

Introduction

Law, it has been said, is in many respects “a way of managing doubt” ...
But doubt incorporates both issues of authority and degrees of certainty.¹

Is law objective, or should it incorporate individuals’ personal experiences? Law is a central social institution controlling some of the most important aspects of our lives as social beings. In order to uphold law’s authority in the eyes of its subjects, law by its very essence must strive toward objectivity and attempt to deal with people in a neutral and impersonal way. For much of the history of Western civilization, law has been widely understood as dealing with external behavior, focusing on objective circumstances and providing universal rulings that are applicable to a broad majority of the public.² One way in which law treats people objectively is by regulating behavior; it does not seek to coerce feelings or attitudes, and it does not investigate feelings or attitudes unless wrongful behavior has been previously established. To standardize and regulate personal experience, legal systems must define and classify the divergent elements of that experience and strive to do so in an impartial and externally verifiable manner. Talmudic law is no exception to this rule: in literally hundreds of cases, the rabbis of late antiquity sought to establish externally verifiable, objective standards for all sorts of data that are neither easily verifiable nor objective.

¹ Lawrence Rosen, *Law as Culture: An Invitation* (Princeton, NJ: Princeton University Press, 2008), 88.

² Kent Greenawalt, *Law and Objectivity* (New York: Oxford University Press, 1992), 93–120.

Yet despite this tendency, law does occasionally incorporate individuals' knowledge into its system. This book examines the increasing reliance on self-knowledge in talmudic law from the early corpus of the Mishnah to the later Babylonian Talmud and attempts to account for this shift. The purpose of this study is to trace and analyze the emergence of self-knowledge as a determining legal consideration among the rabbis who created the Babylonian Talmud. By examining specific legal norms and their development over time, I demonstrate how the later rabbis reworked the earlier standards of objective, verifiable criteria established by the Mishnah in favor of reliance on individual self-knowledge. I argue that this transformation reveals a self-reflective concern about the authoritative reaches of the law and an attempt to mitigate earlier rulings by carving out space for the inclusion of individual experience as a determining legal factor.

Authority and Knowledge

The biblical text envisioned an ideal world in which there is a sole, divine judge. God is “the judge of all the earth” (Genesis 18:25), whose activities are directed toward establishing virtuous standards, “for all his ways are justice” (Deuteronomy 32:4). Yet the Bible itself recognizes that divine adjudication must be mediated by human intercessors and therefore presents various models of legal authority, including not only judges but also priests and prophets. Post-biblical Judaism was forced to contend with the disappearance of both prophecy and the Temple.³ As a result, a significant portion of biblical law was rendered inapplicable and irrelevant. As they struggled to adjust to a new reality, Jews of the first and second centuries CE turned to their foundational texts not (only) for practical direction but also to define and justify different communities' claims to be the authoritative transmitters of the continuing divine revelation. As related by the first passage of tractate Avot, the rabbis saw themselves as continuing the chain of tradition from Moses at Sinai and often attributed even their most radical innovations to the Sinaitic revelation.⁴

³ For a detailed literature review and survey, see L. Stephen Cook, *On the Question of the “Cessation of Prophecy” in Ancient Judaism* (Tübingen: Mohr Siebeck, 2011). On the rabbis' marginalization of prophecy in the legal process, see Ephraim E. Urbach, “Halakhah and Prophecy,” *Tarbiz* 18 (1947), 1–27 [Hebrew].

⁴ Indeed, Christine Hayes argues that in Palestinian sources, precisely those rulings whose authority was unstable were categorized as laws given directly at Sinai, or *halakhah*

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As the rabbis replaced the Temple with the study-house, they offered themselves as heirs to the biblical prophets and priests. The rabbis took on the authority vested in the hereditary priesthood on the basis of their knowledge and expertise in matters of Jewish law.⁵ As the possessors of a tradition going back to Sinai, the rabbis were able to replace the guardians of the sancta. As Daniel Boyarin writes,

The new rabbinic regime of knowledge/power was epitomized (or perhaps one might say, epistemized) via the concept of Torah ... Crucial to the success of this epistemic shift was the disenfranchisement of the previous holders of power/knowledge, the priests.⁶

The rabbis derived their authority not from the privileged role of guardians of the ritual, but rather from their skills as interpreters of the canonical text.⁷ While in actuality this transition did not progress entirely smoothly, and priests continued to retain an attenuated legal authority, rabbinic sources depict their own authority as both singular and paramount.⁸

