The Mishnah in Contemporary Perspective

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ANECDOTAL EVIDENCE:
THE YAVNEH CONUNDRUM, BIRKAT HAMMINIM,
AND THE PROBLEM OF TALMUDIC HISTORIOGRAPHY

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What could have served in the past as solid foundations had become, through Foucault's archaeological retrospective, an open site: the clearing away of a new space for investigation and the opening of new questions.

Donald F. Bouchar

To commence the archaeological excavation of the relationship between Judaism and Christianity in late antiquity, it is necessary first to clear away at least some of the debris of the strata of previous mythologies, narratives, and interpretations that have accumulated over and around the subject. Then we can attempt new restorations of the buildings of history from the same fragments that have been interpreted before us.

We begin with a conundrum. Like the first humans in both Platonic and Rabbinic mythology, the icon of the Council of Yavneh, which allegedly founded Rabbinic Judaism in the closing decades of the first century C.E., has two directly opposing (and mutually exclusive) visages. One face is said to have welcomed difference and included it, the other to have shunned difference and excluded it. Shaye Cohen has written in a now near-classic essay:

A year or two before the church council of Nicea Constantine wrote to Alexander and Arius, the leaders of the contending parties, and asked them to realize that they were united by their shared beliefs more than they were separated by their debate on the nature of the second person of the Trinity. Let them behave like members of a philosophical school who debate in civil fashion the doctrines of the school (Eusebius, Life of Constantine 2.71). The council of Nicea ignored the emperor's advice and expelled the Arians. The sages of Yavneh anticipated Constantine's suggestion. They created a society based on the doctrine that conflicting disputants may each be advancing the words of the living God. 1

Much of Christian and Jewish scholarship before Cohen had portrayed Yavneh (Jamnia, supposed date circa 90 C.E.) very differently. As Cohen himself described the “usual view” (in order to dispute it):

Sectarianism ceased when the Pharisees, gathered at Yavneh, ejected all those who were not members of their own party. Christians were excommunicated, the biblical canon was purged of works written in Greek and apocalyptic in style, and the gates were closed on the outside world, both Jewish and non-Jewish. Functioning in a “crisis” atmosphere, the rabbis of Yavneh were motivated by an exclusivist ethic; their goal was to define orthodoxy and to rid Judaism of all who would not conform to it. In this interpretation, the “synod” of Yavneh becomes a prefiguration of the church council of Nicea (325 C.E.): one party triumphs and ousts its competitors.6

Cohen’s claim that Yavneh was not a council in which an orthodoxy was established and heretics and Christians expelled, but rather a pluralistic one in which there was “created a society based on the doctrine that conflicting disputants may each be advancing the words of the living God,” has been largely adopted by scholars who have further unsettled the narrative of what supposedly took place at Yavneh, including especially the closing of the canon of the Hebrew Bible and the alleged expulsion of the Jewish Christians, and it has become near dogma by now in many quarters. As one major historian has written: “[T]here is virtually unanimous agreement that in the aftermath of the destruction of the Temple, in the generations between 70 C.E. and the publication of the Mishnah, Jews learned how to live together without paying the price of sectarian divisiveness.”5 Martin Goodman, however, has departed from this unanimity, reviving and revising the account that Cohen’s work overthrew, arguing that there was, in fact, after Yavneh, less “tolerance” of difference rather than more. Josephus serves

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5 Martin Goodman, “Aeshna,” p. 82.
8 Idealized account of the intentions of Constantine in convening the council, see Athanasius, Athanasius Works, ed. H. G. O. Otitz, 3rd ed. (Berlin, 1934), vol. III, pp. 41–42, as well as discussion and literature cited in Richard H. Horsfall, Power, and Social Order in Late Antiquity (Berkeley and Los Angeles, 1994), p. 184. The role of Constantine would seem to have been as much the promulgation of free discussion as the promotion of it (Horsfall, Disputation, p. 215). The actual Constantinian document can now conveniently be consulted in Eusebius, Life of Constantine, introduction, translation, and commentary by Averil Cameron and Stuart G. Hall (Oxford and New York, 1999), pp. 115–120.
9 H. C. Leach, “Yavneh,” p. 82.
as one of Goodman’s major sources. Goodman proposes that while the “sects” of the Second-Temple period constituted a Judaism which suffered (if not irantically) internal differences, the Judaism of the rabbis in the post-Yavneh period was exclusivistic and allowed for no other forms of Judaism at all. It is very well known that Josephus is our primary ancient source for Jewish sectarianism in the pre-Rabbinic period. Much of the early part of Book XVIII of the *Jewish Antiquities* consists of an elaborate excursus on Jewish sectarianism in the first century (as we find in *Wars* 2, as well), including the famous and controversial discussions of Jesus, James the brother of Jesus, and John the Baptist and his followers. It is remarkable, therefore, that in his *Contra Apionem*, Josephus describes the Jews the following terms:

To this cause above all we owe our remarkable harmony. Unity and identity of religious belief, perfect uniformity in habits and customs, produce a very beautiful concord in human character. Among us alone will be heard no contradictory statements about God, such as are common among other nations, not only on the lips of ordinary individuals under the impulse of some passing mood, but even boldly propounded by philosophers; some putting forward crushing arguments against the very existence of God, others depriving Him of His providential care for mankind. Among us alone will be seen no difference in the conduct of our lives. With us all act alike, all profess the same doctrine about God, one which is in harmony with our Law and affirms that all things are under His eye. (G. Ap. 2. 179–81)

This statement stands in seemingly obvious contradiction to Josephus’s careful accounts of Judaism as divided into three “philosophiæ” as we find in the *Antiquities* passage (XVIII, 11), as well as to his reference to them as “haeresis,” the etymological origin of our term “heresies,” in other passages, such as *Antiquities* (13.171, 293 and passim). Unless we assume that in the *Contra Apionem* Josephus is simply obfuscating for the purposes of apologetic, we must conclude that he did not perceive the “haeresis” of his time as in any way disturbing the essential religious and communal unity of the Jewish People, even less than the

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6 Goodman makes the point that if Josephus were willfully obfuscating, then he would hardly have included explicit cross-references within the text to both the Wars and the Antiquities where his extensive discussion of the Jewish “haeresis” occur.
divisions among the Greeks, which from his point of view were more extreme.⁷

Historian Seth Schwartz has made a similar point to that of Goodman: “Differences should not be allowed to obscure the fact of the elite’s basic, though not absolute, social cohesion to which Josephus testifies (the tensions he describes demonstrate rather than refute this point).”⁸

It is generally accepted that even allowing for exaggeration of the ironic nature of the situation on the part of Josephus, for Josephus and presumably at his time, the term “haresis” in Jewish Greek did not in any way conform to the later meaning of “heresy” or of minūt,⁹ its virtual Hebrew equivalent, in later Christian and Rabbinic usage.


Philo also, in his Legatio ad Gaium, presupposes strong shared Jewish religious identity, both of Semitic and of Greek speakers, throughout the Empire. Surely, as Josephus indicates, there was more fundamental difference between Cynics and Epicureans and Pythagoreans than even between Pharisees, Sadducees, and Essenes, who for all their divisions, were all committed to observance of God’s Torah in accord with their understanding therefore, such that the Sabbath, kashrut, circumcision, confession of the Shema were all common to the three groups. The Temple, moreover, was a divisive element, insofar as much sectarian difference had to do with practice and control there, but it was also a unifying factor, all Israelites in some fashion revered the same Temple, except, of course, for the Samaritans. For lucid and concise description of the “common core of second Temple Judaism,” see James D. G. Dunn, The Portraits of the Ways between Christianity and Judaism and Their Significance for the Character of Christianity (London and Philadelphia, 1991), pp. 18–36. Also E. P. Sanders, Jewish Law from Jesus to the Mishnah: Five Studies (London, 1990). See the insightful remarks of Stephen Moyser, Your Father the Devil: A New Approach to John and “the Jews” (Carlisle, 1997), p. 77.

⁷ Seth Schwartz, Emperor and Jewish Society from 200 B.C.E. to 640 C.E. (Princeton, 2001).

⁸ Simon, “Hairesis,” pp. 104–105. Simon emphasizes that Marcus Aurelius was to found in Athens four chairs of philosophy, one for each of the great “haresis,” Platonists, Aristotelians, Epicureans, and Stoics. One could imagine Josephus founding such an academy as well, with a chair of Pharisaism, one of Sadducceism, and one of Esseniism. The case of Acts is interesting. When Paul says in Acts 24:14: “I am a follower of the new way (the ‘haresis’ they speak of), and it is in that manner that I worship the God of our fathers,” this can be interpreted in two ways, as Simon points out. Either Paul is claiming the true way, while the Jews say it is just another school of Judaism, or Jews are already referring to Christianity as a haresis in the later sense of heresy. I see no reason to adopt the second choice and citing Justin (pace Simon) begs the question. Acts 26:5 demonstrates beyond a shadow of a doubt that for Luke, haresis still means religious choice and not heresy! See also Allen Brent, “Diogenes Laertius and the Apostolic Succession,” in Journal of Ecumenical History 44, no. 3 (July 1993), p. 368, who writes that “the Church of Rome of the mid- to late second century resembled a collection of philosophical schools.”
respectively. In other words, the “sectarianism” of the pre-Yavneh period did not preclude inclusiveness or a sense of a “pluralistic” Israel. On the other hand, in the Mishnah, it is absolutely clear that the Sadducees were not tolerated by the rabbis as simply another “philosophy” but were considered heretics. The “significance of Yavneh,” as represented in the Mishnah, hardly constitutes “a society based on the doctrine that conflicting disputants may each be advancing the words of the living God.”

