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## Means and End(ing)s: Nomos Versus Narrative in Early Rabbinic Exegesis

Natalie B. Dohrmann  
*University of Pennsylvania*, [dohrmann@sas.upenn.edu](mailto:dohrmann@sas.upenn.edu)

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### Disciplines

Jewish Studies | Legal | Religion | Religion Law

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Natalie B. Dohrmann\*

## Abstract

Rabbinic literature shares a suggestive array of literary features with later Latin literary sources: commentary, fragmentation and quotation, and a granular attention to language. In this material narrative tends to be lost; classical source texts, such as Vergil, are fetishized, broken apart, and repurposed. In this essay I ask of one corpus—early rabbinic midrash (biblical commentary)—what is the origin and impact of its fragmented and finally incoherent narrative project? At the risk of over-simplifying, I will focus on the rabbis as a case study in the etiology of a more general phenomenon. I will argue that the fragmentation so typical of aggadic midrash is the result of the application of a specifically legal hermeneutic to nonlegal, specifically narrative, sources. As a result, rabbinic midrash beginning in the third century consistently undercuts its own narrative aims. Metaliterary, anthologized, pastiched, commentarial forms become standard in the late antique Roman repertoire, with rabbinic texts we can historicize and contextualize one such transformation, and in so doing center law, legal thinking and forms into literary genealogies.

## I. Introduction

Scholars of Judaism in the first centuries of the Common Era have long since banished the theologically laden name *Spätjudentum* to describe their object of study. If, however, we think midrashically, the term draws us usefully to *Spätantike* and invites comparison to its attendant struggle with the similar, though more subtly pejorative, moniker. The reference to the “late” (*spät*) in both terms encodes a sense of derivation, depletion—in aesthetics and cultural vitality. In a 2011 essay, Marco Formisano writes a synthetic introductory phenomenology of the Latin literary landscape of the fourth to seventh centuries.<sup>1</sup> He challenges the field not only to slow down when moving from classical to medieval literary cultures, but to take up the challenge posed by this odd library to classically molded sensibilities. By ignoring or merely mining this material, scholars fail to reckon with their biases, resulting in a literary aesthetics anachronistically applied. The classicizing projections and expectations of the field leave it deaf, says Formisano, to the distinct literary

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\* Natalie B. Dohrmann teaches in the departments of Religion and History at the University of Pennsylvania. She is associate director of the Herbert D. Katz Center for Advanced Judaic Studies and coeditor of the *Jewish Quarterly Review*. Thanks go to the contributors to this volume, whose comments in a workshop at the University of Chicago’s Franke Institute were invaluable, and to Clifford Ando for engaged critical reading.

<sup>1</sup> Marco Formisano, *Late Antiquity, New Departures*, in *Medieval Latin Literature* (Ralph J. Hexter & David Townsend eds., 2011).

voice of late ancient cento, commentary, grammar, or panegyric. Rabbinics suffers the inverse problem, with not dissimilar results. An equally counter-classical and difficult literature, one that shares many formal elements with the later Latin corpus (with critical differences as well), rabbinic literature is too easily assimilated by field practitioners who, for the most part, were raised in the argots of rabbinic literary convention. As a result, the ways Mishnah (law code) and midrash (bible commentary) represent stark departures from antecedent forms, and the strains evident from this refusal, as well as what this material may have to offer to mostly Latin congeners, are stories unheard, untold.

Formisano is among a small cadre of scholars urging us to reappraise late ancient Latin forms using belles-lettristic lenses to productively destabilize regnant models of what is “literary.” A similar ambition has animated studies of midrash since the poststructuralists discovered it in the 1980s, in part to find a Western exemplar that in its attention to language, surfaces, and words, offered a Derridean antidote to logocentrism.<sup>2</sup> Despite expected overreaching in some of these approaches, these are first steps in drawing literary attention to midrash, until then largely neglected in Jewish studies, and even more invisible to comparative (ancient) literature.

While the earliest rabbinic material predates most of the Latin literature in Formisano’s focus, the two literary fields may, nonetheless, be productively juxtaposed. While they share several literary features, we can situate rabbinic literature historically in ways that make it a useful case for comparison. The tannaitic corpus, emerging at the turn of the third century, represents a rupture from the Jewish literature that precedes it in content and form. Moreover, it also explicitly signals its isolation from antecedent and contemporary literatures outside its strict boundaries. The material records a literary transformation in process. The corpus thus offers a historical and evidentiary bottleneck, where we might examine the progressions moving one literary world from more “classically” narrative-driven forms to fragmentation and linguistic surfaces. Rabbinic literature represents an opportunity to contemplate the potential causes for this constellation of attributes in one exemplum.

While my interests in this paper are formal and literary, I aim to show that early rabbinic literature manifests a tension between conflicting literary modes that marks its historical liminality and transitional aspirations and struggles. I will also argue that the tension that marks rabbinic literary form is driven in no small measure by the hermeneutical gestures, habits of mind, evidentiary logics, and paradigms of law. In the end, while the parallels between midrash and other late (largely) Latin literature are suggestive, reading the discrete genealogies of shared phenomena may open up new vistas. I aim to historicize (and nomicize) one exemplum of the sort of fragmented bricolage so endemic to late ancient textuality.

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<sup>2</sup> Midrash and Literature (Geoffrey Hartman & Sanford Budick eds., 1986); Susan Handelman, *The Slayers of Moses* (1983); David Stern, *Midrash and Indeterminacy*, 15 *Crit. Inq.* 132 (1988); Daniel Boyarin, *Intertextuality and the Reading of Midrash* (1990).

Tannaitic literature shares an evocative array of literary features with later Latin literary sources: commentary, fragmentation and quotation, and a granular attention to language. In this material narrative tends to be lost; classical source texts such as Vergil are fetishized, broken apart, and repurposed. In this essay I ask of one corpus—early rabbinic midrash—what is the origin and impact of its fragmented and finally incoherent narrative project. At the risk of over-simplifying, I will focus on the rabbis as a case study in the etiology of a more general phenomenon. I will argue that the fragmentation of narrative so typical of midrash is the result of the application of a specifically legal hermeneutic to non-legal, specifically narrative, sources. As a result, rabbinic midrash beginning in the third century consistently undercuts its own narrative aims. Metaliterary, anthologized, pastiche, commentarial forms become standard in the late antique Roman repertoire, with rabbinic texts we can historicize and contextualize one such transformation, and also center law, legal thinking, and forms into literary genealogies.

In 66 C.E. and again in 132 the Jews mounted major uprisings against Rome. The Romans in turn wreaked devastation—ultimately eliminating the last shreds of Judean political autonomy, razing the Jews' sacrificial center in Jerusalem, and shattering its political and religious elite. By the turn of the third century a small group of ambitious but inward-looking sub-elites in Roman Palestine emerge, who eventually succeed in reshaping Judaism for a new age. Through their powerful drive to reorient the faith, Judaism becomes a religion of law and purity, prayer and domestic ritual, and not of sacrifice. Torah replaced Temple as the most potent sacred center of the faith, and its study provided the adept a new access point to God and his will; the rabbis work to unseat the priest as mediator of the divine. Key to the transformation asserted by rabbinic Judaism was the privileging of law and legalism as the defining priorities of religious life, study, practice, and discourse.<sup>3</sup>

Prior to the rabbis, Second Temple Jews (515 B.C.E. to 70 C.E.) produced a vibrant and extensive Jewish library. Composed in Hebrew, Greek, and Aramaic, this literature represents a wide range of genres, many of them narrative—history, epics, novel, apocalyptic literature, and chronicle—as well as other sapiential, philosophical, oracular, poetic, and quasi-scientific materials. Of that library, the rabbis chose to preserve only those books that represented, and came increasingly to be reified as, the canonical Jewish scriptures. They banned the rest, at times explicitly, but largely through praxis<sup>4</sup>—non-“biblical” literature is not cited, and where traces appear, sources are carefully swept over, their footprints hardly visible. Canonization then was an aim of the rabbis as a class; tannaitic midrash not only relies on and defers to canonical authority, but creates it.