Yet while the rabbis presented themselves as the sole heirs of biblical law and legal authority, they also worried about their role as trustees of the divine law. From the earliest sources, it is apparent that the rabbis were well aware of the need to bring divine law down to earth, and numerous sources grapple with the problem of divine law being applied by human judges. One famous passage that reflects this anxiety is found in the Tosefta:

le-Moshe mi-sinai. See Christine Hayes, “*Halakhah le-Moshe mi-Sinai* in Rabbinic Sources: A Methodological Case Study,” in *The Synoptic Problem in Rabbinic Literature*, ed. Shaye J. D. Cohen (Providence, RI: Brown Judaic Studies, 2000), 61–117.

⁵ See Ephraim E. Urbach, “The Talmudic Sage: Character and Authority,” *Journal of World History* 11 (1968), 116–147. For other models of this development among early Jewish communities, see Martha Himmelfarb, *A Kingdom of Priests: Ancestry and Merit in Ancient Judaism* (Philadelphia: University of Pennsylvania Press, 2006).

⁶ Daniel Boyarin, “Women’s Bodies and the Rise of the Rabbis: The Case of the Sotah,” *Studies in Contemporary Jewry* 16 (2000), 88.

⁷ Jay Harris, *How Do We Know This: Midrash and the Fragmentation of Modern Judaism* (Albany: State University of New York, 1995), 3; Moshe Halbertal, *People of the Book: Canon, Meaning and Authority* (Cambridge, MA: Harvard University Press, 1997), 22–23.

⁸ See Steven Fraade, “Shifting from Priestly to Non-Priestly Legal Authority: A Comparison of the Damascus Document and the Midrash Sifra,” *Dead Sea Discoveries* 6: 2 (1999), 109–125. Moreover, some rabbinic texts depict the rabbis in deep tension with priests. For a similar shift in the Roman world from hereditary authority to one based in expertise, see Andrew Wallace-Hadrill, “*Mutatio morum*: The Idea of a Cultural Revolution,” in *The Roman Cultural Revolution*, eds. Thomas Habinek and Alessandro Schiesaro (Cambridge: Cambridge University Press, 1997), 3–22.

The judges should know whom it is they are judging, before whom they are judging, and who judges them ... as it is written: *God [elohim] stands in the congregation of El [in the midst of gods does he judge] (Psalms 82:1)*. And thus it is said ... *He said to the judges, Consider what you do, for you judge not for man, but for the Lord (2 Chronicles 19:6)*. And lest the judge should say: Why bother with all this trouble? It is further said: *He is with you in giving judgement (ibid.)*. You have nothing but what your eyes see.

(tSanhedrin 1:9)

The passage commences by establishing the presence of God in the human courtroom, indicating that God closely observes the process of judgment and holds the judges accountable for any error in their adjudication. The verse “God stands in the congregation of El, in the midst of gods does he judge,” which refers in the biblical text to the divine court, is intentionally read in this passage as concerning an earthly court (likely on the basis of the double meaning of the biblical “elohim,” which can indeed refer both to gods and to judges), thus bolstering the view that God is in some way present in the human process of adjudication. The second verse, taken from 2 Chronicles, likewise emphasizes that the judges should see themselves as adjudicating on behalf of God, who observes whether they judge in accord with his law. Yet the rabbis recognized that the perception of divine presence in the courtroom serves to intimidate the judges, as the subsequent verse in 2 Chronicles indeed makes explicit: “Now let the fear of the Lord be upon you; take care what you do, for there is no perversion of justice with the Lord our God.” The corollary of this fear might result in judges refraining entirely from adjudication, and therefore the Tosefta continues by transforming the words of the verse in 2 Chronicles: “He is with you in giving judgment.” Rather than reading this clause as underscoring the previous warning to the judges, the Tosefta allays the fears of the judge by invoking God’s presence as a comforting feature, which allows the judge to have faith in his judgment and to adjudicate according to the revealed information he receives. The rabbis acknowledge that a human judge cannot access divine perspicacity and therefore has no choice but to arbitrate according to what his eyes can see. Yet in this imperfect, human juridical activity, based on scrutiny and reason, God accompanies the judge and ratifies those judgments reached by a fair evaluation of the evidence seen by the judge’s flawed eyes. As Chaya Halberstam writes, in this text “we witness the contradictory impulses of rabbinic jurisprudence: to apprehend and fear one absolute, divine truth to which justice must aspire, and to accept and even sanctify

imperfect, human juridical activity.”⁹ God’s presence thus serves both to caution the judge and to support him in his verdict; it is, paradoxically, both a warning and a comfort.