Goodman has, therefore, compellingly shown there was, in many ways, after Yavneh, less “tolerance” of difference rather than more. It was, after all, during that time—after Yavneh—that the category of minim and minui (heretics and heresy) first appears on the Jewish scene. Following Goodman, it would seem, then, that although we can accept Cohen’s argument that the focal point for sectarian division over the Temple with the concomitant production of a particular kind of sectarianism (separatism from the “corrupted” Jerusalem center or conflict over hegemony there) had vanished with the destruction of the Temple, nevertheless the epistemic shift marked by the invention of Rabbinic Judaism included the production of a category of Jewish “outsiders” defined by doctrinal difference. Jewish sectarianism had been replaced, on Goodman’s reading, by Jewish orthodoxy and Jewish heresy, a modified version of the pre-Cohen view. It is not, then, that sectarianism had disappeared but that one group was beginning to achieve hegemony and could now plausibly portray itself as Judaism tout court, and thus performing an act more like Nicaea than Cohen had proposed, an act of radical exclusion and not one of inclusion and pluralism.

It can hardly be denied, nevertheless, that, a la Cohen, talmudic tradition fashions itself as a collective that avoids schism through pluralism, declaring: “these and these are the words of the Living God” (B. Erub. 13b and B. Git. 6b; see below); it displays tolerance, even appetite, for paradox and disagreement on issues even of fundamental importance for practice and belief. These are traits that contemporaneous

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10 Throughout this work, I shall be referring to Christian and Rabbinic as the relevant binary opposition and not Christian and Jew, for obvious reasons.

11 Robert Daum’s comprehensive work on Yavneh materials supports this conclusion; Robert Daum, “Describing Yavneh: The Founding Myths of Rabbinic Judaism,” Ph. D. Diss. (Berkeley: University of California, 2001). Note especially his conclusion, pp. 4–8, that in the Mishnah virtually all of the explicit Yavneh materials are about authority and power conflicts.

12 Goodman, “Minim.”
late ancient ecclesial Christianity, with its history of constant schism and anathema, seems unwilling to foster. Gerald Bruns was, therefore, surely on to something when he wrote, “From a transcendental standpoint, this [Rabbinic] theory of authority is paradoxical because it is seen to hang on the heteroglossia of dialogue, on speaking with many voices, rather than on the logical principle of univocity, or speaking with one mind. Instead, the idea of speaking with one mind . . . is explicitly rejected; single-mindedness produces factionalism.”13 There is a certain elasticity to the rabbis’ form of orthodoxy that Cohen has compellingly identified.

We seem, ourselves, then, to have arrived at an aporia. We have two opposite accounts of the role of the Council of Yavneh in the history of Judaism and Christianity and in the origins of the “parting of the ways.”

The basic historiographical premise underlying the work of both Cohen and Goodman is what leads to the impasse we have been examining. Both accounts of the inclusive or exclusive nature of Yavneh assume, more or less, that Rabbinic literature, when read critically, can provide us with useful information about the events that took place there. The historiography of Judaism in the Rabbinic period, together with its implications for history of Christianity, had been, until quite recently, founded on the assumption that the kind of historical information that Rabbinic legends could yield was somehow directly related to the narrative contents that they displayed, which were understood as more or less reliable, depending on the critical sensibility of the scholar.14 This scholarship was not, of course, generally naive or pious in its aims or methods, merely very old fashioned. It asked the critical questions that Marc Bloch ascribed to an earlier generation of historians: “The documents most frequently dealt with by the early scholars


14 For a somewhat egregious but not otherwise particularly exceptional example of this, see Joan E. Taylor, Christians and the Holy Places: The Myth of Jewish-Christian Origins (Oxford and New York, 1993), pp. 28–29. She seems to assume that the narrative of Aqiba and Eliezer’s (not Eleazar, another name, another rabbi, pace Taylor) arrest for apostasy as preserved in the Talmud is a reliable historical source, only questioning some of its details. She has, moreover, misunderstood the story itself; what is cited is not an “apocryphal saying” but a midrash in the name of Jesus, and this makes all the difference. For my interpretation of this story, see Daniel Boyarin, Dying for God: Martyrdom and the Making of Christianity and Judaism, The Lancaster/Yarnton Lectures in Judaism and Other Religions for 1998 (Stanford, 1999).
either represented themselves or were traditionally represented as belonging to a given author or a given period, and deliberately narrated such and such events. Did they speak the truth? As Bloch shows, such historians did not take the narrations of such documents as the “truth,” and the same goes for the historians of the Rabbinic period who have followed them. More often than not, in fact, they concluded that the Rabbinic narratives did not speak the truth. Nevertheless, with respect to Yavneh, the results of such critical research have been paradoxical, to say the least. Goodman and Cohen, both reading critically, have produced seemingly compelling accounts of the nature of the Rabbinic Judaism founded at Yavneh and the activity of that council, but since we don’t usually imagine that “these and these are the words of the Living God,” they can’t both be right, of course, hence the conundrum of Yavneh. As long as historians like Cohen and Goodman (not to mention the earlier consensus) claim to be describing the same object, “the historical Yavneh,” then we seem to arrive at the aporia. A similar aporia has been identified for ancient Greek history by Jonathan Hall: “The apparent impasse between the proponents and opponents of an archaeological visible Dorian invasion arises from the fact that both camps subscribe to the same fallacy—namely, that an ethnic group must necessarily be identifiable in the archaeological record.” Although the “fallacy,” of course, is a different one, the structure of the problem


11 I thus somewhat disagree with Neusner’s characterization of the field, as in his *Reading and Believing: Ancient Judaism and Contemporary Gullibility* (Atlanta, 1986), p. 19, and throughout that book. Nevertheless, while the precise contours of our critiques are different, the results are similar both in terms of the methods that we reject and (to a great extent) in terms of those that we propose, though I would add that I find Neusner’s unfavorable comparison of Jewish studies to New Testament Studies somewhat unfortunate. He writes that, “One question which to New Testament scholars is deemed unavoidable is how to tell what, if anything, Jesus really said among the sayings attributed to him, and what Jesus really did among the deeds assigned to him.” *Believing*, p. 33, and this is meant to produce an unfavorable judgment of talmudic studies, which allegedly does not ask such questions. From where I sit (and perhaps Neusner after fifteen years has changed his perspective as well), those questions, which indeed do characterize much New Testament research are equally as gullible as the very similar questions that are, to my mind, being asked in talmudic studies. I would argue that access to the historical Jesus is as unavailable to us as access to the historical Aquinas, or, for that matter, the historical Moses.

12 On Cohen’s essay, see also Neusner, *Believing*, pp. 82–89.

13 As they, I think, take themselves.

is (I suppose) the same: the impasse between those who see Yavneh as the production of a pluralistic community and those who see it as the production of an exclusivistic orthodoxy arises from the fact that both camps are still trying to discover the "historical Yavneh," are still reading the texts as about that "real" Yavneh. However, if we abandon the quest for the historical Yavneh and search instead for the different Yavnehs portrayed by the different Rabbinic texts, in order to understand the different uses to which Yavneh has been put at different moments of Rabbinic history, then the contradiction may disappear.

