

INTRODUCTION

The Babylonian Talmud (or Bavli), which was produced in the Jewish academies of sixth- and seventh-century Mesopotamia, is a composite document that proceeds by reproducing earlier literary traditions and placing them within anonymous discursive frameworks.¹ This book concerns the relationship between the creators of the Talmud and these traditions.

For a long time, the Talmud was seen as a conservative storehouse of its traditions, but in the past few decades scholars have recognized the creativity that went into its compilation. Still, even recent accounts of the Talmud's formation understand this creativity in terms of continuity with tradition. The scholars who shaped the Talmud, according to these accounts, creatively revised or interpreted traditions to fit new ideas and contexts, but they did so precisely because they made no distinctions between themselves and the material they received; alternatively, these scholars were aware that their interpretation of tradition was innovative, but saw in it the restoration or recovery of lost meaning. In contrast with these accounts, this book argues that a discontinuity with tradition and the past is central to the Talmud's literary design and to the self-conception of its creators.

The "tradition" in the title of this book refers to the body of received literary material—dicta, teachings, exegetical comments, etc.—which is

1 On the dating of the Talmud, see Richard Kalmin, "The Formation and Character of the Babylonian Talmud," in *The Cambridge History of Judaism IV: The Late Roman-Rabbinic Period* (ed. S. T. Katz; Cambridge: Cambridge University Press, 2006), 840–76 (840). On the last stages of the development, see in particular Yaacov Sussmann, "Veshuv li-yerushalmi neziqin," in *Talmudic Studies I* (ed. Y. Sussmann and D. Rosenthal; Jerusalem: Magnes, 1990), 55–134 (101–3 and 106–11). On the academic context, see David Goodblatt, "The History of the Babylonian Academies," in *The Cambridge History of Judaism IV: The Late Roman-Rabbinic Period*, 821–39; Jeffrey Rubenstein, "The Rise of the Babylonian Rabbinic Academy: A Reexamination of the Talmudic Evidence," *Jewish Studies: an Internet Journal* 1 (2002), 55–68.

identified and represented in the Talmud as received material. There are, to be sure, other ways in which we can speak of tradition in the Talmud: in its literary practice, the Talmud continues a tradition of composition that is evident in earlier rabbinic documents; the Talmud's imagery and ideas are drawn from a broad Jewish tradition that goes back many centuries; some traditional textual material—especially terms, formulations, and structures—had a considerable role in shaping the Talmud, but the Talmud's creators embed this material in their composition rather than quote it, not marking it as received from other sources. One cannot speak of the Talmud's literary formation without touching on these matters, but they are not the subject of this book.

My discussion of tradition here centers on the ways in which the designation of something as "traditional" can be used to invoke discontinuity. We can say, for example, of a certain style that it is "traditional" in order to contrast it with "contemporary," and whether we use this contrast to praise or condemn, we indicate with it that the "traditional" style is no longer "contemporary," that there is a difference between that which belongs strictly to the present and that which we received from the past. A similar function of marking something as "traditional" occurs in some religious, legal, and philosophical traditions that distinguish between different kinds of justifications and commitments: in some Talmudic passages, for example, justification that appeals to tradition is distinguished from justification that appeals to reason or logical deduction. This use of "tradition" contrasts what our own reason guides us to do or think with what tradition guides us to do or think. In both of these contrasts, the one between the past and the present and the one between reason and tradition, we posit a gap between us and what is termed "tradition": this is "traditional" rather than "contemporary" because our style has changed; this is based on "tradition" and not on "reason" because we would have acted differently if it were not for tradition.

The first part of this book proposes that this alterity of tradition is central to the Bavli's literary design. The Talmud's creators employ a variety of compositional techniques to create a distance between themselves and the traditions they quote, highlight the contrast between themselves and these traditions, and present these traditions as the product of personal motives of past authorities. While they remain authoritative and binding, these traditions' claim to enduring validity is significantly undermined; they are fossilized and contained in the past, estranged from the Talmud's audience. The second part of the book argues that the Talmud's creators defined themselves in opposition to those who focused on the transmission of tradition, and that the opposition and hierarchy they created between scholars and transmitters allows us both to understand better the way they conceived of their project as well as to see this project as

part of a debate about sacred texts within the Jewish community and more broadly in late ancient Mesopotamia.

THE CURRENT VIEW OF THE TALMUD'S AUTHORSHIP AND ITS INTELLECTUAL ORIGINS²

Scholarship from the second half of the twentieth century on has concentrated on the literary artifice of the Talmud's redactors or creators, replacing the model by which the Talmud was seen as a thesaurus faithfully conserving the traditions of the Tannaitic and Amoraic periods.³ A variety of formative literary activities was now attributed to the sages living toward the end of what we call the Talmudic period, whether scholars chose to identify these sages with the last generations of the Amoraic period,⁴ with the enigmatic *savora'im* known from traditional rabbinic chronologies,⁵ or with the modern construct Stammaim ("those of the

2 I focus here only on developments in recent decades, without an attempt to offer a comprehensive history of critical scholarship; earlier theories are mentioned occasionally, especially in the footnotes. For doxographies of earlier studies on the Talmud's formation, see Mordechai Tenenblatt, *The Formation of the Babylonian Talmud* (Heb.; Tel Aviv: Dvir, 1972), and Jacob Neusner (ed.), *The Formation of the Babylonian Talmud: Studies in the Achievements of Late Nineteenth and Twentieth Century Historical and Literary-Critical Research* (Leiden: Brill, 1970).

3 Earlier studies that were particularly determinative of this development include Nehemia Brüll, "Die Entstehungsgeschichte des Babylonischen Talmud als Schriftwerkes," in idem, *Jahrbücher für Jüdische Geschichte und Literatur II* (Frankfurt: W. Erras, 1876), 1–123 (see, e.g., the famous line on p. 20, "R. Abina hat . . . die Tradition in Literatur verwandelt"); Israel Lewy's introduction to his *Interpretation des I.–VI. Abschnittes des päläst. Talmud-Traktats Nesikin* (Heb. and Ger.; Breslau, 1895–1914; repr. Jerusalem: Kedem, 1970), 1–23; Julius Kaplan, *The Redaction of the Babylonian Talmud* (New York: Bloch, 1933); and Abraham Weiss's works, e.g., *The Talmud in its Development* (Heb.; New York: Feldheim, 1954).