Thus, while the rabbis acknowledged that human judges might not necessarily arrive at “true” judgment, they nonetheless insisted that they try. Yet rabbinic sources continue to reflect a deep anxiety over the justice of verdicts meted out by human judges, an unease reflected in a number of sources similar to the toseftan passage explored above. Moreover, it is unclear that the rabbis even saw the achievement of true divine justice as an attainable goal. Christine Hayes has recently argued that the very use of language about truth in a judicial context in most talmudic sources reflects not substantive truth, in the sense of an authentic and ontologically correct answer, but rather procedural honesty and integrity.¹⁰ Just as the term “the truthful judge” (*dayyan ha-emet*) is applied to God to highlight his lack of corruption and favoritism, so too a human judge is seen as “truthful” if he does not indulge in corrupt practices (such as bribe-taking) or favoritism. Truth, then, for the rabbis, was not valorized as the “theoretically correct” answer, the one that God himself would have ruled in the case at hand. Rather, a “true judgment” (*din emet*, or *din emet la-amitto*, “judgment true to its very truth”) refers to a judgment that is procedurally honest, fair and noncorrupt.

Epistemological Transition

The rabbinic anxiety about the attainability of true judgment goes hand in hand with a certain feature of rabbinic epistemology. Epistemology is concerned with truth claims. Rabbinic truth claims include subjects as

⁹ Chaya Halberstam, *Law and Truth in Biblical and Rabbinic Literature* (Bloomington: Indiana University Press, 2010), 3.

¹⁰ Christine Hayes, “Legal Truth, Right Answers and Best Answers: Dworkin and the Rabbis,” *Diné Israel* 25 (2008), 73–121. Hayes also points out the few exceptions to this rule, in which “true judgment” does refer to a “theoretically correct” answer and is juxtaposed to institutions not concerned with truth, such as supererogation, arbitration or compromise. Nevertheless, although these passages display a monistic attitude recognizing only one “correct,” true answer, they nonetheless require that truth be balanced by – and often subordinated to – practical or moral considerations. See Hayes, “Legal Truth,” 107–117. The discussion on this matter continues in the pages of *Diné Israel* with a response by Richard Hidary and a reply by Hayes. See Richard Hidary, “Right Answers Revisited: Monism and Pluralism in the Talmud,” *Diné Israel* 26–27 (2009–2010), 229–255; Christine Hayes, “Theoretical Pluralism Revisited: A Response to Richard Hidary,” *Diné Israel* 26–27 (2009–2010), 257–307.

weighty as theology and as minute as the measurements of an average handbreadth. For the rabbis, the central claim to truth was Scripture and their own unique authority to interpret the biblical text. Indeed, some scholars have even described rabbinic epistemology as founded on the belief that truth is sealed within the world of biblical tradition and its rabbinic interpretation.¹¹ In Palestinian rabbinic literature, rabbinic propositions rely upon the authority of rabbinic tradition and are primarily derived from the biblical text or based on received tradition. Reason, experience, intuition or common sense play only a minimal role in the justification or validation of rabbinic argumentation.¹²

Early rabbinic traditions concentrated on Scripture and tradition as the supreme sources for knowing the law. When the rabbis required evidence to determine the law, they looked to objective, verifiable sources of evidence that might be used by the rabbinic expert. Indeed, in a number of cases to be explored in this book, the rabbis' desire for verifiable knowledge led them to replace the intuitive, personal knowledge espoused in the biblical text with a complicated body of knowledge that can only be interpreted through rabbinic expertise grounded in rabbinic training and knowledge.¹³

The epistemic aspect of rabbinic authority was all the more important in a historical reality in which the rabbis lacked the crucial component of law as defined in the modern era – that is, the power of coercion.¹⁴ The

¹¹ David Stern, *Midrash and Theory: Ancient Jewish Exegesis and Contemporary Literary Studies* (Evanston, IL: Northwestern University Press, 1996), 37.

¹² Jenny Labendz qualifies this claim by demonstrating that some rabbinic dialogues emphasize personal beliefs and experiences as the primary sources of justification for rabbinic truth claims. See Jenny R. Labendz, *Socratic Torah: Non-Jews in Rabbinic Intellectual Culture* (New York: Oxford University Press, 2013), 67–80.