A recurring question within the quest of the historical Yavneh had to do with the question of the credibility of a given text or passage of Rabbinic literature or the recovery of its "historical kernel." Even when such recovery is successful and convincing, however, this leaves us with very slim and thin bits of historical knowledge. As long as we are engaged in the process of extracting the fact from the fiction in Rabbinic legend, we shall learn precious little about the history of the Rabbinic group, and even less about the histories of those other Jewish groups which it is seeking to control and suppress. If, however, the object of research is the motives for the construction of a narrative that is taken to attest to the political context of its telling or retelling, rather than the "historical kernel" or truth contained in the narrative of the narrative, then all texts are by definition equally credible (which is not to say, of course, that they are all equally intelligible.) This point—hardly "postmodern"—can also be seconded via reference to Marc Bloch. Bloch distinguishes between two kinds of documents that a historian may use. On the one hand there are what he calls "intentional" texts, citing as his example the History of Herodotus; on the other hand, there are, the texts that are not intentional, and, in Bloch's view are, precisely therefore, all the more valuable for the historian:

Now, the narrative sources—to use a rather baroque but hallowed phrase—that is, the accounts which are consciously intended to inform their readers, still continue to provide valuable assistance to the scholar. . . . Nevertheless, there can be no doubt that, in the course of its development, historical research has gradually been led to place more and more confidence in

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90 Here I am in complete agreement with Neusner that the formulation of our questions should be: "What do we know if we do not know that Rabbi X really said what is attributed to him? What sort of historical work can we do if we cannot do what Frankel, Graetz, and Koenen thought we could do?" Neusner, Believing, p. 33.

the second category of evidence, in the evidence of witnesses in spite of themselves.\footnote{22}{Bloch, _Craft_, pp. 60–61.}

However, as Bloch states clearly, even the most intentional of texts, and the Rabbinic narratives of Yavneh are nothing if not intentional in his sense, also teach us that which they did not want us to know; they “permit us to overhear what was never intended to be said.”\footnote{23}{Ibid., p. 65.} In this sense, we can have equal “confidence” in all texts.\footnote{24}{I heard this point made thirty years ago by my teacher, Professor Saul Liberman.} The question of the “narrative source” versus the “witnesses in spite of themselves” can be seen, now, as a distinction between protocols of reading texts and not as an essential difference between the texts themselves. As Bloch concludes: “Everything that a man says or writes, everything that he makes, everything he touches can and ought to teach us about him.”\footnote{25}{Bloch, _Craft_, p. 66.} Whatever else Rabbinic narratives might be, they are certainly something that someone has said and written, and even when we don’t know who said or wrote them “originally,” we can frequently determine who (that is, at what historical period), someone has “touched them.” I seek to learn, then, about those who have touched the stories, those who have passed on and inscribed the anecdotes within the Rabbinic documents they have produced, teaching us, perhaps, what they never intended to say: “Because history has tended to make more and more frequent use of unintentional evidence [history] can no longer confine itself to weighing the explicit assertions of the documents. It has been necessary to wring from them further confessions which they had never intended to give.”\footnote{26}{Ibid., p. 89.}

All texts inscribe willy-nilly the social practices within which they originate, and many also seek to locate the genealogy of those social practices in a narrative of origins, producing a reversal of cause and effect. This reversal is a mode of narration that is particularly germane to the project of replacing traditional patterns of belief and behavior (“We have always done it this way”) with new ones that wish, nevertheless, to claim the authority of hoary antiquity. In short, narratives of origin are particularly useful in the invention of orthodoxies, and thus are particularly useful texts in which to study their invention.
Although all of the institutions of Rabbinic Judaism are projected in Rabbinic narrative to an origin called “Yavneh,” “Yavneh,” seen in this way, is the effect, not the cause, of the institutions and discursive practices that it is said to “originate” in the myth: Rabbinic Judaism and its primary institutions and discursive practices, “Torah,” the Study House, and orthodoxy.\textsuperscript{27} Demystifying the Rabbinic narrative of the origins of these practices and of their hegemony allows us to inquire into their “causes” somewhere, namely, in the complex interactions and negotiations that produced Rabbinic Judaism itself as one of the two successfully competing forms of postbiblical religion to emerge from late antiquity, the other being, of course, orthodox Christianity. Thus, although traditional scholarly historiography refers to Yavneh as a founding council that “restored” Judaism and established the Rabbinic form as hegemonic following the disaster of the destruction of the Temple, if we want to study how people conceived of themselves as belonging to a group, it is more useful to approach Yavneh as an effect of a narrative whose purpose is to shore up the attempt at predominance on the part of the rabbis (and especially the Patriarchate) in the wake of the greater debacle following the Fall of Betar in 135.\textsuperscript{28} That which the rabbis wished to enshrine as authoritative, they ascribed to events and utterances that took place at Yavneh, and sometimes even to divine voices that proclaimed themselves at that hallowed site.

As opposed to the early third-century Mishnah, the Talmud (especially the Babylonian Talmud) indeed frequently thematizes and valorizes sanctified and unresolved controversy precisely through narratives about Yavneh. The watchword quoted by Cohen, “These and these are the words of the Living God,” was, according to talmudic legend,

\textsuperscript{27} Cf. Neusner, Believing, p. 37.

\textsuperscript{28} See Jacob Neusner, who makes a closely related point in “Judaism after the Destruction of the Temple: An Overview,” in his Formative Judaism: Religious, Historical, and Literary Studies, Third Series: Torah, Pharisees, and Rabbits (Chico, 1983), pp. 83–98. For the impact that this revisionist work has already had on New Testament studies, see, e.g., Motyer, Your Father, p. 75. Motyer, however, seems too readily to assume that Neusner’s conclusions have been generally accepted, not noticing that the very example he gives of work done under the “old paradigm” was published quite a bit after Neusner’s. Moreover, at least in his “The Formation of Rabbinic Judaism: Yavneh (Jannia) from A.D. 70 to 100,” in Wolfgang Haase, ed., Aufstieg und Niedergang der Römischen Welt. Principat, Religion, Juden, Judaismus: Palästinisches Judenland (Berlin, 1979), pp. 3–42, Neusner seemed prepared to ascribe a much greater role to the real, historical Yavneh than I would. See on this point, discussion in Isaiah M. Golini, Land, Center and Diaspora: Jewish Constructs in Late Antiquity (Sheffield, 1997), p. 64.
pronounced by a divine voice at Yavneh (B. Erub. 13b and B. Git. 6b). Rabbinic textuality, far more than other Jewish or Christian textualities, is marked, almost defined, by its rhetoric of openness to dissenting opinions, by its endless deferral of final decisions on hermeneutical, theological, halakhic, and historical questions, by heteroglossia, by the non-logocentric modes of interpretation known as midrash. This characteristic of Rabbinic textuality is well thematized within talmudic texts themselves, that is, it is a self-conscious trait of Rabbinic religion, much as doctrinal rigor is of fourth-century Christianity. Just as the notion of orthodoxy grew within Christianity from the second to the fourth century, however, so also (I suggest) the notion of heteroglossia grew within Rabbinic circles during these same centuries. The two descriptions, one of an exclusivistic and one of a pluralistic Yavneh, are best emplotted diachronically as two stages in the development of Rabbinic ecclesiology itself: Heteroglossia is the endpoint of a historical process and not an essential or timeless description of the Rabbinic formation. Just as Christian orthodoxy received its definitive formulation in the fourth century, post-dating the anti-gnostic formulation of pre-Nicene apologists and heresiologists, so too the social form, that is, the heteroglossic regime of power/knowledge of Rabbinic orthodox Judaism, was formulated much later than the Mishnah. The codified “dissensus,” the agreement to disagree that we identify in these latter assemblages,²⁹ was as efficient a mode of power for the achievement of “consensual orthodoxy” for Rabbinic Judaism and the exclusion of its rivals as were the creeds and councils of orthodox Christianity.

Anecdotal Evidence

This focus on the historical and diachronic development of the institutions and discursive practices of Rabbinic Judaism raises some serious historiographical problems. Rabbinic literature presents us with no

²⁹ I substitute this for “documents” both to maintain the archaeological metaphor and to indicate a less intentional or authorial character to the texts than Neusner would have them display. Thus while I accept his general approach that what we learn best from the Mishnah is about the late second and early third centuries and what we learn best from the Babylonian Talmud is about the late fourth through the sixth centuries, I would argue that what is learned is less coherent, formed, and controlled than his documentary history of ideas would suggest. The notion of a stratum or assemblage of verbal artifacts seems to me to work better.
historical documents and virtually no extended historical narratives. It would not be unfair to say that classical Rabbinic literature (by which I mean the texts produced between the third and sixth centuries) has no historical writing at all. What we do have are myriad anecdotes, most of them in several widely varying versions, about the important founding “events” of the Rabbinic school tradition and its primary actors, the rabbis. In addition, this literature contains extensive discussions of points of ritual and civil law based to greater or lesser extent (depending on genre) on a particular method of interpretation of the Bible—midrash.

How, then, can we “learn Torah” to speak history? In my previous projects on this literature, and especially in *Carnal Israel*, I “finessed” this problem by working in an essentially synchronic version of cultural poetics, treating the whole of Rabbinic literature as one ideologically differentiated and contested cultural territory. This method essentially permitted me to avoid the problem of historical referentiality and analyze the texts as sites of struggle and cultural problematic without reference to a “real” outside. The present project does not allow for such an approach, since I am trying to tell a story here of diachronic development, both of and within Rabbinic Judaism, as but one particular institution and set of religious ideas among Jews in late antiquity. A referential “outside” to the text has to be invoked, therefore. Accordingly, great attention needs to be paid to the procedures by which such hypotheses can be generated and justified without falling into the traps of either naive positivism or “postmodern” nihilist constructivism—“It’s all made up anyway, so I can make it up too,” Hans Kellner has “ redescribed [history] as a discourse that is fundamentally rhetorical,” and, moreover, the same author continues, “representing the past takes place through the creation of powerful, persuasive images which can be best understood as created objects, models, metaphors or proposals about reality.”

Even, however, the most trenchant versions of a “postmodern” historiography, such as that of Hayden White, presuppose some access to knowledge of “facts” or “events.”

