FRACTURED TABLETS

FORGETFULNESS AND FALLIBILITY IN LATE ANCIENT RABBINIC CULTURE

MIRA BALBERG

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Introduction

Moses's last speech to his people, which constitutes the biblical book of Deuteronomy, is riddled with apprehension about forgetfulness.[1] While the entire speech is a reactivation of memory—insofar as it is a retelling of Israel's collective past and a reiteration of the law—and an exhortation on the importance of memory,[2] Moses expresses very little faith in the Israelites' ability to remember God's wonders and benevolence in the long run. On the brink of entrance into the promised land, in which the Israelites, thanks to God's generosity, will prosper and flourish, Moses anticipates that it is exactly this prosperity that is bound to lead to forgetfulness:

> Take care that you do not forget YHWH your God such that you will fail to keep his commandments, his ordinances, and his statutes, which I am commanding you today. When you have eaten your fill and have built fine houses and live in them, and when your herds and flocks have multiplied, and your silver and gold is multiplied, and all that you have is multiplied, then do not exalt yourself, forgetting YHWH your God, who brought you out of the land of Egypt, out of the house of slavery. . . . If you do forget YHWH your God and follow other gods to serve and worship them, I solemnly warn you today that you shall surely perish.[3]

The same concern is reiterated in Moses's farewell song at the end of Deuteronomy, which in itself is meant to serve as a mnemonic device, a condensed and catchy

1. There are no fewer than twelve warnings regarding forgetfulness in the book of Deuteronomy, in addition to fourteen exhortations to "remember."

2. As scholars noted, the book of Deuteronomy as a whole, and likewise the Deuteronomistic History books (Joshua, Judges, Samuel, and Kings) can be understood as a long-term "memory program." The literature on this topic is vast, and I will mention here only some of the most recent contributions: Barat Ellman, *Memory and Covenant: The Role of Israel's and God's Memory in Sustaining the Deuteronomic and Priestly Covenants* (Minneapolis: Fortress Press, 2013); A.J. Culp, *Memoir of Moses: The Literary Creation of Covenantal Memory in Deuteronomy* (London: Rowman and Littlefield, 2020); Johannes Unsok Ro and Diana Edelman, eds., *Collective Memory and Collective Identity: Deuteronomy and the Deuteronomistic History in Their Context* (Berlin: De Gruyter, 2021).

3. Deut. 8:11–19.

encapsulation of the book in its entirety:[4] "Jacob ate his fill, Jeshurun grew fat and kicked / You grew fat, bloated, and gorged / . . . You became oblivious of the Rock that bore you / You forgot the God who gave you birth."[5] Moses's Israelites are like Odysseus's Lotus-Eaters: they eat and immediately forget where they came from and what they ought to do.[6] Moreover, in Deuteronomy, memory and forgetfulness are an all-or-nothing game. Remembering God and the Israelites' sacred history—particularly the enslavement and liberation in Egypt—are the precondition for following and observing any of God's commandments and laws.[7] Accordingly, forgetfulness necessarily and inevitably means abandonment and violation of *all* of God's laws. There is no partial, passing, or excusable forgetfulness of specific ordinances: only total and all-encompassing forgetfulness, which demonstrates ingratitude and sinfulness, and portends punishment.

The notion that when it comes to observance of God's many laws forgetfulness is a matter of all or nothing reverberates in the Hebrew Bible beyond the book of Deuteronomy.[8] One passage in the book of Numbers famously warns that the Israelites are so prone to memory failures that they must wear a constant reminder of God and of the commandments at all times on their person:

> YHWH said to Moses, "Speak to the Israelites and tell them to make tassels on the corners of their garments throughout their generations and to put a blue cord on the tassel at each corner. You have the tassel so that, when you see it, you will remember all the commandments of YHWH and do them, and not follow the lust of your own heart and your own eyes after which you go astray. So you shall remember and do all my commandments, and you shall be holy to your God."[9]

4. As convincingly proposed by Ellman, *Memory and Covenant*, 94–103. The function of the song as a memory aid for future generations is stated in Deut. 31:20–21: "For when I have brought them into the land flowing with milk and honey . . . and when many terrible troubles come upon them, this song will confront them as a witness, because it will not be lost from the mouths of their descendants."

5. Deut. 32:15–18.

6. The story of the Lotus-eaters appears at the beginning of book 9 of the *Odyssey*, in which Odysseus relates how "any crewman who ate the lotus, the honey-sweet fruit, / lost all desire to send a message back, much less return, / their only wish to linger there with the Lotus-eaters, / grazing on lotus, all memory of the journey home / dissolved forever." See Homer, *The Odyssey*, trans. Robert Fagles (New York: Penguin Books, 1996), 214.

7. In the words of Moshe Greenberg, "Israel's duty to always remember YHWH's redemptive and sustaining deeds (particularly in her prosperity) as the chief motive of obedience to his commandments is a Deuteronomic commonplace." See Moshe Greenberg, *Ezekiel 1–20*, The Anchor Yale Bible Commentary (New Haven, CT: Yale University Press, 1983), 305. See also Ellman, *Memory and Covenant*, 75–93.

8. On perceptions of mind and memory in the Hebrew Bible more broadly, especially in the prophetic and wisdom literatures, see Michael Carasik, *Theologies of the Mind in Biblical Israel* (New York: Peter Lang, 2005).

9. Num. 15:37–40.

This passage appears following more general instructions regarding transgressions and violation of ordinances earlier in the chapter. These instructions acknowledge the possibility that an individual or the entire congregation may err unwittingly in the performance of the commandments (in which case they are to provide an expiatory offering), but assert that one who transgresses intentionally and knowingly will be cut off from the people.[10] It is in recognition of the ever-present danger of transgression that the Israelites are instructed to wear a memory-jolting garment at all times.[11] The underlying assumption is that without such visual reminder the Israelites are likely to forget the commandments and be led astray by "the lust of your heart and your own eyes."[12] Here, too, memory and obedience are an all-or-nothing game: either one remembers (with the help of the tassels) *all* the commandments and thereby obeys them, or one does not remember *any* of the commandments and instead submits to a life of following passions and appetites. While unintentional mistakes in the observance of the law are possible and forgivable, memory failure does not qualify as error or accident: it is construed as an abandonment of God.

As Yosef Hayim Yerushalmi influentially observed, the biblical preoccupation with the ever-looming danger of forgetfulness generated two channels through which memory would perpetually and uninterruptedly flow: ritual and recital.[13] Rituals consist of fixed sets of behaviors and gestures, in which objects or bodies are handled according to a rehearsed protocol, whereas recitals are repeated performances of texts on specified occasions. Rituals and recitals became the mainstay of Jewish identity for centuries to come, and they made the injunction to "remember" the overarching and most formidable demand in Jewish lore. Approaching memory as a historian, Yerushalmi is concerned exclusively with memory of the collective past, and thus focuses primarily on the retelling and reenactment of the nation's formative events. But as Mary Carruthers noted, while the philosophical tradition of the Enlightenment put forth a concept of memory strictly as a tool of reiteration and reduplication of the past (that is, of things that "actually happened"), in antiquity and the Middle Ages memory encompassed

10. Num 15:22–31. On this textual unit and its relation to Leviticus 4 and 5, see Arye Toeg, "A Halakhic Midrash in Num. XV:22–31" (in Hebrew), *Tarbitz* 43, no. 1 (1973): 1–20. See also Simeon Chavel, *Oracular Law and Priestly Historiography in the Torah* (Tübingen: Mohr Siebeck, 2014), 185–95.

11. As Adriane Leveen observed, this passage corresponds with a recurrent concern in the book of Numbers regarding the volatility of the Israelites' memory, as well as regarding the existence of competing memory traditions among the Israelites. See Adriane Leveen, *Memory and Tradition in the Book of Numbers* (New York: Cambridge University Press, 2008), 97–139, esp. 110–13.

12. This is not the only memory-jolting device (literal or metaphorical) mentioned in the Priestly/Holiness literature. Cf. Ex. 13:9: "This will be for you like a sign on your hand and a reminder on your forehead that this law of YHWH is to be on your lips."

13. Yosef Hayim Yerushalmi, *Zakhor: Jewish History and Jewish Memory* (Seattle: The University of Washington Press, 1982), 16–26.

a much wider array of cognitive experiences.[14] Memory was inextricably bound with imagination, with emotion, with predilections and inclinations, with dreams, and with fears. I would thus expand Yerushalmi's cogent observation that ritual and recital are the channels of memory in the Jewish tradition (and any tradition for that matter) beyond historical memory alone. One's religious and communal identity relies not only on memory of the narrated past, but also on memory of the imagined future (e.g., a final judgment or a messianic redemption); not only on remembering ancestral myths, but also on remembering internalized social norms; not only on remembering transformative events, but also on remembering tedious everyday activities. All of these forms of memory are cultivated through prescribed and proscribed behaviors and through liturgical and declamatory repetition.

Ritual and recital, that is, practice and text, are the building blocks of a devout Jewish life as it is envisioned in the rabbinic literature of late antiquity—in the Mishnah, Tosefta, Talmudim, and Midrashim—arguably much more so than in the Pentateuch. In rabbinic halakhah every law is to some extent construed as a ritual, in two important and related respects.[15] First, the rabbis determine that commandments are to be observed in very particular ways, and they dissect commandments to their minutest elements in order to set up accurate protocols for correct versus incorrect forms of observance.[16] Second, the purpose of most halakhic activities can be defined as "getting it right" rather than as achieving some external goal.[17] Commandments are fulfilled for their own sake, according to sets of rules with their own internal logic, and as such they are heavily ritualized. In addition, the centrality of Torah study in rabbinic culture, and the fact that Torah teachings were preserved and propagated primarily orally, warranted relentless repetition of one's teachings. To this we may add the rabbinic standardization of liturgical formulae, which requires the idealized rabbinic Jew[18] to be fluent in a vast

14. Mary Carruthers, *The Craft of Thought: Meditation, Rhetoric, and the Making of Images, 400–1200* (New York: Cambridge University Press, 1998), 68.

15. See Mira Balberg, "Ritual Studies and the Study of Rabbinic Literature," *Currents in Biblical Research* 16, no. 1 (2017): 71–98.

16. See also Tzvi Novick, *What Is Good and What God Demands: Normative Structures in Tannaitic Literature* (Leiden: Brill, 2010), 39–58.

17. Here I follow the observations of Humphrey and Laidlow, which I find particularly appropriate for rabbinic rituals: "For the actor, the ritualized act is seen as ready for him or her to do. He or she 'enacts' it, that is, does not simply do something as in everyday life . . . but as it were mimics an idea of what should be done." See Caroline Humphrey and James Laidlow, *The Archetypal Actions of Ritual: A Theory of Ritual Illustrated by the Jain Rite of Worship* (New York: Oxford University Press, 1994), 102.

18. Here and elsewhere throughout the book I use the term "Jew" in the sense of an individual member of the rabbis' perceived collective of "Israel." I use this term reluctantly and only for the sake of convenience, as this term does not correspond with any emic rabbinic term (*yehudi/yehudim* is a word that the rabbis use very rarely; see Cynthia Baker, "When Jews Were Women," *History of Religions* 45, no. 2 [2005]: 114–34). Nevertheless, I do maintain that in the rabbinic normative context "Jew" is still a more appropriate term than "Judean," despite the tendency toward the latter in

corpus of prayers, creeds, and blessings. But there's the rub: while ritual and recital are channels through which memory in the broadest sense of the word is cultivated, *ritual and recital are themselves vulnerable to memory failures*. The myriads of practices that a rabbinic Jew must remember to perform, and the multitudes of texts that they must remember to repeat, require an active and diligent memory. One is instructed to refrain from labor on the Sabbath day, for example, so that one will remember the creation of the world and the enslavement in Egypt,[19] but what if one forgets the labor prohibition itself, or more likely, one or more of the many categories and subcategories of which the labor prohibition consists? One is instructed to recite a blessing before meals so that one will remember God's generosity and bounty, but what if one forgets part or all of the text of the blessing?

Such questions are never discussed in biblical texts, nor do they receive any attention in extant literature from the Second Temple period. In the few texts from the Second Temple period that invoke the problem of forgetfulness in a significant way, such as the book of Jubilees and the compilation known as Pseudo-Moses, forgetfulness is depicted in totalizing and condemning terms much as it is in the Hebrew Bible, usually in the service of a greater dichotomous paradigm of good versus evil. The world is split between those who "forget *all* of my commandments, *everything* which I shall command them. . . . My commandments and the feasts of my covenant and my sabbaths and [my] sacred place,"[20] and the righteous few who remember and follow God's commandments. In rabbinic literature, in contrast, concern with the pragmatics of memory failures in the performance of commandments and Torah study is pervasive. The rabbis are deeply preoccupied with the possibility that particular elements of one's halakhic performance, particular facts relevant to one's practice, or particular texts constituting one's recitation may be omitted from one's memory. While the rabbis share with their predecessors the fundamental view of human memory as flawed and unreliable, their engagement with the ever-present prospect of forgetfulness is entirely different from what we

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recent scholarship. On the Jew/Judean debate, see Steve Mason, "Jews, Judaeans, Judaizing, Judaism: Problems of Categorization in Ancient History," *Journal for the Study of Judaism* 38, nos. 4–5 (2007): 457–512. I tend to agree with Daniel R. Schwartz that while "Judean" is certainly the appropriate term in some ancient Jewish contexts, "Jew" is probably better suited for discussing rabbinic texts. See Daniel R. Schwartz, *Judeans and Jews: Four Faces of Dichotomy in Ancient Jewish History* (Toronto: University of Toronto Press, 2014), 46.

19. According to Ex. 20:8–11, Deut. 5:12–15.

20. Jubilees 1:8, 14 (ed. Charlesworth 2:53; emphasis added), and see also Jubilees 6:34 and 23:19. On forgetfulness as a central trope in Jubilees, see Cana Werman, *The Book of Jubilees: Introduction, Translation, and Interpretation* (in Hebrew) (Jerusalem: Yad Ben-Zvi Press, 2015), 62–64. On Pseudo-Moses, see Devorah Dimant, "New Light from Qumran on the Jewish Pseudepigrapha: 4Q390," in *The Madrid Qumran Congress: Proceedings of the International Congress on the Dead Sea Scrolls*, ed. Julio Trebolle Barrera and Luis Vegas Montaner (Leiden: Brill, 1992), 2:405–48. See also Eibert Tigchelaar, "A Cave 4 Fragment of Divre Mosheh (4QDM) and the Text of 1Q22 1:7–10 and Jubilees 1:9, 14," *Dead Sea Discoveries* 12, no. 3 (2005): 303–12.

find in the Hebrew Bible and in Second Temple literature. The forgetfulness they are concerned with is not all-encompassing but highly specific, not permanent but temporary, and most important, not a sign of abandonment of God and his commandments but an acceptable, predictable, and rectifiable part of life in accordance with the Torah.

This book is about the array of ways in which the early rabbis approached and delineated the possibility of forgetfulness in practice and study, the solutions and responses they conjured for forgetfulness, and the manners in which they used human fallibility to bolster their vision of Jewish observance and their own role as religious experts. To be clear at the outset, this book does not deal at all with rabbinic memory and forgetfulness of past events or institutions (often called "collective" or "cultural" memory),[21] or with the active part that the rabbis played in making sure that certain groups, traditions, and forms of Judaism were forgotten,[22] both of which have been topics of ample scholarship. Rather, this book explores forgetting as an anticipated, banal, and mostly benign occurrence in the routinized lives of committed Jewish subjects[23] as the rabbis imagine them. It examines numerous scenarios of memory failures that appear in the rabbis' halakhic and homiletic discourse and often go unnoticed: scenarios in which people lose track of what they did or what they saw, what they said or what they learned; scenarios in which people forget to perform a required task or fail to avoid a prohibited action; and scenarios in which people blank out on elements of the law, on facts

21. For several notable studies of rabbinic constructions of historical memory, particularly in relation to the Jerusalem temple and its destruction, see Martin Jaffee, "The Taqqanah in Tannaitic Literature: Jurisprudence and the Construction of Rabbinic Memory," *Journal of Jewish Studies* 41, no. 2 (1990): 204–23; Naftali S. Cohn, *The Memory of the Temple and the Making of the Rabbis* (Philadelphia: University of Pennsylvania Press, 2012); Steven Fraade, "Memory and Loss in Early Rabbinic Text and Ritual," in *Memory and Identity in Ancient Judaism and Early Christianity: A Conversation with Barry Schwartz*, ed. Tom Thatcher (Atlanta: SBL Press, 2014), 113–27; Nathan S. Schumer, "The Memory of the Temple in Palestinian Rabbinic Literature" (PhD diss., Columbia University, 2017); Julia Watts Belser, *Rabbinic Tales of Destruction: Gender, Sex, and Disability in the Ruins of Jerusalem* (New York: Oxford University Press, 2018).

22. On the rabbis' role (or supposed role) in causing certain groups and traditions to be forgotten, see Rachel Elior, *Memory and Oblivion: The Mystery of the Dead Sea Scrolls* (in Hebrew) (Tel Aviv: Ha-kibbutz ha-me'uhad, 2009); Vered Noam, *Shifting Images of the Hasmoneans: Second Temple Legends and Their Reception in Josephus and Rabbinic Literature* (Oxford: Oxford University Press, 2018); and the current work in progress of Annette Yoshiko Reed, *Forgetting: Retheorizing the Ancient Jewish Past and Its Jewish and Christian Reception* (forthcoming).

23. I use "subject" here and throughout the book to denote the human agent who operates in the rabbinic normative world as this agent is construed in the rabbis' texts. I call this agent "subject" to emphasize the state of subordination of this agent to the rabbis and to their laws. The rabbinic agent is a subject in the sense of *sub-iectus*, "thrown underneath," i.e., placed under the rule of someone/something else. At the same time, I use "subject" to highlight that this imagined agent has a particular kind of subjectivity—a set of dispositions and predilections that rabbinic texts both assume and construct. On the construction of subjectivity in Tannaitic texts, see also Mira Balberg, *Purity, Body, and Self in Early Rabbinic Literature* (Berkeley: University of California Press, 2014), 148–79.

necessary for the observance of the law, or on recited traditions. Through these scenarios, and through a close examination of the broader trope of forgetfulness in early rabbinic works, I aim to offer an account of the rabbis' literary construction of the way of life they were propagating—its cognitive demands, its challenges and pitfalls, and its hold (or lack thereof) on those who subscribe to it—and the rabbis' own function as its guardians.

The premise that guides this book is that the rabbis' preoccupation with forgetfulness cannot be trivialized or taken as a "natural" product of their engagement with law and scripture. It must be understood as a choice, and a choice that reflects broader intellectual and religious developments at that. The wide range of works from the Second Temple period that are deeply engaged with observance of the law and reverence of scripture, but do not spend any time exploring the possibility of specific memory lapses and cognitive omissions, clearly indicates that it is not a topic that has to be reckoned with to account for life in accordance with God's laws.[24] The preoccupation with memory failures in Tannaitic texts is unique and novel in essence—at least as far as we can judge from the texts that survive from antiquity—and as such it ought to be explored as culturally meaningful.

The book makes three interconnected arguments. First and most fundamentally, it argues that forgetfulness is a pervasive and significant issue in the early rabbinic (Tannaitic) compilations, and that it is an intrinsic part of the rabbis' engagement with a range of halakhic topics. Forgetfulness is not so much a problem that the rabbis respond to as one that they *create*. While it may seem on the surface that forgetfulness is merely a heuristic tool through which the rabbis test the boundaries of the system—that is, that memory failures serve as the aberration that allows the rabbis to define the norm—I argue that the rabbis build memory failures *into* the system and make them part of the halakhic norm. Second, forgetfulness in both practice and study operates in rabbinic texts as a prism though which a subject's overall commitment to a life of Torah, and especially a subject's subordination to rabbinic authority, are manifested and assessed. The rabbis construct their idealized subject not as one who never forgets, but as one who is fully prepared to rectify incidents of forgetfulness in accordance with rabbinic guidelines. Thus, somewhat ironically, the vast assortment of things that a committed rabbinic subject must remember is compounded by instructions regarding the proper ways to deal with forgetfulness, which must also be remembered. Third, rabbinic discussions of forgetfulness showcase not only the mindset expected of an idealized rabbinic subject, but also and perhaps especially the rabbis' inimitable

24. Here I echo Moshe Halbertal's important observation that the rabbis' preoccupation with the most intricate workings of Jewish practice—what we have come to call *halakhah*—cannot be understood as an organic and inevitable development of Jewish law. There is no reason to assume that any engagement with the Torah and the observance thereof necessarily generates, in due time, the kinds of concerns and questions that the rabbis present. See Moshe Halbertal, "The History of Halakhah and the Emergence of Halakhah" (in Hebrew), *Dine Israel* 29 (2013): 1–23, esp. 6–7.

capability to anticipate, arbitrate, and overcome the ever-present problem of memory failures. Thereby, I argue, forgetfulness serves to portray the rabbis not only as specialists in the interpretation of law and scripture, but also as specialists in deciphering and managing the workings of the human mind.

Insofar as scenarios and discussions of forgetfulness present a world picture of the dispositions and behaviors expected of individuals who subscribe to the rabbis' vision of Judaism, forgetfulness plays a part in the creation of rabbinic culture. By "rabbinic culture" I refer to the attitudes, values, goals, and modes of operation that came to be definitive attributes of Jews who accept the rabbinic interpretation of scripture and the rabbis' claim to authority in late antiquity and the Middle Ages and beyond. Such attitudes, values, and so on include the ideas that one ought to seek rabbinic directives when one encounters halakhic difficulty, that a Jew who does not study Torah regularly lives a flawed or incomplete Jewish life, and that one should undertake preventative measures to preempt the possibility of failure in practice. To be sure, the rabbinic culture that emerges from Tannaitic discussions of forgetfulness should be understood in *prescriptive rather than descriptive* terms. I by no means suggest that the rabbis who created the Mishnah, Tosefta, and Tannaitic Midrashim provide a faithful reflection of what Jews in their own time were actually like (or even what "rabbinic Jews" of their time, if this category is even a cogent one, were like).[25] What I do suggest is that through their literary creation the early rabbis provide an idealized image of what Jews *should* be like. The fact that in later centuries this idealized image became an actual norm or one at least aspired to in widespread Jewish communities is in large part a result of the internalization of the cultural paradigms put forth in Tannaitic literature.

25. The question of how much public impact the rabbis had in the second and third centuries CE, and to what extent the majority of Jews at that time were "rabbinic," is one of the most debated questions in ancient Jewish history. To name just a few of the prominent publications on this topic, see Martin Goodman, *State and Society in Roman Galilee, A.D. 132–212* (Totowa, NJ: Rowman and Allanheld, 1983); Lee I. Levine, *The Rabbinic Class of Roman Palestine in Late Antiquity* (New York: Jewish Theological Seminary Press, 1989); Shaye J.D. Cohen, "The Rabbi in Second-Century Jewish Society," in *The Cambridge History of Judaism: The Early Roman Period*, vol. 3, ed. William Horbury, William D. Davies, and John Sturdy (Cambridge: Cambridge University Press, 1999), 922–77; Catherine Hezser, *The Social Structure of the Rabbinic Movement in Roman Palestine* (Tübingen: Mohr Siebeck, 1997), 353–404; Seth Schwartz, *Imperialism and Jewish Society, 200–640 C.E.* (Princeton, NJ: Princeton University Press, 2001), 103–28. In my view, this question cannot be resolved with the limited evidence at hand. I am, however, compelled by Adiel Schremer's suggestion that we go beyond the binary of no rabbinic authority vs. full rabbinic authority, and consider the possibility that the rabbis were considered by many to be authoritative figures, but their teachings were not always followed by the same people who revered them. See Adiel Schremer, "The Religious Orientation of Non-Rabbis in Second-Century Palestine," in *Follow the Wise: Studies in Jewish History and Culture in Honor of Lee I. Levine*, ed. Zeev Weiss, Oded Irshai, Jodi Magness, and Seth Schwartz (Winona Lake, IN: Eisenbrauns, 2010), 319–41.

MAPPING RABBINIC FORGETFULNESS: THEMES, TEXTS, AND CONTEXTS

Themes

Forgetting, as I discuss it in this book, is a generic name for different kinds of memory failures. It covers a range of situations in which an individual (or a group) should be remembering something in order to function properly within the rabbinic framework but does not have cognitive access to that thing when such access is needed. To briefly map out the landscape of forgetfulness in rabbinic texts, a few comments about "memory" and "forgetting" as conceptual tools are in order.

I will not attempt here an accurate definition of memory, which would look somewhat different if proposed by a psychologist, a philosopher, a neuroscientist, or an artificial intelligence designer.[26] Suffice it to say that memory is both a *process* through which information is stored in the mind in the short term or long term, and the *content* that is available for retrieval after the information has been stored (we often call such content "knowledge" rather than "memory," and the line between those two is quite blurry). Cognitive psychologists have long distinguished between different kinds of memory: episodic (memory of events or experiences) versus semantic (memory of facts or concepts); declarative (conscious and explicit knowledge—for example, "Paris is the capital of France") versus procedural (unconscious and implicit knowledge—for example, how to ride a bike); retrospective (remembering things past) versus prospective (remembering future tasks); and further distinctions can be added. I find the distinctions between different kinds of memory helpful, and I will be using them as interpretive tools in my discussions of rabbinic scenarios of forgetfulness. Nevertheless, I should state at the outset that the rabbis have little interest in memory as such, and their literature does not allow us to recreate a robust theory of the processes of retention, retrieval, and recollection similar to those of other ancient authors (and certainly not similar to those of modern authors).[27] Rather, they are concerned almost exclusively with memory's inevitable side effect—namely, forgetting.

26. For a few (of many) excellent introductions to the study of memory from a variety of perspectives, see Alan Baddeley, *Essentials of Human Memory* (New York and London: Psychology Press, 1999); Richard F. Thompson and Stephen A. Madigan, *Memory: The Key to Consciousness* (Princeton, NJ: Princeton University Press, 2005); Jonathan K. Foster, *Memory: A Very Short Introduction* (Oxford: Oxford University Press, 2008); David Vernon, *Artificial Cognitive Systems: A Primer* (Cambridge, MA: MIT Press, 2014).

27. On classical and medieval theories of memory, see Frances A. Yates, *The Art of Memory* (Chicago: University of Chicago Press, 1966); Mary Carruthers, *The Book of Memory: A Study of Memory in Medieval Culture* (Cambridge: Cambridge University Press, 1990); Andrea Nightingale, *Once Out of Nature: Augustine on Time and the Body* (Chicago: University of Chicago Press, 2011). Sergey Dolgopolsky utilized ancient theories of memory—particularly Plato's, Aristotle's, and Augustine's—in his discussion of constructions of textual memory in the Babylonian Talmud, but he did not show whether and how Talmudic sources themselves bring to the fore a comparable theory. See Sergey Dolgopolsky, *The Open Past: Subjectivity and Remembering in the Talmud* (New

Forgetting is the process through which information that was initially stored becomes temporarily or permanently unavailable to the one who stored it, whether this happens almost immediately or after some time. There are different theories regarding the cognitive processes that stand behind the ubiquitous phenomenon of forgetting—whether memories "decay," "fade," or are merely "blocked"—but there is no question that much, and some would say most, of what we initially remember becomes unretrievable at some point.[28] Psychologically speaking, this is not necessarily a bad thing, and it is often argued that if we were not able to forget things our lives would be miserable and our minds woefully inefficient.[29] From a rabbinic point of view, however, forgetting is of interest insofar as it interferes with one's ability to function within the halakhic system, and insofar as it interferes with one's ability to study Torah. The rabbis' concern is primarily with whether and how forgetfulness gums up one's religious practice, how one should proceed after forgetting has taken place, and in some cases, how practices can be modified so as to counteract or preempt forgetfulness. My analyses in this book rely on rabbinic discussions of these kinds of questions, as well as on homilies regarding the perils of memory failures and the ability to recover from them, individually or collectively.

Memory failures are discussed, in passing or at some length, in many dozens of Tannaitic passages. The most prevalent semantic marker of memory failures in Tannaitic literature is the Hebrew root *sh-kh-ḥ*, which I regularly translate as "to forget." In biblical Hebrew, *sh-kh-ḥ* generally means "to fail to keep something in mind" or "to fail to attend to someone or something that ought to be attended."[30] The meanings associated with this failure range from the mundane (e.g., forgetting sheaves in the field, in which case forgetting effectively means "leaving behind")

York: Fordham University Press, 2012). For two studies that compellingly show specific resonances between practices of *ars memoria* and rabbinic texts, see Shlomo Naeh, "The Craft of Memory: Memory Structures and Textual Patterns in Rabbinic Literature" (in Hebrew), in *Talmudic Studies*, vol. 3, *Dedicated to the Memory of Professor Ephraim E. Urbach*, ed. Yaakov Sussmann and David Rosenthal (Jerusalem: Magnes Press, 2005), 543–89; Gil Klein, "Forget the Landscape: The Space of Rabbinic and Greco-Roman Mnemonics," *Images: Journal of Jewish Art and Visual Culture* 10, no. 1 (2017): 23–36. More recently, Reuven Kiperwasser attempted to reconstruct a Babylonian rabbinic physiology of memory in light of Persian and Manichean sources; see Reuven Kiperwasser, "The Cure of Amnesia and Ars Memoria in Rabbinic Texts," in *Defining Jewish Medicine: Transfers of Medical Knowledge in Jewish Cultures and Traditions*, ed. Lennart Lehmhaus (Wiesbaden: Harrassowitz, 2021), 119–41.

28. See John Wixted, "The Psychology and Neuroscience of Forgetting," *Annual Review of Psychology* 55 (2004): 235–69; Michael W. Eysenck and David Groome, *Forgetting: Explaining Memory Failure* (London: Sage, 2020).

29. See Kourken Michaelian, "The Epistemology of Forgetting," *Erkenntnis* 74, no. 3 (2011): 399–424; Benjamin C. Storm, "The Benefit of Forgetting in Thinking and Remembering," *Current Directions in Psychological Science* 20, no. 5 (2011): 291–95.

30. The etymology of *sh-kh-ḥ* is a matter of debate, as it has no obvious cognates in other Semitic languages. See Gary A. Rendsburg and Susan L. Rendsburg, "Physiological and Philological Notes to Psalm 137," *Jewish Quarterly Review* 83 (1993): 385–99.

to the catastrophic (e.g., forgetting God, in which case forgetting is tantamount to abandonment). *Sh-kh-ḥ* continues to denote the same range of meanings in rabbinic literature. The most common antonym of *sh-kh-ḥ* in biblical Hebrew is *z-kh-r*, "to remember" or "to recall," and the negation of *z-kh-r* (*ein/lo+z-kh-r*) serves as a marker of forgetting in rabbinic texts as well. In addition, the verbal form *nizkar*, the middle voice form of *z-kh-r* that I translate as "was reminded" (to indicate either independent recollection or response to an external reminder), serves as an important semantic marker of forgetfulness in rabbinic texts. *Nizkar* is used to describe situations in which one belatedly becomes aware of something one should have been aware of earlier (for example, one is reminded that today is the Sabbath after one had already started performing a prohibited action), thus indicating that prior to the moment of recollection a memory failure had occurred.

"Not know" (*ein/lo+y-d-ʿa*) is another semantic marker of forgetfulness in rabbinic literature, albeit a trickier one. Here, too, rabbinic texts are continuous with the Hebrew Bible, in which *sh-kh-ḥ* is sometimes contrasted with *y-d-ʿa*, "to know" (e.g., "Then all the abundance in Egypt will be forgotten. . . . The abundance in the land will not be known [*lo yivadʿa*], because the famine that follows it will be so severe"[31]). The overlap between remembering and knowing is not surprising, considering that our "knowledge" is effectively the information that we have stored in memory and are able to retrieve. In rabbinic literature, this overlap presents us with some interpretive challenges, since the phrase "I do not know" is used both in the sense of "I knew this once and forgot" and in the sense of "I never knew this to begin with." In many cases "I do not know" can only be understood from context as "I do not remember" (for example, in a case in which one says that one does not know whether one paid a debt,[32] or what one vowed to give to the temple[33]), but in some cases the line between forgetfulness and ignorance is unclear. For example, when one says that one does not know from whom one stole a certain object, it is possible to interpret that one never had this information in the first place (for example, one took a purse without knowing to whom it belongs), or that one had this information at some point but lost track of it.[34] From the rabbis' point of view, it often does not matter whether one was altogether ignorant of certain facts or laws or knew them and forgot them, as both circumstances ultimately lead to the same result: lack of access to information necessary for halakhic practice.

For our purposes, it is helpful to think of "knowing" and "not knowing" in rabbinic texts as a spectrum rather than as a dichotomy: on one far end is complete ignorance, the situation of one who was never exposed to the information in question, and on the other end of the spectrum is fully realized knowledge, such that the information is readily available and retrievable. Between those two

31. Gen. 41:30–31.
32. M. Baba Qamma 10.7.
33. M. Menahot 13.1–8.
34. M. Baba Qamma 10.7.

ends is a whole range of possibilities: being exposed to information briefly but failing to register it such that it is immediately and permanently omitted from one's memory, storing the information in memory for a while but forgetting it later on, storing the information in memory for the long term but temporarily having difficulty retrieving it, and so on. Memory failures of various sorts can thus be mapped along a sliding scale between knowledge and its absence, and at times the cryptic nature of the texts does not allow us to map cases with certainty on the "ignorance" side as opposed to the "forgetfulness" side. The same applies to another semantic marker of forgetfulness in rabbinic texts, the root *ʿa-l-m*, which means "to disappear" or "to be concealed." This root is used to denote situations in which one is unaware that one is committing a transgression, and this unawareness can stem either from utter lack of knowledge (e.g., one did not know that it was forbidden to write on the Sabbath) or from temporary forgetfulness (e.g., one forgot that today was the Sabbath and wrote). As I discuss in chapters 1 and 3, the fact that in some contexts the rabbis bundle together ignorance and forgetfulness is in itself a significant feature of their discourse on memory failures.

In discussing rabbinic engagement with memory failures, I distinguish between two types of forgetfulness: halakhic forgetfulness, which will be discussed in chapters 1–4, and forgetfulness of Torah teachings, which will be addressed in chapters 5–6. These categories roughly correspond with Yerushalmi's "ritual" and "recital," respectively. Halakhic forgetfulness is any kind of memory failure that compromises one's ability to observe the Torah's laws as the rabbis interpret them. Some of the halakhic memory failures the rabbis discuss pertain to *episodic memory:* one may forget one's own previous actions or interactions, in a way that makes it difficult for one to make a requisite halakhic determination (for example, one does not remember whether one touched an impure object or not). Other memory failures pertain to *prospective memory:* one may forget to perform a certain required halakhic task in a specified time (for example, to say a blessing over the food before or after the meal). Yet other memory failures pertain to *semantic memory:* one may forget information crucial for halakhic practice (for example, whether a certain animal is kosher or not). In contrast, forgetfulness of Torah teachings is primarily forgetfulness of *texts*, and pertains to situations in which a Torah learner, whether a beginner or an advanced learner, cannot replicate a particular passage that was previously studied. The two types of forgetfulness are related, however, since forgetfulness of teachings, especially teachings of a practical nature, can impede or damage one's halakhic practice. Since "the Torah" stands in rabbinic literature for the entire body of rabbinically approved Jewish knowledge, the phrase "forgetting the Torah" means both lack of mental access to the text and erasure of the practices it mandates.[35]

35. Tannaitic texts also discuss a third kind of "forgetting"—namely, leaving agricultural produce in the field. Agricultural forgetting, known as *shikheḥah*, is a self-standing halakhic category based on

Texts

While forgetfulness emerges as a recurring theme throughout different rabbinic corpora, I have chosen to restrict this study primarily to Tannaitic texts—that is, the earliest extant rabbinic compilations that presumably took their more or less final shape in the course of the third century CE. Those include the Mishnah, a legal-ritual anthological codex arranged according to topic; its counterpart, the Tosefta, which is arranged according to the same order and discusses roughly the same topics as the Mishnah; and the Tannaitic or halakhic Midrashim, homiletic works that present rabbinic rulings and teachings within an interpretive framework that follows the textual order of the Pentateuch. I use Amoraic materials (the Palestinian Talmud, the Babylonian Talmud, and the Aggadic Midrashim) mostly to elucidate and provide comparative context for the Tannaitic material. This choice stems from my dedicated interest in the formative stages of rabbinic Judaism—in the works in which the rabbis initially set the tones of their modes of engagement with scripture, with each other, and with other Jews—and particularly in the reconfiguration of biblical and Second Temple traditions and institutions in rabbinic discourse.

Each of the Tannaitic compilations is complex and unique, containing multiple subcompilations, and each of these compilations collects and presents the views of different named and unnamed rabbis who by no means speak in a single voice or agree with each other on all matters. These texts all consist of multiple layers and are the result of intricate and ongoing processes of formation and redaction. The divergences between different rabbinic attitudes—whether between rabbis within the same compilation, across different compilations, or between different textual witnesses of a single work—are crucial for my inquiry. It is exactly the "noises" in the system—the lack of uniformity of opinions, the redactorial or scribal attempts to smooth over difficulties, the disparate word choices and the subtle changes in presentation, and so on—that divulge the dilemmas and uncertainties that preoccupied the rabbis, and thus allow us a glimpse into the "machine room" in which their teachings and ideas were made and remade.

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the injunction in Deut. 24:19, "When you reap your harvest in your field and forget a sheaf in the field, you shall not go back to get it; it shall be left for the alien, the orphan, and the widow." Tannaitic texts dedicate significant attention to discerning whether different kinds of produce that were left behind during the harvest season can be safely regarded as forgotten, in which case they belong to the needy, or should be perceived as left on purpose and therefore as still belonging to the owner. The connection between "forgetting" produce in the field and forgetfulness in halakhic practice or study, however, is in name only. The same root (*sh-kh-ḥ*) is used to denote all of them, but as I argued elsewhere, "forgetting" in the context of agriculture is not regarded as memory failure but simply as "leaving behind," whether intentionally or unintentionally. See Mira Balberg, "Unforgettable Forgotten Things: Transformations in the Laws of Forgotten Produce (*shikhehah*) in Early Rabbinic Literature," *Oqimta* 5 (2019): 1–33. I therefore do not address the topic of agricultural forgetting in this book, nor do I discuss a couple of other cases in Tannaitic texts in which "forgot" is used in reference to objects left behind unintentionally (e.g., M. Miqva'ot 2.8, 4.1; T. Tohorot 9.1, 9 [ed. Zuckermandel 670]).

Nevertheless, I contend that for all their internal diversity and multivocality, the overall set of normative expectations, dispositions, and commitments that Tannaitic texts present does ultimately form a rather coherent and unified religious culture. Rabbis disagree with each other on myriads of details pertinent to halakhic observance, but the general contours of what an observant Jew should be mindful of and what are legitimate and illegitimate ways of dealing with mishaps in halakhic practice are not given to much variety. Tannaitic texts surely espouse pluralism among the rabbis, but it is a rather narrow pluralism that only accommodates opinions within a very limited range.[36] Moreover, while Tannaitic texts name many individual rabbis and attribute differing opinions to them, these texts also make a point of creating a collective entity called "the Sages" (*ḥakhamim*)—whether by using this term or by framing most of their rulings and teachings anonymously and without contestation—and thus present a stable corporate body that ought to be trusted, revered, and consulted *as such* on matters of Torah.[37] Regardless of whether this corporate entity was a textual construct or an actual community with a coherent history,[38] it is clear that rabbinic texts present all the rabbis as operating within one cultural orbit. Tannaitic texts offer polyphony significant enough to resist any attempt to simplistically harmonize competing approaches and ideas, but they also present enough cohesion, and, more important in my view, enough rhetorical effort to convey cohesion, to be studied together as textual products of the same conceptual and ideological world.

A word is in order about gender and my use of pronouns. In Tannaitic texts that discuss the ins and outs of halakhic practice and Torah study, the default practitioner and learner is always male, and is always referred to with masculine pronouns—unless what is under scrutiny is specifically practices or situations that the rabbis associate with women. This is not because the vast array of rabbinic legislation does not pertain to women. Most practices that the rabbis discuss in the context of forgetfulness and cognitive omissions—such as the Sabbath

36. On this point I agree with William Scott Green, who provided a sober response to the once-prevalent tendency to see rabbinic texts as entirely open-ended, pluralistic, and indeterminate. As Green observed, the seemingly inclusive and multivocal discourse of the rabbis makes space for various opinions and approaches, but all these opinions and approaches are ultimately of the same core persuasions and commitments. Rabbinic texts thus do not espouse an infinitely open discourse, but rather actively limit and close the discourse as they construct it. See William Scott Green, "Romancing the Tome: Rabbinic Hermeneutics and the Theory of Literature," *Semeia* 40 (1987): 147–68.

37. In raising these two issues—the limited range of rabbinic opinions as well as the creation of a corporate body of "Sages" rather than disjointed individual voices—I aim to qualify the picture of rabbinic pluralism that Shaye Cohen influentially presented. See Shaye Cohen, "The Significance of Yavneh: Pharisees, Rabbis, and the End of Jewish Sectarianism," *Hebrew Union College Annual* 55 (1984): 27–53.

38. For a recent survey of scholarship on this question, see Adiel Schremer, "The Sages in Palestinian Jewish Society of The Mishnah Period: Torah, Prestige, and Social Standing" (in Hebrew), in *Palestinian Rabbinic Literature: Introductions and Studies*, vol. 2, ed. Menahem Kahana, Vered Noam, Menahem Kister, and David Rosenthal (Jerusalem: Yad Ben Zvi, 2018), 553–81.

prohibitions, the monitoring of impurity, refraining from forbidden foods, and others—apply equally to men and to women, and there is no indication in the texts that gender would be a factor in how forgetfulness of men as opposed to forgetfulness of women would be approached. There are a few cases in which the rabbis present women forgetters, in which cases I argue that this choice is rhetorically meaningful, but on the whole it is unquestionable that for the rabbis the paradigmatic practitioner and learner, and hence also the paradigmatic forgetter, is a man. Thus, when I translate rabbinic texts and when I discuss what I call "the rabbinic subject"—that is, the human actor envisioned by the rabbis—as it is construed in the texts, as of this point I use masculine pronouns unless there is a good reason to do otherwise. I see this as the most faithful way of conveying the presuppositions and biases of the texts' creators, as displeasing as those may be to us today.

Contexts

Tannaitic texts may seem like dry, even technical, collections of legal and ritual instructions and plodding scriptural interpretations, but these instructions and interpretations ultimately create a rich and involved picture of a world in which human beings live, die, cook, clean, fight, buy, sell, pray, eat, sleep, make things, destroy things, sail, work, have sex, raise children, celebrate, and mourn according to well-established and highly defined protocols. This world is not a replica of the world in which the rabbis actually lived, even if it does draw much of its realia from it, but an imagined world in which reality is shaped and reshaped according to the contours of halakhah as the rabbis understand it rather than vice versa.[39] It is by no means a perfect world: it needs to have thieves, murderers, idolaters, and adulterers so that the laws pertaining to these categories can be explored and debated. It needs to have monetary disputes, domestic tensions, and neighborly conflicts so that protocols for adjudicating and resolving those would be put in place. It needs death, decay, excrement, and disease to map out the system of purity and impurity. But why does this world need memory failures, confusion, and cognitive blunders? What do the rabbis gain by adding to their world picture human beings who want to observe the law according to its rabbinic interpretations, and who commit to Torah study as the rabbis advocate, but encounter mental difficulties in doing so? In other words, how are we to explain the preponderance of scenarios of forgetfulness in Tannaitic literature, on the one hand, and the fact that the early rabbis approach forgetfulness on such different terms than biblical and Second Temple authors, on the other hand? My proposed answers to these questions unfold in the chapters of the book, but in what follows I wish to briefly discuss the contextual

39. As Vered Noam beautifully argued, halakhic discourse subordinates reality to the conceptual categories and discursive experiments of the rabbis, oftentimes in defiance of physical laws or considerations of feasibility—so much so that it can be read as a form of poetry. See Vered Noam, "The Halakhah: From Poetry to Sorcery" (in Hebrew), *Dine Israel* 32 (2018): 4–20.

frameworks against which the Tannaitic engagement with memory failures should be considered.

To start, let us note that rabbinic culture as a whole places very heavy demands on one's cognitive faculties, and as such it provides ample opportunities for memory failures.[40] The rabbinic halakhic system is intricate and complex, and it requires one to keep track of so many rules, tasks, and concepts that occasional omissions, lapses, and blunders are almost inevitable. To a great extent, the rabbis' engagement with forgetfulness reflects the increased centrality of memory in the system they created: the more the rabbis developed and complicated the halakhic system by adding more and more subcategories and subdistinctions and exceptions and rules, the more space they created for mistakes and mishaps. For example, while it is simple enough to remember that one must immerse oneself in water to remove ritual impurity, it is not trivial to remember the rabbis' detailed lists of what may or may not be on one's body during ritual immersion, and one can easily botch one's immersion by forgetting to remove something that forms a "barrier" in immersion. To take another example, it is much simpler to remember the injunction not to boil a kid goat in its mother's milk than to remember whether chicken can or cannot be served in a meal in which there are also dairy dishes, and how many drops of milk disqualify a meat dish if they fall into it accidentally. Likewise, the rabbinic emphasis on literacy not only in the written Torah but also in a sizable corpus of orally preserved teachings makes memorization and repetition of texts a more or less incessant activity. The rabbis are concerned with forgetfulness, in other words, because so much of what they hold dear hinges on memory. As I will show, the rabbis present some sustained reflections on the cognitive load that a life of halakhic observance and Torah study places on individuals, and on the ease with which even the most pious observants can be led into forgetfulness.

At the same time, it is important to keep in mind that the rabbis are the ones who *created* the paradigm of halakhic observance as highly cognitively demanding. The need to pay close attention to minute details of one's practices and experiences, the consideration of numerous variations and subscenarios for each halakhic situation, and the expectation that one should engage ceaselessly with memorized teachings are cornerstones of rabbinic halakhah because the shapers

40. As I argued elsewhere, there are commonalities between some of the rabbinic practices of attention and self-scrutiny and the ascetic exercises of Hellenistic and early Christian schools; see Balberg, *Purity, Body, and Self*, 148–79. The present study joins a number of recent works on late ancient cognitive regimes, which explore the intellectual and emotional modes of practice required of highly committed religious subjects, and it attempts to add a Jewish angle to a conversation that so far focused primarily on early Christian and specifically monastic texts. See, for example, Paul Dilley, *Monasteries and the Care of Souls in Late Antique Christianity: Cognition and Discipline* (New York: Cambridge University Press, 2017); Inbar Graiver, *Asceticism of the Mind: Forms of Attention and Self-Transformation in Late Antique Monasticism* (Toronto: PIMS, 2018); Niki Kasumi Clements, *Sites of the Ascetic Self: John Cassian and Christian Ethical Formation* (South Bend, IN: Notre Dame University Press, 2020).

of halakhah chose to make them so. To put it bluntly, in their discussions of forgetfulness the rabbis seek solutions to a problem that they themselves created—and it is a problem in which, I argue, they have a vested interest. Moreover, Tannaitic texts do not present only arcane, hair-splitting, or complicated rules or practices as prone to forgetfulness but also discuss forgetfulness of the most elemental things: forgetting to get rid of leaven before Passover, for example, or even forgetting that such a thing as the Sabbath exists. People have presumably observed Passover and the Sabbath for generations before the rabbis; yet no earlier texts that we are aware of discuss the possibility that an otherwise committed Jew would fail to remember the practices pertinent to those sacred times or, to take another example discussed by the rabbis, would forget that he is not allowed to have sex with his mother. The rabbis discuss such instances of forgetfulness not necessarily because they are probable, but because memory failures allow them to assess and reflect on bigger issues having to do with agency, intentionality, commitment, and obedience.

The rabbis' preoccupation with forgetfulness, particularly in what pertains to halakhic observance, must also be understood in light of their greater scholastic endeavors as an expert Torah-learning elite creating a corpus of specialized knowledge. The rabbis are famously drawn to mishaps, accidents, and aberrations, since those allow them to conduct thought experiments and to test the applicability of different concepts, and memory failures often provide the kinds of juridical or interpretive challenges that the rabbis are keen to ponder. In defining the key characteristics of the rabbis' halakhic discourse, Moshe Halbertal identified heightened interest in what he called "borderline cases" as one of the quintessential features of rabbinic halakhah, and convincingly argued that this feature has no trace in earlier forms of engagement with Jewish law. Borderline cases are cases in which unique, exceptional, and oftentimes unlikely situations come up that challenge the standard and normal halakhic practice. Such cases have no bearing on "ordinary" performers of the commandment, and yet, as Halbertal notes, once borderline cases have been integrated into the conversation about a particular commandment they become an inseparable part of the way this commandment is delineated and conceived by the rabbis.[41] According to Halbertal, the impetus for discussing borderline cases is not genuine concern that the exceptional and unlikely situation may happen, but the drive to hone concepts and scrutinize the internal logic of given principles, which for the rabbis are desirable undertakings regardless of the practicalities of performance.[42]

Forgetfulness of facts, tasks, or information critical to halakhic performance is regularly utilized in rabbinic texts to generate the kinds of borderline cases that the rabbis like so much. For example, a case of a man who forgot which of two sisters

41. Halbertal, "The History of Halakhah," 15.
42. Halbertal, "The History of Halakhah," 22.

he betrothed is used to scrutinize the intricate laws of kinship and marriage,[43] a case of one who forgot what he dedicated to the temple serves to chart out what different formulae of verbal obligation to the temple entail,[44] and a case of one who forgot that today was the Sabbath and performed multiple labors allows the rabbis to examine the relations between the general prohibition regarding labor on the Sabbath and the specific components of this prohibition.[45] In this respect, memory failures are not fundamentally different from hundreds of other borderline cases discussed in the Tannaitic compilations, in which imagined kinks in halakhic practice, realistic or unrealistic, serve to parse the internal logics and structures of the system. What does make scenarios of memory failures unique, however, is that the "kink," or aberration, is brought about by *an omission of human consciousness*, and as such it has—or can have—moral and religious implications. A case in which one cannot remember whether the meat one bought is kosher or not is different from a case in which meat was found on the street and no one knows its origin. In the latter case, the mishap is outside of anyone's control, whereas in the former case, the mishap could be construed in terms of personal culpability, as reflecting carelessness and insufficient devotion. Halakhic forgetting is a strange situation in which the forgetter is within the rabbinic norm and outside of it at the same time, traipsing on the edge of transgression. The *effect* of the rabbis' insistence on providing guidelines for such cases, even if primarily out of scholastic interest, is that cognitive failures are transferred from the outer perimeter of normativity (what we would call "sin") into the inner perimeter. Put differently, the presentation of human cognition, attention, and memory as vulnerable to accidents and uncontrollable circumstances is a bold rabbinic move that generates, in turn, a novel picture of the contours of an observant Jew.

Are we able to say anything about the sociohistorical context in which the early rabbinic compilations were produced—namely, Roman Palestine of the second and early third centuries of the Common Era—that may account for the rabbis' notable preoccupation with forgetfulness? The second century is often regarded as a time of crisis and devastation of the Jewish communities in Palestine following the harrowing results of the Bar Kokhba revolt in 132–135/6 CE. According to a prevalent rabbinic tradition, after the revolt the emperor Hadrian penalized the Jews in Palestine through a series of decrees prohibiting various forms of Jewish practice, including publicly teaching Torah.[46] Is it possible that the rabbis were so attuned to the possibility of forgetfulness because they lived in a time and a place

43. M. Yebamot 2.6.

44. M. Menahot 13.1–8.

45. M. Shabbat 7.1.

46. Despite the prevalence of this tradition, there is little to no extra-rabbinic evidence of such decrees. See Peter Schäfer, *The History of the Jews in the Greco-Roman World* (London and New York: Routledge, 1995), 159–60; Seth Schwarz, *The Ancient Jews from Alexander to Muhammad* (Cambridge: Cambridge University Press, 2014), 97.

in which an increasing number of Jews moved away from traditional practices and observances? Might they have considered situations in which one completely forgets the Sabbath, or discussed the "Torah being forgotten from Israel" as a tenable option, because these things happened or were perceived to be possible in their own times? Admittedly this is a tempting interpretation, especially if one adopts Seth Schwartz's argument that Judaism in the second century was "little more than a vestigial identity" and that Jewish practices were upheld only sporadically and partially.[47] Schwartz's controversial but impactful thesis is that "the core ideology of Judaism . . . ceased, after the two revolts, to function as an integrating force in Palestinian Jewish society. The intermediaries of the Torah lost not only their legal authority but also their status as cultural ideals."[48] Schwartz concedes that during this time the rabbis may have had "some residual prestige and thus small numbers of close adherents and probably larger numbers of occasional supporters,"[49] but most Jews in Palestine were, for most intents and purposes, at home in an increasingly Romanized and paganized urban landscape.

If we accept this reconstruction, which Schwartz bases primarily on archaeological and epigraphic evidence, a compelling explanation for the early rabbis' concern with forgetfulness immediately suggests itself. If the Palestinian rabbis of the second and early third centuries indeed lived in a world in which most Jews drifted away from even basic forms of Jewish practice—whether because of lack of interest, lack of knowledge, or fear of governmental sanctions—in the aftermath of two devastating wars that decimated the Jewish population, it stands to reason that the rabbis would construe new halakhic paradigms to account for partial or flawed Jewish practice. Rather than creating a clear "us versus them" dichotomy, in which the righteous remember the Torah and the sinful abandon it, the rabbis constructed a paradigm of "forgetfulness" that makes reintegration into the rabbinic normative world possible and even straightforward. Part of the rabbis' effort, as a small and not very influential elite group, to "insinuate their way into general Palestinian society"[50] was to reconfigure rabbinic Jewish practice in a way that accommodates temporary lapses, and to reconfigure their own role as those who support fallible practitioners in their attempt to adopt a committed Jewish lifestyle as the rabbis understood it. We may take this hypothesis even a step further, and claim that some of the strangest rabbinic scenarios, scenarios of recurring forgetfulness in which subjects forget a law and then remember it and then forget again and then remember again (which I will discuss in chapter 3) may reflect the volatile and very loose nature of observance among parts of the Jewish population in Palestine in the early rabbis' time. A person could be more observant at one point, less observant at another; be more committed to certain commandments, less

47. Schwartz, *Imperialism and Jewish Society*, 15.
48. Schwartz, *Imperialism and Jewish Society*, 104.
49. Schwartz, *Imperialism and Jewish Society*, 15.
50. Schwartz, *Imperialism and Jewish Society*, 104.

committed to others; go through periods of little interest in Judaism and periods of greater investment in it; and so on.

As appealing as such historical reconstruction is, I do not think it can be taken up uncritically; not only because Schwartz's thesis is not without its shortcomings,[51] but also because early rabbinic texts mix the real and the ideal, the fantastic and the probable, the practical and the hypothetical, in such profound ways that any attempt to utilize these texts toward a synthetic social history is fraught with problems.[52] It is certainly possible that the rabbis (or some of them) were concerned with forgetfulness because of phenomena they witnessed in the Jewish society of their own time, but the scenarios of forgetfulness they explore sometimes relate to temple practices or to highly specialized and exclusive purity practices that were no longer relevant to contemporaneous Jewish practitioners, regardless of their level of devotion. The trope of wholesale forgetfulness of Torah in rabbinic homilies seems to draw more from long-standing textual traditions than from genuine apprehension regarding such forgetfulness in the rabbis' own time (as I will argue in chapter 6). In addition, more often than not the rabbis discuss forgetfulness as a minor glitch in the impeccable observance of highly knowledgeable and committed rabbinic subjects, rather than as a symptom of drifting away from the core of Jewish practice. In fact, sometimes forgetfulness is construed in rabbinic texts as the result of profound immersion in rabbinic practice, not of distance from it. For example, we find cases in which one is so habituated to perform certain ritual actions that one performs them even when uncalled-for, or one cannot remember whether one performed them or not. It is virtually impossible to reach firm conclusions about the concrete problems and challenges the rabbis encountered by looking into their halakhic and homiletic discussions, which to a great extent either assume or construct a world that operates according to its own sets of rules and logic.

But while I do not think we can reliably and responsibly use rabbinic texts to reconstruct the greater social and political landscape of Jewish Roman Palestine in the second and third centuries, I do believe we can use these texts to ask how the rabbis *wanted* to be perceived and within what kind of landscape they *imagined* themselves as operating. The earliest rabbinic compilations are not just legislative or exegetical manuals: they are also the media that the rabbis use to tell their story as a coherent movement, to showcase their own set of specialties, and to demonstrate that the way of life they propagate is the only legitimate way to be

51. Adiel Schremer compellingly made the case that Schwartz elides the period between the two Jewish revolts and thus presents a somewhat flat picture of the second century. Schremer also noted that Schwartz does not fully account for some of the archaeological and epigraphical evidence. See Adiel Schremer, "The Lost Chapter: Imperialism and Jewish Society, 70–135 CE," *Revue des Études Juives* 179 (2020): 63–82.

52. In the cogent words of Ishay Rosen-Zvi, "What makes [Mishnaic discussions] unique is not the fact that they are detached from the reality, but rather that they are not dependent on it. . . . Practiced and unpracticed laws appear side by side without any hint of this essential difference between them." See Ishay Rosen-Zvi, *The Mishnaic Sotah Ritual: Temple, Gender and Midrash*, trans. Orr Scharf (Leiden: Brill, 2013), 246.

a member of the collective "Israel." The question that guides my study, then, is not what Tannaitic discussions of forgetfulness tell us about the world in which the rabbis actually lived, but rather what forgetfulness, as a literary and rhetorical trope, allows the rabbis to say about their world and about themselves. I propose that extensive engagement with forgetfulness allowed the rabbis to make three key points about the way of life they were promoting. First, that it is hard and demanding, and that subscribing to a life of halakhic practice and Torah study requires rigor and utmost commitment. Second, that despite being highly demanding their system is mostly forgiving and accommodating, such that it is suitable for all who wish to undertake it. And third, that the rabbis themselves play a crucial part in making a demanding system that requires perfection suitable for imperfect people.

Interpreting the rabbinic discourse on forgetfulness as geared toward a particular kind of self-presentation brings with it its own set of historical questions, specifically regarding the audience the rabbis were targeting and the competitors, real or perceived, against which they were setting themselves. If one were to take Schwartz's route, one could argue that the rabbis were reaching out to Jews who by the end of the second century were already thoroughly Romanized but still held residual respect for the rabbis, and that they tried to persuade such Jews to enhance their commitment to Jewish practice by presenting it as rigorous yet fully doable. Alternatively, it is possible to explain this discourse against the sectarian and postsectarian tensions associated with the end of the Second Temple period. If one espouses the well-established (but by now heavily problematized) theory that the rabbis are a permutation of the Pharisees who flourished during the Second Temple period, who gradually rose to ascendancy over the other sects after the destruction of the temple, then it could be argued that the rabbis were promulgating their demanding-yet-forgiving forms of practice to bolster their position of authority and popularity against their sectarian competitors.[53] It is also possible to propose that the rabbis were particularly concerned about one sect, which was growing rather than diminishing in power in the course of the second century—namely, the followers of Jesus and the first Christians, who denounced the rabbinic interpretations of Jewish law as unnecessarily cumbersome and difficult to live by because of their strenuous demands.[54] Some scholars contend that in order

53. The notion that the rabbis were descended from the Pharisees, and that they defeated their other competitors after the destruction of the Second Temple, was the prevalent view among scholars of ancient Judaism and early Christianity alike for a long time. For a survey and critique of this position, see Annette Yoshiko Reed, "When Did Rabbis Become Pharisees? Reflections on Christian Evidence for Post-70 Judaism," in *Envisioning Judaism: Essays in Honor of Peter Schäfer on the Occasion of His Seventieth Birthday*, vol. 2, ed. Ra'anan S. Boustan, Klaus Herrmann, Reimund Leicht, Annette Y. Reed, and Giuseppe Veltri (Tübingen: Mohr Siebeck, 2013), 859–96.

54. On the perception of Mishnaic law as unnecessarily overbearing and difficult among some Jewish-Christian circles, see Charlotte Elisheva Fonrobert, "The Didascalia Apostolorum: A Mishnah for the Disciples of Jesus," *Journal of Early Christian Studies* 9, no. 4 (2001): 483–509; Karin Zetterholm, "Alternate Visions of Judaism and Their Impact on the Formation of Rabbinic Judaism," *Journal of the Jesus Movement in Its Jewish Setting* 1, no. 1 (2014): 127–53.

to combat the threat of a new religious movement that mocked punctilious and stringent observance of the commandments, the rabbis made a point of presenting the observance of the law as feasible, manageable, and worthwhile,[55] and we could suggest that the rabbis' accommodating approach toward forgetting and memory failures may be part of the same tendency. Finally, it is possible that the rabbis were not responding to any perceived competition but were rather trying to create a compelling story for *themselves* about who they were and why their intellectual pursuit was worthy.

While all of these historical theories offer some explanatory power, I do not wish to commit to any of them, nor to a combination of all of them. My contention is that we do not know nearly enough about the fabric of Jewish society in the early rabbinic period, about the commitments and predilections of different Jews at different points during this period, or about the communal or institutional contexts in which the rabbis operated, to draw any conclusions about their motivations or their actual or aspired audiences. This book, then, does not attempt to construct a historical picture of the rabbinic movement and its challenges, but to offer an inquiry into the history of rabbinic ideas. I approach the Tannaitic corpora not as repositories of information about the world in which they were created, but as literary works that create their own world. I am less interested in the rabbis who made the texts, about whom we can know very little, than in the Rabbis—with a capital *R*—that the texts *make*, as cultural icons and as models of religious and scholastic engagement, and I do not aim to figure out who adhered to the rabbis' teachings and how, but rather to explore how the rabbis imagined those who would adhere to their teachings. To what extent the experiences and protagonists constructed by these texts are a reflection of actual historical realities and to what extent they are works of invention and fantasy—this I leave to others to determine, if they are so inclined.

FRACTURED TABLETS

The title of this book, *Fractured Tablets*, alludes to a well-known rabbinic tradition about the tablets of the law that were given to Moses in Sinai, which through the power of interpretive creativity turn into a metaphor for forgetfulness and its place in rabbinic life. According to the biblical account, after spending forty days on Mount Sinai Moses received a pair of stone tablets on which God had written his

55. For notable examples, see Arthur Marmorstein, "Judaism and Christianity in the Middle of the Third Century," in *Studies in Jewish Theology by A. Marmorstein*, ed. Joseph Rabbinowitz and Mayer S. Lew (New York: Oxford University Press, 1950), 77–92; Ephraim E. Urbach, *The Sages: Their Concepts and Beliefs*, trans. Israel Abrahams (Cambridge, MA: Harvard University Press, 1987), 30–37; Devorah Steinmetz, "Justification by Deed: The Conclusion of Sanhedrin–Makkot and Paul's Rejection of Law," *Hebrew Union College Annual* 76 (2005): 133–87. On this scholarly assumption, see the helpful discussion in Adiel Schremer, *Brothers Estranged: Heresy, Christianity, and Jewish Identity in Late Antiquity* (New York: Oxford University Press, 2009), 107–17.

covenant, but when Moses descended from the mountain and saw that the Israelites had made the golden calf, he threw the tablets from his hands, and they broke into pieces. After Moses convinced God to forgive the people, he was instructed to make another set of stone tablets, on which God would write what he had written on the first pair of tablets. Those new tablets were then to be placed in the ark of the covenant, which would travel with the Israelites throughout their journeys to Canaan. A rabbinic tradition, however, maintains that the ark of the covenant housed both the second set of tablets, the whole ones, *and* the broken pieces of the first set of tablets.[56] This interpretation is based on a somewhat quirky reading of Deuteronomy 10:2, in which Moses relates that God told him, "I will write on the tablets the words that were on the former tablets, which you broke, and [you shall] put them in the ark." In the rabbinic reading, the segment "and put them in the ark" (*ve-samtam ba-'aron*) is understood not as part of the instruction regarding the new tablets, but rather as part of the reference to the old tablets, indicating that Moses first broke the tablets and then proceeded to put them in the ark. Following this interpretation, one of the Babylonian rabbis comments, "This is to teach you that a disciple of the sages who has forgotten his teachings against his will must not be treated with contempt."[57] The fact that the first set of tablets was kept and revered even though they were broken serves here to instruct that forgetful Torah learners should not be cast away from the rabbinic world but should remain part of it and be treated respectfully.

This rabbinic teaching, which presents forgetfulness as an unfortunate but acceptable part of life in accordance with the Torah, and moreover compares the forgetful individual to a work of divine craftsmanship broken by no fault of its own, serves well to capture the rabbinic approaches to memory failures that will be discussed in this book. The human subjects that emerge from the rabbis' discussions are deeply committed and pious while also incorrigibly prone to failures, but their failures do not exclude them from the rabbinic world of practice and study. Quite the contrary: their failures secure their place within it. Forgetful subjects are "tablets" that are not quite broken, because the rabbis maintain that memory failures can generally be repaired and that it is possible to recover from them; but they can be described as fractured: inherently flawed and imperfect, but nonetheless holding together.

The book consists of six chapters, which are organized around distinct tropes of forgetfulness or memory omissions, rather than chronologically or by corpus.

56. For example, T. Sotah 7.18 (ed. Lieberman 197–98); Sifre Numbers 82 (ed. Kahana 1:200); Sifre Deuteronomy 38 (ed. Finkelstein 76); BT Baba Batra 14b.

57. BT Menahot 99a, in the name of Rav Yosef (or in the name of Rav, according to MS Munich 95). In BT Berakhot 8b this tradition is phrased differently: "Beware of an elder who has forgotten his teachings against his will, for we say [that] both the tablets and the broken tablets are placed in the ark" (cf. BT Sanhedrin 96a). Elder (*zaqen*) in this context could be understood either as "old man" or as "sage"; see the discussion in Mira Balberg and Haim Weiss, *When Near Becomes Far: Old Age in Rabbinic Literature* (New York: Oxford University Press, 2021), 107–11.

Building upon each other, these chapters attempt to present a rich and variegated picture of the Tannaitic engagement with the topic of forgetfulness, while highlighting the specific nuances pertinent to different texts and different themes.

Chapter 1, "Memory and Doubt," commences the inquiry into memory failures in halakhic practice by exploring omissions of episodic memory—that is, forgetfulness of events and activities in which the forgetters themselves took part. This chapter considers scenarios from the Mishnah and Tosefta in which individuals cannot remember things they said or did, places they went or things they witnessed, and therefore find themselves in situations of halakhic doubt. While the "bottom lines" of such scenarios are proposed resolutions to these situations of doubt and game plans for dealing with uncertainty, these scenarios also present a curious kind of halakhic actor: one who is deeply committed to following rabbinic rules and ordinances, even at a great personal price, and yet fails to keep track of facts that are crucial to one's observance of the law. By constructing this kind of actor, I argue, situations that could be construed as reflecting carelessness or even criminal neglect are normalized, and the scope of what is tolerable and acceptable within the framework of halakhah is greatly expanded.

Chapter 2, "Remembering Forgetfulness," discusses the most prevalent form of forgetfulness in Tannaitic literature: forgetfulness of future tasks, also known as prospective memory tasks. This chapter explores scenarios in which rabbinic subjects fail to act on delayed intentions—that is, forget to perform a required action by the time in which it has to be performed or forget to refrain from an action at a time in which this action is forbidden. Such scenarios, I argue, portray forgetfulness as a marker of halakhic commitment, and even as the result of eagerness and devotion in the performance of commandments, which leads to cognitive overload. The chapter then turns to explore the role that the rabbis play in scenarios of prospective memory omissions, particularly in rulings that are meant to preempt forgetfulness, and it argues that the construal of the rabbis as predictors and preemptors of forgetfulness establishes them not only as experts in the interpretation of texts—as they may have been traditionally regarded—but also as experts in the management of persons.

Chapter 3, "Partial Eclipse of the Mind," is dedicated to a specific conceptual category developed in Tannaitic texts, the category of "concealment" (*he'elem*), which I prefer to call "mental eclipse." Relying on highly innovative rabbinic interpretations of the Priestly Code's institution of sin offering in Leviticus 4 and 5, the rabbis develop the notion that certain elements of one's halakhic memory—whether memory of facts relevant to halakhic performance or memory of the laws—can temporarily disappear in ways that radically alter one's responsibility for one's actions, and then reappear. Although "concealment" is a highly theoretical construct that does not necessarily correspond to real-world performances, this complex and novel concept does reveal the extent to which the rabbis saw memory as the key component of halakhic practice, and the extent to which

they saw memory as volatile and unreliable. A closer look at competing textual and interpretive traditions within the Tannaitic corpus also allows us to see that different rabbinic thinkers and authors had different positions not only on how forgetfulness should be accommodated within the halakhic system, but also on the relations between ignorance and forgetfulness. The chapter concludes with a reflection on forgetfulness as a form of transgressive fantasy in rabbinic discourse.

Chapter 4, "Rituals of Recollection," examines the solutions that the rabbis conjure for situations in which forgetfulness had already taken place. In particular, the chapter focuses on situations in which the forgotten action (or inaction) can, in theory, be overturned at the cost of great inconvenience for the practitioners or at the cost of a different halakhic violation. It reveals a range of opinions regarding the ways in which forgetful subjects can or should rectify their forgetfulness, and creative solutions that negotiate symbolic actions as opposed to full re-performances of the commandment. I argue that the ad hoc and at times self-contradictory nature of the solutions offered for forgetfulness, as well as the internal controversies regarding such solutions, divulges a sense of anxiety about the accommodations and adjustments available for forgetters within the halakhic system. Questions of whether forgetters should be penalized or reeducated, and how one can be certain that people will not make disingenuous use of forgetfulness as an excuse for carelessness, rise to the surface in several rabbinic discussions, making it clear that this issue was more fraught, at least for some rabbis, than it initially seems.

The last two chapters of the book shift from halakhic forgetfulness to forgetfulness of Torah teachings, and accordingly focus primarily on the homiletic materials in the Tannaitic Midrashim. Chapter 5, "When Teachings Fly Away," examines memorization of Torah teachings as a religious practice in its own right, one that any Jewish subject—not just disciples of the Sages—is required to undertake as the utmost form of devotion. Because memorization of texts is construed as a duty, forgetfulness of teachings is rhetorically construed as laxity in fulfilling this duty, and thus as testimony to insufficient commitment to the law—quite different from forgetting in the halakhic realm. Moreover, forgetfulness of texts is presented as inevitably leading to failures in actual practice, such that the text of the commandment and the performance of the commandment become one and the same. The flip side of the identification of text and practice is the notion that memorized Torah teachings come to surpass actual lived experiences. Several anecdotes present rabbis who offer mistaken teachings because they forget things they have done or have seen with their own eyes, whereas disciples who have not seen the practice under discussion performed but have memorized teachings *about* this practice provide the correct answer.

Finally, chapter 6, "Bad Tidings, Good Tidings," traces one prominent theme in Tannaitic literature and beyond it, according to which the people of Israel as a collective have forgotten the Torah multiple times in the past and are likely to

forget it again in the future. The chapter argues that the notion that "the Torah is destined to be forgotten from Israel" is rooted in one specific tradition—namely, the tradition regarding the disappearance of the Torah after the destruction of the First Temple and its restoration in the time of Ezra. This tradition was obfuscated and recalibrated over time to introduce a paradigm of cyclical and recurring forgetfulness of the Torah, from which rabbis or prefigurations of rabbis allow the community to recover. Alongside the model of cyclical forgetting and recovery of the Torah there develops an alternative Tannaitic (and later, Amoraic) model, according to which collective forgetting of the Torah cannot possibly happen. Finally, I propose that the question of whether the Torah can be forgotten acquired new meanings upon the encounter of later rabbis with the Christian notion that the Jews have abandoned or given up on the Torah. The tapestry of sources from different corpora and from different historical contexts discussed in this chapter reveals that forgetfulness of the Torah, more than being a dreaded prospect, was a fertile and generative literary motif through which the rabbis gave meaning to their own vocation.

1

Memory and Doubt

In his novel *One Hundred Years of Solitude* Gabriel García Márquez describes a plague that devastated the town of Macondo, as a result of which all residents of the town were gradually but rapidly losing their memory. To combat the process that was leaving Macondo's people increasingly helpless, the resourceful Aureliano Buendia sets out to inscribe every item he finds with the name by which it is called, and then, when he realizes that the name of the item alone will not do when all memory is otherwise lost, he also writes down instructions for using each item:

> With an inked brush he marked everything with its name: *table, chair, clock, door, wall, bed, pan*. He went to the corral and marked the animals and plants: *cow, goat, pig, hen, cassava, caladium, banana*. Little by little, studying the infinite possibilities of a loss of memory, he realized that the day might come when things would be recognized by their inscriptions but that no one would remember their use. Then he was more explicit. The sign that he hung on the neck of the cow was an exemplary proof of the way in which the inhabitants of Macondo were prepared to fight against loss of memory: *This is the cow. She must be milked every morning so that she will produce milk, and the milk must be boiled in order to be mixed with coffee to make coffee and milk*. Thus they went on living in a reality that was slipping away, momentarily captured by words, but which would escape irremediably when they forgot the values of the written letters.[1]

As this scene powerfully illustrates, memory is essential not only to our identity as individuals but also to our ability to function in the world on the most rudimentary and mundane level.[2] Aureliano's attempt to create a system of labeling and

1. Gabriel García Márquez, *One Hundred Years of Solitude*, trans. Gregory Rabassa (New York: HarperCollins, 2006), 51–52 (emphasis original).

2. Cognitive scientists noted that García Márquez's descriptions are remarkably similar to the experiences reported by and observed in patients suffering from dementia. See Katya Rascovsky,

marking that will cover every known object to protect it from forgetfulness, which eventually becomes unmanageably complex and is abandoned by the people of Macondo altogether, captures the intricate network through which every item in our memory is connected to multiple other items and is constantly arranged into multiple categories. We do not realize the immense complexity of this network, to which cognitive scientists refer as conceptual knowledge,[3] until we attempt to create it artificially.[4]

Reading Márquez's poignant description of Aureliano's attempt to visibly inscribe the world around him with the information needed to function in it, I cannot help but wonder how many details Aureliano would have had to add to his memory apparatus had he been a rabbinic Jew. One can imagine signs such as these: *This is a cow, it is a kosher animal and one is allowed to eat its meat, but its milk can only be used if procured by a Jew. This is bread, you must wash your hands before eating it and you may not have it during Passover. This is a bowl made of clay, you must break it if a dead creature fell into it*. The Priestly Code of the Pentateuch, which constitutes the lion's share of the corpus of biblical law, presents life in accordance with God's ordinances as relying upon an ongoing activity of division and distinction. The Israelites are instructed repeatedly to distinguish between the holy and the unholy, between the pure and the impure, between animals that may be eaten and animals that may not, between the Israelites and the other nations, the priests and the rest of the Israelites, and so on. The rabbinic normative system that we call halakhah, which methodically expands, elaborates, parses, and dissects established biblical categories and imperatives, similarly presents the everyday life of its subjects as consisting of multiple tasks of distinction and division to ensure proper performance. But the high-resolution engagement of the rabbis with the finest details of legal and ritual concepts and laws,[5] and the many innovations they introduce, make the distinctions and divisions required by their system much more numerous and nuanced than those of biblical law.

Matthew E. Growdon, Isela R. Pardo, Scott Grossman, and Bruce L. Miller, "The Quicksand of Forgetfulness: Semantic Dementia in *One Hundred Years of Solitude*," *Brain* 132, no. 9 (2009): 2609–16.

3. Conceptual knowledge is defined as "the sum of our sensory and motor experiences with the environment in a categorial fashion. . . . Concepts refer to categories of objects, events or ideas because conceptual representations generalize across specific exemplars and situations, in which we have encountered the referent in the past." Quoted from Markus Kiefer and Friedemann Pulvermüller, "Conceptual Representations in Mind and Brain: Theoretical Developments, Current Evidence, and Future Directions," *Cortex* 48, no. 7 (2012): 806.

4. As observed by scientists who attempted to use computer modeling to understand the vast neural connections through which conceptual knowledge is attained and retrieved. See David E. Rumelhart, James L. McClelland, and the PDP Research Group, *Parallel Distributed Processing: Explorations in the Microstructure of Cognition* (Cambridge, MA: MIT Press, 1987).

5. I borrow the term "high resolution" to describe the rabbis' halakhic discourse from Halbertal, "The History of Halakhah," 2.

The rabbinic halakhic system is not only intricate and complex but also highly dynamic, since it is especially interested in how additional moving pieces and constantly changing realities can affect halakhic outcomes. It is a system of conceptual knowledge in which objects and actions are divided into multiple categories, subcategories, and cross-categories, but these categories are not simply dichotomous (pure/impure, permitted/forbidden, valid/invalid, etc.) but intersect with and diverge from each other through many dozens of combinations (forbidden on the Sabbath but permitted on festivals; pure in the public domain but impure in the private domain; valid if done by person X but invalid if done by person Y, etc.). To function properly in the halakhic world, one must have reliable access to this conceptual knowledge, and knowledge, to be sure, is simply another word for memory—for the most part, a particular type of memory known as semantic memory, which includes vocabulary, facts, formulae, rules, and so on.[6] The rabbis thus put enormous stock in their adherents' ability not only to keep all of the system's numerous rules in mind, but also to keep track of all the moving pieces and contingencies.

It is immediately evident that partaking in the normative rabbinic world makes substantial demands on one's semantic memory, but in this regard halakhah is admittedly no different than any other system of specialized knowledge, be it botany, marine navigation, or baseball statistics. Rabbinic halakhah, however, requires more than keeping in mind a host of concepts and their proper cross-categorizations according to a complex set of rules. The distinct ways in which the rabbis expanded and developed the biblical law codes created a system in which the categorization of an item or a person as pure or impure, permitted or forbidden, sacred or profane, and so on depends not only on its stable and visible traits but also on its *history*—on the things that were done to it over a period of time and, when relevant, also on the things that it has done. For example, the permissibility of an animal to be eaten, in the rabbinic configuration, does not depend only on its species (e.g., cow or pig) but also on the way it was slaughtered (by whom, with what instruments, through what procedure), and the admissibility of a person into the sacred realm depends not only on absence of visible markers of impurity (e.g. menstruation, genital discharge, skin affliction) but also on absence of previous contact with potential sources of impurity.[7] To go back to the imagery of Aureliano putting up signs on things to combat the townspeople's memory loss, for a rabbinic Aureliano it would not be enough to put up a sign

6. The term "semantic memory" was coined by Ross Quillian. See M. Ross Quillian, "Semantic Memory," in *Semantic Information Processing*, ed. Marvin Minsky (Cambridge, MA: MIT Press, 1969), 227–70.

7. As I argued elsewhere, the rabbis expanded and extended the biblical purity circuit considerably, thereby turning one's daily interactions with things, people, and even bodily substances into an elaborate exercise in memory keeping. See Balberg, *Purity, Body, and Self*, 37.

"This is bread" or "This is a clay bowl" that lists the halakhic rules that pertain to bread or clay bowls in general. He would also have to make a note of the history of this particular loaf of bread or clay bowl: *This loaf of bread was baked after a portion of its dough was given to the priests, so it is permitted to eat it. This clay bowl was left unattended overnight, so it can no longer be considered pure*. Perhaps even more staggering, a sign would have to be put on each individual, too: *This is X, she is betrothed to a certain man and forbidden to all others. This is Y, he touched a corpse five days ago and conveys impurity to anyone who touches him*. The rabbinic subject is expected to keep an active portfolio of the objects and people in his environment and of their various halakhic vicissitudes, as well as of his own movements, encounters, and activities. As this chapter will show, the rabbis assume that this is a task in which one is likely, at least on occasion, to fail. It does not take lethal amnesia to do so, as in the case of Márquez's Macondo: rather, memory failures are a normalized and even predictable aspect of life in accordance with halakhah.

With so much of one's halakhic operations dependent on memory, forgetfulness of past actions, or even of past thoughts, can sometimes lead to a cascade of unfavorable consequences. One example will help illustrate this. The Mishnah discusses a case in which a master asked his enslaved servant to slaughter an animal on his behalf for the Passover sacrifice. If the master did not specify which animal he wanted slaughtered for the sacrifice (the options are either a lamb or a kid goat), the servant may slaughter either of the two. Problems begin when the master did specify whether he wanted a lamb or a goat, but the servant cannot remember which the master asked for. The concern here is with what the rabbis call "an offering without owners." If the master deliberated that he is specifically interested in a lamb for the offering, then he did not attach his ownership to any offering that is not a lamb, and if the servant slaughters a non-lamb on his master's behalf this non-lamb will be considered an ownerless offering that must be burned rather than eaten. The forgetful servant's dilemma can be resolved if he slaughters both a goat and a lamb and declares his retroactive ownership over whatever offering the master did not want. But what if the master, too, forgot what he originally asked for? In this case, both the goat and the lamb are considered ownerless offerings and must be burned and not eaten. In short, if no one is able to remember what animal was originally requested for the offering, no animal can serve as the offering.[8] Cases such as these, in which one fails to remember not disembodied facts or rules but details of one's own actions and interactions, can be classified as failures of *episodic memory*, that is, the memory of specific events occurring at a specific time and place that one either participated in or witnessed directly.[9]

8. M. Pesahim 8.2; cf. T. Pisha 7.5 (ed. Lieberman 177–78).

9. For a definition of episodic memory, see Michael Hasselmo, *How We Remember: Brain Mechanisms of Episodic Memory* (Cambridge, MA: MIT Press, 2012), 1. The term "episodic memory" was coined by Endel Tulving, "Episodic and Semantic Memory," in *Organization of Memory*, ed. Endel Tulving and Wayne Donaldson (New York: Academic Press, 1972), 381–402.

This chapter explores a set of Tannaitic scenarios of episodic memory failures of a specific kind—namely, scenarios in which a subject fails to remember certain details of his own actions or interactions that have halakhic significance and is therefore at an impasse when it comes to making a relevant halakhic decision. I use the term "memory failures" in a broad sense, to cover everything from initial failure to *form* a memory—for example, by not paying sufficient attention to details at a time in which a halakhically significant interaction was taking place—to failure to *retrieve* a memory after the fact. In all the cases discussed in this chapter, a rabbinic subject does not have access to information needed for smooth halakhic function, but no one else (or at least no one else who is available or reliable) has access to this information either, since this information pertains to a specific situation that the subject in question witnessed or experienced. In some of the cases we will see it is evident that at some point the subject had this information but later forgot it, whereas in other cases it is not entirely clear whether the subject had this information to begin with or not. As I mentioned in the introduction, "not knowing" in rabbinic texts is a spectrum that ranges between complete ignorance and temporary forgetfulness, and it is not always discernible where on the spectrum a particular case is to be located. What all those cases have in common, however, is that the subject's inability to know with certainty the details of his own activities and experiences generates a situation of halakhic doubt, which can only be resolved by applying generalized rabbinic principles to the situation.

