THE EARLY CHRISTIAN BOOK

EDITED BY
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One of the most dramatic and salient differences between orthodox Christianity and rabbinic Judaism as they emerge from late antiquity is the very different kinds of books that they have made by then as their definitive statements. If, we might say, the definitive library of the church at the end of late antiquity is the collection known as the Fathers of the Church, surely the definitive library of rabbinic Judaism at that time is the Babylonian Talmud. These are not only very different books but very different sorts of books in ways that are crucial to understanding the differences between the two “religions” themselves. While the Fathers of the Church consists of a collection of tracts by named authors, the Talmud is a single text with many authors (or, rather, no author). The very idea of an author seems anathema to the Babylonian Talmud. The other salient characteristic that divides the Fathers of the Church from the Babylonian Talmud is that while the former seeks harmonia, that is, unanimity of opinion among the named authors of its many books, the latter seems to revel in the irresolution of disagreements among its contending speakers without an authorial voice even to tell us who is right and who is wrong. In the end, it is more than anything else the form of textuality,
the types of books that are made, that marks the phenomenological differences between Christian and Jewish orthodoxies at the end of late antiquity. No small differences, to be sure, but of a very different sort from the differences that are usually claimed for the two "religions."

It is very tempting, of course, to see in this an essential difference between Judaism and Christianity. This highly salient difference, however, is the product in both instances of particular histories, both discursive and literary, within the two communities. Others far more qualified than I have written of the history that produced the Fathers of the Church. Here I would like to say something preliminary about the historical processes by which the Babylonian Talmud, as the most generative document of rabbinic Judaism, received its characteristic and generative form.

While the earlier Palestinian Talmud shares the first characteristic of the Talmuds, namely the lack of authorship, as indeed does all of rabbinic literature, the second characteristic is specific to the later period (and perhaps different place) of the redaction of the Babylonian Talmud. Of the two Talmuds and their differences, Jacob Neusner has written:

The sages of the Talmud of the Land of Israel seek certain knowledge about some few, practical things. They therefore reject— from end to beginning—the chaos of speculation, the plurality of possibilities even as to word choice; above all, the daring and confidence to address the world in the name, merely, of sagacity. True, the Talmud preserves the open-ended discourse of sages, not reduced to cut-and-dried positions. But the [Palestinian] Talmud makes decisions.

While this is a lucid characterization of the difference of the two Talmuds, I would reframe the point in a way that places the two Talmuds more clearly in diachronic relation. Rather than present the practice of the Palestinian Talmud as a deviation, a "rejection," I would prefer to imagine that it was the practice of the Babylonian Talmud that was constituted through a rejection—a rejection of the desire or hope for "certain knowledge." The making of decisions, after all, is the more obvious telos of an intellectual endeavor, while


7. For an exhaustive discussion of the redactional levels, see David Charis Kramer, *The Emancipation of Biblical Hebrew* (Oxford: Clarendon Press, 1989), with many examples as well as the work of many other scholars.

8. Jeffrey L. Rubenstein, "The Textual Provenance of the Yerushalmi," *JCS* 51, no. 2 (2007): 141. For the own dating of these phenomena, see David M. Goodbl
the "chaos of speculation" and "plurality of possibilities," the endless deferral of decision that characterizes the Babylonian Talmud, is more of a novellum. Reframing the relation between the two Talmuds in this way follows Neusner's own documentary-history approach more plausibly, with the later "document" responding to the earlier one. This correlates well also with the hypothesis of David Halivni, according to which the characteristic literary forms of the Babylonian Talmud take shape in the post-Amoramic period, that is from 450 to 650, and "point to a shift in values that transpired in Stammtic times. The Amoraim generally did not preserve the argumentation and debate but only the final conclusions. For them dialectical analysis was a means to an end, a process through which a sage could determine the normative law or the correct explanation of a source. The Stammtain, however, valued analysis and argumentation as ends in and of themselves."  

