WHO THINKS IN THE TALMUD?

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Abstract

This article traces a historical shift, and in particular its erasure from memory on the intellectual map of the West, in concepts of subjectivity across practices of rabbinic thinking in late antiquity, medieval interpretations of the Talmud, and modern talmudic scholarship. I first introduce a comparative perspective that relies on a mutual hermeneutics of philosophical and talmudic traditions. I consequently engage with Alain de Libera’s archaeological analysis of the birth of the thinking subject in medieval philosophy and theology. In this light, I analyze the role of the notion of the thinking subject in construing the Talmud from Maimonides to contemporary Talmud criticism. Finally, I explore the implications of de Libera’s program of a philosophical archaeology of the thinking subject for mapping the complex relationship of mutual presupposition and exclusion between philosophical, rhetorical, and talmudic traditions of thinking in antiquity, as manifested in the larger scope of these traditions.

Keywords
Subjectivity; Talmud; thinking; philosophical archaeology

This article introduces questions of subjectivity and thinking into scholarship on the Talmud. Conversely, it reclaims the importance of talmudic scholarship in a broader discussion of these questions in late antiquity in comparison with modernity. These questions are pertinent for studying the Talmud, because modern notions of the “thinking subject” (or even the medieval groundwork for these modern notions) make it difficult for us today to get back to an “original” experience of talmudic discourse or the talmudic voice. In turn, once carefully articulated, that difficulty—even before it gets resolved—already enhances an understanding of our modern habits of thinking.

What constituted an original talmudic discourse, or an original experience of thinking in the Talmud, and how can we get back to it? This question can hardly be answered in such a general form.
A more precise formulation requires an interdisciplinary, rather than multidisciplinary, approach.

The disciplines involved form two groups. One includes philosophy and the history of philosophy, broadly construed; the second comprises philological, historical, and more recently cultural scholarship on the Talmud. These groups are very different; the second, historically oriented group uses chronology as the main framework for explaining texts, either by describing a causal relationship between them in terms of “influence,” or by identifying typological relationships in terms of “mapping”—either synchronic, or more recently diachronic. The first, philosophically oriented group decries these kinds of linear explanations as naïve, and instead promotes hermeneutical methods that move from what is clearer in a text to what is more obscure about it, even if chronologically it means moving from later to earlier. Yet, despite this radical disciplinary difference of historical-chronological explanation and philosophical-hermeneutical interpretation, neither group of disciplines can approach thinking in the Talmud without the other. Therefore interdisciplinary dialogue and integration are needed. On the way to such integration, instead of attempting any “direct” restoration of a once existing and later “forgotten” or “distorted” experience of the Talmud, I explore a different venue, which entails the mutual hermeneutics of talmudic and philosophical traditions of thinking. I read the question of the “original” mode of thinking in the Talmud as calling for a program of hermeneutical analysis of talmudic discourse in late antiquity both in light of and despite later receptions and conceptualizations of that discourse. As I will explain, such a program negotiates the demands of both chronological and hermeneutical rigor. A particular focus of this program is the description of changing subject positions in relation to thinking in the text, as we transition between late ancient and modern practices of thinking, rather than on any linear causal explanation of changes.

My argument thus originates from studies in the Talmud and philosophy. Juxtaposed, these traditions provide an opportunity to illuminate the conceptual foundations of each other and in that way create a new approach to the question of the thinking processes in the talmudic and philosophical traditions. From the point of view of talmudic studies, this project entails using studies in pagan philosophy in a way similar to how studies in Christianity have been used to understand rabbinic texts better. From the point of view of studies in
philosophy, the advantage of this project lies in expanding the textual basis for the study of thinking processes in late antiquity, thereby complicating the picture of late antique texts and practices of philosophical and rhetorical thinking by introducing the understudied practices of rabbinic thought of the period into various philosophical strategies of connecting or disconnecting the notions of the subjectivity of the subject and thinking.