Doubt, of course, is one of the topics the rabbis engage with most systematically and most eagerly, and it is by no means limited to cases of memory failures. Doubt (*safeq*) arises in any kind of halakhic situation in which critical pieces of information necessary for halakhic determination are missing. This happens when one encounters unmarked items whose history and origin cannot be traced with certainty (for example, a piece of meat was found on the street, and it is unknown whether it is kosher or not); when it is impossible to determine who is telling the truth (for example, two claimants each swear that a certain item belongs to them); and when the relevant data are inaccessible (for example, people are buried under rubble, and it is unknown whether they are alive or dead); many other situations of doubt are mentioned in Tannaitic sources. Tannaitic texts introduce a host of general principles for navigating the many uncertainties presented by a world in which different people with different levels of commitment to halakhah move around and act, and which changes constantly in ways that one cannot always keep track of.[10] For example, the rabbis determine that when one finds meat whose origin is unknown it can be considered kosher if the majority of people in that place consume kosher meat;[11] that property whose ownership cannot be determined

10. See the detailed discussion in Moshe Halbertal, *The Birth of Doubt: Confronting Uncertainty in Early Rabbinic Literature* (Providence, RI: Brown Judaic Studies, 2020).

11. M. Makhshirin 2.9.

will be shared among its claimants;[12] that one is to clear rubble on the Sabbath even if one does not know whether there are people there and whether they are alive or dead;[13] and so on. These principles are presented and worked through in Tannaitic texts through various casuistic scenarios that demonstrate how these situations of doubt can come about, and how the appropriate principle should be applied to make the necessary halakhic determination.

Memory failures are one of many reasons on account of which the halakhic system is confronted with "unknowns" and has to resort to doubt-resolving mechanisms. What makes scenarios of memory failures unique in the vast landscape of rabbinic doubt, however, is that the subject could be *expected*—albeit to different extents—to possess the knowledge that he is lacking. The halakhic uncertainty at hand is not created by external circumstances outside of one's control but by one's own cognitive malperformance, and as such it has, or could have, bearing on the religious and moral standing of the subject. Put differently, in discussing memory failures that lead to halakhic doubt the rabbis present literary protagonists who are distinctly not attending to their actions and interactions in the ways they should. Nevertheless, the underlying assumption in these scenarios is that those fallible subjects actively seek rabbinic guidance on how to extract themselves from the situation of doubt, and that they will follow the instructions they are given even at the price of great inconvenience. This combination of cognitive omissions—sometimes egregious cognitive omissions—with overall commitment to the halakhic system and to rabbinic authority creates, I propose, a new model of Jewish piety and observance. At the heart of this model stands not perfect performance of the commandments, but rather determination to scrutinize and correct one's *imperfect* performance.

This chapter aims, through close analysis of a small number of scenarios that are structurally and conceptually similar, to offer an initial expedition into the rabbinic discourse on memory failures and cognitive omissions. The observations I propose in this chapter serve as a foundation for my arguments in the following chapters, where they will be bolstered and expanded through other kinds of texts and inquiries. I open with scenarios of episodic memory failures because they form a coherent subset of texts, and yet they run the full gamut from mundane and predictable (for example, being unsure whether one touched an impure object or not) to outlandish and surprising (for example, being unsure whom one betrothed as a wife). As such, these scenarios illustrate well how the rabbis, rather than set memory failures outside the normative realm, build such failures *into* the normative realm. The drama in these scenarios—and there is drama in them, I contend, albeit subtle and minimalistic—lies in the discord between the overall determination of the protagonists to adhere to rabbinic teachings and their

12. M. Baba Metzi'a 1.1 and elsewhere.
13. M. Yoma 8.7.

inability to do so because of normalized cognitive limitations. It is through this discord that we can begin to analyze the role that memory failures play in the rabbis' religious and social vision.

UNCERTAIN ENCOUNTERS

The scenarios I discuss in what follows are for the most part structured in a similar pattern. A case is described in which a subject is aware that he was in a situation of halakhic significance and did something, but he cannot say what he did or what happened exactly, and therefore is uncertain as to how he should proceed. At times these cases are formulated in the first person—a subject is quoted, as though presenting a question directly to the rabbis ("I went to a place in which there was an impure substance, but I do not know if I touched it," "I made a vow to give something to the temple, but I do not know what I promised to give," "I stole money, but I do not know how much I stole"), and at times they are formulated in the third person ("One bought X from someone but does not know from whom he bought it," "One betrothed one of two sisters but does not know which one he betrothed"). While it is never stated explicitly that the subject (or someone else) asked the rabbis for advice or guidance, the very juxtaposition of the case and the ruling implies a situation of halakhic consultation, even if an entirely hypothetical one. In most if not all cases the subject's uncertainty could be attributed to insufficient attention or carelessness, but the rabbis' interest is in presenting practical solutions to the halakhic conundrums rather than in penalizing or condemning the subject.

At first glance, these scenarios of episodic memory failures are nothing more than scholastic examples that set the stage for what the rabbis really want to get at—namely, the principles through which uncertainty is to be dealt with. Telling of a debtor who forgot whether he paid or not is just a channel for discussing uncertain debt; this could be done just as well by telling, say, of orphans who do not know whether their father paid his debt before he died or not. Indeed, sometimes a principle for dealing with uncertainty is exemplified both through a scenario involving memory failure and through a scenario involving objective inaccessibility of knowledge. Yet I contend that even if the purpose of scenarios of memory failures is to set up a situation of doubt in order to present the "bottom line" of the ruling, the *effect* of those scenarios is the integration of cognitive omissions into the halakhic landscape, such that memory and attention are charted as stumbling blocks for committed rabbinic subjects. By presenting absence of knowledge due to subjective limitations—failures to attend to certain facts or to remember them—as akin to absence of knowledge due to objective limitations, the rabbis make the point that one's mind and memory are not entirely within one's control. This idea can by no means be taken for granted, and in the second part of this chapter I will argue that it helps us reconstruct both a rabbinic understanding of

memory and cognition and a rabbinic ideological stance regarding adherence to halakhah. Let us begin, however, with a few instructive examples.

The Doubtful Toucher

Tractate Tohorot of the Mishnah deals extensively with situations of doubtful impurity, that is, with the need to make determinations about purity and impurity when one is missing much or some of the necessary information. In many of the tractate's cases, the difficulty in making the halakhic determination stems from insufficient information about the history of an *object*, for example, when an item was left outside during the night and it cannot be known who may have touched it,[14] or when strangers entered one's house and it cannot be known whether they were ritually impure and what they touched while they were there.[15] There are, however, cases in which the difficulty in making halakhic determinations stems from insufficient information about the history of a *subject*, that is, from an individual's inability to determine whether he touched something or did not, entered a place or did not, and so on. The principles through which both types of cases are addressed are identical, and thus the Mishnah's decision specifically to mention cases of the latter sort is not self-evident.

The underlying assumption in the rabbinic purity system is that impurity is pervasive, ever present, and unmarked. Impure items can look exactly like pure items (e.g., a clod of dirt from a burial ground and a clod of dirt from a noncontaminated ground), and impure persons look exactly like pure persons. The rabbis, who operate on the premise that their subjects, whether real or imagined, attempt to maintain themselves in a state of ritual purity to the extent that this is possible,[16] devise a series of principles for negotiating this task in a world in which impurity potentially lurks everywhere but cannot always be known. The guiding notion behind some of these principles is that in situations that lie entirely outside of one's control, one should assume purity rather than impurity as a default (unless, of course, one knows with certainty that impurity was indeed contracted).[17] For example, if I suspect that I encountered a source of impurity in a public area, I may operate on the assumption that I did *not* become impure. In contrast, if I suspect that I encountered a source of impurity in a private domain (e.g., in someone's house or garden), I am to operate on the assumption that I did become impure.[18] This has got nothing to with the probability of impurity being found in the public versus private domain (if anything, one is more likely to find impure items in the

14. M. Tohorot 8.3.

15. M. Tohorot 7.2–6.

16. For an extensive and thorough discussion of the early rabbis' approach to the observance of ritual purity in everyday life, see Yair Furstenberg, *Purity and Community in Antiquity: Traditions of the Law from Second Temple Judaism to the Mishnah* (in Hebrew) (Jerusalem: Magnes Press, 2016).

17. See also Balberg, *Purity, Body, and Self*, 42–47.

18. For example, M. Tohorot 5.1–2.

public domain than in the private domain), but with the attempt to restrict the tracing and managing of impurity to settings in which one has a modicum of ability to do so. Similarly, the rabbis rule that if "one who has no mind to be asked"—for example, an infant or an animal—may have come into contact with a source of impurity, the default ruling would be that no impurity was contracted, whereas if one who "does have a mind to be asked" may have come into contact with a source of impurity, the default ruling is that impurity was contracted.[19]

Another principle guided by the attempt to restrict determination of impurity, in cases of doubt, to situations over which humans have some control is the principle of "moving impurity." The rabbis rule that if a source of impurity was in motion from one place to another, and it is uncertain whether it touched something or someone while on the move, the default ruling is that whatever or whoever may have been touched remains pure. If the source of impurity was stationary, however, the default ruling in a case of doubt would be that impurity was indeed contracted. This principle is illustrated through the following cluster of scenarios, which contrast settings of "moving impurity" with a setting of stationary impurity (or, in rabbinic terms, "impurity that has a place"). In all three scenarios, the subject is unsure whether there was or was not contact with a source of impurity. For our purposes, it is important to note that the Mishnah presents a gradient scale of the subject's direct involvement in the situation, ranging from a case in which the subject was a nonparticipating bystander to a situation in which the subject was the main actor:

> [A] If there was [dead] vermin in the mouth of a weasel, and it was walking over loaves of heave-offerings—if it is doubtful whether [the vermin] touched [the loaves] or not, its doubt (i.e., the loaves that the vermin may have had contact with) is pure.
>
> [B] If there was [dead] vermin in the mouth of a weasel or a carrion in the mouth of a dog, and they passed between pure people or pure people passed between them—their doubt (i.e., whatever these people may have touched) is pure, because impurity does not have a place.
>
> [C] If [a weasel or a dog] were pecking [at the vermin or carrion] on the ground, and one said, "I went to that place, but I do not know[20] whether I touched it or did not touch it"—his doubt is impure, because impurity has a place.[21]

These three scenarios all illustrate the rabbinic principle that in a case of doubt "moving impurity"—that is, a source of impurity that does not stay put but travels through space—does not cause one who may have had contact with it to become

19. M. Tohorot 3.6–8.

20. All Mishnah manuscripts read here: "I went to that place, but it is not known (*ve-'ein yadu'a*) whether I touched it or did not touch it." This version may be influenced by the use of "but it is not known" in most other cases in M. Tohorot 4–6. However, since the speaker uses the first person here, the more plausible version is "but I do not know" (*ve-'eini yode'a*), as it appears in the printed edition.

21. M. Tohorot 4.2–3.

impure. Case A describes a somewhat unappetizing scene in which a weasel walks over loaves of bread meant to be used for heave-offering (i.e., a requisite gift to the priests) while carrying some type of dead vermin (*sheretz*) in its mouth. The weasel cannot harm the loaves (no living animal conveys impurity), but the dead vermin in its mouth, if it touches the loaves directly, would make the loaves impure such that priests will not be able to use them. Whoever noticed the weasel on the loaves cannot tell with certainty whether there was direct contact between the vermin and the loaves, so the case is decided according to the principle that "moving impurity" does not convey impurity in a case of doubt. In case B, the suspected contact is not between the source of impurity and inanimate objects, but between the source of impurity and humans: a living animal carrying a source of impurity in its mouth moves between pure humans, or pure humans move by it. If those humans had direct physical contact with the source of impurity, they would now be impure, but since this cannot be known for sure, the principle of "moving impurity" is applied and the humans are rendered pure. Finally, case C is presented as contrastive to the previous two: if the source of impurity was placed in a fixed location on the ground, and a person who was at that place cannot remember whether he touched the source of impurity or not, that person would be rendered impure by default, because the principle of "moving impurity" does not apply.

In each case, the human subject involved is ostensibly more equipped to make the determination regarding contraction of impurity than the one in the previous case. In case A, the human is merely an observer, who does not play a part in the potential contraction of impurity; in case B, the humans are potentially passive contractors of impurity, since the source of impurity may have just brushed against them; in case C, the human is potentially an active contractor of impurity, as he may have touched a source of impurity that was located in a particular place. While we cannot necessarily say that the subject in case C could have *prevented* the contact with the source of impurity—indeed, the rabbis imagine a host of ways in which involuntary contact can take place—we do pause to wonder why this subject cannot say with certainty whether he touched the source or impurity or not. The Mishnah, as it often does, leaves it to its readers to construct the backstory of this scenario. We may imagine that the contact that may or may not have happened was so insignificant that the subject did not pay attention to it (for example, he only touched the carrion with the tip of his foot); or that the subject was too distracted by other things to register if he touched the source of impurity; or that some time has passed since then and the subject no longer remembers whether he touched the source of impurity or not. Either way, I would classify case C as a case of *memory failure*, whether the subject never formed a clear memory of his contact with the source of impurity or formed a memory and later on could not retrieve it. It is a "failure" insofar as one who cares about maintaining ritual purity is expected, within the rabbinic normative system, to keep his own actions and interactions with potential sources of impurity in close check.[22]

22. See also Balberg, *Purity, Body, and Self*, 155–61.

From a legislative perspective, the sole purpose of case C is to provide a contrast to cases A and B, and to illustrate how a case of doubtful impurity is decided when the source of impurity is *not* moving. To make that point, the rabbis had to depict a situation of doubt having to do with stationary impurity. If the source of impurity is stationary and there is certainty as to its location, what else could be the reason for uncertainty, all other things being equal? Supposedly, only the confusion of the toucher himself. But this in and of itself is significant: the rabbinic notion that one of several factors that could introduce uncertainty into the impurity realm is the faulty attention or memory of humans regarding their own actions, and the readiness to use this notion to develop certain halakhic inquiries, indicate that the rabbis did not see any contrast between commitment to the observance of purity laws and fallibility in its practice. In this scenario the rabbis imagine a subject who clearly knows enough and cares enough about impurity to report that he may have had contact with a source of impurity, but somehow failed to be attentive enough when this contact may have happened or failed to remember the details of the event after some time has passed. This failure does not place the subject alongside those who are careless in the observance of purity, but rather it is registered as a normal obstacle that a devoted and committed rabbinic subject may run into in his sincere attempts to observe ritual purity—an obstacle not fundamentally different from the inability to discern an impure clod of dirt from a pure clod of dirt, or to know whether an unattended toddler wandered into an impure place or not.

The rabbis' literary choice to report the subject's uncertainty in scenario C in the first person, "*I* went to that place, but I do not know (or: it is not known, according to the manuscripts' version) whether *I* touched it or did not touch it," is noteworthy. This case could have been phrased in the third person to convey the exact same ruling, as we find in other Mishnaic passages regarding uncertainty in relation to impurity; for example, "If one walked in one of two [paths] and it is not known in which one he walked, if he hung over one of two [objects] and it is not known over which one he hung, if he shifted one of two [objects] and it is not known which one he shifted . . . ," and so on.[23] It is of course not uncommon for the Mishnah to use the first person in the presentation of halakhic scenarios, yet we should not overlook the fact that this literary device, which introduces the halakhic dilemma at hand in the form of a direct quote of the subject implicated in this dilemma, has a clear mimetic effect. It represents a hypothetical case as though it "really" happened, thus adding an element of dramatization.[24] The use of direct quote heightens the subject's stakes in the rabbis' ruling: the act of declaring out loud what happened (or did not happen), followed by rabbinic deliberation, constructs a confession-like setting in which a subject in need actively seeks out rabbinic remedy. In this case as well as in others we will see throughout this

23. M. Tohorot 5.1; but cf. M. Tohorot 5.2, which uses the first person.

24. On the mimetic and dramatizing effect of direct speech in the casuistic laws of the Pentateuch, see Assnat Bartor, "The Representation of Speech in the Casuistic Laws of the Pentateuch: The Phenomenon of Combined Discourse," *Journal of Biblical Literature* 126, no. 2 (2007): 231–49.

chapter, the subject's "confession" manifests his deference to the rabbis and to their laws while also reporting failure on his end to be as attentive as he should have been to elements crucial to his observance. The following passage provides another example of deferent confession/consultation regarding an impurity-related memory failure:

> If one entered a valley [in which there were multiple fields] during the rainy season, and there was impurity in a particular field, and he said, "I went to that place, but I do not know[25] whether I entered that field or not"—R. Eleazar renders him pure, and the Sages render him impure.[26]

The premise of this scenario is that people rarely walk into fields during the rainy season, and therefore a valley that would be considered public domain during the planting and harvest season would be considered a private domain during the rainy season. Since cases of uncertainty regarding impurity are decided differently in the public domain and in the private domain, the season in which one enters a particular field is of consequence. Again the factor of uncertainty is introduced through the figure of a person who is not sure of his own actions—he was in a valley in which one field was known to have a source of impurity in it (e.g., buried corpses), but he is not sure whether he entered that particular field or not. Here, too, the Mishnah presents the subject as reporting his predicament in the first person, "I went to that place, but I do not know/it is not known whether I entered that field or not," such that the subject appears as seeking advice or instruction regarding his purity status.

The act of *saying* in this passage, through which the subject, hypothetical as he may be, confesses his uncertainty, is more than simply a way to communicate the halakhic issue at hand (as we saw, this could be done in the third person). The confession/consultation setting created through the use of quoted speech juxtaposes the subject's memory failure with his unreserved subordination to the rabbis. On the one hand, a person who is careful in the observance of purity could be expected to keep track of where he goes and where he enters, as those facts are critical to this endeavor; on the other hand, the subject's speech act suggests that he is aware of the consequences of potential contraction of impurity and seeks to find out how he ought to proceed in accordance with rabbinic guidelines. Thus, the speech act in the first person, here and elsewhere, serves the rabbis to create a dramatized literary subject who is at one and the same time concerned about his impurity status *and* fallible when it comes to keeping track of his own actions vis-à-vis impurity. I contend that this combination of fallibility and deference, proneness to errors and eagerness to correct them, is a key facet of the rabbis' interest in memory omissions, as we will continue to see in the following examples.

25. All the Mishnah manuscripts read here: "I went to that place, but it is not known (*ve-'ein yadu'a*) whether I touched it or did not touch it." See note 20 above.

26. M. Tohorot 6.5.

The Confused Customer

The examples we have seen above, of memory failures pertinent to the contraction of impurity, are quite mundane and innocuous in nature. The pervasiveness of impurity, and the fact that it is contracted through actions that humans are often incognizant of, such as walking or touching, make it fairly likely that one would not be able to give a full reckoning of one's fleeting interactions with sources of impurity. Indeed, the rabbis note that one is not always in full cognitive command of one's hands,[27] and one cannot always be held accountable for the roads on which one chooses to walk.[28] In the remaining examples in this section, however, we will see that the prospect of memory failures regarding one's own actions is considered in rabbinic texts even when it comes to actions that should supposedly be performed with significant attention and deliberation. In the following example, the memory failure in and of itself could be described as predictable and benign, but it is a very unpredictable memory failure for a committed subject of rabbinic halakhah. This example heightens the tension between the normal tendency to forget minute details of one's everyday dealings and the keen attentiveness required of one who wants to operate within the rabbinic normative system.

This example concerns a specific facet of life in accordance with halakhah that requires active knowledge and memory: distinguishing between food items legitimate for consumption and nonlegitimate for consumption. Needless to say, food in the world of the rabbis did not come with packaging, stickers, or stamps to mark rabbinic approval. Since kosher meat and nonkosher meat, tithed produce and untithed produce, and so on look exactly the same, the observant subject must make the determination whether or not it is permitted to consume this food based on the reputation of the seller (unless, of course, he slaughters, grows, or tithes the food himself). The Tosefta presents a cluster of scenarios in which one is unable to report from which seller he bought food items, and is therefore unable to determine whether the items he bought may be consumed:

> [A] If everyone in a town sells fixed (i.e., tithed produce), and one [seller] sells unfixed (i.e., untithed produce), and one bought [produce in that town] and he does not know from which of them he bought it—it is forbidden [for him to eat until he tithes the produce].
>
> [B] If everyone in a town sells the meat of slaughtered animals, and one [seller] sells the meat of carrions, and one bought [meat in that town] and he does not know from which of them he bought it—it is forbidden [for him to consume the meat].[29]

27. M. Tohorot 7.8.

28. M. Tohorot 5.2.

29. In the Palestinian and Babylonian Talmuds this case is phrased somewhat differently: "Nine stores sell the meat of slaughtered animals, and one store sells carrion meat." See PT Sheqalim 7.2, 50c; BT Pesahim 9b, BT Kettubot 15a, BT Hullin 95a, BT Bekhorot 19b, BT Niddah 18a.

> [C] If everyone in a town sells pure wine and one sells impure wine, and one bought [wine in that town] and he does not know from which of them he bought it—it is forbidden [for him to derive benefit from the wine].
>
> To what does this apply? To a case in which one bought and does not know from whom he bought, but if one bought [the item] in the marketplace,[30] they follow the majority.[31]

The three cases in this passage all present variations on the same scenario: a subject purchased products in a town in which most sellers follow rabbinic ordinances when it comes to their merchandise—whether tithing produce, slaughtering animals according to protocol, or making sure wine is not touched by non-Jews[32]—but a single seller does not. The subject does not know from which seller he purchased the goods, and there is no visible marking of any sort that allows one to distinguish permitted goods from forbidden ones. It is important to stress that the situation at hand is one in which it is generally known which stores sell kosher items and which do not. As the concluding line of the passage clarifies, the problem is emphatically not that it is unknown whether a given store sells kosher items or not, but that this particular buyer does not know *in which* store he bought the items. The three scenarios in the Tosefta are contrasted with a case in which one purchased items in a marketplace, in which products from multiple sellers are laid out without discernment, such that one has no way of tracing a particular item to a particular seller. In the case of marketplace purchase, the rabbis apply the common principle that in situations of doubt, one "follows the majority"—that is, one can make the statistical assumption that if most people or items in a given place subscribe to a certain rule, then an unmarked item from that place can be assumed to subscribe to the same rule as well.[33] For example, if meat was found in a particular town and more than 50 percent of the butchers in that town follow the laws of kosher slaughter, the meat can be assumed to be kosher.[34] In the three cases of one who does not know in which store he made the purchase, however, the principle of following the majority does *not* apply: none of what this subject purchased is permitted for use, even though statistically it is likely to be legitimate.[35] The logic behind this contrast is, evidently, that the very lenient principle of following the majority was intended to help one procure products and conduct business under *objective* conditions of uncertainty, but it does not cover *subjective* conditions of uncertainty.

30. In the Talmuds: "but if it was found in the marketplace," following M. Makhshirin 2.9.

31. T. Demai 4.8–10 (ed. Lieberman 79–80).

32. This is probably the intended meaning of "pure wine"; cf. M. Avodah Zarah 4.11.

33. For example, M. Kettubot 1.10, M. Tohorot 5.7, M. Makhshirin 2.4–11. See also Halbertal, *The Birth of Doubt*, 9–30.

34. M. Makhshirin 2.9.

35. See Halbertal, *The Birth of Doubt*, 36–39.

Read straightforwardly, the Tosefta describes a situation of episodic memory failure insofar as the subject cannot give an accurate account of an interaction he was involved in himself: "He bought and he does not know from which of them he bought" (*laqaḥ ve-ʾeino yodeʿa me-ʾeize me-hen laqaḥ*). Admittedly this terse account could cover a range of other iterations of uncertainty that do not entail memory failure—for example, if the products were purchased by someone else who is not available or unable to report where they purchased them. In its most minimalistic and basic formulation, however, this case is simply one of a buyer who cannot recall in which of the town's stores he purchased certain products. As far as memory failures go, this is a very realistic and understandable one. When we speak of "stores" in the context of the second or third century CE, we hardly speak of carefully designed enclosed spaces that are readily distinct from one another, and the products they sell are not packaged in plastic or paper bags with the store's logo. If someone purchased peaches and turnips at the produce stand on street corner A, and then purchased onions and strawberries at the produce stand on street corner B, we can certainly imagine that after two days they will no longer be sure at which stand they purchased what. What makes this cluster of scenarios somewhat surprising is not that the subject cannot recall in which store they made a purchase, but that he is uncertain whether he bought *kosher* products or not.

The subject in the Tosefta is in a halakhic conundrum because there is a possibility, even if an improbable one, that he purchased items that are forbidden to consume according to rabbinic law. But why is there such a possibility in the first place? Since the stores in these scenarios are set in fixed places and their sellers have certain reputations, it is not because it was impossible to verify the source and status of the products before making the purchase. We must assume either that the subject never bothered checking which store was halakhically legit and which was not, or that he was generally aware of the reputation of the different stores but was not paying attention at the time he made the purchase and may have accidentally bought from the "wrong" seller. That kind of inattentiveness or disregard for the halakhic status of one's food is very much at odds with what we would expect from a subject who is committed to rabbinic teachings. Of course, we could assume that this particular subject is *not* committed to rabbinic teachings, but if this is the case, for whom are the rabbis' rulings intended? If the subject cannot say from which seller he bought the products but is unperturbed about it, why would such a case even present an opportunity for the rabbis to prohibit the consumption of the products, with the underlying expectation of compliance?

The passage, to be sure, does not say explicitly that the consumer in these cases asked the rabbis for guidance, and unlike the impurity scenarios we saw earlier, it does not even use the first person to report the case. We could imagine a more convoluted backstory in which it is not the buyer himself who presents the question to the rabbis, but his more stringent friend or relative who wonders whether he can eat the food he was offered at the buyer's house. Alternatively, we could

say that the rabbis are interested in presenting a halakhic ruling for its own sake, regardless of whether this ruling is likely to be sought or obeyed in the circumstances in which it may be relevant. Be that as it may, from a literary perspective the casuistic scenarios so typical of Tannaitic texts construct narrative settings in which the ruling (*apodosis*) appears designated specifically for the actor(s) in the event described in the opening clause (*protasis*). As Assnat Bartor observed regarding the casuistic laws of the Pentateuch, "A pattern of law that sets forth an action or a state of affairs that throws the social order into disequilibrium and then spells out what is required to reintegrate that order may be used as a fertile ground for locating narrative elements; a narrative seems to be inherent in it."[36] As readers, we are disposed to fill in gaps in the narrative with which we are presented, minimalistic as it is, in the most direct way possible.[37] When we have a dilemma ("He bought and he does not know . . . ") and a solution ("It is forbidden") our tendency would be to assume that the solution was conjured specifically for the dilemma of the person actually mentioned in the scenario, in this case the buyer himself, and not for someone else who is not mentioned explicitly. The mini-narratives put forth in this passage construct a confused but pious subject, who cannot keep track of his own purchasing decisions and is thus awaiting a rabbinic ruling on whether he may consume the products he bought or not.

The significance of the scenarios of the confused consumer lies exactly in the juxtaposition of memory failure—specifically, failure to account for a decision that should be of great importance to an observant Jew, that is, where to purchase food items—and the presumed obedience and deference implied by the sequence of case and ruling. The literary effect of this juxtaposition becomes more evident when we contrast this Tosefta passage with a Midrashic passage from Leviticus Rabbah that deals with halakhic forgetfulness and closely echoes one of the Tosefta's scenarios. The Midrashic passage riffs on Proverbs 19:2, "Desire without knowledge is not good, and one who moves too hurriedly misses the way." While "misses the way" (used in modern Bible translations) is probably a better translation of the original Hebrew *ḥote* than the traditional translation "sins," *ḥote* does have strong negative connotations of transgression in rabbinic Hebrew. To illustrate how lack of sufficient attention can lead to transgression, three rabbis present three different scenarios. In the first scenario, a man forgets that his wife is about to begin menstruating and has sex with her as she is becoming impure; in the third scenario, a man forgets that a certain path is filled with thorns and large clods of dirt and walks through it on the Sabbath, which forces him to engage in the illicit activity of removing thorns and trampling clods. The second scenario is interestingly resonant with the Tosefta:

36. Bartor, "The Representation of Speech," 233.

37. On gap filling as inherent in the reader's engagement with a text, see Meir Sternberg, *The Poetics of Biblical Narrative: Ideological Literature and the Drama of Reading* (Bloomington: Indiana University Press, 1989), 186–229.

> Yitzhak bar Shmuel bar Marta in the name of Rav [applied Prov. 19:2 to this case]: there were two stores in front of him, one sells the meat of slaughtered animals and the other sells the meat of carrions, and he forgot and purchased from the one that sells the meat of carrions. If he did not know [that he was buying carrion meat], *it is not good*, but if he knew and still bought [the carrion meat] all the more so, and not only that but *one who moves too hurriedly misses the way*.[38]

While the Tosefta speaks of a person who purchased meat and then forgot from whom he purchased it, the Midrash speaks of a person who, because of forgetfulness, actually purchased nonkosher meat. Although the former case deals with uncertainty and the latter with certainty, they both describe inattentiveness as easily leading one to transgression. But herein lies the difference: whereas the Midrash condemns the forgetful subject and places him just a few steps behind one who transgresses purposefully, the Tosefta presents the forgetful subject as one who, through the rabbis' guidance, can be corrected and kept from transgressing. Put differently, the Midrash presents forgetfulness as a sign of carelessness that puts one at the outer perimeter of the normative world, whereas the Tosefta presents forgetfulness as *part* of the normative world. This is not just a matter of genre difference between the didactic Midrash and the pragmatic Tosefta, but also an indicator, in my view, of a consistent Tannaitic tendency to normalize (and normativize) mistakes and cognitive omissions, as we will continue to see in the following examples.

The Honest Thief

Much of rabbinic property legislation is concerned with what we may call a game of claims. Two people present an identical claim to a cloak, a house, or a chicken coop, each one claiming that it belongs to him; or one person claims that another person owes him 200 dinars, whereas his fellow claims that he only owes him 100; or a person who bought a cow claims that the cow's leg was already broken when he bought it, whereas the seller claims that it got broken only after the purchase. In all these cases and many others like them, the rabbis concede that it is impossible to know what truly happened, and they apply general principles in order to deal with the uncertainty. But there are a few cases in rabbinic property legislation in which uncertainty arises not from contradictory claims by two people, but from one person not remembering what he did with another's property or with his own. Here is one example:

> [A] If one said to his fellow, "I stole from you, [or] you lent to me, [or] you deposited with me, but I do not know whether I paid you back or not"—he must pay.
>
> [B] But if he said [to his fellow], "I do not know if I stole from you, [or] if you lent to me, [or] if you deposited with me"—he is exempt from paying.[39]

38. Leviticus Rabbah 4:3 (ed. Margulies 1:84; emphasis added).
39. M. Baba Qamma 10.7.

This passage presents two scenarios in which a subject is unsure of his own financial transactions. In case A, he remembers that he owed money or an object to someone (whether because of theft he must compensate for, a debt he must pay, or a deposit he must return) but he does not remember whether he paid back what was owed or not. In case B, he is not sure whether there was a debt to begin with. The principle is simple: if a debt as such is confessed, then this debt must be paid even if there is a chance that it was already paid; but if the debt itself is uncertain, the presumed debtor need not pay anything. While in theory the quoted statements "I do not know whether I paid you back or not" and "I do not know if I stole from you, [or] if you lent to me, [or] if you deposited with me" could be read as a response to a claim made by the presumed debtee, I am inclined to read it as a statement made by the potential debtor of his own accord.[40] If the potential debtor's statement had been meant to be read as a response to a competing claim, the case would have likely been phrased—like similar cases in rabbinic texts—in the form of a claim and a counterclaim: "That one said, you stole from me/I lent to you/I deposited with you, and the other said, I do not know."[41] The speaker's statement expresses genuine consternation over his memory failure: he wants to deal honestly with a debtee but is unsure whether the debtee is indeed a debtee, since he could not keep track of his financial interactions with that person. Even if we read this statement as a response to a claim made by the debtee, however, it should be noted that the rabbis generally perceive statements of absence of knowledge as sincere and not as manipulative or evasive. Had the subject wanted to avoid paying the debt, he could have simply denied it.

A situation in which one forgets whether and to whom one is in debt is less trivial than forgetting whether one entered a certain field, or in which store they made a purchase, but it is still not far-fetched. We normally think of stealing, lending money, and paying a debt as ominous events that one would not be inclined to forget or be unsure about, but it is certainly possible to imagine a host of situations in which those things would be forgotten: if the sums involved were particularly small; if the initial transaction happened many years ago; if the payment in question was one in a series of payments regularly made, such that it is hard to remember whether a specific payment was made or not; if the person in question is (or was) a professional thief or deposit holder, who stole from so many people or took deposits from so many people that he cannot keep track of them; and to that we may add the simple fact that no one likes to remember that they owe money.

40. Both the Palestinian Talmud (PT Baba Qamma 10.7, 7c) and the Babylonian Talmud (BT Baba Qamma 118a) maintain that the subject in these cases confessed of his own accord in order to be released "from the judgment of Heaven" and is not responding to the other party's suit. Mishnah commentators Maimonides and Obadiah of Bertinoro, however, interpret that the case could be read either as an independent confession (in which case the obligation to pay is only according to the rule of Heaven), *or* as a response to a suit in which the other party accuses the subject of failing to pay a debt.

41. See M. Baba Metzi'a 8.2, 8.4, M. Shevu'ot 6.6; T. Baba Metzi'a 8.22–24 (ed. Lieberman 107–8); BT Kettubot 12b.

Without external aids like ledgers or receipts, and without people clearly marking their own property, it is actually quite difficult to keep track of debts—especially if the debtee, who is more likely to be concerned with them, does not remind the debtor of them. What is surprising about this scenario is not so much the subject's uncertainty regarding his own debts, but rather the incommensurability between the subject's failure to keep track of debts and the same subject's concern with the possibility that he owes something, a concern that leads him to confess this to the possible debtee and to face possible financial repercussions. In other words, this case presents a seemingly paradoxical combination of attentional laxity and piety.

Indeed, two other passages that deal with forgetfulness in financial matters emphasize that willingness to confess uncertainty regarding debt of one's own accord puts one at a disadvantage that one would not have encountered had one just kept one's mouth shut. The subject's piety in these cases seems to stand in some tension, at least on the surface, with his inability to keep the record of his dealings straight. Consider the following passage in the Mishnah, and then the Tosefta passage expanding on that Mishnah passage:

MISHNAH

[A] If one tells two people, "I stole a *maneh* (i.e., 100 dinars) from one of you, but I do not know from which one, or the father of one of you deposited a *maneh* with me, but I do not know which one"—he gives that one a *maneh* and the other a *maneh*, because he admitted it of his own accord.

[B] If two men deposited with one [person], this one a *maneh* and the other two hundred, this one says, "The two hundred are mine," and the other says, "The two hundred are mine"—he gives each of them a *maneh*, and the rest will lie until Elijah comes. R. Yose says, "If so, what did the liar lose?! Rather, it will all lie until Elijah comes."[42]

TOSEFTA

[A] If one says, "I owe a *maneh*, but I do not know whether to this man or that man"—he gives each of them a *maneh*, because he admitted it of his own accord.

[B1] If one told two people, "I stole a *maneh* from one of you and two hundred from the other, but I do not know from which of you [I stole what]"—he gives two hundred to this one and two hundred to the other, for if [he did] not [want to have to pay], he should have kept silent.

[B2] If that one says, "The two hundred are mine," and the other says, "The two hundred are mine"—he gives each of them a *maneh*, and he should not give them the rest until they make a compromise.[43]

42. M. Baba Metzi'a 3.3.
43. T. Baba Metzi'a 3.5 (ed. Lieberman 73–74).

These passages clearly contrast a thief or deposit holder who initiated the confession of his debt ("admitted of his own accord") with a thief or deposit holder who responds to a claim made by others. In the first case in both the Mishnah and the Tosefta (A), the debtor is not sure to which of two people he owes, and he must pay each of them the full sum.[44] In the second case (B, B1/B2), he knows that he owes one person one hundred and another person two hundred, but he is not sure which is which. In the Mishnah the debtor (in this case, a deposit holder) does not say a word, but rather responds to the competing claims of the two depositors, each of whom claims that he is the one who deposited two hundred. According to the majority opinion in the Mishnah, in such a case the deposit holder will pay each claimant the *lesser* amount he may be owed (according to R. Yose, he will pay neither of them anything). In contrast, the Tosefta (B1) presents a case of a debtor (in this case, a thief) who admits of his own accord that he owes one person one hundred and the other two hundred but he does not know which is which. The Tosefta rules that he will pay each of them the *greater* amount they may be owed (whereas if they initiated the claim, as clause B2 indicates, they will each only get the lesser amount). While it could be argued that the Tosefta's ruling is particularly harsh because it concerns a thief, and the Mishnah's ruling is more lenient because it concerns a deposit holder, the language of "admitted of his own accord" suggests that this, and not the nature of the activity through which the debt was accrued, is the decisive factor in the ruling.[45]

Again, it is not difficult to imagine how situations like these could transpire. We can think of a thief who went into an inn in which two people were sleeping and stole the purse of one of them without knowing of which one; or of a deposit holder with whom two people left articles for which they never came back; or of a person with whom two people regularly deposit money and he cannot remember how much they deposited in a particular instance. It is possible that the debtor never had information on the identity of his debtee in the first place, and it is possible that he had it and forgot it, but it is evident that one way or another, he failed to keep track of the details of the transaction in a way that would allow him to repay the owed sum with certainty. When the debtor openly proclaims his uncertainty, he takes it upon himself to pay the maximum amount he may owe to all the people to whom he may owe. If he did not want to face this hefty expense, the Tosefta comments bluntly, he could have simply never confessed the debt.

We see here, then, a rabbinic subject who is confused and forgetful regarding his debts, but he is also adamant about setting the record straight so as to rid himself of possible debts, even when his debtees are not seeking him out. Note that the Mishnah and Tosefta interestingly group together debt accrued legitimately (through

44. Cf. M. Yebamot 15.7, which describes a case of a man who stole from one of five people but does not know from which one.

45. Indeed, the Babylonian Talmud (BT Baba Metzi'a 37a) presents the possibility that the ruling is particularly harsh because it is a case of theft, but then dismisses this possibility.

borrowing or accepting a deposit) and debt accrued illegitimately (through theft). From the rabbis' point of view, there is no difference between the honest deposit holder or borrower and the honest thief: they all want to pay people what they are owed, even as they encounter difficulties in doing so along the way. The rabbinic subject that appears in these scenarios is thus a strange combination of flawed and idealized: he is unable to remember essential facts regarding his potentially dishonest interactions with other people's property, and he may even engage in problematic behaviors like theft or failing to return deposits, but he is also eager to rectify the situation even at the price of paying more than he owes. It is the same pattern that we saw with the customer who cannot remember from which seller he bought produce, meat, or wine but does not want to consume prohibited goods: a subject who experiences memory failures pertaining to critical halakhic issues, finds himself in a conundrum, and seeks rabbinic guidance so as to rectify the situation.

The Father of the Bride

Many of us may have experienced, at one point or another in our lives, uncertainty as to whether we made a payment we were supposed to make, and without being able to refer to checkbooks or credit card statements, we would probably experience it more frequently. I suspect, however, that very few of us have experienced uncertainty as to the identity of the person to whom we got engaged. Unlikely as they may sound, cases in which a person cannot remember the identity of one of the parties in a betrothal in which they took an active part recur several times in Tannaitic texts.

Betrothal (*qiddushin*), in the rabbinic system, is a symbolic act through which a man designates a woman for himself and thereby immediately makes her forbidden to all men except for him.[46] To be sure, betrothal can take place many years before the marriage materializes, especially in cases in which a father or an older brother promises his child daughter or sister to another man.[47] Therefore, memory plays a crucial role in maintaining the status of the woman in question as dedicated to one specific man and in making sure she does not end up with another. This does not seem like a particularly demanding memory task—presumably, betrothal is a significant enough event that one would not be hard-pressed to remember its details—but the rabbis nonetheless engage with the possibility that acts of betrothal would be remembered inaccurately or partially by those who

46. As explained in M. Qiddushin 1.1, betrothal can take place in three forms: by giving a woman (or her guardian) something of minimal monetary value, by producing an official writ that confirms the betrothal, or by sexual intercourse.

47. While this practice is condemned in the Babylonian Talmud (BT Qiddushin 41a), the rabbis do consider it legitimate and discuss it extensively. See Adiel Schremer, *Male and Female He Created Them: Jewish Marriage in Late Second Temple, Mishnah, and Talmud Periods* (in Hebrew) (Jerusalem: Zalman Shazar Institute, 2004), 102–6.

initiated them. This possibility is of interest to the rabbis in the same way that situations of halakhic doubt or uncertainty are always of interest to them, but in the case of doubtful betrothal the stakes are especially high. A woman who was betrothed to one man is instantly forbidden to all other men, and the only way to release her from that bind is to provide her with a *get*, a divorce writ. If a woman who was betrothed to one man ended up having sex with another man and got pregnant, the children born of the latter union would be considered illegitimate (as will their children and their children's children for all eternity), even if none of the parties involved ever knew of the betrothal between the woman and the first man. Thus, uncertainty as to whether a woman was betrothed and to whom she was betrothed is potentially disastrous. While the consequences of forgetfulness in regard to betrothal are ominous, the possibility that such forgetfulness would take place is mentioned rather matter-of-factly:

> [If one said], "I gave my daughter in betrothal, but I do not know to whom I gave her," and one person came and said, "I betrothed her"—he is believed. If one person said, "I betrothed her," and another person said, "I betrothed her"—they must both provide her with a *get*, or if they want to, one provides her with a *get* and the other one marries her.[48]

This passage addresses the case of a father who promised his daughter to someone through a legally binding process of betrothal, but later he cannot remember to whom he promised her. This may sound very strange, but considering that fathers could, at least in theory, promise their daughters in marriage when they are very young and years could pass until it would be their time to marry, it is not impossible. We could make additional conjectures about the father's state that led to this forgetfulness—perhaps he was drunk at the time, perhaps he was losing his memory because of old age or illness, perhaps he simply did not care whom his daughter married—but the Mishnah, as usual, does not find it necessary to frame this case as remarkable in any way. Its concern is only to minimize the chance that the girl, who of course has no voice in the case at all, ends up marrying someone other than the person to whom she was betrothed. Note that in the Mishnah's minimalistic case narrative, the person who claims that he is the one to whom the girl was betrothed is not recognized or remembered by the father (or anyone else) upon his arrival. Rather, his claim is accepted simply because the father's statement that he betrothed his daughter to *someone* is considered reliable, and once there is a "someone" to fill that role, there are no further inquiries (as long as there is just one candidate).[49]

48. M. Qiddushin 3.7.

49. In the Palestinian Talmud (PT Qiddushin 3.7, 64b) and in the Babylonian Talmud (BT Qiddushin 63b), Talmudic rabbis disagree as to whether the person who claimed that he betrothed the woman is believed only for the purpose of providing her with a *get*, or also for the purpose of marrying her. I believe that the Mishnah should be understood in the latter sense (as explicitly stated in T. Qiddushin 4.10 [ed. Lieberman 291]). It is worth mentioning that the Talmuds also discuss cases in which the woman herself is unsure whether she was betrothed and to whom.

In another passage in the Mishnah, the father has no trouble (apparently) remembering to whom he gave his daughter in betrothal, but he has trouble remembering *which* daughter he gave. More specifically, the father remembers—perhaps vaguely—what he said when he made the betrothal agreement, but not exactly what he meant:

> If one had two groups of daughters from two women, and he said, "I gave my older daughter in betrothal, but I do not know whether it was the oldest among the old ones or the oldest among the young ones or the youngest among the old ones who is older than the oldest among the young ones"—they are all prohibited, except for the youngest among the young ones, the words of R. Meir. R. Yose says, "They are all permitted, except for the oldest among the old ones."[50]

The man described in this convoluted scenario has two daughters from one marriage (e.g., ages twelve and ten) and two daughters from another marriage (e.g., ages seven and five).[51] He made a betrothal agreement with a man regarding his "older daughter," but he is not sure which daughter exactly he meant. "Older daughter" could refer to the oldest of all his daughters (the twelve year old), to the oldest among his daughters who were born more recently (the seven year old), or to his daughter from the first marriage who is still older in comparison to the daughters from the second marriage (the ten year old). In such a case of uncertainty, R. Meir adopts a maximalist position (any daughter that could qualify as "older" is prohibited and presumably needs a *get*), whereas R. Yose adopts a minimalist position (when one says "my older daughter" he can be assumed to mean his oldest daughter, so only she would be prohibited). The next passage then repeats the same scenario in reverse, with a man who gave his "younger daughter" in betrothal and cannot remember which "younger" he meant.

Needless to say that this is an extremely unlikely scenario, not only in terms of the unique family configuration but also in positing the figure of a father who does not remember which of his own daughters he intended to give in betrothal, and that it is presented here not because the rabbis expected to encounter such a case but because it presents an interesting mind game that highlights how serious betrothal agreements are. Yet one thing must be noted: both in this case and in the previous case, the rabbis could have presented the same uncertainty as resulting from objective lack of information—that is, from *other people* not having access to the father's exact actions, statements, or intentions. Had the Mishnah said, "If one gave his daughter in betrothal and it is not known to whom he gave her," or "If one said, 'I gave my older daughter' and it is not known whether he meant the oldest among the older ones, . . . ," we would assume that the father, for one reason

50. M. Qiddushin 3.9; cf. T. Qiddushin 4.12 (ed. Lieberman 291–92).

51. Technically a father can only betroth his daughter when she is a minor (under the age of twelve), and after that she has to manage her own betrothal. The Talmud (BT Qiddushin 64b) considers the possibility that a grown daughter would appoint her father to accept betrothal on her behalf, but then dismisses it as unlikely.

or another, is not available to provide the necessary information. The Mishnah, however, presents these cases in the first person: "*I* gave my daughter and *I* do not know to whom I gave her," "*I* gave my older daughter and *I* do not know whether it was the oldest among the older ones," thus presenting the uncertainty at hand as stemming from subjective lack of information—from a person not having full recollection of his own actions and intentions. Considering the fact that the rabbis could have conveyed the exact same principle by saying, for example, that the father had died, or simply by using the third person,[52] I find it significant that they chose to convey it through a mini-drama of self-confessed mental omission. With very few words, this scenario creates a picture of a father who cannot remember crucial decisions he made regarding his daughter's marriage but has significant enough investment in halakhah to make sure his daughter does not accidentally engage in illicit sex.[53]

Mental omissions in regard to betrothal can occur, according to the Mishnah, not only to fathers of brides but also to grooms, who may forget which woman they had betrothed:

> If one betrothed one of two sisters and he does not know which of them he betrothed, he must provide both of them with a *get*. If he died and he has one brother, [the brother] must perform *ḥalitzah* (i.e., levirate release) for both of them. If he had two brothers, one performs *ḥalitzah* [for one of the sisters] and the other performs levirate marriage [with the other]. If [the two brothers] went ahead and married [the two sisters], they need not be taken away from them.[54]

The puzzle presented in this passage has to with the strict prohibition for a man to be married to two sisters at the same time.[55] Thus, if a man is not sure which of two sisters he betrothed (and again, in the context of betrothal at a young age and lack of documentation, this is not impossible), there is a concern that he will live conjugally with the sister that he did not betrothe, while also being technically married to the other sister. To prevent this, the man must provide both women with a divorce writ. The same rule applies to the man's brother, who according to biblical law must take his brother's wife if the brother dies without children.[56] The brother will have to release both women from the levirate obligation, since he, too, cannot be married to one woman when there is a chance that he is bound through

52. Cf. T. Yebamot 4.2 (ed. Lieberman 10) for a similar case in which it is not known which woman was betrothed; here the case is discussed in the third person.

53. Fathers' concern with their daughters' sexuality is a recurrent trope in rabbinic stories, as observed by Haim Weiss and Shira Stav, *The Return of the Absent Father: A New Reading of a Chain of Stories from the Babylonian Talmud*, trans. Batya Stein (Philadelphia: University of Pennsylvania Press, 2022).

54. M. Yebamot 2.6.

55. Lev. 18:18.

56. Deut. 25:5–10.

levirate obligation to her sister. If there are *two* brothers, however, there is a solution in sight: once one brother releases one sister from the levirate obligation, the other sister is free to marry the other brother, because either she is the one whom the dead brother originally betrothed (in which case she would now be in a legitimate levirate marriage), or she is not the one who was originally betrothed (in which case she is simply marrying a man to whom she has no prior relation). The next passage in the Mishnah then continues to add another layer of complication to this already fantastic scenario, now with *two* men who betrothed two sisters but neither of them knows which one he betrothed, and what happens if these men die and each of them has a brother, and what happens if each of them has two brothers, and so on.[57]

Since the Mishnah's main interest is in the complex levirate arrangements that have to be made in a case of uncertainty, the passage could have easily started at the point of the groom's death. It could tell of a person who betrothed one of two sisters and died without leaving his brother(s) the information of which one he betrothed, which now leads to a complex levirate situation. The Mishnah crafters' decision to start with a case in which the groom himself does not know which sister he betrothed is not self-evident, since this case is not strictly necessary to convey the principles that the Mishnah seeks to convey. Particularly in a halakhic area of dire consequences (and presumably, personal importance) such as marriage, one could expect rabbinic subjects to demonstrate greater care and concern for confirming the identity of all the parties involved in betrothal. Thus, the decision to present subjects who are at a loss for such crucial information is meaningful. A world in which people cannot remember whom they designated as wives or as husbands for their daughters is not simply one in which people may face inadvertent halakhic consequences; it is a world that is downright chaotic, and this chaos is brought about by the failings of human memory. When the rabbis incorporate such chaotic scenarios into their legislative codices, they emphasize the extent to which proper halakhic function depends on subjects' attentive minds, while also relaying that minds can be profoundly unreliable.

The Forgetful Vower

The final example I will present for rabbinic subjects' limited access to memory of their own actions pertains not to interactions with other humans or objects, but to speech acts. In the rabbinic world, words often have the power to transform reality and to change the status of objects and persons from one category to another, especially through vows and oaths. Failing to remember what words were spoken, even in matters that seem trivial, can have grave halakhic consequences, as we saw above in the example of the master and his servant who forgot what

57. M. Yebamot 2.7; cf. T. Yebamot 4.1–3 (ed. Lieberman 10).

animal was designated for the Passover sacrifice. Accurate memory of one's own speech acts is especially critical when one proclaims that certain objects are consecrated to the temple and thereby immediately ceases to be the owner of the objects in question.[58] Forgetting one's own words and the exact content of one's own stated obligations in the sacred realm can lead to a situation in which one is misusing a sacred item (i.e., an item that formally belongs to the temple), which is a serious offense. The only way to avoid such misuse is by assuming the most maximizing reconstruction of the forgotten proclamation that would cover every possible item that may have been consecrated. Here are two examples:

> [A] [If one said,] "One-tenth [of fine flour] is upon me"—he is to bring one-tenth.
>
> [B] "Tenths [of fine flour] are upon me"—he is to bring two[-tenths].
>
> [C] "I specified [how many tenths I was going to bring] but I do not know what I specified"—he is to bring sixty-tenths (i.e., the maximum amount that a person may donate to the temple).[59]
>
> [D] [If one said,] "A burnt offering is upon me"—he is to bring a lamb. R. Eleazar ben Azaria says, ["He is to bring] a dove or a pigeon."
>
> [E] "I specified [that the offering will be of] cattle but I do not know what I specified"—he is to bring a bull and calf.
>
> [F] "I specified [that the offering will be of] quadrupeds but I do not know what I specified"—he is to bring a bull, a calf, a ram, a kid goat, and a lamb.
>
> [G] "I specified [which animal I will bring] but I do not know what I specified"—he brings [all of the above] and adds to them a dove and a pigeon.[60]

As these cases and others like them illustrate, it is better to make a vague and unspecified proclamation of consecration to the temple, which would be interpreted in the most minimizing way possible, than to specify what one would bring. If one forgets what one specified, he is obligated to bring every possible object that fits the category regarding which he vowed, at a potentially prohibitive expense. For example, one who vowed an animal burnt offering and specified which animal he would bring but then forgot what animal he vowed has to bring one specimen of each and every animal that could possibly be sacrificed as a burnt offering. Fortunately for him, this category is restricted to male animals: as the next passage elaborates, if one made a vow to bring an offering that could be either of male or of female animals, he must bring both male and female specimens of each of the

58. According to a well-established rabbinic principle, verbal statement made to the "high" (i.e., to the realm of the sacred) is equivalent to an actual transaction with a layperson; see M. Qiddushin 1.6.

59. M. Menahot 13.1; and see similar examples in M. Menahot 13.2, 13.4 (which will be discussed below), and 13.5. Cf. T. Menahot 12.11–15 (ed. Zuckermandel 532).

60. M. Menahot 13.6.

animals mentioned above.[61] The Mishnah is obviously keen on demonstrating to its audience that spoken words in the realm of the sacred have ominous consequences, but it is important to emphasize that its point here is not that vows must be taken with thoughtfulness and care (vague vows taken without much thought, as I noted, require only the minimum of the vower). Rather, its point is that the ability to fulfill a vow correctly relies on accurate recollection of the vow in question, and when human memory fails in the recollection of vows—which it is perhaps wont to do, as human memory fails in any other realm of life—halakhah is especially unforgiving.

One passage is of particular interest in this regard. When one vows to give sacrificial substances to the temple, such as grain, oil, or wine, the maximizing interpretation of his vow is limited by the upper bound of the amount of that substance that could be used on a single day. When one vows to give money to the temple, in contrast, there is no upper bound to his potential donation, as monetary donations of any amount are acceptable (and desirable). The only way to deal with a forgetful consecrator in this case is to get him to reestablish a memory of his original intentions:

> [H] "I specified [how much of a particular currency I will bring], but I do not know what I specified"—he is to bring [without limit], until he says, "That is not what I meant."[62]

A person who vowed to donate a certain sum of money to the temple and then forgot how much exactly he vowed is now in a position in which he potentially owes *all* his money to the temple, and possibly all the money in the world. Even if he brings an exorbitant sum of one thousand golden dinars, there is a chance that he vowed one thousand and one dinars, and the extra dinar that will remain in his possession is actually temple property. The solution that the Mishnah conjures for this unfortunate situation is noteworthy: the person who made the vow is to bring money to the temple until he reaches a point at which he says, "I do not know how much money I said I would bring, but I know it has to have been less than this." The rabbis are not proposing to ask the person directly what the absolute maximum that he is willing to give *now* is, but rather they push him to recognize the maximum that he was willing to give when he made the vow. In other words, the mechanism described in this passage is one of reactivation of memory. As the Mishnah describes it, the person in question brings money not until he no longer can, but until he ostensibly remembers a significant enough detail about his past intentions that allows him to reconstruct the forgotten vow to a sufficient extent.

What kind of person would make an honest confession that he forgot what he had vowed, and thereby subject himself to potentially enormous expenses, instead

61. M. Menahot 13.7.
62. M. Menahot 13.4.

of simply bringing to the temple what he is comfortable bringing and claim that this was what he vowed to begin with? The answer is, obviously, a person so pious and reverent that the possibility of misusing temple funds is inconceivable to him. But again, one cannot but wonder how a person who is so reverent of the temple's laws makes a vow that commits his property to the temple and then does not remember what the vow was. We could perhaps invent a backstory to account for this puzzle, but at this point we are already in a position to see that this kind of seemingly paradoxical protagonist appears multiple times in Tannaitic literature. It is the same imagined subject, the literary creation of the rabbis, whom we encountered throughout the examples discussed in this chapter: one of very fragile memory and of very eager spirit. In what follows I propose that this subject, whom the rabbis craft through scenarios of memory failures, reflects an innovative rabbinic stance toward life in accordance with the Torah's laws, and that this stance is key to understanding the rabbinic religious and social vision more broadly.

THE FRAGILITY OF MEMORY AND INCLUSIVE ELITISM

At the beginning of this chapter I explained that the rabbis' systematic expansion, elaboration, and intensification of biblical law significantly increased the need to rely on one's memory in the performance of halakhah. Not only does the rabbinic subject need to remember many more laws and their intricacies than his biblical counterpart, but he also needs to keep an accurate record of activities and interactions that take place in the world. In the rabbis' world, many of the most crucial halakhic distinctions are based on invisible traits. There is no sensory input that allows one to distinguish tithed from untithed food, sacred objects from profane ones, betrothed girls from unattached girls, pure roads from impure ones. The only way to maintain the distinctions that are crucial for correct halakhic performance is to keep things in memory, and rabbinic texts do not assume that external memory aids are available to help one in this task.[63] Moreover, it is noteworthy that in the halakhic scenarios discussed above there is no one available to help retrieve the information on which the subject is blanking out, not even when the subject wonders whether he owes money to people who should ostensibly be able to confirm or deny his debt. To begin with, then, the rabbinic subject commits to a regimen that is fairly cognitively demanding, and this is before we even speak of all the things this subject has to remember to *do* on a regular basis (such as pray, prepare for the Sabbath, destroy his leaven before Passover, tithe his own food,

63. Although we can securely assume that daily life in Palestine in the second and third centuries offered far fewer memory aids than our own world, especially with the relative scarcity of writing materials and implements, some rabbinic sources do suggest that people used specific methods of marking and arranging items to keep them memorable (e.g., M. Ma'aser Sheni 5.1; T. Ma'aser Sheni 5.13 [ed. Lieberman 269–71]).

and many others), which will be discussed in the next chapter. The rabbis' guiding ethos is not Deuteronomy's "Surely, this commandment that I am commanding you today is not too hard for you, nor is it too far away. . . . The word is very near to you; it is in your mouth and in your heart for you to observe."[64] Rather, the rabbinic ethos is that halakhic observance is effectively a full-time job that requires highly developed cognitive mechanisms of memory and attention. But it is not only the external world that is chaotic and unmarked in the scenarios we have seen; so too is one's own mind. Committed halakhic subjects, these scenarios suggest, can sometimes lose critical details pertaining to their own actions, details without which they find themselves at an impasse. Put differently, halakhic subjects have little they can rely on other than their own memory, and their memory is not very reliable.

To be sure, the rabbis were not misguided in their low regard for the human ability to remember past events and experiences accurately. As numerous studies in cognitive psychology show, our episodic memory is much more fragile than is often assumed.[65] We often think of our memory as a video camera, and of retrieving a memory as akin to going to the video library, reaching for the right recording, and watching it again (this is certainly how memory is portrayed on television and movies).[66] As a matter of fact, however, between the event taking place and its retrieval, memories change, fade, and sometimes become inaccessible.[67] The rabbis, while not cognitive psychologists, seem to have realized that. As much as they relied on memory in various operations of halakhah, they were also aware of its limitations. Thus, for example, they were cautious when it came to accepting testimonies of adults regarding things they saw as children,[68] and they dismissed a seller's testimony that he sold an item to one person and not to the other if time had passed since the buyer got hold of the item, with the logic that a seller only keeps track of his buyers while the item is still in his possession but forgets them soon thereafter.[69] Particularly interesting is the ruling that a judge may only be trusted when he says, "I acquitted this one and rendered that one liable," if the case and the parties are still before him, but if time had passed he is "as any other person"—that is, an ordinary witness who needs an additional witness to corroborate his testimony.[70] Doubtlessly, the rabbis were highly attuned to the very real prospect of memory failures in all everyday occurrences.

64. Deut. 30:11–14.

65. The literature on this topic is vast. For two very convenient summaries, see Baddeley, *Essentials of Human Memory*, 99–117; Thompson and Madigan, *Memory*, 86–116.

66. See Brian Bornstein, *Popular Myths about Memory: Media Representation and Scientific Evidence* (Lanham, MD: Lexington Press, 2017), 15–36.

67. See Wixted, "The Psychology and Neuroscience of Forgetting."

68. M. Kettubot 2.10; T. Sanhedrin 9.11.

69. T. Baba Metzi'a 1.11 (ed. Lieberman 64); cf. BT Qiddushin 73b–74a.

70. T. Baba Metzi'a 1.12 (ed. Lieberman 64); cf. BT Qiddushin 73b–74a.

All this may seem, on its face, as leading toward a very grim and pessimistic view of the human ability to function properly within the realm of halakhah. If halakhah makes such tall demands of one's memory, and memory is so fragile and unreliable, are those who seek to live in accordance with this system doomed to failure? I argue that the rabbis' engagement with scenarios of memory failures leads in the exact opposite direction. Rather than marking memory failures as malfunctions that exclude one from the realm of halakhah, the rabbis build such failures *into* the system, presenting them as happening regularly to pious and devoted individuals and capable of resolution through rabbinic resourcefulness. Thereby, instead of taking a polarizing and exclusionary stance of ingroup ("we who remember") versus outgroup ("they who forget"), the early rabbis bring forgetfulness into the circle of the ingroup and thereby expand this circle's perimeter considerably. Rhetorically framing halakhic mishaps in terms of memory omissions, rather than in terms of carelessness or transgression, allows the rabbis to champion the demanding system of halakhic Judaism as they perceive it and to deem it appropriate not only for a small, "hard-core" group of people who are exclusively concerned with living according to this system, but for all Jews.

One pair of almost identical narratives serves particularly well to demonstrate how the rabbis utilized memory omissions, and the unreliability of memory in general, to highlight their system's rigor and exceedingly demanding nature while also emphasizing its inclusiveness. While these narratives pertain specifically to purity and impurity, I believe we can extrapolate from them to other halakhic settings as well:

> It once happened that one woman was weaving a garment in [a state of] purity, and she came before R. Ishmael so that he would examine her.
>
> She said to him, "Master, I know that the garment has not become impure, but it was not in my heart to guard it."
>
> In the course of the examinations that R. Ishmael was conducting, she said to him, "Master, I know that a menstruating woman came in and pulled the rope [of the weaving loom] with me [which made the loom and therefore the fabric impure]."
>
> Said R. Ishmael, "How great are the words of the Sages, who said, 'If one did not intend to guard [an object in a state of purity], it is impure.'"
>
> It again happened that one woman was weaving a tablecloth in [a state of] purity, and she came before R. Ishmael, and he was examining her.
>
> She said to him, "Master, I know that the tablecloth has not become impure, but it was not in my heart to guard it."
>
> In the course of the examinations that R. Ishmael was conducting, she said to him, "Master, I know that a thread was torn, and I tied it in my mouth [thereby moistening the fabric and making it susceptible to impurity]."
>
> Said R. Ishmael, "How great are the words of the Sages, who said, 'If one did not intend to guard [an object in a state of purity], it is impure.'"[71]

71. T. Kelim Baba Batra 1.2–3 (ed. Zuckermandel 590). Cf. BT Hagigah 20a; PT Hagigah 3.2, 79a.

Much can be said about these anecdotes,[72] but for our purposes it suffices to register the sequence of events that unfolds identically in both narratives. In each narrative we have a woman who makes a firm commitment to weave a textile in a state of purity—that is, to prevent it from being exposed to any possible source of impurity. After she is done weaving, she approaches a rabbi to consult with him on the status of the woven piece, making two statements: first, that she knows for a fact that the woven piece was *not* exposed to impurity, and second, that "it was not in her heart to guard it"—that is, she was not fully attentive to the task of protecting it from impurity throughout the entire weaving process. The first statement is a report about what happened (or did not happen); the second statement is a report about her own mindset. As R. Ishmael is asking the women questions, they are suddenly reminded that there was, in fact, an event that took place in the course of the weaving process that exposed the fabric to impurity (of another woman in the first case; of the weaver herself in the second case). R. Ishmael's questions function, effectively, as retrieval cues that allow the women to recall details that they had previously forgotten.[73]

The women in these accounts did not forget the events that exposed the fabric to impurity because they did not care about impurity. They made a solemn promise to keep the fabric pure and they clearly cared enough about keeping this promise to seek the rabbi's validation even though they were certain that no impurity was contracted. It was also not due to ignorance, as these women display thorough knowledge of rabbinic purity regulations. The fact that these women had somehow dropped from their memory highly consequential events that they *know* were consequential is presented here as a completely natural and predictable occurrence (were it not predictable, the rabbis would not have made the ruling that in any case in which "it was not in one's heart to guard" something, it is automatically impure). What was missing from the women's halakhic performance, as the Tosefta explains, was what we may call *attentional monitoring*. To ensure that the fabric does not become impure, the weaving women needed to "have it in their heart to guard it"—to constantly think about keeping the fabric pure and to dedicate significant cognitive resources to the halakhic task at hand, keeping at bay other thoughts that could distract them. Without those dedicated cognitive resources, events that happened in the course of the weaving process did not register in the women's memory and were inaccessible to them until they were retrieved upon further inquiry.

These narratives clearly illustrate that for the rabbis, forgetting is not the aberration but the default. In an unmarked world, forgetting details of halakhic events, even important ones, does not happen only if one is especially careless; rather, it is bound to happen *unless* one is especially careful. Functioning seamlessly in

72. See Balberg, *Purity, Body, and Self*, 165–68; Furstenberg, *Purity and Community*, 328–30.

73. On retrieval cues and "awakening" of memory, see Endel Tulving, "Cue-Dependent Forgetting," *American Scientist* 62, no. 1 (1974): 74–82.

the world of halakhah is thus a uniquely demanding cognitive task. These narratives chart out two possible avenues for navigating the halakhic realm. One avenue is that of constant attentional monitoring—that is, effectively considering the observance of halakhic tasks to be one's full-time job and having it "in one's heart" at all times. The other avenue is doing one's best while conducting a more or less ordinary life and accepting that one would forget things and function in the halakhic realm in a less than perfect way. Those who acknowledge that they cannot fully rely on their own memory can rest assured, at least, that the rabbis devised solutions and courses of action to deal with the fundamental unreliability of human memory.

The choice to present women as protagonists in both these stories is not incidental, and it is not due only to the fact that women were more likely than men to engage in weaving.[74] As I argued elsewhere, women were generally seen by the rabbis as less capable of self-control and of regulated and monitored behavior than men, and thus as more likely both to overlook the contraction of impurity (as happens in the first case) and to convey impurity themselves (as happens in the second case).[75] At the same time, women also serve to demarcate the perimeter of the Jewish ingroup as the rabbis envision it, as well as the rabbis' own reach of authority. For the rabbis, women are inherent outsiders who can never become part of the rabbis' own elitist circles, but they can demonstrate their pertinence to the rabbinic world by seeking rabbis' advice and counsel and adhering to their teachings.[76] To position a woman in the role of seeker of rabbinic guidance on the intricacies of halakhic observance, then, is to indicate in the most expedient way that the rabbis' highly regimented way of life is suitable and adaptable for all Jews and not only for a self-selecting group of a few learned men. By and by, the presumed inferiority and weakness of women within the rabbinic system help highlight, by way of contrast, the powerful and authoritative position of the sage, who offers his benevolent wisdom to those in need.

Indeed, the two narratives of the weaving women and their conversations with R. Ishmael do more than illustrate that memory omissions are inevitable unless special diligence and vigilance are at play. They also illustrate that the rabbis are a crucial resource, on which subjects can and should rely when dealing with the realities of mental omissions. In these stories, R. Ishmael is both able to reactivate the women's memory through the questions he asks, *and* serves as the mouthpiece of the Sages' juridical guidelines for determination of purity and impurity in cases of doubt. More broadly, the various scenarios of forgetfulness that we

74. See Miriam Peskowitz, *Spinning Fantasies: Rabbis, Gender, and History* (Berkeley: University of California Press, 1997), 77–94.

75. Balberg, *Purity, Body, and Self*, 171–74.

76. See also Charlotte Elisheva Fonrobert, "When Women Walk in the Way of Their Fathers: On Gendering the Rabbinic Claim for Authority," *Journal of the History of Sexuality* 10, nos. 3–4 (2001): 398–415.

considered in this chapter not only convey halakhic information but also make a statement: if you encountered a halakhic problem as a result of memory failures, know that the rabbis already thought about it and have a path of recovery available for you. To be sure, the presentation of the rabbis as ritual experts who are capable of providing answers to any and every halakhic query and problem is by no means unique to the realm of memory failures; arguably, it is the underlying purpose of Tannaitic literature in its entirety. But by designing halakhic queries that stem from subjective malperformance rather than from objective difficulties, the rabbis highlight the suitability and attractiveness of their system specifically to individuals who do *not* measure up to the rabbis' rigid standards.

To summarize, memory omissions as a visible and recognizable part of the halakhic landscape serve two intertwined rhetorical purposes in Tannaitic literature. They both emphasize how important it is to keep an active memory of one's actions and interactions in the halakhic realm, and they shape the halakhic realm as accommodating and responsive to those who cannot do so. Through scenarios of memory failures, rabbinic texts construct their view of Judaism as both highly elitist and highly inclusive. Tannaitic texts present a set of interests and investments traditionally characteristic of small, isolated, and extremely devout groups,[77] while also depicting the pursuit of these interests and investments as akin to "Judaism" as such and as available to all. In the next chapter, I will argue that forgetful subjects are not included in the rabbinic system merely by way of concession: rather, in many ways they are this system's idealized subjects.

77. On early rabbinic circles as "sectarian" in nature, see Hayim Lapin, *Rabbis as Romans: The Rabbinic Movement in Palestine, 100–400 C.E.* (New York: Oxford University Press, 2012), 56–59, 98–109.

2

Remembering Forgetfulness

"It's a poor sort of memory that only works backwards," says the White Queen to Alice, after Alice tells the Queen that she cannot remember things before they happen.[1] Like Alice, we tend to think of memory as exclusively past-facing, but the Queen is right: many of our memory tasks, such as remembering to pick up bread or take a medication or call a friend on their birthday, pertain not to the past but to the future, and our memory would be rather poor if we could not handle them. A common charge like "Remember the appointment you have to keep next Thursday" is not a charge to remember an appointment that has already happened, but one that has yet to take place. Rabbinic texts that engage with scenarios of forgetfulness in the halakhic realm clearly reflect an understanding that memory failures can work both backward and forward: one can forget details of past actions, and one can also forget to make good on intended future actions. The following passage neatly and briefly exemplifies this:

> [What are] erroneous vows?
>
> [A] "[I am under obligation] if I ate or if I drank," and then he was reminded that he ate or drank.
>
> [B] "[I am under obligation] if I will eat or if I will drink," and then he forgot and ate or drank.[2]

This passage deals with a particular category of vows that can automatically be considered void and do not require formal dissolution by a sage—namely, vows that were made based on erroneous assumptions (*nidre shegagot*). Case A is quite straightforward: a person made a vow based on misremembrance of his past actions. He thought that he did not eat or drink anything, and to assert

1. Lewis Carroll, *Through the Looking Glass and What Alice Found There* (1871; Orinda, CA: SeaWolf Press, 2018), 50.

2. M. Nedarim 3.2.

his conviction said that if he did eat or drink he would be bound by a certain obligation.[3] Because the vow was based on error, in this case on faulty memory, the vow is automatically void. Case B is more surprising: a person made a conditional vow, saying that if he *will* eat or drink at some point in the future he *will* be under obligation once he does so. He then forgot his vow and ate or drank. This, too, is defined by the rabbis as a vow made in error, that is, in a state of misremembrance. The first vow is considered inherently void at the very moment in which it is made, because it relies on a mistaken view of the past, whereas the second vow becomes retroactively void once it turns out that it relied on a mistaken view of the future.

The first type of erroneous vow, which derives from misremembrance of the past, is an example of episodic memory omission similar to the memory omissions discussed in the previous chapter—that is, situations in which subjects are unsure of the details of actions or interactions that had already taken place. Failures of episodic memory, however, are only a handful of the memory failures discussed in rabbinic literature. The majority of halakhic memory failures that the rabbis discuss, and to which they seek solutions and corrective measures, are of the second type mentioned with regard to erroneous vows: forgetting forward (what one intended to do in the future) rather than backward (what one did in the past). Cognitive psychologists refer to "forward" memory as *prospective memory*. Prospective memory is the memory that allows us to attend to future events, or, put more pithily, it is the cognitive tool through which we remember to remember. In essence, prospective memory is memory for "delayed intentions," and as such it always unfolds in two stages.[4] First, I form an intention to do something at a future point in time (e.g., I have to attend a meeting next Thursday at 10:00 a.m.), and then, when that future point arrives, I have to retrieve the intention I formed earlier and complete the relevant task. Remembering to submit work by a given deadline, to pack a toothbrush before traveling, and to take a cake out of the oven before it burns are all examples of prospective memory.

By its very nature, life in accordance with rabbinic halakhah is filled with prospective memory tasks. One must remember to pray when the appropriate prayer time arrives, to tithe one's food before eating it, to destroy one's leaven before Passover, to wash one's hands before eating, and so on. Life is also filled with tasks of

3. While a vow, traditionally, is an obligation to transfer an item to the holy precincts, in Tannaitic literature the differences between vows (which pertain to objects) and oaths (which pertain to persons) become very blurry. The cryptic phrases "if I ate or drank/if I will eat or drink" are phrased as vows but are best understood as solemn oaths that one did not/will not eat and drink. See Saul Lieberman, *Greek in Jewish Palestine/Hellenism in Jewish Palestine* (New York: Jewish Theological Seminary Press, 1994), 115–44; Moshe Benovitz, "The Prohibitive Vow in Second Temple and Tannaitic Literature: Its Origin and Meaning" (in Hebrew), *Tarbitz* 64, no. 2 (1995): 203–28.

4. See Judi Ellis, "Prospective Memory or the Realization of Delayed Intentions: A Conceptual Framework for Research," in *Prospective Memory: Theory and Applications*, ed. Maria Brandimonte, Gilles O. Einstein, and Mark. A. McDaniel (New York: Psychology Press, 1996), 1–22.

"negative" prospective memory, that is, with things that one must remember *not* to do at particular times, against one's ordinary habit: not eating and drinking when one is under a fast obligation, not performing certain labors on the Sabbath, not using property designated for the temple, and so on.[5] Through a variety of scenarios, rabbinic texts demonstrate that humans, as committed as they may be to the ordinances of halakhah, are highly prone to prospective memory omissions and can fail to act on their good intentions at the appropriate time because of forgetfulness.

Why were the rabbis so preoccupied with prospective memory failures? Evidently, this is both the most common and the most conspicuous type of forgetfulness.[6] Prospective memory tasks are particularly exerting and demanding, since during the interval between the intention and the execution one thinks of and does other things that naturally distract one from the original intention. Special vigilance is required to keep up with the original intention amid these distractions, and such vigilance, if exerted in full force, comes at the price of compromising the other activities that one engages in in the interim (think of a person who checks the cake every two minutes to make sure it is taken out of the oven at the right time).[7] As we know from our own experiences, prospective memory tasks greatly rely on what Andy Clark called "external scaffolding" such as notes, calendars, timers, and phone alerts, which were generally unavailable in the ancient world.[8] Prospective memory failures also lead, more often than not, to disadvantageous results—in the world of the rabbis, to transgressions and halakhic malperformances—and therefore register individually and communally more than other memory failures. It is not surprising that the rabbis engaged with prospective memory failures more than with any other kind of memory failure, especially when we take into account how many prospective memory tasks a rabbinic subject regularly negotiates. What is more surprising, however, are the ways in which the rabbis utilized prospective memory failures to construct a vision of idealized Jewish observance—and of themselves and their role as religious experts.

In this chapter, I examine rabbinic scenarios and ordinances pertaining to prospective memory failures, that is, to incidents in which a subject forgets to fulfill a halakhic obligation. My analyses in this chapter build on and enhance the observations I presented in the previous chapter, but also aim to take those observations

5. See Jeffrey E. Pink and Chad S. Dodson, "Negative Prospective Memory: Remembering Not to Perform an Action," *Psychonomic Bulletin and Review* 20, no. 1 (2013): 184–90.

6. Studies show that when people complain of "memory problems," 50–70 percent of their complaints pertain to prospective memory. See Anna-Lisa Cohen and Jason L. Hicks, *Prospective Memory: Remembering to Remember, Remembering to Forget* (Cham: Springer, 2017), 2.

7. See Gilles O. Einstein and Mark A. McDaniel, "Prospective Memory: Multiple Retrieval Processes," *Current Directions in Psychological Science* 14, no. 6 (2005): 286–90.

8. Andy Clark, *Associative Engines: Connectionism, Concepts, and Representational Change* (Cambridge, MA: MIT Press, 1993), 139–48. See also Kim Sterelny, "Minds: Extended or Scaffolded?," *Phenomenology and the Cognitive Sciences* 9, no. 4 (2010): 465–81.

to the next level by offering a more synthetic outlook on the ways in which forgetfulness shapes both the rabbinic subject—the intended audience of the rabbinic teachings—and the rabbis themselves as figures of authority. In chapter 1 I showed that the rabbis normalized forgetfulness within the halakhic realm as a predictable and understandable process, thereby presenting their demanding system as suitable for and accommodating toward fallible and imperfect subjects. In this chapter I argue, first, that the forgetful subject is not only included in the rabbinic vision of halakhic observance but is in fact *idealized* in this vision, since it is his forgetfulness that highlights his overall commitment to halakhah and knowledge of halakhah. In other words, the forgetful subject is not placed at the periphery of the halakhic playing field but at its very heart, since it is only through unintentional slips in practice that one demonstrates the faithful intentionality that governs his actions otherwise. Second, I argue that Tannaitic texts use scenarios of forgetfulness to construct an image of the rabbis as specialists not only in the law and its interpretation, but also in the discernment and management of people's minds. The rabbis' ability to predict, and even more important, to preempt forgetfulness becomes a defining feature of their role vis-à-vis their subjects, and it is an important component of the cultural icon of "the Sages" as religious experts. Thereby, Tannaitic texts reframe individual vigilance in observance of the commandments not so much as flawless remembrance of the task itself, but rather as trusting adherence to the rabbis' guidance on how to manage the vicissitudes of memory.

FORGETFULNESS AS A MARKER OF COMPLIANCE

Let us begin by quickly looking at a cluster of three short Tannaitic rulings regarding voluntary fasts. All three rulings pertain to cases in which one began a voluntary fast (whether a fast one took upon oneself or a fast that a community imposed upon its members), and then, sometime before the time when the fast was supposed to end, faced uncertainty as to whether the fast should be completed or not. Only the second case of the three is immediately relevant for our purposes, yet the two cases between which it is sandwiched help illuminate its significance:

> [A] If one was fasting over a sick person, and [before the end of the fast, the sick person] was healed, or [one was fasting] over a trouble and [before the end of the fast, the trouble] passed—he should complete his fast.
>
> [B] If one was fasting, and he forgot and ate and drank—he should complete his fast.
>
> [C] If one went from a place in which they were fasting to a place in which they were not fasting—he should complete his fast.[9]

In case A, the inherent reason for the fast—the trouble or misfortune on account of which the fast was taken on—has been eliminated before the end of the fast,

9. T. Ta'aniot 2.15–17 (ed. Lieberman 335–36).

and in case C, the external reason for the fast—adhering to a communal undertaking—has been eliminated before the end of the fast. In both cases it is ruled that since the individual took the fast upon himself for a designated period of time (usually twenty-four hours) he should fast until the end of the period even if the conditions have changed. In case B, however, no objective conditions have changed, but the subject, through a temporary lapse, forgot that he was supposed to fast and was reminded of it only after he ate and drank. To counter the possible view that at this point the fast is no longer worth completing, since it was disrupted, the ruling is that here, too, the subject should resume his fast until the end of the designated period.

What I find noteworthy about this passage is, first, the very consideration of the case of forgetting in this cluster, and second, the ruling on the case of forgetting. A voluntary fast is by definition an act of piety, of going above and beyond what is required in order to invoke God's mercy, whether as an individual or as part of a community.[10] The rabbis' choice to put forth a subject who both took a voluntary fast upon himself *and* was able to forget about it is thus a resounding statement on the fallibility of human memory as a force to reckon with, which does not reflect on the forgetful subject's devotion. Furthermore, the matter-of-fact way in which the rabbis include forgetfulness among several possible reasons on account of which one may consider not completing his fast normalizes forgetfulness as one of many contingencies in the halakhic decision-making process, rather than presenting it as a unique personal failure that requires self-flagellation of any sort. The ruling that if one forgot the fast he should just pick up where he left off portrays forgetting as nothing more than a minor hiccup in the halakhic performance.[11]

To be sure, the Tannaitic ruling regarding forgetfulness of voluntary fasts is quite lenient, probably because such fasts are not mandated by biblical law but are self-imposed. In other cases, as will be discussed in chapters 3 and 4, forgetfulness does require specific measures in order to be rectified or counteracted and cannot be simply ignored. Yet the normalizing consideration of cases of forgetfulness as an integral part of the realm of halakhic contingencies can be traced across multiple areas of Tannaitic legislation. Halakhic forgetfulness is never viewed as

10. See Eliezar Diamond, *Holy Men and Hunger Artists: Fasting and Asceticism in Rabbinic Culture* (New York: Oxford University Press, 2004), 93–120.

11. This ruling apparently struck later interpreters as inappropriate. In the Babylonian Talmud (BT Ta'anit 10b) this passage is presented differently: the first and third cases in the cluster are identical, but in the second case it is stated that if one forgot and ate and drank, he "should not show himself to the public and should not pamper himself," which suggests that the forgetful person's fast cannot be completed. All he can do is hide himself from others and not continue to gorge himself for the rest of the day but eat moderately. In several medieval texts the Hebrew word *mashlim*, "completes," was vocalized as *meshalem*, "repays," to indicate that the forgetful subject must fast on another day to make up for the disrupted fast. See Saul Lieberman, *Tosefta ki-pshutah Mo'ed*, 5:1099–1100. This version may be influenced, as Lieberman notes, by PT Nedarim 8.1, 40d, which mentions a view that one can take a "loan" on an interrupted fast and repay it on another day.

an indicator of a dismissive or careless approach to the observance of God's law, nor as a sign of weakness of character. Rather, in Tannaitic scenarios the backdrop of incidents of forgetfulness is always the subject's overall commitment to the commandments. Forgetting is always highly specific—one forgets to perform a particular action, and the very fact that he forgot it highlights his original intention to perform it—and these scenarios unfold around the notion that the subject realizes his omission and immediately seeks to correct it. Moreover, in various cases the cause of forgetfulness is the subject's preoccupation with *another* commandment: for example, one forgets to destroy the leaven in one's house before Passover because one is in a rush to perform the Passover sacrifice, or one is so eager to circumcise one's child that one forgets on which day this ought to be done and mistakenly violates the Sabbath.