I argue that the realization of the crucial role of the late redactors, these anonymous "Stammtain," in forming the rhetorical structures of the Talmud, in conjunction with their increasingly appreciated role in shaping the talmudic legends (especially about Yavneh), and the historical insight that the institutional Yeshiva is also a product of this period, provides us with a powerful historical hypothesis, and a deeply attractive historical context, for the formation of major structures of rabbinic Judaism in the late fifth and sixth centuries. Institution (Yeshiva), founding and instituting text (Talmud), theological innovation (indeterminacy of meaning and halakhic argument), and practice (endless study as worship in and of itself) all come together at this time to produce the rabbinic Judaism familiar to us down to the present day. The Babylonian talmudic redactors were so successful in "hiding" themselves

1. For an exhaustive discussion of these characteristics of the Babylonian Talmud, also dating them to the redactional level of the text but presented in a somewhat different explanatory framework, see David Charles Kraemer, The Mind of the Talmud: An Intellectual History of the Babli (New York, 1990), with many examples as well. Christine Hayes, Between the Babylonian and Palestinian Talmud (Oxford, 1997), is also very instructive in this regard.


3. Jeffrey L. Rubenstein, Talmudic Stories: Narrative Art, Composition, and Culture (Baltimore, 1999); Rubenstein, "Thematisation of Dialectics."

that they were able to retroject those patterns and make it seem as if they were a product of a "real" Yavneh of the first century."

The Palestinian Talmud seems to consider it supremely important to determine the correctness of one of the views, as did apparently the earlier strata of Babylonian (Amoraic, 200-450) rabbinism as well, whereas for the Stam-
ma of the Babylonian Talmud it is most often the case that such an apparent proof of one view is considered a difficulty (qubia) requiring a resolution that in fact shows that there is no resolution, for "These and these are the words of the living God" (Babylonian Talmud Eruvin 13b). David Kraemer writes, "This contrast in overall compositional preferences may be the most important difference between the Bavli [Babylonian Talmud] and the Yerushalmi [Palestinian Talmud]."

The special literary character of the Babylonian Talmud has long been recognized in the scholarly literature. The great pioneer of literary analysis of the Babylonian Talmud, Abraham Weiss, wrote evocatively, "The entire essence of the talmud which we have before us says 'becoming' and 'development,' and not final rection."* For Weiss, "saying" here is undoubtedly metaphorical; the Talmud, against its will, as it were, bespeaks its own unfinished character. The Talmud was in reality never redacted, but only caught at an almost arbitrary moment in its becoming. I take Weiss's metaphor a little more literally: I hypothesize that the Talmud, redacted, is redacted in order to speak its entire essence as becoming and development, to enact rhetorically the openness of its own discourse, of all discourse.

Whatever the true "history" of the canonization of the Talmud, at the end of late antiquity—at the moment of the end of ancient Judeo-Christianity—two literary canons, the patristic corpus and the Talmud, came into existence, founding the two orthodoxies of medieval Christendom, the Catholic Church and rabbinic Judaism. It was then that the final form of rabbinic textuality and implicit ecclesiology, the vaunted "pluralism" of the rabbis, was

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8. Kraemer, Mind of the Talmud, 95.

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fully instituted. However, this pluralism is pluralism only when looked at from a very particular, rabbinic insider's perspective. When viewed in terms of the dual canonization of the textual forms of Christianity and Judaism, it—like the patristic corpus from which it is otherwise so different—is a highly efficient means for the securing of "consensual" orthodoxy. I would not want my position to be interpreted, however, as either cynical or reductive. Important theological issues were at stake: the nature of a monotheistic God and God's mediation to a physical universe, and with that the status of corporeality and all that it entails.\(^{10}\)

When seen, as it traditionally is, from the point of view of the Bavli— the hegemonic work for rabbinic Judaism—the practice of the Yerushalmi can seem strange and even defective. Thus Zacharias Frankel's classic observation that "[t]he Yerushalmi will frequently raise questions or objections and never supply an answer to them. This phenomenon is extremely rare in the Bavli.\(^{11}\) However, when looked at from a non-Bavliocentric point of view, this translates as precisely the willingness of the Yerushalmi to declare that one opinion is wrong and another right—Neusner's "making of decisions"—while the Bavli's practice of refusal of such closure discloses the stranger and more surprising epistemology, one that I would characterize as virtually apophatic (denying the knowability of the truth or of God) with respect to the divine mind, its text, and intentions for practice as well.