The methodological status of the project of a mutual hermeneutics can best be represented by examining the concept of anachronism. While studies in the Talmud have always followed the rule that forbids using later texts to explain earlier ones, another form of anachronism—conceptual anachronism—has often been almost explicitly and axiomatically accepted in different disciplines in the field of Jewish studies, for example in the literary study of the Bible. However, research in other disciplines, such as intellectual history or the history of concepts, is much more likely to question using later concepts to explain earlier texts.

My position is that the choice is not whether to employ conceptual anachronism, but rather whether to employ it uncritically or critically. My methodological choice is critical conceptual anachronism. This methodological position belongs to the broader method of hermeneutics that requires going from what is clear to what is more obscure, even if it means going from what is chronologically later to what is chronologically earlier. With this choice in mind, I will begin with the question, Is there a thinking subject in the Talmud?

The conjunction of the notion of “thinking” with that of a “subject” from the Middle Ages through modernity established a new philosophical notion, the “thinking subject,” but that conjunction also created a productive (mis-)understanding of the thinking processes in the Talmud, a (mis-)understanding that has endured within the post-talmudic tradition as well. In this paper, I focus specifically on that (mis-)understanding. I analyze the twentieth-century theory that unreflectively constructs the notion of anonymous redactors in and of the Talmud, using the notion of the thinking subject as a model. I take that analysis as a point of departure for looking further at intellectual practices in late antiquity in both philosophy and the study of the Talmud. This study is of course a separate task of inquiry, yet that task would not be possible without first having prepared the ground by applying recent philosophical critiques of the thinking subject to critical analysis of the Talmud as a text, as a thinking process, and as a theoretical object. That viewpoint
complicates both the philosophical understanding of the birth of the thinking subject and the hitherto dominant view of the Talmud as a product of anonymous redactors living in late antiquity.

To that end, this paper undoes the erasure of the thought processes in the Talmud from the intellectual map of the West. That erasure began in the Middle Ages, with the union of Trinitarian theology with a philosophy of thinking, including intellectual and political agendas both responding to and resisting the newly created union between theology and philosophy in the Jewish, Christian, and Muslim worlds. The new union left no place for the set of dynamic intellectual practices of thinking inscribed in the talmudic text. As a result of this erasure, the protocols and practices of the Talmud were interrupted. What had been seen and used as an open text of rabbinic discussion became a closed archive, available for reopening only for the purposes of commentary, analysis, or imitation—or even treated as permanently closed, serving instead as a source of laws progressively reformulated in a comparatively more static, more systematic, and more accessible style. Among other places, that systematic style flourished in rabbinic legal institutions, where an open-ended style of thinking became combined with the doctrinal and systematic nature of either practical legal or doctrinal conclusions. Maimonides’ Guide and Mishneh Torah are examples of this stylistic change, this closure, as is Aquinas’s Summa in the Christian tradition.

A preliminary but decisive question to ask here is how a union of Trinitarian theology and Aristotelian philosophy could entail the erasure of the protocols of thinking that characterized the talmudic text. The answer to that question lies in the notion of the thinking subject and in the (im)possibility of that notion. However, we will not be able to begin entertaining that answer, much less to undo the erasure that the notion of the thinking subject both entails and explains, without first looking at the enigmatic birth of the thinking subject (and of the concept of being for human beings, in that sense) in the union of theology and philosophy from the Middle Ages through the modern period. The recent work of Alain de Libera will be my guide here.¹ Only with that enigma of the birth of the thinking subject at the center of our attention will we be able to start understanding and criticizing the erasure

of the thought processes in the Talmud for the purposes of undoing that erasure.²

**Apology for Undoing**

It is time to apologize—indeed, to do so in the classical philosophical sense, exemplified, among other instances, by Plato’s *Apology*, but also in the sense in which a talmudic discussion is an apology for the Mishnah, the third-century code of laws for rabbinical courts. For Socrates, apology was a way to fight for the power of his own positions