4 In early studies that did focus on literary activity, that was the prevailing view. See, e.g., Brüll, "Entstehungsgeschichte"; in contemporary scholarship, see Robert Brody, "The Anonymous Talmud and the Words of the Amoraim" (Heb.), in *Iggud: Selected Essays in Jewish Studies: Volume 1* (Heb.; ed. B. J. Schwartz, A. Shemesh, and A. Melamed; Jerusalem: Magnes, 2009), 213–32 (226–27).

5 See, e.g., Kaplan, *Redaction*; for later studies, see Richard Kalmin, *The Redaction of the Babylonian Talmud: Amoraic or Saboraic* (Cincinnati: Hebrew Union College Press, 1989), though "Saboraic" there seems to mean mostly "post-Amoraic." The main reason *not* to identify the redaction of the Talmud with these sages is that the activities attributed to them in Geonic-period literature are mostly additions to what seems to be an already crystallized text, whereas the creators of the Talmud as we know them now have done much more than that; see, e.g., David Halivni, *Sources and Traditions: A Source Critical Commentary on the Talmud: Tractate Baba Bathra* (Heb.; Jerusalem: Magnes, 2007), 10–11. One wonders, however, whether the Geonim saw it that way.

anonymous voice” or “anonymous ones”), or use generic terms such as *aḥaronim* (“later ones”).⁶

The literary activities that scholars now attribute to these later sages include the composition of the *stam*—the anonymous, discursive, interpretive layer of the Talmud; the shaping of the *sugyot* (sing. *sugya*)—the “discourses” or “essays” that constitute the Talmud; the adaptation and transformation of various Tannaitic and Amoraic sources embedded in the Talmud; and, in some cases, the composition of Talmudic stories.

While the image of the Talmud’s creators that emerged from these studies was of great innovators of striking originality, scholars have explained this creativity in terms of continuity with tradition. According to David Weiss Halivni, the Talmud’s authors, or Stammaim (as he calls them), received their traditions in “apodictic” form, without reasoning or justification. They then reproduced what they received faithfully, and composed the anonymous layer in order to justify these traditions. Their enterprise is thus innovative in the sense that for the first time the reasoning of tradition was put into literary form, but it is essentially a reconstructive enterprise, whereby the later generation recovers lost meaning and justifies its heritage.⁷

Shamma Friedman sees the Bavli’s authors as “creative transmitters”: they do not reproduce the earlier traditions verbatim, but rather constantly adapt, appropriate, and reformulate these traditions in order to “improve” them (Friedman’s term) and harmonize them with new literary, legal, and ideological contexts.⁸ Here the Bavli’s creators are inno-

6 See, e.g., Sussmann, “Yerushalmi,” 109 n. 204.

7 Halivni developed his theory of the Talmud’s formation in the introductions to the volumes of his *Sources and Traditions*; the most recent account is in *MM BB*, 1–148. A much shorter version of this introduction appeared in English as “Aspects of the Formation of the Talmud” (trans. and ed. J. Rubenstein), in *Creation and Composition* (ed. J. Rubenstein; Tübingen: Mohr Siebeck, 2005), 339–60. While this introduction is comprehensive, it is naturally more concerned with new developments in Halivni’s approach as well as responses to various criticisms; for a more general account of his theory, see David Halivni, *Midrash, Mishnah and Gemara: The Jewish Predilection for Justified Law* (Cambridge, MA: Harvard University Press, 1986), 76–92.

8 Friedman’s classical statement on the Talmud’s formation is “A Critical Study of Yevamot X with a Methodological Introduction” (Heb.), in *Texts and Studies: Analecta Judaica I* (Heb.; ed. H. Z. Dimitrovsky; New York: Jewish Theological Seminary of America, 1977), 275–441 (especially 283–301). He developed his notion of “creative transmission” to explain variation in the manuscripts of the Talmud (see idem, “On the Formation of Textual Variation in the Bavli” [Heb.], *Sidra* 7 [1991], 67–102), and then subsequently applied it to rabbinic literary production in general, and to the Bavli’s treatment of its sources in particular; see idem, “Ha-baraitot ba-talmud ha-bavli ve-yahasan le-maqbiloteihen sheba-tosefta,” in *Atara L’haim: Studies in the Talmud and Medieval Rabbinic Literature in Honor of Professor Haim Zalman Dimitrovsky* (Heb.; ed. D. Boyarin et al.; Jerusalem: Magnes, 2000), 163–201 (191–92). This note refers to the original publications for

vating through the changes that they introduce to tradition, but the continuity between them and their sources is even more pronounced than it is in Halivni's model. These creators express their voice through the modification of their sources, by retrojecting their words or opinions into traditions attributed to past authorities, often unconsciously. They sense such a continuity between themselves and their literary heritage that they simply reconstruct it in their own image.

Yaakov Sussmann similarly presents the post-Amoraic stage as the stage in which the Talmud became the Talmud, attributing the structuring, final formulation, and organization of *sugyot* to the later generations. But Sussmann, too, presents this composition as an unconscious process that blurs the lines between tradition and interpretation, between early and late, between the Talmud and the traditions it utilizes.⁹

Jacob Neusner's account differs from those of Halivni, Friedman, and Sussmann in the consciousness, purpose, and confidence that he attributes to what he terms "the Bavli's authorship," but his model also posits a continuity with tradition. Neusner argues that through a process of selection, reformulation, and systematization, the Bavli's creators form a single, unified voice with a coherent message to which tradition is subjugated or adapted.¹⁰

These studies, then, locate Talmudic creativity in the attribution of new concepts, ideas, and interpretations to earlier sources, through either the composition of commentary on earlier traditions, the revision of these traditions, or the composition of new traditions that are then attributed to earlier sages. These activities themselves are often construed as unconscious (thus Sussmann and Friedman—as well as Jeffrey Rubenstein and Daniel Boyarin),¹¹ and even when consciousness exists, it is described in terms of restoration and recovery (Halivni), of a sense of continuity that allows for creative transmission (Friedman), or of a homogenizing authorship that constructs a unified system from received

historical purpose; references from here on are to the versions reprinted in Friedman's collected studies.

