

Introduction

You and I have bodies that make people pray.

THEA HILLMAN, *INTERSEX (FOR LACK OF A BETTER WORD)*¹

I first encountered androgynes and eunuchs in the Talmud through a scholar-in-residence weekend with Rabbi Benay Lappe at the queer and trans synagogue in San Francisco. The study session was part of Svava, a queer yeshiva (traditional Jewish school) founded by Rabbi Lappe and Rabbi Elinor Knepler. Lappe, an engaging teacher, introduced me to sources that I had not realized the Jewish corpus contained. I had studied Talmud, had run queer Jewish groups as an undergraduate, and had helped to start Shabbat rituals at the Friday night trans march in San Francisco, but I had never met the androgyne before. I was hooked.

I had recently completed my bachelors in Hebrew literature and taken a job selling sex toys at a woman-owned and worker-owned cooperative. During my breaks, I searched for more sources about androgynes and eunuchs to explore with my study partner. I was sitting at my desk during lunch hour when I encountered this story on b. Yevamot 84a:²

Rabbi [Yehudah HaNasi] relayed [the following story]: “When I went to learn rabbinic teachings with Rabbi Elazar ben Shamua, his students banded together against me like the [famously aggressive] roosters of Beit Bukiya.³ They allowed me to learn only one teaching [and it was this]: “Rabbi Eliezer says that [in the case of the] androgyne: [the

1. Hillman, *Intersex (for lack of a better word)*, 19.

2. I will use the standard abbreviations for citing rabbinic sources: a lowercase *b.* indicates a source found in the Babylonian Talmud, with the name of the tractate and page number found after. A lowercase *m.* refers to the Mishnah; a lowercase *t.* refers to the Tosefta; and a lowercase *p.* refers to the Palestinian Talmud.

3. Beit Bukiya is a place name. I explore this text further (and have a longer note on it) in chapter 3 of the book.

man who penetrates the androgyne anally] is liable for [the penalty of] stoning [for transgressing the prohibition against sex with a man, just] as [he would be if he had anal sex with a non-androgyne] male.”⁴

This first-person narrative tells the story of Rabbi Yehudah HaNasi, who goes to study with a teacher named Rabbi Elazar ben Shamua. The students of Rabbi Elazar ben Shamua are portrayed as aggressively territorial; they deny Rabbi Yehudah HaNasi access to their teacher. These students are likened to the fighting cocks of a place named Beit Bukiya—apparently the aggression of these roosters was widely known. Rabbi Yehudah HaNasi only manages to glean one piece of information through the impenetrable barrier posed by the students. That teaching concerns the androgyne and tells us that a man who has sex with an androgyne transgresses the biblical prohibition against “lying with a man.”

I could feel the gendered complications of that short narrative pulsing just below the surface of the text. The penetrated body of the androgyne seemed to function as a type of currency, used to negotiate the borders between two groups of rabbis. There is a poetic aspect to the contrast between the hypermasculine barrier presented by the rooster/students, who nevertheless allow this one teaching to slip through. There is a palpable disjunction between the doubly penetrable body of the androgyne and the—almost—impenetrable border presented by the students. The text leaves us with the haunting question: how is sex with an androgyne like sex with a man?

I ardently desired the tools (intellectual, philological, and theoretical) to pursue the implications of this short narrative. This story sparked my interest in graduate school; I wrote about Rabbi Yehudah HaNasi’s tale in my applications. Ever since then, I have been trying to write about these same four lines of text, and their tantalizing mixture of sex, gender, sexuality, the boundaries of rabbinic society, and the violent regulation of bodies.

This book represents the culmination of my obsessive interest in that single four-line story. It is my attempt to untangle some of the questions that continue to haunt me about that narrative: How does nonbinary gender figure in rabbinic laws?⁵ How do messy, unruly, and multiply penetrable bodies fit within the ordered taxonomies of ritual and legal obligation? What can we understand about the categories of sex and gender from the link between the body of the androgyne and the body of a man, a link built on the sexual “violation” of that masculinity?

