lines: The Partition of Judeo-Christianity* (Philadelphia: University of Pennsylvania Press, 2004).

27 איהו נמי חויא טרקיה. In fact, the Bavli smooths over this difficulty in another way as well, in the wording of the baraita which immediately precedes the story. The baraita reads, “A person should not have exchanges with the *Minim*, nor receive healing from them, even for the sake of the life of an hour.” The baraita is unattributed, and I suspect that it is manufactured in light of the story. The specification of “even for the sake of the life of an hour” suggests that if such a healing intervention would result in a more permanent restoration of life and health, the healing might be permitted; it is simply the “life of the hour” which cannot be justified. According to the logic of the story, since Ben Dama would be bitten by another snake should he transgress a rabbinic ruling and accept Ya'akov's healing, the healing for the sake of but an hour of life cannot be justified.

of rabbinic fences is different than other traditions that make use of this metaphor, such as the famous maxim of Pirke Avot's opening mishna, "Make a fence around the Torah."²⁸ In Pirke Avot, the "fences" erected by rabbis are strictures that supplement scriptural interdictions, distancing individuals from the likelihood of inadvertent transgressions of scriptural law;²⁹ rabbinic legislation is fence-like in that it serves to protect scriptural law. In the story of Ben Dama, however, Rabbi Yishmael's counsel to his nephew does not safeguard scriptural law so much as supplant it, replacing the leniency of scriptural commandment with a stringency that is explicitly identified as an invention of the rabbis. For Rabbi Yishmael, the goal of rabbinic law is not to protect Scripture, but rather to demarcate the boundaries of an orthodox Jewish community. According to Rabbi Yishmael's conception of the metaphor, rabbinic law is comparable to a fence in that it separates Jews from the temptations of non-rabbinic forms of Jewish life.

The story of Ben Dama's snakebites exemplifies the project of defining Jewish difference that characterizes AZ as a whole. Though much of AZ focuses on distinguishing Jews from Gentiles, other more ambiguous categories of people appear now and again, and the group identified as "*Minim*" is sometimes singled out with particular venom. Thus, when a sugya on AZ 26b³⁰ constructs a hierarchy of despised others, it cites a baraita in which *Minim* are identified as being among the worst of the worst.³¹ According to the baraita, Gentiles and Jewish herders of small cattle (generally reputed to be thieves) are two groups whom a Jew need not trouble himself to save from a pit, while *Minim* along with informers and apostates are not only not to be raised from the pit, they may actually be cast into it! In this discussion, the Bavli identifies two interpretations for precisely who comprises the category of the *Min*: According to one opinion, a *Min* is a Jew who willingly transgresses the strictures of Jewish law for the sake of provocation (and not merely out of ignorance or lack of self-control), while according to the other view, a *Min* is a Jew who worships idols. According to both these opinions, the *Min* is an internal enemy, threatening the boundaries of Jewish difference from within. Elsewhere within the tractate however, the *Minim* are depicted as a sectarian group that is clearly distinguishable from the Jews. Thus, in the story of Rabbi Eliezer's arrest on charges of *Minut* (17a), as in the story of Ben Dama, *Minim* are identified with a particular teacher, and the term seems to designate a Christian group. In another oft-cited story,³² the *Minim* are identified as a group that prizes Palestinian Rabbi Abbahu's expertise in Scripture, as opposed to Babylonian Rabbi Safra's expertise in Mishna.

The identification of *Minim* as a group with a special interest in Scripture is particularly relevant to my reading of the story of Ben Dama's snakebites. Ben Dama's character serves both as the mouthpiece for scriptural authority, and also as a proponent for interacting with *Minim*, at least when one's life is at stake. Rabbi Yishmael treats Ben Dama's argument from Scripture as being dangerously accommodating to *Minut*, and depicts his own defense of rabbinic strictures as protective of the integrity of Jewish life. In casting Rabbi Yishmael and Ben Dama as opponents, the storyteller places rabbinic law and scriptural law in opposition to each other, creating the impression that these two sources of Jewish law are polarities. Playing on a known association between Scripture and the group called the *Minim*, it subtly denigrates those Jews—even those within the rabbinic camp—who put a premium on scriptural interpretation rather than on rabbinic innovation. Scriptural interpretation, a

28 Avot 1:1 uses the word "גדר" while our story uses the biblical "גדר". The semantic fields are very similar.

29 The prophylactic function of such "fences" is clarified later in Avot, where the same logic is employed in a series of analogical relations: According to Rabbi Akiva, "tradition is a fence for Torah; vows are a fence for abstinence; the fence for wisdom is silence." (Avot 3:13)

30 My reading of this sugya closely follows Daniel Boyarin's account in *Socrates and the Fat Rabbis* (Chicago: University of Chicago Press, 2009), 152-5.

31 The baraita also appears on b. San 57a. I discuss it in that context in Chapter I, page 23 above.

32 The story appears on b. AZ 4a. See a discussion in Boyarin, *Border Lines*, 223.

practice that both rabbis and others engage in, is here rendered suspicious through its association with *Minim*.

While the story of Ben Dama is fastened to the weave of the talmudic chapter by multiple verbal and thematic connections, I submit that one of the important reasons the story appears here is that it announces a theme which will become prominent in the Bavli's discussion of Gentile wine—the difference between scriptural and rabbinic authority for law. That this issue emerges as the central conflict in a story that also engages the threat of *Minut* suggests that for the Bavli storytellers, the status of Scripture in rabbinic law-making functions as a boundary-line between rabbinic insiders and heretical outsiders.³³ Ultimately, the Bavli editors stop short of validating Rabbi Yishmael's dismissive attitude toward Scripture. The story signals that Rabbi Yishmael's view is contested when it has Ben Dama die before he can cite the verse that would save him—presumably, had Ben Dama had time to make his case, scriptural authority would have prevailed over rabbinic authority, and Ben Dama would have been saved.³⁴ In including this vivid illustration of a life-and-death clash between scriptural and rabbinic authority, the editors alert us to the degree to which the debate over the legislative power of the rabbis is a site for the construction of a distinctively rabbinic Jewish identity.

The story of Ben Dama illustrates that for the editors of the Bavli, there is a lot at stake when a given law is identified as being rooted in rabbinic authority (*de-rabanan*) as opposed to the authority of Scripture (*de-'oraita*).³⁵ In this, it serves as a striking companion piece to the mishnaic story of Rabbi Yishmael as a young student that we examined above. In the mishnaic portrait of Rabbi Yishmael as a young man, Rabbi Yishmael naively presumes that law is derived from Scripture alone, and needs to be tutored by an older sage about the extent of rabbinic interventions into the law. In the story of Ben Dama, Rabbi Yishmael has matured into an outspoken defender of rabbinic authority, and his stridency on behalf of rabbinic legal activism has become so extreme that we see him arguing for the primacy of rabbinic injunctions over the authority of Scripture. The editors do not ratify his extreme view, but in telling this story, they highlight the ascendancy of rabbinic agency in the construction of Jewish communal boundaries.

The Prohibition on Gentile Wine: "From Where Do We Get This?" (AZ 29b)

Turning now to the Bavli's discussion of Gentile wine, we enter a tangle of unresolved questions and contradictions. While some of these difficulties are inherited from the Mishna, it is my contention that the Bavli's discussions compound the confusion by perpetuating and further complicating the

33 This proposal is related to (and sparked by) a different insight articulated by Daniel Boyarin, when he observes that for a period in antiquity, in both Christian and Jewish discussions of heresy, one's position on Jesus might have been but one among a series of criss-crossing boundary-lines. Religious folk who disagreed on Jesus might nonetheless be united in their attitudes about resurrection, for example, and at a certain point in history it might not have been self-evident that one line of difference was any more or less important than another. Boyarin's point relates to history, while mine is an observation about how this particular story is told. I am arguing that in this narrative, the theme of *Minut* is used to denigrate those Jews who prize Scripture, by suggesting that they resemble Bible-thumping *Minim* too much.

34 In fact, in the Bavli's commentary on the story (27b), the editors provide the scriptural argument on Ben Dama's behalf, citing the midrashic reading of Lev 18:9 that interprets the biblical injunction to "live by them" as a commandment not to die for the sake of the commandments.

35 There is scholarly debate about this issue. The distinction between law that is based in Scripture and law that is generated by the rabbis is central to Christine Hayes' argument that the rabbis are more moderate than earlier Jews in their attitudes about Gentile impurity, an argument that is laid out in Chapter 6 of *Gentile Impurities and Jewish Identities* (Oxford: Oxford University Press, 2002), 107-44. For the opposing view that the *de-'oraita/de-rabanan* distinction is merely academic, see David Kraemer, *Jewish Eating and Identity Through the Ages* (New York: Routledge, 2007), 179, note 12.

difficulties. One example of this is reflected in a shift in terminology within the Bavli. In m. AZ 2:3, when the prohibitions on things belonging to Gentiles are first laid out, a prohibition is placed on “wine” (*ha-yayin*) in general, with no mention of “libation wine” (*yeyn nesekh*) in particular.³⁶ This would seem to imply that it is not just the wine that Gentiles use in idolatrous ritual that is prohibited, but any and all wine in the possession of Gentiles. Later in the tractate, the terminology shifts and the term *yeyn nesekh* (“libation wine”) is used.³⁷ The term apparently refers to wine that is used in idolatrous worship, and that is ritually dedicated to idols or to foreign gods. The Mishna, however, makes no allowance for wine belonging to Gentiles that is *not* used for idolatrous libation. Though things are far from clear, it would seem that in the Mishna, “wine” belonging to Gentiles and “libation wine” are used interchangeably to refer to all wine with which Gentiles have contact. In the Bavli, things get more complicated, because the editors introduce the category of *stam yeynam*—the ordinary wine of Gentiles, in contrast to “libation wine”—when they cite a tradition that explicitly distinguishes between the two categories.³⁸ Yet despite the conceptual distinction between wine that is dedicated to idolatry and wine that is not, there seems to be little practical difference in how the prohibition is applied in the Bavli.³⁹ Later commentators and jurists are left to make sense of a puzzle that the Bavli never fully or consistently explains—the fullest severity of the law applies, whether Gentile wine is implicated in idolatry or not.

Beyond these terminological incongruities is another puzzle that the Bavli perpetuates, and it relates to the question that we have now seen both the Mishna and the Bavli engage: Is the prohibition on Gentile wine treated as scriptural law, or as a law instituted by the rabbis? In halakhic terms, is the prohibition categorized as *de-²oraita*, or *de-rabbanan*? This is a question that has both conceptual and practical implications, and it is closely related to the challenge of accounting for the law's exceptional stringency. The prohibition on Gentile wine exceeds other prohibitions in several respects: Unlike the other foods and drinks prohibited in the Mishna, wine is prohibited not just from being drunk, but also from being traded, or used for benefit in any way.⁴⁰ Moreover, the prohibition covers not only wine owned by Gentiles, but any wine that a Gentile comes into contact with, or has unsupervised access to for even a small amount of time.⁴¹ To the degree that Gentile wine is considered inherently implicated in idolatrous ritual, these strictures can be justified, to some extent, on the basis of scriptural prohibitions against idolatry.⁴² If, however, one understands the prohibition on Gentile wine as a rabbinic enactment aimed at putting social distance between Jews and Gentiles, it is far more difficult

36 My point that the Mishna's prohibition includes all wine belonging to Gentiles, irrespective of a connection to idolatry, is largely obscured in the printed version of the Mishna, due to censorship. While the printed version reads “These things belonging to idolaters are prohibited,” both the Parma and Kaufman manuscripts confirm that the uncensored Mishna—the one that the talmudic rabbis would have encountered—read: “These things belonging to non-Jews (*goyim*) are prohibited.”

37 m. AZ 4:8, 5:1, 2, 7, 8, 9, 10.

38 b. AZ 30b-31a: “Rav Assi said Rabbi Yohanan said in the name of Rabbi Yehuda Ben Betera: There are three kinds of wine: Libation wine is prohibited for any kind of benefit, and an amount as small as an olive conveys severe impurity; the ordinary wine of Gentiles (*stam yeynan*) is prohibited for any kind of benefit, and an amount of a quarter (of a *log*) conveys the impurity of beverages; wine that has been left with a Gentile is prohibited from being drunk, but permitted for benefit.”

אמ' ר' אסי אמ' ר' יוחנן משום ר' יהודה בן בתירא שלשה יינות [הן] יין נסך אסור בהנאה ומטמא טומאה חמורה בכזית סתם יינן אסור בהנאה ומטמא טומאת משקין ברביעית המפקיד יינו אצל גוי אסור בשתייה ומותר בהנאה

39 The one practical distinction identified by the source cited in the note above relates to impurity and is thus merely theoretical in the talmudic period.

40 m. AZ 2:3.

41 See m. AZ 4:8, 5:1-10.

42 For an intriguing account of how the biblical commandment to uproot idolatry becomes transposed by the Mishna into a commandment to avoid benefiting from idolatry, see Rosen-Zvi, “You Shall Surely Destroy All the Places.”

to account for why its stringency so dramatically exceeds other rabbinic enactments governing food and drink.⁴³

As we have seen, the Bavli editors place the theme of rabbinic versus scriptural authority front and center when they tell the story of Ben Dama and Rabbi Yishmael. Later in this talmudic chapter, the Bavli editors are forthright about the authority their rabbinic predecessors claimed in making new law and in imposing new social boundaries. The editors not only identify the prohibitions against drinking Gentile beer (AZ 31b) and against eating Gentile bread (AZ 35b) as rabbinic injunctions aimed at precluding intermarriage with Gentiles, they explicitly trace the prohibitions on Gentile wine to an act of rabbinic law-making as well. Thus, a passage we will examine closely in Part III reads:

Did not Bali say that Abimi the Nabatean said in the name of Rav: (The prohibition against) their bread, their oil, their wine and their daughters are all among the eighteen things.⁴⁴

The “eighteen things” refers to a rabbinic tradition that recounts one particular occasion on which the sages of the School of Shammai outnumbered their opposition from the School of Hillel; the Shammaites took advantage of this majority, and moved quickly to enact eighteen ordinances. The Mishna does not specify which laws were enacted on that day, however, and this passage is one of several in the two talmudim that supply lists of the rules enacted by the Shammaites. Tracing the prohibition on Gentile wine to this legendary expression of rabbinic legislative muscle would seem to be a clear acknowledgement that the prohibition of Gentile wine (wine that is not used for libation, that is) is not scriptural. But, as we will see, there is little that is clear in the Bavli's discussion of Gentile wine. For if the prohibition is but a rabbinic decree, as Rav's tradition about the Eighteen Things asserts, then the question of why the strictures are so exceedingly stringent remains. Even more puzzling: Given this account of the prohibition's rabbinic origins, why do the editors offer such a very different explanation in their opening comments on the topic of Gentile wine?

The talmudic discussion of wine commences, as many sugyot do, with the Bavli inquiring after the scriptural basis for the Mishna's prohibition:

Wine: From where do we get this?⁴⁵

Given that Rav's teaching about the Shammaites' eighteen enactments will soon emerge in the discussion, it might seem strange that the editors even entertain the possibility of scriptural origins for the wine prohibition. In fact, however, the question “from where do we get this?” is a standard way for a sugya to begin.⁴⁶ Though in the vast majority of instances, the question is indeed a prompt for the

43 Folded into my analysis is the presumption that if the law is *de-²oraita*, it relates to the scriptural prohibition on idolatry, while if it is *de-rabanan*, its primary aim is to curtail relationships with non-Jews.

44 b. AZ 36a. The round brackets indicate my insertion:

והאמ' באלי אמ' אבימי ניתואה משמיה דרב פתן ושמן ויין ובנותיהן כלן משמונה עשר דבר הן

The earliest source for the “Eighteen Things” tradition is m. Shabbat 1:4. For a survey and textual analysis of all the sources from Mishna, Yerushalmi and Bavli, see Avraham Goldberg, “The Eighteen Things of Beit Shammai and Beit Hillel” (Hebrew), in *Studies in Judaism Jubilee Volume Presented to David Kotlar* (Tel Aviv: Am Ha-Sefer, 1975), 216-25; and for a historical analysis, see Gunter Stemmerger, “Hananiah ben Hezekiah Ben Garon, The Eighteen Decrees and the Outbreak of the War Against Rome,” in *Flores Florentino: Dead Sea Scrolls and Other Early Jewish Studies in Honour of Florentino Garcia Martinez*, eds. Anthony Hilhorst, et al (Leiden: Brill, 2007), 691-703.

45 b. AZ 29b:

יין מנלן

46 So prevalent is the formula that Jay Harris used it as a title for his book-length study of how Jewish thinkers through the ages have conceived of the relationship between scriptural exegesis and Jewish law. See Jay M. Harris, *How Do We*

editors to trace mishnaic rulings back to Scripture and thus demonstrate their status as scriptural (*de-’oraita*) law, there are instances in which citations of Scripture are ultimately shown to be mere mnemonics or “supports” (*’asmakhta be-’alma*) for laws that the editors regard as *de-rabanan*.⁴⁷ But though the sugya's opening question, on its own, is not necessarily problematic, the answer that is provided is very confounding indeed:

Rav Nahman said: Rabba bar Abuha said: “Scripture says: 'Those who eat the fat of their sacrifices drink the wine of their libations.' (Deut 32:38) [By analogy with sacrifice,] just as sacrifice is prohibited, so too is wine prohibited.”⁴⁸

According to Rabba bar Abuha, the prohibition on wine can be deduced from the co-occurrence of the mention of wine and the mention of idolatrous sacrifices in the same verse. Sacrifices may not be bought and sold, nor may wine.⁴⁹

At first blush, Rabba Bar Abuha's reasoning seems sound. The difficulty is that this particular verse mentions not just “wine,” but specifically the “wine of their libations.” This raises the question: Is this verse offered as a derivation of the prohibition on “libation wine” in particular, or in relation to the prohibition on *all* wine belonging to Gentiles? The notion that wine used in idolatrous libation is prohibited in every way hardly seems to require any special pleading, and if this is what the verse comes to demonstrate, that would explain why the editors do not identify the verse as an *’asmakhta*. In this reading, the only aspect of the law that the Bavli here traces to Scripture is the aspect that is most straightforwardly scriptural—the prohibition on idolatrous libations. On the other hand, if the verse provided is meant to somehow hint that *all* Gentile wine might participate in the scriptural prohibition against benefiting from idolatrous sacrifice, that would be a real contribution, albeit one that begs to be explicitly identified as a mere *’asmakhta* in that it conflicts with Rav's tradition that the prohibition is enacted by the Shammaites. In other words, these opening comments either state the obvious (that libation wine is banned by Scripture), or are so far-fetched as to demand further discussion (if *all* Gentile wine is truly to be considered banned by Scripture). What seems at first like a clear scriptural derivation for the Mishna's law is in fact anything but clear, because it evades the central conundrum of this body of law, namely: How to account for the prohibition's breadth in treating all Gentile wine with the same level of stringency that understandably governs idolatrous libation?⁵⁰ The Bavli's opening

Know This? Midrash and the Fragmentation of Modern Judaism (Albany: State University of New York Press, 1995).

47 In around twenty different instances throughout the Bavli, the anonymous editorial voice raises an objection that the law under discussion is “*de-rabanan*,” and then clarifies that the verse that had been cited is not evidence of the law's *de-’oraita* status, but rather is an “*’asmakhta be-’alma*,” i.e., “merely a support.” See for example Sukkah 28a, Hullin 17b, and AZ 37b. Harris engages the phenomenon of *’asmakhta* on 48. For a fuller discussion of the prevalence of *’asmakhtot* among the Stammaim, see David Weiss Halivni, *Peshat and Derash: Plain and Applied Meaning in Rabbinic Exegesis* (New York: Oxford University Press, 1991), 13-9.

48 b. AZ 29b. The square brackets indicate a marginal note in the JTS manuscript:

אמ' רב נחמן אמ' רבה בר אבוא אמ' קרא אשר חלב זבחימו יאכלו ישתו יין נסיכם [מקיש לזבח] מה זבח אסור
אף יין נמי אסור

In the Paris manuscript, the passage makes a more pointed analogy, specifying that wine and sacrifices are to be compared in that the law prohibits benefit in relation to both:

מקיש יין לזבח מה זבח אסור בהנאה אף יין נמי אסור בהנאה

49 As it turns out, the demonstration that idolatrous offerings are themselves scripturally banned is not as straightforward as it would seem; the editors are not satisfied with Rabba b. Abuha's analogy between idolatrous offerings and libation and generate a chain of three additional verses to demonstrate that benefiting from such sacrifices is indeed scripturally prohibited. (b. AZ 29b)

50 Tosafot encapsulates the problem far more succinctly than I have, identifying the precise ways the Bavli's opening

comment not only evades this question, it actually confounds the issue, glomming a verse about idolatrous libation onto a ruling about ordinary wine, and giving the impression of a scriptural foundation for a law that is later expressly identified as a rabbinic decree.

Is the prohibition on Gentile wine rabbinic or scriptural? And why is it so strict? These are the two interlocking puzzles at the heart of the law, and the editors are surprisingly silent on both of them. Given the prominence of the theme of rabbinic law-making elsewhere in *'Eyn Ma'amidim*, this restraint becomes all the more striking, and calls to mind the reticence of Rabbi Yehoshua in the mishnaic dialogue about the prohibition on Gentile cheese. My claim is that the editors' silence on these issues should not be seen as a lapse in editorial control, but rather as a choice. Later, I will argue that the editors' confounding treatment of the law's derivation is part of a broader strategy of evasion and indirection, an effort to hide the fingerprints of their rabbinic predecessors on the law's stringencies. For now, I simply wish to call attention to the way the Bavli muddles the discussion of whether the law's stringencies are scriptural or rabbinic, simultaneously sustaining both the insinuation that all Gentile wine is tainted by idolatry, and the alternative explanation that early rabbis intervened to prohibit drinking with Gentiles so as to curtail social relationships. The effect is a law of uncertain reach whose rationale is overdetermined.

It is not without some self-consciousness that I set out to argue that the Bavli's discussion is deliberately confusing, but I can point to two external considerations that help me make my case. The first is a literary consideration, and it is one I have already laid out in treating the Ben Dama story: In this story, as in the Mishna's account of the dialogue between Rabbi Yishmael and Rabbi Yehoshua, rabbinic authority for making law emerges as a theme. Against this backdrop, the editors' reticence on the precise question of rabbinic versus scriptural authority becomes all the more striking, supporting my claim that the silence is strategic. My second corroboration is drawn from the history of halakha. As Haym Soloveitchik points out in his magisterial study of how the Jews of medieval Ashkenaz produced, consumed, and traded wine, the laws surrounding wine remained ambiguous for an uncharacteristically extended period in Jewish history.⁵¹ Soloveitchik catalogs multiple areas of confusion arising from contradictions between sugyot in AZ, and demonstrates that a consistent, authoritative understanding of the laws of wine did not emerge until the dissemination of Rashi's commentary in the twelfth century.⁵² While evidence of AZ's unusual reception history does not on its

comments muddle things up. See Tosafot on 29b: "This is astonishing! How can one even ask from where the prohibition is derived? Our Mishna clearly relates to Gentile wine in general (*stam yeynam*), and this is an injunction decreed by the rabbis because of their daughters!"

יין מנלן - תימה מאי קא בעי מנלן הא מתניתין מיירי בסתם יינם וגזרה דרבנן היא שגזרו על יינם משום
בנותיהן

According to this comment, the problem with the Bavli's scriptural derivation is twofold: First, though the Mishna relates to Gentile wine in general (*stam yeynam*), the Bavli offers a derivation for the prohibition on libation wine (*yeyn nesekh*) in particular. Second, the exercise of identifying a scriptural derivation for the prohibition on *stam yeynam* makes no sense, since the Bavli itself will later identify this stricture as a decree of the rabbis, imposed for the sake of preventing romantic entanglements with Gentile women. To be sure, a proposal for resolving these difficulties follows quickly on the heels of the Tosafot's objections, and the commentator offers an explanation that effectively resolves the contradictions he identifies. But the cleverness of the commentator's resolution does not neutralize the force of the problems that he identifies in the Bavli, nor does it cancel out his initial astonished response.

51 Haym Soloveitchik, *Wine in Ashkenaz in the Middle Ages: Yeyn Nesekh—a Study in the History of Halakhah* (Hebrew) (Jerusalem: The Zalman Shazar Center for Jewish History, 2008). On the halakhic background, see especially 133-68.

52 Among the key issues that remain indeterminate in the Bavli and among later jurists and that are resolved by Rashi are: 1) It is physical contact with a Gentile, not ownership, which determines wine's categorization as "*stam yeynam*" (Soloveitchik, 137-46).

2) Wine that Gentiles touch unintentionally is not rendered prohibited (Soloveitchik, 147-50).

Soloveitchik explains that with these two central clarifications, and a range of other interpretive interventions, Rashi

own confirm my claim that the tractate's treatment of Gentile wine is *deliberately* confounding, Soloveitchik's probing analyses do offer external verification of the Bavli's internal contradictions.

In my examination of *'Ein Ma'amidim*'s opening sugya, I indicated how the editors maintain strict control over their materials, orchestrating disparate traditions into a dialectical exchange that is tight and cogent. When it comes to the topic of Gentile wine, however, this strong editorial presence appears to recede. The editors present an almanac of received traditions about food, wine, and other drinks, but do not do the work of reconciling them. Individual traditions remain undigested, and the effect is a body of law which is both overdetermined and confounding. Thus far, we have seen two competing rationales for the prohibition on Gentile wine, one based on a scriptural prohibition of idolatry, and the other based on a legend of early rabbinic lawmakers' forays into social engineering. In the next section, I examine yet a third rationale that the editors introduce into the mix, the proposal that the beverages of Gentiles are simply unsafe.

Section II: Snakes

A snake came to my water-trough
On a hot, hot day, and I in pyjamas for the heat,
To drink there. . .

And voices in me said, If you were a man
You would take a stick and break him now, and finish him off.

But must I confess how I liked him,
How glad I was he had come like a guest in quiet, to drink at my water-trough
And depart peaceful, pacified, and thankless,
Into the burning bowels of this earth? . . .

D. H. Lawrence, "Snake"⁵³

One of the most striking ways that the Bavli's discussion of Gentile wine diverges from the Mishna's presentation is in its extended attention to snakes. Snakes are nowhere to be found in m. AZ, and yet *'Ein Ma'amidim* is crawling with them: In the opening sugya, a re-telling of the serpent's seduction of Eve raises questions about the parentage of non-Jews. In the story of Ben Dama, the threat of *Minut* is portrayed as being more lethal than a deadly snakebite. And in the explication of the prohibition of Gentile wine, the likelihood of snakes having penetrated stores of wine, water, and other food becomes a rationale for a range of halakhic stringencies. It is in this context that the Bavli presents numerous accounts of the eating habits of snakes. In this section, I present and analyze a selection of these materials. I will argue that these snake stories do double duty within the talmudic chapter, contributing to the editors' project on both the legal and literary planes. In the realm of legal argument, snakes help the editors address the excessive stringencies of the laws of Gentile wine by providing an instructive legal analogy. In the realm of literary art, snakes join a menagerie of animal-figures, and effectively convey both the cunning and the danger the editors ascribe to non-Jews. In injecting the hidden threat of snake venom into their discussion of Gentile wine, the Bavli editors combine penetrating legal analysis with a subtle literary imagination.

creates a coherent and comprehensible body of law that replaces the confusion of customs and unfounded strictures that governed Ashkenazic communities in earlier generations.

53 From D. H. Lawrence, "Snake," *Selected Poems* (London: Penguin Books, 2008), 125-28.

Legal Reasoning and the “Rule of Exposure” (AZ 30a)

There is an anxious, obsessive quality to the Mishna's treatment of Gentile wine that contemporary scholars have observed but have not satisfactorily explained. In the words of Peter Schäfer, “One gets the impression that the Gentiles are obsessed with spoiling Jewish wine and making it prohibited for Jews, and that the Jews are busy day and night protecting their wine from Gentiles. Sometimes the discussion resembles a cops-and-robbers game.”⁵⁴ The Bavli editors not only take note of this curious characterization of Jewish-Gentile relations, they seek to explain it. Juxtaposing the strictures governing Gentile wine with the stringencies that the Mishna attaches to foods that have been left exposed to snakes, the editors generate a legal analogy with great explanatory power.

We have already seen that the Bavli provides two distinct accounts for the strictures governing the wine of Gentiles, offering a scriptural derivation at the beginning of the discussion (29b), and later identifying the prohibition as an injunction of the rabbis (36b). Much of the material in between these two discussions investigates yet another rationale for banning certain beverages, “*mi-shum giluy*,” or “because of exposure.” *Mi-shum giluy* is a rationale for a prohibition on wine, water, and other potable liquids that have been left uncovered and are suspected of having been infiltrated by venomous snakes. *Giluy* has nothing at all to do with idolatry or with Gentiles, and it is not offered as a reason for the ban on Gentile wine, which comes under its own category of prohibition. It is invoked, however, in relation to beverages that are similar to wine, alcoholic mixtures whose status is questionable because they fall into a gray area:

Rabba and Rav Yosef both say: “Diluted wine does not come under the rule of exposure. Boiled wine does not come under the rule of wine libation.”

They were asked: “But what about boiled wine: Does it come under the rule of exposure, or not?”⁵⁵

The Bavli here raises the question of what kind of prohibition, if any, relates to boiled wine and to wine that has been diluted with water. Do these beverages come under the category of liquids that are susceptible to prohibition through contact with Gentiles, like wine does? Do they come under the ban on beverages that have been exposed to snakes? Which categories of beverage are governed by which set of legal concerns?

The juxtaposition of the two categories of prohibition that I translate as “the rule of exposure” (*mi-shum giluy*) and “the rule of libation” (*mi-shum yeyn nesekh*) is an innovation of the talmudic authorities. While the rule of libation is a central concern of the local mishna, the rule of exposure is drawn from an entirely different body of law. The concept of *giluy*, or “exposure” is introduced in the Mishna in the context of the rules of Teruma, and concerns sacred offerings that were eaten by priestly families in ancient times. Thus, m. Terumot 8:4-5 reads:

Wine dedicated as a Teruma offering that was left exposed should be poured away, and it need not even be mentioned in connection with wine that is not sanctified. Three beverages become prohibited because of

⁵⁴ Schäfer, 338.

⁵⁵ b. AZ 30a:

רבה ורב יוסף דאמרי תרויהו יין מזוג אין בו משום גלוי יין מבושל אין בו משום יין נסך איבעיא להו יין מבושל יש בו משום גלוי או אין בו משום גלוי

being exposed: water, wine, and milk. And all other beverages are permitted (even if left uncovered.) How long do they need to remain exposed to come under the prohibition? Long enough for a snake to come out of a nearby place and drink.

The quantity of water left exposed (that thereby comes under the prohibition) is enough that the venom could be lost in it.⁵⁶

Though the rule of exposure and the rule of libation originate in two very different areas of law,⁵⁷ they both are prohibitions that relate to wine, and this alone might have been the impetus for the talmudic sages to consider them together. Their similarity, however, goes far beyond this. As categorical prohibitions, the rule of exposure and the rule of libation are structured in analogous ways. Thus, according to the Mishna's rulings in AZ, mere contact with a Gentile—even the opportunity for a Gentile to have unsupervised contact—is sufficient for rendering the wine prohibited as *yeyn nesekh*; whether or not the wine was actually dedicated to idolatry is immaterial.⁵⁸ Similarly, according to the rule of exposure, whether or not snakes actually entered the wine or water, let alone contaminated it with venom, does not matter; the mere possibility of contact with a snake brings the liquid under a ban. In both bodies of law, the sealing and the supervision of the liquid is critical. Wine belonging to Jews that is left unsealed and unguarded by Jews is presumed to have been compromised through contact with a Gentile; liquids that are left uncovered and unwatched are presumed to have been infiltrated by snakes.

While the structural similarities between these two categories of prohibitions are nowhere explicitly spelled out, they come to light over the course of an extended passage, presented below. In this sugya, the editors investigate how the twin rationales of libation and exposure relate to boiled wine on the one hand, and diluted wine on the other. Most important for my argument are not the individual moves of the dialectic, but rather the trajectory of the argument as a whole.

1. Rabba and Rav Yosef both say: “Diluted wine does not come under the rule of exposure. Boiled wine does not come under the rule of wine libation.”

They were asked: “But what about boiled wine: Does it come under the rule of exposure, or not?”

2. Rabbi Yaakov bar Idi testified concerning boiled wine that it does not come under the rule of exposure.

3. Rabbi Yanai bar Yishmael got sick, and Rabbi Shimon⁵⁹ [ben Zerud] and the rabbis went to ask after him. They were sitting when the question was asked of them: “Concerning boiled wine: Does it come under the

56 The round brackets indicate my own insertions:

יין של תרומה שנתגלה, יישפך; ואין צורך לומר, של חולין. שלושה משקין אסורין משום גילוי--המים, והיין, והחלב; ושאר כל המשקין, מותרין. כמה ישוהו, ויהו אסורין--כדי שייצא הרחש ממקום קרוב, וישתה. שיעור המים המגולים כדי שתאבד בהם המרה.

57 The juxtaposition of the laws of Teruma and the laws of *yeyn nesekh* calls to mind Zohar's argument, in which the importance ascribed to idolatrous wine-libations is a projection of the centrality of wine in Jewish ritual.

58 Thus, according to m. AZ 5:5: “Open barrels (of wine) are prohibited; sealed ones (are prohibited) if there is enough time for him (a non-Jew) to open it, re-seal it, and let the new seal dry.”

חביות פתוחות אסורות וסתומות מותרות כדי שיפתח ויגוף ויגב

59 This reflects ms. Rab 15. Other witnesses have R. Yishmael b. Zerud.

rule of exposure, or not?”

Rabbi Shimon ben Zerud said: “This is what Rabbi Shimon ben Lakish said in the name of great man.”--and who was it? Rabbi Hiyya-- “Boiled wine is not subject to the rule of exposure.”

They said to him: “Can we rely on this?”

Rabbi Yanai bar Yishmael signaled to them: “By my life and throat! (You can rely on it!)”

4. Shmuel and Ablet (a non-Jew)⁶⁰ were sitting together when boiled wine was served to them. Ablet withdrew his hand (so as not to render the wine unfit). Shmuel said, “But it has been said: Boiled wine is not subject to the rule of libation wine.”

5. Rabbi Hiyya's maidservant left some boiled wine uncovered, and then brought it before Rabbi Hiyya. He told her, “Behold they have said: Boiled wine is not subject to the rule of exposure.”

6. The servant of Rav Ada bar Ahava left some diluted wine uncovered. He came before Rav Ada Bar Ahava. He (Rav Ada bar Ahava) told him, “Behold they have said: Diluted wine is not subject to the rule of exposure.”

7. Rav Papa said: “We only said this in a case where it is well-diluted, but wine that is only partially diluted—it [a snake] will drink.”

8. Does it indeed drink wine that is only partially diluted?

9. But what of Rabba bar Rav Huna?!

He was traveling by boat, and had taken wine with him. He saw a snake cutting across the water, drawing near.

He said to his servant, “Take out its eyes!”

The servant took a bit of water, and threw it into the wine, and the snake turned around and left.

10. So--(this only means that) it (a snake) will not risk its life for diluted wine the way it will for pure wine.

11. But will it indeed not risk its life for diluted wine?

12. But what of Rabbi Yannai who was in Bei Akhborai—and some say it was Bar Hadaya who was in Bei Akhborai.

People were sitting and drinking wine. Some wine was left in the cask, and they covered it with a rag. Then he saw a snake take water in its mouth and throw it into the cask until the cask was full. The wine came up and out over the rag, and the snake drank it!

Let's say: It (a snake) drinks wine that it dilutes itself, but not wine that others dilute.

13. Rav Ashi said, and some say it was Rav Mesharsheya: “What kind of resolution is this when there is danger involved?”

⁶⁰ Ablet's non-Jewish identity can be extrapolated from the story, but the character is also known from other talmudic stories, for example in b. Shabbat 129a and 156b. (156b is especially interesting, in our context, because it tells the story of a Jew who escapes Ablet's astrological prediction that he is to be bitten by a snake by virtue of a good deed.)

14. Rava said: “The halakha is: Wine that is diluted comes under the rule of exposure and the rule of wine libation; wine that is boiled does not come under the rule of exposure, nor under the rule of wine libation.”⁶¹

Over the course of this extended passage, rabbinic pronouncements about the susceptibility of boiled wine and diluted wine to the two categories of prohibition are considered in light of reports about real-life cases. These illustrations, however, are not evenly distributed over all the permutations of the rules' applications. Instead, the editors guide our attention in a particular direction. As the passage progresses, we move from a brief consideration of boiled wine to a much longer treatment of diluted wine. Two illustrations are recounted in relation to boiled wine (the story of Ablet (4); and the story of Rabbi Hiyya's maidservant (5)), and then three are related about diluted wine (about Rav Ada Bar Ahava's servant (6); Rabba bar Rav Huna's boat trip (9); and the resourceful snake of Bei

61 b. AZ 30a. Round brackets indicate my own insertions. Square brackets indicate marginal notes in the JTS manuscript. I have assigned numbers to the narratives so as to facilitate discussion about them.

רבה ורב יוסף דאמרי תרויהו יין מזוג אין בו משום גלוי יין מבושל אין בו משום יין נסך
איבעיא להו יין מבושל יש בו משום גלוי או אין בו משום גלוי
העיד ר' יעקב בר אידי על יין מבושל שאין בו משום גלוי
ר' ינאי ברבי ישמעאל חלש עול לגביה ר' שמעון [בן זירוד] ורבנן לשיולי ביה
יתבי וקא מיבעיא להו יין מבושל יש בו משום גלוי או אין בו משום גלוי
אמ' להו ר' שמעון בן זאדיד הכי אמ' ריש לקיש משום גברא רבה ומנו ר' חנינא אין בו משום גלוי
אמרו ליה נסמוך מחוי להו ר' ינאי בר' ישמעאל עלי ועל צוארי
שמואל ואבלט הוו יתבי
אייתו לקמיהו חמרא מבשלא
משכיה אבלט לידיה
אמ' ליה לא צריכת הרי אמרו יין מבושל אין בו משום יין נסך
אמתיה דר' חייא איגלי לה ההוא חמרא מבשלא
אתאי לקמיה דר' חייא
אמ' לה הרי אמרו יין מבושל אין בו משום גלוי
שמעיה דרב אדא בר אהב' איגלי ליה ההוא חמרא מזיגא
אתא לקמיה דרב אדא בר אהבה
אמ' ליה הרי אמרו יין מזוג אין בו משום גלוי
אמ' רב פפא לא אמרן אלא דמזיג טובא אבל מזיג ולא מזיג שתי [חיויא]
ומזיג ולא מזיג מי שתי
והא רבה בר רב הונא הוה קא אזיל בארבא והוי נקיט חמרא בידיה וחזייה לההוא חיויא דקא צרי ואתי
ואמ' ליה לשמעיה סמי עיניה דדין
שקל קלי מיא ושדא ביה וסר לאחוריה
אחייא מסר נפשיה אמזיגא לא מסר נפשיה
ואמזיגא לא מסר נפשיה
והא ר' ינאי בי עכבורי ואמרי לה בר הדיא בי עכבורי
הוו יתבי והוו קא שתו חמרא
ואישתיו קמיהו חמרא בקובא וצרוהו בפרונקא
וחזיוה לההוא חיויא דשקל מיא בפומיה ורמא כובא עד דמלא כובא וסליק חמרא עליוה פרונקא ושתי
אמרי דמזיג איהו שתי דמזגי אחרני לא שתי
אמ' רב אשי ואיתימא רב משרשיא פירוקא לסכנתא
אמ' רבא הלכתא יין מזוג יש בו משום גלוי ויש בו משום יין נסך
יין מבושל אין בו משום גלוי ואין בו משום יין נסך

Akhborai(12)). The most vivid illustrations and the only two that qualify as full-fledged stories⁶² both feature snakes going after diluted wine (9 and 12). Over the course of the passage as a whole, the progression of the discussion moves us from a consideration of boiled wine to a consideration of diluted wine, and from concern about contact with non-Jews to concern about exposure to snakes, as the following table demonstrates:

	Rule of libation wine (pertains to contact with Gentiles)	Rule of exposure (pertains to snakes)
Boiled Wine	4. Ablet and Shmuel	5. R. Hiyya's maidservant
Diluted Wine	<i>No illustrations provided</i>	6. R. Ada's servant 9. Snake approaches Rabba b. Rav Huna's boat 12. Wily snake of Bei Akhborai

Over the course of this extended passage, snakes displace Gentiles as the focus of our attention, and as a cause for concern. Subtly, on the sly, the editors have made snakes take the place of Gentiles.