The rabbis' substantial literary remains are themselves strikingly discontinuous with previous literature. In the second to the fourth centuries, the earliest generations, known as the *tannaim*, produced and promulgated a fairly robust literature. They composed in Hebrew (the later generation *amoraim*, 4th-7th c., wrote in Aramaic), and worked,

<sup>3</sup> Natalie B. Dohrmann, *Law and Imperial Idioms*, in *Jews, Christians and the Roman Empire* 63 (Natalie B. Dohrmann & Annette Y. Reed eds., 2013).

<sup>4</sup> E.g., Mishnah Sanhedrin 10.1; cf. James H. Charlesworth & Lee Martin McDonald, *Sacra Scriptura* (2013).

broadly, in two modes: legal-scholastic (Mishnah and Tosefta), and exegetical (midrash). The former terms name collections of law and legal opinion organized by topic, stated apodictically, and largely divorced from (explicit) scriptural authority. While preserving some named traditions and debates, the legal material is statutory in focus, stating and applying law, defining and expanding its categories so that all questions may be run through its distinctive thought processes and categories. The latter term (tannaitic midrash) is biblical commentary. Though lacking power, which strips its law (*halakhah*) of a constitutive marker *qua* law, the rabbis nonetheless produce a recognizably legal corpus. Tannaitic *halakhah* builds, analyzes, and enumerates a large set of regulations governing Jewish life on nearly every level from religious laws of purity and domestic ritual, to civil and criminal law. This paper takes as its object the midrash/exegesis. There are preserved commentaries on the four legal books of the Pentateuch (excluding Genesis). The same small cadre of scholars that compose the Mishnah, Tosefta, and legal midrash is responsible as well for a body of lemmatic commentary on the non-legal stretches of the Bible.

I have as my larger project an exploration of the particular and saturating nomicization of Judaism effected by rabbinic literature. For the rabbis, law is the primary language of the divine, and legal expertise affords the closest intimacy with God's intentions. The study of law is an efficacious ritual offering and the most valued vocation. In addition to whole swaths of antecedent literature, in their elevation of legalism, the rabbis marginalize other types of holy man and sacral expertise (among them priests and prophets). In the rabbinic imaginary, Judaism is fused with legalism, Torah with *halakhah*, and gnosis with legal proficiency. While the rabbis were granted no legal sanction or jurisdiction—either by Rome or by the vast majority of fellow Jews—the broad and confident claims made by their legal literature are too often blunted before being reckoned with, and the logic of law not carried sufficiently through any analysis of the rabbis in relation to empire, culture, and, as I hope to show here, literary form.

This essay focuses on the meaning and impact of legal scholarly *paideia* and reading practices on the commentarial output of the early rabbinic class, with a focus on fragmentation and the disruption of narrative. A cultural commitment to law shapes the telling of narrative/history on two fronts: first is the need for law to deal in categorical analysis and transportable cases. In a law code, narrative passages tend to be supplemental and explanatory, not central. Second, the formal habits of legal thought and exegesis work systematically against the construction and maintenance of stabilizing narrative. The impact of this tendency, when applied to biblical narrative, is the production of literary forms that, I argue, were neither predicted nor entirely controlled (though they are eventually domesticated).<sup>5</sup> I will suggest ways that the subordination of narrative to law serves the rabbis' particular positioning vis-à-vis other knowledge/power regimes.

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<sup>5</sup> Azzan Yadin-Israel, *Scripture and Tradition* (2014); cf. Steven D. Fraade, Response to Azzan Yadin-Israel on Rabbinic Polysemy: Do They "Preach" What They Practice?, 38 *Ass'n Jewish Stud. Rev.* 339 (2014).

## II. Nomos

Midrash operates largely in two differently anachronistic registers: the legal/paradigmatic, and the scriptural *illo tempore*.<sup>6</sup> Historical events are thus difficult to extract from these materials. Easier however is the discernment of the social forces and ideals the literature itself exerts: especially the primacy of law and of Scripture (the two not easily disambiguated). The God of Israel appeared on Mount Sinai and delivered a set of laws to the nascent nation. The rabbis generalize this conflation of God's speech with law, making law into his primary language. Legal authority for the rabbis has three interconnecting sources, all tying back to the divine: Torah (Pentateuch), laws handed down through tradition, and the rabbi himself, who transmits, translates, and derives law for new applications (and again, these three are at times difficult to disentangle). The only named authorities in the material are individual rabbis and Scripture.

In this section I want to set out the formal features and drivers of the tannaitic legal commentarial corpus. In the next I will show how the inconsistencies and distinctive development of the aggadic (nonlegal) passages may be explained by seeing it as a narrative project thwarted or distorted—even if with ultimately auspicious results—by a legal one.

Although the sources show traces of rival subgroups, schisms, and approaches,<sup>7</sup> differences are more visible from within than without, and debates revolve in a shared idiom and around a fairly narrow set of shared concerns. My examples are drawn from one of four halakhic midrashim from the tannaitic era, a commentary on the book of Exodus (from chapter 12 to the end) known as the Mekilta de-Rabbi Ishmael (3d c. C.E.). Exodus is the core of the biblical salvation epic, as well as being the first full-fledged articulation of a legal code, the so-called covenant code.<sup>8</sup>

Legal material takes up a little over half of the commentary in lines, but it saturates the mentality of the document. I will focus on three core aspects of legal interpretation: (1) paradigmatic reasoning, (2) atomistic treatment of sources, and (3) a dialogic compositional structure. Before defining these, however, it is important to see the impact of the emergent idea of rabbinic Scripture as a shaping factor for all three. For the early rabbis, Scripture is not fixed. They inherit a set of increasingly closed and significant texts that they know as Torah (Pentateuch). But beyond those five books, their exegetical project also involves the work of canon building. The flip side of their refutation of texts that they deem “outside” is the curation of a set of texts now deemed acceptable, scriptural. The rabbinic exegetical project links a set of texts, what we call the bible, into canonical

<sup>6</sup> An exception to this being sage stories, which have their own expected historiographic problems.

<sup>7</sup> Shaye J.D. Cohen, *The Significance of Yavneh and Other Essays in Jewish Hellenism* (2010); Daniel Boyarin, *Border Lines* (2004); Adiel Schremer, *Avot Reconsidered: Rethinking Rabbinic Judaism*, 105 *Jewish Q. Rev.* 287 (2015).

<sup>8</sup> *Mekhila d'Rabbi Ismael cum variis lectionibus et adnotationibus* (H.S. Horovitz & I.A. Rabin eds., 1960) [citations will include the chapter name, subsection, then H-R plus page number]. Translations are my own adaptations of *Mekilta de-Rabbi Ishmael*, 3 vols. (J.Z. Lauterbach ed., 1933-35).

parity and importance. Scripture, in sum, is not a given, but is a product of rabbinic hermeneutics.<sup>9</sup>

### A. Scripture

J.Z. Smith observes how canonical closure transforms religious practice, which in turn alters canonical content from a set of meaning-driven utterances (*parole*) into a functional lexicon (*langue*) that generates, precisely through closure, a new landscape of semantic possibility.<sup>10</sup> It is certainly true in the rabbinic case that the silencing of rival textual authorities drives commentarial innovation, as the reader must make a static and increasingly belated document answer to a dynamic history. Canonical closure thus operates on two fronts: it both drives exegetical development and alters the basic nature of the base text.