In the course of unraveling these questions about sex, gender, and sexuality, this book will make two interventions simultaneously. First, I will argue that centering

4. All translations of rabbinic sources are mine, unless otherwise noted. The brackets indicate phrases not in the original, that I have added to facilitate the reader’s understanding. The language of the original is terse and often assumes prior knowledge, so translators often interpolate to provide the context and complete the sentences.

5. On using the term “nonbinary” historically, see DeVun, *The Shape of Sex*.

eunuchs and androgynes shifts our understandings of how gender functions in rabbinic literature. The study of gender has been, for the most part, structured by a focus on the relationship between men and women in Jewish sources. This focus established a much-needed criticism of rabbinic androcentrism. It is not my intention to blunt that essential feminist critique. At the same time, when we focus on eunuchs and androgynes, we gain a fuller picture of the way gender works in rabbinic literature.

To the extent to which eunuchs and androgynes fail to perform a stable sex and gender, they can represent a challenge to systemic binary gender. In some of the sources I analyze in this book, we see the ways that eunuchs and androgynes do not fit easily into the conventions of rabbinic gendered obligation. There are ways, therefore, that eunuchs and androgynes carve nonbinary space into the tradition. Simultaneously, however, eunuchs and androgynes are sometimes forcefully incorporated into gendered law by the rabbis, which raises questions about the viability of nonbinary space. The mutability of sex, therefore, has some paradoxical effects in the sources.⁶

In calling the book *Trans Talmud*, it is not my intent to trumpet the Talmud as essentially subversive or trans; this would have the effect of obscuring the darker aspects of these sources. The distance between contemporary radical trans critique and the Talmud is vast. I am, at times, quite critical of the gendered projects of the rabbis in this book. And yet, I will argue that there are ways in which the Talmud is more trans than is sometimes imagined in contemporary Jewish communities.

My second intervention in this book is to contribute to the burgeoning fields of trans and intersex history. Recent scholarship has engaged theoretically with the questions of what it means to study sex and gender variance before contemporary trans and intersex frameworks existed.⁷ Any study of rabbinic sources must account for the radical differences between the ways sex, gender, and sexuality were organized in the past, and contemporary formulations. As such, to even translate and organize eunuchs and androgynes through the lens of the categories of “sex” and “gender” is itself anachronistic.

6. For foundational work on the way sex changes in the sources, that influences my thinking in this book, see Kessler, “Bodies in Motion,” 389–430. I am also influenced in my thinking here by Mira Balberg, who argues that the boundaries of the body are in flux in tannaitic literature. See Balberg, *Purity, Body, and Self*.

7. Scholarship within the fields of trans premodern history in particular is now so broad, that this note cannot be comprehensive. For antiquity, see the recent anthologies by Campanile, Carlà-Uhink, and Facella, eds., *TransAntiquity*, and Surtees and Dyer, eds., *Exploring Gender Diversity in the Ancient World*. Mary Wiesmantel has proposed a practice of “ungendering” history: see Weismantel, “Towards a Transgender Archaeology,” 319–34. On trans history more generally, see the special issue of *Transgender Studies Quarterly*, edited by DeVun and Tortorici, “Trans*historicitics.” In chapter 1 I will look specifically at the scholarship about castration in antiquity and late antiquity, and I will continue to discuss trans historiography throughout the book. The book *Arresting Dress* by Clare Sears was particularly helpful in conceptualizing how law can produce normative gender.

Greta LaFleur's recent monograph about sex in eighteenth-century US history argues that approaches to studying sex in the past can broadly be divided into two groups.⁸ In one group are those historians who wish to create a "usable past," and who often see themselves as working within and responding to a particular political moment in time.⁹ These scholars tend to make connections between the present and the past.¹⁰ In the other (Foucaultian-influenced) camp are those who have traditionally assumed a strict historicism.¹¹ From this perspective, transhistorical connections between the present and the past flatten the true variety of ways that people have made meaning of bodies and sex acts. Refusing anachronism allows for the possibility of the true alterity of the past.¹²

For either of these two camps, the project of history is political. As LaFleur argues, for example, discussions of racialized difference are often played out over and against sex, so that sodomy laws are enlisted to maintain racial order. The project of history can undermine the naturalization of these efforts; if the world was not always organized to manage and produce racialized ideas of binary gender, then the possibility of a different future emerges. We live in a time and place, as Lourdes Ashley Hunter has put it, where "every breath a Black trans woman takes is an act of revolution."¹³ In that context, historical projects that explore the racialization of gendered mutability and that describe a trans past are urgent.¹⁴

8. LaFleur, *The Natural History of Sexuality*, 1–32. See also Marchal, who schematizes the division as between the altericist and continuist camps: *Appalling Bodies*, 16–29.