I am arguing that it is through this substitution of snakes for Gentiles that the Bavli editors call attention to structural similarities between the rules of *yeyn nesekh* on the one hand and prohibitions for reason of snake-exposure on the other. Bringing these two disparate bodies of law into alignment, the editors highlight the parallel ways in which the two prohibitions work. In each body of law, a prohibition stems from suspicion of contact that cannot be detected. Shmuel's Gentile friend Ablet (in 4 above) is quick to pull his hand away from boiled wine because he knows that mere contact with his hand renders regular wine unfit for a rabbi—even the possibility of Gentile access to wine is sufficient for rendering it prohibited as *yeyn nesekh*. Similarly, the rule of exposure bans any drink a snake has had access to, regardless of whether a snake actually had contact with the beverage, let alone injected venom into it. This is why the demonstration of a snake's interest in diluted wine is sufficient for placing that whole category of beverage under suspicion for exposure; the mere possibility of contact is sufficient for triggering the prohibition. Structurally, suspicions of contact, whether by snakes or by Gentiles, function in parallel ways in the two categories of law, and the Bavli brings this out by bringing these two disparate areas of law together.

Alongside these striking parallels between the two categories of prohibition, however, there is one important difference between them. As Rav Ashi (or Rav Mesharsheya) points out (13), the life-threatening danger of snake venom makes the circumspection demanded by the rule of exposure prudent and reasonable. When it comes to Gentiles, though, this level of caution is far more difficult to explain. I am arguing that the Bavli here not only remarks upon the Mishna's excesses, but seeks to account for them. The Mishna is anxious and unduly stringent in its treatment of Gentile wine, the Bavli suggests, because *mishnaic law relates to Gentiles as it does to snakes*. While the Bavli is never explicit in making this comparison, the juxtaposition of the two categories of prohibition invites just such an analogy.

The structural similarities between *giluy* and *yeyn nesekh* that the Bavli highlights raise an intriguing possibility: Perhaps the stringencies that govern the use of Gentile wine were indeed shaped through analogy with the laws of *giluy* in m. Terumat. According to this line of reasoning, the stringencies in one body of mishnaic law generated the stringencies in another, and while the transfer of

62 For a distinction between “narrative” and “story” in rabbinic literature see my discussion of Moshe Simon's work in Chapter II.

standards from the laws of Teruma to the laws of Gentile wine makes for a certain kind of consistency, it also introduces a level of stricture pertaining to Gentile wine that on its own is difficult to explain. Whether this analogy between the two bodies of law was pursued in a conscious or unconscious way, it would account for the surprising severity of the Mishna's strictures regarding wine that comes into contact with Gentiles. If the account I attribute to the Bavli is correct, the (irrational) suspicions of Gentiles expressed in the laws of libation wine are modeled on the (rational) suspicions of venomous snakes that are the foundation for the “rule of exposure.”

Whether or not the Mishna in fact expresses an association between snakes and Gentiles, the Bavli not only discerns the structural similarity between the rules of snake-exposure and *yeyn neseekh*, it puts this analogy to literary use. As the talmudic sugya continues beyond the passage cited above, the grounds for the comparison between the rule of exposure and the rule of libation shifts. In a tradition that I discuss in Chapter III above, Rav does not drink water in pagan homes, for fear they are not careful about exposure (AZ 30a). Here, as the Bavli for the first time identifies the rule of exposure with non-Jews in particular, what begins as an observation of a statutory similarity between two discrete bodies of law transmutes into a single, undifferentiated sphere of suspicion. Rav's suspicions bring snakes and Gentiles into a direct relationship, associating the danger of snake venom with non-Jews' alleged lack of hygiene.⁶³ These suspicions of Gentiles' health standards are not at all relevant to the halakhic discussion of Gentile wine, because Gentile wine cannot be rendered more prohibited than it already is—whether understood as a biblical prohibition or a rabbinic injunction, the ban on Gentile wine is already overdetermined. As a literary strategy, however, the move is very effective. The two categories of prohibition dissolve into each other, and the visceral fear and repulsion elicited by snakes wraps Gentile wine in yet another layer of stricture and suspicion, heightening a sense of taboo. The snake motif that first appeared in this chapter's opening sugya thus enters the halakhic deliberations at the center of the chapter, introducing a literary artistry that is in no way anticipated by the Mishna.

Literary Analysis: How is a Gentile Like a Snake?

The Bavli's association between snakes and Gentiles participates in AZ's overarching literary project, contributing to the tractate's examination of Jewish-Gentile difference.⁶⁴ The association is both metonymic and metaphoric, and it raises the question: What does it mean to use the snake as a figure for the non-Jew? As scholars of metaphor have explained, in any metaphor, there are “used” and “unused” parts of both the target concept, or tenor, and the source concept, or vehicle.⁶⁵ As a source

63 As the sugya continues, these allegations confront the editors with a conundrum: If it is indeed the case that non-Jews are lax about protecting their food and drink from snakes, how is it that non-Jews do not regularly fall victim to snake poison? One explanation that is attributed to Rav suggests that non-Jews have built up a resistance to venom through regular exposure to the creeping animals they eat; since Jews do not eat such animals, they remain more highly susceptible to venom (b. AZ 31b at the bottom). The explanation is striking not just for its cogent account of the science of immunity, but also because of its presumption that Jewish and non-Jewish bodies are constitutionally indistinguishable. Any difference between Jews and non-Jews must be explained as stemming from a difference in behavior, because for the Bavli, there are no inherent inborn differences.

64 This association has been noted by David Kraemer, who characterizes it as metaphor: “Their wine—when not first boiled—is prohibited as though it had been poisoned by a snake. The wine—and even the water—of the gentile is deemed venomous. If the wine is venomous, then the gentile must be the source of the venom. The gentile is, by association, the snake.” Kraemer, *Jewish Eating and Identity Through the Ages* (Routledge, 2007), 70

65 George Lakoff and Mark Johnson, *Metaphors We Live By* (Chicago: University of Chicago Press, 1980). See especially Chapter 11, “The Partial Nature of Metaphorical Structuring,” 52-5. Lakoff and Johnson use the terms “used” and “unused.” For a more recent review of the scholarship, see Zoltan Kovecses, *Metaphor: A Practical Introduction* (Oxford: Oxford University Press, 2002), especially Chapter 7, “The Partial Nature of Metaphorical Mappings,” 79-92. Kovecses uses the term “target” and “source” to refer to the two conceptual domains that are brought together in a

concept, SNAKE offers a particularly rich field of possibilities. On the one hand, the Bavli might draw on associations that are culturally specific, activating intertextual connections with the Genesis story, and with the biblical characterization of the serpent as a wily seducer. But snakes also have a range of distinctive natural properties: they slough their skin, they slither without legs, they are often poisonous.⁶⁶ The poem that provides the epigraph for this section—a modern poem, describing a snake the speaker encounters in Italy—highlights other aspects of snake behavior that are also prominent in the talmudic discussion: the tendencies of snakes to infiltrate people's water sources; and a snake's bravura in quenching its thirst under the watchful eyes of human observers. Which of these many aspects of SNAKE are most relevant to the Bavli's characterization of non-Jews?

Even as the recurrence of the snake motif contributes to the unity of *'Eyn Ma'amidim*, the specific resonances of SNAKE change in different parts of the chapter. When the opening sugya identifies the snake of Genesis as the progenitor of non-Jews' bestial tendencies, the scriptural allusion builds on the snake's association with sexual perversion. Later, in the story of Ben Dama, the Bavli storytellers emphasize the lethality of snakebites, and this helps them characterize the menace of *Minim*. In the extended discussion of *giluy* in AZ 30a, the characterizations of the snakes who go after the rabbis' wine on board ship and in *Bei Akhborei* are far less menacing. Here, snakes are depicted as persistent, ubiquitous threats, requiring constant circumspection, but also eliciting a begrudging respect.⁶⁷ To the degree that these snakes are figures for Gentiles, Gentiles are depicted as part of everyday life, in and about Jewish spaces. Like the snake who manages to fill a wine cask with water and thus gain access to the drink inside, the Gentile is cunning and resourceful. Like the snake who sneaks into the Temple and contaminates sanctified wine, the Gentile is sly. In the deliberations about *giluy*, reports about snakes have the texture of real-life encounters with animals. The mingling of wonderment and terror that shades human interactions with snakes injects the Bavli's depiction of the non-Jew with a potent mix of hatred and attraction.

As the deliberations about *giluy* continue beyond the passage discussed above, the emphasis on empiricism with respect to snake behavior persists. In these discussions, additional aspects of the SNAKE concept are emphasized, adding further nuance to the snake-figure. A collection of rabbinic traditions testify to the difficulty of detecting snake venom in both drinks and in food:

Rav Safra said in the name of Rabbi Yehoshua of the South: There are three kinds of venom: That of a young one sinks, of a middle-aged one hovers, and an old one floats. . .

“That of a young one sinks”--What is the halakhic implication?

As it was taught in a baraita: A barrel was left exposed. Even though nine drank from it and did not die the tenth person is still not to drink from it.

There was a case in which nine drank from it and did not die, and then a

metaphor. In our case, SNAKES are the source domain, and GENTILES are the target domain.

66 Wendy Doniger suggests that there is a confluence between certain animals' natural traits, and their meanings within and across cultures: “And snakes, both because of their skin-sloughing, and because of their uncanny means of locomotion (an important classificatory factor), seem to convey ideas of rebirth (and of death; many snakes are poisonous), of shape-shifting, and of deception; moreover, their shape makes them both phallic and womb-like (when curled up into an ouroboros), hence, a natural symbol of androgyny and a common player in myths of sex-change.” Wendy Doniger, “Bestiality,” in *Humans and Other Animals*, ed. Arien Mack (Columbus: Ohio State University, Press, 1999), 359.

67 In the D.H. Lawrence poem “Snake,” the speaker registers a similar mix of fascination, fear, attraction, and shame as he considers attacking the snake: “Was it cowardice, that I dared not kill him? Was it perversity, that I longed to talk to him? Was it humility, to feel so honoured?/ I felt so honoured./And yet those voices:/If you were not afraid, you would kill him!”

tenth drank, and he died.

Rabbi Yirmiya said: It was because it (the venom) sinks. . .

And so it is with a melon that was left exposed: Even though nine people ate from it and did not die, the tenth is still not to eat from it.

There was a case in which nine ate from it and did not die, and a tenth ate and he died.

Rabbi Yirmiya said: It was because it (the venom) sinks⁶⁸

These traditions suggest that leaving food or drink exposed to snakes is even more dangerous than one might suspect. The issue is not simply that snakes are sneaky creatures, and might easily enter and exit one's stores of food and drink without being detected. The venom itself is a stealthy substance. It hides undetected, concentrated in just one part of a contaminated drink or fruit, lulling eaters and drinkers into a false sense of security.

The Bavli editors indicate precisely which aspects of the concept SNAKE are most relevant to their characterization of Gentiles through the specific case-stories they offer. Their illustrations highlight both the cunning of snakes and the impossibility of detecting the poison they leave behind. Transferred to the concept of GENTILE, these qualities suggest that contact with Gentiles is to be avoided because the dangers posed by non-Jews are so difficult to detect. Non-Jews are menacing not because of any obvious, apparent danger, but rather because of risks that are hidden and undetectable. Nine times out of ten, Jews might interact with Gentiles and suffer no harm, just like nine people can drink water contaminated by snake venom and escape unscathed, but the preponderance of contradictory evidence only serves to confirm that one cannot trust one's reason or experience. The editors' tacit comparison of Gentiles to snakes effectively neutralizes any countervailing evidence of non-Jewish virtue, negating all examples of positive Jewish-Gentile interactions as dangerously misleading.

Using both the snake and snake-venom as figures for the non-Jew, the Bavli suggests that differences between Jews and Gentiles are both difficult to detect, and rife with danger. In emphasizing the hidden nature of the Gentile threat, the snake-figure augments other depictions of Jewish-Gentile difference, strengthening my claim that for the Bavli editors, the real threat that Gentiles pose is not that they are qualitatively different from Jews, but that they are so very much the same.⁶⁹ For the Bavli, it is precisely the invisibility of Jewish-Gentile difference which is the foremost danger posed by Gentiles. In the absence of clear, external boundaries, the task of separating like from like becomes all the more pressing. The association of Gentiles and snakes thus ripples through both the literal and figurative realms, with the rule of *mi-shum giluy* shaping the Bavli's understanding of the laws of Gentile wine in two respects: The structure of the law of snake-exposure serves as a model for the scope of the prohibition on Gentile wine, while the comparison between snakes and Gentiles provides an overarching rationale for the prohibition's stringency.

68 b. AZ 30b, ms. JTS:

אמ' רב ספרא משמיה דר' יהושע דרומאה שלשה מיני ארס הן של בחור שוקע של בינוני מפעפע של זקן צף. . . של בחור שוקע למאי הלכתא לכדתניא חבית שנתגלתה אע"פ ששתו הימנה תשעה בני אדם ולא מתו לא ישתה עשירי מעשה היה ששתו הימנה תשעה ולא מתו ושתה עשירי ומת אמ' ר' ירמיה זהו שוקע. . . וכן אבטיח שנתגלתה אע"פ שאכלו ממנה תשעה בני אדם ולא מתו לא יאכל ממנה עשירי ומעשה היה שאכלו ממנה תשעה בני אדם ולא מתו ואכל ממנה עשירי ומת ואמ' ר' ירמיה זהו שוקע

69 Kraemer reads the significance of the snake-figuration in an almost opposite way, because he emphasizes a different aspect of snakes, as sources of impurity. On page 70, he writes, "To describe the gentile as venomous or snake-like is to reiterate, in only slightly different terms, that he is impure—or at least that he is this source of impurity."

I am arguing for a reading of *mi-shum giluy* in which the figurative does not cancel out the literal, technical aspects of the law, but rather augments them. Moreover, it is not just the snake, but other aspects of the Bavli's account of snake-exposure that lend themselves to such a figurative reading. While the snake represents the threat of Gentile incursion, the barrel of liquid that the snake penetrates represents the boundaries of the Jewish community. The larger metaphor which grounds this interpretation compares law to a container. Rabbinic stricture is imagined as a vessel that protects and preserves the holiness and distinctiveness of the Jewish community, represented by wine. In this reading, the rabbinic compulsion to seal up wine vessels bespeaks a fantasy of Jewish separateness, a drive to secure communal boundaries and make them impermeable. At the same time, the intricacies of the law's particulars reflect the inherent challenge of maintaining Jewish separateness. A complex of rules addresses the impossibility of detecting contamination through taste or through sight acknowledges that Gentile wine is virtually indistinguishable from Jewish wine.⁷⁰ So too, differences between Jews and Gentiles are not apparent.

One further resonance of the Bavli's discussion of *giluy* is the way it expresses the theme of secrecy. I have already emphasized the ways that secrecy is thematized in two different contexts: In *'Eyn Ma'amidim*'s opening sugya, secrecy is the chief virtue of the rabbinical student who keeps quiet about his sexual adventures. In the mishnaic account of how Rabbi Yishmael confronts the prohibition on cheese, Rabbi Yehoshua employs secrecy when he evades Rabbi Yishmael's questions. Discussion of *giluy* manifests the theme of secrecy in yet a third way, as the injunction to cover up containers of water and wine literalizes the virtues of continence and concealment, projecting the concept of secrecy into the physical world of liquids and solids. In contrast to Jewish men who are closed-lipped about private matters and vigilant about sealing their food and drink, non-Jews are treated as suspect because they are both indiscreet in their talk and sloppy in the kitchen. Alongside a range of other resonances of *giluy*, a loose but suggestive correspondence links snakes sloshing through open casks of wine to Gentiles copulating in cattle-sheds. "Exposure" thus comes to function simultaneously as a statutory category and a moral and sexual one, providing yet another example of how the legal and the figurative can be mutually reinforcing. Though the Bavli introduces the rule of exposure in the context of legal dialectics, it is as a literary figure that *giluy* does some of its most subtle and effective work, weaving a network of associations between non-Jews and the creeping threat of strange, sneaky beasts.

Section III: Secrets

Through their elaboration of a tacit comparison between snakes and Gentiles, the Bavli editors offer a quiet justification for rabbinic efforts to shore up communal boundaries, hinting that the task of separating Jews from others is as urgent as it is challenging. Discerning precisely what is at stake for the editors is difficult, however, because the Bavli's deliberations about the prohibition of Gentile wine are riddled with obfuscations. Not only do the editors confound the question of whether the authority for the prohibition lies in Scripture or with the rabbis; time and again they heighten the mystery surrounding the laws of Gentile wine, promoting secrecy as a virtue, and practicing indirection as a literary strategy.

Disclosures (AZ 35a)

In presenting the story of Rabbi Yishmael's confrontation with Rabbi Yehoshua, the Mishna depicts Rabbi Yehoshua going to great lengths to conceal the fact that the prohibition on eating Gentile

⁷⁰ An extended sugya on the halakhic implications of mixtures in which the prohibited substances may or may not be detected by taste or sight begins on b. AZ 67a.

cheese originates in a rabbinic injunction. Even as the talmudic authorities disclose that which the Mishna conceals, they celebrate the cunning indirection with which Rabbi Yehoshua's character responds to his young interlocutor.

Above, I describe how Shlomo Naeh's reading of the mishnaic story breaks new ground in interpreting Rabbi Yehoshua's comments about the Song of Songs as a coded response to Rabbi Yishmael's question. A careful reading of the Bavli's interpretation suggests that talmudic readers anticipate Naeh's reading in several respects. While the Bavli's comments do not decipher Rabbi Yehoshua's grammar question as precisely as Naeh does,⁷¹ they nonetheless recognize that Rabbi Yehoshua's citation of the Song of Songs is not a diversion to a new topic, but rather a response, in code, to the issue at hand. Here is the relevant passage from the Bavli:

What does “For your love is better than wine” (Song 1:2) mean?

When Rav Dimi came, [he said]: “The Congregation of Israel said before the Holy One Blessed Be He: 'Master of the Universe, the words of Your lovers are sweeter to me than the wine of Torah itself.'”

Rabbi Shimon ben [Pazi] said, or some say Rabbi Shimon ben Ami [said]: “It was the beginning of the verse that he indicated: 'Let him kiss me from the kisses of my mouth' (Song 1:2), by which he said to him: 'Yishmael, my brother, press your lips together, and do not be afraid to answer.’”⁷²

The Bavli here offers two different interpretations of Rabbi Yehoshua's reference to the Song of Songs. For Rav Dimi, the verse reveals—in code—the precise secret that Rabbi Yehoshua wants his student to keep quiet about: Namely, that the prohibition on cheese originates with the rabbis and not the Bible. Rav Dimi's interpretation turns on the use of the comparative adjective within the verse, “For your loves *are better* than wine.” He reads the Hebrew *dodekha* (דודיך) as “lovers” as opposed to “loves;” and this allows him to read the rabbis—God's lovers—into the verse. With “lovers” referring to the rabbis, and “wine” representing Torah, mere substitution indicates that rabbinic teachings *are better* than Scripture.⁷³ For Rav Dimi, as for the contemporary scholar Naeh, it is of prime significance that this particular verse is attributed to the voice of Israel rather than to the Divine lover. According to Rav Dimi, Rabbi Yehoshua is using the verse to tell Rabbi Yismael that the Jewish People embraces the rabbis' introduction of new stringencies into the law.⁷⁴ According to this interpretation, Rabbi

71 Naeh, 419. This is Naeh's claim in any case. Though it is true that Rav Dimi does not explicitly parse the grammar of the verse in so particular a way as Naeh does, Rav Dimi's interpretation suggests that he discerns the significance of assigning the verse to the human speaker. I do not think it takes away from the brilliance of Naeh's analysis to suggest that the talmudic rabbis might have thought of it first.

72 b.AZ 35a. The square brackets indicate marginal notes in the JTS manuscript:

מאי טובים דודיך מין כי אתא רב דימי [אמ'] אמרה כנסת ישראל לפני הקב"ה רבונו של עולם חביבין עלי דברי דודים יותר מיינה של תורה ור' שמעון בן [פזי] ואיתימא ר' שמואל בר רב יצחק [אמ'] מרישא דקרא [קא] אמ' ליה ישקני מנשיקות פיהו אמ' לו ישמעאל אחי חשוק שפתותיך זו בזו ואל תבהל להשיב

73 The interpretation can be rendered like this:

“Lovers” > “wine”
 “lovers” = Rabbis
 “wine” = Scripture
 Rabbis > Scripture

74 It is possible that Rav Dimi sees Rabbi Yehoshua as conveying even more than this. He might be proposing that we read the word “wine” twice, preserving its literal meaning as the very substance under debate in the adjacent passages, alongside the new metaphorical equation of wine with Scripture. If this is so, Rabbi Yehoshua would be indicating that

Yehoshua's citation indicates that it was rabbis who prohibited Gentile cheese, and moreover, that the Jewish People values such rabbinic injunctions even more than it reveres the authority of Scripture itself. This is a strong declaration of the rabbinic prerogative to make new law.

Rabbi Shimon ben Pazi (or Rabbi Shimon ben Ami) offers another interpretation of Rabbi Yehoshua's cipher. He suggests that the citation of this particular verse conveys Rabbi Yehoshua's request that Rabbi Yishmael refrain from talking about the issue. This interpretation focuses in on a part of the verse that is not explicitly cited in the Mishna: "Let him kiss me from the kisses of my mouth." Rabbi Shimon interprets the very imagery of a kiss as a recommendation to keep one's mouth shut by making a metonymic association between kissing and silence via the mouth. While Rav Dimi and Rabbi Shimon's proposals for how to understand Rabbi Yehoshua's hidden meaning are very different, when read in concert, they together address both of the key points that Naeh makes in his interpretation: First, that the prohibition on Gentile cheese is a rabbinic injunction, and second, that it is important to keep mum about this.

As the Bavli's treatment of the story continues, the sugya acknowledges a tension between the interpretation of Rav Dimi and the interpretation of Rabbi Shimon ben Pazi (or Ami): If the legislative powers of the rabbis are as beloved by the people as Rav Dimi suggests, then why is the secrecy that Rabbi Shimon stresses so important? Why would Rabbi Yehoshua need to conceal the rabbinic origins of the prohibition? This is the issue that the Bavli now takes up:

For what reason?

Ulla said, or some say it was Rav Shmuel bar Abba: "[R. Yohanan said:] It was a new rabbinic injunction, and it was not fitting to probe it."

Why did they issue the injunction?

Rabbi Shimon ben Pazi said, or some say Rabbi Shimon ben Ami said: "It was because of snakebites (in the Gentiles' cheese)."⁷⁵

So why not just say that [it was because of snakebites]?

It was because of Ulla, for Ulla said: "Rava said: When they make injunctions in the West, they do not reveal the reasons for them until after twelve months of the year pass, lest someone who does not accept the reasoning goes and disregards the injunction."⁷⁶

the injunctions of the rabbis are more important than the scriptural prohibition regarding wine. According to this interpretation, Rabbi Yehoshua directly addresses Rabbi Yishmael's central problem and tells him that the prohibition on cheese is to be distinguished from the prohibition on wine; while wine is prohibited by Scripture, cheese is prohibited by the rabbis.

75 What I translate here as "snakebites" is in fact a technical term, *nikur* ניקור, that originates in an adjacent context to the Mishna's discussion of *giluy*, and refers to teethmarks in fruit. Thus, m. Terumot 8:6 reads: "Figs, grapes, cucumbers, gourds, melons and squash that have been gnawed—even if there is as much as a talent, whether large or small, whether picked or not picked—as long as there is moisture, it is prohibited. And (the meat of an animal) bitten by a snake is prohibited because of mortal danger."

ניקורי תאנים וענבים והקישואין והדלועין והאבטיחים והמלפפונות, אפילו הן ככד--אחד גדול ואחד קטן, אחד תלוש ואחד מחובר--כל שיש בו ליחה, אסור. ונשוכת נחש--אסורה, מפני סכנת נפשות.

76 b. AZ 35a. The round brackets indicate my own insertions, while the square brackets indicate marginal notes in the JTS manuscript:

מאי טעמ' אמ' עולא ואיתימא רב שמואל בר אבא [אמ' ר' יוחנן] גזירה חדשה היא ואין מפקפקין בה מאי גזירתא אמ' ר' שמעון בן פזי אמ' ר' יהושע בן לוי משום ניקורי ולימא ליה [משום ניקורי] כדעולא דאמ' עולא אמ' רבא כי גזרי גזירתא במערבא לא מגלו טעמ' עד תריסר ירחי שתא דילמא איכא איניש דלא סבירא ליה ואתי

The Bavli here provides a rationale both for the prohibition itself, and for the secrecy surrounding its rabbinic origins, presenting Rabbi Yehoshua's restraint as an act of political prudence. According to Rabbi Shimon ben Pazi (or Ami), tannaitic authorities saw fit to outlaw all cheese prepared by Gentiles because of a general suspicion that Gentiles do not protect their food from snakes. They did not publicize their reasoning, however, out of concern that Jews who did not accept the rationale would not uphold the injunction. Ulla's explanation accounts for why the editors of the Bavli are so open about a matter that Rabbi Yehoshua took such pains to conceal. Once the prohibition on Gentile cheese is accepted as a societal norm, there is no longer any compulsion to keep the rationale secret.

Even as the sugya follows Ulla in explaining that Rabbi Yehoshua's secrecy is a tactical act, there are nonetheless hints that for the Bavli editors, judicious secret-keeping is not merely a matter of expediency, but a virtue in itself. This valorization of secrecy comes through in the opening sugya's account of a rabbinical student who sleeps with his widowed landlady and then keeps the affair a secret. In the present sugya, there is a variation on this theme when Rabbi Shimon ben Pazi (or Rabbi Shimon ben Ami) makes a kiss the emblem for keeping mum. Here, the elements of love-making and secrecy that coincide in the opening sugya are re-mixed in a fresh and arresting way as the image of puckered lips simultaneously conveys both eroticism and reticence.

Rav Dimi's allegorical reading of Song 1:2 adds further eroticizes rabbinic secrecy when it interprets “wine” as a figure for the words of Scripture. If wine corresponds to Scripture, rabbinic law corresponds to the casks or barrels that contain and protect divine instruction:

Wine : Wine Vessels :: Words of Scripture : Rabbinic Injunctions

The figuration reinforces the association of rabbis with containment, and this containment bespeaks not just sanctity and separateness, but also power.⁷⁷ Against the backdrop of erotic images that the intertextual use of the Song of Songs provides, it becomes clear that the continence which the Bavli associates with rabbis is not the negation of desire, but rather the successful exertion of mastery over it, as in the image of a fullness that threatens to overflow a vessel, or of a straining tumescence. Even as the Bavli interpreters divulge Rabbi Yehoshua's secret, they pay homage to his secret-keeping as a model of verbal mastery, power, and restraint. As the talmudic discussion continues, Rabbi Yehoshua's reticence serves as a model for the Bavli's own embrace of secrecy.

Keeping Secrets (AZ 36b)

As we near the end of *’Eyn Ma’amidim*, it becomes increasingly clear that the Bavli conceals a secret of its own. The editors' attention remains fixed on Gentile wine and food, and they at long last acknowledge that these prohibitions originate as injunctions issued by ancient rabbis, tracing them back to the infamous gathering in the upper chamber of Hananya ben Hizkiya ben Garon when the Eighteen Decrees were issued.⁷⁸ Yet despite this forthrightness on the part of the editors, the precise rationale for

לזלולי בה

⁷⁷ The erotic imagery of Song of Songs is deployed in a nearly opposite way a little further along in the passage, when on AZ 35b, the rabbinical student is compared to a flask of perfume, whose aroma is diffused only when it is uncovered. Here, as above, rabbis are imagined as containers for the holy, but it is openness rather than closure that is celebrated.

⁷⁸ The occasion on which the Eighteen Decrees were issued is described in m. Shabbat 1:4, but the decrees are not enumerated there. In the Yerushalmi, two baraitot convey distinct, if overlapping, lists in y. Shabbat 1:4 (3c). (Corresponding to y. Shabbat 1:7 (3C) in ms. Venice.) Our sugya on b. AZ 36b is paralleled on b. Shabbat 17b, which

the edicts remains obscure. This lack of clarity is due, in part, to textual difficulties within the sugya, and as we make our way through the dialectic, I will rely on the critical analyses of scholars Christine Hayes and Zvi Arye Steinfeld to help us navigate through snags in the argumentation.⁷⁹ I will be arguing, however, that the textual difficulties that these scholars identify are not incidental, but rather participate in a program of obfuscation. In my view, the reason that the rationale for the peculiar strictures on Gentile wine remains obscure, even in the context of a discussion that purports to offer explanations, is because the Bavli editors intervene to keep it that way. Adopting esotericism as a rhetorical approach, the Bavli here enacts the very strategy of concealment that it thematizes in its reading of the mishnaic story of Rabbi Yehoshua.

The sugya opens with a re-statement of a tradition mentioned in passing on the preceding page. According to this teaching, the bread, oil, and wine of Gentiles are all prohibited by rabbinic decree:

Bali said that Abimi the Nabatean said in the name of Rav:
Their bread and their oil, their wine and their daughters—all of these are
among the eighteen things.⁸⁰

The fact that the phrase “the eighteen things” receives no further explication in the text suggests that the reference was presumed by the editors to be widely known and understood. But the familiarity of the appellation is somewhat misleading, for as discussions in the Mishna, Tosefta, Yerushalmi and Bavli indicate, the Eighteen Decrees are by no means a settled matter. There is no consensus about which particular rulings are to be counted among the eighteen. Moreover, the tradition of the Eighteen Decrees is a story of discord and contention within the ranks of the early rabbis.

The earliest attestation of the tradition reads:

These are some of the laws which they stated in the upper room of
Hananya b. Hizkiya b. Garon when they went up to visit him. They took
a vote, and the House of Shammai outnumbered the House of Hillel.
They decreed eighteen things on that very day.⁸¹

Ambiguities within this mishna account for much of the disagreement that follows in its wake. The Mishna never reveals the content of the Eighteen Decrees, and commentators are divided on whether the designation “These” refers backward or forward in the text.⁸² Furthermore, despite the tradition's brevity, the terse narration clearly conveys that something exceptional happened on this one particular day. Hovering in the background is the association of Shammai and his school with stringency, and of Hillel with leniency and magnanimity, and this alone suggests that the Shammaites' rare triumph is an

also provides a partial list of the Eighteen Decrees. Stemberger and Goldberg both discuss these sources. See note 44 above.

79 Hayes dedicates a full chapter to this sugya. See Hayes, *Gentile Impurities*, 145-63. Steinfeld examines the development of these laws in a series of articles including Steinfeld, “*Devarim shel goyim*,” (cited above); and “*Ha-Gezerot ‘al tinok goy ve-‘al benoteyhen le-da‘at Rav Nahman bar Yitzhak*,” in *Bar-Ilan Annual of Bar-Ilan University Studies in Judaica and the Humanities*, eds. Menahem Zvi Keddari et al (Ramat Gan: Bar-Ilan University, 1983), 25-42; and “*Gazru ‘al pitan mi-shum shmanam, ve-‘al shmanam mi-shum yeynam*,” *Sinai* 87:5-6 (Av-Elul 1980), 273-81.

80 b. AZ 36b:

אמ' באלי אמ' אבימי ניתואה משמיה דרב פתן ושמן ויין ובנותיהן כלן משמונה עשר דבר הן

81 m. Shabbat 1:4:

אלו מהלכות שאמרו בעליית חנניה בן חזקיה בן גרון כשעלו לבקרו נמנו ורבו בית שמאי על בית הלל שמונה
עשר דבר גזרו בו ביום

82 The question of whether the word is prospective or retrospective is raised explicitly in b. Shabbat 13b.

upset.

Other textual witnesses explicitly characterize the event as a national tragedy. The Tosefta recapitulates the Mishna's statement, with the following addition: "And that day was as harsh for Israel as the day on which the golden calf was made."⁸³ The Yerushalmi offers the following graphic account:

Rabbi Yehoshua of Onaya taught: The disciples of the House of Shammai took positions below and killed disciples of the House of Hillel. It has been taught: Six of them went upstairs, and the rest of them took positions with swords and spears.⁸⁴

While earlier generations of scholars relied on this tradition as a report about violent dissension among the rabbis, Stemberger argues that it is best understood as a fabrication that both elaborates upon the Tosefta's description of the day's grievousness, and explains how it came to be that the smaller group of Shammaites came to outnumber the Hillelite majority on this particular occasion.⁸⁵ The Bavli offers an account that addresses these issues somewhat differently:

They stuck a sword into the House of Study⁸⁶ and said, "One who would enter, let him enter, but one who would leave shall not leave!" On that day, Hillel sat crouched before Shammai like one of the disciples, and it was as harsh for Israel as the day on which the calf was made.⁸⁷

While the Bavli's story is less bloody than the tradition of Yehoshua of Onaya preserved in the Yerushalmi, given the the grievousness of public humiliation in the value system of the Babylonian rabbis, the dressing down of Hillel is no less expressive of violent upset than the threat of the sword.⁸⁸ Both talmuds thus associate the issue of the eighteen edicts favored by the Shammaites with disaster.

According to historian Heinrich Graetz, the showdown that occurred in Hananya b. Hizkiya b. Garon's upper room was ingrained in communal memory because it led inexorably to the Jewish Revolt and to the national catastrophe that followed in its wake. Graetz places these events in 66 CE, and argues that at the time, the Shammaites were closely aligned with the Zealots. He proposes that in imposing new separations between Jews and non-Jews, including a controversial ban on the acceptance of Temple sacrifices from the Roman authorities, the Shammaites effectively threw their support behind rebellion, and declared war on Rome. Graetz's theory was embraced by scholars for a long time before it was ultimately discredited.⁸⁹ It is now possible to appreciate the theory as but a modern

83 t. Shabbat 1:8:

והיה אותו היום קשה להם לישראל כיום שנעשה בו העגל

84 Yerushalmi Shabbat 1:7, 3c-d, as translated by Jacob Neusner, *The Talmud of the Land of Israel*, vol. 11 Shabbat (Chicago: University of Chicago Press, 1991), 59.

תנא ר' יהושע אוניא תלמידי ב"ש עמדו להן מלמטה והיו הורגין בתלמידי ב"ה. תני ששה מהן עלו והשאר עמדו עליהן בחרבות וברמחים

85 Stemberger, 695, 702.

86 This translation reflects ms Vatican 127 and the print versions. Munich 95 has מקדש ("sanctuary") rather than בית המדרש ("house of study").

87 b. Shabbat 17a, ms Vatican 127:

ניעצו חרב בבית המדרש אמ' ה[נ]כנס יכנס היוצ' אל (ינ) יצא אתו היום היה הילל כפוף לפני שמאי כאחד מן התלמי' ו(י)היה קשה להן לישר' כיום שנעש' בו עגל

88 For a discussion of the culture of honor and shame among the Babylonian sages, see Jeffrey Rubenstein, *The Culture of the Babylonian Talmud* (Baltimore: John Hopkins University Press, 2003), 67-79.

89 My presentation of Graetz's theory relies on Stemberger, 701-2. Bibliographic references both to Graetz's work and to

attempt to account for the grievousness that the Tosefta associates with the Shammaites' triumph. Even without burdening the memory of the Shammaites' majority with the full weight of Jewish national defeat and dislocation, however, it cannot be denied that the mere association of the prohibition on Gentile wine with the passage of the Eighteen Decrees is a freighted one. Bali's report that Rav counts this prohibition among the Eighteen Things tacitly associates the law both with stringency and with conflict.⁹⁰ The Bavli's admission that the prohibition on wine is *de-rabanan* is thus in itself suggestive of controversy.

Rav's partial list of the Eighteen Decrees brings together two different categories of prohibition. The bans on bread, oil, and wine are directly relevant to the preceding discussions in the Bavli, where, as we have seen, the editors expand upon the Mishna's list of prohibited foodstuffs. With Rav's statement, the chapter's twin interests in sex and food come together in an explicit way.⁹¹ While the prohibition on "their daughters" seems straightforward enough, given that this is the first time this particular prohibition is mentioned, it is not surprising that the Bavli immediately zeroes in, and raises the question:

"Their daughters"--To what does this refer?⁹²

It is at this point that the sugya gets complicated, and my discussion necessarily gets more technical. As Christine Hayes has demonstrated, having raised the question of what "their daughters" means, the Bavli's dialectic now takes a surprising turn, as the ensuing deliberations pivot between two alternative explanations for what the decree against "their daughters" means, without clearly acknowledging that there are two discrete possibilities in play. The most obvious understanding of "their daughters" is that it refers to a prohibition on intermarriage with Gentile women. Since by this time in the chapter we have already encountered passing concerns raised about intermarriage in the context of the Bavli's discussion of prohibitions on beer and bread, this explanation seems practically self-evident.⁹³ Moreover, as Hayes demonstrates, this is the explanation that is presumed in the continuation of the sugya itself.⁹⁴ Nevertheless, the straightforward interpretation of "their daughters" as a prohibition on intermarriage becomes obscured in the sugya, because an alternative explanation intervenes. Following immediately on the heels of the question "To what does this refer?" the following tradition appears:

Rav Nahman bar Yitzhak said: They decreed regarding their daughters
that they are menstrually impure from their cradles.⁹⁵

later historians' development of his theory can be found there in notes 10 and 11.

90 The Yerushalmi and the Bavli offer a variety of traditions about which rules are included among the Eighteen Decrees. Some of these traditions foreground laws of Shabbat and purity, based on the original context of the Mishna's tradition, and others give prominence to rulings that segregate Jews from non-Jews. The prohibition on Gentile wine and other prohibitions on Gentile foodstuffs appear in a number of these traditions. For reviews of all these traditions, see Stemberger.

91 This statement is not the first place that concern about Gentile women emerges in relation to food however. "For reason of marriages," or *mi-shum ḥatanut* (משום חתנות) is proposed as the rationale for the rabbinic prohibition of Gentile bread on 35b. It is also the rationale provided for a prohibition of Gentiles' beer (שכר) on 31b.