The rabbinic subject whose forgetfulness does not reflect negatively on his commitment to the commandments, and in fact highlights his overall commitment to the commandments, accentuates some challenges that were unique to the halakhic system as devised and developed by the rabbis and were not pertinent to earlier iterations of Jewish law. For one, the fact that halakhah inscribes pretty much every moment of the individual's life, from relieving oneself to renting a cow to eating bread to sowing vegetables, means that much of the time one must negotiate competing halakhic demands, a situation that, as we shall see later on, lends itself to forgetting. But beyond that, rabbinic halakhah incorporates some novel practices, arrangements, and ways of maneuvering the environment that rely heavily on delayed intentions, that is, on the subject's ability to "remember to remember" the task in due time. While scenarios of forgetfulness appear in Tannaitic sources with regard to a variety of halakhic practices, it is immediately evident that two types of practices, tithes and *'eruvin* (spatial prearrangements for Sabbaths and festivals), give rise to more scenarios of forgetfulness than all other practices. There are ten mentions of forgetfulness with regard to tithes in the Mishnah and Tosefta combined, and twenty-two mentions of forgetfulness with regard to '*eruvin* in the Mishnah and Tosefta combined. Without getting into the intricacies of these two complex halakhic topics, it would be useful to consider briefly why forgetfulness was viewed as so pertinent to those practices, and what we can learn from this about the dynamics of forgetfulness as the rabbis understood it—and used it—more broadly.

Tithes and 'Eruvin *as Test Cases*

Despite the fact that rabbinic halakhah is replete with prospective memory tasks, Tannaitic texts rarely ever mention strategies that people may use, of their own initiative, to remind themselves or others to preform required tasks.[12] There is,

12. One important exception to this generalization are the references to public reminders instituted and performed by the temple's authorities. According to M. Sukkah 5.5, it was customary to blow

however, one notable exception to this rule. According to the Mishnah, every week on the Sabbath eve, shortly before dark, one should tell the members of his household: "Did you tithe? Did you prepare an *ʿeruv*? Light the lamp."[13] The two questions are meant to verify that things that have to be done before the Sabbath were in fact done (and if not, to make sure they are done in the time that is left), whereas the imperative "Light the lamp" is to indicate that if both required tasks are complete, the Sabbath can officially begin with the ritual lighting.[14] The fact that the only text in the Tannaitic corpus that explicitly suggests that one remind others of prospective halakhic tasks pertains to tithes and *ʿeruvin* is commensurate with the disproportionate attention that these two halakhic practices receive in scenarios of forgetfulness. This heightened attention, I propose, has to do with the fact that these practices present the challenges of delayed intentions in full force, but also with the notion that forgetfulness in these practices serves to emphasize the "insider" status of the one who forgets and his overall commitment to rabbinic halakhah. Let us begin with tithes, which is a biblical ordinance that was significantly retooled in rabbinic texts, and then move on to *ʿeruvin*, which is a wholly rabbinic innovation.

Different biblical passages put forth an obligation for the Israelites to give 10 percent of their crops to the Levites who live among them. While the Priestly Code merely mentions that the Levites are entitled to this tithe but does not elaborate how it is transferred from the Israelites to the Levites,[15] the Deuteronomic Code (which adds the poor and needy to the Levites as entitled to this tithe) offers a more vivid picture of the transaction: "Every third year you shall bring out the full tithe of your produce for that year, and store it within your towns; the Levites, because they have no allotment or inheritance with you, as well as the resident aliens, the orphans, and the widows in your towns, may come and eat their fill so that YHWH your God may bless you in all the work that you undertake."[16] According to this edict, the Israelites in a given town collectively bring 10 percent of the crops that grew in their fields when the appropriate time comes, and the Levites

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the horn in the temple on the Sabbath eve to remind people to cease their work and complete their preparations (cf. BT Shabbat 35b), a report also supported by Josephus (*The Jewish War* IV.9, 582, ed. Whiston 691–92). M. Sheqalim 1.1 mentions a public reminder on the first day of the month of Adar to prepare the requisite half-shekels for the temple and to watch for growths of mixed kinds (*kilayim*) in the fields. These public reminders are associated with the centralized authority of the temple as the rabbis envision it, and there are no references to similar mechanisms outside the temple.

13. M. Shabbat 2.7.

14. As explained by Yitzhak Gilat, *Studies in the Development of Halakhah* (in Hebrew) (Ramat Gan: Bar-Ilan University Press, 2001), 348.

15. Num. 18:21–32. Cf. Lev. 27:30, which considers tithes as sacred unto God rather than as the property of the Levites.

16. Deut. 14:28–29. While Deuteronomy maintains that tithes are given to the Levites only every third year, later attempts to reconcile the Priestly and Deuteronomic rulings determined that tithes for the Levites (otherwise known as "first tithes") are given every year. Cf. Neh. 10:38.

and the poor all arrive at that same time to claim what is due to them. Texts from the Second Temple period suggest that tithes (which at that point were usually given to the priests, not the Levites) were usually brought to the Jerusalem temple and collected there.[17] Rabbinic sources, however, present a much more chaotic picture of the allocation and delivery of tithes, since they envision the world of agricultural procurement as consisting of multiple moving pieces. If biblical texts imagine only two parties—a landowner who grows produce and a landless Levite or needy person—the rabbis imagine the tithing realm as consisting of growers of produce, sellers of produce, buyers of produce, and eaters of produce, all of whom can be different people, in addition to those entitled to the tithe.[18] It is agreed that one may not eat of produce items that were not tithed at all (which the rabbis call *tevel*), but it is not at all clear whose responsibility it is to tithe produce items that are sold in the market.[19] Tannaitic texts determine that within this somewhat chaotic system, and considering the fact that many Jews were rather lax in the practice of tithing,[20] any kind of engagement with produce items that could potentially be untithed requires one to tithe them—whether one is the grower, buyer, seller, or eater.[21]

In the rabbinic setting, then, tithing became an individual and sporadic rather than a communal and concentrated operation, and the time and situation in which it must be performed vary depending on a host of circumstances. There is no simple arrangement in which produce items from a given field are collected at a single point and given to the Levites at a single point, but a recurring process that must be done on multiple occasions, as needed. In addition, the rabbis rule that one may casually eat untithed produce items until he brings them into his house, but

17. See Aharon Oppenheimer, *The Am ha-aretz: A Study in the Social History of the Jewish People in the Hellenistic-Roman Period*, trans. I.H. Levine (Leiden: Brill, 1977), 23–42; Eyal Regev, "The Collection of Tithes by Priests in the Provinces of the Land of Israel during the Hasmonean Period" (in Hebrew), *Proceedings of the World Congress of Jewish Studies* 12, vol. B (1997): 19–11.

18. See Ruth Alster, "The Meaning of the Term 'Demai' in Tannaitic Literature" (in Hebrew), *Sidra* 29 (2014): 5–38.

19. While the Mishnah does present a general rule that fruits should be tithed once they are ready to go to market, presumably by the grower or by the seller (M. Ma'aserot 1.5), it also presents a prohibition to sell produce to a person who is known not to tithe, which suggests that it is the buyer's responsibility to tithe (M. Ma'aserot 5.3). One passage (Sifre on Deuteronomy 105 [ed. Finkelstein 165]; cf. BT Baba Metz'ia 88b) presents a fierce disagreement, dating back to the Second Temple period, on the question of whose obligation it is to tithe; see Oppenheimer, *The Am ha-aretz*, 71–76.

20. The literature on this topic is substantial, and there are various conjectures as to who the Jews who did not tithe were, as well as when laxity in matters of tithing became commonplace. For helpful surveys, see Oppenheimer, *The Am ha-aretz*, 67–117; Ruth Alster, "The Image of the 'Am-ha'aretz in Light of the Laws of Tithes" (in Hebrew), *Netu'im* 18 (2013): 101–24.

21. M. Demai 2.2. Rabbinic texts draw a distinction between food that is known in certainty not to have been tithed (*tevel*), from which 10 percent must be removed and set aside, and food that is only suspected not to have been tithed (*demai*). For *demai*, one only needs to remove 10 percent of the 10 percent (i.e., 1 percent of the total) as a "tithe offering" for the priests.

once he brings them into his house they must be tithed to be eaten.[22] Accordingly, days or weeks may pass between the time in which produce items ripen and fall under the general obligation of tithing and the time in which one who plans to eat them must actually tithe. Scenarios of forgetfulness in regard to tithes indicate clearly that the main problem with tithing is the time gap, or the delay, between the moment in which produce items come into one's possession and the time by which they absolutely must be tithed.[23] This is most evident in cases in which one intends to eat fruit (or drink wine) during the Sabbath. For example:

> If one bought produce [items] from one who is not faithful in regard to tithes and forgot to tithe them, he may ask [the seller whether they were tithed] on the Sabbath and eat in accordance with his word. If it had darkened at the end of the Sabbath, he may not eat until he tithes.
>
> If he did not find [the seller], and one person who is not faithful in regard to tithes told him, "They are tithed," he may eat in accordance with his word. If it had darkened at the end of the Sabbath, he may not eat until he tithes.[24]

In this case, a person bought fruits from a person who cannot be trusted to sell only tithed food. The fruits were procured before the Sabbath, and they do not need to be tithed until they are eaten, but it is forbidden to tithe on the Sabbath itself. The subject, it can be inferred, thinks, "I do not need to tithe until I eat," and lets the tithing task slip from his mind. When the Sabbath comes he wants to eat the fruits, and he is reminded that they need to be tithed before they can be eaten, but at that point he cannot tithe them. The Mishnah makes special allowances to rely on the seller's word, if the seller asserts that the fruits he sold were indeed tithed, and to eat the fruits on the Sabbath, but does not extend this allowance beyond the Sabbath, after which the buyer has to tithe the fruits himself. Moreover, even if the buyer does not find the seller himself but finds *another* unfaithful person that promises that the produce items were tithed, the buyer may eat them during the Sabbath.[25]

22. M. Ma'aserot 3.1–10.

23. Tannaitic texts never mention the possibility that forgetfulness could lead one to actually eat untithed food (which is a serious transgression), and in all scenarios of forgetfulness one realizes that he did not tithe before he eats the produce. T. Demai 1.18 (ed. Lieberman 66), however, mentions the possibility that forgetting may cause one to use untithed seeds for planting.

24. M. Demai 4.1; cf. T. Demai 5.1 (ed. Lieberman 85).

25. According to the Tosefta (T. Demai 5.2 [ed. Lieberman 85]), this dispensation is given under the assumption that "the fear of the Sabbath" is upon the untrustworthy seller. That is, even though the seller is not particularly concerned about complying with rabbinic tithing laws, he can be assumed to be reverent of the Sabbath laws, and so he will not dare to lie on the Sabbath; see also Alster, "The Image of the 'Am-ha'aretz," 120–21. Responding to this reasoning, the Palestinian Talmud (PT Demai 4.1, 23d) cogently asks: "If the fear of the Sabbath is upon him, why did we teach that once the end of the Sabbath has darkened upon him, he may not eat until he tithes?" In other words, if the seller is assumed trustworthy in everything he says during the Sabbath, then what he said on the Sabbath should be believed even after the Sabbath, and there should be no reason for the seller to tithe these

This passage demonstrates that the time gap between the moment in which the obligation is formed and the time in which it comes into effect can be a black hole of sorts, in which the intention to fulfill the obligation may disappear.[26] Forgetting the obligation to tithe during the time gap between purchase and planned consumption, however, does not reflect negatively on the forgetter here. Note that the forgetful subject is positioned in clear opposition to the one who is "not faithful in regard to tithes" with whom he has to negotiate. Rather than putting one's commitment to the tithing obligation in question, forgetfulness here serves as a *marker* of one's commitment to this obligation. This becomes especially clear when we continue on to the following passage in the Mishnaic chapter, which discusses a case of one who is bound by another person's vow to eat with that person, and the person who made the vow is not faithful when it comes to tithes. In this case, the subject is allowed to eat the vower's food as long as the vower *tells* him that the food is tithed, even though the subject does not necessarily believe him.[27] The fact that the same halakhic solution—ad hoc permission to rely on the word of an unreliable person—is proposed both for a case of forgetfulness and for a case of constraint outside of one's control illustrates the extent to which the rabbis refrain from assigning blame to forgetful subjects.

While Tannaitic texts acknowledge that there are people—*other* people, not the intended audience of the Mishnah—who reliably do not tithe their produce, and they prescribe ways of interacting and working with these people,[28] when these texts describe situations in which tithing should have happened but did not they always use the word "forgot" in relating the cases.[29] Thereby, they create a picture in which a subject's intention to eat fruits inherently entails an intention to tithe them, even if the subject may not be aware of this intention until it is too late. This is particularly evident in the following scenario:

> If children hid figs for the Sabbath and forgot to tithe [them], they may not eat [them] at the end of the Sabbath until they tithe them.[30]

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items at all. The answer given is, "because there may be one person upon whom there is no fear of the Sabbath"—that is, because some "people of the land" may be suspected to lie even on the Sabbath. Alster proposes an alternative explanation, according to which the "people of the land" regarded eating untithed food on the Sabbath a graver transgression than eating untithed food on weekdays. See Alster, "The Image of the 'Am-ha'aretz," 120.

26. For a similar example, see T. Demai 8.7 (ed. Lieberman 102).

27. M. Demai 4.2.

28. For example, M. Demai 3.1 and M. Demai 6.7 use the expression "one who does not tithe" as a fixed characteristic of a person (as opposed to "one who tithes" and "one who is faithful" in M. Demai 4.6). As Alster pointed out, the common categorical identification of "one who does not tithe/is not faithful" with *'am-haaretz* is problematic. See Alster, "The Image of Am ha-aretz."

29. Another set of forgetfulness cases (T. Ma'aserot 2:8–10 [ed. Lieberman 233–34]) refers to people who intended to place fruits in a specific place, in which they will not need to be tithed, but forgot their original intention and placed them somewhere else.

30. M. Ma'aserot 4.2; cf. T. Ma'aserot 3.2 (ed. Lieberman 237).

This case involves two different contingencies that are introduced as part of the complex rabbinic treatment of tithes. On the one hand, produce items that are placed outside and have not yet been brought into one's house can be eaten "casually" (*ʿar'ai*) even without being tithed first. On the other hand, once one decides that certain produce items will be eaten on the Sabbath, the produce items in question *must* be tithed by the Sabbath. The scenario describes children who hide figs (in the ground or in a pile of straw, to keep them cool and fresh) with the plan of eating them during the Sabbath. It makes the point that even though these figs still fall under the category of "casual" eating (as they are still outside), their designation for the Sabbath means that once the Sabbath arrives and thereafter, they cannot be eaten unless they are tithed. While the principle that guides this ruling—namely, that intention to eat during the Sabbath generates an obligation to tithe—applies to any halakhic subject, casting children as the protagonists of this scenario serves to convey this principle's full extent. It illustrates that even children, who are normally not considered legal entities when it comes to forming intentions, can generate a tithing obligation merely by demonstrably planning to eat fruits during the Sabbath.[31] It is noteworthy, however, that the Mishnah describes the children as having *forgotten* to tithe the figs rather than saying that the children *did* not tithe the figs, or otherwise simply stating that the figs must be tithed.

By attributing the children's failure to tithe to forgetfulness, the Mishnah posits that a halakhically binding intention to eat figs also inherently entails an intention to tithe them. The incorporation of children into the rabbinic realm, insofar as their intentions to eat change the status of the figs, also means that they are taken to be faithful rabbinic subjects who willfully subscribe to the obligation to tithe even if they are not aware of it.[32] In a world in which many people downright dismiss the obligation to tithe, framing the children's failure to tithe in terms of "forgetfulness" serves to mark their insider status within the system, even though they are not yet fully fledged legal subjects.

The rabbinic insistence on attributing halakhic omissions to forgetfulness is even more conspicuous in the case of *ʿeruvin*. *ʿEruv* (roughly translated as "mixing") is an innovative rabbinic method for overcoming the limitations of the Sabbath or a festival, usually through symbolic use of food. There are three kinds of *ʿeruvin*. "Mixing of realms" (*ʿeruv teḥumin*) is a way of extending the area in

31. According to the Palestinian Talmud (PT Ma'aserot 4.2, 51b), it is only if the children collected the figs at dusk right before the Sabbath that it can be determined that they actually intended to eat them on the Sabbath. Otherwise, their actions do not generate a legally binding intention to eat on the Sabbath, and the obligation to tithe by the Sabbath does not apply.

32. It is possible that children in the rabbinic world did start practicing tithing at an early age: a story in the Palestinian Talmud (PT Sanhedrin 7.13, 25d) relates how children in Rome were making small piles and saying, "So say the people of the Land of Israel: this is a heave-offering and this is a tithe." See Hagith Sivan, *Jewish Childhood in the Roman World* (New York: Cambridge University Press, 2018), 322, 331.

which one is allowed to travel on the Sabbath, either by being physically present at the edge of the permitted realm when the Sabbath begins or by placing food there, thereby marking it as one's (temporary) home, which in turn allows one to add another two thousand cubits to the permitted area. "Mixing of dishes" (*'eruv tavshilin*) is undertaken when there is a festival that is immediately followed by the Sabbath. In principle, one may not cook on a festival day with the purpose of consuming the food after the festival. However, if one prepares one symbolic dish for the Sabbath before the festival begins, any dish that will be prepared during the festival for the Sabbath henceforth will be considered as a legitimate addition to the first dish. Finally, "mixing of courtyards" (*'eruv ḥatzerot*) is a method meant to turn several separate houses in one courtyard into a single private domain, such that all those who live in the courtyard will be able to carry items between their homes during the Sabbath (normally, one is not permitted to carry items more than four cubits in a public domain). This is done by collecting a symbolic amount of food from each of the residents in the courtyard and placing it in one house in the courtyard, such that this house, and by extension the entire courtyard, are considered—through the principle that one resides where one's food is—to be the home of all those who live in the courtyard. The same principle can also be used to turn several courtyards that share an alleyway into a single domain (*shituf mevo'ot*).

These creative ways of overcoming the limitations of the Sabbath, which are among the most striking rabbinic innovations, all require a good bit of preplanning and are thus quintessential examples of prospective memory tasks. By the time the *'eruv* becomes necessary it is by definition too late to prepare it. One must realize one's intention to travel on the Sabbath, or to cook during the festival, or to carry things in the courtyard during the Sabbath, before those take place, and remember to make preparations ahead of time. Delayed intentions, as we have seen, often lead to forgetting. Especially in the case of the Sabbath, for which there are always multiple urgent preparations,[33] one may be likely to forget an intention to do something that is not immediately relevant. These novel halakhic mechanisms, then, although they are intended to make people's lives easier, also add a significant cognitive burden. It is thus not surprising that forgetfulness is discussed in the context of '*eruvin* more than in any other halakhic context.

While forgetting may be likely to take place in all three kinds of *'eruv*, Tannaitic sources are overwhelmingly concerned with forgetting in the context of "mixing of courtyards." Even in the single case in the Tosefta that discusses a person who forgot to prepare an *'eruv* of dishes before a festival, the forgotten dish was meant

33. Preoccupation with preparations for the Sabbath was so characteristic of the hours before its commencement that Josephus mentions special allowances Augustus made for the Jews not to be called to public services or to give testimony during those hours (*Antiquities of the Jews* XVI.6.163, ed. Whiston 436). Josephus refers to the eve of the Sabbath as "the day of preparation" (*paraskeuē*), a term also used in the Gospels (Mt. 27:62, Mk. 15:42, Lk. 23:54, Jn. 19:31).

to serve for the purpose of *'eruv* in the courtyard.[34] More than twenty scenarios in the Mishnah and Tosefta describe different settings, either in courtyards or in alleyways, in which one homeowner (or sometimes more) in the courtyard "forgot and did not prepare an *'eruv*."[35] These cases are of heightened interest for an obvious reason: *'eruv* of courtyards is a communal project, which depends on the willing participation of all the homeowners in the courtyard. As Charlotte Fonrobert observed, in order to be able to carry items between my house and yours on the Sabbath, I must concede that my house belongs to you, temporarily, as much as it belongs to me. Accordingly, failure of one homeowner to contribute food to the communal *'eruv* has the potential of jeopardizing the entire enterprise, since it serves as indication that, in Fonrobert's words, "the neighborhood has not been successfully transformed into a community with a common ritual intent."[36] Nevertheless, Tannaitic texts that discuss various scenarios of forgetting try to find a way not only to keep the *'eruv* intact, but also to allow the forgetful neighbor to benefit from it to the extent that this is possible. Forgetfulness is highlighted in those scenarios to make the point that if people are still, in terms of their commitments, part of the community, the community remains in place even if the ritual that technically binds it together was not performed perfectly.[37]

By always framing a subject's failure to prepare an *'eruv* in terms of forgetfulness, the rabbis assert that the subject fully *intended* to prepare an *'eruv*, such that his forgetfulness demonstrates not his dismissal of the community and of rabbinic teachings, but his commitment to them. The abundance of such cases, as well as the fact that in Tannaitic sources there is no mention of any other reason to fail to prepare an *'eruv* other than forgetfulness (nor is there even use of the phrase "if one did not prepare an *'eruv*" rather than the recurring "if one *forgot* and did not prepare an *'eruv*"),[38] have the effect of normalizing forgetfulness and turning it into a predictable and even likely occurrence within the realm of *'eruvin*. The one who experiences forgetfulness may be excluded, in some circumstances, from his local courtyard's *'eruv*, but not from his own community and not from the rabbis' collectivistic view of "Israel."[39] Rather than placing the one who experiences it at the

34. T. Yom tov 2.3 (ed. Lieberman 286).

35. M. Eruvin 2.6, 6.3, 6.7–10, 8.3; T. Eruvin 5.12, 5.15, 5.17, 5.24, 5.26–28 (ed. Lieberman 113–18), 7.7, 7.14 (ed. Lieberman 128–31).

36. Charlotte Elisheva Fonrobert, "The Political Symbolism of the Eruv," *Jewish Social Studies* 11, no. 3 (2005): 16.

37. Fonrobert, "The Political Symbolism of the Eruv," 16–19.

38. One understandable exception is M. Eruvin 6.9, which speaks of the failure of an entire courtyard (i.e., of most or all of the residents in a courtyard) to prepare an *'eruv* ("if there are two courtyards one within the other, and the inner one prepared an *'eruv* and the outer one did not prepare an *'eruv* . . ."). Admittedly it would make little sense to speak of a nonhuman entity like a courtyard "forgetting" to prepare an *'eruv*. Contrast this with the following passage, M. Eruvin 6.10: "if one person from the outer [courtyard] forgot and did not prepare an *'eruv* . . ."

39. See Charlotte Elisheva Fonrobert, "From Separatism to Urbanism: The Dead Sea Scrolls and the Origins of the Rabbinic Eruv," *Dead Sea Discoveries* 11, no. 1 (2004): 43–71.

margins of the observant community, forgetfulness showcases the extent to which one belongs to the observant community.

The halakhic areas of tithes and *'eruvin* both involve sets of complex halakhic practices developed by the rabbis that require diligence, vigilance, and careful preplanning. The rabbinic configuration of tithing as a recurring individual task determined by multiple contingencies goes well beyond the straightforward way this task is presented in biblical and Second Temple sources, and the concept of *'eruvin* is a rabbinic invention through and through. These two practices epitomize both the increased importance of prospective memory in rabbinic halakhah and the rabbis' determination to find accommodations and solutions to the challenges posed by the complicated and demanding institutions that they themselves have devised. In addition, the rabbinic innovations in regard to tithes and *'eruvin* were apparently met with more resistance, or blatant lack of compliance, among the larger Jewish population than others. Whereas in the case of tithes the rabbis' stringencies may have struck many Jews as overly pedantic and unnecessary, in the case of *'eruvin* there seem to have been people who straight out did not accept this as a legitimate way of handling the Sabbath prohibitions.[40] Their rulings on forgetfulness in these two areas serve the rabbis to build an idealized world in which halakhic failures are not a sign of lack of compliance but, to the contrary, serve to highlight the overall compliance of subjects with what were evidently controversial or often-defied rabbinic instructions.

Halakhic Overload and Predictable Forgetfulness

To the extent that the rabbis' accommodating treatment of forgetfulness in the performance of commandments is surprising, it is surprising because we have a tendency to explain failures to perform important tasks either as indications of incompetence or as indications of carelessness. In view of the early rabbis' punctilious and exacting approach to halakhic observance, we would expect that forgetfulness be penalized or at least be presented in condemning tones (as it is, for example, in the passage from Leviticus Rabbah I discussed in the previous chapter), but this is not at all the case. A closer look at Tannaitic sources reveals that the rabbis' matter-of-fact attitude toward forgetfulness is not just a byproduct of their parsimonious style and general lack of affect. Several Tannaitic texts

40. M. Eruvin 3.2 and 6.1 both mention a category of "one who does not concede the *'eruv*" (*mode ba-'eruv*), which suggests that the legitimacy of this arrangement (or according to other interpretations, the need for this arrangement) was not accepted by all. On this phrase in the Mishnah, see Ya'akov N. Epstein, *Introduction to the Text of the Mishnah* (in Hebrew) (1948; Jerusalem: Magnes Press, 2000), 608–9. The category "one who does concede the *'eruv*" is often interpreted as pertaining to Sadducees or to people of Sadducean persuasion; see Eyal Regev, *The Sadducees and Their Halakhah* (in Hebrew) (Jerusalem: Yad Ben Zvi, 2005), 59–66. In the Babylonian Talmud (BT Eruvin 31b) it is interpreted as pertaining to Samaritans. I agree with Fonrobert that we should resist the temptation to associate the rejection of *'eruv* with an identifiable and named "other" group, and instead acknowledge that there was a range of opinions and practices among Jews on this matter. See Fonrobert, "From Separatism to Urbanism," 62–63.

indicate that the rabbis understood prospective memory omissions as resulting from the challenging and demanding cognitive overload brought about by halakhic tasks, and that they saw this cognitive overload as objectively difficult to handle. Prospective memory omissions are thus not indications of flawed character or insufficient care, but are, in the words of R. Key Dismukes, "the result of the way task characteristics interact with normal cognitive processes."[41] What stands in the way of perfect practice is not insufficient diligence but having to negotiate competing stimuli and habits—oftentimes competing *halakhic* stimuli and habits. As this section will show, the rabbis constructed various scenarios that showcase their own ability to predict how halakhic overload may lead a devoted subject to forgetfulness. These predictions of likely forgetfulness often take the form of decrees meant to preempt slippage into forgetfulness before it happens, thereby pointing to the rabbis themselves as experts not only in the law as such, but also in the workings of the human mind.

Most Tannaitic scenarios of prospective memory omissions do not provide any background or context that explains why forgetting took place, in part because of the hyperconcise nature of this literature and in part because the rabbis considered forgetting to be so natural and predictable that they did not find it necessary to explain it. A few texts, however, clearly indicate that preoccupation with another task or requirement is a prominent reason for forgetfulness. For example:

> [A] If one was on his way to slaughter his Passover offering, or to circumcise his son, or to have a betrothal banquet at the house of his father-in-law, and he was reminded that there is leaven (*hametz*) in his house—if he can go back and destroy it and return to [the other] commandment [in time] he should go back and destroy it; if not, he nullifies it in his heart.
>
> [B] [If one was on his way] to save [persons or property] from an army or from a [flooding] river or from robbers or from a fire or from a landslide—he should nullify it in his heart.
>
> [C] [If he was on his way] to spend [a Sabbath or a festival somewhere else] voluntarily—he should return [to his home] immediately.[42]

According to Exodus 12:19, during the seven days of Passover it is prohibited not only to eat leavened bread, but also to have it anywhere in one's home. The rabbis acknowledge, however, that one might forget to destroy one's leaven prior to the festival, and they present three possible scenarios for such a turn of events. In scenario A, the forgetful subject recalls, on the Passover eve, that he forgot to destroy his leaven while he is on his way to perform another commandment, and we may deduce, even though it is not stated explicitly, that it was *because* of his

41. R. Key Dismukes, "Prospective Memory in Workplace and Everyday Situations," *Current Directions in Psychological Science* 21, no. 4 (2012): 215.

42. M. Pesahim 3.7. I will discuss this passage at greater length in chapter 4.

preoccupation with the other commandment that he forgot to destroy his leaven. It is noteworthy that the Mishnah groups together two particularly hefty commandments (circumcision and the Passover sacrifice), which condemn one to extirpation if not performed on time, alongside participation in a betrothal meal (presumably, one's own betrothal), which falls under the category of "commandment" (*mitzvah*) but is not a matter of grave halakhic consequences.[43] Scenario B deals with issues of existential urgency, presenting a list of emergencies that the subject is in a hurry to attend to. Again, we can assume that it is on account of these emergencies that forgetfulness occurred in the first place. Scenario C, in turn, suggests that forgetfulness can also happen for no discernible reason (or in any case, for no reason that justifies accommodating the forgetful individual and sparing him the trouble of going back to his home to destroy the leaven).

The notion that competing tasks can distract one from the commandment one is intent on performing is evident also in the following passage, which discusses preoccupations of a more mundane nature:

> One must not sit in front of the barber close to the afternoon prayer, until he has prayed. One should not enter into the bathhouse, nor into the tannery, nor to eat, nor into judgment [close to the afternoon prayer]. But if they started, they need not stop.[44]

The concern voiced in this passage is that if a person commences an attention-consuming activity shortly before the designated prayer time, he may become absorbed in the activity and fail to pray. While the word "forget" is not explicitly mentioned in this passage, I believe it is implicit in the setup and context of the scenario.[45] The hypothetical subject in this passage clearly knows that prayer time is approaching and plans on praying. He begins engaging in the said activity (haircut, bath, meal, court session) either with the intention of interrupting it for the prayer or with the intention of completing it by the prayer time. But this intention, we are told, stands a good chance of being thwarted as the subject is drawn into the activity he thought he would remember to stop in time. To prevent such likely absorption that would lead one to neglect the prayer obligation, this passage suggests that no attention-grabbing activity should be taken close to the time of prayer.[46]

43. Indeed, the Babylonian Talmud (BT Pesahim 49a) presents an alternative version of this ruling that classifies a betrothal meal alongside voluntary actions. The Palestinian Talmud, in contrast (PT Pesahim 3.7, 30b), comments that this ruling serves as indication that "peace" (in one's family) is as important as the weightiest of commandments.

44. M. Shabbat 1.2 (1.5 in the Mishnah's manuscripts).

45. Forgetfulness is explicitly mentioned in the following passage (M. Shabbat 1.3, which will be discussed below), indicating that this is the overall concern of this unit.

46. It is, of course, a matter of debate how to define "close to the time of prayer" in this context. See BT Shabbat 9b; PT Shabbat 1.2, 3a.

If the passage regarding destruction of leaven before Passover presents situations in which an unusual and ominous event distracts from a halakhic task, the passage regarding prayer presents situations in which the natural rhythm of everyday activities distracts from a halakhic task. Taken together, these passages serve as important reminders that life in accordance with halakhah requires negotiating multiple demands at the same time, not only the multiple demands of halakhah itself but also the demands of the body, of the home, and of other commitments. This may sound trivial—what is life if not managing competing obligations and intentions constantly?—but in the context of the Tannaitic discussions, there is more here than a simple recognition that following halakhah requires time, deliberation, and effort. The rabbis, I argue, viewed life in accordance with halakhah as requiring one, at times, to go against the force of habit and against automatic and natural reactions. Moreover, they viewed it as a life that regularly requires one to make high-stakes decisions in complicated situations based on seemingly conflicting principles. The cognitive overload created by the demands of halakhah can easily become too much to handle, which suggests, unnervingly, that halakhic behavior is not fully under the subject's control.

The notion that halakhic compliance may force one to go against one's habits and natural inclinations is evident in scenarios of negative prospective memory omissions, that is, in situations in which one is supposed to remember to *refrain* from an action or behavior but forgets to refrain from it. The most obvious examples for negative prospective memory omissions pertain to food: one is supposed to refrain from eating (in the examples we have seen earlier, due to a personal vow or a voluntary fast) but forgets his obligation to do so—presumably, because the hunger he is experiencing is powerful enough to drive the intention not to eat away from his mind, or because food is placed before him and out of habit, as if on autopilot, he begins to eat and drink. The dynamics of autopilot response to the presence of food is portrayed in the following passage:

> [A field sown with seeds consecrated as heave-offering] is subordinate to [the laws of] gleanings, forgotten produce, and corner of the field, and the poor among Israel and the poor among the priests [can] both collect [those things in the field]. The poor among Israel will sell their share to the priests for the price of heave-offering, and they will keep the money.
>
> R. Tarfon says, "Only the poor among the priests should collect, lest [the poor among Israel] forget and place [the collected produce] in their mouth."
>
> R. Akiva said to him, "If so, then only pure [priests] should collect."[47]

This passage concerns a rather unusual case in which a field was sown with seeds that originate in a heave-offering (*terumah*), a portion of food that is designated for the priests alone. In principle, one is not allowed to use seeds from a heave-offering for sowing purposes, but if for some reason they were already sown they

47. M. Terumot 9.2.

should be left in place.[48] Once a field sown with heave-offering seeds is a given, all the ordinary obligations that pertain to agricultural fields in rabbinic law pertain to it, including the obligations to leave certain things in the field for the needy: gleanings (*leqet*, separated ears of grain that fell to the ground during the harvest), forgotten produce (*shikheḥah*, items that the owner of the field unintentionally left behind), and the corner of the field (*pe'ah*, an area that is to be left unharvested).[49] According to the anonymous voice in the Mishnah, all needy persons have permission to collect those three leavings in a field sown with heave-offering seeds, but since non-priests ("Israel") are not allowed to consume heave-offering, they should sell whatever they collected to priests. R. Tarfon objects to this arrangement on the concern that when non-priests collect leavings in such a field, they may forget that they are dealing with consecrated food and place whatever they find in their mouths. R. Akiva responds that if forgetfulness that leads to prohibited consumption is to be feared, then the needy priests themselves should only be allowed to collect in this field if they are ritually pure, since purity is required for consumption of heave-offering.[50]

R. Tarfon's assumption is that if individuals, and perhaps especially poor individuals who are probably acutely hungry, are in a situation in which edible things are right in front them, they are likely to forget the fact that they are not allowed to consume these items. For our purposes the word "forget" in this imagined scenario is key. R. Tarfon does not assume that a hungry non-priest will see a produce item he can sell but not eat and say to himself, "I don't care that it is consecrated and permitted only to the priests, I am hungry, and I am eating it now." Rather, R. Tarfon assumes that the original intention of the non-priest not to eat the produce would be driven away from his mind once he is confronted with the primordial combination of hunger and availability of food. Similarly, the subjects who forgot their vow not to eat or the fast they took upon themselves in the examples we saw earlier are specifically said to have forgotten the vow or fast, not to have been overcome by appetite or hunger. It is crucial to observe, then, that the rabbis depict here not situations of weakness of will, or of internal struggles between temptation and obligation in which temptation wins, but rather strong responses to physical stimuli that drive the obligation, temporarily, out of one's mind.

Forgetfulness as a result of autopilot-like responses or behaviors, which are so overpowering that they drive a halakhic obligation or intention out of one's mind, does not take place only when one is presented with luring physical temptations. In other words, it is not simply a symptom of being overcome with passion. A passage

48. M. Terumot 9.1.

49. See Lev. 19:10; Deut. 24:19.

50. It seems that R. Akiva makes this point to dismiss R. Tarfon's concern, but it is not clear whether he dismisses it because he thinks that people are not likely to forget and consume what they are not supposed to, or because he thinks that such a concern is not sufficient grounds for denying poor nonpriests an opportunity to acquire the meager profit to which they are entitled.

in tractate Shabbat of the Mishnah presents a series of rulings whose underlying concern is that deeply ingrained habits compromise one's ability to observe the Sabbath's prohibitions. This concern leads the Mishnah to determine that one should avoid certain habitual behaviors either before or during the Sabbath, not because they are forbidden in and of themselves but because the capture of the habit is so strong that it could inadvertently lead to forgetfulness and to prohibited actions:

> [A] A tailor may not go out carrying his needle close to darkness [on the eve of the Sabbath], lest he forget and go out [with it on the Sabbath], nor may a scribe go out with his quill.
>
> [B] One may not delouse one's articles nor read by the light of the lamp [on the night of the Sabbath]. In truth they said, "The cantor (*ḥazan*, teacher of children) may see where the children are reading, but he may not read."
>
> [C] Likewise, a man with genital discharge may not eat with a woman with genital discharge, because of the [possible] following[51] of transgression.[52]

The issue at hand in case A is the prohibition to carry any articles during the Sabbath (certainly articles meant for work, such as a needle or a quill).[53] The Mishnah expresses a concern that if an artisan goes around carrying his work implement before the Sabbath, he may forget to put it aside in due time and continue carrying it when such carrying is prohibited. Carrying, to be sure, is prohibited for all people, yet the Mishnah specifically refers to artisans, since they are so accustomed to carrying their respective work implements that they are likely to experience them as part of their bodies and forget that they are even there.[54] The artisan's predictable memory failure is not the result of inability to control his passion, but of habit capture—a bodily way of being so natural that without noticing the subject may slip from the time in which it is permitted to carry such items to the time in which it is prohibited to carry them. To prevent this, the rabbis advise the creation of a buffer zone sometime before the Sabbath in which artisans are not allowed to carry their implements, similar to the buffer zone they advise establishing before prayer.

51. I translated the Hebrew phrase *hergel 'averah* as "following of transgression," since the root *rgl* in rabbinic Hebrew mainly refers to the dragging or drawing of one thing after another. See Shlomo Naeh, "Hergel Mitzvah" (in Hebrew), *Tarbitz* 65, no. 2 (1996): 231–36; Shamma Friedman, *Tosefta Atiqta, Pesah Rishon: Synoptic Parallels of Mishna and Tosefta Analyzed with a Methodological Introduction* (in Hebrew) (Ramat Gan: Bar-Ilan University Press, 2003), 377–79.

52. M. Shabbat 1.3 (1.6 in the Mishnah's manuscripts).

53. The Tosefta (T. Shabbat 1.8 [ed. Lieberman 2]), which adds several additional examples of artisans and the implements they must not go out with right before the Sabbath, specifies that the carrying in question is of a particular kind: not carrying in one's hand, but rather carrying implements in such a way that they are attached to one's body, which is not technically prohibited on the Sabbath. See Lieberman, *Tosefta ki-pshutah Mo'ed*, 3:6–8.

54. Cf. T. Shabbat 1.8 (ed. Lieberman 2).

Whereas scenario A deals with activities that are permitted before the Sabbath but prohibited during it, scenario B deals with activities that are permitted during the Sabbath but could lead to prohibited activities—in this case, kindling a lamp. To clarify, the lamps that the rabbis had in mind were oil lamps in which a wick was placed on one end and was kept burning by the oil in the basin. It was permitted to light such a lamp before the Sabbath but not to add oil to it during the Sabbath. The concern here is that if one uses an oil lamp not merely for general illumination but to examine something closely, such as one's garments (for lice) or a written text, one would automatically want to increase the amount of illumination and would do so by tilting the lamp in order to drive the remaining oil in it toward the wick. This is yet another scenario of habit capture: there is nothing more natural than trying to generate more light for oneself when one is striving to see something in the dark. To prevent one from being captured by this habit, the Mishnah rules that the habit-invoking behavior (i.e., examining something closely by the light of the lamp) should be avoided in the first place. The exception provided to this rule is also interesting: young children are allowed to study by the light of a lamp during the Sabbath, while their teacher may supervise them but not read himself.[55] Different explanations were offered for this ruling: the Babylonian Talmud explains that the children are fearful of their master and will not tilt the lamp without his permission, whereas the Palestinian Talmud maintains that children have no desire to study on the night of the Sabbath, so they are in fact eager to have the light die out.[56] My own reading of this exception is that children were not seen as having formed habits of reading that might lead them to forget and succumb to their habits as adults would.

The inclusion of scenario C in this passage, even though it has no apparent connection to the Sabbath at all, is instructive. This clause asserts that if a man and a woman are both suffering from genital discharge, they should not eat with each other, since the shared meal may lead to forbidden intercourse. Eating together, here as in other places in rabbinic literature, is an intimate activity that functions as a precursor or placeholder for sex.[57] While the man and the woman with genital discharge are both ritually impure already, the Mishnah still wishes to distance them from each other lest they end up having intercourse, which they are prohibited to do in their impure state (even if they are married to each other). Purportedly, if the impure man and impure woman engage in a licit activity that is considered intimate, they may continue on to an *ill*icit intimate activity.

55. The expression "in truth they said" appears several times in rabbinic sources, usually to introduce an established teaching that seems to conflict with or qualify a teaching that was just introduced.

56. BT Shabbat 13a; PT Shabbat 1.3, 3b.

57. On the relations between food and sex in rabbinic literature, see Judith Baskin, *Midrashic Women: Formations of the Feminine in Rabbinic Literature* (Hanover, NH: Brandeis University Press, 2002), 107–11.

The common thread connecting scenario C and the two scenarios that precede it is the principle of "distancing one from transgression" (also known as "putting a fence around the Torah").[58] In all three cases, the rabbis devise ways to prevent a person from getting into a situation from which they could easily drift into a forbidden act.[59] While this principle is at play in other halakhic contexts as well, the juxtaposition of these three particular cases in a single passage is significant. The Mishnah ties together two cases in which the most banal habit capture can lead to forgetfulness of an important prohibition with a case in which nonsexual intimacy can lead to sexual intimacy. Had we encountered the latter case on its own, we would have probably assumed that the issue at hand is the overwhelming power of sexual desire, and that the rabbis forbid the shared meal because they suspect that an individual consumed by desire as a result of the intimate meal will succumb to the temptation to have sex while knowing that it is forbidden to do so. While later (particularly Babylonian) sources certainly describe sexual desire as a force that can subdue the well-meaning individual,[60] the context in the Mishnah suggests that the operative power in his case is not temptation but forgetfulness. The shared meal between the couple will not lead them to insurmountable desire, but rather lead them to forget that they are subject to a prohibition. This, too, I propose, is a case of habit capture: since the couple is used to sharing meals followed by sex, engaging in the former may lead them, as if on autopilot, to the latter.

Once we realize the prominence of forgetting in Tannaitic scenarios as what leads one to the brink of transgression, we are in a position to understand the centrality of memory in the early rabbinic construction of religious subjectivity more broadly. While the forgetful subject of Tannaitic texts may superficially seem reminiscent of the early Christian notion of the divided self, who, in the words of Paul, does not do the good that he wants to do but the evil that he does not want to do,[61] it is important to emphasize that the tribulations of the Tannaitic subject are not of desire and not of will, but rather of *memory*.[62] This subject does not stand on the

58. See M. Berakhot 1.1, and the extensive discussion on "a fence around the Torah" in Avot de-Rabbi Nathan A, chapters 1–2 and B 1–3 (ed. Schechter 3–14).

59. Commentators and scholars struggled to determine whether the rulings listed in this passage are among the eighteen decrees mentioned in M. Shabbat 1.4, or if they constitute a separate addendum to these eighteen decrees. See Hanoch Albeck, *The Six Orders of the Mishnah: Mo'ed* (in Hebrew) (Tel Aviv: Bialik Institute, 1959), 2:406–7; Avraham Goldberg, *Commentary on Tractate Shabbat* (in Hebrew) (Jerusalem: Magnes Press, 1956), 16–22; Lieberman, *Tosefta ki-pshutah Mo'ed*, 3:13–15. For a comprehensive summary of scholarship on the "eighteen decrees," see Israel Ben-Shalom, *The School of Shammai and the Zealots' Struggle against Rome* (in Hebrew) (Jerusalem: Yad Ben Zvi, 1993), 252–72.

60. See Ishay Rosen-Zvi, *Demonic Desires: Yetzer Hara and the Problem of Evil in Late Antiquity* (Philadelphia: University of Pennsylvania Press, 2011), 102–19.

61. Rom. 7.15. On this theme, see Albrecht Dihle, *A Theory of Will in Classical Antiquity* (Berkeley: University of California Press, 1982), 68–98; Paula Fredriksen, *Sin: The Early History of an Idea* (Princeton, NJ: Princeton University Press, 2012), 33–35, 116–19.

62. Here I echo the pathbreaking observations of Mary Carruthers, who showed that dealing with the limitations and vicissitudes of memory was a definitive challenge for monastic individuals in late

precipice of transgression because the alluring power of sin gets the better of him, but because avoidance of transgression—whether it is the transgression of doing something prohibited or of not doing something required—can be an exerting cognitive task. One has to employ constantly an additional layer of self-reflection and self-check atop activities that are completely habitual and natural, and often to work against one's habit. Halakhah, in other words, sometimes requires one's mind to work against itself.

To be clear, the cognitive overload brought about by halakhic observance cannot be simplistically construed as a result of living in two parallel orders, a "secular" one and a "religious" one. If it were merely a matter of asserting the superiority of the prohibition "Do not eat" over the instinctual reaction "I am hungry," we could argue that inculcation into the rabbinic way of life is just a particular iteration of a civilizing process in which, as per Freud, nature stands to be tamed by culture.[63] What makes the halakhic system uniquely challenging is that oftentimes the habit in which one is captured is itself "religious," and the cognitive overload is created by introducing a new halakhic variable into an already established set of commandments-following behaviors. This is evident in the following scenario:

> If one was standing in prayer and was reminded that he had a seminal emission, he should not stop, but shorten his prayer.[64]

Seminal emission, although generating a fairly light ritual impurity, precludes one from participation in sacred activities such as prayer, recitation of the Shem'a, and studying Torah.[65] Prayer, however, is an obligation that one must fulfill every day multiple times a day, whereas seminal emission only happens so often. The subject in this scenario is so captured in his habit to pray at set times that he forgets the fact that he had a seminal emission and is actually not allowed to pray in this condition until he immerses himself in water. Put differently, the forgetfulness that compromises the subject's prayer in this case is in and of itself a testimony to his profound commitment to regular prayer. This scenario demonstrates that the individual in the halakhic system is always required to keep a portfolio of his obligations and restrictions in memory—the ordinary and the unordinary, the habitual and the exceptional, the collective and the individual—and to negotiate these obligations and restrictions in everyday situations. Within this complex undertaking forgetfulness is not only predictable but is also an indication that halakhic observance is so ingrained in one's nature that one has to work against oneself to change its course. In this respect, the forgetful subject is also an idealized subject.

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antiquity, and not only the memory of texts but also the memory of heaven, hell, salvation, and so on. See Carruthers, *The Craft of Thought*, 60–115.

63. See Sigmund Freud, *Civilization and Its Discontents*, trans. James Strachey (New York: W.W. Norton and Co., 1961).

64. M. Berakhot 3.5. I will discuss this example in greater detail in chapter 4.

65. See T. Berakhot 2.12 (ed. Lieberman 8); BT Berakhot 22a.

The following scenario suggests that in situations of halakhic overload, forgetfulness that attests to eagerness to fulfill a commandment can be overlooked, even if this forgetfulness ultimately generates a transgression:

> R. Yose says, "If the first day of the festival [of Sukkot] happened to take place on the Sabbath, and one forgot and took out his *lulav* (palm branch) into the public domain on the Sabbath—he is exempt, because he took it out with permission."[66]

A rabbinic ordinance determines that the ritual of handling a *lulav* on the first day of the festival of Sukkot should be performed even if this day happens to be the Sabbath. The complication is that while one is required to perform the ritual on the Sabbath, it is prohibited to carry the *lulav* from one place to another through the public domain during the Sabbath. The solution devised in the Mishnah is that one should bring the *lulav* to the place in which the ritual will be performed, usually the synagogue, on the eve of the Sabbath.[67] R. Yose then adds that if one forgot and did carry the *lulav* in the public domain on the Sabbath, he is exempt from the usual penalty for such a transgression, which would be a sin offering (*ḥattat*). The laconic phrasing of the ruling leaves it ambiguous what, exactly, the subject forgot: did he forget that he is not allowed to carry on the Sabbath? Did he forget that the day was the Sabbath? Or did he forget to take his *lulav* the day before and he now thinks he has no choice but to carry it? All these interpretations are possible, but what is clear is that the cognitive overload created by negotiating the prohibition (carrying on the Sabbath) and the obligation (taking a *lulav* on the first day of Sukkot) can lead to forgetfulness, and strikingly, R. Yose does not even think that such forgetfulness should be penalized. Rather, he says that this subject actually operated "with permission."[68] The Talmuds interpret this phrase to mean that the subject's preoccupation with a commandment nullifies his transgression,[69] an idea closely resonant with the rabbinic principle that preoccupation with one commandment gives one a temporary exemption from

66. M. Sukkah 3.14.

67. M. Sukkah 3.12–13. Cf. BT Rosh ha-shanah 29b.

68. Cf. M. Pesahim 6.6. As Albeck noted, this is a strange expression to use in this context, since it seemingly suggests that there was no prohibition to carry the *lulav* in the first place. See Albeck, *Six Orders: Mo'ed*, 2:476. One possible interpretation is that the one who carried the *lulav* on the Sabbath *feels* as though he did so with permission, since his intention was to fulfill a commandment, and therefore he is devoid of what Noam Zohar called "a consciousness of sin," which is the main reason (according to some Tannaitic positions) for incurring a sacrificial penalty. See Noam Zohar, "Sin Offering in Tannaitic Literature" (in Hebrew) (master's thesis, Hebrew University, 1988), 91–94.

69. BT Sukkah 42a; PT Sukkah 3.14, 54a. This interpretation is commensurate with T. Sukkah 2.11 (ed. Lieberman 265), in which R. Yose rules that once the obligation pertinent to the *lulav* has been fulfilled it is no longer permitted to carry it around. See Lieberman, *Tosefta ki-pshutah Mo'ed*, 4:868–69. For a more elaborate discussion, see Arye Edrei, "If Any One Shall Sin through Error: On the Culpability of the Unwilling Transgressor in Biblical and Rabbinic Literature" (in Hebrew), *Annual of the Institute for Research in Jewish Law* 24 (2007): 44–47.

another commandment.[70] Whether or not this is the most accurate interpretation of R. Yose's statement, it is clear that in his view, forgetfulness that stems from a desire to comply with halakhah should be viewed as a marker of observance and not as breach of observance.

One final example of forgetfulness brought about by cognitive overload will illustrate the rabbis' awareness of their system's demands on its subjects, as well as the view (which was apparently controversial) that if forgetfulness showcases halakhic compliance, its detrimental results can be predicted and at times overlooked. This passage is meant to demonstrate the rule that a male baby should be circumcised exactly eight days after it was born, even if the eighth day happens to take place on the Sabbath, but in all other cases it is strictly forbidden to perform circumcision on the Sabbath.[71] The subject in this passage is dealing with two babies who were born one calendrical day apart (possibly, one was born before dusk and the other was born after dusk), such that for one of them the Sabbath is the appropriate day for circumcision and for the other it is not. In each of the passage's two scenarios, the subject violates the Sabbath by mixing things up and circumcising the baby who should *not* have been circumcised on the Sabbath alongside the one who should have been circumcised on the Sabbath. This passage, however, has a complex textual history, and it was preserved in two competing versions in the two branches of the Mishnah's textual witnesses.[72] Let us begin with the version in the printed edition, which is based on the Mishnah as it appears in the Babylonian Talmud:

> [A] If one had two babies, one to circumcise after the Sabbath and one to circumcise on the Sabbath, and he forgot and circumcised the one of after the Sabbath on the Sabbath—he is liable [to bring a sin offering for violating the Sabbath].
>
> [B] If he had one [baby] to circumcise on the eve of the Sabbath and one to circumcise on the Sabbath, and he forgot and circumcised the one of before the Sabbath on the Sabbath—R. Eliezer obligates him to bring a sin offering, but R. Yehoshua exempts him.[73]

70. For discussions of this topic, see BT Berakhot 11a and BT Sukkah 25a, as well as BT Shabbat 137a and BT Pesahim 72b.

71. On circumcision after the eighth day and its implications, see Yedidah Koren, "The Foreskinned Jew in Tannaitic Literature: Another Aspect of the Rabbinic (re)Construction of Judaism" (in Hebrew), *Zion* 82, no. 4 (2017): 397–437.

72. On the division of the Mishnah's textual witnesses into a Babylonian branch and a Palestinian branch, see Ya'akov Sussmann, "Manuscripts and Text Traditions of the Mishnah" (in Hebrew), in *Proceedings of the World Congress of Jewish Studies 7*, vol. C (1977): 215–50. On this specific passage, see Epstein, *Introduction to the Text of the Mishnah*, 311–14; Goldberg, *Commentary on Tractate Shabbat*, 334–37.

73. M. Shabbat 19.4; see also BT Shabbat 137a and BT Pesahim 72a. This rendition of R. Eliezer and R. Yehoshua's dispute is attributed to R. Shimon in T. Shabbat 15.10 (ed. Lieberman 72) and in the Palestinian and Babylonian Talmuds.

According to this version, in case A it was not yet time for the first baby to be circumcised, so nothing justifies the circumcision on the Sabbath. In case B, it was already time for this baby to be circumcised—he should have been circumcised on Friday—and so it could be argued that the forgetful subject at least performed a necessary commandment while violating the Sabbath, which for R. Yehoshua is sufficient reason to exempt him from penalty. R. Yehoshua maintains that if forgetting led one to perform a commandment one had to perform anyway, then the transgression entailed in this performance can be overlooked, whereas R. Eliezer maintains that a transgression remains a transgression even if it was done in the service of a commandment.

In the version that appears in the Palestinian Talmud and in the Mishnah's manuscripts, however, the order of the cases is reversed:

> [A'] If one had two babies, one to circumcise on the eve of the Sabbath and one to circumcise on the Sabbath, and he forgot and circumcised the one of the eve of the Sabbath on the Sabbath—he is liable [to bring a sin offering for violating the Sabbath].
>
> [B'] If he had one [baby] to circumcise after the Sabbath and one to circumcise on the Sabbath, and he forgot and circumcised the one of after the Sabbath on the Sabbath—R. Eliezer obligates him to bring a sin offering, and R. Yehoshua exempts him.[74]

According to this version, R. Eliezer and R. Yehoshua both agree that if on the Sabbath one circumcised a baby that should have already been circumcised on Friday, one is liable for violating the Sabbath. They disagree as to the one who circumcised a baby prematurely, that is, circumcised on the Sabbath a baby that should have been circumcised the following day. In this version the debatable issue is not whether *actual* fulfillment of a commandment exempts one from penalty, but rather whether *eagerness* to fulfill a commandment exempts one from penalty. Both R. Eliezer and R. Yehoshua agree that there is no excuse for delaying circumcision because of forgetfulness, so the one who circumcised the baby on the Sabbath having already forgotten to circumcise him on Friday is clearly at fault. But they disagree as to whether forgetfulness can serve as legitimate justification if one was so eager to perform the commandment that he did it ahead of its time.[75]

In both versions, neither of which can be regarded as more "original" than the other, the Mishnah could have made its point by putting forth a scenario that involves only one baby.[76] The second baby, the one who actually had to be

74. In the two Talmuds, this rendition of R. Eliezer and R. Yehoshua's dispute is attributed to R. Meir. See also BT Karetot 19b.

75. For a somewhat different explanation of the reasoning behind these two versions, based heavily on the Babylonian Talmud, see Edrei, "If Any One Shall Sin through Error," 35–39.

76. Lieberman maintains that two babies are strictly necessary only for the Palestinian version (disagreement on premature circumcision), whereas the Babylonian version (disagreement on belated circumcision) makes perfect sense with one baby only. See Lieberman, *Tosefta ki-pshutah Mo'ed*, 3:253–54.

circumcised on the Sabbath, was introduced to complicate the situation further, and thereby to explain how forgetting occurred in the first place: the subject forgot which baby was born when, or he was so consumed with circumcising one of the babies on the Sabbath that he bundled the other baby with him. In other words, the scenarios of two babies were created distinctly to depict a situation of significant cognitive overload. The setting in which the Mishnah piles together halakhic contingencies one on top of the other—three different combinations of circumcision + Sabbath (before, after, or during) that are, in turn, combined again with each other ("after" baby + "during" baby or "before" baby + "during" baby)—is illustrative of halakhic life as a whole. While a situation of having to circumcise two babies born one day apart is admittedly not a common occurrence, situations in which multiple halakhic factors nullify each other, or take precedence over each other, or generate a new arrangement altogether, are par for the course in halakhic observance. Rabbinic discussions of forgetfulness in such complex settings, then, divulge profound awareness that the system that the rabbis created can at times be more than humans can handle. This is not because those humans are lazy or weak or incompetent, and also not because the system is ill-conceived (the rabbis certainly did not think that it was). It is because the human mind operates in ways that the individual, no matter how willing, cannot fully control. Slipping in one element of this complex system, however, can only take place if one is so deep in the system already that he attempts to meet all of its competing demands at the same time, that is, if one is already a fully committed halakhic subject.

The rabbis' preoccupation with forgetting is an acknowledgment that the mind is not fully controllable and, moreover, that the cognitive demands of the halakhic system are so exerting that forgetfulness may at times be inevitable. At the same time, it is also an attempt to restore control over this uncontrollable reality by trying to predict how and when forgetfulness could happen and sometimes also to prevent it from happening. These efforts do not resolve the challenges of fallible memory as much as they reinscribe them: they shift the individual's responsibility from remembering the halakhic task at hand to remembering what the rabbis prescribed for fixing or avoiding forgetting. Forgetting, as I will now turn to show, thus becomes a defining feature not only of halakhic compliance, but also of rabbinic authority.

HOW GREAT ARE THE WORDS OF THE SAGES

As much as the rabbinic halakhic system governs every minute aspect of one's daily life, from the way one bakes bread to the way one puts on one's shoes, this system is devoid of any formal mechanisms of surveillance or supervision. Rabbinic sources operate with the assumption that it is every practitioner's responsibility to keep track of halakhic tasks and prohibitions, and they do not prescribe

any institutional measures to ensure correct practice. The rabbis make a point of depicting subjects whose halakhic motivation is intrinsic and whose commitment to practice is absolute, and of depicting their own role vis-à-vis their subjects as merely offering guidance when something goes awry. It could be argued, of course, that by assuming that their subjects would fail and come to seek their assistance afterward the rabbis are creating a *retroactive* surveillance system, but this system still relies on the premise of individual self-monitoring. At the same time, Tannaitic literature presents a variety of executive rabbinic decisions to expand prohibitions or to rechart halakhic requirements in order to "distance one from transgression" and to prevent possible mistakes or omissions.[77] The underlying premise of these decisions is that left to their own devices, subjects are likely to err in their halakhic practice or neglect it altogether—in other words, that subjects are not always able to self-monitor.

Above we examined several rulings put forth to prevent what the rabbis deem probable forgetfulness. In some cases, such as prayer or carrying on the Sabbath, they institute a buffer zone to decrease the likelihood of forgetfulness, whereas in others, such as reading by the light of the lamp on the Sabbath or a man and a woman with genital discharge sharing a meal, they entirely prohibit a licit activity so that it does not lead to an illicit activity. In these cases and others like them the rabbis openly present themselves as manipulating the laws of halakhah, justifying this manipulation by asserting that the unmodified law leaves people too prone to failure. Let us consider the very first example of "distancing one from transgression" in the Tannaitic corpus:

> As of when does one recite the Shem'a in the evenings? From the time in which the priests enter to eat their heave-offering, up until the end of the first watch, the words of R. Eliezer. And the Sages say, "Until midnight." Rabban Gamaliel says, "Until the break of dawn."
>
> It once happened that [Rabban Gamaliel's] sons came back from a wedding feast [past midnight]. They said, "We did not recite the Shem'a." He told them, "If dawn has not yet broken, you are obligated to recite."
>
> And not only that, but anything regarding which the Sages said, "Until midnight," its commandment stands until the break of dawn. . . . If so, why did the Sages say, "Until midnight"? To distance one from transgression.[78]

Without delving into the complex textual history of this passage, which evidently consists of several different layers, I wish to observe the overall rhetorical thrust

77. As Aaron Panken showed, this is the primary meaning of the term "decree" (*gezerah*) in Talmudic texts. See Aaron D. Panken, *The Rhetoric of Innovation: Self-Conscious Legal Change in Rabbinic Literature* (Lanham, MD: University Press of America, 2005), 247–81.

78. M. Berakhot 1.1.

of this passage as it stands before us.[79] The reader/listener is presented with two key messages: first, that in truth it is legitimate to recite the evening Shem'a until dawn (except according to the discounted minority opinion of R. Eliezer), and second, that the Sages set an earlier time limit for the evening Shem'a because they assumed that individuals would occasionally falter in their observance. By setting an artificial early deadline for the recitation, the Sages enable people to miss the deadline, as they are likely to do, but still make the "real" deadline—as the story of the sons of Rabban Gamaliel demonstrates. In saying, effectively, "If we would tell you that the Shem'a time is until dawn you would postpone it to the last minute and miss your chance of reciting it altogether, so we will tell you that it is earlier," the Sages appear to be making two interrelated statements: first, *we do not trust you* to have the discipline or the cognitive resources to handle this halakhic task unassisted, and second, *you need to trust us* that we know you better than you know yourself. The same subtext is manifest in the examples we saw above of rulings meant to preempt forgetfulness: while people may think that they will remember the prohibition or the requirement in time to prevent halakhic mishaps, the rabbis tell them that they probably will not. The subjects' path to correct performance is not to trust themselves, but to trust the Sages.

Herein, I propose, lies the critical importance of forgetfulness for the formation of rabbinic authority in the Tannaitic corpus and thereafter. It is self-evident that the early rabbis want to present themselves as experts in the interpretation of scripture and in the practical (or nonpractical) navigation of the requirements of biblical law. If they were not invested in this self-presentation, they would not have taken on their ambitious legislative and exegetical projects to begin with. But scenarios of forgetfulness in the halakhic realm, and especially rulings meant to preempt forgetfulness in the halakhic realm, provide rabbinic input not only on the law but also on the very volatile workings of the human mind. As such, the authority claimed through these scenarios goes beyond a text-based or tradition-based specialty and reaches into the realm of skillful people-management. To be clear, the early rabbis are neither therapeutic philosophers nor pastors: they do not purport to take care of or transform their subjects' minds or souls (at least not explicitly), but they do purport to know how these minds work in halakhic settings and to shape these settings accordingly. Here it is important to distinguish between the rabbis' attempts to discern people's thoughts and intentions based on the circumstances or on their behavior, which are prominent features of the rabbinic halakhic discourse, and the rabbis' attempts to predict memory failures. Whereas the former endeavor is based on a view of individuals as rational

79. On the composition and creation of this passage, see Shlomo Naeh, "Text and Structure of the First Mishnah in Tractate Berachot" (in Hebrew), in *To Be of the Disciples of Aharon: Studies in Tannaitic Literature and Its Origins in Memory of Aharon Shemesh* (= *Te'uda* 31), ed. Daniel Boyarin, Vered Noam, and Ishay Rosen-Zvi (Tel Aviv: Tel Aviv University Press, 2021), 251–75.

beings who control their own decisions and actions, the latter endeavor assumes *lack* of control over one's mind and inability to conduct oneself rationally at all times. Scenarios of forgetfulness, in other words, are rhetorical means through which the rabbis assert not only their knowledge of the substance of halakhah, but also their role in directing the memory of humans who are not always able to direct it themselves. Again, the rabbis do not present an aim to correct their subjects and to turn them into perfect practitioners once and for all. Rather, their aim is to win the trust of subjects, real or imagined, who will never stop failing but will reliably seek advice and counsel on how to handle their failures.

There is no way of knowing whether broader circles of Jews in Tannaitic times were aware of this rabbinic rhetoric (and whether it had any impact on them) or if it was an entirely internal rabbinic discourse of self-positioning and self-justification. It can be safely said, however, that this mode of constructing rabbinic authority—as built not only on substantive legalistic knowledge but also on the ability to predict human cognitive failings—became highly prevalent in rabbinic texts after the Tannaitic period. In the Palestinian Talmud, a clear trend can be identified: when a need arises to explain a Tannaitic ruling that is not self-evident, a readily available explanation is that this ruling was meant to preempt possible forgetting.[80] In the Babylonian Talmud, Tannaitic rulings are frequently explained as setting out not to preempt forgetfulness per se but to preempt a possible misunderstanding of the prohibition that could lead one to make wrongful allowances.[81] While it is beyond the scope of this book to discuss the question of why the two Talmuds diverge in this respect, suffice it to note that both Talmuds divulge a working assumption that rabbinic halakhah is produced with a constant eye toward all the ways in which human cognitive fallibility (rather than weakness of will or misguided passion) can lead one astray. This working assumption, I contend, is rooted in Tannaitic discussions of forgetfulness.

The use of possible forgetfulness as a ready-made justification for rabbinic rulings that warrant explanation can be detected clearly already in one Tannaitic source:

> It once happened that R. Ishmael was walking behind R. Yehoshua. [R. Ishmael] said to him, "One who is pure [in the degree appropriate] for purification water, who

80. PT Berakhot 8.1, 11d (= Berakhot 8.8, 12c), PT Demai 7.4, 26b, PT Ma'aser Sheni 2.4, 53d, PT Shabbat 2.4, 5a, PT Eruvin 3.7, 21a, PT Eruvin 7.1, 24b, PT Eruvin 7.6, 24c, PT Eruvin 7.10, 24d, PT Pesahim 3.3, 30a, PT Pesahim 4.4, 31a, PT Betzah 5.2, 63a, PT Hagigah 3.3, 79b.

81. There are several dozens of cases of this sort in the Babylonian Talmud, too many to enumerate here. For a particularly persuasive analysis of one example, see Richard Hidary, "'One May Come to Repair Musical Instruments': Rabbinic Authority and the History of the *Shevut* Laws," *Jewish Studies Internet Journal* 13 (2015): 1–26. As Hidary explains, a set of Sabbath-related prohibitions known as *shevut* date back to the Second Temple period and have to do mainly with customs for preserving the integrity of the Sabbath, but in the Babylonian Talmud these prohibitions are explained as meant to preempt one from inadvertently slipping into a forbidden activity.

shifted a key that was pure [in the degree appropriate] for heave-offering, what is he, impure or pure?"

[R. Yehoshua] said to him, "Impure."

[R. Ishmael] said to him, "And why so?"

[R. Yehoshua] said to him, "Lest there was some old impurity in his hand (i.e., he had become impure previously), or lest he forget and shift an impure object."

[R. Ishmael] said, "Is it not the case that he [remains pure even if he] certainly shifted [an impure object]?[82] But your words do seem [cogent] regarding an object that can convey impurity through treading, lest there was some old impurity in his hand, or lest he forget and shift an impure object."[83]

The specific halakhic details of this dialogue are intricate, and I will do my best to explain them as succinctly as possible. The degree of ritual purity required for handling purification water, which is used to eliminate corpse impurity, is very high, so much so that any lesser degree of purity is regarded as impurity in relation to it. Even priests who have purified themselves to the degree required to consume heave-offering convey impurity to those who are charged with handling purification water, and any object on which people at a lesser degree of purity "tread" (that is, sat on or lay upon or stepped on) also conveys impurity to those handling purification water.[84] The disagreement in this passage pertains to the impurity threat presented by objects that do not lend themselves to treading, such as a key. R. Yehoshua maintains that even such objects can convey impurity (while technically pure!) to those pure at the degree required for purification water, whereas R. Ishmael follows the opinion that only objects that lend themselves to treading (such as chairs, clothes, bedding, etc.) can do so.[85] Both rabbis agree that perfectly pure objects can convey impurity to those who must operate at the highest degree of purity, but they disagree on what kinds of objects fall under this category. Their discussion, however, revolves around the reasoning behind this admittedly strange ruling. If the general principle is that a person needs to be in contact with a known and certified source of impurity in order to become impure, how is it, R. Ishmael asks R. Yehoshua, that a person can become impure by causing a completely pure object to shift (not even touching it directly)?

82. The text is cryptic, and I am following the reading proposed by Lieberman. See Saul Lieberman, *Tosefet Rishonim: Tohorot*, vol. 3 (in Hebrew) (Jerusalem: Bamberger and Wahrman, 1937–39), 248. As Lieberman explains, R. Ishmael maintains that shifting an object like a key would not make one impure even if the object were actually impure.

83. T. Parah 10.3 (ed. Zuckermandel 638–39). The passage continues with an exchange between the two rabbis that was probably imported wholesale from M. Avodah Zarah 2.5 and is not relevant for our purposes. See Shlomo Naeh,"Your Affections Are Better than Wine: A New Approach to Mishnah Avodah Zarah 2.5" (in Hebrew), in *Studies in Talmudic and Midrashic Literature in Memory of Tirtzah Lifshitz*, ed. Moshe Bar-Asher, Arye Edrei, Joshua Levinson, and Berachyahu Lifshitz (Jerusalem: Bialik Institute, 2005), 412–13n6.

84. M. Hagigah 2.7.

85. See M. Parah 10.1 and T. Parah 10.2 (ed. Zuckermandel 638).

In response to R. Ishmael's question, R. Yehoshua presents two alternative answers, both of which have to do with forgetting. The first answer is that the person who is about to handle purification water may have forgotten that he contracted some other kind of impurity in the past, so it would not hurt to render him impure just to make sure he purifies himself one more time before he gets hold of the sacred water.[86] The second answer is that if the person who needs to maintain a particularly high level of purity feels comfortable moving objects around when they are pure, he may come to forget himself and move objects that are actually impure. Per both explanations, the reasoning behind this perplexing ruling is that human beings, even those charged with ominous tasks like handling purification water, cannot be trusted to be in full control of their memory. They are prone both to episodic memory failures (one may forget that one is impure) and to prospective memory failures (one may forget that one must not move impure things). To preempt or counteract forgetfulness and to prevent one from handling purification water when one is actually impure, the rabbis decided to impose an impurity status on objects that are otherwise pure. R. Ishmael, in turn, disagrees with R. Yehoshua as to the kinds of objects to which this preventative ruling applies, but fully adopts the reasoning that he suggests.

Now, I dare say that this reasoning (that is, the prospect of forgetfulness) was probably *not* the original motivation behind the rabbinic principle that objects pure at a lesser degree convey impurity to people pure at a higher degree. As Yair Furstenberg showed, this principle is most likely indicative of a hierarchical perception of the realm of purity as organized in concentric social circles, a perception that can be traced back to the Second Temple period.[87] But it is exactly because the explanation provided by R. Yehoshua seems quite artificial that it is so significant: it demonstrates that concern regarding forgetting could readily serve to justify rabbinic rulings whether these rulings were intended as such or not. Already in the Tannaitic period, then, rabbis presented themselves as predictors of forgetfulness and preemptors of forgetfulness, such that a preferred explanation for seemingly arbitrary rulings could be "This is meant to prevent failures of memory."

To this we may add one curious ruling regarding the practice of *'eruv*, the precarity of which was discussed earlier in this chapter. As I mentioned, there are two kinds of *'eruv* arrangements that are meant to turn a public area into a private domain, such that one would be able to carry items freely within this area on the Sabbath: "mixing of courtyards," in which several houses in a single courtyard share a repository of food to render the courtyard everyone's residence, and "sharing of alleyways," in which several courtyards in one alleyway share a repository of food for the same purpose. It is immediately evident that the latter practice obviates the

86. Cf. T. Kippurim 1.16 (ed. Lieberman 227) and the discussions in BT Yoma 31a and PT Yoma 3.3, 40b.

87. Furstenberg, *Purity and Community*, 235–41.

former: if all the courtyards in a certain alleyway are considered to be one domain, then necessarily each one of these courtyards separately is also considered one domain. The Mishnah, however, determines that even if all the courtyards in an alleyway share an *ʿeruv*, it is still necessary to prepare an *ʿeruv* for each courtyard separately, "so as not to let the children forget."[88] The underlying assumption here is that if children do not witness the practice of preparing an *ʿeruv* in their immediate vicinity, they will forget the workings of this practice and presumably become unaware of it altogether. In the Babylonian Talmud's interpretation, the concern is not only that children who did not see the *ʿeruv* in their own courtyard will not know how to prepare an *ʿeruv* in the future, but also that they will eventually question the very legitimacy of this practice: "Lest they say, 'Our ancestors did not prepare an *ʿeruv*.'"[89] Interestingly, in the Tosefta version (in which the Mishnah's ruling is attributed to R. Meir), children are not explicitly mentioned; rather, the purpose of *ʿeruv* in courtyards is "so that the essence of the *ʿeruv* (*ʿiqqar ha-ʿeruv*) not be forgotten."[90] This phrasing indicates that all members of the community, not only children, are prone to forget what an *ʿeruv* is and how it is to be used if they do not engage in a practice that is, in and of itself, superfluous. Here, too, the rabbis present themselves as putting halakhic rulings and regulations in place strictly in an effort to preempt forgetfulness, in this case on a collective rather than individual level. The same explanatory pattern was utilized further in a few Amoraic sources, which justify practices that do not seem to have a clear purpose by saying that they were meant to keep entire halakhic areas of knowledge from being forgotten.[91]

The rabbis' self-presentation as predictors and preemptors of forgetfulness is a critical element of the greater Tannaitic enterprise of creating "the Sages" (*ḥakhamim*) as a distinct, cohesive, and vital social entity. Scholars such as Catherine Hezser, Hayim Lapin, and Seth Schwartz convincingly argued that what we have come to call "the rabbinic movement" was, in the first and second centuries, a diffuse and scattered network of local informal associations, each organized around a master with his own disciples.[92] The emergence of this loosely connected network as one movement with shared traditions and ancestry, which has its own established institutions and its own commitment to the organization and preservation of materials, is not so much reflected in early rabbinic texts as it is achieved through these texts. In the words of Schwartz, "This text [the Mishnah], by constantly naming 'rabbis,' setting them in dialogue with one another and attributing to them legal opinions presented as more or less authoritative, in effect

88. M. Eruvin 7.9.

89. BT Eruvin 71b.

90. T. Eruvin 6.6 (ed. Lieberman 120).

91. See PT Sotah 7.8, 22a: "so that tithes not be forgotten"; BT Pesahim 51a, Bekhorot 27a: "lest the teachings of *ḥallah* be forgotten"; BT Bekhorot 18b: "lest the teachings of [priestly] gifts be forgotten."

92. Hezser, *The Social Structure;* Schwartz, *Imperialism and Jewish Society*, 103–28; Lapin, *Rabbis as Romans*, 38–63.

constructs a rabbinic organization."[93] Put differently, it is in the Tannaitic literature that "the Sages" are created and that a somewhat coherent picture of where they came from and what they do is put forth by compiling many scattered rulings and case-narratives. Scenarios of forgetfulness offer an added dimension to the emerging picture of "the Sages" by depicting the Sages' role as creating a bridge between the hard-and-fast law and fragile and volatile human cognition.

From all that has been said so far, it may sound like the rabbis utilize forgetfulness not only to make the case for their own authority, but also to create a two-tiered model of society: at the very narrow top are the rabbis, who can handle the massive cognitive overload of halakhah and never forget anything, and at the very wide bottom are all other Jews, who are much less capable of perfect halakhic performance and are prone to forgetting, but who trust the rabbis to provide them with guidance on how to navigate the perils of forgetting. This, I contend, is not quite the case. At no place in Tannaitic literature do the rabbis suggest that there is a qualitative difference between people who are prone to forgetfulness and people who are not, and in one story we even see a prominent rabbi who presents the exact kind of forgetfulness that a rabbinic ruling sought to prevent. This story, with which I conclude this chapter, demonstrates that what was at stake for the rabbis was not their own infallibility as flesh-and-blood individuals, but the authority of "the Sages" as a religious institution and as a cultural icon.

Did R. Ishmael Tilt the Lamp?

We return now to the Mishnaic ruling according to which one should not read by the light of the lamp during the night of the Sabbath, since he may come to tilt the lamp and accidentally rekindle its flame. Commenting on this ruling, the Tosefta provides the following anecdote:

> R. Ishmael said, "One time I was reading by the light of the lamp and I wanted to tilt it. I then said, 'How great are the words of the Sages, who said that one must not read during the night of the Sabbath by the light of a lamp!'"[94]

The event tersely related in this passage is, admittedly, a nonevent: R. Ishmael confesses that he was once reading by the light of a lamp (presumably, during the night of the Sabbath) and almost tilted it to generate more light. This almost-incident led him toward a renewed appreciation of the rabbinic ruling that one should not read by the light of the lamp during the Sabbath. The first question that comes to mind is, of course, why R. Ishmael was reading by the light of the lamp during the Sabbath in the first place when the Sages—as he himself acknowledges—explicitly prohibit it (or at least discourage it). One possibility is that he forgot this rabbinic ruling until he was reminded of it when almost tilting the lamp; another

93. Schwartz, *The Ancient Jews*, 111 (emphasis original).
94. T. Shabbat 1.13 (ed. Lieberman 3).

possibility is that he remembered the ruling but decided to defy it, thinking that he would be able to read without running the risk of tilting the lamp. Both the Palestinian Talmud and the Babylonian Talmud opt for the latter interpretation: in the Talmuds' version R. Ishmael is quoted as saying (or thinking), "I will read but will not tilt."[95] One way or another, it is clear that in this statement R. Ishmael sets out to provide justification for a rabbinic ruling that can seem, on the face it, superfluous. For one who knows that the rabbis prohibited a perfectly licit activity just because it could lead through forgetfulness to an illicit activity, it is rather tempting to unconsciously dismiss or to consciously reject the prohibition and to trust oneself to monitor one's own behavior. R. Ishmael uses himself as an example to combat this impulse: in fact, he says, no one should ever trust oneself to monitor one's own behavior.[96] One must concede that the Sages know one better than one knows oneself.

R. Ishmael's position in this story is exceptional, since he is both one of "the Sages" and therefore directly implicated in the authority that made the ruling *and* is in the role of the forgetful subject for whom this ruling was intended. When R. Ishmael marvels at the greatness of "the words of the Sages" he effectively subordinates himself—the individual rabbi—to the authority of the institutional, collectivized Rabbis, to "the Sages" as an icon of knowledge and wisdom. The flesh-and-blood rabbi, he seems to say, is fallible and imperfect, but the abstract entity that the Rabbis constitute together merits obedience and awe insofar as it knows exactly how individuals are likely to fail and how to combat such failures. At the same time, it is worth noting that R. Ishmael, according to his own account, did not *actually* tilt the lamp, but only *almost* tilted it. While R. Ishmael concedes that no man, not even himself, is above the rulings of the Sages that are meant to assist fallible individuals in their observance, he also makes a point of drawing a subtle line between himself, who can stop short of transgression at the last minute, and those who actually transgress.

If the phrase "How great are the words of the Sages" in association with R. Ishmael sounds familiar, it is because this phrase also appears in the stories of the two weaving women that I discussed toward the end of the previous chapter. In these stories two women come to consult with R. Ishmael because they made a commitment to weave garments in a state of ritual purity, and while they cannot think of anything that compromised the purity of the garments, they also concede that they did not have it in their hearts to guard them. R. Ishmael asks the women questions that eventually lead them to remember an event that did, in fact, compromise the purity of the garments. He concludes by saying, "How great are the words of the Sages, who said, 'If one did not intend to guard [an object in a state of purity], it

95. BT Shabbat 12b; PT Shabbat 1.3, 3b.

96. Indeed, in the Palestinian Talmud this anecdote is immediately followed by a quotation from M. Avot 2.4: "Do not believe in yourself until the day you die."

is impure.'"[97] Both these stories and the story of the tilted lamp deal with memory lapses (the stories of the two women with episodic memory lapses, and the story of the lamp on the Sabbath with a prospective memory lapse), and, moreover, both deal with insufficient attentional monitoring—that is, with failure to keep conscious and vigilant watch of one's environment and one's memory. The concluding line "How great are the words of the Sages" in these stories epitomizes the Rabbis' self-presentation as wise men who know not only the law, but also and perhaps especially the erratic and uncontrollable workings of the human mind.[98]

But the account in the Tosefta does not end there. Immediately after R. Ishmael is quoted as praising the greatness of the words of the Sages, we are offered an alternative version of what really happened that night:

> R. Nathan said, "He most certainly did tilt [the lamp], and it is written on his tablet: 'Ishmael ben Elisha tilted the lamp on the Sabbath, when the temple is rebuilt he will bring a sin offering.'"[99]

According to R. Nathan, R. Ishmael did not merely *want* to tilt the lamp: he actually did tilt it. R. Nathan claims to know this not because he witnessed the event or because R. Ishmael told him, but because he found that R. Ishmael himself documented his failure on his writing tablet.[100] Does R. Nathan imply that R. Ishmael was somewhat disingenuous in the way he was telling this story, attempting to protect his own reputation? Or does he suggest that the rabbis who transmitted the anecdote were the ones who (intentionally or unintentionally) modified the story? It is difficult to know, and yet one thing is clear: R. Nathan expresses unequivocally that there really is no separating line, not even a fine one, between a rabbi and a typical forgetful subject. If one would allow oneself to ignore the instructions of the Sages that are meant to prevent forgetfulness, one *will* forget, and one *will* transgress—regardless of who one is.[101]

Perhaps more intriguing is the fact that in R. Nathan's account, the story ends with another prospective memory task: R. Ishmael commits not to forget that since

97. T. Kelim Baba Batra 1.2–3 (ed. Zuckermandel 590).

98. This phrase appears only in one additional place in the Tannaitic corpus, in a statement attributed to R. Akiva in T. Yebamot 14.5 (ed. Lieberman 53).

99. In MS Erfurt (Berlin), as well as in the Babylonian Talmud: a fat sin offering.

100. Avigail Manekin-Bamberger raised the possibility that the tablet in this case is a heavenly tablet, which presents a divine accounting regarding R. Ishmael. This is an intriguing suggestion, but it does leave open the question of how R. Nathan came to know what is written on R. Ishmael's heavenly score sheet.

101. Interestingly, in the Babylonian Talmud (Shabbat 12b) Rava maintains that "important men" have an exemption from the rule not to read by the light of the lamp on the Sabbath, presumably because they are conscientious enough not to tilt it. The anecdote about R. Ishmael is brought forth as a potential challenge to this ruling, but it is explained that R. Ishmael is exceptional, since he considered himself "as a layman" when it came to the words of Torah. According to this account, there *is* a fundamental difference between rabbis and commoners when it comes to forgetting, but a rabbi may take on (willingly?) the position of a commoner in his behavior.

he violated the Sabbath, he must bring the requisite sin offering when the temple is rebuilt. Remarkably, this is one of only a handful of references in the entire rabbinic corpus to writing for the purpose of private memory-keeping,[102] and it could be read as an indication that R. Ishmael decided to take his faulty memory seriously: scarred by his recent experience of forgetfulness, he decides to create a visible and concrete memory aid to ensure that he at least does not forget to atone for his transgression when it is possible to do so. Yet it would be a bit naïve to envision R. Ishmael, even as a literary character, assuming that the temple is going to be built so imminently that his to-do list on his writing tablet would soon come in handy. Rather, the act of writing on the tablet is performative in nature. It is a way of demonstrating a commitment to remember what is for all intents and purposes a purely theoretical obligation, as no actual temple exists in R. Ishmael's time, and of making this theoretical obligation as real and demanding as one's many other pressing memory tasks. R. Nathan, then, turns R. Ishmael's tilted lamp story from a commentary on all the small ways in which our memory fails us in everyday life—and on the Sages' ability to predict and preempt such failures—into a commentary on the expansive array of memory obligations that the most pious individuals work to keep in mind, which include even sacrifices and temple-related rituals that are not immediately relevant. In the next chapter, we will see how the rabbis' mapping of the sacrificial field and of the memory tasks pertinent to it gave rise to one of the most curious and perplexing concepts in rabbinic literature, the concept of *he'elem*, or, as I will call it, partial eclipse of the mind.