**Rabbinic Judaism as Stammaitic Invention**

The time of this epistemic refusal, I would suggest, is somewhere in the fifth century, when "Nicene" was finally "taking effect,\(^{12}\) and when the Babylonian Talmud was largely redacted. (A better formulation, perhaps, would regard it as a developing emanation through the fifth and sixth centuries.) What

\(^{10}\) Although there is much in my *Carnal Israel: Reading Sex in Talmudic Culture* (Berkeley and Los Angeles, 1993), that I would now change, I stand by its central insight that orientations toward the human body and thus gender and sexuality as well as nation constituted crucial phenomenological points of difference between rabbinic Judaism and orthodox Christianity as these emerged through late antiquity.

\(^{11}\) As paraphrased in Kraemer, *Mind of the Talmud*, 96.

\(^{12}\) For a very rich account of this "taking effect," see Richard Paul Vaggonne, *Eunomian Of Cyzicus and the Nicean Revolution* (New York, 2004), throughout and esp. 131–137.
has often been presented as an ahistorical definitive attribute, the vaunted "pluralism" of rabbinic Judaism—perhaps its most striking feature—is the product of this specific moment in history, and not a transcendental essence of rabbinic Judaism. Keith Hopkins is perhaps the only scholar who has so far even adumbrated the point that this vaunted heteroglossia of Judaism is the product of a specific history and not a transcendental essence of rabbinic Judaism, a fortiori Judaism simpliciter, arguing, "Unlike Judaism after the destruction of the Temple, Christianity was dogmatic and hierarchical; dogmatic, in the sense that Christian leaders from early on claimed that their own interpretation of Christian faith was the only true interpretation of the faith, and hierarchical in that leaders claimed legitimacy for the authority of their interpretation as priests or bishops." Hopkins describes this phenomenon historically: "Admittedly, individual leaders claimed that their own individual interpretation of the law was right, and that other interpretations were wrong. But systematically, at some unknown date, Jewish rabbis seem to have come to the conclusion, however reluctantly, that they were bound to disagree, and that disagreement was endemic." Rather than see this as the reluctant product of a local and particularist development within Judaism, I would prefer to see it as an instance of a wider epistemic shift taking place around the Mediterranean in the relevant centuries. At approximately the same time that rabbinic Judaism was crystallizing the characteristic discursive forms of its orthodoxy—interpretative indeterminacy and endless dispute—the orthodox church was developing the discursive forms that were to characterize it as well, their nearly proverbial "dogma and hierarchy." Without, as we shall see, ascribing any particular differentiation in social structure to the two formations on the basis of this distinction, we can nevertheless point to these shifting differences as significant moments in the epistemologies and theologies of language of the two communities. These are usually taken by scholars to be unrelated developments (insofar as they are studied as developments at all), and, moreover, to represent an enormous difference at the level of sociopolitical organization. I would like to advance the notion that, opposite as these characteristics seemingly are, they can be read as sharing a common epistemic and historical context, and that so reading them will produce interesting and perhaps useful results.


This specific moment, moreover, can be illuminated by close attention to epistemic shifts within Christian discourse that can be mapped out following some very recent scholarship on the texts of the same period. Lest it be deemed a priori unlikely that discursive histories attested for the Christian world within the empire be understood as significant context for developments within Sasanian rabbinic Judaism, it needs to be remembered that Christianity held important sway within the geo-cultural orbit of these rabbis. As Rubenstein has already noted, "to date the rise of the Babylonian rabbinic academy to the fifth or sixth century coheres with the broader cultural climate. Hellenistic influence increased dramatically throughout Syria and northern Mesopotamia in the fifth and sixth centuries. The Church Fathers Aphrahat (d. circa 350) and Ephrem (d. 373) wrote in Syriac and exhibit a Semitic outlook; their works are largely free of the complex Christological formulations made possible by the philosophical terminology available in Greek and Latin. In the succeeding centuries the Church Fathers within the Persian empire express themselves in a thoroughly Hellenized idiom." Rubenstein, moreover, suggests that these shifts are partly to be explained by the influx of "Nestorian" scholars from the Roman Empire to the Sasanian Empire after Chalcedon.

Isaiah Gafni has already identified important structural parallels between the new Christian school in Nisibis and the new rabbinic Yeshivot not so very far away. In the light of these precise structural and even terminological parallels between the Christian and rabbinic foundations, it becomes much more plausible to suggest common epistemic and discursive progressions as well.