92 b. AZ 36b:

בנותיהן מאי היא

93 On pages 31b and 35b, in relation to prohibitions on beer and bread, respectively.

94 My understanding of this part of the sugya is entirely indebted to Hayes' cogent analysis in *Gentile Impurities*, 145-63. Hayes' arguments in turn build on the text-critical work that Steinfeld presents in "'Ha-Gezerot'" (1983).

95 b. AZ 36b:

Both Hayes and Steinfeld argue that Rav Nahman bar Yitzhak's statement about the impurity of Gentile women is a belated insertion which derails the original logic and flow of the argument.⁹⁶ Be that as it may, the fact that in its current state the sugya preserves two alternative interpretations of “their daughters” makes for a great deal of difficulty in construing the passage. It is only as the sugya continues, however, that there are indications that this obscurity is the literary effect that is desired.

As the sugya unfolds, strategic silences on the part of the anonymous editors confirm that there is a deliberate program of concealment at work:

And Geneva said in the name of Rav: They dealt with all of them on account of idolatry.⁹⁷

For ⁹⁸ when Rav Aha bar Ada came, he said that Rav Yitzhak said: They decreed against their bread on account of their oil

--But how is oil stricter than bread? Rather:--

(They decreed) against bread and oil on account of their wine,

And against their wine on account of their daughters,

And against their daughters on account of another matter,

And against another matter on account of another matter.⁹⁹

With this exchange, the sugya shifts from a discussion of the content of the rabbinic decrees to an investigation of the rationales for the decrees. The Bavli reports two different traditions regarding these rationales: According to Rav, concern about idolatry is the underlying reason for the whole array of rabbinic injunctions. Rav Yitzhak offers an alternative explanation, arranging the series of decrees in a chain, and proposing that each successive stricture serves as a hedge distancing Jews from even more grievous infractions. This line of explanation stops short of revealing the ultimate grounding for the chain of prohibitions, however, when it cryptically identifies the reason for the prohibition on Gentile daughters as “on account of another matter.”

The Bavli thus presents two very different accounts for why early rabbis imposed new decrees. According to Rav, the prohibitions on eating with non-Jews and the prohibition on intermarrying or having sex with non-Jews are all motivated by the compulsion to distance Jews from idolatry. Rav Yitzhak, on the other hand, distinguishes among the various decrees (at least as re-constructed by the anonymous voice of the Bavli¹⁰⁰). According to Rav Yitzhak, the strictures on Gentile bread and oil

אמ' רב נחמן בר יצחק גזרו על בנותיהן שהן נדות מעריסותן

96 Hayes, 148-9. Steinfeld, “*Gazru*” and “*Ha-Gezerot*”.

97 This translation reflects the text of ms JTS presented below, which reads "נגעו", a Hebrew word meaning “to touch,” “to afflict” or “to have an interest in” that in Aramaic can also mean “to deal with.” Mss Paris and Munich and the print versions all read:

כולן משום ע"ז גזרו בהו

In English: “All of them were decreed on account of idolatry.” This seems a much better reading.

98 In ms Munich, the passage reads כ"י אתא rather than דכ"י אתא so that there is no implication that Rav Yitzhak's statement supports Rav's teaching. Steinfeld argues that this is a better reading in “*Gazru*,” 275.

99 b. AZ 36b, ms JTS:

וגניבא משמיה דרב אמ' כולן משום ע"ז נגעו בהו דכי אתא רב אחא בר אדא אמ' ר' יצחק גזרו על פתן משום שמן ועל שמן משום יינן מאי אולמיה דשמן מפת אלא גזרו על פתן ושמן יינן ועל יינן משום בנותיהן ועל בנותיהן משום דבר אחר ועל דבר אחר משום דבר אחר

100 Steinfeld argues that Rav Yitzhak's original statement included only the first two lines, relating to bread and wine. In his view, the Stam expands the statement, preserving the structure of the first two lines. See Steinfeld, “*Gazru*,” 276.

were put into place so as to preclude transgression of the more serious prohibition on Gentile wine, and the strictures on Gentile wine were put into place so as to preclude transgression of the even more serious prohibition on Gentile women. In ranking the various prohibitions as he does, Rav Yitzhak hints at a rationale for why the ancient rabbis make the prohibition on wine so much stricter than the prohibition on all other foods—as a social lubricant, wine is far more directly implicated in dissolving social distance between Jews and non-Jews than are other foods. Despite the explanatory power of Rav Yitzhak's statement with regard to wine, however, the overall effect of his teaching is not to clarify matters, but rather to further obscure them. Tracing the motivation for rabbinic injunctions back by successive degrees, only to leave the final two links in the chain as unknowns, Rav Yitzhak's teaching ensures that the ultimate reason for the rabbinic injunctions remains a mystery.

It is impossible to know whether the concealment of these “other matters” is original to the tradition attributed to Rav Yitzhak, or whether the editors intervened to cover over that which Rav Yitzhak's statement originally revealed. In either case, despite the secrecy that our version of the Bavli maintains, the highly patterned structure of Rav Yitzhak's statement does offer some important clues that guide my interpretation:

(They decreed) against bread and oil on account of their wine,
 And against their wine on account of their daughters,
 And against their daughters on account of another matter,
 And against another matter on account of another matter.

In this causal chain, each known member of the series, save the first one, is mentioned twice. Thus, “their wine” is designated both as the trigger for a lighter prohibition on bread and oil, and as a prohibition in its own right. Keeping this pattern of repetition in mind, it seems likely that though the cryptic term “another matter” appears three times, there are only two unknown variables to decipher. According to my reading, the chain of injunctions maintains a uniform structure throughout, and every item in the series—whether specified or not—is part of a single vector of causation that can be diagrammed like this:

bread/oil \Leftarrow wine \Leftarrow daughters \Leftarrow another matter x \Leftarrow another matter y

Hayes' proposal for how to decipher the unknown variables reflects this pattern of reading, when she tentatively proposes that “another matter x ” refers to idolatry and “another matter y ” refers to immoral sexual behavior.¹⁰¹ This would mean that the secret concealed in Rav Yitzhak's statement is that sexual relations with non-Jewish women are prohibited because they might lead to idolatry (“another matter x ”), which in turn might lead to sexual transgression (“another matter y ”). In support of this proposal, Hayes points out that such a causal chain is consistent with biblical warnings about the dangers of foreign wives.¹⁰² There is a problem with her interpretation however: As an iron-clad scriptural interdict, the prohibition of idolatry could never occupy a penultimate position on this list. While the sin of idolatry might itself anchor a chain of prohibitions and thus serve as the ultimate grounding for any number of rabbinic injunctions,¹⁰³ it could never be identified as a rabbinic decree in itself.

The Bavli's own proposal for how to decipher the unknown “other matters” is unsuccessful for

¹⁰¹ Hayes 147, and n. 15 on 269.

¹⁰² Hayes 269, n. 15.

¹⁰³ This is how idolatry functions in Rav's statement, where it is the sole rationale for the prohibition on bread, oil, wine and daughters.

other reasons. Though I judge Hayes' proposal a misfire, it at least honors the rhetorical structure of Rav Yitzhak's tradition. The Bavli editors—perhaps sensitive to the difficulty of identifying a transgression that is more objectionable than sleeping with Gentile girls, yet not already prohibited by Scripture—do not read Rav Yitzhak's statement as a single chain of causation, but break it up into two separate statements, like this:

1. bread/oil \Leftarrow wine \Leftarrow daughters \Leftarrow another matter x .
2. another matter y \Leftarrow another matter z

According to this construal of the tradition, there are not two unknowns to be identified, but three: “Another matter x ” grounds the rabbinic prohibitions against Gentile bread, oil, wine and women, while “another matter z ” provides the rationale for an entirely different rabbinic edict, “another matter y .” This analysis of Rav Yitzhak's statement is the only way to make sense of the following proposal:

What does “against another matter on account of another matter” refer to?

Rav Nahman bar Yitzhak said: They decreed regarding a Gentile child that he has the ritual impurity of a gonorrhoeic so that a Jewish child will not regularly be with him and he will not teach him to lie with him homosexually.¹⁰⁴

Though the Bavli ostensibly seeks to uncover the secrets hiding within Rav Yitzhak's statement, it does not offer an interpretation for what I have designated “another matter x ,” but instead identifies an additional rabbinic edict, one that is not connected to the prohibitions on food, wine, and women. According to Rav Nahman bar Yitzhak, in addition to all the other rabbinic injunctions that segregate Jews from Gentiles in this chapter, the ancient sages issued yet another edict: They declared that Gentile children are ritually impure with the goal of precluding intimate relationships between Jewish and Gentile boys.

One clear strength of Rav Nahman bar Yitzhak's proposal is that it helps account for why the Bavli would keep these unspecified “other matters” a secret. Given the heterosexual norms of the rabbinic world, it is easy to see why some would consider even the prospect of inter-religious homosexual relationships unmentionable. In Chapter III, I discuss Rav Nahman bar Yitzhak's statement and the worlds of anxiety it conveys, not just about Jewish male susceptibility to illicit desire, but also concerning the identity of Jews and non-Jews and the underlying sameness that homosexual attraction entails. Here, however, my interest is focused more narrowly on how the statement functions rhetorically within the sugya's dialectics. As a proposal for the decipherment of Rav Yitzhak's secrets, Rav Nahman's statement is clearly lacking. Not only does it disregard the rhetorical structure of Rav Yitzhak's chain of causation, it fails to address what the secret reason for the prohibition on Gentiles' daughters is.

In different ways, both classical and modern commentators have identified these problems, and tried to address them. Steinfeld argues that the statement that the Bavli attributes to Rav Yitzhak is far more extensive than what he actually said, and suggests that Rav Yitzhak never even purported to provide a rationale—secret or otherwise—for the ban on Gentile women.¹⁰⁵ Rashi, on the other hand,

¹⁰⁴ b. AZ 36b:

מאי דבר אחר משום דבר אחר אמ' רב נחמן בר יצחק גזרו על תינוק גוי שטמא בז[']בה שלא יהא תינוק ישראל רגיל אצלו שלא ילמדנו למשכב זכור

¹⁰⁵Steinfeld offers a genetic account rather than an explanation. He argues that the patterned structure of Rav Yitzhak's

sets out to smooth the difficulties over by offering a gloss on Rav Yitzhak's statement that brings it into harmony with the Rav Nahman bar Yitzhak tradition. This is how Rashi's commentary reads (with the *dibur ha-mathil*, or incipit, presented in **bold**):

And their daughters are prohibited on account of another matter.

Idolatry.

And they decreed against another matter that is not mentioned here on account of another matter. And not for the sake of idolatry as is explained ahead.¹⁰⁶

Rashi disambiguates Rav Yitzhak's statement altogether. He identifies what I call “another matter x” as idolatry, and refers his readers to the continuation of the sugya, where, as we have seen, Rav Nahman's statement provides a key for deciphering unknowns y and z. The version of the talmudic text that Rashi cites is different from our own, and while it is possible that this reflects a different manuscript tradition, it seems as if Rashi or a later copyist is rather proposing an emendation to bring transparency to the Bavli's obscurity.¹⁰⁷ But even as Rashi solves the secret of why the rabbis ruled that Jewish men are not to sleep with Gentile girls (because of idolatry!),¹⁰⁸ his interpretation comes at the expense of much of the sugya's artistry. He not only disregards the patterned structure of Rav Yitzhak's statement; he rids the sugya of the concealments that I propose are integral to the sugya's design.

To my mind, the task of deciphering Rav Yitzhak's unknowns proves difficult because this sugya effectively enacts the very message it conveys: It keeps the reason that early rabbis segregated Jews from non-Jews a secret. We have already seen rabbinic secret-keeping emerge as an overt theme in the Bavli's reading of the mishnaic story of Rabbi Yehoshua. With the introduction of Rav Yitzhak's cryptic statement, the Bavli editors adopt secrecy as a literary strategy of their own. It is not just that Rav Yitzhak conceals key information; the specific terminology with which he effects this concealment is significant. The appellation “another matter” which substitutes for the secret information is, to be sure, a very common term, but in this context it has a special resonance, because this is the precise term that the Mishna uses when Rabbi Yehoshua seeks to divert Rabbi Yishmael to “another matter.” Rav Yitzhak's secrecy, paired with a possible allusion to Rabbi Yehoshua's example, is my first indication that there is a deliberate strategy of obfuscation at work.

A second indication of a sustained strategy of concealment is the way that Rav Yitzhak's tradition stubbornly resists interpretation. As we have already seen, the Bavli's own attempt to decipher Rav Yitzhak's statement falls flat. Despite Rashi's best efforts, the Bavli's effort to lodge Rav Nahman's statement about Gentile gonorrhoeic impurity into the elegant structure of Rav Yitzhak's statement is not convincing. Contemporary scholars such as Steinfeld and Hayes acknowledge ungrammaticalities

original statement generated an expansion in later stages of the Talmud's development, and he traces difficulties in the sugya to later misreadings. For Steinfeld, then, it is not a problem that the Bavli breaks the rhetorical integrity of the Rav Yitzhak tradition, because the tradition itself is not authentic. His focus is not on the final shape of the talmudic argument, but rather on establishing what the original halakhic positions of the Amoraim actually were. See Steinfeld, “*Gazru*.”

106 Rashi on b. AZ 36b:

ובנותיהן אסורין משום דבר אחר - עבודת אלילים.

ועל דבר אחר שלא הוזכר כאן גזרו משום דבר אחר - ולא משום עבודת אלילים לקמן מפרש לה.

107 The strongest point of divergence between his version and ours would disappear if the words that are bracketed here were represented as commentary rather than part of the incipit: “**And they decreed against another matter [that is not mentioned here] on account of another matter.** And not for the sake of idolatry as is explained ahead.”

108 Note how Rashi thus brings Rav Yitzhak's statement into conformity with the opinion attributed to Rav above, so that concern about idolatry becomes the underlying motive for all the prohibitions, according to both opinions.

within the sugya when they argue that late interpolations confuse the flow of the talmudic argument; their critical approach excavates the Bavli in an attempt to uncover an original, rational argument that can be isolated from the confusion of the sugya in its current state. My approach is different because it attempts to read the Bavli as it has come down to us, as opposed to trying to read through it to a more pristine version. Given the subtle artistry and fine argumentation in evidence elsewhere in the chapter, I find the suggestion that the editors simply fall down on the job when they get to this point in *'Eyn Ma'amidim* unconvincing. I propose, instead, that the unsuccessful effort to align Rav Nahman and Rav Yitzhak participates in the sugya's overall strategy of obfuscation, effectively demonstrating the utter inaccessibility of Rav Yitzhak's secrets.

To illustrate how this works, let me refer to modern examples of obfuscation, drawn from a critical essay about the writings of Franz Kafka. In analyzing the particular interpretive difficulties posed by Kafka's writing, Jill Robbins identifies a mismatch between rhetoric and logic, whereby Kafka's characters assert connections that are logically impossible.¹⁰⁹ She illustrates this kind of impossible juxtaposition through an old Yiddish joke she draws from the writings of Sigmund Freud:

A. borrowed a copper kettle from B. and after he had returned it was sued by B. because the kettle now had a big hole in it which made it unusable. His defence was: "First I never borrowed a kettle from B. at all; secondly the kettle had a hole in it already when I got it from him; and thirdly, I gave him back the kettle undamaged."¹¹⁰

Robbins points out that while A. presents his three claims as parts of a single argument, in fact each claim cancels the others out. They cannot all be simultaneously true. She proposes that Kafka's writing is often characterized by this same kind of tension between the rhetorical language of argumentation and the absence of logical connection, and that this is one way that Kafka calls attention to the challenge of interpretation. I see something similar going on in the way the sugya asserts a connection between Rav Yitzhak and Rav Nahman. That is to say: It might certainly be the case, as Rav Yitzhak asserts, that a number of the Eighteen Decrees were passed so as to serve as successive "hedges" for each other; it might also be the case, as Rav Nahman bar Yitzhak reports, that an additional stricture about Gentile gonorrhoeic impurity was passed so as to prevent homosexual intimacy between Gentiles and Jews. What is impossible to argue, however, is that this ruling about impurity participates in the chain of successive strictures that Rav Yitzhak describes. Gentile male impurity bears no relationship to the concatenation of prohibitions described by Rav Yitzhak; it cannot plausibly be advanced as a solution to Rav Yitzhak's secrets. The illogic thus resides not in either one of the two rabbinic statements, but rather in the editors' assertion of a relationship between them. I am suggesting, somewhat tentatively, to be sure, that in making such a "Kafkaesque" move, the anonymous editors are, on some level, indicating the impossibility of penetrating through Rav Yitzhak's concealments.

However persuasive my argument for the editors' performance of such rhetorical resistance might be, by this point in the chapter the opening sugya's valorization of a rabbinical student who does not kiss and tell has been reinforced many times over through successive examples of rabbis who keep their mouths shut. I read Rav Yitzhak's tradition in this vein, and see the doubling of secrets in his statement not as an invitation to interpret, but contrariwise, as a commitment to secrecy. Burying the reasons for rabbinic pronouncements in successive layers of mystery, Rav Yitzhak or the editors who

109 Jill Robbins, "Kafka's Parables," *Midrash and Literature*, eds. Geoffrey H. Hartman and Sanford Budick (New Haven: Yale University Press, 1986), 265-84.

110 From Sigmund Freud's *Jokes and their Relation to the Unconscious*, trans. James Strachey (New York: Norton, 1963), as cited in Robbins, 266.

encrypt his words emphasize that the ultimate explanation for these prohibitions will remain inaccessible. In my view, the editors do not intercede to smooth over internal contradictions within the sugya (as does Rashi, for example), because they honor the inscrutability that is enshrined in Rav Yitzhak's unknown "other matters."

Why So Secret?

Over the course of *'Eyn Ma'amidim*, secrecy emerges first as a theme, and then as a rhetorical strategy. The particular secrets that the editors protect relate to the reasons that the early rabbis imposed rules segregating Jews from Gentiles. What accounts for their insistence on keeping silent about these rulings, and how might this secrecy relate to the tractate's oft-noted excess of attention to and anxiety about Gentile wine?

One reason for secrecy is expressed above, in Ulla's explanation for why Rabbi Yehoshua conceals the true reason for prohibiting Gentile cheese: So long as the rationale for a given law is disseminated, individuals will exempt themselves from it if they do not find the rationale compelling. Beyond this, however, I detect another reason for the editors' reserve, and it relates to the contentiousness that suffuses traditions about the Eighteen Decrees. Rabbinic tradition preserves a memory of violent disagreement in connection to this particular set of laws, which carry the taints of both stringency and factionalism by virtue of their association with the Shammaite minority. In counting the rules of *yeyn nesekh* and other such prohibitions among the Eighteen Decrees, the Bavli's editors disclose their own misgivings about these strictures, albeit in a covert and subtle way. Their subsequent concealments reflect their investment in maintaining the authority and institutions of rabbinic law, despite these misgivings.

In his study of domination, social scientist James C. Scott's provides an account of strategic silence among the ranks of the powerful that I take as an apt description of the editors' impulse toward secrecy:¹¹¹

The advantages of keeping discord out of sight are obvious enough. If the dominant are at odds with one another in any substantial way, they are, to that degree, weakened, and subordinates may be able to exploit the division and renegotiate the terms of subordination. An effective facade of cohesion thus augments the apparent power of elites. . . . under nearly any form of domination, those in power make a remarkably assiduous effort to keep disputes that touch on their claim to power out of the public eye.¹¹²

Scott's analysis can help us understand why even the slightest suggestion of disagreement about the stringencies of *yeyn nesekh* might spark a compensatory move to suppress and conceal. As powerful elites, rabbis had a stake in concealing disagreements within their own ranks. For the talmudic editors to disclose any compunctions about rabbinic legislation would be to betray their own interests in maintaining a smooth facade of unanimity. In covering over memories of rabbinic contentiousness, the editors shore up their own authority.

I propose that there are two big cover-ups within *'Eyn Ma'amidim*. The first one relates to the

111 To be sure, the extent of the rabbis' power is a matter of debate. The Babylonian rabbis, like other Jews within the Sasanian empire, are a dominated minority group who must use strategic arts of resistance such as silence and "hidden transcripts" to conceal their xenophobia from the imperial powers. At the same time, the rabbis identify as elites and as leaders within Jewish society. They are a powerful elite within a dominated political structure.

112 James C. Scott, *Domination and the Arts of Resistance* (New Haven: Yale University Press, 1990), 56.

differences between Jews and non-Jews, because the editors of the Bavli recognize that Jews are not nearly so distinct as some rabbinic teachings make them out to be. Like other people, Jews are animals by nature, vulnerable to impulse, to sexual attraction, to unruly drives. The difference between Jews and non-Jews is hardly detectable, because it inheres not in nature, but in the Jewish submission to law. Wine seeps into this story in a variety of ways: Potent and pungent, it vivifies sociality, and threatens to loosen strictures and quicken desire. Normatively, laws and customs governing the use of wine constitute communal boundaries, and establish sacred community. Figuratively, images of sloshing liquids and brimming vessels convey the challenge of sealing off substances, and of separating like from like. The first scandal that the Bavli leaks in its treatment of the laws of Gentile wine is the story of the underlying similarities that unite Jews with all other people.

The second scandal that this chapter does not altogether cover over relates to rabbinic power and prerogative. Given the contingency of Jewish identity, and given that submission to Jewish law is the sole demarcation of Jewish difference, in casting themselves as the authorities who determine the law, the rabbis claim for themselves the power to decide the boundaries of the Jewish community and the meaning of Jewish identity. In this context, storytelling about the relative force of scriptural versus rabbinic authority masks a coarser conversation about rabbinic hegemony. The ascendant power of the rabbis to impose stringencies that are not anticipated in Scripture exposes the degree to which the rabbis' relationship to law is one of domination rather than submission. It is this story of rabbinic domination that best accounts for the concealments, confusions, and convolutions in the Bavli's deliberations about Gentile wine. The Bavli editors' own interest in preserving rabbinic authority over Jewish law leads them to collude with their predecessors in covering over the tannaim's tracks, concealing the degree to which the surprising strictures of *yeyn nesekh* originate with the rabbis, and not with Scripture..

Digestif

The laws of *yeyn nesekh* are difficult in more than one respect. The legal reasoning in these talmudic discussions is complex and sometimes confounding, and beyond these challenges are difficulties of another order, problems of ethics and politics. Historically, these laws have been an economic liability, and a source of tensions between Jews and others.¹¹³ Even a generous reading cannot deny that the strictures codify segregation from—if not moral superiority over—non-Jews. In this chapter, I have sought to demonstrate that these two species of difficulty—the rational and the ethical/political—are not unconnected. The Bavli's convoluted arguments about the rationale for the laws of *yeyn nesekh* betray the talmudic editors' own compunctions about the sources and meanings of these strictures. One reason the legal reasoning is so hard to penetrate is that the editors pursue a deliberate strategy of obfuscation, trying to obscure the degree to which this whole body of law is an act of rabbinic fiat.

In *ʿEyn Maʿamidim*, law is presented as a crucible for the refinement of the human personality, for the constitution of Jewish community, and for the expression of rabbinic power. The Bavli editors recognize the laws of Gentile wine as chief among a whole complex of rabbinic institutions that serve

113 Soloveitchik chronicles the challenges medieval Jews faced in accommodating these laws. In contemporary times, the Conservative Movement's Committee on Jewish Law and Standards voted to nullify the rabbinic prohibition on Gentile wine, reversing the principle of social segregation that it entails. The responsum authored by Elliot Dorff reads, "In keeping with our acceptance of the conditions of modernity, we in the Conservative movement would undoubtedly hold that, short of mixed marriage, Jews should have social and business contact with non-Jews." See Elliot Dorff, "The Use of All Wines," (1985) accessed from web 11/20/13
http://www.rabbinicalassembly.org/sites/default/files/public/halakhah/teshuvot/19861990/dorff_wines.pdf

to separate Jews from non-Jews. In their view, the strictures of Jewish law that impede Jews from drinking with others, from eating with others, from marrying or having sexual liaisons with others do not mark a boundary-line, but rather construct one. With literary artistry and diplomatic restraint, the editors identify the laws governing the use of Gentile wine as a rabbinic innovation, instituted for the sake of imposing difference where none would otherwise exist.

My account addresses the inordinate amount of attention that AZ pays to wine by reading the Bavli's deliberations about *yeyn nesekh* as part of a larger literary project about the meaning of Jewish identity, and the nature of Jewish difference. Despite the title of "*Avoda Zara*," my argument throughout this dissertation is that the editors of AZ are far more centrally concerned with the ethics of relationships between Jews and others than with questions of worship or theology. As we have seen, concern about idolatry is by no means absent from these discussions. Thus, in the sugya excerpted above, a tradition attributed to Rav teaches that the aim of prohibiting eating, drinking, and sleeping with non-Jews is to distance Jews from idolatry. Alongside this tradition, however, is a preponderance of material that suggests that the real danger of relationships with non-Jews is not idolatry, but the threat of more and deeper relationship. Dealings with non-Jews awaken risks of sexual temptation, of moral debauchery, and of the disintegration of communal boundaries.

My larger project in this dissertation is to enrich contemporary conversations about ethics by examining what the Bavli's description of non-Jews can teach us about how the talmudic rabbis understand the human condition and the possibilities for human relationships across difference. Over the course of three chapters, I have followed the editors of AZ as they trace a path of descent down the chain of being that contemporary scholars identify as "the animacy hierarchy." They have moved from stories of human martyrs and their disembodied souls to discussions of warm-blooded cattle and dogs, to slithering snakes, to yeasty wine and bread. As AZ continues, the editors descend further down this spiral, and turn their attention to objects of wood and stone. In the middle of the tractate, idolatry for the first time takes its place at the center of the talmudic discussion. In the next chapter, it will be my task to demonstrate that even in these deliberations, an overriding engagement with ethics persists. The Bavli transforms rulings about statues, stones, and sacred groves into a study of human relationships with the physical world, drawing on Jewish and non-Jewish sources as it examines what the world is made of.

Chapter V: Ethics and Objects

. . . Those masterful images because complete
Grew in pure mind, but out of what began?
A mound of refuse or the sweepings of a street,
Old kettles, old bottles, and a broken can,
Old iron, old bones, old rags, that raving slut
Who keeps the till. Now that my ladder's gone,
I must lie down where all the ladders start
In the foul rag and bone shop of the heart.

--William Butler Yeats' "The Circus Animals' Desertion"

The Bavli's Rag and Bone Shop

In *Kol Ha-tzlamim*, AZ examines things made of metal, wood, and stone, including sculptures and structures, images and idols, tools, vessels, and jewelry. The significance of the Bavli's turn to idols and other objects in this chapter can be read in two very different ways, depending on one's understanding of the tractate as a whole. As it is in Chapter 3 that the Mishna first centers *its* attention on idols, at long last engaging the idol-worship that gives tractate 'Avoda Zara its name, one explanation is that the Bavli is merely following the Mishna's lead, precisely as one would expect from a commentary. As I have already intimated, however, I think there is more going on. I read the Bavli's engagement with idols and other things in *Kol Ha-tzlamim* as part and parcel of an overarching literary scheme that spirals down through the Chain of Being, journeying from the supernal realm of disembodied souls (in *Lifney 'Eydeyhem*) to the fleshy materiality of animals (in the beginning of 'Eyn *Ma'amidim*) to the organic ferment of wine and food (in the continuation of 'Eyn *Ma'amidim*) before arriving in the realm of inanimate objects (in *Kol Ha-tzlamim* and *Rabbi Yishma'el*). In this section of the tractate, as the Bavli editors investigate the different ways Jews and non-Jews invest artifacts with meaning, they trace the furthest reaches of ethics, delimiting the ways in which people might appropriately relate to things.

In the course of discussing idols, the Bavli weighs in on a range of philosophic questions that were vigorously debated in late antiquity: What is the essence of an object? What is the relationship between matter and form? What is the relationship between an object and its copies? These questions of ontology and mimesis engaged Greek philosophy from its pre-Socratic days, and they emerged with new vigor in the encounter between pagan and Christian philosophers in the very centuries that the Bavli was taking shape. Contact with pagan idols was not a regular part of everyday life for the Babylonian sages as it was for Jews and Christians living in Palestine and other parts of the Roman Empire, and other scholars have detected this cultural difference in the relative leniency of the Bavli's rulings about idols. I will seek to demonstrate that while the Babylonian rabbis were at a cultural remove from the cultic life of imperial Rome, they were nonetheless engaged with the philosophic currents of their time. Their deliberations about the status of idols became an opportunity to address questions about the nature of the material world and about art.

Even as the Bavli engages questions of ontology and mimesis, it consistently brings its discussion of objects into the service of ethics. Thus, over the course of this section of the tractate,

dialectics about the nature of material things and the status of images give way to narrative accounts of encounters between Jews and non-Jews. Describing the relationships among Jews, non-Jews, and the objects they make, find, use, and revere, the Bavli proposes that material things are only as important as humans consider them to be. Though the talmudic discussions I will examine are strewn with objects, ultimately, human attitudes and relationships edge out objects as the primary focus of the Bavli's concern. The keen attention that the Bavli pays to material things in *Kol Ha-tzlamim* and *Rabbi Yishma'el* anticipates a recent turn in critical theory, in which scholars from diverse fields engage the "life" of inanimate objects. I will propose that rabbinic literature's focus on what objects mean to people can help broaden and deepen current discussions about material things. As I will show, the issues broached by the "new materialisms" are in fact very old.

The emphasis on human experience in the Bavli's discussion of idols and other objects means that there is a strong sense in which this section of the tractate bears out my overarching thesis, that AZ is centrally concerned with investigating what distinguishes Jews from non-Jews, what they share in common, and, by extension, what it means to be a human being. At the same time, there are several striking ways in which this section of AZ diverges from my account of the talmudic tractate as a cohesive work about the human condition.

First, with regard to content: I opened my analysis of AZ with the claim that the title "*Avoda Zara*" --"Foreign Worship," or "Idolatry" -- is a misnomer for this tractate, at least in its talmudic guise. In AZ's opening chapters, the editors pay far more attention to the social, sexual, and economic relationships that link Jews with non-Jews than to discussions of forbidden cultic practices or theology. With the beginning of *Kol Ha-tzlamim*, however, the Mishna for the first time puts idols front and center, and the Bavli's treatment of the Mishna follows suit. Beginning on page 40b, and continuing through 55a, "*Avoda Zara*" comes to serve as a fitting title for the talmudic discussions. On the whole, there is less engagement with relationships between Jews and non-Jews, and less overt attention to the question of what it means to be human. The talmudic discussion remains largely focused on the particular legal issue addressed by the Mishna: Under what conditions might objects associated with idolatry legitimately be claimed for use by Jews?

With this turn to the topic of idolatry in *Kol Ha-tzlamim* comes another departure, this one relating to form and to the extent of editorial interventions in shaping the talmudic discussions. Earlier, I argued that by attending to those materials that diverge from the topic at hand in the Mishna, one can discern the degree to which the editors of the tractate exceed their commentarial task, creating a distinctive literary work. I observed how in *Lifney 'Eydeyhem* and in *'Eyn Ma'amidim*, the Bavli enlarges upon the mishnaic material, introducing themes and motifs that the Mishna does not anticipate and that commentary does not require. In these chapters, recurring literary motifs and overarching themes lend a sense of unity and cohesion to discussions that wander far afield from the Mishna's rulings. When we come to *Kol Ha-tzlamim*, however, this expansiveness largely disappears. Here, the Bavli seldom strays from the topics introduced by the Mishna, and the discussion moves briskly from mishna to mishna.

This shift in the extent of editorial intervention is strikingly evident in the contrasting ways the Bavli editors address the problematic chapter divisions they inherit from the Mishna. As I have already noted, the five chapters of m. AZ do not correspond to the thematic organization of the tractate. Partitioning the mishnaic tractate according to its themes would generate three main sections:

- A. Commercial Relationships with non-Jews (1:1-2:10)
- B. Idols (3:1-4:7)
- C. Gentile wine (4:8-5:15)

These sections, however, bear further sub-division since such a large portion of Section A is dedicated to Gentile wine, the dominant theme in 2:3-10. This means that Chapters 2 and 4 are both internally riven; both juxtapose two distinct bodies of law within a single chapter.¹ As we have already seen, in the case of *'Eyn Ma'amidim*, the Bavli editors address this incoherence by effectively imposing their own literary shape on the Mishna's disparate materials. When the Mishna abruptly jumps from a discussion of Gentile service providers (cattle-stallers, wet-nurses, circumcisers, and healers) to the laws of Gentile wine, the Bavli editors unite the two discussions by weaving the motif of animals, and especially of snakes, through the chapter as a whole. In the case of *Rabbi Yishma'el*, however, no such literary intervention is in evidence. The first half of the chapter (treatment of m. AZ 4:1-7, extending through b. AZ 55a) expands upon the themes and legal issues under discussion in *Kol Ha-tzlamim*, while the remainder of the chapter (55a-61b) follows the Mishna in veering off into a discussion of the production of wine. *Rabbi Yishma'el* remains thematically divided in precisely the same way that the mishnaic chapter is. Here, I treat the extended section of AZ that includes both *Kol Ha-tzlamim* and the first portion of *Rabbi Yishma'el*, because this extended section functions as a single literary unit.

Kol Ha-tzlamim and *Rabbi Yishma'el* thus diverge from my earlier portrait of AZ in two related ways: First, by engaging directly with the theme of idolatry, and second, by minimizing literary expansions, and staying close to the mishnaic topics at hand. The task before me is to demonstrate that this talmudic material nonetheless bears out my argument that the Bavli editors pursue a distinctive literary project in AZ, using the tractate as an occasion for setting out their views on what it means to be a Jew and a human. I have already sketched out an initial suggestion for how discussions of idols and objects fit into the tractate's thematic unfolding, with my proposal that the editors trace a path down through a cosmic chain of being. Here, as the editors descend yet another rung, they investigate human relationships with physical objects, both in the natural environment, and in the worlds constructed by people. In this section, AZ engages themes of nature and culture, of representation and art, of work, workmanship, and care in relation to the range of things that populate the lives of humans. Even as the Bavli editors follow the prompts of the Mishna in explicating the limits of acceptable behavior in relation to images, idols, and other objects, they are at the same time advancing their own, distinctive literary project, shading in the contours of human existence by exploring how Jews and other humans relate to the physical environment.

I would further argue, albeit more tentatively, that the emergence of editorial restraint at precisely this point in the tractate—the point at which the Mishna explicitly turns to the eponymous issue of idolatry—is to some extent a confirmation of my claim that the editors are chiefly interested in possibilities for human relationships, and not in cultic practice. That is, if I am right that the editors extend relatively fewer creative energies to re-working and re-shaping the tannaitic materials about idols than they do in expounding upon relationships with Gentiles, the disparity can be read as a measure of the editors' investment in the different topics. I am thus making two related claims about the Bavli's discussion of idols and other objects in *Kol Ha-tzlamim* and the beginning of *Rabbi Yishma'el*: First, that the discourse in this section is more engaged with commentary, more subservient to the Mishna, and less creatively expansive than earlier chapters of the tractate are. Second, that to the degree the Bavli does extend and expound upon the issues laid out in the Mishna, these expansions edge the discussions of idols away from cultic issues, and toward considerations of philosophy and ethics, areas that allow for relationship and exchange between Jews and Gentiles.

I am not the first to suggest that idols were not a hot topic for the Babylonian sages. Other scholars, noting that the Bavli is far less engaged with questions relating to idols than the Palestinian

¹ In recognition of this difficulty, J. N. Epstein describes m. AZ's chapter divisions as a "mistake" on the part of the Tannaim, pointing out that in the Tosefta, the materials on wine begin a new chapter. See J.N. Epstein, *Introduction to the Mishnaic Text* (Hebrew), vol. 2 (Jerusalem: Magnes Press, 2000), 994-5.

rabbinic works are, read the Bavli's relative reserve about these issues as an index of the differences between the sculptural environments of Sasanian Babylonia on the one hand and Roman and Byzantine Palestine on the other. These scholars explain that unlike their Palestinian counterparts in cities like Akko and Tiberias, the Jews of Babylonia—whether urban or provincial—simply did not regularly encounter pagan images in their day-to-day life, and so they had little to say about them.² Without discounting the relevance of this kind of analysis, alongside a consideration of the Sasanian context of the Bavli, I will read the Bavli's treatment of idols and other objects within another frame, the *literary* context of the talmudic tractate as a whole. Through close readings of discrete passages from *Kol Hatzlamim* and the beginning of *Rabbi Yishma'el*, I will seek to demonstrate how the Bavli editors examine the topic of idols through a distinctly ethical lens, engaging the mishnaic materials about images and artifacts as part of their larger investigation of what distinguishes Jews from non-Jews, and of what all people share in common.

One central question that runs through the Bavli's discussions is: Under what conditions may old things be enlisted for new purposes and put to use? In this sense, the Bavli editors exhibit an ecological impulse similar to that described in Yeats' poem, cited in the epigraph. Like Yeats, the editors of the Bavli pay keen attention to the scattered detritus and debris of human existence, asking themselves what can be made of abandoned utensils, shards of statues, and other found objects. In the poem, the odds and ends the poet discovers in the “rag and bone shop of the heart” are re-purposed into a meditation on the sources of artistic inspiration, exploring the link between material existence and human imagination. In the Bavli's workshop, rabbis pick through similar themes, and hammer out an argument that what a thing is depends almost entirely on what people consider it to be. Proposing that the meaning, function and definition of a thing emerge in the light of human intentionality, the Bavli suggests that it is not only the imagined worlds of art and poetry that are forged in the human mind, but the real-world realm of human habitation too. In the passages we will examine, the Bavli invests humans with responsibility for constructing the worlds they inhabit.

Before turning to texts from this section of the Bavli, I will briefly introduce two different bodies of scholarship that together inform my readings. First, I survey new approaches to objects that have emerged in recent scholarship, and then I discuss treatments of idolatry and image-making in both primary and secondary sources.

Object Lessons

Objects are a new object of study in philosophy and cultural studies, with a spate of recent works advancing the post-modern project of de-centering the human subject by focusing instead on things. Some argue for a new materialism on ontological grounds; they seek to unseat centuries of anthropocentric bias in the Western tradition so as to achieve a better grasp of the nature of reality in its vast, complex plenitude. Others appeal to ethics: pointing to the ecological disaster that has resulted from elevating humans above all else, they seek a theoretical corrective that will enhance human responsibility by putting people in our proper place. Jeffrey Jerome Cohen captures the broad outlines of this turn to things when he encourages his readers to “imagine a world that does not revolve around humans, but a multiply centered expanse where we are one of many entities possessing agency,

2 This idea is articulated by Richard Kalmin, *Jewish Babylonia between Persia and Roman Palestine* (Oxford: Oxford University Press, 2006), 103-20. See also Rachel Neis, *The Sense of Sight in Rabbinic Culture: Jewish Ways of Seeing in Late Antiquity* (Cambridge: Cambridge University Press, 2013), 196-8, and Steven Fine, *Art and Judaism in the Roman World: Toward a New Jewish Archaeology* (Cambridge: Cambridge University Press, 2005), 124-35.

narrative power, philosophic weight, and dignity.”³ He argues that “*things matter* in a double sense: the study of animals, plants, stones, tracks, stools, and other objects can lead us to important new insights about the past and present; and that they possess integrity, power, independence and vibrancy.”⁴ This appeal to give things their due offers a promising avenue of inquiry as we turn to the Bavli's discussion of idols, implements, and other objects in *Kol Ha-tzlamim*. In this section, I survey the new materialisms in search of insights and methodologies that can further our investigation of the Bavli's treatment of material things.