102. See Ya'akov Sussmann, "Oral Torah, Plain and Simple: The Power of the End of a Yod" (in Hebrew), in *Talmudic Studies*, vol. 3, *Dedicated to the Memory of Professor Ephraim E. Urbach*, ed. Yaakov Sussmann and David Rosenthal (Jerusalem: Magnes Press, 2005), 209–384.

3

Partial Eclipse of the Mind

My discussion so far has suggested that the Tannaitic preoccupation with memory failures reflects the challenges and ideologies pertinent to the formation of early rabbinic Judaism. First, I argued that the complex, intricate, and demanding halakhic system that the rabbis constructed gave rise to multiple opportunities for forgetting and made cognitive omissions a genuine concern. Second, I argued that the rabbis utilized memory failures as a powerful rhetorical tool in their attempt to depict their version of Judaism as appropriate for all Jews and themselves as its rightful guardians. It is time to note, however, that the rabbis' enterprise of building omissions and inadvertent failures into their legal system is not wholly unprecedented. The rabbis took some of their most important cues from the Priestly Code of the Pentateuch, and specifically from chapters 4 and 5 of the book of Leviticus that deal with erroneous transgressions. The anecdote with which I concluded the previous chapter, about R. Ishmael, who made a note for himself to bring a sin offering for violating the Sabbath once the temple is rebuilt, reminds us that the rabbinic map of memory failures was in some respects an added layer upon a much more ancient map that matched mental omissions with required sacrifices. But this ancient map, as this chapter will show, was thoroughly recharted and redrawn by the rabbis, who experimented wildly with the biblical notion of inadvertent transgression and presented radically new ideas on halakhic memory, agency, and responsibility.

The book of Leviticus commences with instructions regarding three kinds of offerings: burnt offering, in which an entire animal is burned on the altar; grain offering, which is mostly eaten by the priests; and well-being offering, which is eaten by the owners with certain portions given to the priests. These three offerings are well known, not only from other sources in the Pentateuch that precede the Priestly Code, but also from the surrounding ancient Near East.[1] Chapters 4

1. See Baruch Levine, *In the Presence of the Lord: A Study of Cult and Some Cultic Terms in Ancient Israel* (Leiden: Brill, 1974), 3–45.

and 5 then introduce two kinds of offerings that are unique to the Priestly Code (and to texts closely related to the Priestly Code), called *ḥattat* and *'asham*. These offerings are meant, in different configurations and varying according to different contingencies, to expiate transgressions that were committed inadvertently, "when anyone sins unintentionally in any of the YHWH's commandments about things not to be done and does any one of them."[2] The question of how to translate the names of these offerings is itself a charged one. The nouns *ḥattat* and *'asham* mean, in their other occurrences in the Hebrew Bible, "sin" (or more accurately, "transgression") and "guilt," respectively. Scholars thus traditionally translated the names of these offerings as "sin offering" and "guilt offering" and interpreted them as sacrifices meant to atone for transgressions and attain forgiveness for the sinner, an interpretation that was often entangled in Christian theology. Other scholars, most notably Jacob Milgrom, insisted that these offerings be understood as means for cleansing the sanctuary and not the transgressor.[3] Accordingly, Milgrom maintained that *ḥattat* and *'asham* should be translated as "purification offering" and "ramification offering," respectively, and that they should be understood not as priestly innovations but in line with similar rites of purification known from the ancient Near East.[4]

While Milgrom is surely correct that the main function of the priestly expiatory offerings is purification, I find the translation "sin/guilt offering" more suitable, and I will be using this terminology throughout the chapter. As James Watts observed, it is important to distinguish between the overall function of these offerings in the priestly sacrificial system and the rhetoric of their presentation specifically in Leviticus 4 and 5. These chapters make repeated use of the verbs "to transgress" (*ḥ-t-'a*) and "to be guilty" (*'a-sh-m*) in conjunction with the names of the offerings deriving from these roots, thus effectively making the point that these offerings exist, first and foremost, to rectify transgressions and failures. Even if their function is technically to cleanse the sanctuary or to repair damage done to it, they are emphatically portrayed as geared toward an individual's (or a community's) guilty conscience and as capable of changing one's standing with

2. Lev. 4:2. While the general framework of these chapters pertains to inadvertent transgressions, two of the offenses mentioned in Lev. 5 (5:1, 5:20–23) are not specifically mentioned as having been committed erroneously, and the instructions regarding these offenses seem to cover intentional violation of the law as well. Milgrom suggested that these may have been independent laws that were incorporated into the list of inadvertent offenses at a later point. See Jacob Milgrom, *Leviticus: A Book of Ritual and Ethics* (Minneapolis: Augsburg Press, 2004), 48–49.

3. See Jacob Milgrom, "Israel's Sanctuary: The Priestly Picture of Dorian Gray," *Revue Biblique* 83 (1976): 390–99.

4. For a survey of scholarship on the translation of *ḥattat* and *'asham*, see James Watts, *Ritual and Rhetoric in Leviticus: From Sacrifice to Scripture* (New York: Cambridge University Press, 2007), 79–85; William K. Gilders, "חטאת as Sin Offering: A Reconsideration," in *The One Who Sows Bountifully: Essays in Honor of Stanley K. Stowers*, ed. Caroline Johnson Hodge, Saul M. Olyan, Daniel Ullucci, and Emma Wasserman (Providence: Brown Judaic Studies, 2013), 119–28.

God.[5] Most important for our purposes, Watts notes that Leviticus 4 and 5 are unique in the greater landscape of ancient Near Eastern ritual instructions insofar as they prescribe these offerings specifically for *inadvertent* offenses, whereas other similar texts do not distinguish between intentional and unintentional offenses when it comes to purification and cleansing.[6] The priestly innovation is not in requiring sacrificial practices to deal with transgressions and pollution, but in specifying that these practices are required for transgressions committed without the committer realizing it. As such, *ḥattat* and *ʾasham* are rhetorically set to speak to the audience's sense of religious anxiety (but also, of course, to *generate* a sense of anxiety), and to reassure the audience that the elaborate priestly system of cultic regulations is the means through which such anxiety can be allayed.

There is notable correspondence between the priestly preoccupation with inadvertent transgression (*shegagah*) and the rabbinic preoccupation with memory failures. Both are indicative of the authors' view that the legal-ritual system with which Israelites/Jews are required to comply is complex and demanding, such that slippage is a very real possibility.[7] Both also demonstrate the authors' efforts to incorporate omissions and unintentional failures *into* their system rather than marking failures as pushing one outside the system, and both the priestly authors and the rabbis ultimately use their guidelines regarding inadvertent omissions to make a case for their own authority and indispensability. Perhaps most fundamentally, the rabbis share with the priestly authors the premise (which was held by other ancient legislators as well)[8] that intentionality or the lack thereof is a decisive factor in determining the legal or ritual consequences of an action, although the rabbis famously expanded and enhanced the role of intention in their system well beyond the priestly authors.[9]

It is important to register, however, that the Priestly Code is concerned only with cognitive omissions that *actually* lead to transgression, whereas the rabbis are concerned, as we have seen in the previous chapters, with a much larger variety of

5. Watts, *Ritual and Rhetoric*, 85–96; see also Noam Zohar, "Repentance and Purification: The Significance and Semantics of חטאת in the Pentateuch," *Journal of Biblical Literature* 107, no. 4 (1988): 609–18.

6. James Watts, "The Historical and Literary Contexts of the Sin and Guilt Offerings," in *Text, Time, and Temple: Literary, Historical, and Ritual Studies in Leviticus*, ed. Francis Landy, Leigh M. Trevaskis, and Bryan Bibb (Sheffield: Phoenix, 2015), 85–93.

7. As Watts commented, the recurring phrase "*any* of the Lord's commandments" in Leviticus 4 and 5 grounds sin and guilt offerings in the larger narrative context of continuous giving of multiple laws to the people of Israel; see Watts, *Ritual and Rhetoric*, 93. Liane Feldman noted that the instructions regarding sin and guilt offerings are introduced at one and the same time as the very notion of negative commandments, or things not to be done. See Liane M. Feldman, *The Story of Sacrifice: Ritual and Narrative in the Priestly Source* (Tübingen: Mohr Siebeck, 2020), 62–64.

8. See David Daube, "Error and Ignorance as Excuses in Crime," in *Ancient Jewish Law: Three Inaugural Lectures* (Leiden: Brill, 1981), 49–70.

9. See Howard Eilberg-Schwartz, *The Human Will in Judaism: The Mishnah's Philosophy of Intention* (Atlanta: Scholars Press, 1986); Balberg, *Purity, Body, and Self*, 74–95.

cognitive omissions, even if they do not result in forbidden actions (for example, forgetting one's previous activities such that one finds oneself in halakhic uncertainty, forgetting to perform necessary tasks such that one's ability to carry out one's halakhic plans is compromised, forgetting voluntary activities such as prayer and self-imposed fasts, etc.). For the rabbis, cognitive omissions that are the direct cause of transgressions actually committed, on account of which one is obligated to bring a sin or guilt offering, form a specific and idiosyncratic halakhic category. This halakhic category, which relies heavily on the Priestly Code but also takes it in surprising new directions, is the topic of this chapter.

At the center of this chapter stands the novel rabbinic concept of *he'elem*, which can be roughly translated as "concealment" but which I prefer to call "mental eclipse." This concept is based upon several biblical verses in Leviticus 4 and 5 that describe an individual's lack of awareness of their transgression with the words "and the matter was concealed from him (*ve-ne'elam mimenu*)."[10] From the verb *ne'elam* the rabbis derived the noun *he'elem*, which denotes an episode of unawareness of a transgression. *He'elem* is used in early rabbinic literature to discuss situations in which one's knowledge (either of facts or of laws) is temporarily suspended such that one transgresses against stark biblical prohibitions and does not realize it. This suspension of knowledge is best described as mental eclipse: for as long as *he'elem* lasts (which can be minutes or days or years), specific parts of the vast array of legal prohibitions that the subject holds in his mind simply go dark, and he acts as though the "concealed" prohibitions do not exist. To be clear, *he'elem* cannot be understood in terms of a pathological condition that affects one's mind as a whole. The rabbis conceptualize *he'elem* as pertaining to one specific commandment, and sometimes even to one part of one specific commandment, so one can theoretically excel in one's halakhic performance in every respect except for one element that currently escapes him. Hence the title of this chapter, "Partial Eclipse of the Mind," rather than "Total Eclipse of the Mind."

The applicability of *he'elem* is quite limited in Tannaitic discourse. The rabbis only use this concept to account for mental omissions that lead to particular transgressions, specifically to any of the thirty-six transgressions that obligate one to bring a sin offering when done erroneously and condemn one to extirpation (*karet*) when done purposefully. Those thirty-six transgressions include things like forbidden sexual relations, idolatry, violation of the Sabbath, eating bread on Passover, and misuse of sacred items; they do not include things like murder, theft, failing to give alms or tithes, eating nonkosher animals, and many other possible transgressions.[11] In addition, *he'elem* is a heavily theoretical concept that should not be taken as responding to any real-life situations, but rather as an analytical apparatus used to examine questions of legal responsibility vis-à-vis mental states. Most discussions of *he'elem* set out to determine one issue only: whether

10. Lev. 4:13, 5:2, 5:3.
11. M. Karetot 1.1–2.

the one who unknowingly transgressed owes a sin offering or not and how many sin offerings he owes, which is hardly a practical concern in the time of the rabbis. These discussions, however, present systematic efforts to examine what kind of consciousness and what kind of awareness of the law are required to define one's agency and responsibility within the halakhic system. My purpose in this chapter is to explore the category of *he'elem* as a conceptual laboratory through which the early rabbis experimented with memory failures and cognitive vicissitudes in the halakhic landscape.

Generally speaking, *he'elem* in Tannaitic texts pertains both to situations in which one had no access to the relevant knowledge to begin with (e.g., one never learned that certain actions were prohibited) and to situations in which one had the relevant information but forgot it. The fact that ignorance and forgetfulness are regarded interchangeably is significant in and of itself, as it reveals the extent to which the rabbis considered one's mind to be outside of one's control: in a state of "eclipse" one is no more responsible for knowledge one temporarily lost than for knowledge one never had. Several texts, however, indicate that at least some rabbis were deeply invested in making a distinction between ignorance and forgetfulness for the purpose of determining liability, and insisted that *he'elem* pertains only to one and not to the other. The discussions in these texts allow us to reconstruct pieces of a rabbinic metadiscourse on human fallibility in the observance of commandments, and to get a glimpse of competing theories of legal subjectivity that animated these seemingly arcane and inscrutable scholastic debates. I propose that while the scenarios the rabbis develop in their discussions of *he'elem* are highly theoretical and sometimes even absurd, they nonetheless reveal a fundamental concern with the volatility and unreliability of the human mind. The imagined subject who experiences mental eclipses in these scenarios, who is to some extent an extreme or exaggerated version of the forgetful subjects we encountered in the previous chapters, is a canvas on which the rabbis can draw and redraw the boundaries of cognitive control, the boundaries of halakhic agency, and the boundaries of their own authority.

IN AND OUT OF THE MIND

The Priestly Code makes a categorical distinction between one who transgresses in error and one who transgresses "with a high hand" (*be-yad ramah*), that is, consciously and flauntingly. The former can rectify his transgression through the assigned sin offering, whereas the latter will be "cut off" from the people.[12] The Community Rule of Qumran interpreted the "cutting off" of intentional transgressors as expulsion from the community with no ability to return, whereas those who transgressed inadvertently (*bi-shegagah*) are removed from the community's

12. Numbers 15:27–31. See also Toeg, "A Halakhic Midrash."

meals and from its council for two years but can be restored afterward if they do not repeat the offense. This temporary removal was the Qumran community's substitution for sin offerings, as they did not participate in the Jerusalem temple's cult.[13] The rabbis, in contrast, adhered to the priestly injunction that inadvertent transgression warrants a sacrifice, and understood the "cutting off" of the intentional transgressor as death—presumably premature death—by the hand of God.[14] Palpably uncomfortable with the finite nature of extirpation (*karet*), which leaves no room for change of heart or transformation (and possibly also with the unenforceability of this punishment), the rabbis ruled that one who brought extirpation upon oneself can be released from this divine punishment by receiving lashes.[15] This audacious move points to a strong rabbinic commitment to rehabilitate intentional transgressors as community members, making their allegedly unforgivable offenses forgivable through the power of the court's procedure.[16] But despite the rabbis' insistence that even intentional transgressors remain part of the greater community of Israel, Tannaitic texts show remarkably little interest in scrutinizing the workings of intentionality in transgressions or in determining what constitutes a *mens rea,* or "guilty mind," in the halakhic realm. The early rabbis chose, for the most part, to leave conscious decisions to break the commandments as phenomena that either cannot be explained or need not be explained.

Inadvertent transgressions, on the other hand, were of tremendous interest to the rabbis, who spent a great deal of time attempting to decipher how one can commit an offense without intending to do so, and what the legal implications of such offenses are. Here, too, the rabbis notably diverge from the Qumranic legislators in their interpretation of unintentionality. The Community Rule explains inadvertent transgressions, of the kind that brings about a two-year removal from the community, as necessarily stemming from madness or folly, from a "trembling

13. Community Rule (1QS) 8:17–9:2, according to Geza Vermes, *The Complete Dead Sea Scrolls in English* (London: Penguin Press, 2004), 109–10. For analysis of this text as an interpretation of Num. 15:22–31, see Aharon Shemesh, *Punishments and Sins: From Scripture to the Rabbis* (in Hebrew) (Jerusalem: Magnes Press, 2003), 60–81. See also Gary Anderson, "Intentional and Unintentional Sin in the Dead Sea Scrolls," in *Pomegranates and Golden Bells: Studies in Biblical, Jewish, and Near Eastern Ritual, Law, and Literature in Honor of Jacob Milgrom*, ed. David P. Wright, David N. Freedman, and Avi Hurvitz (Winona Lake, IN: Eisenbrauns, 1995), 49–64.

14. It should be noted, however, that multiple transgressions said to be punishable by extirpation (*karet*) are also listed as warranting execution by a court of law. See Shemsh, *Punishments and Sins*, 102–7.

15. M. Makkot 3.1, 3.15.

16. See Shemesh, *Punishments and Sins*, 82–95. We ought to remember, of course, that the rabbis' deliberations on corporal and capital punishments are utterly theoretical, as Jews under the Roman Empire had no juridical authority on such matters. On this, see Beth Berkowitz, *Execution and Invention: Death Penalty Discourse in Early Rabbinic and Christian Cultures* (New York: Oxford University Press, 2006), 12–24.

of the spirit."[17] Unintentional transgression, for the Qumran community, is the result of a temporary lapse of reason that entirely transforms one's mind, and the community can only wait until one recovers from it to reinstate one as a member. The rabbis, in contrast, regarded people who suffer from madness or mental disability, even temporary, as devoid of legal agency altogether and therefore as exempt from any kind of repercussions.[18] The actions of mentally compromised people are not "inadvertent transgressions" but are rather lacking any legal status. Accordingly, the rabbis put forth a much more focused notion of inadvertent transgression: a transgression is inadvertent insofar as an otherwise competent legal subject was unaware that he was committing a *specific* transgression *while* he was committing this specific transgression.

For the rabbis, then, determining whether a particular action can be defined as "inadvertent transgression" required a close scrutiny of halakhic boundaries: When does an action that is classified as a transgression begin, and when does it end? When does the mindset of unawareness vis-à-vis the transgression take over, and when does it recede? These laborious questions intensely engaged the early rabbis, as we can see in the following example:

> One who throws [something from his hand on the Sabbath], and he was reminded [that it was forbidden] after it left his hand—is exempt [from bringing a sin offering]. . . . This is the rule: all those who are liable for sin offerings are not liable until both the beginning and the end [of their action] are inadvertent. If its beginning is inadvertent and its end is advertent, or if its beginning is advertent and its end is inadvertent, they are exempt, unless both its beginning and end are inadvertent.[19]

This passage presents the rabbinic principle that a transgression can only be considered inadvertent, and thus make its committer liable to bring a sin offering, if throughout the *entire duration* of the transgressive action the transgressor did not know that he was doing something forbidden. The scenario describes a person who throws an object from his hand into the public domain on the Sabbath, which is forbidden. However, before the object hits the ground the person is reminded that the day is the Sabbath (and/or that throwing is not allowed on the Sabbath). The halakhic action in question, throwing, is only considered complete once the object hits the ground. Since by the time that object touched the ground the thrower

17. Community Rule (1QS) 7:19–21, according to Vermes, *Complete Dead Sea Scrolls*, 108. Qimron reads a passage from the Damascus Document (4QD 15:13–17) as expressing the same idea; see Elisha Qimron, "Terminology for Intention Used in the Legal Texts of the Dead Sea Scrolls" (in Hebrew), *Proceedings of the World Congress of Jewish Studies* 10, vol. A (1989): 105. See also Shemesh, *Punishments and Sins*, 74–77.

18. Such people fall under the category of *shoteh*, a term used in multiple rabbinic rulings to refer to persons whose compromised mental state denies them legal personhood. See Yohanan Silman, "The Basic Norm in Halakhah in Light of Sugyot Pertaining to Deaf, Mentally Incompetent, and Minor" (in Hebrew), *Dine Israel* 18 (1995): 23–51.

19. M. Shabbat 11.6 (11.7 in the Mishnah's manuscripts). Cf. T. Shabbat 10.19 (ed. Lieberman 45).

was no longer in a state of unawareness, it is impossible to say that the action was inadvertent and accordingly that the thrower owes a sin offering. It does not matter that once the thrower realized that he did something forbidden he could do nothing to stop it: the asynchrony between action and unawareness makes this transgression something indeterminable between intentional and unintentional. For halakhic purposes, an action that was not completed in the state of unawareness in which it began is like an action that was not completed at all and is devoid of halakhic status.[20]

This passage demonstrates the critical role of forgetfulness and recollection in the rabbis' configuration of the category of inadvertent transgression. The paradigm in this passage is that inadvertent transgression takes place when one forgets a particular halakhic fact—whether regarding one's lived world ("Today is the Sabbath") or regarding the law ("It is forbidden to throw objects on the Sabbath")—and the state of forgetfulness must remain unchanged throughout the duration of the transgression-event. Once one remembers the halakhic fact one lost earlier, the inadvertent transgression-event (violating the Sabbath) abruptly stops, even if the physical event (throwing an object) continues. The transition from forgetfulness to recollection in the actor's mind, in other words, completely changes the halakhic significance and repercussions of events that take place in the world. Here is another example that demonstrates the same principle:

> If one sent [coins designated for the temple] in the hand of a competent person, and he was reminded [that the coins were sacred] before [the messenger] reached the shopkeeper—the shopkeeper is guilty of [inadvertent] misuse of sacred items, once he spends them.[21]

In this case, a person who holds in his house some coins that were consecrated as the property of the temple forgets that these coins may not be used and gives them to a messenger, asking that he buy something for him at a shop. Before the messenger reaches the shop, however, the one who sent him recalls that the coins were forbidden to use. At this point, this sender's imminent use (by proxy) of consecrated money no longer counts as an inadvertent transgression, because he is no longer unaware of what he is doing—even though he has no power to stop the forbidden transaction from taking place.[22] In fact, at this point the category of misuse of sacred items (*me'ilah*) does not even apply to the sender's action anymore, since the rabbis understand this category as pertaining exclusively to inadvertent

20. Indeed, the case of a person who threw an object and was reminded that it was forbidden before the object touched the ground is equated in this passage with a case in which the object never touched the ground, because it was caught by a dog or was burned midair.

21. M. Me'ilah 6.2. This case is contrasted with a case in which the messenger is not considered a legally competent person and therefore bears no responsibility.

22. The Mishnah does suggest, however, a mechanism through which the sender can preemptively release the coins from their sanctity.

actions.[23] Rather, when the shopkeeper takes the coins and eventually spends them for his own purposes, *he* will be the one committing the inadvertent transgression of misuse of sacred items, because he really and truly does not know that he is doing something forbidden. Again, the ebbs and flows of one's memory vis-à-vis halakhic prohibitions actively change the status of halakhic actions and actors.

Concealment of Impurity and Concealment of the Temple

As the passage above illustrates, forgetting is not the only condition that allows a transgression to count as inadvertent. The rabbis, generally speaking, recognize that one can commit an inadvertent transgression because one never had access to the relevant facts in the first place, as in the case of the shopkeeper who uses consecrated coins without having any way of knowing that he was doing so. There is, however, one area of rabbinic legislation in which the rabbis unambiguously and explicitly determine that forgetting is the *only* kind of unawareness that makes for inadvertent transgression. This area pertains to what the rabbis called "the impurity of the temple and the sancta," and it is a good place to begin our exploration of the concept of *he'elem*, or eclipse of the mind, in Tannaitic texts.

The Priestly Code in Leviticus 4 discusses sin offerings that must be brought following inadvertent transgressive actions, and it determines that the required type of sacrificial animal for the offering varies based on the identity of the transgressor (a bull for a high priest or for a collective transgression of the entire congregation, a male goat for a prince, and a female goat for a commoner). Leviticus 5:1–14 then presents a subset of instructions regarding four specific transgressions: failing to provide a required testimony, contracting impurity originating in animal carcasses, contracting impurity originating in human bodies, and breaking one's own oath. For these four offenses, the nature of the offering is determined not by the civil status of the offenders but by their financial means: those who cannot afford the requisite female lamb or goat can bring two birds, and those who cannot afford two birds can bring a grain offering. The rabbis termed this offering "an ascending and descending offering" (*korban 'oleh ve-yored*), to mark its fluctuating value. It is well beyond the scope of this book to discuss why it is these four offenses in particular that merit a unique sacrificial arrangement.[24] For our purposes, it is mainly important to understand the Levitical instructions regarding impurity contracted inadvertently:

> Or when a person touches any impure thing—whether the carcass of an impure beast or the carcass of impure livestock or the carcass of an impure swarming thing—and it was concealed from him and he has become impure and is guilty; or when he touches human impurity—any impurity by which one can become impure—and it was concealed from him and he came to know it, he shall be guilty . . .[25]

23. See Sifra Hovah 11.19.8–9 (ed. Finkelstein 197).

24. On this question, see Jacob Milgrom, "The Graduated Sin Offering of Leviticus 5:1–13" (in Hebrew), *Beit Mikra* 29 (1984): 139–48.

25. Lev. 5:2–3.

What is the nature of the offense referred to in these verses? Contracting impurity is, of course, not a transgression in and of itself in the Priestly Code, which sees physical impurity as an inevitable part of life. What is it about impurity, then, that makes the one who contracted it "guilty"? Jacob Milgrom proposed that the issue at hand is failure to purify oneself in a timely manner. Because the one who contracted impurity was not aware that this happened (since it was "concealed from him") he did not take measures to perform the purificatory rituals, and therefore generated impurity that compromises God's abode.[26] This is a convincing reading of the biblical text, but it is not the way in which the rabbis interpreted this passage. Whereas the priestly authors maintained that the sanctuary can be contaminated even from afar, merely by the presence of impure persons in the camp, the rabbis maintained that the sanctuary can only be contaminated if impure persons enter it or touch its objects directly. Accordingly, the rabbis interpreted the offense in Leviticus 5:2–3 not as failing to purify oneself, but as actual entrance into the temple in a state of ritual impurity. They also identified a comparable offense in touching sacred items (such as sacrificial meat, incense for temple use, etc.) while impure. But whereas in Leviticus it does not matter how and why the impure person was oblivious of his impurity (it only matters that impurity was first "concealed" and then "known"), the rabbis assert that the "ascending and descending offering" prescribed in these verses only applies if the person knew he was impure, forgot about it, and finally remembered it again. Tractate Shevu'ot of the Mishnah presents a list of five scenarios in which one causes pollution to the temple or the sancta, and rules that the polluter's state of awareness before, during, and after causing pollution determines which offering is appropriate in order to atone for this pollution:

> [A] Whenever there is awareness at the beginning and awareness at the end and concealment (*he'elem*) in the interim—[the polluter's transgression is to be atoned] with an ascending and descending offering.
>
> [B] If there is awareness at the beginning but there is no awareness at the end—the goat that is offered inside [on/and][27] the Day of Atonement suspends [the polluter's judgment] until it becomes known to him, [at which point] he will bring an ascending and descending offering.
>
> [C] If there is no awareness at the beginning but there is awareness at the end—the goat that is offered outside [on/and] the Day of Atonement atones for him . . .
>
> [D] If there is awareness neither at the beginning nor at the end, the goats of the festivals and the goats of the beginnings of months atone . . .

26. Milgrom, "The Graduated Sin Offering."

27. The words "the Day of Atonement," here and in clause C, seem to be a later insertion influenced by clause E. See also Yosef Marcus, "Sin Offerings for Impurity of the Temple and Its Holiness in Tannaitic Literature: Atonement for Sin or Purification of the Temple?" (in Hebrew), *Jewish Studies Internet Journal* 21 (2021): 9–10n43.

> [E] And for purposeful pollution of the temple and the sancta, the goat that is offered inside and the Day of Atonement atone . . . [28]

This detailed list (parts of which I skipped for the sake of brevity) assigns a specific role to different kinds of required sin offerings that could easily strike one as redundant or overlapping, and it explains that each kind of sin offering is necessary to address a different state of awareness of the polluter. As such, this list makes a forceful statement about the relation between awareness, memory, and legal responsibility. It effectively proclaims that one cannot be held responsible for transgressions one had no way of knowing one was committing and thus had no way of preventing, at least not in what pertains to the pollution of the temple.[29]

According to this list, one is required to provide an ascending and descending offering—that is, one is fully liable for the pollution of the temple—only if one had the necessary knowledge to prevent this from happening, but this knowledge temporarily escaped him and was later restored (case A). Nevertheless, there are means to rectify the pollution caused to the temple even if the person who caused the pollution need not or cannot bring an individual sin offering.[30] If one knowingly polluted the temple (case E) the corrective means of individual sin offering does not apply to him, but the congregational sin offering of the Day of Atonement, as well as of the Day of Atonement itself, serve to atone for the polluter (assuming that he repented).[31] Also, if one inadvertently polluted the temple or sancta but never realized that this happened, obviously he cannot be expected to bring an offering, as he does not even know that he needs one. Here the Mishnah distinguishes between two cases: in case D, one had no "awareness of impurity" in the first place (i.e., he did not know that he contracted impurity, or he did not know that it was forbidden to enter the temple impure), whereas in case B one had "awareness of impurity" initially, but this awareness escaped him by the time he had contact with the sancta. In case D, it is not assumed that this person will ever realize that he

28. M. Shevu'ot 1.2–6 (1.2–9 in the manuscripts).

29. This emphasis may be directed against the "pious" notion, described in M. Karetot 6.3, that one may bring a sacrificial offering every single day to atone for transgressions one may have committed without knowing; see Mira Balberg, *Blood for Thought: The Reinvention of Sacrifice in Early Rabbinic Literature* (Oakland: University of California Press, 2017), 129–31. On the "guilt offering of the pious," see also Halbertal, *The Birth of Doubt*, 64–72.

30. Yosef Marcus argued that the rabbis assumed that the temple cannot contract impurity at all, even if impure persons come into contact with it, and that the rabbis' interest in "the pollution of the temple and the sancta" pertains strictly to the transgression of the polluter, not to the consequences for the temple itself; see Marcus, "Sin Offerings." While I am not entirely convinced that rabbinic texts are unanimous on the question of the pollution of the temple, and I think some of them do suggest that such pollution is a problem in and of itself, Marcus is undoubtedly correct that the opening passages of tractate Shevu'ot are concerned with the transgressor and not with the temple. "Atonement" in this context is clearly meant as cleansing of sin, not as eradication of impurity—although I believe the rabbis do struggle in these passages with Leviticus 16, in which impurity and sin are closely intertwined.

31. Cf. M. Yoma 8.8.

owes a sin offering, so certain congregational offerings are assigned to atone for his transgression. In case B it is assumed that this person will realize at some point that he had contact with the sancta while impure, but until he realizes it (which will move him to the category of case A) and brings his offering, the congregational sin offering of the Day of Atonement will serve to suspend his judgement.

The notion that only initial awareness followed by forgetfulness renders the polluter directly responsible is especially apparent in the ruling regarding case C. In this case one initially has no awareness of impurity (for example, one touches an impure person without knowing that they are impure) but later finds out that he contracted impurity and that he had entered the temple or touched the sancta while impure. On the face of it, this is exactly the kind of case that the priestly author has in mind when describing a case of "concealment" followed by knowledge. Yet for the rabbis, remarkably, this case is to be addressed with another congregational offering and *not* with the individual "ascending and descending" offering prescribed in Leviticus 5. Only in a case of awareness followed by "concealment" followed by awareness—in other words, only in the case of forgetfulness and recollection—does one owe an individual sin offering. How are we to explain this surprising interpretive move?[32]

There are two ways of accounting for the Mishnah's distinction between forgetfulness and initial ignorance in this context. One way is to assume that the rabbis considered sin offerings to be a penalty of sorts that has a punitive dimension to it, and that they maintained that such penalty is only warranted if the transgressor could have done more to prevent the transgression—that is, if the transgressor can be seen as guilty of what we call today "negligence."[33] One who forgot his impurity can be charged with negligence, whereas one who never knew he was impure cannot. An alternative explanation is that the rabbis, or at least some of them, viewed sin offerings not as a penalty but as a remedy for a guilty conscience. The one who forgot his impurity is likely to feel guilty—again, because he could have prevented the transgression had he paid more attention—whereas the one who never knew of his impurity is not likely to have a guilty conscience if there was nothing he could do to prevent the transgression, and therefore he does not need a sin offering.[34] Arguments can be made in favor of both explanations, and perhaps both views existed among the rabbis. For our purposes, I wish only to highlight that the Mishnah posits here a categorical view of "inadvertent transgression," specifically when it comes to polluting the temple and the sancta, as transgression

32. The Sifra (Hovah 8.12.11, ed. Finkelstein 177; cf. BT Shevu'ot 4b, PT Shevu'ot 1.2, 32d) offers a scriptural reasoning for this ruling, but clearly attempts to justify an already established halakhic principle.

33. For an analysis of the rabbinic concept of inadvertent transgression in terms of negligence, see Edrei, "If Any One Shall Sin."

34. This is the interpretation proposed by Zohar, "Sin Offering," 89–95. Zohar associates this approach specifically with R. Yehoshua.

stemming *exclusively* from temporary forgetfulness. Thereby, the Mishnah makes the point that only in a state of forgetfulness does one maintain the unique balance of responsibility without culpability that defines unintentional sin. I shall return to the distinction between forgetfulness and ignorance, in another context, toward the end of this chapter.

But what is it that one forgets, exactly, when there is "concealment" or *he'elem*, between an initial phase of knowing and a subsequent phase of knowing? Early rabbinic texts are very open-ended and vague on this question. It seems that the memory failures brought about by *he'elem* can be either of episodic nature (e.g., I forgot that I touched something impure) or of semantic nature (e.g., I forgot that carcasses make one impure). Moreover, the Mishnah asserts that one's forgetfulness does not necessarily pertain only to impurity, but can also pertain to the temple and the sancta (or to both):

> [A] If one became impure and knew it, and impurity was concealed from him while he remembered the sancta, or the sancta was concealed from him while he remembered his impurity, or both were concealed from him, and he ate a sacred item, and he did not know, and after he ate, he knew—he is [liable for] an ascending and descending offering.
>
> [B] If one became impure and knew it, and impurity was concealed from him while he remembered the temple, or the temple was concealed from him while he remembered his impurity, or both were concealed from him, and he entered the temple, and he did not know, and after he left, he knew—he is [liable for] an ascending and descending offering.[35]

According to this passage, since the essence of the transgression is causing contact between a source of impurity and the temple or the sancta, the forgetfulness that obligates one to bring an offering can pertain to either side of this equation: to the impurity side or to the temple/sancta side. One can forget that one is impure and enter the temple knowing full well that it is the temple (and that one is not allowed to enter the temple impure), but one can also know full well that one is impure but forget that the place he is entering is the temple (or forget that one may not enter the temple impure), and the same goes for touching the sancta. As we find out later in the same Mishnaic chapter, this view, which the Mishnah at first presents anonymously, was actually the view of one rabbi whose colleagues disagreed with him:

> R. Eliezer says, "[Scripture says,] 'When a person touches . . . an impure swarming thing and it was concealed from him'—he is liable for concealment of a swarming thing, and he is not liable for concealment of the temple."
>
> R. Akiva says, "[Scripture says,] 'And it was concealed from him, and he has become impure'—he is liable for concealment of impurity, and he is not liable for concealment of the temple."

35. M. Shevu'ot 2.1 (2.1–2.2 in the manuscripts).

> R. Ishmael says, "[Scripture says,] 'And it was concealed, and it was concealed' twice, to make one liable both for concealment of impurity and for concealment of the temple."[36]

The named rabbis in this passage present a range of positions on the kind of forgetting that renders one liable to bring a sin offering, moving from the very specific to the all-inclusive. For R. Eliezer, the only kind of forgetting that makes one liable is forgetting pertinent to the particular *source* of impurity, such as the carcass of a swarming creature (for example, if one forgets that a particular dead creature conveys impurity or forgets that he had contact with a particular creature). R. Akiva maintains that it does not matter whether the person can trace the origin of impurity or not: as long he was initially aware that he was impure, he is liable for a sin offering. Both R. Eliezer and R. Akiva, however, reject the possibility that one is liable if his forgetfulness pertained not to impurity but to the temple.[37] Perhaps they consider forgetfulness of something as central as the temple to be well beyond the realm of ordinary mental omission, crossing the line into the pathological realm; or perhaps they do not think that such a reading can be supported by the biblical text, which never mentions the temple at all. R. Ishmael, in contrast, maintains that either forgetfulness of impurity or forgetfulness of the temple makes one liable, and proposes some exegetical gymnastics with the biblical verses (relying on the dual appearance of the phrase "and it was concealed") to justify his view.

R. Ishmael's position—and following him, the anonymous Mishnah's position—is qualitatively different from his colleagues' position. It is not simply that R. Ishmael thinks that two kinds of forgetfulness make one liable whereas his colleagues think that only one kind of forgetfulness makes one liable. There is also a significant difference between forgetting that one contracted impurity, which is a scenario that can be easily imagined, and forgetting the temple, which requires a rather extreme cognitive blackout.[38] When R. Ishmael and the anonymous Mishnah make "forgetting impurity" and "forgetting the temple" comparable cases, they drive the conversation on forgetting and inadvertent transgressions in a very formalistic direction, loosening its grounding in realistic settings.[39] This

36. M. Shevu'ot 2.5 (2.6 in the manuscripts); cf. Sifra Hovah 8.12.7 (ed. Finkelstein 175–76).

37. Indeed, in T. Shevu'ot 1.8 (ed. Zuckermandel 447) R. Eliezer and R. Akiva are presented as sharing the same opinion, according to which one is only liable for "concealment of impurity."

38. The Babylonian Talmud (BT Shevu'ot 14b) suggests that a Babylonian person who came to Palestine might not know the location of the temple, which could lead him to pollute it. The Talmud seems to imagine a setting in which the temple no longer exists, and only the location of its former site is remembered (the location of the destroyed temple, too, needs to be protected from impurity). Tannaitic sources, however, all seem to construct scenarios on the assumption that the temple is still standing.

39. Perhaps not surprisingly, in later Talmudic literature both "forgetting impurity" and "forgetting the temple" are mostly interpreted as "forgetting the *laws* of impurity" and "forgetting the *laws* of the temple," which places both types of forgetfulness on an level playing field, as both are now pieces of the greater array of abstract knowledge that one has to hold in mind. For example, in PT Shev'uot

formalistic orientation, in turn, allows for the creation of extreme, and some might say absurd, scenarios of forgetfulness. To explore the question of correspondence or lack thereof between transgression and awareness of transgression in every possible iteration, the rabbis create a literary subject who can abruptly forget any fact or law—no matter how elemental and self-evident—and just as abruptly remember it, for no apparent reason. The following scenario serves well to demonstrate the extreme and inexplicable vicissitudes of memory this kind of literary subject is capable of:

> If one contracted impurity in the temple's courtyard, and impurity was concealed from him, but he remembered the temple; or the temple was concealed from him, but he remembered impurity; or both were concealed from him—
>
> If he prostrated or spent enough time [in the courtyard] to prostrate, or if he left [the courtyard] the long way—he is liable [for a sin offering].
>
> [If he left the courtyard] the short way—he is exempt.[40]

In this scenario, the forgetfulness that leads to contact between impurity and the temple takes place in the temple itself. As the case goes, a person becomes impure *while* in the temple. He initially realizes both that he has become impure and that he is in the temple (and that this is a problematic situation) but then somehow forgets that he is impure, or forgets that he is in the temple, or forgets that one is not allowed to be in the temple when impure, or forgets all of the above. The rule is that if he leaves fast enough after becoming impure his contact with the temple will not make him liable for a sin offering. To deliver this ruling, the Mishnah constructs a subject who, in a remarkably short interval of time, manages to become impure, realize it, and forget about it, or more radically, manages to forget that he is in the temple while in the temple. To emphasize, we are not talking about a person who never knew he was impure or never knew that he was in the temple, since such a person is (according to the Mishnah) not liable at all. Rather, we are talking about a person who knows the relevant facts/laws pertinent to the situation, suddenly and inexplicably forgets them, and eventually remembers them again. This kind of literary subject, as we will now turn to see, appears also in other halakhic contexts, and he is inherent in the larger analytical apparatus that the rabbis develop to discuss the possibility and implications of inadvertent transgressions. This subject, to be sure, is a theoretical construct meant for intellectual experimentation, and yet

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1.1, 32d, "concealment of impurity" is interpreted as forgetting which kinds of impurity make one liable to bring an offering, and in BT Shevu'ot 14b "concealment" occurs when one does not remember whether an insect the size of a lentil suffices to make one impure or not, and whether frogs convey impurity or not.

40. M. Shevu'ot 2.3 (2.4 in the manuscripts).

his recurring appearance in rabbinic discourse serves to rechart the possibilities of memory failures within the halakhic realm, making them effectively unlimited.

Mental Eclipses and Suspended Legal Subjectivity

As I noted above, the rabbis maintain that in order to define a transgressive action as inadvertent, one must confirm that the state of *he'elem*, or mental eclipse, lasted the entire duration of the action. One implication of this principle is that if the eclipse ended before the action ended, as in the case of the person who throws an object on the Sabbath and realizes the prohibition before the object hits the ground, then the action cannot be considered inadvertent. The rabbis, in their methodical way, test this principle by looking into a case in which a mental eclipse ended midaction, but then *another* mental eclipse occurred, during which the action was completed:

> If one writes two characters in two concealments (*he'elemot*), one in the morning and one at dusk—Rabban Gamaliel renders him liable, but the Sages exempt him [from a sin offering].[41]

Much of tractate Shabbat of the Mishnah is dedicated to scrutinizing the thirty-nine labors that are forbidden on the Sabbath and to determining the minimum amount of "labor" that renders one liable for violating the Sabbath in each case. Writing is one of those forbidden labors, and the rabbis determine that in order to be considered liable on account of writing, one must write at least two characters. Moreover, these two characters must be written "in one concealment"—that is, during a single mental eclipse in which one is not aware that he is transgressing a prohibition.[42] The question then arises, What if one had one mental eclipse during which he wrote one character, and then another *separate* mental eclipse during which he wrote the second character? That is, what if a person forgot that it was the Sabbath, wrote one character, was reminded that it was the Sabbath, and then forgot *again* that it was the Sabbath, and wrote another character? Should the two characters be taken together as constituting the minimum for the violation of the Sabbath, or must each character be counted separately, since they were not written during the same eclipse? The question at hand, ultimately, is, What matters more—the final outcome of the actions performed (two characters were written), or the correspondence between transgressive action and mental eclipse (only one character was written during each eclipse, which does not suffice as a transgression)? Rabban Gamaliel takes the former view and renders the person who wrote two characters in two eclipses liable, whereas the Sages take the latter view and do not render him liable.

41. M. Shabbat 12.6.
42. M. Shabbat 12.3–4.

The Sages' position is expressed anonymously, without a competing view alongside it, in a similar case in the Tosefta:

> If one took out half [the volume] of a dried fig, and then came back and took out another half [the volume] of a dried fig—[if both halves were taken out] in one concealment, he is liable; in two concealments, he is exempt.[43]

The prohibition to carry food into the public domain on the Sabbath pertains to a minimum amount equivalent to the volume of a dried fig (*grogeret*).[44] Like the Sages in the Mishnah, the anonymous Tosefta asserts that if one carried two halves of this volume on two different occasions, it all depends on whether the two halves were carried during the same mental eclipse or not. If one carried the two halves during a single episode of forgetfulness, he is seen as one who completed a full inadvertent transgressive action. But if he forgot the prohibition of the Sabbath and carried half the minimum quantity, remembered the prohibition, forgot it again, and carried the other half, these are considered two separate transgressive actions, and since neither of them meets the required minimum this person is not liable to bring a sin offering.

The view that an inadvertent transgression is defined not by its ultimate outcome, but strictly by the one-to-one correspondence of unawareness and prohibited action, is a striking rabbinic innovation. What it means, effectively, is that the determining factor in deciding one's status as a transgressor, and in deciding the means through which one should rectify one's transgression, are the vicissitudes of one's memory before, during, and after the prohibited action. Accordingly, two people who inadvertently committed the exact same offense would be assessed very differently if their memory functioned in different ways in respect to the transgression, as the following passage illustrates:

> If one had intercourse with any of the forbidden sexual partners stated in the Torah, he during one concealment and she during five concealments—he brings one sin offering and she brings five sin offerings. She in one concealment and he in five concealments—she brings one sin offering and he brings five sin offerings.[45]

Forbidden sexual unions (*'arayot*), which are listed in Leviticus 18 and 20, are among the transgressions that warrant a sin offering when the participants act inadvertently, and a punishment of extirpation when they act knowingly. As we shall see later on, the rabbis have a special fondness for examples related to forbidden sexual unions, but in this context they use sexual transgressions to illustrate the point that even when a transgression takes place through the concurrent actions of two people, these two people are assessed differently based on their

43. T. Shabbat 9.11 (ed. Lieberman 38).

44. M. Shabbat 7.4.

45. T. Karetot 1.18 (ed. Zuckermandel 562). The Tosefta comments on (and partially quotes) M. Karetot 2.6 (2.7 in the manuscripts).

changing states of memory. This passage depicts two partners who are not allowed to have sex with each other—for example, a brother and a sister. Somehow the fact that they are not supposed to have sex with each other escapes them: they both forgot (or in this case, perhaps did not know at all) that they were brother and sister, or they forgot that brothers and sisters are not supposed to have sex with each other. One of them remained oblivious of the fact that they were doing something prohibited throughout multiple sexual acts, whereas the other was at some point aware of the prohibition, then forgot about it, then remembered it again, and then forgot it again—five times total. The first one thus committed one transgression, since they acted in a single bout of mental eclipse (regardless of how many times they actually had intercourse), but the other one committed *five* transgressions, since each episode of forgetting and remembering constitutes its own mental eclipse and therefore constitutes an independent transgression.

While these cases are clearly hypertheoretical constructs that mainly serve to test conceptual boundaries, their casuistic narrative style endows them with a mimetic quality that makes them sound like "real" cases, thus incorporating them into the realm of the possible—even if only remotely possible—within the halakhic landscape. As such, they lead the readers to wonder *how* it is possible for such cases of remembering-forgetting-remembering-forgetting to take place. It is tempting to think that what the rabbis had in mind when describing such cases is something akin to short-term memory loss, which can take place as a result of brain injury, aging-related dementia, or severe mental illness.[46] Yet I very much doubt that the rabbis devised these scenarios of memory malfunction while specifically thinking of such malfunction as pathological in nature. As I noted earlier, the general rabbinic rule is that people who are ill or mentally disabled are exempt from legal sanctions altogether. Rather, I believe that the rabbis considered human memory to be inherently imperfect and faulty, even in its "normal" state, and constructed these scenarios to experiment with the full range of halakhic contingencies created by cognitive failures. By incorporating scenarios of highly unlikely or recurring mental eclipses into the array of halakhic possibilities, and by devising principles for addressing such scenarios, the rabbis convey that inexplicable and uncontrollable forgetfulness, even one that touches at the heart of Torah-based prohibitions, does not exclude those who experience it from the halakhic playing field. In this respect, the imagined literary subject who goes through consecutive mental eclipses is essentially an overstated version of the forgetful rabbinic subject we have seen in the previous chapters, who is prone to halakhic memory failures yet faithfully remains within the bounds of rabbinic normativity.

The rulings on multiple eclipses, or *he'elemot*, flesh out that what constitutes liability—namely, the obligation to bring a sin offering—is the moment in which one *remembers* that one did something forbidden. The sister or brother in the scenario

46. On short-term memory impairments, see Thompson and Madigan, *Memory*, 117–41.

above does not need to bring five sin offerings because s/he had forbidden sex five times, but because s/he remembered that s/he had forbidden sex five times. Each moment of remembrance renews, as it were, one's relation with the law and resubordinates one to its requirements. The paradigm presented here, then, is one of interrupted legal subjectivity: for as long as one is in a state of mental eclipse, one is actually not liable at all under the law (specifically, under the law that one is currently breaking), and it is as though one's agency as a legal subject is suspended. It is only when one realizes one's transgression that one is reintroduced into the system and resumes being responsible for one's actions. This is the logic behind the Mishnaic ruling we saw above regarding "awareness in the beginning but no awareness at the end" in the context of polluting the temple and the sancta. For as long as the subject does not remember that he polluted the temple, a congregational sin offering serves to "suspend" his judgment, as this person is not regarded as someone who can be legally assessed at all. Only when this subject remembers that he polluted the temple does the obligation to bring a sin offering take effect for him.

The notion that legal agency is suspended for as long as the mental eclipse continues, and resumes only when one remembers the prohibition(s) one transgressed, is also apparent in the following passage:

> They said a great rule regarding the Sabbath:
>
> [A] If one forgot the essence (*'iqqar*) of the Sabbath and performed many labors on many Sabbaths—he is only liable for one sin offering.
>
> [B] If one knew the essence of the Sabbath [but did not know that a particular day was the Sabbath], and he performed many labors on many Sabbaths—he is liable [for one sin offering] for each and every Sabbath [that he violated].[47]
>
> [C] If one knew that it was the Sabbath and performed many labors on many Sabbaths—he is liable for each and every prototype (*av*) of labor. But if one performed many labors that are like a single labor, he is only liable [to bring] one sin offering.[48]

There is much to say about this passage, and I will return to it in the second part of this chapter. For now, we can observe that this passage presents a principle according to which one's liability for committing an inadvertent transgression is determined not only by the duration of one's mental eclipse but also by the specific content that was concealed and then recalled. While the prohibited labors that one

47. In MSS Kaufman A50, Parma (de Rossi) 138, and the 1492 Naples Print the scribe skipped from clause B to clause C, such that the text reads: "If one knew the essence of the Sabbath and performed many labors on many Sabbaths, he is liable for each and every labor." In both manuscripts the missing text was added in the margins. Goldberg assumed that this was the original version of the Mishnah; see Goldberg, *Commentary on Tractate Shabbat*, 130–34. However, since the text appears in the fuller version in the Cambridge (Lowe) manuscript, in several Genizah fragments, and in both Talmuds, this omission seems to be no more than a scribal error.

48. M. Shabbat 7.1.

performs in a state of unawareness may be identical in all three cases (for example, cooking on the Sabbath), the nature of forgetting—and accordingly, the nature of re-remembrance—is different in each case. In case A the moment of realization is "I forgot that such a thing as the Sabbath exists"; in case B it is "I forget that today was the Sabbath," and in case C it is "I forgot that cooking is prohibited on the Sabbath." These different kinds of realization, in turn, create different kinds of liabilities.

The "great rule" introduced through these scenarios is that for as long as a mental eclipse regarding a legal prohibition continues, one's responsibility for breaking this prohibition is put on hold, and it is only resumed when one remembers the prohibition. If one does not remember at all that the Sabbath prohibitions exist, no transgressions pertaining to Sabbath prohibitions register for this person. When this person will finally be reminded of the general Sabbath prohibition, only one Sabbath violation will be registered for him—that is, he will owe a single sin offering for all the Sabbaths he violated. If one does not remember that a particular day is the Sabbath, no transgressions will be registered for him on that particular Sabbath, and he will owe a single sin offering when he remembers that particular Sabbath—regardless of how many offenses were committed in its course. And if one remembers that a particular day was the Sabbath but forgets that certain labors were prohibited, when one is reminded that his specific actions were prohibited every single labor he performed will be registered as a transgression (but not multiple performances of the same labor or performances of closely similar labors).[49] He will thus owe a separate sin offering for every prohibited labor he performed. What generates the obligation to bring a sin offering, then, is not the transgression itself but the ways in which the subject construes his mental eclipse in his mind once he realizes it.

The following passage offers a particularly poignant expression of the view that it is recollection of the offense that generates the legal obligation:

> [A] If one [had] both suet (*ḥelev*, animal fat forbidden for consumption) and sacrificial meat that remained overnight (*notar*, also forbidden for consumption) in front of him, and he ate one of them and it is not known which one he ate—
>
> [B] If one's menstruating wife and one's sister were at home with him, and he erred (*shagag*, i.e., had intercourse) with one of them and it is not known with which of the two he erred—
>
> [C] If the Sabbath and the Day of Atonement [took place on consecutive days], and one performed labor at dusk (i.e., between the two days) and it is not known on which one he performed labor—

49. Cf. M. Karetot 3.10, in which R. Eliezer and R. Akiva disagree on the question of whether one who performs multiple similar labors is liable for every labor he performed or only for one. As Yitzhak Gilat noted, it seems that the Mishnah in tractate Shabbat was formulated in keeping with R. Akiva's opinion, which in turn gave rise to the rabbinic distinction between "prototypes of labors" (*avot melakhot*) and subtypes of labors. See Gilat, *Studies in the Development of Halakhah*, 32–59.

> [In all these cases] R. Eliezer renders one liable for a sin offering, and R. Yehoshua exempts.[50]

In all the cases listed in this passage, there is absolute certainty that one inadvertently committed a transgression. Whether one ate one type of forbidden sacrificial substance or another, had one forbidden sexual union or another, or performed labor on one sacred day or another—a forbidden action has been committed, except that one does not know which of the two forbidden things one did (again, a testimony to the imagined Tannaitic subject's remarkable ability to forget the most critical and basic things). R. Eliezer renders the offender liable to bring a sin offering, which seems like the obvious ruling, but R. Yehoshua exempts him altogether. In a parallel Tosefta passage, each rabbi explains his reasoning (or more likely, has his reasoning explained for him) using the language of Leviticus 4:27, "When the transgression that one has committed is made known to one, one shall bring a female goat without blemish as one's offering":

> R. Eliezer says, "'The transgression that one has committed'—either way, he has committed a transgression."
>
> R. Yehoshua says, "'When the transgression that one has committed is made known to one'—[one is not liable] until one knows one's transgression."[51]

R. Yehoshua insists that in order to be made liable for one's inadvertent transgression one need not only remember that one committed a transgression, but also *what* transgression one committed. He makes it clear that it is not the forbidden act as such but the recognition that one performed a forbidden act that creates responsibility to atone for the transgression, and one who does not have a coherent memory of the specific transgression *as* a transgression is still "suspended" within the legal system.[52]

To be clear, one's suspension within the legal system for as long as one's mental eclipse lasts is not an overall suspension of all legal personhood, but only suspension of responsibility within the one corner of the law of which one is currently oblivious. For example, we could imagine a subject who cooked on the Sabbath because he forgot that it was the Sabbath, and also worshipped at the temple of Aphrodite on the same Sabbath. This person's legal responsibility for cooking on the Sabbath is suspended until he is reminded that the day was the Sabbath, but

50. M. Karetot 4.2 (4.3 in the manuscripts).

51. T. Karetot 2.12 (ed. Zuckermandel 564).

52. I am following the cogent analysis of Zohar, "Sin Offering," 89–90. Zohar maintains that this controversy reflects a profound and systematic disagreement between R. Eliezer and R. Yehoshua on the definition of transgression and on the purpose of sin offerings. I am less certain that we can safely ascribe to each rabbinic persona a consistent and coherent view on given matters across different Tannaitic texts. For one, R. Eliezer's comment in M. Shevu'ot 2.5, according to which one must know the exact cause of one's impurity to be liable for a sin offering, seems to go in the same direction as R. Yehoshua's position in T. Karetot 2.12.

it cannot be claimed that because he forgot that it was the Sabbath he is also not responsible for worshipping Aphrodite on the Sabbath, as the two are completely different and unrelated offenses. A mental eclipse, for the rabbis, is mental eclipse vis-à-vis a specific halakhic category, not a complete shutdown of halakhic agency.

There are, however, diverging rabbinic positions regarding similar or related offenses that take place under a single mental eclipse, and I propose that behind these diverging positions stand different views on how, exactly, one remembers one's transgressions when the eclipse ends. On one end of the spectrum, we find a view that even the exact same transgression, if committed multiple times in different contexts during a single mental eclipse, renders one liable for multiple sin offerings. This position is associated specifically with R. Yehoshua and Rabban Gamaliel, who mention two rulings that they heard from their masters. First, that if a person had five wives and he had sex with all of them while they were menstruating in a single episode of mental eclipse, he is liable for five sin offerings; and second, that if a person ate a single portion of sacrificial meat that was divided between five bowls (presumably, each piece at a separate meal), he is liable for five sin offerings.[53] According to this position, each "body" in which the offense was committed constitutes its own experience of transgression.[54] Since having sex with Sarah, with Rebekah, with Leah, and with Rachel are all different experiences that are remembered independently of each other, each transgressive experience warrants its own sin offering (the same argument can be made for dividing one portion of meat into five separate meals, although here the principle is less evident).[55] It should be noted that, according to this position, if one had sex with a single menstruating woman multiple times in a single mental eclipse, he is *not* liable for each time he had sex with her, so it is not that each transgressive act requires a sin offering of its own.[56] Rather, divided and distinct loci of transgression make for divided experiences of the transgression and memories of the transgression, which in turn generate divided obligations.

On the opposite end of the spectrum, several anonymous Tannaitic passages present a view that if different offenses that all generally fall under the same category took place under a single mental eclipse, one is required to provide only one sin offering for all of them. For example, a passage in the Tosefta rules that "if one ate an olive-volume of suet, an olive-volume of *piggul* (disqualified sacrificial meat), an olive-volume of [sacrificial meat] remaining [overnight], and an olive-volume of impure [meat] in one concealment, he brings [one] sin offering."[57] Even

53. M. Karetot 3.7, 3.9; cf. Sifra Hovah 1.1.8, 10 (ed. Finkelstein 125–26). Cf. T. Karetot 4.1 (ed. Zuckermandel 565), which presents a conflicting ruling on the case of five pieces of sacrificial meat.

54. The term "divided bodies" to describe this principle was coined in the Babylonian Talmud (BT Karetot 2b). My analysis here closely follows Zohar, "Sin Offering," 104–8.

55. For a similar principle, see also T. Yebamot 11.4 (ed. Lieberman 34).

56. Although such a view is mentioned in PT Shabbat 7.1, 9b as attributable to R. Eliezer.

57. T. Karetot 2.10 (ed. Zuckermandel 564).

though here one person breaks four different prohibitions, since all his actions generally fall under the category of "eating forbidden sacrificial substances" they are all considered one transgression for the purposes of sin offerings. Even more radically, the following passage in the Tosefta rules that if one had sex with his sister, and with his aunt from his mother's side, and with his aunt from his father's side, and with his sister-in-law, and with his uncle's wife, and with a menstruating woman in one bout of mental eclipse—he is only liable for one sin offering.[58] This view is guided by the assumption that similar transgressions are all clustered together in one's memory as a single *type* of transgression. One did not eat all those items in one mental eclipse because one was unaware of each prohibition pertaining to each piece of meat separately, but because one was unaware of the array of prohibitions pertaining to sacrificial substances in general. Thus, when the subject realizes his transgression, he does not think, "I accidentally ate suet *and* disqualified meat *and* remaining meat *and* impure meat" but rather "I accidentally ate all kinds of forbidden sacrificial things," and likewise, in the case of sexual prohibitions, "I had sex with many women I should not have had sex with." Both what is lost and what is later recalled are not the specific offenses but the overall error, and therefore one is liable only for the overall error.

Between these two extremes stands a position, expressed most prominently in tractate Karetot of the Mishnah, according to which the number of sin offerings one owes is determined by the number of clauses in the law that one can be said to have transgressed.[59] This is the most formalistic of the positions, which views transgression as the breaking of a *distinct* injunction, and therefore requires correspondence between the exact number of injunctions transgressed and the number of sin offerings owed. According to this view, if one ate multiple pieces of suet during a single mental eclipse, he is only liable to bring one sin offering, but if he ate "suet and blood and remaining sacrificial meat and disqualified sacrificial meat" during a single mental eclipse, he is liable to bring four sin offerings, since he broke four separate laws.[60] Similarly, if during a mental eclipse one had sex with his married daughter while she was menstruating, he is liable to bring a sin offering for each law he broke (incest, adultery, and sex during menstruation), even though there was only a single sexual act with a single woman.[61] This position is highly legalistic, and it could be argued that it divulges general disinterest in the offender's state of mind (what information was omitted, what was the experience of transgression, and what was recalled) and instead a juridical interest in devising

58. T. Karetot 2.11 (ed. Zuckermandel 564). This is a standardized list of prohibited sexual unions, which appears also in M. Kettubot 3.1, M. Makkot 3.1, and M. Karetot 1.1.

59. See also Zohar, "Sin Offering," 100–124. Zohar associates this position primarily with R. Akiva and his disciples, but I, again, am not sure that there is sufficient evidence to make such determinations.

60. M. Karetot 3.2.

61. I somewhat simplified M. Karetot 3.5 as basis for this example.

an indictment—namely, in determining as many charges as possible that may be brought up against an offender.[62]

Their different ways of counting transgressive acts vis-à-vis sin offerings notwithstanding, it is notable that none of these three approaches seems to register any difference between transgression caused by forgetfulness (whether of facts or of laws) and transgression caused by absence of knowledge to begin with. Whereas in the case of polluting the temple and the sancta the rabbis stressed that only pollution caused by forgetfulness fits the definition of inadvertent transgression, in other halakhic contexts the distinction between forgetfulness and initial ignorance does not seem to be material. On the face of it, this is perfectly understandable: since the overall meaning of erroneous transgression is transgression performed without the offender realizing it, it should not matter whether one forgot the relevant facts/law or never knew them. One set of texts to which I now turn, however, reveals that at least for some rabbis the distinction between forgetfulness and initial ignorance was significant. The debate on this topic can help illuminate additional facets of the rabbinic discourse on the place of memory failures in the halakhic world.

FORGETFULNESS, IGNORANCE, AND BREAKING BOUNDARIES

I now return to the "great rule" passage in tractate Shabbat of the Mishnah (M. Shabbat 7.1), which presents the principle that one's obligation to bring a sin offering is determined by the content of one's mental eclipse: if one forgot the essence of the prohibition, one is liable to bring only one sin offering, whereas if one forgot specific components of the prohibition, one is liable for each component. Here is the passage again:

> [A] If one forgot the essence of the Sabbath and performed many labors on many Sabbaths—he is only liable [for] one sin offering.
>
> [B] If one knew the essence of the Sabbath [but did not know that a particular day was the Sabbath], and he performed many labors on many Sabbaths—he is liable [for one sin offering] for each and every Sabbath [that he violated].
>
> [C] If one knew that it is the Sabbath and performed many labors on many Sabbaths—he is liable for each and every prototype (*av*) of labor. But if one performed many labors that are like a single labor, he is only liable for one sin offering.

A very similar passage appears in the Sifra, a Tannaitic Midrash on the book of Leviticus closely associated with the school of R. Akiva. While the overall principles and organization of the text are mostly identical, the Sifra's version differs from the Mishnah's version in several important details, in boldface below:

62. See also Zohar, "Sin Offering," 106–10.

> [A] **If one did not know** the essence of the Sabbath and performed many labors on many Sabbaths, even though he performed [different] prototypes of labors—he is only liable for one sin offering **all his life**.
>
> [B] If one knew the essence of the Sabbath, **and he erred and said, "This is not the Sabbath," "This is not the Sabbath,"**[63] and he performed many labors on many Sabbaths—he is liable for one [sin offering] for each and every Sabbath [that he violated].
>
> [C] If one knew that it is the Sabbath, **and he erred and said, "This is not a [forbidden] labor," "This is not a [forbidden] labor,**" and he performed many labors on many Sabbaths—if he performed [different] prototypes of labors, he is liable for each and every labor, and if he performed [different] labors that are like a single labor, he is liable for each and every concealment.[64]

Leaving aside the Sifra's emphasis on the distinction between "prototypes" of labors (*avot melakhot*) and labors of the same prototype, which need not concern us here, the most glaring difference between the Sifra and the Mishnah is the phrasing of case A. Whereas the Mishnah speaks of one who *forgot* the essence of the Sabbath, the Sifra speaks of one who *did not know* the essence of the Sabbath. "Forgetting" and "not knowing" are often interchangeable in rabbinic texts, and as we saw in the first chapter, in many cases the only way to interpret the phrase "does not know" is in the sense of "does not remember." Here, however, the different phrasing of the Mishnah and the Sifra seems to be significant, and to point to differing rabbinic views on one key question: Who is required to provide only a single sin offering for multiple transgressions, one who knew the law and forgot it, or one who never knew the law to begin with?[65]

A passage in the Tosefta provides clear indication of a divergence of views on this question. This passage, commenting on the Mishnah's "great rule" passage, presents the curious case of "a proselyte who converted among the Gentiles" specifically to denote a person who did not forget the "essence of the Sabbath" but rather never knew it—that is, a person who never received proper Jewish education.[66] Whether or not such a person is liable for violating the Sabbath is a matter of controversy:

63. In MS Oxford (Neubauer 151) and in MS Parma: "If one knew the essence of the Sabbath, and he erred and did not know when the Sabbath was."

64. Sifra Hovah 1.1.7 (ed. Finkelstein 125).

65. The Palestinian Talmud (PT Shabbat 7.1, 9a) acknowledges the existence of two versions of this passage: "We have recited 'if one forgot the essence of the Sabbath,' in the house of Rabbi they recite 'if one did not know the essence of the Sabbath.'" Epstein maintained that these were two competing versions of the Mishnah representing two conflicting opinions, whereas Goldberg suggested that the "house of Rabbi" merely offered an explanation of the Mishnah, not an alternative version. See Epstein, *Introduction to the Text of the Mishnah*, 53–54; Goldberg, *Commentary on Tractate Shabbat*, 128.

66. In the Palestinian Talmud (PT Shabbat 7.1, 9a) this category is presented through the case of "a child who was taken captive among the Gentiles." The Babylonian Talmud (BT Shabbat 68a) mentions both a child and a proselyte.

> If a proselyte who converted among the Gentiles performed labor on the Sabbath—R. Akiva renders him liable [for a sin offering], but Monobaz exempts him.
>
> [Monobaz said,] "Logic suggests that he would be exempt! If one who acts inadvertently is liable for a sin offering, and one who acts intentionally is liable for extirpation, in the same way that one who acts intentionally is only liable when he comes to know [the law], one who acts inadvertently should also not be liable until he comes to know [the law]."
>
> R. Akiva said to him, "I shall add to your reasoning. In the same way that one who acts intentionally is not liable until he comes to know [the law] while he is acting, one who acts inadvertently should also not be liable until he comes to know [the law] while he is acting."
>
> [Monobaz] said to him, "All the more so, what you have added!"
>
> [R. Akiva said,] "If he came to know [the law] while he was acting, he was not acting inadvertently but intentionally."[67]

At first glance, this debate looks like an ordinary scholastic disagreement between two sages, in which each side argues his opinion. The question at hand is whether a person who is halakhically Jewish but was never taught the law or lived among Jews is liable for violating the Sabbath. R. Akiva maintains that he is, whereas Monobaz maintains that he is not. Monobaz's reasoning is not without merit: he says that if both an inadvertent transgression and an intentional transgression impose some kind of penalty on the transgressor, this penalty indicates that in both cases the transgressor is responsible for his actions, and responsibility necessarily implies prior knowledge.[68] Accordingly, one who had absolutely no knowledge of the law cannot be held responsible and should be exempt from any penalty. While R. Akiva does not explain his own reason for rejecting this view, it can be deduced from the exchange that for him "inadvertent transgression" categorically covers any and every transgression committed unintentionally, with no exceptions. Upon a closer look, however, it becomes evident that this is not a real debate between two sages of equal standing. Monobaz is not a rabbi: he is a known literary character in Jewish lore, the king of Adiabene who converted to Judaism with his mother, Queen

67. T. Shabbat 8.5 (ed. Lieberman 30–31); cf. BT Shabbat 68b. In the Babylonian Talmud's version it is made clear who says what: Monobaz says, "All the more so what you have added," and R. Akiva says in response, "According to you, one like that is not called one who acts inadvertently, but one who acts intentionally." The Babylonian version reflects, in my view, a correct understanding of the exchange in the Tosefta, and I translated the Tosefta accordingly. Lieberman proposed that the last line ("If he came to know [the law] while he was acting, he was not acting inadvertently but intentionally") should not be understood as spoken by R. Akiva but rather as spoken by Monobaz himself, but I find his reading rather unconvincing, as I will explain in note 70 below. See Lieberman, *Tosefta ki-pshutah Mo'ed*, 3:109–10.

68. See the analysis in Edrei, "If Any One Shall Sin," 54–59.

Helene, and made sizable donations to the Jerusalem temple.[69] He is put forth as R. Akiva's interlocutor on this topic distinctly because he embodies the category of "a proselyte who converted among the Gentiles" and not for any other reason. Since the readers are assumed to know this fact about Monobaz, the opinion voiced by him in this context is immediately somewhat discredited: Monobaz appears as someone who wants to exempt uninformed converts from penalty mainly because he himself falls (or used to fall) under this category. Moreover, R. Akiva's underhanded way of defeating Monobaz in this argument is set up to make Monobaz seem rather unsophisticated. R. Akiva does not contest Monobaz's reasoning directly, but instead says, "I agree with you, and I'll go even further than you," and takes Monobaz's reasoning to an absurd level. When Monobaz enthusiastically agrees with R. Akiva's comment, R. Akiva exposes his own comment as ludicrous, and thereby exposes Monobaz as dim-witted.[70]

The authors of this Tosefta passage thus stacked the deck to make it seem like the position attributed to R. Akiva, according to which even individuals who were completely ignorant of the law are liable for a sin offering, is the only legitimate view on the matter. The very same view evidently informs the Sifra's version of the Sabbath rule. The Sifra's emphasis that "If one did not know the essence of the Sabbath . . . he is only liable for one sin offering *all his life*" makes it clear that this clause is referring to a person who had no knowledge of the Sabbath law at all rather than to someone who had this knowledge and forgot it. What is envisioned here is a person who transitions from a state of lack of knowledge to a state of knowledge once and for all, and it is this transition that warrants the single sin

69. On the historical figure of Monobaz and the legends associated with him, see Tal Ilan and Vered Noam, in collaboration with Meir Ben Shahar, Daphne Baratz, and Yael Fisch, *Josephus and the Rabbis* (in Hebrew) (Jerusalem: Yad Ben Zvi Press, 2017), 508–20. There is only one other place in Tannaitic literature in which Monobaz participates in a halakhic exchange, again with R. Akiva (Sifra Metzor'a 1.4, ed. Weiss 70a), and the exchange is very similar to the one in T. Shabbat 8.5, which suggests that one of the two passages was modeled after the other (I tend to think that the Sifra passage was modeled after the Tosefta passage).

70. As mentioned in note 67 above, I am following the Babylonian Talmud's rendition in my reading of the exchange. Lieberman, however, interpreted the last two lines of the passage as spoken by Monobaz; see Lieberman, *Tosefta ki-pshutah Mo'ed*, 3:109–10. He explains that Monobaz said, "All the more so, what you have added," to express respect for R. Akiva, but then continued to correct him gently and said that his "addition" does not stand, since one who knew that he was violating a prohibition at the time of action cannot be said to be acting unintentionally. In other words, Monobaz first formally accepts R. Akiva's comment and then entirely rejects it. This reading makes little sense: while there are certainly settings in life in which one has to hide the fact that one is disagreeing with someone else, rabbinic debates are not among those settings, so a polite acceptance- and then rejection-maneuver is very odd in a rabbinic context. Moreover, it is clear that R. Akiva's "I shall add to your reasoning" comment is meant to trick Monobaz and does not reflect R. Akiva's actual opinion, since we are told at the outset that R. Akiva does *not* exempt people who did not have prior knowledge of the offense from a sin offering. There is no reason for R. Akiva to make this comment except to use it, subsequently, to expose Monobaz's weakness.

offering this person will owe. "One sin offering all his life" cannot pertain to a case of forgetting, which in theory could happen multiple times throughout one's life. It is perhaps not surprising to find this alignment between the opinion attributed to R. Akiva in the Tosefta and the ruling presented anonymously in the Sifra, considering the Sifra's strong connection to R. Akiva.

The Sifra's version presents three possible scenarios of liability for inadvertently violating the Sabbath: not knowing the Sabbath's "essence" at all, not knowing that a particular day was the Sabbath, and not knowing specific labor prohibitions. It conspicuously excludes altogether the scenario of forgetting the essence of the Sabbath, which commences the Mishnah's version. How are we to understand this exclusion? One possibility is to assume that the case of one who knew the essence of the Sabbath but then forgot it is subsumed under one of the other cases mentioned in the passage: either it is equated with the case of one who never knew about the Sabbath, or it is equated with the case of one who did not know that a particular day was the Sabbath.[71] But neither of those readings is particularly compelling. As I noted, the emphasis that one who did not know the essence of the Sabbath owes "one sin offering *all his life*" suggests that occasional forgetfulness does not fall under this category. Likewise, the Sifra's description of the second case as due to localized factual confusion ("*This* is not the Sabbath") makes it very different from an omission of an entire legal principle that can last many weeks or months. A more plausible explanation is that the case of one who forgot the essence of the Sabbath does not appear in the Sifra passage at all, because whoever formulated this passage did not think that such a case was possible.

This explanation may seem strange at first. All of a sudden, after we have seen all kinds of remarkable rabbinic scenarios of unlikely forgetfulness, we are to accept that someone thought that a scenario of "forgetting the essence of the Sabbath" is too far-fetched to be considered? But when we look more closely at the Sifra passage, we see that this passage steps away from the possibility of forgetting altogether and replaces the prospect of forgetting with the prospect of *error*. Note that in case C of the Sifra, the subject does not forget that a certain labor is prohibited, or performs a labor automatically without thinking about it, but rather, he "erred and said, 'This is not a [forbidden] labor.'" The subject imagined here is emphatically one who has faulty *knowledge* of halakhic laws, not one who had correct knowledge and forgot it. Similarly, by putting the words "This is not the Sabbath" in the subject's mouth in case B, the Sifra indicates that this subject erred in keeping track of the days of the week and therefore mistook the wrong day for the Sabbath, not that he inexplicably forgot which day of the week it was or acted on autopilot.[72] I suggest that the anonymous authors of the Sifra operated within an imagined world that consisted exclusively of Torah learners, and

71. Cf. BT Shabbat 68a–b.

72. See BT Shabbat 69b, which suggests a scenario in which one loses track of the Sabbath because one is "on the road or in the desert."

therefore perceived of errors in practice as attributable strictly to errors in learning (or to absence of learning). To them, the possibility of basic halakhic knowledge or facts unaccountably and suddenly fleeting from the mind, which we saw so prominently in the Mishnah, was incomprehensible.

The same tendency to explain mental omissions in terms of errors in learning can be traced in the Tosefta passage that immediately follows the one that lays out the debate of R. Akiva and Monobaz:

> If one forgot the Torah and committed multiple transgressions, he is liable for each one of them. How so? If he knew that there was [a prohibition regarding] suet, but he said, "This is not the suet we are liable for," or if he knew that there was [a prohibition regarding] blood, but he said, "This not the blood we are liable for"—he is liable for each [transgression separately].[73]

In this Tosefta passage, the possibility of "forgetting the Torah" wholesale, or even just forgetting "the essence" of a single injunction, is downright dismissed.[74] The only way in which one can "forget the Torah," according to this passage, is by erring in very specific details of specific laws—for example, knowing fully that one is not allowed to eat suet but not thinking that the type of substance in front of him falls under the prohibition. In stating that even one who forgets "the Torah" still remembers elemental and basic laws like the suet and blood prohibitions, the Tosefta seems to respond to the Mishnah's ruling on "one who forgot the essence of the Sabbath" by saying, implicitly, that one does *not* forget the essence of the Sabbath. It is worth noting that the tendency to explain forgetfulness in terms of errors in learning becomes especially prominent in the two Talmuds, and it stands to reason that the more professionalized and guild-like rabbinic circles became, the more their discourse on forgetfulness skewed toward faulty learning and away from inexplicable memory omissions.

But let us now return to the controversy of R. Akiva and Monobaz. Are we to say that if the Sifra's version follows R. Akiva's position, the Mishnah's version, which specifically uses "forgot" rather than "did not know," follows the position attributed to Monobaz? Since the case of not knowing the essence of the Sabbath in the first place is not mentioned at all in the Mishnah, this could indeed suggest, by way of silence, that in a case like this there is no liability at all and no sin offering is owed—as the fictitious Monobaz contends in the Tosefta.[75] Such a reading

73. T. Shabbat 8.6 (ed. Lieberman 31); cf. T. Karetot 2.9 (ed. Zuckermandel 564).

74. Lieberman finds this passage perplexing, since it seems to imply that if one forgot not the specifics, but the essence of the laws, one would be exempt altogether—which goes against every rabbinic ruling we know on the matter. See Lieberman, *Tosefta ki-pshutah Mo'ed*, 3:110. I propose that the Tosefta passage does not imply that there is a different ruling for forgetting "the essence" of laws, but rather dismisses the possibility that the essence of laws can be forgotten in the first place.

75. This is the reading of the Mishnah espoused by R. Yohanan and Resh Lakish in BT Shabbat 68b, and possibly also by R. Eleazar in PT Shabbat 7.1, 9a (although the anonymous Palestinian Talmud later dismisses this possibility).

would also be in line with the anonymous Mishnah's position in tractate Shevu'ot, according to which one owes a sin offering for inadvertent pollution of the temple only in a case of forgetfulness, and not in a case of initial absence of knowledge. Here, however, I think the text is more ambiguous. The fact that the Mishnah does not explicitly mention one who never knew the law in the first place does not necessarily mean that it works with the assumption that such a person is not liable at all. Rather, it is possible that the Mishnah clusters forgetting and not knowing under the same rubric and eliminates the difference between them. The latter reading is proposed in the Babylonian Talmud, which states that "a child who was captured among the Gentiles and a proselyte who converted among the Gentiles *is comparable to one who knew and then forgot*, and he is liable."[76] According to this reading, not knowing is a particular iteration of forgetting.

I propose that the Talmudic explanation, according to which one who never knew of the Sabbath prohibition is comparable to the one who knew it and forgot it, is not only a way of fitting what looks like a missing category into a specific Mishnah passage, but also a manifestation of a broader ideological stance. This explanation rests on a view that a Jew is born (or reborn, in the case of proselytes) as a fully committed legal subject.[77] To be a Jew is by definition to be informed of the laws that constitute the covenant between God and Israel, whether one is actively aware of this or not.[78] Thus, if a Jew inadvertently violated the Sabbath he is necessarily construed as one who *forgot* the Sabbath, not as one who did not know about it, because on some metaphysical level he is thought to know of the Sabbath just by virtue of being a Jew. There is, admittedly, no evidence that the Mishnah itself was informed by such a view. But particularly in light of the phenomenon we observed in the previous chapter, of the Mishnah's tendency to attribute any and every failure in halakhic practice to forgetting, even when it is small children who present this failure, I find it possible that the Mishnah reflects here a categorical view of all Jewish subjects as subjects who initially know the law.

76. BT Shabbat 68b. In the Babylonian Talmud this reading of the Mishnah is attributed to Rav and Shmuel. The Palestinian Talmud similarly suggests that Rav read "our Mishnah" (which uses the phrasing "forgot" rather than "did not know") as pertaining to a child who was captured among Gentiles, that is, to one who never knew of the Sabbath (PT Shabbat 7.1, 9a).

77. As Yair Furstenberg argued, the rabbis viewed "citizenship" in the Jewish community, whether by birth or by conversion, as defined by subordination to the Torah's laws. See Yair Furstenberg, "The Status of the Samaritans in Early Rabbinic Law and the Roman Concept of Citizenship" (in Hebrew), *Zion* 82, nos. 2–3 (2017): 157–92. On conversion to Judaism as rebirth, see Moshe Lavee, *The Rabbinic Conversion of Judaism: The Unique Perspective of the Bavli on Conversion and the Construction of Jewish Identity* (Leiden: Brill, 2018), 147–80.

78. This idea is expressed repeatedly in the Babylonian Talmud through the notion that each Jew is "sworn since Sinai" to follow the Torah (e.g., BT Yoma 73b, BT Nedarim 8a, BT Nazir 4a, BT Makkot 22a, BT Shevu'ot 21b–23b). Whether or not proselytes are considered to have been present at Sinai or not (see BT Shabbat 146a), since the receiving of the Torah in Sinai is itself portrayed as a conversion ritual, conversion is analogously seen to entail a Sinai-like acceptance of the Torah. See also Lavee, *The Rabbinic Conversion*, 68–79.

Whether the Mishnah's Sabbath rule should be read as exempting subjects who are not aware of the law or as equating lack of knowledge with forgetfulness, it is evident that forgetfulness carries significant rhetorical weight in this Mishnaic passage. Its significance is first and foremost in positing—unlike the Sifra and the Tosefta—that one *can*, in fact, forget the essence of the Sabbath. Human memory is so unpredictable and so unreliable that even something as fundamental and elementary as the Sabbath can be inexplicably forgotten. But this Mishnaic passage also tacitly makes the point that failure to observe the Sabbath altogether, even for an extended period of time, can be readily explained in terms of forgetfulness and not in terms of intentional violation of the law or of blatant carelessness. Of course, the rabbis still acknowledge, in other places, the possibility that one would violate the Sabbath purposefully, but in this particular passage they create a universe in which failure to observe the Sabbath is attributable to forgetfulness alone, even when such failure is all-encompassing and consistent. Through the framing of forgetfulness, even the violation of the Sabbath—the most iconic breaching of boundaries in Jewish law—becomes a manifestation of inherent human fallibility rather than of abandonment of the commandments. The presumed uncontrollability of the mind and of memory serves the rabbis to claim that all Jewish subjects, whether they know it or not, or act like it or not, are willing and well-intentioned subjects and thus fall under their jurisdiction. At the same time, it also allows the rabbis themselves, in the safety of halakhic discourse, to conceptually experiment with all kinds of rule-breaking behavior. The rabbis, I will propose by way of conclusion, utilize the category of *he'elem* not only to embrace transgressors, but also, perhaps, to live vicariously through them.

Taboo Breaking and Games of Memory

Throughout this chapter we have seen discussions of various transgressions and prohibited actions, all used as examples to demonstrate juridical principles regarding the relations between forgetfulness, memory, and legal liability. These examples pertained primarily to pollution or misuse of sacred items, labor prohibitions on Sabbath days, and forbidden sexual unions. These three topics are all discussed in rabbinic texts with similar scholastic distance and dispassion, and to some extent they are all interchangeable with one another: a rabbi can use a case of having sex with five menstruating women to challenge a ruling on a case of eating five pieces of sacrificial meat, as all cases are comparable and are expected, in theory, to operate according to the same rules.[79] This mode of discourse is par for the course in rabbinic literature, both Tannaitic and Amoraic. Readers of rabbinic texts, traditional and academic alike, are thus trained not to see rabbinic debates on blatant sexual topics, from sex with three-year-old girls to sex with multiple relatives, as "really" sexual, but only as mechanical treatments of abstract halakhic principles that happen to be applied to sex-related topics. I am also trained this way, and in

79. See M. Karetot 3.10.

the course of this chapter I, too, focused on the principles that can be extracted from rabbinic discussions of transgressions and not on the nature of the cases depicted in them. I did not stop to ask, "Wait, *how* is someone not sure whether he had intercourse with his wife or with his sister? And how come the wife or the sister has nothing to say about it?" but focused only on the metalegal implications of the scenario. I do think, however, that it is important to de-trivialize this mode of rabbinic discourse, and to consider both its significance and its literary effects.