The successful production of the vaunted homononia of post-Nicene orthodoxy entailed or was enabled by a set of textual practices. In order for the polyotria of the writings of pre-Nicene theologians (those accepted into the canon of the "orthodox") to be converted into a single-voiced corpus of the fathers, discursive work had to be done, providing the canonical literary objective correlative of the legendary work that Richard Lim has described.

larly, the production of the actual text, the book of the Babylonian Talmud, provides a canonical literary textual fact to correspond to a legendary founding, as well as the correlate to a particular (and, I would suggest, new) theology of language in rabbinic Judaism. Lim adumbrated this issue when he described the transposition of Theodosius's call for "fair and open examination of the disputed matters" to a call to submission "to the views of those teachers who lived previous to the diension in the church." As Lim points out, this shift within Theodosius's own sense of how Christian truth is found and maintained "may be regarded as part of the germinating ideological justification for the patristic florilegia that would play a large role in Christian councils." Examining yet another vector in the development of Christian textual practices, Éric Rebillard has cited a Western author, Vincent of Lérins, on the justification behind the florilegia: "If no council decision has dealt with the question debated, Vincent recommends that 'one collect and examine the opinions of the ancients who, although they come from different places and times, remained however in the communion and faith of the one Catholic Church, and appeared as commendable teachers. One must understand that he too can believe without doubt what has been openly, frequently, and constantly taught, written and defended not by one or two, but by all in the same way, according to one and the same consensus." For Augustine, as Rebillard shows, it is the agreement, the consensus, of all Catholic authorities that is the measure of orthodoxy truth. The ecclesiastical writers speak "with one heart, one voice, one faith." It is riveting that Augustine actually imagines this corpus of the writings of the fathers as both an imaginary council and as a book.

20. Lim, Public Disputation, Power, and Social Order, 202-3. See Marcel Richard, "Les florilèges diphytiques du Ve et VIe siècle," in Das Konzil von Chalcedon: Geschichte und Gegenwirt, ed. Alois Grillmeier and Heinrich Ilchert (Würzburg, 1951), 173-234. See also Vagienne, Eumonos of Cyzicus, 368: "Aetreria's intolerance of ambiguity made it impossible for Eumonos or his community to take any part in the controversies of the rising generation: he was now definitively a 'heretic.' He [Eumonos] and his followers were obliged to observe the theological world of the next century from the sidelines, their proper voice audible only in (heavily doctored) florilegia." The point is not, of course, that controversy stopped in the Nicene church but that the modes by which it was carried out were different. See immediately below on the Pelagian controversy, and the same is true, mutatis mutandis, of the Nestorian controversy.
22. Ibid., 575.
23. Augustine, Against Julian 1.54, ibid., 476.
24. Ibid., 2.10.37, emphasis.
25. Gray, "Select Fathers.,
27. Lim, Public Disputation,
If a synod of bishops were summoned from all over the world, I wonder whether that many men of their caliber could easily be assembled. After all, these men did not live at the same time; rather, at different periods of time and in distant places. God sends, as he pleases and as he judges helpful, a few of his faithful ministers who are excellent beyond the many others. And so, you see these men gathered from different times and regions from the East and from the West, not to a place to which human beings are forced to travel, but in a book which can travel to them. 14

This citation, I think, is sufficient to evoke the fascinating similarity of the cultural world that produced the Babylonian Talmud, also a collection of the sayings of many “excellent” rabbis over centuries and in different places made into a book that travels in space and time to the faithful. And this powerful similarity also points up the enormous difference in the mode of discourse of the two new books: one voice versus many voices, but both, I warrant, in support of the “same” kind of project, the production of a bounded, concerted orthodoxy “religion.”

