

Rituals of Recollection

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

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

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

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

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

If one ate fruits [designated as] second tithe, whether erroneously or intentionally—let him shout to the heavens, the words of Rabbi [Yehuda the Patriarch].

Rabban Shimon ben Gamaliel says, “erroneously—let him shout to the heavens; intentionally—let the money return to its place.”⁵

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

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

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

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

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

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

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

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

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

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

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

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

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

GOING BACK: CORRECTION AND CREATIVITY

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

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

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

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

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

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

10. See Balberg, “Ritual Studies,” 85–91.

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

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

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

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

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

[A] If one was on his way to slaughter his Passover offering, or to circumcise his son, or to have a betrothal banquet at the house of his father-in-law, and he was reminded that there is leaven (*hametz*) in his house—if he can go back and destroy it and return to [the other] commandment [in time] he should go back and destroy it; if not, he nullifies it in his heart.

[B] [If one was on his way] to save [persons or property] from an army or from a [flooding] river or from robbers or from a fire or from a landslide—he should nullify it in his heart.

[C] [If he was on his way] to spend [a Sabbath or a festival somewhere else] voluntarily—he should return [to his home] immediately.¹⁵

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

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

15. M. Pesahim 3.7.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Likewise, if one went out of Jerusalem and was reminded that there is sacred meat in his hand—if he had passed Tzofim, he burns [the meat] where he is; if not, he goes back and burns it in front of the temple, using the [temple's] wood arrangements.

And for how much [leaven or sacred meat] do they go back? R. Meir says, "[In] both [cases they go back] for [the volume of] an egg." R. Yehuda says, "[In] both [cases they go back] for [the volume of] an olive." And the Sages say, "[In the case of] sacred meat, for [the volume of] an olive, and [in the case of] leaven, for the [volume of] an egg."²⁹

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

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

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

29. M. Pesahim 3.8.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36. M. Pesahim 7.8.

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

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

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

The Golden Dove

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

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

If one ate, and he forgot and did not say the blessing [for the food, and then he went somewhere else]—the [disciples] of the House of Shammai say, “He should go back to his place (i.e., the place of the meal) and say the blessing,” and the [disciples] of the House of Hillel say, “He should say the blessing wherever he [was when he] remembered.”

And how long [after the meal] is he required to say the blessing? Until the food is fully digested in his bowels.³⁹

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

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

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

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

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

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

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

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

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

R. Yusta bar Shunem said, “[There are] two speakers (*amorin*), one explained the reasoning of the House of Shammai and the other explained the reasoning of the House of Hillel.”

The one who explained the reasoning of the House of Shammai [said], “If he had forgotten there a purse full of gems and pearls, would he not have gone back and taken his purse? Here, too, let him return to his place and say the blessing.”

The one who explained the reasoning of the House of Hillel [said], “If a laborer is working at the top of the palm tree or inside a pit, do they trouble him to return to his place?! Rather, he says the blessing wherever he remembers. Here, too, let him say the blessing wherever he remembers.”⁴¹

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

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

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

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

42. M. Berakhot 2.4.

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

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

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

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

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

44. BT Berakhot 53b.

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

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

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

It was taught, the [disciples] of the House of Hillel said to the [disciples] of the House of Shammai, “According to you, if one ate at the top of a building and forgot and went down and did not say the blessing, he should go all the way up to the top of the building to say the blessing?”

The [disciples] of the House of Shammai said to the [disciples] of the House of Hillel, “According to you, if one left a purse at the top of a building⁴⁶ [and went down], should he not go up to retrieve it? If he is to climb up for his own sake, should he not go up for the sake of Heaven?”⁴⁷

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

The Babylonian Talmud’s penchant for the position of the House of Shammai—even though this opinion is not considered halakhically binding, according to the rule that gives primacy to the House of Hillel in (almost) all matters⁴⁸—is made evident by the immediate appearance of two short narratives. The first narrative is as follows:

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

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

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

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

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

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

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

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

51. The word “intentionally” (*be-meqid*) is missing in MSS Paris 671 and Oxford Opp. Add. fol. 23.
52. BT Berakhot 53b.

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

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

Rabbah bar bar Hanna was traveling in a caravan. He ate and forgot and did not say the blessing.