To be clear, my point is not to complain that this mode of discourse is patriarchal and offensive. That rabbinic literature is patriarchal (and often misogynistic) is a given; and to find it offensive one must expect the rabbis to conform to contemporary sensibilities and sensitivities, which I find ludicrous. Rather, my point is that the rabbis' choice not only to discuss the breaking of sexual taboos in completely banal terms, but also to create exaggerated scenarios of taboo violation that bundle together multiple prohibited sexual unions, is exactly that—a choice. It would be woefully naïve to assume that had the rabbis not debated the question of how many sin offerings a person owes if he had sex with multiple relatives in one mental eclipse, future generations would be at a terrible loss when adjudicating such a case, or that without such cases the juridical questions at hand could not fully unfold. I would like to propose that instead of reading rabbinic scenarios of egregious taboo violations with disregard for their content and with interest only in their scholastic value, we also consider what these scenarios do for the rabbis distinctly through their outrageous and hyperbolic nature.

To demonstrate the extent to which the rabbis integrate salacious elements into their halakhic discourse on *he'elem*, even when such elements serve no scholastic purpose, I propose that we look closely at one Mishnaic passage. This passage is the first of four passages in which R. Akiva reports on exchanges that he had with his masters:[80]

> Said R. Akiva, "I asked Rabban Gamaliel and R. Yehoshua in the meat market of Emmaus when they went to buy an animal for the wedding feast of Rabban Gamaliel's son,[81] 'One who has intercourse with his sister and with his father's sister and with his mother's sister in one concealment, what [is the rule]? Is he liable for one [sin offering] for all of them, or for [a separate offering for] each one?' and they told me, 'We have not heard [from our masters], but we did hear that one who has intercourse with his five menstruating wives in one concealment is liable [for a sin offering] for each one of them, and we consider it a case that can be deduced *a fortiori*.'"[82]

80. On Mishnaic accounts of R. Akiva's disagreements with his masters, see Menahem Kahana, "On the Fashioning and Aims of the Mishnaic Controversy" (in Hebrew), *Tarbitz* 73, no. 1 (2004): 51–81.

81. "Rabban Gamaliel's son" is mentioned only in the printed edition, following the Babylonian Talmud. In the Mishnah's manuscripts, as well as in most manuscripts of the Sifra, the text only says "his son," without specifying whose son it was.

82. M. Karetot 3.7; cf. Sifra Hovah 1.1.8 (ed. Finkelstein 125).

Let us remove for a moment our scholastic spectacles, through which all rabbinic scenarios are read strictly as vehicles to discuss abstract principles, and note what is happening here: R. Akiva and R. Yehoshua and Rabban Gamaliel are all in the meat market together, shopping in preparation for the wedding feast of the son of one of them. It is in this particular setting that R. Akiva finds it necessary to ask his masters about the legal repercussions of a triple incest—a case in which one person has sex with his sister, with his paternal aunt, and with his maternal aunt.[83] His masters, in return, tell him that they have not heard a teaching about the particular case he is asking about, but they can offer a related teaching about sex with five menstruating women. In other words, instead of answering R. Akiva's question about a case of over-the-top taboo breaking, they provide their own example of another over-the-top taboo breaking. But beyond the fact that the cases themselves are excessive in nature (Why sex with five menstruating women? Why not just two, to make the same point?), and that their juxtaposition enhances the sense of excess, there is an additional element of excess in providing the circumstances in which the exchange took place. Why did the Mishnah find it necessary to mention that these rabbis were in the process of preparing for a wedding feast, when this detail contributes nothing to the halakhic discussion at hand?[84] Put differently, why did the Mishnah want us to know that it was specifically upon a young man's first sexual experience that his father's friends discussed various kinds of illicit sex, inside and outside the family? As Menahem Kahana understatedly commented, these questions are "slightly awkward in the context of 'his son's wedding feast.'"[85]

I would argue that this awkwardness, and the overall crassness and excessiveness of the text, should not be dismissed as byproducts of the scholastic discourse, because they serve no purpose in the scholastic discourse. Rather, these elements are manufactured and exaggerated on purpose, and they have a strong playful element to them. Allow me to demonstrate this playfulness with one other set of

83. In the Babylonian Talmud (BT Makkot 14a, BT Karetot 15a) R. Akiva's question was interpreted as pertaining to one woman who is all three (she is one's sister *and* one's father's sister *and* one's mother's sister), but this does not seem to be the Mishnah's intention. See Albeck, *Six Orders: Qodashim*, 5:416–17.

84. Here it should be noted that the two following passages (M. Karetot 3.8, 3.9) present exchanges between R. Akiva and his two masters, presumably in the same setting, that pertain more directly to meat-related issues, and it could be argued that the meat market somehow gave rise to these questions. Kahana suggested that in the original version of this collection of exchanges R. Akiva may have first asked his more pertinent meat-related questions, including a question about "one who slaughtered five animals for offering outside the temple in one concealment," and the latter question gave rise to a question about the case of multiple incestuous relations, but the exchanges were edited in a different order in the Mishnah. See Kahana, "The Controversy in the Mishnah," 74–75. Be that as it may, it is not the Mishnah's habit to provide the circumstances in which halakhic exchanges took place, and the awkwardness of the connection between the incest-related question and the impending wedding feast remains (and is accentuated) in the Mishnah's version, as Kahana himself notes.

85. Kahana, "The Controversy in the Mishnah," 75.

passages, which deal with the possibility that one will owe multiple sin offerings for a single offense:

> There is a case of one who eats one [thing] and is liable for four sin offerings on account of it: an impure person who ate suet, which has remained overnight from the sancta, and [he ate it] on the Day of Atonement. R. Meir says, "If it was the Sabbath and he carried it out in his mouth, he is liable [for a fifth sin offering]." They told him, "It is not the same name [of transgression]."[86]
>
> There is a case in which one has intercourse a single time and is liable for six sin offerings on account of it: if one has intercourse with his daughter, and he is liable on account of [the fact that she is] his daughter, and his sister, and his brother's wife, and his father's brother's wife, and a married woman, and a menstruant.
>
> Or, if one has intercourse with his daughter's daughter, and he is liable on account of [the fact that she is] his daughter's daughter, and his wife's sister, and his brother's wife, and his father's brother wife, and a married woman, and a menstruant.
>
> R. Yose says, "If the old man (i.e., the father of the aforementioned person) came by and married her, [the son] is liable [for a seventh sin offering], on account of [the fact that she is] his father's wife. And the same is the case if one has intercourse with his wife's daughter [who is also all of the above], or with the daughter of his wife's daughter [ditto]."[87]

Both passages present a challenge: find a single transgressive action that violates as many prohibitions as possible. The first example is of a person who innocently eats a single piece of sacrificial meat and thereby breaks four different laws: one because of his own bodily status (an impure person cannot eat sacrificial meat), one because of the substance of the meat (suet, which has to be burned on the altar and cannot be eaten), one because of the status of the meat (remained overnight), and one because of the timing of the meal (the Day of Atonement). R. Meir, who does not understand the rules of the game, adds that if he carried the meat out on the Sabbath, we may add a fifth violation to these four, and his frustrated friends explain to him that the whole point of the game was to find prohibitions that all fall under the category ("name") of eating, not to add new categories. In the second example, the rabbis try to figure out how many sexual taboos one can break by having intercourse with only one woman, and they create a panoply of incestual unions that would confound even Oedipus: a person's daughter who is also his sister and also his brother's wife and also his aunt and is also menstruating, or a person's granddaughter who is also his wife's sister and also his brother's wife and also his aunt and, to put it over the top, also his stepmother (and of course, also menstruating). The next passage, which I did not quote here, continues on to

86. M. Karetot 3.4.
87. M. Karetot 3.5.

a woman who is a person's mother-in-law but also his daughter-in-law and also his sister-in-law, and the list continues. I will not attempt to untangle all those scenarios and explain how they could happen (Mishnah commentators have done that for us), as I do not think this is important. What is important is that both passages present intellectual games that are completely gratuitous, and that serve no apparent scholarly purpose. So why are they there?

I would like to propose two answers to this question, one practical and one, for lack of a better term, psychological. The practical reason is that grotesque, salacious, and exaggerated images and ideas are easily committed to memory. As I will discuss in greater detail in chapter 5, rabbinic materials were studied and preserved predominantly orally, and the ability to retain large amounts of text and information in memory was crucial for rabbinic disciples. In this regard, the rabbis and their students were not different from other members of educated elites in antiquity, who memorized and learned texts by heart even when they consulted or ultimately produced written documents.[88] Constructing images that are purposefully excessive and bizarre was a known memorization technique, as attested by the author of the influential treatise *Rhetorica ad Herennium* (probably composed in the first century BCE and long mistakenly attributed to Cicero): "We ought, then, to set up images of a kind that can adhere longest in memory. And we shall do so if we establish similitudes as striking as possible . . . or if we somehow disfigure them . . . or by assigning certain comic effects to our images."[89] The rabbis' use of particularly egregious and wild scenarios of taboo-breaking behavior can be readily understood, then, as a way to generate unforgettable images and thereby to assist with memorization.[90]

But on another level, I believe we can acknowledge that wherever there is a taboo, there is also curiosity, and wherever there is a prohibition, there is an allure to breaking it. I do not think it is incidental that rabbinic discussions of *he'elem*, a condition in which individuals are temporarily not responsible for their actions, give rise to scenarios of extreme, overstated, all-you-can-eat transgressions. The very notion that under a "mental eclipse" one can transgress the most fundamental prohibitions—sexual and others—without knowing it turns the concept of "concealment" into a scary but fascinating fantasyland of sorts, in which everything is possible and no offense is beyond the ken of imagination. Episodes of forgetfulness

88. See Jocelyn Penny Small, *Wax Tablets of the Mind: Cognitive Studies of Memory and Literacy in Classical Antiquity* (London: Routledge, 1997).

89. *Rhetorica ad Herennium* III.22, trans. Harry Kaplan, Loeb Classical Library 403 (Cambridge, MA: Harvard University Press, 1954), 221.

90. More generally, engagement with far-fetched and somewhat scandalous cases, often highly sexual, was characteristic of rhetorical training in antiquity. As Richard Hidary noted, in this respect there are some correspondences between rabbinic discussions and the *controvesiae* of Hellenistic and Roman rhetorical schools. See Richard Hidary, *Rabbis and Classical Rhetoric: Sophistic Education and Oratory in the Talmud and Midrash* (New York: Cambridge University Press, 2017), 150–70.

thus function in rabbinic texts somewhat like dreams: they are cognitive territories inherently defined by lack of control, and thus they are safe spaces through which the rabbis can explore uninhibited what loss of control—which they could never afford in their ordinary life—actually makes possible.[91] Forgetful subjects, for the rabbis, are not only errant souls who can be rehabilitated through correct halakhic means, but also proxies through which the rabbis allow themselves, however briefly, to imagine all boundaries broken and all prohibitions defied. In the next chapter we will continue to see, albeit in much more tame and benign ways, how forgetfulness serves the rabbis to question, challenge, and sometimes break the rules of the halakhic game.

91. On the rabbis' approach to dreams, see Haim Weiss, *All Dreams Follow the Mouth: A Reading in the Talmudic Dream Tractate* (in Hebrew) (Beer Sheva: Ben Gurion University Press, 2011).

4

Rituals of Recollection

In the previous chapters we explored the prominence of forgetfulness in the Tannaitic halakhic landscape, and we saw the extent to which forgetting—from minor and negligible forgetting to major and egregious forgetting—is assumed to be a natural and expected obstacle in the daily efforts of committed subjects to live in adherence to the demanding system of rabbinic norms. So far, however, I have given relatively little attention to the nature and content of the solutions to memory failures that the rabbis devised. In this chapter, I focus on the strategies the rabbis conjured to navigate situations in which forgetfulness challenges existing halakhic principles, and I examine the deliberations, priorities, and anxieties that emerge from the rabbis' attempts to respond to these challenges.

To start, let us note that the rabbis' efforts were mostly geared toward addressing concrete problems that might come about as a result of forgetfulness, not toward atoning or doing penance for offenses caused by forgetfulness. The overall rabbinic view was that if one forgot and did something he was not supposed to do, or forgot and did not do something he was supposed to do, once one realized the mishap there was not much for him to do except be regretful and move on.[1] This is noteworthy in light of the fact that the rabbis inherited the priestly legislation, according to which all unintentional transgressions must be addressed with the atoning mechanisms of sin and guilt offerings, mechanisms that offer a concrete outlet for feelings of guilt and remorse over violations of the law (while also, of

1. The rabbis do engage with and develop the concept of "repentance" (*teshuvah*) as an internal process of transformation through which one acknowledges and expresses remorse over one's transgressions, and repentance is certainly described as a mechanism of atonement (e.g., M. Yoma 8.8). However, this process is conceptualized in rabbinic texts as an all-encompassing change of disposition, not as a tool for rectifying specific and discrete breaches of the law. Moreover, Tannaitic engagement with the actual practices and actions that constitute repentance is quite minimal, and the topic of repentance never comes up in discussions of forgetfulness. On repentance in rabbinic texts, see David A. Lambert, *How Repentance Became Biblical: Judaism, Christianity, and the Interpretation of Scripture* (New York: Oxford University Press, 2016), 171–80.

course, generating those feelings at the same time). Although the early rabbis continued to prescribe sin offerings as the means for rectifying erroneous transgressions, their use of the priestly paradigm is quite limited. First, they restricted the requirement to provide sin and guilt offerings to only a fraction of the vast array of rabbinic rules and commandments—namely, to the thirty-six prohibitions that warrant extirpation when broken knowingly.[2] Second, they never devised any substitute for sin offerings in the absence of a temple.[3] As we saw in the case of R. Ishmael, a person who committed a serious transgression like violating the Sabbath can do nothing other than make a note for themselves to bring an offering whenever the temple is finally rebuilt.[4]

This feature of the rabbinic approach toward unintentional transgressions, which persists in Jewish halakhah to this day, is surprising to many. Jewish websites of halakhic consultation are replete with questions sent in frenzy to rabbis, such as "I forgot that I had chicken two hours ago and had ice cream! What should I do?" or "Without thinking I turned on the light in the bathroom on the Sabbath, how can I atone for it?" Rabbis' answers to these questions are always the same: "What you did is done. Be more careful next time." There are no formulae to recite, no mandated donations or charity to give, no mechanism of penance. One rabbinic passage expresses clearly that if the deed is done and cannot be reversed, the rabbis cannot offer the forgetful subjects anything other than stewing in their guilty conscience:

> If one ate fruits [designated as] second tithe, whether erroneously or intentionally—let him shout to the heavens, the words of Rabbi [Yehuda the Patriarch].
>
> Rabban Shimon ben Gamaliel says, "erroneously—let him shout to the heavens; intentionally—let the money return to its place."[5]

Fruits designated as "second tithe" can only be eaten in Jerusalem, in the vicinity of the temple. If a person ate such fruits outside of Jerusalem, Rabbi Yehuda the

2. M. Karetot 1.1. See also M. Karetot 6.3, which explicitly rejects the notion that one should provide atoning offerings for any transgression other than those thirty-six.

3. We do find in several later rabbinic sources—mostly in the Babylonian Talmud—the idea that certain practices are comparable to sacrifices in their ability to affect atonement (primarily prayer, Torah study, fasts, and acts of kindness), and some scholars referred to such practices as "substitutes" for sacrifice. See Michael Fishbane, *The Exegetical Imagination: On Jewish Thought and Theology* (Cambridge, MA: Harvard University Press, 1998), 123–35; Paul Heger, *The Three Biblical Altar Laws: Developments in the Sacrificial Cult in Practice and Theology* (Berlin: Walter de Gruyter, 1999), 377–82; Moshe Halbertal, *On Sacrifice* (Princeton, NJ: Princeton University Press, 2012), 37–53. Tannaitic sources, however, are devoid of any rhetoric that equates sacrifices with other practices.

4. T. Shabbat 1.13 (ed. Lieberman 3); see my discussion in chapter 2.

5. T. Ma'aser Sheni 3.9 (ed. Lieberman 256), according to MS Vienna. In MS Erfurt (Berlin) of the Tosefta, as well as in the Palestinian Talmud (PT Ma'aser Sheni 1.1, 52c), the names are reversed (the first opinion is attributed to Rabban Shimon ben Gamaliel and the second opinion to Rabbi); see Lieberman, *Tosefta ki-pshutah Zera'im*, 2:756. The printed edition here is thoroughly corrupt.

Patriarch says that whether this was done erroneously (i.e., because one did not know or forgot they were designated as second tithe) or intentionally, all one can do is "shout to the heavens" (*yiz'aq la-shamayim*). Rabban Shimon ben Gamaliel, in contrast, distinguishes between one who acted erroneously, who really cannot do anything other than "shout to the heavens," and one who acted intentionally, who should assess how much money the fruits he ate were worth and use that same sum of money in Jerusalem as recompense. Importantly, the latter channel is only available to one who acted intentionally, which means that it is *not* a way of rectifying or undoing the forbidden act but rather a form of punishment, or a fine.[6] Fines are suitable as a sanction if one should be condemned for one's actions, but if one acted erroneously one should simply live with one's mistake and hope for divine mercy. Note, however, that while from a strictly halakhic standpoint "Let him shout to the heavens" is merely an embellished way of saying, "There is no halakhic course of action available to him," this phrase in itself does advise a course of action: it suggests that the subject outwardly *perform* his anguish and remorse in a dramatic way. These rabbis do not say, "Let him hope for forgiveness" or "Let him be more careful next time," but prescribe that the subject should undertake an affective display of emotion. The rabbis by no means suggest that a performance of anguish will undo or atone for the transgression, but they do deem it to be the appropriate way for the subject who erred to act. As I will argue in this chapter, an embodied performance of awareness of one's halakhic omissions is as important to the rabbis—and sometimes more important to them—as actual rectification of such omissions.

In the cases I examine in this chapter forgetfulness is neither easily rectifiable by simply doing what needs to be done (e.g., if one forgot to circumcise one's child on the eighth day they can do so on the ninth day), nor is forgetfulness not rectifiable at all (e.g., if one ate a forbidden substance and already ingested it). Such cases are straightforward, and the rabbis have little interest in them. Rather, my focus is on cases in which one realizes one's forgetfulness when the halakhic event is still taking place and can still be corrected, but it is not entirely clear how to correct it without creating a new set of problems. These cases are uniquely challenging for the rabbis, since they involve negotiating different priorities and multiple considerations. What if by doing what one forgot to do right away one would then

6. This case is contrasted with a case presented in the following passage (T. Ma'aser sheni 3.10), in which a person misused money designated for second tithe rather than fruits designated for second tithe. Here Rabbi Yehuda the Patriarch rules that the transgression is rectifiable simply by using that same amount of money in Jerusalem, and this should be done whether one used second tithe money erroneously or intentionally. In contrast, Rabban Shimon ben Gamaliel maintains that the use of other coins cannot fix the original wrongful use of sanctified coins. It is an appropriate penalizing mechanism for one who acted intentionally, but one who acted erroneously should not spend additional money, because there is no reason to punish him. He still, however, has to "shout to the heavens" to reckon with his guilty conscience.

break another commandment? What if by stopping a forbidden action midway one would debase holy items or activities? And how to deal with situations in which completion of a forgotten halakhic task according to protocol means significant and unforeseen hardship for the forgetful subject? The procedures that the rabbis prescribe for dealing with forgetfulness reflect a sustained effort to address memory failures as a discrete problem that requires its own set of creative measures, and they divulge an array of concerns and uncertainties associated with this problem.

Forgetfulness, by definition, is a situation of rupture that threatens to introduce chaos into the highly ordered and controlled halakhic system. Under the spell of forgetfulness, as we have seen, a committed rabbinic subject can do anything—from entering the temple while impure to breaking iron-clad incest taboos. I proposed that the rabbis' extensive engagement with forgetfulness presents an attempt to control uncontrollability, and to impose order and discipline upon the chaotic human mind that roams in an unmarked world. By building ruptures into their system, the rabbis make these ruptures mendable and manageable, and ultimately turn them into opportunities to enhance their own claim for authority. What we will see in this chapter is that sometimes the rabbis do not quite mend a rupture as much as they put a very conspicuous patch on it. An examination of the patchwork—that is, of the inconsistent and messy nature of some halakhic solutions to forgetfulness—enables us to discern the rabbis' stakes in their legislation more clearly. I argue that the solutions that the rabbis conjure for dealing with forgetfulness have a notable performative dimension to them, that is to say, the rabbis devise for forgetful subjects a set of bodily practices that make both the omission and the subject's decision to correct it outwardly manifest. The most obvious of these performative practices is physically returning to the place in which the commandment should have been fulfilled, even when this is not strictly necessary. In addition, in cases in which forgetfulness traps one in a halakhic situation from which there is no exit the rabbis prescribe performative actions meant to demonstrate visibly that the subject is *trying* to negotiate an impossible halakhic situation. Similar to the call for one to "shout to the heavens" that we saw above, the rabbis suggest that even when there is nothing to do, there are appropriate ways to perform the fact that there is nothing to do.

Rabbinic solutions for confounding situations of forgetfulness are centered not on the end to be achieved—fulfilling a commandment correctly—but on what is sometimes called technologies of the self: creating subjects who are not only subordinate to the law but also enact and display their subordination to the law with their own bodies.[7] To be sure, this is not unique to the realm of

7. The concept of "technologies of the self" was coined by Michel Foucault and has been used extensively since then. See Michel Foucault, "Technologies of the Self," in *Technologies of the Self: A Seminar with Michel Foucault*, ed. Luther Martin, Huck Gutman, and Patrick Hutton (Amherst: University of Massachusetts Press, 1988), 16–49.

forgetfulness: halakhah as a whole can be described as performative in nature,[8] and entire areas of halakic practice can be described as concerned, at least on some levels, with self-fashioning.[9] But I propose that because forgetfulness has a seed of deviance in it—that is, because it always stands to be interpreted as abandonment of the halakhic system—the question of how to handle forgetfulness and how to make it manifest that the subject has not abandoned the halakhic system has unique stakes to it, and externalized performance of subordination to the law is especially urgent. The question of the appropriate balance between making forgetful subjects perform their alignment with halakhah, on the one hand, and making the halakhic system flexible and manageable for such subjects, on the other hand, is at the heart of the rabbinic rulings we now turn to explore.

GOING BACK: CORRECTION AND CREATIVITY

Figuring out how to respond to episodes of forgetfulness—namely, deciding whether a forgotten task can still be completed or if the omission must simply be accepted—is an ongoing and fairly banal part of life. Suppose I looked at the weather forecast this morning and saw that they are predicting rain for the evening. I tell myself that when I leave my house in the afternoon I should take an umbrella, but by the time I get ready to leave my house I forget this intention. If I am reminded of the forecast and of my intention to take an umbrella when I am at my doorstep, it is plain that I will go back inside and get my umbrella. If I am reminded of the forgotten umbrella after it has already started raining, it is plain that going back to fetch my umbrella will accomplish nothing at this point. The dilemma emerges in the in-between situation in which I have already gone some distance from my house, but it has not started raining yet: now I need to decide whether to go back or not based on a host of variables (how much effort is involved in returning and how much time will be lost, to what extent am I in a hurry and what happens if I get to my destination later than I intended, how much I hate getting wet, etc.). The decision whether to go back or not in different situations of forgetfulness also depends on the nature of the forgotten item or action: I am more likely to decide to go back home if I realize on the way to the airport that I have forgotten my passport than if I realize that I have forgotten my toothbrush, and I am more likely to resend an email if I forgot to mention important details than if

8. On halakhah as performance, see Yair Lipshitz, "The Angels and the Bamba: Halakhah and Theories of Performance" (in Hebrew), in *Halakhah as an Event*, ed. Avinoam Rosenak (Jerusalem: Magnes Press, 2016), 135–74.

9. See, for example, Joshua Levinson, "From Narrative Practice to Cultural Poetics: Literary Anthropology and the Rabbinic Sense of Self," in *Homer and the Bible in the Eyes of Ancient Interpreters*, ed. Maren R. Niehoff (Leiden: Brill, 2012), 345–67; Balberg, *Purity, Body, and Self*, 148–79. For a discussion of themes of self-fashioning in nonhalakhic rabbinic texts, which nonetheless speak of the importance of legal and ritual practices in the ethics of the self, see Jonathan Schofer, *The Making of a Sage: A Study in Rabbinic Ethics* (Madison: University of Wisconsin Press, 2005).

I forgot to include the courteous but expendable "I hope you are doing well" line at the beginning.

These almost facile examples may seem at first blush to be completely irrelevant to the realm of halakhah and religious observance. Presumably, forgetting to perform a commandment that is perceived to be a sacred duty is entirely different from forgetting to take an umbrella, buy milk, or send a message. The former, unlike the latter, is important not as means to an end but as an end in itself, and accordingly should be perceived (so we would think) as nonnegotiable, or at least as taking precedence over almost all other considerations. A halakhic action is efficacious if it has been carried out correctly, and there is no other definition for efficaciousness except for being done correctly.[10] The most extreme example of this are temple rituals, in which the level of precision required is so high that any mistake or omission warrants a reperformance of the procedure,[11] but it would be fair to say that the rabbis extended the punctilious and detail-oriented approach characteristic of temple rituals to many other regions of halakhic performance as well.[12] In the ritualized logic of halakhic performance, the decision to go back to perform missing or mangled elements of a commandment—whether going back physically in space or going back by repeating the action—is ostensibly not guided by pragmatic questions about whether it is worth it but by inherent questions of validity. For example, if one forgot to say a portion of the Shem'a recitation or made a mistake in the recitation, the decision to repeat the entire recitation, only the missing portion, or no portion at all is not based on the degree to which the reciter is in a hurry, but on the established protocols for doing a recitation correctly.[13]

Against the expectation that rabbinic protocols of action be decided based on coherent logics of validity and not on the constraints placed on practitioners, the cases I discuss in this section strike one as somewhat unusual. In these cases, the rabbis create alternative halakhic protocols for the performance of commandments in situations of forgetfulness, protocols that are governed not by internal questions of validity but by external questions of priorities and reasonable expectations. These alternative protocols suggest that "going back" is sometimes the appropriate response to forgetfulness but is not always necessary, which in turn reveals that "going back" is, at least in certain cases, not a requisite part of the halakhic procedure but rather a performative and to some extent superfluous

10. See Balberg, "Ritual Studies," 85–91.

11. See, for example, M. Yoma 5.7: "For the entire [set of] actions of the Day of Atonement that is said in sequence, if one performed one action before the other (i.e., out of order), one has done nothing (i.e., the ritual is invalid). If he sprinkled the blood of the goat before the blood of the bull, he should go back and sprinkle [again] the blood of the goat, and if before he finished the application of blood inside [the temple] the blood was spilled, he should bring more blood and go back and sprinkle inside from the beginning."

12. As observed by Halbertal, "The History of Halakhah," 23.

13. M. Berakhot 2.3; T. Berakhot 2.3–5 (ed. Lieberman 6–7).

device through which forgetful subjects perform their (re)subordination to the halakhic system.

Let us return to a passage we encountered in chapter 2, which describes the case of a person who left his home before Passover having forgotten to destroy the leaven that was in his house. The passage mentions three cases: a person who left his home to perform another time-sensitive commandment; a person who left his home to deal with an emergency; and a person who left his home for no pressing reason.[14] In chapter 2 I used this example mainly to illustrate the rabbis' construction of forgetful subjects as deeply committed individuals whose forgetfulness does not attest to negligence or carelessness, but rather to the hefty cognitive demands of halakhah. I now wish to focus on the solution, or course of action, prescribed for the forgetful subject in each of those cases:

> [A] If one was on his way to slaughter his Passover offering, or to circumcise his son, or to have a betrothal banquet at the house of his father-in-law, and he was reminded that there is leaven (*ḥametz*) in his house—if he can go back and destroy it and return to [the other] commandment [in time] he should go back and destroy it; if not, he nullifies it in his heart.
>
> [B] [If one was on his way] to save [persons or property] from an army or from a [flooding] river or from robbers or from a fire or from a landslide—he should nullify it in his heart.
>
> [C] [If he was on his way] to spend [a Sabbath or a festival somewhere else] voluntarily—he should return [to his home] immediately.[15]

The Mishnaic passage puts forth two possible courses of action for individuals who forgot to destroy the leaven in their homes before leaving and were reminded of it only on the way to their destination: going all the way back and destroying the leaven or "nullifying it" in one's heart. The Mishnah does not explain how nullification in one's heart is to be carried out. Perhaps all it entails is declaring, inwardly or audibly,[16] that the leaven is hereby—through the power of the statement—nonexistent. This is indeed the measure described in the Palestinian Talmud (albeit

14. The Mishnah uses the phrase *shevitat ha-reshut*, roughly translated as "a permissible cessation," which likely means that the subject is about to spend either the Passover festival itself or the preceding Sabbath away from his home of his own volition (*reshut*, "permission," would be contrasted here with *mitzvah*, "commandment"). The Palestinian Talmud (PT Pesahim 3.7, 30b) explains this phrase as referring specifically to one about to spend the Sabbath or festival with his teacher or one "greater than him in wisdom." As Lieberman noted, this is consistent with the Palestinian Talmud's habit of interpreting *reshut* as an activity that still has religious value to it. See Saul Lieberman, "Emendations on the Yerushalmi" (in Hebrew), *Tarbitz* 5, no. 1 (1933): 98.

15. M. Pesahim 3.7.

16. In several biblical and rabbinic texts "in one's heart" is contrasted with "in one's mouth" or "with one's lips," which suggests that speech in one's heart is necessarily internal speech. However, medieval commentators maintained that the formula used for nullification of leaven in one's heart must be spoken audibly to be valid.

to nullify leaven that one does not know about, not leaven one knows about but cannot physically destroy): "He should say, 'Let any leaven that I have in my house and that I do not know about be nullified.'"[17] Alternatively, nullification in one's heart could refer to a more elaborate activity of visualization or spiritual exercise in which one imagines oneself destroying the leaven.[18] Either way, nullification in one's heart is regarded here as an effective way to fulfill the commandment.

On the face of it, the solution of nullifying leaven in one's heart appears to be an emergency measure to be taken only when physical destruction of the leaven is impossible (like a halakhic reserve parachute, if you will). A closer look reveals that what the Mishnah constructs here is a more complex matrix of priorities: destroying the leaven physically rather than mentally is the preferred option, but this preferred option is only to be sought out when there are no concerns to attend to that the rabbis deem to be more important. And "more important," it should be noted, is not necessarily a matter of life and death: saving property is regarded in case B to be on equal par with saving lives, and attending a betrothal feast is regarded in case A to be on the same level as performing commandments that make one liable for extirpation if omitted.[19] It is not literally impossible to go back to destroy the leaven in cases A and B, but rather it is determined that continuing on to one's destination should take precedence in these situations.

Importantly, the rabbis do not present the dilemma in this passage as choosing whether or not to abandon the commandment for the sake of another task, but as choosing which of two *viable alternatives* is to be taken in which situation. Whether destroyed physically or mentally, the leaven in one's house will become nonexistent, and the commandment will be fulfilled. This is very different from cases in which the rabbis give one explicit permission to break a commandment (e.g., to violate the Sabbath in order to save a life),[20] or give one temporary exemption from a commandment because of more pressing concerns (e.g., exempting bridegrooms from reciting the Shem'a while they are getting ready to consummate

17. PT Pesahim 2.2, 28d. A similar formula is used to this day to complete the destruction of leaven after physical destruction has been performed.

18. In their analysis of the rabbinic phrase "directing one's heart" in the context of prayer, R. Neis proposed that this phrase be understood in embodied terms, as pointing toward an interplay of spatial, mental, and somatic orientations. See Rafael Rachel Neis, "Directing the Heart: Early Rabbinic Language and the Anatomy of Ritual Space," in *Placing Ancient Texts: The Rhetorical and Ritual Use of Space*, ed. Mika Ahuvia and Alex Kocar (Tübingen: Mohr Siebeck, 2018), 131–66. It is possible that nullification in one's heart should similarly be understood as a more elaborate practice than simply deciding to destroy the leaven in one's house, but there is no significant discussion of this practice in rabbinic texts.

19. The Palestinian Talmud (PT Pesahim 3.7, 30b) comments on this discrepancy, concluding that peace within one's family is of such great importance that it is equated here with the weightiest commandments. The Babylonian Talmud (BT Pesahim 49a), in contrast, presents a baraita according to which a betrothal meal falls under the same category as voluntarily spending time away from home, and one on his way to such a banquet is required to go back to destroy his leaven immediately.

20. For example, M. Yoma 8.7; T. Shabbat 15.11–17 (ed. Lieberman 72–74).

the marriage for the first time).[21] Nullifying leaven in one's heart is presented as a valid and respectable way to perform the commandment, not as an authorized arrangement for *not* performing the commandment.[22] The Babylonian Talmud even goes so far as to assert that nullification in one's heart suffices for all intents and purposes, even when no forgetfulness is involved, and the obligation to destroy the leaven physically is in truth a superfluous requirement not mandated by the Torah, but put forth by the rabbis.[23]

Nevertheless, this is the only context in Tannaitic literature in which the option of nullifying leaven in one's heart is mentioned,[24] and the reader/listener wonders: If it is possible and effective to obliterate leaven simply by deciding that it is nonexistent, why is it only possible in certain situations and not in others? If physical leaven can be rendered a symbolic entity that can be symbolically abolished, why is it necessary at all to go back to destroy it physically, especially if one has already traveled a significant distance away from one's home? And if physical destruction of leaven is imperative, why even suggest that another solution exists instead of conceding that in some cases a subject is exempt from destroying his leaven if he is attending to more pressing concerns? It seems, in other words, that the rabbis improvised a solution here to allow forgetful subjects to remain in the system, but in restricting this solution only to cases of forgetfulness and only to situations in which they considered higher priorities to be at play, they left the ad hoc nature of this solution very palpable. To be sure, it is not unusual for the rabbis to determine that mental processes—thoughts, intentions, and deliberations—are as effective as actions performed physically and are to some extent interchangeable with them. In fact, this is almost a staple of rabbinic thought.[25] What I find noteworthy about this passage is that the rabbis, in a sense, try to have their cake and eat it, too: they

21. M. Berakhot 2.5; T. Berakhot 2.10 (ed. Lieberman 8).

22. A comparable case may be found in the ruling that a person who had a seminal emission recites the Shem'a "in his heart," since he is not allowed to utter holy words audibly (M. Berakhot 3.4). In this case, however, it is made clear that this is a compromised and lacking version of the Shem'a recitation, since the one who opts for it is not allowed to say the blessings that normally accompany the recitation.

23. BT Pesahim 4b, 10a. According to one teaching in the Babylonian Talmud (BT Pesahim 7a), one may nullify the leaven in one's home in one's heart even if he is simply sitting in the study house. The notion that nullification of leaven in one's heart is standard practice may rely on the Onkelos Aramaic translation of the Pentateuch, in which the phrase "you shall remove the yeast" (*tashbitu se'or*, Ex. 12:15) is translated as "you shall nullify yeast" (*tevatlun ḥamira*). Similarly, in Sifre on Deuteronomy 131 (ed. Finkelstein 188), one of the interpretations of the phrase "no leaven shall be seen among you" (Ex. 13:7) is "nullify it in your heart." Cf. Mekhilta deRabbi Shimon 13:7 (ed. Epstein-Melamed 39).

24. The phrase "nullify in one's heart" is mentioned in one other Tannaitic context, regarding a husband's ability to abrogate a vow that his wife took without telling her; see T. Nedarim 7.5 (ed. Lieberman 122). The two cases are fundamentally different, however: in the case of a vow, the husband's consent to the vow or lack thereof is itself a mental occurrence, whereas in the case of leaven the default is physical destruction.

25. See Levinson, "From Narrative Practice"; Ishay Rosen-Zvi, "The Mishnaic Mental Revolution: A Reassessment," *Journal of Jewish Studies* 66, no. 1 (2015): 36–58.

introduce a novel halakhic mechanism that they deem effective, but at the same time they indicate to their subjects that it is not *really* effective. Put differently, they devise a new halakhic tool of "nullification in one's heart" and declare that it works like the practice of physically destroying leaven, but they also tell their subjects to continue using the established practice unless the rabbis give them explicit permission to do otherwise.[26]

The questions that this passage brings to the fore—what nullification in one's heart means and why it is effective only in some cases but not others—are glaring and left unanswered mainly because the issue in this passage is not at all whether the leaven was or was not abolished. The issue is a set of expectations that the rabbis posit for their subjects. The very fact that the rabbis come up with an arrangement of "nullification in one's heart" is an indication that what is at stake for them is not the physical, material bread products in one's home, but the requirement to follow a certain halakhic protocol that was disrupted because of forgetting. Because what is at stake is the protocol and not the material reality, the protocol can be modified and manipulated to reflect what the rabbis hold in high regard, and the rabbis make that very transparent here. There is, after all, no substantive difference between leaven that was abandoned because one rushed to perform another commandment and leaven that was abandoned because one went on vacation. The difference is only in the subject who abandoned the leaven and the way in which he should be made to conform to a halakhic normative paradigm. The manner in which forgetfulness is to be dealt with in each case should be understood, I propose, as performative rather than practical in nature: the one who forgot for no good reason should perform his reincorporation into the rabbinic order by taking the trouble to make the entire journey back, whereas the one who forgot for a worthy cause can use a much less cumbersome route. Put simply, the problem that the rabbis aim to resolve here is not undestroyed leaven, but how to restore a forgetful subject into the halakhic order.

It is worth noting that the Palestinian Talmud goes even further than the Mishnah in relating that what matters is not the realistic feasibility of destroying leaven,

26. Cf. M. Berakhot 4.5, which similarly presents a preferred option for the practice of prayer, followed by alternative options in case the preferred option cannot materialize: "If one was riding a donkey, he should get down [in order to pray]; if he cannot get down, he should turn his face [away]; and if he cannot turn his face, he should direct his heart to the Holy of Holies." Here, however, directing the heart is not a substitute for physical practices but the bare minimum required in all cases. As David Henshke convincingly showed, the Mishnah maintains that one should cease what one is doing and create a distraction-free setting for prayer. If one who is riding a donkey cannot get down in order to pray, one must at least turn one's face away from the direction of travel, and if one cannot turn one's face away, at the very least one should direct one's heart—that is, concentrate on the prayer. Presumably, direction of the heart is needed for prayer in any setting, regardless of the circumstances. See David Henshke, "Directing Prayer toward the Holy Place: The Plain Meaning of the Mishnah and Its Echoes in Talmudic Literature," *Tarbitz* 80, no. 1 (2012): 5–27. I thank Ishay Rosen-Zvi for this reference.

but the subject's adherence to the line of action prescribed by the rabbis. According to the Palestinian Talmud, "even if one can return and destroy [the leaven] and go again and save [whatever needs to be saved]" one should nullify the leaven in his heart and not go back to destroy it physically.[27] In situations of danger to life or property, nullifying leaven in one's heart is the most appropriate and indeed preferred course of action, not a compromise to be sought only when there is no other choice. Thus, in these situations a subject should not even consider going back to destroy the leaven, not because his other tasks should take priority, but because the rabbis said that in such cases nullification in one's heart is what is halakhically required. In contrast, the Palestinian Talmud rules that in a case in which one left one's home of his own volition, one should immediately go back and destroy the leaven in one's home as soon as he remembers it, even if he still has time to destroy it after he comes back from his time away.[28] For example, suppose one left one's home on Friday to spend the Sabbath with his master, and the Passover festival does not begin until Monday. This person plans to return on Sunday and should still have time to destroy his leaven when he comes back, but according to the Palestinian Talmud he should turn back on Friday and relinquish his Sabbath plans right away. The Palestinian Talmud thus turns the contingency plans offered in the Mishnah from ad hoc solutions into required, almost ritualized, paths of actions. The issue is not how to make sure that the leaven is ultimately destroyed; the issue is following the right protocol in the right circumstances.

Similar dynamics, in which the rabbis establish an alternative halakhic protocol to deal with forgetfulness, can be observed in the Mishnaic passage that immediately follows:

> Likewise, if one went out of Jerusalem and was reminded that there is sacred meat in his hand—if he had passed Tzofim, he burns [the meat] where he is; if not, he goes back and burns it in front of the temple, using the [temple's] wood arrangements.
>
> And for how much [leaven or sacred meat] do they go back? R. Meir says, "[In] both [cases they go back] for [the volume of] an egg." R. Yehuda says, "[In] both [cases they go back] for [the volume of] an olive." And the Sages say, "[In the case of] sacred meat, for [the volume of] an olive, and [in the case of] leaven, for the [volume of] an egg."[29]

While the general topic of the Mishnaic chapter is procedures for getting rid of leaven upon Passover, this ruling was included here because of its structural similarity to the previous set of rulings, as the word "likewise" (*ve-khen*) suggests.

27. PT Pesahim 3.7, 30b. I am following the emendations proposed by Saul Lieberman, *Ha-Yerushalmi ki-pshuto* (in Hebrew) (Jerusalem: Darom, 1935), 425.

28. In MS Leiden the body of the text only says, "even if he is able to go and spend the Sabbath," and in the margin the words "and go back and nullify" were added. The word "nullify" (*levatel*) is evidently an error, and it should be replaced with "destroy" (*leva'er*), as we find in a Genizah fragment of the Palestinian Talmud; see Louis Ginzburg, *Yerushalmi Fragments from the Genizah* (in Hebrew) (New York: Jewish Theological Seminary, 1909), 108. See also Lieberman, *Ha-Yerushalmi ki-pshuto*, 425.

29. M. Pesahim 3.8.

This scenario, too, speaks of an individual who forgot to perform a halakhic task and was reminded of it when already at some distance from the place in which the task had to be performed, and here, too, the rabbis distinguish between a case in which one has to go back to perform the task and a case in which an alternative halakhic solution is available. Indeed, this unit in the Mishnah ends with a question that pertains to both cases, regarding the minimal quantities of leaven and sacred meat that require the forgetful subject to turn back. Nevertheless, the case of one who forgot to destroy the leaven in his home is different from the case of one who forgot he was carrying sacred meat in one important respect: whereas in the former case the determining factor is the purpose of one's journey, in the latter case the determining factor is one's location when one realized one's forgetfulness.

The case at hand is of a person who made a pilgrimage to Jerusalem, for a festival or on another occasion, and, as is the custom, sacrificed an animal in the temple's court as a well-being offering. A portion of the meat has to be given to the priests, but the remaining meat belongs to the offerer and his family, with the clear restriction that this meat can only be eaten in Jerusalem and is disqualified immediately when it leaves the precincts of the city. Whatever meat the offerer does not eat must be burned inside Jerusalem.[30] The subject in this passage had some sacrificial meat with him but forgot to dispose of it before leaving Jerusalem, and now has to figure out what to do with it. The Mishnah rules that the course of action one is to take depends on how far away from Jerusalem one traveled before one was reminded of the meat he was carrying: if one has not yet passed the point known as Tzofim (literally "viewers," since the temple can be seen from it)[31] he is required to go back to the temple and burn the meat there, but if he has gone past that point he can burn the meat wherever he is.

Although it may seem simple enough, this is a strange and even counterintuitive ruling. Since the basic rabbinic principle is that disqualified or leftover sacred meat has to be burned inside Jerusalem (but not necessarily in the temple's area, unless it is an entire sacrificial animal), we would expect the ruling to be exactly the opposite. The logical ruling would be that if one has not yet passed Tzofim he would still count as if he were inside Jerusalem, so he should be able to burn the meat right where he is,[32] whereas if one has already passed this point he can no longer count as still being in Jerusalem, and he should have to go back to burn the

30. According to M. Pesahim 7.8, if an entire Passover offering or most of it was disqualified it has to be burned at the temple using the temple's firewood, but if only small pieces of offerings were disqualified or remained, they can be burned in private courtyards in Jerusalem. "Stingy" people, however, preferred to burn even small remaining pieces at the temple.

31. Tzofim is usually identified as Mount Scopus to the north of Jerusalem. Lieberman, however, suggested that this may have been a generic name for any point from which both the temple and the city can be seen. He bases this reading on T. Pisha 3.12 (ed. Lieberman 154), according to which anyone who can see Jerusalem straight ahead without a barrier is called *tzofe*. See Lieberman, *Tosefta ki-pshutah Mo'ed*, 4:529–31.

32. This point was made explicitly in PT Pesahim 3.8, 30b: "If it is holy meat [and one is still in the vicinity of Jerusalem], let him burn it where he is!"

meat. But unless we decide to emend the Mishnah by reversing the order of the rulings—for which there is no textual justification—we must acknowledge that the Mishnah's ruling is somewhat arbitrary: it states that one who is still in the vicinity of Jerusalem should go all the way back to the temple, even though there is no requirement to burn remaining pieces of meat in the temple itself, and that one who has gone a significant distance away from Jerusalem should be allowed to burn the meat wherever he is, even though sacred meat must be burned in Jerusalem. For one who has passed Tzofim the ruling seems exceptionally lenient, considering that what is at stake is sacred substances; for one who has not passed it, the ruling seems exceptionally stringent, considering that it is not strictly required to burn meat at the temple even when one is already inside Jerusalem. What is the logic, then, behind the Mishnah's ruling?

As in the case of going back to destroy leaven or nullifying it in one's heart, I propose that what the rabbis are concerned with here is not the substance but the subject. What matters to the rabbis in both cases is not how these substances are to be disposed of but how the forgetful subject is to perform his renewed subordination to the halakhic system after it was disrupted by his forgetting. The subject who is still in the vicinity of Jerusalem is expected to go all the way back to the temple not because it is strictly necessary, but because this going back is a *ritual* of sorts, an embodied manifestation of one's subordination to halakhah and to the rabbis. This ritual of return is the preferred rabbinic way of dealing with forgetfulness, both here and in the case of undestroyed leaven, but the rabbis also concede that this ritual is to some extent superfluous. If there are good enough reasons not to perform the ritual of going back, the rabbis are willing to provide alternatives to this ritual that would allow the forgetful subject to perform his subordination to halakhah in less onerous ways.[33]

The dual nature of these Mishnaic solutions to forgetfulness, and the fact that the Mishnah seems to prescribe courses of action based on performative considerations rather than on consistent halakhic principles, were evidently controversial already in Tannaitic times. An examination of the Tosefta units that correspond with these Mishnaic passages reveals a sustained effort to obliterate what seems like ad hoc arrangements and replace them with reasoned and consistent paradigms. First, the Tosefta quotes the first line of the Mishnaic passage regarding undestroyed leaven (to which I referred above as case A), but introduces a major change to this line:

33. A somewhat resonant case appears in T. Shevi'it 5.1 (ed. Lieberman 186), in which two rabbis disagree regarding produce items planted during the seventh year that have been taken out of the land of Israel. R. Yehuda the Patriarch rules that such produce can be destroyed wherever one is, whereas R. Shimon ben Eleazar maintains that the produce items have to be carried back to the land of Israel and be destroyed there. Note that here there is a categorical disagreement between the rabbis as to whether there is an obligation to destroy seventh-year produce items in the land of Israel or not; this is not an attempt to decide whether and when it is justified to make one come back to destroy them.

> If one was on his way to slaughter his Passover offering, or to circumcise his son, or to have a betrothal banquet at the house of his father-in-law, and he was reminded that there is leaven in his house—if he has time to go back, he goes back, and if not, he does not go back.[34]

The Tosefta version does not present the option of nullifying the leaven in one's heart. Instead, it offers a binary choice: one can either destroy the leaven (which means going back and destroying it physically), or not go back and not destroy it. The Tosefta concedes that in some cases it is justified not to destroy the leaven in order to attend to another commandment, but it does not acknowledge that there is any way not to go back and still to destroy the leaven. We cannot know whether the version of the Mishnah quoted in the Tosefta also presented a different ruling for case B (or included case B at all), but it is clear that the solution of nullifying leaven in one's heart was not unanimously accepted.

When it comes to the case of sacred meat taken out of Jerusalem, the Tosefta does not present a different version of the Mishnah, but rather adds an interpretive comment that completely transforms the meaning of the Mishnaic ruling:

> If he had passed the Tzofim, he burns [the meat] where he is; if not, he goes back and burns it in front of the temple, using the [temple's] wood arrangements. They only said [that he should] return in order to make [things] easier for him.[35]

The line "They only said [that he should] return in order to make [things] easier for him (*lehaqel 'alav*)" turns the Mishnaic logic on its head. The Mishnah, when read plainly, suggests that going back to burn the meat in Jerusalem is the more cumbersome and demanding course of action, but it is the one that should be followed unless one is already distant from Jerusalem. The Tosefta says exactly the opposite: it asserts that going back to Jerusalem is the *less* cumbersome, more lenient arrangement, and that the one who has not yet gone past Tzofim is not required to go back to Jerusalem but is rather *allowed* to go back to Jerusalem. The logic of this interpretive comment is that by using the temple's wood the subject is spared the expense of wood of his own. It echoes a comment made in another Mishnaic passage, according to which those who were particularly stingy when it came to burning what was left of their Passover offerings (while they were still in Jerusalem) could choose to use the temple's wood arrangements rather than burn

34. T. Pisha 3.12 (ed. Lieberman 154). This ruling is introduced with the preface "from here they said" (*mi-kan 'amru*), which is commonly used in halakhic Midrashim to preface a quote from the Mishnah. This led Lieberman to propose that the Tosefta is quoting here directly from a halakhic Midrash; see Lieberman, *Tosefta ki-pshutah Mo'ed*, 4:532. However, the two extant halakhic Midrashim that quote the Mishnaic passage with the preface *mi-kan 'amru* (Mekhilta deRabbi Shimon and Sifre on Deuteronomy) do not present the Tosefta's version of the text, but the standard version of the Mishnah.

35. T. Pisha 3.13 (ed. Lieberman 154).

the remaining meat privately, as was the custom.[36] The Tosefta thus avoids the confounding duality of the Mishnah, which seems to arbitrarily make two different laws for the same incident of forgetfulness. It establishes that there is only one law for sacred meat that has gone out of Jerusalem—namely, that one may burn it wherever one is. However, it is legitimate for one who wants to go back and use the firewood of the temple to do so, as long as he has not gone too far away.

While this may seem like a compelling explanation that does away with the Mishnah's strange duality, it is notably forced and cannot be accepted as a plausible interpretation of the Mishnaic passage itself. To start, it would be odd to restrict the privilege of going back only to people who have not gone too far, since the status of the meat as disqualified sacred meat remains in place regardless of one's location.[37] It stands to reason that anyone who wants to burn disqualified sacred meat in front of the temple should be allowed to do so, and it would be their choice whether to go through the trouble of going back or not. In addition, the Mishnah passage ends, as we saw, with a short discussion of the minimal quantity of leaven and sacred meat that warrants the subject going back.[38] The very question "For how much (*'ad kamah*) do they go back?" makes it abundantly clear that going back is a requirement, not a dispensation, and that it is a requirement in the case of sacred meat in the same way that it is a requirement in the case of leaven—otherwise there would be no grounds for comparison. If there is no minimal quantity of sacrificial meat that restricts one's ability to use the temple firewood while in Jerusalem, there should be no reason to set a minimum quantity for someone who is currently outside of Jerusalem and wants to use the firewood.

I propose, then, that we see the Tosefta's interpretations of these Mishnaic passages as attempts to grapple with what evidently struck some rabbinic authors as problematic inconsistencies. In both cases, the Tosefta attempts to assert that going back is *not* one possible solution to forgetfulness that can be replaced with a more lenient arrangement when the rabbis see fit. In the case of leaven, the Tosefta maintains that going back is the *only* option (not going back means not performing the commandment), and in the case of sacred meat it maintains that going back is not a requirement at all, but rather a privilege that subjects may utilize if they so desire. By obliterating the idea that going back to comply with a commandment is sometimes required and sometimes not, the Tosefta obliterates,

36. M. Pesahim 7.8.

37. Lieberman, who goes to great lengths to argue that the Tosefta's interpretation is the correct reading of the Mishnah, follows an explanation offered in the Palestinian Talmud (PT Pesahim 3.8, 30b) according to which since the sacrificial meat became disqualified by leaving Jerusalem, it is considered now to be "external" meat that cannot be burned at the temple. See Lieberman, *Tosefta kipshutah Mo'ed*, 4:533. This explanation is not very persuasive, however: if simply by leaving Jerusalem sacred meat is rendered "external," it should not matter whether one discovered the fact that the meat left Jerusalem when one was close to the city or far from the city: in neither case should one be allowed to bring it to the temple.

38. Cf. T. Pisha 3.13 (ed. Lieberman 154).

or at least significantly attenuates, the performative dimension of the Mishnah's rulings. For the Tosefta, going back is not an auxiliary and potentially superfluous hoop for the forgetful subject to jump through, but is either an inherent and indispensable part of the commandment or not part of the commandment at all. The contrast between the Mishnah and the Tosefta helps us see more clearly that the Mishnah's primary concern in these rulings is not the correct way to perform certain commandments, but rather the tension between the need to accommodate forgetful subjects and the need to make them rectify their forgetfulness through performances that we may call *rituals of recollection*. As we will see in the next subsection, it is willingness to comply with such rituals of recollection, while fully recognizing that they serve no purpose other than manifesting one's compliance, that marks one as an idealized rabbinic subject.

The Golden Dove

The final example of going back as a performative measure that I analyze in this chapter is noteworthy less for the Tannaitic ruling itself than for the treatment that the Tannaitic ruling receives in both the Palestinian Talmud and the Babylonian Talmud. The Talmudic discussions, significantly expanding on the terse Mishnaic text, lucidly reflect both the inherent difficulty in identifying a consistent logic in going back as a halakhic requirement, and an understanding that this measure is performative in essence, meant to create and demonstrate commitment and subordination to the commandments—and that therein lies its value.

The case at hand is of a person who ate a meal in a certain place, and then got up and went somewhere else. Only after he had left the location in which he had his meal did he recall that he had not said the requisite blessing at the end of the meal. The Mishnah presents the appropriate action for the forgetful subject as a matter of debate between the two foundational rabbinic schools, the House of Hillel and the House of Shammai:

> If one ate, and he forgot and did not say the blessing [for the food, and then he went somewhere else]—the [disciples] of the House of Shammai say, "He should go back to his place (i.e., the place of the meal) and say the blessing," and the [disciples] of the House of Hillel say, "He should say the blessing wherever he [was when he] remembered."
>
> And how long [after the meal] is he required to say the blessing? Until the food is fully digested in his bowels.[39]

This controversy is one in a series of eight disagreements between the two houses regarding matters related to the "order of the meal"—that is, concerning the proper order and manner in which different meal-related actions are to be performed: Does one first wash one's hands or first pour the wine, first say the blessing over the day (e.g., a Sabbath or a festival) or first say the blessing over the wine, place

39. M. Berakhot 8.7 (8.8 in the manuscripts).

one's soiled napkin on the table or on one's couch, and so on? These questions pertain to two major issues: maintaining the purity of one's hands and of the food and maintaining the primacy of certain liturgical elements over others. The controversy regarding one who forgot to say the blessing stands out in this series, as this disagreement pertains neither to purity nor to liturgical priorities, but to a principled question of halakhic protocol—namely, how imperative it is to say the blessing in the place in which one ate.

The House of Hillel and the House of Shammai seem to disagree on the extent to which the meal should be perceived as a ritualized event. Is failing to say the blessing at the location of the meal to be seen as an aberration in the correct procedure, such that one has to return in order to fix it (in the same way that one must repeat a prayer if one accidentally skipped a portion of it), or is saying the blessing at the location of the meal the natural and expected way in which a meal would unfold, but the blessing would still be viable if said elsewhere? Once again we see how forgetfulness, as a disruption of halakhic order, uncovers uncertainties and inconsistencies within this order. The Mishnah in this chapter presents a systematic ritualization of meals insofar as it turns a simple and universal human activity into a multiphased process that must unfold according to an established sequence of actions. The forgetful subject, on his end, brings to the fore the question of just how binding this ritualized sequence is. Unlike in the cases of leaven and of sacred meat, the Mishnah does not present here a "plan A" and "plan B" that are applied in different circumstances, but rather presents two differing opinions on the degree of flexibility afforded to the forgetful subject. The fact that there exist two differing opinions on this matter makes it evident to the readers/listeners—here perhaps more than in the other cases we have seen—that the requirement that one go back is superfluous in nature, a marker of the stringency characteristic of the House of Shammai, which a competing school of thought does not deem strictly necessary.

The Mishnah does not explain the halakhic principle that guides each of the schools (nor does it explain the guiding principles in any of the other controversies in the sequence), and the readers/listeners are left to try to understand the discrepancy between the houses on their own. By way of conjecture, I propose that the houses share the view that a blessing for the food must be said in the context of the meal to be valid (that is, so it does not fall under the category of "a blessing of no use"), but they differ as to what constitutes the context of the meal. For the House of Hillel, one's body within a given time frame is sufficient context: if one is still digesting, then the meal is at least in some sense still going on, and the blessing for the food is still viable.[40] For the House of Shammai, the halakhic

40. The Babylonian Talmud (BT Berakhot 53b) offers two alternative ways for one to know whether one is still digesting or not: "Rabbi Yohanan said: 'As long as he is not hungry,' and Resh Lakish said: 'As long as he is thirsty on account of his eating.'" The same two explanations appear in the Palestinian Talmud (PT Berakhot 8.7, 12c), but there the text is corrupt because of a mistaken correction in the margin.

event of the meal is entangled not just in the bodily act of eating and digesting but also in the space in which the meal takes place. If the body is removed from that space, the event of the meal is no longer taking place. However, if the body—while still digesting—is restored to the space, then the event of the meal can be thought of as resumed, and the blessing can still be considered as though it was said in the context of the meal.

As my suggested interpretation of the Mishnaic controversy indicates, I am not convinced that the disagreement between the House of Hillel and the House of Shammai should be understood distinctly as pertaining to the appropriate treatment of a forgetful subject, or that the expectation that the forgetful subject go back should be explained in terms of what I called above "rituals of recollection." The controversy can be interpreted as reflecting different degrees of rigidity in perceiving meals as ritualized events, or as reflecting different perceptions of what makes a blessing said over a meal valid. The two Talmuds, however, both present interpretations of the differing opinions in the Mishnah exactly down the line of appropriate treatment of forgetfulness, putting at the center the question of compliance with halakhic protocol and making it evident that return to the place of the meal is a performative device meant to generate and reinforce commitment to the commandments. Even if the Talmudic readings take this particular Mishnaic passage in a direction that its creators did not necessarily have in mind, these readings do demonstrate that the passage easily lends itself to be read in accordance with the tendencies we identified in the previous examples discussed in this chapter.

In the Palestinian Talmud, two unnamed speakers present explanations for the respective opinions of the House of Shammai and the House of Hillel:

> R. Yusta bar Shunem said, "[There are] two speakers (*'amorin*), one explained the reasoning of the House of Shammai and the other explained the reasoning of the House of Hillel."
>
> The one who explained the reasoning of the House of Shammai [said], "If he had forgotten there a purse full of gems and pearls, would he not have gone back and taken his purse? Here, too, let him return to his place and say the blessing."
>
> The one who explained the reasoning of the House of Hillel [said], "If a laborer is working at the top of the palm tree or inside a pit, do they trouble him to return to his place?! Rather, he says the blessing wherever he remembers. Here, too, let him say the blessing wherever he remembers."[41]

Both anonymous speakers present the dilemma as to whether the forgetful subject should be made to go back to the location of the meal as pertinent to the

41. PT Berakhot 8.7, 12c. The last line, "Here, too, let him say the blessing wherever he remembers," is missing in MS Leiden and was added in the margin. This line seems redundant (it is not clear what the "here" is to which this line refers, since the previous line referred to the same case and there is no comparison between two cases to speak of), and it was probably added because of the formula "here, too" in the previous clause.

question of effort and worthwhileness of effort. The disciples of the House of Hillel, according to this explanation, see the requirement to go back as potentially demanding unreasonable levels of exertion of the forgetful subject: it is possible that in order to go back this subject needs to get down from the top of a tree or climb up from the bottom of a pit, if he is an agricultural or construction worker (and then, of course, climb up or down again when he returns). Probably inspired by the Mishnaic ruling that laborers may recite the Shem'a at the top of a tree or at the top of a scaffold and are not required to go down for that purpose,[42] the speaker who explains the opinion of the House of Hillel argues that it is obvious that laborers should be exempt from returning to the place of the meal in such conditions, and that by the same logic it is not justified to require anyone to take on a journey back that is not strictly necessary. The speaker explaining the opinion of the House of Shammai, on his end, suggests that the issue is not the effort itself but the perceived worthwhileness of the effort. Of course, going all the way back to the place in which one ate is exerting, but we can all be sure that if what one had forgotten at that location was not a blessing for food but a purse full of gems and pearls, one would rush back there no matter how much effort and exertion that would entail. This speaker implies that if we were to say that returning to the location of the meal is too onerous to be required of forgetful subjects, then we would effectively be saying that performing a commandment according to protocol is not worthwhile enough to justify this effort—at least not as worthwhile as gems and pearls.

According to the speaker's explanation of the position of the House of Shammai, the forgetful subject is being made to return to the place of the meal specifically in order to make the point that performing commandments correctly should always take the highest priority. The dilemma as to whether to return or not should really not be a dilemma at all: one should perceive a lost commandment like a lost purse, not even thinking twice whether the effort is worth it or not. Accordingly, the Palestinian Talmud interprets the disagreement between the House of Hillel and the House of Shammai as pertaining not to the appropriate ritualized order of the meal or to the validity of blessings, but to the ways in which rabbinic subjects are to be educated and molded. The House of Shammai maintains that subjects need to learn to prioritize the correct performance of commandments above all else, and moreover, that they need to think of halakhah as a concrete good, as a thing of actual value in the world. How can they be taught that observance of halakhah is the highest good if their forgetfulness is indulged and they are allowed compromised forms of performance for the sake of their own comfort? The disciples of the House of Hillel, on the other hand, prefer to make the halakhic system more inviting and accommodating for subjects by taking into account the difficulties they may encounter in their efforts to observe halakhah, and by working

42. M. Berakhot 2.4.

out ways for them to remain within the bounds of observance even in less-than-ideal circumstances. The Palestinian Talmud thus echoes the dilemmas that we have seen earlier in this chapter: To what extent should a forgetful subject be made to go back so as to perform his realignment with the halakhic order, and to what extent can this performance be dispensed with for the sake of making things more manageable in a complicated situation? Here, however, the conflicting tendencies are not reconciled by drawing a line, artificial as it may be, between cases in which going back is required and cases in which it is not. Rather, the conflicting tendencies are mapped onto the systematic worldviews of the founding schools of rabbinic thought.

The Babylonian Talmud presents an interpretive move that is very similar at its core to the Palestinian interpretation of the disagreement between the houses. But even before it turns to explain the reasoning of each of the houses, the Babylonian unit on the Mishnaic passage opens with a brief clarification of the exact kind of case to which the Mishnah refers:

> Rav Zevid said, and some say [that it was] Rav Dimi bar Abba,[43] "The disagreement [between the House of Shammai and the House of Hillel] concerns one who forgot [to say the blessing]. But if one did [not say the blessing] intentionally (*be-mezid*), all agree that he should go back to his place and say the blessing."[44]

This opening statement is very odd, to say the least. First, why would the speaker here, Rav Zevid or Rav Dimi, make a point of saying that the houses disagree on a case in which one forgot to say the blessing when this is stated plainly in the Mishnah? As the anonymous Talmud immediately comments, "This is trivial, we have recited [in the Mishnah], 'If one forgot!'"[45] Second and more important, what does it even mean that one who *knowingly* left without saying the blessing should—according to both houses—return to the place in which he ate? Are we really to assume that a person who defied the halakhic protocol knowingly by leaving a meal without saying a blessing will then comply with this protocol and go back to the place in which he ate to say the blessing? While we could say that Rav Zevid/Rav Dimi is concerned specifically with the unlikely case of one who had a sudden change of heart shortly after deciding not to say the blessing, I would suggest that this statement is primarily meant to gear the readers toward an understanding of the requirement to go back as an educational measure. The difference between one who forgot to say the blessing and one who decided not to say the blessing lies not in the ways their meals were conducted, but in their respective disposition toward

43. In MSS Paris 671 and Florence II.1.7: Idi bar Avin (instead of Dimi bar Abba). In MS Munich 95: Yehuda bar Avin, and Rav Zevid is not mentioned.

44. BT Berakhot 53b.

45. The explanation that follows is that without this clarification from Rav Zevid/Rav Dimi, the reader could have assumed that the houses disagree both on erroneous neglect of the blessing and on intentional neglect on the blessing.

the commandments, and accordingly the courses of action they are instructed to follow should be understood as responses to these dispositions. The case of one who knowingly neglected the blessing serves as a backdrop against which the dilemma of the case of the forgetful subject emerges in full clarity: on the one hand, this subject failed to perform a commandment, so he should be made to jump through a hoop to counteract his failure, but on the other hand, he acted innocently and does not deserve to be penalized. Each of the two houses is then understood as tipping the scales differently: for the House of Shammai teaching a lesson is the weightier consideration, whereas for the House of Hillel the lack of fault is the weightier consideration.

The Babylonian Talmud then presents its own version of the reasonings behind the respective rulings of the House of Hillel and the House of Shammai (prefacing these reasonings with the word *tanya*, "it was taught," usually used to introduce Tannaitic sources):

> It was taught, the [disciples] of the House of Hillel said to the [disciples] of the House of Shammai, "According to you, if one ate at the top of a building and forgot and went down and did not say the blessing, he should go all the way up to the top of the building to say the blessing?"
>
> The [disciples] of the House of Shammai said to the [disciples] of the House of Hillel, "According to you, if one left a purse at the top of a building[46] [and went down], should he not go up to retrieve it? If he is to climb up for his own sake, should he not go up for the sake of Heaven?"[47]

While the two Talmuds are quite similar on this point, the Babylonian Talmud's rendition differs from the Palestinian Talmud's rendition in two key features. First, the Babylonian rendition does not simply propose two self-standing explanations of each house's reasoning side by side, but rather puts the houses' respective explanations in direct and stylized dialogue with each other. Second, the Babylonian rendition is designed to make the House of Shammai the "winners" in this debate by giving them the resounding last word.

The Babylonian Talmud's penchant for the position of the House of Shammai—even though this opinion is not considered halakhically binding, according to the rule that gives primacy to the House of Hillel in (almost) all matters[48]—is made evident by the immediate appearance of two short narratives. The first narrative is as follows:

46. In MS Paris 671: at the top of the mountain.

47. In MSS Paris 671 and Oxford Opp. Add. fol. 23: for the sake of his Maker.

48. Also note BT Berakhot 52b, which explicitly states that in all the disagreements mentioned in this chapter the opinion of the House of Hillel prevails (except for one disagreement, which pertains to the washing of hands before meals).

> There were two disciples, one acted erroneously (*be-shogeg*)[49] according to the House of Shammai and he found a purse of gold,[50] and the other acted intentionally (*be-mezid*)[51] according to the House of Hillel and he was eaten by a lion.[52]

At first glance, this moralizing tale is as simplistic as they come: the one who goes back to say the blessing where he ate, prioritizing the observance of commandments over his own comfort, is rewarded exactly with the material goods that the House of Shammai said should be inferior to the observance of commandments. By treating the commandment that he forgot like a lost purse, the disciple is capable of turning the recovered commandment into an actual purse. The other disciple, on the other hand, prioritizes his own comfort and does not go back to say the blessing at the location of the meal, and he ends up being eaten by a lion—a not-so-subtle way of saying that in prioritizing oneself over the commandments one actually destroys oneself. Upon a closer look we notice that the difference between the two disciples is not only in the rabbinic school that each of them followed, but also in the circumstances that brought about the question of their return. The first disciple acted erroneously, that is, genuinely forgot to say the blessing before he left and then decided to return, following the House of Shammai. The second disciple acted intentionally, which means that he did not forget to say the blessing but consciously decided to move on from the meal and say the blessing only in his next destination, following the opinion of the House of Hillel. Put differently, the first disciple forgot to say the blessing, whereas the second disciple decided to act *as though* he forgot to say the blessing.

The word "intentionally" in reference to the acts of the second disciple is missing in two manuscripts, and I suspect that this is because scribes did not understand how intentional forgetting is even possible, and therefore deleted the word. The word "erroneously," however, appears in all the manuscripts in reference to the actions of the first disciple, and since this word is only meaningful in contrast to "intentionally," I believe we can see the omission of the latter in two of the manuscripts as a misguided scribal correction. Indeed, as I will show toward the end of the chapter, this is not the only rabbinic text that divulges concern with the possibility of intentional forgetting—that is, with individuals choosing to claim forgetting so as to afford themselves halakhic accommodations and leniencies. The Babylonian Talmud's discussion of this Mishnaic passage is haunted, both in the opening line and here, by the ghostly presence of those who consciously defy rabbinic ordinances. The looming possibility that forgetfulness can easily turn

49. In MS Munich 95: one acted erroneously out of constraint (*be-shogeg mi-shum ones*).

50. In MSS Oxford Opp. Add. fol. 23 and Paris 671: found a purse of denarii. In MSS Florence II.1.7 and Munich 95 only: found a purse. The version "a purse of gold" appears only in the printed edition and seems to be influenced by the golden dove in the following story.

51. The word "intentionally" (*be-mezid*) is missing in MSS Paris 671 and Oxford Opp. Add. fol. 23.

52. BT Berakhot 53b.

from an unfortunate but fully understandable occurrence into a convenient way to slip through the cracks of the halakhic system makes it all the more urgent to prescribe performances of adherence and obedience for forgetful subjects. Thus, the disciple who followed the House of Shammai in this story is rewarded not only because he chose the more demanding path, but also because he confirmed, by taking on the performance of going back, that he really did forget and did not neglect the blessing knowingly. In contrast, in choosing the easier path the disciple who followed the House of Hillel confirmed that his forgetfulness was not genuine, but a mere exploitation of a halakhic accommodation. In the Babylonian Talmud's view, then, going back may not be strictly halakhically required of forgetful subjects, but it is the only viable way for such subjects to prove their subordination to the commandments and to the rabbis.

Finally, the Babylonian Talmud presents a short narrative very similar to the previous one in its basic plot elements, but especially poignant in elaborating on its protagonist's deliberations:

> Rabbah bar bar Hanna was traveling in a caravan. He ate and forgot and did not say the blessing.
>
> He said [to himself], "What shall I do? If I tell them that I forgot to say the blessing, they will tell me, 'Say the blessing [now]. Wherever you bless, you bless the Merciful One.' I better tell them that I forgot a golden dove."
>
> He told them, "Wait for me, I forgot a golden dove."
>
> He went [back] and said the blessing, and he found a golden dove.
>
> And why [did he choose] a dove? Because the congregation of Israel was compared to a dove, as it was said, *the wings of my dove are sheathed with silver, its feathers with shining gold* (Ps. 68:13). In the same way that a dove is only saved through its wings, [the people of] Israel are only saved through the commandments.[53]

In this story Rabbah bar bar Hanna, the quintessential rabbinic traveler,[54] finds himself exactly in the situation described in the Mishnah: he ate his meal while on the road and moved on with the caravan, remembering only after some time that he forgot to say the blessing. Like the story of R. Ishmael, who tilted the lamp on the Sabbath, this story demonstrates that not even famous rabbis are immune to the perils of forgetfulness, and that what constitutes one's piety is not one's ability to avoid forgetfulness altogether but the measures one takes once one realizes one's forgetfulness. It is obvious to Rabbah bar bar Hanna that he should go back to

53. BT Berakhot 53b.

54. The travels of Rabbah bar bar Hanna are discussed extensively in BT Baba Batra 73a–74a, but occasionally mentioned in other places as well. For thorough studies of these stories, see Dan Ben-Amos, "Talmudic Tall Tales," in *Folklore Today: A Festschrift for Richard M. Dorson*, ed. Linda Dégh, Henry Glassie, and Felix Oinas (Bloomington: Indiana University Press, 1976), 25–43; Dina Stein, "Believing Is Seeing: A Reading of Baba Batra 73a–75b" (in Hebrew), *Jerusalem Studies in Hebrew Literature* 17 (1999): 9–32; Reuven Kiperwasser, "Rabbah bar bar Hana's Voyages" (in Hebrew), *Jerusalem Studies in Hebrew Literature* 22 (2008): 215–41.

the place in which he ate and say the blessing there, despite the fact that he can be assumed to know that according to the House of Hillel it is perfectly legitimate for him to say the blessing where he is.[55] To be sure, turning back while traveling with a caravan is no small inconvenience: traveling in late antiquity was an extremely dangerous endeavor, and without the protection of a caravan (from bandits, from wild animals, etc.) one's chances of survival were very small, not to mention that often only the leaders of the caravan knew how to navigate the vast, unmarked territories of the Middle East. The more the caravan is delayed, the less certain the travelers and their possessions are to reach their destination unharmed. Rabbah bar bar Hanna thus has to convince the rest of the caravan to wait for him while he goes back to say the blessing, but he realizes that telling his traveling companions the truth—that he is going back to make up a missing blessing for the meal they have already finished—may not count as a good enough reason for them to endure the delay, and they may abandon him.

What I find striking about this story is that Rabbah bar bar Hanna does not envision his traveling companions, who are presumably not Jews (and in any case not rabbinic Jews), telling him something along the lines of "We are not all going to wait for you while you go back to perform some stupid religious practice" if he tells them the truth. Rather, he envisions them as offering very sound theological reasoning for why he does not need to go back: If God is everywhere—and a rabbinic Jew would surely agree that God is everywhere—why does it matter where one blesses God? Why does one have to go back to a particular place? The truth of the matter is that it is very difficult to argue with this view, and indeed Rabbah bar bar Hanna does not want to have this conversation with the other travelers. He prefers to tell them instead that he lost an object of material value and has to go back for it, because this they will surely understand and accept (as per the reasoning of House of Shammai proposed above). The object he chooses to say he forgot—a golden dove—is symbolically meaningful, as the identification of the people of Israel with a dove is a prevalent motif in rabbinic literature.[56] In this encoded way, comprehensible only to himself (and to the readers/listeners), Rabbah bar bar Hanna conveys what he does not feel he can explicitly tell his fellow travelers: that he is going back to say the blessing not because there is a logical or theological reason for it, but because this is the way he performs his identity as part of "Israel" who is deeply committed to the commandments. And like the

55. As Moshe Simon-Shoshan showed, there is a range of opinions in rabbinic texts as to whether one may elect to follow the more stringent teachings of the House of Shammai or not. See Moshe Simon-Shoshan, "These and Those Are the Words of the Living God, but . . . : Meaning, Background, and Reception of an Early Rabbinic Teaching," *AJS Review* 45, no. 2 (2021): 382–410.

56. For example, Mekhilta deRabbi Ishamel Be-shalah 2 (ed. Horovitz-Rabin 94); BT Shabbat 49a and 130a, BT Gittin 45a, BT Sanhedrin 95a. On the significance of birds more broadly in rabbinic texts, see Michael D. Swartz, *The Signifying Creator: Nontextual Sources of Meaning in Ancient Judaism* (New York: New York University Press, 2012), 68–69.

disciple in the previous story, Rabbah bar bar Hanna's decision to treat a commandment as though it were a material good wins him that same material good (thus also presenting him as a teller of truth to his companions when he gets back).

The story of Rabbah bar bar Hanna colorfully captures the underlying concerns of rabbinic discussions of forgetfulness in which going back is recommended or required. First, this story makes the point that forgetfulness is a natural, acceptable, and forgivable part of trying to live a halakhic life—it can happen even to the rabbis themselves—and that it can be rectified or accommodated if one realizes it in time. Second, this story operates on the assumption that going back to perform the commandment is the preferred course of action (even in a context in which the readers/listeners know that other courses of action are authorized). Third and most important, the story makes it clear that there really is no solid legal or theological reason why one should go back: whatever can be accomplished by going back can also be accomplished by staying where one is. The reason to go back is not to achieve a particular goal but rather to be a certain kind of person, a person who prioritizes the observance of commandments over all other things. The fact that Rabbah bar bar Hanna decides not to explain this to his traveling companions gives us an indication that the Talmudic rabbis realized that this highly performative aspect of halakhah—doing things not because they are strictly necessary but because they demonstrate a certain disposition toward the law—would not make much sense unless one is already inculcated into the teachings of halakhah. As we saw, we do not even have to go as far as the imagined foreigners with whom Rabbah bar bar Hanna traveled to see that this performative approach was difficult to accept: the Tosefta's efforts to interpret or rewrite Mishnaic rulings so as to offer a "real" justification for going back indicate that the performative dimension of this practice may not have been one that all rabbis were comfortable acknowledging. The Babylonian Talmud, however, suggests that it is exactly acknowledging and accepting that some things are done for performative purposes that makes one a model halakhic subject.

PERFORMING FORGETFULNESS

In all the cases I have discussed so far, a subject realizes that he has forgotten a halakhic practice when there is still time to do something about it, and a solution for the omission can be sought out. The rabbis debate what is reasonable to expect from a forgetful subject in different situations, and they weigh more and less onerous ways to complete the halakhic task that was forgotten, but they nonetheless maintain that there are viable ways to complete the task satisfactorily. I now turn to a handful of cases in which the halakhic situation that came about as a result of forgetfulness is one for which there is no clear resolution in sight: whatever one does, one will be in the wrong. To be clear, I am not referring to

cases in which the halakhic event has already ended and therefore the subject can no longer do anything to repair the deficit, but to cases in which the halakhic event is still going on, but the forgetful subject is too deep in trouble, so to speak, to set things straight. In such cases—and admittedly there are not many of them—the rabbis prescribe a performative action that does not resolve the situation, but rather makes the forgetfulness apparent. Put differently, the rabbis create rituals of recollection for forgetful subjects so that they outwardly *enact* the awkward situation they are in.

I return to an example that was already mentioned briefly in chapter 2, this time focusing not on the circumstances that brought forgetfulness about but on the solution offered to the forgetful subject:

> If one was standing in prayer and was reminded that he had a seminal emission, he should not stop, but shorten his prayer.[57]

Men who had a seminal emission are not permitted to participate in sacred activities, including prayer and Torah readings, until they have immersed in water. The subject here, accustomed to praying daily, forgot that he had a seminal emission and realized it only in the middle of the prayer. At this point, this subject has no good options. If he continues to pray, he will knowingly breach the ordinance that one may not engage in sacred activities after a seminal emission, and if he stops praying, he will breach the ordinance that one must never stop a prayer in the middle.[58] The solution conjured here is that he will continue to pray but do so in a truncated way, significantly shortening each portion of the prayer.[59] The shortened prayer prescribed for this subject can be understood as a practical arrangement: since this subject is already in an impossible situation, let him at least be done with this situation as quickly as possible. Yet we should note that by praying differently from everyone else this subject also outwardly performs his forgetfulness and the troublesome state he is in. The shortened prayer is not only a means for escaping the awkward situation but also a ritual in its own right prescribed for this awkward situation: it is the right thing to do when there is no right thing to do, and it is an embodied channel through which the subject shows that he is trying (without success) to do the right thing.[60]

57. M. Berakhot 3.5.

58. In the words of M. Berakhot 5.1, "Even if the king greets him, and even if a snake is wrapped around his ankle, he may not stop [his prayer]."

59. The shortened prayer here can be compared to the shortened prayer prescribed for situations of danger (M. Berakhot 4.4; T. Berakhot 3.7 [ed. Lieberman 13]), except that in this situation the danger is inherent in the prayer itself, not in external circumstances.

60. Interestingly, the Palestinian Talmud (PT Berakhot 3.5, 6c) comments that a forgetful subject in this situation should shorten his prayer only if he is praying with other people, but if he is praying alone he should stop his prayer altogether. The Palestinian Talmud attributes this position to R. Meir, whose rulings regarding men with seminal emission are particularly stringent, and it claims that

In the Babylonian Talmud we find a similar scenario, introduced as a Tannaitic source with the preface "Our rabbis taught" (*tannu rabanan*). Here we see two distinct opinions regarding the advisable course of action for a person who forgot and then recalled that he had a seminal emission. According to one opinion, the forgetful subject has to perform and make manifest both his forgetfulness and his awareness of his forgetfulness, whereas according to the other opinion, this subject should hurry and try to end the problematic situation as quickly as possible:

> Our rabbis taught: If one was standing in prayer and was reminded that he had a seminal emission, he should not stop, but shorten his prayer. If one was reading in the Torah and was reminded that he had a seminal emission, he should not stop and leave, but rather he should stumble through the reading (*megamgem ve-qore*).[61] R. Meir said, "One who had a seminal emission is not permitted to read more than three verses in the Torah."[62]

According to R. Meir, a person who recalls as he is reading the Torah that he had a seminal emission should stop reading as quickly as possible and let someone else finish the reading, and under no circumstances may he read more than three verses after he realizes that he should not have been reading in the first place. The anonymous voice in this passage presents a different strategy: the forgetful subject should continue reading the Torah, but he should do so poorly, stuttering or mispronouncing the words. In other words, the anonymous speaker prescribes what we could call a *misperformance:* a purposefully mangled and inadequate performance of the ritual reading, which serves to make it apparent that the one reading should not be reading but is also not in a position to stop reading.[63] The pronounced awkwardness and embarrassment entailed in this performance, especially if those present know that this is the prescribed protocol for one who recalls that he had a seminal emission, function here as a channel through which the forgetful subject enacts both his unfortunate situation and his genuine determination to comply with rabbinic teachings.

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according to the more lenient R. Yehuda, if one is alone one need not stop the prayer at all—that is, one can pray normally even if one had a seminal emission. This comment suggests that the shortened prayer is meant to make the situation *less* awkward for the forgetful subject, so that he would not seem like he is stopping his prayer abruptly.

61. In MSS Munich 95, Oxford Opp. Add. fol. 23, and Paris 671: he should not shorten it and leave, but stumble through the reading.

62. BT Berakhot 22b.

63. Both Talmuds present a Tannaitic anecdote on a disciple who was "stumbling" (*megamgem*) through the Torah reading until R. Yehuda ben Betera, who understood that the disciple had a seminal emission, encouraged him to read normally by saying, "The words of the Torah cannot contract impurity" (PT Berakhot 3.5, 6c; BT Berakhot 22a). It is possible that the ruling that one should stumble through the reading was inspired by this story, turning the disciple's authentic expression of distress into a prescribed behavior.