9. Faderman, "A Usable Past," 171–78. LaFleur also cites Faderman in the introduction of *The Natural History of Sexuality*, 1–32.

10. Take, for example, Plato's *Symposium*, a text I address in the next chapter. The *Symposium* became the center of a debate about nondiscrimination laws in Colorado. Martha Nussbaum famously offered a "neutral" translation of Plato that presented pederasty in a more positive light in order to argue that a range of attitudes toward same-sex sexuality existed in antiquity. While Nussbaum is not precisely making a strong claim for "gay" identity in antiquity, she implicitly connects same-sex acts across time. See Nussbaum, "Platonic Love and Colorado Law," 1515–1651.

11. Marchal suggests that these altericists are in fact misinterpreting Foucault, drawing on Sedgwick's critique, among others. See Marchal, *Appalling Bodies*, 16–29.

12. This schematization into two camps are overgeneralizations. For example, David Halperin softens his earlier strict historicist approach in response to Eve Sedgwick's critique that he had overemphasized historical discontinuities between the present and the past. See Halperin, *How to do the History*, 1–24. For an excellent response to this debate, see Marchal, *Appalling Bodies*, 16–30. For an elegant summation of the ways that historicism allows us to contextualize contemporary schemes of sex and gender, see DeVun, *The Shape of Sex*, 1–16.

13. See Hunter, "Every Breath a Black Trans Woman Takes."

14. C. Riley Snorton's work is particularly significant in this regard. At the same time, there is an important critique of using Black and trans people of color to capacitate scholarly (and other) projects. See Snorton and Haritaworn, "Trans Necropolitics," 66–76. I am aware that these critiques could be applied to this book; my intention is not to efface the category of race but rather to center important developments in trans of color critique.

Any study of eunuchs and androgynes in the past has to grapple with the relationship between sex and gender and how these categories are mobilized across time. Recent research has argued that the framework of “gender” emerges from conservative medical contexts. As scholars like C. Riley Snorton and Jules Gill-Peterson show, “gender” is imbricated with anti-Blackness, racialized ideas about the plasticity of sex, and conservative medical approaches to the treatment of intersex bodies.¹⁵

Sex and gender are embroiled social categories. Gill-Peterson shows that this entanglement of sex/gender, alongside the conceptual attempts to distinguish between them, becomes a part of the technology of managing and disciplining contemporary trans and intersex embodiment.¹⁶ Thus a sex/gender system is particularly problematic from a trans studies or intersex studies perspective, and we must consider the implications of importing that framework into the past.

I do not believe that contemporary trans and intersex identities translate easily to the *aylonit*, *saris*, *androgynos*, or *tumtum*. This discontinuity is, in part, because rabbinic sources are not formed within the same contemporary milieu that produces the conceptual imbrication of sex/gender. In some sources, the rabbis assume a connection between body parts and social and legal obligations. So, for example, I will treat a source in chapter 4 where damage to the penis creates certain restrictions within a priestly marriage. In that source, body parts become connected to kinship structures. Other sources seem to draw distinctions between bodies and social roles, such as in chapter 2 when I discuss a text that debates how an androgyne with dual genitalia fits within gendered legal obligations. Still other sources associate transgressive sexual acts with particular sex/gender configurations, or link what we would understand as sex or gender to other attributes like membership in the priesthood, sacrifices, and the practice of levirate marriage. To explore what eunuchs and androgynes mean to the rabbis, therefore, requires us to connect to an entirely different conceptual framework. If the person who is born with variant sexed anatomy (whom we might call intersex) and the person who changes their genitalia (whom we might call trans) are both understood as different facets of the same phenomenon—a eunuch—then our conceptual distinctions do not mesh with the local taxonomies of the rabbis.

