

Animal Danger

Bava Qamma 80a–b

DANGEROUS ANIMALS

It used to be bloodhounds that people feared. Harriet Beecher Stowe's best-selling *Uncle Tom's Cabin* did not feature any, but when producers staged the novel, they added a pack of snarling bloodhounds to chase Eliza across the frozen Ohio River, and audiences loved it.¹ Because of their size, strength, and excellent noses, bloodhounds had become popular guard dogs and trackers. To make them aggressive, they were confined and abused. Once the monster was unleashed, it was hard to control. Bloodhounds attacked the wrong people – neighbors, children – in a rash of tragic incidents in the late 1800s and early 1900s. The bloodhound became larger than life, a mythic figure around whom terrors and anxieties converged.

It did not last long. Newfoundlands and Saint Bernards replaced the bloodhound, Great Danes and German shepherds replaced Newfoundlands and Saint Bernards, and Dobermans and Rottweilers replaced the breeds that preceded them. The pit bull is the most recent dangerous dog. The breed name comes from a sixteenth-century English ritual in which a bull was tied down, and whichever dogs managed to

¹ This discussion is based on David Grimm, *Citizen Canine: Our Evolving Relationship with Cats and Dogs* (New York: PublicAffairs, 2014), whose account draws from Karen Delise, *The Pit Bull Placebo: The Media, Myths and Politics of Canine Aggression* (Sofia, Bulgaria: Anubis Publishing, 2007). See now also Susan Hunter and Richard A. Brisbin, *Pet Politics: The Political and Legal Lives of Cats, Dogs, and Horses in Canada and the United States* (West Lafayette, IN: Purdue University Press, 2016), 313–350; Bronwen Dickey, *Pit Bull: The Battle Over an American Icon* (New York: Knopf Doubleday, 2017).

hold onto the terrified and angry bull without being thrown off or injured were considered to be the best hunters of large game.² Bulldogs were the dogs who won the contest most often. Pit bulls were prized for their courage and tenacity, but, as it happened with bloodhounds, their strengths turned into liabilities as owners intensified their traits, abusing them if they were not aggressive enough and training them for dog fights. Pit bulls came to be associated with an underworld of illegal gambling, drugs, and guns, with vicious attacks, and with African-American men.³ Features were attributed to the pit bull that were thought to make the dog inherently aggressive: a locking jaw, a powerful bite, an inability to feel pain, killer instincts. After some dramatic attacks by pit bulls, breed-specific legislations emerged in the 1980s and 1990s. Denver outlawed pit bulls in 1989 and allowed police to enter people's homes to take their dogs. More than two hundred cities followed suit with "dangerous dog" laws.⁴ The entire United Kingdom banned pit bulls in 1991. The consequences of these laws for pit bulls and their owners have been predictably dire. The dogs can be confiscated and "euthanized" at will, sometimes by the very humane societies or anticruelty organizations whose mission is to protect dogs.⁵

This chapter deals with species-specific legislations in the Mishnah and Talmud. I first discuss passages from the Mishnah whose purpose, I argue, is to develop an epistemology in which normal animal behavior can be distinguished from abnormal and animal danger can be accurately anticipated. According to the Mishnah's epistemology, some "wild" species are *ab initio* dangerous, while various domestic species are said to require restriction or confinement. I then turn to a talmudic story about these sorts of species-specific legislations. In that story, several rabbis

² Grimm, *Citizen Canine*, 187.

³ See Meisha Rosenberg, "Golden Retrievers Are White, Pit Bulls Are Black, and Chihuahuas Are Hispanic: Representations of Breeds of Dog and Issues of Race in Popular Culture," in *Making Animal Meaning*, ed. Linda Kalof and Georgina M. Montgomery (East Lansing: Michigan State University Press, 2011), 113–26. See also, *passim*, Colin Dayan, *With Dogs at the Edge of Life* (New York: Columbia University Press, 2015). For more on the intersection of race, species, and danger, see Kim, *Dangerous Crossings: Race, Species, and Nature in a Multicultural Age*.

⁴ For discussion of "dangerous dog" laws, see Joan Schaffner, *An Introduction to Animals and the Law* (New York: Palgrave Macmillan, 2011), 123–9. The New York City Housing Authority instituted a ban on pit bulls in April 2009; see Dayan, *With Dogs at the Edge of Life*, 4.

⁵ See Dayan, *With Dogs at the Edge of Life*, 53–110: "And they kill them after rescuing them – kill them while speaking the language of salvation" (p. 76).

attend the celebration of a baby boy. While the rabbis jostle each other in the doorway, arguing about who should enter the room first, a cat attacks the baby and mutilates his hand. In reaction, one of the rabbis issues a series of prohibitions on cats that evoke the pit bull bans of our day. I propose that in juxtaposing this story with the laws, the Talmud is offering a critical perspective on discourses of animal danger.

The talmudic discussion asks us not to take the legislations about animal danger at face value, and this chapter will follow suit. That is not to say that animals do not sometimes pose very real threats to people. When an American dentist allegedly paid 50,000 dollars to bag a lion in Zimbabwe and outrage erupted, an op-ed in *The New York Times* observed that the people of the villages of Zimbabwe are not exactly lion fans: lions kill people, and people are terrified of them.⁶ Nevertheless, discourses of animal danger have a habit of selecting certain features of reality to emphasize (e.g., a particular attack), mixing those features with elements of fantasy (e.g., alleged biological characteristics of an animal, as has been the case with the pit bull), suppressing features of reality that do not conform to the discourse (e.g., aggressive non-pit bulls, friendly pit bulls), and channeling that fear for a variety of ends.⁷ The discourse of animal danger constructs a knowledge about animals, and it casts certain figures as the appropriate managers of risk. Knowledge about animal danger takes on a life of its own such that the behavior of real, individual animals can become irrelevant. Note the decision of a Maryland appeals court: “When an attack involves pit bulls, it is no longer necessary to prove that the particular pit bull or pit bulls are dangerous.”⁸ The constructed quality of the danger is apparent in the killing of puppies whose eyes are barely opened on the grounds that they are “threats to the public.”⁹ This chapter will explore the knowledge about animal danger that the Mishnah offers and will consider, first, how the early rabbinic

⁶ Goodwell Nzou, “In Zimbabwe, We Don’t Cry for Lions,” *The New York Times*, August 4, 2015, www.nytimes.com/2015/08/05/opinion/in-zimbabwe-we-dont-cry-for-lions.html.

⁷ This chapter follows the general approach to risk perception found in John Tulloch and Deborah Lupton, *Risk and Everyday Life* (Thousand Oaks, CA: Sage, 2003): “Risk knowledges are ... historical and local. What might be perceived to be ‘risky’ in one era at a certain locale may no longer be viewed so in a later era, or in a different place. As a result, risk knowledges are constantly contested and are subject to disputes and debates over their nature, their control and whom is to blame for their creation” (p. 1).

⁸ See Dayan, *With Dogs at the Edge of Life*, 5. Also in Dayan: “A suspected ‘innate character’ or ‘vicious propensity’ stands in handily for actual wrongdoing” (p. 74).

⁹ *Ibid.*, 54. And see also pp. 79, 80–1.

authors position themselves through that knowledge as assessors of risk and as arbiters of the household, and, second, how the talmudic materials then reflect on that rabbinic self-positioning.

The most common criticisms of breed-specific legislations resonate with the talmudic materials. Chief among those criticisms is that animals are not to blame for the dangers they pose – people are. One study of pit bull temperament shows them to be as docile as golden retrievers are thought to be. The talmudic story likewise suggests that animals are not inherently dangerous but become so through circumstance and context. Critics also point to the race and class associations with so-called dangerous animals. “Canine profiling” follows the same logic as racial profiling in presuming an individual to be dangerous based on his belonging to a particular category, and the two kinds of profiling work in tandem to create a cluster of cultural assumptions about danger (e.g., poor, black, male, pit bull, violent).¹⁰ Along similar lines, the talmudic discussion points to the cultural specificity of the notion of cat danger. Critics also argue that pit bull legislations are ineffective. They fail to keep the public safer from dog attacks, and they generate large public costs related to animal control and enforcement, kenneling and veterinary care, euthanasia and carcass disposal, DNA testing, and litigation.¹¹ The pit bull legislations may also be unconstitutional. People must have clear enough information about a law so that they can take appropriate precautions not to violate it, yet the definition of a pit bull is far from clear. The breed is typically defined as “American Pit Bull Terrier, American Staffordshire Terrier, and Staffordshire Terrier,” but the American Kennel Club does not recognize pit bull itself as a breed.¹² As a result, the bans tend to sweep under their scope any dog that looks in some way like a pit bull.¹³ These criticisms – about the effectiveness and economics of species-specific legislations, and the inaccuracy and confusion that arise in trying to define a species – emerge also from the talmudic materials.

¹⁰ The term “canine profiling” is found on *ibid.*, xv. For discussion of non-Jews being associated by talmudic texts with dangerous animals, see Conclusion, and also Wasserman, *Jews, Gentiles, and Other Animals*, 145–9. Worth pointing out in Wasserman’s discussion of the Talmud’s clustering of danger, snakes, and gentiles is the combination of fear and attraction entailed in depictions of danger; see p. 146.

¹¹ That list is from Schaffner, *An Introduction to Animals and the Law*, 125.

¹² Grimm, *Citizen Canine*, 198. On the emergence and evolution of the notion of dog breed, see Chapter 2 in Susan McHugh, *Dog* (Chicago: University of Chicago Press, 2004).

¹³ See discussion in Claire Molloy, “Dangerous Dogs and the Construction of Risk,” in *Theorizing Animals: Re-Thinking Humanimal Relations*, ed. Nik Taylor and Tania Signal (Leiden: Brill, 2011), 124.

If dangerous animal discourses are something more than strictly rational, instrumental responses to risk, then how are they best explained? David Grimm understands the purpose of pit bull legislations to be protecting the myth that dogs are furry children. The demon dog is the doppelgänger for the good dog who can be embraced as a beloved family member.¹⁴ Karen Delise similarly sees pit bull legislation as a placebo for public anxiety about dog aggression.¹⁵ Drawing upon moral panic theory, Claire Molloy considers the United Kingdom's media discourse about dog danger in light of various social and economic crises in the late 1980s and early 1990s.¹⁶ Sigmund Freud understood animal phobias – famous cases he discussed were Little Hans, the Wolf Man, and the Rat Man – to be displacement for a boy's fear of his father's castrating anger. In Julia Kristeva's revision of Freud's theory, fear of the animal expresses the young child's ambivalence toward the maternal body.¹⁷ This chapter will not adopt one of these interpretive models so much as see the Babylonian Talmud as making a contribution to them. At the same time, I will draw from these modern approaches to animal danger – animal as protector of myth, as placebo, as generator of moral panic, as symbol, as displacement – to enrich my reading of the rabbinic materials.