9 Sussmann, "Yerushalmi"; see especially 108–11 and nn. as well as 105 and n. 196.

10 See Neusner's summary of his studies on the Bavli in Jacob Neusner, *The Bavli's One Voice: Types and Forms of Analytical Discourse and their Fixed Order of Appearance* (Atlanta: Scholars Press, 1991), xvii–xxix. For a more recent recapitulation and conclusion of his ideas on the Bavli, see idem, *The Reader's Guide to the Talmud* (Leiden: Brill, 2001), especially 3–29 and 259–93.

11 Jeffrey Rubenstein, *The Culture of The Babylonian Talmud* (Baltimore: Johns Hopkins University Press, 2003), 6–7; Daniel Boyarin, *Border Lines: The Partition of Judaeo-Christianity* (Philadelphia: University of Pennsylvania Press, 2004), 66 and 154; idem, "Hellenism in Jewish Babylonia," in *The Cambridge Companion to the Talmud and Rabbinic Literature* (ed. C. E. Fonrobert and M. S. Jaffee; Cambridge: Cambridge University Press, 2007), 336–63 (342).

material (Neusner). The Talmud's creators, in these images, do not claim an identity or voice of their own, distinct from that of their traditions.

This image of Talmudic creativity is tied with specific images of tradition and authorship that derive in part from the rabbinic texts themselves and in part from modern theories of religion and literature. Rabbinic texts sometimes portray their own creativity as part of an almost timeless continuum that begins with the revelation at Mount Sinai and then unfolds through the ages; one famous teaching asserts that "Scripture, Mishnah, Talmud, Aggadah, and even what an advanced disciple will teach in the future before his teacher was already said to Moses on Sinai" (*y. Pe'ah* 2:6 17a and parallels).

One of the most influential modern accounts of this view is Gershom Scholem's essay, "Revelation and Tradition as Religious Categories in Judaism." Scholem not only explicates this idea but also connects it with the nature of rabbinic literary production:

What this claim amounted to was that all this [rabbinic teaching] was somehow part of revelation itself—and more: not only was it given along with revelation, but it was given in a special, *timeless* sphere of revelation in which all generations were gathered together. . . . The achievement of every generation, its contribution to tradition, was projected back into the *eternal present* of the revelation at Sinai. . . . The exploring scholar . . . develops and explains that which was transmitted on Sinai, no matter whether it was always known or whether it was forgotten and had to be discovered. The effort of the seeker after truth consists not in having new ideas but rather in *subordinating himself to the continuity of tradition* of the divine word and in laying open what he receives from it in the context of his time. . . . *this is a most important principle indeed for the kind of productivity we encounter in Jewish literature.*¹²

This passage illustrates well the various accounts of Talmudic composition surveyed above: the Bavli's creators freely mold the traditions they received in their own image, attribute to the earlier sages their own ideas or even compositions, or see in their activity the rediscovery or recovery of lost, eternal meaning.¹³

12 Gershom Scholem, "Revelation and Tradition as Religious Categories in Judaism" (trans. H. Schwarzschild and M. A. Meyer), in idem, *The Messianic Idea in Judaism* (New York: Schocken, 1971), 282–303 (288–89); emphases added.

13 A connection between statements like the one in *y. Pe'ah* and the act of the Talmud's composition is made in Sacha Stern, "Attribution and Authorship in the Babylonian Talmud," *JJS* 45 (1994), 28–51 (49–50), and idem, "The Concept of Authorship in the Babylonian Talmud," *JJS* 46 (1995), 183–95 (193–95). Stern recognizes that the Bavli also includes statements of the opposite kind—see "Attribution," 50, and especially

This focus on traditional continuity extends beyond the study of Judaism and it can be illustrated with two modern developments in the study of society and literature. The first development, common in sociologies and histories of religion, is suspicious of this sort of continuity claim and understands tradition as a form of power legitimation. Max Weber, for example, views tradition as a type of authority and understands claims to tradition as attempts to legitimize control over habits and practices by tracing this control, as well as a desired form of these habits and practices, to “the eternal yesterday.”¹⁴

The other development, celebratory rather than suspicious of traditional continuity, is evident in a variety of theories of interpretation, specifically Hans-Georg Gadamer’s. For Gadamer, the continuity of tradition functions not as a legitimation of domination but as a necessary, always-present condition for certain or even all kinds of interpretation: “the horizon of the present cannot be formed without the past . . . understanding is always the fusion of these horizons . . . in a tradition this process of fusion is continually going on, for there old and new are always combining into something of living value, without either being explicitly foregrounded from the other.”¹⁵

Modern accounts of tradition in rabbinic literature do not derive directly from these theories and do not follow them in their specific details,¹⁶ but both kinds of explanations for tradition—either as a form of legitimation or as a characteristic of interpretation—appear in Scholem’s essay as well as in accounts of Talmudic composition. The Talmud’s retrojection of new ideas, institutions, and interpretations to the past is explained as an ideologically driven way to legitimize them; the attribution of new literary creation to previous generations is explained as an exercise of claiming more authority for new literary material, similar to the

“Concept,” 186–89 and 195, where he discusses the “Bavli’s dialectical oscillation between creativity and tradition, individual authorship and collective anonymity,” but when he discusses the compositional practice itself, he only appeals to “tradition” and “collective anonymity.”

14 The classical division of types of authority appears in Max Weber, *Economy and Society: An Outline of Interpretive Sociology* (ed. G. Roth and C. Wittich; 2 vols.; Berkeley: University of California Press, 1968), 1.215. Weber uses the expression “the authority of ‘the eternal yesterday’” in another account of this division in his essay “Politics as a Vocation”; see *From Max Weber: Essays in Sociology* [2nd ed.] (ed. and trans. H. H. Gerth and C. Wright Mills; London: Routledge, 1991), 78–79.

