Religious Studies and Rabbinics
A Conversation

Edited by
Elizabeth Shanks Alexander
and Beth A. Berkowitz
Contents

Notes on contributors vii
Preface ix
Acknowledgments xii
About the book xiv
List of abbreviations xvi

Introduction 1
ELIZABETH SHANKS ALEXANDER

PART I
The history of “religion” 23

1 Religious Studies, past and present 25
RANDALL STYERS

2 Different religions? Big and little religion in Rabbinics and Religious Studies 39
BETH A. BERKOWITZ

3 J.Z. Smith on the study of religion, humanities, and human nature 54
KURTIS R. SCHAEFFER

PART II
Managing commitments 67

4 “A cheerful unease”: theology and Religious Studies 69
PAUL DAFYDD JONES

5 Reading midrash as theological practice 82
DEBORAH BARER
vi Contents

6 Alexandria between Athens and Jerusalem: Religious Studies as a humanistic discipline 105
   CHARLES MATHEWES

PART III
Comparative rubrics and rabbinic data 119

7 The legal language of everyday life in rabbinic religion 121
   CHAYA HALBERSTAM

8 Time, gender, and ritual in rabbinic sources 139
   SARIT KATTAN GRIEBTZ

9 Ritual failure, ritual success, and what makes ritual meaningful in the Mishnah 158
   NAFTALI S. COHN

PART IV
Critical reading in Religious Studies 173

10 Thou shalt not cook a bird in its mother’s milk? Theorizing the evolution of a rabbinic regulation 175
    JORDAN D. ROSENBLUM

11 Learning how to read: how Rabbinics aids in the study of contemporary Christian scripture-reading practices 188
    KELLY WEST FIGUEROA-RAY

12 From the general to the specific: a genealogy of “acts of reciprocal kindness” (gemilut hasadim) in rabbinic literature 209
    GREGG E. GARDNER

Index 226
10 Thou shalt not cook a bird in its mother’s milk?
Theorizing the evolution of a rabbinic regulation

Jordan D. Rosenblum

On three separate occasions in the Hebrew Bible, the Israelites are enjoined: “Do not cook a kid in its mother’s milk” (Exod 23:19; 34:26; and Deut 14:21). While this command appears verbatim in each passage, the context of each one differs. Exod 23:19 and 34:26 locate this admonition amidst a festival calendar and related laws, whereas Deut 14:21 appends it to the laws for permitted and prohibited animals for ingestion. In all of these contexts, the command does not quite seem to fit.

Moreover, the command itself is cryptic. What does it mean? Is it literal or figurative? How far does this prohibition extend? Why must the Israelites abstain from this culinary practice? The fact that it is stated three times suggests that the prohibition is important, but the Hebrew Bible leaves its readers with more questions than answers. For over two millennia, commentators have attempted to explain this cryptic phrase.

This essay explores Jewish interpretation of this biblical commandment in antiquity. In particular, I focus on how the ancient rabbis grappled with whether fowl should be included within this prohibition. Theories of religious discourse, practice, and identity—especially those of Bruce Lincoln—elucidate how rabbinic conversation about the inclusion of fowl in this dietary practice plays a role in an emerging distinct rabbinic identity. I conclude that later rabbis strategically deploy discourse in order to conceal and, ultimately, to delegitimize earlier, alternative rabbinic viewpoints. In doing so, they render alterity invisible and advance a single interpretation as the sole legitimate practice.

Pre-rabbinic interpretations of the biblical commandment

Prior to the rabbis, it would seem that this law was interpreted literally: so long as one did not literally cook a baby animal in its own mother’s milk, then the prohibition was not violated. Meat from Baby A with the milk from Mother A would violate the taboo, but meat from Baby A with the milk from Mother B would not. Such a practice is confirmed by the writings of Philo:

But so prolific is [Moses] in virtue and versatile in giving admirable lessons, that not content with his own prowess, he challenges it to further contest. He
has forbidden any lamb or kid or other like kind of livestock to be snatched away from its mother before it is weaned. He has also forbidden the killing of the mother and offspring on the same day. He now crowns his bounty with the words “Thou shalt not see the lamb in his mother’s milk.” For he held that it was grossly improper that the substance which fed the living animal should be used to season and flavour the same after its death, and that while nature provided for its conservation by creating the stream of milk and ordaining that it should pass through the mother’s breasts as through conduits, the license of man should rise to such a height as to misuse what had sustained its life to destroy also the body which remains in existence. If indeed anyone thinks good to boil flesh in milk, let him do so without cruelty and keeping clear of impiety. Everywhere there are herds of cattle innumerable, which are milked everyday by cowherds, goat-herds and shepherds, whose chief source of income as cattle rearers is milk, sometimes liquid and sometimes condensed and coagulated into cheese; and since milk is so abundant, the person who boils the flesh of lambs or kids or any other young animal in their mother’s milk, shows himself cruelly brutal in character and gelled of compassion, that most vital of emotions and most nearly akin to the rational soul.