ABNORMAL OXEN

Mishnah Bava Qamma 1:4 can be read as a form of animal profiling. It sets forth claims about the nature of animals and bases torts liability upon those claims:

[There are] five innocent [sources of damage] and five attested [sources of damage].

An animal is not attested [as a source of damage with respect to]: (1) goring (2) butting (3) biting (4) squatting or (5) kicking.

- (1) The tooth is attested with respect to eating all that is appropriate to it.
- (2) The foot is attested with respect to smashing as it walks.
- (3) The attested ox.

¹⁴ "Pit bulls became the demon dog du jour just as pets were turning into full-fledged family members." Grimm, *Citizen Canine*, 195.

¹⁵ Delise, *The Pit Bull Placebo*.

¹⁶ Molloy, "Dangerous Dogs." My general framing of the discussion here relies on Molloy.

¹⁷ Kelly Oliver, "Little Hans's Little Sister," *Philosophia* 1, no. 1 (2011): 9–28; Alison Suen, "From Animal Father to Animal Mother: A Freudian Account of Animal Maternal Ethics," *Philosophia* 3, no. 2 (2013): 121–37.

- (4) The ox who causes damage in the domain of the one damaged.
 (5) And the human.

The wolf and the lion and the bear and the leopard and the panther and the serpent: these are attested.

Rabbi Elazar says: When they are domesticated they are not attested.

And the serpent is always attested.

What is there between innocent and attested?

Only that the innocent pays half of the damage, and from its own body, while the attested pays full damage from the upper story.

חמשה תמים וחמשה מועדים
 הבהמה אינה מועדת לא ליגח ולא לייגוף ולא לישוך ולא לירבוץ ולא לבעוט
 השן מועדת לאכל כל¹⁸ את הראוי לה
 והרגל מועדת לשבור כדרך הילוכה
 ושור המועד
 ושור המזיק ברשות הניזק
 והאדם
 הזאב והארי והדוב והנמר והפרדלס והנחש הרי אילו מועדים
 ר אלעזר אומ בזמן שהן תרבות אינן מועדים
 והנחש מועד לעולם
 מה בן תם למועד
 אלא שהתם משלם חצי נזק ומגופו
 והמועד משלם נזק שלם מן העליה¹⁹

This mishnah distinguishes between animal tort cases in which the owner must pay full compensation (what the Mishnah calls “attested,” to be paid out of the owner’s possessions kept in the “upper story” of his domicile) and cases in which the owner need pay only half-compensation (what the Mishnah calls “innocent,” for which the owner need not dip into his savings but pays only out of the value of the goring ox himself). A variety of peculiar elements make this mishnah difficult to parse: its strange organizing binary of “innocent” and “attested”; the asymmetry between the first simple list of five innocent categories, the second complex list of five attested ones, and a third unnumbered list of six “wild” species (i.e., wolf, lion, etc.); its use of animal body parts, “tooth” and “foot,” to stand in for categories of damage; its redundant claim that the attested ox is attested;

¹⁸ The word *kol* (“all”) is absent in the Parma manuscript, which is not surprising given that the two letters of the word repeat the last two letters of the verb “eating” (*le’ekhol*, *lokhal* in Parma) and could therefore be easily accidentally skipped by a scribe.

¹⁹ Kaufmann manuscript, and for all subsequent mishnahs cited.

its brief interest in location (“in the domain of the one damaged”); and the appearance of the human being in a list of animal torts. My explanation of this mishnah, which I will proceed through step-by-step, is that its obscure language and structure are designed to create a new discourse about animal nature, and that the peculiarities are a product of the mishnah patching this discourse together out of prior traditions that do not entirely lend themselves to the project.

This mishnah begins with the five *tams*, or innocent sources of damage, and five *muads*, attested sources of damage. The biblical verses on which this mishnah relies, Exodus 21:28–32, 35–6, and 22:4, do not use these terms. Exodus 21:29 uses a word that is similar to *muad*, the past tense verb *huad*, which means “warned” or “testified”:

If, however, that ox has been in the habit of goring, and his owner, though warned (*ve-huad*), has failed to guard it, and he kills a man or a woman—the ox shall be stoned and his owner, too, shall be put to death.

וְאִם שׂוֹר נִגְחַ הוּא מִתְמַל שְׁלֵשִׁים וְהוּעַד בְּבַעְלָיו וְלֹא יִשְׁמְרֵנוּ וְהַמֵּית אִישׁ אֹ אוֹ אִשָּׁה הַשׂוֹר יִסָּקַל וְגַם-בְּעַלָּיו יוּמָת.

If an ox displays aggressive tendencies, his owner must be warned about it.²⁰ If the owner has received such a warning and does not exercise care in restraining his ox, then the owner possesses a greater degree of liability if his ox attacks again. While the owner of an ox with no such warning on his head is completely free of penalty if his ox kills a person, and he must pay only half the cost if his ox gores another ox, the owner of the goring ox who does carry such a warning must pay the full cost if his ox gores another ox, and he pays with his *life* if his ox kills a person. Many have marveled at the severity of the ox owner’s punishment in such a case given that the homicide was, after all, both accidental and indirect.²¹

²⁰ As commentaries point out, if the ox had previously killed a person, he would have already been executed. Therefore, the ox would have had to show aggression either toward other oxen, or toward human beings but short of a homicidal attack. The passive *hu’ad* leaves unclear who is charged with warning the owner about the ox and what constitutes a warning.

²¹ Greenberg argued that the severe punishment of the owner reflects the Hebrew Bible’s distinctive valuation of life; see “Some Postulates of Biblical Criminal Law,” in Moshe Greenberg, *Studies in the Bible and Jewish Thought* (Philadelphia: Jewish Publication Society, 1995), 25–42, and response by “Reflections on Biblical Criminal Law,” in Bernard S. Jackson, *Essays in Jewish and Comparative Legal History* (Leiden: Brill, 1975), 25–63. I argue in Chapter 3 that the Mishnah reinterprets these biblical materials out of a discomfort with the severity of the punishment.

The Mishnah transforms the meaning of *muad* from its usage in Exodus. The word no longer refers, as it does in Exodus, to whether a particular owner has been warned about a particular ox. The Mishnah partners *muad* (“attested”) with the antonym *tam* (“innocent”), a term that the Mishnah fabricates whole cloth, and uses the pair to refer to whether an animal is exhibiting normal or abnormal behavior. When the Mishnah declares the *behemah* – note the shift to a generic term for “animal” from Exodus’s “ox” – to be unattested (i.e., not *muad*) for the five activities it lists (goring, butting, etc.), the Mishnah means that it is *not normal* for an animal to do them. Because goring, butting, and so forth are said by the Mishnah to be atypical behaviors, the owner is not considered negligent if his animal causes damage by doing them. The owner is fully liable only for that which he can reasonably anticipate, and these animal behaviors could not be reasonably anticipated. The Mishnah ultimately follows the same principle of liability found in Exodus – namely, that if an owner cannot predict the animal’s injurious behavior, he is less liable for the harm the animal causes. But whereas for Exodus, that predictability hinges on particular information the owner may or may not receive, for the Mishnah it hinges on a scheme of behavioral norms that the Mishnah produces. The Babylonian Talmud in its commentary on the Mishnah makes the Mishnah’s thinking explicit, applying to the Mishnah the Aramaic phrases *urheb* and *lav urheb*, literally “his way” and “not his way,” or normal and not normal.²²

The Mishnah contrasts the animal’s abnormal aggressive behavior – these are the five *tams* – with an animal’s normal behavior, the *muads*. The *muads* are those behaviors that an animal owner should be able to anticipate and for which he is consequently fully liable should his animal cause damage through them. The first two on this list of five are “the tooth” and “the foot.” The Mishnah uses the body parts of the animal, tooth and foot, to represent the animal’s normal behaviors of eating and walking. As the Mishnah will go on to explain, an animal can be expected to eat fruits and vegetables that he comes upon or to break small objects that lie in his path.²³ Since the owner of the animal can easily anticipate such damages, he is held fully liable for them. These delineations once again display a shift in thinking from Exodus to the Mishnah. While “attestation” refers in Exodus to an instance in which an animal has

²² Bava Qamma 16a–b.

²³ Mishnah Bava Qamma 2:1–2.

exhibited aggressive behavior, in the Mishnah it refers to cases where an animal is up to his everyday activities, humdrum walking and eating.

Number three on the list of *muads* seems oddly redundant: the *shor muad* is *muad*, the “attested ox” is “attested.” This would appear to refer to an ox who has exhibited abnormally aggressive behavior, and the owner has been apprised of this behavior. For this particular ox, the abnormal has become the normal; he has shown himself to typically act atypically. This case is exactly the one that Exodus had in mind, the ox whose owner has been warned about him. The return to the language of ox (*shor*) rather than animal (*behemah*) should cue the audience into that biblical connection. The apparent redundancy, however – “the attested ox is attested” – points to the Mishnah’s departure from the framework of Exodus such that Exodus’s conception, when it now appears, is the one that seems anomalous.

The fourth and fifth items on the list of *muads*, the ox who causes damage on private property and the human being, are also anomalous, each in his or her own way. The sudden injection of location as a relevant criterion for damage assessment raises all sorts of questions about the assumptions that have so far been in place. When the Mishnah spoke of goring and biting, did it have private or public property in mind? When the Mishnah spoke of the animal’s leg breaking an object in his path, or the animal’s eating a plant, which kind of property was being assumed? Are the owners of objects – and not just the owners of animals – expected to take appropriate precautions to protect their possessions within a bustling urban marketplace?²⁴ The invocation of place complicates the epistemology of danger that the Mishnah has so far constructed by showing danger to be dependent on context and shaped by expectation. People adjust their sense of risk based on where they are. The *adam*, the human being, is last on the list of five and functions as the connective between this first hodge-podge list of *muads* and the subsequent list of six “wild” species. It is hard to know what to make of the human being’s appearance here, whether he or she is meant to be seen as similar to the benign cow eating grass on the first *muad* list or the wolf and lion on the second. Either way, the human is presented as just another species to watch out for, capable of causing harm.

WILD ANIMALS

“Attested” is not the best translation for the six animal species on the final list; *dangerous* is. Unlike the domesticated animal, for whom aggressive

²⁴ These questions are raised in Bava Qamma 15b–16a.

behavior is considered abnormal, for these species (i.e., wolf, lion, bear, leopard, panther, serpent), aggressive behavior is said to be normal.²⁵ An owner of any member of these *muad* animal species (exactly why a person would own one of these “wild” animals is not addressed; perhaps exotic animals were objects of fascination or status symbols) is expected to pay full damages whether his animal has a track record of injury or not.²⁶ An exception is made by Rabbi Elazar for cases where the animal has been domesticated or trained (“Rabbi Elazar says: When they are domesticated they are not attested”). Rabbi Elazar’s exception is said not to apply to the snake, who is declared incorrigible, *muad le-olam*, “forever dangerous,” which is no surprise given biblical associations with the snake and their pervasiveness in the ecology of Palestine.²⁷

That same list of dangerous animals occurs in other early rabbinic traditions.²⁸ Mishnah Sanhedrin 1:4 features a debate over whether the dangerous animal species deserve the same due process of law as domesticated animals when they commit a “crime” (see Chapter 3 for further discussion of animal trials):

The lion and the bear and the leopard and the panther and the snake: Their execution is with twenty-three [judges].