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39 Hans Kellner, “Introduction: Describing Redescriptions,” in Frank Ankersmit and Hans Kellner, eds., *A New Philosophy of History* (Chicago, 1993), p. 2. I find comfort in learning from Kellner that at least some of the confusion that I feel between desire to say something at least tentatively real about the past and conviction that this is probably impossible (or at any rate that I ought to think so) is shared by “real” historians too; Kellner, “Introduction,” pp. 10–11.
The events are made into a story by the suppression or subordination of certain of them and the highlighting of others, by characterization, motif repetition, variation of tone and point of view, alternative descriptive strategies, and the like—in short, all of the techniques that we would normally expect to find in the emplotment of a novel or a play. . . . The same set of events can serve as components of a story that is tragic or comic, as the case may be, depending on the historian’s choice of the plot structure.31

White’s characterization of historical narratives explicitly assumes that some knowledge of the “events” is granted, common among historians as different in their interpretations of the French Revolution as Michelet, Toqueville, and Taine.32 However, because of the extraordinary problems of evidence in regard to Rabbinic history, it is not only historical interpretation that is at issue but the very events themselves that are put into question, according to different theoretical protocols for reading Rabbinic literature.33

Interestingly the questions about evidence in and from Rabbinical texts seem strikingly alike for “modernist” and “postmodernist” historians. Rabbinic literature provides particular problems of evidence, owing to its complexly generated, redacted, anecdotal literary character, rendering the question of context itself—in its most brutally literal form—a matter of selection, interpretation, and analysis. Moreover, Rabbinic literature does not come associated with “authors” to whom intentions could, even problematically, be ascribed. If post-structuralism has declared the death of the author,34 the rabbis produce their literature in a world in which the author has not yet been born, as it were. It follows that even when a general theoretical stance towards historiography has been

32 “The different kinds of historical interpretations that we have of the same set of events such as the French revolution as interpreted by Michelet, Toqueville, Taine, and others,” White, “Historical Text,” p. 28.
33 In a sense, then, we need to go beyond White and assert that at least for Rabbinic history, the very description or articulation of the events is always already implied by the plot structure assumed by the historian. What might substitute for White’s “events” in this instance, again at least in this instance, are the texts themselves, and then we could rewrite the above-quoted (previous note) sentence as “The different kinds of historical interpretations that we have of the same set of texts such as the Talmuds as interpreted by Graetz, Lieberman, Alon, and others.”
adopted, questions of method specific to the task of a talmudic history yet remain, since much if not nearly all of our evidence for this historiography consists of already emplotted narratives, either themselves historiographical or history-like in their rhetoric. Whether or not we accept Hayden White’s notion of historiography as being fiction-like, the materials upon which Rabbinic history must be based, are for the most part, fictions indeed. With Rabbinic narratives we have neither an author about whom we can know anything nor even a sure historical or social context (as we frequently do when studying the texts of other cultures including contemporaneous Christian texts), only a roughly established time of redaction to go on.  

On the other hand, one could say that it is this very characteristic of Rabbinic textuality that provides the materia for the work of historiography; not a problem, then, but the very object of our investigations. A formulation of Hall’s will serve me well: “The present objective is to attempt an identification of the social groups who thought themselves through these genealogies. Because, however, the field of myth is relatively autonomous, it is necessary to treat mythical episodes as phenomena rather than as epiphenomena, and this dictates that any approach should initially be conducted independently ‘from within.’”  

We are not writing, then, the biography of an individual, or even the history of an institution, so much as the history of a text, including its ostensible motivations and effects (and these perhaps implicate some kind of history of institutions, competing groups, or at any rate sites of power/knowledge).

The problem of dating of developments within Rabbinic Judaism remains fraught with difficulty. First occurrence in the literature, even when we can reasonably project a date for that first occurrence constitutes, of course, only a terminus ante quem (latest possible date) for the ideologeme at issue; the question is, of course, to what extent the silence of prior sources where one might expect the term or concept to appear constitutes a terminus post quem (earliest possible date). Any given

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35 For a helpful articulation of these special problems of writing history with Rabbinic texts, see Jacob Neusner, The Documentary Foundation of Rabbinic Culture: Mapping up after Debates with Gerald L. Bruns, S. J. D. Cohen, Arnold Maria Goldberg, Susan Handelman, Christine Hayes, James Tager, Peter Schafer, Elazar Segal, E. P. Sanders, and Lawrence H. Schiffman (Atlanta, 1995), pp. 8–13. While I do not entirely associate myself with Neusner’s characterization of the state of scholarship in our field, for all its exaggeration, it is not entirely inapposite, nonetheless.

36 Hall, Ethnic, p. 86.
statement in the Mishnah might very well reflect any earlier tradition. However, in spite of the advances of recent research strategies, we cannot ever be certain that a given text existed in the precise form in which we find in the Mishnah prior (or much prior) to the redaction of that text. On the other hand, we can be certain, of course, that the passage was current and deemed relevant at the time of the editing of the Mishnah. In any case, what should be clear is that we can hardly credit the semi-mythological narratives of Yavneh that we find in the Mishnah (even less so in the later texts) with bearing any positivistic probative weight. We are searching for the historicist background of a narrative now, not for the historical reality that it is deemed to convey in its content. I would not dare to write a "canonical history of ideas" based on this method, but I would hold, with Jacob Neusner, that the burden of proof, at least, is on those who wish to assert the utility of late legends and texts in the reconstruction of much earlier events. Rather, assuming that which we can know, namely that the traditions in question were in existence at the presumed time of the redaction of the Rabbinic texts and that they were presumably significant at that time, we can hypothesize connections and nexuses. A good-sense approach to dating of traditions within Rabbinic texts in the post-neusnerian era is that of Alan Segal: "Since we are dealing with a culture which distinguished various levels of antiquity of traditions in order to formulate legal preceedents and valued older traditions more highly, we must rule out the earlier dating by methodological premise unless and until other evidence warrants it."

That most scholars in past generations took the narratives that are incorporated into the Talmud about the history of the Rabbinic movement

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57 "Materials designated 'traditional' are always a selection from those that could be so designated. The ones selected are those that figure centrally in the organization of Christian materials favored by the party that puts them forward: therefore, what is labeled 'tradition' always has links to a preferred course of Christian behaviors now;" Kathryn Tanner, *Theories of Culture: A New Agenda for Theology* (Minneapolis, 1997), p. 163. This does not necessarily mean, with respect to the Mishnah, for instance, that every statement included or story told represented literally the halakhic practice of the redactors, but it does mean that these statements and their meanings were deemed a significant part of the discursive practice of their time and place and thus are relevant for the description of the religious discourse thereof.


59 Alan F. Segal, *Two Powers in Heaven: Early Rabbinic Reports about Christianity and Gnosticism* (Leiden, 1977), p. 27. See too Neusner, *Believing*, p. 78, on where the burden of proof ought to lie.
“at face value” does not mean, of course, that scholars have naively and simply received the stories as representation of historical events—although that has also been done in certain quarters. Various modes of critical analysis have been employed to extract the so-called “kernel of truth” from the narratives. My assumption is simply that the stories told in third, fourth, and fifth-century texts have virtually no probative value for the first century; that is, their contents do not point to any first-century reality outside of the third-century (or later) texts. This does not mean, of course, that they never contain information about the first century, just that we cannot know when they do and when they don’t. Observing the different forms that a given tradition takes, even when cited as tannaitic in origin, from, say, the Palestinian to the Babylonian Talmud, when we can observe the differences, hardly provides confidence that detail and particularly verbal detail survives extended transmission, and it is usually precisely that detail that we need for traditional historiography.

Nuancing this point somewhat, perhaps one might rather say that the “kernels” of so-called (positivistic) historical truth that one might extract from these contradictory narratives makes for mighty slim pickings. The point is not, then, that, Gedaliah Alon, for instance, is wrong in his conclusion that Yavneh was some sort of Roman internment camp—his conclusion makes sense—but that there is so much more to be said about it when we shift the questions that we ask. Those same variations in the traditions, once an obstacle to be removed, now become the very stuff of history, especially when they contradict each other.


41 There is nothing startling, I think, about this claim. In his recent work on Paulinus of Nola, Dennis Trout has remarked the difficulty of determining the events and motivations of his subject’s life, because even the writings of contemporaries, such as Ambrose and Augustine, about him are so overlaided with rhetorical purpose and biblical types; Dennis E. Trout, Paulinus of Nola: Life, Letters, and Poems (Berkeley and Los Angeles, 1999), pp. 4–9. As Trout remarks, p. 5, “biographical modeling for polemical ends was practically endemic to late-ancient culture;” nor is this, in itself, a novum of Trout’s work (although very well formulated there). Attending to the rhetoric of the ancient “biographical” text, then, even to the point of near-total skepticism vis-à-vis its value for biographical research, hardly constitutes, then, a “post-modern” gesture. For a similar critical approach with respect to a problem in the historiography of modern Judaism, see Moshe Rosman, Founder of Hasidism: A Quest for the Historical Baal Shem Tov (Berkeley and Los Angeles, 1990).
Accordingly, I make no attempts whatsoever to reconstruct from them events of that century but rather attempt to read them in the context of the time of their production, as evidence for the ideological work that they are doing within the cultural and social context in which they have been produced. This involves a shift from the utterance and its referent to the act of uttering as the focus of inquiry. The modes of interpretation employed are, accordingly, seemingly more similar to the modes of interpretation of fictions than of historical documents, still less of historical facts.