Another example of prescribed awkward performance appears in the Tosefta, regarding a person who realized that he forgot to take off his phylacteries (*tefillin*) on the Sabbath:

> If one left [a private domain] and went into a public domain and was reminded that he is wearing his phylacteries on his head—he covers his head until he reaches his house. If he was in the study house, he removes them and puts them in a hidden place.[64]

In the early centuries of the Common Era it was a regular practice among rabbinic Jews to leave their phylacteries on throughout the entire day, not only during prayer times.[65] Phylacteries, however, may not be worn on the Sabbath. The subject in this scenario forgot to take off his phylacteries before the Sabbath, and after the Sabbath had already begun he went out into the street, realizing only while he was out in the public domain that he still had them on. The forgetful subject is now trapped in a no-good-option halakhic situation. If he leaves his phylacteries on, he will be in violation of the ordinance not to put on phylacteries on the Sabbath; if he takes them off and carries them in his hand, he will be in violation of the prohibition against carrying items in the public domain on the Sabbath; if he leaves them in the middle of the street until the end of the Sabbath, the phylacteries may be stolen or damaged. The solution conjured is somewhat strange: he will continue wearing the phylacteries but put his hand on them until he reaches his home, where he will safely take them off. The Tosefta adds that this arrangement is only to be used if one realizes one is wearing his phylacteries while in the public domain, but if he realizes that he has his phylacteries on while he is in the study house, he needs to take them off right away and hide them until he can retrieve them—not walk all the way home with his hand on his head.

Covering one's head when one realizes one should not be wearing phylacteries but also cannot take them off is not a way to resolve the halakhic conundrum, but a way to make manifest that one is *in* a halakhic conundrum. By putting one's hand on one's head one acts as though one is trying to hide the fact that he is wearing phylacteries, but of course he is not actually hiding anything, both because everyone can see the straps of the phylacteries and because people do not casually walk on the street with their hand on their head unless they are trying to hide something. Rather, the subject is instructed to make an awkward gesture to convey to the world that he *wishes* he were not wearing phylacteries right now, as if to say, "I forgot, I then remembered, I am trying to fix this as quickly as I can." This gesture, in other words, is used as an externalized expression both of one's deviance

64. T. Eruvin 8.17 (ed. Lieberman 137); cf. BT Betzah 15a.

65. See Yehudah Cohn, *Tangled Up in Text: Tefillin and the Ancient World* (Providence, RI: Brown Judaic Studies, 2008), 133–38.

from halakhic protocol and of one's determination to resubordinate oneself to the halakhic protocol.

Possibly inspired by the Tosefta's proposed arrangement of covering one's phylacteries with one's hand until one can take them off safely, the Babylonian Talmud presents a similar ruling prescribed for a different set of circumstances. Despite the fact that this ruling is not Tannaitic, I include it here because it helps illustrate, in a somewhat comic fashion, the rabbinic notion that both forgetfulness and recollection must be externalized and demonstrated, in this case even if no one is actually watching:

> Rav Huna said, "If one forgot and went into the lavatory with his phylacteries on—he places his hand on them until he finishes."
>
> —Is it possible that you think [that he does that] until he finishes?!
>
> —Rather, as Rav Nahman bar Yitzhak said, "Until he finishes the first log [of feces]."
>
> —And [why should he not] stop immediately and get up?
>
> —Because of [the teaching] of Rabban Shimon ben Gamaliel. As it was taught, Rabban Shimon ben Gamaliel says, "A retracted log causes one edema, a retracted stream causes one jaundice."[66]

This Babylonian unit brings "awkward" to a whole new level. It discusses a case in which one goes into the lavatory and realizes only mid-defecation that he is wearing his phylacteries. It is strictly forbidden to bring phylacteries, which contain sacred texts, into a filthy and debased place like a lavatory, but it is also rather problematic for the subject to take them off immediately and take them out of the lavatory in his current situation (the anonymous Talmud raises this possibility, but then rejects it as dangerous to one's health). Rav Huna suggests an arrangement similar to the one proposed for accidental phylactery-wearing on the Sabbath: the forgetful subject should cover the phylacteries with his hand until he finishes, as if to hide them from the unholy environment and also to hide (or to act as if he is hiding) the fact that he has brought them in there. The Talmud then continues to debate, in graphic detail, whether this arrangement can last through the entire lavatory session or needs to end at the first possible breaking point. While lavatories in the Roman Empire were often public, in Babylonia—where the rabbis speaking in this unit are located—elimination was normally done in strict privacy, so it is very unlikely that the rabbis here assumed that anyone would be looking at the forgetful subject in this situation.[67] The issue is clearly not whether anyone is actually looking, but rather conducting oneself

66. BT Berakhot 25a.

67. See Rafael Rachel Neis, "Their Backs toward the Temple and Their Faces toward the East: The Temple and Toilet Practices in Rabbinic Palestine and Babylonia," *Journal for the Study of Judaism* 43, no. 3 (2012): 355.

as though one is being looked at, and using a bodily gesture to say, "I am in this unfortunate situation because I forgot, I truly wish I were not in it, I will get out of this situation as soon as I can."

In all these cases, it is clear that nothing is gained or solved through the performative measure prescribed by the rabbis. One who prays a shortened prayer or botches up a Torah reading is still praying or reading the Torah after having had a seminal emission, and one who covers his phylacteries with his hand is still wearing them on the Sabbath or in the lavatory. We may wonder, then, why the rabbis did not opt to resolve these conundrums by setting clear priorities and deciding that one halakhic consideration trumps the other—for example, if you have to choose between defiling your prayer with your seminal emission and stopping the prayer altogether, stop the prayer; or if you have to choose between wearing phylacteries on the Sabbath and carrying an object on the Sabbath, continue wearing your phylacteries. After all, it is not uncommon for the rabbis to decide that in certain situations one concern should take precedence over the other. So why not do this here, instead of prescribing a course of action that achieves nothing other than putting the subject's forgetfulness on display? The immediate answer is that it is to prevent those looking, whether real or imagined, from getting the wrong idea—both about the commandment at hand and about the subject. If one walks with one's phylacteries on during the Sabbath, those who do not know that it is not allowed may mistakenly come to think that it is allowed, and those who do know that it is not allowed may think that this subject openly defies rabbinic teachings. Because of this double concern, a forgetful subject must let the world know—again, regardless of whether the world is actually looking or not—that whatever he is doing that does not comply with rabbinic teachings is only a result of his own forgetfulness.

I propose that the rabbis' insistence on performative measures to externalize and make manifest both one's forgetfulness and one's determination to correct one's forgetfulness divulges a particular sense of anxiety about forgetfulness of halakhic ordinances, an anxiety guided by the realization that forgetting has the potential to introduce anarchy into the normative order. Although the rabbis make a point of normalizing and accommodating forgetfulness, and although they construct an idealized picture in which forgetful subjects are eager and committed rabbinic subjects who seek to rectify their forgetfulness in compliance with rabbinic instructions, the scenarios and discussions we have seen throughout this chapter reveal that incorporating forgetting into the halakhic system does, when all is said and done, create problems. First, the attempt to accommodate and make dispensations for forgetful subjects raises the question of how much flexibility can be introduced into the halakhic system without making it chaotic and senseless. Second, forgetting opens the possibility of misunderstanding, as subjects who act out of forgetfulness can mistakenly be understood as acting in defiance of rabbinic law or as misrepresenting the law. And third and perhaps most

troublesome of all, by accepting forgetfulness as a predictable, understandable, and manageable phenomenon that can be accommodated halakhically, the rabbis have to reckon with forgetfulness that is not really forgetfulness, that is, forgetfulness by choice.

I touched on the possibility of "intentional forgetfulness" in my discussion of the Babylonian Talmud's interpretation of the disagreement between the House of Hillel and the House of Shammai, but the idea that one can consciously decide to "forget" a halakhic practice is mentioned quite explicitly in one Tannaitic source as well. Consider the following case in the Tosefta, which concerns cooking on the Sabbath:

> If one forgot a dish on the stove and the [Sabbath] day has come upon him—[if he did so] erroneously [the dish] may be eaten, [but if he did so] intentionally the [dish] may not be eaten.[68]

Cooking on the Sabbath is strictly prohibited, but in this case cooking happens through inaction rather than through action: one put a pot of food or water on the stove before the Sabbath began, and forgot to remove it from the stove until after the Sabbath commenced.[69] As a result, the food *got* cooked during the Sabbath even though the cooking process technically began before the Sabbath. The question then arises whether it is acceptable to eat this food, considering that its preparation involved a violation of the Sabbath, and the answer is that it depends on whether the one who forgot the food on the stove did so erroneously or intentionally. In this context, intentional forgetting can be explained in two possible ways. We can interpret that the subject genuinely forgot the pot on the stove, but when he found out about it he decided not to remove the pot from the stove but to let it stay there so that the food would cook further—in other words, this subject chose to go along with his own forgetting and make the most of it rather than correct it right away. The other possible interpretation is that this subject did not really forget anything, but rather decided to place a pot on the stove with the full intention of leaving it there after the Sabbath began, thus making it seem like the pot was forgotten and like he was not at fault. Whichever interpretation we favor, the Tosefta makes a clear ruling: if one "forgot intentionally," the food he cooked this way may not be eaten, but if one genuinely forgot, the food he cooked may be eaten.[70]

68. T. Shabbat 2.14 (ed. Lieberman 10).

69. A case in which one began to cook on the Sabbath itself, erroneously or intentionally, is discussed in a separate passage (T. Shabbat 2.15 [ed. Lieberman 10]).

70. The Tosefta (T. Shabbat 2.14 [ed. Lieberman 10]) clarifies that the use of food or water is prohibited only if most of the cooking/heating took place during the Sabbath, but if most of the cooking/heating took place before the Sabbath, one may consume them.

The underlying assumption in the Tosefta is that the real forgetter and the intentional forgetter can be told apart from one another, but both Talmuds present a tradition according to which it may not be so easy to know which is which:

> At first they used to say, "If one forgot a dish on the stove on the [Sabbath], [if he did so] erroneously [the dish] may be eaten, [but if he did so] intentionally the [dish] may not be eaten." Then [people] were suspected of leaving [dishes on the stove] intentionally and saying, "We forgot." So [the rabbis] prohibited those who forgot [from eating what they cooked] as well.[71]

While the Tosefta merely introduces the possibility of the "intentional forgetter," the Talmuds take it to the next level and make the point that there is, in truth, no way to tell the intentional forgetter from the real forgetter, and therefore the claim of forgetting itself should be taken with many grains of salt. In this case, the Talmuds effectively say that people who claim that they have forgotten should be categorically treated like people who acted intentionally, and not be allowed to enjoy the beneficial results of their real or proclaimed forgetfulness.

This pessimistic view is not expressed explicitly in Tannaitic sources, which for the most part operate within an idealized world in which even those who are defiant of rabbinic teachings are sincere about their defiance. But I suggest that the concerted effort that we saw in rabbinic texts to have forgetful subjects perform their forgetfulness, and to prescribe for them ritualized and visible ways through which they show their compliance with rabbinic teachings, may reflect a broader rabbinic concern with the elusive and uncertain nature of forgetfulness. After all, it is not really possible to know whether one forgot, or just says he forgot; whether one is truly the victim of an unfortunate cognitive omission, or is simply careless; or whether one who realized his forgetfulness found himself unable to correct it or chose not to correct it because it was too much trouble. As with all mental occurrences that play a definitive role in the halakhic system (and there are many), the only reliable way to know what was happening in a subject's mind is by looking at his embodied behavior. By going back to the place in which the commandment should have been performed, by deliberately misperforming prayers or Torah readings, and by covering phylacteries that should not be worn, rabbinic subjects are able to externalize their forgetfulness and to make it known and certain. More important, they are able to show, through their own bodies, not only the sincerity of their forgetfulness but also their determination to comply with rabbinic authority—even at the price of discomfort, exertion, and extreme awkwardness.

In this chapter and the three that precede it I discussed forgetfulness in the realm of halakhic practice, that is, forgetfulness that causes—or may cause—individuals to falter in their performance of commandments. I showed that forgetfulness is described as entirely normal and predictable, and yet as a constant

71. PT Terumot 2.1, 41c; BT Shabbat 38a.

looming threat for the halakhic subject, a threat for which the rabbis should and can provide answers. The confident and self-assured way in which the rabbis present their ability to preempt and resolve situations of forgetfulness for the most part obscures the fact that the vulnerability of the human mind, and their own limited ability to control forgetfulness and claims of forgetfulness, were ultimately a source of anxiety for the rabbis. In the remaining chapters I turn to rabbinic texts that engage with forgetfulness in the realm of Torah learning, from which emerges an almost diametrically opposed picture: overtly, the rabbis present a great deal of apprehension and anxiety regarding the fragility of one's learning and the disastrousness of forgetfulness of teachings, but a close reading of the sources suggests unshaken confidence in the stability and durability of rabbinic knowledge and textual mastery.

5

When Teachings Fly Away

The rabbis' self-proclaimed function as memory experts was not restricted to their ability to predict and assess scenarios of memory omissions in everyday practice. First and foremost, the rabbis' expertise was based on their own proficiency in memorizing enormous amounts of texts. Accordingly, concern with the shortcomings of human memory, and preoccupation with forgetting as an ever-present danger, are prominent themes not only in rabbinic depictions of ordinary halakhic practice, but also and indeed much more pervasively in depictions of rabbinic textual training and performance. Moreover, at least on the surface it seems that whereas forgetting in the realm of halakhic practice is normalized in Tannaitic texts, forgetting of one's textual teachings is catastrophized.

The prospect of forgetting one's teachings looms large in rabbinic texts, from the earliest to the latest compilations, and it is unequivocally described as one of the worst things that could happen to a Torah learner. Forgetting can take place as a result of illness or old age,[1] or as punishment for vices or misdeeds;[2] it can be the result of consuming certain foods (apparently olives are deleterious for memory) or engaging in ill-advised behaviors (like looking at the face of a dead person, or passing between two women);[3] but most commonly it is described as the inevitable result of letting go, even briefly, of the incessant regime of recitation

1. As indicated, for example, by the phrase "beware of an elder who has forgotten his teachings against his will" (BT Berakhot 8b, BT Sanhedrin 96a; PT Mo'ed Qatan 3.1, 81d). On this expression, and on the theme of mental changes in old age more broadly, see Balberg and Weiss, *When Near Becomes Far*, 107–11. For an example of memory loss as a result of illness, see BT Nedarim 41a.

2. Forgetfulness of teachings is mentioned, among other things, as a consequence of anger (BT Nedarim 22b); evil deeds (BT Sanhedrin 106b); shaming a colleague (BT Baba Batra 9b); and falsely claiming mastery of Torah (Ecclesiastes Rabbah 5.1). For a discussion of causes and cures for forgetfulness, see Kiperwasser, "The Cure of Amnesia."

3. See especially BT Horayot 13b. T. Shabbat 6.7 (ed. Lieberman 23) also refers to common beliefs regarding memory-inducing foods.

and repetition that a disciple of the Sages must undertake.[4] In the words of Birger Gerhardsson, "The Rabbis waged a conscious and energetic war against forgetfulness,"[5] and this war was never-ending and could never be declared as won. The moment in which a disciple gets comfortable thinking that he has mastered his teachings is the moment in which he begins to lose them. Rabbinic texts offer some advice on facilitating memorization, from tips on memory-inducing foods to mnemonic techniques and exercises,[6] but mostly they offer a host of imageries and anecdotes to convey how difficult it is to acquire the knowledge of Torah and how easy it is to lose it.[7] The following cluster of homilies from the Midrash Sifre on Deuteronomy, which is part of a lengthy section concerned almost entirely with memory and forgetfulness in Torah study,[8] demonstrates this trope well:

> *If you will surely keep this entire commandment that I am commanding you* (Deut. 11:22). Why was this said? Since it was said [earlier], *If you will heed every commandment that I am commanding you today* (Deut. 11:13), am I to understand that once a person heard the words of the Torah he may sit and not repeat them?[9] Scripture says, *If you will surely keep*—this tells you that in the same way that a person must be careful with his *sela* (i.e., a coin worth 4 denarii) lest it be lost, so one should be careful with his teaching, lest it be lost.
>
> Scripture also says, *If you seek it* [= wisdom] *like silver and search for it as for hidden treasures* (Prov. 2:4)—in the same way that silver is difficult to acquire, the words of the Torah are difficult to acquire.
>
> Or is it possible that in the same way that silver is difficult to lose (i.e., to destroy), so the words of the Torah are difficult to lose?

4. In addition to the examples discussed in this chapter and many others across different rabbinic corpora, see especially Avot deRabbi Nathan version A, chapters 23–24 (ed. Schechter 75–78), in which this theme is prominent.

5. Birger Gerhardsson, *Memory and Manuscript: Oral Tradition and Written Transmission in Rabbinic Judaism and Early Christianity* (Grand Rapids, MI: W.B. Eerdmans, 1998), 168.

6. See Michael D. Swartz, *Scholastic Magic: Ritual and Revelation in Early Jewish Mysticism* (Princeton, NJ: Princeton University Press, 1996), 33–50. Swartz discusses the ample evidence for use of magic for improvement of memory, which is also documented in medieval and early modern sources. See also Gerrit Bos, "Jewish Traditions on Strengthening Memory and Leone Modena's Evaluation," *Jewish Studies Quarterly* 2, no. 1 (1995): 39–58. On learning techniques for securing memory, see Gerhardsson, *Memory and Manuscript*, 122–70; Marc Hirshman, *The Stabilization of Rabbinic Culture, 100 C.E.–350 C.E.: Texts on Education and Their Late Antique Context* (New York: Oxford University Press, 2009), 65–82; Kiperwasser, "The Cure of Amnesia."

7. Steven Fraade dedicated an extensive study to the development of this trope in Sifre on Deuteronomy. See Steven D. Fraade, *From Tradition to Commentary: Torah and Its Interpretation in the Midrash Sifre to Deuteronomy* (Albany: SUNY Press, 1991), esp. 69–121. As this chapter demonstrates, this trope can be identified in other Tannaitic texts as well.

8. I am referring to section 48 of Sifre on Deuteronomy (ed. Finkelstein 107–14). For elaborate discussions of this section, see Fraade, *From Tradition to Commentary*, 105–19; Hirshman, *Stabilization*, 31–47.

9. This line is missing from MSS Oxford 151 and Vatican 32.

> Scripture says, *Gold and glass cannot equal it* [= wisdom], *nor can it be exchanged for jewels of fine gold* (Job 28:17)—[the words of the Torah] are as difficult to acquire as gold and as easy to lose (i.e., to destroy) as glass vessels.
>
> *Nor vessels of fine gold can be exchanged for it*.[10] R. Ishmael[11] used to say: *But take care and watch yourself* (lit. "your soul") *closely, so as neither to forget the things that your eyes have seen nor to let them slip from your mind all the days of your life* (Deut. 4:9)—this can be compared to a king of flesh and blood who snared a bird and gave it to his slave. He said to him, be careful with this bird, [which is] for my son. If you lose it, do not assume that you have merely lost a bird [that costs] one *assarion*, but rather that you lost your own soul. Likewise, it says, *This is no empty matter for you, but rather your very life* (Deut. 32:47). That of which you may say "it is empty"—this is your life.[12]

The scriptural engine that pulls this homiletic train is the emphasis that the Israelites must not only hear (*shamoʿa*) what God commands them but also keep (*shamor*) it. The verb *sh-m-r* is commonly used to denote safeguarding an object, as well as adhering to a commandment. The notion that God's teachings, once heard (that is, learned), must also be actively "kept" leads to a series of similes in which teachings are compared to valuable objects that must be guarded, starting with a high-value coin and continuing with precious metals, to which Wisdom and Understanding (here as placeholders for Torah) are often compared.[13] The Torah, says the homilist using Job 28:17, is at one and the same time like gold and like glass: difficult to come by and obtain like gold, easily destroyed (that is, eradicated from one's memory) like glass.[14] R. Ishmael offers an additional image of a captured bird to convey the precarity of the Torah in one's memory: unless watched and guarded, it will fly away as soon as it can.[15] This bird, however, is no ordinary bird, because letting this bird get away means giving away one's very life. Forgetting the Torah is akin to losing not silver or gold, but one's own soul.

10. "Nor vessels of fine gold can be exchanged for it" is the second half of Job 28:17, which does not seem to be addressed directly in the homily but nonetheless appears in all the manuscripts. See Finkelstein's comments ad loc.

11. In MSS Oxford 151 and Vatican 32: R. Shimon.

12. Sifre on Deuteronomy 48 (ed. Finkelstein 107–8); cf. Midrash Tannaim on Deuteronomy 11:22 (ed. Hoffmann 41). See Fraade, *From Tradition to Commentary*, 106–7.

13. On the use of rhetoric and imagery from wisdom literature in rabbinic discussions of Torah learning, see Amram Tropper, *Wisdom, Politics, and Historiography: Tractate Avot in the Context of the Graeco-Roman Near East* (Oxford: Oxford University Press, 2004), 51–87.

14. In both the Palestinian Talmud (PT Hagigah 2.1, 77b) and the Babylonian Talmud (BT Hagigah 15a) the homily on the Torah as "gold and glass" receives an interesting twist in the story of the dissident sage Elisha ben Abuyah. The point is made that in the same way that glass vessels, once broken, can be used to make new vessels, so disciples who have gone astray can go back and start anew.

15. See also BT Menahot 99b. As several scholars noted, the image of a bird (or birds) in a cage is commonly used in ancient literature to depict the retention and retrieval of memories (most famously, in Plato's *Theaetetus* 197–99). See Hirshman, *Stabilization*, 76–80.

The centrality of memory and the struggle with the prospect of forgetfulness in the rabbinic ethos and practice of Torah learning received substantial scholarly attention. For the most part, scholars were interested in the mechanisms, habits, and exercises that the rabbis utilized in order to maximize memorization and to prevent forgetfulness.[16] This interest was often guided by a comparative orientation, seeking to identify correspondences between ancient and medieval treatises of *ars memoria* and rabbinic reflections on memory techniques. Indeed, rabbinic texts allow us to reconstruct a variety of methods that the rabbis used to facilitate memorization of large amounts of texts. Some methods are evident through principles of organization and structuring in the texts themselves, such as use of numerical formulae, recurring stylistic patterns, mnemonic devices like acronyms and biblical verses, use of rhythm and meter, and so on. Other methods are mentioned in passing descriptions of rabbinic institutional culture and disciples' everyday lives, such as cantillation (singing one's teachings to a melody), using private written notes, and above all, unremitting repetition. Of special note is Shlomo Naeh's study on techniques of text visualization alluded to in rabbinic literature, which were used not only to retain large amounts of texts but also to organize units of texts internally such that they could be easily and effectively retrieved.[17]

Nevertheless, a consideration of the rabbinic concern with memorization and forgetfulness strictly in terms of the "how" of memory—namely, through what techniques texts were retained and retrieved—tends to overlook the question of what memory and forgetfulness of the Torah *meant* in early rabbinic culture. For the rabbis, I argue, memorization was not only a means but also an end in itself.[18] It was not just a necessity stemming from life in a mostly or exclusively orality-based society, but a required practice and a manifestation of virtue and piety in its own right.[19] Likewise, forgetfulness was construed by the rabbis not only as a lamentable

16. For a few notable studies, see Dov Zlotnick, "Memory and the Integrity of Oral Tradition," *Journal of the Ancient Near Eastern Society* 16–17 (1984–85): 229–41; Jacob Neusner, *The Memorized Torah: The Mnemonic System of the Mishnah* (Chico, CA: Scholars Press, 1985); Martin Jaffe, "Writing and Rabbinic Oral Tradition: On Mishnaic Narrative, Lists, and Mnemonics," *Journal of Jewish Thought and Philosophy* 4 (1994): 125–46; Gerhardsson, *Memory and Manucscript;* Swartz, *Scholastic Magic;* Stephen Hazan Arnoff, "Memory, Rhetoric, and Oral Performance in Leviticus Rabbah" (PhD diss., Jewish Theological Seminary, 2011). From a different angle, Moulie Vidas examined the debate on memorization versus creative interpretation in Babylonian study culture; see Moulie Vidas, *Tradition and the Formation of the Talmud* (Princeton, NJ: Princeton University Press, 2014), 115–49.

17. Naeh, "The Craft of Memory."

18. It is of course widely recognized that Torah *study* was considered an end in itself—indeed the ultimate end—in rabbinic culture. For a useful survey of primary and secondary sources on this topic, see David Levine, "Extra-Intellectual Aspects of Torah Study" (in Hebrew), *Da'at* 86 (2018): 441–58. My argument here is that *memorization* was construed by the rabbis as both a precondition for and a manifestation of devotion to the Torah, and thus that forgetfulness acquired the meaning of devotional failure.

19. In this respect, rabbinic culture was no different from late ancient and medieval Christian and Muslim cultures that cherished memorization as a form of piety and as a precondition for virtue,

annoyance but also as an existential threat. R. Ishmael's Midrashic comparison of losing the "bird" of one's memorized teachings to losing one's own soul is clearly a rhetorical flourish, but it corresponds with a broader trope in Tannaitic texts according to which remembering and forgetting Torah teachings is a matter of life and death. This chapter sets out to explore some of the meanings of memorization and forgetfulness of Torah teachings in Tannaitic texts, and to discern the ways in which the rhetoric built around forgetfulness of Torah plays a role in the rabbis' greater social and religious vision.

The shift of focus from halakhic forgetfulness to forgetfulness of teachings necessitates a shift of focus within the Tannaitic corpus. Whereas the previous chapters engaged primarily with the legislative practice-oriented materials of the Mishnah and Tosefta, this chapter and the next focus on homiletic and exhortatory materials, located primarily (albeit not exclusively) in the Tannaitic Midrashim. The Midrashim were evidently compiled somewhat later than the Mishnah, and the question of whether the relations between these corpora are best understood as synchronic—namely, as two mutually constitutive forms of engagement with tradition—or as diachronic, in which one mode of engagement (i.e., Midrash) replaces the other—is open to interpretation.[20] The disparate textual histories, purposes, and possibly audiences of these two kinds of corpora notwithstanding, Mishnah/Tosefta and Tannaitic Midrashim are parts of one conceptual and ideational world. The concern with forgetfulness in practice and the concern with forgetfulness of learned Torah are both integral to the Tannaitic legacy that has shaped the contours of rabbinic Judaism for centuries to come, and as such these issues can and should be put in conversation with each other.

My purpose in this chapter is not to cover the entire gamut of Tannaitic passages that deal with memory and forgetfulness in the realm of Torah, which are numerous. Rather, I aim to relate the theme of forgetfulness of teachings to the broader issue that interests me in this book: the function and meaning of forgetfulness within Jewish practice as the early rabbis envision it, and the rabbis' utilization of forgetfulness in constructing their own identity and authority. To that end, I focus not so much on the memory culture of the rabbis themselves as on the memory ethos they create, according to which memorization of Torah texts is an imperative practice for any person of "Israel." Tannaitic texts were, in all likelihood, directed at an audience of Torah learners and rabbis in the making, and so their implorations regarding memory and forgetfulness probably pertain especially, or exclusively, to those circles. I will argue, however, that the rhetoric of such implorations often suggests that forgetfulness is an impediment not only to rabbinic excellence but to the observance and piety of any Jew. In other words, the

despite having no dearth of written books. See Carruthers, *The Art of Memory*, 69; Swartz, *Scholastic Magic*, 34.

20. See Ishay Rosen-Zvi, *Between Mishna and Midrash: The Birth of Rabbinic Literature* (in Hebrew) (Ra'anana: The Open University of Israel Press, 2020), 385.

rabbis tied together halakhic practice and textual mastery in ways that obfuscated the intellectual and elitist nature of the latter and turned it into a basic tenet of life in accordance with God's commandments.

In the first part of the chapter, I argue that Tannaitic literature presents a strong tendency toward textualization of practice—that is, calibrating both pious devotion and observance of the commandments to mean memorization of texts. Incessant repetition of textual passages is advocated not only for the sake of the product, that is, having command of a certain body of knowledge, but also for the sake of the process: to be mentally and physically preoccupied with memorization of texts is to present the unrelenting dedication and servitude that the scriptural God expects of the Israelites. The text of the Torah, moreover, is not simply words that must be remembered; the text is one and the same as the normative instructions it entails, and therefore failure to retain textual teachings inevitably leads to failure to observe the law. Accordingly, forgetfulness of teachings is a form of disobedience of the divine law, whether in and of itself or as precursor to actual transgressions that are sure to follow. These two rhetorical moves in conjunction—recitation as requisite practice and identification of observance with the retention of the texts that mandate it—serve to endow memorization and forgetfulness of texts with profound religious meanings that pertain to Jewish subjects in general, not only to the rabbis and their disciples.

In the second part of the chapter I turn to examine several anecdotes in which rabbis are said to have forgotten certain elements of their knowledge, and I argue that those moments of rabbinic forgetfulness are used as opportunities to bolster the rabbinic claim to textual expertise rather than to undermine it. First, these anecdotes tend to downplay firsthand experiences of halakhic practice as unreliable and as subject to the faults of memory, thus discounting, to some extent, the value of extratextual knowledge. While a particular rabbi may forget something he witnessed or even did himself, there exists stable textual memory among the Torah learners as a community. Second, a couple of anecdotes highlight the rabbinic expertise in textual interpretation, or *midrash*, which allows the rabbis to recover and reconstruct forgotten knowledge. Through these anecdotes, the rabbis both acknowledge the fallibility of their memories as individuals and ascertain the infallibility of "the Sages" as an institution.

TEXTUALIZED PRACTICE

The rabbinic preoccupation with memorization and potential forgetfulness of texts is often interpreted as a direct outcome of the strictly oral nature of the rabbis' literature. Because the rabbis were ostensibly committed to oral transmission of rabbinic teachings and avoided writing any of them down (except, perhaps, for private and informal purposes), they were—so the argument goes—perpetually apprehensive about the possibility that this massive body of teachings be lost

forever.[21] In his article on the resolute orality of rabbinic literature, Ya'akov Sussmann made this point forcefully:

> The sense of danger "lest the Torah be forgotten from Israel" and the existential concern for the preservation of the Torah—on account of which the heaven and the earth persist—runs like a thread throughout all of rabbinic literature. This danger is not the concern of the individual learner alone, but is a general, national, and cosmic concern. It has happened before that entire blocks of teachings have been forgotten in times of crisis—from the ancient days to the days of the Sages themselves—and it is only thanks to Providence that this danger did not materialize. The very emergence—the beginning of the organization and redaction of the Oral Torah—is explained by a fear such as this. . . . The anxiety of forgetfulness was part of the rabbis' lives throughout all of their days, and in all periods up to the last Amoraim.[22]

Sussmann bundles together three separate tropes in rabbinic literature: commitment to exclusively oral transmission of the "Oral Torah"; concern with memorization and mastery of texts by dedicated learners; and the looming threat that "the Torah [will] be forgotten from Israel" on a collective level. At the outset, I contend that while there is a loose thread connecting these three tropes, they are for the most part distinct from one another in rabbinic texts. Proper distinction between oral composition and transmission, individual mastery, and collective preservation is necessary before we delve more deeply into this chapter, which will focus specifically on the second of these three issues. The issue of collective forgetfulness will be explored in detail in the next chapter; the issue of oral transmission and dissemination will not be dealt with in this book.

Whether or not we accept Sussmann's insistence that the rabbinic world of study was entirely devoid of books,[23] it is evident that rabbinic texts were produced and

21. See, for example, Zlotnick, "Memory and the Integrity of Oral Tradition"; Gerhardsson, *Memory and Manuscript*. Recently, Alyssa Gray argued that "orality anxiety" is characteristic primarily of the Babylonian Talmud, which presents an overall ethos of oral preservation that cannot be detected in Palestinian sources. See Alyssa M. Gray, "The Motif of the Forgetting and Restoration of Law: An Inter-Talmudic Difference about the Divine Role in Rabbinic Law," in *Land and Spirituality in Rabbinic Literature: A Memorial Volume for Yaakov Elman ז"ל*, ed. Shana Strauch Schick (Leiden: Brill, 2022), 194–98. It is possible that the strong association between orality and the fear of forgetfulness derives from the heavy emphasis on this issue in Rav Sherira Gaon's tenth-century epistle to the Jewish community of Qayrawan, which was traditionally seen as the most authoritative source on the history of the Tannaitic and Amoraic academies. See Talya Fishman, *Becoming the People of the Talmud: Oral Torah as Written Tradition in Medieval Jewish Cultures* (Philadelphia: University of Pennsylvania Press, 2011), 20–64.

22. Sussmann, "Oral Torah, Plain and Simple," 257–58 (my translation).

23. See the debate in Catherine Hezser, *Jewish Literacy in Roman Palestine* (Tübingen: Mohr Siebeck, 2001), 190–209; Martin Jaffe, *Torah in the Mouth: Writing and Oral Tradition in Palestinian Judaism, 200 BCE–400 CE* (New York: Oxford University Press, 2001); Ishay Rosen-Zvi, "Orality, Narrative, Rhetoric: New Directions in Mishnah Research," *AJS Review* 32, no. 2 (2008): 235–49. For important evidence on the use of written materials in rabbinic settings, see Shlomo Naeh, "The Structure and Division of Torat Kohanim (A): Scrolls" (in Hebrew), *Tarbitz* 66, no. 4 (1997): 483–515.

preserved primarily orally, and that the rabbis' study culture relied on spoken recitation of texts and not on written copies. However, this is by no means unique to the rabbis. In most ancient civilizations texts were authored, edited, and remembered orally even when written copies were ultimately used for their preservation and dissemination. This was the case in Mesopotamia, in Egypt, in India, and in Iran, as well as in Greek and Roman cultures.[24] In a world in which writing materials were expensive and writing itself laborious, authors did not produce draft after draft of their work in writing until they were pleased with it. Books were composed orally (albeit probably with the occasional help of written notes), fully memorized and then edited and corrected—again orally—until a final version would be written or dictated, from memory, to a scribe or multiple scribes. Certainly speeches, sermons, or poetry meant for public performance had to be fully memorized, even if written notes were used in initial stages. It may very well be that in the rabbinic world, as Saul Lieberman proposed, professional reciters functioned as authoritative "living" copies of spoken books and filled the dissemination function that written copies usually fill,[25] but memorization of copious amounts of texts was required of textual producers in the ancient world regardless of whether they used written or "human" books. I do not think, then, that the rabbinic concern with forgetfulness derived directly from the rabbis' refusal to commit texts to writing, the exact nature of this refusal notwithstanding.[26] Forgetfulness of texts was a prospect that every educated person in antiquity had to reckon with if textual mastery was professionally or socially expected of them.

Memorization of texts, however, was not required only of specialized individuals—scribes, performers, authors, orators—but was also an indispensable part of literacy education in the ancient world, and remained so well into the early modern period.[27] As David Carr showed, the expectation that students who are initiated into the culture would have a host of texts memorized was first and foremost an expectation that they *internalize* the tradition and make it part of their inner constitution. Memorization was not only a tool for storing texts; it was a process through which one digested the host of values, ideals, images, and beliefs that one's culture associated with these texts, and thereby became a member of this culture. Hence the prevalent image of memorization as "writing on one's heart," which can

24. The literature on this topic is vast. For two comprehensive studies especially relevant for the ancient Jewish context, see Small, *Wax Tablets of the Mind*, and David M. Carr, *Writing on the Tablet of the Heart: Origins of Scripture and Literature* (New York: Oxford University Press, 2005).

25. Lieberman, *Greek in Jewish Palestine*, 83–99.

26. For a reexamination of the rabbinic approach toward writing of oral teachings, see Yair Furstenberg, "The Invention of the Ban against Writing Oral Torah in the Babylonian Talmud," *AJS Review* 46, no. 1 (2022): 131–50.

27. For seminal studies on this issue, see Henri Irene Marrou, *A History of Education in Antiquity*, trans. George Lamb (Madison: University of Wisconsin Press, 1956); William V. Harris, *Ancient Literacy* (Cambridge, MA: Harvard University Press, 1989).

be found in Mesopotamia, Egypt, Greece, and Israel alike.[28] This was evidently the case in the world of the rabbis as well, as we can infer from the fact that schoolchildren were expected to memorize biblical verses and passages.[29] This practice clearly did not stem from fierce commitment to orality—the Hebrew Bible was a firmly written text as far as the rabbis were concerned—but from a notion that one should hold the biblical text within oneself.

We must distinguish, then, between different functions of memorization of Torah texts as it is described in rabbinic literature. One function, which we may call "preservation," is accurate transmission and dissemination of rabbinic teachings and traditions for posterity. Another function of memorization is internalization: etching Torah texts—whether biblical or rabbinic—in (or on) one's mind and heart so that they become part of one's constitution. We may call this function "initiation," since it serves to inculcate individuals into the tradition. A third function of memorization is the cultivation of the virtuosity and prestige of the rabbis as a learned elite. Holding a host of texts (again, biblical and rabbinic alike) in one's mind, and being able to retrieve them quickly and expertly, enable one to use these texts creatively and to display one's command of the teachings in public.[30] In this respect, the rabbis were similar to Greek and Roman rhetoricians (and indeed, rabbinic study circles displayed many features of the Hellenistic and Roman rhetorical schools), whose facility with textual materials and ability to memorize and manipulate large amounts of texts were their markers of excellence.[31] We may call this third function "professionalization," although the rabbis, unlike Greek and Roman rhetoricians and orators, presumably never received a fee for their homiletic or juridical services.[32]

These three functions are not unrelated, and one could say that there is a progressive connection between them. Memorization for the sake of internalization was required already at the earliest stages of one's education, and it was the path through which one crossed the threshold into the world of Torah learning. Those who showed themselves to be especially astute, efficient, and thorough in their ability to memorize—and more important, to organize and select memorized

28. David Carr, "Torah on the Heart: Literary Jewish Textuality within Its Ancient Near Eastern Context," *Oral Tradition* 25, no. 1 (2010): 17–40. On the "writing on the heart" imagery specifically in rabbinic literature, see Naeh, "The Craft of Memory," 554–63.

29. On Jewish literacy education and the prominent role of memorization therein, see Towa Perlow, *L'éducation et l'enseignement chez les juifs à l'époque talmudique* (Paris: Leroux, 1931); Shmuel Safrai, "Education and the Study of Torah," in *The Jewish People in the First Century*, vol. 2, ed. Shmuel Safrai and M. Stern (Assen and Amsterdam: Van Gorcom, 1976), 945–70; Gerhardsson, *Memory and Manuscript*, 56–66; Hezser, *Jewish Literacy*, 39–94.

30. As discussed in Naeh, "The Craft of Memory."

31. For an extensive survey of scholarship on rabbinic education as rhetorical education, see Hidary, *Rabbis and Classical Rhetoric*, 1–40.

32. On memorization as a profitable skill associated with paid professional services, see Joseph Farrell, "The Phenomenology of Memory in Roman Culture," *Classical Journal* 92, no. 4 (1997): 373–83.

knowledge—were then able to rise in the ranks (informal as these ranks probably were) and to utilize textual traditions independently for teaching, adjudicating, and preaching purposes. These professional Torah learners then shaped the traditions that themselves continued to be transmitted, replicated, edited, and studied in later generations. But while these functions are related, the concerns associated with forgetfulness vis-à-vis each of them are different. In the realm of transmission and preservation, the concern would pertain to errors or omissions on account of which texts might become corrupt or lacking. Such concern was probably real, but it is hardly spoken of as such in Tannaitic texts (as I will argue in the next chapter, the fear lest "the Torah be forgotten from Israel" has nothing to do with inaccurate or lax memorization of texts).[33] In the professional context, in which memorization is a tool of rabbinic expertise and a marker of excellence, forgetfulness is associated primarily with shame and with a personal sense of failure.[34] And in the context of initiation and internalization, forgetfulness is regarded as perilous because it casts a question mark on the degree to which one has actually internalized the Torah, and by extension, on the depth of one's religious commitment.[35] It is specifically on the latter context that I wish to focus in this chapter, since the rabbis construct the notion of memorization as internalization as relevant to all members of "Israel" and not exclusively to the rabbinic elite. This notion, as I will

33. The only exception of which I am aware is M. Oholot 15.1, in which R. Tarfon complains that a certain teaching is "damaged" because "the hearer heard and erred." Even so, his statement does not suggest that the transmitter failed to memorize the teaching correctly, but rather that he misheard or misunderstood the teaching in the first place. I thank Moulie Vidas for drawing my attention to this passage. Another text that possibly points in this direction is the statement that since the disciples of Hillel and Shammai did not attend to their masters properly, "the Torah has become like two Torahs" (T. Hagigah 2.9 [ed. Lieberman 383] and parallel in T. Sanhedrin 7.1 [ed. Zuckermandel 425]). However, this statement is best understood as referring not to forgetfulness of teachings, but rather to divergent interpretations of teachings. Finally, as I will argue in the next chapter, Tannaitic references to difficulty in "finding the words of the Torah" (e.g., T. Eduyot 1.1) refer to disorganization, not to loss as a result of forgetfulness. Even in Amoraic texts, it could be argued that the rabbis are less invested in accurate transmission of their predecessors' sayings than in creative recollection/reinvention of these sayings; see Dolgopolsky, *The Open Past*.

34. See, for example, the following prayer (attributed to King David) in Sifre on Numbers 119 (ed. Kahana 4:366–67): "*Hold me up, that I may be safe, and have regard for your statutes continually* (Ps. 119:117)—that I will not study Torah and forget it, that I will not be studying and the Evil Desire does not allow me to recite, or lest I render the pure impure and the impure pure and I shall be found ashamed in the World to Come, or lest any of the nations of the land and the clans of the earth will ask me [a question] and I will not know how to respond to them, and I shall be found ashamed before their eyes, and likewise he says, *I will also speak of your decrees before kings, and shall not be put to shame* (Ps. 119:46)." Cf. Mekhilta deRabbi Ishmael Yitro 2 (ed. Horovitz–Rabin 201).

35. Michael Swartz rightly observed that in rabbinic culture failure to recall a teaching was interpreted as a result of "inadequate effort to impress the proper information on the mind" rather than as failure to retrieve something that is already there; see Swartz, *Scholastic Magic*, 40. I argue further that such inadequate effort was construed by the rabbis as a marker of laxity in devotional practice more broadly.

show, is closely connected to the idea that the *words* that make up Torah teachings—the text qua text—are the medium through which piety and observance are attained and maintained.

Relentless Recitation

The third chapter of tractate Avot of the Mishnah presents a cluster of statements, carefully redacted to maintain both thematic and structural coherence, which promote and advocate engagement with the Torah at any given opportunity.[36] The first pair of statements presents a contrastive picture of the merits and benefits afforded by Torah study and the detriment and disgrace brought about by its absence:

> R. Hanina ben Tradion says, "Two who sit together and there are no words of Torah between them—that is the seat of scoffers . . . but two who sit together and there are words of Torah between them—the Heavenly Presence is between them . . . and even one [person] who sits and engages with Torah, the Holy One, Blessed be He, assigns a reward for him. . . ."
>
> R. Shimon says, "If three people ate at one table and did not speak words of Torah at it, it is as if they have eaten offerings sacrificed to the dead . . . but three who ate at one table and spoke words of Torah at it, it is as if they have eaten at the table of the Holy One, blessed be He."[37]

These two statements make the point that even the most casual daily interactions, such as a friendly gathering or a meal, should be used for the study of Torah, and that if this is not the case, these interactions have something sinister about them: they are likened to a gathering of "scoffers" (presumably, scoffers of God), and to an idolatrous, morbid sacrificial feast. The statement that follows pushes this point further, asserting that even when a person is alone, if he is capable of engaging with the Torah and does not do so, he is condemning his own soul:

> R. Hanina ben Hakhinai says, "If one wakes up at night or walks alone on the road and turns his heart to idleness—he is liable of his soul."[38]

Nighttime is a time of danger and fear in the rabbinic world, but it is also a time of quiet and lack of distractions. Likewise, one who is on the road on one's own is vulnerable to various perils but is also free to recite uninterruptedly. This statement

36. On this Mishnaic unit (M. Avot 3.2–8), see Tropper, *Wisdom, Politics, and Historiosophy*, 42–45.

37. M. Avot 3.2–3 (3.3–4 in the Mishnah's manuscripts).

38. M. Avot 3.4 (3.5 in the manuscripts). I am following the version in MSS Kaufman and Cambridge (Lowe), which reads: "*and* turns his heart to idleness" (*u-mafneh libo le-batalah*). In this version, "turns his heart to idleness" describes what one does when one wakes up or walks alone. MS Parma de Rossi 138 and the printed edition read: "*and one who* turns his heart to idleness" (*ve-ha-mafne libo le-batalah*). According to this version waking up at night, walking alone, and idleness of the heart are three different and unrelated risky behaviors, and one is liable for each of them. This version makes little sense (can one really be held blameworthy for waking up at night?); see the discussion in Albeck, *Six Orders: Neziqin*, 4:496.

can be read in two ways. According to one reading, one who finds oneself with an opportunity to engage in matters of Torah but does not do so (and instead turns his heart to "idleness," that is, anything other than Torah) is being negligent in his devotion to the Torah and is therefore "liable of his soul"—that is, condemns himself to spiritual death. An alternative reading is that the only thing that can protect one from the dangers of the night or of the road is the study of Torah, and therefore one who does not study Torah on these treacherous occasions subjects himself to mortal dangers. Either way, this statement powerfully evokes an imagery that turns the expectation that one engage with the Torah at all times into a matter of life and death. The ambiguity as to whether physical death or spiritual death is at stake is in all likelihood intended.

After a few more statements on the merits of preoccupation with Torah, the Mishnaic unit concludes with two statements, stylistically and substantively echoing the ones we just saw, on the importance of unremitting recitation of one's teachings. The second of the two statements addresses forgetfulness and will therefore be my main focus here, but I contend that this statement must be read in context—of the Mishnaic chapter in general and of the preceding statement in particular—to be fully understood:

> R. Ya'akov says, "If one walks along the road while reciting, and he stops his recitation (*mishnato*) and says, 'How fine is this tree,' 'How fine is this field'—he is considered as though[39] he is liable of his soul."
>
> R. Doustai b. R. Yannai said in the name of R. Meir, "If one forgets one element of his teachings (*mishnato*, i.e., his recitation),[40] he is considered as though he is liable of his soul, for it was said, *But take care and watch yourself* (lit. your soul) *closely, so as neither to forget the things that your eyes have seen* (Deut. 4:9). Could this refer even [to a case in which] his teaching weighed him down? Scripture says, *nor to let them slip from your mind all the days of your life* (Deut. 4:9)—behold, he does not become liable until he sits and removes them from his heart."[41]

Both these statements pertain to one's engagement with one's *mishnah*, that is, a body of teachings that one repeatedly recites audibly (the word *mishnah* literally means "that which is said again").[42] R. Ya'akov speaks of recitation of teachings as an activity that should consume the one performing it entirely. When one is

39. Lit. "they regard him as though" (*ma'alin 'alav*). In the printed edition: Scripture regards him (*ma'aleh 'alav ha-katuv*).

40. In MS Cambridge (Lowe): "If a disciple of a sage (*talmid ḥakham*) sits and recites and forgets one element of his teachings."

41. M. Avot 3.7–8 (3.9–10 in the manuscripts).

42. In all likelihood this term does not refer to "our" Mishnah, i.e., the codified compilation thought to have been edited by R. Yehuda the Patriarch, but to any portion of rabbinic teachings that one commits to memory. However, Tropper does propose that the editors of tractate Avot were concerned with the promotion of the Mishnah as a redacted work; see Tropper, *Wisdom, Politics, and Historiography*, 102–7.

reciting one must not think of anything else or do anything else, not even stop for a minute to admire the beauty of creation. Any distraction from one's recitation makes one not quite liable of death, but comparable to one who is liable of death.[43] This sentiment is doubtlessly extreme, but it coheres entirely with the idea we saw earlier in this Mishnaic chapter, according to which every opportunity for engagement with Torah during the day or the night must be seized fully. R. Doustai's statement, on the other hand, addresses the desired outcome of one's unceasing repetition, which is retention of one's teachings in memory. Forgetfulness of even one element (*davar*, meaning both "thing" and "word") of one's recited teachings suffices to condemn one's soul—again, not to make him quite liable of death but to make him like one who is liable of death. This harsh statement is immediately qualified, either by R. Doustai himself or by a compassionate editor, to suggest that this does not apply to accidental forgetfulness that a struggling student may experience,[44] but rather to deliberate forgetting—which in this context is best interpreted as a conscious or semiconscious decision to neglect a particular teaching and to stop memorizing it.[45]

The conjunction of these two functions of repetition of one's teachings—retention in memory and preoccupation for preoccupation's sake—reveals the deep cultural meanings of memorization in the Tannaitic world. Memorization is both a means and an end: it is the process through which one transforms one's "heart" by internalizing God's words (which include both the Written Torah and the Oral Torah), but it is also an activity that requires tremendous mental resources in and

43. This idea corresponds, to some extent, with the Talmudic trope of a sage whom the Angel of Death cannot touch as long as he is reciting, but as soon as the sage is distracted and briefly stops reciting, the Angel of Death claims him. See BT Shabbat 30a–b, BT Mo'ed Qatan 28a, BT Baba Metzi'a 86a.

44. The Hebrew phrase is *taqfah 'alav mishnato*, most accurately translated as "his recitation became stronger than him."

45. Naeh interpreted this sentence as referring to what cognitive psychologists call "directed forgetting," that is, intentional deletion of material deemed irrelevant from the memorized text retained in one's mind. See Naeh, "The Craft of Memory," 553. For other possible examples of intended forgetting in rabbinic texts, see Reuven Kiperwasser, "The Art of Forgetting in Rabbinic Narrative," in *Rabbinic Study Circles: Aspects of Jewish Learning in Its Late Antique Context*, ed. Marc Hirshman and David Satran with the assistance of Anita Reisler (Tübingen: Mohr Siebeck, 2020), 67–85. We also know of intentional practices of erasure from memory in late antique Christianity: see Carruthers, *The Craft of Thought*, 88–99. On directed forgetting (which is still a controversial notion in memory studies), see Gesine Dreisbach and Karl-Heinz T. Bäuml, "Don't Do It Again! Directed Forgetting of Habits," *Psychological Science* 25, no. 6 (2014): 1242–48; Lili Sahakyan and Nathaniel L. Foster, "The Need for Metaforgetting: Insights from Directed Forgetting," in *The Oxford Handbook of Metamemory*, ed. John Dunlosky and Sarah (Uma) K. Tauber (New York: Oxford University Press, 2016), 341–56. However, I do not think that directed forgetting is intended in this text. Removal of certain teachings from one's memory because one finds them mistaken or unsuitable was an entirely legitimate practice in rabbinic circles, and there is no reason why it would be condemned here. Rather, I propose that "removal from the heart" should be understood as lack of interest or inattentiveness. It is an active decision to stop memorizing, which inevitably leads to forgetfulness.

of itself, *and that is exactly its point*. The passages we have seen do not simply implore their audience to allocate undisturbed time for the study of Torah; they convey that any moment in which one is not studying Torah is not only wasted but also detrimental. Recitation and repetition, in this framework, are the instruments through which one's everyday moments are reliably filled with Torah. Since relentless repetition is a form of devotion, forgetfulness of one's teachings is construed not as a cognitive failure but as a marker of irreverence toward God's words. The audience is assured that occasional difficulty in retaining one's teachings is normal (or at least forgivable), but that lack of commitment to the *practice of memorization*—here presented as removal of one's teachings from one's heart—makes one worthy of death.

It seems evident that this highly demanding regime of constant engagement with the Torah was designated specifically for aspiring disciples of the Sages—that is, for individuals set on immersing themselves in higher levels of Torah learning, who are, by definition, a self-selecting elite. While historically the main audience of these sayings is likely to have been only rabbinic or rabbinically inclined individuals,[46] it is important to note that the biblical verse quoted in R. Doustai's statement is taken from a speech by Moses, emphatically addressed to all the people of Israel:

> So now, Israel, give heed to the statutes and ordinances that I am teaching you to observe, so that you may live to enter and occupy the land that YHWH, the God of your ancestors, is giving you. . . . But take care and watch yourself closely, so as neither to forget the things that your eyes have seen nor to let them slip from your mind all the days of your life; make them known to your children and your children's children—how you once stood before YHWH your God at Horeb.[47]

What the Israelites must never forget, according to this speech, is their covenant with God, and specifically, what they saw at Mount Horeb when God descended on the mountain and revealed himself to them. "Israel" is addressed here as one corporate entity: it does not matter whether each individual that Moses is addressing was present at the mountain or not (most of them were not, according to the story line of Deuteronomy), because the covenant established there includes all future generations of the Israelites. In its rabbinic configuration—both in this Mishnaic passage and in the Sifre's homily presented at the beginning of this chapter—the ordinance given to Israel not to forget the things (*devarim*) they saw turns into an ordinance not to forget the words they learned. The rhetorical power of this verse lies in the fact that it delineates the very tenets of the covenantal relationship between God and his people as a whole. To invoke this verse in the context of recitation of the Torah, then, is to equate neglect of one's teachings with neglect of the covenant and of God himself. Put differently, while the expectation of recitation and unceasing preoccupation with Torah may be relevant only to a

46. As argued by Tropper, *Wisdom, Politics, and Historiography*, 136–88.
47. Deut. 4:1–10.

small elite group of Torah learners who have the resources to pursue it, this expectation is homiletically mapped—here and elsewhere, as we will see—onto "Israel" as a collective.

The following homily from the Midrash Sifre on Deuteronomy similarly portrays preoccupation with Torah and repetition of teachings both as a means to prevent forgetfulness and as an end in itself. Here, however, the committed learner protects not his own life by engaging with the Torah, but the Torah itself:

> *May my teaching drop like the rain, may my speech condense like the dew, like showers on grass, like raindrops on new growth* (Deut. 32:2).
>
> "Like showers on grass"—in the same way that those showers descend upon grasses and move them around (*mefashpeshin*, lit. "rummage through them") so they do not become infested with worms, so you should rummage through the words of Torah, so you do not forget them. And thus said R. Ya'akov ben R. Hanilai[48] to Rabbi [Yehuda the Patriarch], "Come, let us rummage through teachings (*halakhot*) so they do not become rusty."
>
> "And like raindrops on new growth"—in the same way that those raindrops descend upon new growths and clean them and nourish them (*mefatmin*, lit. "fatten up"), so you should nourish the words of the Torah and repeat them a second and a third and a fourth time.[49]

In this pair of homilies the words of the Torah are compared to vulnerable young grasses or weeds, whereas the learner's preoccupation with the words of the Torah is compared to the vital nourishment of rain and dew. The reader/listener is encouraged to "rummage" through the words of Torah—that is, to think about them, look into them, recite them, or in some other way be actively engaged with them—so that he does not forget them. The imagery of the words of the Torah being eaten by worms or becoming rusty illustrates the decay of memorized Torah within one's own mind (or mouth), which is bound to take place if this memorized knowledge is neglected, but the implication of this image is that the obligation to preoccupy oneself with Torah teachings is also an obligation to the Torah itself. If, when left unattended, the words of the Torah become unsightly and ultimately unusable, then to allow them to get to this condition is to trespass against the Torah (and by extension, against God its giver) and not only against oneself. The second homily makes this implication explicit by comparing repeated recitation of one's teachings to nourishing, or "fattening up," the words of the Torah. When one repeats the same teachings over and over again, the content and form of those teachings may not change, but what does change is the magnitude of the words of the Torah within oneself and thereby, supposedly, in the world.

Memorization of Torah teachings, then, emerges not only as a matter of individual self-preservation but also as a devotional imperative. On the one hand, as

48. In the manuscripts: R. Ya'akov ben R. Hanina.

49. Sifre on Deuteronomy 306 (ed. Finkelstein 336–37); cf. Midrash Tannaim on Deuteronomy 32:2 (ed. Hoffmann 184). See also Fraade, *From Tradition to Commentary*, 250–51n144.

we saw in Mishnah Avot, engagement with the words of the Torah or absence thereof is so powerful that it makes the difference between an idolatrous sacrificial feast and divine presence. The same sentiment is forcefully echoed in another assertion in the Sifre on Deuteronomy: "The words of the Torah, for as long as one engages with them, they are life for him; once he departs from them, they cause him to die."[50] On the other hand, the words of the Torah are themselves fragile, easily destructible and require constant tending to. When one neglects one's teachings, one is actively wronging those teachings.[51]

Demanding and all-consuming, and commanding every moment of one's attention, the words of the Torah in these rabbinic texts replicate the traits of the jealous God of the Hebrew Bible, who cannot bear to be forgotten or neglected.[52] The rabbis utilize and enhance a paradigm that appears in a nascent form already in late biblical texts (most prominently in Psalm 119), in which God's relations with his people are mapped onto the individual learner's relations with the Torah.[53] Like God, the Torah requires absolute devotion and constant preoccupation, and it is benevolent when attended to and destructive when abandoned even briefly. But for the rabbis, the Torah and God are not merely analogous: devotion to the Torah and devotion to God are one and the same. This idea is expressed especially clearly in a short homily in Mekhilta deRabbi Ishmael:

> *If you obey my voice and keep my covenant, you shall be for me a treasured possession out of all the peoples, for the whole earth is mine* (Ex. 19:5).
>
> "You shall be for me"—that you will be available (*penuyim*) to me and preoccupied with the Torah, and you shall not be preoccupied with other things.[54]

50. Sifre on Deuteronomy 343 (ed. Finkelstein 399–400). This sentence is part of a series of comparisons of the Torah to fire, although here the comparison is quite nonsensical (fire is lethal for those who approach it, not for those that step away from it); cf. Mekhilta deRabbi Ishmael Yitro 4 (ed. Horovitz-Rabin 215). For an elaborate discussion of this homily in its context, see Fraade, *From Tradition to Commentary*, 46–47.

51. Consider also the prevalent phrase "abrogation of the Torah" (*bitul Torah*) in rabbinic literature, which refers to any time in which one can engage with the Torah but does not do so. When one does not actively study Torah, one effectively annihilates it.

52. In an incisive article, Yehuda Liebes argued that the formative myth of monotheistic Judaism is God's "obsessive and possessive love" toward his people, love that takes the form of searing jealousy whenever God does not feel that he is loved back to the same extent. According to Liebes, "From this [myth], primarily, stems also the quintessential halakhic nature of the Jewish religion: the loving god cannot bear any distraction from him. Hence the multiplicity of commandments that circumscribe humans at every step and throughout all their days." See Yehuda Liebes, "Of God's Love and His Jealousy" (in Hebrew), *Dimui* 7 (1994): 34 (my translation).

53. See Yehoshua Amir, "The Place of Psalm 119 in the History of the Religion of Israel" (in Hebrew), *Te'udah* 2 (1982): 57–81. I thank Ishay Rozen-Zvi for this reference.

54. Mekhilta deRabbi Ishmael Yitro 2 (ed. Horovitz-Rabin 208). Cf. Mekhilta deRabbi Shimon 19:5 (ed. Epstein-Melamed 139): "And you shall be for me—designated for me (*meyuḥadin li*), preoccupied with my Torah, preoccupied with my commandments."

The homilist brackets the words "you shall be for me" (*ve-hayitem li*), originally part of the sentence "You shall be for me a treasured possession" that conveys God's future commitment to Israel, and thereby turns these words into an independent injunction regarding Israel's commitment to God. The people of Israel have to be "for" God, which means that they must have complete mental availability for God at all times. The shape that this mental availability takes is that of engagement with the Torah. In other words, being God's people means reciting Torah teachings at any given moment, and failure to preoccupy oneself with the Torah is by and by failure to preoccupy oneself with God—and thus, a breach of the covenant.[55] Again, while the intended audience of this homily may have been the exclusive community of Torah learners, the presentation of unremitting engagement with the Torah as a fundamental term of God's covenant with Israel makes the point that such engagement is not optional.

The configuration of devotion to God in terms of recitation and repetition is firmly grounded in the biblical texts themselves. The book of Deuteronomy in particular presents the uncompromising love for God required of Israel, and the complete immersion in God's laws and instructions, as two sides of the same coin. The imploration "You shall love YHWH your God with all your heart, and with all your soul, and with all your might" is immediately followed by the ordinance to make God's words a part of every aspect of one's life: "Keep these words that I am commanding you today in your heart. Recite them to your children and talk about them when you are at home and when you are away, when you lie down and when you rise. Bind them as a sign on your hand, fix them as an emblem on your forehead, and write them on the doorposts of your house and on your gates."[56] What the rabbis added to this biblical trope, I propose, is a level of concretization that made memorization of texts a religious practice unto itself. The rabbis mapped the exhortation to internalize God's words onto a demanding regime of recitation and memorization of textual teachings, and thereby created a setting in which forgetfulness of texts is at least suspected as failure of devotion.

55. This sentiment is voiced especially clearly in a saying attributed to R. Shimon ben Yohai in the Palestinian Talmud (PT Berakhot 1.2, 3b): "If I had stood on Mount Sinai at the time in which the Torah was given to Israel, I would have asked before the Merciful One that two mouths would be created for human beings, one that would labor in the Torah and one to do all other needed things." The desire to have a designated mouth for Torah purposes alone powerfully conveys the view that any moment in which one is forced to do something other than Torah study is a concession. It should be noted that R. Shimon ben Yohai is consistently identified in rabbinic texts as one who rejects any preoccupation with worldly things at the expense of the Torah; see Jeffrey Rubenstein, *Talmudic Stories* (Baltimore: Johns Hopkins University Press, 1999), 105–38.

56. Deut. 6:6–8; cf. Deut. 11:18–20. Similar exhortations can be found across biblical texts, such as Jos. 1:8; Prov. 3:1–3, 6:20–23, 7:1–4.

Text and Transgression

Much has been written about the transformation of practice, particularly ritual practice, into text in rabbinic literature. This includes not only the creation of elaborate play-by-play textual descriptions of rituals, whose recitation is sometimes their only form of performance, but also engagement with texts as a substitute for actual practice.[57] Here I would like to look more closely into a related but distinct form of textualization of practice in Tannaitic literature: the notion that internalization of laws means memorizing the *words* through which the laws are conveyed, and accordingly that forgetfulness of textual teachings inevitably leads to actual transgression.

The equation of internalization of a law with the ability to recite the exact words through which the law is communicated is evident in the rabbinic practice that was alluded to at the end of the previous subsection—namely, the recitation of the Shem'a. The rabbis famously turned the imploration of Deuteronomy 6:4–8 to love God totally and to contemplate God's words at all times into a commandment to recite the very words of Deuteronomy 6:4–8 in the morning and in the evening. The spoken performance of the text *as* text is the manner through which the ideational injunction of this text is being obeyed.[58] That is, to be sure, a unique and extreme instance of textualization of practice, in which the content and the form of the text are rendered completely identical, but we do see other places in Tannaitic literature in which performance of the practice described in a text is construed as performance of the text itself. One example of this is the description of the high priest's preparations for the Day of Atonement in Mishnah Yoma. The Mishnah relates how the high priest is taken from his home seven days before the Day of Atonement and undergoes extensive initiation in the basics of sacrificial practice.[59] As part of this initiation process, the high priest must demonstrate acquaintance with the textual "order of the day"—probably the biblical account of the purification rituals described in Leviticus 16:

57. For a survey of studies on Mishnaic textual rituals, see Balberg, "Ritual Studies and the Study of Rabbinic Literature," 78–85. The notion of study or recitation as substitute for practice has been discussed primarily in regard to sacrifices: see Sagit Mor, "The Laws of Sacrifice or Telling the Story of the Exodus?" (in Hebrew), *Zion* 68, no. 3 (2003): 297–311; Michael D. Swartz, "Liturgy, Poetry, and the Persistence of Sacrifice," in *Was 70 CE a Watershed in Jewish History? On Jews and Judaism before and after the Destruction of the Second Temple*, ed. Daniel R. Schwartz, Zeev Weiss, and Ruth A. Clements (Leiden: Brill, 2012), 393–412.

58. Adiel Kadari aptly defined the mode of operation of the Shem'a recitation (and of similar liturgical passages) as "reflexive circularity"; see Adiel Kadari, "Liturgical Recitation as Ritual of Study" (in Hebrew), in *Study and Knowledge in Jewish Thought*, ed. Howard Kreisel (Beer Sheva: Ben-Gurion University Press, 2006), 21–35. See also Ron Naiweld, "Au commencement était la pratique: Les commandements comme exercices spirituels—la subjectivation pratique rabbinique," *Yod—Revue des Études Hébraïques et Juives* 15 (2010): 13–41.

59. On the rabbinic "initiation" of the high priest in tractate Yoma, see Balberg, *Blood for Thought*, 211–16.

> They provided [the high priest] with elders from the Elders of the Court, and they would read before him the order of the day, and they would tell him, "My Master the High Priest, you [should] read with your own mouth, in case you have forgotten or in case you have not learned."[60]

While it is evident that this scene was designed to emphasize the high priest's complete dependence on the Sages, it is also noteworthy that the rabbis present the Sages' superiority over the high priest in terms of textual mastery. The Sages—here in the role of the Elders of the Court—first read the instructions regarding the day's services to the high priest, and then require him to read it audibly back to them. This suggests that this reading is not merely ceremonial: if the high priest does not internalize the text that describes the service, he will not be fit to perform it. The somewhat demeaning comment "In case you have forgotten or in case you have not learned" suggests that a fully qualified high priest would be required to have learned *and* to have memorized the text.[61] The audible reading is presented as a way to rectify potential insufficient facility with the text on the high priest's end, and he is specifically required to read "with his mouth" so as to ensure that the text is properly internalized. Whether the high priest had performed the Day of Atonement service before or not is immaterial in this context: practical experience and textual mastery are separate matters (as we will also see toward the end of this chapter), and the latter clearly supersedes the former.

Subordination of practice to textual mastery appears as a recurring homiletic trope in the Tannaitic Midrashim. The following passage from the Midrash Sifra on Leviticus ties together study, memorization, and observance as interlocking requirements for each individual in Israel:

> *If you follow my statutes and keep my commandments and observe them* (Lev. 26:3).
>
> "If you follow my statutes"—could this refer to the commandments? When [Scripture] says, "and keep my commandments and observe them"—behold, [here is a reference to] the commandments. So how do I maintain "if you follow my statutes?"—that you be laboring in the Torah.[62]

Responding to the apparent redundancy of the phrases "follow my statutes" and "keep my commandments" in the biblical verse, the homilist explains these verses as entailing two different injunctions: following God's statutes specifically means the study of Torah, whereas "keeping the commandments" entails all other

60. M. Yoma 1.3.

61. Both the Palestinian Talmud (PT Yoma 1.3, 39a) and the Babylonian Talmud (BT Yoma 18a) express bewilderment over the possibility that an uneducated high priest could be appointed in the first place. They explain that this pertains specifically to the end of the Second Temple period, in which priests allegedly bought their appointments. It is interesting to note that in the Babylonian Talmud a forgetful high priest is considered acceptable, but one who has not studied in the first place is not.

62. Sifra Be-huqqotai, opening of Parasha 1 (ed. Weiss 110c). In MS London (LON BL 341): "that Israel should be doing the Torah" (*'osim et ha-torah*).

required practices. The following section in this homily explains the "keeping" part of the commandments not as active performance of the commandments, but as retention of *teachings* regarding the commandments:

> [A] Likewise, [Scripture] says, *Remember the Sabbath day in its holiness* (Ex. 20:8). When [Scripture] says, "keep" [the Sabbath day in its holiness, Deut. 5:12], behold, this refers to keeping [it] in one's heart (*shemirat lev*). How do I maintain "remember"? that you will recite (*tehe shone*) [it] with your mouth.
>
> [B] Likewise, [Scripture says], *Remember and do not forget how you provoked YHWH your God to wrath in the wilderness* (Deut. 9:7). Could this mean [remembering] in one's heart? When [Scripture] says, "Do not forget," forgetfulness of the heart (*shikheḥat lev*) is intended. So how do I maintain "remember"? that you will recite [it] with your mouth.
>
> [C] Likewise, [Scripture says], *[Guard against an outbreak of a skin disease by keeping and observing whatever the Levitical priests instruct you . . .] Remember what YHWH your God did to Miriam on your journey out of Egypt* (Deut. 24:8–9). Could this mean [remembering] in one's heart? When [Scripture] says, "Guard against an outbreak of a skin disease by keeping and observing," keeping in one's heart is intended.[63] So how do I maintain "remember"? that you will recite [it] with your mouth.
>
> [D] Likewise, [Scripture says], *Remember what Amalek did to you [on your journey out of Egypt . . . you shall blot out the remembrance of Amalek from under heaven; do not forget*] (Deut. 25:17–19). Could this mean [remembering] in one's heart? When it says, "Do not forget," forgetfulness of the heart is intended. So how do I maintain "remember"? that you will recite [it] with your mouth.[64]

This set of homilies is not immediately related to the biblical verse under discussion, and it may have originated as an independent unit. The trigger for its incorporation here is the appearance of the verb "keep" in the topical verse "If you follow my statutes and keep my commandments," a verb that two of the four homilies respond to as well. The essential idea of the four homilies is that whenever the edict "remember" appears in the biblical text, what is intended is *audible recitation and repetition* of the edict in question "with one's mouth." In two of the scriptural examples provided (A and C), this conclusion is reached by contrasting the word "remember" (*zakhor*) in the verse with the word "keep" (*shamor*) that appears in an almost identical verse or in the same verse. One could think, the homilist suggests, that the instruction to remember (the Sabbath in A, or the agonies of skin disease in C) means to have an internalized memory of these matters, but the

63. In the printed edition: forgetfulness of the heart (*shikheḥat lev*). This is clearly an error, and I corrected it to *shmirat lev*, in accordance with all the other manuscripts.

64. Sifra Be-huqqotai, opening of Parasha 1 (ed. Weiss 110c). MS London includes only homilies A and D (Sabbath and Amalek). Homilies C and D appear also in Midrash Tannaim to Deuteronomy 24:9 and 25:17, respectively (ed. Hoffmann 157, 169); a shortened version of homily D appears in the Sifre on Deuteronomy (ed. Finkelstein 314).

requirement for internalized understanding "in one's heart" is already conveyed through the verb "keep." Therefore, the verb "remember" must be understood as active memorization through repetition "with one's mouth."[65] In the other two examples (B and D) the same conclusion is reached by contrasting the imploration "remember" with its counterpart "do not forget" in the same verse: forgetfulness is understood as erasure of the instruction from one's heart, whereas remembrance is interpreted as active memorization using one's mouth.

What is striking about these homilies is that "keeping" (*shamor*) in its biblical context clearly means observance of practice: to "keep" the Sabbath means to refrain from labor, and to "keep" the laws pertaining to skin disease is to examine, quarantine, and purify those suffering from skin disease according to the Levitical protocol. The homilist, however, turns "keeping" into an *internalized* memory of the instruction itself, so that he can present its counterpart, "remembering," as an externalized recitation of the instruction. What is kept in the heart and what is repeated with one's mouth are the same thing—namely, a *text* that conveys an instruction. The same can be said for example D, concerning the blotting of Amalek (example B, unlike the other three, does not entail any component of practice). The biblical ordinance entails both a call to remember what Amalek did to the Israelites and an instruction to physically blot out all of Amalek's descendants, which the Israelites are warned never to forget. For the homilist, the forgetfulness part and the remembrance part are two sides of the same coin: "Do not forget" pertains to internalized knowledge of the text, and "Remember" pertains to audible repetition and recitation of the text. When this reading is projected onto the Sifra's topical verse from Leviticus, "keeping" the commandments does not mean performing the commandments; it means committing them to memory. The aspect of actual performance of commandments is adduced only at the end of this unit in the Sifra, which concludes as follows:

> *If you follow my statutes and keep my commandments and observe them*—one must study so as to observe (lit. "to do," *la'asot*), not study not so as to observe. For one who studies not so as to observe is better off not to have been created.[66]

While this concluding homily forcefully ascertains that mere study of Torah without actual doing, that is, without performance of the commandments, is not only

65. Heart and mouth are often presented as two complementary elements of devotional practice, e.g., "Let the words of my mouth and the meditation of my heart be acceptable" (Ps. 19:14); "My mouth shall speak wisdom, the meditation of my heart shall be understanding" (Ps. 49:4); "My heart has been secretly enticed, and my mouth has kissed my hand" (Job 31:27). As scholars explained, in the Hebrew Bible the heart was viewed as the place in which speech is both produced and stored; see Thomas Krüger, "Das 'Herz' in der alttestamentlichen Anthropologie," in *Anthropologische Aufbrüche: Alttestamentliche und interdisziplinäre Zugänge zur historischen Anthropologie*, ed. Andreas Wagner (Göttingen: Vandenhoeck & Ruprecht, 2009), 103–18.

66. Sifra Be-huqqotai, opening of Parasha 1 (ed. Weiss 110c).

worthless but also reprehensible,[67] it also affirms the readings proposed above by putting an emphasis on the words "observe them" (*va-ʿasitem ʾotam*) in the biblical verse. This homily posits that it is specifically the reference to *observing* that points to the "doing" aspect of the commandments, whereas both "following God's statutes" and "keeping his commandments" are a form of *learning*. If it were not for the clause "and observe them" at the end of the sentence, one could mistakenly conclude that learning in and of itself suffices. Once again, it is important to note that the Sifra maps the requirement to learn and memorize texts onto scriptural passages that define the covenant between God and Israel as a whole, thus presenting this requirement as applicable to all of Israel, not only to an elite squad of Torah learners.

Learning without doing, according to this unit in the Sifra, is without merit; but according to a homily that appears shortly thereafter in the Sifra, doing without learning is downright impossible. Addressing the verse "But if you will not listen to me, and do not observe all these commandments," which appears later in the same biblical chapter, the Sifra issues some stark warnings:

> "But if you do not listen to me"—why does Scripture say, "and do not observe"? Is it possible that there is a person who does not learn (*lamed*), but does observe (*ʿoseh*)? Scripture says, *But if you will not listen to me, and do not observe [all these commandments]* (Lev. 26:14)—behold, whoever does not learn does not observe.
>
> Is it possible that there is a person who does not learn and does not observe, but does not spurn others? Scripture says, *if you spurn my statutes* (Lev. 26:15)—behold, whoever does not learn and does not observe ends up spurning others . . . [68]

At the core of this homily in the Sifra is an interpretation of the verb "listen" (*tishmeʿu*) as referring to internalization of learned material. To "listen" here means to absorb and retain what one was taught. The juxtaposition of "listen" and "observe" (*taʿasu*) in the verse leads the homilist to conclude that without learning, no observing is possible, but he does not stop there. Parsing out the biblical verse that follows, "If you spurn my statutes, and abhor my ordinances, so that you will not observe all my commandments, and you break my covenant" (Lev. 26:15), the homilist presents a cascade of inevitable consequences resulting from the initial failure to learn and retain Torah teachings (which for the sake of brevity I only summarize here): one who does not learn not only fails to perform the commandments but also necessarily disdains others who do attempt to observe them, detests the Sages, prevents others from observing the commandments, rejects the notion that the commandments were given at Sinai, and eventually rejects the "essence"

67. The topic of primacy of study over performance of commandments (or vice versa) is a controversial one in rabbinic literature, and the opinion presented in this homily is by no means the only one. See the discussion in Urbach, *The Sages*, 603–20; Shmuel Safrai, "Teaching of Pietists in Mishnaic Literature," *Journal of Jewish Studies* 16, nos. 1–2 (1965): 15–33; Hirshman, *Stabilization*, 32–39.

68. Sifra Be-huqqotai 2.3.3 (ed. Weiss 111b–c).

(*ʿiqqar*)—namely, the recognition of YHWH as the one God. Needless to say that this homily is an exercise in exhortative overstatement, intended mainly to steer its audience toward diligent study of Torah, yet the unequivocal positioning of study as precondition to practice reveals that at least some rabbinic authors strove to equate internalization of *texts* with the fundamentals of participation in the Jewish community.

In the orality-based learning culture of the rabbis, in which one learns by listening and repeating, the verb *sh-m-ʿa* (to listen or hear) bears a strong connotation of retention in memory.[69] "Hearing" or "listening" is equated with learning in the Sifra's homily because it is understood as absorption and internalization of content. In the following homily from the Mekhilta deRabbi Ishmael (which appears, in variations, in other Midrashic compilations as well) listening is unequivocally interpreted as retention in memory, whereas "forgetting" is the direct opposite of "listening":

> *He said, If you will surely listen to the voice of YHWH your God, and do what is right in his sight, and give heed to his commandments and keep all his statutes, I will not bring upon you any of the diseases that I brought upon the Egyptians; for I am YHWH who heals you* (Ex. 15:26).
>
> [A] "He said, if you will surely listen (*shamoʿa tishmʿa*)." From here they said, "If a person listened (*shamʿa*) to one commandment, they cause him to listen to (*mashmiʿin lo*) many commandments, for it was said, 'If you will surely listen.' If a person forgot one commandment, they cause him to forget (*meshakḥin ʾoto*) many commandments, for it was said, 'If you will surely forget (*shakhoaḥ tishkaḥ*) [YHWH your God and follow other gods to serve and worship them]'" (Deut. 8:19). . . .[70]
>
> [B] Shimon ben Azzai says, "If you will surely listen"—from here [one infers] that if a person wanted to listen, they cause him to listen, and if [a person wanted] to forget, they cause him to forget. Could this be after some time? Scripture says, "If you will surely listen," "If you will surely forget"—immediately. . . .
>
> He [ben Azzai] used to say, "If a person wanted to listen of his own accord, they cause him to listen not of his own accord; [if a person wanted] to forget of his own accord, they cause him to forget not of his own accord. Permission is afforded: *Toward the scorners he is scornful, but to the humble he shows favor* (Prov. 3:34).[71]

For the first, anonymous homilist (A), "listening" stands for internalization of the commandments rather than mere auditory exposure to them, and one is rewarded

69. The root *sh-m-ʿa* in Tannaitic texts most often refers to teachings received from a master. To have "heard" a tradition means to have memorized a statement or ruling made by one's teacher.

70. Mekhilta deRabbi Ishmael Be-shalah 1 (ed. Horovitz-Rabin 157), as well as Mekhilta deRabbi Ishmael Yitro 2 (ed. Horovitz-Rabin 208) and Mekhilta deRabbi Shimon 15:26 (ed. Epstein-Melamed 105). Cf. Sifre on Deuteronomy 79 (ed. Finkelstein 145); BT Berakhot 40a.

71. Mekhilta deRabbi Ishmael Be-shalah 1 (ed. Horovitz-Rabin 158); cf. Midrash Tannaim on Deuteronomy 11:13 (ed. Hoffmann 34).

for such internalization with facilitation of further internalization. The oppositional counterpart of listening is forgetting, which is analogously punished by further forgetting. This homilist uses the intensified grammatical forms *shamoʿa tishmʿa* ("you will surely listen") and *shakhoaḥ tishkaḥ* ("you will surely forget") to suggest that both listening and forgetting in the realm of Torah are self-perpetuating: retaining little leads to retaining much, and the same goes for forgetfulness. Ben Azzai's two homilies (B) integrate the element of will into the antonymic pair listening/forgetting: in the same way that one chooses to listen, that is, to absorb and retain, one chooses to forget—presumably, through neglect or carelessness in his recitation. The conscious decision either to retain or to forget has immediate consequences, and moreover, it leads to further retention or forgetfulness: one who decides to internalize will come to internalize even without making a conscious decision to do so, and one who decides to forget will come to forget further teachings whether he wants to or not. It is important to register the scriptural contexts of the verses used in these homilies: "If you will surely listen" (Ex. 15:26) pertains to obedience and observance of commandments, whereas "If you will surely forget" (Deut. 8:19) pertains to following God and staying away from idolatry. The homilists in the Mekhilta, similar to the homilist in the Sifra, reinterpret both observance of practices and exclusive devotion to God as subordinate to the internalization of learned teachings. Through these interpretive moves, the boundaries of the Jewish community are defined along the lines of memorization and forgetfulness of texts.

A few final examples from the Midrash Sifre on Deuteronomy—by far the Midrashic compilation most concerned with memory and forgetfulness—will further demonstrate the ideas we have seen so far. Like the Sifra, the Sifre systematically interprets the verb "to keep" (*lishmor*) as referring to recitation and repetition of one's teachings, while assigning the sense of active performance of the commandments strictly to the verb "to observe" or "to do" (*laʿasot*). This is most plainly evident in the Sifre's homilies on the adjacent verses "You must keep to observe (*u-shmartem laʿasot*) all the statutes and ordinances that I am setting before you today" (Deut. 11:32) and "These are the statutes and ordinances that you must keep to observe (*tishmerun laʿasot*)" (Deut. 12:1). The Sifre breaks the construct "keep to observe" (which simply means "observe diligently") into its constitutive elements: it interprets the verb "keep" in these two verses as referring to recitation or repetition (*mishnah*), and the verb "observe" as referring to action (*maʿase*).[72] In another passage, the Sifre ascertains the superiority of the former over the latter and declares, like the Sifra, that memorizing teachings is a precondition for observance of practice: "Whoever does not partake in recitation (*'eino*

72. Sifre on Deuteronomy 58–59 (ed. Finkelstein 124–25). cf. Midrash Tannaim to Deuteronomy 12:1 (ed. Hoffmann 47). "Mishnah" should probably be understood here as referring to any of the rabbis' oral teachings, as opposed to scriptural texts; see Hanoch Albeck, *Introduction to the Mishnah* (in Hebrew) (Jerusalem: Bialik Institute, 1959), 1–2; Epstein, *Introduction to the Text of the Mishnah*, 804–5.

bi-khlal mishnah), does not partake in action (*'eino bi-khlal ma'ase*)."[73] In other words, whoever is not part of the world of textual learning, which takes the form of audible repetition, is not part of the community of practice.

The notion that memorization of teachings is the only way to truly "listen" to God's commandments, and that forgetting is the oppositional counterpart of "listening," can be traced in the Sifre as well, in a homily regarding the self-perpetuating nature of both retention and forgetting that is quite similar to the one we saw in the Mekhilta. Whereas in the Mekhilta "listening" evidently means both initial learning and retention thereafter, the Sifre distinguishes between initial learning and active retention, and puts emphasis on the latter:

> *If you will surely keep this entire commandment that I am commanding you* (Deut. 11:22).
>
> From where do you say that if a person hears (*sham'a*) the first word from the words of the Torah and sustains it (*meqaymo*), in the same way that the first [teachings] are sustained in his hand, so the latter will be sustained in his hand? For it was said, "If you will surely keep."
>
> And from where that if one hears the first word and causes it to be forgotten (*meshakḥo*), in the same way that the first [teachings] are not sustained in his hand, so the latter will not be sustained in his hand? Scripture says, "If you will surely forget" (Deut. 8:19)—you will not have a chance to remove your eyes from it before it departs, for it was said, *When your eyes light upon it, it is gone* (Prov. 23:5), and it says in the Scroll of the Pious,[74] "If you leave me for one day, I will leave you for two."[75]

In the Sifre the topical verse of the homily is not "If you will surely listen," as it is in the Mekhilta, but rather "If you will surely keep." Thus, the homilist in the Sifre shifts the focus from listening, which he construes only as the preliminary stage of learning, to the active practice of *keeping* what one learned—in his words, "sustaining" it (*meqaymo*)—in order to allow it to persist. Sustaining one's teaching is the willful act of repetition and attendance to what one learned, whereas absence of "sustaining" is presented, through the causative *pi'el* form of the root *sh-kh-ḥ*, as *causing* teachings to be forgotten.[76] This homily makes it clear that memorized

73. Sifre on Deuteronomy 79 (ed. Finkelstein 145); cf. Midrash Tannaim to Deuteronomy 12:28 (ed. Hoffmann 55). The same homily appears also in Sifra Emor 8.9.3 (ed. Weiss 99c): "*And you shall keep my commandments*—this is recitation, *and you shall observe them*—this is action, and whoever does not partake in recitation does not partake in action."