Rabbi Eliezer says: Anyone who advances to kill them, he has acted properly.

Rabbi Akiva says: Their execution is with twenty-three.

הארי והדוב והנמר והפרדלס והנחש מיתתן בעשרין ושלשה
 ר' אליעזר או' כל הקודם להורגן זכה
 ר' עקיבה או' מיתתן בעשרין ושלשה

²⁵ On stereotypes of some of these species as dangerous, see the cultural histories in Robert E. Bieder, *Bear* (Chicago: University of Chicago Press, 2005); Drake Stutesman, *Snake* (Chicago: University of Chicago Press, 2005); Deirdre Jackson, *Lion* (Chicago: University of Chicago Press, 2010); Garry Marvin, *Wolf* (Chicago: University of Chicago Press, 2012); Desmond Morris, *Leopard* (Chicago: University of Chicago Press, 2014).

²⁶ On keeping lions and bears as status symbols, see Gilhus, *Animals, Gods and Humans*, 30.

²⁷ For a broad cultural and natural history of the snake, see Stutesman, *Snake*. On their prevalence in contemporary Israel, see Kochva Elazar, “Venomous Snakes of Israel: Ecology and Snakebite,” *Public Health Reviews* 26, no. 3 (1998): 209–32.

²⁸ The toseftan parallel does not give the list of wild animals but instead presents positions as additions of particular species to a presupposed list. Rabbi Meir adds the hyena, and Rabbi Elazar adds the snake, suggesting that the snake was not originally on the Tosefta’s version of the list. See the argument about the relationship between these mishnah and tosefta passages in Judith Hauptman, *Rereading the Mishnah: A New Approach to Ancient Jewish Texts* (Tübingen: Mohr Siebeck, 2005), 173–88. Hauptman proposes that the Tosefta had an original list of wild species and that this list was the original list of five muads. The Mishnah then changed the number and type of lists as a means for organizing its subsequent material.

Whereas Mishnah Bava Qamma takes the dangerous nature of these species to be justification for full compensation in a tort case in which a member of these species is the culprit, Mishnah Sanhedrin sees their danger as a reason to potentially deprive them of the right to a trial in a homicide case. That is Rabbi Eliezer's opinion, though the anonymous consensus position and then Rabbi Akiva, recapitulating it, would apply the same judicial trials for dangerous species who kill a human being as for a member of any other species that does.²⁹

Rabbi Eliezer's opinion might be read as giving people license to attack a wild animal who has not yet committed a crime: "Anyone who *advances* to kill them..."³⁰ If so, then this mishnah and the one from Bava Qamma are portraying these species as, in effect, walking weapons. That is how Mishnah Avodah Zarah 1:7 explicitly describes bears and lions when it prohibits a Jew from selling to a gentile a bear, lion, "or anything that has in it [the capacity to wreak] harm on the multitudes." These species are shown to present a situation of dire crisis from which nothing can be saved or survive, not unlike what modern insurance companies call an act of God. In the Sifra, dangerous animals are understood literally to be an act of God. They are God's emissaries sent to carry out a fatal punishment.³¹ One suspects that the same assumption is behind the Mekhilta's exemption from liability for the guardian of an animal who is attacked and killed by any of the dangerous species.³² The phenomenon of dangerous animals also holds out the possibility of miraculous escape, such as when Tosefta Bava Metzia 2:2 permits the person who saves a lost object from "the mouth of the lion, or from the mouth of the wolf, or from the mouth of the bear" to keep it, on the grounds that the owner would have despaired of recovering it. Tosefta Berakhot 1:11 presents the

²⁹ In Tosefta Sanhedrin 3:1, Rabbi Eliezer advises summary killing not just for dangerous animals, but for any other animal besides the ox:

An ox who killed: Whether [it be] an ox who killed or another domesticated animal, or a wild animal, or fowl who killed him, their execution is with twenty-three. Rabbi Eliezer says: An ox who killed, his execution is with twenty-three, but for another domesticated animal, or a wild animal, or fowl who killed him, anyone who advances to kill them, he has acted properly regarding the heavens, as it is said, "You shall kill the woman and the animal" (Lev. 20:16), and it says "And you shall kill the animal" (Lev. 20:15).

³⁰ This question is raised on Sanhedrin 15b, where Rabbi Yohanan and Resh Lakish debate whether the animal has to already have killed a person.

³¹ Sifra Emor Parashah 8, beginning of Pereq 9; the passage mentions bears, lions, tigers, venomous serpents, and scorpions.

³² Mekhilta de-Rabbi Yishma'el Mishpatim 16.

story of a man who survives an encounter with a wolf bragging about his escape, only to subsequently encounter a lion and to replace the old story with the new more dramatic one, and so on with a snake. That story similarly presumes that it is possible to survive an encounter with one of these dangerous animals, however unlikely.

Other invocations of the dangerous animal list make refinements within it, suggesting that there is more to its seemingly homogenous representation of dangerous animals than initially meets the eye. Like the Mekhilta passage mentioned earlier, Mishnah Bava Metzia 7:9 declares an attack by one of the dangerous animals to be a situation of *ones*, or utter lack of control, exempting from liability the guardian of an animal who is preyed upon by one of these species. This mishnah distinguishes, however, between a wolf and other dangerous species, between one wolf and two wolves, between packs of wolves and lone wolves, between dogs and wolves, between animals coming from one direction and animals coming from two, and between animals coming on their own device and animals whom people approach. The details of the attack clearly make a difference, and the level of danger should be assessed according to those details. Tosefta Berakhot 1:11, mentioned earlier, also makes distinctions with regard to danger level: a wolf is less dangerous than a lion, a lion less so than a snake.³³ Tosefta Bekhorot 1:10, by contrast, lumps all the dangerous species together, attributing to them the same gestation period of three years (and adding to that list also the elephant, monkey, and ape). These different species are shown to share a fundamental biological link that undergirds the discourse of danger that groups them, which does so likely because their danger seems much more dramatic than the workaday danger posed by the ox (whose threat, precisely because of its frequency, may in fact be more worth worrying about).³⁴

Taking these early rabbinic traditions together, one emerges with the following set of assumptions: Domesticated animals are normally not aggressive on the level of species, though individually they may be; some animal species are inherently aggressive, though individually they may not be; some

³³ See also Mishnah Hullin 3:1, which attributes varying degrees of danger to wolves and lions.

³⁴ See Tulloch and Lupton, *Risk and Everyday Life*, 8: "... people tend to see familiar or voluntary risks as less serious than risks that are new or imposed upon them, and ... they are more likely to be concerned about risks that are rare and memorable than those that are seen as common but less disastrous." But Tulloch and Lipton also take a critical perspective on experts who "represent lay people as deficient in their abilities, drawing on 'irrational' assumptions when making judgements about such phenomena as risk" and who see their own assessment of risk as neutral and strictly rational.

animal species are incorrigibly aggressive, possibly including the human species. Drawing on biblical legal motifs, the early rabbinic texts create a new discourse about the nature and norms of other species. This discourse is by no means wrinkle-free. It organizes animals into a binary of domesticated and wild even while complicating the binary at every turn, with domesticated animals constantly causing unwitting damage as they walk and eat, some domesticated animals turning unpredictably aggressive, and some “dangerous” animals proving not always as dangerous as they would initially seem, such as if they are trained, or in the cases where people and objects miraculously escape from their jaws, or when they are in their own habitats. The various species on the list, while they may have in common key biological features, at the same time do not pose equal danger to each other or the same level of danger in all circumstances, and the rabbinic majority holds that they deserve the same due process of law that other species (including the human) do.

ANIMALS IN THE HOUSE

These rabbinic traditions purport to describe animal nature and to predict animal danger. Other teachings try to get rid of certain species altogether or to strictly limit their numbers, such as Mishnah Bava Qamma 7:7:

One may not raise small cattle in the land of Israel, but one may raise [them] in Syria and in the wilderness of the land of Israel.

One may not raise chickens in Jerusalem because of the sacrifices, and priests [may not raise them] in the land of Israel because of the pure things.

An Israelite may not raise pigs anywhere.

And a person may not raise a dog unless he is tied up by a chain.

One may not set traps for pigeons unless it is thirty *ris* from the inhabited area.³⁵

אין מגדלים בהמה דקה בארץ יש' אבל מגדלים בסוריה ובמדברות שבארץ יש'
 אין מגדלים תרנגלים בירושלם מפני הקדשים ולא כהנים בארץ יש' מפני הטהרות
 לא יגדל יש' חזירים בכל מקום
 ולא יגדל אדם את הכלב אלא אם כן היה קשור בשלשלת
 אין פורסין נשבים ליונים אלא אם כן היה רחוק מן היושב³⁶ שלושים רוס³⁷

³⁵ Mishnah Bava Qamma 7:7.

³⁶ Other versions have *yishuv* (“habitation” or “settlement”) instead of *yoshev* (“inhabitant” or “settler”).

³⁷ The length measurement in other versions is spelled with a yud, *ris*.

This mishnah targets small cattle (i.e., sheep and goats), chickens, pigs, dogs, and pigeons. The rhetoric of the Mishnah is resoundingly negative, even if certain permissions are granted by the legislations. Each line starts with either *eyn* or *lo* (“not”), posting a veritable “Keep out” sign before these species.

The problems these animals pose are left largely implicit. One might be surprised to find an outright restriction on small cattle, i.e., sheep and goats, in ancient Palestine, but in fact, these farm animals were likely not very convenient within the nuclear village paradigm of Roman Palestine and would have uncomfortably crowded residential space and picked apart good agricultural land.³⁸ The problems posed by small cattle, and especially by the people whose job it was to watch them, i.e., shepherds, took on a decidedly moral tone in the early rabbinic texts. The Tosefta declares shepherds to be invalid witnesses, along with

³⁸ On the nuclear village in Roman Palestine, see Zeev Safrai, “Agriculture and Farming,” in *The Oxford Handbook of Jewish Daily Life in Roman Palestine*, ed. Catherine Hezser (New York: Oxford University Press, 2010), 257.

Given scripture’s positive portrait of shepherds, Gulak finds surprising the condemnation of shepherds in rabbinic literature, which he associates with the prohibition on raising small cattle; see Asher Gulak, “Shepherds and Breeders of Domestic Cattle after the Destruction of the Second Temple,” *Tarbiz* 12 (1940–1941): 181–9. He finds insufficient the common explanation that shepherds would sometimes pasture their flocks in fields that they weren’t supposed to, pointing out that Exodus 22:4 had already addressed that problem; see *ibid.*, 182, 184. Gulak mentions that the story of Shimon Shazuri in Tosefta Bava Qamma 8:14 does support this explanation, since his flock is depicted as crossing through someone else’s field and trampling it, but Gulak sees this as a later elaboration of the story. Gulak finds unpersuasive the hypothesis that these restrictions were an attempt on the Rabbis’ part to discourage commerce and to promote agriculture; see pp. 184–5.