15 Hans-Georg Gadamer, *Truth and Method* [2nd ed.] (trans. J. Weinsheimer and D. G. Marshall; London: Continuum, 2004), 305.

16 Gadamer’s hermeneutic theory was applied to the analysis of rabbinic sources, though not to the process of composition but rather to their practices of biblical exegesis. See Moshe Halbertal, *Values in Interpretation* (Heb.; Jerusalem: Magnes, 1998), 193–95.

practice of pseudepigraphy in the Second Temple period.¹⁷ Often at the same time, the Talmud's creative transmission of legal traditions and its retelling of narratives are described as the "fusion" that occurs in the process of traditional interpretation.

The emphasis in current models of Talmudic composition on revision and adaptation as the locus of literary creativity was determined in part by a turn away, in the study of rabbinic literature, from the traditional Western notion of authorship. This development is grounded in the observation of central features of rabbinic literature as well as explicit rabbinic statements: all classical rabbinic texts, including the Talmud, are anonymous; their transmitters, in some cases up until the advent of print, approached them as open texts to one degree or another, and they were subject to changes first by oral performers and then by scribes;¹⁸ many rabbinic texts are inconsistent and betray multiple authors with multiple concerns and styles; some rabbinic statements, such as the statement we have seen earlier from *y. Pe'ah*, devalue individual creativity and understand it in continuous, collective terms. Scholars have also used the work of Roland Barthes and Michel Foucault, which emphasized the historical particularity of our notion of authorship, to argue for the inapplicability of this notion to the analysis of rabbinic literature.¹⁹ The rising recognition in the second half of the twentieth century that many rabbinic texts, including the Talmud, were composed and transmitted orally, also contributed to this development, and rabbinic literary creativity in late antiquity was now seen as the performative, fluid inflection of tradition typical of oral cultures.²⁰

While these images of tradition, authorship, and literary production were often developed with the entirety of the classical rabbinic corpus in mind, here we are only concerned with their applicability to the Babylo-

17 The connection is made explicitly in Shamma Friedman, *Talmudic Studies: Investigating the Sugya, Variant Readings and Aggada* (Heb.; New York and Jerusalem: Jewish Theological Seminary, 2010), 61.

18 See Peter Schäfer, "Research into Rabbinic Literature: An Attempt to Define the *Status Quaestionis*," *JJS* 37 (1986), 139–52, and on the Bavli in particular, Friedman, *Talmudic Studies*, 163–64.

19 For a recent formulation of this view of rabbinic authorship in general, see Martin Jaffee, "Rabbinic Authorship as a Collective Enterprise," in *The Cambridge Companion to the Talmud* (ed. C. E. Fonrobert and M. S. Jaffee; Cambridge: Cambridge University Press, 2007), 17–37 (and the discussion of literary theory, 19–20 and 35 n. 2); see also Stern, "Attribution" (and the discussion of Barthes, 48–59) and "Concept," though by "authorship in the Bavli" Stern does not mean the self-conception and practices of the Bavli's creators but rather the way the document portrays the literary activity of the rabbi cited in it.

20 See, e.g., Sussmann, "Yerushalmi," 110 and n. 207, 108 n. 203; Boyarin, *Border Lines*, 66 and 154; Jaffee, "Rabbinic Authorship," 33–34.

nian Talmud; and with respect to this Talmud, I argue, these views offer only a partial picture.

THE TALMUDIC VEIL

We will have the chance in the next couple of chapters to rehearse in more detail some of the theories of the Talmud's formation. Here, I would like to discuss briefly how the purpose of the studies in which these theories were developed influenced their image of Talmudic literary creativity. As we have seen, one of the most common images of Talmudic authorship in these studies is the adaptation and modification of tradition, the retrojection of later words and ideas into received material through reformulation and contextualization. The choice to focus on these acts of composition rather than others derives, in part, from the interest of earlier scholarship not in the Talmud itself, but in the earlier Tannaitic and Amoraic traditions that it preserves, and more generally in its reliability as a witness for the periods prior to its composition.

This interest can be observed in several of the foundational documents of Talmudic scholarship in the past decades, which often portray the literary structure created by the Talmud's authors as a layer from which we have to excavate the Amoraic material that is really worthy of investigation. Friedman identifies the purpose of his method of Talmudic study in a key paragraph in the essay that has shaped the consensus among American scholars:

The collation of Amoraic formulations *apart from* the words of the anonymous layer of the Talmud shall place before scholars of Talmudic law, Jewish history and rabbinic language a *reliable corpus* of traditions, as opposed to the anonymous layer of the Talmud, in which many of the formulations, being the "give and take," are necessarily rejections and conjectures.²¹

E. S. Rosenthal, one of the most influential Israeli scholars, dedicated much of his research to the reconstruction of a "genuine Amoraic Talmud,"²² and opened his much-cited study of *b. Pesahim* with an impressive reconstruction of such an "early Talmud": an arrangement of Tannaitic and Amoraic traditions not yet embedded in the dialectical

21 Friedman, *Talmudic Studies*, 30. These words, published in 1977, were somewhat retracted in an article published in 2010—see *ibid.*, 60.