He said [to himself], "What shall I do? If I tell them that I forgot to say the blessing, they will tell me, 'Say the blessing [now]. Wherever you bless, you bless the Merciful One.' I better tell them that I forgot a golden dove."

He told them, "Wait for me, I forgot a golden dove."

He went [back] and said the blessing, and he found a golden dove.

And why [did he choose] a dove? Because the congregation of Israel was compared to a dove, as it was said, *the wings of my dove are sheathed with silver, its feathers with shining gold* (Ps. 68:13). In the same way that a dove is only saved through its wings, [the people of] Israel are only saved through the commandments.⁵³

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

53. BT Berakhot 53b.

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

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

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

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

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

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

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

PERFORMING FORGETFULNESS

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

cases in which the halakhic event has already ended and therefore the subject can no longer do anything to repair the deficit, but to cases in which the halakhic event is still going on, but the forgetful subject is too deep in trouble, so to speak, to set things straight. In such cases—and admittedly there are not many of them—the rabbis prescribe a performative action that does not resolve the situation, but rather makes the forgetfulness apparent. Put differently, the rabbis create rituals of recollection for forgetful subjects so that they outwardly *enact* the awkward situation they are in.

I return to an example that was already mentioned briefly in chapter 2, this time focusing not on the circumstances that brought forgetfulness about but on the solution offered to the forgetful subject:

If one was standing in prayer and was reminded that he had a seminal emission, he should not stop, but shorten his prayer.⁵⁷

Men who had a seminal emission are not permitted to participate in sacred activities, including prayer and Torah readings, until they have immersed in water. The subject here, accustomed to praying daily, forgot that he had a seminal emission and realized it only in the middle of the prayer. At this point, this subject has no good options. If he continues to pray, he will knowingly breach the ordinance that one may not engage in sacred activities after a seminal emission, and if he stops praying, he will breach the ordinance that one must never stop a prayer in the middle.⁵⁸ The solution conjured here is that he will continue to pray but do so in a truncated way, significantly shortening each portion of the prayer.⁵⁹ The shortened prayer prescribed for this subject can be understood as a practical arrangement: since this subject is already in an impossible situation, let him at least be done with this situation as quickly as possible. Yet we should note that by praying differently from everyone else this subject also outwardly performs his forgetfulness and the troublesome state he is in. The shortened prayer is not only a means for escaping the awkward situation but also a ritual in its own right prescribed for this awkward situation: it is the right thing to do when there is no right thing to do, and it is an embodied channel through which the subject shows that he is trying (without success) to do the right thing.⁶⁰

57. M. Berakhot 3.5.

58. In the words of M. Berakhot 5.1, “Even if the king greets him, and even if a snake is wrapped around his ankle, he may not stop [his prayer].”

59. The shortened prayer here can be compared to the shortened prayer prescribed for situations of danger (M. Berakhot 4.4; T. Berakhot 3.7 [ed. Lieberman 13]), except that in this situation the danger is inherent in the prayer itself, not in external circumstances.

60. Interestingly, the Palestinian Talmud (PT Berakhot 3.5, 6c) comments that a forgetful subject in this situation should shorten his prayer only if he is praying with other people, but if he is praying alone he should stop his prayer altogether. The Palestinian Talmud attributes this position to R. Meir, whose rulings regarding men with seminal emission are particularly stringent, and it claims that

In the Babylonian Talmud we find a similar scenario, introduced as a Tannaitic source with the preface “Our rabbis taught” (*tannu rabanan*). Here we see two distinct opinions regarding the advisable course of action for a person who forgot and then recalled that he had a seminal emission. According to one opinion, the forgetful subject has to perform and make manifest both his forgetfulness and his awareness of his forgetfulness, whereas according to the other opinion, this subject should hurry and try to end the problematic situation as quickly as possible:

Our rabbis taught: If one was standing in prayer and was reminded that he had a seminal emission, he should not stop, but shorten his prayer. If one was reading in the Torah and was reminded that he had a seminal emission, he should not stop and leave, but rather he should stumble through the reading (*megamgem ve-qore*).⁶¹ R. Meir said, “One who had a seminal emission is not permitted to read more than three verses in the Torah.”⁶²

According to R. Meir, a person who recalls as he is reading the Torah that he had a seminal emission should stop reading as quickly as possible and let someone else finish the reading, and under no circumstances may he read more than three verses after he realizes that he should not have been reading in the first place. The anonymous voice in this passage presents a different strategy: the forgetful subject should continue reading the Torah, but he should do so poorly, stuttering or mispronouncing the words. In other words, the anonymous speaker prescribes what we could call a *misperformance*: a purposefully mangled and inadequate performance of the ritual reading, which serves to make it apparent that the one reading should not be reading but is also not in a position to stop reading.⁶³ The pronounced awkwardness and embarrassment entailed in this performance, especially if those present know that this is the prescribed protocol for one who recalls that he had a seminal emission, function here as a channel through which the forgetful subject enacts both his unfortunate situation and his genuine determination to comply with rabbinic teachings.

according to the more lenient R. Yehuda, if one is alone one need not stop the prayer at all—that is, one can pray normally even if one had a seminal emission. This comment suggests that the shortened prayer is meant to make the situation *less* awkward for the forgetful subject, so that he would not seem like he is stopping his prayer abruptly.

61. In MSS Munich 95, Oxford Opp. Add. fol. 23, and Paris 671: he should not shorten it and leave, but stumble through the reading.

62. BT Berakhot 22b.

63. Both Talmuds present a Tannaitic anecdote on a disciple who was “stumbling” (*megamgem*) through the Torah reading until R. Yehuda ben Betera, who understood that the disciple had a seminal emission, encouraged him to read normally by saying, “The words of the Torah cannot contract impurity” (PT Berakhot 3.5, 6c; BT Berakhot 22a). It is possible that the ruling that one should stumble through the reading was inspired by this story, turning the disciple’s authentic expression of distress into a prescribed behavior.

Another example of prescribed awkward performance appears in the Tosefta, regarding a person who realized that he forgot to take off his phylacteries (*tefillin*) on the Sabbath:

If one left [a private domain] and went into a public domain and was reminded that he is wearing his phylacteries on his head—he covers his head until he reaches his house. If he was in the study house, he removes them and puts them in a hidden place.⁶⁴

In the early centuries of the Common Era it was a regular practice among rabbinic Jews to leave their phylacteries on throughout the entire day, not only during prayer times.⁶⁵ Phylacteries, however, may not be worn on the Sabbath. The subject in this scenario forgot to take off his phylacteries before the Sabbath, and after the Sabbath had already begun he went out into the street, realizing only while he was out in the public domain that he still had them on. The forgetful subject is now trapped in a no-good-option halakhic situation. If he leaves his phylacteries on, he will be in violation of the ordinance not to put on phylacteries on the Sabbath; if he takes them off and carries them in his hand, he will be in violation of the prohibition against carrying items in the public domain on the Sabbath; if he leaves them in the middle of the street until the end of the Sabbath, the phylacteries may be stolen or damaged. The solution conjured is somewhat strange: he will continue wearing the phylacteries but put his hand on them until he reaches his home, where he will safely take them off. The Tosefta adds that this arrangement is only to be used if one realizes one is wearing his phylacteries while in the public domain, but if he realizes that he has his phylacteries on while he is in the study house, he needs to take them off right away and hide them until he can retrieve them—not walk all the way home with his hand on his head.