(Philo, Virtues 8.249–251, Colson)

Philo interprets this biblical prohibition as a lesson in ethics. Seasoning the meat of a baby animal with the very milk that once sustained it is cruel, impious, and even unnatural in Philo’s view, since it uses for death what was intended for life. This does not mean, however, that Philo disapproves of eating meat and milk in general. Here, Philo’s concern is not a general meat-and-milk matter, but rather a specific ethical matter reflected in the “cruelly brutal” practice of consuming the milk of a particular mother together with the meat of her own child.

Since Philo is the only extensive extant pre-rabbinic Jewish interpretation of this biblical commandment, we cannot be certain that his views were normative in antiquity. However, Philo’s passage reminds us that the rabbinic exegesis of this regulation, to which we shall now turn, was neither the natural nor necessarily the normative reading. Rather, these ancient Jewish authors provide us with symbolic discourse for the construction of particular group boundaries through bundled sets of activities (i.e., practices), which index their distinct identities.

“Meat” and milk in the Mishnah

It is not until the Mishnah that we encounter a text that reads the biblical prohibition as a general prohibition, not a particular one. According to m. Hull. 8:1:

[A] All meat is forbidden to be cooked with milk, except for the meat of fish and locusts.

[B] And it is forbidden to bring it up with cheese on the table, except for the meat of fish and locusts.
One who vows to abstain from meat is permitted the meat of fish and locusts.

Fowl may go up with cheese on the table, but it may not be eaten;¹³ the words of the House of Shammai.

But the House of Hillel says: It may neither go up, nor may it be eaten.¹⁴

Rabbi Yosi said: This is one of the lenient rulings of the House of Shammai and the stringent rulings of the House of Hillel.

Regarding which table did they speak?

Regarding a table that one eats upon; but regarding a table upon which one arranges the food, one may place one beside the other without concern.

(Albeck 1958, 5.137–138)¹⁵

Though never quoted, the biblical law looms in the background.¹⁶ The early rabbis, the Tannaim, interpret the biblical law to refer to all meat and all milk, regardless of whether they come from different sources.¹⁷ Given that this expansive interpretation is more complicated and less literal than Philo’s reading of the biblical text, Occam’s razor would suggest that the rabbis are innovating here, though they strategically employ discourse in such a way that hides their innovation.¹⁸ No longer is the meat from Baby A cooked with the milk from Mother B kosher.¹⁹ Further, this prohibition extends from cooking to bringing meat and milk (which is exemplified in this case by the milk-product cheese) to the same table.²⁰ While this text contains new and interesting information,²¹ for our purposes we must note three things: (1) the rabbis interpret a specific rule as a general rule; (2) fish and locusts are not considered meat;²² and (3) the precise applicability of this rule to fowl is debated.

It is this final point that will consume our attention, as it highlights a fundamental problem: once one generalizes a particular law, and the rabbinic Jew is forbidden to cook all meat with all milk, then what constitutes “meat”? Fowl is an ideal litmus test for the extension of this law, as fowl do not produce milk.²³ However, if fowl is indeed classified as “meat,” then—like all other meat—it must be separated from “milk” entirely. Further, those Jews who do not separate fowl from milk should also be separated from rabbinic Jews, a social cleavage that David Kraemer argues is behind rabbinic interpretation of this biblical commandment in general (Kraemer 2009, 50–52).

But the conclusion that fowl is “meat” and thus must be separated from “milk” (which, as a non-mammal, it cannot produce) is far from certain, since it defies logic. In fact, just two paragraphs later, an anonymous statement in m. Hul. 8:3 states: “One who brings up fowl with cheese on the table does not transgress a negative commandment” (Albeck 1958, 5.138). If the mixture of fowl and milk were biblically prohibited, then setting them both on the same table would violate the negative (or “Thou Shalt Not…” ) commandment from the Hebrew Bible. However, such a mixture does not violate the negative commandment regarding milk and meat. This passage clearly suggests then that such a
mixture would only potentially transgress a rabbinic commandment, a conclusion that the Talmud itself reaches. Similar logic probably underlies the lenient view of the House of Shammai.