¹³ See especially Chapter 2, as well as Tzvi Novick, “A Lot of Learning Is a Dangerous Thing: On the Structure of Rabbinic Expertise in the Bavli,” *Hebrew Union College Annual* 78 (2007), 91–107; Shai Secunda, “Dashtana –Ki Derekh Nashim Li’: A Study of the Babylonian Rabbinic Laws of Menstruation in Relation to Corresponding Zoroastrian Texts,” PhD dissertation, Yeshiva University, 2007, chapter 3; Mira Balberg, “Rabbinic Authority, Medical Rhetoric, and Body Hermeneutics in Mishnah Nega’im,” *AJS Review* 35: 2 (2011), 323–346.

¹⁴ On law's coercive dimension, see John Austin, *The Province of Jurisprudence Determined* (London: John Murray, 1832). On the rabbis' lack of officially sanctioned power during the third and fourth centuries, see Seth Schwartz, *Imperialism and Jewish Society, 200 B.C.E. to 640 C.E.* (Princeton, NJ: Princeton University Press, 2001), 103–128. During this period, all legal authority and power were in the hands of the Roman state and its local representatives. Although the rabbis never attained official recognition, they did enjoy limited prestige as experts in Torah. They served as rural religious functionaries – judges, schoolteachers, Torah readers – and were employed only by those villages that

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rabbis' authority rested not on political power but on their knowledge. Yet this type of authority – what we might call “epistemic authority” – rests on knowledge that, at least in theory, is available to the community in its entirety.¹⁵ The centrality of knowledge in the rabbinic legal culture engendered two opposing tendencies. On the one hand, many rabbinic passages reflect on the open nature of rabbinic knowledge, encouraging all who might wish to enter the halls of study and immerse themselves in the pursuit of Torah.¹⁶ On the other hand, historians of the rabbinic period have exposed that, in actual fact, very few disciples had the elite status, financial resources or geographical proximity to allow them to dedicate their lives to the quest for knowledge of Torah.¹⁷ Thus, while

wished and could afford to employ them. See also Shaye J. D. Cohen, “The Rabbi in Second Century Palestine,” in *The Cambridge History of Judaism*, vol. 3, eds. William Horbury, W. D. Davies and John Sturdy (Cambridge: Cambridge University Press, 1999), 922–990; Catherine Hezser, “Social Fragmentation, Plurality of Opinion, and Nonobservance of Halakhah: Rabbis and Community in Late Roman Palestine,” *Jewish Studies Quarterly* 1 (1993–1994), 234–251.

¹⁵ For this reason, Richard De George, who coined the term “epistemic authority,” goes so far as to argue that it does not fully answer to the definition of authority, which requires the imposition of obligation. See Richard R. De George, *The Nature and Limits of Authority* (Lawrence: University Press of Kansas, 1985). For further elaboration on this point, see the Conclusion to this study, as well as Avi Sagi, “Models of Authority and the Duty of Obedience in Halakhic Law,” *AJS Review* 20: 1 (1995), 1–24; Michael Berger, *Rabbinic Authority* (Oxford: Oxford University Press, 1998), 73–82. For a stimulating collection of articles on the authority of experts from various realms, see Thomas Haskell (ed.), *The Authority of Experts: Studies in History and Theory* (Bloomington: Indiana University Press, 1984).

¹⁶ Most famous, perhaps, is the homily in Sifre Deuteronomy 41, reworked in bHagigah 3b. See Steven D. Fraade, *From Tradition to Commentary: Torah and Its Interpretation in the Midrash Sifre to Deuteronomy* (Albany: State University of New York, 1991), 79–83; and Jeffrey L. Rubenstein, *Stories of the Babylonian Talmud* (Baltimore, MD: Johns Hopkins University Press, 2010), 96–98, and literature cited in the notes therein. Moreover, mPe’ah 1:1 maintains that learning Torah is equivalent to all of the commandments. A number of rabbinic narratives reflect on the elitism of rabbinic leaders and the insistence that Torah should be accessible to all. See, for instance, the story of the deposition of Rabban Gamliel in yBerakhot 4:1, 7c–d; bBerakhot 27b–28a and the story of Hillel in bYoma 35b. See also Devora Steinmetz, “Must the Patriarch Know Uqtzin? The Nasi as Scholar in Babylonian Aggadah,” *AJS Review* 23: 2 (1998), 163–189 and Jefferey Rubenstein, *The Culture of the Babylonian Talmud* (Baltimore, MD: Johns Hopkins University Press, 2003), 138–142.