Entry into the scholarly world of things is disorienting, however, as it means leaving behind the narratives and hierarchies which order the world for the rabbis, and for Plato, Aristotle, and all their heirs. For some thing-theorists, approaching objects on their own terms yields a radical vision in which not just philosophic concepts, but also conventional, everyday habits of thought break down. Dualities such as big/little, part/whole, past/present, nature/culture, subject/object, abstract/concrete all dissolve in this alien terrain where cupcakes, gamma rays, Zoroastrianism, bison, and Michael Jordan exert equal claims for existence and for philosophic consideration. Arguing for an approach which he dubs “object-oriented ontology,” or “OOO,” Ian Bogost explains that

OOO puts things at the center of being. . . OOO contends that nothing has special status, but that everything exists equally—plumbers, cotton, bonobos, DVD players, and sandstone, for example. In contemporary thought, things are usually taken either as the aggregation of ever smaller bits (scientific naturalism) or as constructions of human behavior and society (social relativism). OOO steers a path between the two, drawing attention to things at all scales (from atoms to alpaca, bits to blinis) and pondering their nature and relations with one another as much with ourselves.⁵

While such an orientation might indeed offer a truer account of the nature of reality than our established patterns of thought, it is so distant from the discursive world of the rabbis that it closes down more than it opens up. As Bogost himself acknowledges, OOO has little to offer ethics, which is always “inside” the human.⁶ An ontology focused on objects might indeed sharpen a critique of the Bavli's human-centered hierarchies, but it will not enrich our understanding of the worlds of meaning that the rabbis construct.

Of course, taking *things* seriously does not have to mean foreclosing the examination of human meanings, or the pursuit of ethical insight. As we have seen, Jeffrey Jerome Cohen argues that an orientation toward objects enhances our understanding of the human condition. Philosopher Jane Bennett goes even further, advocating for the view that material objects possess power and vitality on the grounds that such an attitude generates an ethics that is ecologically responsible, and ultimately, better for humans as well as for other beings.⁷ She paints a picture of the inanimate world that is charged, dynamic, and alive, full of diverse objects and substances that work together and apart to

3 Jeffrey Jerome Cohen, ed., *Animal, Vegetable, Mineral: Ethics and Objects* (Washington, DC: Oliphant Books, 2012), 8.

4 *Ibid.*, 7, italics his.

5 Ian Bogost, *Alien Phenomenology, or What It's Like to Be a Thing* (Minneapolis: University of Minnesota Press, 2012), 6.

6 *Ibid.*, 73.

7 Jane Bennett, *Vibrant Matter: A Political Ecology of Things* (Durham: Duke University Press, 2010). See especially viii-ix, and 119-22.

make things happen.⁸ For Bennett, the world whirs with myriads of actants that work within, without, and alongside human agents. She acknowledges that this view has consequences for how we understand human responsibility: In a world of “distributed agency,” it is far more difficult to muster the moral outrage that can contribute to justice and democracy, and to hold specific humans accountable for their individual misdeeds.⁹ Nonetheless, she characterizes her vision of “vibrant matter” as an ethical one, and calls for a kind of sympathy with metals, viruses, machines and debris, for “a chord . . . struck between person and thing.”¹⁰ In her words, “We need to cultivate a bit of anthropomorphism—the idea that human agency has some echoes in nonhuman nature—to counter the narcissism of humans in charge of the world.”¹¹ For Bennett, an excess of anthropomorphism is an acceptable cost of combating of anthropocentrism. In contrast to the alien terrain of Bogost's ontology, Bennett's program is centrally concerned with ethics, and her prose brims with passion and caring for humans and for the world.

At the risk of oversimplifying two important contributions to critical theory, I could sum up the difference between Bogost and Bennett by suggesting that Bogost objectifies humans, while Bennett humanizes objects. I would argue that Bennett's ethics is even more remote from rabbinic understandings than Bogost's ontology. As we will see when we turn to the Bavli's discussions of idols, images, and other objects, even as the Bavli nuances and enlarges upon biblical and tannaitic law, it never swerves from the Bible's fundamental rejection of the notion that artifacts manufactured by humans can partake of any power or vitality in themselves. The world of vibrant materialities envisioned by Bennett bears a family resemblance to the very idolatries that the rabbinic laws of AZ expressly oppose. While one can imagine a more nuanced consideration of material things emerging from the clash between Bennett's arguments and Jewish and Christian traditions opposing idolatry, such a constructive project lies far beyond the scope of my investigation of the Bavli. Given my initial goal of finding a helpful tool with which to approach talmudic discussions of material objects, my brief foray into the new materialisms seems to have reached an impasse. To the degree that Bogost's stark ontology and Bennett's enchanted ethics are representative, the recent critical turn to objects would seem to have little to contribute to the study of rabbinic literature.

The study of rabbinic literature, however, might have something to contribute to the new critical turn. This, at least, is one promising avenue that a new study of rabbinic purity law by Mira Balberg opens up.¹² As Balberg demonstrates, ancient rabbis were keenly engaged with material objects—they made things and used things, as all people do, and they also thought, talked, legislated, and cared about things with an intensity that in some ways anticipates the recent turn in critical studies. Balberg makes a significant contribution not only to the study of rabbinic purity but more generally to our understanding of rabbinic ways of ordering the world when she interprets the welter of tannaitic purity laws as an expression of who and what the Tannaim valued. As Balberg points out, purity laws only apply to those material objects that human beings deliberately claim for human use, and they only apply for as long as those artifacts are deemed valuable or are still in use. This key insight leads to the

8 To illustrate her notion of “thing-power,” she offers as a case study the massive blackout that affected millions of people in North America in 2003, and explains that all efforts to pin the blame on any one factor—human or otherwise—necessarily fall short. The blackout resulted from a complex cascade of failures, in which agency was distributed over a large and diverse assemblage of actants which included: a brush fire, the nature of electricity, malfeasance at Enron and other corporations, consumer use, a federal policy of deregulation, and transmission wires. See Bennett, 26.

9 Bennett, 38.

10 Bennett, 120.

11 Bennett, xvi.

12 Many thanks to Mira Balberg for sharing the manuscript of her forthcoming book, *Purity, Body and Self in Early Rabbinic Literature* (Berkeley: University of California Press, 2014). Thanks, too, to Steve Weitzman for recognizing the relevance of Balberg's work to my project.

following principle: That which arouses the care and concern of human subjects is susceptible to impurity; that which lies beyond the circle of human interest is not addressed by the laws of purity.¹³ Balberg's proposal to read purity laws as a map of rabbinic relationships with the world yields a distinctive outlook on material objects. In this strain of materialism, objects possess agency, influence, and meaning, but only in the world as constructed and experienced by human subjects.

Balberg's account of a distinctive rabbinic outlook on material objects begins with her observation of the Mishna's curious tendency to use the same terminology and categories in describing the human body as in describing artifacts.¹⁴ For example, the Mishna describes the parts of the human body as "appendages," the same language it uses in relation to beds, pots, and other things that can be broken down into component parts. Furthermore, in the Mishna, human bodies are variously described as functioning as "tents," "dams," and even as "seals" for cracks in the ceilings. Procedures of purification are the same for human bodies and for objects, and according to Balberg, the Mishna depicts humans and artifacts as being "equally passive and motionless" in these procedures.¹⁵ All of this leads Balberg to conclude that for the Mishna, "the human body is clearly and emphatically a thing among things."¹⁶ Balberg goes on to defend the Mishna against the accusation that the purity laws "objectify" the human body and thereby diminish the human, and argues persuasively that in the world of scarce resources and handicraft inhabited by the rabbis, to be compared to a pot or a piece of furniture is not the diminishment that it might appear to be today.¹⁷ From the perspective of today's critical theorists, however, the Mishna's matter-of-fact treatment of the human body as a thing among things is not at all controversial. For OOO, the observation that humans are made of the same stuff, and share the same physical properties as other things is elementary. Where the Mishna can serve the new materialisms most, I would argue, is in addressing the relationships between objects and humans.

According to Balberg, "the rabbis did not 'relegate' bodies to the level of artifacts as much as they 'elevated' artifacts to the level of bodies, or more concisely, they did not objectify humans as much as they humanized objects."¹⁸ By "humanization," Balberg refers to something very specific: Since the primary locus of impurity is the human body, impurity only affects those objects that are actively and intentionally drawn into the realm of the human, and effectively transformed into extensions of the human body. Her description of this process of humanization draws on Karl Marx, who defines tools and artifacts as extensions of the human body into the world, and theorizes about how the human investment of labor into natural resources transforms things of nature into "man's inorganic body."¹⁹ This account of how specific objects are claimed and appropriated as instruments of human subjectivity provides a striking contrast to Bennett's appeal for an indiscriminate consideration for all things. In contrast to Bennett, who elevates objects by animating them with agency and the touch of human sympathy, the Mishna suggests that there is indeed a real comparison to be made between human bodies and material objects, but that it moves in an opposite direction from the argument that Bennett

13 Balberg demonstrates how this principle obtains across diverse categories addressed by purity law, including the human body, inanimate objects, and different populations. For example, in the Mishna's catalog of what is an unlawful barrier on the body during immersion in a mikva, tangles are objectionable when they are in women's hair, but not in men's, a distinction which Balberg traces to the Mishna's engagement with subjectivity. Balberg dedicates a full chapter to exploring how this principle is expressed in relation to Gentiles, and reads the general exclusion of Gentiles from the system of purity as a measure of non-Jewish deficiency in the eyes of the rabbis. Since, as we have seen, there is a debate about when, why, and to what degree Gentiles came to be considered impure, the discussion is subtle and complex.

14 Balberg, 74.

15 Balberg, 74.

16 Balberg, 74.

17 Balberg, 75.

18 Balberg, 75.

19 Balberg, 77-8.

pursues. The mishnaic materials as read by Balberg suggest that the important point of comparison between humans and objects is not that that objects are animate (like humans), but rather that humans are bodies (like objects.)²⁰ As bodies in space, humans and objects are buffeted by the same forces, their bounded materiality lending them both heft and vulnerability.

For the Mishna, the ontological equality of humans and things is the starting point, not the end point for the discussion. Tacitly acknowledging that human hands, buckets, axes, and blankets share a common materiality, the Mishna focuses its attention on how a particular hand, or a specific ax comes to be identified with a human subject, and is thus invested with meaning. I am suggesting that the tannaitic view as interpreted by Balberg resembles the new materialisms in that it affirms the importance of objects, and calls attention to how agency is distributed among humans and other actants; it does this, however, without embracing the anthropomorphism that Bennett promotes. In the Mishna, the vital force that a thing commands is lent to it by people. While critical theorists might decry the anthropocentrism that dominates the Mishna's orientation, there is another way to think about this. Given that theory about objects necessarily passes through the human experience of the theorist, in placing its focus on how humans lay claim to objects, the Mishna registers how human perception laminates all the things people use and think about. Whether an object is claimed for use in an argument or put to work as a tool, it is always humans who are deciding why and how that thing matters.

In addition to the ways that Balberg's readings of purity law might enrich critical discussions of objects and ethics, there is a specific contribution that her work makes, much closer to home. In the next section, I survey innovations in the Mishna's treatments of idols. Noting how the Mishna differs from biblical antecedents, I demonstrate that the laws and stories presented in m. AZ 3:1-4:7 participate in the same general orientation toward objects that Balberg discerns in her study of m. Taharot. All this is preliminary to my arguments about how the Bavli treats the materials it inherits from the Mishna.

Idolatry from the Bible to the Mishna

One challenge in offering a diachronic analysis of the concept of *avoda zara* is that there is a shift in terminology from the Bible to the Mishna, and beyond. In the Bible, there is no single term attached to the collection of prohibitions that are subsumed under the concept "idolatry." Sometimes, the word that designates other deities is the same word used for Israel's God, *'elohim*,²¹ and sometimes biblical sources use the term *'elilim*, a designation for idols that is always derogatory. While Israel is strongly prohibited from acknowledging or worshiping other deities, the Bible does not consistently deny the existence of other gods.²² The Bible does, however, deny that idols partake of any divine presence or power, and often ridicules people who worship manufactured objects and images.²³ Though the strong biblical polemic against foreign cults means that polytheism and idol-worship are often treated as two aspects of a single offense, in the Decalogue, the locus classicus for Jewish and Christian treatments of idolatry, the ban on worshiping other gods and the ban on images are presented as two distinct prohibitions:

I the Lord am your God who brought you out of the land of Egypt, the
house of bondage: You shall have no other gods besides Me.

20 Thanks to Steve Weitzman for helping me to see this point.

21 See, for example, Ex 20:2, Ex 23:13, Deut 6:14, among scores of other examples. Isaiah 37:19 might play on the double meaning of the word: "Their gods . . . are not gods/God, but man's handiwork of wood and stone."

22 For example, Ex 15:11 can be read as an acknowledgement that there are other gods, though none as mighty as YHWH.

23 See, for example, Is 44:6-21 and Psalm 115.

You shall not make for yourself a sculptured image, or any likeness of what is in the heavens above, or on the earth below, or in the waters under the earth. You shall not bow down to them or serve them . . .
(Exodus 20:2-5)

To these, the Pentateuch adds other edicts and interdicts, including: To reject the practice and laws of other peoples (Lev 18:3), to refrain from foreign cultic practices (Deut 12:30-31), and to destroy any idol, altar and shrine that one encounters in the Land of Israel (Deut 12:2-3). The prohibition on images is further expanded in Deut 4:15-20.

Moshe Halbertal and Avishai Margalit emphasize the range of activities that come under the heading “idolatry,” when they write, “The prohibition against idolatry entails not only a ban on the worship of other gods but also a ban on certain ways of representing the right God.”²⁴ This core insight goes a long way toward disentangling concepts that are often conflated in Jewish literature, but it fails to recognize that the very treatment of these two bans as components of a single prohibition is largely a function of terminology that arises long after the Bible itself. In the Hebrew Bible, there is no overarching concept of “idolatry.” “Idolatry,” from the Greek εἰδωλολατρεία is a term first used by the Church Fathers.²⁵ The term “*avoda zara*,” which has come to have similar breadth to “idolatry,”--and a similarly negative connotation--is first attested in the Mishna. Noam Zohar theorizes that the Tannaim felt a need to replace the Bible's reference to “other gods” with a designation that would more clearly repudiate belief in the reality and divinity of foreign deities.²⁶ However we account for the origins of the term, it seems that in the Mishna, it has a far more restricted meaning than it later comes to have for commentators. It has long been recognized that in the Mishna, “*avoda zara*” is used in two distinct senses, referring both to the activity of worship, “idolatrous worship,” and to the object of worship, “an idol.” Zohar argues that while traditional and critical scholarship has generally taken the primary meaning of the term to refer to the prohibited activity, in fact, a better interpretation of the term “*avoda zara*” in the majority of instances throughout the Mishna is not “idolatry,” but “idol.” If Zohar is right, then with regard to the Mishna at least, the term ‘*avoda zara*’ has little to do with improper worship of the right God, and relates exclusively to the statues, images, and other artifacts that are prohibited as objects of worship.

I stress the degree to which the terms relating to idolatry have shifted because the tendency to read the Bible through the prism of the Mishna, and to read the the Mishna in light of later commentaries leads to confusions that make the task of identifying the innovations of the Bavli a distinct challenge.²⁷ Zohar's analysis reveals how narrow the set of concerns addressed in the Mishna is, compared to the scope of biblical interests. While the Bible is variously concerned with the making and

24 Moshe Halbertal and Avishai Margalit, *Idolatry*, trans. Naomi Goldblum (Cambridge: Harvard University Press, 1992), 1.

25 The earliest attestation I could find is in the Epistle of Barnabas. See Perseus word frequency tool at www.perseus.tufts.edu

26 Noam Zohar, “Foreign Worship and its Annulment” (Hebrew), *Sidra* 17 (2001-2002), 63-77.

27 One prevalent source of confusion is the widespread practice using “*avodat kochavim*,” or “worship of the stars,” interchangeably with the term ‘*avoda zara*’ in print editions of both the Mishna and the Talmud. This convention introduces a regrettable anachronism into the talmudic text. For the rabbis, star-worship is a sin of a far different order than idol-worship. Unlike idols, stars are not the work of human hands; moreover, for the rabbis, stars are not inanimate objects, but are animate beings of considerable power who serve as part of the divine retinue, along with the angels. In a baraita on b. AZ 42b, sacrifices dedicated to such beings are explicitly identified as instances of זְבָחֵי מַתִּימִים –offerings to the dead. While this is a serious category of transgression, it is less grievous than ‘*avoda zara*’. The distinction is lost, however, in print versions which assimilate star and constellation worship (‘*avodat kokhavim u-mazalot*’) into the category of ‘*avoda zara*’.

worship of idols, the worship of other gods, foreign cultic practices, and the representation of God and of a whole array of other beings, Mishna AZ is almost exclusively focused on the circumstances under which a Jew may make use of objects that are implicated in other people's idol worship. As we will see, one way that the Bavli expands upon the Mishna is by introducing a discussion of image-making and representation—themes that occupy the Bible, but are not developed in the Mishna—into its consideration of what counts as an idol.

Biblical opposition to idolatry is strident and strenuous, and it is expressed through prohibitions and commandments, tirades by the prophets,²⁸ ridicule by the psalmist,²⁹ and extended dramatic narratives.³⁰ In the Mishna's discussion of idols in AZ 3:1-4:7, the tone is far more reserved, and the scope is narrower, and this gives the overall impression that the Mishna is lenient and even tolerant of idolatry.³¹ It is important to note, however, that even as the Mishna creates a legal framework that allows Jews to interact with idol-worshippers, to live in the presence of pagan statuary, and perhaps even to trade in images and objects connected to the pagan cult,³² the Mishna's rulings in no way contravene biblical law.³³ The Mishna is able to accomplish its leniency because it introduces two legal innovations: 1) A concept of ornamentation, whereby the Mishna allows some images and sculptures of pagan gods to be categorized as decorative objects rather than as idols; and 2) A procedure of “nullification” through which a prohibited object can be voided of its idolatrous status, and thus escape the biblical ban.³⁴ I'll briefly present the mishnaic materials regarding both these innovations, and then draw on Balberg's analysis as I explore continuities between the ways the Mishna relates to idols, and the ways it relates to other objects in the material world.

The chief locus for the mishnaic concept of ornamentation is the oft-cited story of Rabban Gamliel in Aphrodite's bath, from m. AZ 3:4:

Proclus the son of Plofus³⁵ questioned Rabban Gamliel in Akko, where he was bathing in the bathhouse of Aphrodite.
He said to him: “It is written in your Torah, 'Let nothing that has been

28 For example: Is 2:18-22, Is 44:6-21, Jer 10:1-16, Hab 2:15-20.

29 Ps 115 and 135, for example.

30 For example, the story of the Golden Calf in Exodus 32, and Elijah's showdown with the prophets of Ba'al in I Kings 18.

31 There is a rich scholarly discussion of the attenuation of Jewish interest in idols in the rabbinic period. See Kalmin, 109, and his brief review of E. E. Urbach's and Saul Lieberman's discussions in the notes. For a more recent analysis, see Yair Furstenberg, “The Rabbinic View of Idolatry and the Roman Political Conception of Divinity,” *The Journal of Religion*, Vol. 90, No. 3 (July 2010), 335-66, especially 335-44.

32 E. E. Urbach argues that the reason that an idol manufactured by a Jew is prohibited only once it has been worshipped, while an idol made by a non-Jew is prohibited as soon as it is produced (m. AZ 4:4) is to allow Jews to participate in the idol market. See Urbach, “The Rabbinical Laws of Idolatry in the Second and Third Centuries in the Light of Archaeological and Historical Facts,” in *Collected Writings in Jewish Studies*, eds. R. Brody and M. D. Herr (Jerusalem: Magnes Press, 1999), 151–93, especially 175.

33 This point is made by Gerald Blidstein in “Nullification of Idolatry in Rabbinic Law,” *Proceedings of the American Academy for Jewish Research*, Vol. 41-42 (1972-1973), 1-44.

34 Blidstein examines both these innovations, analyzing the mishnaic materials their treatments in the Yerushalmi and the Bavli. He argues that in the rabbinic discussions of idolatry, human attitudes and intentions decide the status of the objects in question. That is, an idol is only an idol if a person thinks it is. This key insight dovetails with Balberg's presentation of a tannaitic view on the meaning of objects. My contribution is the contextualization of Blidstein's analysis of idol-nullification within the broader conceptual framework of a distinctive tannaitic materialism.

35 There is considerable variation in the manuscripts regarding the patronym of Rabban Gamliel's interlocutor. This version appears to have been shaped in light of the emergence of a storytelling convention whereby rabbis dialogue with philosophers. See b. AZ 54b for a story in which Rabban Gamliel converses with a philosopher. Under the influence of that story, the Bavli here addresses the Proclus character as “Mr. Philosopher.” For a discussion of variants of this name, see Furstenberg, “The Rabbinic View of Idolatry,” note 46.

placed under the ban stick to your hand,' (Deut 13:18). How is it then that you bathe in the bathhouse of Aphrodite?"

He answered: "One does not respond in a bathhouse."

When they exited, he said to him: "I did not come into her domain, she came in to mine.

"One does not say, 'Let's make a bathhouse as an ornament for Aphrodite,' but rather, 'Let's make Aphrodite as an ornament for the bathhouse.'

"Another thing:³⁶ Even if one gave you a lot of money, would you go up to your idol naked, having ejaculated, and urinate in front of her? Yet this one stands at the mouth of the sewer, and all the people urinate in front of her! Scripture says [to destroy the 'statues of] their gods.'(Deut 12:3) That which is treated as a god is prohibited; that which is not treated as a god is permitted."³⁷

This story addresses the very disparity we observed between the Bible's utter rejection of idolatry and the Mishna's apparent leniency. The Gentile Proclus asks: "How can you sit and relax in the presence of an object your scriptures command you to abhor and destroy?" The mishnaic storyteller provides Rabban Gamaliel with three responses that can be summarized like this:

1. I was here first.
2. The statue is not an idol, but an adornment.
3. You can tell it is not an idol, because people are not treating it like one.

Interpreters are divided on whether these three retorts should be read as three (or two) discrete answers, or as the development of a single line of argument.³⁸ To my mind, the three points are all closely related. They express, in different ways and with different emphases, one coherent approach to the world of objects, wherein human attitudes and intentions determine the status and identity of material things.

Rabban Gamliel's assertion that the Aphrodite is not an idol but an ornament suggests that what

36 The "another thing" is likely not original to the story, but rather a coda or addendum that was appended by the editor of the Mishna. I nonetheless present it as part of the story because of the way it adopts the voice of Rabban Gamliel, inserting itself into the world of the story by addressing Proclus in the second person.

37 The story appears on b. AZ 44b, ms. JTS Rab. 15:

שאל פרקלוס בן פלוספוס את רבן גמליאל בעכו שהיה רוחץ במרחץ של אפרודיטי
אמ' לו כתוב בתורתכם ולא ידבק בידך מאומה מן החרם מפני מה אתה רוחץ במרחץ של אפרודיטי
אמ' לו אין משיבין במרחץ

כשיצא אמ' לו אני לא באתי בגבולה היא באת בגבולי

אין אומרין נעשה מרחץ נוי לאפרודיטי אלא נעשה אפרודיטי נוי למרחץ

דבר אחר אם נותנין לך כל ממון שבעולם אתה נכנס לבית ע"ז שלך ערום ובעל קרי ומשתין בפניה וזו עומדת על
הביב וכל העם משתינין בפניה ולא נאמר אלא אלהיהם את שהוא נוהג בו משום אלוה אסור ואת שאינו

נוהג בו משום אלוה מותר

38 Scholarly discussions of this story abound, including: Seth Schwartz, "Gamaliel in Aphrodite's Bath: Palestinian Judaism and Urban Culture in the Third and Fourth Centuries," *The Talmud Yerushalmi and Graeco-Roman Culture I*, ed. Peter Schäfer (Tubingen: Mohr Siebeck, 1998), 203-17; Yaron Z. Eliav, "Viewing the Sculptural Environment: Shaping the Second Commandment," *The Talmud Yerushalmi and Graeco-Roman Culture III*, ed. Peter Schäfer (Tubingen: Mohr Siebeck, 2002), 412-33; Azzan Yadin, "Rabban Gamaliel, Aphrodite's Bath and the Question of Pagan Monotheism," *Jewish Quarterly Review* 96:2 (Spring, 2006), 149-79; Furstenberg, 355-360;

makes an idol an idol is not its form, but rather the context in which it appears. Presumably, the very statue that the rabbi tolerates in a bathhouse would come under a ban were it to be placed in a shrine, or otherwise venerated. In the bathhouse, however, the statue is merely decorative, and for that reason, it falls outside the scope of the prohibition on idols. The story of Rabban Gamliel's toleration of this Aphrodite has figured prominently in treatments of Jewish attitudes toward images and art.³⁹ It is important to note, however, that though Rabban Gamliel here acknowledges the category of the aesthetic, this can hardly be taken as evidence of a nascent appreciation of art. On the contrary, the force of Rabban Gamliel's argument is to dismiss the Aphrodite as *merely* ornamental, and for that reason, of no account to the law.⁴⁰ This central claim, that the Aphrodite is not functioning as an idol in the bathhouse setting, is recapitulated in far more colorful terms in the response that the Mishna identifies as “another thing” (response 3 above). Here, the Aphrodite is further diminished, as it is literally peed upon. Together, responses 2 and 3 emphasize the degree to which human attitudes determine the status of things. The scriptural prohibition on idols is read narrowly so that it applies only to statues that are actively venerated, or that are placed in explicitly religious settings, and this allows Jews to partake of the public institutions of Roman cities, despite the prevalence of pagan sculpture.⁴¹

Read in this light, Rabban Gamliel's first retort, that he got to the bathhouse first, is easier to understand. The rabbi here is using chronology to get at issues of primacy, and at how people confer meaning on places and things. Rabban Gamliel asserts that the placement of the statue cannot by itself re-define a space which has already been established as a bathhouse. Proximate halakhot emphasize the chronology of events in a similar way. Thus, when m. AZ 3:7 categorizes three different houses, it is actually describing three different stages at which a house might be dedicated to an idol:

There are three different houses:

A house that is built for the sake of an idol from the beginning is prohibited.

If one makes renovations, plastering and tiling the house for the sake of an idol, remove what was renovated.

If one brings an idol into the house, and then takes it out, it (the house) is permitted.⁴²

Though this ruling relates to a different set of circumstances than those dramatized in the story of the bathhouse, it echoes Rabban Gamliel's assertion that the chronology of intentions and events matters. A house that shelters an idol only comes under a ban if the intention to dedicate the house to idolatry

39 See for example Fine, *Art and Judaism*, 111-3. See also Lee I. Levine, *The Ancient Synagogue: The First Thousand Years*, (New Haven: Yale University Press, 2005), 227-30.

40 The Mishna invokes the notion of ornamentation to similar effect in a very different context when it rules that sheets that are used decoratively are not susceptible to impurity. See m. Kelim 24:13. This, in any case, is how the mishna is interpreted by Balberg, 80. Rabbenu Ovadya of Bartenura understands these sheets not as decorative, but rather as patterns to guide the making of clothes.

41 A similar conception of public statuary as decorative rather than cultic is implicit in m. AZ 3:1, in which the majority of rabbis restrict the prohibition to those statues that entail certain conventional iconography. Yaron Z. Eliav connects these two mishnayot in “The Matrix of Ancient Judaism,” *Prooftexts* 24:1 (Winter 2004), 125. Gerald Blidstein addresses the tendency of the law to allow for Jews to participate in public institutions in “R. Yohanan, Idolatry, and Public Privilege,” *Journal for the Study of Judaism* 5:2 (Jan. 1974), 154-62.

42 This halakha appears on b. AZ 47b in the JTS manuscript:

שלשה בתים הם בית שבנאו מתחלה לשם ע"ז הרי הוא אסור
 סידו וכירו לע"ז וחידש נוטל מה שחידש
 הכניס לתוכו ע"ז והוציאה הרי זה מותר

preceded the house's construction; if not, only those features of the house that are directly tied to the idol are prohibited. This mishna clarifies what Rabban Gamliel's first retort merely implies: That human intentions are determinative in fixing the scope of the ban on idols, not only in space, but in time as well. Together, Rabban Gamliel's three statements add up to a coherent argument that physical spaces and physical objects are entirely defined by human attitudes and intentionality.⁴³

A similar focus on human subjectivity emerges in the second innovation of this section of the Mishna: the nullification of idols. Through the institution of nullification, or *bitul* ביטול, idols and other prohibited objects are voided of their idolatrous status, and thereby rendered permissible for use by Jews. The procedures for nullifying an idol are laid out in m. AZ 4:5:

How does one nullify it?

If one cut off the top of its ear, the tip of its thumb, the tip of its finger, or battered it—even without diminishing its substance—it is nullified.

If one spat at it, urinated on it, dragged it, or threw excrement at it, it is not nullified.⁴⁴

While nullification thus requires some physical damage in order to effect the change of status, the impact on the substance of the object can be minimal. Similarly, according to m. AZ 3:10, an *'ashera*, or sacred tree, can be nullified through the plucking of a single leaf, provided the action is pursued with the right intention. The Mishna further stipulates that a non-Jew can nullify the idol of a fellow non-Jew, but that a Jew cannot nullify a non-Jew's idol (m. AZ 4:4).

The notion that an idol-worshipper can revoke the idolatrous status of an idol is broadly consistent with Rabban Gamliel's claim that a statue is only an idol if it is expressly venerated as such. The laws of nullification, like the story of Aphrodite's bath, promote the idea that it is human attitudes and behaviors that define certain things as prohibited objects: acts of veneration confer idolatrous status, and procedures of nullification take it away. Rabban Gamliel establishes a rather high threshold for what counts as an idol, and the institution of nullification erects an even higher threshold for how that designation can be revoked. But whether an object is entering into the domain of the prohibition, or exiting out of it, the Mishna assigns to the idolatrous non-Jew the role of gatekeeper. This peculiarity of mishnaic law is as reasonable as it is curious—since from the perspective of the rabbis, an idol has no reality beyond its material substance, only an idolator can distinguish between those statues that should matter to the law, and those statues that are of no concern. The determination of what counts as an idol is largely a subjective matter, and it is the subjectivity of the potential idolator which concerns the Mishna most.

To my mind, there are two matrices in which one can understand the Mishna's emphasis on subjectivity in its treatments of idols. The first line of reasoning focuses on the peculiar ontological and cultural status of idols. Idols are distinct from other, more mundane objects in that they mean such different things to different people. Unlike a tool or treasure whose function or value is self-evident to most people, an idol is an object of awe and adoration for some, and of rejection and derision for others. For the rabbis, an idol has no significance outside of the sanctity and power that idolators vest in

43 For an argument that Rabban Gamliel's distinction between statues that are ornamental and those that are dedicated to worship corresponds to the Roman practice of ritually consecrating statues of gods and emperors, see Eliav, "The Matrix," 125-6.

44 b. AZ 53a:

כיצד מבטלה
קטע ראש אזנה ראש חוטמה ראש אצבעה פחסה אע"פ שלא חסרה בטלה
רקק בפניה השתין בפניה גררה וזרק בה את הצואה הרי זו אינה בטלה

it; the only way to acknowledge its difference from other material objects is via the subjectivity of idolators. The proposition that the peculiarity of idols generates the specific innovations of m. AZ finds support in cross-cultural evidence that there were contemporary Roman practices whereby statues were formally consecrated, and de-consecrated. Yaron Eliav calls attention to the the Roman rituals of consecration in his reading of the story of Aphrodite's bathhouse.⁴⁵ Yair Furstenberg explains the institution of nullification in light of the practice of *damnatio memoriae*, in which Romans withdrew an emperor's divine status by defacing his representations when new leaders claimed his throne. According to Furstenberg, the nullification of idols should not be seen as a new rabbinic institution but rather as a recognition on the part of the rabbis of practices that were prevalent in the imperial Roman cult.⁴⁶ All this is to suggest that we understand the Mishna's treatment of idols in light of the specific cultural meanings that idols held for the Tannaim. According to this way of looking at things, the Mishna projects its understanding of idols through the prism of idolators' subjectivity because of the peculiar ways that idols differ from other objects.

As I have already intimated, however, there is yet another way to understand the Mishna's focus on subjectivity, and that is to approach the treatment of idols against the backdrop of the Mishna's broader orientation toward the world of objects. Gerald Blidstein moves in precisely this direction when he characterizes idol-nullification as “the withdrawal of significance from an object, a technique that distinguishes between the meaning of the object and its physical presence and thus allows the preservation of the object.”⁴⁷ He points out that the word “nullification” is similarly used in other areas of the halakha, such as *bitul hametz*, and sees this as reflective of a general shift within Jewish law, “from concern with the static physical object, to concern with its fluctuating significance as defined by human relationships and perceptions.”⁴⁸ Blidstein's insight anticipates Balberg's account of how the Mishna's purity laws reflect a distinctive outlook on objects, whereby only those artifacts that are drawn into human use and care are addressed by the law. In the Mishna's treatment of idols, as in the Mishna's treatment of everyday artifacts, humans determine the status and meaning of an object through deliberate acts of relationship. This suggests that the emphasis on subjectivity that we have noted in the Mishna's discussion of idols is not only a function of the peculiarity of idols, but also reflects the Mishna's general interest in how material things enter into the realm of humans.

Reading the Mishna's rulings about idols within the horizon of its treatment of other objects, one discovers many points of connection between the laws of AZ and other halakhot governing material things. One area of confluence is in the Mishna's accounts of how material things traverse the boundary between the natural world and the human realm. M. AZ 3:5 articulates a principle whereby natural things only come under a prohibition once they are deliberately manipulated by humans: “Why is an *ashera* prohibited? Because it bears the grasp of the human hand.”⁴⁹ This statement encapsulates what Balberg identifies as the central project in Mishna Kelim, namely, defining the specific points at which human labor transforms the stuff of nature into artifacts that are finished and usable, and thus susceptible to impurity.⁵⁰ Furthermore, in both bodies of law, it is not just physical acts but also mental investment that bring an object into play. Thus, in Kelim, even when a man-made object receives its finishing touches and is ready for use, it is still not deemed susceptible to impurity until it is initiated into use by a deliberate thought on the part of its owners, what the Mishna calls “*Maḥshava*.”⁵¹ We

45 Eliav, “Matrix,” 125-6.

46 Furstenberg, 344-60.

47 Blidstein, 3.

48 Blidstein, 3.

49 Balberg notes this point of connection on 209, note 10, the only point at which she engages the confluence between the laws of Taharot and of AZ.

50 Balberg, 78-81.

51 See, for example, m. Kelim 26:7, and the discussion in Balberg, 82-3.

have already noted this emphasis on intentionality in Misna AZ's analysis of the three discrete stages at which a house might be dedicated to an idol. It is the point at which the owner's intention focuses on the idol, and not the physical introduction of the idol itself, which initiates a prohibition on the use of the house.⁵² In the laws of idolatry as in the laws of purity, the application of the law is largely coterminous with the duration of an owner's mental engagement with an object.

Recognizing confluences between these two areas of law brings some features of Mishna AZ into sharper relief. In tractate AZ as in Kelim, the Mishna sets a threshold for how particular objects come into their own, specifying the points at which things pass into the domain of the law, and under what circumstances they might pass out of it. For the ordinary objects that concern Kelim, that threshold is very high indeed: Issues of purity only obtain when a person has made both a manual and mental investment in an artifact. Having entered into purity's domain, however, the artifact remains susceptible to impurity regardless of its owner's mental energies, and only passes out of the law's regard upon becoming physically broken to the point it can no longer be used. When it comes to the idols that are addressed by AZ, the situation is a bit more complicated: According to m. AZ 3:4, the idol of a Gentile is banned immediately upon being completed, but an idol belonging to a Jew becomes prohibited only when it is actually worshipped.⁵³ That is, with idols, physical labor alone suffices to initiate a ban, but only for non-Jews; among Jews, an object is not considered an idol until it is actually worshipped. Kelim's explicit distinction between physical labor and mental intention provides a framework for analyzing this distinction between Jews and non-Jews. When it comes to Jews, the Mishna protects some leeway for the cross-currents of the human mind—plots and plans, intentions and desires, whims and misgivings can all come into play before the law obtains. For non-Jewish idol-makers, all such mental machinations are foreclosed, and the mere making of a thing initiates the ban. The difference in the Mishna's treatment of material objects belonging to Jews and non-Jews thus expresses differences in how the Mishna treats the interiority of Jews and non-Jews, as Jews are granted a depth and breadth of subjective experience that is denied non-Jews.⁵⁴

Throughout this section of tractate AZ, the Mishna remains keenly focused on human subjectivity, and specifically on what objects mean to people. In emphasizing the degree to which the laws of idolatry and the laws of purity reflect a single, coherent approach to material objects, I mean to offer a complement to the dominant trend in the scholarship, which analyzes the Mishna's legal innovations in light of the political history and material realia of Roman Palestine. I am arguing that the Mishna's treatment of idols cannot simply be reduced to the political exigencies and social pressures that come from living under imperial rule and among pagan neighbors. The Mishna's innovation in projecting the ban on idols through the lens of human subjectivity need also be read in light of the Mishna's distinctive orientation toward materiality and the self. Attention to how human experience and attitudes shape reality provides the Tannaim with a conceptual frame for dealing with facts on the

52 m. AZ 3:7. This halakha goes on to apply the same AZ 3:7 stages to a stone used as a platform for an idol, and to an *'ashera*.

53 Things get even more complicated because a baraita on b. AZ 51b indicates that the Mishna's ruling was a matter of dispute. According to the baraita, m. AZ 3:4 corresponds to R. Akiva's view, but R. Yishmael held the opposite opinion: According to R. Yishmael, the idols of Jews are prohibited from the outset, but those of non-Jews only come under a ban once they are worshipped. To my mind, R. Yishmael's view seems easy to understand, given that Scripture prohibits Jews not only from worshipping idols, but also from making them. I see the view ascribed to R. Akiva and to the anonymous voice of the Mishna as being far less straightforward. Blidstein sees things differently, however, and points out the conceptual difficulties with R. Yishmael's position on page 15 of his "Nullification of Idolatry in Rabbinic Law." For a detailed investigation of Urbach's proposal that the Tannaim aim to accommodate Jewish economic interests by allowing Jews to engage in the idol trade, see Blidstein, 15-27.

54 For an investigation of how differences between Jews and non-Jews play out in the Mishna's laws of purity, see Balberg 122-47. Her suggestion that the difference between Jews and non-Jews is reflective of the way the Mishna associates personhood and subjectivity with subjection to the law is instructive with regard to the laws of m. AZ.

ground. In Mishna AZ, the sacred trees, pagan shrines, and imperial statues that dot the landscape of Roman Palestine are presented as points on a map of human attitudes and intentions.

This interest in what objects mean to people carries over into the Bavli's discussions of the Mishna in *Kol Ha-tzlamim* and *Rabbi Yishma'el*. At a cultural remove from the particular idolatrous artifacts that the Mishna addresses, the Bavli intensifies and extends the Mishna's engagement with material objects in general. While the Mishna is principally interested in how humans understand, value, and relate to things in the material world, the Bavli initially investigates the ontology of the objects themselves. Then, as the Bavli's discussion unfolds, the focus shifts. This section of b. AZ opens with dialectical investigations of the relationship between form and matter, and closes with narratives that examine possibilities for dialogue and intellectual exchange between Jews and non-Jews. While the Mishna examines the mental bonds that link people to things, the Bavli attends to the shared experiences that link human beings to one another.