Though the debate thus far has only been about bringing fowl up to the same table with cheese, two major rabbinic authorities explicitly state that fowl and milk may indeed be eaten together. As m. Hul. 8:4 recounts:

[A] ... Rabbi Aqiva says: Undomesticated animal and fowl are not prohibited by the Torah,

[B] as it is said, You shall not cook a kid in its mother's milk, three times, to exclude (1) undomesticated animal, (2) fowl, and (3) impure domesticated animal.

[C] Rabbi Yosi the Galilean says: It is said, You shall not eat any carcass, and it is said, You shall not cook a kid in its mother's milk: that which is forbidden on account of carcass it is forbidden to cook in milk.

[D] Fowl, which is forbidden on account of carcass, might one conclude that it is forbidden to cook in milk?

[E] Scripture says, in its mother's milk, to exclude fowl, which has no mother’s milk.

(Albeck 1958, 5.138–139)

While how each rabbi approaches the issue differs, what matters for the discussion at hand is the unambiguous statements in clauses A and E: fowl is not biblically prohibited from being consumed with milk. Further, as Rabbi Yosi the Galilean correctly asserts, fowl cannot produce milk, making it impossible to violate the literal biblical prohibition against cooking a kid in its mother’s milk.

This passage also appears in three other tannaitic corpora, which suggests wide circulation within rabbinic circles of the opinion that fowl does not constitute meat for the purposes of this prohibition. In one of these corpora, however, we do see an alternative ruling: Mekhilla d'Rabbi Ishmael Kaspa Mishpatim 20 extensively considers the question of why the Hebrew Bible repeats this law three times. Numerous options are offered, though in typical rabbinic fashion, no particular view is preferred. One rabbinic authority provides the following suggestion: “Rabbi Josiah says: Why is this law stated in three places? Once with regard to the domesticated animal, once with regard to the undomesticated animal, and once with regard to fowl” (Horowitz 1960, 336). It would seem that at least one early rabbi considered the biblical law to extend to fowl. While we saw earlier, in m. Hul. 8:1, that neither the House of Hillel nor the House of Shammai allows fowl and milk to be eaten together, Rabbi Josiah is the only early rabbi to connect this interpretation directly to explicit exegesis on these biblical verses.

This unresolved debate about whether fowl constitutes “meat” is not just an academic matter confined to the study hall; the differing practices that result from these debates, to which we shall now turn, have implications for everyday life.
Crying fowl in the Babylonian Talmud

Thus far, we have learned that the rabbis interpret the thrice-repeated biblical prohibition to refer to cooking all meat and all milk together, and that the early rabbis debated whether and to what extent this regulation applies to fowl. It is in the Babylonian Talmud (or Bavli), which records the discussion of the next group of rabbis—the Amoraim—that we discover the next phase in the evolution of the interpretation of this law in regard to fowl.31

[A] Levi visited the house of Joseph the Fowler.
[C] He did not say anything to them.33
[D] When he came before Rabbi [and told him what happened, Rabbi] said to him: Why did you not excommunicate them?
[E] He said to him: It was the locale of Rabbi Judah b. Beterah, and I thought, perhaps he expounded for them in accordance with Rabbi Yosi the Galilean, who said: to exclude fowl, which has no mother’s milk.

(b. Hul. 116a)34

Levi faced a commensal dilemma that is quite common even in the modern period, from vegetarians at a barbeque to Catholics at a meat dinner on Friday night: how to act when someone serves you food that you consider to transgress your religious, cultural, or ethical mores.

In this case, Levi and Rabbi clearly believe that fowl and milk should not be cooked together. However, Joseph the Fowler—whose occupation is perhaps not coincidental35—clearly holds the opposite view. Levi does not excommunicate Joseph and his household because they could be following a divergent, but still authoritative, view: that of Rabbi Yosi the Galilean, recorded in m. Hul. 8:4 (discussed above). Levi simply does not eat the dish (as some manuscripts clearly state). Furthermore, Levi lets the matter go without bringing attention to the legal (halakhic) differences, which is why Rabbi asks him about his actions.36 Despite the fact that Levi and Rabbi’s view is presented as more normative than Joseph the Fowler’s, the Fowler’s actions are justifiable in Levi’s view.37 Levi tolerates fowl and milk, even if begrudgingly.38