Other scholars, however, have located at least the planting of the seed of these florilegia in the textual practices of the century before Theodosius and Augustine. In a brief essay published in Studia Patristica, as well as in a couple of unpublished works, Patrick Gray has examined the processes through which the single-voiced institution called “Fathers of the Church” was produced in the fourth century. 15 Mark Vessey has also shown the significance of the formation of a citable patristic canon, a patristic canon of citation, in the fourth century, and its contribution to the “forging of orthodoxy.” 16

Particularly evocative, however, for the current context: is Virginia Burrus’s examination of the formative influence of Athanasius’s literary corpus in producing the textual practices of fourth-century and later Christian orthodoxy, the modes of its discourse, its habitus. Positioning her meditation in relation to Lim’s claim that it is with the death of the last “eye-witness,” Athanasius, that the “legends about Nicaea began to emerge;” 17 you write: “Athanasius’s death marked the end of a crucial phase in the literary invention of Nicaea; and, furthermore, the layered inscription of his ‘historical’ or ‘apologet-
ic texts—resulting in his retroactive construction of a virtual archive for the council—contributed heavily to the creation of a documentary habit that was, as Lim and others have demonstrated, crucial to the success of the late antique council in producing "consensual orthodoxy." By substituting "end" for "beginning" and "literary" for "legendary," Burrus both supports Lim's argument and adds another dimension to it. She continues, "In Athanasius's texts—in his sensitivity to 'textuality' itself—we sense something of what Richard Lim describes as a late-antique trend toward a 'growing reliance on textual authority.'" 29

Lim had emphasized that Nicaea, in contrast to other synods and councils, left no written record of its acts. Agreeing with him, Burrus shows through close readings of the Athanasian dossier on Nicaea that Athanasius, through the arrangement and redacting of materials, documentary and otherwise, produced ex post facto virtual acta for "his" council. Burrus's reading allows us to perceive that Athanasius may have made a contribution through this activity to the practice of the production of such archives and acta for other conciliar formations, as well as to the system of textual practices in general that constituted late ancient "patriotic" orthodoxy, including especially that great late ancient Christian book of books, "The Fathers of the Church." Nicaea—the council and not only or primarily Nicene doctrine—was "invented" through the writings of Athanasius. Athanasius's literary exertions thus produced retrospectively a certain account of "Nicaea," an account that, as Burrus argues, was generative for the future history of Christian textual practices. Burrus focuses our attention on the particular form of textuality and the textual form of particular types of orthodoxy and their habitus, and on the correlation between those textual practices and habitus and the habitus that Lim has uncovered in his work. These literary practices (arguably centered around Athanasius, whether an Athanasius self-fashioned or fashioned by others) and their collation with the legends of Nicaea provide the richest backdrop for investigating the cognate but different relations between talmudic legends of Yavneh and the textual production of the Babylonian Talmud.

Burrus writes that some of the material from Alexandria (Athanasius's council) was included in the consensual orthodoxy in the form of "collective rationally (a shifting) body of the written council of faith"—for Christian "W" with one voice, clearly formulated in a single author. At a time when Christian and topos—for instance, the idea of the Church's rule, was never unresolve.

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38. Virginia Burrus, "Regrett: Not Made": Conceiving Masculinity in Late Antiquity (Stanford, 2000), emphasis added.
39. Ibid., 56-57.
and the textual practices that constitute the great late ancient Jewish nonbook, the Babylonian Talmud itself.

Burrus writes, "Sorting through the complicatedly intercalated writings either authored or ghostauthored or edited and published by the bishop of Alexandria [Athanasius], we observe Nicaea and its frozen Logos being produced as the cumulative effect of a series of very deliberate textual acts of self-defense, by which the armoured body of the bishop was also conceived."

In the even more complicatedly intercalated pseudospeech of the rabbis, as edited and published in the Babylonian Talmud, a similar body, that of the rabbi, was being conceived. If, in Burrus's words, "the Alexandrian Father conceives Nicaea as the 'ecumenical' council of the Fathers who begat the immortal body of the written word," then the Talmud conceives Yavneh as the ecumenical council of fathers who transmitted the immortal (but ever-growing and shifting) body of the oral Torah. Just as Athanasius promulgated "the strikingly close identification of the divinely begotten Word with the written texts that now incarnate 'Nicaea,'" so, too, did the rabbis of the Talmud closely identify their own founding text, the Mishnah, and their own commentaries on it with the divinely given oral Torah. The redactors of the Talmud are the collective rabbinic Athanasius, insofar as it is he who invented "The Fathers of the Church" as a nameable literary entity. Where the ideal of the orthodox Christian "Word" was its monovocality, its many-authored texts speaking with one voice, the ideal of the classical orthodox rabbinic oral Torah as finally formulated in the Babylonian Talmud was of one many-voiced text with no author. At a time when, as Lim shows, dialectic was being increasingly demonized by Christian orthodox writers, talmudic narrators, using the same tropes and topoi—for instance, of dialecticians as "shield-bearers"—were raising forever unresolved dialectic to the highest level of religious discourse.