Idolatry in the Babylonian Context

Idols were not a regular part of the cultural landscape in Sasanian Persia. While reverence for images might have persisted here and there in some expressions of Zoroastrianism and other cults, there is general agreement among scholars that the iconoclastic policies of official Sasanian Zoroastrianism rid the empire of much of the idol-worship that had been prevalent under Parthian rule.⁵⁵ Richard Kalmin notes that in the absence of material evidence from the period, the Bavli offers evidence that confirms the scholarly consensus: While the Bavli preserves many stories of Palestinian sages contending with idols in their daily lives, there are few stories of Babylonian sages encountering idols, and when they do, it is because they deliberately seek them out.⁵⁶ It has become a commonplace to point out that while the ubiquity of statues and idol-worship posed pressing challenges for rabbis in Roman Palestine, these were not issues of direct concern to the rabbis of Babylonia.⁵⁷ As I have already indicated, I agree with the scholarly consensus that idols are not a pressing concern in the Bavli, and I see the relative restraint of the editors in this section of AZ as a measure of their disengagement. This does not mean, however, that the Bavli remains completely mum on the subject. The idols that the creators of the Bavli contend with are not concrete objects of metal, wood, or stone, but rather the discursive representation of these objects in the Bible, Mishna, and other Jewish works. In what follows, I offer readings of several talmudic passages that are prompted by the Mishna's discussion of idols. I seek to demonstrate that in each instance, the Bavli editors propel a discussion about idols into a discussion that has cultural currency in the context of Sasanian Babylonia. Whether opining on the changeability of matter, the ethics of mimetic representation, or the limits of dialogue across cultures, the Bavli editors put tannaitic materials to use in addressing issues of their own time and place.

55 See Mary Boyce, "Iconoclasm among the Zoroastrians," *Christianity, Judaism, and Other Greco-Roman Cults: Studies for Morton Smith at Sixty*, pt. 4, ed. Jacob Neusner (Leiden: Brill, 1975), 93-111. For more recent discussions that support Boyce's conclusions, see the list of sources in Kalmin, 223-4, note 1.

56 Kalmin, 103-4.

57 Steven Fine captures the scholarly consensus when he writes: "At the very heart of the Babylonian rabbinic community, an extremely liberal attitude toward making nonidolatrous art was well established. This difference is clearly related to the different visual environments in which Palestinian and Babylonian rabbis existed. In Babylonia, Sassanians did not worship human sculpture and there was no cult of the emperor. Jews there do not seem to have felt besieged by Persian idolatry in the same way that Palestinians did. . . . Whatever they thought of Persian worship, the response to idolatry was not an issue of mortal concern." Fine, 133. Rachel Neis makes a similar point when she notes that there is no evidence in the Bavli for the distinctive mode of "seeing awry" that sages in Palestine developed to deal with the ubiquity of idols. See Neis, especially page 196. For a related discussion of a general lack of concern about idols among rabbis, see Kalmin, 109, and his notes.

The Bavli Puts the Pieces Together (AZ 41b-42b)

The first sugya I examine comes from the beginning of *Kol Ha-tzlamim* and centers on a dispute between the Palestinian Amoraim Rabbi Yohanan and Resh Lakish about whether one may make use of pieces of an idol that has broken of its own accord. If the scholarly consensus is correct in the claim that idols are not a regular part of the cultural landscape in Sasanian Babylonia, it would seem that the deliberations that the Bavli spins out in explicating both of these Palestinian sages' positions is a scholastic exercise of merely academic interest. I intend to show, however, that this compactly structured sugya plays a pivotal role in introducing the larger section of the talmudic tractate. First, I will consider the sugya within its redactional context, pointing to the ways it organizes and structures a broad swath of the talmudic discussions that follow it. Then I will seek to explicate the debate at the center of the sugya within the cultural-intellectual environment of Sasanian Babylonia. I will argue that what seems at first like an abstruse discussion of an obsolete concern in fact engages the philosophic currents of the day. The Bavli transmutes an old debate about idol-pieces into a philosophic investigation of what the world is made of.

Our sugya addresses m. AZ 3:2: “One who finds the broken pieces of images (*tzlamim*), behold, these are permitted.”⁵⁸ The Bavli's opening statement cites a ruling by the Babylonian Amora Shmuel: “And even the broken pieces of an idol (are permitted).”⁵⁹ From the outset, it thus becomes clear that the Bavli reads the Mishna's ruling narrowly, interpreting “images” in contradistinction to “idols.” According to the Bavli, the Mishna permits the re-purposing of sculpture shards that are known not to have been objects of worship, and Shmuel introduces a further leniency, expanding the realm of the permitted to include not only the broken pieces of images that were never worshipped, but also the broken pieces of actual idols as well. Shmuel does not, however, offer a rationale for his ruling. On what basis does he permit the use of idol-pieces, when an idol that is intact is clearly prohibited? Investigating the distinction between a whole and its parts is the task that propels the sugya as a whole.

Shmuel's leniency with regard to the broken pieces of idols dovetails with a dispute between R. Yohanan and Resh Lakish. While Resh Lakish seems to agree with Shmuel, R. Yohanan does not:⁶⁰

It was said (in an Amoraic tradition):
Concerning an idol that broke of its own accord:
Rabbi Yohanan said: It is prohibited.

58 b. AZ 41a, ms JTS:

המוצא שבירי צלמים הרי אלו מותרין

The word *צלמים* (*tzlamim*) especially hard to translate. In the Bible, *tzelem* has a range of meanings. In Genesis, it is used in the sense of “figure,” or “image,” as in “in the image of God He created him.” (Gen 1:27) Elsewhere, it is used in the sense of “cult statue,” or “idol,” for example, “destroy all their molten idols.” (Num 33:52) In this context, the talmudic dialectic distinguishes between *tzlamim* and *avoda zara*, a distinction that would be occluded if I translated *tzlamim* as “idols.”

59 b. AZ 41a (the round brackets indicate my insertion):

אמר שמואל ואפי' שבירי ע"ז

60 The question of whether the opinions of Shmuel and Resh Lakish are actually in accord is debated among the Rishonim. The question turns on how one interprets the difference between the circumstances their rulings address. Shmuel's opinion is offered in connection with “One who finds the broken pieces of an idol,” while Rabbi Yohanan is dealing with “an idol that broke of its own accord.” In Shmuel's case, the circumstances of the idol's demise are unknown—while it might have broken of its own accord, it might have been shattered during a process of nullification. For some, the wording of Rabbi Yohanan's statement indicates that there was certainly no nullification. For an explication of the ramifications of this difference, see Tosafot's comment on *אמר שמואל*.

And Resh Lakish said: It is permitted.⁶¹

While the amoraic tradition that is cited does not preserve the reasons why the two sages took the positions that they did, the anonymous voice of the Bavli provides rationales for both opinions:

Rabbi Yohanan said it was prohibited because it had not been nullified.
Resh Lakish said it was permitted (because) it is indeed nullified in a general way as one says to oneself, “It could not save itself, how could it save me?”⁶²

According to the Bavli's reasoning, Rabbi Yohanan reads the Mishna as a strict constructionist; since the Mishna only allows for the use of idols after they have been formally nullified by their worshippers, absent a procedure of nullification, an idol—even one that has fallen to pieces—remains under a ban. Resh Lakish, on the other hand, emphasizes the meaning and motives that underlie nullification, rather than the procedure itself. According to this line of reasoning, nullification amounts to a shift in an idol-worshipper's attitude, whereby he withdraws the faith he had formerly invested in the idol. For Resh Lakish, the combination of the physical dissolution of the idol with the presumed withdrawal of the worshipper's faith and reverence is tantamount to a formal nullification. In different ways, both these positions embrace the Mishna's subjective criteria for what makes an image count as an idol. R. Yohanan erects a high threshold for how an object can escape such a designation, and views the broken pieces of an idol as preserving the identity and status of the whole. Resh Lakish maintains that when an idol breaks apart, it is not only its physical structure that shatters, but also the subjective attitude that determines its status. For Resh Lakish, an idol in pieces is by definition no longer an idol.

The continuation of the sugya is given over to an interrogation of each position. For the purposes of my argument, it will suffice to summarize rather than recapitulate the ins and outs of the deliberations. The first challenge takes aim at Resh Lakish, and is rooted in a reading of Scripture: According to a story that is told in I Sam 5, even after God shatters the idol of Dagon, the Philistines continue to revere the shrine where Dagon's idol is located. Evidently, it cannot be presumed that idolators necessarily withdraw their faith from broken idols. This challenge to Resh Lakish is neutralized, however, when the Bavli points out that after the Dagon idol shatters, it is not the broken sculpture itself that the Philistines revere, but rather the shrine, which replaces the idol as an object of worship.

Next the Bavli takes a conceptual turn, as it teases out the reasoning behind Rabbi Yohanan's stringency by highlighting an important difference between broken images (permitted by the Mishna) and broken idols (prohibited by Rabbi Yohanan.) According to the Bavli's reasoning, there are two relevant determinations one must make when faced with a broken piece of a pagan image: 1) Was this image actually worshipped as an idol? And 2) If it was worshipped, was it subsequently nullified? In the case of a known idol, the answer to one of these questions is known for sure—it *was* worshipped—and only the answer to the question of nullification remains in doubt. The Bavli extrapolates that Rabbi Yohanan prohibits the pieces of an idol because while the conjunction of two variables of doubt might generate sufficient cause to justify leniency, in the case of but a single doubt, the calculus shifts toward

61 b. AZ 41b (the round brackets indicate my gloss):

איתמר ע"ז שגשגתברא מאיליה ר' יוחנן אמ' אסורה וריש לקיש אמ' מותרת

62 b. AZ 41b. I attribute this exchange to the Stam because it is largely in Aramaic, unlike the Hebrew of the amoraic tradition. (The round brackets indicate my insertion):

ר' יוחנן אמ' אסורה דהא לא ביטלה
וריש לקיש אמ' מותרת בסתמא בטולי בטלה מימ' אמ' איהי נפשה לא אצלה להווא גברא מצלה ליה

stringency. This defense of Rabbi Yohanan's reasoning is ultimately called into question, however, when the Bavli is able to cite two cases from other areas of law in which a single area of doubt does apparently suffice as a justification for a lenient ruling. At this stage in the sugya, neither the position of R. Yohanan nor the position of Resh Lakish has been demonstrated to be more persuasive than the other.

As the sugya continues on from this point, there is an extended run of challenges and retorts that maintains one consistent pattern throughout. The Bavli poses seven successive challenges to Resh Lakish's position, and in each instance the challenge issues from the citation of a baraita that appears to conflict with Resh Lakish's position. The regularity of the pattern is established through the recurrence of the technical term *'eitiveih* אִיתִיבִיה, roughly translated as, “He challenged him with the citation of the following baraita.” In all seven cases, the force of the challenge is similar: R. Yohanan⁶³ cites a baraita in which the Tannaim prohibit an item that is somehow identified with idolatry, and then poses the rhetorical question, “Why is this ruling so strict? Why not rule leniently in this case as Resh Lakish does in the case of an idol that breaks on its own?” In this way, R. Yohanan implicitly compares the idol-pieces that interest him to a range of other items that are clearly prohibited—pieces of an idol that is broken by a Jew; stones from a figure dedicated to Mercury; leaves shed by by an *'ashera*; etc.—and argues that the same level of stringency should be uniformly applied. In all seven cases, however, the Bavli effectively neutralizes the challenge with a pithy retort. In the end, Resh Lakish's lenient position withstands every attack, and the cumulative effect of these seven successive exchanges is to shore up Resh Lakish's lenient ruling. Following these seven rounds, the sugya closes with a final challenge that is issued from Resh Lakish to R. Yohanan, and this challenge too is quickly answered. In the end, though the preponderance of the argumentation seems disposed toward leniency, the disagreement between R. Yohanan and Resh Lakish remains unresolved.

From a literary perspective, this sugya is compact and elegantly crafted. Its analysis into three main sections, with a central section that breaks down into seven units is one indication of its artistry.⁶⁴ Beyond this internal structure, however, the sugya also participates in setting out a super-structure that organizes the broad stretch of material that follows after it. It does this through the deployment of choice baraitot, all of which are discussed in other sugyot within this section of b. AZ. In bringing together the seven tannaitic sources that are cited in R. Yohanan's litany of challenges, the sugya effectively links up all these other contexts in which the sources appear, sketching out the bounds of an extended literary unit. Citing materials that will appear further on in the talmudic discussion, our sugya resembles a table of contents, a key to what's coming next.

The following table demonstrates the close proximity of all the tannaitic traditions that R. Yohanan summons within the sugya. In six of the seven instances, the baraitot correspond to traditions that appear elsewhere in the immediate context of b. AZ, either as mishnayot that anchor the talmudic discussion, or as baraitot that are cited in the course of the talmudic deliberations:

1. “If one found the form of a hand or the form of a foot, behold these are prohibited.”⁶⁵

63 To be clear, though the challenges are presented as if R. Yohanan is engaging Resh Lakish in a direct debate, it is the voice of the anonymous editor ventriloquizing for both of them, as the technical language of the *'eitiveih* challenge indicates.

64 Shamma Friedman points out that complex sugyot are typically constructed in either three or seven parts, and that structure is one indication of their literary artistry. See “Chapter *'Ha-'Isha Raba'* in the Bavli with a Prologomenon on the Study of the Sugya” (Hebrew), *Sources and Traditions I*, ed. H. Z. Dimitrovsky (New York: Jewish Theological Seminary of America, 1978), 227-441, especially 314-9.

65 b. AZ 42a:

מצא תבנית יד תבנית רגל הרי אלו אסורין מפני שכיוצא בהן נעבד

In this and the following examples, I cite the version of the text as it appears within our sugya on pages b. AZ 42a-b.

Corresponds to m. AZ 3:2 which appears on b. AZ 41a.

2. “A non-Jew can nullify his own idol, and that of his fellow, but a Jew cannot nullify a non-Jew's idol.” Corresponds to m. AZ 4:4 which appears on b. AZ 52b.⁶⁶
3. “If a non-Jew took stones from a *Merkulius* (i.e., a structure dedicated to Mercury) and used them to pave a road or street, they are permitted, but if a Jew took stones from a *Merkulius* and used them to pave a road or street, they are prohibited.”⁶⁷ The same baraita is cited on b. AZ 50a-b.
4. “If a non-Jew chipped away at an idol for his own needs, it (the idol) and the chips are permitted; if for the sake of the idol, it (the idol) is prohibited but the chips are permitted. If a Jew chipped an idol, either for his own sake, or for its sake, both the idol and the chips are prohibited.”⁶⁸ The same baraita is cited on b. AZ 49b.
5. “Rabbi Yosi says: One grinds it (a suspicious image) up and scatters it in the wind, or casts it in the sea. They said to him: But even then it might be used as fertilizer (and thus confer some benefit), and it is written, 'Nothing from the ban should stick to your hand.' (Deut 13:18)”⁶⁹ Corresponds to m. AZ 3:3 which appears on b. AZ 43b.
6. “Rabbi Yosi ben Yasian says: If a figure of a dragon is found with its head cut off, and there is doubt as to whether it was cut by a non-Jew or a Jew, it is permitted; if it is certain that a Jew cut it, it is prohibited.”⁷⁰ This baraita is not attested elsewhere.⁷¹

The table indicates the other context in which the baraita can be found; any discrepancy between the versions in the two contexts is very slight.

66 b. AZ 42a:

נכרי מבטל ע"ז שלו ושל חברו וישראל אינו מבטל ע"ז של נכרי

In the course of the exchange that follows the citation of this baraita, the Bavli cites yet another baraita drawn from m. AZ: “If one battered it, even without diminishing it, it is nullified.”

פחסה אע"פ שלא חסרה בטלה

This baraita corresponds to m. AZ 4:5, cited on b. AZ 53a.

67 b. AZ 42a (the round brackets indicate my insertion):

גוי שהביא אבנים מן המרקוליס וחפה בהן דרכים וסרטיאות מותרות וישראל שהביא אבנים מן המרקוליס וחפה בהן דרכים וסרטיאות אסורות

The word סרטיאות meaning “street or highway” appears in all the manuscripts; in the Vilna, the word טרטיאות appears, and is often taken to mean “theaters,” but is clearly a corruption.

68 b. AZ 42a (the round brackets indicate my insertion):

גוי ששיפה ע"ז לצרכו היא ושיפוייה מותרין לצרכה היא אסורה ושיפוייה מותרין ישראל ששיפה ע"ז בין לצרכו בין לצרכה בין היא בין שיפוייה אסורה

69 b. AZ 42a (the round brackets indicate my insertion):

ר' יוסי אומ' שוחק וזורה לרוח או מטיל לים אמרו לו אף הוא נעשה זבל וכת' לא ידבק בידך מאומה מן החרם

70 b. AZ 42a:

ר' יוסי בן יאסין אומ' מצא צורת דַּרְקוֹן וראשו חתוך ספק גוי חתכו ספק ישראל חתכו מותר הא ודאי ישראל חתכו אסור

71 This one “*eitiveih*” challenge does not participate in the schema I have laid out, since it does not link up with material from elsewhere in the tractate. Likely, it was added to the sequence to complete a set of seven challenges, in keeping with the convention of building complex sugyot on a seven-part structure. Though it does not participate in the specific literary strategy that interests me here, it can be seen as a reflection of the literary artistry at work in the sugya nonetheless.

7. “Rabbi Yosi says: (One does not plant) vegetables (under an *’ashera*) even during the rainy season, because the foliage (from the *’ashera*) will fall on them (and act as fertilizer.)”⁷²
Corresponds to m. AZ 3:8 which appears on b. AZ 48b.

The baraitot that are cited in this string of seven challenges engage material that appears on pages 41a through 53a in the Bavli. They touch on all the key topics that this section of the Mishna engages: How to dispose of an idol in keeping with the ban; how to nullify an idol; the distinction between Jews and non-Jews in relation to idols; laws pertaining to *’asherot*, sacred trees; and laws pertaining to *Merkuliot*, stone structures dedicated to Mercury. I see the deployment of these particular traditions as part of a strategy for organizing materials that are conveyed by the Mishna in a distinctly disorganized way.

The Mishna generally maintains a strong structure of organization, a classificatory scheme in which the break-down of tractates, chapters and halakhot is both topical and taxonomic. Our particular section of Mishna AZ diverges from this pattern, however. As I have already noted, there is a discrepancy between the chapter divisions and the progression of topics, because the Mishna's discussion of idols extends beyond the end of Chapter 3, continuing on through m. AZ 4:7. It is against the backdrop of this problematic partitioning of the mishnaic materials that we can best appreciate the Bavli's effectiveness in drawing together the seven baraitot that structure our sugya. The sugya unites discussions from both sides of the partition that separates Chapter 3 from Chapter 4. Linking material from both chapters, the sugya effectively charts the boundaries of an extended literary unit, constructing a frame within which the Bavli's deliberations are thematically cohesive.

Contrasting the architecture of this sugya to the parallel discussion in the Yerushalmi is instructive. Alyssa Gray identifies this sugya as one of many that indicate that the editors of b. AZ had a version of the Yerushalmi at their disposal.⁷³ Both the Yerushalmi and the Bavli engage the dispute between R. Yohanan and Resh Lakish concerning broken idol-pieces, but they present their discussions in strikingly different ways. While the Bavli uses the dispute as a rubric for bringing together a broad array of tannaitic rulings, in the Yerushalmi, the dispute is mentioned episodically, in multiple contexts. The first mention, at y. AZ 3:2, 42d, directly corresponds to the placement of our sugya in the Bavli; in the Yerushalmi, however, this first discussion is very brief. A short time later (y. AZ 3:6, 43b), the Yerushalmi returns to the dispute in the course of discussing stones from a collapsed idolatrous temple. Later, in y. AZ 3:13, 43b-c, the dispute is mentioned yet again, in connection to leaves that fall from an *’ashera*. Finally, in its discussion of the scattered stones of a *Merkulius* in y. AZ 4:1, 43d, the Yerushalmi engages the dispute for a fourth time. Noting the craftsmanship of the Bavli sugya, Gray writes, “By collecting these relevant materials from elsewhere in y. Avodah Zarah and placing them all within one large sugya, the Bavli has improved on the Yerushalmi's presentation of the R. Yohanan/Resh Laqish dispute, which was scattered about in three (sic) different places.”⁷⁴ My addition is to note that in re-structuring the presentation of the dispute, the Bavli not only enhances the artistry

72 b. AZ 42a (the round brackets indicate my insertion):

ר' יוסי אומר אף לא ירקות בימות הגשמים מפני שהנמיה נושרת עליהן

The word נמיה might be a corruption of נביה, which is the spelling that appears in the Kaufmann manuscript.

73 Alyssa M. Gray, *A Talmud in Exile: The Influence of Yerushalmi Avodah Zarah on the Formation of Bavli Avodah Zarah* (Providence: Brown Judaic Studies, 2005), 53-59. Gray characterizes the relationship between the Bavli and Yerushalmi in this instance as an example where “B. Avodah Zarah builds a complex sugya using some materials marked as relevant by the Y. Avodah Zarah redactors.” (53) Note that Gray's analysis of the Bavli differs from mine in that she interprets the Bavli as reading the Mishna's mention of “images” in 3:2 as inclusive of idols.

74 Gray, 58.

of the individual sugya, it provides a structural frame that buttresses an extended section of the tractate.

The Bavli's innovations are evident not only in the sugya's structure, but also in the idea-content of the sugya. Here too, the Yerushalmi can serve as a foil that brings the distinctive contributions of the Bavli editors into sharp relief. As we have already seen, the Bavli brings a high level of conceptual complexity to its considerations of the reasoning behind the respective positions of R. Yohanan and Resh Lakish. In the case of Resh Lakish, the Bavli imagines the sage probing the internal cognitive processes of the idolator, and surmising that no idol-worshipper would maintain belief in an idol after it breaks to pieces. When it comes to the position of R. Yohanan, the Bavli's reasoning is more complex, and focuses on the rational processes of lawmakers, who must gauge considerations of probability across multiple axes of doubt and certainty. The Bavli thus renders the halakhic dispute in conceptual terms at a high level of abstraction, and maintains a focus on the mental processes of human beings. In contrast, the Yerushalmi's gloss on the dispute is straightforward and concrete:

An idol that broke:

R. Yohanan said: It is prohibited.

R. Shimon ben Lakish said: It is permitted.

What are we discussing? If it is the future (of these pieces) to be restored to wholeness, all agree that they are prohibited. If in the future they will not be restored to wholeness, then all agree they are permitted. This means we are discussing a case which is unspecified. R. Yohanan said that the unspecified case is like the one who will restore (the idol) in the future, and R. Shimon ben Lakish said the unspecified case is like one who will not restore (the idol) in the future.⁷⁵

The Yerushalmi defines the area of dispute between R. Yohanan and Resh Lakish as limited to instances in which it is unknown whether the broken idol's owner has plans to put it back together. In these cases alone, the sages have different rules of thumb, with R. Yohanan ruling stringently, and Resh Lakish ruling leniently.

In marked contrast to the Bavli, the Yerushalmi does not attempt to probe the cognitive processes of either the sages or of the hypothetical idolator. It does not consider what kind of reasoning accounts for the two sages taking the different positions that they do. While the Yerushalmi's focus is on the material state of the idol-pieces in the future, the Bavli considers what these broken pieces might mean to the human subjects who engage them. The Bavli's engagement with human subjectivity can be understood as an elaboration of the Mishna's focus on how objects are drawn into the realm of human use and concern. It might additionally signal new cultural developments external to rabbinic literature. It is this possibility that I will now explore.

Theseus's Ship Sails the Sea of Talmud

The contrast between our sugya and its parallel in the Yerushalmi calls attention to the degree to

⁷⁵ y. AZ 3:2, 42d (the round brackets indicate my insertions):

עבודה זרה שנשברה

רבי יוחנן אמר אסורה רבי שמעון בן לקיש אמר מותרת

מה אנו קיימין אם בעתיד להחזיר לכליין דברי הכל אסור אם בשאינו עתיד להחזיר לכליין דברי הכל מותר אלא

כי נן קיימין בסתם רבי יוחנן אמר סתם כמי שעתיד להחזיר לכליין רבי שמעון בן לקיש אמר סתם כמי שאין

עתיד להחזיר לכליין

which our sugya turns its attention away from the concrete facts on the ground, pursuing instead considerations of subjective meaning (with regard to Resh Lakish's position) and rationalized algorithms for legal decision-making (with regard to R. Yohanan's calculus of doubt). In this, the sugya exemplifies the Bavli's tendency toward abstract conceptualization, a trait that Leib Moscovitz celebrates as the central expression of the Bavli's distinctive genius and creativity.⁷⁶ While considerations internal to the Bavli's distinctive approach to legal reasoning might sufficiently account for the differences between our sugya and the parallel in the Yerushalmi, it is my hunch that there are external factors at work as well. My proposal is that our sugya's distinctive approach to the status of broken idol pieces reflects the Bavli editors' engagement with the philosophic currents of their time and place.

By the time that the Bavli was being edited in the sixth century, idols were likely not a part of the physical landscape in Sasanian Babylonia. Even in the neighboring locales of the Byzantine Empire, where much pagan statuary remained intact, Christianization meant that idols had radically different connotations than they had in earlier centuries.⁷⁷ In this cultural context, concerns about idols had no special purchase on Jewish, Christian, pagan or Zoroastrian thinkers, but larger questions about the nature of matter, its properties, and its relation to form were topics of fervent debate within and among Sasanian Babylonia's various scholastic communities. Before engaging these specific debates, it will be helpful to sketch out a picture of what scholarly interactions might have been possible.

During the century in which the Bavli was taking shape, the Sasanian court seems to have actively claimed the mantle of the classical Greco-Roman philosophic tradition. Legend recalls that after Justinian closed the philosophic academy in Athens in 529, it was the Persians who welcomed the displaced refugee-philosophers into their court.⁷⁸ Even if these storied events did not unfold precisely as recounted in the sources, the emergence of the tale certainly reflects a cultural shift, whereby the Sasanians became vigorous patrons of philosophic study. At this same time, in the northwestern reaches of the Sasanian empire, just across the border from the Roman Empire, the Syriac Christian School of Nisibis also hosted a vibrant scholastic culture, and served as a byway between the intellectual cultures of east and west.⁷⁹ The curriculum at Nisibis included Neoplatonic commentaries on Aristotle penned by both Christians and pagans in Syriac. Writings emerging from Nisibus during this time were widely circulated in turn, and seem to have exerted particular influence in Alexandria and other points west.⁸⁰ Despite a plethora of evidence that the Sasanian Empire hosted a rich intellectual culture that transcended religious divides among pagans, Christians, and Zoroastrians, the conventional wisdom has nonetheless been that the Babylonian rabbis lived and studied at a cultural remove from all this scholarly foment. Richard Kalmin promotes this view when he characterizes Babylonian rabbinic culture as inwardly focused.⁸¹ The case for the rabbis' intellectual isolation has increasingly been called

76 Leib Moscovitz, *Talmudic Reasoning: From Casuistics to Conceptualization* (Tubingen: Mohr Siebeck, 2002).

77 In Byzantium, some pagan statues and monuments were re-purposed in Christian holy spaces, while others dotted the landscape as spolia. For a discussion, see Helen Saradi, "The Use of Ancient Spolia in Byzantine Monuments: The Archaeological and Literary Evidence," *International Journal of the Classical Tradition*, Vol. 3, No. 4 (Spring, 1997), 395-423.

78 For a historical assessment of these events and a fascinating review of their treatment in modern scholarship, see Joel Walker, "The Limits of Late Antiquity: Philosophy Between Rome and Iran," *Ancient World* 33, I (2002), 56-67.

79 Adam Becker's *Fear of God and the Beginning of Wisdom: The School of Nisibis and Christian Scholastic Culture in Late Antique Mesopotamia* (Philadelphia: University of Pennsylvania Press, 2006) examines the School of Nisibis in the context both of eastern Christianity and of late antique Mesopotamia.

80 Becker investigates possible routes for the influx of Neoplatonic texts into Nisibis, and traces lines of connection linking scholarship in Nisibis to the school of Alexandria, 127-30.

81 Kalmin sets out this characterization in his introduction to *Jewish Babylonia between Persia and Roman Palestine* on 8-9, and refers back to it throughout the work. His argument draws on studies of Nisibis's inner-directed scholastic culture by Adam Becker and Isaiah Gafni. But while, as he himself notes, Gafni identifies the Christian school's monastic

into question, however, as a spate of new works identify cultural and literary continuities between the rabbis and their non-Jewish neighbors in Sasanian Persia.⁸² It is this new direction of research that lends plausibility to my proposal that the Bavli's discussion of idols is informed by contemporary philosophic discussions about the nature of materiality.

I propose that we read the Bavli's debate about whether the broken pieces of an idol are equivalent to an intact idol against the background of a philosophic question that has a long patrimony in the classical sources: How much change can a thing sustain before it can no longer be considered the same thing? An early formulation of the question by the pre-Socratic philosopher Heraclitus famously asked whether one could step in the same river twice.⁸³ Later, this question about the persistence of identity over time and change crystallized in the paradox of Theseus's Ship:

The Athenians preserved the thirty-oared ship in which (Theseus) sailed with the youths and maidens and got back safe up to the time of Demetrius of Phaleron, removing the old planks and installing strong ones, fixing them in such a way that the ship became an example even to the philosophers for the controversial Growing Argument. Some of them said the ship remained the same, some not the same.⁸⁴

What Plutarch here calls the “Growing Argument” refers to an argument that questions whether an individual can be seen as maintaining a single identity over time, given that bodies are always growing and changing. The paradox of Theseus's Ship raises this same question in reference to artifacts, focusing attention on an object's form and its component parts and posing the question: Does identity reside in the material composition of the object, or in its form? I submit that this philosophic issue maps onto the debate between R. Yohanan and Resh Lakish, with R. Yohanan's position locating the identity of an object in its materials, while Resh Lakish's position identifies an object with its form. My suggestion is based in part on circumstantial evidence for a resurgence of interest in the paradox of Theseus's Ship during the very century that the Bavli was taking shape.

While the ancient philosophic debate about what constitutes identity in material bodies continued for centuries, it seems to have emerged with renewed vigor during the sixth century. Alexandrian philosopher John Philoponus (490-570) raises the issue of Theseus's ship in three different contexts within his work *Against Proclus's On The Eternity of the World*.⁸⁵ In this work, dated to 529,

quality as a difference between Christian and rabbinic scholasticism, Kalmin emphasizes resemblances. See Kalmin, notes 6 and 7 on 189. See also Isaiah Gafni, “*Hiburim nestorianim ke-makor le-toldot yeshivot bavel*,” *Tarbiz* 51:4 (1981-82), 567-76.

82 Foremost among this new turn in rabbinics scholarship is Shai Secunda, *The Iranian Talmud: Reading the Bavli in its Sasanian Context* (Philadelphia: University of Pennsylvania Press, 2014). Secunda reviews the significant advances that have been made in connecting the Bavli to its Persian context on pages 10-14, and then proceeds to investigate the evidence for interaction between the rabbis and Zoroastrians and between their respective textual traditions. Of special interest is his proposal that the rabbis engaged in disputations with Zoroastrian priests at the mysterious institution the Bavli refers to as the *bey'abeydan*. See 51-8. Such disputations would prove a remarkable parallel with the kind of intellectual exchanges between Zoroastrians and pagan philosophers that Joel Walker locates in the Sasanian court at Ctesiphon. With regard to literary influences linking Syriac Christian writings and the Bavli, see Michal Bar-Asher Siegal, *Early Christian Monastic Literature and the Babylonian Talmud* (Cambridge: Cambridge University Press, 2013). Adam Becker's comparisons between the Syriac Christian schools and the Babylonian yeshivot are tantalizing, and await further development. See Becker, 5.

83 Richard Sorabji provides an overview of the question and of the relevant classical and late antique sources in his *Self: Ancient and Modern Insights about Individuality, Life, and Death* (Oxford: Clarendon Press, 2006), 57-63.

84 Plutarch, *Life of Theseus*, ch. 23, as cited on Sorabji, 63.

85 Sorabji provides the specific citations on 62 in the notes.

Philoponus offers a detailed rebuttal of Proclus's arguments for the eternity of matter.⁸⁶ Using the methods and vocabulary of Neoplatonic Aristotelianism, Philoponus denies that an object is more than the sum of its parts, and locates the identity of an object in its material make-up. Elsewhere, he gets at the same problem from another direction, interrogating the identity of a statue whose foot, hand, and head are replaced.⁸⁷ Philoponus' attention to the question of the identity of objects is of particular interest to me, because though he lived in Alexandria and wrote in Greek, his work was quickly translated into Syriac, and there is evidence of interactions between him and the scholars at Nisibis.⁸⁸ But the philosophic problem of Theseus's Ship (or of the identity of broken statues) was apparently not limited to Christian circles alone. Closer to the centers of rabbinic life, this was a topic under debate at the Sasanian court in Ctesiphon as well, where, in the early 530s, King Khosrow hosted a disputation between a philosopher named Uranius and Zoroastrian priests. The topic they debated was reportedly “generation and nature, and whether the universe will last forever, and whether one should posit a single first principle for all things.”⁸⁹ In other words, at roughly the same time that Philoponus wrote about Theseus's ship in his rebuttal to Proclus's argument for the eternity of matter, representatives of the Sasanian court were debating these very same themes.

The confluence of these two contemporaneous witnesses to an interest in the perishability of matter becomes especially arresting in light of evidence from a third source from the same cultural horizon: the Babylonian Talmud. For it is not only in our sugya's treatment of the status of idol-pieces, but also in other parts of the Bavli's extended section on idols that the talmudic discussion turns to themes of materiality and change. For example, an extended sugya beginning on b. AZ 46a examines a whole range of objects, and asks in each case what degree of transformation would be sufficient for allowing the material in question to be re-dedicated to holy purposes. The question is succinctly articulated in reference to grain:

Rami Bar Hama asked:

In the case of one who bowed down to standing wheat—can the grain be used for a meal offering? Is there a (sufficient) change in that which was worshipped, or is there not a change in that which was worshipped?⁹⁰

The sugya goes on to interrogate the relationships between an animal and its offspring; between a palm

86 This is not the same Proclus that Rabban Gamliel encounters in the Mishna, but rather the prolific pagan Neoplatonist who led the Academy in Athens in the Fifth Century.

87 Sorabji, 62. Philoponus's use of the figure of statues in addressing the problem is a further tantalizing hint that the Bavli might be drawing on a shared bank of arguments. Using statues as a figure for the problem of the persistence of identity has a long history. For a relatively recent example of such an argument, see Brian Smart, “The Statues and a Problem of Identity,” *Ratio*, 17:2 (December, 1975), 229-236.

88 For lines of connection between Alexandria and Nisibis, see Becker, 128. For Philoponus' importance to the Syriac church, and to his contributions to the controversies regarding the substance and personhood of Christ, see Uwe Michael Lang, *John Philoponus and the Controversies Over Chalcedon in the Sixth Century* (Leuven: Peeters, 2001). Scholarship on Philoponus is divided on the question of how his philosophic work relates to his Christian theology. Certainly, his insistence on the perishability of matter dovetails with his commitment to scriptural notions of creation, but in his work on Proclus, he utilizes purely philosophic arguments. While Christian interest in interrogating the relationships between parts and wholes, matter and form, and the nature of materiality relates to theological debates about the nature of Christ, this concern is never explicit in Philoponus' philosophic works. For a review of the scholarship see Michael Share's introduction to Philoponus, *Against Proclus's “On the Eternity of the World 1-5,”* trans. Michael Share (Ithaca: Cornell University Press, 2005), 1-9.

89 Walker, 45-6. See also his discussion of the historiography of this incident, 56-67.

90 b. AZ 46b (the round brackets in the translation indicate my addition):

בעי ראמי בר חמא המשתחוה לקמה חטיה מה הן למנחות יש שנוי בנעבד או אין שנוי בנעבד

tree and its branch; between an animal and its wool. Does the derivative maintain identity with its origin, or can it be considered separate and distinct? The sugya closes with a consideration of the case of a spring of water that has been worshipped. This is how the anonymous voice of the editor explains the underlying difficulty:

This is the point he (Rabba) is asking about: Was it the water that was right in front of him that he worshipped, and those waters flowed away, or alternatively was it the course of the stream that he worshipped, in which case it is prohibited?⁹¹

Distinguishing among the continuously flowing waters and the course of the stream, the talmudic editor registers the central insight for which Heraclitus was famous: One cannot step into the same flowing waters twice. The Bavli's discussions of the changeability of material things are not anticipated in the Mishna, and the question of under what circumstances an object maintains its identity over time does not appear in parallel discussions within the Yerushalmi. I am proposing that the emergence of these themes in the Bavli reflects the talmudic editors' engagement with philosophic questions under debate among their scholarly contemporaries in neighboring academies.

I am not making an argument about direct textual influences on the rabbis, but rather proposing that around the time the Bavli was taking shape, a shared discourse about the nature of materiality emerged across the scholastic sub-cultures of Sasanian Babylonia, and that the rabbis drew on this shared vocabulary of ideas in their discussion of how to conceptualize broken pieces of idols. To be sure, it is as impossible to track the emergence of a discrete set of interests in the general zeitgeist as it is to identify the specific conduits through which the rabbis would have gained access to these ideas.⁹² Nonetheless, the possibility of a shared cultural discourse about materiality has direct interpretive benefits, not only in explicating our specific sugya, but also in understanding the conceptual expansions that the Bavli brings to the discussion of idols throughout this extended section. In the absence of clear evidence for direct cultural influences, my proposal is based first on the plausibility of a shared discourse with pagan, Christian, and Zoroastrian thinkers, and second, on the heuristic benefit of reading the Bavli through the lens of contemporary philosophic debate.

It might seem both surprising and ironic that in the very section in which the Bavli turns its attention to the most anathema of foreign practices, the worship of idols, both the content and tone of the Bavli's discussion are so broadly disposed to non-Jewish influence. In marked contrast to the harsh accounts of Gentile violence, perversity, and otherness we saw in earlier chapters, in this extended section of b. AZ, there is minimal invective directed against non-Jews, and a general openness to the surrounding culture. I would argue, however, that if I am right that for the Bavli the central concern is not idols, per se, but rather the relationships of humans with inanimate objects, then this magnanimity is not remarkable, but rather to be expected. My argument is that the Bavli editors have taken the Mishna's rulings about idols and parlayed these discussions into a much broader examination of human interactions with the physical world. The Bavli's discussion of material objects reflects the editors' engagement with both their rabbinic predecessors and their non-Jewish contemporaries. From the

91 b. AZ 47a:

והכי קא מיבעיא ליה למיא דקמיה קא סגיד וקמאי שפילי להו או דילמא לדכורתא דנהרא קא סגיד ואסירי

92 For a sobering assessment of the difficulties in establishing specific textual connections between the rabbinic and Syriac Christian scholarly cultures, see Adam Becker, "Positing a 'Cultural Relationship' between Plato and the Babylonian Talmud," *Jewish Quarterly Review*, 101:2 (Spring 2011), 255-69. But see also his "The Comparative Study of 'Scholasticism' in Late Antique Mesopotamia: Rabbis and East Syrians," *AJS Review* 34:1 (April 2010), 91-113, where he promotes a model of "symbiosis" or cultural interaction as an alternative to both "influence" and "Zeitgeist."

editors' tannaitic forebears, they inherit a particular orientation to the world of objects, in which inanimate things only become worthy of attention when they are claimed for human use. From contemporary intellectual elites, they learn to interrogate the world of matter, raising questions about the relationships between parts and wholes, matter and form, persistence and change. For the Bavli editors, this section is only ostensibly about idols, and far more centrally about objects. Confronting the physical world of bodies in space, these rabbis find common cause and kinship with their counterparts in other scholarly circles, beings that not only live and breathe, but think, question, and reason.