22 The expression itself appears in Eliezer S. Rosenthal, "Rav ben ahi rabbi hiyyah gam ben ahoto?" in *Henoah Yalon: Jubilee Volume* (Heb.; ed. S. Lieberman et al.; Jerusalem: Kiryat Sepher, 1963), 281–337 (322 n. 94); emphasis added.

construction that would characterize the developed *sugya*.²³ Sussmann concludes his influential essay on *Yerushalmi Neziqin* with the statement that the “essence” of the critical study of the Bavli is “the separation of the Amoraic nucleus and its various components from the late Babylonian *sugya*.”²⁴ It is significant that in this programmatic statement, Sussmann does not make the additional distinction between the words of the Talmud’s creators and even later interpretations, interpolations, and formulations, a distinction that he does make elsewhere:²⁵ when he thinks of the “essence” of Talmudic scholarship, the study of all post-Amoraic developments is ancillary. Halivni writes in his recent work about the purpose of his lifetime project: “we have dedicated much study to the time and enterprise of the Stammaim not because of their historical importance *per se*, but mostly because of their contribution to the contrived questions and the forced solutions in the Talmud.”²⁶ Even the study most dedicated to the Talmud’s authors sees in their enterprise a contrived interpretive layer that needs to be removed if we are to appreciate correctly the traditions it presents. As Halivni writes elsewhere: “between us and the Amoraim stand the Stammaim.”²⁷

This exclusive focus on the Amoraic period was driven by a variety of concerns, some of which have their roots in the medieval and early modern commentary tradition.²⁸ In the studies noted above, the anonymous layer was portrayed as mere literary artifice of contrived objections and solutions, as opposed to “reliable tradition,” a contrast that was given different meanings when used in a traditional context (we want to know the law, we have no interest in the rhetorical structure)²⁹ or a historical context (we want to know the Amoraic opinion, not some later interpretation of unknown origin).³⁰ To this was added a modern aesthetic sensibility that preferred the succinct Amoraic dicta over the “tralatitious” and “meandering” *sugyot*.³¹

Contemporary scholarship has increasingly focused on the Talmud as an object of study in its own right. To give just two pioneering examples,

23 Eliezer S. Rosenthal, “Le-’arikhat masekhet pesaḥ rishon: bavli” (Ph.D. dissertation, Hebrew University of Jerusalem, 1959), 1–5.

24 Sussmann, “Yerushalmi,” 113.

25 Sussmann, “Yerushalmi,” 109 n. 205.

26 Halivni, *MM BB*, 1.

27 Halivni, *Midrash*, 77.

28 See Friedman, *Talmudic Studies*, 12–15, and see more in the Conclusion of this book.

29 On this approach in medieval literature, see Yedidyā Dinari, “The Attitude to the Talmudic ‘shinuya’ in the Rabbinical Literature” (Heb.), *Bar Ilan* 12 (1974), 108–17.

30 See, e.g., the statements by Sussmann and Friedman cited above.

31 See Rosenthal’s description of Babylonian literary development in “Redaction,” 6.

Rubenstein's *Culture of the Babylonian Talmud* reconstructs the cultural values of the Bavli's creators,³² while Leib Moscovitz's *Talmudic Reasoning* gives these creators the same attention it gives Tannaitic and Amoraic sages, and reveals their determinative contribution to the history of legal abstraction in rabbinic literature.³³ Still, the former interest in the Amoraic material has shaped our rules of attention in a way that is evident even today. We have gotten so used to approaching the enterprise of the Talmud's creators as the veil through which we must look in order to see the real objects of our interest that even as we turn to that enterprise itself we continue to focus on its veiling functions, only now the veil itself has become our interest. The focus in so much of contemporary scholarship on adaptation, reformulation, and retrojection is thus continuous with the interests and methods developed by scholars who were not interested in the Talmud itself.

This focus has certainly produced great results for the study of the Bavli, and it is impossible to analyze a Babylonian *sugya* without encountering activities such as reformulation, adaptation, and interpolation. When this focus is exclusive, however, it can create a misleading image of the self-consciousness and purpose of the Bavli's creators. If we think of the Talmud's creators mostly as introducing unconscious modifications, as hiding themselves behind their traditions and retrojecting their own words and ideas into them,³⁴ as adapting tradition to new contexts and "improving" it,³⁵ it is because we have focused on these specific activities and not others. The Bavli's creators themselves are not hiding: they are there in almost every *sugya*, structuring the discussion and leading the reader (or listener) through the sources, expressing their voice in the anonymous discussion that organizes most of the Talmud. While their choice of anonymity in itself might be seen as an act of deference toward their predecessors, their literary practice betrays a different set of priorities. As Rosenthal writes, perhaps resentfully, of the dialectical move that characterizes the late, developed *sugya*:

This dialectical "move" overshadows the sources themselves (Mishnaic traditions, external traditions, Amoraic traditions), which are cited only, as it were, to be used as weapons in the war of Torah: a point of departure and "a proposition" to be disputed; a counter-proof; a supporting proof. *And the war is principal, and the weapon is merely auxiliary.*³⁶

32 Rubenstein, *Culture*.

33 Leib Moscovitz, *Talmudic Reasoning: From Casuistics to Conceptualization* (Tübingen: Mohr Siebeck, 2002); see especially the conclusion, 350–51.

34 Boyarin, "Hellenism," 342.

35 Friedman, "Baraitot," 191.

36 Rosenthal, "Redaction," 5; emphasis added.

Jacob Neusner's image of the Bavli's relationship with its traditions might also derive from his early interest in the reliability of the Bavli as a source for historical reconstruction; but more important is the fact that Neusner developed his account of the Bavli as part of a broader effort to establish his "Documentary Hypothesis." The "hypothesis" can be roughly summarized as suggesting that rabbinic texts (or "documents") present a coherent, systematic program, that each of them is to be read as a whole, that they subject each of their sources to a revision that imposes coherency, that they are not "compilations of this and that."³⁷

For Neusner, the Bavli is the jewel in the "documentary" crown: the Bavli "is not the product of a servility to the past . . . but of an exceptionally critical, autonomous rationalism."³⁸ It is the most documentary of documents, in that its authors created an absolutely systematic, homogenous text: "when reason governs, it reigns supreme and alone, revising the received materials and, through its powerful and rigorous logic, restating into a compelling statement the entirety of the prior heritage of information and thought."³⁹

Neusner's approach has been subjected to systematic criticism by a number of scholars;⁴⁰ the critical argument most relevant to our purposes here is that the Bavli, in the end, is far from a homogenous document: not only does it contain many redactional layers that contradict one another or respond to one another,⁴¹ but it also contains many sources that seem not to have been revised and do not conform to the rhetorical plan, message, or even idiom of the Bavli's creators.⁴² Some scholars have taken these unrevised sources as evidence for the absence of a guiding, deliberative authorial hand, not to mention Neusner's "autonomous rationalism."⁴³ In my discussions of Talmudic passages, I hope to show that it is precisely in the lack of revision that a critical authorship may be

37 Neusner summarizes his general position in Jacob Neusner, *Are the Talmuds Interchangeable?* (Atlanta: Scholars Press, 1995), ix–xiii.