Gulak suggests that these rabbinic legislations be understood in light of the *boukoloi*, shepherd rebels in Egypt at the time of Marcus Aurelius, desperate and marginal figures looking to escape from the ruling eye. Gulak argues that a similar set of conditions pertained in Palestine, where at the time of the Roman revolt people might have fled to the desert areas and hills for similar reasons and with a similar profile to the *boukoloi*. The rabbinic legislations against shepherds and the raising of small cattle, which emerged at the time of the great revolt against Rome according to Gulak, represented an attempt on the part of the Rabbis to preserve agricultural production, to prevent people from taking on a nomadic and dangerous existence, and to stem the tide of rebellion against Rome. After the revolt, these concerns dissolved, and the rabbis became more lenient on these matters, and their concern shifted to the more prosaic one of shepherds trespassing on people’s fields. The more lenient legislations, says Gulak, can be explained as a product of this period.

While Gulak’s proposal is creative, the methodological problems with it include his dating these rabbinic traditions as precisely as he does, his seeing them as policy responses to political and social problems, and his extrapolating from Egypt to Palestine.

For a comprehensive cultural history of sheep and goats, see Joy Hinson, *Goat* (Chicago: University of Chicago Press, 2015); Philip Armstrong, *Sheep* (Chicago: University of Chicago Press, 2016).

robbers, extortionists, and all who are “suspect in matters of money” (*ha-hashudin al ha-mamon*), suggesting a snooty disdain for shepherds.³⁹ In Mishnah Demai 2:3, Rabbi Yehudah makes one of the criteria for being counted as a *haver* (a person who adheres to the stringencies of purity and tithing laws) to be refraining from raising small cattle.⁴⁰ The Tosefta tells a number of tales in which the lives of righteous men were marred by the one grievous “sin” of raising small cattle or in which shepherds “repent” of pasturing animals.⁴¹ These tales attest not only to the moral judgments that attached to the possession of small cattle but also to what must have been a widespread disregard or ignorance of those judgments, as corroborated by the plentiful faunal evidence of sheep and goats in Roman Palestine as well as by other rabbinic teachings that simply presume the presence of flocks and shepherds.⁴² Some of the rabbinic traditions describe sheep or goat being tied to the pillows of the bed, which is declared preferable to having the animals graze out in the fields, yet which also suggests a startling intimacy between people and their

³⁹ Tosefta Sanhedrin 5:5. Mishnah Bava Qamma 10:9 implies that shepherds may have stolen their wares from others when it prohibits buying wool, milk, or goats from them. Tosefta Yevamot 3 seems to present as controversial the requirement to save a shepherd from a wolf’s attack. Tosefta Bava Metzia 2:33 groups shepherds, those who raise sheep and goats, and gentiles, and instructs a person not to save a person who falls into these categories from a pit into which they have stumbled but also not to purposely lower them into one. See discussion in Saul Lieberman, *Tosefta Ki-Fshutah: A Comprehensive Commentary on the Tosefta*, vol. Parts VI–VII: Order Nashim (New York: The Jewish Theological Seminary of America, 1995), 23–4; Gulak, “Shepherds and Breeders.”

⁴⁰ In Tosefta Sukkah 2:5, those who raise small cattle are numbered among the causes of the stars being stricken. In Tosefta Bikkurim 2:16, those who raise small cattle are among those who will never see a sign of blessing. On the *haver* in early rabbinic literature, see discussion in Yair Furstenberg, “Am ha-Aretz in Tannaitic Literature and its Social Contexts,” *Zion* 78, no. 3 (2013): 287–319.

⁴¹ The story of Yehudah ben Bava’s “sin” is in Tosefta Bava Qamma 8:17 (and parallels in Palestinian Talmud Sotah 9:10 [24a]; Babylonian Talmud Bava Qamma 80a; Temurah 15b). The repentant shepherd is in Tosefta Bava Qamma 8:15. In Tosefta Bava Qamma 8:14, Rabbi Shimon Shazuri attributes his family’s downfall to their raising small cattle (and to judging civil cases singly).

⁴² On the faunal evidence, see Ann E. Killebrew, “Village and Countryside,” in *The Oxford Handbook of Jewish Daily Life in Roman Palestine*, ed. Catherine Hezser (New York: Oxford University Press, 2010), 201.

Many early rabbinic texts speak of shepherds and presume the prevalence of their hiring. Quite a few also speak of sheep (*kevasim*) and goats (*izim*) and more generally of flocks and herds (*tzon*, *eder*). Sheep and goats are a strong presence within the Bible, so to some extent the rabbinic texts cannot avoid them and should not be read as simply reflecting the realities of animal life in Roman Palestine. The Tosefta explicitly recognizes the tension between the Bible’s presumption of sheep and goats and the rabbinic prohibition; see Tosefta Bava Qamma 8:10.

livestock.⁴³ In one of the more memorable moments of the Tosefta, a sick Yehudah ben Bava buys a goat after being told by his doctor that fresh milk is his only cure; Yehudah ben Bava ties the goat to his bed and proceeds to suckle from her in the hopes of getting well. When his rabbinic colleagues come for a visit, they balk at the “robber” that they declare Yehudah ben Bava to be harboring in his house.⁴⁴ Upon his deathbed, Yehudah ben Bava confesses to this violation, his sole sin.⁴⁵ The Tosefta asks more than once about the reason for the prohibition on small cattle and offers a number of exceptions and accommodations to it, as well as an alternative position that overturns the prohibition altogether, and a position that permits keeping certain dogs and cats and other animals “who clean the house” (this last teaching will come up in the talmudic materials I discuss later in this chapter).⁴⁶ In Tosefta Yevamot 3, the prohibition on raising small cattle (and on raising dogs, pigs, and chickens) is one of a long series of legal questions posed to Rabbi Eliezer that he

⁴³ Tosefta Bava Qamma 8:11 requires that small cattle be tied to the bed rather than pastured. Mishnah Kelim 19:2 speaks of tying the paschal lamb to the bed. On tying animals to the bed, see Lieberman, *Tosefta Ki-Fshuṭab*, Parts VI–VII: Order Nashim:23; Lieberman, *Tosefta Ki-Feshuṭab*, 2001, Parts IX–X: Order Nezikin:87.

⁴⁴ Shepherds are coupled with robbers also in Mishnah Bava Metzia 7:9, cited above.

⁴⁵ His confession presents the sin as a violation of the legislation of his colleagues. For discussion of exactly how Yehudah ben Bava violated rabbinic precedents (Did he follow a dissenting opinion? Was it a case of insufficient medical danger to override a standing prohibition?), see Lieberman, *Tosefta Ki-Feshuṭab*, 2001, Parts IX–X: Order Nezikin:88.

⁴⁶ The Tosefta permits the raising of chickens under certain conditions (8:10); raising first-born small cattle for limited time periods (8:10, see parallel in Mishnah Bekhorot 4:1 and Tosefta Bekhorot 3:2); and raising small cattle before festivals or celebrations (8:11). The Tosefta permits a person who owns small cattle and other small animals to gradually sell them off rather than to do so all at once (8:15). The Tosefta permits raising village dogs, porcupines, cats, and monkeys (8:17, with parallel in Tosefta Avodah Zarah 2:3). Tosefta Shevi’it 5:9 prohibits trade of these animals with non-Jews. Mishnah Kilayim 1:6 addresses the speciation of the dog and village dog, while Mishnah Kilayim 8:5–6 classifies a number of animals that include porcupines, monkeys, dogs, and pigs according to whether they are considered domesticated or wild; see later discussion.

See discussion of the laws about dogs and cats in Joshua Schwartz, “Cats in Ancient Jewish Society (The Place of Domesticated Animals in Everyday Life and the Material Culture of 2nd-Temple Judaism and Ancient Palestine),” *Journal of Jewish Studies* 52, no. 2 (2001): 225–6; Joshua Schwartz, “Good Dog-Bad Dog: Jews and Their Dogs in Ancient Jewish Society,” in *A Jew’s Best Friend: The Image of the Dog Throughout Jewish History*, ed. Phillip Ackerman-Lieberman and Rakefet Zalashik (Portland, OR: Sussex Academic Press, 2013), 52–89. For discussion of Tosefta Shevi’it’s prohibition on trade of these species with gentiles, with emphasis on later codification, see Saul Lieberman, *Tosefta Ki-Fshuṭab: A Comprehensive Commentary on the Tosefta*, vol. Part II: Order Zera’im (New York: The Jewish Theological Seminary of America, 2001), 552–3.

evades answering likely because he saw the legislation as controversial or without proper precedent.⁴⁷

More clearly articulated in the Mishnah is the threat posed by chickens, which is said to be to the sacrifices in Jerusalem and to the priestly pure foods anywhere outside.⁴⁸ This problem does not seem to have been considered that serious, since rabbinic sources elsewhere presume that people are raising chickens.⁴⁹ The problem with pigs may have been more obvious and thus unnecessary for the Mishnah to state, which is that the pig since the time of the Second Temple was considered the impure animal par excellence.⁵⁰ It was also the animal that most distinguished Jews in the Roman Empire from their neighbors, since pigs were the most popularly farmed animals within the empire. The power of the pig to differentiate Jews from others may explain why the Kaufmann and Parma manuscripts of the Mishnah at that point introduce “Israelite” as the

⁴⁷ See discussion of this passage in Lieberman, *Tosefta Ki-Fshutah*, Parts VI–VII: Order Nashim:22–3.

⁴⁸ See parallel Tosefta Bava Qamma 8:10. According to Rashi, the chickens eat impure insects, and then when they feed upon pure or sacred food, they mix particles of the impure food with the pure or sacred.

Mishnah Taharot 3:8 speaks of *neqirat tarnegolim*, the pecking of hens, and suggests that the problem posed to purity by chickens may be their drinking impure liquid and then pecking at pure food without first drying their beaks. There the Mishnah makes chicken pecking habits seem somewhat less threatening to pure foods, however, since it maintains the purity of dough that has been pecked near impure liquids so long as there was enough distance between the liquid and the dough for the chicken to have a chance to dry their beak on the ground. Also, the Mishnah there does not make a significant distinction between the threat posed to pure dough by chickens and the threat posed by all other animals.

Mishnah Nedarim 5:1 prohibits joint courtyard owners who have vowed not to derive benefit from each other not to use even their own part of the space for raising chickens, apparently presuming that the impact of chickens is hard to contain and will spill over into the shared space. Tosefta Nedarim 2:9 extends the prohibition in this case to small cattle. A similar presumption about the negative impact of cattle and chickens on a courtyard, and the need for their strict containment, is found in Mishnah Bava Batra 3:5.