A Theory of Representation in the Bavli (AZ 42b-43b)

My proposal to read this section of the Bavli within the context of a shared philosophic discourse entails a revision of the characterization of the Babylonian rabbinic academies as “inward-focused.” In the materials surveyed above, I see hints of the editors' outward focus in the sustained attention they invest in interrogating the identity of material objects, an issue that excited avid debate among non-Jewish scholastics and philosophers in the Sixth Century. There are more clues of their engagement with the intellectual foment of their times in another sugya from within this section. It addresses the following mishna:

One who finds utensils that have on them the shape of a sun, the shape of a moon, the shape of a dragon—let him cast them into the Salt Sea.⁹³

In the discussion that ensues, the Bavli differentiates between the worship of such images, and the worship of their prototypes in nature. Probing the question of what constitutes the connection between an image and its subject, the sugya engages the theme of mimetic representation with a sophistication which is unmatched in rabbinic literature. I propose that the Bavli's investigation of the limits of representation reflects the editors' awareness of an emerging discourse about icons among leaders and theologians in the contemporary Byzantine Church.

As the sugya opens, the voice of the anonymous editor poses a rhetorical question:

Is this to say that it is just these things that they worship, and not other things?⁹⁴

That is: Are we to conclude from the mishna's short list of prohibited images that only the sun, the moon, and dragons are the objects of idolatrous worship, and that idolators worship nothing else? This opening hypothetical proposition is swiftly dismissed. A tannaitic tradition attests to the propensity of people to worship anything and everything, from a lowly worm to an archangel:

(Against this proposal,) cast the following baraita: “One who slaughters an animal in honor of seas, in honor of rivers, in honor of wilderness, in honor of the sun, in honor of the moon, in honor of stars and constellations, in honor of Michael the Great Prince, or of a small worm,

93 m. AZ 3:3, appearing on b. AZ 42b. In the manuscripts, the statement is abridged. I reproduce the fuller version as it appears in the early print so as to provide a context for the discussion that follows in the Bavli:

המוצא כלים ועליהם צורת חמה צורת לבנה צורת דרקון יוליקם לים המלח

94 b. AZ 42b, ms JTS:

למימרא דהני הוא דפלחי להו למידי אחרינא לא

these are considered offerings to the dead.”⁹⁵

In contrast to the mishna, which lists just three specific kinds of prohibited images, this baraita is comprehensive. It prohibits sacrifice to any being other than God, whether that being is part of the God's heavenly retinue, or a measly worm. But there is another striking difference between the mishna and the baraita: While the Mishna is dealing with prohibited *images*, the baraita relates to a whole array of things from nature. The fourth generation Babylonian Amora Abaye is credited with recognizing this distinction:

Abaye said: As to worship, they might worship anything that they find. With regard to making (images) and worshipping (them), it is just these three important things that they made for worship. Anything else that they make is simply for the sake of ornamentation.⁹⁶

Abaye reads the Mishna's list restrictively, limiting the scope of the mishna's ruling so that the requirement to dispose of images applies only to the three kinds of shapes that the mishna specifies. His statement spells out what he takes to be the implications of his interpretation: If only three specific kinds of images are banned by the Mishna, then all other images are permitted, by definition. His formalist reading of the Mishna thus generates a broad leniency, allowing for a wide array of images to be classified as “ornament” and not only tolerated on that basis, but presumably even claimed for use and benefit by Jews.

Abaye's interpretation of the Mishna introduces a bold leniency into the law, but that is not all that it does. In explicitly differentiating between the worship of objects and the worship of *images* of those objects, Abaye calls attention to the status of images as copies, or likenesses of other things. His statement reflects a concept of representation that is absent from the Mishna. As the sugya continues from this point, it will continue to investigate images *qua* images, approaching them not merely as material artifacts, but as artifacts that imitate other things, as instances of mimetic representation.

The theme of representation is most evident in an extended passage beginning on b. AZ 43a that recapitulates an entire sugya from b. Rosh Hashana. The context in b. RH is a discussion of the procedures by which a new month would be declared in the era when rabbinic authorities waited to receive eyewitness testimony that the new moon had appeared. A mishna there recounts the particular practice of Rabban Gamliel, who would show the witnesses diagrams of the moon when they came to offer testimony:

There was a likeness (*dmūt*) of the shapes of the moon that Rabban Gamliel had on a tablet on the wall of his upper story, and he would show it to the laymen, saying, “Did you see one like this, or like this?”⁹⁷

95 b. AZ 42b (The round brackets indicate my insertion):

ורמיניה השוחט לשום הרים לשום גבעות לשום ימים לשום נהרו' לשום מד? ב?רות לשום חמה לשום לבנה לשום כוכבים לשום מזלות לשום מיכאל השר הגדול לשו' שלשול קטן הרי אלו זבחי מתים

96 b. AZ 42b, ms JTS (The round brackets in the translation are my insertions; the round brackets in the original below indicate letters that are scratched out in the manuscript):

אמ' אביי מיפלח לכל דמשכחי פלחי מיצר ומיפלח הני תלתה דחשיבי ציירי (להו) ופלחי להו (ל)מידי אחרינא לנוי בעלמא עבדי להו

97 m. Rosh Hashana 2:8 appears on b. RH 24a, and is cited on b. AZ 43a. This translation follows the version on b. AZ 43a which varies only slightly from other versions:

דמות צורות לבנה היו לו לרבן גמליאל בעלייתו בטבלה בכותל שבהם מראה את ההדיטות ואומר להם

b. AZ reproduces the talmudic treatment of this mishna in toto. The passage investigates one central question: On what basis could Rabban Gamliel's lunar diagrams have been permitted, given the scriptural prohibition on making images of heavenly bodies? The Bavli does not, however, initially cite the biblical verse one would expect, from the Decalogue's prohibition on images in Exodus 20:4. Instead, the Bavli cites a proximate verse that is far less straightforward in its meaning, and parses it according to midrashic tradition:

But is this permitted? Is it not written in Scripture, “Do not make with Me (gods of silver and gods of gold do not make for yourselves).” (Ex 20:23) (which means), “Do not make (anything) resembling a likeness (*ke-dmut*) of My servants!”⁹⁸

The scriptural verse that is cited is somewhat enigmatic in that it includes both a difficult prepositional phrase-- “with me” (*iti*)-- and an apparent redundancy: “**Do not make** with me, gods of silver and gods of gold **do not make** for yourselves.” Were the verse to read “before me,” or “in my presence,” instead of “with me,” it would be easier to understand, and this is probably the best way to render the verse's plain meaning in any case. The Bavli, however, does not pursue the verse's plain meaning, but rather reads the phrase according to a midrashic tradition that interprets “with me” as shorthand for “those who are with me,” a reference to the ministering angels and other beings who serve God in the heavens. The tradition which the Bavli here cites is preserved in the Mekhilta, which reads:

“Do not make with Me.” (Ex. 20:23) R. Yishmael says: Do not make a likeness (*dmut*) of my servants who minister before Me in heaven, not a likeness of angels, not a likeness of *ophanim*, and not a likeness of *cherubim*.⁹⁹

The very wording of the midrash helps account for the puzzle of why it is this particular verse that is cited, and not the more straightforward prohibition in the Decalogue--the midrash uses the same Hebrew word *dmut*, meaning “image,” or “likeness,” that the Mishna uses to refer to Rabban Gamliel's moon diagrams. The Bavli thus opens its investigations of Rabban Gamliel's questionable diagrams by juxtaposing a tannaitic tradition which says the rabbi possessed a likeness (*dmut*) of the moon with a tannaitic tradition in which God prohibits the making of any likeness (*dmut*) of heavenly bodies.

As the sugya continues, the Bavli appeals to a teaching from Abaye to resolve the apparent

כזה ראיתם או כזה ראיתם

98 b. AZ 43a (The round brackets indicate my insertion):

ומי שרי למעבד הכי והכתי' לא תעשון אתי לא תעשון כדמות שמי

99 Mekhilta Ba-ḥodesh 10:

לא תעשון אתי. רבי ישמעאל אומר, לא תעשון דמות שמי המשמשין לפני במרום, לא דמות מלאכים ולא דמות אופנים ולא דמות כרובים

The talmudic version of the tradition in b. AZ diverges from the Mekhilta in just one respect: While the Mekhilta reads, “Don't make a likeness,” (לא תעשון דמות) the Bavli reads, “Do not make (anything) resembling a likeness” (לא תעשון כדמות). (The Pesaro print reads בדמות, however, as does ms Paris, and most of the manuscripts of b. RH.) The Bavli thus accentuates the element of similarity that is already implicit in the word דמות itself, as it is in the English “likeness.” The addition of the comparative כ reflects the thematics of the Bavli sugya, which interrogates similarity/difference as an element of representation. Unlike the earlier rabbinic sources, the Bavli has a theory of representation as mimesis, i.e. based on similarity.

conflict between Rabban Gamliel's practice, and the dictates of scriptural law:

Abaye said: The Torah only prohibited (making images of) those servants that it is possible to make a semblance of.¹⁰⁰

Abaye thus comes to Rabban Gamliel's defense with a reading of the very midrash that was cited for his prosecution. Abaye offers a hyper-literal reading of the midrashic tradition, arguing that when the Torah prohibits “likenesses of My servants,” the prohibition on images applies only to those divine servants of whom it is possible to make likenesses, i.e. that it is possible to copy. According to Abaye, Rabban Gamliel's lunar diagrams are permitted because they cannot really be considered “likenesses” of the moon. Unlike the actual moon, the diagrams are small, flat, and hung up on a wall—this is why Abaye does not consider them “likenesses” at all.¹⁰¹ Abaye's statement here—like his statement at the start of this sugya—not only stakes out a lenient position on the prohibition on images, it presses toward a specific conceptualization of representation. The Bavli here interrogates the notion that resemblance is a fundamental principle of image-making. Emphasizing the element of difference rather than sameness, the sugya uses Abaye's statement to pry apart the twin notions of “image” (צלם) and “likeness” (דמות).

The Bavli finds support for Abaye's leniency with regard to “un-like” likenesses in a tradition regarding reproductions of the Temple and Temple vessels:

And as it is taught in a baraita: A man shall not make his house on the model (*tavnit*) of the Temple; his porch on the model of the Temple foyer; his yard on the model of the Temple enclosure; his table on the model of the (Temple) table; his lamp on the model of the Menora, but he may make one of five, six, or eight (branches). And of seven (branches), he should not make one, even with other kinds of metal.¹⁰²

This baraita differentiates between structures that reproduce the forms of the Temple vessels, and those that are visibly distinct from their prototypes. A seven-branched lamp is illegitimate even if made of tin, but a lamp of six or eight branches is permitted, even if it is made of gold like the original. The implication is that there is something untoward about purporting to copy that which is sacred and singular. Representations might gesture toward sacred models, but they are only to be tolerated if they in some way call attention to their secondary status as imitations. While Abaye's statement presents an ontological claim regarding that which it is impossible to replicate, the baraita that the Bavli offers in support of his view is normative: Temple vessels *can* be copied, but they should not be. Together, the two statements sketch out an incipient theory of representation which rejects all copies as counterfeit, but nonetheless tolerates forms of representation that are not imitative.¹⁰³ According to this view,

100 b. AZ 43a. The round brackets indicate my insertion.

אמ' אביי לא אסרה תורה אלא שמשין שאיפשר לעשות כמותן

101 Compare Abaye's statement to the Borges story “On Exactitude in Science,” in which a map of the empire is so precise that it boasts a 1:1 correlation with the territory. Jorge Luis Borges, *Collected Fictions*, trans. Andrew Hurley (New York: Penguin Putnam, 1998), 325.

102 b. AZ 43a (The round brackets indicate my insertions).

וכדתיא לא יעשה אדם בית תבנית היכל אכסדרה תבנית אולם חצר תבנית עזרה שלחן תבנית שלחן ומנורה תבנית מנורה אבל עושה של חמשה ושל ששה ושל שמונ' אבל של שבעה לא יעשה אפי' של שאר מיני מתכות

103 The distinction offers an interesting contrast to a distinction that Plato makes in the *Sophist* 235B-236D, between the art of “likeness” and the art of “appearance.” Plato distinguishes between artists who aim to make faithful copies of their originals, and artists who modify the dimensions of their statues to accommodate the viewer's perspective. Plato

images that call attention to themselves as representations of other things would not come under the scriptural ban.

As the sugya continues, the dialectic alternates between interpretations of scriptural verses and statements attributed to Abaye. The interpretations of Scripture are consistently drawn from the Mekhilta and convey a sense of stringency with regard to images that accords with the plain meaning of Scripture. The statements attributed to Abaye consistently make a case for leniency.¹⁰⁴ In commenting on the version of this sugya that appears in Bavli Rosh Hashana, Steven Fine presents it as exemplary of the Bavli's liberalism regarding representational images.¹⁰⁵ While leniency is no doubt in evidence throughout this sugya, to my mind the bigger leap that the Bavli here makes is a conceptual one. Introducing a sugya about the legitimacy of representation into its discussion of idolatry is an innovation in itself. Neither the Mishna nor the Yersushalmi make such a topical connection, because representation is not conceptualized in earlier rabbinic treatments of idolatry. But the Bavli here does far more than simply announce a new topic of interest; it offers an incipient theory of representation, sketching out principles of similarity and difference, reality and appearances, form and matter. These concepts had long been part of classical philosophic discourse, and would enter Christian debates through the mediation of the Neoplatonist texts, but they are largely absent from rabbinic literature from earlier eras.

To more fully appreciate the novelty of the Bavli's interest in representation, it will be helpful to briefly consider the place of images in Jewish life in earlier centuries. Steven Fine characterizes ancient Judaism as “anti-idolic,” as opposed to “aniconic,” arguing that despite staunch opposition to the place of images in other people's cults, Jews embraced their own iconography in synagogues and elsewhere.¹⁰⁶ His nuanced account of the place of images in ancient Jewish life joins other recent works of scholarship in helping to overturn prevailing stereotypes of Jews as “artless.”¹⁰⁷ Yet despite these important new works, among the canards that nonetheless persist in some works of art history is the notion that Christian iconoclasm in both its Byzantine and Protestant articulations traces back to Jewish tradition and to the so-called “Second Commandment.”¹⁰⁸ This association of Jews with iconoclasm is misplaced on several accounts. First, as Fine emphasizes, archaeology has uncovered abundant examples of Jewish pictorial art from Roman Palestine and the diaspora. Alongside this material evidence is the evidence from rabbinic literature, which has yet to be sufficiently engaged. To my mind, the single most important observation to be gleaned from a survey of discussions of idol-worship in the Mishna, Tosefta, and Yerushalmi is the Palestinian rabbis' virtual silence about the making of images. As I indicated above, m. AZ never directly engages the scriptural interdict on making images at all.¹⁰⁹ For whatever reason, contrary to prevailing assumptions, the “Second Commandment” had little traction among the rabbis. Not only is the very nomenclature “the Second Commandment” a designation that is peculiar to Christians, there is no indication that opposition to images ever

valorizes the artist who chooses accuracy over appearances, while the baraita prohibits the pursuit of such accuracy, but both views share a common disdain for certain kinds of copies as counterfeit. *Plato's Sophist*, trans. William S. Cobb (Maryland: Rowman and Littlefield, 1990), 63-5.

104 I am indebted to Steven Fine for this incisive overview of the sugya's structure. See Fine, 32.

105 He writes, “This *sugya* suggests that at the very heart of the Babylonian rabbinic community, an extremely liberal attitude toward making nonidolatrous art was well established.” Fine, 133.

106 Fine, 70.

107 Other important works include Kalman P. Bland, *The Artless Jew: Medieval and Modern Affirmations and Denials of the Visual* (Princeton: Princeton University Press, 2000); Margaret Olin, *A Nation without Art* (Omaha: University of Nebraska Press, 2001); and more recently, Rachel Neis's *The Sense of Sight in Rabbinic Culture*.

108 For a review of the treatment of Jewish attitudes about art in the standard art history textbooks, see Fine, 47-52.

109 This does not mean that the Tannaim ignored the scriptural prohibition altogether—both the Mekhilta of Rabbi Yishmael and the Mekhilta of Rabbi Shimon bar Yohai address Ex. 20:4 in the context of their running commentaries on Exodus. See Mekhilta Ba-ḥodesh 6.

compelled Jewish interest in nearly the way it would occasionally inflame some Christians.¹¹⁰

A corollary of this general indifference to image-making among Jews is that Jews of late antiquity never developed a theoretical apparatus for engaging questions of representation the way contemporary pagans and Christians did. As is well known, Byzantine Christian debates about images surged in fervent contests over the legitimacy of icons throughout the eighth century, and were ultimately resolved only when the the Orthodox church officially embraced the veneration of icons at the synod of 843.¹¹¹ During these years of pitched debate, Christian theologians engaged questions about representation and about the relationship between copies and prototypes that had occupied ancient thinkers for centuries, since before Plato and Aristotle first articulated their respective theories of mimesis. Jaś Elsner has recently argued for contextualizing the Byzantine iconoclastic struggles within this *longue durée*.¹¹² He suggests that the central project of Byzantium was to resolve theoretical questions about “real presence” that trace back to pre-Socratic thinkers.

Elsner defines the central problem of representation that was at the crux of the Christian iconoclastic debates as “the question of whether an image, as an imitation of its referent in a pictorial medium, is *not* the same as its referent and thereby expresses the *absence* of that referent even as it refers to it, or whether it is a site for the *real presence* of its prototype, embodied in the image.”¹¹³ In other words, how does one characterize the relationship between a picture and that which it represents? Does the image extend some aspect of the prototype into the visual realm? Or does the image call attention to the way the prototype resists being captured either visually or materially? According to Elsner, these questions receive increasingly sophisticated responses over the course of late antiquity, spurred in part by the compulsion some Christian thinkers felt to justify the veneration of icons, in contradistinction to idol-worship.¹¹⁴ Jewish sources, however, scarcely address theoretical questions of representation.¹¹⁵ Our sugya is the exception, and Elsner's analysis provides a conceptual framework for understanding its central argument. In our sugya, Abaye's defense of Rabban Gamliel's

110 A full investigation of the reason why the prohibition on image-making is so often identified as a Jewish preoccupation despite the virtual silence of Jewish sources is beyond the scope of this project, but the question is interesting to consider nonetheless. I suspect the view traces back to Christian sources, which depict Jews as staunchly opposed to images both before and after icons are embraced in Christian practice. For example, Origen identifies an aversion to images as something that Jews and Christians hold in common: “Christians and Jews are led to avoid temples and altars and images by the command: . . . 'You shall not make a carved image for yourself nor the likeness of anything in the heavens above, or on the earth below, or in the waters under the earth. . . .' And not only do they avoid (such worship), but when necessary they readily come to the point of death to avoid defiling their conception of the God of the universe by any act of this kind contrary to his law.” (Origen, *Against Celsus* VII. 64, as cited in Jaroslav Pelikán, *Imago Dei* (Princeton: Princeton University Press, 2011).) Later Christian writings decry the Jewish rejection of images. See, for example, excerpts from Leontios of Neapolis's fifth discourse against the Jews, a Seventh Century text discussed in Charles Barber, *Figure and Likeness: On the Limits of Representation in Byzantine Iconoclasm* (Princeton: Princeton University Press, 2002), 17.

111 There is a vast literature on this topic. For an accessible historical survey and additional bibliography, see Leslie Brubaker, *Inventing Byzantine Iconoclasm* (London: Bristol Classical Press, 2012).

112 Jaś Elsner, “Iconoclasm as Discourse: From Antiquity to Byzantium,” *Art Bulletin* 94:3 (Sept. 2012), 368-94.

113 Elsner, 370. Italics his.

114 In the Byzantine iconoclastic debates, arguments in favor of icon veneration emphasize the incarnation of Christ—the fact that Jesus for a time was visible in a material state becomes the justification for material representations of his form. These questions of representation and presence are by no means limited to Christians however. For a survey and synthesis of classical and Neoplatonic discussions of representation that lay behind the Byzantine debates, see Part One of Moshe Barasch, *Icon: Studies in the History of an Idea* (New York: New York University Press, 1992), 11-94. For a theology of icons, see Brubaker's summary on page 109-12, and Charles Barber, *Figure and Likeness: On the Limits of Representation in Byzantine Iconoclasm* (Princeton: Princeton University Press, 2002), esp. 122-3.

115 Though these issues are not explicitly addressed in Jewish sources, let alone articulated in such conceptual terms, it seems to me that the tacit understanding that underlies the biblical prophets' mockery of idol-worship and perhaps the prohibition on image-making as well is that material representations are self-evidently devoid of real presence.

diagrams is based on a concept of *absence*.

If the conceptual leap that I discern in our sugya is not immediately apparent, that might be because we encounter rabbinic literature through the twin lenses of later interpretations and of Western philosophic categories. One of the legacies of the long iconoclastic struggles in Christianity is the way they shaped Western discourse about art and representation. Today, tacit ideas about representation are inherent in the very concept of idolatry. I would argue, however, that only the vaguest notion of representation can be found in rabbinic literature prior to the Bavli. In the Mishna, as in the Tosefta and the Yerushalmi, idols are problematic not for reasons relating to their status as representational images, but rather because they are objects of worship that were made by humans. As we have seen, m. AZ applies the same principles and legal categories to idols as it does to sacred trees, and to *Merkuliot*, piles of rocks dedicated to Mercury. Though idols entail mimetic representation, and *'asherot* and *Merkuliot* do not, this is not a distinction that the Mishna pursues or even acknowledges. For the Mishna, what draws these three categories of prohibited items together is that they are all artifacts shaped “by human hands.”¹¹⁶ From the Mishna's perspective, an idol is an affront because it exalts that which humans have manufactured, not because it is illegitimate as an act of representation. The legal tradition that the Bavli inherits does not differentiate between finely chiseled statues and mere piles of rocks.

In contrast to earlier rabbinic works, the Bavli engages a thematics of representation. In a move that both anticipates and inverts Orthodox Christianity's insistence on the “real presence” within icons, the Bavli authorizes image-making on the basis of absence. Because, the Bavli reasons, representations of nature and of the supernatural cannot but fail to achieve a true resemblance, most every image is fair game. While in the end, the sugya moderates this position, mediating between the leniency advocated by Abaye and the stringencies inherited from the Mekhilta, the real achievement of the sugya is not in the realm of legal innovation, but rather in the realm of theory. The sugya sketches out a nascent Jewish theory of mimesis that measures the principle of sameness against the principle of difference, accentuating the gap between prototypes and their copies.¹¹⁷ Shifting the conversation from the normative to the ontological, the Bavli asks not what kind of representations are permitted, but what kind of representations are possible.

Previous scholarship has persuasively argued that the Bavli's leniency with respect to images reflects a changed cultural context in idol-free Sasanian Babylonia. While my interest in these materials is with theory rather than law, I too look to the wider cultural context to account for the Bavli's distinctive approach to images. As I acknowledged in the previous section, it is certainly possible to explain the conceptual leaps that the Bavli makes as resulting from internal processes and a new penchant for abstraction. I would argue, however, that the fact that contemporaries of the Bavli's editors

116 See m. AZ 3:5: “And why is an *'asheira* prohibited? Because it bears the grasp of human hands, and all that bears the grasp of human hands is prohibited.”

ומפני מה אשרה אסורה מפני שיש בה תפיסת יד אדם וכל שיש בה תפיסת יד אדם אסור

117 Though the Bavli's emphasis on the the difference between an image and its prototype is put to much different ends than the representational theory that emerges in Byzantine Christianity, there are interesting comparisons to be made between the view Abaye represents, and the account that Byzantine Christians develop in distinguishing icons from idols. As Charles Barber explains, emphasizing the difference between an icon and its prototype is central to the Christian iconophiles' arguments for the legitimacy of icons: “The iconoclasts had argued that an icon was a false image because of its manufactured status. . . the iconophiles were to reject this argument, claiming instead that the icon was able to be a truthful medium for the knowledge of the holy *because of* this manufactured status. Indeed it is the fact of being made that was a necessary condition for the fundamental distinction between the art object and the subject of its representation. . . there can be no essential repetition of the archetype in the icon because icon and archetype are essentially different. This is the crucial first step in the construction of an understanding of the icon as something distinct from the thing it shows, thus beginning the process of defining how the icon is modeled after, but not be confused with, someone.” Barber, 115-6.

in nearby centers of religious learning were deeply engaged with questions about images and the nature of representation makes the possibility of cultural sharing plausible, and worthy of further research and consideration. To be sure, the specific conceptual connections that I have identified link the Bavli's dialectics to a Christian discourse about representation that only reaches its full flowering in the centuries following the Bavli's composition, when the iconoclastic debates are resolved. My argument for the plausibility of a shared discourse about images is based on the approaches of both Elsner and Barasch, who emphasize the *longue durée* and point to precedents for the iconoclastic debates in earlier centuries of classical, early Christian, and Neoplatonic writings. Though the full flowering of an Orthodox Christian representational theory did not develop until the ninth century, a broad array of conceptual approaches for distinguishing among idols, icons, and other images was available to Christian thinkers, and perhaps to contemporary rabbis as well, long before the surge of iconoclastic debate.

I am arguing that the mere plausibility of cultural sharing among the rabbis and their contemporaries justifies a careful re-appraisal of the characterization of the Babylonian rabbis as inwardly-focused. In its engagement with concepts of representation, as in its investigations of matter and form, this section of b. AZ entails a theoretical sophistication and a set of concerns that bespeak a cosmopolitan engagement with ideas and questions that were current among the Bavli editors' non-Jewish counterparts in the late antique world. One final indication of the Bavli editors' openness to others is the abundance of stories depicting dialogue with non-Jews that they include within this very section of b. AZ. Alongside dialectical treatments of philosophic themes, these stories thematize and dramatize intellectual exchange between rabbis and philosophers. It is to these stories that I now turn.

Dialogues with Non-Jews (AZ 44b and 54b-55a)

The extended section of the Mishna that treats idols and their nullification ends at m. AZ 4:7 with the following narrative:

They asked the elders in Rome: “If He (your God) has no desire for idols, why doesn't He nullify them?”¹¹⁸

They answered them: “If it was a thing that the world had no need for that they were worshipping, He would nullify it. But seeing as people worship the sun, the moon, the stars and the constellations, should He destroy His world because of the fools?”

They said to them: “If so, let Him destroy the things that the world does not need, and leave be the things that the world does need.”

They said to them: “If so, He would strengthen the hands of those who worship those things, for they would say, 'Know that they are gods, and that is why they weren't nullified!’”¹¹⁹

118 I translate *ʾavoda zara* as “idols,” rather than “idolatry,” following Zohar's argument that this is the core meaning of the word in the Mishna. Though the Hebrew is in the singular, I use the plural because it makes for a less awkward translation. Though in this story, the Hebrew *batel* בטל is not used in the technical sense of “nullify,” but rather as a synonym for *ʾabad* אבד “destroy,” I use “nullify” so as to bring out the verbal connection with the legal discussions of idol-nullification that precede the story. For discussion of the conjunction of these two senses of the word, and other comments on this story see Blidstein, “Nullification,” 3; Zohar, 70-2, and Furstenberg, 361-4.

119 b. AZ 54b (JTS Rab. 15):

שאלו את הזקנים ברומי אם אין רצונו [של אלהים] בע"ז מפני מה אינו מבטלה אמרו להן אילו לדבר שאין צרך לעולם בו היו עובדין היה מבטלה הרי הן עובדין לחמה וללבנה לכוכבים ולמזלות

The story is set in Rome, in the heart of pagan imperial power, and this makes the question that is put to the rabbinic elders all the more pressing: If Jewish claims for God's might and singularity are true, how can one account for God's quiescence in the face of Roman offenses? While many a pious Jew might have quietly wondered about this, placed in the mouths of pagan interlocutors, the question has a sinister edge. The Roman questioners archly try to trap the Jewish sages in a Catch-22. They imply that either 1) The Jewish God does *not* object to other gods, or 2) He objects but is powerless to do anything about them. The sages cleverly escape this trap, however, and their answer effectively upholds God's singularity and power, while at the same time emphasizing God's providence. According to the sages, God is capable of vanquishing all rivals, but He refrains from destroying that which idolators worship so as not to inflict harm on creation.

This narrative is one of a pair. As we have already seen, there is another story that recounts a dialogue between a rabbi and an inquisitive non-Jew in this section of the Mishna, the story of Rabban Gamliel's conversation with Proclus in Aphrodite's bath, in m. AZ 3:4. The two stories share a common dialogue form, and they both address the quandaries of Jews who live amidst displays of pagan culture and imperial might. In both stories, non-Jews confront rabbis with a reality that seems to conflict with biblical teaching, and the rabbis resolve the difficulty with reasoned explanations. Rabban Gamliel's story offers a practical model for accommodating pagan culture by minimizing the religious significance of pagan statues. The story of the rabbinic elders in Rome provides the theological grounding for such pragmatism, suggesting that if God is not inordinately bothered by the idolatrous displays of fools, then God's human defenders shouldn't worry either. Appearing together within the Mishna, these two stories work in tandem, each one shaping the interpretation of the other. The legal context in which they appear extends their resonance even further. Like the laws of idol-nullification which they book-end in the Mishna, these stories uphold the principle that there is no reality to idols outside the meanings which idolators ascribe to them. While the Roman pagans within the fictive world presume that idols must be physically destroyed in order to be vanquished, the mishnaic storyteller dramatizes another kind of victory, in which mouthy idolators are bested and silenced by rabbinic wisdom. In the two mishnaic stories, as in the laws of idol-nullification, human attitudes determine the meaning and significance of physical objects.

There is a rich scholarly literature that identifies the cultural context of Roman Palestine as the horizon for the interpretation of both these mishnaic stories.¹²⁰ Though the specific encounters the stories recount are fictionalized,¹²¹ the narratives convey the cultural reality of the tannaitic era, when pagan and imperial statuary crowded the public spaces of the towns and cities where the rabbis lived. In the context of the Mishna, the central concern of these stories is the ubiquitousness of pagan sculpture. Statues not only prompt questions about the unfulfilled biblical vision of an idol-free land of Israel, they serve as discomfiting visual reminders of the persistence and reach of Roman culture and imperial might. Tales of wise rabbis besting clever pagans serve to neutralize these visual displays of Roman

יאבד עולמו מפני השוטים

אמרו להן אם כן יאבד דבר שאין צורך לעולם בו ויקיים דבר שצורך לעולם בו

אמרו להן אם כן מחזיקי ידי עובדיהן של אלו שיאמרו תדעו שהן אלוהות שהרי אלו לא בטלו

120 Furstenberg treats both these stories, drawing connections between them and Roman practice, 355-64; see also Neis, Fine, and Yadin, all cited above, for treatments of the Rabban Gamliel story.

121 Earlier scholarship focused on establishing the historicity of account. See in this regard Avraham Wasserstein, "Rabban Gamliel and Proclus of Naukratis," *Zion* 45 (1980), 257-67. The Rabban Gamliel of our story is widely presumed to be Rabban Gamliel II, for reasons outlined by Wasserstein. As Yadin points out, however, the story must be seen as a reflection of the time of its composition rather than a report about Rabban Gamliel's milieu, and the story cannot be decisively dated. See Yadin, 151, 161.

dominance, projecting an alternative reality where God and the Jews remain in charge. Within the cultural context of Roman Palestine, mishnaic stories of debates between rabbis and non-Jews have a particular force and resonance as dramatizations of a rivalry between Jews and pagans.¹²²

My interest is in what these stories come to mean when the editors of the Bavli read, interpret and re-contextualize them within a work that belongs to their own cultural horizon in Sasanian Persia. For the creators of the Bavli, pagan statues are the abandoned artifacts of a distant time and place. The stories about these statues, however, offer a rich source of narrative material for the editors' own distinctive project. I have already called attention to the way that the editors of b. AZ parlay the Mishna's rulings about idols into a broader discussion of physical objects and the nature of materiality. They accomplish something similar with the stories they inherit from the Mishna. In the Bavli retellings, stories of conversations with non-Jews become stories *about* conversation with non-Jews. That is, for the Bavli, the encounter with a non-Jew is not simply a narrative frame for a topical treatment of idols, but rather, the encounter itself becomes centrally important. Within this section of the Bavli, stories of ancient rabbis in conversation with philosophers take their place alongside the editors' discussions of philosophical questions, and serve as a precedent for the editors' openness to non-Jewish sources of knowledge. The stories provide sanction for the kind of intellectual exchange and cultural sharing that the Bavli editors exhibit in their investigations of philosophic themes.

This strategic use of narrative is manifestly on display in the Bavli's discussion of the story of Rabban Gamliel in Aphrodite's bath, a short sugya that makes little sense unless it is read as part of a larger project. The vast secondary literature on the story of R. Gamliel and Aphrodite scarcely acknowledges the Bavli's interpretation, except to note its strangeness. For example, Azzan Yadin writes that the Bavli "contains an odd discussion of whether or not Rabban Gamliel's response was a deceitful reply (*teshuvah genuvah*), without a substantive discussion of the reply itself."¹²³ Yadin's characterization is accurate in one respect--the entire discussion in the Bavli is indeed organized around the question of whether Rabban Gamliel is being deceitful in his interactions with Proclus. Over the course of the Bavli's discussion of the story on b. AZ 44b, four different Amoraim raise the possibility that one or another aspect of Rabban Gamliel's response is deceitful, only to reverse themselves with the emphatic assertion, "But I say it is not deceitful."¹²⁴ Each of the four times, the speaker initially identifies a legal issue that might be taken as a weakness in Rabban Gamliel's argument, and then goes on to demonstrate that despite appearances, Rabban Gamliel's reasoning is in fact cogent, nuanced, and most importantly, sincere. My reading of the sugya departs from Yadin's, however, in that to my mind the recurrent question of Rabban Gamliel's sincerity is neither odd nor impertinent. Rather, the question reveals what the Bavli editors take to be the substance of the mishnaic story. For them, what is most important is not how Rabban Gamliel relates to the statue of Aphrodite, but rather how Rabban Gamliel relates to Proclus, the non-Jew.

The Bavli's protestations on behalf of Rabban Gamliel's candor are best appreciated against the backdrop of a midrashic convention in which rabbinic sages dismiss their non-Jewish interlocutors with facile responses to difficult questions, and then are pressed for more sophisticated answers by the

122 For a reading of dialogue stories that emphasizes the dialogical nature of these exchanges rather than their polemics, see Jenny R. Labendz, *Socratic Torah: Non-Jews in Rabbinic Intellectual Culture* (Oxford: Oxford University Press, 2013). Labendz treats dialogue stories as a sub-genre, and argues that the stories reflect an openness to engage non-Jews on the part of the Palestinian sages. In what follows, I make a similar claim for a small number of these stories in the particular setting in which they appear in b. AZ.

123 Yadin, note 33, 162.

124 In order, the Amoraim who appear in the sugya on 44b are R. Hama bar Yosef in the name of R. Oshaya; Abaye; Rav Shimi bar Hiya; and Rabba bar Ulla. The recurring refrain is:

"ואני אומר אינה גנובה"

rabbinic disciples. The convention is widely attested in midrashic literature,¹²⁵ and this story from Genesis Rabbah is just one example: A group of *Minim* press Rabbi Abbahu to account for why the Torah refers to God with the plural noun 'Elohim.¹²⁶ Does this not imply that the Torah acknowledges more than one power in heaven? Rabbi Abbahu summarily dismisses their taunt, pointing out that Scripture consistently employs a singular verb for God, despite the plural ending of the name 'Elohim. The *Minim* depart, their challenge neutralized, but after they are gone, Rabbi Abbahu's disciples turn to him and say, "Those you pushed off with a reed, but what kind of response will you offer us?"¹²⁷ Rabbi Abbahu then proceeds to offer his students a midrashic reading of the verse in question, as if to acknowledge that his initial answer to the *Minim* is not ultimately satisfactory. This literary convention, with its recurrent trope of "pushing those others off with a reed," projects an image of the rabbi as a master of double-speak. In all the narratives that participate in this convention, the public transcript of inter-religious disputation is qualitatively different from the private, internal discourse of the rabbinic study house. In these stories, discourse with non-Jewish interlocutors is formal, strategic, and full of pretense, while insider talk among rabbis is nuanced, playful, and profound. I take the Bavli's pitched insistence on Rabban Gamliel's sincerity as a deliberate effort to resist the assimilation of Rabban Gamliel's story into this literary trope of rabbinic double-speak. The Bavli insists that Rabban Gamliel addresses the non-Jewish Proclus with the same arguments with which he would address his colleagues. Emphasizing Rabban Gamliel's forthrightness, the Bavli promotes his exchange with Proclus as a model for intellectual exchange with non-Jews.

The parallel discussion in the Yerushalmi brings the programmatic interventions of the Bavli editors into even sharper relief. The Yerushalmi does not make a case for Rabban Gamliel's forthrightness in dealing with Proclus. On the contrary. In the Yerushalmi, the following characterization of Rabban Gamliel's exchange with Proclus is attributed to Hoshaya by R. Hama bar Yosi:

He (Rabban Gamliel) answered him (Proclus) with a deflective response, for it (his explanation) is not so. He (Proclus) could have answered back with the example of Baal Peor, in which exposure is actually a form of worship.¹²⁸

The statement refers specifically to Rabban Gamliel's claim that the Aphrodite cannot be regarded as an idol because the pagans who attend the bathhouse treat the statue with disrespect, undressing and urinating in its presence. Hoshaya contends that R. Gamliel's argument is specious, and is meant simply to put Proclus off. Were Proclus better informed, he would know that the Torah itself recognizes that idolatrous worship often entails nudity and rudeness. According to Hoshaya, given the biblical story of idolatrous debauchery at Baal Peor, Rabban Gamliel could not have made such an argument in good faith. His response to Proclus is tactical and insincere, and expresses his dismissive attitude toward the non-Jew. In the Yerushalmi, there is no further discussion of Rabban Gamliel's story.

Within the Bavli, the statement that is attributed to Hoshaya is modified in striking ways. Here is how Hoshaya's opinion is presented by the Bavli:

¹²⁵For examples of stories that participate in this narrative convention, see Lev. Rab. Vayikra 4; Exodus Rabbah Yitro 29; Num. Rab. Naso 9 and Hukat 19; and Pesikta Rabbati Parah 14.

¹²⁶ Genesis Rabbah Bereshit 8.

¹²⁷ כיון שיצאו אמרו לו תלמידיו לאילו דחיתה בקנה, לנו מה תשיב

¹²⁸ y. AZ 3:4 42d:

תשובת הפלג השיבו דלא כן היה לו להשיבו מבעל פעור שאין עבודתו אלא בפעירה

R. Hama bar Yosef said: R. Oshaya¹²⁹ said: “It was a deceitful response that Rabban Gamliel offered that official, but I say that it was not deceitful.”

What was his deceit?