² By way of synecdoche, let me mention three names and chart three main lines of scholarship I engage with here by mentioning just three texts, from three different fields: rabbinics, studies in gender and sexuality, and the critical theory of thinking. One is *Carnal Israel: Reading Sex in Rabbinic Culture* (Berkeley: University of California Press, 1993). This work by Daniel Boyarin introduces us to the area of sexuality in rabbinic writings. The second is Michel Foucault’s “About the Beginning of the Hermeneutics of the Self,” *Political Theory* 21, no. 2 (1993): 198–227. In this late work, focused primarily on Christian and pagan texts of confession in late antiquity, Foucault explains the same theoretical object, sexuality, using what he calls techniques of the hermeneutics of the self. He studies the ways—the techniques and practices—by which the self accesses itself through experience, in particular the monastic practices of interpreting the self, that is, finding in the self something hermetic or obscure to be clarified via techniques of “eximologesis.” As he submits, without these techniques, there simply is no place for sexuality, as opposed to sexual differences. Without a dark, elusive, and for that matter sinful element in the self and its thoughts, there would be no need for hermeneutics. We would need only to regulate the transparent thoughts and deeds of the self in a fully controlled effort in which a person conceived as a thinking and willing self avoids mistakes that are committed in the past, discovered in the present, and thereby made avoidable in the future. As a consequence, a well-administered and transparent willing and thinking self allows only sexual relationships, not sexuality. In contrast, the presence of an obscure, elusive element in the self requires hermeneutical techniques in order to read it.

This linkage between sexuality and the hermeneutics of the self sufficiently explains the transition I make from reading sex to reading self. However, this leaves unexplained another transition that I make here: from culture to literature. A recent critique of Foucault by Alain de Libera helps to navigate that transition. De Libera’s *Archéologie du sujet* is the third text I will mention here. The underlying assumption of Foucault, as well as of his teacher, Heidegger, was the axiomatically assumed notion of the self as a thinking subject. After de Libera’s analysis of the birth of that seemingly obvious but in fact contradictory philosophical concept, the concept of the self as a thinking subject can no longer be an axiom. As a result, the primary object of hermeneutics—a thinking self—can no longer be taken for granted, at least not in the late antique text of the Talmud. Therefore, an inquiry into talmudic texts that hitherto axiomatically assumed a dark side in the thinking self and hence sexuality therein needs to be started anew. The self as a thinking subject is no longer axiomatically assumed. Rather, it becomes what it always was—the indication of a question: Who thinks in the Talmud?
against the accusations leveled against them, not for his own life; for the validity of his teaching, not for its universal acceptance; for justice in the society of which he was a member, not for winning his own case in court. In a talmudic discussion of the Mishnah, the stakes are no less critical: reaffirming the Mishnah’s otherwise merely mechanical memorization as a legally reliable source of authority, not making one’s interpretation of a particular passage win over another; reconfirming the Mishnah’s power as a source for both legal and ethical decision making, not agreeing on what exactly is the “true and only” interpretation of it.

The work of undoing requires a similar apology. Undoing is a multi-step task. Here, it aims at the realistic goal of tracing the erasure of the thought processes in the Talmud, not at a utopian return of the erased; at a mature formulation of the problem, not a premature solution to it. In addition, and perhaps unlike the above ways of apology, the procedure of undoing implies not only questioning the birth of the thinking subject, but also asking about what constraints the notion of birth may exhibit. It questions not only and not primarily the notion of the thinking subject as a concept of quite enigmatic birth—indeed a hybrid, a monster, a contradiction in adjecto—but also the notion of birth itself, which paradoxically combines two ideas: the idea of a historical emergence in reality of what has already been there in potentiality, and the idea of coming into existence for the first time.

Let me then undertake that apology. Undoing is a relatively new strategy. It became known to philosophers and critical theorists only with the development of phenomenology at the beginning of the twentieth century. It first emerged under different names and in different aspects: in the name of the “phenomenological reduction” of the natural belief in the existence of objects and subjects of human experience, which, as the mathematical metaphor has it, become “reduced” to the “what” and the “how” of what is given in experience, regardless of the subjects’ and objects’ alleged being (or nonbeing). Another name for “undoing” was also appropriated from the language of mathematics: the “bracketing” of the natural belief in the existence of the objects in experience, yet another “de-struction” (more widely known as “deconstruction”) of the natural belief in things seen, or as Joan Stambaugh renders it in English, the “de-structuring” of what would otherwise seem to naturally or historically exist.