We detect in this narrative a tension. Whereas the Mishnah displays an openness to the different views on whether fowl constitutes “meat,” the Babylonian Talmud shows a definite preference for fowl’s inclusion in the category of “meat.” However, two problems remain: (1) there are authoritative arguments in support of the opposite opinion; and (2) some rabbinic Jews use those opinions to justify eating fowl with milk. To address these issues, we begin to see in the Babylonian Talmud a trend toward using discourse as what Religious Studies scholar Bruce Lincoln terms “ideological persuasion,” wherein the practice of cooking fowl and milk—which clearly can be justified in rabbinic law (halakhah)—becomes viewed as a non-preferable, and ultimately incorrect, culinary and legal practice. Read in light of Lincoln’s work, we see that, in
deploying discourse as ideological persuasion, later rabbis strategically use discourse to deconstruct and delegitimize alternative viewpoints, to draw on the wording of Lincoln (2014, 1–3). Religious discourse that has often been understood as an organic progression of rabbinic law is therefore now viewed as a strategic practice with a particular agenda. Religious Studies theories help us to uncover this subtle discursive move.

Though the narrative about Levi, Rabbi, and Joseph the Fowler is clear in its use of ideological persuasion, there are actually two other much subtler—and hence more profound—instances in which the Babylonian Talmud indicates its displeasure with this practice. In the first instance, the redactor uses sleight-of-hand to direct our attention away from the actual meaning of a rabbinic comment. Thus, according to b. Hul. 104b:

[A] Agra, the father-in-law of Rabbi Abba, taught:
[B] Fowl and cheese may be eaten with abandon.
[C] He taught it and explained it:
[D] ["With abandon" means] without washing the hands and without wiping the mouth [between eating fowl and cheese].
[E] Rav Isaac the son of Rav Mesharshiya visited Rav Ashi’s house.
[F] They brought him cheese, [and] he ate.
[G] [Then] they brought him meat, [and] he ate,
[H] and he did not wash his hands [in between].
[I] They said to him:
[J] But did not Agra, the father-in-law of Rabbi Abba, teach: Fowl and cheese may be eaten with abandon.
[K] [Does not this imply:] fowl and cheese, yes; [but] meat and cheese, no?
[L] He said to them:
[M] This applies only at night, but during the day I can see.

This narrative begins with a straightforward statement by Agra: “Fowl and cheese may be eaten with abandon.”39 If we remove this statement from its context, then we have a statement that supports eating fowl and cheese together. It would seem that Agra and Joseph the Fowler cook in much the same manner. However, when we encounter the text in situ, an editorial trick fools us into reading Agra’s statement quite differently. From unit C onwards, the reader is told to interpret Agra’s words as referring to the question of whether there needs to be some sort of physical action of separation (i.e., washing hands or wiping mouth) between fowl and cheese courses.40 But this is not what Agra is saying. The narrative framing functions much like the misdirection of the magician: you are watching the empty left hand and not the right hand, in which the coin is secretly being palmed. The result is that, unlike the debate in the previous text about how to handle Joseph the Fowler’s technically licit but non-preferable practice, the work of the editor here has rendered invisible the differing view. To continue the metaphor of the magician, the editor has made halakhic difference disappear. This is exactly the type of strategically-deployed discourse of
mystification that Lincoln identifies as ideological persuasion (Lincoln 2014, 2–3). It is subtle, but powerful in its erasure.

This subtle prestidigitation marks a significant evolution in the discourse. Rather than indicate that there is a legitimate debate about whether fowl constitutes “meat” vis-à-vis this biblical commandment, the proponents of one view conceal all evidence of the opposite interpretation. This creates the semblance of a normative opinion, much like the magician changes the card in your hand from the two of clubs into an ace of diamonds. The text moves immediately to debate the details of the practice, rather than the practice itself. This creates the illusion that there was no debate at all, no (non-kosher) rabbit in the hat to begin with. In doing so, the nature of the debate itself has changed.

A second instance of subtle discourse strategically changing the nature of debate on this subject comes from an entirely unrelated context: namely, the question of whether a menstruating wife (Hebrew: niddâh; נידה) may sleep in bed beside her husband. This question concerns some technical issues related to menstrual impurity. For the sake of brevity and clarity, I will summarize many of the technical issues within my translation, below. I also do so to help focus on the elements of the text relevant to the topic at hand. As we shall see, we need to read this text, b. Shabb. 13a, carefully so as to observe the legerdemain of its rabbinic authors:

[A] They inquired: May a niddâh [menstruant] sleep with her husband [in the same bed], she in her garment and he in his garment?

[B] Rav Joseph said: Come and learn [from m. Hul. 8:1]: Fowl may go up with cheese on the table, but it may not be eaten; the words of the House of Shamni. But the House of Hillel says: It may neither go up, nor may it be eaten.

[C] It is different there, because there are no minds [i.e., there is only one diner at the table with the fowl and cheese, whereas with the niddâh and her husband, there are two people (“minds”) involved to prevent violation of law].