Just as the story of Nicaea "gives rise to the 3:18 conciliar 'fathers,' and also to their only begotten credal Word," the story of Yavneh gives rise to the fa-

12. It may not be entirely irrelevant to note that in the same Mesopotamian environment, the formal public debates of Manicheans were also being recorded in writing at about the same time. Lim, Public Disputation, Power, and Social Order, 71.
their rabbis\(^\text{16}\) and their only begotten oral Torah. Yavneh was projected back into the first century, Nicaea only into the beginning of the fourth.\(^\text{17}\) Both legendary councils claim, moreover, to have the divine truth, Yavneh its oral Torah, and Nicaea its apostolic teaching, and both authorize their claim to such truth in the same way, via a myth of apostolic succession.\(^\text{18}\) Both are myths of foundation of an orthodoxy.\(^\text{19}\) The Talmud itself, as the unauthored and frequently seemingly chaotic record of constant *polynoia*, is a different kind of text from both the Achanasian corpus and the monovocal "Church Fathers" that late ancient Christian orthodoxy produced. The difference in this kinds of textuality is prefigured in the distinction between the exclusive orthodoxy of the end point of the Nicaea myth and the equally exclusive, divinely sanctioned heterodoxy of the end point of the Yavneh myth, embodied in the late talmudic saying "These and these are the words of the living God," which according to legend "went out" at Yavneh. For all their similarities in terms of the exercise of power, these two theologies of language were distinctly different in the kinds of books, the very notion of the book and the author, that they produced.

In an insightful and very sympathetic—if somewhat too exculatory, I think—\(^\text{40}\) essay on rabbinic Judaism, Rosemary Radford Ruether has described the Talmud in the following terms:

Classical Judaism, by contrast, produced a literature which looks at first sight like someone's grandmother's attic in which endless quantities of curious things which "might some day come in handy" have been passed down like so many balls of string lovingly collected over the years and piled on top of each other without apparent concern for distinctions between weighty and trivial matters. It is only with the greatest difficulty that those accustomed to systematic modes of thought, logical progression, and hierarchical ordering can adjust themselves to the discursive and unsystematic style of the rabbis and begin to discern the thread of thought that und gradually one comes to a rabbinic message with presence. This is the order, and value, in which many rabbis think nothing of discussing the

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\(^{17}\) If, as scholars agree, it is virtually impossible to determine what "actually" happened at the very well documented Nicaea (*Vaggoner, Eunomius of Cyzicus*, 52), how much more so the virtually mythical Yavneh.


\(^{40}\) As I am sure Ruether does now, as well.

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42. R. Travers H. 1978, 176. It needs to be curated in several details.

43. Shalom, melam lima Pines, "Neces on c in Sefer zlibaron le-Yesh Pines (Jerusalem, 1974) notes that minim, leYish". This is an excellent exam

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of thought that underlies what appears to be random discussion and linking of themes. But gradually one comes to see that this apparent jumble of piecemeal trivia is the medium of the rabbinic message which is the effort to penetrate every corner of ordinary life with God's presence. This expressed itself in an innocence of most of the Christian hierarchies of being, order, and value, and in an ability to see theological meaning in details of ordinary life. The rabbis think nothing of making their most profound comments on the nature of God in the midst of discussing the uses of cheese!41

An example of such discussion, characterized by R. Travers Herford as "dry and tedious," will exemplify Ruether's point. This text exemplifies in both its theme and its discursive method the differentiating and distinctive workings of Babylonian rabbinic orthodoxy, via the particular nature of the one and only Babylonian rabbinic book, the Talmud:

Rabbi Abbahu taught before Rabbi Yoḥanan: Gentiles and shepherds, one does not help them out nor throw them in, but the minim [Jewish heretics] and the delatores [informers] and apostates [to paganism].42 they would throw them in and not help them out.

He said to him, but I teach: "all of the losses of your brother" [Deut. 23:13] to add the apostate, and you have said: they would throw them in.

Remove from here "the apostates."