Offered as a way out of the then-current crisis in accounts of the positive scientific knowledge of what is, as opposed to what is not, the
phenomenological method of undoing allowed philosophers to differentiate a rigorous description of what is given (in this case, without identifying to whom) from the uncritical belief in the existence of what either is or is not there. However, the undoing undertaken by that method stopped at the natural belief in the existence of objects and subjects of experience. Thinking was not entertained without the assumption that it is an act committed by an agent and in that sense by a subject; or, in other words, thinking went hand in hand with the assumption that a thinking agent is inherently present in any process or procedure of thinking. Even the most radical claim of “thinking without a thinker” still depends on what it denies—the idea of a thinking subject. In short, everything could be de-structured or bracketed except for the agency inherently present in any process—indeed, any act—of thinking, or for that matter, in any case or instance of experience.

By contrast, de Libera’s work offers a way to break philosophy’s dependence on the notion of the thinking subject, dependence that otherwise endures even in its negation. He does not propose an alternative to phenomenology or any of its continuations, but rather undoes the notion of the thinking subject by asking a radically new question: How was that subject born? De Libera’s approach to undoing the notion of a thinking subject becomes critical for understanding the thinking process in the Talmud at the time before the notion of a thinking subject erased talmudic thinking from the intellectual map of the West. Thus, a closer look at de Libera’s answer to the question of how the thinking subject was born becomes necessary.

*Philosophical Archaeology and the Birth of the Self*

De Libera argues that the thinking subject should not be taken for granted, that is, treated as if it were either always already born or at least conceived. Instead, he teaches us to ask questions that involve things well before and despite the point of the “always already”: to interrogate the birth itself, rather than its alleged result. He does so via the project of a “philosophical archaeology” that both builds on and differs from the “archaeological” investigations of Michel Foucault. Foucault’s method of archaeology is a combination of historical attention to developments in texts over time and philosophical attention to concepts. Using this method, Foucault asks how, in historical changes in the practices of confession, the concept of the self was conceived...
as an obscure area in the human being calling for hermeneutical clarification by confessing one’s sins in public. Foucault called these practices “a technique of the self.” De Libera’s project has a finely tuned but very important difference, in that Foucault, as de Libera shows, still assumed the existence of an always already existing thinking subject approaching itself through various techniques, ranging from the pagan technique of confession as a transparent and self-regulatory and thus private way to regulate mistakes, to the monastic technique of “eximologesis,” or publicizing the self in front of the other in an effort to cleanse the self of sinful thoughts, however obscure and even unknown they might have been to anyone involved in the process.3

De Libera’s analysis challenges Foucault’s view of eximologesis by attacking the underlying notion of that theory: the notion of the thinking subject. Foucault’s account of confession in the Middle Ages assumes the existence of a thinking self that cleanses itself from any sin in its thoughts by making those thoughts public. It is the publication alone that makes one clean of any sin in one’s thoughts, whether the person who confesses or the recipient of confession is able to determine where exactly the sin sneaked into thinking. For example, for Foucault, if someone confesses to himself or herself in private, “I took the Lord’s name in vain fourteen hundred times,” this would not do. The sinner must make that statement in public, in the presence of a designated recipient of that confession. Even a simple account of all the thoughts a monk had during the day, if offered in public, that is, in the presence of a recipient, cleanses him of any sins he may have committed, even if those sins remain unknown. In contrast, in de Libera’s account of confession, thoughts and the self are not assumed to be intrinsically connected with one another in the first place: Thoughts can come from the outside, contaminating the self, and therefore can be purged through confession. For de Libera, however, as we will see, such a purging would mean purging all thoughts altogether, whether or not a sin is among them, so that in the result, the cleansed self would not have any private thoughts of its own, sinful or not.