38 Jacob Neusner, *Extra- and Non-Documentary Writing in the Canon of Formative Judaism: Volume 3: Peripatetic Parallels* (Binghamton: Binghamton University Global Publications, 2001), 44.

39 Neusner, *Reader's Guide*, 260.

40 See Schäfer, "Research," 146–50, and Robert Goldenberg, "Is 'The Talmud' a Document?" in *The Synoptic Problem in Rabbinic Literature* (ed. S. J. D. Cohen; Providence: Brown Judaic Studies, 2000), 3–12; see also the other articles in that volume by Christine Hayes, Richard Kalmin, and Hans-Jürgen Becker, as well as Cohen's introduction.

41 On the various kinds of layering that one can find within the redactional layer, see, e.g., David Rosenthal, "'Arikhot qedumot ha-meshuqa'ot ba-talmud ha-bavli," in *Talmudic Studies I* (ed. Y. Sussmann and D. Rosenthal; Jerusalem: Magnes, 1990), 155–204; Halivni, *MM BB*, 29–33 and 56–64; Friedman, *Talmudic Studies*, 55.

42 See Kalmin, "Formation," 844–45.

43 See, e.g., Jaffee, "Rabbinic Authorship," 31–32.

found; but it is the kind of critical authorship that transcends Neusner's dichotomy between "servility to the past" and "exceptional criticism."

OVERVIEW

This book examines compositional practices, historical developments, and passages revealing of the way the Talmud's creators conceived themselves in order to draw a different portrait of them. This portrait adds a different set of characteristics to those already recognized by current models. It complements the continuous creative revision with a freezing of tradition and its containment in a way that produces discontinuity; it complements the fusing of horizons with a literary design that *does* foreground one horizon from another; it shows that we find in the Talmud not only appeals to the "eternal present" or "eternal yesterday" but also pervasive literary techniques that thrive on the dialectic and distinction between the present and the past. While Talmudic composition certainly lacks some of the determinative features of Greco-Roman or modern authorial practice, it does, it will be argued, use an "author's voice," and it can distinguish this voice from that of its sources.

Part I of this book explores the Talmud's literary practice through a close analysis of selected passages, or *sugyot*.⁴⁴ My claim is not that these *sugyot* are more representative of Talmudic composition than the *sugyot* that have informed previous theories, or that the strategies observed in them are closer to some conjectured essence of this composition. Rather, my analyses of these *sugyot* seek to modify the way we see other Talmudic texts and compositional practices in two ways. First, since the literary strategies observed here expand our thesaurus of what the Talmud *can* do, they problematize accounts that explain the other types of practices by appeal to innate or universal characteristics; they warn us against assumptions about the textual practices of rabbinic, oral, pre-modern, or religious cultures. Second, and more important, these *sugyot* make explicit and visible aspects and potentialities of certain features of Talmudic composition that are less discernible, but still present, in other texts. These features include the division between the anonymous layer and the

44 On the *sugyot* and their development as the literary unit constituting the Talmud, see Abraham Weiss, *Studies in the Literature of the Amoraim* (Heb.; New York: Horeb Yeshiva University Press, 1972), 1–23; see also Louis Jacobs, "The Talmudic *Sugya* as a Literary Unit," *JJS* 24 (1974), 119–26. For an alternative account of the *sugya* that prefers "organic development" to "literary creation," see Robert Brody, "Sifrut ha-ge'onim v'ha-teqst ha-talmudi," in *Talmudic Studies I* (ed. Y. Sussmann and D. Rosenthal; Jerusalem: Magnes, 1990), 237–303 (252–55).

traditions it cites, as well as juxtaposition, sequence, attribution, and narration.

Chapter 1 centers on a *sugya* which, it will be argued, is designed to emphasize the distance between the approach expressed by the *stam* (the creators' anonymous layer) and the approach expressed by the Amoraic dictum that it cites. The creators of the Talmud do not revise the tradition to fit their own agenda or even reinterpret it; nor is the tradition justified: on the contrary, its validation in the conclusion of the *sugya* is presented as arbitrary and explicitly contrasted with the Talmud's own long, exhaustive, and theoretically sophisticated reasoning. Far from "hiding" themselves behind tradition or voicing their agenda through it, the authors of the *stam* become a presence in their own creation.

Chapter 2 addresses the historical development of the anonymous layer. It aims to complicate the notion that the division in style and function between the *stam* and the traditions reflects a difference in provenance between two corpora, instead arguing that the Bavli's creators produced both the anonymous layer and the cited traditions, or better, the division between them. This division is not simply a reflection of the different dating of these elements; it was, rather, constructed and imposed by the Bavli on earlier structures and sources. Following a brief discussion of theories about the *stam*'s date, the discussion goes on to compare a *sugya* preserved in the Palestinian Talmud as well as in the Babylonian Talmud. In the earlier, Palestinian version, attributed traditions are employed both for interpretive, narrating functions and for apodictic rulings and brief exegetical comments. The Bavli reorganizes the *sugya* to create a distinction in function, dividing the material between two layers: a narrating, interpretive, discursive anonymous layer, and a layer of brief, non-discursive, attributed rulings.

It is this reorganization that *transforms the traditions into quotations*, that distinguishes between the Talmud's own voice and the voice of the sources it cites. The gap that we observe in almost every Talmudic *sugya* is, then, not just the result of the passage of time between the production of Tannaitic and Amoraic traditions and the production of the Talmud: this gap, as we observe it in texts like the one studied in Chapter 1, is itself a compositional strategy of the Talmud's creators.