On chickens in ancient Jewish households, see Schwartz, “Cats in Ancient Jewish Society,” 215–20. For a general natural and cultural history of chickens see Annie Potts, *Chicken* (Chicago: University of Chicago Press, 2012).

⁴⁹ Safrai, “Agriculture and Farming,” 257.

⁵⁰ See discussion of pork’s symbolism for Jews in David Charles Kraemer, *Jewish Eating and Identity through the Ages* (New York: Routledge, 2007), 30–3. See also Safrai, “Agriculture and Farming,” 258. On the origins of the pork taboo in the Hebrew Bible, see Marvin Harris, “The Abominable Pig,” in *The Sacred Cow and the Abominable Pig: Riddles of Food and Culture* (New York: Simon & Schuster, 1987), 67–87. On the controversial status of the pig in modern Israel, see Daphne Barak-Erez, *Outlawed Pigs: Law, Religion, and Culture in Israel* (Madison: University of Wisconsin Press, 2007). For a general natural and cultural history of the pig, see Brett Mizelle, *Pig* (Chicago: University of Chicago Press, 2011).

subject of the sentence (and shift the subject to the more generic *adam* [“person”] in the subsequent law restricting dogs). The problem with the dog would seem to be a fear of attack, as suggested by the Mishnah’s requirement to keep him chained, yet the Tosefta passage that compares the person who raises dogs to the person who raises pigs suggests a moralizing of the dog restriction as well.⁵¹ The problem posed by pigeons is less from the animal itself than from the property conflict that might start when people trap them.⁵² The real danger is not *from* the bird but *to* it. When the Tosefta returns to pigeons at the end of its discussion of domestic animals, it introduces the theme of hunting and the question of which species people can freely pursue for hunting purposes and where.⁵³

The Mishnah’s rules about small domestic animals vary depending on where you are, who you are, and the animal breed, but a general distrust of these animals pervades the laws. The traditions about large domesticated animals present them as a more serious danger, with their capacity to gore and their habit of breaking and eating things, but the traditions about the small animals that inhabit the household are in fact less hospitable. The usefulness of the large animals for farm work (done by cows and oxen) and for carrying loads (done by donkeys) clearly outweighed whatever dangers they posed, while the wool and milk that came from sheep and goats do not seem to have offered enough justification, in the Mishnah’s eyes, for their presence.⁵⁴ Mishnah Betzah 5:7 develops a vocabulary for these household animals, calling them *bayatot*, an adjective fashioned out of the noun *bayit*, house. The Mishnah explains that these are animals who spend the night in town. The Mishnah contrasts the *bayatot* animals with those who are *midbariyot*, an adjective made out of the noun *midbar*, wilderness. The Mishnah defines those animals as the ones who spend the night in *efer*, or pasture.⁵⁵ Elsewhere,

⁵¹ Tosefta Bava Qamma 8:17. On the relationship between this mishnah and this tosefta, see Hauptman, *Rereading the Mishnah*, 34–6. Elsewhere the Tosefta compares the one who raises bees to the one who raises dogs; Bava Batra 1:9.

⁵² See parallel Tosefta Bava Qamma 8:9. According to Safrai, raising pigeons was not very popular in Roman Palestine; see Safrai, “Agriculture and Farming,” 257.

⁵³ Tosefta Bava Qamma 8:17.

⁵⁴ Tosefta Shevi’it 3:13 explains that the public must be capable of implementing a rabbinic decree, and that the prohibition on small cattle is manageable, but a prohibition on large cattle would not be. The parallel on Bava Qamma 89b adds that small cattle are relatively easily imported.

⁵⁵ The parallel Tosefta Betzah 5:11 makes the same distinction but defines it differently:

These are the *midbariyot*: these are the ones who leave at Passover and return by the first rainfall. *Bayatot*: these are the ones who spend the night within the *tehum* (the area of

the Mishnah organizes species of animals according to whether they are a domesticated species (*min behemah*) or wild (*min hayah*).⁵⁶ The development of an explicit vocabulary for domestic and domesticated animals would seem to reflect a robust conception of them and a sensitivity to their contribution to the identity of the household. While elite Romans were embracing animals as members of their households, elite Rabbis can be found, by contrast, tightening the boundaries of the household and creating a more rigorous dividing line between nature and culture even while recognizing the realities of their blurring.⁵⁷

BAD CATS AND BAD RABBIS

The early rabbinic discourse presents a spectrum of animal danger that runs from mildly annoying, to morally questionable or ritually polluting, to instantly fatal. The teachings represent animals attacking both from within and without, either predictably or erratically, preying upon persons and property, within domestic as well as public space. A story recounted in the Babylonian Talmud illuminates the threat posed by animals to the most intimate spaces of the household and the most vulnerable of its members:⁵⁸

human habitation). Rabbi Meir says: Both of these leave the *tehum*. Even though they enter the *tehum* only at nightfall, it is permitted to slaughter them on the festival (because they are *bayatot*). These are *midbariyot*: those who pasture in the meadow all the time.

⁵⁶ Mishnah Kilayim 8:5–6; parallel in Tosefta Kilayim 5:7–8.

⁵⁷ On pet-keeping in the Roman world, see Michael MacKinnon, “Pack Animals, Pets, Pests, and Other Non-Human Beings,” in *The Cambridge Companion to Ancient Rome*, ed. Paul Erdkamp (New York: Cambridge University Press, 2013), 116–17.

A famous example of Romans’ affection for their pets is the funerary frieze of a dog and accompanying inscription that reads: “To Helena, foster daughter, incomparable and praiseworthy soul” (150–200 CE). See MacKinnon, p. 117.

MacKinnon warns against imposing modern notions of the pet onto ancient Rome, however, where he sees more blurring among animal roles (an animal could be seen as a pet but also as a work or military animal). Gilhus recommends the term “personal animal” so as “to avoid identifying these human-animal relationships too closely with modern culture”; see also Gilhus, *Animals, Gods and Humans*, 29.

For more on Romans’ affective relationships with their animals, see the discussion on Mary Beard, “A Don’s Life,” *A Pig’s Epitaph*, March 15, 2015, http://timesonline.typepad.com/dons_life/2015/03/the-pigs-epitaph.html.

On how pet-keeping practices are “part of the social control of nature” and how they emerge from the “loss of boundaries’ between the realms of nature and culture,” see Molloy, “Dangerous Dogs,” 109. For analysis of “commensal” animals (animals who cohabit with people) more generally, see Terry O’Connor, *Animals as Neighbors: The Past and Present of Commensal Species* (East Lansing: Michigan State University Press, 2013).

⁵⁸ That a cat is at the center of this narrative about threats to the household may be due to the fact that cats are the most boundary-crossing of domestic animals; see Schwartz, “Cats in Ancient Jewish Society,” 220, n. 48.

Rav, Shmuel, and Rav Asi happened to come to the house of a “week of the son” (i.e., a circumcision), or some say [it was] the house of a “salvation of the son” (i.e., a *pidyon ha-ben*, redemption of a first-born son). Rav would not enter before Shmuel, and Shmuel would not enter before Rav Asi, and Rav Asi would not enter before Rav. They said, “Who will go behind?” Shmuel should go behind, and Rav and Rav Asi should go [ahead]. But Rav or Rav Asi should have gone behind! Rav was only making a gesture on Shmuel’s behalf. Because of that incident where he cursed him, Rav gave him precedence over himself.⁵⁹ In the meanwhile, a cat came and bit off the hand of the child. Rav went out and expounded: “It is permitted to kill a cat and forbidden to raise him. Theft does not apply to him, nor does the obligation to return a lost item to its owners.”⁶⁰

רב ושמואל ורב אסי⁶¹ איקלעו לבי שבוע הבן ואמרי לה לבי ישוע הבן רב לא עייל קמיה שמואל לא עייל קמיה דרב אסי רב אסי לא עייל קמיה דרב אמרי מאן נתר⁶² נתר⁶³ שמואל⁶⁴ וניתי רב ורב אסי ונתרח רב או רב אסי⁶⁴ רב מילתא בעלמא הוא דעבד⁶⁵ ליה לשמואל משום ההוא⁶⁶ מעשה דלטייה אדבריה רב⁶⁷ עליה אדהכי והכי אתא שונרא קטעיה לידא⁶⁸ דינוקא⁶⁹ נפק רב ודרש חתול מותר להורגו ואסור לקיימו ואין בו משום גזל ואין בו משום השב אבידה לבעלים

This story is composed of six elements:

1. Rav, Shmuel, and Rav Asi arrive at the celebration of a baby boy.
2. They cannot decide who should enter first (entering first is a greater honor).
3. They finally decide who should hang back and who should proceed.
4. The narrator interrupts the story to ask a question about this decision and to give background for it.

⁵⁹ The translation of the last part of the sentence is from Michael Sokoloff, *A Dictionary of Jewish Babylonian Aramaic of the Talmudic and Geonic Periods* (Baltimore: Johns Hopkins University Press, 2002), 313, s.v. *d-v-r*.

⁶⁰ Bava Qamma 80a–b. One can find brief discussion of this narrative in Schwartz, “Cats in Ancient Jewish Society,” 223.

⁶¹ Rav Asi is mistakenly absent in his first appearance in Munich 95.

⁶² Escorial G-I-3, Florence II-I-8, and Munich 95 spell “go behind” or “hang back” with a *tet* instead of a *taf*, referring to the root *t-r-h* (with a *tet*), to take the trouble or make an effort, instead of the root *t-r-h* (with a *taf*), to remain, delay, wait.

⁶³ Munich 95 first says, “Rav should go behind!” (*natrah Rav*) before it says “Shmuel should go behind!” (*natrah Shmuel*).

⁶⁴ Escorial G-I-3 and Hamburg 165 have the word “they say” (*omri*) before Rav: “They say Rav was only making ...”

⁶⁵ Escorial G-I-3 has *de-avad* (“making”) twice.

⁶⁶ Florence II-I-8 omits *bahu* (“that”) before *ma’aseh* (“incident”).

⁶⁷ Escorial G-I-3, Florence II-I-8, and Munich 95 omit “Rav.”

⁶⁸ Escorial G-I-3 has *yatza* instead of *yeda* (“hand”) in what seems to be a scribal error. Florence II-I-8 omits the word altogether in what also appears to be a scribal error.

⁶⁹ Escorial G-I-3 has *bahu yenuqa* (“that baby”), making clear that the baby attacked by the cat is the same one being celebrated.

5. A cat bites off the hand of the child being celebrated.
6. Rav issues four legislations about cats.

The story nearly gets derailed at the start. Three rabbis are going to a celebration for a baby boy, and the story pauses to consider what kind of celebration it is, a circumcision, or a celebration that happens somewhat later after the boy's birth, a *pidyon ha-ben*, here called the "salvation of the son."⁷⁰ From an audience perspective, the appropriate response would seem to be – who cares? The pause's purpose, one might speculate, is to focus attention on the baby and to contrast the attention that the story showers upon the baby with the relative lack of attention given to him by the rabbis who are the protagonists of the story. There is also an irony in the types of celebration mentioned. The son will be anything but saved at the "salvation of the son," and the possibility that the celebration was a circumcision foreshadows the cat's attack upon the baby's body part.