How are we to understand this conception of a self purged of all thoughts—a self without thoughts? To do so entails understanding the way in which the self can be seen as separate from thinking. De Libera isolates two initially disconnected networks of philosophical concepts that came together in the Middle Ages to create a single, but still

3 Foucault, “About the Beginning of the Hermeneutics of the Self.”
heterogeneous network, a symbiosis between the heritage of pagan philosophy and the theoretical needs of Trinitarian theology. The first network of concepts is that of subjectivity. It had to do with the philosophical notions of subject, support, substance, and person. The subject of an action, however, does not have to be the same as the substance that underlies that action. For example, when a person dies, that person is not necessarily the one who supports or carries out the act, yet the act is ascribed to that person. When the victim of a hit-and-run dies, for example, it is the driver who is held responsible. This takes us to the second network of concepts, the network of subjectivity, or being subjected to an action, rather than being a subject of that action. That network has to do with the philosophical concepts of action, attribution (attributing the action to a subjectum), inherence (the presence of the subjectum in the action), and denomination (using the subjectum to give the action a name).

An action may involve the support of a person, yet this does not make it necessary that the action be attributed to that person, or that the person is inherently involved in it, or that the action must carry the person’s name. For example, when the state executes a murderer, it is not the hangman to whom the action belongs. In this example, the hangman is the subject of the action in the sense of being the only support or substance without which that action might not have taken place, yet the action in question does not inherently require that specific person, much less have to be named after that subject or attributed to them. In short, the distinction between these two networks shows that an action and the person who carries it out do not have to be intrinsically interconnected.

Even more important is the relationship of these two heterogeneous networks to understanding a third category, that of the thought process. How does the notion of the thought process relate to the notions of action and/or to a person or subject in and to that action? De Libera insists that at least in the philosophy of Aristotle, thinking is considered a faculty (dynamis) as opposed to an action (energeia). To express the distinction in English, I term thinking seen as a faculty “the faculty of thought” or, more briefly, “thought.” In this approach, thought is either not an action or, if it is action, it is very different in kind from the action of a subject in its interaction with an object or matter. In the latter interaction, both change. However when the faculty of thought is used, it either does not change at all or changes in a completely different sense than the subject does when it acts or is acted upon.
De Libera concludes that for Aristotle, the disconnected networks of subjectivity and subjectity are in turn conceptually disconnected from either the faculty of thought or its use. Therefore, as he emphasizes, for Aristotle, the modern notion of the thinking subject would be a contradiction in terms.

In linking the subject to the faculty of thinking, the modern notion of the thinking subject conflates these two distinct series of concepts of the subject, subjectivity and subjectity. Consider the expression “I think.” This seemingly simple statement implies the following series of claims:

1. I am the one who does the thinking (my thinking is an act, and I am the agent who does it);
2. I am central for my thinking: my thinking process cannot go on without me (I am inherent in my thinking);
3. I own my thinking (my thinking is attributable to me);
4. I yield my name to my thinking (my name serves to denominate my thinking).

The above claims of (1) agency, (2) inherence, (3) attribution, and (4) denomination imply that thinking is an act or action in the sense of an active process.

In addition, however, the expression “I think” also involves a rather different series of claims:

5. I am the carrier of my thinking; without me my thinking has no supporter to bear it (support);
6. I am the substance that underlies my thinking (substance);
7. I am a person to whom the thinking occurs (person);
8. I am subject to my thinking: I follow the logic or obey the flow of my thoughts (subject).

The latter claims of (5) support, (6) substance, (7) person, and (8) subjection imply a notion of the subject in the passive sense of a substance (substratum) of thinking, or a person subject to his or her thought process, rather than in the active sense of an agent in the first four. In contrast, while the sense of the subject in the first four claims is active, in the last four, it is passive, yet regardless of that contrast, all eight claims above have one thing in common: they assume a connection
between the notion of the subject (either active or as the basis of action) and that of thinking.