74. On "the scroll of the pious" (*megillat ḥadisim*), see Safrai, "Teaching of Pietists," 25–27, and see also Hirshman, *Stabilization*, 44–45. Finkelstein, following Hoffmann, preferred the version *megillat ḥarisim*, but the correct version seems to be *megillat ḥasidim*, as it is in all the manuscripts, whereas *ḥarisim* seems like a typographical error.

75. Sifre on Deuteronomy 48 (ed. Finkelstein 111–12) and Midrash Tannaim to Deuteronomy 11:22 (ed. Hoffmann 42); cf. PT Berakhot 9.5, 14d.

76. On the *pi'el* form of *sh-kh-ḥ* and its usages in rabbinic literature, see Eljakim Wajsberg, "The Root שכח in Babylonian Aramaic" (in Hebrew), *Leshonenu* 68, nos. 3–4 (2006): 365–71.

teachings tend to be fleeting, and therefore forgetfulness is highly predictable, but it also asserts that forgetting is an active rather than passive process. It is not a cognitive failure but a form of abandonment of the Torah, and by implication, of God. Lack of sufficient diligence in memorization is akin, at least rhetorically, to willful deletion of one's teachings.

Finally, the "slippery slope" rhetoric that we saw in the Sifra, according to which failure to learn inevitably leads to a dramatic exit from the bounds of the community, is utilized in the Sifre as well. In the Sifre, however, the subject of the diatribe is explicitly one who fails to retain his teachings because he neglects to repeat them diligently. As part of an extended homily on learning practices, the Sifre contrasts one who studies a little bit at a time but repeats and secures his teachings with one who studies something once and then immediately moves on to something new, not taking the time to reinforce his memory. The former will eventually accrue a wealth of well-memorized knowledge, whereas the latter will eventually lose everything he has learned and be left empty-handed.[77] This advice is followed by an extended allegorical homily on a passage from the book of Proverbs: "I passed by the field of one who was lazy, by the vineyard of a heartless person; and see, it was all overgrown with thorns; the ground was covered with nettles, and its stone fence was broken down" (Prov. 24:30–31). The man in the verse, the homilist explains, is called "lazy and heartless" because he acquired a field or a vineyard but did not take any trouble to care for it and cultivate it, and thus it became derelict and rundown. By way of allegory, these verses pertain to a Torah learner who does not actively repeat what he learned. Inevitably, the homilist asserts, this neglectful disciple will first abandon the teachings he cannot remember, then forget the correct interpretation of an entire section, and finally let "the fence" break down altogether: "Once he realizes that [his teachings] have not been sustained, he sits down and declares the pure impure, and the impure pure, and he breaks the fence [erected] by the Sages."[78] While this homily pertains primarily to specialized learners, it clearly adopts the fundamental notion that we saw in other homilies, according to which failure to remember one's teachings is, first, self-perpetuating and ever-intensifying, and second, leads to much more severe omissions and ultimately to complete rejection of religious norms.

These recurring rhetorical tropes allow us to see that in Tannaitic literature the memorization and repetition of Torah teachings became a stand-alone form of practice, and a requisite practice at that. While I doubt that the rabbis realistically expected members of all walks of Jewish society to constantly recite

77. Sifre on Deuteronomy 48 (ed. Finkelstein 108). I am following the cogent interpretation proposed by Fraade, from *Tradition to Commentary*, 108–9.

78. Sifre on Deuteronomy 48 (ed. Finkelstein 109).

texts and engage with the Torah, they did utilize biblical exhortations concerning the obedience, faithfulness, and commitment to the covenant required of Israel as a whole to propagate the importance of memorizing Torah. Thus, they positioned active memorization of Torah teachings as definitive of one's membership in the community, and likewise presented failure at such memorization as excluding one from the community. Moreover, while forgetfulness in the realm of practice, as we saw in the previous chapters, is for the most part normalized and even serves as a marker of overall piety, forgetfulness in the realm of Torah learning is presented as a result of active abandonment or careless neglect.

How to account for the rabbis' harsh and castigating approach toward forgetfulness in the realm of Torah, as opposed to their calm and accepting approach toward halakhic forgetfulness? Obviously, the difference in genre plays a key part here. Forgetfulness in the realm of halakhah is addressed primarily in terse legalistic texts that are generally devoid of affect or moralizing, whereas forgetfulness of Torah is addressed primarily in homiletic texts that are filled with oratory flourish. Relatedly, we could argue that the rabbis attempted to make rabbinic Jewish practice feasible for as many people as possible, whereas their tirades regarding Torah learning pertained, despite their seeming inclusive rhetoric, only to an elite group that was held to a higher standard. Yet this difference, I propose, should also be understood along the lines of the difference between *remembering* and *memorizing*. The correct performance of commandments requires one to remember—in the sense of being aware of—various facts and tasks, whereas internalization of the Torah requires one to engage in *memorizing* as a practice unto itself. In the halakhic context, the rabbis mostly view forgetfulness as an unintentional slip of the mind, sometimes as a result of cognitive overload that actually demonstrates overall commitment to halakhah. In the learning context, in contrast, forgetfulness is viewed as indicative of flawed memorization, that is, of insufficient effort in the requisite practice of review and repetition, and thus not as an accident but as a result of a semiconscious decision. Put differently, in the realm of halakhah, memory enables correct practice, and forgetfulness impedes it; in the realm of the Torah, memorization *is* the practice, and forgetfulness is equated with willful relinquishment of practice.

The distinction between *remembering* and *memorizing*, and accordingly between forgetting in the realm of practice and forgetting in the realm of Torah learning, plays out in a particularly interesting way in a cluster of Tannaitic texts that feature rabbinic forgetfulness. In these texts, memory based on personal or practical experience proves inferior to memory based on recited teachings, and by extension the memory of individual rabbis proves inferior to the memory of the Sages as a collective entity. As we will see next, it is the transformation of practice into text that makes the Sages as an idealized corporate entity immune to forgetfulness, even while individual sages are vulnerable to it.

FAULTY MEMORY AND TEXTUAL CREATIVITY

Whereas Amoraic literature, particularly the Babylonian Talmud, is replete with stories of rabbis (as well as prophets, kings, and ancestors) forgetting some or all of their teachings, in Tannaitic literature this is a very uncommon trope.[79] In the few places in which a Tannaitic sage is explicitly said to have forgotten something, the forgotten item is not a textual teaching, but rather knowledge acquired through an eyewitness experience. In other words, rabbis in the Tannaitic corpora forget (if they forget at all) what they *saw*, not what they learned.[80] This forgotten knowledge, however, is not lost, but is rather recovered or rediscovered though rabbinic textual expertise. Forgetfulness of individuals is thus used, I argue, to affirm the Sages' command of the Torah rather than to question it.

Of the seven instances in the Tannaitic corpora in which a rabbinic sage is said to have forgotten something (four of which are different versions of the same story), six pertain specifically to the Jerusalem temple. Two nearly identical admissions of forgetfulness appear in tractate Middot of the Mishnah, which describes in painstaking detail how the temple and its courts were structured and furnished. M. Middot 2.5 enumerates the four chambers that were placed in the four corners of the Court of Women in the temple, and explains what each was used for: in the southeastern corner was the chamber of Nazarites, in the northeastern the chamber of firewood, in the northwestern the chamber of those with skin disease, and when the Mishnah gets to the southwestern corner the narration is interrupted with a comment: "R. Eliezer ben Ya'akov said, 'I forget what it was used for.'"[81] Another sage then immediately offers the missing information: "Abba Shaul says, 'This is where they would place wine and oil.'"[82] Similarly, M. Middot 5.3–4 lists the six chambers that were located in the Court of Israel, three on its north side and three on its south side. The anonymous Mishnah names each of the northern chambers and explains their functions, but when it gets to the first of the southern chambers the narration is again interrupted by R. Eliezer ben Ya'akov's

79. Amoraic stories of forgetful rabbis are too numerous to list here, but it is worth mentioning the most iconic and intriguing rabbinic figure associated with forgetting—namely, R. Eleazar ben Arakh (BT Shabbat 147b, Ecclesiastes Rabbah 7.2). See Alon Goshen Gottstein, *The Sinner and the Amnesiac: The Rabbinic Invention of Elisha ben Abuya and Eleazar ben Arach* (Stanford, CA: Stanford University Press, 2000), 233–66; Itay Marienberg-Milikowsky, "Wander Afar to a Place of the Torah? Independence, Marginality, and the Study of Torah in the Literary Image of Rabbi Elazar ben Arach" (in Hebrew), *Jewish Studies Internet Journal* 13 (2015): 1–25.

80. In addition to the anecdotes discussed in this section, see also Sifre zutta on Numbers 8:4 (ed. Horovitz 256), in which Moses forgets what the temple's lamp is supposed to look like. I will discuss the trope of Moses's forgetfulness in the conclusion.

81. The words "R. Eliezer ben Ya'akov says" are missing in MSS Firenze II.1.7 and Munich 95 of the Babylonian Talmud. My guess is that these words were purposefully omitted to reflect the notion that the speaker throughout the text is R. Eliezer ben Ya'akov, who would be unlikely to narrate his own name. See also Epstein, *Introduction to the Text of the Mishnah*, 1162.

82. M. Middot 2.5 (2.7 in the manuscripts).

admission: "I forget what it was used for."[83] Here, too, Abba Shaul fills the gap: "It was the chamber of the high priest." Based on these interruptions, Rav Huna in the Babylonian Talmud inferred that tractate Middot in its entirety was narrated by R. Eliezer ben Ya'akov.[84] Those two sporadic moments of forgetfulness remove the fourth wall, as it were, and reveal that the systematic description of the temple related anonymously is actually an *anamnesis*, a recollection of one person who walks the readers/listeners through the temple as it was preserved in his memory.[85]

One might wonder why the compilers of the Mishnah decided to include these interruptions in the continuous narrative rather than simply offer a neat list of all the chambers and their functions. A traditionalist explanation would be that those compilers made a point of preserving the words of the Sages exactly as they were said and did not alter or edit them in any way, and while I consider such an explanation to be somewhat naïve I concede that this is possible. I do wish to point out, however, what the Mishnah gains by leaving in place—or purposefully incorporating—these two admissions of forgetfulness. First, these admissions serve as a certificate of authenticity: they convey to the readers/listeners that the Mishnaic tractate is otherwise a completely reliable and comprehensive description of the temple.[86] By being the exception (the only two minor details that were forgotten), these memory lapses actually prove the rule (that everything else described in the tractate is remembered impeccably). Second, and more important for our purposes, by relating that one sage forgot those details and another sage immediately filled in the missing information, the Mishnah provides assurance that the rabbinic enterprise does not depend on the memory of a single individual but on a group of people, and that whatever one forgets, another will remember. Correct memory, in other words, is placed not within each sage individually, but among the Sages as a collective. It is also worth noting that some of the named rabbis who offer authoritative knowledge on the temple's specifics in the tractate are much later rabbis who could not have possibly seen the temple with their own eyes (such as R. Meir, R. Yehuda, and R. Yose). Thus, while tractate Middot certainly draws its rhetorical power from the appearance of accurate eyewitness recollection, it also ascertains that intimate knowledge of the temple's operations is not the exclusive

83. The words "R. Eliezer ben Ya'akov says" are missing in MS Kaufman. In MS Firenze II.1.7: "R. Eliezer says."

84. BT Yoma 16a. Cf. PT Yoma 2.2, 39b, in which tractate Middot is attributed (in part) to R. Eliezer ben Ya'akov but no explanation is given for this attribution.

85. It should be noted that the name of R. Eliezer ben Ya'akov is associated both with an early sage from the Second Temple period and with a later sage, who was a disciple of R. Akiva. To maintain that R. Eliezer ben Ya'akov in tractate Middot reports what he actually saw, we would have to assume that he is the earlier of the two sages; see Epstein, *Introductions to Tannaitic Literature*, 31–32.

86. On the effort to create an impression of accurate eyewitness account in descriptions of the temple and its rituals, see also Naftali S. Cohn, *The Memory of the Temple and the Making of the Rabbis* (Philadelphia: University of Pennsylvania Press, 2012), 57–72; Balberg, *Blood for Thought*, 85–87.

domain of those who saw it with their own eyes, but of "the Sages" as the guardians of legal and ritual knowledge.

The anecdote I turn to next similarly presents rabbinic collective knowledge as superior to individual knowledge, even (or especially) when the individual knowledge is based on firsthand experiences. This anecdote appears, in variations, in four different places in the rabbinic corpus: twice in the Tosefta, in relation to two different halakhic matters; in the Midrash Sifre on Numbers; and in the Midrash Sifre zutta on Numbers. Let us start with the Tosefta.

T. Ahilot 16.8 (following M. Oholot 16.4) discusses the restrictions placed on a priest dealing with potential corpse impurity. It rules that a priest who is examining a certain area to discern whether there are any corpse parts in it is allowed to consume the sacred heave-offering, and he does not need to undergo purification in order to do so. In contrast, a priest who is clearing rubble after a landslide and is almost certain to come into contact with corpses in the process must purify himself before he can consume heave-offering. The Tosefta then continues:

> [A] The disciples of Rabban Yohanan ben Zakkai asked him, "A priest who examines [a potential burial ground], is he [permitted] to eat [heave-offering without purifying himself]?"
>
> He said to them, "He may not eat."
>
> They said to him, "But you taught us that he may eat!"
>
> He said to them, "You have spoken well. If I have forgotten what my hands have done and what my eyes have seen, all the more so [that I would forget] what my ears have heard."
>
> [B] Not that [Rabban Yohanan ben Zakkai] did not know [what the ruling was]; rather, his purpose was to urge (*lezarez*) the disciples.[87]
>
> [C] Some say that it was Hillel the Elder whom they asked, and not that he did not know; rather, his purpose was to urge the disciples.
>
> [D] For R. Yehoshua used to say, "One who recites and does not labor [to retain his teachings] is like one who sows and does not reap, and one who learns Torah and forgets [his teachings] is like a woman who gives birth and then buries [her children]."
>
> [E] R. Akiva says, "Sing it to me constantly, sing it!"[88]

87. Presumably, Rabban Yohanan uses his (genuine or feigned) error to "urge"(*lezarez*) the students by testing their knowledge and thus pushing them to recall it, or by pushing them to memorize their teachings in general; see also Hirshman, *Stabilization*, 27. In the parallel version in Sifre on Numbers 123 (ed. Kahana 4:385) the expression used is "to strengthen (*leḥazeq*) the students"—which I interpret as making the students feel good about their ability to remember what their master forgot. In the printed edition of the Sifre the version is "to sharpen" (*leḥaded*), probably influenced by the common use of this verb in the Babylonian Talmud, as noted by Kahana, *Sifre on Numbers*, 4:979.

88. T. Ahilot 16.8 (ed. Zuckermandel 614); cf. BT Sanhedrin 99b. Lieberman proposes a somewhat different reading of the last sentence, which does not fundamentally change its meaning; see Lieberman, *Tosefet Rishonim: Tohorot*, 3:146.

The exact same passage appears in tractate Parah of the Tosefta, and it is identical in every respect except for the halakhic discussion at hand. T. Parah 4.7 asserts that the priest dealing with the red heifer whose ashes are used for purification must perform all the necessary ritual actions while wearing plain white linen garments. If this is not the case, that is, if the priest wears either the ceremonial golden garments of the high priest or non-priestly everyday garments, the heifer is disqualified and cannot be used for purification. The ruling is followed by this passage:

> The disciples of Rabban Yohanan ben Zakkai asked him, "In what [garments] is the heifer done?"
>
> He told them, "In golden garments."
>
> They told him, "But you taught us [that it is done] in white garments!"
>
> He told them, "You have spoken well. If I have forgotten what my hands have done and what my eyes have seen, all the more so [that I would forget] what my ears have heard . . . " (From here on the text is identical to T. Ahilot 16.8)[89]

This Tosefta passage, in both its versions, consists of one stand-alone narrative and four auxiliary comments. In the narrative (A), Rabban Yohanan ben Zakkai's disciples ask him a halakhic question, and he gives them the wrong answer. The disciples then remind him that he taught them differently, and they offer the right answer (the intended reader of the Tosefta, at this point, knows the right answer from the start, since the right answer is the preceding teaching of the Tosefta itself). Rabban Yohanan immediately concedes his mistake and says that if he has forgotten something that he himself saw and did (presumably, he was a priest who partook in the said activities himself),[90] he (or anyone else) is all the more likely to forget things that he has only heard. This last sentence turns the incident into a "teaching moment" about the precarity of one's teachings and the ever-present perils of forgetfulness. In the comment that immediately follows (B), a revisionist interpretation is offered for the narrative: the great master Rabban Yohanan ben Zakkai did not really forget anything, we are told, but rather he *pretended* to forget either in order to test his students or so as to produce a lesson on the precarity of Torah teachings and to urge his disciples to be diligent. After a brief acknowledgment of an alternative version in which Hillel the Elder, rather that Rabban Yohanan, is the not-truly-forgetful master (C),[91] the Tosefta

89. T. Parah 4.7 (ed. Zuckermandel 633).

90. See Shmuel Safrai, "Further Observations on the Problem of the Status and Activities of Rabban Yohanan ben Zakkai after the Destruction" (in Hebrew), in *Essays in Jewish History and Philology in Memory of Gedaliahu Alon*, ed. Menahem Dorman, Shmuel Safrai, and Menahem Stern (Tel-Aviv: Ha-kibbutz ha-me'uhad, 1970), 203–26; Daniel R. Schwartz, "Was Rabban Yohanan ben Zakkai a Priest?" (in Hebrew), *Sinai* 88 (1981): 32–39.

91. As the parallel passage in the Sifre on Numbers points out, Hillel could not have legitimately said "what my hands did," since he was not a priest. Indeed, in the Sifre zutta version, Hillel only speaks of things he saw, not things he did.

adds two statements of R. Yehoshua, warning that insufficient effort to memorize one's teachings can be disastrous, indeed morbid (D). The passage concludes on a somewhat more cheerful note (E)—with R. Akiva's suggestion that one memorize one's teachings by singing them (and perhaps, by implication, with the suggestion that Torah learning should be associated with expressions of happiness and not with burial and death).[92]

Set in the greater context of this multipart passage, the narrative of Rabban Yohanan ben Zakkai and his disciples looks deceptively like a simple cautionary tale on the fragility of memory: if even the great master can forget what he actually *did*, obviously a mere disciple can all too easily forget what he *heard* (and therefore one should be diligent to repeat one's teachings, etc.). Upon a closer look, however, one detail in the story seems peculiar. If the disciples already know the answer, and they have learned it from none other than Rabban Yohanan himself, why do they ask him the question? It looks like the disciples are either seeking an opportunity to display their exquisite memory, or they are deliberately trying to test (or maybe shame?) Rabban Yohanan. Although the revisionist interpreter of this story (in comment B) suggests that the master was urging his disciples to be diligent in study by showing that "even he" can sometimes forget, what the story in fact shows is exactly the opposite: the disciples remember their teachings just fine, and it is the master's memory that is questionable. Moreover, in his response Rabban Yohanan presents auditory memory of teachings as inferior to experiential knowledge of things one saw and did (and empirically speaking, he is not wrong about that), but that is *not* what the story demonstrates. In the story, the disciples, who have only heard the teachings, remember them well, whereas Rabban Yohanan, who personally experienced and saw the rituals under discussion, does not remember them as accurately.[93]

The story of Rabban Yohanan ben Zakkai, then, appears to be a cautionary tale on the fragility of teachings retained in memory. But in truth, it is a story about the fragility of memory of lived experiences, which makes the point that teachings acquired *as texts*—through the well-established institution of master-disciple relationship—are retained better than memories of firsthand experiences. It is significant that this dialogue does not take place between Rabban Yohanan and a single named disciple, but rather between the master and his disciples as a corporate entity. As a community, the "disciples"—the Torah learners as an idealized whole—can reliably retain knowledge even when it is lost from an individual sage, and so authority in matters of Torah derives from skilled acquisition

92. A similar reading was proposed by Hirshman, *Stabilization*, 28.

93. In his short analysis of this story, Jaffe finds the fact that Rabban Yohanan forgot his own actions confounding: "I cannot explain why it would seem plausible that Rabban Yohanan forgot what his own hands did and what his own eyes saw." See Jaffe, *Torah in the Mouth*, 72. I propose that the forgetfulness of actions is utilized here specifically to highlight, by way of contrast, the stability of memorized teachings.

of memorized traditions on a collective level. This construction of the relation between the individual rabbi and the collectivized disciples is reminiscent of the story of R. Ishmael's tilting of the lamp in chapter 2. There, too, R. Ishmael's forgetfulness as an individual affirms the greatness of the "words of the Sages" and of the Sages' authority rather than undermining it, because it shows that "the Sages" as a collective are perceptive and wise in ways that no single rabbi can be.

The conversation between Rabban Yohanan and his disciples regarding the garments worn during the red heifer ritual appears also in the Midrash Sifre on the book of Numbers.[94] The Sifre's version is very similar to the Tosefta's version, except that it does not include parts D and E (R. Yehoshua and R. Akiva's comments), so I do not find it necessary to discuss it further here.[95] But the Midrash Sifre zutta on Numbers, a unique compilation that presents intriguing alternative versions of many passages found in other compilations, includes a different account of this conversation that deserves a closer look.

In the Sifre zutta, the homiletical context into which the story is incorporated is a discussion of Numbers 19:3, "You shall give [the red heifer] to the priest Eleazar and it shall be taken outside the camp and slaughtered in his presence." Eleazar is not the high priest at that point in time in the biblical narrative (his father Aaron is the high priest), which leads the homilists to discuss whether Eleazar's case is the exception or the rule: Should the red heifer ritual normally be performed by the high priest, or by a junior priest? The conclusion proposed, based on the redundancy of the epithet "Eleazar *the* priest" is that normally the red heifer would be dealt with by the only person who could legitimately be called *the* priest, and that is "the one who performs [services] in garments" (*ha-mekhahen bi-begadim*). This phrase refers to the high priest, who is the only one who can wear the designated priestly golden garments. Note that this homily does not explicitly state that the high priest is to wear his golden garments *while* burning the heifer, which would contradict the ruling we have seen in the Tosefta. Rather, the homily only states that the high priest would normally be the one who burns the heifer. What follows next is the dialogue we are familiar with, but with significant variations:

94. Sifre on Numbers 123 (ed. Kahana 4:384–85).

95. The key differences between the Tosefta and the Sifre are in the line that relates Rabban Yohanan's response to the disciples, and in the editorial comment that follows. In the Sifre, Rabban Yohanan responds by saying: "If I have forgotten what my eyes saw and what my hands served, all the more so what I have taught (*limadti*)." Some of the textual witnesses read "what I have learned" (*lamadti*), but the version "taught" seems much more apt here. According to this version, Rabban Yohanan is not making a comment about the precarity of memory in general, but rather simply says, "If I was able to forget that I saw the priest wearing white, it is not surprising at all that I forgot that I taught you this." The editorial voice of the Sifre follows by saying, "And why so? To strengthen his disciples." As Kahana noted, the editorial voice does not say that Rabban Yohanan deliberately answered wrongly, but rather leaves open the possibility that he genuinely forgot and was willing to concede this openly so as to encourage his disciples; see Kahana, *Sifre on Numbers*, 4:980. Accordingly, Kahana maintains that the Sifre's version is more original, whereas the Tosefta's version is a later and more rambling adaptation.

They once asked Hillel, "In what [priestly] garment is the heifer burned?"

He said to them, "In the high [garment] (*ba-gadol*, i.e., in the golden garments of the high priest)."

They said to him, "It can only be burned in a white [garment]."

He said to them, "I saw Yehoshua ben Perahiah,[96] and he burned it in the high [garment]."

They said to him, "We saw that he burned it in a white [garment]."

He said to them, "You say from his name (i.e., you rely on him), and I say from his name. Who is to provide proof?"

They said to him, "Go to the Torah. Who burned the first heifer?"

He said to them, "Eleazar."

They said to him, "Is it possible that Eleazar wore the high [priest's] garment in the days of this father (i.e., when Aaron was still alive)?!"

He said to them, "Do not disdain a person for his forgetfulness, for [even] if I have forgotten what my eyes have seen, I will not forget what my ears have heard (*ma she-ra'u ʿeinai shakhaḥti ma she-shamʿu ʾoznai lo ʾeshkaḥ*)."

Why does Scripture say, "*The* priest"?—because he performs [services] in the [priestly] garments.[97]

The protagonist of the Sifre zutta's story is not Rabban Yohanan ben Zakkai but Hillel (as we recall, the Tosefta and the Sifre acknowledged that such an alternative version exists), but more importantly, the interlocutors here are not his disciples but some other unspecified "they" who seem to be Hillel's equals. Moreover, here we do not have memory of a firsthand experience versus memory of a learned tradition, but rather two competing accounts of eyewitness experience: Hillel believes he saw a priest burning the heifer while wearing the high priest's golden garments, whereas his rivals say they remember seeing the same priest wearing white garments while burning a heifer. Clearly, the matter cannot be determined based on what each party says they saw, and therefore Hillel's unnamed rivals present—in a Socratic and somewhat condescending manner—a way of deducing the halakhah from Scripture: Eleazar was the first priest to have ever burned a red heifer, and since he was not the high priest at the time and only the high priest can wear the golden garments, it can only be deduced that Eleazar did not wear the golden garments when he burned the heifer but rather he wore plain white garments, as every priest after him does.

Grammatically speaking, it is possible to put a question mark at the end of Hillel's response to his rivals and to read it as a rhetorical interrogative, as it stands in the Tosefta and the Sifre: "If I have forgotten what my eyes have seen, *would I*

96. Horovitz (in his edition ad loc.) suggested that the name Yehoshua ben Perahiah is based on error, and the correct version should be Ishmael ben Phabi, a high priest of the first century CE who is specifically said to have prepared two red heifers (T. Parah 3.6 [ed. Zuckermandel 632]). See the discussion in Lieberman, *Toseft Rishonim: Tohorot*, 3:226; Kahana, *Sifre on Numbers*, 4:980n29.

97. Sifre zutta on Numbers 19:3 (ed. Horovitz 302). See also Ya'akov N. Epstein, "Sifre zutta parashat Parah" (in Hebrew), *Tarbitz* 1 (1930): 55.

not forget what my ears have heard?" However, this reading makes little sense in the Sifre zutta's context. The setting in the Sifre zutta is not one of master-disciple interaction but of scholarly competition between seeming equals, so it is not clear why Hillel would take the opportunity to muse on how much more likely one is to forget what one heard than what one saw. Rather, it appears that in the Sifre zutta's version this sentence should be read as a declarative: "[Even] if I have forgotten what my eyes have seen, *I will* not forget what my ears have heard."[98] If this is correct, then Hillel's statement actually says exactly *the opposite* of what Rabban Yohanan ben Zakkai says in the other versions: he says that knowledge acquired by hearing is superior to knowledge acquired by seeing, and that while he may forget what he saw, he is not likely to forget what he heard. Above I argued that while Rabban Yohanan in the Tosefta's version explicitly says that hearing is inferior to seeing, the story as a whole implicitly points to the contrary; in the Sifre zutta's version, this implicit message becomes the explicit message.

What does Hillel mean, exactly, when he says, "[Even] if I have forgotten what my eyes have seen, I will not forget what my ears have heard?" Menahem Kahana took the following line, "Why does Scripture say, '*The* priest?'—because he performs [services] in the [priestly] garments," as part of Hillel's response, and concluded that Hillel presented a scriptural counterargument to his rivals' scriptural argument, according to which the phrase "*the* priest" points specifically to the priestly golden garments. This means that Hillel stuck to his guns and continued to uphold his position that the priest wears golden garments while burning the heifer. Hillel concedes that he may misremember what he saw, but he insists that he cannot possibly have forgotten what he learned, and since he learned that the heifer is burned by a priest wearing golden garments, nothing will convince him otherwise.[99] The problem with this reading is that it renders the apology "Do not disdain a person for his forgetfulness" rather odd: Why would Hillel acknowledge his faulty memory if he insists that he remembers his teaching correctly? In addition, the future tense in the sentence "I will not forget (*lo 'eshkaḥ*) what my ears have heard" is unsuitable for this reading: if Hillel were asserting that he had heard a tradition on this matter and is certain of it, he would be more likely to say, "What my ears have heard I *did* not forget (*lo shakhaḥti*)." I therefore propose an alternative reading, according to which Hillel is actually convinced by his rivals' reasoning, humbly admits his forgetfulness, and says "I will not forget what my ears have heard" to affirm that he will not forget what he *just* learned from his rivals. His knowledge was faulty because it was based on misremembrance of what he saw, but now that he has learned the law through scriptural derivation, he will not forget it. According to my reading, the concluding sentence ("Why does Scripture

98. This is also the reading proposed by Kahana, *Sifre on Numbers*, 4:981, albeit for a different reason.

99. Kahana, *Sifre on Numbers*, 4:981.

say, . . . ") is not part of Hillel's response, but simply a misplaced repetition of the last sentence from the preceding homily that appeared right before the story.[100]

The Sifre zutta's version is different from the other versions of this story in one additional crucial detail: what wins the day in this version is reasoning from scripture, otherwise known as *midrash*. Whether according to my reading, which suggests that Hillel concedes to his rivals' scriptural argument and abandons his previous position, or according to Kahana's reading, which suggests that Hillel presents an alternative scriptural reading and adheres to it, being able to show an interpretive path through the biblical text that leads one to a halakhic conclusion is key in this story. Scriptural reasoning does not seem to stand here (as it perhaps does in other places) in opposition to received or memorized knowledge.[101] It appears that a Midrashic explanation, at least in this story, can become part of one's "heard" tradition (*shemu'ah*) and become authoritative as such. It is clear, however, that in the Sifre zutta's version what ultimately guarantees the verity and quality of Torah teachings is the rabbis' interpretive skills. Human memory may be faulty, but the ability to read scripture creatively and cogently ensures the stability of Torah knowledge. To be sure, whether interpretive skills are used to support existing teachings or to derive new teachings is not the issue here, but rather the presentation of *midrash* as the stronghold against forgetfulness.[102]

The power of creative scriptural interpretation to counteract individual forgetfulness is also the theme of the last Tannaitic source I will discuss in this chapter. The story appears in the Sifre on Numbers, and the context is the instruction given to Moses to make silver trumpets to be used on various occasions. According to Numbers 10:8, "the sons of Aaron, the priests," are charged with blowing the trumpets. The question then arises whether priests have to be without blemish (i.e.,

100. Indeed, Horovitz in his edition (302, line 10) suggested deleting this sentence.

101. The competition between received traditions and scriptural reasoning as alternative forms of learning and transmission was discussed especially in regard to the story of Hillel and the Passover that took place on the Sabbath (T. Pisha 4.13 [ed. Lieberman 165]; PT Pesahim 6.1, 33a; BT Pesahim 66a). Both Daniel Schwartz and Paul Mandel showed that as the story evolved, Hillel was transformed from a transmitter of received traditions to an expounder of scripture, and that particularly in the Babylonian version scriptural interpretation is presented as what wins the day (and specifically overcomes forgetfulness). See Daniel R. Schwartz, "Hillel and Scripture: From Authority to Exegesis," in *Hillel and Jesus: Comparative Studies of Two Major Religious Leaders*, ed. James H. Charlesworth and Loren L. Johns (Minneapolis: Fortress Press, 1997), 335–62; Paul D. Mandel, "Between Tannaim and Amoraim: Changes in Hermeneutic Awareness during the Talmudic Period" (in Hebrew), *Da'at* 86 (2018); 117–36. Whereas Schwartz and Mandel both consider the championing of scriptural reasoning to be a late development, Sara Tzfatman argued that in Babylonia, from which Hillel came, scriptural reasoning had traditionally been the preferred mode of study, dating all the way back to the time of Ezra. See Sara Tzfatman, *From Talmudic Times to the Middle Ages: The Establishment of Leadership in Jewish Literature* (in Hebrew) (Jerusalem: Magnes Press, 2010), 227–309.

102. Tzfatman discusses scriptural interpretation as a counterbalance to forgetfulness at length, but she focuses exclusively on forgetfulness of received ("heard") traditions; see Tzfatman, *From Talmudic Times to the Middle Ages*, 268–385.

physical imperfections) in order to blow the trumpets, or whether both unblemished and blemished priests may perform this service. R. Tarfon asserts that blemished priests may blow the trumpets, whereas R. Akiva contends that only unblemished priests may do so. To support his position, R. Akiva uses a common Midrashic method, and claims that since in other scriptural contexts the word "priests" means unblemished priests, this is the case here as well. In response, R. Tarfon loses his temper:

> R. Tarfon said to [R. Akiva], "How long will you pile up [verses] upon us, Akiva?! I cannot tolerate this. May I destroy my sons if I had not seen Shimon, my mother's brother, who was lame in one leg, as he was standing and blowing the trumpets!"
>
> [R. Akiva] said to him, "Yes, Master. Perhaps you saw this during the *hakhel* (i.e., the gathering of the entire community that takes place once every seven years)? For blemished [priests] are fit [for service] during the *hakhel*, and on the Day of Atonement of the Jubilee year."
>
> [R. Tarfon] said to him, "By the [Temple's] Worship! You did not speak falsely. Happy are you, our Father Abraham, that Akiva has come out of your loins. Tarfon saw and forgot,[103] Akiva expounds (*doresh*) of his own accord and corresponds with established law (*halakhah*). Whoever departs from you, departs from his own life."[104]

Much can be said about this dramatic story, but here I wish only to point out that as in the Sifre zutta, in this story a firsthand visual experience is put in opposition to scriptural reasoning, and scriptural reasoning prevails. R. Akiva never saw a priest blowing the trumpets, and yet he knows better than R. Tarfon, who did see this and was himself a descendant of priests, the rules pertaining to this issue—based on application of hermeneutical methods. In this case R. Tarfon does not misremember what he saw, but rather *misinterprets* what he saw: because he saw his disabled uncle blowing the trumpet on a special occasion in which such dispensation is made for blemished priests, he assumed that it is always acceptable for blemished priests to blow the trumpets.[105] Eyewitness account, then, is rendered flawed in this story not because it is unreliable as such, but because it is insufficient without appropriate knowledge to contextualize it.[106] Scriptural reasoning, on the

103. In PT Megillah 1.10, 72b: "I am the one who saw the event and forgot." In PT Yoma 1.1, 38d: "I am the one who saw the event and forgot and was not able to interpret." In PT Horayot 3.2, 47d: "I am the one who heard it and was not able to interpret it." Whereas the Horayot version clearly borrows the phrasing from a similar story in the Sifra (see note 106 below), the Yoma version seems like a hybrid of the two versions; but see the alternative explanation of Kahana, *Sifre on Numbers*, 3:512–14.

104. Sifre on Numbers 75 (ed. Kahana 2:178–79), and see the Talmudic parallels mentioned in the previous note.

105. T. Sotah 7.16 (ed. Lieberman 196) specifically identifies the *hakhel* gathering in question as having taken place during the time of King Agrippa: "On that same day R. Tarfon saw a lame man standing and blowing the trumpets, from there R. Tarfon saw (i.e., deduced) that a lame man may blow [the trumpets] in the temple."

106. This is not the only Tannaitic passage in which R. Tarfon first flagrantly attacks R. Akiva for his plodding methods of scriptural interpretation and then, after R. Akiva gently provides a possible

other hand, allows established law to remain robust and firm despite the inherent limitations of human perception and memory—although it should be noted that this scriptural reasoning is combined here with other forms of halakhic knowledge and does not stand alone.[107] While the hero of this story is the inimitable R. Akiva, who is famously admired for his interpretive skills, we should keep in mind that as far as the rabbis who put together the Tannaitic compilations were concerned, *they were all R. Akiva*.[108] I mean this not in the historical sense, to suggest that they were all his direct or indirect disciples (although this is a fairly common view),[109] but in the sense that the hermeneutical methods so closely identified with R. Akiva became the trademark of "the Sages" as a collective, even if some rabbis tended to apply them more than others.

My analysis in this chapter offers, I hope, a more nuanced and complex account of the all-encompassing rabbinic "anxiety" regarding forgetfulness of Torah teachings. I argue that when it comes to memorization of teachings as a practice of internalization and devotion, the rhetoric is indeed laden with anxiety, and failure to maintain one's teachings is construed as akin to or leading to abandonment of God. But the underlying concern here is not that the Torah may be lost from Israel as a collective, but that forgetfulness of teachings by an individual learner is a sign of insufficient commitment to the set of values put forth by the rabbis. The few Tannaitic anecdotes that describe rabbis forgetting things specifically highlight forgetfulness of eyewitness experiences, not forgetfulness of teachings. In fact, these anecdotes put forth the notion that knowledge acquired textually—whether

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explanation for R. Tarfon's blunder, exuberantly praises his inimitable interpretive skills. A very similar exchange appears in the Sifra on Leviticus (Sifra Nedavah 4.4.4–5 [ed. Finkelstein 37–38]; cf. T. Zevahim 1.8 [ed. Zuckermandel 480]). In the Sifra, R. Akiva uses scriptural reasoning to claim that the same rules apply when the blood of sacrificial animals is received in a vessel and when it is tossed on the altar. R. Tarfon accuses R. Akiva of "piling" verses, and he insists that he heard that receiving the blood and tossing the blood are subject to different rules. In response, R. Akiva suggests that R. Tarfon may actually be thinking about a different teaching. R. Tarfon excitedly agrees and says, "I heard it and could not interpret it, and you expound and correspond with established law." In both cases, R. Akiva's expert scriptural reasoning in combination with his vast halakhic knowledge allow the correct memory of halakhah—of what took place, in the trumpet story, and of what was said, in the blood ritual story—to remain intact.

107. As Azzan Yadin-Israel rightly noted, in Tannaitic sources R. Akiva does not emerge as a radical maverick of scriptural exploration, but as a rather mainstream interpreter who combines scriptural readings with established knowledge. See Azzan Yadin-Israel, *Scripture and Tradition: Rabbi Akiva and the Triumph of Midrash* (Philadelphia: University of Pennsylvania Press, 2014), 103–18.

108. In the words of Barry Holtz, "In many ways Akiva is the apotheosis of the deepest values of 'rabbinic Judaism,' the essential manifestation of Jewish religion that first evolved in the first and second centuries of the Common Era and came to define the nature of Judaism for hundreds of years." See Barry W. Holtz, *Rabbi Akiva: Sage of the Talmud* (New Haven, CT: Yale University Press, 2017), 2.

109. See, for example, Avraham Goldberg, "All Base Themselves upon the Teachings of Rabbi Akiva" (in Hebrew), *Tarbitz* 38, no. 3 (1969): 231–54.

by hearing a master's teachings or by scriptural reasoning—is robust and stable among the rabbis as a community, even if it is fragile within the individual learner. In the next and final chapter, we will explore the trope of collective forgetfulness of the Torah, and see that in this regard, too, Tannaitic texts present an intriguing combination of anxiety and nonchalance.

6

Bad Tidings, Good Tidings

Around the year 986 CE, R. Ya'akov ben Nisim of Qayrawan (in present-day Tunisia) sent a series of questions on behalf of his community to the Geonic academy of Pumbeditha, which was then located in Baghdad. The Jewish community of Qayrawan wanted to know "how the Mishnah was written, did the people of the Great Assembly begin to write it and the sages of each generation write some of it until Rabbi [Yehuda the Patriarch] came and sealed it . . . and the Tosefta, which we heard that R. Hiyya wrote it, was it written after the sealing of the Mishnah or at the same time, and why did R. Hiyya decide to write it . . . and also how the baraitot were written, and how the Talmud was written."[1] The concern of the sages of Qayrawan with these questions was not guided by pure textual-historical curiosity. At the core of their inquiry was a discord they detected between the well-established notion that the "Oral Torah" was received directly from Sinai and passed down uninterruptedly from one generation to the next, on the one hand, and the palpably layered and cumulative nature of rabbinic compilations, on the other hand. If the Mishnah is a faithful rendition of authoritative knowledge that goes all the way back to Moses, why did it take so long to write it? And why are rabbinic teachings dispersed between different compilations and not concentrated in a single work? It is possible that the learned men of Qayrawan were troubled by these questions specifically because of the challenges posed by the Karaites, who dismissed rabbinic teachings as "made up" and thus as devoid of authority.[2] But in truth, the tension between the ethos of an unbroken chain of transmission of all rabbinic knowledge and the disjointed, individually attributed, and noncohesive

1. See Benjamin M. Lewin, ed., *Iggeret Rav Sherira Gaon* (in Hebrew) (Jerusalem: Makor Press, 1972), 5–6; quoted from the French version (my translation).

2. As argued by Lewin, *Iggeret Rav Sherira*, V–XIV. Menahem Ben-Sasson, however, discounted the idea that Karaite polemic was the main impetus for the query. See Menahem Ben-Sasson, *The Emergence of the Local Jewish Community in the Muslim World: Qayrawan 800–1057* (in Hebrew) (Jerusalem, Magnes Press, 1996), 41–46.

nature of rabbinic texts would have been evident and potentially disturbing to any attentive reader of rabbinic literature.[3]

In response to this inquiry, the head of the Pumbeditha academy, Rav Sherira, and his son Rav Hayya composed a lengthy treatise that offers both a theory of composition of the Mishnah and Talmud and a chronological historiography of the rabbinic movement in Palestine and especially in Babylonia.[4] The response, which came to be known as "the Epistle of Rav Sherira Gaon," was upheld by modern Talmud scholars as "the foundation of the entire Talmudic science," in the words of Ya'akov Epstein.[5] The epistle begins with an important corrective to the question itself: the Mishnah was not "written," and in fact no rabbinic work was ever written, but rather all rabbinic knowledge from the beginning of time was transmitted orally.[6] Instead of "writing" one ought to speak about organization and standardization, and about "sealing" a particular textual corpus such that its content becomes more or less finite, but in an oral form. The question, however, still stands: How can one reconcile the idea of uninterrupted transmission of a cohesive body of knowledge with the ample evidence of dispersion, disagreement, and aggregation through time? The answer presented in the Epistle of Rav Sherira is that rabbinic literature as it stands before us bears the scars, so to speak, of an ongoing battle with forgetfulness.

In its heyday before the destruction of the Second Temple, according to the epistle, the body of transmitted rabbinic knowledge was one, coherent, undisputed whole. Each master taught this knowledge to his disciples using his own words and formulations, but the content and essence were always the same. However, after the destruction of the temple and subsequent calamities, disciples could not attend to their masters properly and therefore misremembered their teachings, which lead to controversies and conflicting interpretations.[7] In the generation of Yavneh, after the destruction, R. Akiva and his disciples were able to recover some of the teachings that were "as good as lost,"[8] but then R. Akiva and his fellows and his disciples all died tragically, "and the world was becoming increasingly desolate [of Torah]."[9] Later on, a group of sages, the most prominent of whom was R. Meir, was able to reestablish the teachings of the previous generations, to

3. See Abraham Rosenthal, "Oral Torah and Torah from Sinai: Halakhah and Practice" (in Hebrew), in *Talmudic Studies*, vol. 2, ed. Moshe Bar-Asher and David Rosenthal (Jerusalem: Magnes Press, 1993), 448–89.

4. For a useful survey of the epistle's content and context, see Robert Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture* (New Haven, CT: Yale University Press, 1998), 20–25.

5. Ya'akov N. Epstein, *Introductions to Amoraic Literature: Babylonian Talmud and Yerushalmi* (in Hebrew) (Jerusalem: Magnes Press, 1962), 610 (my translation).

6. See also Fishman, *Becoming the People of the Talmud*, 20–64.

7. Lewin, *Iggeret Rav Sherira*, 10–11; cf. T. Hagigah 2.9 (ed. Lieberman 383) and parallel in T. Sanhedrin 7.1 (ed. Zuckermandel 425).

8. Lewin, *Iggeret Rav Sherira*, 12.

9. Lewin, *Iggeret Rav Sherira*, 13.

retrace the teachings that were corrupted and forgotten over time, and to resolve disagreements. Rabbi Yehuda the Patriarch, who was their disciple, then decided that something had to be done to prevent such massive forgetfulness from happening again. He came to the conclusion that the unfixed and free form of transmission—that is, the fact that each master chose a different way of conveying the same essential content to his disciples—could eventually lead to loss and erasure of traditions, "since he saw that the heart was diminishing, and the fountain of wisdom was being stopped, and the Prince of Torah was departing."[10] Therefore, Rabbi Yehuda the Patriarch set out to create a fixed and standardized version of the Mishnah, a particularly short and concise one, which would be transmitted from then on and withstand the ever-increasing danger of forgetfulness.

The story does not end there. From the time of its making, Rav Sherira continues, the Mishnah was accompanied by explanations and further observations that were likewise transmitted informally from master to disciple. But as the generations became less and less capable, those additional materials were not retained and were in danger of being forgotten. Therefore, these explanations and observations—otherwise known as "Talmud"—had to be compiled and collected in a corpus of their own, and later on the same thing happened to the explanations of the explanations, and so on. This is how the mammoth Babylonian Talmud was created as a textual (albeit oral) corpus: as a salvage project for knowledge that was once remembered without difficulty but with every generation became more and more precarious. For Rav Sherira, then, there is something inherently tragic about the very existence of rabbinic literature: it is a testimony to the recurring states of crisis that were the impetus for its preservation in fixed form, and to the looming threat of forgetfulness yet to come as "the generations decline."[11]

As Isaiah Gafni showed, Rav Sherira and Rav Hayya may have relied on existing genealogies and chronologies in their account, but the historiography they presented was highly selective and tendentious.[12] The Epistle of Rav Sherira is guided by a distinct polemical and ideological agenda, whether it is to thwart the accusations of the Karaites,[13] to solidify the authority of the Babylonian academies

10. Lewin, *Iggeret Rav Sherira*, 20. The figure of "the Prince of Torah" (*Sar ha-Torah*) is closely connected to memory, and the honing and improvement of memory skills through the invocation of the Prince of Torah is most often described through metaphors that involve one's heart (opening of the heart or expansion of the heart). See Swartz, *Scholastic Magic*, 33–50; Vidas, *Tradition and the Formation of the Talmud*, 167–202.

11. On the trope of generational decline as the driving force behind rabbinic literature in the epistle, see also Gerald J. Blidstein, "The Concept of Oral Law in R. Scherira's Epistle" (in Hebrew), *Da'at* 4 (1980): 5–16.

12. Isaiah Gafni, "On Talmudic Historiography in the Epistle of Rav Sherira Gaon: Between Tradition and Creativity" (in Hebrew), *Zion* 73, no. 3 (2008): 271–96.

13. See Lewin, *Iggeret Rav Sherira*, V–XIV.

in the Jewish world,[14] to create a Jewish juridical model that coheres with Islamic ideals,[15] or all of the above. Yet the model presented in the epistle, of collective forgetfulness of the Torah as an ever-present danger and as the primary motivation and justification for rabbinic activity, did not come out of nowhere. The Geonic authors identified a trope that appears in nascent form in Tannaitic literature and is developed further in Amoraic literature, particularly in the Babylonian Talmud, and turned it into an overarching theory of rabbinic history. The trope of collective forgetfulness of the Torah, or, in its common rabbinic formulation, "The Torah is destined to be forgotten from Israel," is the topic of this final chapter.

At the outset, it is important to distinguish the trope of collective forgetfulness of the Torah from the pervasive anxiety regarding individual forgetfulness of teachings, which was discussed in the previous chapter. On the face of it the two issues are connected: it stands to reason that the preservation of the Torah, particularly the Oral Torah, from one generation to the next depends on the faithful memory of those who study and transmit it. If individual memory falters on a large scale, ultimately the body of knowledge will be lost altogether. The sources presented in the previous chapter, however, do not make this connection. One's discipline and perseverance in Torah study is described as an issue of personal piety and steadfastness, not as a matter of collective concern. In this chapter, we will see that the prospect of collective forgetfulness of the Torah is construed in rabbinic texts not as a result of the failure of individuals, but almost as a force of nature, as part of the foretold order of the world. Moreover, I argue that whereas individual forgetfulness of teachings is often presented as disastrous and irreversible, collective forgetfulness is presented as temporary and solvable. The "bad tidings" that the Torah is destined to be forgotten are often bound up in rabbinic texts with the "good tidings" of the Torah's eventual recovery. I thus propose to understand the prospect of "the Torah being forgotten from Israel" as a useful and versatile rhetorical trope through which the rabbis make the case for themselves, rather than as an all-consuming fear that plagued the rabbinic movement from its very inception to its final generations.[16]

My purpose in this chapter is to offer a genealogy of the rabbinic trope of collective forgetfulness of the Torah, focusing primarily on its Tannaitic iterations

14. See Menahem Ben-Sasson, "The Structure, Goals, and Content of the Story of Nathan ha-Babli" (in Hebrew), in *Culture and Society in Medieval Jewry: Studies Dedicated to the Memory of Haim Hillel Ben-Sasson*, ed. Robert Bonfil, Menahem Ben-Sasson, and Joseph Hacker (Jerusalem: Zalman Shazar Center, 1989), 160–61.

15. This argument was succinctly proposed by Gafni, "On Talmudic Historiography," 295–96. More recently, see Yishai Kiel, "Reinventing Yavneh in Sherira's Epistle: From Pluralism to Monism in the Light of Islamicate Legal Culture," in *Strength to Strength: Essays in Appreciation of Shaye J.D. Cohen*, ed. Michael Satlow (Providence, RI: Brown Judaic Studies, 2018), 577–98.

16. As presented, for example, by Sussmann, "Oral Torah, Plain and Simple," 257–58.

but also touching on its further development in Amoraic literature. I begin with a cluster of passages that all share a similar structure: their point of departure is a biblical verse that is read as prophetic, from which a homilist infers that "the Torah is destined to be forgotten." At the core of these passages, I argue, is a well-established tradition according to which the Written Torah was forgotten during the Babylonian exile and recovered in the time of Ezra. The tradition about the disappearance and recovery of the Torah at a particular point in time was reworked in Tannaitic sources, such that forgetfulness of the Torah turned from a onetime cataclysmic event into an unspecified and possibly recurring event that happened in the past and will happen again in the future, but from which recovery is possible. By transforming the disappearance of the Torah from a single occurrence to a cyclical pattern, rabbinic homilists do away with the theological problematics of the tradition about the lost Torah and its reconstruction by Ezra, on the one hand, and make the case for the Sages' own indispensable role as restorers and preservers of the Torah, on the other hand.

In the second part of the chapter, I show that alongside the model of cyclical forgetting and recovery of the Torah there develops an alternative Tannaitic model, according to which collective forgetting of the Torah cannot possibly happen. According to this alternative model, the biblical prophecies on bewilderment and lack of access to the Torah pertain to an abundance of Torah, to its proliferation and flourishing, rather than to its disappearance. Finally, both the cyclical forgetting model and the model that denies the possibility of forgetfulness altogether acquire new meanings upon the encounter of later rabbis with the Christian notion that the Jews have abandoned or given up on the Torah, and that it is therefore no longer their patrimony. The tapestry of sources from different corpora and from different historical contexts discussed in this chapter reveals that forgetfulness of the Torah, more than being a dreaded prospect, was a fruitful and generative literary motif through which the rabbis gave meaning to their vocation.

FORGETTING THE TORAH: FROM CATACLYSM TO CYCLE

Among the dozens of biblical injunctions for the Israelites to "remember" and "not to forget," there is no event that features as prominently as the exodus from Egypt. The memory of the exodus is to be preserved, it is stated repeatedly, by telling one's children of the enslavement in Egypt and the miraculous liberation from it, then by the children telling their own children, and so on and so forth in an unbroken chain. Biblical references to the exodus story present a recurring motif of intergenerational exchange, in which a son asks his father why certain practices are upheld, and a father responds by telling his son about the redemption from Egypt.[17] For the rabbis, the model of children's questions and

17. Ex. 12:26, Ex. 13:14; Deut. 6:20; cf. Jos. 4:6.

parents' answers became the performative principle of the ritual Passover meal (the *seder*) as they envisioned it,[18] and they famously turned the different Pentateuchal instances of the question-and-answer sequence into four prototypes of sons, each of whom should be answered differently.[19] Given that children asking their parents for explanations of practices is an inherent and even ritualized part of the Passover routine, it is quite surprising to find the following homily in the Tannaitic Midrash on the book of Exodus, the Mekhilta deRabbi Ishmael:

> *And when your children ask you,* [*"What is this observance to you?" you shall say, "It is the Passover sacrifice to YHWH, for he passed over the houses of the Israelites in Egypt, when he struck down the Egyptians but spared our houses"*] (Ex. 12:26–27). The Israelites were given bad tidings at that time, that in the end the Torah is destined to be forgotten.[20] And some say, "The Israelites were given good tidings at that time, that they are destined to see children and children of children, for it was said, *and the people bowed down and worshipped* (Ex. 12:27)."[21]

In this homily the anticipated question of the children, upon seeing their parents' preparations for the Passover sacrifice, is interpreted as a lamentable indication that the children no longer know why their parents are doing what they are doing, because the Torah was forgotten. This intergenerational dialogue, in other words, is not viewed as an emblem of continuity of memory but quite the contrary, as a marker of rupture and loss of memory. It should be noted that the issue here is not the particular formulation of the children's question, but the very fact that the question is asked. In the tradition of "the four sons," known primarily from the Passover Haggadah, the question "What is this observance to you?" (*mah ha-'avodah ha-zot lakhem*) is flagged for its usage of the second person and is associated with the "wicked son," who no longer sees himself as obligated or implicated in the commandment. This son "made himself an exception" and is therefore regarded as unworthy of redemption.[22] Here, however, the problem is not the children's attitude toward the commandments, but their lack of access to the commandments in the first place.

Beyond the fact that the association of the children's question with forgetfulness is quite surprising, it is not clear to which point in time the Mekhilta refers when it speaks of "the end" in which the Torah will be forgotten. On the one hand, the immediate context of the topical verse in the Mekhilta suggests that the question

18. See M. Pesahim 10.4.

19. Mekhilta deRabbi Ishmael Pisha 18 (ed. Horovitz-Rabin 73–74); cf. PT Pesahim 10.4, 37d.

20. In Hebrew: *sof ha-torah 'atidah lehishtakeaḥ*. The use of both *sof* and *'atidah* seems like a redundancy, and it is possible that this version is an amalgamation of two different phrases. The same redundancy appears also in the Mekhilta on Deuteronomy 17:18, which will be discussed below.

21. Mekhilta deRabbi Ishmael Pisha 12 (ed. Horovitz-Rabin 41).

22. See note 19 above. The "wise son" in this tradition also uses the second person in his query ("What are these testimonies, statutes, and judgments that YHWH our God commanded you?" [Deuteronomy 6:20]). In the Mekhilta and in the Palestinian Talmud, however, the word "you" in the verse is replaced with "us."

would be asked "when you come to the land that YHWH will give you," which suggests that the Torah would be forgotten already by the immediate descendants of those who experienced the exodus. On the other hand, the apocalyptic-sounding words "the end" (*sof*) and "destined" (*'atidah*) suggest that this line be read eschatologically, as a prophecy regarding a distant point in the future, at the end of times. Finally, it is possible that the prophecy pertains to an event that is located between the entrance to the land and the homilists' own time—an event that is in the distant future for the audience of the prophecy (i.e., the Israelites in Egypt), but in the past for the audience of the homily. Since the word "children" (*banim*) refers to descendants in general and not only to immediate sons and daughters, and since the word "Torah" could mean anything from a specific body of laws through the complete Written Torah to the broadly conceived Oral Torah, this homily is remarkably—and I would argue, intentionally—ambiguous. Wherefrom, then, comes the notion that "the Torah is destined to be forgotten"?

Scholars tended to view rabbinic statements on the collective forgetting of the Torah, such as the one in the Mekhilta, either as expressing the ever-present anxiety pertinent to the oral nature of rabbinic teachings or as indicative of the trying political and social conditions in which the rabbis operated after the first and second Jewish revolts.[23] While I cannot dismiss the possibility that some rabbis may have indeed been worried about the diminishment of Torah learning or the loss of teachings, I argue that the notion that "the Torah is destined to be forgotten" originates not from the rabbis' apprehension about the future, but from a well-established tradition about the past. At the core of the prediction that the Torah will be forgotten stands the notion that the Torah—specifically the *Written* Torah—was lost and forgotten during the Babylonian exile, and that it was eventually restored, in a somewhat different form, by Ezra the Scribe. The early rabbis, I propose, were familiar with a tradition regarding one cataclysmic event in which the Torah was forgotten, but they reworked and obfuscated this tradition such that its historical point of reference was ambiguated. Instead, they put forth a model in which forgetfulness of the Torah is an ever-present possibility—in the past, present, and future—but so also is its restoration.

Forgetting and Restoration in the Time of Ezra

One Tannaitic homily, which evidently originates in the (now mostly lost) Midrash known as the Mekhilta on Deuteronomy,[24] offers us the thread through which we

23. See, for example, Moshe Beer, *The Sages of the Mishnah and the Talmud: Teachings, Activities, and Leadership* (in Hebrew) (Ramat Gan: Bar-Ilan University Press, 2011), 19–21.

24. The homily is included in MS Vatican 32 of the Sifre on Deuteronomy, as well as in the medieval anthology *Midrash ha-gadol* on Deuteronomy, and it is also mentioned in the eleventh-century commentary of Hillel ben Elyakim. On the relations between the Sifre and the Mekhilta on Deuteronomy, see Menahem I. Kahana, "The Halakhic Midrashim," in *The Literature of the Sages*, vol. 2, ed. Shmuel Safrai, Peter Tomson, and Zeev Safrai (Assen: Uitgeverij Van Gorcum, 2006), 95–103.

can trace the source of the idiom "the Torah is destined to be forgotten." The homily comments on the Deuteronomic law that requires the king of Israel to make for himself a personal copy of "this written law" so that he will be able to consult the law regularly and study it diligently:[25]

> *When he has taken the throne of his kingdom, he shall write a copy of this law for himself in the presence of the Levitical priests* (Deut. 17:18). From here R. Eleazar ben Arakh expounded that in the end the Torah is destined to be forgotten.[26]

R. Eleazar ben Arakh's remark refers to the phrase "a copy of this law" (*mishneh ha-torah ha-zot*, lit. "a second of this Torah"). Why does this phrase indicate to R. Eleazar ben Arakh that the Torah is destined to be forgotten? Two interpretations come to mind. One possibility is that he understands the second copy as a backup: the king should produce a copy identical to an existing copy of the Torah, so that the second copy could be retrieved when the original copy is lost.[27] According to this reading, however, the Torah is not quite "destined to be forgotten," since the second copy would actually prevent it from being forgotten. The second, and in my view more plausible, interpretation is that R. Eleazar ben Arakh reads the verse not as describing copy-making—that is, the production of an additional document identical to one that already exists—but as referring to the production of a replacement document for the original document, which was lost. The second Torah will be written only after the first Torah will have been entirely forgotten.

Like the homily we saw above in the Mekhilta on Exodus, this homily leaves it ambiguous whether the prediction "The Torah is destined to be forgotten" refers to a past event that has already taken place or to a future event that is yet to come. Here, however, another rabbinic passage on the Deuteronomic law of the king, and specifically on the phrase "a second of this Torah," provides us with a more specific point of reference. This passage appears in the Tosefta as part of a discussion of the duties and restrictions imposed upon a king. Following the Tosefta's comments

25. On "the law of the king" in Qumranic and rabbinic literature, see Steven D. Fraade, "The Torah of the King (Deut. 17:14–20) in the Temple Scroll and Early Rabbinic Law," in *The Dead Sea Scrolls as Background to Postbiblical Judaism and Early Christianity*, ed. James R. Davila (Leiden: Brill, 2003), 25–60.

26. Sifre on Deuteronomy 160 (ed. Finkelstein 211). Cf. Midrash Tannaim on Deut. 17:18 (ed. Hoffmann 105).

27. The Karaite author al-Qirqisani indeed attributes such an interpretation of Deut. 17:18 to "the rabbanites." He claims that the rabbanites misinterpret this verse as calling for the production of only two copies of the Torah, and that they read the story of the discovered scroll in the House of God in the time of King Josiah (2 Kgs. 22) as attesting that the Torah was entirely lost until the backup copy was found (a position that he entirely rejects). See Eve Krakowski, "Many Days without the God of Truth: Loss and Recovery of Religious Knowledge in Early Karaite Thought," in *Pesher Nahum: Texts and Studies in Jewish History and Literature from Antiquity through the Middle Ages Presented to Norman Golb*, ed. Joel Kraemer and Michael Wechsler (Chicago: Oriental Institute, 2012), 121–40.

regarding the book of Torah that the king is to produce for himself, there appears a lengthy excursus about the script in which the Torah is written. Despite the length of this unit, it is worth presenting it here in full:

> R. Yose says, "Ezra was worthy that the Torah be given by him, if Moses had not preceded him. Ascent was said in regard to Moses and ascent was said in regard to Ezra. Ascent was said in regard to Moses—*And Moses ascended to God* (Ex. 19:3), and ascent was said in regard to Ezra—*He, Ezra, ascended from Babylonia* (Ez. 7:6). In the same way that Moses's ascent was for him to teach Torah to Israel, as it was said, *YHWH charged me at that time to teach you statutes and ordinances* (Deut. 4:14), so Ezra's ascent was for him to teach Torah to Israel, as it was said, *For Ezra had set his heart to study the law of YHWH, and to do it, and to teach the statutes and ordinances in Israel* (Ez. 7:10)."
>
> "He [= Ezra], too, was given both a script (*ketav*) and a language (*lashon*), for it was said, *The letter was written in Aramaic and translated* (Ez. 4:7)—in the same way that its translation was Aramaic, its script was also Aramaic. And it says, *Then all the king's wise men came in, but they could not read the writing or tell the king the interpretation* (Dan. 5:8)—this indicates that [the script] was given on that same day. And it says, *He shall write a second of this Torah* (*mishneh ha-torah ha-zot*) *for himself* (Deut. 17:18)—a Torah that is destined to be changed (*torah ha-'atidah lehishtanot*).[28] And why is [the script] called 'Assyrian'? Because it ascended with them from Assyria."
>
> Rabbi [Yehuda the Patriarch] says, "The Torah was given to Israel in Assyrian script, and when they sinned it became *da'atz* for them, and when they were rewarded, in the time of Ezra, the Assyrian [script] was restored for them, as it was said, *Return to your stronghold, O prisoners of hope; today I declare that I will restore to you double* (*mishneh*) (Zech. 9:12)."
>
> R. Shimon ben Eleazar says in the name of R. Eleazar ben Perata who said in the name of R. Eleazar ha-moda'i, "In this [Assyrian] script the Torah was given to Israel, for it was said, *The hooks* (*vavei*) *of the pillars and their bands shall be of silver* (Ex. 27:10)—*vavin* (i.e., the sixth character of the alphabet in the Assyrian script) that look like pillars. And it says, *To the Jews in their script and their language* (Est. 9:10)—in the same way that their language has not changed, their script has not changed. Then why is it called Assyrian (*'ashuri*)? Because they are content (*me'usharin*) with their script. If so, why was it said, *He shall write a second of this Torah* (*mishneh ha-torah ha-zot*) *for himself* (Deut. 17:18)?—to teach that the [the king] should write down two [books of] Torah for himself: one that goes in and out with him and one that is placed inside his home."[29]

28. In MS Vienna 20: A script that is destined to change (*ktav ha-'atidah lehistanot*); cf. PT Megillah 1.9, 71b–c (= PT Sotah 7.2, 21c). In a recent article, Adiel Schremer and Binyamin Katzoff argued for the primacy of the MS Vienna version, but I do not find their argument wholly convincing. See Adiel Schremer and Binyamin Katzoff, "Inseparable Considerations: The Origins, Redaction, and Text of the Baraita about the Script of the Torah in Tosefta Sanhedrin 4:7" (in Hebrew), *Jewish Studies Internet Journal* 22 (2022): 1–21.

29. T. Sanhedrin 4.7–8 (ed. Zuckermandel 421–22); cf. BT Sanhedrin 21b–22a, PT Megillah 1.9, 71b–c (= PT Sotah 7.2, 21c). For a full discussion of the text, see Schremer and Katzoff, "Inseparable Considerations."

This extended unit tackles a problematic issue in rabbinic lore, that is, the replacement of the Paleo-Hebrew script (which the rabbis called *da'atz*)[30] with the Assyrian script, more commonly known as the Aramaic alphabet, which is still in use today. As Shlomo Naeh discussed in detail, the rabbis were well aware that this change had taken place, yet this change was quite troublesome for them considering the significance and sanctity they attributed not only to the text of the Torah but also to the graphic shape of the letters in which it is written.[31] The Tosefta passage presents two opposing views on the question of the change of script. R. Yose maintains that the new script was introduced during the time of Ezra, and he defends this change by portraying Ezra as a second Moses who received direct revelation (the script was "given" to him rather than changed by him). In contrast, R. Eleazar ha-moda'i asserts that the script that is used now is the original script in which the Torah was given. Rabbi [Yehuda the Patriarch] presents a seemingly mitigating position, according to which the original script was the Assyrian one but later on it changed, and Ezra merely restored the original script. The exegetical battleground between these different positions is the phrase *mishneh ha-Torah*, "a second (of this) Torah," in the Deuteronomic law of the king, on account of which this unit was incorporated into this chapter of the Tosefta. For R. Yose, "second Torah" means a changed Torah, a Torah different from the original, whereas for R. Eleazar ha-moda'i it simply means that the king needs two identical copies. Each opinion is supported by additional proof texts, but Deuteronomy 17:18 is the pivotal point of reference in this unit, at least in its redacted form.

The Tosefta's discussion of the script of the Torah provides a clear indication that Ezra was strongly associated with a transformation that the Torah underwent, and that this transformation was viewed as foretold in the phrase "a second (of this) Torah" in the book of Deuteronomy. However, the prediction entailed in this phrase, as R. Yose reads it, is not that the Torah is destined to be forgotten, as per R. Eleazar ben Arakh in the Mekhilta on Deuteronomy, but rather that the Torah is destined to be changed.[32] Guided by the Tosefta and its parallels, in his edition of Midrash Tanna'im (the Mekhilta on Deuteronomy that he ventured to reconstruct) David Zvi Hoffmann amended the sentence "From here R. Eleazar ben Arakh expounded that in the end the Torah is destined to be forgotten (*lehishtakeaḥ*)" to "From here R. Eleazar ben Arakh expounded that in the end the

30. In some versions: *ra'atz* or *ro'etz*. This name probably derives from the wedge-shaped characters of the Paleo-Hebrew script (*da'etz* in Aramaic means "wedged").

31. Shlomo Naeh, "The Script of the Torah in Rabbinic Thought (A): The Traditions Concerning Ezra's Changing of the Script" (in Hebrew), *Leshonenu* 70 (2008): 125–43. See also Tzahi Weiss, *Letters by Which Heaven and Earth Were Created: The Origins and the Meanings of the Perceptions of Alphabetic Letters as Independent Units in Jewish Sources of Late Antiquity* (in Hebrew) (Jerusalem: Bialik Institute, 2014), 190–208.

32. The reading "a Torah that is destined to be changed" appears earlier in the Sifre on Deuteronomy 160 (ed. Finkelstein 211), but without any explanation. In MS Oxford and the printed edition of the Sifre "to be changed" (*lehishtanot*) is interpreted as "to be repeated" (*lehishanot*).

Torah is destined to be changed (*lehishtanot*)." Although the words *lehishtakeaḥ* (to be forgotten) and *lehishtanot* (to change) are graphically similar, in all the textual witnesses that present this homily, including the medieval anthology *Midrash ha-gadol* that Hoffmann used in his edition, the text clearly reads "to be forgotten," so one should not be too quick to dismiss this version.[33] Is there a connection, then, between the tradition that regards the phrase "a second (of this) Torah" as foretelling the change of script, and the tradition that views this phrase as foretelling the forgetting of the Torah?

As Naeh convincingly argued, there does appear to be a connection.[34] In the apocryphal book known as 4 Ezra, Ezra receives a vision that begins with God explicitly comparing him to Moses in his ability to receive direct divine revelation. Ezra responds with a request that similarly positions him as a second Moses—he wishes to be given a Torah, in place of the Torah of Moses that was lost forever:

> For the world lies in darkness and its inhabitants without light. For your Law has been burned and no one knows the things which have been done or will be done by you. If then I have found favor before you, send the Holy Spirit to me, and I will write everything that has happened in the world from the beginning, the things which were written in your Law, that men may be able to find the path.[35]

God agrees to grant Ezra's request, and what follows is forty days of ongoing revelation—again very much like Moses's—in which Ezra is able to regenerate the Torah from his own memory: "And wisdom increased in my breast, for my spirit retained its memory, and my mouth was opened." While Ezra is speaking, the five scribes that he appointed are dutifully writing down every word that he is saying, but they are writing "in characters that they did not know" (*ex successione notis quas non sciebant*).[36] The new and unfamiliar script serves as evidence that the new text is the product of a genuine divine revelation and not of human fabrication. The account in 4 Ezra thus explicitly ties the forgetting of the Torah to the change of script: because the Torah was destroyed and utterly forgotten, there was a need for a new Torah, and this new Torah, revealed to Ezra and promulgated by him, proves its authenticity by being given in a wholly new script.

33. As pointed out by Naeh, "The Script of the Torah," 137n54. A narrative tradition in which R. Eleazar ben Arakh is himself described as experiencing "forgetfulness of the Torah" (BT Shabbat 147b, Ecclesiastes Rabbah 7.2) suggests that the creators of the narrative may have been familiar with this homily as it appears before us. See also Marienberg-Milikowsky, "Wander Afar to a Place of the Torah," 22–23.

34. Naeh, "The Script of the Torah," 127–30.

35. 4 Ezra 14:21; quoted from James H. Charlesworth, ed., *The Old Testament Pseudepigrapha* (Peabody, MA: Hendrickson, 1983), 1:554. See also Michael E. Stone, *Fourth Ezra* (Minneapolis: Fortress Press, 1990), 410–22; Hindy Najman, *Losing the Temple and Recovering the Future: An Analysis of 4 Ezra* (Cambridge: Cambridge University Press, 2014), 26–40.

36. 4 Ezra 14:40–41 (ed. Charlesworth 1:555). See Stephan Pfann, "The Use of Cryptographic and Esoteric Scripts in Second Temple Judaism and the Surrounding Cultures," in *Interpreting 4 Ezra and 2 Baruch*, ed. Gabriele Boccaccini and Jason M. Zurwaski (London: Bloomsbury, 2014), 173–96.

In truth, one does not even need to go as far as 4 Ezra to consider Ezra a restorer of a forgotten Torah. Already the biblical book of Nehemiah points in that direction in describing how, after Ezra's public reading of the Torah, the people were weeping, since they realized that they did not observe the laws written in the book.[37] The congregation in Ezra's and Nehemiah's time clearly encounters the laws of Moses for the first time, since it is only after this public reading that they learn about the festival of Sukkot.[38] As we will see in the next subsection, two rabbinic passages explicitly state that the Torah was forgotten in the time of Ezra, although these passages also make a point of mentioning additional episodes of forgetfulness. The notion that in the time of Ezra the Torah was completely forgotten and had to be generated anew resonates also in early Christian sources.[39] Of particular interest is John Chrysostom's account of the chain of transmission of scripture, which bears remarkable resemblance to the chain of transmission that opens tractate Avot of the Mishnah.[40] Whereas tractate Avot describes an uninterrupted transmission of the Torah from Moses to the prophets to the Great Assembly and the Sages, Chrysostom locates a rupture in transmission following the time of the prophets—that is, following the destruction of the First Temple—and then a restoration by Ezra (who, according to the rabbinic tradition, was the founder and head of the Great Assembly):

> And look at it from the first, that you may learn the unspeakable love of God. He inspired the blessed Moses; He engraved the tables, He detained him on the mount forty days; and again as many [more] to give the Law. And after this He sent prophets who suffered woes innumerable. War came on; they slew them all, they cut them to pieces, the books were burned. Again, He inspired another admirable man to publish them, Ezra I mean, and caused them to be put together from the remains. And after this He arranged that they should be translated by the seventy. They did translate them. Christ came, He receives them; the Apostles disperse them among men.[41]

37. Neh. 8:5–12.

38. Neh. 8:13–15.

39. See Rebecca Scharbach Wollenberg, "The Book That Changed: Narratives of Ezran Authorship as Late Antique Biblical Criticism," *Journal of Biblical Literature* 138, no. 1 (2019): 143–60. This tradition also had robust afterlives in Muslim and Karaite texts, and it was used repeatedly in religious polemical arguments. See Richard Steiner, "A Jewish Theory of Biblical Redaction from Byzantium: Its Rabbinic Roots, Its Diffusion, and Its Encounter with the Muslim Doctrine of Falsification," *Jewish Studies Internet Journal* 2 (2003): 123–67; Omer Michaelis, "For the Wisdom of Their Wise Men Shall Perish: Forgotten Knowledge and Its Restoration in Maimonides's *Guide of the Perplexed* and Its Karaite Background," *Journal of Religion* 99, no. 4 (2019): 432–66; Eva Mroczek, "'Without Torah and Scripture': Biblical Absence and the History of Revelation," *Hebrew Studies* 61 (2020): 97–122. According to Karaite authors, what was lost and forgotten during the destruction period was not the Written Torah (which was never forgotten), but rather other knowledge and wisdom. See also Krakowski, "Many Days."

40. See also Tropper, *Wisdom, Politics, and Historiography*, 237–38.

41. John Chrysostom, *Homilies on Hebrews* 8.9 (on Hebrews 5:14); quoted from Philip Schaff, ed., *Nicene and Post-Nicene Fathers*, vol. 14 (Buffalo: Christian Literature Publishing, 1889), 407.

It seems evident, then, that the rabbis were familiar with a well-established narrative according to which after the destruction of the First Temple the Torah was forgotten and had to be made anew by Ezra, and that it was made anew in a new script. That this was viewed as a watershed moment in the history of Israel is indicated in the words of R. Yose in the Tosefta, who effusively compares Ezra to Moses. Most important for our purposes is the fact that the regeneration of the Torah by Ezra was legitimized through the verse "He shall write a copy of this law / a second of this Torah (*mishneh ha-torah ha-zot*) for himself," which was read as a prophecy ascertaining that the loss and renewal of the Torah were part of a divine plan.

In the Tannaitic sources we have seen so far we find traces of this well-known narrative in two separate traditions that appear, on the surface, unrelated. One tradition (in the Tosefta) attributes to Ezra only the replacement of the script,[42] whereas the other tradition (in the Mekhilta on Deuteronomy as well as, I propose, in the identically phrased Mekhilta on Exodus) only anticipates that at some unspecified point in history, past or future, the Torah was or will be forgotten. It stands to reason that the foundational narrative was reworked and adapted because the rabbis, or some of them, were uncomfortable with the idea that the Torah with which they were familiar was not actually the one given to Moses but a later rendition.[43] They therefore wished to downplay the significance of Ezra and of the new Torah he received, either by limiting his contribution to the change of script alone or by obfuscating the nature and time of the episode of forgetfulness and taking it out of context. As we will see shortly, a third strategy was to place Ezra as one of several restorers of the Torah rather than as a unique recipient of direct divine revelation.

To the two Tannaitic homilies that ambiguate the prediction that "the Torah is destined to forgotten" we may add a third homily attributed to the amora Rav, which likewise presents a prophecy that could pertain to the past or to the future:

> Rav said, "The Torah is destined to be forgotten from Israel, for it was said, *YHWH will make your plagues astonishing* (Deut. 28:59). I do not know what this astonishment is, but since [Scripture] says, *Therefore, behold, I will continue to astonish this people with wondrous astonishment, and the wisdom of its wise will be lost, and the understanding of its men of understanding shall be hidden* (Is. 29:14), you must say, 'Astonishment refers to the [forgetting of the] Torah.'"[44]

Rav derives the prediction that the Torah is destined to be forgotten from the string of curses at the end of the book of Deuteronomy, many of which seem to be

42. According to R. Yose in the Tosefta (and later Talmudic sources), Ezra also changed the language of the Torah from Hebrew to Aramaic, but that change—unlike the change of script—was only temporary. See Weiss, *Letters*, 196–200; Scharbach Wollenberg, "The Book That Changed."

43. See also Naeh, "The Script of the Torah."

44. BT Shabbat 138b.

designed exactly to fit the Babylonian exile of the sixth century BCE.[45] While the curses in Deuteronomy speak of famine, siege, disease, and exile and have nothing to do with Torah learning, Rav draws a link between the "astonishing plagues" mentioned in Deuteronomy and another usage of the verb "astonish" (*p-l-ʾa*) in Isaiah, in which this verb appears specifically in the context of loss of wisdom and knowledge. Although Rav's homily could be projected onto any point in the past or the future,[46] the fact that its point of departure is the bitter prediction of war and exile in Deuteronomy suggests that here, too, the idiom "the Torah is destined to be forgotten" may be rooted in the tradition about the eradication of the Torah after the destruction of the First Temple.

By ambiguating the idiom "the Torah is destined to be forgotten" such that it is not clear to which point in time it refers, rabbinic homilists were able not only to obfuscate a troubling but persistent tradition according to which the Torah was lost and replaced, but also to promote their own agenda of devotional study. The ambiguity allows the homilist in each passage to introduce the grim prospect of collective forgetting of the Torah as ever present, since the prophecy at hand could pertain to any time that has passed or that has yet to pass. These ominous statements generate what we may call "nostalgia for the present": the audience—which is, by definition, preoccupied with Torah when being presented with this homily—is made to imagine a world without Torah, and thereby comes to long for the world in which it lives at the present moment.[47] The readers/listeners thereby gain a renewed appreciation not only of the Torah but also, by extension, of the institutions and structures that hold it in place.

At the same time, by not specifying when the said forgetting has occurred or will occur, these ambiguous homilies also *normalize* the prospect of the Torah being forgotten. The very fact that the prophecy could refer to the past, as well as to the near or distant future, gestures to the audience that collective forgetting of the Torah, unfortunate as it is, is not something from which the people cannot recover. Especially in the Mekhilta on Exodus, by juxtaposing the prediction

45. For example: "YHWH will bring a nation against you from far away, from the ends of the earth. . . . They will lay siege to all the cities throughout your land until the high fortified walls in which you trust fall down. . . . You will be uprooted from the land you are entering to possess" (Deut. 28:49–64).

46. Moshe Beer assumed that Rav was thinking of the precarious situation of the Torah in Babylonia in his own days; see Beer, *The Sages of the Mishnah and the Talmud*, 19. Nothing in the text itself, however, points in this direction. As Michaelis showed, medieval authors interpreted this prophecy as referring to something that happened prior to Rav's time (although not necessarily in the time of Ezra); see Michaelis, "The Wisdom of Their Wise Men."

47. In using the term "nostalgia for the present" I am inspired by the work of J.K. Barret on fantasies of potential futures in early modern English literature. "In these texts," Barret writes, "invoking the future often means looking forward to looking back, which, in turn, might shape action in the present moment." See J.K. Barret, *Untold Futures: Time and Literary Culture in Renaissance England* (Ithaca, NY: Cornell University Press, 2016), 4. I am grateful to Cynthia Nazarian for this very helpful reference.

of forgetfulness to a rather wholesome verse describing children who are asking their parents for the meanings of their actions, the homilist significantly softens the calamity at hand: rather than depicting it as a catastrophe, he depicts it as an almost expectable part of the ebb and flow of human generations. The homily's coupling of the "bad tidings" that the Torah will be forgotten with the "good tidings" that Israel can expect longevity and continuity as a people tacitly ties these two things together, suggesting that the price of multiple generations of descendants is that some generations may wander farther away from the Torah than others. In the next subsection I turn to several homilies that address the ebb and flow of the Torah over time even more explicitly, and that utilize this idea to make the case for the indispensable role of the rabbis, both as a group and as individuals.

A Cycle of Forgetting and Recovery

Earlier in this chapter I contended that the issue of individual diligence in the study and retention of Torah teachings, on the one hand, and the issue of potential collective forgetting of the Torah, on the other hand, are mostly separate in rabbinic texts. While rabbinic homilies frequently chastise disciples who do not make a sufficient effort to memorize their teachings, and they describe forgetfulness of teachings as a slippery slope leading toward spiritual demise, they do not tend to warn undiligent learners that because of them the Torah will end up being forgotten from Israel altogether. One Tannaitic Midrashic unit, however, integrates the theme of individual vigilance in Torah study and the theme of collective forgetfulness—not by suggesting that individuals should be blamed for the Torah being forgotten, but rather by claiming that it is possible for individuals to *save* the Torah from being forgotten.

This unit appears in the Midrash Sifre on Deuteronomy as part of a cluster of homilies on the verse "If you will surely keep this entire commandment that I am commanding you" (Deut. 11:22), a cluster that engages extensively with issues of memory and forgetfulness. These homilies are all concerned with the trials and tribulations of the individual disciple (and specifically the disciple making his first steps in the study of Torah), imploring him, in the words of Steven Fraade, "to attend constantly to 'words of the Torah' (both scriptural and rabbinic), working and reworking them like a farmer does his field or vineyard, lest they go to ruin."[48] The following homily ties the efforts of the individual to the fate of the Torah on a collective level:

> [A] *If you will surely keep this entire commandment that I am commanding you.* Should you say, "Let the sons of elders recite (*yishnu*), let the sons of great ones recite, let the sons of the prophets recite"—Scripture says, *If you* (pl.) *will surely keep*—to teach you that all are equal when it comes to the Torah, and likewise it says, *Moses charged us with the law as a possession for the assembly of Jacob* (Deut. 33:4)—it

48. Fraade, *From Tradition to Commentary*, 18.

> does not say, "The assembly of Priests, Levites, and Israelites," but "The assembly of Jacob." Likewise, it says, *You stand assembled today, all of you, before YHWH your God* (Deut. 29:10).[49]
>
> [B] If it were not for that one who arose and sustained the Torah in Israel, would not the Torah have been forgotten? Had Shaphan not risen in his time, Ezra in his time, R. Akiva in his time, would not the Torah have been forgotten? [On this] Scripture says, *A word in its season, how good it is* (Prov. 15:23)—a word that was said by that one is equal to everything else.[50]

The first part of the homily (A) encourages the reader/listener to commit to the study of Torah and not to suppose that it is meant for others and not for him, since the Torah is emphatically designated for everyone. The second part (B) highlights the role that individuals play in the preservation of the Torah, presenting three examples of individuals without whom the Torah would have been entirely forgotten. The connection between the two parts is not immediately apparent. Louis Finkelstein explained (following the medieval commentator Hillel ben Elyakim) that Shaphan, Ezra, and R. Akiva serve here as examples of people who are not from among "the great ones" but nonetheless sustained the Torah.[51] While this may be true of R. Akiva, it is more difficult to apply this reading to Shaphan the royal scribe and to Ezra the priest. Rather, I see the connection between the two parts of the homily as pertaining to the individual responsibility that every member of the community bears vis-à-vis the Torah. One should dedicate oneself to the study of the Torah and not assume that "others" will do it, because it may so happen that at a critical moment there will not be any others. The addressee of the homily is invited to imagine himself in a situation in which the Torah was forgotten by all others, and he is the only one who can save the day through his command of it.