It was that he (Rabban Gamliel) told him (Proclus), “This one (Aphrodite) stands at an opening to a sewer, and everyone urinates in her presence.”

And if they urinate in her presence, what of that? Did not Rava say:

“Peor proves it, because people would strip in front of it every day, and it would not be nullified?”

But I say that it was not deceitful, for that one (Peor) was regularly worshipped in this way, but that one (Aphrodite) is not.¹³⁰

Here, the Bavli faithfully recapitulates the first part of Hoshaya's statement, only to have Hoshaya instantly negate his own words, with the demurrer, “But I say he was not deceitful.” The Bavli editors are so intent on upholding the sincerity of Rabban Gamliel that they apparently have taken the dramatic step of reversing the sense of Hoshaya's statement, introducing an awkward ungrammaticality into the passage in the process.¹³¹ What was a terse statement in the Yerushalmi is expanded into several rounds of dialectic, as the anonymous voice of the editors unpacks both the charge of deceit and its subsequent reversal. Despite the awkward bumps in the statement attributed to Hoshaya, the care with which the editors lay out the case both for and against the charge of deception is rhetorically effective. In the hands of the Bavli editors, R. Gamliel's prosecutor is re-cast as his defender, and the characterization of R. Gamliel as a sincere and forthright partner for dialogue is further reinforced.

The deliberateness with which the Bavli tinkers with and even reverses a tradition that it inherits from the Yerushalmi is a measure of how important it is for the Bavli to establish Rabban Gamliel as a model for genuine intellectual exchange with non-Jews. The make-over that Rabban Gamliel receives in this short sugya is but one instance of how this section of b. AZ promotes Rabban Gamliel as an exemplar of liberality and philosophic engagement. Earlier, we saw another example of this, where the editors insert a discussion of Rabban Gamliel's moon diagrams into this section, embracing the task of finding a legal justification for what appears to be a breach on the part of the rabbinic leader.¹³² At the

129 The names are spelled a bit differently in the Bavli because of dialectical differences, but these are clearly the same figures--and a version of the same tradition--as those mentioned in the Yerushalmi.

130 b AZ 44b, ms. Paris (I rely on this manuscript because there is a long ellipsis in ms. JTS, with a missing line written in the margin, but hard to make out). The round brackets indicate my own insertions:

אמ' ר' חמא בר יוסף אמ' ר' אושעיא תשובה גנובה השיבו רבן גמליאל לאותו הגמון ואני אומ' אינה גנובה
מאי גניבותא דקאמ' ליה זו עומדת על פי הביב וכל אדם משתי' לפנייה
וכי משתינין לפנייה מאי הוי והאמ' רבה בר בר חנה אמ' ר' יוחנן פעור יוכיח שמפערין לפניו בכל יום ואינו בטל
ואני אומ' אינה גנובה שזו עבודתה בכך וזו אין עבודתה בכך

131 Rashi addresses this problem and smoothes over the textual difficulties by inserting his own “scare quotes” into the statement attributed to R. Hama. According to Rashi, the passage should be rendered like this:

R. Hama bar Yosef said:

“R. Oshaya said, 'It was a deceitful response that Rabban Gamliel offered that official.'

But I say that it was not deceitful.”

According to Rashi, R. Hama attributes just the initial statement to Hoshaya, and then appends his own independent judgment to Hoshaya's statement. While this is a clever solution, it disregards the standard way rabbinic attributions are made throughout the Bavli. The language that introduces R. Hama's statement is technical terminology that corresponds to quotation marks.

132 At the end of that sugya on 43b, there are three separate proposals as to why R. Gamliel's diagrams were permissible: 1) Since he was a public figure, there would never have been an opportunity for him to use the images as an object of

very end of this section of b. AZ, at 54b-55a, the editors re-tell two more stories of Rabban Gamliel. In both, he is depicted in conversation with non-Jews.

The stories of Rabban Gamliel appear as part of a chain of narratives that the Bavli appends to the mishnaic story of pagans in dialogue with Jewish elders in Rome. The Bavli provides no commentary to the mishnaic story of the elders in Rome, and there is no dialectical discussion of the issues it raises. Instead, this entire extended section of b. AZ closes with a series of dialogue-stories that follow one after another. The “sugya” that ensues is unusual in that it admits no editorial voice to provide links between the stories. The chain of stories unwinds with one narrative following immediately after another, and no editorial comments. To appreciate Rabban Gamliel's pivotal role in this narrative flight, it will be helpful to consider how the two stories in which he is featured relate to the rest of the series. Since this material has been keenly interpreted elsewhere,¹³³ I will provide an overview of the stories in table form. In each of the five stories that the Bavli introduces, as in the Mishnaic story, the topic of conversation is either the reality of idols, or the efficacy of their worship:

	Provenance	Questioner	Respondent	Setting
	Mishna AZ 4:7 (54b)	Unspecified pagans	Unnamed Jewish elders	Rome
1.	Tannaitic ¹³⁴	Philosophers	Unnamed Jewish elders	Rome
2.	Tannaitic ¹³⁵	A Philosopher	Rabban Gamliel	Palestine ¹³⁶
3.	Tannaitic ¹³⁷	Agrippas the General	Rabban Gamliel	Palestine
4.	Unclear ¹³⁸	Zunin	Rabbi Akiva	Palestine
5.	Amoraic ¹³⁹	Rava bar Rav Yitzhak	Rav Yehuda	Babylonia

As Richard Kalmin has discerned, there is a logic to the order in which these dialogue-stories are presented, as with each successive narrative, the interlocutors move closer and closer together.¹⁴⁰ While stories 1, 2, and 3 present conversations between Jews and non-Jews, story 5 is a dialogue between two rabbis. Story 4 bridges between the inter-religious and the intra-Jewish with the story of

worship. 2)Because his chart was broken up into parts, the ban did not apply. 3)Since the chart was for educational purposes, it was permitted. The fact that these three alternatives are all proposed suggests that the editors did not find any one of them sufficiently persuasive.

133 Kalmin translates and discusses the whole chain of stories as they appear within their context in the Bavli, in *Jewish Babylonia*, 108-16. My understanding of the interrelationships among the stories is largely beholden to Kalmin's reading. Nonetheless, I employ the material in an argument that is nearly opposite to his thesis—while he reads the passage as evidence of the Bavli's inward focus, I read it as part of the editors' programmatic efforts to establish a tradition of inter-cultural intellectual exchange.

134 This story is actually a parallel version of the mishnaic story. It corresponds to the version that appears in the Tosefta. See t. AZ 6:7.

135 A parallel to this story appears in Mekhilta de-Rabbi Yishmael Ba-ḥodesh 6. For a discussion of the Mekhilta version, see Yadin, 150-60.

136 This determination is but a conjecture, since no setting is specified. As Kalmin points out, the order of the five stories reflects a clear trajectory, expressed in the geographic shifts from Rome to Palestine to Babylonia. Kalmin writes: “The main function of this collection, I argue, is to help the rabbis feel confident about their rejection of idol worship. The editors make their case in a rhetorically effective way, which they accomplish by shifting the scene from the least serious challenge in the most threatening environment (pagan Rome) to the most serious challenge in the least threatening environment (rabbinic Babylonia.)” 113. While I characterize the main function of the collection differently, this is an astute observation about how geography functions.

137 I presume that this story is tannaitic because it is told in Hebrew, but I have not found parallels in tannaitic literature.

138 I have not found parallels to this story. Its provenance is unclear because the first line is in Aramaic, and the remainder is in Hebrew.

139 This story is in Aramaic, and features Babylonian Amoraim. See the discussion below.

140 Kalmin, 113-5.

Zunin, a figure who may or may not be a Jew but explicitly identifies himself as a God-fearer when he prefaces his question to Rabbi Akiva with the words, “Your heart and my heart know that an idol has no substance.”¹⁴¹ The Bavli's placement of the two stories featuring Rabban Gamliel at the very center of this spectrum of relational possibilities accentuates his role as a mediator between the Jewish and non-Jewish world. Whether addressing a philosopher (story 2) or a general (story 3), Rabban Gamliel is clearly speaking to representatives of the non-Jewish world. But while the Roman setting of Story 1 contributes to a sense of menace and provocation, in the stories of Rabban Gamliel, the stridency of the non-Jews' polemical challenge is attenuated by the setting in Palestine, and by Rabban Gamliel's prominent status. As a rabbi who is also patriarch--a civic position recognized by Rome--Rabban Gamliel can meet both philosophers and generals as an equal, especially in his home territory in Palestine. Positioned in the middle of a spectrum that extends from adversarial disputation in Rome to intimate insider-talk between rabbis in Babylonia, Rabban Gamliel stakes out a space for respectful dialogue across cultural boundaries.¹⁴² Within the context of this series of stories, Rabban Gamliel is cast as a diplomat, representing Jewish answers to non-Jews, but with a demeanor and intellectual engagement that is not so distant from the way other rabbis address their fellow God-fearers and colleagues. The role Rabban Gamliel fulfills in this series of stories accords well with the Bavli's characterization of him as a sincere interlocutor in his conversation with Proclus. Over the course of this entire section of b. AZ, the Bavli editors construct a consistent image for Rabban Gamliel as a figure whose liberality and openness to intellectual exchange provides a model for their own philosophic adventures.

Through an accumulation of stories of conversations between rabbis and non-Jews, this section of the Bavli constructs a tradition of friendly intellectual exchange that lends legitimacy to the editors' own engagement with non-Jewish sources of knowledge. They mold the character of Rabban Gamliel into a figure who embodies both their leniency with regard to images, and their openness with regard to cultural sharing. Though the dialectic in this section of AZ reflects an influx of new ideas and a new theoretical sophistication, the stories within this section present cosmopolitan intellectual exchange as a tradition with a long and celebrated rabbinic patrimony.

Closing a Circle

For the Bavli editors, this section of AZ is an opportunity to deliberate about what it means to be human in a material world of things, and their deliberations engage concepts and questions under debate among philosophers and scholastics in the non-Jewish world. Though the Mishna's rulings on idolatrous objects are the prompt for the Bavli's discussions, idols are only ostensibly the item under

141 b. AZ 55a:

לבי ולברך ידע דע"ז לית בה ממש

142 My characterization of Rabban Gamliel's interlocutors as curious rather than menacing finds further support in Yadin's analysis of the Mekhilta parallel of Story 3. Yadin argues that Rabban Gamliel and his philosopher-interlocutor are in agreement that idols have no reality. The philosopher's question, “How can God be jealous of idols?” flows from this basic agreement, and should not be taken as a defense of idolatry, but rather as a charge that the Jews do not oppose idolatry consistently enough, ascribing more importance to idols than reason would admit. Yadin would not go so far to say that the story is not polemical, but for him it nonetheless reflects a rabbinic engagement with philosophic sources. My argument that the Bavli reflects its editors' engagement with the philosophic currents of their time thus parallels Yadin's argument that this and other dialogue-stories reflect the Tannaim's familiarity with the philosophic discourse of an earlier period. Though the Bavli editors could not have identified the nuanced, coded exchange about philosophy that Yadin uncovers in this story, I am arguing that they nevertheless recognize the story's utility as a precedent for their own engagement in philosophic discourse.

discussion, the actual topic being all material objects, their make-up, identity, and form. When the Bavli discusses idols, the dialectics remain squarely focused on the objects themselves, and attend only minimally to those who worship them. This means that within this section, non-Jews are not vilified as idolators. The depiction of non-Jews as rational thinkers that is implicit throughout this section distinguishes it from other parts of AZ that portray non-Jews as depraved and menacing. Within this section, the Bavli editors relate to non-Jewish sources of knowledge as resources for reasoned reflection, not as rival creeds or errant cults. Rabban Gamliel's dialogues with non-Jews are presented and interpreted so as to serve as a precedent for an openness to non-Jewish culture.

As one should expect from a work built on dialectic, not every element within this section of the Bavli accords with the general picture of magnanimous intellectual exchange that I have laid out. The final narrative in the string of dialogue-stories that closes this section departs from much of the preceding material in that it conveys animus toward non-Jews, depicting them not as rational interlocutors, but as brutes whom God despises. As I have already indicated, the story differs in other ways as well. While all the other narratives in the series stage dialogues between rabbis and non-Jews (or at least non-rabbis in the case of Zunin in story 4), this closing story recounts a conversation between two rabbis. After presenting the story, I will offer some concluding thoughts on how it participates in the overarching project of AZ as a whole.

Rava son of Rav Yitzhak said to Rav Yehuda: “There is a house of an idol in our area, and when the world is parched and the rain does not come, they slaughter a man for him, and the rain comes!”

He (Rav Yehuda) said to him: “Now, if I were dead, no one could tell you this thing that Rav said: ‘What does Scripture mean when it says “those that the Lord Your God apportioned (*halak חלק*) to all the nations?’” (Deut. 4:19) It teaches that God was slick with words (*hehlikan החליקן*) in order to drive them from the world.”

And this is similar to what Resh Lakish said: “What does Scripture mean when it says ‘To the scorers, He gives scorn, but to the humble He gives grace?’ (Prov. 3:34) One who comes to defile will be encouraged in this, while one who comes to purify himself will likewise be helped.”¹⁴³

143 b. AZ 55a, according to JTS Rab. 15:

אמ' ליה רבה בר יצחק לרב יהודה איכא ע"ז באתרין דכי מינגיב עלמא ולא אתי מיטרא שחטו ליה גברא ואתי מיטרא

אמ' ליה השתא איכו שכבי לא אמרי לכו הא מילתא הכי אמ' רב מאי דכתי' אשר חלק יי אלהיך אותם לכל העמים מלמד שהחליקן בדברים כדי לטרדן מן העולם והינו דאמ' ר' שמעון בן לקיש מאי דכתי' אם ללצים הוא יליץ ולענוים יתן חן בא לניטמא פתחין לו בא ליטרה מסייעין אותו

This manuscript differs from other witnesses in one significant way. The print versions and ms. Munich all include an additional line, so that the story reads: “There is a house of an idol in our area, and when the world is in need of rain, it (the idol) appears to them in a dream and says, ‘Kill a man for me, and I will bring the rain. They slaughter a man for him, and the rain comes!’” The Munich manuscript reads:

א"ל רב' בר יצח' לרב יהוד' והאיכ' בית ע"ז באתרין דכי מנדיף בעלמ' ולא אתי מטרי' מתחזי להו בחילמ' קטולו ל' גבר' וניתי מיטרי' שחטו ל' גבר' ואתי מיטרי'

Kalmin argues that ms. Munich preserves the better reading, and that the version in ms. JTS reflects a later intervention out of discomfort with the notion that the rabbis would attribute reality to an idol. He points out that the Ri and R. Hananel both include the line that ms. JTS lacks. See Kalmin, 228-9, note 52.

In this story, Rava son of Rav Yitzhak comes to his senior colleague with a troubling account of nearby idol worship. He reports that in times of drought, idolators engage in human sacrifice, and that these sacrifices are indeed efficacious in bringing rain. While Rava does not articulate a question, the challenge he puts to Rav Yehuda seems clear: How can it be that such offenses are effective in making it rain? In response, Rav Yehuda offers a midrashic interpretation of a verse from Scripture.¹⁴⁴ In a clever act of word-play, he replaces the word “apportioned” (קָלַח) with a homophone that means “smooth” or “slick.” Armed with this midrashic tradition, he evades the question of the idol's efficacy, and explains that God allows the murderous rites because He wants to rid the world of idolators. According to Rav Yehuda, God *smooths* the way for idol-worshippers, so they hoist themselves on their own petards. If idolators want to sacrifice themselves to an idol, God will not interfere. God might even encourage them in their offenses, since that will hasten their demise.

Rav Yehuda never directly engages the question of whether the idol does indeed have the power to make the rain fall. Instead, he shifts the conversation, encouraging his interlocutor to recognize that though the events he describes appear to be bad for the Jews, shaking their foundational beliefs in one God, they are actually bad for the Gentiles. It is difficult to know how Rav Yehuda would answer the question of the idol's apparent reality and efficacy. It is possible to read Rav Yehuda's response as an acknowledgment that idolatrous rites are efficacious, and that there are other gods who have the power to bring rain. On the other hand, it is also possible that Rav Yehuda sees the whole drama as an elaborate trick that God plays on idolators; perhaps God waits for these horrifying offenses, then positively reinforces the human sacrifices with rainfall.¹⁴⁵ Neither interpretation is very satisfying. But arguably, the point of the story is precisely to shift our attention away from the reality of idols so that we consider instead the moral offenses of idolators. This story joins other depictions of non-Jews from earlier in the tractate in depicting non-Jews as depraved and blood-thirsty, and in doing so, it shifts our focus away from philosophic investigation, and returns us to the realm of human sociality.

This story of human sacrifice closes this extended section of AZ, and stands in creative tension with much of the material that immediately precedes it. While the other dialogue-stories in the series are discussions between rabbis and non-Jews about idols, this is a discussion between rabbis *about* non-Jews. While all the other stories present eloquent arguments against the reality of idols, in this story, the question of whether idols are efficacious is bracketed, and considerations of basic human norms are brought to the fore. In contrast to the rest of this section's rarefied investigations of matter and form, this story presents a blood-soaked drama of human sin. Most striking, despite the care and persistence with which the editors cultivate a characterization of Rabban Gamliel as a forthright and sincere plain-dealer who does not deceive non-Jews, in this story, Rav Yehuda describes God Himself as a deceiver. According to Rav Yehuda, God is a clever smooth-talker who deceives idolators so as to hasten their demise, and the scriptural verse functions as an instance of divine double-speak, uniting a neutral public transcript with a coded message to those rabbis in the midrashic know. At the end of a long section in which rabbis and philosophers meet in the neutral spaces of a shared physical environment and a shared rationalized discourse, with this concluding story, the editors shake the liberal world they

144 The particular verse that Rav Yehuda identifies is significant, because it is part of one of the Bible's most extensive treatments of idolatry. Deut 4 opens with a reminder of Israel's offenses at Baal Peor, and goes on to recount the revelation at Sinai. In contrast to the concise interdict on images that appears within the Decalogue itself, here the commandment against making images extends from Deut 4:15 to 4:19. Verse 4:19 is particularly difficult, but it can be read as implying that Israel must refrain from worshipping the sun and the stars, since this worship was apportioned to other nations. The biblical passage that is cited here thus provides an array of intertextual links to other sugyot about idols and images earlier in this section of AZ.

145 The variant in which the idol appears in a dream demanding human sacrifice makes this reading all the more strange and troubling, as it would mean that God poses as an idol, implanting the idea of human sacrifice in the idolators' consciousness.

had conjured up back into the old conglomerations of Us versus Them. Their extended exercise in frank, well-reasoned intellectual exchange reverts to polemic and suspicion.

While I cannot fully account for the sudden shift in tone and outlook that this story enacts, I find it significant that the story appears at the precise juncture between two sections in the tractate. As I noted above, the thematic division that separates the tractate's long discussion of idols from a renewed discussion of Gentile wine is not marked by a chapter division, but rather by a very abrupt change in topic at the bottom of 55a. This story of human sacrifice to an idol marks the end of the Bavli's engagement with idols. Beginning with the discussion of the next mishna, corresponding to m. AZ 4:8, the Bavli will turn its attention to the technical details of wine-making in the presence of Gentiles. Though the editors will have more stories to tell and more insights to explore, there is a sense in which this return to the topic of wine designates the rest of the tractate as a postscript, an addendum to the main project. At the bottom of AZ 55a, though the editors have not quite exhausted their material, they have completely unfurled their central conceit. The trajectory I have identified as an organizing principle for the tractate as a whole—the journey through the chain of being, from souls to animals to food to objects—has reached its end. Having come to this end, provisional though it might be, the editors tie things up with an acknowledgment of how they began the journey. The story that closes this section, with its gruesome report of human sacrifice and its vision of divine comeuppance for Gentiles, echoes both the tone and message of the tractate's opening sugya, enveloping the intervening materials in an *inclusio*. One reason that this story, as discordant as it is in the immediate context, nonetheless appears at this specific spot is that it calls to mind the vision of God's final judgment with which the entire tractate opens.

As I recounted in Chapter II, AZ opens with a fantasy of divine retribution. All the nations of the world are called before God and made to answer for their mistreatment of the Jews and for their rejection of Torah. When the nations insist on due process, and allege that Israel is no more worthy than they, a parade of biblical personages come to testify to Israel's righteousness. God agrees to stay the nations' punishment, and gives them one final chance to fulfill a single commandment, but the nations squander their last shot at redemption, and God laughs at them. This opening narrative is harsh and derisive in tone, and it reduces non-Jews to a caricature, portraying them as hapless scoundrels. But as I have sought to demonstrate, over the course of the tractate's unfolding, this negative depiction of non-Jews is nuanced, challenged, and revised, through dialectical correctives, through more positive narrative depictions, and through intellectual circulation of ideas. The general trend over the course of the tractate is toward ever richer, more sympathetic portrayals of non-Jews alongside probing examinations of what Jews and non-Jews share in common. The story of human sacrifice to an idol is a return to the image of the non-Jew as Other, as God is once again depicted as an avenger of the Jews who delights in the destruction of Gentiles.

I propose that this return signals the end of an extended literary unit. The abrupt change in tone that the idol story enacts induces a readerly whiplash, and the vivid gruesomeness of the story calls to mind ghastly images from *Lifney 'Eydeyhem*. The story reminds us of the distance the tractate has travelled. The resurgence of the opening sugya's triumphalist tone and revenge fantasy does not cancel out the accumulated effect of the many stories and sugyot that depict the difference between Jews and non-Jews in subtler and more sympathetic ways. This belated reversal rather restores a sense of dialectic, so that as a literary unit is sealed off, the whole array of intervening possibilities come into play. Fastening both ends of the tractate's extended exploration of Jewish difference to a depiction of non-Jews that is harsh and extreme, the editors turn us toward the breadth of nuanced possibilities for human relationship that their intervening investigations have opened up. The extremes at the ends turn us toward the wide-ranging moderations in the long middle.

Until this point in the tractate, the Bavli's central task has been to investigate the differences

between Jews and non-Jews and to examine what all people share in common. In doing this, the editors have charted a journey through multiple realms of human experience, situating the human in relation to the ethereal world of souls, the carnal domain of impulse, the physical environment of material things, and an intellectual world of reason and theory. To be sure, this overarching project does not surface on every page, or even in every sugya, but I would argue that it accounts for much of the material in which the Bavli departs from the Mishna and shapes its own message, distinct from the Gemara's commentarial function. In the talmudic materials that I survey in this chapter, the Bavli editors are more restrained in their interventions than in earlier parts of the tractate, but their dialectical treatments of the Mishna's rulings bear a distinctive stamp nonetheless. The Bavli parlays the Mishna's discussion of idols into an investigation of the nature of material reality. Extending the conservationist impulse that allows for the re-use of broken and rejected idols, the editors take bits and pieces of tannaitic tradition and re-purpose them in constructing a new discourse about materiality. From the Mishna, the Bavli learns that it is people who assign meaning to things whenever they draw artifacts into the realm of human concern. Opening a dialogue with other sources of knowledge, the Bavli probes questions of ontology, developing concepts of form and matter, identity and change, and representation. In this section, as AZ engages the inanimate stuff that the world is made of, the editors find common cause with non-Jews who think and talk about similar questions. At times, a sense of shared human experience and patterns of thought almost eclipses the bright lines of religious difference.

As this section ends, so too does the Bavli's sustained investigation into what distinguishes Jews from others. While there is still a good chapter and a half to go until the tractate reaches its end, AZ's closing section is an excursus which stands apart from the preceding sections. As I will show in my concluding chapter, from this point on, the editors pull the boundaries of their concern closer in. Though the dialectic returns to the topic of Gentile wine, the editors do not re-tread terrain they already covered, but rather take the opportunity to erect new lines of separation. In the closing section of AZ, the editors shift their attention away from relationships between Jews and other people, and train their focus on the differences between rabbis and other Jews. With this shift, they all but dispense with fantasies of essential Jewish difference, and engage, instead, in another form of elitism, promoting their distinctive approach to Torah as the only distinction that ultimately matters.

Chapter VI: The Last Laugh

“Am I not a Jew?”

--Bati bar Tuvi to Shapur, King of Persia

“Remember what you did last night.”

--Shapur, King of Persia, to Bati bar Tuvi, b. AZ 76b

In Conclusion

AZ ends with a compact and colorful account of what happens when King Shapur welcomes two Jewish visitors to his court and offers them refreshments. I offer an analysis of this narrative as the conclusion to this dissertation. The story serves as my final illustration of how the very forms of talmudic discourse convey a distinctive ethical orientation, an emphasis on the particulars of human relationship.

I have argued for reading AZ as a sustained deliberation about three related questions: What constitutes Jewish difference? What do Jews and others share in common? What does it mean to be human? As I will show, the concluding story of the tractate confirms this reading in that it engages these themes. But it is not just the thematics of the story that makes it such a fitting conclusion to the tractate. Brief though it is, the story of King Shapur displays many of the discursive qualities that characterize AZ as a whole. Coming at the end of a tractate that is full of reversals, inversions, and other surprises, the story packs a punch because it ends with a twist—it gives the last word on what constitutes Jewish belonging to King Shapur, a non-Jew.

Before we come to this final story, however, it is important to engage the material that directly precedes it. As I indicated in Chapter V, there is a significant shift in subject matter that occurs toward the end of *Rabbi Yishma'el*, on AZ 55a. At this point in the tractate, as the talmudic commentary takes up the mishna corresponding to m. AZ 4:8, it follows the Mishna in moving away from the topic of idol worship and returning to the topic of Gentile wine. The remainder of *Rabbi Yishma'el* and the whole of the tractate's final chapter, *Ha-sokher 'et Ha-po'el*, discuss prohibitions of wine and food. With this topical shift comes another significant change of course, as the Bavli turns its focus away from the boundary separating Jews from non-Jews, and instead attends to the differences that distinguish rabbis from other Jews. Re-drawing the boundaries that separate who is in from who is out, the editors pull their circle of identification inward, excluding the masses of common Jews who do not share their halakhic practice, their scholastic pursuits, or their interpretation of Torah. It is this move toward exclusion that the final story of the tractate so thoroughly up-ends.

Changing Views on the 'Am Ha-'aretz: From Other Jews to Jewish Others

In the closing section of AZ, non-rabbinic Jews take their place alongside non-Jews as objects of derision and as a focus for rabbinic rules of social segregation. The rabbinic elitism that is on display here is very much in keeping with scholarly characterizations of the Babylonian rabbis. Jeffrey Rubenstein highlights the haughtiness of the Babylonian rabbis vis-à-vis other Jews as one of the distinctive features of the culture of the Babylonian Talmud. He argues that the anonymous sages who edited the Bavli, those whom he refers to as the “Stammaim,” can be distinguished both from earlier

generations of Babylonian rabbis and from Palestinian sages in their hyperbolic expressions of contempt for any Jew they consider an “*am ha-’aretz*.”¹ Though AZ does not preserve the strident expressions of such imperiousness that are in evidence elsewhere in the Bavli, new scholarship on how the meanings of “*am ha-’aretz*” shift in successive chapters of rabbinic history nonetheless offers a helpful backdrop for my analysis of how the editors of AZ draw and re-draw the boundaries separating “us” from “them.”

Yair Furstenberg chronicles the changing meanings of “*am ha-’aretz*” in the biblical, Second Temple, and tannaitic eras.² Though the term appears in a variety of scriptural contexts, Furstenberg points out that in rabbinic literature, “*am ha-’aretz*” always has a negative connotation, and functions in opposition to the terms *rabbi*, *haver* (colleague, or fellow), and *parush* (“Pharisee,” or one who separates himself).³ He traces the rabbinic sense of the word to the closely related “*amey ha-’aretz*” and “*amey ha-’aratzot*” that appear in Ezra and Nehemiah, where they refer either to non-Israelites or to Israelites who have intermarried and assimilated with non-Israelite nations.⁴ Furstenberg emphasizes that the primary reasons Ezra and Nehemiah provide when they call on Israelites, priests, and Levites to segregate themselves from “*amey ha-’aretz*” relate to concerns about purity.⁵ He argues that when the Tannaim later come to define the “*am ha-’aretz*” as a Jew who is lax in maintaining purity law, the association between the term “*am ha-’aretz*” and purity traces back to Ezra, even though the precise meaning of the term has changed.

Furstenberg goes on to propose that over the course of tannaitic history, the connotations of “*am ha-’aretz*” continue to change so as to align with new cultural realities and with corresponding shifts in rabbinic values. The earliest Tannaim adopt a sectarian outlook on purity when they define the “*am ha-’aretz*” as a Jew who is not sufficiently fastidious in observing the stringencies of purity law, and prohibit contact with him on that basis.⁶ For Furstenberg, the treatment of the ‘*am ha-’aretz*’ by these ancient sages reflects their commitment to the signature feature of Pharisaic practice; like the Pharisees, they uphold the same standard of purity in the preparation of ordinary food as is required in the preparation of cultic sacrifice. Later, however, when concern about purity declines among the Tannaim, the term “*am ha-’aretz*” is re-signified, and Furstenberg detects this shift in the tannaitic passage that serves as the *locus classicus* for scholarly treatments of the ‘*am ha-’aretz*’:

And who is considered an ‘*am ha-’aretz*?

Anyone who does not eat his ordinary food in a state of purity, according to Rabbi Meir.

But the sages say: Anyone who does not tithe.⁷

What the Tosefta presents as a tannaitic dispute about the definition of the ‘*am ha-’aretz*’ is for Furstenberg a record of a change in rabbinic self-definition. When changing historical circumstances

1 Jeffrey Rubenstein, *The Culture of the Babylonian Talmud* (Baltimore: Johns Hopkins University Press, 2003), 123-42.

2 Yair Furstenberg, “*Am Ha-Aretz* in Tannaitic Literature and Its Social Contexts” (Hebrew), *Zion* 78:3 (2013), 287-319.

3 Furstenberg, 293 and 309. For scholarship on the meanings for these terms, see the bibliographic references on his page 309, note 84.

4 See for example Ezra 9:1 and 9:11 and Neh 10:29-32.

5 Furstenberg, 294.

6 Furstenberg, 295-8. Furstenberg initially identifies the sectarian community of Qumran as a mediating link between Ezra/Nehemia and the Tannaim, in that sectarian works such as *The Rule of the Community* emphasize purity when they relate to both non-Jews and to Jews who remain outside the community as impure. Later, however, he identifies the early Tannaim’s sectarianism specifically with the Pharisees, in that both apply standards of purity associated with sacrificial law to the preparation and consumption of ordinary food.

7 t. AZ 3:10, Zuckerman, 364:

ואיזהו עם הארץ כל שאינו אוכל חוליו בטהרה דברי ר"מ וחכמים אומרים כל שאינו מעשר

mean that purity practices no longer serve as a marker of rabbinic identity, later generations of Tannaim re-define the *‘am ha-’aretz* as a Jew who is lax in separating tithes.⁸ For Furstenberg, the *‘am ha-’aretz* is never an identity claimed by any actual person or group, but is rather a rabbinic projection.⁹

Though Furstenberg's account does not extend into the talmudic period, his proposal to read the term “*‘am ha-’aretz*” as a cipher for rabbinic identity is applicable to continuing shifts in the term's signification, leading up to its modern use to designate an ignoramus. In every phase of rabbinic history, rabbis use the term to label those Jews who are different from themselves in ways that are most important to the rabbis at that time. Rubenstein picks up the thread of this story precisely where Furstenberg's account leaves off. He notes that the meaning of *‘am ha-’aretz* broadens in the amoraic period, when it comes to signify a wide array of lapses. The following passage from b. Berakhot 47b is presented in the guise of a baraita, but as Rubenstein points out, there is good reason to think its attributions to Tannaim are pseudepigraphic,¹⁰ since this material does not appear in any work prior to the Bavli:

Our sages taught: Who is an *‘am ha-’aretz*? Anyone who does not recite the Shema evening and morning, these are the words of R. Eliezer. R. Yehoshua says: Anyone who does not put on *tefilin*. Ben Azai says: Anyone who does not have a mezuzah on his door and fringes on his garments. R. Natan bar Yosef says: Anyone who has sons but does not devote them to Torah study. The sages say: Even if he has studied Scripture and Mishna but does not attend upon the sages—behold, this one is an *‘am ha-’aretz*.¹¹

Attributing this wide array of definitions to Babylonian Amoraim, Rubenstein notes that in this phase of rabbinic culture, “*‘am ha-’aretz*” has become a catch-all phrase for a whole range of behaviors that offend rabbinic sensibilities, from neglect of central scriptural commandments, to refusals to kowtow to rabbinic authority. The final opinion effectively designates any Jew who is not himself a rabbi or rabbinic disciple as an *‘am ha-’aretz*. According to the Babylonian Amoraim, a Jew can either be for the rabbis or against them, but there is no middle ground.¹² While the Tannaim regard the *‘am ha-’aretz* as distinct from rabbis in his disregard for particular areas of Jewish law, for the Amoraim, the *‘am ha-’aretz* becomes the quintessential Jewish Other.

Rabbinic attitudes toward the *‘am ha-’aretz* become even more extreme after the amoraic period. Drawing on the critical scholarship of Stephen Wald, Rubenstein argues that the Bavli's most violent expressions of contempt for the *‘am ha-’aretz* can be attributed to the anonymous redactors of

8 Furstenberg, 311-4.

9 Furstenberg, 290.

10 Rubenstein, 125. In support of his argument that the tradition is invented by Babylonian Amoraim, Rubenstein points out that the baraita is commented upon by Babylonian Amoraim within the sugya. The phenomenon of “fictitious” baraitot, and the related question of the reliability of the Bavli's attributions are areas of debate within rabbinic scholarship. For a range of opinions on these issues, see Rubenstein, *Culture*, 10-11; Louis Jacobs, “Are There Fictitious Baraitot in the Babylonian Talmud?” *HUCA* 42 (1971): 185-96; and Yaakov Elman, “How Should a Talmudic Intellectual History Be Written? A Response to David Kraemer's 'Responses,’” *Jewish Quarterly Review* 89:3/4 (Jan.-Apr. 1999), 361-86.

11 b. Berakhot 47b. My translation follows Rubenstein, *Culture*, 124-5. I have made slight emendations to reflect variations in manuscript traditions. The following is the version that appears in ms. Munich 95:

תנו רבנן איזהו עם הארץ כל שאינו קורא ק”ש שחרית וערבית דברי ר’ אליעזר ור’ יהושע או’ כל שאינו מנין תפילין בן עזאי או’ כל שאין לו מזוזה בפתחו וציצית בבגדו ר’ נתן ב”ר יוסי או’ כל שיש לו בנים ואינו מגדלן לתלמוד תורה וחכמים או’ אפי’ קרא ושנה ולא שמש תלמידים חכמים זהו עם הארץ

12 Rubenstein, 125.

the Bavli who succeed the Amoraim. Re-working earlier traditions, these “Stammaim” splice words of abuse into earlier traditions, as in the following passage, in which the redactors' insertion appears in italics:

1. Let a man always sell everything he has and marry the daughter of a scholar. If he does not find the daughter of a scholar, let him marry the daughter of the leaders of the generation. If he does not find the daughter of the leaders of the generation, let him marry the daughter of the heads of synagogues. If he does not find the daughter of heads of synagogues, let him marry the daughter of supervisors of charities. If he does not find the daughter of supervisors of charities, let him marry the daughter of teachers of schoolchildren.

2. *But (let him) not (marry) the daughter of an ‘am ha-’aretz, for they are repulsive, and their wives are vermin, and concerning their daughters it is said, “Cursed be he who lies with any beast.”* (Deut 27:21)¹³

Following Wald, Rubenstein discerns two distinct redactional layers in the passage. One hint that part 2 is a later addition is its deviation from the the consistent verbal pattern that is maintained throughout part 1: (“If he does not marry. . . then let him marry”). Unlike any of the clauses in part 1, part 2 is couched in negative language, and includes both a rationale and scriptural support. Beyond these differences in structure and language is a salient contrast in tone. In part 1, which Rubenstein attributes to the amoraic period, there is a strong sense of hierarchy, with scholars enjoying the highest social status, followed by communal leaders, and other communal servants, but there is no expression of disdain toward those of lower status. Part 2, however, conveys a violent contempt for the ‘am ha-’aretz, accusing his womenfolk simultaneously of *being* animals, and of *sleeping with* them. For Rubenstein, this antipathy toward non-rabbinic Jews emerges after the amoraic period, and is a signature feature of the extreme elitism of “stammaitic” culture. Though Rubenstein cannot fully account for the extremity of the Bavli's treatment of the ‘am ha-’aretz, he connects the phenomenon to the Babylonian editors' scholastic culture, to a widening gulf between the rabbinic academy and the general Jewish population, and to the promotion of Torah study over all other religious endeavors.¹⁴

Rubenstein's analysis makes two distinct claims about the the Bavli's treatment of the ‘am ha-’aretz: First, that the hateful rhetoric of Pes 49b can be dated to the last phases of the Bavli's development, and second, that the extreme attitude on display in this passage constitutes the rule, rather than the exception. While my reading of AZ neither confirms nor invalidates Rubenstein's claims about the phases of the Bavli's redactional history, it dovetails with his portrait of Babylonian rabbinic culture in productive ways.

13 This is Rubenstein's translation of a passage from b. Pes 49b. It too is presented as a baraita when it is introduced by the formulaic “our sages taught,” “תנו רבנן.” Rubenstein's attribution of the final line to the belated interventions of anonymous editors is based on the critical analysis laid out by Stephen G. Wald in *BT Pesahim III: Critical Edition with Comprehensive Commentary* (New York: Jewish Theological Seminary, 2000), 213-21.

This is how the tradition appears in ms. Munich 95:

תנו רבנן לעולם ימכור אדם כל מה שיש לו וישא בת תלמידי חכמים ואם לא מצא בת תלמידי חכמים ישא בת גדולי הדור לא מצא בת גדולי הדור ישא בת ראשי כנסיות לא מצא בת ראשי כנסיות ישא בת גבאי צדקה לא מצא בת גבאי צדקה ישא בת מלמדי תינוקות ולא ישא בת של עם הארץ מפני שהם שקץ ונשותיהם שרץ ועל בנותיהם נאמר ארור שוכב עם כל בהמה

14 Rubenstein, 141-2.

Rubenstein highlights those passages in which rabbinic difference is asserted most stridently, and his characterization of the Bavli's elitist outlook corresponds rather precisely to what I would characterize as the dominant voice in AZ as a whole. In Pes 49b above, as in so many of the passages we have examined from AZ, the editors' outlook is strongly hierarchical and chauvinistic. As Rubenstein notes, the passage above uses precisely the same de-humanizing tropes to denigrate the *'am ha-'aretz* that the opening sugya of *'Eyn Ma'amidim* employs in degrading non-Jews.¹⁵ In highlighting the way Pes 49b juxtaposes three orders of Others—the *'am ha-'aretz*, the non-Jew, and the animal—Rubenstein identifies the interlocking hierarchies that undergird the dominant vision of human difference in AZ as well. The Bavli's disparagement of the *'am ha-'aretz* reifies the degradation of non-Jews and of animals, so that rabbis emerge as the pinnacle of creation, exalted above other Jews, who are in turn exalted over other people, and over other animals. This picture of human relations that Rubenstein assigns to the Bavli's anonymous editors generally aligns with the hierarchical vision expressed in AZ. But though the degradation of others is the dominant voice in AZ, it is not the only voice. As I suggested in my reading of *'Eyn Ma'amidim* in Chapter III above, in the push-and-pull of talmudic dialectic, the denigration of others is not the whole story, because even as AZ exalts Jews over non-Jews, and humans over animals, the boundaries it draws presume connections of affinity and kinship. The imposition of separation is itself an acknowledgement that there is much that Jews and others share in common. Often this recognition of a common human bond is tacit and implicit, but on occasion, it is explicitly expressed in a counter-voice that challenges the dominant assertions of Jewish supremacy.