The main characters, the three rabbis, are concerned not with the baby who is the figure being celebrated but with the rituals of honor that govern their relationships. According to the rules of the rabbinate, no rabbi should enter a room before a rabbi of greater honor. In this case, the rules bring them to a comic standstill. Rav refuses to enter before Shmuel, Shmuel refuses to enter before Rav Asi, and Rav Asi refuses to enter before Rav, his teacher. No one, in short, can move. Realizing the predicament in which they find themselves, the three rabbis ask each other: "Who will hang back?" In posing the question this way, the rabbis portray themselves not as bent on giving the other appropriate honor but each as being unwilling to give up on his own.

The rabbis determine that Shmuel should defer to the others. A challenge to that decision is interjected by the editorial voice ("But Rav or Rav Asi should have gone behind!"). The narrator goes on to explain that Rav had been compensating for a prior incident in which Rav had cast a curse

⁷⁰ Both are rare idioms in rabbinic literature. Rashi explains that "week of the son" refers to a circumcision since it occurs after the first seven days of the baby boy's life. Commentators disagree over the second celebration mentioned within the passage, the "salvation of the son." My translation follows Rashi, who understands it to be referring to the redemption of the first-born son. Rashi's explanation is that the Hebrew word *yeshu'a*, salvation, is standardly translated into Aramaic as *purqan*, which was then associated with the Hebrew *pidyon*, the word for redemption. According to the Tosafot, however (s.v. *le-ve yeshu'a ha-ben*), the salvation in the word *yeshu'a* refers more logically not to the redemption of the first-born from the priest but to the "salvation" or escape of the baby boy from the danger of childbirth. If so, then "salvation of the son" would seem to be a reference to a party to celebrate a healthy baby being born.

upon Shmuel. That incident is narrated in full elsewhere in the Talmud.⁷¹ In that story, Rav gets a terrible stomachache, and Shmuel “cures” Rav by feeding him great amounts of food and then, rather sadistically, preventing him from using the bathroom. Rav’s response at the time, unsurprisingly, was to curse Shmuel. The editorial interruption explains that Rav’s initial impulse to enter behind Shmuel was a product of his regret over having cursed him (“Because of the incident where he cursed him, Rav gave him precedence over himself”).⁷² Technically, however, Rav’s greater honor dictated that Rav should have entered first (“Rav was only making a gesture on Shmuel’s behalf”), which is why the three rabbis ultimately decided that Rav should enter first.⁷³ Again, one might ask about the rhetorical function of the editorial interruption, which mentions an incident that it does not bother to fully rehearse and which seems not entirely necessary to justify the plot developments here. As before, the interruption seems designed to alert the audience to an important theme they are soon to encounter in the story. In this case, the theme is Rav’s fierce anger and his lack of restraint in expressing it. The interruption also points to the dark side of rabbinic honor, which is rabbis’ hostility toward one another.⁷⁴ The honorific gestures, one learns, turn quickly into curses.

While these negotiations are occurring – *adehakhi ve-bakhi* (“in the meantime”) – a cat sneaks up on the baby and attacks him, biting off his hand.⁷⁵ The rabbinic personages are too preoccupied with their honor, as are, one imagines, the gathered family and guests, to notice when a cat attacks the baby who is the very object of celebration. Rav emerges from the encounter issuing a set of legislations that permit a person to kill or steal a cat and that prohibit giving provisions to a cat. The severity of the legislations is brought home by the editorial treatment, which questions why Rav needed to state as many legislations as he did:

⁷¹ Shabbat 108a. For story cues where the full story never appears, see Daniel Rosenberg, “Short(hand) Stories: Unexplicated Story Cues in the Babylonian Talmud” (PhD diss., New York University, 2014).

⁷² The commentator Meiri goes into a lengthy explanation here of the dynamics of honor, insult, regret, and compensation, s.v. *talmid*.

⁷³ The Meiri explains that the presence of a third party suspended the promise that Rav had made to compensate for cursing Shmuel.

⁷⁴ On shame and violence among Babylonian rabbis, see Rubenstein, *The Culture of the Babylonian Talmud*, 54–79.

⁷⁵ A story on Bava Qamma 84a uses the same language to describe a donkey who bites off a baby’s hand, which is followed by the story of an ox who bites off (using the verb *alas* instead of *qata*) a baby’s hand. There the problem is the assessment and collection of personal injury payments by the baby’s father.

And since you say “it is permitted to kill him,” why is there further “it is forbidden to raise him”?

What is it that you would have supposed from “it is permitted to kill him”? There is no prohibition! He teaches us [otherwise].

They say [another challenge], that since you say “theft does not apply to him,” why is there further “nor does the obligation to return a lost item to its owners”? Ravina said, “For his (the cat’s) skin” (which one need not return to the owner).

וכיון דאמרת מותר להורגו מאי ניהו תו אסור לקיימו
מהו דתימא מותר להורגו⁷⁶ איסורא ליכא קמ”ל

אמר⁷⁷ וכיון דאמרת אין בו משום גזל מאי ניהו תו⁷⁸ אין בו משום השב אבידה לבעלים
אמר רבינא לעורו

The talmudic commentary portrays Rav’s legislations as redundant. The question asked twice by the editorial voice, “why is there further...,” highlights Rav’s overenthusiasm. Rav’s zeal results in cats not *even* reaching the legal status of property, much less the status of a living thing.⁷⁹

The introduction to Rav’s legislations, “Rav went out and expounded,” is a signal that Rav’s legislations should be understood in light of his role in the preceding events.⁸⁰ The narrative serves, as is often the case in the Talmud, to provide a counterpoint to the law and to offer a critical stance with respect to it.⁸¹ Rav steps in as an authoritative legislator precisely when he and his rabbinic colleagues seem most impotent. They are literally paralyzed by their preoccupation with the micropower struggles within their hermetic world. Rav’s legislation seems designed to shift attention

⁷⁶ “It is permitted to kill him” (*mutar le-horgo*) absent in Escorial G-I-3, Florence II-I-8, Hamburg 165, and Munich 95.

⁷⁷ “They say” (*omri*) absent in Escorial G-I-3, Hamburg 165, Florence II-I-8, and Munich 95, the last two of which also omit *qa mashma lan* (“he teaches us”).

⁷⁸ “Further” (*tu*) absent in Escorial G-I-3.

⁷⁹ Rav’s legislation forms a contrast with the discussion in my next chapter, where property is the inferior status to persons; here, cats are not *even* property, such that if one steals, loses, or kills a cat the act does not legally register.

The severity of the legislation is observed by the Tosafof, s.v. *mutar*, who contrast it with the materials in Sanhedrin that deal with the dangerous animal species list and that are in fact less severe. The Tosafof offer a creative solution to the discrepancy, which is that perhaps Rav sees cats as even more dangerous than lions and tigers because people do not typically perceive them to be as dangerous, so they are less on guard around them. The other hypothesis that the Tosafof offer, which relies on a similar logic, is that people typically tie up dangerous species but do not tie up cats.

⁸⁰ Despite the Tosafof’s explanation that these legislations had in fact been issued beforehand; s.v. *nefaq*. The rationale of the Tosafof is that the Talmud would not challenge the legislation from an early rabbinic teaching if they were clearly issued as a context-specific decree.

⁸¹ See discussion of legal narrative in Wimpfheimer, *Narrating the Law*.

away from the Rabbis' impotence by generating a moral panic around the figure of the cat. As Molloy observes in her study of pit bull laws in the United Kingdom, it is usually a key event that turns the tone to one of crisis, and it is almost always an event that involves the victimization of a child.⁸² Far from being presented as a rational response to animal danger, Rav's legislations appear, through their juxtaposition to the narrative, to be disproportional, with their purpose being the displacement of Rav's guilt.⁸³ Rav would rather blame the entire cat species than consider his own accountability or alternative legislative possibilities.

RABBIS, THEIR WIVES, AND THEIR ANIMALS

The flaws of rabbinic authority are apparent also in the surrounding literary materials. Prior to the story is another one in which rabbis behave badly and children pay the consequences. That story features Rav Huna in conversation with an obscure rabbi-named Ada bar Ahavah. The story is predicated on another "animal-phobic" legislation issued by Rav. In that legislation, Rav extends the prohibition on raising small cattle from Palestine to Babylonia:

Rav Yehudah said that Rav said: We have made ourselves in Babylonia like the land of Israel with respect to small cattle.

Rav Ada bar Ahavah said to Rav Huna, "Yours – what [is the case]?"

He (Rav Huna) said to him (Rav Ada bar Ahavah), "Ours – Hovah⁸⁴ watches them."

He (Rav Ada bar Ahavah) said to him (Rav Huna), "Hovah will bury her sons!"

All the years of Rav Ada bar Ahavah, Rav Huna never had a child from Hovah.

אמר רב יהודה⁸⁵ אמר רב עשינו עצמנו⁸⁶ בבבל כארץ ישראל לבהמה דקה
א"ל רב אדא בר אהבה לרב הונא דידך מאי

⁸² "Within a moral panic extant analyses have shown that there is usually a key event that shifts the panic to the status of a crisis ... in each case study, we find the death of children or young people to be a powerful signifier of crisis." Molloy, "Dangerous Dogs," 123.

The Babylonian Talmud portrays the danger of dogs also as a threat to children (or, rather, potential children). In Bava Qamma 83a (and parallel on Shabbat 63b), a dog's bark is said to scare a pregnant woman into miscarrying, with the catastrophic consequences of causing God's presence to withdraw from Israel. Another story follows of a woman miscarrying because of a dog's bark. See discussion in Schwartz, "Good Dog-Bad Dog," 69–70.

⁸³ On disproportionality as a critical feature of moral panic, see Molloy, "Dangerous Dogs," 127.

⁸⁴ In Escorial G-I-3 and Munich 95, her name is *Hibah*, which means love, esteem, or honor (making her a perfect match with her husband, "son of Love").

⁸⁵ In Munich 95 it is Rav Huna and not Rav Yehudah.

⁸⁶ "We have made ourselves" (*asinu atzmenu*) is absent in Hamburg 165, which features the expression later in an alternative version of the tradition (I do not here discuss that segment).