The mode of interpretation that is formative for me is that called the “New Historicism.” Although this is not the place to rehearse the assumptions and practices of this mode of reading, suffice it to say for the moment that it issues from the postulate that literature is not produced out of the free-will act of an “author” but rather that language/discourse

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42 Jacob Neusner, “Beyond Historicism, after Structuralism: Story as History in Ancient Judaism,” in his *Method and Meaning in Ancient Judaism* 3rd series (1981), p. 238, and for recent comment, Goshen-Gottstein, *Sinner*, pp. 4–5. In contrast, however, to Goshen-Gottstein’s notion that we have only access to “the religious ideals of the sages,” via this approach, I would argue (and frequently will) that the fractures and ruptures within the narratives as well as their other intertextual dimensions provide access (at least in theory) to realities that are not only ideal. I share Goshen-Gottstein’s sense that the best way to read Rabbinic texts, by and large, is with the methods of the analysis of fiction, we disagree, somewhat however, in our assessments of what those methods might be and what they might promise us. Goshen-Gottstein’s insight that it is the very form of the Rabbinic non-biography that teaches us much about Rabbinic culture is very well taken. The collective personality projected, imagined, invented by the Rabbinic texts (The Torah) bespeaks a very different sort of subjectivity than the one comprehended by our modern biographies, and that, as much as anything, is the payoff of the research; Goshen-Gottstein, *Sinner*, pp. 16–18. Where we sharply part company, however, is in his assumption that if the Rabbinic texts are not “true narrations of historical events,” then they can only teach us the “issues, concerns, and values” of the rabbis themselves. I believe that by searching hard for what the Rabbinic texts are not telling us, indeed what they are telling us not, what they seek to conceal from us, we can find intimations of a social and cultural world beyond the confines of the Beth Midrash itself. One of the biggest inspirations for my specific historicist method, then, is the work of Pierre Macherey, *A Theory of Literary Production* (London, 1978). And see perhaps closer to home Galit Hasan-Rokem, *The Web of Life—Folklore in Rabbinic Literature: The Palestinian Agadic Midrash Eikhab Rabba* (Stanford, 2009).


44 This proposed paradigm shift is much wider than late-ancient Jewish history of course. As Dominick LaCapra has recently written, “A relatively self-sufficient research paradigm was in certain ways important for the professionalization of history as a discipline, and attacks on tendencies that question it may be taken as one indication of the extent to which it is still understood (perhaps misleadingly) as essential to the discipline even today. This paradigm enjoins gathering and analyzing (preferably archival)
speaks through authors and their texts. The literary text is, then, no less historically concrete and accessible than is the document:

Nor is it unusual for literary theorists, when they are speaking about the “context” of a literary work, to suppose that this context—the “historical milieu”—has a concreteness and an accessibility that the work itself can never have, as it were easier to perceive the reality of a past world put together from a thousand historical documents than it is to probe the depths of a single literary work that is present to the critic studying it. But the presumed concreteness and accessibility of historical milieu, these contexts of the texts that literary scholars study, are themselves products of the fictive capability of the historians who have studied those contexts. The historical documents are not less opaque than the texts studied by literary critics.43

The historian’s task is, then, to reconstruct a discourse, a regime of power/knowledge through contextualized examination of some of the products of that discourse read as symptoms. In other words, the dominant cognitive strategy of this work is that of synecdoche.46 And frequently enough, “probing the depths” of a single text before us may well prove more illuminating than the concatenation of a thousand texts treated as documents—that is, at any rate, the belief upon which this work of historical writing is predicated.

My claim is that contextualizing the fragments of narrative within Rabbinica in the time of their narration (and not the time of their narrative contexts) is the stronger, more intuitive, and even methodologically more conservative position.47 In reading Rabbinic anecdotal narrative,

information about an object of study in contrast to reading and interpreting texts or textualized phenomena. (In this exclusionary sense, reading a text, especially a published text, is not doing research;”) Dominick LaCapra, “History, Language, and Reading: Waiting for Cillon,” in Brian Fay, Philip Pomper, and Richard T. Vann, eds., History and Theory: Contemporary Readings (Malden, 1998), p. 94. LaCapra’s essay makes many of the points that I am making here.

45 White, “Historical Text,” p. 23.
46 Cf. Ibid., p. 27.
47 This approach, by itself, is not uniquely mine, of course. A whole generation of younger scholars of Rabbinic Judaism, either trained by Jacob Neusner or under his tutelage in more metaphorical senses, have been pursuing this method for the last three decades. For an excellent example, see David Goodblatt, “From History to Story to History: The Rimmon Valley Seven,” in Peter Schäfer, ed., The Tabnud Yerushalîmi and Genoe-Roman Culture (Tübingen, 1998), vol. 1, pp. 175–199. The results of Goodblatt’s excellent critical analysis are curiously thin, however. I think that the addition of a discourse analysis perspective would have served him well in achieving more positive results. This does not, by itself, however provide as much methodological stability as one would wish, for while we can assume, with Neusner, that the presence of a textual element within a document of, say, the fifth century attests to its significance, in
I attempt to construe the anecdote in a field of other anecdotes, reading it both closely and contextually in the fashion pioneered by the practitioners of the “New Historicism.” This method of interpreting anecdotal evidence has seemed to me a highly productive mode of reading the stories of the past, enabling the description/redescription/ construction of the complex ideological texture of the moment: “The historian’s task is not so much to collect facts as to relate signifiers.” Relating sign to sign synchronically, I thus attempt to build a description of a semiotic (and therefore discursive) state of the cultural system. I am describing, then, signs, interpreting texts. There is an implicit claim that these texts and systems of texts amount to something real “out there” but no claim that we can predict or even ever know how they do: “A linguistic characteristic, a point of law embodied in a text, a rite as defined by a book of ceremonial or represented on a stele, are realities just as much as the flint, hewn of yore by the artisan of the stone age—realities which we ourselves apprehend and elaborate by a strictly personal effort of the intelligence.” Rabbinic texts, for all their anecdotal form are, then, flint-like realities, requiring no more, but no less, interpretative effort than any other artifacts. This is the point most richly elaborated in my experience in the writings of the New Historians.

...some shape or form, at that time, we cannot, p. 188. Neusner, presume that this moment marks the appearance of the emergence of that significance within Rabbinic culture. At best this would be an argument e silentio; at worst an argument against the very palpable fact that Rabbinic texts do have historical depth; they are anthropological, and many of the pieces can be shown to be older than the contexts in which they first appear to us; Richard Kalmin, Sages, Stories, Authors, and Editors in Rabbinic Babylonian (Atlanta, 1994). We cannot, in short, in my opinion write a “documentary” or “canonical” history of Rabbinic ideas; Neusner, Canonical History, Daniel Boyarin, “On the Status of the Talmudic Midrashim,” in Journal of the American Oriental Society 113 (1993), pp. 455-465. What we can do, I think, modifying somewhat Neusner’s original and productive insight, is attempt a supple diachronic study of the growth, development, shift within discursive elements by observing their appearance within the overall contextual structure of different Rabbinic texts historically (that is in both time and space) contextualized. Thus the function of a signifier such as “Yavneh” or “Beruriyah” (David Goodblatt, “The Beruriah Traditions,” in Journal of Jewish Studies 26 [1975], pp. 68-86) can be studied within the context of the third-century Palestinian Mishnah and the fifth-century Babylonian Talmud and the results usefully compared to yield historical data upon which the historian may construct her narratives.

a Catherine Gallagher and Stephen Greenblatt, Practicing New Historicism (Chicago, 2000).


c Bloch, Craft, p. 55.
However, I seek to extend the “New Historicist” synchronic construction of discursive moments by plotting two such synchronic states on a timeline, by contextually reading narrative (aggadic) and legal (halakhic) texts from a given document or documentary group together, attempting to describe certain differences between these synchronic moments, then providing some hypotheses having to do with the multiple overdeterminations of those differences. I’m interested in the ways that certain shifts seem to cohere with each other in a manner that makes sense of them. I am thus not only describing synchronic systems of signs, but also attempting to narrate the shift from one such system to a later one and thus to write some kind of a history. The next step (or sometimes a heuristically prior step) involves an attempt to site the suggested historicized interpretation in a still broader textual/contextual field, including primarily patristic and other Christian textual materials, in order to develop a broader understanding of socio-cultural processes producing and being produced by the Rabbinic texts. To mobilize the archaeological metaphor once more, I am trying to identify various textual artifacts as belonging to a single stratum of the remains of Rabbinic religious culture, to reconstruct and interpret the assemblage, and then to relate the different assemblages so reconstructed one to another.