[D] It is indeed reasonable that where there are [separate] minds it is different, because the latter part [of m. Hul. 8:2] teaches: Rabban Shimon son of Gamaliel says: Two guests may eat on one table, this one eats meat and that one eats cheese, without concern.

[E] But was it not stated concerning it: Rav Hanin bar Ammi said in the name of Samuel: This was taught only when they do not know one another. But when they know one another, it is forbidden.

[F] And these [the niddâh and her husband] too know one another.

[G] Now, is this analogy correct?

[H] There [with guests sharing a table], there are [separate] minds, [but] no change [from usual practices, so they might mix their foods and violate the prohibition];

[I] but here [with the niddâh and her husband], there are [separate] minds and there is a change [from usual practices, since the couple would normally sleep together in the nude].
In order to explain the logic of the initial question regarding a niddāh wearing her pajamas sharing a bed with her husband wearing his own pajamas, an analogy is made to the law of fowl and milk. Rav Joseph\textsuperscript{47} quotes m. Hul. 8:1, in which the Houses of Hillel and Shamai debate whether fowl may be placed upon the same table as cheese. The logic of this analogy is that two foodstuffs/people that, while usually permitted, are prohibited in combination and, hence, are not allowed to get too close to one another. Even in their pajamas, a niddāh and her husband should not share a bed, much as cheese and fowl should not share a table, lest one accidentally engage in a forbidden activity.\textsuperscript{48} However, the fowl/milk example only involves one person, so m. Hul. 8:2 is introduced, in which two guests share a table but do not share their meat and milk meals, each of which are permitted on their own but the combination thereof is prohibited. Though the precise applicability of this rule is debated thereafter, the rest of the conversation is not relevant for our present purposes. What is relevant, however, is the conflation that has just occurred: between combining fowl and milk and combining meat and milk. In this formulation, the quick hands of the editor/magician are at work again. We jumped from a pajama-clad couple, to fowl and milk, to meat and milk. The fact that fowl and meat are not necessarily analogous is ignored. If one had not read the other texts above, one could be forgiven for assuming that fowl and meat are fungible. This is a subtle illusion, making their difference vanish into thin air. In this instance, however, it is not merely a rabbit, coin, or card that has disappeared; rather, it is the views of other rabbinic Jews, whose previously legitimate opinions are now simultaneously both rendered invisible and illegitimate.

This disappearing act can be understood through Pierre Bourdieu's concept of misrecognition, wherein:

\begin{quote}
[i]he logic of self-interest underlying all practices—particularly those in the cultural domain—is misrecognized as a logic of “disinterest.” … This misperception legitimizes these practices and thereby contributes to the reproduction of the social order in which they are embedded.

(Swartz 1997, 90)
\end{quote}

By acting like nothing has occurred, like there never was any diversity and only homogeneity, rabbinic redactors engage in an act of misrecognition, which serves to establish their own practice as normative and natural. In doing so, the tension that we have been discussing disappears along with alterity. The fact that the opposite opinion is halakhically-justifiable is ignored and, in doing so, delegitimized. Misrecognition can therefore also be understood as an act of ideological persuasion in that, by acting as if nothing has occurred, the rabbis conceal difference via textual silence. As a result, they establish their own practice as normative and natural. In the end, the rabbinic authors make it seem as if there is—and always was—actually only a single justifiable interpretation: that fowl is “meat.”
Conclusion

Practices, which—as Theodore Schatzki reminds us—involves both words and actions, establish social orders (Schatzki 2002, 89–105). They erect borders between communities, establishing an “Us” and a “Them” (Lincoln 2014, 9). In the case at hand, we see how strategically-deployed discourse leads to difference in ancient rabbinic practice. And we should not underestimate the power of this difference in the present case because, in doing so, we reinforce the symbolic power of misrecognition. While it was once legitimate to interpret “meat” as either inclusive of fowl or not, rabbinic redactors have eliminated the latter option. This subtle but powerful erasure deconstructs and delegitimates a previously permitted practice. Thus, while it was once perfectly acceptable to act as Levi did in Joseph the Fowler’s house (and, indeed, as Joseph the Fowler himself acted!), that option is no longer considered acceptable. This change is subtle, but that is how misrecognition functions at its best—it is as fluid and invisible as the disappearance of an object from a magician’s hand.

This misrecognition is inherited by later rabbinic authorities, who reproduce, reinforce, and further legitimize it. For example, in an oft-cited medieval opinion, Maimonides summarizes the logic behind rabbinic practice in the following manner:

[A] Similar, the meat of a wild animal and of a fowl [cooked] with the milk of a wild animal or with the milk of a domesticated animal—it is not forbidden for consumption by the Torah.