Moreover, sex/gender systems, situated as they are within particular colonial, racialized, and ableist modes of knowledge production, can obscure the fact that rabbinic taxonomies of eunuchs and androgynes are formed within their own context of power and knowledge. It is not an accident, for example, that the word the rabbis use for the androgyne is a Greek loan word. Early rabbinic sources

15. Snorton, *Black on Both Sides*, 139–76, and Gill-Peterson, *History of the Transgender Child*, 97–128.

16. For a foundational work on the history of the entanglement of sex, gender, and sexuality, see Meyerowitz, *How Sex Changed*.

explore androgynes and eunuchs within the context of Roman imperialism. As Joseph Marchal points out, contemporary identification with the eunuch is fraught precisely because of the important distinctions in the way sex/gender was understood in the past. For example, castration was sometimes practiced as a punishment in antiquity and at times was linked to enslavement.¹⁷ The use of the terms “sex” and “gender,” therefore, can function to obscure the particular relations of power and knowledge that operate within the rabbinic context.

Despite all these misgivings, I will use the terms “sex” and “gender” in this book. In part, I use these terms because when the rabbis link different kinds of eunuchs and androgynes together they are demonstrating some type of larger conceptual category that connects the two. There are chapters in the Mishnah that group eunuchs and androgynes, and there are also sources that make analogies between androgynes and eunuchs. This suggests to me that even early layers of rabbinic literature conceptually link these various types of embodiment. Sex and gender therefore describe the rabbinic attempt to think with eunuch and androgyne bodies as a meaningful category of embodiment. As I use sex/gender, however, to pay attention to the ways these concepts can become so embroiled, I will also pay attention to the specific meanings assigned to the mutability of the body in discrete rabbinic disputes. And I will examine the whole host of characteristics that are intimately intertwined with sex/gender and the bodies of eunuchs and androgynes: the focus on pubic hair as a pivotal bodily marker; frameworks of bodily “damage”; and the way anal sex can shift gender, to name a few.

Throughout this book, I will also deliberately put eunuchs and androgynes to many nonrabbinic usages; for example, I engage intersex activist opposition to medical interventions, the anti-trans so-called “bathroom bills,” and the regulation of trans embodiment in US law. In my conclusion, I examine the way that trans and intersex Jews use these categories to critique contemporary transphobia within Jewish communities. I am in part addressing the continuing currency of these texts; in many Jewish communities today, both Rabbi Yehudah HaNasi and anti-trans regulations are remarkably present. While I argue in this book that the rabbis use the bodies of eunuchs and androgynes to sketch the contours of the normative, I also want to pay attention to the potential these categories have to exceed their parameters.

Following Joseph Marchal, who argues in favor of juxtaposing the present and the past as part of his strategy for reading Paul’s letters, I am giving these sources an anachronistic reading in order to demonstrate the context and politics of the

17. Marchal, *Appalling Bodies*, 16–29. The punishment for castration within the Roman Empire varied, but at some points included the castration of the offender. There is debate over how often that might have been enforced, but given the rates of survival for castration, this may have entailed a death sentence for some. See Horstmanshoff, “Who is the True Eunuch,” 101–18.

questions I ask throughout the book. Even as I am cautious about importing contemporary taxonomies, situating my questions within their current political milieu is a part of what it means to me to trans the Talmud. In that sense, I am foregrounding the problem of anachronism within my argument. As I attend to the dynamics of reading sex and gender variance in a premodern context, my strategy will be to play up the contradictions rather than to try to minimize them. I will embrace anachronism as part of embracing a “bad/trans” reading strategy designed to acknowledge the particular ontologies that govern contemporary trans and intersex politics, as I will explore shortly.

. . .

Because I wrote this book to engage multiple kinds of academic audiences, I have created a glossary, which is found at the end of the book. The glossary includes common terms in rabbinics. I encourage readers unfamiliar with this body of literature to refer to it as they move through the book.

Both sets of readers should find the next section defining eunuchs and androgynes a helpful starting place. After that, I will signpost sections that are intended primarily for certain audiences.