Woolf and König, further, hypothesize that classical encyclopaedism is a reaction to the seductive but overwhelming proliferation of books around the turn of the Common Era.<sup>11</sup> This is a productive line for rabbinic scholarship to pursue, with caveats. The Latin tradents, in the earlier period especially Varro and Pliny, but later exemplars as well, obviously revere the many books they draw on for their own work, even as they epitomize and in effect displace them.<sup>12</sup> The rabbis, by contrast, revile them. Yet even as the sort of procedural comprehensiveness of law (and philosophy) differs from the accumulative drive of the universal historian or the writer of technical manuals, there is still a sense of a similar catalyst at play. Beyond the encyclopaedic, another response to the proliferation of books (we lump together here an anxiety of sheer numbers and doctrinal threats)

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<sup>9</sup> A note on Scripture: though the content of the books of the Hebrew Bible were long in existence and circulation in some form by the second century C.E., they were far from fixed. From community to community, we see a range of texts functioning as core texts, and a range of variants in common ones. These include, most famously, materials not a part of the current canon, such as Jubilees and the Enochic material. The library of the Dead Sea sect is illustrative in this regard. This discussion does not even broach the impact of the oral transmission of the “biblical” in this era. This context makes the rabbinic reliance on Scripture as a defining authority worth pause. Before even assessing the way they engage it as readers, in their circumscription of Torah and concurrent banishment of other literatures, the rabbis are in critical ways defining and creating a canon as much as they are referencing it. Given that the halakhic midrash is restricted to material of a legal nature, and to the authority of the Sinaitically revealed pentateuchal texts, it can only do this canon-making on a small scale; Numbers, for example, can perhaps be raised up with Deuteronomy in stature and authority. But these alterations are small compared to the range exerted by aggadic intertextuality. It is by borrowing the heft of Torah materials and attaching them exegetically to distant moments, that the contours of the canon come into view. Through commentary, quotation, analogy, and dislocation, apparently marginal works like Judges, Esther, and Obadiah are made as authoritatively aggadic as more culturally significant works such as Genesis, Exodus, and Deuteronomy.

<sup>10</sup> Jonathan Z. Smith, *Sacred Persistence*, in *Imagining Religion* 36 (1982); cf. Greg Woolf & Jason König, Introduction, in *Encyclopaedism from Antiquity to the Renaissance* 1 (Greg Woolf & Jason König eds., 2013).

<sup>11</sup> Woolf & König, *supra* note 10; cf. Greg Woolf, *Tales of the Barbarians: Ethnography and Empire in the Roman West* (2011).

<sup>12</sup> Doron Mendels, *How Was Our Collective Memory of Ancient History Formed?*, in *Doron Mendels, Memory in Jewish, Pagan, and Christian Societies of the Greco-Roman World* 1 (2004); see also Clifford Ando, *Roman Social Imaginaries: Language and Thought in Contexts of Empire* 66 (2015).



is to forbid or silence them. The rabbis accomplish this by (a) shifting into an oral mode in both theory and practice; and (b) by declaring Scripture the only licit books.<sup>13</sup>

The rabbis are interested in understanding and applying God's will, which they understand to be articulated largely through his law. Their work then is to determine the nature and claims of the (pentateuchal) law,<sup>14</sup> and to the extent possible to "operationalize" it.<sup>15</sup> It is in this textual landscape that I turn to the legal midrash. The work of exegesis is one of translation, and though perhaps on the surface a more demure form of engagement than the creation of new material whole cloth, it is of course a violent and assertive act. Canonical closure highlights and intensifies these disruptions.

### 1. Paradigmatic Reasoning

Given that the biblical text contains the law, the rabbis, as self-appointed brokers, develop tools for determining its precise content. As explained by Chaim Saiman, their

reasoning process involves (to use the modern lawyer's terminology), reading statutory language, examining relevant case law, identifying the latent ambiguities and employing conventional forms of legal analysis to arrive at a conclusion. Thus, even as the Talmud's initial premise (reading the Bible as a legal text) might be a bit foreign . . . once the basic framework is accepted, there is little in the rabbinic process that surprises the classically-trained [21st c.] legal mind.<sup>16</sup>

Saiman's words are equally applicable to the early midrash. Given the restrictions of canon, the law is derived through a meeting of text and tradition, through identification and analysis of the "relevant case law" that is embedded in the national epic. The laws of damage caused by moveable or immovable property, the execution of a murderer, the punishment for breaking and entering, and the making of oaths are determined through the collocation of texts deemed relevant, drawn from across Scripture, and determined by the reader's unique notion of likeness. Absent non-biblical textual authority, the Torah becomes for them a self-glossing textual universe.<sup>17</sup> I make this very obvious point only to underscore that the anthology of relevant texts is collocated without regard to the extended context from which the word or verse is drawn or its relation in temporal terms to the order of revelation, or its place in the unfolding of the national drama.

*One who smites a man* (Ex 21:12). This could mean even (*af*) a minor who smites. But Scripture teaches (*talmud lomar*) "if a man smites anyone" (Lev 24:17). This excludes a minor.<sup>18</sup>

<sup>13</sup> Martin Jaffee, *Torah in the Mouth* (2001); Natalie B. Dohrmann, Can "Law" Be Private? The Mixed Message of Rabbinic Oral Law, in *Public and Private in Ancient Mediterranean Law and Religion* 187 (Clifford Ando & Jörg Rüpke eds., 2015).

<sup>14</sup> The rabbis only derive law from the Pentateuch (*Torah*), rendering it effectively first among scriptural equals. See *supra* note 9.

<sup>15</sup> Chaim Saiman, *Jesus' Legal Theory: A Rabbinic Reading*, 23 *J.L. & Rel.* 97 (2007).

<sup>16</sup> *Id.* at 109.

<sup>17</sup> Boyarin, *supra* note 2, at 40.

<sup>18</sup> *Mekilta Nezikin* 4 (H-R 261).

Two similar laws of assault show up in the Pentateuch. Leviticus 24:17 is of immediate relevance to Exodus 21:12. The first, *one who smites*, could, given the unmarked “one,” include a minor. The second, *if a man smites*, thus comes to clarify and restrict this potential reading. The midrash aggregates the verses as part of disambiguating any apparent redundancy. In narrative terms, the fact that the second law is revealed in another place and time is immaterial and unexplored. Time and sequence, in short, are removed or marginalized in legal argument and reasoning.

## 2. Atomistic Treatment of Sources

The limitations and opportunities of canon are especially acute when one looks closely at the anthological webs that define a series of legal canons within the canon. Analogy and anthology in the Mekilta’s halakhah are interrelated modes of building meaningful complexes of texts and concepts. The pervasive nature of these forms of legal reasoning and legal construction opens the text to a potentially boundless field of new associations and meanings.

In deciphering connections between prooftexts, one can make out a theory of Torah that animates them. Torah, for the rabbis, is not bound by the syntax or even grammar of the revealed text. More often than not, to read according to plain sense is the easiest way to misread the law. As a heuristic, I have invented a Torah-like verse that reads:

If a man releases his ox into his neighbor’s field, he must pay restitution for double the crops consumed.

Though a lawyer can imagine many ways to interrogate and tighten the referents of such a law, it is on its surface straightforward. For a tannaitic exegete, however, Torah is God’s language and follows its own set of rules. If God wrote this and meant simply what it appears to mean, then he is an exceptionally flabby stylist. To read the plain sense of this imagined verse is to misread. For example, for whose ox besides “his” own would our “man” be responsible? The possessive pronoun, therefore, must bring counterintuitive information. Likewise, the second “his” must bring something significant; who is the antecedent/owner of the ox? And similarly why “his” neighbor and not “a” neighbor? Does “neighbor” indicate ethnic or physical proximity? “Double the crops” is a rare phrase, and thus every instance is relevant. Further, because the spelling of “double” in Hebrew is atypical, it suggests the exegetical relevance of other instances of this orthographic irregularity. The list would go on. In order to clarify a law like this, the rabbis may hang five or ten codicils and cognate laws on the hooks proffered by each word, phrase, pronoun, article, or even vowel.<sup>19</sup>

Divine text, once closed, is in perilously short supply. The legal canon cannot afford the luxury of syntax, and it is wary of common sense.<sup>20</sup> Since the canon is asked to

<sup>19</sup> For a close reading of an actual such passage, see Natalie B. Dohrmann, *Reading as Rhetoric in Halakhic Texts*, in *Of Scribes and Sages* 90 (Craig A. Evans ed., 2004).