א"ל⁸⁷ דידן⁸⁸ קא מינטרא להו חובה

א"ל חובה⁸⁹ תקברינהו לבנה

כולה שניה דרב אדא בר אהבה לא אקיים זרעא לרב הונא מחובה

Putative founder of the Babylonian rabbinic movement, Rav grants to the land of Babylonia a status equal to that of the land of Israel. If Israel needs to be protected from small cattle, then so too does Babylonia. Rav's language, "we have made ourselves," is one of self-empowerment and thematizes Rav's judicial assertiveness in the face of competition between Palestine and the new rabbinic center in Babylonia.⁹⁰

Rav's legislation is contravened by none other than Rav's most famous student, Rav Huna, who appears to have his own small herd. Rav Ada bar Ahavah challenges Rav Huna, calling him out for his hypocrisy: "Yours – what [is the case]?" How do you, Rav Huna, justify your own keeping of small cattle despite your master's ban on them? Rav Huna's response only makes things worse. Rav Huna announces that it is not he, but his wife Hovah, who watches over the herd. Thus Rav Huna, *technically*, has committed no violation. Rav Huna's wife named Hovah, which ironically is the word for legal obligation, allows Rav Huna to evade his *hovah*, or legal obligation.⁹¹ Rav Ada bar Ahavah has no patience for Rav Huna's rerouting of blame and puts a curse on him and his household: "Hovah will bury her sons!" This terrible curse, the story's narrator relates, comes true, and the sheep-herding couple never produce a "herd" of their own in what seems to be a measure-for-measure punishment. Hovah's activity as a shepherd ultimately prevents Rav Huna from fulfilling his "hovah" to reproduce. This story has the same key elements as the subsequent story about Rav, the circumcision, and the cat: a legislation about animals, rabbi competing, one rabbi curses another, a tragedy befalls a child, and a disproportionate punishment.

The medieval commentators on this story are horrified by Rav Ada bar Ahavah's venom. To soften the portrait of Rav Ada bar Ahavah, some

⁸⁷ "He said to him" (*amar leh*) is missing in Hamburg 165.

⁸⁸ "Ours" (*didan*) is absent in Munich 95.

⁸⁹ *Hovah* is absent here in Hamburg 165.

⁹⁰ Though that expression is not in every version; see earlier note. Rav is described in Gittin 6a with the same language; there he is extending to Babylonia power over divorce agreements. For a discussion of Rav's judicial assertiveness in the context of the competition between Palestine and Babylonia, see Isaiah Gafni, *Land, Center and Diaspora: Jewish Constructs in Late Antiquity* (Sheffield, UK: Sheffield Academic Press, 1997), 116.

⁹¹ It makes for a strange name, which is why Rashi feels compelled to explain that it is a name; s.v. *Hovah*.

read his words – “Hovah will bury her sons!” – to be not a curse but a caution. If Hovah spends all her time raising sheep, she will have no time remaining to raise her children.⁹² But in a parallel story elsewhere in the Talmud with the same characters, the same words are uttered, and there it is clear that they are intended as a curse.⁹³ One is left to wonder at the level of spite that leads one rabbi to wish upon another the death of a child. There is irony not only in Hovah’s name but also in Rav Ada bar Ahavah’s. Ada refers to a person who sets traps for other people’s animals in order to steal them, which is appropriate here, since Ada essentially sets a trap for Rav Huna, who himself maintains prohibited animals.⁹⁴ Ahavah means love, a quality noticeably absent from Ada bar Ahavah the man. The greatest danger appears to be not from the animals that people harbor in their homes but from the rabbis who tolerate neither the animals themselves nor any challenges to their legislations about them.

BLACK AND WHITE WORLD-VIEWS

The Talmud’s deconstruction of the discourse of animal danger continues after the story about Rav at the circumcision. The talmudic dialectic challenges Rav with an early rabbinic tradition that is a good deal more accepting of cats than Rav is:

They challenge [based on an early rabbinic teaching]: Rabbi Shimon ben Elazar says: One may raise village dogs, cats, monkeys, and porcupines because they go around⁹⁵ cleaning the house.⁹⁶

This is not difficult: One is [speaking of] black [cats], and the other of white.

But the incident of Rav was a black cat!

That was a black the offspring of a white.

But Ravina [already] asks that question, as Ravina asks: A black the offspring of a white, what is [the law]?

⁹² Rashi’s comment: “‘will bury her sons’: ‘since you are relying upon her, and she is unable to watch [them].’”

⁹³ Nazir 57b. See discussion in Tosafot, s.v., *Hovah*.

⁹⁴ Jastrow, s.v. *Ada*: “equivalent to biblical Hebrew *tzodeb*, ‘fowler,’ ‘one who puts up baits, snares &c. for other people’s doves.”

⁹⁵ “Go around” is a loose translation of *asu’i*, which Jastrow translates as “spend time, tarry” or as “forced,” either of which may be in play in here, since the house animals catch mice and rats and other critters, probably out of some combination of entertainment and hunger.

⁹⁶ Parallel in Tosefta Bava Qamma 8:17. See discussion of this part of the passage in Schwartz, “Cats in Ancient Jewish Society,” 224.

When Ravina asks, it is about a black the offspring of a white who is the offspring of a black. The incident of Rav was a black the offspring of a white who is the offspring of a white.

מיתבי⁹⁷ רבי שמעון בן אלעזר אומר מגדלין כלבים כופרין⁹⁸ והתולין וקופין⁹⁹ וחולדות סנאים¹⁰⁰ מפני
שעשוין לנקר את הבית¹⁰¹
לא קשיא הא באוכמא הא בחיורא¹⁰²
והא מעשה¹⁰³ דרב אוכמא הוה
התם¹⁰⁴ אוכמא בר חיורא הוה
והא מבעיא בעיא ליה רבינא דבעי רבינא¹⁰⁵ אוכמא בר חיורא מה¹⁰⁶
כי קמבעיא ליה לרבינא באוכמא בר חיורא בר אוכמא מעשה¹⁰⁷ דרב באוכמא בר חיורא בר
חיורא¹⁰⁸ הוה

The Talmud proposes that the permissive tradition attributed to Rabbi Shimon ben Elazar (“One may raise village dogs, cats, monkeys, and porcupines because they go around cleaning the house”) relates to one kind of cat, the black cat, presumably a “good” cat who mouses within the house, while Rav’s legislation relates to another kind of cat, the white cat, who is a dangerous creature to be destroyed at all costs.¹⁰⁹

⁹⁷ Florence II-I-8 and Munich 95 incorrectly write *metiv* instead of *metivi*. Vatican 116 has *motivi*.

⁹⁸ “Village” (*qufrin*) absent in Escorial G-I-3.

⁹⁹ Munich 95 mistakenly has *zequfin* instead of *ve-qofin*.

¹⁰⁰ The *huldot sena'im* (“porcupines”) are missing from Hamburg 165 and Vatican 116.

¹⁰¹ Escorial G-I-3 and Hamburg 165 add “they say” (*omri*) before “it is not difficult” (*la qashya*).

¹⁰² Vatican 116 reverses this line to: “One [is speaking] of white, and the other of black.”

¹⁰³ Escorial G-I-3 and Vatican 116 use the Aramaic *uuda* instead of the Hebrew *ma'aseh*. Hamburg 165 omits the word altogether.

¹⁰⁴ Instead of “there” (*ha-tam*), Escorial G-I-3 has “[the incident] of Rav.” Hamburg 165 and Vatican 116 omit the word altogether.

¹⁰⁵ “As Ravina asks” (*de-ba'ey Ravina*) absent in Florence II-I-8 and Hamburg 165.

¹⁰⁶ Escorial G-I-3, Hamburg 165, and Vatican 116 have *may* instead of *mahu*.

¹⁰⁷ Word *ma'aseh* (“incident”) absent in Hamburg 165.

¹⁰⁸ Escorial G-I-3 and Hamburg 165 curiously add the word *le-olam* (“after all” or “always”) after the final *hivra* (“a white”). Vatican 116 is missing the last “offspring of a white one,” so that it reads only as “the incident of Rav was a black the offspring of a white.”

¹⁰⁹ Rashi uses the earlier vocabulary of the tractate, *muad*, to describe the white cat, knitting together the discourse of danger; s.v. *hivra*.

Berakhot 6a features the placenta of a “black female cat the offspring of a black female cat, the first-born offspring of a first-born,” in its magical formula for a potion that can allow a person to see normally invisible demons. That text associates protective though also potentially dangerous magical powers with the black cat. See discussion of the Berakhot passage in Hillel Athias-Robles, “If The Eye Had Permission to See No Creature Could Stand Before the Mezikin’: Demons and Vision in the Babylonian Talmud” (MA thesis, Columbia University, 2015).

The picture of good and bad cats, black versus white, soon becomes nebulous. The editorial voice claims first that the “bad” cat in the Rav story was in fact black and not white, thus muddling the simplicity of the initial equation of black = good and white = bad. To restore that equation, the talmudic dialectic plays with permutations of ancestry. The cat in the Rav story, it is claimed, was really white after all. It only looked black because it was “black the offspring of a white.” That cannot be the case either, however, it is said in the next turn of the dialectic, since the later rabbi Ravina appears to have asked about precisely such a case, which he would not have, according to the norms of rabbinic discourse, if the case had already been decisively treated by a prior rabbinic teaching. That claim is itself corrected, however, when the Talmud explains that Ravina’s question was not actually about that case (i.e., black offspring of white), but rather about the more complicated case of a black cat born of a white cat who was himself born of a black one. Which ancestry wins out in determining the character of that cat: black or white? That question is never answered, but one does find out the proper treatment for a black cat born of a white cat who was in turn born of a white cat. Such a cat, the dialectic concludes, was precisely the type featured in the story with Rav – the kind that bites off a baby’s hand and that should be dispatched on sight.

But how does one know which kind of cat one is dealing with? According to the talmudic logic, a black cat may be a white cat in disguise, and vice versa. The equation of black with good and white with bad seems simple enough, but applying it to any particular cat seems nearly impossible without the help of a professional geneticist.¹¹⁰ As is the case with pit bulls, danger ends up detached from empirical reality. Any

In Persian literature, the black cat is associated with powerful magic, sometimes protective, sometimes harmful; see Mahmud Omidshalar, “Cat I: In Mythology and Folklore,” *Encyclopaedia Iranica* (Winona Lake, IN: Eisenbrauns, 1990), www.iranicaonline.org/articles/cat-in-mythology-and-folklore-khot. On sacral associations with black cats in Egyptian Isis worship, see Donald W. Engels, *Classical Cats: The Rise and Fall of the Sacred Cat* (New York: Routledge, 1999), 123–4. The black cat in Bava Qamma is claimed to be protective in a far more prosaic way than is the Egyptian or Persian black cat. On black versus white cats in rabbinic literature see also Schwartz, “Cats in Ancient Jewish Society,” 223, n. 65.

¹¹⁰ The Tosafot make this observation, s.v. *mutar*, discussed in footnote above: “... people do not know if he is the offspring of a black or the offspring of a white, for [people] do not know their (i.e., the cats’) fathers.” The Meiri describes Rav, before making his decree, going and checking the particular species of cat; s.v. *yesh*.

individual can be subject to suspicion, and the suspicion seems circular: if a black cat misbehaves, he must really be of white stock, etc. I therefore read the dialectic not the way commentators have typically done, as a straightforward exercise in determining the parameters of danger laws, but rather as a *reductio ad absurdum*, since the flaws in the logic of cat danger are so readily apparent, and the attempts to apply it so dizzying (one needs a Punnett square to keep track of the cat lineages in the passage).¹¹¹ In the vein of Holger Zellentin's and Daniel Boyarin's understandings of certain passages of Talmud as parodic or satiric, I read this material as a parody of discourses of animal danger.¹¹² The parody brings to light the constructedness and malleability of assertions about animal danger and ridicules how "black and white" those discourses try to make the danger seem.