INTRODUCING ANDROGYNES AND EUNUCHS

I want to begin by introducing the cast of characters, since rabbinic categories do not translate easily into our idiom. This section will familiarize the reader with the various types of androgynes and eunuchs in rabbinic literature. There are ways to complicate these definitions, but this section is intended as a basic primer.

Rabbinic sources from the first six centuries of the common era discuss eunuchs and androgynes over a hundred times. In this book, I write primarily about five rabbinic categories of eunuchs and androgynes: the born (male and female) eunuch, the man who becomes a eunuch, the dually sexed person, and the person without a clear sex.¹⁸ While the sources sometimes link these five different kinds of eunuchs and androgynes, these categories are also used to consider distinct legal issues.

The word *saris* is often translated as eunuch.¹⁹ Within the rabbinic context, “eunuch” is an umbrella term that can describe a number of different kinds of bodies. *Saris* may refer to someone who becomes a eunuch later in life; in this context

18. In addition to the categories named here, there are also three biblical categories of genitally “damaged” men that the rabbis import: the *p’zua daka’*, *krut shafkhah*, and *m’roah’ ashekh*. Not all scholars would characterize these biblical figures as eunuchs. I will discuss genitally “damaged” men in the book, but I focus on the five that I list in the body of the text.

19. Based on the advice of the publisher, I will use simple English spelling to facilitate easier reading by nonspecialists. See my note on transcription at the end of the introduction.

the word is sometimes translated as “a castrate,” a term that I will avoid.²⁰ I will refer to this type of eunuch as an *acquired saris* since they acquire their status as a eunuch at some point after birth.²¹ The *acquired saris* is most analogous to our contemporary English term *eunuch*, which usually refers to a man who has been castrated.

Saris, however, can also refer to someone who was born a eunuch; by this the rabbis mean a person born with bodily differences that preclude reproduction. I will call the latter type of eunuch the *born saris*. The rabbinic category of someone who is a born eunuch might be more analogous to our contemporary concept of intersexuality than to how we define eunuch today. The rabbinic *saris*, therefore, does not neatly correspond to our contemporary definition of the term “eunuch.”

In addition, for the rabbis, eunuchs are not only male. There is also the *aylonit*, a female eunuch. The *aylonit* is a parallel figure to the born *saris*; she is born with a body that will not develop reproductive capabilities. As there is no real English equivalent for the *aylonit*, I have chosen to retain the untranslated term in the book. The *aylonit* is often paired with the born *saris*. In that sense, even though the *aylonit* has her own word, both men and women can be born as “eunuchs.”

To sum up, for the rabbis the concept of the eunuch is capacious enough to include several different kinds of bodies. When I use the word *eunuch* without distinctions, I mean to refer to all three kinds of rabbinic eunuchs: the born *saris* and *aylonit*, and the acquired *saris*.

In addition to eunuchs, the rabbis have two other categories, which, for simplicity’s sake, I am grouping together under the heading *androgynae*. The rabbis describe the *androgynos* as a person with dual genitalia.²² In early sources, the rabbinic *androgynos* is portrayed as being capable of both menstruation and seminal emissions, for example.

20. Referring to a person as “a castrate” is problematic and sounds about as awkward as “a transgender.” I will do my best to avoid the term throughout.

21. I am not happy with my translation choices of “acquired *saris*,” which is awkward and pathologizing. I tried “become *saris*,” which was less medicalized, but it scanned awkwardly when worked through the book. *Eunuch* is difficult precisely because of the ways that our contemporary term does not line up with the full spectrum of meanings in the rabbinic word *saris*. After ten years of writing about these categories, I have experimented with language in multiple ways to try and address some of the difficulties in translation. I have yet to find a satisfactory solution to any of these translation issues. Thanks are due to Rafe Neis who generously agreed to discuss the translation issues with me.

22. The assumption that the androgynae has dual genitalia comes from various texts that refer to the circumcision of the androgynae, as well as other sources that refer to menstruation. These descriptions appear in early (tannaitic) layers of rabbinic literature.