One of the most compelling accounts of this ability of quotation to signify a break rather than continuity, alienation rather than identification, is Giorgio Agamben's exposition of Walter Benjamin's notion of quotation. Agamben writes:

The particular power of quotations arises, according to Benjamin, not from their ability to transmit that past and allow the reader to relive it but, on the contrary, from their capacity . . . to destroy. Alienating by force a fragment

of the past from its historical context, the quotation at once makes it lose its character of authentic testimony and invests it with an alienating power that constitutes its unmistakable aggressive force.⁴⁵

The emphasis in Agamben's passage on the original context of the material that is quoted is less applicable for the function of quotation in the Talmud: we do not know the nature of the literary context in which rabbinic traditions circulated, and at least in the example examined in Chapter 2, the quotation is achieved not by reproducing a tradition from one context in another, but by revising the original context of the tradition, the earlier *sugya*.⁴⁶ The important element that Agamben emphasizes in his discussion of quotation as well as of art collection is the capacity of these activities to create a dialectical, objectifying relation to the past; quotation is "destructive" and "aggressive" in the sense that it destroys continuity. Applied to the Talmud, the transformation of tradition into quotation disrupts the chain of tradition.

The *stam*, I argue, is where this problem of the past found its solution. By rendering traditions archaic, fixed Hebrew "quotations" and "artifacts" subordinated to a live, all-knowing Aramaic narrating layer, it enabled the scholars who presented *sugyot* in the academy to create a space for their own self-expression and to justify their necessity. The division between the layers answered what Walter Ong has identified as a challenge particular to oral culture: the distinction between the transmitter and the transmitted.⁴⁷ It was an expression of, and a solution to, an "anxiety of influence." We will see this anxiety expressed in one of the *sugyot* studied in Chapter 4, in which members of the Jewish community criticize the rabbis' traditionalism, asking, "of what use are the rabbis for us?"

Chapter 3 argues that a similar distancing is at work even where the anonymous voice is relatively silent. It focuses on a thematic series of *sugyot* that concern the genealogical division of the Jewish people, and argues that the Bavli trains its audience to view the production of genealogical knowledge, and the traditions in which it is transmitted, as manipulated and personally motivated—in other words, that the Talmud

45 Giorgio Agamben, *The Man Without Content* (trans. Georgia Albert; Stanford, CA: Stanford University Press, 1999), 104.

46 Alexander Samely, *Forms of Rabbinic Literature and Thought: An Introduction* (Oxford: Oxford University Press, 2007), 169–71, argues that the quotation of *memrot* and *baraitot* outside of their original literary context effectively "Scripturalizes" the Mishnah; but Samely himself acknowledges that *sugyot* often treat Mishnaic quotations in the same way, and we still do not know whether all *sugyot* were initially intended as commentaries on the Mishnah.

47 Walter Ong, *Orality and Literacy: The Technologizing of the Word* (London and New York: Routledge, 1989), 45–46.

situates and historicizes these traditions. When genealogical traditions are then reproduced and juxtaposed with stories or laws that tell us of such manipulation, we are highly suspicious of these traditions, even though they are not explicitly contested or revised by the Talmud. The Talmud's creators thus achieve a critical distance without relying on the division between the layers, but merely through juxtaposition and arrangement.

These *sugyot* challenge us to go beyond the common dichotomy between an uncritical compilation that does not revise or select tradition and the critical authorship that only produces traditions it agrees with and revises all the sources it produces according to its own agenda. The lack of revision or appropriation, as well as the lack of "redaction" in the sense of omitting sources that stand in clear tension with the Talmud's creators' agenda, can play a role in a critique. Revision and selection are, in a sense, measures of identification; the withdrawal from revision and the production of sources that stand in tension with the values of the Talmud's creators are measures of distancing.

In the sense that our *sugyot* combine a commitment to tradition with an effort to distance it, on some level, they confront the same problem confronted by rabbinic biblical interpretation: the difference between the values of the interpreter and the values expressed in the text to which the interpreter is committed.⁴⁸ In biblical interpretation, the rabbis' most common solution was to interpret Scripture according to their values, a solution that is in part premised on the divine authorship of Scripture: since God is the author of the text, the text can never be wrong, and must therefore reflect the worldview of the interpreter.⁴⁹ The *sugyot* discussed in Chapter 3 present a solution that is based on the humanity of rabbinic traditions. Instead of endowing the canonical texts with new meaning generated by new values, the representation of these traditions as contingent on human interests allows the Talmud's creators to maintain their commitment to these traditions without endorsing the values encoded in them.

Part II of this book turns from the Talmud's creators' compositional practices to their rhetoric of self-presentation and self-definition. Building on the work of Ginzberg, Rosenthal, Boyarin, and Rubenstein, who demonstrated that the Bavli places a high value on dialectic and analysis at the expense of tradition and memorization, Chapter 4 analyzes three passages to demonstrate the centrality of this preference to the self-

⁴⁸ On this problem in rabbinic biblical interpretation, see Halbertal, *Values in Interpretation*, passim.

⁴⁹ For an analysis of this position, see Moshe Halbertal, *People of the Book: Canon, Meaning, and Authority* (Cambridge, MA: Harvard University Press, 1997), 23–33.

perception of the Talmud's creators as well as situate it within a polemical conversation among Jews in late ancient Mesopotamia.

These passages are all premised on a dichotomy between the "received" knowledge of Scripture and oral tradition, on the one hand, and the innovative, creative aspects of study on the other. The first passage, I argue, is designed to claim rabbinic identity for these creative aspects of study, depriving of rabbinic identity those who occupy themselves with Scripture or with oral tradition; the latter, in particular, are presented as enemies of the rabbis. The second passage condemns members of the Jewish community who criticize the rabbis for being too conservative and occupying themselves only with received knowledge, Scripture, and tradition; while it is difficult to know whether there were really Jews outside rabbinic circles who held these views, compositional elements of the *sugya* indicate that the Talmud shares the values on which this criticism is premised.