[B] Therefore, it is permitted to cook it [together] and it is permitted to derive benefit from it.

[C] But, it is forbidden for consumption by rabbinic law.

[D] in order that people do not get carried away and come to violate the biblical prohibition against milk and meat.

[E] and eat the meat of a pure domesticated animal [cooked] in the milk of a pure domesticated animal.

[F] For, then, the literal meaning of Scripture refers only to a kid [cooked] in the milk of its actual mother.

[G] Therefore, they forbade all meat with milk.

-(Mishneh Torah, Ma’akhalot ‘Assurot 9:4)\textsuperscript{50}

In unit C, Maimonides declares that the consumption of fowl and milk is prohibited by rabbinic law.\textsuperscript{51} The reason for this prohibition is not biblical, but rather a rabbinic enactment to avoid the violation of the biblical prohibition of meat and milk. So, fowl is not biblical “meat,” but it is rabbinic “meat.” The fact that both venerated (e.g., Rabbi Aqiva and Rabbi Yosi the Galilean) and not-so-venerated (e.g., Joseph the Fowler) rabbinic authorities support the latter opinion, but not the former one, is ignored in this argument. Rather, this argument acknowledges but fundamentally misrecognizes their views. Now, their commentary is read as supporting clause C, but then is forced\textsuperscript{52} into the rubric of
the slippery slope argument of clauses D–G. Fowl may not literally be “meat,” but it is forbidden lest one come to eat literal “meat” with milk.

As readers of rabbinic texts, we must pay careful attention to the ideological persuasion of religious discourse; to the role that misrecognition plays in religious practices; and to how such practices generate social orders. The test case of whether fowl is “meat” is but one of many that can be used to elucidate the utility of these theoretical models, many of which are encountered in the discipline of Religious Studies. And, like the dove emerging from the magician’s pan of flames, the evolution of this rabbinic regulation reminds us how modern theory and method aid in understanding the illusion and, hence, breaking the ancient spell cast by the rabbinic wand.

Notes

1 I would like to thank the participants of the conference at the University of Virginia, at which this paper was first delivered. I am particularly grateful to Elizabeth Shanks Alexander and Beth A. Berkowitz for their generous invitation to present my work, their assiduous editorial work, and their sage advice. Deborah Galaski assured that the conference ran smoothly. Gregg E. Gardner and Michael L. Satlow commented on an earlier version of the conference paper, suggesting numerous improvements. Nathan DesRosiers pointed me toward new theoretical horizons. Cate Bonesho and Chance McMahon helped with research and editing. Any errors that remain are to be attributed to the author alone. Support for this research was provided by the Office of the Vice Chancellor for Research and Graduate Education at the University of Wisconsin-Madison with funding from the Wisconsin Alumni Research Foundation. Unless otherwise noted, all translations from Hebrew and Aramaic are my own.

2 On how this might relate to the passages in Exodus and Deuteronomy, see Propp 2006 (286); and Tigay 1996 (140–141).

3 For an excellent summary of many of the modern (and some of the ancient) rationales, see Teeter 2009 (37–63, esp. 41–42). Also see Cooper 2012 (1–34). Other references can be found in Milgrom 1991 (737–742) and Propp 2006 (285–286). On ancient attempts to explain this, and other biblical dietary laws, see Rosenblum 2016.

4 For an extensive discussion of the role of rabbinic food regulations in the construction of rabbinic identity, see Rosenblum 2010.

5 To clarify, one could argue that this “literal” reading already makes an assumption: namely, that “kid” (Hebrew: gēdî; גית) in the Hebrew Bible does not only refer to a baby goat. As we shall see below, Philo himself makes this assumption. Thus, when I state that Philo reads the law literally, I am referring to the extent to which this law applies beyond the literal mother of a baby animal. Further, it should be noted that the Septuagint translates “kid” as “lamb” (Greek: arna; ἀρνα), while the Targumim display rabbinic influence by rendering this verse as a general prohibition in line with rabbinic views, discussed below.