In order to illustrate that the Torah can come to depend on one person alone (and by implication, that this person could someday be *you*), the homily mentions three examples: Shaphan, Ezra, and R. Akiva. Ezra, as we discussed above, is the most obvious example for a person who single-handedly restored the Torah after it had been forgotten. Shaphan, the court scribe at the time of King Josiah, can be viewed as a proto-Ezra of sorts: he was the one who was given the "Book of the Law" (*sefer ha-torah*) that was found in the temple and who read the scroll before King Josiah. When the king heard the content of the book he was mortified, realizing only then to what extent the law of God has been disregarded, and proceeded

49. MS Oxford, the printed edition, and *Midrash ha-gadol* add here: "If they had not been at that event (*ma 'ilu lo hayu be-ma'amad ze*) would the Torah have not been forgotten from Israel?" This addition strikes me as an artificial attempt to create a link between the two seemingly unrelated parts of the homily.

50. Sifre on Deuteronomy 48 (ed. Finkelstein 112).

51. See Finkelstein's comments ad loc., and also Fraade, *From Tradition to Commentary*, 114.

to initiate a major reform to rectify the situation.[52] In truth, all Shaphan did was to read the text of the scroll out loud, and yet the sequence of events in the story—the law is forgotten, the law is read out loud, the audience weeps, the law is restored—is so similar to that of Ezra's restoration story that it is no wonder that the two were juxtaposed. R. Akiva, in contrast, is not associated with any known episode of the Torah being lost, but he is often regarded as one who played a pivotal role in establishing the study culture of the rabbis and in organizing and developing early rabbinic teachings.[53]

The rhetorical power of this homily lies exactly in the mismatch between the three figures it mentions.[54] Whereas Ezra and R. Akiva are heralded as master explicators of the Torah, Shaphan is a very minor and insignificant character whose only redeeming trait is his literacy.[55] Whereas Ezra has an established reputation as restorer of the forgotten Torah, as we have seen above, Shaphan and R. Akiva do not. Whereas Shaphan and Ezra reestablished the Written Torah, R. Akiva (re)established the Oral Torah. By putting all three in a sequence, the homilist eradicates the disparities between different times, different people, and different circumstances, and thereby allows the list to provisionally include whoever will become the fourth in the sequence—which in this context is implied to be the reader/listener himself. Like the homilies we have seen above, the Sifre's homily fuses together forgetfulness of the Torah in the past and forgetfulness of the Torah in the future, and like those homilies it obscures the original tradition about Ezra as a unique and inimitable "second Moses" who recovered the Torah that was entirely lost. The Sifre, however, does so not by removing any reference

52. 2 Kgs. 22:8–20; cf. 2 Chr. 34:14–28.

53. The prominent role of R. Akiva in the making of both Mishnah and Midrash is a recurring theme in rabbinic texts; see Epstein, *Introductions to Tannaitic Literature*, 71–78. For a critical assessment of these sources, See Yadin-Israel, *Scripture and Tradition*, 103–18.

54. Sara Tzfatman argued that the purpose of this list was to extol the practice of textual reasoning (*derashah*) as opposed to the practice of reciting received traditions (*shemu'ah*). She associates the former with the priests and scribes, and later on with the scholars of Babylonia, and the latter with the prophets, and later on with the scholars of Palestine. The connecting link between the three figures in the list, according to Tzfatman, is the scribal/priestly affiliation (Shaphan and Ezra) and the practice of expounding scriptures (Ezra and R. Akiva). Tzfatman also argues that this list was created as a Palestinian response to a tradition that associates the restoration of the Torah exclusively with Babylonian sages (BT Sukkah 20a, which I address below). See Tzfatman, *From Talmudic Times to the Middle Ages*, 273–78. While Tzfatman's reconstruction is thought-provoking, it is also problematically ahistorical. As Paul Mandel showed, the verb *d-r-sh* prior to rabbinic times had a very different set of meanings than it does in rabbinic texts. Drawing a direct line from the priests and scribes of the First Temple (and even of the Second Temple) to Talmudic rabbis is thus a major leap, which is not supported by the texts we have. See Paul D. Mandel, *The Origins of Midrash: From Teaching to Text* (Leiden: Brill, 2017), 289–305.

55. It seems that at least some readers were troubled by the inclusion of a minor figure like Shaphan in this account. In his commentary, Hillel ben Elyakim mentions a version he saw in which it is Moses, not Shaphan, who appears as first in the chain.

to a specific episode of forgetting, but rather by offering a *sequence* of specific episodes of forgetting. Within this sequence forgetfulness and restoration of the Torah appear as a cyclical occurrence, and Ezra appears as a mere link, and not the most important one, in a chain of restorers.

While the cycle of forgetting and restoration conveys to the homily's audience how precarious the Torah is and how important it is to be diligent in studying it, it also downplays the dramatic weight of each episode of forgetfulness on its own and makes the recovery seem almost predictable. Eva Mroczek astutely observed that the pervasive trope of forgetfulness and restoration of scripture during the Babylonian exile was used in a host of ancient and medieval texts as a sign of providence and endurance: "What could be a crisis in the ideology of scriptural authority . . . becomes a founding chronotope, serving as a model for claims to new moments of revelation and communal vitality."[56] I would add that in the rabbinic context, this chronotope functions not only to ratify the vitality of the community, but also to assert the indispensability of the rabbis. When the tradition of Ezra's reestablishment of the Torah stands alone it is regarded in almost miraculous terms, but when it is one episode out of several it is recalibrated as a testament to the historical importance of Torah learners in different times and places. Furthermore, in positioning a quintessential rabbinic figure like R. Akiva as the third link in the chain, and in suggesting to the readers/listeners, who are presumably in the process of being initiated into the rabbinic study culture, that each of them could be next, this homily ultimately makes a case for the irreplaceable role of the rabbis as guardians of the Torah. Through this rhetorical move, the homilist takes a famous tradition about a singular historical incident in which the Torah was forgotten and restored and turns it into a timeless justification for the rabbinic pursuit and the rabbinic vocation as such.

The rhetorical move of the homily in the Sifre is so effective that we see it utilized in later sources as well. In one passage in the Babylonian Talmud, Resh Lakish extols R. Hiyya and his sons with the following words: "In the beginning, when the Torah was forgotten from Israel, Ezra ascended from Babylonia and established it; when it was forgotten again, Hillel the Babylonian ascended and established it; when it was forgotten again, R. Hiyya and his sons ascended and established it."[57] Without getting into the question of whether Hillel and R. Hiyya can each be associated with specific historical episodes of "forgetting,"[58] we see immediately that

56. Mroczek, "Without Torah," 119.

57. BT Sukkah 20a. Other traditions similarly extol R. Hiyya and his sons as righteous men who transformed the world for the better, but not as restorers of the Torah. See PT Ma'aser sheni 5.10, 56d and a parallel in BT Hullin 86a; BT Baba Metzi'a 85b.

58. For attempts to connect these figures with historical episodes of crisis, see Beer, *The Sages of the Mishnah and the Talmud*, 20. Beer associates Hillel with the time of Herod, in which the elites were increasingly Hellenized, and R. Hiyya with the aftermath of the Bar Kokhba revolt, although he concedes that the latter connection is quite weak.

this statement, like the homily in the Sifre, uses Ezra as a touchstone to which other figures are compared in order to present the loss of the Torah and the recovery from this loss as a recurring pattern. Here, however, the sequence of restorers is not meant to put all Torah learners on a pedestal, but specifically *Babylonian* Torah learners.[59]

Additional Talmudic texts, specifically from the Babylonian Talmud, reveal that the notion of periodical forgetting of the Torah, followed by its reinstitution by a prominent rabbinic figure, became a common rhetorical trope used to aggrandize the rabbis and to make a case for their actions—whether as individuals or as a distinct class.[60] One short narrative relates how an argument between two rabbis turned into a competition over who does more to prevent the Torah from being "forgotten from Israel." R. Hanina tells R. Hiyya: "Are you fighting with *me*? If, Heaven forbid, the Torah should be forgotten from Israel, I will restore it through my sharpness (*mi-pilpuli*)." R. Hiyya responds by describing everything that *he* does so that the Torah not be forgotten, from making nets to hunt deer from whose hides Torah scrolls could be made, to going to cities in which there is no teacher for children, writing down the Torah for local children and teaching them the six orders of the Mishnah.[61] While the two rabbis present radically different approaches to the responsibilities and social engagement expected of rabbis, they both present their enterprises as responding directly to the looming threat that the Torah would be forgotten. Here and in several other Babylonian passages the rabbinic raison d'être is presented as preserving the Torah and preventing it from being lost from memory altogether,[62] whether by ordinary

59. Ironically, this statement is attributed to the Palestinian amora Resh Lakish, who in other contexts (e.g., BT Yoma 9b) professes his all-consuming hatred for the Babylonians (and perhaps this is exactly why the Babylonian redactors attributed this statement to him).

60. As Christine Hayes showed, the use of the motif of forgetting and restoration of the Torah to aggrandize the rabbis is prevalent in the Babylonian Talmud, whereas the Palestinian Talmud utilizes this motif in different ways—mostly to account for contradictory attributions of specific traditions. See Christine Hayes, "Halakhah le-Moshe mi-Sinai in Rabbinic Sources: A Methodological Case Study," in *The Synoptic Problem in Rabbinic Literature*, ed. Shaye J.D. Cohen (Providence, RI: Brown Judaic Studies, 2000), 61–118. More recently, Alyssa Gray bolstered and expanded Hayes's analysis by pointing to the Babylonian Talmud's general tendency to emphasize human agency over divine intervention; see Gray, "The Motif of the Forgetting and Restoration of Law." I agree with Hayes's and Gray's observations on the disparity between the two Talmuds in this respect, but I wish to emphasize that the Babylonian trope of restoration by an individual, who stands in for the community of Torah learners, appears already in the Tannaitic Midrashim. Whether or not we should read these Tannaitic accounts as highlighting human as opposed to divine agency is a matter of interpretation.

61. BT Kettubot 103b (= Baba Metzi'a 85b). On this anecdote, see Hirshman, *Stabilization*, 115–16. The exchange between the two rabbis has a close but very different parallel in PT Megillah 4.1, 74d; for a comparison of the Palestinian and Babylonian anecdotes, see Israel Ben-Shalom, "And I Took unto Me Two Staves" (in Hebrew), in *Dor le-Dor: Studies in Honor of Joshua Efron*, ed. Aryeh Kasher and Aharon Oppenheimer (Jerusalem: Bialik Institute, 1995), 239–40.

62. See also BT Baba Batra 21a, which credits Yehoshua ben Gamla's public education enterprises for the fact that the Torah was not forgotten from Israel, and BT Sanhedrin 13b (= Avodah Zarah 8a), which credits Yehuda ben Baba for the fact that laws of fines have not been forgotten.

means like recitation and transmission or by radical measures such as writing the Oral Torah down.[63] Indeed, this service that rabbis or rabbi-like figures provide for the community is projected back onto biblical times: according to one tradition, after the death of Moses "seventeen hundred [teachings] were forgotten" and were restored only through the "sharpness" of the otherwise minor judge Othniel the son of Kenaz.[64]

The trope of forgetting and restoration of the Torah was highly useful for the Talmudic rabbis not only because it allowed them to highlight their own role as the Torah's potential or actual restorers, but also because it served as an apologetic model for any kind of rabbinic innovation. As Shalom Rosenberg observed, the theological-normative worldview that emerges from rabbinic literature is inherently paradoxical: on the one hand, it is guided by the axiom that any and every law and its minute details was already revealed to Moses at Sinai, while on the other hand, it acknowledges and even champions the rabbis' prerogative to issue new rulings, decrees, ordinances, and interpretations.[65] One of several models offered in rabbinic literature for resolving or at least mitigating this paradox is a model of forgetfulness and restoration: the rabbis are not innovating anything of their own accord, but rather *retrieving* long-standing traditions that were lost. The story of halakhah, according to this model, is effectively a story of an ongoing and perhaps never-ending reconstruction project.[66]

The rabbinic model of cycles of forgetting and restoration, in both its Tannaitic and Amoraic iterations, portrays the occasional collective disappearance of the Torah (or of some of it) as a regrettable, but also natural and predictable, part of human history. Rather than expressing anxiety regarding the forgetfulness of Torah (or in some cases invoking a *rhetoric* of anxiety), these texts convey a sense of trust

63. In BT Temurah 14b, two sages who used a written book of aggadah justify themselves by saying, "It is better for the Torah to be uprooted (i.e., for the prohibition against writing of Oral Torah to be transgressed) than for the Torah to be forgotten from Israel." See also BT Gittin 60a, and the discussion of these passages in Furstenberg, "The Invention of the Ban against Writing Oral Torah." Based on these passages, David Rosenthal concluded that "the prohibition on writing the oral Torah was removed—probably somewhere between the fifth and sixth centuries—so that the Torah would not be forgotten from Israel." See David Rosenthal, "The History of the Mishnaic Text" (in Hebrew), in *Palestinian Rabbinic Literature: Introductions and Studies*, vol. 1, ed. Menahem Kahana, Vered Noam, Menahem Kister, and David Rosenthal (Jerusalem: Yad Ben Zvi, 2018), 71 (my translation).

64. BT Temurah 16a.

65. Shalom Rosenberg, *It Is Not in Heaven: Oral Torah—Tradition and Innovation* (in Hebrew) (Alon Shevut: Tevunot, 1997), 9–12.

66. Rosenberg, *It Is Not in Heaven*, 15–16. In the Palestinian Talmud, the forgetting/ restoration motif is used to account for several rulings that are attributed to different authorities from different generations, using the argument that these laws were forgotten by one generation and then reestablished by a later one (see PT Pe'ah 1.1, 15b, PT Pe'ah 2.4, 17d, PT Shevi'it 1.5, 32b, PT Shabbat 1.4, 3d). This trope appears also in the Babylonian Talmud (BT Shabbat 104a [= BT Megillah 2b], BT Yoma 80a, BT Megillah 3a, BT Sukkah 44a, BT Megillah 18a), but as Hayes and Gray both showed, it is used somewhat differently. See Hayes, "Halakhah le-Moshe mi-Sinai," 102–8; Gray, "The Motif of the Forgetting and Restoration," 179–93.

in the ultimate durability of the Torah and in the Sages' ability to recover it. Perhaps more than any other text, a tradition attributed to Hillel the Elder in the Tosefta presents an almost stoic approach toward the occasional forgetting of the Torah:

> Hillel the Elder says, "In a time of gathering, scatter; and in a time of scattering, gather. At a time in which you see that the Torah is beloved by all of Israel, and all rejoice in it, you should be scattering it (i.e., teaching it widely), as it was said, *One scatters and gains yet more* (Prov. 11:24). At a time in which you see that the Torah is forgotten from Israel, and none care for it, you should be gathering it (i.e., collecting teachings and preserving them), as it was said, *It is time to act unto YHWH, your law has been broken* (Ps. 119:126)."[67]

The Tosefta's interpretation for Hillel's cryptic statement "In a time of gathering, scatter; and in a time of scattering, gather"[68] presents the forgetting of the Torah almost as a force of nature, like the tides of the sea or the changing of seasons. There are times of great interest in the Torah, in which it is studied and cherished by many, and there are times of almost no interest, in which the Torah is widely forgotten. As in other texts we have considered, the Torah learner is the one stable factor who maintains the Torah through good and bad. This Tosefta passage, however, makes it clear that whether the Torah is forgotten or upheld on a collective level has got nothing to do with the actions of the dedicated Torah learner: he is expected to respond to those vicissitudes and to do his best to preserve the Torah in each situation, but the Torah will wane and wax nonetheless. Is it possible that the Torah could ultimately be entirely forgotten and never restored again? While the texts we have considered so far seem to leave this possibility open, the texts to which I turn next respond to this question with a resounding no.

FORGOTTEN BUT UNFORGETTABLE

Although the idiom "the Torah is destined to be forgotten" appears in several different contexts and settings in rabbinic literature, the concern with the impending disappearance of the Torah is most famously associated with one particular moment: the convening of sages in Yavneh after the destruction of the Second Temple.[69] The source of this association is a baraita in the Babylonian Talmud (BT Shabbat 138b) that commences with the words "When our rabbis entered the Vineyard at Yavneh,

67. T. Berakhot 6.24 (ed. Lieberman 40), and see Lieberman, *Tosefta ki-pshutah Zera'im*, 1:124. Hillel's statement appears also in BT Berakhot 63a and (in different wording) in PT Berakhot 9.5, 14d, neither of which mentions the word "forgotten." Rather, these versions only contrast the Torah being "beloved" with it being "not beloved."

68. Cf. Sifre zutta on Numbers 27:1 (ed. Horovitz 317).

69. On the convention at Yavneh as a myth of rabbinic foundation, see Daniel Boyarin, "The Yavneh-Cycle of the Stammaim and the Invention of the Rabbis," in *Creation and Composition: The Contribution of the Bavli Redactors (Stammaim) to the Aggada*, ed. Jeffrey L. Rubenstein (Tübingen: Mohr Siebeck, 2005), 237–89.

they said, the Torah is destined to be forgotten from Israel." Relying on this baraita, Yosef Haim Yerushalmi asserted, "Yabneh was the fortress against oblivion. It was there that the tradition was salvaged, studied, and recast in forms that ensured its continuity for ages to come."[70] For Hanoch Albeck, the concern that the Torah might be forgotten was the generating force behind what he considered the quintessential work of the Yavneh generation, tractate Eduyot of the Mishnah.[71] Albeck summarized the background for the formation of tractate Eduyot, a unique Mishnaic treatise in which rabbis report in a court-like setting the opinions and rulings of previous generations, as follows: "When the Sages entered the Vineyard of Yavneh, even though they were great in the Torah and were its princes, they were still concerned that the Torah may be forgotten from Israel, due to the burden of subjugation and troubles, and that the generations after them would not be able to preoccupy themselves with the Torah like previous generations did. . . . Therefore they decided to begin by ordering halakhot according to the names of their masters."[72]

Albeck's account is based on a conflation of two different passages: the opening of tractate Eduyot of the Tosefta and the baraita that appears in the Babylonian Talmud. A closer look, however, reveals that the opening of Tosefta Eduyot is not concerned with forgetting the Torah at all, and that in the Babylonian baraita, too, forgetting the Torah means something quite different from the "oblivion" referred to by Yerushalmi. An analysis of the Tannaitic sources of which the Babylonian baraita consists, as well as of the anonymous Talmudic commentary on the Babylonian baraita, uncovers a different approach to the prospect of forgetting the Torah than what we have seen so far: an approach that denies that forgetfulness of the Torah is even possible. I begin by presenting the three Tannaitic texts that were integrated together in the Babylonian baraita, and then present and analyze the Babylonian Talmudic unit in full.

The first of the three texts, as mentioned, is the opening passage of Tosefta Eduyot:

> [A] When the Sages entered the Vineyard of Yavneh they said, "The hour is destined to come (*'atidah sha'ah*) that a person will seek a word from the words of the Torah and will not find it, a word from the words of the Scribes and will not find it, for it was said, *The time is surely coming, says the God YHWH, when I will send a famine on the land; not a famine of bread, or a thirst for water, but of hearing the words of YHWH: They shall wander from sea to sea, and from north to east; they shall run to and fro, seeking the word of YHWH, but they shall not find it* (Am. 8:11–12)." "The word of

70. Yerushalmi, *Zakhor*, 110.

71. See Albeck, *Introduction to the Mishnah*, 82–84 and his references to earlier scholarship there. For a different view, see Epstein, *Introductions to Tannaitic Literature*, 427–29. For a survey of scholarship on tractate Eduyot, see Avraham Aderet, "Tractate Eduyot of the Mishnah as Testimony to the Process of Restoration following the Destruction of the Second Temple" (in Hebrew), in *Jews and Judaism in the Second Temple, Mishna and Talmud Period: Studies in Honor of Shmuel Safrai*, ed. Menahem Stern, Isaiah M. Gafni, and Aharon Oppenheimer (Jerusalem: Yad Ben Zvi, 1993), 251–65.

72. Albeck, *Six Orders: Neziqin*, 4:275–76 (my translation).

> YHWH"—this is prophecy, "The word of YHWH"—this is the end,[73] "The word of YHWH"—that no word from among the words of the Torah will resemble another.[74] They said, "Let us begin from Hillel and Shammai."[75]

This unit in the Tosefta is intricate, and it warrants a close investigation both of specific expressions (what does it mean that "no word resembles another"?) and of the purported connection between this opening and the enterprise of tractate Eduyot as a whole (how does "beginning from Hillel and Shammai" help "words of Torah" resemble one another?), which I cannot offer in the confines of this chapter.[76] One thing, however, is clear: this Tosefta passage is not at all concerned with the Torah being forgotten, but rather with the Torah being unorganized. As Shlomo Naeh astutely put it, the problem to which the Tosefta points is "an abundance of goodness": not that the Torah will wither and disappear, but rather that there will be so much Torah, so many teachings, that one will not be able to find one's way in it or to classify materials properly.[77] There is admittedly a connection between order and organization and retention in memory, and one could argue that lack of organization would ultimately lead to forgetfulness, but this does not seem to be the concern expressed in the Tosefta.

The passage in the Tosefta resonates closely with two homilies in the Sifre on Deuteronomy, which appear immediately after the homily about Shaphan, Ezra, and R. Akiva that we discussed in the previous section—that is, immediately after the Midrash discusses the collective forgetting of the Torah in the past and possibly in the future. The first of the two homilies reads as follows:

> [B] *Behold*, it says, *they shall run to and fro, seeking the word of YHWH, but they shall not find it* (Am. 8:12). Our rabbis resolved (*raboteno hitiru*):[78] They would go from

73. This line is not immediately relevant to what precedes or follows it, and it may derive from an independent homily; see Naeh, "The Craft of Memory," 583n187.

74. In MS Vienna 20: "that one would seek a word from the words of the Torah that resembles another."

75. T. Eduyot 1.1 (ed. Zuckermandel 454). In MS Vienna the passage concludes with the words "Let us begin: what is of the House of Hillel and what is of the House of Shammai." For a discussion of the different versions of the text, see Michal Bar-Asher Siegal, "Tosefta Eduyot 1:1: On the Fear of Losing Torah and the Redaction of Tannaitic Materials," in *Land and Spirituality in Rabbinic Literature: A Memorial Volume for Yaakov Elman* ל"ז, ed. Shana Strauch Schick (Leiden: Brill, 2022), 38–50.

76. For thoughtful analyses of this passage in its context, see Adiel Schremer, "Avot Reconsidered: Rethinking Rabbinic Judaism," *Jewish Quarterly Review* 105, no. 3 (2015): 287–311; Yair Furstenberg, "From Tradition to Controversy: New Modes of Transmission in the Teachings of Early Rabbis" (in Hebrew), *Tarbitz* 85, no. 4 (2018): 587–642.

77. Naeh, "The Craft of Memory," 584. Schremer takes a somewhat different direction, arguing that the source of concern here is lack of sufficient distinction in rabbinic texts between "the words of the Torah" and "the words of the Scribes." See Schremer, "Avot Reconsidered," 306–10.

78. In MS Oxford and the printed edition: "and they will not find a matter of permission (*devar heter*)." This senseless version is clearly a corruption of the words "our rabbis resolved" (*rabotenu hitiru*), which were correctly preserved in MSS Berlin and Vatican 32.

> town to town and from region to region over a swarming creature (*sheretz*) that touched a loaf, to know whether it is "first" (i.e., impure in the primary degree) or "second" (i.e., impure in the secondary degree).[79]

Like the opening of Tosefta Eduyot, the homily's scriptural anchor is Amos's prophecy about a future time in which there will be "thirst for hearing the words of YHWH" that will remain unsated. In its original biblical context this prophecy is a very grim one, and it refers to God turning away from the people of Israel and abandoning them to their woes, no longer communicating with them. The homilists in the Sifre, however, decided to put a positive spin on this bleak prophecy. This is evidently the meaning of the clause "our rabbis resolved" (*raboteno hitiru*), which has long puzzled commentators and scholars.[80] The verb *hitiru* is not used here in the more common sense of "permitted," but rather in the sense of "solved" or "untangled" (as it is often used in regard to dreams, curses, or vows).[81] Amos's prophecy was resolved by interpreting "the thirst for the words of YHWH" as a sign of proliferation and flourishing of Torah rather than a dearth of it. In the homily, the quest for the word of God takes the form of people wandering around, avidly seeking answers to an extremely specialized and arcane halakhic question regarding the degrees of impurity caused by contact between foodstuffs and swarming creatures. As Yair Furstenberg noted, the question presented in this homily is by no means a trivial one, and it was a matter of much dispute: "Those who wander cannot find the answer [to the question at hand] not because of the loss of the Torah, but because the Sages themselves do not know how to decide it. The abundance of halakhic traditions and interpretive possibilities left the determination of halakhah uncertain."[82] This, to be sure, is very far from the times of Shaphan or Ezra, mentioned in the previous passage in the Sifre, in which people transgressed unknowingly because the written law has been entirely lost and they were not even aware of its existence. According to this homily, the worst thing that could happen to the Torah is that it would become so plentiful and evolved that it would be difficult to receive clear answers to questions that are, in and of themselves, highly sophisticated.

79. Sifre on Deuteronomy 48 (ed. Finkelstein 112–13).

80. See Finkelstein ad loc., who maintained that these words should simply be deleted. Fraade interpreted that the rabbis permitted wandering around in order to seek halakhic answers, but his reading is not persuasive. First, there is no reason to assume that wandering in order to find halakhic answers should be forbidden in the first place, so it is not clear why one would state that it is permitted. Second, according to his interpretation this sentence bears no connection whatsoever to what precedes or follows it. See Fraade, *From Tradition to Commentary*, 256n197, 256n199.

81. Following Shlomo Naeh, "On Two Hippocratic Concepts in Rabbinic Literature" (in Hebrew), *Tarbitz* 66, no. 2 (1997): 184–85.

82. Furstenberg, *Purity and Community*, 285 (my translation).

This is also the spirit of the homily that immediately follows in the Sifre, which explicitly rejects the possibility that the Torah could ever be forgotten:

> [C] R. Shimon ben Yohai says, "If [this is] to say that the Torah is destined to be forgotten from Israel, was it not already said, *It will not be lost from the mouths of their descendants* (Deut. 31:21)? Rather, [the verse refers to a situation in which] one person forbids, one person permits; one person renders impure, one person renders pure; and they will not find a word sorted out (*davar barur*)."[83]

In its context in the Sifre, R. Shimon ben Yohai's statement refers back to Amos's prophecy quoted in the preceding homily (B), and specifically to a reading of this prophecy as foretelling the future disappearance of the Torah. This reading, to be sure, was not actually proposed in the preceding homily—as we saw, this homily interpreted the verse as referring to an abundance of Torah, not to its absence—but this does seem to be the reading that the homilists attempted to thwart by "resolving" the prophecy in a positive way. R. Shimon ben Yohai, on his end, declares that the notion that the Torah is destined to be forgotten is downright misguided: the Torah could never be forgotten, because it was promised to be Israel's eternal patrimony. How, then, is one to explain the prediction that the word of God will one day fail to be found? R. Shimon reads the verse, like the preceding homily (B), as foretelling the proliferation of Torah and not its absence, but he locates a different problem that arises from this proliferation—namely, the multiplicity of conflicting opinions and disputes. In the preceding homily, what eager learners of Torah would not be able to find are answers to complicated halakhic questions, whereas according to R. Shimon what they would not be able to find is "a word sorted out" because there are so many opinions about each and every matter. For R. Shimon, then, as for the author of the opening of Tosefta Eduyot, the problem is not forgetfulness but disorientation and confusion.[84]

We have seen, then, three Tannaitic readings of Amos 8:11–12, all of which—despite somewhat different emphases—either tacitly or explicitly reject the possibility that the Torah could be entirely forgotten, and instead present scenarios in which an overflow of Torah (multiple teachings, teachings that are extremely complicated, or conflicting opinions) may cause unclarity and bewilderment. We are now in a position to see how these three Tannaitic readings were all worked together in the Babylonian Talmud:

> When our rabbis entered the Vineyard of Yavneh they said, "The Torah is destined to be forgotten from Israel, as it was said, *The time is surely coming, says the God*

83. Sifre on Deuteronomy 48 (ed. Finkelstein 113).

84. According to Furstenberg, both the Tosefta and R. Shimon ben Yohai specifically address the issue of disputes and controversies among the Sages. However, whereas for R. Shimon disputes are a problem that makes it difficult to find one's way, for the Tosefta disputes are an organizing mechanism that can be used to impose order on Torah teachings. See Furstenberg, "From Tradition to Controversy," 597.

YHWH, when I will send a famine on the land; not a famine of bread, or a thirst for water, but of hearing the words of YHWH (Am. 8:11), and it is written, *They shall wander from sea to sea, and from north to east; they shall run to and fro, seeking the word of YHWH, but they shall not find it* (Am. 8:12)."

"The word of YHWH"—this is halakhah, "The word of YHWH"—this is the end, "The word of the YHWH"—this is prophecy.[85]

And what is "they shall run to and fro, seeking the word of YHWH"?—they said, "A woman is destined to take a loaf of heave-offering and go around synagogues and study houses to know whether [the loaf] is pure or impure, and no one will understand."

—To know whether it is pure or impure?! This is written in the body [of a biblical verse]: *Any food that could be eaten shall be impure* (Lev. 11:34)!

—Rather, to know whether it is "first" or "second" (i.e., whether the degree of its impurity is primary or secondary) and no one will understand.

—This too is [taught in] our Mishnah, as we taught, "If a swarming creature was found in an oven, the bread inside of it is 'second,' for the oven is 'first'!"[86]

—They are uncertain as to what Rav Ada bar Ahava said to Rava: "Let this oven be seen as though it is full of impurity, and let the bread be 'first'!" [Rava] said to him, "We cannot say, 'Let this oven be seen as though it is full of impurity,' for it was taught: Is it possible that all vessels will become impure [if they are placed within] clay vessels? Scripture says, *If any of them falls into any earthen vessel. . . . Any food that could be eaten shall be impure* (Lev. 11:33–34). Foods become impure [when placed] within clay vessels, but vessels do not become impure [when placed within clay vessels]."

It was taught: R. Shimon ben Yohai says, "Heaven forbid that the Torah should be forgotten from Israel, for it was said, *It will not be lost from the mouths of their descendants* (Deut. 31:21). Rather, how do I explain 'seeking the word of YHWH, but they shall not find it'?—They will not find a sorted ruling (*halakhah berurah*) and a sorted teaching (*mishnah berurah*) in one place."[87]

The Babylonian baraita, like Tosefta Eduyot, situates the homily on Amos 8:11–12 in the historical setting of the foundational convention at Yavneh, but it does not develop this element any further, and nothing in the baraita itself suggests that certain enterprises were taken on by the rabbis in response to the concern voiced at Yavneh. The concern that guides the sages of Yavneh was transformed in the Babylonian baraita from a concern with disorganization of the Torah to a concern that "the Torah is destined to be forgotten from Israel"—probably in order to correspond more closely with R. Shimon's statement at the end of the baraita

85. This line is missing in MS Munich 95.
86. M. Kelim 8.5.
87. BT Shabbat 138b–139a.

("Heaven forbid that the Torah should be forgotten from Israel"). Since R. Shimon asserts that the Torah could never be forgotten from Israel, it made stylistic sense to construct the statement to which he responds as stating that the Torah will be forgotten from Israel.[88] To illustrate what this forgetting would look like, the Babylonian baraita uses the scene portrayed in the first homily in the Sifre, of an ongoing quest for answers in regard to purity and impurity. The Babylonian baraita is thus a conglomerate: the setting of Yavneh is taken from the opening of Tosefta Eduyot (A), the illustrative scene of "seeking the word of YHWH" is taken from the first homily in the Sifre (B), and the idiom "the Torah is destined to be forgotten from Israel" is taken from R. Shimon's homily in the Sifre (C), which appears separately at the end of the baraita.[89]

The Babylonian baraita modified the Tannaitic illustrative scene (B) in two significant ways. First, in the Babylonian version the generic "they" who wander between towns and regions to seek answers to their questions turned into a woman who goes around between synagogues and study houses. In this version, the one who seeks answers is very clearly a layperson—there is no more effective way to say "non-rabbi" than to say "woman"—and the places in which she seeks answers are distinctly rabbinic spaces. The Babylonian version thus makes the desire for rabbinic instruction even more ubiquitous and socially pervasive than it is depicted in the Sifre (and this, ostensibly, in the description of a situation in which the Torah was "forgotten").[90] As I noted in the chapter 1, rabbinic narratives that highlight the Sages' wisdom and benevolence often cast women in the roles of those who are in need of rabbinic guidance, perhaps in order to endow the rabbis with more power and authority by setting them against individuals who embody weakness. The rabbis' inability to help the woman in this situation serves to dramatize the crisis described in this scene and to add pathos to it, as the image of a lone woman wandering around brings to mind the desperation of a helpless widow searching for food or charity. The distress of not finding halakhic answers is thereby portrayed as existential rather than merely intellectual.

Second, whereas in the Tannaitic homily the question is whether the loaf's impurity is primary or secondary, in the Babylonian version the woman only asks whether the loaf is pure or impure. While one could argue that this is simply a

88. The apparent trigger for incorporating this baraita here is the homily in the name of Rav that immediately precedes it ("Rav said, 'The Torah is destined to be forgotten from Israel, for it was said, *YHWH will make your plagues astonishing*'"), which was discussed above.

89. By this I do not mean that the Babylonian redactors of the baraita were familiar with the Tosefta or the Sifre as they stand before us, but rather that they combined different oral (or written) traditions that were available to them.

90. As Furstenberg noted, the Sifre's version does not necessarily indicate that it is "simple people" who seek halakhic knowledge. See Furstenberg, *Purity and Community*, 285n62; cf. Naeh, "Two Hippocratic Concepts," 185.

textual variant or a scribal error,[91] it seems evident to me that the baraita was deliberately modified so as to instigate the anonymous Babylonian introjection that immediately follows. In the introjection the anonymous Talmud dismisses the scene that is meant to illustrate how the Torah will be forgotten, in which the woman is desperately seeking to determine the purity or impurity of her loaf of bread, as unbelievable. The anonymous Talmud asks: How could the rabbis fail to answer such a trivial question when scripture says explicitly that foodstuffs that came into contact with a source of impurity become impure? The Talmud thus concludes that the baraita must be revised, and that the woman is not questioning whether the loaf is impure but only in what degree the loaf is impure (as the question stands in the Sifre). But this question, too, is immediately dismissed as trivial: How could the rabbis fail to answer the question about degrees of impurity when it, too, is answered explicitly—not in scripture, but in the Mishnah?

The Mishnaic passage that, according to the anonymous Talmud, entails the answer to the woman's query speaks of a very specific situation: a dead creature fell into an oven, thereby rendering the oven "first" of impurity and the bread that was in the oven "second" of impurity. This ruling is based on the principle that clay vessels (such as ovens) convey impurity in a lesser degree to anything placed within them. Once it identifies the Mishnah passage that supposedly answers the question, and thereby establishes the specifics of the halakhic situation that the woman in the baraita struggles with, the anonymous Talmud finally explains what the imagined rabbis with whom the imagined woman consults are actually uncertain about: they are wondering (as did the Babylonian amora Rav Ada bar Ahava) whether it is possible to consider the space of the oven as filled with impurity such that the loaf is seen as having direct contact with the dead creature (and thereby as "first" of impurity), or if they should consider the loaf's contact with the dead creature as mediated through the oven (which would make it "second").

Without getting into the intricacies of the halakhic issue at hand, we can see how the anonymous Talmudic introjection completely reenvisions the scene initially described in the baraita, and thereby also reenvisions the possibility that the Torah could ever be forgotten. It is impossible, the anonymous Talmud asserts, that rabbis would forget something that is explicitly mentioned in the Written Torah, and it is also impossible that rabbis would forget something that is explicitly mentioned in the Mishnah. The only thing that could happen is that rabbis would be uncertain regarding highly complicated halakhic questions that seem like they could be decided in more than one way. In other words, the nightmare scenario in which the rabbis cannot give straight answers to halakhic queries is what happens every single day in the rabbinic study house, whose trademark is debates, disagreements, and uncertainties. The anonymous layer thus pushes

91. See the discussion in David Weiss Halivni, *Sources and Traditions: Shabbat* (in Hebrew) (Jerusalem and New York: Jewish Theological Seminary, 1982), 370–71.

the readers/listeners to the same conclusion that R. Shimon ben Yohai expresses explicitly in the last section of the baraita: the Torah could never be truly forgotten. At worst there may be some lack of clarity regarding some highly specific issues, which in itself serves as a testament to the flourishing of Torah.

The anonymous Talmud, however, continues to report not only Rav Ada bar Ahava's uncertainty regarding the Mishnaic rule but also Rava's confident and unequivocal response to his uncertainty (namely, that we cannot see the loaf in the oven as having direct contact with the dead creature), thereby making it clear that in the Babylonian academy even this difficult question has an answer. The only difference between the imaginary rabbis who live in a world in which the Torah was forgotten and the rabbis who operate in the prosperous study culture of Babylonia is that the former do not have access to some of the highly specialized rulings to which the latter do have access. For the implied audience of the anonymous debate on the baraita, this highly scholastic construction of "forgetting the Torah" ultimately serves to generate its own nostalgia for the present, contrasting the virtuosic learnedness of the anonymous speakers with an imagined scenario of rabbinic "incompetence."[92] The Babylonian baraita, then, is not about Yavneh at all, nor is it about any other moment in Israel's imagined past or future: it is about the present moment of Torah and Talmud learners, whose plodding scholastic undertakings gain prestige and value when conveyed through the malleable and versatile idea that "the Torah is destined to be forgotten."

Unbreaking the Tablets

Throughout this chapter I have argued that recurring rabbinic references to the prospect of the Torah being forgotten are best understood as a rhetorical trope rather than as an expression of genuine apprehension—whether an ever-present apprehension or a historically situated one. While this trope can be plausibly traced back to a tradition regarding a particular historical epoch (namely, the destruction of the First Temple and the restoration of Ezra), this tradition was worked and reworked in different contexts such that it could be applied to any point in the past or future, could be utilized as an overarching theory for the formation of halakhah, and could even be reinterpreted to negate the possibility of forgetfulness of the Torah altogether. In the preceding sections I focused primarily on the ways in which the trope of collective forgetting of the Torah serves to put rabbinic disciples and masters on a pedestal, whether as individuals or as a group, and to present them as the bulwark against collective forgetfulness. I conclude this chapter with a different iteration of this trope, in which the bulwark against complete oblivion is not the dedicated elite of Torah learners, but rather God's lasting covenant with the people of Israel. Whereas the homilies we saw earlier reject the possibility that

92. My reading coheres with Moulie Vidas's analysis of the anonymous layer of the Babylonian Talmud as a performative display of scholastic abilities; see Vidas, *Tradition and the Formation of the Talmud*, 70–80.

the Torah could be forgotten by turning absence of Torah into abundance of Torah, the homilies we are about to see do not deny that the Torah could be forgotten temporarily, but passionately assert that it could never be forgotten permanently. The driving force behind these homilies, I propose, is the rabbinic encounter with the Christian accusation that the Jews have abandoned and forgotten God's covenant and no longer have a claim to it.

Although various rabbinic texts suggest, either vaguely or explicitly, that collective forgetfulness of the Torah *could* happen in the future, there is only one rabbinic tradition of which I am aware that unequivocally declares that forgetfulness of the Torah *will* inevitably take place in the future. This tradition, which appears both in Palestinian Midrashic compilations and in the Babylonian Talmud, locates the episode of mass forgetfulness specifically in the eschatological future, in the final years before the coming of the Messiah. I present here the homily as it appears in the Amoraic Midrash of the fifth or sixth century, Pesikta deRav Kahana (the Babylonian version is almost identical, with a minor difference that I will address toward the end of the chapter):

> The rabbis say, "In the seven years in which the Son of David comes— in the first year, *I will send rain on one town, but withhold it from another* (Am. 4:7). In the second year, arrows of hunger are sent. In the third year, great famine and men and women and children die and the Torah is forgotten from Israel. In the fourth year, hunger that is not hunger and satiation that is not satiation. In the fifth year, great satiation. They eat and drink and are glad and the Torah returns to its renewal. In the sixth year, thunder (*qolot*).[93] In the seventh year, wars. And at the end of the seventh year, the Son of David comes."
>
> Said R. Abiya (or: Abaye),[94] "How many [cycles of] seven years have been like that, and he has not come."[95]

The seven-year scenario described in this passage delineates what is known as "the footsteps of the Messiah" (*'iqvot meshiḥa*) or "the birth pangs of the Messiah" (*ḥevele mashiaḥ*), that is, the last few years before the coming of the Messiah that are associated with troubles and distress.[96] For our purposes, it is noteworthy that alongside the predictable calamities that are iconic of times of great upheaval (draught, famine, war, death) this apocalyptic account includes forgetting the Torah. On the face of it, this addition could be taken as an indication that

93. I interpreted *qolot* (lit. "sounds" or "voices") as "thunder" based on Ex. 19:16: "On the morning of the third day there was thunder and lightning (*qolot u-beraqim*)." Other commentators interpreted the term as referring to heavenly voices or to the sound of the horn (also inspired by Ex. 19:16).

94. In the Babylonian version: Rav Yosef.

95. Pesikta deRav Kahana 5 (Ha-hodesh ha-ze 9, ed. Mandelbaum 1:97–98), and see parallels in Songs of Songs Rabbah 4.2 and Pesikta Rabbati 15. Cf. BT Sanhedrin 97a (and partial parallel in BT Megillah 17b), as well as Derekh eretz zutta 10.1.

96. See M. Sotah 9.15; BT Kettubot 111a. The idea of "the birth pangs of the Messiah" goes well back to the Second Temple period; see David Flusser, *Judaism of the Second Temple: The Jewish Sages and Their Literature*, trans. Azzan Yadin (Grand Rapids, MI: W.B. Eerdmans, 2009), 285–88.

in the world of the rabbis no greater disaster could be conceived of than forgetting the Torah, and there may certainly be truth to that. Yet I would argue that in the context of this apocalyptic prediction the emphasis is less on the fact that the Torah will be forgotten and more on the fact that it will be restored—and specifically, on the timing in which it will be restored. Since the passage describes an era of suffering and woes followed by the ultimate redemption, one could expect that the restoration of the Torah would take place at the end of the seventh year, when the Messiah Son of David finally comes. But this is not the case: the Torah, we are told, is not restored with or by the Messiah but rather two years earlier. The forgetting of the Torah is coupled with famine, which reaches its peak in the third year and subsides in the fifth year. This coupling suggests a modicum of normalization of the forgetfulness of Torah, as we have seen in other rabbinic texts: just as there are periods of famine and periods of satiation in the course of history, so there are periods in which the Torah is forgotten and periods in which the Torah is thriving.[97] The comment that immediately follows this passage furthers the impression that neither the forgetting of the Torah nor its restoration is a unique event, as one rabbi complains that many such cycles of seven years have gone by, but the Messiah has not yet come.

While we have seen the model of ebbs and flows of the Torah and of cycles of forgetting and restoration in other rabbinic passages, in the eschatological and Messianic context of this homily this model acquires a distinctive meaning. By emphatically disconnecting the restoration of the Torah from the coming of the Messiah and presenting it as a natural vicissitude, the creators of this homily tacitly reject the idea that the ability of Israel to reacquire the Torah hinges upon a Messianic figure. This rejection, I propose, may be understood as a response to the prevalent Christian view that the first covenant that God made with Israel was abandoned by the Jews, and that with the coming of Jesus Christ a new covenant was introduced to which only the followers of Jesus adhere, as this passage from the Epistle to the Hebrews illustrates:

> For if there had been nothing wrong with that first covenant, no place would have been sought for another. But God found fault with the people and said, *The days are coming, declares the Lord, when I will make a new covenant with the people of Israel and with the people of Judah. . . . I will put my laws in their mind and write them on their hearts* . . . (Jer. 31:31–33). By calling this covenant "new," he has made the first one obsolete; and what is obsolete and outdated will soon disappear.[98]

In the Epistle of Barnabas, the author identifies the exact moment in which the old covenant was broken: it was the sin of the golden calf, in which the people of Israel

97. Interestingly, in Derekh eretz zutta 10.1 the Torah is said to be forgotten in the third year, but there is no mention of its restoration in the fifth year. While this may be a simple scribal omission, this version may reflect a view that ties the restoration of Torah with the actual arrival of the Messiah.

98. Hebrews 8:7–13 (NRSV).

turned away from God's revealed laws almost immediately after receiving them. Moses's angry shattering of the tablets of the law upon realizing the Israelites' sin was a symbolic expression of the idea that the "old covenant" was no more, and that a new covenant would only be established through Christ:

> Ours it [the covenant] is; but they [the Jews] lost it forever when Moses had just received it. . . . They lost it by turning unto idols. For thus says the Lord, *Moses, Moses, come down quickly; for thy people whom thou broughtest out of the land of Egypt hath done unlawfully* (Ex. 32:7). And Moses understood, and threw the two tables from his hands; and their covenant was broken in pieces, that the covenant of the beloved Jesus might be sealed unto our hearts in the hope which springs from faith in Him.[99]

Similarly, Tertullian describes the Jews as those who forgot God and his laws and thereby abandoned the covenant. The covenant—and by implication, the Old Testament in which it is established—thus ceased to be the patrimony of the Jews, and was given to those to whom it was not originally designated, but who chose it voluntarily:

> For Israel—who had been known to God, and who had by Him been upraised in Egypt . . . forgot his Lord and God (*domini et dei sui oblitus*), saying to Aaron: *Make us gods, to go before us: for that Moses, who ejected us from the land of Egypt, has quite forsaken us; and what has befallen him we know not* (Ex. 32:1). And accordingly we, who were not the people of God in days bygone, have been made His people, by accepting the new law above mentioned, and the new circumcision before foretold.[100]

In the exegetical battle over the question of who is the rightful heir of the Old Testament, and of God's covenant established therein, the Christian argument was that the Jews had indeed received God's revelation and covenant but then forgot it—more accurately, abandoned it—and were therefore no longer entitled to it. While I do not think the eschatological homily in the Pesikta and its parallels was shaped distinctly as a polemical response to this argument, I do find it noteworthy that the homilist averts any possibility of interpreting the renewal of the Torah as the establishment of a new covenant. The Torah, in this account, is not abandoned by the people of Israel but is rather temporarily lost as a result of forces the people cannot control, and it is restored as new (*ḥozeret le-ḥidushah*) because it never truly ceased to belong to the people, not because the Messiah's arrival transforms the relationship between Israel and their God.

One rabbinic text, resonating with the Epistle of Barnabas, makes an explicit connection between the breaking of the first tablets and future forgetfulness of the Torah. In a series of homilies on the God-made tablets of the law, R. Eleazar comments on the verse "And the tablets were God's work, and the writing was God's

99. The Epistle of Barnabas 4:7–8; quoted from Joseph B. Lightfoot, ed., *The Apostolic Fathers* (London: MacMillan and Co., 1912), 272.

100. Tertullian, *An Answer to the Jews* III; quoted from Alexander Roberts, James Donaldson, and A. Cleveland Coxe, eds., *Ante-Nicene Fathers*, vol. 3 (Buffalo: Christian Literature Publishing, 1885), 210–11.

writing, engraved upon the Tablets" (Ex. 32:16), saying, "If the first tablets had not been broken, the Torah would have not been forgotten from Israel."[101] R. Eleazar evidently refers to the word "engraved" (*ḥarut*), which appears in the description of the first tablets—those that were broken—but not in the description of the second tablets, which remained intact. The first tablets, he concludes, entailed the promise of permanence, of a Torah that would never be erased, but since those tablets were broken, that promise was not kept and the Torah was forgotten. Interestingly, R. Eleazar does not associate the Israelites' forgetting of the Torah with the sin of the golden calf, which instigated Moses's breaking of the tablets. Rather, he considers the tablets themselves as portending Israel's ability or lack thereof to retain the Torah. In other words, R. Eleazar's homily turns the Christian argument on its head (whether or not it does so purposefully I cannot say): the tablets were not broken because the Israelites forgot the Torah, but rather the Israelites forgot the Torah because the tablets were broken.

To what is R. Eleazar referring when he speaks, in the past tense, of the Torah having been forgotten from Israel? One possibility is that he is referring to a particular historical event or to a series of events of collective forgetfulness, examples of which we have seen earlier in this chapter. Alternatively, it is possible to interpret R. Eleazar's statement as referring to the ongoing problem of learners' struggles to retain their teachings. The breaking of the tablets, according to this interpretation, did not cause the Torah to be lost from the people wholesale, but rather brought about the problem that every dedicated disciple grapples with: how to keep memorized knowledge intact. According to this reading, the polemical thrust of the homily—if indeed there is one—lies in the reframing of forgetfulness itself: it suggests that the Israelites did not abandon the Torah, but quite the opposite—they are so preoccupied with it that they are incessantly striving to memorize it.

The terseness of R. Eleazar's homily does not allow us to determine its exact meaning, nor to ascertain whether it reflects any awareness of Christian polemical arguments. Two Palestinian homilies, however, unequivocally reframe the notion of collective forgetfulness of the Torah as the occasional forgetting of dedicated learners. The biblical verses that the homilists target—specifically the verses from Jeremiah that proclaim the future establishment of a new covenant—make it highly likely that a battle with Christian arguments underlies these homilies.

The following homily appears in Pesikta deRav Kahana, in a cluster of homilies on the giving of the Torah at Mount Sinai:

> [*On the third month after the Israelites had gone forth from the land of Egypt*], *on this very day they entered the wilderness of Sinai* (Ex. 19:1). Was it on this very day (i.e., today) that they entered?! Rather, [this is to say] that when you study my words they will not seem old to you, but rather [they will seem] as though the Torah was given today. [Scripture] does not say "on that day" but "on this day." In this world I have

101. BT Eruvin 54a.

> given you the Torah and only individuals labor in it, but in the World to Come I will teach it to all of Israel and they will study it and will not forget it, as it was said, *This is the covenant I will make with the people of Israel after that time, declares YHWH: I will put my law within them and write it on their hearts. I will be their God, and they will be my people* (Jer. 31:33).[102]

God, speaking in the first person in this homily, implores the student of Torah to view the day on which the Torah was given at Sinai as the model for what Torah study should always be like. Interpreting the words "on this very day" in Exodus 19:1 as allowing for the reading "today," the homily suggests that not only should the study of Torah always be fresh and new as though it was just given, but also that the study of Torah should be pursued by each and every person in Israel, in the same way that the initial revelation at Sinai was for all of Israel. Although the study of Torah in this world is only the domain of the few who are capable of fully immersing themselves in it, in the World to Come all will be able to do so, and none will ever forget what they learn.

The reference to forgetfulness seems a bit out of place in this homily: clearly, the contrast the homilist puts forth is between the study of few and the study of many, not between forgetfulness and retention. Why, then, is forgetfulness mentioned? The answer lies in the target verse that holds the entire homily together: "This is the covenant I will make with the people of Israel. . . . I will put my law within them and write it on their hearts." The words "This is the covenant" refer back to the preceding verse in this prophecy, "The days are coming, declares YHWH, when I will make a new covenant with the people of Israel and with the people of Judah" (Jer. 31:31). Since no other biblical passage so famously encapsulates the Christian claim that the old covenant, which God made with the Jews, was broken and abandoned and replaced with a new covenant, I am quite certain that the homilist in the Pesikta was aware of this interpretation and attempted to propose an alternative to it. The Pesikta homilist interpreted the "new" covenant as referring not to a covenant that is altogether new, but to the idealized *experience* of the Torah learner, who always feels like the Torah was given "today." The reestablishment of the Torah within the people is interpreted in the Pesikta not as a replacement of the revelation at Sinai, but as a *recreation* of the Sinai moment: in the same way that the Torah was the domain of all of Israel on the day on which it was given, so in the future it will again become the domain of all the people of Israel. As for "write it on their hearts," an expression with clear associations of memory and internalization, this part of the verse was interpreted as portending the future ability of the Israelites to retain whatever they learn in their memory. In Jeremiah, the new covenant that will be written on the people's hearts stands in contrast to the previous covenant that they have forgotten and broken, an idea that

102. Pesikta deRav Kahana 12 (Ba-hodesh 21, ed. Mandelbaum 1:219). This homily is missing from the main textual witness of the Pesikta, MS Oxford 151, because of torn pages.

was central to the Christian doctrine. But for the Pesikta homilist, the forgetfulness that will be overcome in the World to Come is not the sinful abandonment of God's law but the benign difficulty in memorizing one's teaching effectively.

We find the same interpretive move in the later Midrashic compilation Song of Songs Rabbah,[103] here in a homily that is concerned exclusively with the problem of forgetfulness:

> *Let him kiss me with the kisses of his mouth* (Song of Songs 1:2). R. Yehuda says, "At the time in which the people of Israel heard *I am YHWH your God* (Ex. 20:2) the study of Torah took hold in their heart, and they would learn it and not forget a thing. They then came to Moses and asked him to be their messenger, as it was said, *Speak to us yourself and we will listen, but do not have God speak to us or we will die* (Ex. 20:19), what good is there in us being lost? At that point they began to study and forget. They said, 'Moses is flesh and blood, and when he passes, his teachings will pass, too!' Immediately they came to Moses. They said to him, 'Our master, Moses, let him reveal [the Torah] to us a second time, *let him kiss me with the kisses of his mouth*, let him make the study of Torah take hold in our heart again, as it was!' [Moses] said to them, 'This is impossible now, but in future, *I will put my law within them and write it on their hearts* (Jer. 31:33)."[104]

Like the homily in the Pesikta, this homily interprets the prophecy about a "new covenant" as referring to a restoration of the original revelation at Sinai—that is, recreating the conditions that existed on that particular day—rather than to a replacement of the old covenant. According to this homily, when God first gave the law to his people, his original plan was that the Israelites would never be able to forget any of it (this is reminiscent of R. Eleazar's homily on the first tablets that were "engraved" such that the law could not be forgotten). The Israelites, however, preferred to hear the law from Moses, since hearing God directly was too terrifying for them. When the Israelites entrusted their knowledge of Torah to the hands of a transient human being, that knowledge became transient, too, and they began to forget what they had learned. Having realized the mistake they had made, the Israelites then asked Moses for a second direct revelation—a new covenant—that would allow them to retain the Torah and never forget it. Moses assured them that this would eventually become possible, and the Torah would one day be "written on their hearts" so that they would never forget it, but not just yet.

The Midrashic passages we have seen in this subsection offer their own take on the trope of collective forgetting of the Torah. They put forth the notion that while there may be forces that temporarily impede Israel's ability to study and retain the Torah to the extent that they would like, the people never give up on the Torah, and therefore they can fully expect that a day will come when the

103. On the redaction time of Song of Songs Rabbah, and particularly of its opening units, see Tamar Kadari, "Behold a Man Skilled at His Work: On the Origins of the Proems Which Introduce Song of Songs Rabbah" (in Hebrew), *Tarbitz* 75, nos. 1–2 (2006): 155–74.

104. Song of Songs Rabbah 1.

Torah will never be forgotten again. In these homilies forgetfulness of the Torah is actually construed as sign of *commitment* to it: only those who dedicate themselves to Torah study and diligently try to memorize their teachings can struggle with the problem of forgetfulness as described in these homilies. Here it is worth noting that in the Babylonian version of the eschatological passage on the seven years before the coming of the Messiah, the text does not read "the Torah is forgotten from *Israel*," as it does in the Palestinian version, but rather "the Torah is forgotten from *its learners*" (and again later, "the Torah returns to its learners").[105] This minor but significant difference may indicate that the creator of the Babylonian version similarly tried to depict forgetfulness of Torah as a marker of devotion to Torah. If forgetting the Torah is part of the struggles of Torah *learners*, then it is situated in a context of dedication and effort to study Torah and it cannot be interpreted as abandonment of the Torah. I believe that these homilies are guided by an attempt to counteract the prevalent Christian accusation that the Jews abandoned the covenant and could only become part of the "new covenant" by accepting Jesus as Messiah. These homilies offer both a counter-model of forgetting (not abandonment, but temporary difficulty) and a counter-model of renewal (not an all-new covenant, but the restoration of an ideal past).

These homilies thus bring us full circle to the first chapters of this book, in which I argued that the rabbis turned forgetfulness of halakhic information or tasks into a marker of religious compliance and belonging. We began with scenarios that present pious but fallible practitioners, who constantly falter in their memory but always seek rabbinic guidance and are eager to be corrected, and I argued that the rabbis integrated forgetfulness into their halakhic system not as an aberration, but rather as a way of affirming the system. We conclude with a series of homilies in which the rabbis take grim biblical prophecies about the loss of God's words and the abandonment of his covenant and transform them into affirmations of commitment and devotion to the Torah, whether of specialized Torah learners or of Israel as a collective. A desperate quest to find God's lost words becomes a quest to find one's way in the overabundant Torah, which has become so evolved and so sophisticated that one can be puzzled by it; and the castigation of Israel for the abandonment of the covenant is reconstrued as a promise to struggling Torah learners that one day they will retain their teachings without difficulty. As the rabbis set out to resolve the problems—practical, exegetical, and theological—that forgetfulness presents, they also use forgetfulness time and again as an opportunity to make the case for the culture they are creating and for their role within it. Their literature bears more than the scars of the battle with forgetfulness, as Rav Sherira claimed; it showcases just how productive and generative forgetfulness can be.

105. BT Sanhedrin 97a. This version also appears in Derekh eretz zutta 10.1.

Conclusion

What Moses Forgot

I opened this book with Moses's last speech, in which he repeatedly exhorts the Israelites never to forget God and his commandments while professing the pessimistic conviction that the Israelites will, undoubtedly, forget what they ought to remember. Moses appears in his last speech as the paragon of memory. Within him are contained all the events that unfolded from the exodus from Egypt on, all the laws that were received in the wilderness, all the promises that were made to God and by God, and all the detailed rituals and recitations that have to be undertaken regularly so that these memories are kept for posterity. To some extent, the image of Moses as the keeper of memory persists in rabbinic texts as well. A Midrashic account describes how upon his death Moses invites everyone for a "refresher" course in case they forgot what he had taught: "[Moses] told them, I am already near death, whoever heard one verse and forgot it—let him come and repeat it, one portion—let him come and repeat it, one chapter—let him come and repeat it."[1] But in several rabbinic texts we find a diametrically opposed image of Moses: he appears not as the paragon of memory, but rather as a paragon of forgetfulness. A brief examination of the trope of Moses's forgetfulness serves well to tie this book's arguments together and to bring it to its conclusion.

One relatively mild example of Moses's forgetfulness in rabbinic texts is his difficulty to grasp God's instructions for making the sanctuary's lampstand. In the biblical descriptions of the sanctuary's furnishings, the golden lampstand is described as *miqshah* no fewer than six times.[2] This word is usually understood as referring to hammered or beaten metal, but Tannaitic homilists extracted the root *q-sh-h*, which means "hard," from the word and interpreted that the

1. Sifre on Deuteronomy 4 (ed. Finkelstein 13).
2. Ex. 25:31, 36; Ex. 37:17, 22; Num. 8:4 (twice).

lampstand was particularly hard for Moses to handle.[3] Midrash Sifre zutta on Numbers narrativizes the "hardness" of making the lampstand by relating how Moses struggled to remember the instructions he was given, relying on the recurring mentions of the fact that the lampstand was *shown* to Moses. Admittedly, all the vessels of the sanctuary were shown to him, but the verb "to show" appears four times specifically in regard to the lampstand.[4] From these recurring references to "showing" the homilist concludes that Moses had to be shown the lamp multiple times because initially he forgot what he saw:

> *According to the vision of the pattern that YHWH has shown* (Num. 8:4). This teaches you that [God] showed [the lampstand to Moses] four times. [Moses] saw it with all the other furnishings and forgot it, and he saw it a second time when [the angel] Michael was standing and measuring it,[5] and again he saw it being made, and again he saw it fully made.[6]

Whereas other Tannaitic traditions relate that the lampstand was especially complicated in its design and therefore Moses had to be shown it directly, Sifre zutta makes the point that it was difficult for Moses to *remember* what the lamp should look like, and therefore he had to be shown it more than once. In later (probably early medieval) Midrashic compilations the motif of Moses's forgetfulness is significantly magnified:

> When the Holy One, blessed be He, said to Moses, "You shall make a lampstand of pure gold" (Ex. 25:31), he told him, "How shall we make it?" [God] said to him, "The lampstand shall be hammered work (*miqshah*)." Even so, Moses had difficulty (*nitqashah*), and he went down and forgot how to make it. He came back up and said, "My Master, how shall we make it?" [God] said to him, "The lampstand shall be hammered work." Even so, Moses had difficulty. He went down and forgot it. He went back up and said, "Master, I forgot it." [God] showed [the lampstand] to Moses, but he still had difficulty with it. [God] said to him, "See and follow the pattern that you are shown" (Ex. 25:40), and he took a lampstand of fire and showed him how it is made, and even so Moses had difficulty with it. The Holy One, blessed be He, said to him, "Go to Bezalel, and he will make it." [Moses] told Bezalel, and he made it right away. [Moses] was then amazed, and said, "How many times the Holy One, blessed be He, showed it to me, and I had difficulty making it, and you, who did not see it,

3. See Sifre on Numbers 61 (ed. Kahana 1:152–53). This trope appears also in Mekhilta deRabbi Ishmael Pisha 2 (ed. Horovitz-Rabin 6); Baraita de-melekhet ha-mishkan 10 (ed. Kirschner 196); BT Menahot 29a. See an elaborate discussion in Kahana, *Sifre on Numbers*, 3:413–15.

4. Ex. 25:9 states that God showed Moses "the pattern of the sanctuary and the pattern of all its furnishings." Immediately after the instructions are given regarding the lamp, Ex. 25:40 repeats, "See this (*re'eh*), and follow the pattern that you are being shown (*mar'eh*) on the mountain." In Num. 8:4, in which Moses is instructed to light the lamp, the readers are reminded that the lampstand was made "according to the vision of the pattern that YHWH has shown Moses" (*ka-mar'eh 'asher her'ah*).

5. The Hebrew is *mamshiaḥ*, an otherwise unattested word. Since the verb *m-sh-ḥ* can mean "to measure," I tentatively translated it as "measuring." Cf. BT Menahot 29a.

6. Sifre zutta on Numbers 8:4 (ed. Horovitz 256); see also Kahana, *Sifre on Numbers*, 3:423.

made it of your own mind. Bezalel, surely you were standing by the shadow of God (*be-zel ʾel*) when the Holy One, blessed be He, showed me its making."[7]

In this later Midrashic iteration, Moses's forgetfulness is not incidental, but almost pathological. He forgets God's verbal instructions once, asks him to repeat them, forgets them a second time, is then given a visual explanation rather than merely a verbal one, cannot grasp it, is given it again in greater detail, and eventually is told to delegate the task to someone else. Late Midrashic compilations are known for their tendency to further dramatize and narrativize earlier traditions,[8] but the crafters of this passage were probably influenced not only by the aforementioned homily on Moses's difficulty with the lampstand, but also by a number of other references to Moses's forgetfulness in earlier Midrashic texts. For the sake of brevity, I will only summarize these references rather than present the texts in full.[9]

In one Midrashic account, the homilist resorts to Moses's forgetfulness in order to exculpate the Israelites from direct responsibility for their transgression. According to the biblical story, when the Israelites were given the manna in the wilderness Moses told them to keep half of the double portion given on the sixth day for the Sabbath, because they will not find any manna on the Sabbath itself. Nonetheless, some people went out on the Sabbath and looked for manna, thereby incurring the wrath of God (Ex. 16:17–30). In the Midrash, the blame for the transgression is laid on Moses, who forgot to instruct the Israelites that it is actually prohibited to leave one's place on the Sabbath.[10] The Israelites' failure is thereby attributed to ignorance, not defiance of God, and their ignorance is the result of Moses's failure to teach them. In another Midrashic account, Moses's forgetfulness is used to explain why a different biblical character takes on the role of instructor usually reserved for Moses. In the Israelites' war against the Midianites, it is the priest Eleazar rather than Moses who instructs the soldiers how to purify the metal

7. Tanhuma (Warsaw print) Be-ha'alotkha 6; Numbers Rabbah Be-ha'alotkha 15.10. A similar explanation of the name Bezalel appears also in BT Berakhot 55a, but in a different context.

8. On the literary characteristics of later Midrashic compilations, see Jacob Elbaum, "On the Character of the Late Midrashic Literature" (in Hebrew), *Proceedings of the World Congress of Jewish Studies* 9, vol. C (1985): 57–62. On increased narrativization as characterizing the development of rabbinic exegetical narratives, see Joshua Levinson, "The Exegetical Narrative: Between Reception and Transformation" (in Hebrew), *Dappim: Research in Literature* 16–17 (2009): 56–73.

9. One additional Midrashic tradition that presents Moses as forgetful pertains to the story of the Ba'al Pe'or worship and subsequent plague in Numbers 25. In BT Sanhedrin 82b Moses is said to have forgotten the law that one who has intercourse with a foreign woman is attacked by zealots, and when the young priest Phineas was reminded of this law he acted accordingly. In this story, however, Moses's forgetfulness has a clear underlying cause, as he himself is married to a Midianite woman and is taken to task for it.

10. Leviticus Rabbah 13 (ed. Margulies 2:269–70); cf. Tanhuma (ed. Buber) Be-shalah 24. In Exodus Rabbah 25 there are two subsequent episodes of forgetfulness: first, Moses forgets to tell the people to collect a double portion on the sixth day (25.10), and then he forgets to instruct them about the Sabbath (25.12).

artifacts they will take as loot (Num. 31:21–24). According to the Midrash, this is because Moses was supposed to tell them that himself but forgot.[11]

Yet another account portrays Moses as forgetful to explain a biblical episode in which he clearly errs in judgment. After the death of Aaron's sons Nadab and Abihu, Moses berates Aaron and his surviving sons because they did not eat the meat of the inaugural sin offering as they should have. In response, Aaron says that they cannot be expected to eat the sacrificial meat after such a catastrophe had taken place, and Moses accepts his reasoning (Lev. 10:16–20). In the Sifra, Moses concedes that he has not heard the rule that a mourner may not eat sacred meat,[12] but in both the Babylonian Talmud and Midrash Leviticus Rabbah it is explained that he had heard this rule but had forgotten it until Aaron reminded him.[13] Finally, perhaps the most striking tradition about Moses's forgetfulness is that he needed to spend forty days on Mount Sinai because he kept forgetting what God was teaching him. At the end of forty days he had no better grasp of the Torah than he did in the beginning, but in recognition of his efforts God gave him the Torah as a gift.[14] I will return to this intriguing anecdote shortly.

What stands behind this trope of Moses's flawed memory, so flawed that he appears almost dim-witted in some traditions? Several answers come to mind. First, as Yair Furstenberg observed, the rabbis' relation to the literary figure of Moses had a strong agonistic element.[15] In a sense, the rabbis made a concerted effort to diminish Moses in order to make more room for themselves: since they recognized that their own interpretations went well beyond what Moses could have imagined, at times they depicted Moses as one who delivered the Torah but never truly understood it.[16] Second, it seems that at least some rabbis were not comfortable with the Pentateuchal picture of the Israelites as a rebellious, disobedient, and ungrateful people who would have perished many times in God's anger if it had not been for Moses's merit. The Christian utilization of this paradigm against the Jews in particular may have led the rabbis to highlight Moses's flaws and weaknesses, and in some cases—as in the manna story mentioned above—to lay the blame for Israel's failures directly on him.[17] Third, it could be argued that

11. Leviticus Rabbah 13 (ed. Margulies 2:270); cf. Avot de-Rabbi Nathan 1 (in both A and B versions; ed. Schechter 2–3). In both traditions, Moses's forgetfulness is associated specifically with his anger.

12. Sifra Shemini 1.2.12 (ed. Weiss 47d).

13. Leviticus Rabbah 13 (ed. Margulies 2:271); a much more elaborate account of this incident appears in BT Zevahim 101a–b.

14. PT Horayot 3.5, 48b. Cf. Exodus Rabbah 41.6; Tanhuma (Warsaw print) Ki tisa 16; Tanhuma (ed. Buber) Ki tisa 12.

15. Yair Furstenberg, "The Agon with Moses and Homer: Rabbinic Midrash and the Second Sophistic," in *Homer and the Bible in the Eyes of Ancient Interpreters*, ed. Maren R. Niehoff (Leiden: Brill, 2012), 299–328.

16. The *locus classicus* of this trope is the story of Moses's ascent to heaven in BT Menahot 29b.

17. See Richard Kalmin, *The Sage in Jewish Society of Late Antiquity* (New York and London: Routledge, 1999), 98–100; Michael Graves, "Scholar and Advocate: The Stories of Moses in Midrash

the rabbis' motivation was a pious one: in order to emphasize that the origin of the Torah was divine, they had to underscore that its messenger was only human, and even an unremarkable and fallible human at that.[18] While all these explanations are convincing (and not mutually exclusive), I would like to propose that these traditions about Moses reveal to us something fundamental not only about the rabbis' relation to Moses, but also about their relation to forgetfulness.

By depicting Moses's engagement with the Torah as riddled with forgetfulness, the rabbis make the point that there has never been a time in which forgetfulness was not an immanent part of the attempt to study the Torah and live by it. Encapsulated within the Torah from the beginning, like an invisible mechanism of self-destruction, is the possibility of it being forgotten, partially or wholly. When the Torah was given to humans—Moses being the paradigmatic human in this case, not one who exceeds human capabilities—it became dependent on human memory, with all its imperfections and distractions, foreseeable limitations and unforeseeable short circuits. Forgetfulness, then, is not a sign of decline, neglect, divine abandonment, or cosmic crisis: it is an inescapable facet of life in accordance with the Torah. My argument in this book is that the normalization of forgetfulness, and the building of forgetfulness into the fabric of Jewish observance, play a key part in the making of rabbinic culture.

I have attempted to show that forgetfulness of past actions, of future tasks, of laws and of teachings, is a prominent and generative theme in Tannaitic literature and beyond it. I have argued that the extensive rabbinic engagement with forgetfulness is novel in essence, and that it cannot be understood as deriving strictly from halakhic necessity or from abstract scholastic curiosity. Rather, forgetfulness emerges in Tannaitic texts as a newly created problem in order to foreground the rabbis' enterprise as a solution. Various rulings, decrees, alternative halakhic paths, practices, and routines are presented in rabbinic texts specifically as ways to rectify or preempt forgetfulness, and in some contexts the rabbinic project as a whole is heralded as a heroic effort to prevent the Torah from being forgotten. The rabbis' preoccupation with the prospect of forgetfulness in both practice and study effectively builds forgetfulness *into* the rabbinic system. In turning forgetfulness into a contingency that has to be reckoned with, and into a predictable occurrence for which solutions are readily available, the rabbis generated a new vision of life in accordance with the Torah in which fallibility and memory lapses are part of the

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Exodus Rabbah," *Bulletin for Biblical Research* 21, no. 1 (2011): 1–22. See also Furstenberg, "The Agon with Moses," 316–25.

18. The idea that Moses's agency had to be downplayed in order to emphasize God's actions is the common explanation for Moses's absence from the Passover Haggadah; see David Henshke, "The Lord Brought Us Forth from Egypt: On the Absence of Moses in the Passover Haggadah," *AJS Review* 31, no. 1 (2007): 61–73. Henshke focuses on Moses's role in the redemption from Egypt and explicitly says that no such downplaying of Moses can be traced in regard to the giving of the Torah, but the traditions I mentioned may suggest otherwise.

norm, rather than deviating from the norm. In other words, the rabbis put forth a model in which dealing with the vicissitudes of memory—which is by definition imperfect and unruly—is a central and integral element of religious devotion.

The integration of forgetfulness into the rabbinic vision of Jewish practice and devotion created a new model of an idealized practitioner. This practitioner forgets facts or commitments critical to correct rabbinic practice, but avidly seeks rabbinic instruction and guidance in order to counteract or correct his forgetfulness, even at great cost or inconvenience. As I emphasized, this idealized practitioner is a literary construct that does not necessarily correspond with any real-life Jews with whom the rabbis were familiar. But as a literary construct, this practitioner is immensely important for the rabbinic vision insofar as he presents a paradigm for the desired relations between rabbis and their constituents. The rabbinic enterprise is not geared toward one who does not forget at all, but rather toward one who closely follows the rabbis' guidelines either in order to counteract forgetfulness or to rectify it once it has taken place. Moreover, forgetfulness functions in rabbinic discourse as a marker of membership, since forgetfulness of one detail ultimately affirms one's overall commitment to and immersion in the system as a whole. The one notable exception to this rule is forgetfulness of recited teachings: in that context forgetfulness is rhetorically construed as a sign of carelessness and neglect, which attests to insufficient devotion. I have argued, however, that the issue there is not memory but memorization. While the rabbis insist that memorization of texts as a *practice* should be rigorous and flawless, they accept that memory as a *human capacity* is limited and flawed.

Although the rabbis utilize forgetfulness to make the case for themselves—for their rulings, for their scholastic debates, and for their idea of Torah study as a vocation—it is important to stress that the case they make is not for lowercase rabbis, but for uppercase Rabbis. The texts we have seen indicate that rabbis as individuals are not immune to forgetfulness, but the Rabbis or "the Sages" as a collective are the power that counteracts it. One rabbi may forget a teaching, sometimes even a firsthand experience, but there is bound to be another rabbi who remembers it. One rabbi may slip in his halakhic practice because of forgetfulness, but the Sages have put in place rules meant to preempt such slippage. And while rabbis in one generation may lose or forget a cluster of laws, rabbis in future generations will be able to recover these laws. Forgetfulness, then, serves to build the image of the Sages as a stable, continuous, multigenerational collective that secures the Torah and its practice and is much greater than the sum of individual rabbis. In a sense, some of the Midrashic traditions about Moses's forgetfulness point in a similar direction: Aaron asserts a halakhic teaching that Moses forgot, Eleazar teaches the soldiers what Moses forgot to tell them, and Bezalel is able to make the lamp the instructions for which Moses kept forgetting. The memory of the Torah thus does not depend on Moses alone, who is prone to memory failures like anyone else, but on a community of learners and knowers.

All this is not to say, of course, that the rabbis did not think that good memory was a virtue in individuals and did not look down upon people who had trouble remembering things. Their halakhic and homiletic discussions certainly construe forgetfulness as undesirable and implicitly encourage their subjects to take on demanding cognitive regimes to prevent forgetfulness, such as attentional monitoring of one's activities and incessant repetition of teachings. The rabbis also prescribe some superfluous practices for correcting forgetfulness, which seem to serve educational or even mildly punitive purposes. Forgetfulness is always suspected as an exit from the rabbinic order, and therefore one who experiences it must be reintegrated—sometimes through an externalized, performative process—back into the rabbinic order. It is clear that as far as the rabbis were concerned the best thing was never to forget anything. How, then, does this emphasis on the quintessential importance of memory and attention and on the merits of unceasing mental preoccupation with the Torah correspond with the normalization and normativization of forgetfulness? I have argued that the rabbis' discussions of forgetfulness put forth an ideology that I term *inclusive elitism:* they present their system of practice and devotion as extremely demanding and exerting, requiring immense cognitive resources, and yet insist that this demanding system is suitable and appropriate for everyone. The accommodations and solutions offered to forgetful individuals demonstrate how the rabbis can help imperfect humans navigate the challenging system, while at the same time setting up an ideal of perfection for these imperfect humans to aspire to.

This dual movement—using forgetfulness to set an extremely high standard while at the same time insisting that no one is excluded from the system defined by this standard—is especially evident in one of the traditions regarding Moses's forgetfulness. I paraphrased this tradition briefly above, but now I wish to take a closer look at one iteration of the tradition in its textual context. These few lines offer, in their terse way, the most effective summary for this book.

The anecdote about Moses forgetting the Torah throughout the forty days in which he was on the mountain appears in tractate Horayot of the Palestinian Talmud, in a unit that responds to the Mishnah's ruling about communal hierarchies in Israel. According to the Mishnah, even though a *mamzer* (one born from forbidden sexual union) is located very low in the communal hierarchy, and is inferior to priests, Levites, and Israelites, if a *mamzer* is a disciple of the Sages he is superior to even a high priest.[19] In the Palestinian Talmud we find a baraita that expresses a similar sentiment, followed by the anecdote about Moses's forgetfulness:

> A sage precedes a king, [because] when a sage dies, we have none other like him. When a king dies, all of Israel are worthy of kingship.[20]

19. M. Horayot 3.8 (3.9 in the Mishnah's manuscripts).

20. This baraita also appears in T. Horayot 2.8 (ed. Zuckermandel 476).

> R. Yohanan said, "All those forty days that Moses spent on the Mountain he would study Torah and forget it, and eventually [God] gave it to him as a gift. And why so? So as to make the dull ones return (*le-haḥazir 'et ha-tipshim*)."[21]

The baraita makes a statement on the indispensability of sages to the community as a whole, insisting that a sage is greater and more important even than a king. It says plainly that any person in Israel can, at least in theory, be king, but only the exceptional few can be sages. The story about Moses's forgetfulness serves as supporting evidence for this statement, as it demonstrates how difficult and strenuous the study of Torah actually is. The Torah was too much even for Moses, its first recipient, to handle—which only goes to show how absolutely vital the Sages are and how rare and precious their abilities are in maintaining the Torah, teaching it, and interpreting it. Moses appears here as the paradigmatic fallible human being, whose imperfect memory and limited cognitive capacities serve indirectly as justification for the rabbinic enterprise.

But the Palestinian Talmud also adds an explanatory comment immediately after the anecdote on Moses: "And why so? So as to make the dull ones return." This comment, which may have been added by a different editorial hand, makes the point that Moses's forgetfulness of the Torah was deliberate. It was not due to his inherent flaws, but to a strategic decision that such forgetfulness would be beneficial because it would encourage people who are not naturally talented in Torah study to pursue it. Whose plan was it to have Moses forget? One possible interpretation is that it was God's plan, but we could also deduce that it was Moses's plan. The verb used in this anecdote is *meshakeaḥ*, which is a causative form of the root *sh-kh-ḥ*, "to forget." This is not the only case in Amoraic literature in which the causative (*pi'el*) participle form *meshakeaḥ* is used where we would expect the simple (*qal*) form *shokheaḥ*, and this could be simply a linguistic phenomenon of no special significance.[22] But the causative form, here and elsewhere, does leave open the possibility—which I discussed in chapter 5—that allowing something to be forgotten was seen as an intentional or half-conscious process. It is possible, then, to conclude that it was Moses who chose to forget his teachings.

Whoever made the comment that the purpose of Moses's forgetfulness was to encourage "dull ones" to return was probably concerned with the dignity of Moses and wished to make the point that Moses's forgetfulness was not a manifestation of lack of ability but of gracious humility. Moses had to be an imperfect and flawed Torah learner so as to encourage similarly flawed learners to stay within the perimeter of the protorabbinic community. Having been rewarded by God for his efforts to study the Torah even though he did not accomplish much on his own,

21. PT Horayot 3.5, 48b.

22. See Wajsberg, "The Root שכח in Babylonian Aramaic," 368; Yohanan Breuer, *The Hebrew in the Babylonian Talmud according to the Manuscripts of Tractate Pesahim* (in Hebrew) (Jerusalem: Magnes Press, 2002), 189.

Moses demonstrates that the Torah belongs to everyone (although only the Sages are its trusted guardians). Moses's forgetfulness is said to be targeted specifically toward the "nonwise" (*tipshim*), a harsh word that I translated here as "dull ones" but could just as well be translated as "stupid ones." The voice behind this comment does not shy away from saying that some people are stupid, and some people are wise (the same word, *ḥakham*, is used in rabbinic literature for both "sage" and "wise"). By no means are all equal in the world of Torah and halakhic observance, but no one is excluded from this world. Since Moses is presumably not one of the dull ones, his forgetfulness should be understood as performative in essence, as a way of inviting people into the world of the Torah who would not be compelled to inhabit it otherwise. This, in a nutshell, is the ideology of inclusive elitism that the rabbis foster through their engagement with the theme of forgetfulness.

Ultimately, this book is about creativity and invention. On the face of it, the rabbinic concern with forgetfulness appears as a concern for salvage and preservation: how to save people from transgression, how to save Torah learners from irrecoverably falling behind, and how to save the Torah from being forgotten from Israel. But in designing and propagating a whole array of methods, solutions, and rhetorics of restoration and recovery, the rabbis were able to introduce widely innovative ideas about the things that were being restored and recovered. The prospect of forgetting, which the rabbis made so pervasive in their picture of halakhic observance and Torah study, allowed the rabbis to present their legislative and scholastic enterprises—and to some extent, their very existence—as a response to very acute needs of devout practitioners. As they crafted these responses, they were actively inventing both those devout practitioners and their needs, but above all they were inventing themselves.

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SUBJECT INDEX

SOURCE INDEX

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This book examines the significant role that memory failures play in early rabbinic literature. The rabbis who shaped Judaism in late antiquity envisioned the commitment to the Torah and its commandments as governing every aspect of a person's life. Their vision of a Jewish subject who must keep constant mental track of multiple obligations and teachings led them to be preoccupied with forgetting: forgetting tasks, forgetting facts, forgetting texts, and—most broadly—forgetting the Torah altogether. In *Fractured Tablets*, Mira Balberg examines the ways in which the early rabbis approached and delineated the possibility of forgetfulness in practice and study and the solutions and responses they conjured for forgetfulness, along with the ways in which they used human fallibility to bolster their vision of Jewish observance and their own roles as religious experts. In the process, Balberg shows that the rabbis' intense preoccupation with the prospect of forgetfulness was a meaningful ideological choice, with profound implications for our understanding of Judaism in late antiquity.

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MIRA BALBERG is Professor of History and Endowed Chair in Ancient Jewish Civilization at the University of California, San Diego. She is author of *Purity, Body, and Self in Early Rabbinic Literature* and *Blood for Thought: The Reinvention of Sacrifice in Early Rabbinic Literature* and coauthor of *When Near Becomes Far: Old Age in Rabbinic Literature*.

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