There is also the category of the *du parzuf*—the two-faced human. I address the *du parzuf* in the second chapter of this book, but since this category is mostly found in the midrashic context, and would require its own in-depth analysis, I do not discuss it here. There is not a substantial overlap between the androgynae and the *du parzuf* in the legal sources.

The second category that I have grouped under the heading of androgynes is the *tumtum*. The *tumtum* is distinct from the *androgynos* but is often paired with them. Some rabbinic sources describe the *tumtum* as a person with a flap of skin covering their genitals. If the flap of skin were to be removed, the *tumtum's* sex would be revealed. The *tumtum* is conceptually linked to the *androgynos*; while the *androgynos* has a surplus of visible genitalia, the *tumtum* has a dearth. Because no English term is roughly equivalent to the *tumtum*, I have chosen to leave this word untranslated in the book. When I refer to androgynes without further qualification, I mean to include both the *androgynos* and the *tumtum*.

There are ways to contextualize this rabbinic taxonomy within discussions of eunuchs and androgynes circulating in broader cultural contexts. We might turn to Greco-Roman legal, literary, and medical sources, or to Sasanian ideas about sex, gender, and sexuality, for example. I will undertake contextualization of this sort throughout my book; context is important, and the rabbis are not cloistered from their surroundings. Nonrabbinic primary and secondary sources from late antiquity often seek to explain the presence of eunuchs and androgynes in the world. These attempts to explicate eunuchs and androgynes are often polemical. For example, in Greco-Roman sources, eunuchs and androgynes are sometimes invoked to characterize “foreign” sexed and gendered practices, and eunuchs can become rhetorical shorthand to describe the exoticized East. The discussion of androgynes and eunuchs is, and always has been, both political and polemical.

INTRODUCING THE RABBIS

In this section I will introduce the rabbis and the rabbinic period to orient nonspecialists in the field. Like most such generalized introductions, mine will paper over many of the unresolved dilemmas of the field, but it will provide an essential framework for readers unfamiliar with either the general history of the rabbinic movement in late antiquity or the genres of rabbinic literature.

When scholars write about *the rabbis*, they are not talking about contemporary Jewish religious leaders. They are instead referring to a movement whose roots extended from a period before the common era into the sixth century.²³ This rabbinic movement stretched between Roman Palestine and Babylonia, and we can see the traces of this geography reflected in the rituals, ideas, and languages of rabbinic literature. Judaism was already well-established by this time. Some of the contours of the Hebrew Bible existed, as did some central aspects of Jewish practice, including the practice of proffering offerings at a central temple in Jerusalem.

23. Scholars in Judaic studies tend to prefer the terms “BCE” and “CE” (before the common era and common era) instead of “BC” and “AD.” While the transition point to the common era still measures time through a Christian lens, this is a nod to acknowledging that discomfiting fact.

In the first half of the rabbinic period, the movement was centered in the Galilee. In 63 BCE Judea became a client state of the Roman Empire—when the Roman general Pompey conquered Jerusalem and the central Temple after a local power struggle. Generally speaking, both political and religious power had traditionally been held by the Temple priests. Under Roman rule, the power and governance structures in Judea slowly shifted.

By the beginning of the first century, Judea was governed directly by Roman procurators, some of whom were tolerant of the Jewish refusal to participate in Roman religion and its attendant worship of the Roman emperor. Others, like the infamous Pontius Pilate, seem to have been less lenient. The increasing tension finally erupted in a war (66–70 CE), when Jews rebelled against Roman rule.

While historical sources (both within rabbinic literature and without) attest to the revolt, it is from Josephus that we have the most information about “the Jewish War,” and his account must be taken with a grain of salt. What is clear, however, is that the rebellion also quickly became a civil war; there were tensions between groups of Jews who had a more conciliatory orientation toward Rome and those that radically rejected Roman rule. Jerusalem was besieged by the Roman general Titus, and in 70 CE it fell, resulting in the destruction of the central sanctuary, the Temple. The Arch of Titus, which was erected in Rome to commemorate this victory, famously depicts the looting of the Temple treasures in the wake of this destruction. As a consequence of this war, the Romans imposed the *fiscus Judaicus* (or Jewish tax), which routed the money that had previously supported the Temple in Jerusalem to a temple dedicated to Jupiter in Rome.