The third *sugya* concerns the *tanna'im* (sing. *tanna*)—the "repeaters" or "reciters" of tradition—known from other sources as those entrusted with the memorization, transmission, and recitation of rabbinic traditions. The *sugya* includes these reciters in the list of the rabbis' classical opponents; it warns its audience not to "intermingle" with them, and says that they act as the destroyers of the world when they offer legal instruction, an activity reserved for the sages themselves. The rabbis are exhorted not to cross the social borderline between themselves and the reciters, while the reciters are condemned for crossing this line.

The Talmud's insistence on this boundary suggests that in reality it was not that sharp: rabbis did intermingle with reciters, reciters did give legal instruction. This is further corroborated by the occasional references to interpretive, scholarly activities of reciters scattered throughout the Bavli itself. The Talmud's attack on these scholars—whether the reciters or those who intermingle with them—includes two elements that cohere with the other passages studied in this chapter: it constructs a sharp distinction between scholarship and transmission, and it creates a clear hierarchy that values the former and devalues the latter.

These passages, I argue, allow us to posit a contrast between two approaches to tradition. Those targeted in these passages saw memorization, retention, and recitation as primary ways for approaching rabbinic tradition; they saw scholarship as continuous with, but not necessarily central to, these activities. This approach stands in contrast with the Bavli's compositional practices studied in Part I of this book. If the Talmud externalizes and distances tradition, recitation internalizes and embodies tradition; it interprets and revises texts through identification with them. More important, recitation might not have been simply an aid to scholarship but a ritual on its own. The Bavli's portrayal of the reciters correlates

with its treatment of tradition itself: just as it fossilizes tradition in non-discursive dicta, it divorces recitation from scholarship and portrays the reciters—in this *stgrya* and other passages—as “mindless” performers.

In their effort to construct borderlines and shape rabbinic identity in a particular way, these passages show us that the Bavli’s approach cannot be understood as representative of Babylonian Jewry or even the rabbinic academy: both the reciters and the rabbis who “intermingle” with them were, at least in some sense, members of the academic community, and the latter were part of the Bavli’s own audience. This complicates previous accounts of the Bavli’s vision of Jewish intellectual life, which have identified this vision with academicization or understood it in terms of the contrast between Babylonian and Palestinian Jewish culture. The worldview we see in these passages was one voice in a conversation that took place within rabbinic culture in Babylonia about the appropriate way to approach Torah.

This conversation extends beyond Judaism. In one of the passages on the reciters, the Talmud quotes a comparison between the Jewish reciter and the Zoroastrian magus: both recite and do not understand what they are reciting. Chapter 5 takes this statement as a point of departure to examine discourses about recitation in Zoroastrian and Christian literature. The first section explores a Zoroastrian distinction similar to the one the Talmud makes between the reciter and the scholar. The second section looks at a Christian author who is also using a negative portrayal of Zoroastrian recitation, and argues that in both the Talmud and the Christian text the representation of Zoroastrian practice is used to promote particular visions of Judaism and Christianity and debilitate others. Both texts contrast the performative, embodying practice of recitation with the scholarly approach that they promote, and by associating that recitation with Zoroastrian ritual they seek to mark it as foreign, as non-Jewish or non-Christian.

The recitation of sacred text was an important element in the Western cultures from which the Jewish and Christian cultures of the Sasanian Empire developed; but, I suggest here, it is possible that the encounter with Zoroastrian culture, in which recitation took a central role as a main component of ritual and as the exclusive interface to sanctified traditions, increased the importance of recitation for some Mesopotamian Jews and Christians. In this context, the Jewish and Christian polemic against recitation can be seen as an attempt both to fortify the boundaries of Jewish and Christian identities as well as to claim these identities for the particular vision of the two “scholastic” groups of these cultures—the East-Syrian school movement and the leadership of the rabbinic academy.

The problem with reconstructing the conversation that is evident in the Bavli’s polemical passage is that we usually only have the Talmud’s

side of such debates. Chapter 6 argues that the opposing side might be found in a few texts preserved in the tradition of Hekhalot literature. This chapter argues that the *Sar ha-Torah* narrative presents a parody of the ethos of the Babylonian academies and an effort to shift the gravity of Jewish culture away from the kind of Torah study practiced in these academies toward an engagement with Torah that emphasizes retention and recitation. Other Hekhalot traditions present memorization as a type of visionary experience and recitation as a transformative ritual. The chapter proceeds to suggest, based on the fact that the Hekhalot texts enter Jewish history as texts transmitted by Babylonian reciters, as well as on other connections between these *tanna'im* and Hekhalot texts, that the Babylonian reciters took active part in the shaping of Hekhalot traditions. If that is correct, then the Hekhalot texts analyzed in this chapter preserve a response to the Babylonian polemic discussed in the previous chapters.

The period that saw the formation of the Babylonian Talmud was also a period in which the traditions of the rabbis gained unprecedented prestige and following. It saw transformations in the religious life of the Jews that led to the introduction of these traditions to larger, more diverse publics, and it saw the rise of the rabbinic academy, which offered an unprecedented institutional setting for the study of these traditions.⁵⁰ Rabbinic traditions were no longer encountered by students and scholars in the intimate circles of Tannaitic and Amoraic Palestine and Babylonia, but in contexts increasingly removed from the ones in which they were produced: in lectures both academic and public, in inscriptions, and even in weekly readings in the synagogue. This process—the creation, in Agamben's words, of “the gap between the act of transmission and the thing to be transmitted,” contributed both to the increased ritualization of rabbinic tradition in the mouths of the *tanna'im* and to the objectification and distancing of this tradition in Talmudic *sugyot*. In this sense, this process offered tradition a renewed vitality; “contrary to what one might think at first, the breaking of tradition does not at all mean the loss or devaluation of the past: it is, rather, likely that only now the past can reveal itself with a weight and an influence it never had before.”⁵¹

50 Seth Schwartz, “Rabbinization in the Sixth Century,” in *The Talmud Yerushalmi and Graeco-Roman Culture III* (ed. P. Schäfer; Tübingen: Mohr Siebeck, 2002), 55–69.

51 Agamben, *The Man Without Content*, 107–8.