The text begins with Rabbi Abbahu citing a tannaitic teaching to the effect that if idol worshipers and shepherds (considered thieves) fall into a hole, one does not rescue them, but one does not push them in either, while the second category of minim, delatores, and apostates are to be pushed into a hole and not rescued. To this Rabbi Yoḥanan objects that he has a tradition that the verse which enjoins saving lost objects of one's brother includes even brothers who are apostates,43 so how is it possible that Jews are enjoined to endanger the apostates' lives? The answer is that apostates are to be removed

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42. K. Travers Herford, Christianity in Talmud and Midrash (London, 1904; reprint New York, 1978), 176. It needs to be said, moreover, that Herford's understanding of the Talmudic passage is inaccurate in several details.
43. "TAUW, ниkωnum, following the manuscripts. According to the 'brilliant interpretation of Shalom Pines, "Notes on the Paradigm between Syriac Terminology and Mishnaic Hebrew" [in Hebrew], in Sefer zikaron le-Yehuda Friedman: Seuets nachshonim [Yehuda Friedman Memorial Volume], ed. Shlomo Pines (Jerusalem, 1974), 209-11, to the effect that a микωнωnum is one who has become a "pagan," it follows that minim, Jewish Christians, are in a much worse category than Jews who have become "pagans." This is an excellent example of how muddling the categories is the greatest threat of all.
44. By virtue of the addition of the word "all."
from the list entirely. Notice that at this point in the talmudic text—the point at which the Palestinian Talmud would have stopped—we have a sharp point of disagreement. Are the apostates included in the category of the worst deviants who are to be put to death, or are they in the category of "brothers," to whom one returns a lost object? Effectively, moreover, by citing the authoritative Rabbi Yoḥanan and emending Rabbi Abbahu's tradition, the hypothetical Palestinian Talmud has decided the question in favor of the latter option: apostates are indeed "brothers."

We see here the clear difference of the layers of the talmudic text and of talmudic textual practice, for the later Talmud cannot leave this conclusion alone. The Babylonian Talmud cannot, it seems, tolerate such a situation of rational resolution of a question. The text continues:

But he could have said to him: This is talking about an apostate who eats nonkosher meats out of appetite, and that refers to an apostate who eats nonkosher meats out of spite.

He thought that one who eats nonkosher meats out of spite is a min. For it is said: the apostate: Rav Aha and Ravina disagree about him. One said, an apostate out of appetite is an apostate, and for spite is a min, while the other said, even for spite is still an apostate, and what is a min? someone who worships an idol [i.e., a Jew who worships an idol]. [Avoda Zara 16b]

Here we are back in the world of clean and unclean meats, as Origen had put it. The Talmud asks: Why did Rabbi Abbahu so readily accede to the emendation of his text in response to Rabbi Yoḥanan's objection? He had a better way out. He could have said that there are two kinds of apostates. In the case of the one who eats nonkosher meats out of appetite, we still consider him a "brother" and we rescue his lost object, and a fortiori his person, but an apostate who eats nonkosher meats demonstratively, to "spite," to make a religious point—that is the one whom we not only do not redeem but indeed endanger. To this the answer is that Rabbi Yoḥanan was of the opinion that such a one who eats nonkosher meats in order to spite the Jewish Torah is not an apostate but a min. The Talmud backs up this point by citing an amoraic (later rabinic, in this case) and the min.

The tannaiti shepherds are of apostates, and the apostates, where the minim and the for the latter are as well. However, sugya is the new a new and seemingly Palestinian technical case being of apostates, "for spurious religious convicts."

In other words, when that ideological difference the of the two constitutes minut, nam such a Christian theological doctrine commandments, it decided.

At first glance, the question does not seem to make sense. The tannaiti plenum refuses to keep them called an apostate of deviants who a rationalism of the Talmud deviants as does Yoḥanan, who pl. told, only the apostate to be executed, b
rabbinc, in this case Babylonian) argument as to the definition of the apostate and the min.