<sup>20</sup> In its disregard for syntax and focus on linguistic patterns it is both like and unlike the work of the grammarians. See Robert A. Kaster, *Guardians of Language: The Grammarian and Society in Late Antiquity* (2007).

contain multitudes, no iota can be wasted. The range of things with semantic potential thus grows. Torah for the rabbis is a particularly dense and economical language. The verse qua verse is not presumed to be a bearer of singular meaning but rather is a hub, bristling with linguistic deictics that cue the properly trained reader to distant texts that together comprise a fleshed out legal complex. What counts as its context, and the extent of the lexical unit, are elastic.<sup>21</sup>

### 3. Dialogic Compositional Structure

Like other late ancient literatures, halakhic interpretation “exalt[s] the verbal nature of existence and launch[es] any kind of discourse unto the universe of written words.”<sup>22</sup> The smallest textual datum is part of a broad halakhic grammar that transcends that of conventional writing. Analogy, driven by linguistic as well as categorical likeness, is the process by which legal contexts (internal anthologies) are constructed from these data. Together with this exegetical methodology, the legal raw material is given shape by the halakhah’s regular forms.

Mekiltan legal rhetoric is shaped predominantly by a series of staged debates that set up the correct reading of a passage by offering a false reading and then systematically refuting it. This form operates to secure the authority of the dominant voice, while simultaneously breaking down rival ways of reading/knowing. What the Mekilta tells us are *mis-readings*, depend on a combination of common sense and conventional notions of syntax, grammar, and reason (*din*).

The structures of the Mekilta’s dialogic style are repetitive, rhythmic, and rhetorical. The forms signal to the reader not only what the law is but how to derive it. “You might reason (*ata din*) that X . . . but the text teaches (*talmud lomar*) Y” (in which Y is the correct reading); “it is possible (*yakhol*) that X . . . but the text says (*talmud lomar*) Y”; “I might understand (*shome’a ani*) X . . . but the text says (*talmud lomar*) Y”; “Why is this said? (*lama ne’amar*) . . . therefore the text teaches (*talmud lomar*) Y”; “Could it mean even (*af*) X? . . . no, the text teaches (*talmud lomar*) Y” are the key terms of art.<sup>23</sup> Use of the second and first person voice keys the patterns’ didacticism.

Through such forms the rabbi is trained to dissociate scriptural words and phrases from their source context and to re-embed them into a rabbinic legal Torah, shattering the linear text and recombining it like a mosaic. In this way scriptural meaning is controlled both *as well as* and *by means of* the exegesis—rabbinic sages are disciplined at the same time as is the text itself.

<sup>21</sup> A single verse can contain several rabbinic laws, not because it is polysignificant, but because it is supersignificant.

<sup>22</sup> Formisano, *supra* note 1, at 513.

<sup>23</sup> Alexander Samely, *Scripture’s Implicature: The Midrashic Assumptions of Relevance and Consistency*, 37 *J. Jewish Stud.* 167 (1992); Natalie B. Dohrmann, *Law and Narrative in the Mekilta de-Rabbi Ishmael* (1999); cf. Clifford Ando, *Exemplum, Analogy, and Precedent in Roman Law*, in *Exemplarity and Singularity* 111 (Michèle Lowrie & Susanne Lüdemann eds., 2015).

*And if a man opens a pit* (Ex 21:33): Why is this said (*lama ne'amar*)? Even if it had not been said, I could have reasoned (*yesh li ba-din*): since the ox is his property the well [pit] is his property [cf. Ex 21:28]. If you learned that he is liable for his ox, is he not liable for his pit? No. If you say, the way of an ox is to walk and to do damage, you must say of the pit that it is not its way to walk and do damage. Therefore the text says (*talmud lomar*), *If a man opens a pit or if he digs*. Now, because I could not gain (earn/merit) the answer through logic, Scripture (*ba-katum*) must bring it.<sup>24</sup>

Exodus 21:33 attributes liability to a man for damage caused by a pit, which he has either dug or left uncovered. Our first voice suggests that this verse simply reiterates what we learned in a previous law, namely that a man is liable for any damage done by his ox (Ex 21:28-29; H-R 280-81). Since ox might stand in for any and all damage-causing property, couldn't one reasonably deduce pit from ox? We know of course that God's speech is preternaturally economical—no verse is redundant. So along with the rhetorical flagging (*lama ne'amar* introduces a false conclusion), the set-up begs doubly for refutation. The initial line of reasoning is indeed flawed—it has miscast pit. “Property” is too clumsy a rubric, and “pit” too unlike “ox” to call down identical sanction. Liability is in fact dependent on the nature of the damager, as is proved by the discrete articulation of the law concerning pits. The redundancy is eliminated through disanalogy, and a model for the generation of proper categorization is initiated and authorized by the proof-text.

These rhetorical and compositional patterns rely on the subversion and reversal of an initial opinion, most often by a proof-text whose polemical stance is introduced by the phrase “[but] a text says/teaches.” *Talmud lomar* is an awkward phrase to translate, meaning more literally something like “a teaching says.” I translate *talmud* as Scripture/text to emphasize the source of the “teaching.” But the phrase does more than introduce a definitive scriptural refutation. Its pedagogical and legal function is more nuanced. The verse brought by the *talmud lomar* is necessary to counter or supplement a logic (*din*) deemed misleading or inadequate. That is, Scripture encodes and anticipates human error, either the error of reading Torah as a normal text, or of reading like a non-guild member. The pericope casts natural reasoning against Scripture, mediated by rabbinic habit—one must employ logic, but a logic redirected by a recast notion of biblical speech, and reemphasis of the proof-text.

Proper collocation of verses is an audacious act of exegetical possession. The lemma is rightly owned/earned in the very act of reading midrashically. The grammatical agent is Scripture, acting as a rabbi by *citing itself* in defense of correct interpretation. Only when rabbinically disassembled and reassembled with its proper co(n)texts, does the text (God) express its true meaning in a form that human thought will rightly apprehend.

### **B. Legal Paideia**

At the same time as they break down and reconstitute the Torah as a rabbinic law code, the rhetorical dialogues serve to break down and reconstruct the reader as a rabbi.

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<sup>24</sup> Mekilta Nezikin 11 (H-R 287).

So while we have little preserved that tells us explicitly about rabbinic education,<sup>25</sup> these midrashim show their work as it were, and we see how the rabbinic reader is molded through rhetorical habits reinforced through guided misreadings. The dialogue form then brings one or more possible interpretations (contexts, logics, and analogical links) to bear in order to control a monovocal end. They are fixed fights.

The question of how education serves and conversely helps shape elite culture has been studied from several angles.<sup>26</sup> In halakhic exegesis the rabbis take the restrictions of canon as an opportunity to reshape and control it. This dynamic is clearly educational—teaching the reader not only how not to read the text, but also reliance on the rabbinic text broker as guide.

For the tannaim, law is the deep structure of divine creation. Analogical and paradigmatic thinking, atomizing, and recombinant constructions all contribute to the construction and maintenance of a revealed legal text adaptive to a rabbinic present. The rabbinic investment in law communicates a culture that privileges legal skill and legal reading, creating an elite with distinctive habits of thought.<sup>27</sup> These habits drive non-legal (aggadic) midrash—to sometimes counterindicated destinations.