Before Foucault, another French historian (indeed one of Foucault’s mentors at least in a derived sense), Marc Bloch had already mobilized the language of archaeology, to be sure in a somewhat different sense from Foucault’s, in thinking about the historiographical project. In his now-classic *The Historian’s Craft*, Bloch begins his remarkable chapter on historical observation by explicitly invoking archaeological evidence against the notion that all historical evidence is “indirect,” that is, filtered through another’s intentions before reaching the historian. His example regards the bones of children immured in very ancient Syrian fortresses and the inference that these are the remains of human sacrifice. Bloch argues that the inferences from these data, fully “historical” in nature, are at least as reliable as the up-to-the-minute reports.

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55 Bloch, *Craft*. This is, not incidentally, a book that has brought me much comfort for its explicit permission to the “non-historian” to write history, p. 21.

56 Ibid., p. 52.
of lieutenants that Napoleon had to deal with in making his strategical adjustments during the Battle of Austerlitz. Had Bloch remained, however, at that level of argument, he would not be helping me very much here, for, truth to tell, I make little enough use, not knowing quite how, of archaeological evidence in the strict sense. Bloch, however, takes us a vital step further, writing:

Now, a great many vestiges of the past are equally as accessible [as those Syrian bones]. Such is the case not only with almost all the vast bulk of the unwritten evidence, but also with a good part of that which is written. If the best-known theorists of our methods had not shown such an astonishing and arrogant indifference toward the techniques of archaeology, if they had not been as obsessed with narrative in the category of documents as they were with incident in the category of actions, they would doubtless have been less ready to throw us back upon an eternally dependent method of observation.54

Immediately below I shall explore further Bloch’s contribution to my approach. For the moment, let me mobilize but one aspect of “the techniques of archaeology” stratification. Archaeologists, it is well known, infer much from the ways that artifacts are found in particular strata of their excavations, building up more complete pictures of the world of those artifacts by coordinating the remains from a particular stratum. Similarly, by piecing together the different relics of discourse that we find within a given stratum of Rabbinic literature, we can begin to reconstruct richer pictures of that stratum.

Comparison with a roughly analogous (but also interestingly different) historiographical situation may be helpful. Jonathan M. Hall has undertaken a detailed study of the traditions relating to the origins and movements of the various “ethnic” groups that made up the Greek people in early antiquity. These narratives which have reached us in written texts produced sometimes a millennium or more later than the events have been taken by many scholars to be the records of memories of the historical movements and divisions of original ethnic groupings, notably the Dorian and the archaic Greece. In a character sketch of these “historically positivist” approaches which could be applied as well, mutatis mutandis, to the procedures of most historians of Rabbinic Judaism as well, Hall writes:

The series of somewhat contradictory variants in which such myths exist are then understood as pathological aberrations from a ‘real’ historical

54 Ibid., p. 53.
memory—a collective amnesia, or even polynnesia, resulting from the passage of time. The task of the historical positivist is to reconcile these contradictory variants within a single, rationalising work of synthesis in order to reveal what actually happened. . . . The problem with the historically positivist approach is that it views myths of ethnic origins as the passive trace-elements of groups whose 'objective' existence is deemed to stand independently of those same myths.55

Indeed, this could be understood as the very essence of positivist historiography, namely its twin assumptions that there is a real objective historical past that is external to the documents within which that past has been “represented” and that the discovery of that objective past is external to the subjectivity of the researcher and her own assumptions and historical conditionings (or can be made so).56 In contrast, Hall suggests that if we do not accept ethnicity as a “primordial given” but rather as an ongoing project of construction of identity “that is repeatedly and actively structured through discursive strategies,” then these very narratives, these myths of origins can be understood as elements in these discursive strategies, as at least some of the “media through which such strategies operate . . . as cognitive artifacts which both circumscribe and actively structure corporate identity, so that whenever the relationships between groups change, then so do the accompanying genealogies.” According to Hall, the mythical variants, instead of being the problem for historiography in which guise they appear in traditional positivist historiographies, become now instead a resource for history writing, as these very variants indicate “specific stages in the discursive construction of ethnicity.”57

The analogy to my project should be apparent. Similarly abandoning positivist historiography that considers the aggadot (legends) of Yavneh as more or less corrupted memories and traces of the actual events that took place there with the concomitant necessity to extract the historical kernel out of the variants and corruptions of the legendary texts, I too am investigating how the shifting and varying legends themselves indicate specific stages in the discursive construction of religious identity as seen by the rabbis. This enables the work to take up a position between the positivist historiography most excellently represented by Gedaliah Alon and an opposite extreme that would see absolutely no historical value in the legends of the rabbis. The work is not, however,

55 Hall, Ethnic, p. 41.
56 See also Ibid., pp. 6–7.
57 Ibid., pp. 42–43.
ANECDOTAL EVIDENCE

positivist in that it recognizes the inevitable textuality of this very historical record. Not an attestation to something outside of themselves which we can discover (or reconstruct, or even envision) in order to hypothesize things "as they really were," these literary artifacts are the very stuff of the history themselves and their interpretation as historical objects can be no more "objective" than could any interpretation of any literary text as such. It is just that in this case the interpretation itself takes as part of its interpretative goal the interpretation of the "outside" reality to which the text can be explained as alluding by indirection.

I have further modified the synchronic approach by supposing that the Rabbinic narratives do not only give us insight into the static or synchronic moment of their own production but also record some form of historical memory of broad shifts and conflicts that have taken place and are taking place.56 For example, I would now read a biographical narrative that tells the story of the death of a rabbi after a particularly bitter dialectical contest and the regret of his opponent at having "caused his death" and lost his intellectual partner as possibly teaching us something about the abandonment of certain types of dialectic within the Rabbinic movement in fourth/fifth-century Babylonia (where the story was told), while teaching us next to nothing, of course, about the lives of those individual rabbis (Palestinians of the third century).59 I do, moreover, believe that there is some (limited) historical depth to be afforded by the gap between the sources and redactional level of the major Rabbinic texts (not equal to the gap between time of redaction and the ostensible time of the "speakers" of the sources, however). These are, after all, texts composed out of the found objects of earlier texts and traditions, suggesting that a gap between the redactional deployment of these objects in his narrative and some earlier partly reconstructable deployments can be discerned.60 Once again, in Hall’s words:

Faced with both the totality, or system, of the genealogies and the individual genealogemes, one is able to discern how the latter are hierarchically clustered to constitute the former. Yet within the overall system one

56 Another way of saying this would be to suggest that the use of these narratives is analogous to the use of "oral traditions" in historiography, on which see William A. Graham, Beyond the Written Word: Oral Aspects of Scripture in the History of Religion (Cambridge, 1987), p. 14.
59 This example was suggested by my friend, Dr. Dina Stein.
60 This is, I concede a methodologically somewhat risky departure from the principles articulated by Arnold Maria Goldberg to the effect that once edited, the text is exclusively synchronic. See his Arnold Maria Goldberg, "Der Diskurs Im Babylischen Talmud. Aussagenzüge für eine Diskursanalyse," in Frankfurter Judaistische Beiträge 11
will also be able to recognize "fracture points"—that is, nodes which contradict or challenge the internal logic. Sometimes these fracture points will occur between variant versions and reflect both authorial and sociopolitical intention, but sometimes they will arise within individual accounts which may betray originally diverse social applications.\footnote{This also gives us some possibility of discerning a dynamism, a diachrony within the documents, a kind of internal variation within the document, particularly when we can grasp tension between the "redactor" and the "source" or when we can perceive a diachronic shift between them analogous in kind to the variations taken to indicate diachronic shifts and tensions between the different documents as well.}

THE QUEST OF THE HISTORICAL YA'AVEH VERSUS
THE SEARCH FOR THE YA'AVEHS OF FAITH

Following this approach, and reading Ya'aveh as the effect of discursive and social practices and not the cause of them, we can see how different sets of such practices occurring in diverse Rabbinic times and places produced (and still produce) different "Ya'avehs," different legends of origin for those practices. The form of textuality to which Cohen's description answers and which is almost definitional for what we think of as Rabbinic Jewish textuality then appears as a product of the latest strata in the development of classical Rabbinic Judaism and its texts, while earlier strata suggest an ecclesiology (if not quite a set of textual practices) more like that which we think of as belonging to Christian orthodoxy from Irenaeus on.

Viewing the shifts in the narrative conceptions of Ya'aveh as a series of diachronically linked synchronic moments, not as conflicting accounts

\footnote{(1983), pp. 1–45. To this Schaeffer has added the following paraphrase: "The text as it stands is exclusively synchronic and since we cannot go back beyond this state, there remains only the classifying description of that which is there. A historical differentiation is deliberately excluded because in effect the texts do not permit it," Peter Schäfer, "Research Into Rabbinic Literature: The State of the Question," in Journal of Jewish Studies 37 (1986), p. 145. I confess to being somewhat mystified at Neusner's objection to this point of Goldberg's, since it would seem on one reading to be most congenial to the documentary approach; Neusner, Foundation, p. 38.}

\footnote{Hall, Ethnic, p. 87.}

\footnote{This is, hopefully, a way of reconciling the powerful insights of Neusner's documentary hypothesis with the equally compelling insights of such scholars as Kalmin, who have focused on the manifest indications of historical depth within the documents.}
of the "real" council of Yavneh, has profound effects on our understanding of the chronology of the "parting of the ways," because conceptions of Yavneh and its Pharisaic ecclesiology are at the very heart of the stories that we tell of how Christianity and Judaism became separate religions. This modern scholarly moment is no different. Just as for the "classic" approach disputed by Cohen (and in other ways by many other scholars), Yavneh marked the point at which Judaism socially drove the Christians out of the synagogue, for Cohen himself, Yavneh was the moment at which a Rabbinic ecclesiology was founded that would forever mark Jewish orthodoxy as structurally different in highly significant ways from that of orthodox Christianity.