One of the principal findings that emerges from my reading of AZ's first four chapters is the degree to which AZ's "otherizing" of non-Jews is an exercise in separating like from like. In AZ's final chapter, as the editors shift their focus from the non-Jew and confront another Other, the *'am ha-'aretz*, the task of asserting difference in the face of commonality becomes even more pressing.

The Narcissism of Small Differences (AZ 59a and AZ 70b)

Beginning with the final pages of *Rabbi Yishma'el*, AZ addresses the halakhic challenges of interacting with an *'am ha-'aretz* with increasing frequency. Over the course of this final section of the tractate, the talmudic deliberations develop an analogy between Jews and non-Jews on the one hand, and "people of Torah" and *'amey ha-'aretz* on the other. While the rhetoric of AZ with regard to the *'am ha-'aretz* never approaches the venom with which non-Jews are denigrated earlier in the tractate, at times, the legal stringencies AZ prescribes to segregate "people of Torah" from other Jews exceed the strictures that separate Jews from non-Jews.

The Bavli's first prompt for drawing an analogy between non-Jews and *'amey ha-'aretz* is the mishna that reads:

One may tread grapes with a non-Jew in a winepress, but one may not cut

¹⁵ As Rubenstein notes on 129, later in Pes 49b, the Bavli makes an explicit comparison between the *'am ha-'aretz* and the non-Jew: "Greater is the hatred with which the *'amey ha-'aretz* hate the sages than the hatred with which the nations of the world hate the Jews." Ms. Munich 6 reads:

שנאה ששונאין עמי הארץ את תלמידי חכמים יותר משנאה ששונאין אומות העולם לישראל

Commenting on this line, Rubenstein writes on 131, "The comparison of the hatred between sages and *'amey ha-'aretz* with the hostility between Jews and idolators almost makes this analogy explicit: sages vis-à-vis *'amey ha-'aretz* = Jews vis-à-vis gentiles = humans vis-à-vis animals." In fact, as Rubenstein goes on to note, the violence of the Bavli's rhetoric in relation to *'amey ha-'aretz* in Pes 49b exceeds AZ's most extreme expressions of malice and revulsion toward non-Jews.

grapes with him.

Concerning a Jew who performs these tasks in a state of impurity: One may not tread with him, or cut grapes with him, but one may transport wine-casks to the winepress with him, and also take them away from the winepress.¹⁶

Though the mishna does not mention the *‘am ha-’aretz* explicitly, the ancient definition of an *‘am ha-’aretz* as one who is lax in upholding purity law means that “a Jew who treads grapes in the state of impurity” can be understood as a reference to an *‘am ha-’aretz*. Here, the topic of grapes serves as the bridge that connects the laws of *yeyn neseekh* to the laws of purity. Because wine is one of the substances that Scripture designates as a priestly offering (Num 18:12), its preparation is governed by purity law. While the strictures of *yeyn neseekh* do not obtain until after grapes are crushed, the laws of purity come into play from the moment that grapes are harvested. For m. AZ, the issue of the *‘am ha-’aretz*'s impurity is but a passing concern; it arises tangentially and is briefly engaged before the Mishna returns to the laws of *yeyn neseekh*. In the Bavli, however, attention to the *‘am ha-’aretz* persists. Mishna AZ does not again mention concerns about impurity or about the *‘am ha-’aretz*, but as the Bavli's deliberations unfold, the impure *‘am ha-’aretz* increasingly takes his place alongside the non-Jew as a figure whose very proximity threatens the status of Jewish food and drink.

The particular threat that the *‘am ha-’aretz* represents is first illustrated in a narrative tradition and then later taken up in the Bavli's legal dialectics. These traditions address the problem of Jews who do not adhere to rabbinic practices. Though these passages do not mention the *‘am ha-’aretz* explicitly, they participate in the same cultural trend of rabbinic elitism that Rubenstein associates with the Bavli's animus toward non-rabbinic Jews.

The following narrative appears toward the end of *Rabbi Yishma'el*, on 59a. Though it is ostensibly a report about the law-making activities of Palestinian rabbis, the story does not appear in any Palestinian sources, and there is good reason to think that it is an invention of the same anonymous Babylonian editors who shaped the tractate as a whole.

Rabbi Hiyya bar Abba stopped in Bey Gavla. He saw that there were Jewish women there who had conceived with converts who were circumcised but had not immersed. He saw Jews drinking wine that had been mixed by non-Jews. He saw Jews eating lupin beans that had been cooked by non-Jews, but he did not say a thing to them. He came before Rabbi Yohanan, who told him: “Go and declare that their children are illegitimate, their wine is *yeyn neseekh*, and that their lupin beans are prohibited as the cooked food of Gentiles.”¹⁷

16 This passage corresponds to m. AZ 4:9, and it appears right after m. AZ shifts from the topic of idolatry to the topic of Gentile wine in m. AZ 4:8. The mishna appears in b. AZ on 55a-b:

דורכין עם הנכרי בגת אבל לא בוצרי' עמו ישראל שהוא עושה בטומאה לא דורכין ולא בוצרין עמו אבל מוליכין
עמו חביות לגת ומביאין עמו מן הגת

The continuation of this mishna expresses a parallel ruling for the preparation of bread: One may not directly aid a Jewish baker who prepares bread in a state of impurity, but one may take part in transporting his loaves.

17 AZ 59a, ms. JTS:

ר' חייא בר אבא איקלע לבי גבלא חזא הינן בנות ישראל דמיעברן מגרים שמלו ולא טבלו חזא חמרא דמזגי גוים
ושתו ישראל חזא תרמוסא דשלקי גוים ואכלי ישראל ולא אמ' להו ולא מידי אתא לקמיה דר' יוחנן אמ' ליה צא
והכריז על בניהם שהם ממזרים ועל יינם משום יין נסך ועל תרמוסן משום בשולי גוים

The story also appears on b. Yev 46a.

The story recounts a rabbi's visit to a Jewish community whose religious practice diverges from the rabbinic standards in the slightest of ways. As R. Hiyya bar Abba passes through the town of Bey Gavla, he notes discrepancies in local practice that are striking enough to pique his interest, but not sufficiently alarming that he feels moved to speak out against them. When he later reports on what he had noticed, however, his teacher R. Yohanan chastises him for keeping silent, and pronounces that the lapses that R. Hiyya witnessed are in fact so grievous as to disqualify the people of Bey Gavla from intermarrying with other Jews, and to render their wine and food unfit for Jewish consumption and trade.

The story engages Jewish law on both a practical and theoretical level. The three legal questions that the story highlights are all issues of lively debate among talmudic sages, and they are all specifically engaged within the pages of AZ. In each instance, there is some foundation to infer—as R. Hiyya does—that the practices of Bey Gavla are justifiable from the standpoint of rabbinic law. This makes the exacting certitude of R. Yohanan's harsh decree all the more arresting. A brief survey of the halakhic particulars with regard to the three practices that R. Hiyya observes in Bei Gavla will bring the contours of R. Yohanan's position into sharp relief:

- **Jewish women conceive with converts who have not yet immersed:**

The fetuses of these pregnant women occupy a contested legal space at the intersection of two ancient halakhic debates: 1. Is the offspring of a Jewish woman and a non-Jew to be considered a legitimate child of Israel, or a *mamzer*?¹⁸ 2. Is circumcision sufficient for effecting conversion in the absence of immersion?¹⁹ Given the confluence of two halakhic disagreements, there seems to be a strong foundation for regarding the children of these (almost-)converts with leniency. Even if according to the stricter view, prospective converts cannot be considered fully Jewish until immersion, given their liminal status on the threshold of conversion, it does not seem unreasonable to extend to their children the benefit of the doubt. For R. Yohanan, however, these extenuating circumstances are immaterial. One cannot be a little bit Jewish, any more than one can be a little bit pregnant. On questions of personal status, R. Yohanan banishes all shades of gray. For him, there is no in-between.

- **Wine mixed by non-Jews:**

This very issue is specifically addressed on the preceding page of AZ 58b. There, R. Yohanan pronounces that wine that is mixed by non-Jews is prohibited, and he acknowledges that this is a rabbinic stricture, not a scriptural prohibition. R. Yohanan's ban on mixed wine is prophylactic. It aims to prevent a breach of the scriptural prohibition on Gentile wine that is not mixed with water.²⁰ In asserting that the wine of the people of Bey Gavla is banned as *yeyn nesekh*, he asserts the authority of rabbis in general, and of himself in particular, to institute stringencies that exceed those set out by Scripture.

18 This debate unfolds on Yev 45a, where R. Yohanan is identified as one who holds the stringent position that the child of a Jewish woman and a non-Jewish man is a *mamzer*, the illegitimate child of a forbidden union. His opinion is cited in the gloss that directly follows our narrative on AZ 59a.

19 This second issue is debated by tannaitic authorities in a baraita that appears on Yev 46a. According to the gloss on our story that appears in AZ 59a, R. Yohanan maintains the stricter position in this debate as well.

20 On 58b and on 59a, this rationale is encapsulated by the rabbinic aphorism “Betake yourself away, we say to the Nazirite, turn away, turn away, and do not come near the vineyard.” Like the Nazirite, who is not expressly prohibited from entering a vineyard, but only from eating its fruit, a Jew is not scripturally prohibited from drinking a Gentile's mixed wine, but only from drinking wine that is undiluted. R. Yohanan, however, creates a rabbinic fence around the scriptural prohibition investing the aphorism's wise counsel with the force of law.

- **Lupin beans cooked by non-Jews:**

The halakha governing foodstuffs cooked by non-Jews is the subject of a disagreement between the authorities of Sura and Pumbedita, a debate that is first set out on AZ 38a, and then reprised on 59a, in the Bavli's gloss on our story. According to the tradition of Sura, the ban on Gentile cooking does not extend to food that is palatable in an uncooked state, while according to Pumbeditan tradition, the ban only extends to fine foods that might appear on a king's table. Since lupin beans cannot be eaten raw, and are not a royal food, the dish that R. Hiyya saw the Jews of Bey Gavla eating would be prohibited in Sura, but permitted in Pumbedita. The fact that the status of lupin beans is a subject that is disputed by the best rabbinic minds might seem to put the people of Bey Gavla in good halakhic company, but R. Yohanan rules against the beans nonetheless. In doing so, he adopts a stringency though there is a good foundation for leniency.

All three of the halakhic debates that are highlighted in the story of Bey Gavla involve legal questions of dubious certainty that have very high stakes. In decreeing that the community's wine and lupins are off-limits to Jews, R. Yohanan isolates the community, effectively segregating the people of Bey Gavla from social, religious and commercial interactions with other Jews. In declaring that their children are illegitimate, R. Yohanan prohibits other Jews from marrying them, effectively cutting Bey Gavla off from the Jewish people. One wonders why R. Yohanan so forcefully rejects R. Hiyya's instinct to disregard Bey Gavla's dubious practices. The story gives us every reason to think that the people of Bey Gavla are well-intentioned, pious Jews. Though they might be ignorant of the finer points of halakhic debate, they apparently observe the broad swath of commandments: R. Hiyya notes slight variations in their practice, but he has no quibbles with other aspects of their observance. Considering the controversial nature of these niggling discrepancies, and the grievous implications of a harsh verdict, why does R. Yohanan not deign to give the Jews of Bey Gavla the benefit of the doubt? Why does he clamp down with such unrelenting stringency? The Bavli itself addresses this precise question in the gloss to the story that directly follows the narrative.

As the Bavli points out, R. Yohanan's views on the offspring of not-yet immersed converts and on wine mixed by Gentiles are a matter of the talmudic record. On these two issues, he can have little wiggle-room, since he has staked out and publicized his rulings. On the question of cooked lupin beans, however, there is no evidence that R. Yohanan is aligned with any opinion. Why does he nonetheless impose a stricture?

“Their lupin beans are prohibited as the cooked food of Gentiles:” Since they are not people of Torah. The reason (for the prohibition) is that they (the people of Bey Gavla) are not people of Torah. Consequently, if they had been people of Torah, the lupins would have been permitted.²¹

The Bavli's gloss here explains that R. Yohanan would have allowed Torah scholars to eat the lupins, but he imposes a stricter standard on the Jews of Bey Gavla precisely because they are not “people of Torah.” For R. Yohanan, the ignorance of the Bey Gavla Jews is not a foundation for special pleading, but the opposite--it is because these Jews are not Torah scholars that R. Yohanan is moved to be so strict. While Torah scholars have the discernment to navigate subtle distinctions of the halakha, taking

21 AZ 59a, ms. JTS. (The round brackets are my insertions):

ועל תרמוסן משום בשולי גוים לפי שאינן בני תורה טעמא דאינן בני תורה הא בני תורה שרי

the necessary precautions so as not to overstep the sometimes elusive line between the permitted and the prohibited, simple Jews require a clear and straightforward boundary imposed from above. In providing the rationale for R. Yohanan's surprising stringency, the Bavli discerns that this narrative is not simply a case-story about three disputed areas of law; it is also a story with a meta-halakhic message, conveying a particular view on how law imposes boundaries in sites of contestation and liminality. According to the theory of halakha that R. Yohanan represents, scholars alone have the wherewithal to maneuver the complex network of branching paths that comprises halakha in its most lenient and subtle manifestation. Simple Jews require stringencies to keep them on the straight and narrow.

According to the reasoning imputed to R. Yohanan by the talmudic gloss, *Bey Gavla* is a portrait of what happens when ignorance and good intentions run amok. Left to their own devices, the pious people of *Bey Gavla* presume that men intent on conversion are suitable candidates for Jewish marriage as soon as they take the considerable step of circumcision. In the eyes of the law, however, the purest and most noble of intentions cannot on their own effect a change in personal status. Absent immersion, a prospective convert is but another name for a non-Jew. In banning further interactions with the commingled masses of *Bey Gavla*, R. Yohanan shores up the bright line of the law, reinforcing legal boundaries in the contested spaces and liminal places where the borderlines of the Jewish community have become most blurred. In this story, rabbinic anxiety about the porousness of the boundary between Jews and non-Jews is displaced onto Jews who do not uphold rabbinic strictures.

Read in this light, every detail of the story conveys rabbinic anxiety about the loosening of communal norms, and the resulting dissolution of Jewish difference. I propose that the place-name "*Bey Gavla*" like proper names in so many rabbinic stories, expresses the theme of the story. "*Gavla*," from the Aramaic גבל means to "mix," and in the Talmud the term is used to describe the mixing of clay (Shab 79a), of porridge (Shabbat 156a), and of food with wine (Git 70a). *Bey Gavla* represents a reality where Jews and others have been mixed and mingled to such a degree that R. Yohanan considers a distinctive Jewish identity to have utterly dissolved. Each halakhic detail within the story works on two levels, conveying a discrete legal conundrum, but also representing the central problem of the story in metaphoric terms. The pregnancy conceived of a union between a Jew and a convert of questionable status expresses the total inter-penetration of the familiar and the foreign, the hiddenness of the fetus conveying the invisibility of distinctions of identity and status. The cup of wine mixed with water by a non-Jew represents the intermingling of Jew and Gentile. Though the precise cultural resonance of lupins is difficult to gauge, the beans bring the duality of the raw and the cooked into play, hinting at how the transformative effects of culture—for good or for ill—cannot be reversed. All these details of the story cooperate in depicting *Bey Gavla* as a place where the boundaries between Jews and others are blurred to such a degree that a sense of Jewish difference is unrecoverable.

Though neither the story nor its accompanying interpretation explicitly mentions the *‘am ha-’aretz*, in setting "people of the Torah" apart from the confounding Jews of *Bey Gavla*, the Bavli here constructs a precise counterpart to the image of the *‘am ha-’aretz* that is conveyed elsewhere in the rabbinic corpus. As we have seen, the *‘am ha-’aretz* is characterized primarily in terms of his lapses in observance. Depending on the period of rabbinic history, he is variously denigrated for his lack of meticulousness in observing purity law, in separating tithes, or in upholding any number of scriptural commandments; he does not trouble himself with the details of religious practice. The "people of the Torah," on the other hand, are characterized by their scrupulousness about halakhic details. This august group of rabbis, their disciples, and their devotees are keenly attuned to fine legal distinctions, so they can be trusted to navigate the intricate convolutions of halakhic pathways, tracing the outer edges of rabbinic license without trespassing trip-lines of doubt, dissension, or assimilation. The story of *Bey Gavla* and its accompanying interpretation thus offer a conceptual introduction to the narrowing circle

of communal belonging which accompanies AZ's turn from non-Jewish others to non-rabbinic Jews.

Though the mishnayot that comprise the fifth and final chapter of m. AZ do not mention the 'am ha-'aretz at all, the talmudic discussion returns to him time and again. In three separate sugyot, the talmudic dialectic compares the strictures governing non-Jews and *yeyn nesekh* to rulings concerning the 'am ha-'aretz and ritual impurity.²² For example, on 70b, one sugya extrapolates a leniency in the law of *yeyn nesekh* by drawing an analogy to the laws of the 'am ha-'aretz. The issue under debate concerns a situation in which a Jewish wine merchant has left the key to her locked stores of wine in the keeping of her non-Jewish neighbor. In such a case, does the Jewish woman's wine come under suspicion as *yeyn nesekh*? Is the wine presumed to have been compromised by the non-Jew who holds the key? Abaye's support for a lenient ruling appeals to laws governing the 'am ha-'aretz:

Abaye said: We have learned similarly in a mishna:

In the case of a rabbi who gave his key to an 'am ha-'aretz, his pure produce remains pure, because he only charged him with safeguarding the key (not with guarding the actual produce.)

Now seeing as his pure produce remains pure, concerning *yeyn nesekh* how much the more so?

Is this to say that purity law is more stringent than the law of *yeyn nesekh*?

Yes! [For thus it was said]: Concerning a courtyard divided only by pegs (that a rabbi shares with an 'am ha-'aretz): Rav said: His pure things are rendered impure. But, in the case of a non-Jew, (the rabbi's wine) does not become *yeyn nesekh*.²³

Abaye's reasoning presumes that the laws distancing pure produce from the defilement of the 'am ha-'aretz are stricter than the laws protecting wine from contact with Gentiles. He makes an *a fortiori* argument that if leniency obtains in the case of the 'am ha-'aretz, it necessarily obtains in the case of the non-Jew as well. As the sugya continues, the anonymous voice questions Abaye's presumption, asking, "Is it really the case that purity law is more stringent than the law of *yeyn nesekh*?" Citation of an amoraic statement confirms Abaye's position, providing yet another tradition in which the potency of the 'am ha-'aretz threat to purity outstrips the power of Gentiles to disqualify wine.

In the passage above, when the anonymous voice balks at Abaye's presumption that the 'am ha-'aretz is a more severe case than the non-Jew, this incredulousness is well-placed. As I noted in Chapter IV, the overall impression conveyed by AZ is that non-Jews pose a dire threat to Jewish wine. The gravity of the *yeyn nesekh* issue is conveyed both by the tractate's relentless attention to the topic, and by the stringency that characterizes the whole body of law; as we have seen, the talmudic authorities

22 The first sugya that pursues this line of reasoning is on AZ 69a. It begins when the Gemara seeks to define the phrase "בחזקת המשתמר" or "presumed to have been watched," which appears in m. AZ 5:3. While the mishna deals with a non-Jew who is transporting wine, the Gemara's effort to explain the phrase is based on an analogy to 'am ha-'aretz donkey-drivers transporting produce that is pure. The second sugya is on 70b, and is presented below. The third sugya is on 75a, and compares the provisions that must be made to rid a wine-press of the taint of *yeyn nesekh* to the procedures for purifying a wine-press that has been touched by an 'am ha-'aretz.

23 From AZ 70b. The round brackets are my own insertions, while the square brackets indicate notes written in the margins of ms. JTS:

אמ' אביי אף אן נמי תנינא חבר שמסר מפתח לעם הארץ טהרותיו טהרות לפי שלא מסר לו אלא שמירת מפתח בלבד השתא טהרותיו טהרות יין נסך מיבעיא למימרא דטהרות אלימי מין נסך אין (דתינא)](דהא) [ד]איתמר] חצר החלוקה במסיפס אמ' רב טהרותיו טמאות ובגוי אינו עושה יין נסך

themselves acknowledge that the strictures surrounding *yeyn nesekh* are more extreme than either reason or scripture would seem to warrant. Against this background, Abaye's argument seems all the more astonishing. Abaye proposes--and the anonymous editorial voice confirms--that the defiling power of a fellow Jew poses an even worse threat to Jewish foodstuffs than does a non-Jew with unsupervised access to wine. Coming in the final pages of a treatise obsessed with the threatening touch of a non-Jew, this move has deep reverberations. Abaye's legal reasoning effectively demotes the non-Jew as "Halakhic Enemy Number One," installing the 'am ha-'aretz in his place.

To be sure, to say that the problem of impurity poses a more trenchant halakhic challenge than *yeyn nesekh* is not the same as directly vilifying the 'am ha-'aretz. The technical halakhic considerations under discussion in the sugya do not transparently translate into moral terms. That is: To be impure, even contagiously impure, is by no means an ethical failing.²⁴ But the defilement of 'am ha-'aretz is different than the impurity contracted by ancient Jews, because the figure of the 'am ha-'aretz is a projection of the rabbinic imagination that is never neutral. The 'am ha-'aretz is defined by his laxness with regard to religious requirements, and so his impurity is not accidental but a result of a willful lapse. Furthermore, the halakhic engagement with impurity in *Ha-sokher 'et Ha-po'el* is just one element of the thoroughgoing re-orientation of AZ's axis of otherness that occurs at the end of the tractate. Together with the rich narrative expressiveness of the Bey Gavla story and with the emergence of the designation "people of Torah," the new focus on the toxicity of the 'am ha-'aretz effectively transfers the suspicion and resentment that was earlier directed across the Jewish-Gentile divide to targets within a Jewish circle.

One way to make sense of AZ's late-breaking shift in targets is through a power analysis. While the creators of the Bavli generally enjoy far more autonomy and freedom under Sasanian rule than do their counterparts living under Roman rule in Palestine, even in the best of times, the Babylonian rabbis remain a tolerated minority whose freedoms and flourishing are circumscribed by imperial prerogative. In this political context, to focus on the non-Jew is to confront Jewish vulnerability. AZ opens with a story of future divine judgment, because in the face of implacable Gentile power, rabbinic expectations for justice can only be pushed off into the eschatological age. Rabbis have no power to dictate law outside the narrow realm granted by non-Jewish authorities, and even among Jews, their power depends on the deference of those they seek to govern. When the editors of AZ focus their energies on the laws of *yeyn nesekh*, calling on Jews to refrain from interactions with non-Jews, they tacitly acknowledge the limits of rabbinic authority, and cordon off a separate Jewish realm where they can exert control. In ultimately transferring their attention from the threat of the non-Jew to the threat of the 'am ha-'aretz, the editors assert their authority in the limited domain they claim for their own rule.

A power analysis alone, however, does not penetrate the depths of the change that occurs at the end of AZ. The shift from the non-Jew to the 'am ha-'aretz is more subtle and more interesting than the mere exchange of external enemies for internal ones, because non-Jews and 'amey ha-'aretz are not equivalent categories. The designation "non-Jew" corresponds to actual people who lived and acted in a historical reality outside the discursive world of the Bavli. While the specific depictions of non-Jews in AZ might owe more to rabbinic fantasy and anxiety than they do to their counterparts in the real world, it is nonetheless the case that the Babylonian rabbis had neighbors, rulers, employees, and trade partners who were not Jews. This means that AZ's engagement with non-Jews emerges out of and in turn conditions social realities external to the talmudic text. The term "'am ha-'aretz" is an entirely different kind of designation, in that it does not correspond to any actual social group. It is an

24 This point is central to both Chris Hayes and Jonathan Klawans work in distinguishing the category of ritual impurity from the rhetoric of moral impurity. See Hayes, *Gentile Impurities and Jewish Identities: Inter-marriage and Conversion from the Bible to the Talmud* (New York: Oxford University Press, 2002), and Klawans, *Impurity and Sin in Ancient Judaism* (Oxford: Oxford University Press, 2000).

evaluative epithet, not an identity, a cipher for that which the rabbis disdain as other. In heaping their contempt upon the *‘am ha-’aretz*, the editors are not vilifying actual people so much as concretizing what they value most. Insofar as the *‘am ha-’aretz* is but a projection of rabbinic values, his prominence in AZ's final pages registers a shift in how the editors constitute their own identities as Jews and as rabbis.

One way to characterize this change is as a move away from the externals of social position and toward interiority and subjective measures of belonging. In the end, AZ's investigation of what it means to be human drills down to essences. Rabbinic values are dressed in flesh and projected onto the opposing types of *bney Torah*, on the one hand, and *‘amey ha-’aretz* on the other. In contrast to earlier parts of the tractate, where otherness is a feature of group identity and non-Jews are repudiated solely on the basis of their status as non-Jews, here otherness is defined in relation to the rabbinic sense of Torah, and the supreme value of learning. The rejection of the *‘am ha-’aretz* follows inextricably from the *‘am ha-’aretz*'s rejection of Torah. When we come to AZ's closing story, the full extent of this shift becomes evident. In the story of King Shapur, a non-Jew is valorized for his embrace of Torah, even as a Jew is disparaged and debased.

The Last Word (AZ 76b)

The immediate context for the story of King Shapur is a brief discussion of the necessary procedures for purifying kitchen implements when they are acquired from non-Jews. According to the Mishna, a knife merely needs to be polished, and it is acceptable for Jewish use.²⁵ A series of amoraic traditions add further strictures. According to Mar Ukva bar Hama, polishing alone does not suffice; the knife must be stuck into the ground ten times. Rav Kahana adds that this only works if the knife does not have any nicks in it. Rav Huna son of Rav Yehoshua further stipulates that the ground must be untilled, and that this only obtains when the knife is used for cold foods. It is at this point that the Bavli offers the following story as an illustration:

Mar Yehuda and Bati bar Tuvi were sitting in the presence of King Shapur. They were served a citron. The king cut a piece and ate it. He cut another piece and gave it to Bati bar Tuvi. He stuck the knife into the earth ten times, cut another piece and gave it to Mar Yehuda. Bati bar Tuvi said to him, “And am I not a Jew?” He said (turning to Mar Yehuda), “With you, I am certain of this, but with you (turning to Bati Bar Tuvi), I am not certain.”

Some say he said to him: “Remember what you did last night!”²⁶

In its brevity, its unexpected reversals, and its use of stock characters, this short narrative shares many features in common with jokes. Though the central character shares a name with two known historical personages—King Shapur I ruled the Sasanian empire in the third century, while King Shapur II ruled in the fourth century—in the absence of any details that tie the story to a specific

²⁵ The last clause of m. AZ 5:12 is treated on b. AZ 76b:

הסכין שפה והיא טהורה

²⁶ b. AZ 76b, ms. JTS. The round brackets are my additions:

מ' יהודה ובאטי בר טובי הוו יתבי קמיה דשבור מלכא איתנו לקמיה אתרוגא פסק ואכל פסק והב ליה לבאטי בר טובי נעצה עשרה זימני בארעא פסק והב ליה למ' יהודה אמ' ליה באטי וההוא גברא לאו יהודאה הוא אמ' ליה מר קים לי בגויה ומר לא קים לי בגויה ואיכא דאמרי הכי אמ' ליה אידכר מאי עבדת באורתא

historical context, the appellation is best understood as a stock reference to a Persian ruler.²⁷ The character of Mar Yehuda can similarly be understood as a type: While the title “Mar” connotes an exilarch, the fact that this figure is not mentioned elsewhere in the Bavli suggests that he is a generic representative of rabbinic authority rather than a specific historical personage.²⁸ It is thus fitting that his name is roughly equivalent to the designation “His Honor Mr. Jew.” Bati bar Tuvi, the character who completes this trio of characters, is a figure who functions a bit differently, in that he represents a type that is harder to label.²⁹ Indeed, it is the very difficulty of fixing his identity that constitutes the central narrative tension. In recounting what happens when these three disparate characters come together, the storyteller appeals to stereotyped notions of identity and difference, much like a comic who reports on what happens when “A rabbi, the pope, and President Obama walk into a bar.” Like any good joke, this talmudic anecdote not only exposes the shortcomings of conventional understandings, it also cleverly up-ends them. As a punchline to AZ as a whole, the story is as funny as it is profound.

As has often been observed, there is no surer way to ruin a joke than to try to explain it. The risk nonetheless seems worth it to me, in part because the passage of time and the history of the Bavli's reception have already conspired to squeeze so much of the levity out of the talmudic text. To my mind, the very appeal to a Persian king as an exemplar of halakhic propriety cannot but be read as a touch of whimsy; the fact that the aim of the particular practice King Shapur here upholds is to distance Jews from the defilements of Gentiles makes for an irony that is razor-sharp. When the alternative tradition appended to the end injects the whole incident with sexual innuendo, this is but a final confirmation that the story is a joke. And yet, King Shapur's kashering procedures have nonetheless been read straight, as halakhic support for the amoraic strictures that precede his story.

As I have argued above with regard to other stories within AZ, King Shapur's story functions in multiple ways, and so it requires an interpretation that is layered. Read on its own, the story is best understood as a joke. At the same time, within its immediate dialectical context, the tradition indeed provides evidence for normative halakhic practice. Ultimately, King Shapur's story serves as a fitting finale to the whirling twists and turns of AZ as a whole because of the way it reverses the opening sugya's summary judgment of non-Jews. All of this is to say that this is a tradition that is overdetermined, just like many jokes are.³⁰

According to literary theorist Susan Purdie, there are two major schools of thought with regard to what makes a joke funny.³¹ The first approach, which she calls “the superiority theory,” emphasizes

27 Geoffrey Herman proposes that “Shapur” functions as a “typological name” that can be applied to any Sasanian ruler in his discussion of this story in *A Prince Without a Kingdom: The Exilarch in the Sasanian Era* (Tubingen: Mohr Siebeck, 2012), 308-9. Jason Mokhtarian further develops this point in the context of his larger argument that Shapur serves as an icon of power for both the rabbinic community of Babylonia, and for their fellow Sasanian subjects. See “Empire and Authority in Sasanian Babylonia: The Rabbis and King Shapur in Dialogue,” *Jewish Studies Quarterly* 19:2 (2012), 148-80, especially 150 and his reading of this story beginning on 176.

28 While Sherira Gaon's epistle lists Mar Yehuda as an exilarch, Herman argues persuasively that this claim is based on extrapolations that Sherira makes from our story: the title “Mar,” and the character's presence in the king's court both bespeak the station of the exilarchate. See Herman, 308-9.

29 Bati is a character who appears elsewhere in the Bavli. In a passage in b. Kid 70b that records the names of Jews of questionable parentage, Bati is identified as a former slave who arrogantly refused to accept his deed of emancipation. Here, however, this infamous character is disparaged on different grounds.

30 Sigmund Freud famously calls attention to this aspect of joking. Emphasizing the pleasure of psychic liberation that comes from joking about sex and aggression, he argues that “in the case of a tendentious joke, we are not able by our feelings to determine which part of our pleasure derives from its technique, and which from its standpoint. Thus, strictly speaking, we do not know what we are laughing at.” Sigmund Freud, *Jokes and Their Relation to the Unconscious*, trans. James Strachey (New York: Norton, 1963), 102.

31 Susan Purdie, *Comedy: The Mastery of Discourse* (New York: Harvester Wheatsheaf, 1993), 6.

the social aspect of joking, and argues that it is the degradation of others that elicits laughter.³² The second approach, “the incongruity theory,” calls attention instead to how a joke juxtaposes disparate objects and ideas in unexpected ways.³³ Both approaches inform my understanding of the King Shapur story.

Within the narrated world, when King Shapur has a laugh at Bati Bar Tuvi's expense, the superiority theory effectively captures the social undercurrents of the exchange. Over the course of the short narrative, King Shapur degrades Bati in three distinct ways. The first offense is an act of omission, as the king extends the courtesy of kashering his knife to Mar Yehuda, but not to Bati. Then, when Bati protests, King Shapur expresses an explicit put-down, claiming that Bati's Jewish identity is not self-evident. Finally, according to the ending that “some say,” the king suggests that it is Bati's nighttime escapades that disqualify him from the considerations due his fellow guest. The consensus among the traditional commentaries is that King Shapur here refers to sexual dalliances on Bati's part. King Shapur thus casts aspersions not only on Bati's commitment to Jewish religious practice, but also on his personal virtue.

Though Mar Yehuda remains silent throughout this exchange, his status is enhanced by Bati's degradation. In serving as the audience for the king's joke, he gains a special intimacy with the king. Purdie highlights this aspect of joke-telling when she calls attention to how a joke re-configures the positions of the teller, the listener, and the butt:

[A relationship is] formed collusively between the joke's Teller and its Audience (of one or more), which depends upon and creates their object's exclusion. This generates a delicious intimacy, which is pleasurable and powerful in itself, for important parts of the joking utterance remain tacit. . . so that the joking moment allows an unusual and potent joint subjectivity.³⁴

Purdie's account captures the subtle social undercurrents of the encounter among King Shapur, Mar Yehuda, and Bati Bar Tuvi. At the beginning of the story, the two Jewish guests are on equal footing; their joint audience in the royal court means that they both have been singled out for special privilege. As the narrative unfolds, Bati's position slips lower and lower and he becomes increasingly isolated; at the same time, Mar Yehuda is promoted and drawn closer to the king. By the end of the story, relationships have been re-aligned so that the king and rabbi form a united front, joined in laughter and joint understanding, while Bati, the butt of the joke, is excluded from their bond.

The superiority theory of comedy helps elucidate how King Shapur's joke functions as a power play that re-shuffles social station, but this approach alone does not fully account for the story's punch. The comedy here is not broad, but pointed, and it turns on the incongruousness of seeing a non-Jew upbraid a Jew for his failures of piety. This is the narrative's ironic twist: A non-Jew is cast as sentry over Jewish identity, and he inscribes a boundary for Jewish belonging that excludes a prominent Jew.

Read in this light, King Shapur's story captures in vivid miniature the very shift in boundaries and alignments that characterizes this whole section of the tractate. In the traditions that precede this story, the *'am ha-'aretz* displaces the non-Jew as a source of defilement and an object of revulsion. The chief problem with the *'am ha-'aretz* is his disregard for the markers that distinguish Jews from non-Jews. A non-Jew who respects the social and religious boundaries that divide Jews and Gentiles is far less threatening than a Jewish boundary-crosser. King Shapur's character plays just this role when he

32 Among the thinkers that Purdie puts in this camp are Plato, Sidney, Hobbes, and Bergson. Purdie, 9, note 3.

33 This camp includes Beattie, Kant, Schopenhauer, Emerson, Arthur Koestler and Jonathan Miller. Purdie, 9, note 3.

34 Purdie, 5.

aligns himself with the rabbis in upholding Jewish ritual distinctions. In this story, Gentile authority joins rabbinic authority in castigating Jews who undermine Jewish difference.

In addition to the joke on Bati that is staged within the world of the narrative, there is another level of jesting here, a winking collusion between the talmudic narrator and the rabbinic audience of AZ. The student of the tractate has come to understand the extensive body of law governing Gentile food and wine as an elaborate system for distancing Jews from close relationships with non-Jews. In depicting a non-Jew as a willing partner in the observance of these strictures, the storyteller now drives a wedge between the particulars of the law and their rationale. King Shapur honors rabbinic stringencies that separate Jews from non-Jews, and it is his very attentiveness to the details of law that allow for commensality. Even as the story upholds the legal minutiae that AZ elaborates, it dissolves the conceptual framework in which they take shape, reconfiguring the stringencies into a very different kind of boundary. King Shapur's story suggests that though dietary restrictions need not be a barrier to social interactions with Gentiles, they are a barrier to relationships with Jews who do not uphold the finer points of rabbinic law. As AZ concludes, the editors use the closing narrative to assign new meaning to *yeyn nesekh* and other rabbinic institutions of social separation; these stringencies become expressions not of Jewish distinction, but of an even more exclusive circle of rabbinic insiders. In the discursive world of the Bavli as in the miniature drama within King Shapur's court, Jews who do not observe the finer points of rabbinic law are rejected.

Even as the story of King Shapur joins other traditions in the closing section of AZ in reconfiguring lines of exclusion and belonging, the story returns to the themes and motifs with which the tractate as a whole opens. In AZ's opening sugya, we read a story of divine judgment. God nestles a Torah scroll in His lap and proclaims, "May all who busied themselves with this come and claim their reward." Rome, Persia, and a parade of other foreign powers crowd into God's court to plead their case, and God rejects all non-Jews as irredeemable. Even when God gives them another chance to prove themselves, the assembled non-Jews fail to fulfill even the easiest precept, sitting in a sukka. God laughs at their failure, rejecting them. The closing portrait of King Shapur opposes this depiction of non-Jews point for point: Shapur is the author of a joke, and not its butt. He is valorized, and not rejected. Though he does not sit in the sukka, he lavishes the full demands of Jewish law on the citron he holds in his hand. Shapur meets the precise standard articulated by the divine judge when he upholds the most exacting stringencies of Torah with meticulousness. Though he is a non-Jew, he qualifies as "a person of Torah."

The portrait of King Shapur that the closing story offers is of course not the first time that AZ opposes or undermines the opening sugya's condemnation of Gentiles—the tractate as a whole alternates between negative and positive depictions of non-Jews. Claims for Jewish superiority jostle with acknowledgments of a common humanity as boundary-lines of belonging move up and down the chain of being. The valorization of the Persian king with which the tractate ends—like the condemnation of Gentile nations with which the tractate opens—is best understood as the swing of a pendulum in perpetual motion. The dialectic refuses to throw its weight behind a single conception of humanity, but rather inscribes the bounds of its discourse around the polarities of identity and difference, attraction and repulsion. Nevertheless, it strikes me as somehow significant that after all the back-and-forth of claims and counter-claims, reversals and inversions, AZ gives a non-Jew the last word. In the end, perhaps the scales tilt ever so slightly toward the universal.

King Shapur's story provides a vivid example of how literary analysis serves to uncover an ethical dimension of the Bavli. King Shapur is a stock character, but his story shakes free of the formulaic. In staging a joke within the narrative, the storyteller digs underneath the rigidities of labels and types and forges a moment of human connection. When a joke works, there is a meeting of minds, a bond of mutual understanding: A flash of a smile, a glint in the eye, and for a moment differences fade.

Capturing the spark of connection that unites a Gentile king and a rabbi, the storyteller gestures toward an ethical moment that can live in between legal strictures and beyond entrenched hierarchies. Though the bond between Jew and non-Jew here is ever so slight and glancing, the story nonetheless opens a space for relationship across the Jewish-Gentile divide that deliberations about law could not prescribe or predict. With its crosscurrents of law and narrative, arguments and counterexamples, the Bavli's discourse is distinctly suited to depicting the contingencies of human relationship and the rich particulars of lived experience. Throughout AZ, it is this discursive mix that resists any unitary vision of what constitutes Jewish difference, and instead draws and re-draws circles of commonality, connection, and responsibility.

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