### III. Narrative

“You are my eternal Father, but I am scattered in times whose order I do not understand. The storms of incoherent events tear to pieces my thoughts, the inmost entrails of my soul.”<sup>28</sup> If, as Fredriksen points out when commenting on this sentiment of Augustine’s, coherence of a scattered experience comes only through the selective forgetting and ordering power of memory, then with the rabbis we see something rather different. With Augustine, time is given a certain meaning and coherence through the limited and limiting apprehension of the self. When selection or forgetting fails, the self is rent asunder, as is Borges’s Funes the memorious.<sup>29</sup> Through the anxieties of Borges and Augustine we perceive the necessary elements of narratology *in nuce*: time, selection, and a coherent subjectivity combine to permit story: one animated and defined by continuity of character,

<sup>25</sup> Moses Aberbach, *Ha-Hinuk ha-yehudi bi-tekufat ha-mishnah v'ha-talmud* (1982); Catherine Hezser, *Private and Public Education*, in *The Oxford Handbook of Jewish Daily Life in Roman Palestine* 465 (Catherine Hezser ed., 2010).

<sup>26</sup> Henri-Irénée Marrou, *Histoire de l'éducation dans l'Antiquité* (1948); Maud Gleason, *Making Men* (2008); Kaster, *supra* note 20; Catherine M. Chin, *Grammar and Christianity in the Late Roman World* (2008); cf. Martin S. Jaffee, *Torah in the Mouth* (2001); Steven D. Fraade, *From Tradition to Commentary* (1991); Amram Tropper, *Wisdom, Politics, and Historiography* (2004).

<sup>27</sup> In this essay I have not addressed the early non-exegetical corpus (Mishnah and Tosefta)—and there is much to be mined in this regard.

<sup>28</sup> Saint Augustine, *Confessions* 11.29.39 (Henry Chadwick trans.) (quoted from Paula Fredriksen, *Augustine and Israel: Interpretatio ad litteram*, Jews, and Judaism in Augustine’s Theology of History, in *St. Augustine and His Opponents: Other Latin Writers* 119 (M.F. Wiles et al. eds., 2001)).

<sup>29</sup> It is especially delightful, and not insignificant, that Funes’s undigested reality is first expressed in perfect Latin: he recites from Pliny’s encyclopedic *Historia Naturalis*.

change, and telos. In the Bible, historical memory is preserved in a cohesive scriptural epic. At the hands of the rabbis it is shattered into a “storm of incoherent events.”

Countless books and articles have been written about rabbinic narrative.<sup>30</sup> The novice would be forgiven for thinking that the rabbis operated on a field of narrative. In fact, though studded with hard-working incidental stories (parables, exempla, explications),<sup>31</sup> the grand project of rabbinic literature is emphatically non-narrative, even counter-narrative. Even in the later amoraic materials, no single rabbinic story exists in the entire vast corpus that runs more than two pages, and these epics are by far the exception. In the tannaitic material we get not even that opulence. What passes as a standard rabbinic “narrative” extends no more than a few lines, and once told, its contents and trajectories are promptly forgotten, and the agon developed in one place is never necessarily relevant elsewhere.<sup>32</sup> As Harris writes, midrash is all “*ad hoc* and *ad locum* in the sense that there is no attempt to impose consistency within a document or across documents.”<sup>33</sup> Extant scholarship on rabbinic narrative works by paying meticulous attention to the micronarratives that appear throughout its texts, but this scholarship neglects the way that, when one steps back, narrative, and especially the biblical narrative, is profoundly at odds with the methods, outcomes, and priorities of the material as a whole.

The reading of non-legal passages in Exodus is marked by the same dynamic, paradigmatic, atomizing, polyvocal elements we saw above. The rabbi solves questions posed to the narrative portions of the bible by constructing a network of intertexts.

In the halakhic context, closure ontologically transforms the revealed text into sacred lexicon—the distinctive grammar of God’s speech creates a metatextual legal syntax that that is scrambled or occluded by the verses if read according to their plain sense. This is not dissimilar to how the grammarians and cento writers interacted with Vergil et al.<sup>34</sup> For example, Chin writes that “the idea of grammar then is what makes a text bigger on the inside than on the outside, by allowing the reader to enter between and beneath the words of the text, and positing a space in which the reader, however temporarily, can find

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<sup>30</sup> See, e.g., Yonah Frankel, ‘Iyunim ba-‘olamo ha-ruhani shel sipur ha-agadah (1981); Joshua Levinson, *Ha-sipur she-lo supar: Omanut ha-sipur ha-Mikra’i ha-murhav be-midreshe hazal* (2005); Jeffrey Rubenstein, *Talmudic Stories* (1999).

<sup>31</sup> Cf. Ari Z. Bryen, *When Law Goes off the Rails: or, Aggadab Among the iurisprudentes*, 3 *CAL* 9 (2016).

<sup>32</sup> It is premature here to turn to liturgy as a solution, though there is certainly a stabilizing energy in the *historia sacra* encoded in the holiday cycle. But a few elements push us to resist “solving” this by presuming some great unifying story: (1) law; (2) relation of law to time (and messianic time especially); (3) need of amoraic tradents to justify, theorize and theologize the unruly proliferations of interpretations—clearly a drive to defang the threat there imposed (indeed it is only here that we find the beloved polysemy that so attracted the theoretical sojourners—among them Hartman, Bloom, Handelman, Derrida); (4) discomfort that drove medieval commentators such as ibn Ezra to delegitimize aggadic excess.

<sup>33</sup> Jay Harris, *How Do We Know This?* 23 (1995).

<sup>34</sup> Catherine Chin, *Grammar and Christianity* (2008); Peter Stein, *The Relations Between Grammar and Law in the Early Principate: The Beginnings of Analogy*, 2 *La critica del testo* 757 (1971).

utopia.”<sup>35</sup> Replace “grammar” here with “halakhic hermeneutics” and the canonical and linguistic find common ground in the vast space opened up by words divorceable from context.

The rabbis set mechanisms in place to limit semantic proliferation.<sup>36</sup> Dialogic forms and the careful regulation of divine meaning had several effects. The pseudo-debate demonstrates but then swiftly disables the freedoms engendered by analogical analysis. That divine speech is never redundant contributes to making legal verses into lists of legal lexemes. By dramatizing the diverse comparisons and cotexts/contexts that might be used to create a legal argument (even one destined to be discounted), the dialogue also dramatizes the exegetical potential unleashed by rabbinic analogy. In other words, the preservation of losing positions gives the reader an impression of semantic lushness not severity, of an expanded potential that belies its monovocal reality—the potential boundlessness of analogical reasoning is curbed when folded into literary formulae that promise legal stability. Polyvocality is checked by the dramatic devaluation of positions and the rhetorical display of epistemological confidence.

When we turn to aggadic midrash, we find the same exegetical vocabulary, minus the commitment to and deployment of mechanisms for limitation and adjudication. This may be unremarkable; aggadic exploration was, after all, of secondary cultural importance. We may theorize that just as the legal verse was a storeroom of legal opinion, so the non-legal verse becomes a sort of miscellany of lore that does not obviously demand resolution or selection. The verse is then conceived as a sort of *aide memoire* of homiletic memes.

However, time, to put it bluntly, complicates this picture. Where legal dissolution and reconfiguration reshape biblical laws into rabbinic laws, whose shared logic is categorical, the same gestures on other parts of the narrative corpus shatter the temporal but cannot repair it. Interestingly, the Mekilta’s aggadah reveals twin desires in tension with the proliferation of disconnected interpretations unleashed by its reading habits. First is the desire of the exegeted text itself to tell a story; and second is the demonstrable desire of the rabbinic reader to understand it as such.