When the Romans destroyed the Temple in Jerusalem, a central pillar of Jewish practice disappeared. The Jewish festival year and many Jewish rituals had been attached to animal and produce offerings that were regularly sacrificed at the central Temple. The Hebrew Bible sets forth the outlines of the practice, and the attendant institutional structure of the priesthood had also been historically linked to political power. The destruction of the Temple, therefore, had much broader implications than the obvious exercise of Roman colonial power.

Older scholarly historical narratives credit the rabbis with reinventing Judaism in the wake of the destruction of the Temple. In these narratives, the rabbis tend to play the part of the heroes who ensured Judaism’s survival by reimagining Judaism in the face of chaos and disaster. Historical evidence demonstrates that, in truth, Jewish sectarianism predated the destruction of the Temple and flourished well into the subsequent “rabbinic” period. Recent historiography has also tended to downplay the influence of the rabbinic movement on the larger Jewish populace even during the first couple of centuries of the common era and to emphasize instead that the rabbis were likely only one voice in a hotly contested field of Jewish continuity. The growth of synagogues and eventually of study halls provided an

alternate structure for Jewish life, but this shift was probably a slower process than has been previously believed.

During the same time period, the Roman Empire very slowly Christianized.²⁴ Recent scholarship has argued that the rabbinic movement spread as Christianity was becoming the official state religion. While rabbinic literature is not a historical chronicle in the contemporary sense, we can see various elements of this historical context within the texts themselves.

Early layers of rabbinic traditions arose within this historical and cultural milieu. The first layer of rabbinic literature is called tannaitic literature, so named because it was produced by the tannaim, the generations of sages who flourished in the period that extended until the middle of the third century CE. This tannaitic (early) rabbinic strata of the literature emerged within the context of Roman imperialism, and in the immediate aftereffects of several crushing Jewish military defeats.

Later layers of rabbinic literature, however, are more complicated to situate. The border between the Roman Empire and the Persian Empire was hotly contested, and border skirmishes between the two polities lasted for centuries. During the rabbinic period, there were two main Persian dynasties: the Parthian and the Sasanian. The Parthian Empire (247 BCE–224 CE) stretched from the Mediterranean to India and China in the East. The Parthians even briefly took over Judea in 40 BCE. Conflicts between Rome and the Persian Empire continued into the Sasanian period (224–651 CE), where we see, for example, Shapur I (roughly 240–270 CE) fighting with the Romans in Syria. The disputed and shifting borders sometimes resulted in forced migrations.

Over the course of the Sasanian period, Zoroastrianism was consolidated and eventually became the national religion of the Persian Empire. Even so, significant Jewish and Christian minorities remained in their lands, as did pagans, Manichees, and Buddhist communities in the eastern parts of the Empire. Well-established communities of Jews had been living in the region for centuries, particularly in Mesopotamia, where Jewish communities had remained since the fall of the kingdom of Judah in 586 BCE had brought with it the capture and deportation of Jews. Some Jews also migrated in the wake of political, military, and social upheaval.

Relations between Jewish communities and the Persian Empire were not always antagonistic—there is evidence, for example, that at some points Jews collaborated with the Parthians to oppose Seleucid and Roman rule. Similarly, some historians think that Jews had relatively peaceful relations with their neighbors for several centuries following the rise of the Sasanian dynasty in the early third century CE. These good relations laid the groundwork for established communities to flourish.

24. The slow processes of Christianization (and the effects on rabbinic Judaism), are laid out in Schwartz, *Imperialism*, 179–203.

In the second half of the rabbinic period, the major centers of the rabbinic movement slowly began to shift eastward.

The Sasanian Empire was not continuously tolerant of its religious minorities, however. For example, as the Roman Empire slowly Christianized in the wake of Constantine's conversion in the fourth century, the Sasanian government sometimes singled out Christians suspected of collaborating with the Romans. Jewish communities may have been persecuted in the fifth century. Nor were minority interrelationships always pacific. The introduction of Islam at the end of the Sasanian period brought both more conflict and further religious richness into the region. Late antiquity, therefore, across both the Roman and Persian Empires, was a period of enormous religious contestation and innovation. This is the broader historical context within which we should regard the rabbinic project.