6 On these laws, see Lev 22:27–28.

7 Exod 22:30; 23:19; and Deut 14:21.

8 Emphasis added.

9 A more wooden translation would be: “savage and wicked (literally: left-handed)” [Greek: chalepēn ... skaloēta; χαλεπῆν ... σκαλοῆτα]. Philo’s appeal to ethics here is also a reminder that the rabbis are not the only ones who utilize strategic discourse (which I discuss in more depth, below). My inclusion of Philo here, however, is intended to set into relief the innovative move of the rabbis, which is concealed as the natural and normal reading of the biblical texts.
The evolution of a rabbinic regulation

10 My conclusion here disagrees with that of Berthelot 2002 (49–50n. 6).
11 The ideas contained in this sentence (and throughout this entire essay, wherein I will further explain what I mean by the concepts briefly noted here) are informed by several scholars, most importantly: Lincoln 2014 and Schatzki 2002.
12 To reiterate: perhaps the rabbis were not the only ancient Jews who held this interpretation and the texts of others who shared this opinion have been lost to us. Either way, the rabbis chose a particular interpretation, which led to particular discourses and practices and, hence, a particular rabbinic identity.
13 Ms. Parma omits “but it may not be eaten.”
14 Clauses D–E also appear in m. Ed. 5:2. Cp. t. Hull. 8:3, where a similar exchange is attributed to a different pair of rabbis.
15 All translations of m. Hullin are based on the current draft of my translation: Rosenblum (forthcoming).
16 This is not uncommon, as the Mishnah rarely cites biblical passages. In general, see Namely 2002.
17 The rabbis generally share an assumption with Philo: namely, that the biblical “kid” does not only refer to a baby goat (see above, n. 5). For rabbinic discussion about whether this only applies to a baby goat, see e.g., Mekhila d’Rabbi Ishmael Kaspa Mishpatim 20 (Horowitz 321).
18 See above, n. 12.
19 The language here is intentional. The Hebrew Bible never refers to food as “kosher.” The rabbis, however, use this terminology quite extensively. Thus, this is another instance of rabbinic discourse marking difference.
20 Milk itself was relatively rare in the ancient Jewish diet (Rosenblum 2010, 21–22n. 27). They were much more likely to consume cheese, which explains why they use cheese to discuss this issue.
21 I have written about this text previously (Rosenblum 2010, 141–143).
22 The rabbinic reasons for not considering fish and locusts as “meat” are not specified, but I would argue that they are not deemed “meat” because they are not sacrificial animals. This same logic would offer another reason why the rabbis need to debate the relative “meatiness” of fowl, which can be offered as a sacrifice.
23 This would exclude fowl from the literal reading of Philo, since only mammals produce milk. As we shall see below, some Tannaim employ this same logic to exclude fowl from the biblical prohibition.
24 See b. Hull. 113a. Also see b. Hull. 104a–b, where the rabbis acknowledge that fowl/milk is a rabbinic enactment, though they claim it is designed to prevent a meat/milk mixture, which is a biblical prohibition. I shall return to this point further below.
25 Cp. b. Hull. 104b. In general, the views of the House of Hillel tend to be more lenient than the stricter House of Shamai, though some exceptions do occur; see m. Ed. 5:1–5.
26 Exod 22:30; 23:19; and Deut 14:21.
27 Rabbi Yosi connects carcass (Hebrew: נבלך; בנות) with the milk and meat prohibition because Deut 14:21 begins with these words and concludes with the prohibition against cooking a kid in its mother’s milk.
28 Ms. Kaufmann omits “forbidden.”
29 See Mekhila d’Rabbi Ishmael Kaspa Mishpatim 20; Mekhila d’Rabbi Shimon b. Yohai at Exod 23:19; and Sîber Deut 104.
30 In other manuscripts: Jonathan.
31 The absence of relevant discussion from the Palestinian Talmud (or Yerushalmi) is likely due to the fact that the Palestinian Talmud lacks a tractate for Hullin, whereas discussion of this topic began in Mishnah Hullin and continues in the Babylonian Talmud Hullin.
32 Text emended from דיספם תיושנ based on manuscripts.
33 The standard printed edition, which I translate above, reads: “He did not say anything to them” (אלא אמר לו חכם אלה מני), which highlights the lack of communication about what
has occurred (as I note above). Some manuscripts and the parallel text in b. Shabb.
130a read: “He did not eat” (םשב וּאֵת). Ms. Petersburg states both: “He did not eat, and
he did not say anything to them.”
34 Cp. b. Shabb. 130a. Both texts report that this story is part of a baraita (a source in a
later edited text attributed to the Tannaim).
35 Not only is this occupation perhaps not a coincidence (i.e., a Fowler serving fowl and
milk), but there also seems to be a pun between the Aramaic word for Fowler
(Aramaic: risba; רישב) and the part of the fowl served, its head (Aramaic: rēsha;
רָשָא). “Fowler” may actually refer more generically to one who traps animals and not
just fowl, but I believe that context suggests the presence of a multi-level pun.
36 On Levi’s actions in this text, see Hidary 2010 (151–152) and Weiss 2010 (110–111).
On the manners of declining to eat a dish, cp. b. Eruv. 53b; in general, see Weiss 2010
(85–118).
37 Richard Hidary notes that, while this practice represents a deviation from what Rabbi
deems standard practice, “Rabbi would consent to pluralism if the practice was done
in a city that accepts a different opinion as law” (2010, 152).
38 This is not the only story that reflects this tension, and begrudging acceptance. For
example, see b. Hul. 104b. For a brief discussion of this text, see Kraemer 2009
(41–43) and Weiss 2010 (87–89).
39 The word used for “with abandon” is be’apigōren (מטילם). For a discussion of this
text, see Kraemer 2009 (42–43).
40 In fact, the narrative continues well beyond the portion quoted above to discuss
matters related to these acts of physical separation between courses. For the history of
separation that develops out of this narrative, see Kraemer 2009 (87–121).
41 Hare is biblically forbidden. See Lev 11:6; Deut 14:7.
42 In general, see Fonrobert 2000; and the recent work of her student Balberg 2014.
43 To practice proper academic reflexivity, I should note here that I am aware that my
usage of the first person plural pronoun itself serves to construct a distinct group. See
Lincoln 2014 (75).
44 On the issue here, see e.g., Lev 18:19: “And do not approach a woman to uncover her
nakedness while she has the impurity of a niddah.” Also see Lev 20:18.
45 “But” is missing from the quotation of m. Hul. 8:1 here. I do not note other minor
variances that do not affect the meaning.
46 Both instances of “eats” are not present in m. Hul. 8:2.
47 This Rav Joseph is not a Fowler and thus is not the same person mentioned in b. Hul.
116a (in which that Joseph was not a rabbi). Much like today, Joseph was a
popular name.
48 This text implicitly connects two human appetites: the hunger for sex and for food.
The connection between sex and food was a common one in the ancient world in
general and in rabbinic literature in particular. For discussion, see Weingarten 2010.
49 In Schatzki’s nomenclature, “words” and “actions” are rendered as, respectively,
“doings” and “sayings” (in general, see 2002, 70–88). My argument in this section is
informed by Schatzki’s theory of practice. I have drawn on Schatzki’s theoretical
model in my previous work (Rosenblum 2010, 5–7).
50 A similar view can be found already in the Babylonian Talmud (e.g., see b. Hul.
104b). Also see Shulchan Arukh, Yoreh Deah 87:3; and for a modern reference to this
tradition, see Forst 2010 (42–43, 185–186).
51 In my translation above, I divided Maimonides’ text into these sections in order to
clarify my argument: unit C is his ruling regarding rabbinic law; unit D explains the
logic behind this ruling; and unit E explains the potential result, concluding the slip-
pery slope argument employed herein.
52 On force and discourse, see Lincoln 2014 (1–3).
53 For the secret behind this well-known magical illusion, see http://en.wikipedia.org/
wiki/Dove_pan (last accessed on November 28, 2016).
References