Exodus is a tale is of a journey bounded by a beginning, slavery, and an end: Torah, freedom, nationhood. These poles are connected by trials, reversals, and resolutions, navigated by complex characters. The tale conforms exactly to J. Hillis Miller’s definition of plot: “[T]here must be an initial situation, a sequence leading to a change and reversal of that situation, and a revelation made possible by the reversal of that situation.”<sup>37</sup> Just as the halakhic gesture is sparked by a question, so too is the aggadic. When assessed locally, it becomes apparent that the questions most often asked when faced by a lemma have almost mundane narrative concerns. Motive, character, sequence, and telos are central.

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<sup>35</sup> Chin, *supra* note 34, at 169.

<sup>36</sup> Praxis in some cases also limits and directs exegesis.

<sup>37</sup> J. Hillis Miller, *Narrative*, in *Critical Terms for Literary Study* 75 (Frank Lentricchia & Thomas McLaughlin eds., 1990).

### A. Time

Questions pertaining to *mutbos*/plot are consistently frustrated by the means used to answer them. The rabbinic reader will regularly pull a verse out of one context to serve another, or move an event about in time. Midrashic exegesis often means that stories are told “over there,” on the dislocated turf of a proof-text. With this in mind I want to look at some typical ways tales are twisted in midrashic aggadah, with special reference to the question of sequence.

*And Jethro, the Priest of Midian, father-in-law of Moses, heard what God had done for Moses and for Israel his people (Ex 18:1a)—What report did he hear that he came? He heard of the war with Amalek, which is written beside it, and came. The words of Rabbi Joshua. Rabbi Eleazar of Modiim says, He heard the giving of Torah and he came. At the time that Torah was given to Israel, all the kings in the world trembled in their palaces, as it says And in his palace everyone says “Glory!” (Ps 29:9).<sup>38</sup>*

Having traveled through the wilderness for nearly three months, the Israelites arrive in Refidim, the campsite just before Mt. Sinai. Moses’s pagan father-in-law Jethro arrives in the Israelite camp. When Exodus 18:1 says: “Now Jethro, the Priest of Midian, father-in-law of Moses, heard all that God had done for Moses and Israel his people,” the rabbis wonder what Jethro in fact heard. R. Joshua, sensibly enough, says that Jethro heard about Israel’s miraculous victory over Amalek from Exodus 17, just one chapter before, calling for proof on scriptural contiguity ([Amalek] which was written beside it; *shebi’ katuva betsaddo*). R. Eleazar of Modiim, however, says that Jethro came because he had heard the revelation of the law (*matan torah*). Yet how can Jethro have heard the giving of Torah when it has yet to happen? The law is not revealed until chapter twenty!

Eleazar’s interpretation rejects the narrative progression of the biblical text. But his reading is neither unwarranted nor even unusual. Certain textual irregularities have incited Eleazar’s exegetical bravado, among them the fact that in Exodus 18 Jethro sets up a court system. Eleazar implicitly asks: if a court, to judge what law? Thus Eleazar solves one narrative problem even as he generates others. How, for example, are we to read the Bible?

“There is no before or after in Torah” is a conceptually pervasive principle in the midrash.<sup>39</sup> Eleazar’s interpretation relies on a hermeneutical principle that has the power effectively to free the reader from narrative convention, *in the service of narrative convention*. That is, while there may be no before or after in Torah, the exegete clearly asserts a before and after in national/sacred history. Eleazar’s new narrative conflicts quite brazenly with biblical chronology. But on the question of chronology, the Bible plays conflicting roles for the rabbis. It is the narrative of Israelite history and provides the raw material for the same narrative which it doesn’t depict—*the Bible as written both is and is not the story*. In itself there is no necessary conflict, but left juxtaposed to R. Joshua’s interpretation and the many others that make up the redacted midrash, the exegetical destination (the coherent

<sup>38</sup> Mekilta Amalek 3 (H-R 188).

<sup>39</sup> E.g., Mekilta Shirata 7 (Ex 15:9): “*The enemy said [I will pursue I will overtake]*. This is the beginning of the section, why is it written here? Since there is no before or after in Torah . . . . *Similarly in the year of the death of King Uzziyah* (Isa 6:1). This is the beginning of the section, why is it written here? Since there is no before or after in Torah.”



metanarrative of R. Eleazar) gets lost. The Mekilta's hermeneutics everywhere reflect a tension between the limitations demanded by the narrative moment and the fullness of the sacred text. It is a reading model that sits uncomfortably in narrative settings, one that leaves scars in the biblical base text.

### B. Character

Time provides the context and medium for motive, change, evolution, causation, repentance, and redemption, yet time is similarly shattered in the atomizing reading process. Precisely because there is no fixed narrative in which to set the episodes, each midrashic pericope evolves from an isolated textual aporia which, by force of hermeneutical logic, forgets its neighbors. In contrast, a temporal continuum allows such contradicting images the possibility of reconciliation by treating them as related phases or connected episodes in a character's life.

The consistency of narrative existents in time gives a story its being. Biblical Moses, whose *Bildung* parallels that of the nation, is a high-profile casualty of Mekiltan hermeneutics. Mekiltan Moses is not a coherent persona, but is here castigated, there lionized, with no sense that these depictions exist anywhere together in a single complex soul. This is typical. Midrash does not present a portrait, but rather a scrap book, in which each instance of Moses, each foreign King, each Miriam, is a type, created ad locum to serve local purposes.

The flattening of biblical character in Second Temple parabiblical materials is a phenomenon not uncommon in midrash.<sup>40</sup> Biblical characters are often depicted as rather uncomplicated and unblemished exemplary types.<sup>41</sup> We can see this in the depiction of Moses as a self-sacrificing prophet, in sync with the divine, and aiding in the execution of his will.<sup>42</sup> In Exodus 17, while moving through the desert from Egypt and the promised land, the Israelites confront a military challenge from the Amalekites. With divine intervention, Israel prevails:

Then the Lord said to Moses, "Write this as a memorial in a book and recite it in the hearing of Joshua: I will utterly blot out the remembrance of Amalek from under heaven."<sup>43</sup>

Through much of the Mekilta, and indeed even in the first half of the verse, we find Moses to be not only stalwart but omniscient and midrashically subtle in his own right. He understands God's cryptic command and accurately foresees the future engagements between Israel and her archenemy.

*Write this as a memorial in a book.* "This" refers to what is written in this book [Exodus]. "For a memorial" refers to what is written in Prophets; "in a book" refers to what is written in the scroll of Esther.<sup>44</sup>

<sup>40</sup> James L. Kugel, *The Bible as It Was* (1997).

<sup>41</sup> E.g., Mekilta Beshallah 1 (Ex 13:19, H-R 79).

<sup>42</sup> Cf. the depiction of Moses in Second Temple era Jewish texts: Philo's *Life of Moses*, the Book of Jubilees; Artapanus; Josephus's *Antiquities*.

<sup>43</sup> Ex 17:14.

Here the rabbis atomize the verse and show it to be a prophetic foreshadowing of future engagements with Amalek (in 1 Sam 15 and Est 3). Like the halakhic material, the verse is a set of hooks on which to hang similar events and distant texts into one complex. Yet also, rather typically, the reading is followed immediately by another that changes perspectives dramatically. In the same utterance in which Moses is told to inscribe the future and foresee the farthest comers of sacred history, he is commanded to “put it in the ears of Joshua” (Ex 17:14b):

*And the Lord said to Moses, write this as a memorial in the book and put it into the ears of Joshua . . . . And the Lord was angry with me on your account, and He did not listen to me, and He said to me, “It is enough for you, speak no more to me about this matter” (Dt 3:26). It is enough for you [to have come] this far. R. Joshua says “It is enough for you,” the world-to-come is sufficient for you.<sup>45</sup> And still Moses stood and asked all these requests. Moses said before him, “Master of the Universe, there was no decree decreed that I should not enter the land, [except] *Therefore you shall not bring the congregation in to the land which I have given to them* (Num 20:12). This only means that I shall not enter the land in my kingship, let me enter as a private man.”<sup>46</sup>*

Eleazar of Modiim describes Moses as deaf to God’s message. Moses seems unable or unwilling to divine in this command the hint that Joshua was at that moment appointed Moses’s successor, and that Moses himself would never reach the promised land. The full pericope presents an extended give-and-take between Moses and God. Moses urgently brings other verses (Dt 3:23–28, Zech 11:1, Isa 10:34, Dt 11:31, Num 20:12) that he thinks prove he should be permitted into the land of Canaan. God responds with verses countering (Dt 34:1-5, Dt 3:27). Moses, it seems, is a feeble reader of the Bible.