Covering one's head when one realizes one should not be wearing phylacteries but also cannot take them off is not a way to resolve the halakhic conundrum, but a way to make manifest that one is *in* a halakhic conundrum. By putting one's hand on one's head one acts as though one is trying to hide the fact that he is wearing phylacteries, but of course he is not actually hiding anything, both because everyone can see the straps of the phylacteries and because people do not casually walk on the street with their hand on their head unless they are trying to hide something. Rather, the subject is instructed to make an awkward gesture to convey to the world that he *wishes* he were not wearing phylacteries right now, as if to say, "I forgot, I then remembered, I am trying to fix this as quickly as I can." This gesture, in other words, is used as an externalized expression both of one's deviance

64. T. Eruvin 8.17 (ed. Lieberman 137); cf. BT Betzah 15a.

65. See Yehudah Cohn, *Tangled Up in Text: Tefillin and the Ancient World* (Providence, RI: Brown Judaic Studies, 2008), 133–38.

from halakhic protocol and of one's determination to resubordinate oneself to the halakhic protocol.

Possibly inspired by the Tosefta's proposed arrangement of covering one's phylacteries with one's hand until one can take them off safely, the Babylonian Talmud presents a similar ruling prescribed for a different set of circumstances. Despite the fact that this ruling is not Tannaitic, I include it here because it helps illustrate, in a somewhat comic fashion, the rabbinic notion that both forgetfulness and recollection must be externalized and demonstrated, in this case even if no one is actually watching:

Rav Huna said, "If one forgot and went into the lavatory with his phylacteries on—he places his hand on them until he finishes."

—Is it possible that you think [that he does that] until he finishes?!

—Rather, as Rav Nahman bar Yitzhak said, "Until he finishes the first log [of feces]."

—And [why should he not] stop immediately and get up?

—Because of [the teaching] of Rabban Shimon ben Gamaliel. As it was taught, Rabban Shimon ben Gamaliel says, "A retracted log causes one edema, a retracted stream causes one jaundice."⁶⁶

This Babylonian unit brings "awkward" to a whole new level. It discusses a case in which one goes into the lavatory and realizes only mid-defecation that he is wearing his phylacteries. It is strictly forbidden to bring phylacteries, which contain sacred texts, into a filthy and debased place like a lavatory, but it is also rather problematic for the subject to take them off immediately and take them out of the lavatory in his current situation (the anonymous Talmud raises this possibility, but then rejects it as dangerous to one's health). Rav Huna suggests an arrangement similar to the one proposed for accidental phylactery-wearing on the Sabbath: the forgetful subject should cover the phylacteries with his hand until he finishes, as if to hide them from the unholy environment and also to hide (or to act as if he is hiding) the fact that he has brought them in there. The Talmud then continues to debate, in graphic detail, whether this arrangement can last through the entire lavatory session or needs to end at the first possible breaking point. While lavatories in the Roman Empire were often public, in Babylonia—where the rabbis speaking in this unit are located—elimination was normally done in strict privacy, so it is very unlikely that the rabbis here assumed that anyone would be looking at the forgetful subject in this situation.⁶⁷ The issue is clearly not whether anyone is actually looking, but rather conducting oneself

66. BT Berakhot 25a.

67. See Rafael Rachel Neis, "Their Backs toward the Temple and Their Faces toward the East: The Temple and Toilet Practices in Rabbinic Palestine and Babylonia," *Journal for the Study of Judaism* 43, no. 3 (2012): 355.

as though one is being looked at, and using a bodily gesture to say, “I am in this unfortunate situation because I forgot, I truly wish I were not in it, I will get out of this situation as soon as I can.”