¹⁷ For the reality in Palestine, see Cohen, “The Rabbi in Second Century Palestine,” 930–936, 948–950. David Goodblatt has argued that the Babylonian amoraim participated in small “disciple circles,” similar to those formed in Palestine, while Jeffrey Rubenstein has argued that large rabbinic academies were formed only in the period of the Stammaim. See David Goodblatt, *Rabbinic Instruction in Sasanian Babylonia* (Leiden: Brill, 1975); Jeffrey Rubenstein, “Social and Institutional Settings of Rabbinic

rabbinic texts have frequently been viewed as uniquely democratic in their willingness to allow – and even encourage – open access to all members of the community,¹⁸ in actual fact, the size of the rabbinic class was limited and its authority controlled by the knowledge acquired and concentrated among this class.¹⁹ As Shaye Cohen concludes, “the rabbis declared that the Torah was to be the possession of all Israel, but their educational institutions were geared for the few, not the many.”²⁰ Rabbinic authority relied not upon institutions or bureaucracy but rather upon charisma, personality and personal expertise in those matters that concerned their contemporaries. Thus, an essential requirement for garnering support and authority for the rabbinic class was their knowledge.

Recent scholarship, however, has begun to question the assumption that the rabbis relied exclusively on revelation and its interpretation as sources of the law. Christine Hayes, for instance, has argued that biblical revelation was not always the rabbis’ sole criterion for establishing legal authority or for adjudication.²¹ Hayes reasons that rabbinic awareness of the multiple sources of authority in Roman law may have influenced the Palestinian rabbis’ reliance on reason, custom or practical considerations to overturn the supreme authority of biblical law.²² Moreover, later Palestinian sources portray rabbis as eliciting knowledge from many sources other than Scripture and rabbinic tradition, including parables, folk sayings, women’s lore and even the insights of non-Jews. While the rabbis continue to depict themselves as granting primary epistemic weight to biblical revelation and rabbinic tradition, in practice, other methods

Literature,” in *The Cambridge Companion to Rabbinic Literature*, eds. Charlotte Fonrobert and Martin Jaffee (Cambridge: Cambridge University Press, 2007), 58–74; Jeffrey Rubenstein, *Culture of the Babylonian Talmud*, 17–38.

¹⁸ On the primacy attributed to Torah study in rabbinic thought, as well as the restrictions on those eligible to engage in Torah study, see Marc Hirshman, “Torah in Rabbinic Thought: The Theology of Learning,” in *The Cambridge History of Judaism*, vol. 4: *The Late Roman-Rabbinic Period*, ed. Steven T. Katz (Cambridge: Cambridge University Press, 2006), 899–924. In an earlier work, Hirshman showed how some rabbinic sources are even more inclusive, arguing that Torah is equally accessible to non-Jews. See Marc Hirshman, *Torah for the Entire World* (Tel Aviv: Hakibbutz Hameuchad, 1999), 25–44 [Hebrew].

¹⁹ See Daniel Boyarin, *Border Lines: The Partition of Judaeo-Christianity* (Philadelphia: University of Pennsylvania Press, 2004), 151–201.

²⁰ Cohen, “The Rabbi in Second Century Palestine,” 975–976.

²¹ Christine Hayes, “Rabbinic Contestations of Authority,” *Cardozo Law Review* 28: 1 (2006), 123–141.

²² *Ibid.*, 138–141.

are factored into their epistemology as well.²³ Numerous sources reveal that rabbinic epistemology relies extensively upon knowledge acquired naturally, through experience or intuition. Rabbinic parables, for instance, often rely upon knowledge derived not only from texts or traditions, but equally, and perhaps even more, from the life experiences of ordinary people.²⁴ Similarly, Jenny Labendz has recently analyzed an intriguing group of texts found in early rabbinic sources, which she terms “Socratic Torah.” The cases included in her study portray rabbinic figures acquiring new knowledge of Torah by interrogating non-Jews not about theology or ethics but rather about their quotidian experiences. Just as the Socratic method is based on drawing knowledge from *within* the interlocutors, rather than dispensing it to them, rabbinic dialogues portray rabbis requesting others to speak from their own experience and knowledge-base. In this model, knowledge is deeply personal and experiential and serves to illuminate Scripture, the most valorized of texts. As Labendz writes, “another way of thinking about this is that it allows knowledge to derive not from objective, external books and traditions, but also from subjective human beings.”²⁵ Truth can only be obtained by the sincerity of the interlocuter, who must state his true beliefs. In this model, then, knowledge is both individually unique and profoundly personal.