This pericope (a heart-breaking mini-narrative in its own right) casts an ironic light on the one which precedes it. Is Moses an all-seeing prophet or is he myopically obdurate (and a bad rabbi to boot)?<sup>47</sup> Moreover, as readers, how are we to understand the Bible? If we read the accumulated interpretation back into the text, we hear a verse divided against itself:

Write it in a book (O Moses scribe of Torah, and seer of the future), and tell it to Joshua (O Moses, clumsy exegete, blind to your fate).

A nearby passage in the Mekilta, again concerning the Midianite priest Jethro, depicts Moses agreeing without argument to raise his first son as an uncircumcised pagan!

*For he said, I was a sojourner in a foreign (nokhriah) land* (Ex 18:3). R. Joshua says, it certainly was a strange land to him. R. Eleazar of Modiim says, in a strange land, that is a land where God (*yab*) was treated as a stranger (*nakar*). Moses said, since all the world are idol worshipers, whom shall I worship? He Who Spoke and the World Came into Being. For

<sup>44</sup> Mekilta Amalek 2 (H-R 182).

<sup>45</sup> Cf. Sifre Deuteronomy § 29 (Siphre ad Deuteronomium [1939], Louis Finkelstein ed.; repr. 1993).

<sup>46</sup> Mekilta Amalek 2 (H-R 183-84).

<sup>47</sup> Note that the rabbis have some ideological interest in denigrating Moses, cf. 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* 299 (Maren R. Niehoff ed., 2012), but as with all my examples, the work each individual narrative excursion does is not my main concern.

at the hour when Moses went to Jethro and said, “Give me your daughter Zipporah for a wife” Jethro said to him, “accept one condition that I will set you and I will give her to you for a wife.” He replied “What is it?” Jethro said, “Your first son shall belong to idolatry, and after that to the God of Heaven.” Moses accepted. Jethro said, “Swear unto me.” Moses swore. *This* is why the angel of death was zealous to kill Moses.<sup>48</sup>

In the course of unraveling what the rabbis take to be an odd biblical locution (in a strange land), they draw a damning portrait of Moses. The passage tells of Moses’s relation to Jethro and his daughter Zipporah. The verse is contextualized in the harrowing story in Exodus 4:24–26 when, on Moses’s return to Egypt from Midian, God seeks to kill him. The rabbis wonder why. When, later in Exodus 18:3, Midian is dubbed “a strange land,” R. Eleazar of Modiim sees a meaningful play on words. He breaks the feminine adjective “strange,” *nokbriah*, into two, making a sentence: *nakbar yah*, meaning “God was unknown,” or “God was a stranger.” This in turn animates (and presumes to allude to) a story of Moses’s spiritual loss in the land of Midianite cults. When Moses asks Jethro if he might marry his daughter Zipporah, Jethro asks in exchange that Moses’s first-born son belong to the idol. Moses promptly agrees, even binding himself by an oath.<sup>49</sup> The midrash is at least as disturbing as the biblical text. Even with the knowledge of the one true God of Israel, Moses agrees to give his first son to God’s rival without hesitation (this *after* the epiphany at the burning bush!). How are we meant to make sense of Moses’s acts of greatness, his weakness, or of this horrific lapse? Who *was* Moses? We don’t really know.<sup>50</sup>

Moses is Dudley Do-Right, a humble prophet, leader, model—unless of course he is a pagan, apostate, ignoramus, and whiner. For there to be narrative, “narrative existents [characters and settings] must remain the same from one event to the next.”<sup>51</sup> The irony here is manufactured by midrashic context/contiguity. The merit of Moses shifts dramatically to suit the exigencies of the lemmatic site without regard to its proximity.

<sup>48</sup> Mekilta Amalek 3.

<sup>49</sup> This comes to explain a strange passage in Ex 4 in which the angel of death seeks to kill Moses, who seems, inexplicably, to have an uncircumcised son.

<sup>50</sup> Jethro is another character who is alternately all good and all evil—at times the pagan tempter, at times the enlightened convert/mentor. Absent in temporal relation, they lack common context in which they can be reconciled; Israel is treated similarly, swinging episodically from imagined perfection, to irredeemable sinfulness. Moreover, positive depictions are often formulaic: “This proclaims the excellence of Israel.” Bahodesh 5 (H-R 219); Bahodesh 9 (H-R 235); Shirata 3 (H-R 128); cf. mSan.10.3 (“The generation of the wilderness has no share in the world to come . . .” (according to R. Akiba, reading Num. 14:35)). Some pictures are ambivalent. Vayassa 4 (H-R 163) (“You (Israel) are standing between two things . . .”). Other depictions are flatly negative. Vayassa 3 (H-R 162–63) (“You are rising to complain before the King who lives forever . . .”); Vayassa 1 (H-R 153); Amalek 1 (H-R 176); see also Dt 25:18 (referring to “Israel who had no meritorious deeds”). More subtle is the cumulative and consistent position of R. Eleazar of Modiim in Vayassa and Amalek that the good that comes to Israel in the wilderness is due to the merit of the forefathers, and thus to no good of their own.

<sup>51</sup> Seymour Chatman, *Story and Discourse* 30 (1978). Sarah Kamin’s work on medieval French exegete Rashi, *Rashi: Peshuto shel Mikra u-midrasho shel Mikra* (1986), offers an excellent sidelong commentary on midrashic antinarrative. Rashi’s editorial guide, she argues, is narrative propriety and coherence. Rashi’s Torah commentary builds from the very same hermeneutical moves that construct the midrashim themselves (indeed he mostly cuts and pastes) but is selected so as to tell a coherent story. The stark difference between Exodus in the hands of Rashi and of the Mekilta is instructive.

Such extreme contradictions can be found throughout the Mekilta, in which the loss of plot leads to the loss of coherent personalities, replacing them instead with a collection of flat or siloed characters, caught as if in stills from different movies. This flattening is as much a product of hermeneutics as of didacticism. Individual passages can and do depict wrenchingly complex portraits of their central characters. In the Mekilta, however, redaction and the hermeneutics conspire to deny story.

#### IV. Conclusions: Means and End(ing)s

At the turn of the nineteenth century, the water in Wenham Lake just north of Boston was not only pure, but in winter formed an ice highly prized by British aristocrats. Getting the ice from New England to Old, however, posed a challenge. According to lore, early entrepreneurs attempted to preserve the ice for transatlantic voyages the best way they knew how—they salted it. This proved a bad decision. Great blocks of ice were puddles by the time the ships reached Provincetown. Only through trial and error did they realize that heavy wool blankets were a much more effective way to keep ice frozen for the long crossing.

The midrashic enterprise is at its heart explanatory, not obfuscatory. Midrashic narrative, and ideas of narrative, are not protomodernist experiments. The rabbi-storyteller, when isolated from the redacted midrashic product, is a straight man, with a lucid and direct sense of story. In this essay, I have attempted to show the following: (1) the reading tools brought to bear on narrative portions of the Bible frustrate and deconstruct their own apparent aims; (2) the “moves” that make up the standard midrashic reading repertoire (quotation, intertextuality, self-glossing text; wordplay, linguistic surfaces, grammatical lists, multiplication of voices) are also standard to legal interpretation (and they are applied by more or less the same cohort of experts); (3) such practices not only cause no trouble for the explication of halakhic texts, but serve the stated aims of the legal reader seamlessly; and finally, (4) the bulk of the commitments of the rabbinic world are legal. On the basis of this we can deduce that aggadic fragmentation is explainable by the application of the reading habits translated from one realm, law, to another, narrative.