The parody is also meant to mediate the clash of cat cultures that these traditions represent. Rav's harsh legislation rings of the *xrafstar* category of Middle Persian texts, which considers certain animal species to be utterly repulsive and cosmically dangerous. These species are considered the product of demonic forces and are understood to deserve instant destruction. Felines fall into this category.¹¹³ The severity of Rav's legislations would seem to reflect this kind of dualistic, moralistic, cosmic demonization of cats, whom Zoroastrians considered "restive and perfidious." In a story reminiscent of the one with Rav, the last great Sasanian king Kosrow II is described as charging one of his governors with destruction of all the cats in the city.¹¹⁴

¹¹¹ On attempts by codifiers of the Talmud to flesh out the practical implications of this passage, see discussion in Schwartz, "Cats in Ancient Jewish Society," 223–4, n. 67. Maimonides, the Tur, and the Shulchan Arukh limit Rav's legislation to "evil cats" that kill or harm children.

¹¹² Boyarin, *Socrates and the Fat Rabbis*; Holger M. Zellentin, *Rabbinic Parodies of Jewish and Christian Literature* (Tübingen: Mohr Siebeck, 2011). One of Zellentin's chapters treats a passage in Bava Metzia that also, curiously, features cats being killed; see pp. 27–50.

¹¹³ Omidisalar, "Cat"; Macuch, "Treatment of Animals," 167; Moazami, "Evil Animals," 302, 314–15. See n. 4 on p. 167 in Macuch for discussion of the ambiguity in the vocabulary for cats in Persian texts. The quotation about perfidy is from Moazami, p. 315. According to Boyce, current Zoroastrian belief holds that even if one washes a bowl seven times after a cat has eaten from it, the bowl remains unclean, that eating food that has touched a cat's whiskers will cause one to waste away, and that a cat's glance will cause demons to enter a corpse; see Mary Boyce, *A Persian Stronghold of Zoroastrianism* (Oxford, UK: Clarendon Press, 1977), 163, n. 51.

¹¹⁴ See Omidisalar, "Cat." That story is told in the *Shahnameh*, Moscow edition, Vol. IX, pp. 192–3, vv. 3082–3102.

By contrast, “to the cats ... the Roman Empire represented something of a golden age of peace, prosperity, and civil society.”¹¹⁵ Colonies of cats seem to have spread to all corners of the late Roman Empire, where they were generally considered useful members of the household who ate up disease-spreading, supply-destroying rats (the down side was that they also ate domestic birds).¹¹⁶ Mosaics from Pompeii display cats hunting and climbing; one marble relief now in the Museo Capitolino depicts a cat learning to dance.¹¹⁷ A Latin tombstone from second-century Rome commemorates a woman named Calpurnia Felicla, whose second name means “kitten,” and below the inscription is a picture of an eponymous small cat. Hundreds of inscriptions can be found from all over the Empire in which women have some form of the nickname “kitten.”¹¹⁸ Cats are depicted as household hunters, playmates, and pets.¹¹⁹ The Third Legion Cyrenaica, stationed in Arabia Nabatea after the year 123 CE, had a cat as its mascot.¹²⁰ The immense popularity throughout the Roman Empire of the Egyptian cult of Isis, who was frequently shown accompanied by her sacred cat companion Bubastis or actually identified with the cat, would have contributed to the cat’s embrace by Roman audiences (except by Roman pagan and Christian intellectuals, who satirized Egyptian cat worship).¹²¹ One might see the permissive rabbinic teaching cited in the talmudic passage in light of this cultural context in which the cat was, generally speaking, a figure of favor.

In the next chapter I will argue that the meeting of Zoroastrian laws about animals with Graeco-Roman ones may have inspired the talmudic

¹¹⁵ Engels, *Classical Cats*, 95.

¹¹⁶ The spread was possibly not before the first century; see John Percy Vyvian Dacre Balsdon, *Life and Leisure in Ancient Rome* (New York: McGraw-Hill, 1969), 151. On the patterns in osteological cat remains, see Engels, *Classical Cats*, 107–8. On cats and public health, see Engels, *Classical Cats*, 108–14. A cat buried and preserved in the Roman Red Sea port city of Quseir el-Qadim, probably in the first or second century CE, had the remains of six rats found in his belly; see p. 136. On cats eating farmyard hens, see Schwartz, “Cats in Ancient Jewish Society,” 215–20.

¹¹⁷ Engels, *Classical Cats*, 97–8.

¹¹⁸ *Ibid.*, 99.

¹¹⁹ Even if the rabbinic texts never embrace the cat as a pet or playmate; see general argument in Schwartz, “Cats in Ancient Jewish Society.” For more on Roman cultural representations of cats – as clean, swift, useful, of “big cats” as exotic status symbols, as pets, as signs of the divine – see Malcolm Drew Donalson, *The Domestic Cat in Roman Civilization* (Lewiston, NY: Edwin Mellen Press, 1999). For a general cultural history of the cat that includes ancient Egypt and Rome, see Katharine M. Rogers, *Cat* (Chicago: University of Chicago Press, 2006).

¹²⁰ Engels, *Classical Cats*, 107.

¹²¹ *Ibid.*, 115–28. On the critique of cat worship, see pp. 123, 132–3.

editors to think critically about the legal categorization of animals. Here I am proposing that the encounter between the cat-demonizing tendencies of the Zoroastrians and the cat tolerance of the Romans facilitated for the talmudic editors a reflective distance on both. The diametrically opposed rabbinic traditions featured in this passage, on the one side Rav's severe legislation, on the other the early rabbinic teaching's permissiveness, represent competing cultures of animal danger.¹²² The passage's interest is less in promoting one of these discourses of danger over the other than in exploring and exposing the processes of production that lie behind such discourse. The passage pursues this interest by presenting Rav's legislations alongside the story that purportedly led to them, and by juxtaposing those legislations with the more tolerant teachings that preceded them.

CONCLUSIONS: MACHO RABBIS AND QUEER ANIMAL-LOVERS

According to Freud, the fear of being eaten, and concomitant wish to be eaten, is primal.¹²³ A sense of the uncanny arises when the prey becomes the predator, the passive turns active, and the domesticated animal goes wild.¹²⁴ One can view dangerous animal laws as a response to the uncanny, a restoration of order, the promise of protection from being eaten, and the continual domestication of that which threatens to go wild. The authorities who make these laws demonstrate their expertise in managing risk, their power to regulate human/animal relations, and their capacity to control.¹²⁵ Identification or empathy with animals, in this scheme, becomes legally unprotected if not prohibited, and is associated with the female and the infantile. This set of associations – [men, control of animals, maker of laws] vs. [women and children, consumption by

¹²² Molloy speaks of competing authorities on animal danger and risk; see Molloy, "Dangerous Dogs," 107, 111.

¹²³ See Oliver, p. 11: "In a certain sense, all fear is linked to the fear of being eaten, the fear of becoming the eaten rather than the eater, becoming passive rather than active ... In the case of the animal phobias and the fear of being devoured by the father, Freud sees a hidden wish; namely, the desire to be in the feminine or passive position in relation to the father in a sexual way."

¹²⁴ See Oliver, pp. 13–14: "An uncanny sensation is produced when something that should be passive becomes active or something domesticated becomes wild, whether that something is a girl or an animal."

¹²⁵ This borrows from the formulation in Molloy, "Dangerous Dogs," 108–9.

animals or compassion toward them, subject to laws] – helps to explain why the male animal activists described by Alison Suen are vilified by their opponents as queers.¹²⁶ To reject control and consumption of animals, and aggression toward them, is to reject masculinity itself as it is normatively configured, as Carol Adams argues in her *Sexual Politics of Meat*.¹²⁷ Through Rav's harsh legislations, Rav tries to resolve the crisis of rabbinic masculinity posed by the cat's attack upon the baby and by the rabbis' paralysis precipitating the attack. The cat legislations aim to protect the myth of the rabbi as protector. The cat externalizes and embodies danger so that rabbinic law can master it (the cat, and the danger).

Protection, Derrida observes, is a bargain made with the law.¹²⁸ The law insulates from fear, but it creates fears of its own.¹²⁹ Dangerous animal laws may assuage people's fears, but they also put on display the sovereign's own fearsome power over life and death and, as is the case in the story of Rav and the cat, the harm caused by the exercise of that power. Echoing the critics of the pit bull legislations, the talmudic materials ask whether it is possible to tell which animal is dangerous and which is not and whether the real risk is from the animal at all. The moral panic that runs through the talmudic texts, the risk to baby boys and to male lines (the baby boy at the bris, the curse on Rav Huna's household), is shown to be rooted not, in the end, in the aggressiveness of animals but in the cruelty and competitiveness of rabbinic culture. Rabbinic machismo turns out to be the problem, not the solution. What destroys the household are not the odd sheep, goats, cats, dogs, chickens, or pigeons who roam around it, but the rabbis who regulate them. Standing before his cat naked, as he describes himself in a famous essay, Derrida never really wondered what his cat was thinking.¹³⁰ Neither

¹²⁶ See Suen, p. 132: "One man described how hunters called him an 'animal rights queer' during a protest against hunting."

¹²⁷ Carol J. Adams, *The Sexual Politics of Meat: A Feminist-Vegetarian Critical Theory* (New York: Bloomsbury USA, 2015).

¹²⁸ *The Beast and the Sovereign*, discussed by Suen, p. 124. "I protect you' means for the state, I oblige you, you are my subject, *I subject you.*"

¹²⁹ "The law is instituted out of fear (of losing one's life), and the law is sustained out of fear (of punishment)"; Suen, p. 124.

¹³⁰ Derrida does at several points reflect on his cat's point of view, but he is ultimately more interested in how his cat's stare affects his perception of himself. For his references to the cat's point of view, see Jacques Derrida, "The Animal That Therefore I Am (More to Follow)," trans. David Wills, *Critical Inquiry* 28, no. 2 (January 1, 2002): 377, 380, 382.

For a critique of the thinness of Derrida's reflection on his cat, see Donna Jeanne Haraway, *When Species Meet* (Minneapolis: University of Minnesota Press, 2008),

do these talmudic texts. The texts do illuminate, however, what rabbis might be thinking when they make their laws about cats and other household animals.

19–27: “He came right to the edge of respect ... Somehow in all this worrying and longing, the cat was never heard from again ... But with his cat, Derrida failed a simple obligation of companion species; he did not become curious about what the cat might actually be doing, feeling, thinking, or perhaps making available to him in looking back at him that morning” (p. 20).