Balberg, Mira. 2014. *Purity, Body, and Self in Early Rabbinic Literature*. Berkeley and
Los Angeles: University of California Press.
Cooper, Alan. 2012. “Once Again Seething a Kid in Its Mother’s Milk.” *Jewish Studies,
An Internal Journal* 10: 1–34.
Kraemer, David C. 2009. *Jewish Eating and Identity Through the Ages*. New York:
Routledge [2007].
Lincoln, Bruce. 2014. *Discourse and the Construction of Society: Comparative Studies of
Milgrom, Jacob. 1991. *Leviticus 1–16: A New Translation with Introduction and Com-
mentary*. AB 2A. New York: Doubleday.
Cambridge University Press.
Cambridge University Press.
Rosenblum, Jordan D. Forthcoming. “*Hulin*.” In *The Mishnah: An Annotated Transla-
University Press.
York: Oxford University Press.
Schatzki, Theodore R. 2002. *The Site of the Social: A Philosophical Account of the Constitu-
University of Chicago Press.
Teeter, D. Andrew. 2009. “‘You Shall Not Seethe a Kid in Its Mother’s Milk’: The Text
Publication Society.
Weingarten, Susan. 2010. “*Gynaeophagia: Metaphors of Women as Food in the Talmudic
Literature*.” Pages 360–370 in *Food and Language: Proceedings of the Oxford Symposium
Weiss, Ruhama. 2010. *Meal Tests: The Meal in the World of the Sages*. Tel Aviv:
Hakibbutz Hameuchad. [Hebrew].