The problem is not unlike, I suggest, the problem of the very different portrayals of Jesus in the different Gospels. Just as each Gospel presents us with a different Jesus, so the different Rabbinic texts present us with different Yavnehs, each in accord with the Rabbinic ecclesiology being promoted by the community within which the given Rabbinic text was produced.

In addition to an essential agreement in historiographical method between Cohen and Goodman, there is a common substantive thrust to their work as well. In both accounts, Christianity gets separated off from Judaism very early, in Goodman (and in the traditional view) via the exclusiveness of the Yavneh project, in Cohen precisely owing to its inclusiveness, which produces a structural differentiation of the two religions. In one fashion or its opposite, then, both of these scholars (and most of their fellows—I use them here as synecdoche of very widespread trends within Rabbinic-period historiography) accept the mutually orthodox narrative of both Christianity and Judaism to have been separate and bounded entities quite early on in their histories.

Viewed as what produced the narrative of Yavneh, not as what is contained or reflected within it, the processes of social and structural differentiation of Rabbinic Judaism from Christianity of which both Goodman and Cohen speak were centuries-long, multiply determined, and ramified. "Yavneh" was the work of four centuries. We have very little access to what really happened at Yavneh, the historical Yavneh, and the different Yavnehs projected by different Rabbinic texts are as specific and as differentiated in their religious ideologics as the different

Jesuses projected by the different Gospels. Studying these different Yavnehs of faith gives us, therefore, access to a diachronic developmental pattern within Rabbinic ecclesiology.

A perhaps more precisely homologous comparison than the Gospels is provided by the literary construction of the Council of Nicæa itself within Christian textual practice. As historians of Christianity have observed for some time now, "Nicæa" is largely the retrospective textual and then legendary construction of a primal scene of the triumph of orthodoxy. A solution to the seeming aporia in descriptions of Rabbinic Judaism as rigid and exclusivist or as inclusive and elastic is to realize that Yavneh itself, like Nicæa, is a foundation legend, or rather, a series of changing legends. Just as the authority of the Council of Nicæa took time to produce, the portrayal of Yavneh in the Rabbinic literature of the early third century underwent a reinterpretation in the second half of the fourth century to receive a normative status. In any case, that retold and ultimately definitive Yavneh legend finally fits Cohen's description of the "creation of a society based on the doctrine that conflicting disputants may each be advancing the words of the living God." As already remarked, the very phrase that Cohen refers to here is never found in early sources, but only in the two Talmuds of late antiquity. In the Palestinian Talmud we find it:

It is taught, a heavenly voice went out and said, "These and these are the words of the Living God, but the Law is like the School of Hillel." Where did the voice go out? R. Bibbi said in the name of R. Yohanan, "In Yavneh the voice went out" (Y. Yabmut [sic] 1:6, 3b).

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65 It must, however, be made clear that, even though it is a foundation myth, the idea of a Synod at Yavneh is hardly a "myth of Christian scholarship," pace David Aune, "On the Origins of the 'Council of Yavneh' Myth," in Journal of Biblical Literature 110, no. 3 (Fall, 1991), pp. 491-493. Both the early third-century Mishnah and the later Talmud are full of material that suggests that Yavneh was imagined as a council by Jewish texts much before Spinoza. Both the ex exclusivist and the pluralist version of Yavneh are encoded, then, within Rabbinic literature itself. Both the early one of conflict and exclusion and the later one of "agreement to disagree" are versions of Yavneh. This will emerge when we read the different "myths" of the Council of Yavneh in the third century tannaitic or fourth-fifth century amoraimic contexts of their literary production, and not in the first-century context of their ostensible subject-matter, as the nineteenth-century (and later) positivist historians had done.

Cohen is right, I think, but for Cohen’s prospective “creation,” substitute a retrospective, nostalgic, and utopian “imagination of a society.” The Yavneh that he describes is a product of the late myth-making discourse of the Talmud.

**The Myth of Yavneh and the “Curse of the Christians”**

Considering the Council of Yavneh as a real historical, religious, political event, New Testament scholars have accredited to reaction against the activities of this conciliar body everything from the ire against Jews in the Gospel of John to Jesus’s Sermon on the Mount in Matthew. Our efforts in Jewish historiography to account for Yavneh will have, therefore, in addition to their obvious consequences for understanding the history of Rabbinic Judaism, some necessary and immediate consequences for Christian interpretation and church history. A vitally important case in point for the current inquiry is the so-called *birkat hamamin*, or “curse of the heretics,” sometimes even referred to as the “curse of the Christians,” which, allegedly instituted at the real Yavneh toward the end of the first century, is frequently taken as the cause of the “final break” between Judaism and Christianity. Until quite recently in many scholarly quarters (and to this day in most popular ones) this liturgical curse was taken as a project for driving the Jewish-Christians out of the Synagogue and the precipitating factor of the final break between Christianity and Judaism, the so-called “parting of the ways.” This reconstruction of the history has been thoroughly called into question in recent years by both Jewish and Christian scholars, beginning with Peter Schäfer, Günther Stemberger, and Reuven Kimelman. In the United States by 1985, Wayne Meeks

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60 William David Davies, *The Setting of the Sermon on the Mount* (Cambridge, 1976), pp. 256–315. “The majority opinion is that the First Gospel was composed in the final quarter of the first century A.D.”; W. D. Davies and Dale C. Allison Jr., *Matthew, International Critical Commentary* (Edinburgh, 1988), vol. I, p. 128. The chronology, accordingly, works only if we assume the Council of Yavneh to have been a real event as recorded in Rabbinic literature.

would recognize that “the Birkat ha-minim has been a red herring in
Johannine research.”69 In 1992, the leading Israeli scholar of early
Christianity, David Flusser, would write: “[I]t has been proven conclusively
that the Blessing of the Heretics was not established at Yavne in
order to remove the Christians from the community of Israel,” and,
by 1995, Stephen G. Wilson would remark in turn, “it is equally true
that the Johannine evidence has been a red herring in trying to under-
stand the Birkat ha-minim.”70

There is every reason to doubt that the so-called curse of the heretics
was formulated under Gamaliel II at Yavne or that it existed at all
before the end of the second century. The only source we have for this
“Yavnean” institution is a Babylonian talmudic story from the fourth or
fifth century of Rabban Gamaliel’s asking Samuel the Small to formul-
ate such a blessing, the latter forgetting it a year later and meditating
for two or three hours in order to remember it (B. Ber. 28b–29a). This
hardly constitutes reliable evidence, or indeed evidence at all.71 The aroma
of legend hovers over this entire account. In the Palestinian Talmud
Berakhot 4:3, 8a, apologetic reasons for retroactively ascribing this “bless-
ing” to Yavne are indicated explicitly. One might as well attempt to
write the history of early Britain on the basis of King Lear or of colonial
America using James Fenimore Cooper as one’s only source.

Separation from the Jewish Communities,” in Jacob Neusner and Ernest S. Frerichs,
echs., “To See Ourselves as Others See Us:” Christians, Jews, “Other” in Late Antiquity (Chico,
1985), pp. 102–03. In earlier work, Meeks had completely “bought” the Martyn hypothe-
esis; Wayne A. Meeks, “The Man from Heaven in Johannine Sectarianism,” in Journal of
70 See, for instance David Flusser, “Some of the Precepts of the Torah from Qumran
(QQMTM) and the Benediction against the Heretics,” in Talmud LXXI, no. 3–4 (April–
Horst published a critical survey of the entire question: “The Birkat Ha-Minim in
Recent Research,” in Hellenism-Judaism-Christianity: Essays on Their Interaction, Contributions
71 Stephen G. Wilson, Related Strangers: Jews and Christians 70–170 C.E. (Minneapolis,
Hundred Years of Jewish-Christian Relations (Valley Forge, 1999), pp. 58–61, still reflects,
however, the older views, as does Dunn, PARTINGS, p. 222. I am also in obvious dis-
agreement with Binger Pearson, “1 Thessalonians 2:13–16: A Deutero-Pauline Inter-
polation,” in The Emergence of the Christian Religion: Essays on Early Christianity (Harrisburg,
1997), pp. 72–73, n. 74, although only on this point.
72 Pace Sternberger, “Synode,” p. 16.
73 And yet, on the basis of these data, Skarsaune is prepared to conclude that, “The
prayer was introduced between 70 and 100 A.D., and had for its purpose to prevent
Jewish Christians and other heretics from staying within the synagogue community.”
Oskar Skarsaune, The Proof from Prophecy—A Study in Justin Martyr’s Proof–Text Tradition:
Stephen G. Wilson has clearly made the point:

The influence of the Yavnean sages on Jewish thought and practice between 70 and 135 C.E. and beyond should not be overestimated. Their decisions were not imposed overnight, nor were they felt uniformly across all Jewish communities. The Rabbinic account of the introduction of the Birkat ha-minim [curse against the heretics] is thus a retrospective, punctilious summary of what was in reality a lengthy process. The spread of their influence was gradual and almost certainly did not encompass all Jewish communities until well beyond the second century.74

Not only should we not overestimate “the influence of the Yavnean sages,” we should also not overestimate our knowledge of the activity of those sages between 70 and 135, since the earliest information we have about them is from the Mishnah redacted at the end of the second century. Moreover, birkath hamnanim is not mentioned in that document at all. Our very first attestation of this institution, in a rhetorical form indicating that it is a novum, in fact is found in the Tosefta, generally regarded as having been edited some time around the middle of the third century. Finally, we should not, indeed cannot, assume Rabbinic power over or even influence on virtually any Jewish community other than perhaps their own sub-group of Palestinian (and later Babylonian) Jews until we can document it very late in the period. The Rabbinic account of the introduction of the birkath hamnanim is thus not only a summary at a single point in time of what had been a lengthy process, as Wilson has seen clearly, but also one for which the earliest evidence is from the mid-third century, one which tells us, for then, even very little about Jewish practice at all.

Text-Types, Provenance, Theological Profile (Leiden, 1967), p. 290. Skarsaune insists that “the patristic evidence cannot easily be dismissed,” but, as I shall argue immediately, there simply is no patristic witness that counts as evidence for the proposition that a formal liturgical curse against Christians existed before the fourth century.

74 Wilson, Related Strangers, p. 181. Compare the general point of Gregory Nagy (with respect to Greek culture): “Ancient Greek institutions tend to be traditionally retrojected, by the Greeks themselves, each to a proto-creator, a culture hero who gets credited with the sum total of a given cultural institution. It was a common practice to attribute any major achievement of society, even if this achievement may have been realized only through a lengthy period of social evolution, to the episodic and personal accomplishment of a culture hero who is pictured as having made his monumental contribution in an earlier era of the given society;” Gregory Nagy, Poetic as Performance: Homes and Beyond (Cambridge and New York, 1996), p. 76. We could imagine the Yavneh myth—with its “culture heroes,” from Yohanan ben Zakkai to Agba—developing, then, on this pattern, in any case. It seems to me a fortiori that it is plausible in a case in which institutions—various modes of Judaism, including “Christianity”—are in direct competition (by which I do not mean necessarily competition for adherents but surely for legitimacy).
The first more or less datable mentions of the anathema against the heretics, in fact, occur in the same Rabbinic document, the mid-third century Tosefta, in which the first explicit mentions of disciples of Jesus are to be found. And while they themselves are almost certainly of somewhat earlier origin than the redacted text, they are with equal certainty not datable to the first century. There is a very important, if somewhat obscure, text in the Tosefta, that reads, “The eighteen blessings which the sages have said correspond to the eighteen mentions of [God’s name] in [Psalm 29]. He shall include [mention] of the minim [heretics] in the blessing of the Pharisees [I.e., Separatists],” T. Ber. 3:25. Since “blessing” means curse here, this text has been a real scandalon for scholars, because it seems to imply that the Pharisees were cursed in the early synagogue. There have been many attempts to emend this text, but as Saul Lieberman points out, it cannot be emended against all witnesses. Lieberman accordingly understands “Pharisees” here to mean those who “separate themselves from the public,” and thus as the prototypical sect (the apparent etymological meaning), thereby endangering the unity of the people. He concludes that the Tosefta is referring to an early curse on them to which a curse on the minim was later appended or folded in.37

In contrast to my master, I would not be able to date this inclusion earlier than the third-century context in which the Tosefta was redacted or the immediately preceding decades, since the very term minim is attested only from the Mishnah at the end of the second century. Origen, roughly contemporary with the Tosefta, provides indirect evidence for the point that there was no early curse against Christians or Christianity as well. He writes that “up till his own days the Jews curse and slander Christ” (Hom. Jer. X 8,2; XIX 12,31; Hom. Ps. 37 II 8). “But that is not what the Birkat ha-minim is about,” comments P. W. van der Horst, “and in view of the fact that no Church father was better informed about Judaism than Origen, one may reasonably assume that curses against Christianity in a synagogue [sic] prayer would

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36 Not a euphemism, the “blessings” are that which Jews pray for; the curse is a curse on our enemies and thus “a blessing” to us, so to speak.
37 It is not impossible to imagine, even, that it is the Qumran sectaries who were originally so designated.
certainly have been known to him and been mentioned by him. It is a telling fact that he fails to refer to any such prayer.\textsuperscript{78}

An earlier curse of the sectarians [םשׂכָה = Pharisees] became the model for the curse of the heretics and did so, for all we can know, sometime in the third century. The most inviting context for the tal- mudic narrative is, in my opinion, the anathematizing of heretics that we find attested in the legend-encrusted councils of the late third and early fourth centuries, notably the Council of Antioch (260) in which Paul of Samosata and his followers were anathematized\textsuperscript{79} and, more famously, the Council of Nicæa (325). It is perhaps going too far to suggest that the late stories of Yavneh were, in part, a kind of reflex of stories about Ecumenical Councils, but it is not, I think, extravagant to imagine that something was in the air of discourse at that time. I think that formal anathematization was of importance to both nascent Christianity and Judaism at this time and for similar reasons, namely the effort on the part of certain power groups and leaders to make a difference, to construct a binary opposition where none yet existed between them. It is of importance in this regard to remember to what extent the anathematized heretics of both the Rabbinic and Christian practices are marked, directly or indirectly, as virtual adherents of what will become, the other religion.

Once the evidence of and for a so-called curse of the heretics before the third century is removed from the picture, there is no warrant at all to assume an early Palestinian curse directed at any Christians.\textsuperscript{80} I am not claiming to know that there was no such thing, but instead suggesting that we cannot know at all, and that it is certain, therefore, that we cannot build upon such a weak foundation an edifice of Jewish-Christian parting of the ways.\textsuperscript{81}

In the historiography of early Judaism and Christianity, however, much weight indeed has been placed on the Council of Yavneh and its alleged institution of the “curse of the Christians.” J. Louis Martyn’s elegant and otherwise compelling hypothesis about the origins of the

\textsuperscript{78} van der Horst, “Birkat-Haminim,” p. 116.


\textsuperscript{80} See also Martin Goodman, State and Society in Roman Galilee, A.D. 132–212 (Toboc, 1983), p. 86, implying as well such a denial.

\textsuperscript{81} Reuven Kimelman, “Birkat Ha-Minim,” has suggested that the assumption that the so-called curse of the minim denotes automatically Christians “is behind the oft-repeated assertion that about the year 100 the breach between Judaism and Christianity became irreparable.”
Johannine Community stands and falls on this assumption, as does W. D. Davies's work on the Sermon on the Mount. In contrast to Davies's classic position that the "Sermon on the Mount" is "the Christian answer to Jamnia [Yavneh]," it is possible to hypothesize that at least one version of "Yavneh" was produced in the talmudic imaginaire as a sort of Rabbinic answer to the conciliar formations of the Christian fourth century—themselves, as we have seen, the product of a certain imaginaire as well. While the retrospective construction of Nicaea by Athanasius and his followers involved the production of an imaginary enemy, "the Arians," the retrospective construction of Yavneh in late fourth-century (or even later!) Rabbinic texts involved the denial of real enmity and the production of an imaginary and utopian comity.

I abandon the quest for the historical Yavneh and instead embark on a quest for a New Historicism Yavneh, or rather Yavnehs, a set of diachronically emploted genealogies (essentially two) that will form the poles of what was surely a slow, almost imperceptible set of transformations. These transformations led Rabbinic Judaism to those textual practices which we take to be most characteristic of it, those that mark it as most insistently other to Western "Christian" textuality, midrash and Talmud.

84 "'Arianism' as a coherent system, founded by a single great figure and sustained by his disciples, is a fantasy—more exactly, a fantasy based on the polemic of Nicene writers, above all Athanasius;" Rowan Williams, Arians Heresy and Tradition (London, 1987), p. 82. Also, "the term 'Arian' seems to have been Athanasius' own coinage and his favored appellation for his opponents (unless he could call them 'Ariomaniacs'). Apparently it was only in 341, however, that the Eastern bishops learned that they were being called 'Arians,'" Joseph T. Lienhard, S. J., "The 'Arian' Controversy: Some Categories Reconsidered," in Theological Studies 48 (1987), p. 417. This, moreover, represents the consensus of present-day scholarship on the trinitarian controversies.
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