In all these cases, it is clear that nothing is gained or solved through the performative measure prescribed by the rabbis. One who prays a shortened prayer or botches up a Torah reading is still praying or reading the Torah after having had a seminal emission, and one who covers his phylacteries with his hand is still wearing them on the Sabbath or in the lavatory. We may wonder, then, why the rabbis did not opt to resolve these conundrums by setting clear priorities and deciding that one halakhic consideration trumps the other—for example, if you have to choose between defiling your prayer with your seminal emission and stopping the prayer altogether, stop the prayer; or if you have to choose between wearing phylacteries on the Sabbath and carrying an object on the Sabbath, continue wearing your phylacteries. After all, it is not uncommon for the rabbis to decide that in certain situations one concern should take precedence over the other. So why not do this here, instead of prescribing a course of action that achieves nothing other than putting the subject’s forgetfulness on display? The immediate answer is that it is to prevent those looking, whether real or imagined, from getting the wrong idea—both about the commandment at hand and about the subject. If one walks with one’s phylacteries on during the Sabbath, those who do not know that it is not allowed may mistakenly come to think that it is allowed, and those who do know that it is not allowed may think that this subject openly defies rabbinic teachings. Because of this double concern, a forgetful subject must let the world know—again, regardless of whether the world is actually looking or not—that whatever he is doing that does not comply with rabbinic teachings is only a result of his own forgetfulness.

I propose that the rabbis’ insistence on performative measures to externalize and make manifest both one’s forgetfulness and one’s determination to correct one’s forgetfulness divulges a particular sense of anxiety about forgetfulness of halakhic ordinances, an anxiety guided by the realization that forgetting has the potential to introduce anarchy into the normative order. Although the rabbis make a point of normalizing and accommodating forgetfulness, and although they construct an idealized picture in which forgetful subjects are eager and committed rabbinic subjects who seek to rectify their forgetfulness in compliance with rabbinic instructions, the scenarios and discussions we have seen throughout this chapter reveal that incorporating forgetting into the halakhic system does, when all is said and done, create problems. First, the attempt to accommodate and make dispensations for forgetful subjects raises the question of how much flexibility can be introduced into the halakhic system without making it chaotic and senseless. Second, forgetting opens the possibility of misunderstanding, as subjects who act out of forgetfulness can mistakenly be understood as acting in defiance of rabbinic law or as misrepresenting the law. And third and perhaps most

troublesome of all, by accepting forgetfulness as a predictable, understandable, and manageable phenomenon that can be accommodated halakhically, the rabbis have to reckon with forgetfulness that is not really forgetfulness, that is, forgetfulness by choice.

I touched on the possibility of “intentional forgetfulness” in my discussion of the Babylonian Talmud’s interpretation of the disagreement between the House of Hillel and the House of Shammai, but the idea that one can consciously decide to “forget” a halakhic practice is mentioned quite explicitly in one Tannaitic source as well. Consider the following case in the Tosefta, which concerns cooking on the Sabbath:

If one forgot a dish on the stove and the [Sabbath] day has come upon him—[if he did so] erroneously [the dish] may be eaten, [but if he did so] intentionally the [dish] may not be eaten.⁶⁸

Cooking on the Sabbath is strictly prohibited, but in this case cooking happens through inaction rather than through action: one put a pot of food or water on the stove before the Sabbath began, and forgot to remove it from the stove until after the Sabbath commenced.⁶⁹ As a result, the food *got* cooked during the Sabbath even though the cooking process technically began before the Sabbath. The question then arises whether it is acceptable to eat this food, considering that its preparation involved a violation of the Sabbath, and the answer is that it depends on whether the one who forgot the food on the stove did so erroneously or intentionally. In this context, intentional forgetting can be explained in two possible ways. We can interpret that the subject genuinely forgot the pot on the stove, but when he found out about it he decided not to remove the pot from the stove but to let it stay there so that the food would cook further—in other words, this subject chose to go along with his own forgetting and make the most of it rather than correct it right away. The other possible interpretation is that this subject did not really forget anything, but rather decided to place a pot on the stove with the full intention of leaving it there after the Sabbath began, thus making it seem like the pot was forgotten and like he was not at fault. Whichever interpretation we favor, the Tosefta makes a clear ruling: if one “forgot intentionally,” the food he cooked this way may not be eaten, but if one genuinely forgot, the food he cooked may be eaten.⁷⁰

68. T. Shabbat 2.14 (ed. Lieberman 10).

69. A case in which one began to cook on the Sabbath itself, erroneously or intentionally, is discussed in a separate passage (T. Shabbat 2.15 [ed. Lieberman 10]).