Yet, conceiving of thinking as a faculty, rather than as an act, as Aristotle did, undoes the linkage between thinking and the subject—between thinking and both subjectivity and subjectivity. It disconnects thinking both from the subject as an agent in whom thoughts are inherent, to whom they can be attributed, and whose name they can bear; and from the subject as the support, substance, or person who is then subject to those thoughts. As a faculty, thinking entails my ability to think, and to be able to think does not mean to have all my potential thoughts in me, as in a reservoir of possibilities. Instead it refers to my ability to generate new thinking. This ability to think is very different from any action either potentially contained in or that actually results from using it. As a faculty, not an action, thinking does not depend on a subject, passive or active. Thinking informs the acts of the subjects and forms the ways in which they move, but as a faculty, thinking does not move or act.

The Abstraction of the Thinking Subject

As de Libera shows, prior to the rise of Trinitarian theology in the Middle Ages, with its allegiance to the notion of *persona* as an inherently present agent and thus as a subject in and of any thinking, Aristotle as well as his Christian (indeed also Jewish) followers in late antiquity associated the thinking process with the figure of the sage, that is, with someone who has and uses the faculty, the capacity, the *dynamis*, to think—either in every act, or in every *energeia*. The sage is neither a subject of thinking, nor is she even an agent of thinking. The sage, or for that matter his or her *persona*, is radically extrinsic to any thinking that he or she enacts. The sage thus is neither inherently present in the process of thinking nor posited as an agent of this process, no matter whether passive or active—for example, as either a demiurge or as the matter or material of its work. Instead, for Aristotle—and for Augustine—thinking was seen as the realization of the sage’s ability to think, an ability that does not alter, change, or become exhausted in the process. Similarly, in Rabbi Akiba’s famous image, thinking or, in his case, learning the Torah is just this: a flame lit from another flame. The new flame increases, but the old does not fade. The new flame...
does not alter the old one; nor does it use up any of it.\footnote{Song of Songs Rabbah (1:3.1) illustrates the inexhaustibility of Oral Torah with an image of a candle that ignites another candle without shrinking as a result of ignition.} We therefore need to appreciate what has been erased in both the Jewish and the Christian understanding of the nature of argumentation and thinking, in particular in the thinking processes in the Talmud. Recent scholarship has begun to use both pagan and Christian philosophical thought to understand Jewish texts and Jewish thought in late antiquity, and this research is highly conducive to reconnecting the traditions or practices of talmudic and philosophical thinking of that period.\footnote{In scholarship on late antique Jewish texts, the once predominant direction of research from Jewish to Christian texts has been reversed relatively recently. Scholars have ventured to use Christian texts and theology to understand Jewish texts and Jewish theology. Most recently, that interest was significantly expanded to embrace not only Christian theology, but also pagan philosophy, either in terms of period-specific linkages during a particular period or in the broader scope of the philosophical tradition of the West.} Here, however, I am investigating thinking processes, not the characteristics of either rabbis or philosophers as alleged thinking subjects. The question “Who thinks in the Talmud?” was hardly either asked or implied before Maimonides, but once it was, the fundamental answer was always the same: a thinking subject. Maimonides, in the introduction to his Mishneh Torah, answers that question with a name: Rav Ashi, one of the latest generation of the amoraim. Six centuries later, Chayim Luzzatto in his Ways of Reason answers the same question not with a name, but with a title: “the composer of the Talmud.”\footnote{Earlier scholars were interested in Jewish texts in order to understand the texts of the Christian canon and literature, primarily in terms of the “realia” of the time. That paradigm has relatively recently been overturned. We no longer read Jewish texts to understand the realia of the Christian texts, but we read Christian texts to understand Jewish texts better in terms of theology, philosophy, or, more broadly, thought. This line of scholarship reached the point of drawing a complex intellectual map of late antiquity on which the divisions between Jews and Christians, and Judaisms and Christianities, were far from definitive in terms of the intellectual movements that the map charts. In this connection, a parallel interest in illuminating Jewish texts anew in their context in pagan thought and philosophy has recently sprung forth. At the same time, in this line of scholarship, the questions go beyond historical recontextualization per se to establish intellectual linkages between the Jewish and pagan traditions of thought and philosophy in their intrinsic scopes, rather than under the aegis of a totalizing historical-chronological view, for example that of intellectual history or even of a history of concepts.} For him, the composition embodies the composer and is a paradigm of the ideal of enlightened