A student of classical Late Antiquity will find this unraveling of stable canonical narratives familiar. So why, one might ask, should we expect midrash to conform to narrative conventions drawn from another era? This is, for example, the crime attributed by Formisano to Vergil-obsessed sojourners into the strange land of late Latin literature. However, in the case study of the Mekilta, it is important to note that, given the fragmented exegeted results (and again, commentary can of course as easily amplify as dissolve narrative), we are not yet dealing with a new literary sensibility. Indeed, those who celebrate rabbinic polysemy as a hermeneutical premise misread these cues. When one looks at the local aggadic moment, the work of reading is animated predominantly by a drive to control scriptural meaning and narrative coherence in stock and unremarkable terms.

The formal tensions that I have tried to reveal in the midrashic commentaries should not be too easily domesticated, as they open a window into a moment of ideologi-

cal transition. Tannaitic midrash is rabbinic literature in its infancy, and is thus a laboratory of cultural creation and emergence. As the halakhic ascends, I suggest that the tannaitic midrash reveals the growing pains of this comprehensive and far-reaching reorientation in religious discourse, knowledge, and power.<sup>52</sup>

Legal *paideia* permeates rabbinic production, and in turn its culture and theology. The disruption of plot by the competing demands of noncontiguous contexts means that the exodus story—that is, the movement from Egyptian slavery to national redemption—is unseated as a “regulative fiction.”<sup>53</sup> Is aggadic incoherence merely the symptom of a regnant legalism, or are there other ways to contextualize the repression of narrative? Though the reception history of the tannaitic material treats it as a mature genre, tannaitic text surfaces reflect tensions in an as-yet unformed communal *Weltanschauung*. While there is a strong desire for a narrative vision of history, the ascension of law and halakhic forms signal an increasing rabbinic retreat from history into the timeless cosmos of law.

As much as it innovates, early rabbinic literature is a corpus marked by recusal: rejecting ambient and antecedent genres, Greek and Aramaic, philosophy and metaphysical speculation, narrative, history, and prophecy. It also seems to reject an ending. Connexity is determined to a great extent by its *telos*, which gives meaning and inevitability to the narrative elements. As Paul Ricoeur argues:

To follow a story is to move forward in the midst of contingencies and peripeteia under the guidance of an expectation that finds its fulfillment in the “conclusion” of the story. The conclusion is not logically implied by some previous premises. It gives the story an “end point,” which, in turn, furnishes the point of view from which the story can be perceived as forming a whole.<sup>54</sup>

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<sup>52</sup> *Coda*—That the problem I have noted in the uncontrolled fragmentation of “biblical” narrative is one even for the rabbis can be seen in certain evolutions apparent in the amoraim, the second generations of rabbis. Two post-tannaitic trajectories extend our story in interesting ways. First, in the amoraic era, rabbinic literature begins to explicitly theorize the unadjudicated multiplication of aggadic stories. The incoherence engendered by aggadic hermeneutics is recognized explicitly, but is embraced as revealing a new aspect of divine speech—for the amoraic aggadist, Torah language is not only supersignificant (à la halakhic midrash), but is celebrated as polysignificant.

*One spoke God two I have heard* (Ps 62:12)—One verse has several meanings but one meaning cannot emerge from two verses . . . Like a hammer shattering a rock (Jer 23:29)—Just as a hammer splinters into several sparks, so does one verse have several meanings. (Babylonian Talmud, Sanhedrin 34a).

Second, as the rabbis emerge into some political and social prominence, we see the concurrent development of more fully fleshed out narrative forms. In Palestine, the literary collections show that the aggadic project is increasingly separated from the more legal project (the large midrashic collections of the fourth century as opposed to the Jerusalem Talmud). Moreover, editing becomes a way to insert some sort of narrative linearity into midrash. Collections, especially those tied to the liturgical cycle (Leviticus Rabbah and Pesikta de-Rav Kahana), cacophonously collect midrashic subunits but arrange them so that they build toward what is known as a “messianic peroration.” Cf. Azzan Yadin, *Scripture as Logos* 72 (2004).

<sup>53</sup> Frank Kermode, *The Art of Telling: Essays on Fiction* 85 (1983); Hayden White, *The Value of Narrativity in the Representation of Reality*, in *The Content of the Form* 1 (1987); cf. Clifford Ando, *Pluralism and Empire: From Rome to Robert Cover*, *1 CAL 1* (2014).

<sup>54</sup> 1 Paul Ricoeur, *Time and Narrative* 66 (1984).

What does it mean to deny an ending? To disrupt the expectation of fulfillment? This is at its heart a theological question. It implicitly challenges Hayden White, who states that “the demand for closure in the historical story is a demand . . . for moral meaning, a demand that sequences of real events be assessed as to their significance as elements in a moral drama.”<sup>55</sup> To this I counter with Robert Cover, that “one of law’s usual functions is to hold off the Messiah.”<sup>56</sup> The Mekilta’s form, reinforced by its formulaic and wan deployment of eschatological tropes, does just that. It is a stance that makes sense in the politically volatile context of the late Roman Empire. The seduction of the redemptive ending has led Jews to two devastating defeats. The rabbis are pragmatists and survivors, accommodators looking to work comfortably, invisibly, and Jewishly, *within* Roman paradigms and poleis alike. The Mekilta perhaps expresses an essential rabbinic contest over world-view: historical versus nomistic. Utopian, but not messianic.

Anti-narrative, in sum, gives us an interesting lens through which to confront questions of rabbinic law, history, praxis, and theology. The cultural priority of the law is now shown to be deeply embedded in tannaitic form. From a literary perspective, it is clear that the legal has a complicated relationship to the historical in the rabbinic cosmos. Not only do the rabbis not produce extended narrative histories, legal forms seem to preclude historical linearity. However, key theological concepts such as messianism and eschatology are inescapably narrative. By refusing to give them literary hold, the midrash also denies them theological prominence and therefore also historico-political expression.

Eschewing temporal coherence may be a luxury reserved to the marginal and disempowered.<sup>57</sup> It may also be a powerful tool for communal cohesion.<sup>58</sup> At a minimum, it challenges us—echoing Formisano—to see the difficult literary sensibility of the late antique Mediterranean as developing its own set of generic definitions, and not to be simply treated as degraded or para-literary. Legal epistemology and the ways that law engages with time, coherence, and the resources of the past offer perhaps another way into the vexing “fragmented aggregations of material” that mark other late antique literatures.<sup>59</sup>

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<sup>55</sup> White, *supra* note 53, at 21.

<sup>56</sup> Robert Cover, *Folktales of Justice*, in *Narrative, Violence, and the Law: The Essays of Robert Cover* 194 (Martha Minow et al., eds 1995).

<sup>57</sup> Amnon Raz-Krakotzkin, *Jewish Memory between Exile and History*, 97 *Jewish Q. Rev.* 530 (2007); Yosef Hayim Yerushalmi, *Zakhor: Jewish History and Jewish Memory* (1982); David N. Myers, *Resisting History: Historicism and Its Discontents in German-Jewish Thought* (2003).

<sup>58</sup> Cf. Barry Scott Wimpfheimer, *Narrating the Law: A Poetics of Talmudic Legal Stories* ch. 3 (2011).

<sup>59</sup> Jason König & Tim Whitmarsh, *Ordering Knowledge in the Roman Empire* 45 (2007).