The tannaitic text projects a clear hierarchy of "evildoers." Gentiles and shepherds are obviously considered much more highly than the minim, the apostates, and the delators. In the course of Rabbi Yohanan's intervention, apostates, whatever they are, are not only raised into a higher category than the minim and the informers but even into a higher category than the gentiles, for the latter are neither rescued nor endangered, while the former are rescued as well. However, the most important aspect of the talmudic discussion (the sugya) is the new distinction it produces between the two types of apostates, a new and seemingly important category distinction not known from the earlier Palestinian text. This distinction is between apostates for appetite, the typical case being one who is desirous and sees nonkosher meat and eats it, and apostates "for spite," those who choose to disobey the laws of the Torah out of religious conviction. Now, the Talmud makes clear that these latter are considered minim.

In other words, minim are a category that is constructed ideologically, even when that ideological difference manifests itself behaviorally; it is the ideological difference that constitutes the min. Finally, according to one of the views of the two amoraim, it is an even stronger ideological difference that constitutes minaa, namely, an improper belief in God. According to the other view, such a Christian would be considered a min even if she had no defects in her theological doctrine, except for the very fact of her ideological refusal to keep the commandments, which is itself a theological statement, and the case remains undecided.

At first glance, it would seem that the lack of resolution of such a significant question does indeed constitute an agreement to disagree, a form of epistemological pluralism. We note, however, that on either view, a person who refuses to keep the commandments for ideological reasons (e.g., Paul), whether called an apostate or a min, nevertheless fits into the category of those worst of deviants who are subject to righteous murder, as it were. The vaunted pluralism of the Talmud encompasses just as harsh exclusionary practices against deviants as does any earlier form of Judaism, including Christianity. Rabbi Yohanan, who places apostates in a very high category indeed, means, we are told, only the apostates for lust, so we take them out of the category of those to be executed, because apostates for ideology have anyway been transferred.
into the category of *minim*. The other position leaves the apostates, meaning the apostates for ideology, in the category of those to be executed, just not calling them *minim*. Surely to the potentially (or rather theoretically) to-be-executed ones the precise rubric under which they are being executed hardly makes a difference. Thus, while our reconstructed early—hypothetically Palestinian—*suga* resolves the question of the status of the apostate, it does so while keeping the actual original controversy alive as a distinction that would make a difference. The Babylonian Talmud keeps a simulacrum of distinction alive, while defanging it, depriving it of any power to make a difference. It is hard to see then how Hopkins’s “dogmatic and hierarchical” marks a difference of orthodox Christianity from rabbinic Judaism.

Lim describes eloquently the late fifth-century situation of orthodox textual practice:

Indeed, shedding their complexities and messiness, entire councils were reduced to icons encapsulating simple lessons. The Council of Nicaea, for example, endorsed as the triumph of orthodoxy and Arius’s Waterloo. The number 180 became the canonical number of the saintly fathers who formulated the Nicene creed, the touchstone of orthodoxy, though that tally surely does not correspond exactly to the number of bishops who attended Nicaea. The power of patristic consensus exhibited in various florilegia can only be fully appreciated in light of their visual representations in Byzantine frescoes and illuminated manuscripts, in which solid phalanxes of saintly bishops in serried ranks embody the principle of humanitas. Against this overwhelming consensus, dissent and debate were literally swept aside.49

Talmudic Judaism seemingly could not be more different in its posture toward debate and disagreement than this. What must be emphasized, however, is that at one level these seeming opposites actually lead to the same point: the rejection of rational decision-making processes through dialectical investigation, the *habitus* of both earlier Christian and Jewish groups. The dual displacements of the Logos—the rabbis’ by anathematizing it and the fathers’ via its resurrection in the Trinity—are played out as well in the dual and parallel but different strategies for defanging logos in human discourse. If post-Nicene orthodox Christianity bound the Logos to heaven (the full transcendentizing of the Son), the late ancient rabbis broke it (the tablets have been smashed, and the Torah is not in heaven). In both cases, there results what might be

47. Significantly, the number equals the number of Abraham’s retainers in Genesis 14.
called a certain apophatic theology of the Divine Voice. Humans, paradoxically, have lost the power to discover truth through ratio and dialectic. The distinction between binding and breaking the Logos, however, seems to be a theological distinction that makes an epistemic difference. The volatility of human voices that issued from these different strategies of depriving disputatio of its power to produce truth led to significant contrasts in the modes of textuality, the kinds of books that would be made, within the two religious cultures, the two orthodoxies that emerged triumphant, each in its own (unequal) sphere at the end of late antiquity.