\footnote{Moshe Hayyim Luzzatto, Sefer derekh tevunot: Koel bo kol darke ha-hitbonenu ve-ha-haskalah le-havin be-nakel darke ha-talmud vi-yesodot ha-pilpul be-derekh ketzarah (Jerusalem: Yeshivat ha-tefutzot/Feldheim, 1988/1989).}
reason. From Maimonides to Luzzatto, from the twelfth century to the eighteenth, the implied assumption of a thinking subject remains in place. That assumption does not go away in subsequent developments. In the twentieth century, in Chanock Albeck’s work, the question of the thinking subject becomes historicized in a notion of the “anonymous redactors of amoraic traditions,” whom Albeck conceived as immediate students of amoraim or talmudic masters in their respective generations.

David W. Halivni disagree, but only with the chronological and generational placement of the redactors. He explains the thinking self of the redactors using terms not unlike those used to analyze human sexuality: The thinking process of the redactors is subjected to hidden apologetic agendas, even drives, although of course legitimate ones. These drives have to do with defending earlier masters’ dicta and their authority. These agenda lead to “forced interpretations,” which in turn call for the hermeneutical analysis that Halivni conducts. The drives inform the thinking processes of the anonymous redactors, who in Halivni’s version are the implied, but ultimate thinking subjects of/in the Talmud. Unlike Albeck, Halivni claims that the redactors lived several generations (and centuries) later than the masters they redacted, and of course, they neither were reducible to a single person nor to a set of anonymous students associated with individual masters. But despite all these important developments, the redactors still have remained what Rav Ashi was for Maimonides: the implied thinking subjects in and of the Talmud.

If we take a closer look at the transition from Maimonides to Halivni, however, we will see a shift in emphasis in conceptions of the thinking subject from the subject to the thinking itself—an abstraction of the subject into its thought. Maimonides answered the question of who is the ultimate thinker in the Talmud with the name Rav Ashi, characterizing his style of thinking as that of refutation and counterrefutation (qashia and peruq). As he conjectures, “Ravina and Rav Ashi are the last of the [authoritative] Torah scholars [hakhamim, lit. “sages”] in the Talmud; it was Rav Ashi who wrote [hibber, lit. “composed”] the Babylonian Talmud in the Land of Babylon, about a hundred years after Rabbi Yochanan wrote the Jerusalem Talmud.”

7 David Halivni, Meqorot u-masorot: Be’urim ba-Talmud, Masekhet Bava Meši’a (Jerusalem: Magnes Press, 2003).
8 See Maimonides, Mishneh Torah, “Introduction.” Here and below, with no academically published translation of this text in English available, I have used a translation from http://www.mechon-mamre.org/e/e0000.htm, accessed October 26,
If Rav Ashi—the last master of the Talmud, the last of the *amoraim*, whose chronological time, if calculated according to the internal genealogical relationship of the sages in the Talmud, would be the fifth century C.E.—is the one who “composed the Babylonian Talmud,” what was the intellectual style of that composition? Maimonides addresses that question, if only in passing:

The matter of both of the Talmuds is interpreting the languages of the Mishnah; narrowing down the legal matters to which those languages apply, as well as discussing legal innovations made in the rabbinical courts in the period from our holy rabbi (the composer of the Mishnah) up to the moment of composing of the Talmud…. I saw fit to write what can be determined from all of these works in regard to what is forbidden and permitted, and unclean and clean, and the other rules of the Torah: Everything in clear language and terse style, so that the whole Oral Law would become thoroughly known to all; without bringing refutations and counterrefutations, but rather clear, convincing, and correct statements, in accordance with the legal rules drawn from all of these works and commentaries that have appeared from the time of Our Holy Teacher to the present.⁹

Maimonides replaces the talmudic composition’s intellectual style of “bringing refutations and counterrefutations” with a “clear language and terse style.” Just as this new “clarity of language” absolutely requires having a single composer—in this case, Maimonides himself—the “old style,” that of the talmudic composition, would of course have had a similarly single composer—either individual or collective.¹⁰ In Maimonides’

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²⁰⁰⁸. I have slightly modified the terminology of the translation to make it perhaps less idiomatic and more literal in the places essential for the current discussion. I have also harmonized the transliteration of proper names in the quotations and my own argument.