70. The Tosefta (T. Shabbat 2.14 [ed. Lieberman 10]) clarifies that the use of food or water is prohibited only if most of the cooking/heating took place during the Sabbath, but if most of the cooking/heating took place before the Sabbath, one may consume them.

The underlying assumption in the Tosefta is that the real forgetter and the intentional forgetter can be told apart from one another, but both Talmuds present a tradition according to which it may not be so easy to know which is which:

At first they used to say, "If one forgot a dish on the stove on the [Sabbath], [if he did so] erroneously [the dish] may be eaten, [but if he did so] intentionally the [dish] may not be eaten." Then [people] were suspected of leaving [dishes on the stove] intentionally and saying, "We forgot." So [the rabbis] prohibited those who forgot [from eating what they cooked] as well.⁷¹

While the Tosefta merely introduces the possibility of the "intentional forgetter," the Talmuds take it to the next level and make the point that there is, in truth, no way to tell the intentional forgetter from the real forgetter, and therefore the claim of forgetting itself should be taken with many grains of salt. In this case, the Talmuds effectively say that people who claim that they have forgotten should be categorically treated like people who acted intentionally, and not be allowed to enjoy the beneficial results of their real or proclaimed forgetfulness.

This pessimistic view is not expressed explicitly in Tannaitic sources, which for the most part operate within an idealized world in which even those who are defiant of rabbinic teachings are sincere about their defiance. But I suggest that the concerted effort that we saw in rabbinic texts to have forgetful subjects perform their forgetfulness, and to prescribe for them ritualized and visible ways through which they show their compliance with rabbinic teachings, may reflect a broader rabbinic concern with the elusive and uncertain nature of forgetfulness. After all, it is not really possible to know whether one forgot, or just says he forgot; whether one is truly the victim of an unfortunate cognitive omission, or is simply careless; or whether one who realized his forgetfulness found himself unable to correct it or chose not to correct it because it was too much trouble. As with all mental occurrences that play a definitive role in the halakhic system (and there are many), the only reliable way to know what was happening in a subject's mind is by looking at his embodied behavior. By going back to the place in which the commandment should have been performed, by deliberately misperforming prayers or Torah readings, and by covering phylacteries that should not be worn, rabbinic subjects are able to externalize their forgetfulness and to make it known and certain. More important, they are able to show, through their own bodies, not only the sincerity of their forgetfulness but also their determination to comply with rabbinic authority—even at the price of discomfort, exertion, and extreme awkwardness.

In this chapter and the three that precede it I discussed forgetfulness in the realm of halakhic practice, that is, forgetfulness that causes—or may cause—individuals to falter in their performance of commandments. I showed that forgetfulness is described as entirely normal and predictable, and yet as a constant

71. PT Terumot 2.1, 41c; BT Shabbat 38a.

looming threat for the halakhic subject, a threat for which the rabbis should and can provide answers. The confident and self-assured way in which the rabbis present their ability to preempt and resolve situations of forgetfulness for the most part obscures the fact that the vulnerability of the human mind, and their own limited ability to control forgetfulness and claims of forgetfulness, were ultimately a source of anxiety for the rabbis. In the remaining chapters I turn to rabbinic texts that engage with forgetfulness in the realm of Torah learning, from which emerges an almost diametrically opposed picture: overtly, the rabbis present a great deal of apprehension and anxiety regarding the fragility of one's learning and the disastrousness of forgetfulness of teachings, but a close reading of the sources suggests unshaken confidence in the stability and durability of rabbinic knowledge and textual mastery.