These rabbinic movements, spread across the Roman and Persian Empires, produced what would become one of the most influential bodies of Jewish literature. This body of works continues to inform and shape Jewish practice today. In the interest of space, I will introduce only the two works that I discuss most frequently: the Mishnah and the Babylonian Talmud, although I do address some other compilations in the glossary. The Mishnah and the Talmud are primarily composed in Hebrew and Aramaic, with significant numbers of loan words reflecting the various geographies of rabbinic Judaism.

The Mishnah is usually dated to the early third century of the common era, and it is situated within the context of Roman Palestine. Since the Mishnah is a compilation of traditions that may have circulated for hundreds of years, some of the teachings contained in it originate from before the destruction of the Temple in 70 CE. The compiling of the Mishnah is traditionally associated with Rabbi Yehudah HaNasi (the rabbi whose story begins my introduction). It is organized topically in six "orders" (broad subject headings); individual tractates come under those headings. Scholars continue to debate the precise process of how the Mishnah came to be compiled; there is no reliable historical account of how (or why) these oral traditions were arranged, nor of exactly when they changed from oral compilations to written text. The Mishnah is primarily (but not exclusively) made up of legal discussions on a broad range of topics.

The Babylonian Talmud is often described as the apex of rabbinic achievement. Scholars surmise that the editors may have put together some version of it in the sixth century. The Babylonian Talmud takes its structure from the topical organization of the Mishnah and is therefore also organized into orders and tractates. However, unlike the Mishnah, it is also organized around the *sugya*, a coherent unit of discussion that was edited together. These individual *sugyot* make up the basic structure of discussion in the Talmud. The Talmud comments on the Mishnah, cites other traditions that never made it into the Mishnah, and debates the significance, reach, and applicability of the legal obligations that are laid out in

the Mishnah. Famously, the Babylonian Talmud rarely tells us which side wins any particular debate; it is difficult to extract a coherent legal code from it. In addition to discussions conventionally described as “legal,” the Talmud shares stories about the sages, creative interpretations of the Hebrew Bible, and parables.

The Sasanian cultural and religious milieu influenced the Babylonian Talmud in ways that scholars are still only beginning to appreciate. Recent scholarship has demonstrated points of convergence between Jewish and Zoroastrian practices, examined loan words, and considered the Sasanian context for the rabbinic culture that developed.

While the contents of the Mishnah and the Babylonian Talmud are related but not the same, scholarship tends to emphasize the legal aspects of both more heavily than the narrative aspects. Calling these rabbinic sources “legal” should not be construed to mean that they correspond to the genre of contemporary law codes with which many of us may be more familiar. The word *halakhah* itself, while conventionally translated as law, can contain all kinds of materials that we do not associate with law. There is excellent scholarship questioning whether “law” is even an appropriate label for these traditions; in rabbinic discussions the rabbis may be practicing medicine, outlining ethical obligations, or describing rituals, and all of this would come under the heading of *halakhah*. In short, neither the Mishnah nor the Babylonian Talmud conforms to any contemporary literary genre that readers will be familiar with. I will use the term “law” in this book advisedly, as a heuristic device, while recognizing that this division between “legal” and narrative or exegetical materials is neither obvious nor uncontested.

TRANSING THE TALMUD

One of the central methodological interventions of this book is what I am calling “transing” rabbinic literature. Before I explain what I mean by using the term “trans” as a verb, I want to introduce some basic terminology used within trans communities. This language has rapidly developed, and terms that were in use when I first came out have been discarded. Therefore, this overview should be understood as reflecting a snapshot in time.

Both the term “transgender” and the more colloquial term “trans” may describe a range of different kinds of gendered identifications. As a broad category, trans can include those who were assigned a sex at birth that does not match the gender they currently identify with. For example, I was assigned female at birth, but I do not currently identify as a woman. *Trans* may also include those who do not identify within the gender binary altogether, sometimes also called nonbinary. Trans people may or may not seek medical assistance to transition. The term “transsexual” has sometimes been used as a synonym for transgender, but it has also been used to differentiate between those trans people who desire medical intervention