These insights into rabbinic epistemology accord well with developments in epistemology in late antiquity more generally. In an introduction to a volume of essays on late antique epistemology, aptly subtitled *Other Ways to Truth*, Panayiota Vassilopoulou observes that in late antiquity, reason and argumentation – which modern thinkers often assume to be universally accepted sources of knowledge – were seen as less, not more, reliable than “non-rational practices, such as oracular testimonies, theurgic rituals, erotic passion, poetic inspiration, metaphors, and myths.”²⁶

²³ As Shlomo Biderman notes, canons in general attempt to negate the distinction between knowledge and opinion to preserve their authority. He writes, “The distinction between knowledge and opinion therefore contributes to the epistemic picture of disharmony. It is as if the internal tension of the authority of scripture becomes more insistent when the justification of knowledge by scriptural authority is confronted with the justification of knowledge by means of experience and reason.” See Shlomo Biderman, *Scripture and Knowledge: An Essay on Religious Epistemology* (Leiden: Brill, 1995), 149.

²⁴ See David Stern, *Parables in Midrash: Narrative and Exegesis in Rabbinic Literature* (Cambridge, MA: Harvard University Press, 1991), 19–20.

²⁵ Labendz, *Socratic Torah*, 71.

²⁶ Panayiota Vassilopoulou, “Introduction,” in *Late Antique Epistemology: Other Ways to Truth*, eds. Panayiota Vassilopoulou and Stephen R. L. Clark (New York: Palgrave Macmillan, 2009), 7.

Indeed, late antiquity was marked by a transformation of the very concepts of “reason,” “rationality” and “truth” – the core notions with which epistemology is occupied:

In late antiquity, more radically than in earlier periods, coming to know the truth involved methods by which the soul might be “persuaded,” awakened and reformed; an enriched philosophical language able to capture and express realities beyond those of abstract reasoning.²⁷

Similarly, throughout late antiquity, the rabbis began to expand on an epistemology that relied on tradition and sources alone, adding to it with a more naturally acquired knowledge based on experience and intuition. While the rabbis continued to *present* themselves as deriving knowledge primarily from revelation and tradition, they gradually grounded their epistemology in other sources as well, such as logic and experience.²⁸

Rabbinic attitudes to authority have been addressed at great length in modern scholarship.²⁹ Rabbinic epistemology, on the other hand, has only recently become the subject of scholarly investigation. This book will investigate the intersection between these two areas by focusing on one aspect of rabbinic epistemology that has thus far been fully neglected.

We have seen that the rabbis gradually attributed growing significance to a variety of sources of truth. They even portrayed themselves as relying upon personal, experiential knowledge to determine the nature and truth of various aspects of Torah. This book examines a further development attested in the Babylonian Talmud, namely, the importance accorded by the later rabbis to *self-knowledge*: what individuals know about their own bodies and inner psychological states. I show that this novel phenomenon deeply affected the development of rabbinic law. Where early traditions rely entirely on external, verifiable sources of knowledge in determining

²⁷ Ibid., 7.

²⁸ Menahem Fisch has analyzed the tension between innovation and the rhetoric of traditionalism at length, specifically in the Bavli. See Menahem Fisch, *Rational Rabbis: Science and Talmudic Culture* (Bloomington: Indiana University Press, 1997), 163–196. In the Bavli, Scripture and logic (*svara*) are occasionally opposed, with the goal of underscoring the primacy of human reason. See David Kraemer, *The Mind of the Talmud* (New York: Oxford University Press, 1990), 146–156.

²⁹ For a number of conceptual studies, see Halbertal, *People of the Book*; Berger, *Rabbinic Authority*; Moshe Z. Sokol (ed.), *Rabbinic Authority and Personal Autonomy* (Northvale, NJ: Jason Aronson, 1992); Avi Sagi, *The Open Canon: On the Meaning of Halakhic Discourse*, trans. Batya Stein (London: Continuum, 2007); Avi Sagi and Zeev Safrai (eds.), *Between Authority and Autonomy in Jewish Tradition* (Tel Aviv: Hakibbutz Hameuhad, 1997) [Hebrew]; Yochanan D. Silman, *The Voice Heard at Sinai: Once or Ongoing?* (Jerusalem: Magnes, 1999) [Hebrew].