¹⁰ Two objections can be justly raised concerning Maimonides’ thinking about R. Ashi. First of all, one might argue: Why must Maimonides' suggestion that R. Ashi composed the Talmud be an expression of an assumption about a thinking subject foreign to the Talmud itself? Just because R. Ashi is a person does not make this claim convincing. Consider the following sampling of “subjects”: the historical-empirical subject; the editorial subject; the scribal subject. Each of these, it seems, is a more plausible descriptor for the kind of subjectivity Maimonides might have attributed to R. Ashi than is the “thinking subject.” Moreover, Maimonides would hardly consider the general narrative voice of the Talmud, the voice of R. Ashi, as it were, to be indicative of “thinking” at all, holding “thinking,” as he would have, to impossibly high standards. This objection accepts that R. Ashi in Maimonides’ text might be a “subject” to stand behind what diegetically is the anonymous part of the exchanges between students and teachers in the Talmud. That view allows Maimonides to see such a subject as “historical-empirical,” “editorial,” or even “scribal.” The objection is directed precisely against seeing
Maimonides as presuming this subject to be thinking, precisely because Maimonides is holding “thinking” extremely “high” and granting the ability to “think” to either a philosopher or prophet; while, for him, R. Ashi was neither. However, what has its high must also have its low. Precisely because Maimonides’ text positions as his predecessor R. Ashi, whom Maimonides surpasses in thinking, the latter must grant the former some thinking and regard him as a thinking subject of a certain intellectual caliber, even if on a lower tier. That lower tier entails only rhetorical exchanges between anonymous students and teachers, and between anonymous students and named teachers either present or mentioned in R. Ashi’s and Ravina’s academies, as opposed to Maimonides’ own thinking, which would be on a higher tier (i.e., philosophically rational). This rhetoric of supersession allows Maimonides to establish continuity between his new formulation of Law in his Mishneh Torah and its old formulation in the Talmud ascribed to Rav Ashi.

The second objection one might make is that attributing a statement to a person is a common practice and in itself does not yet make the person a thinking subject. This objection is valuable because it both brings forth and ignores an important but fine distinction between (1) attributing or “ascribing” a statement to a subject as merely an agent, as opposed to (2) grounding a thought in the statement in that agent as the subject who thinks. Which one is Rav Ashi for Maimonides: a name labeling an otherwise self-sufficient thought in a statement, or the subject of the thinking expressed in that statement? The concern is that the Talmud, and for that matter late ancient literature in general, is full of attributions of texts to personae. Moses, Homer, David, Solomon, and Aristotle could serve examples of such attributions, no matter whether they are “true” or “false.” Similarly to other late ancient texts, the talmudic discourses make attributions, but do not necessarily ground thoughts in personae. In contrast, Maimonides (as well as other medieval and modern writers) may conflate attribution with grounding. As a result, what seems to be similar is not similar. Of course, only a theoretical lens rather than common sense can discern that radical difference. To wit: one might be justifiably hesitant to accept the claim that an original talmudic discourse was erased by the creation of a thinking subject. By way of a commonsense approach to the Talmud, one might argue that the question of “who” narrates the Gemara is a question posed by the talmudic corpus itself. In this corpus, statements are regularly identified with rabbis and schools, and such attribution serves the essential function of securing the purported line of Oral Torah through a chain of subjects back to the divine. It is thus natural, first of all, for an uncredited statement to lead us to ask: Who said this? And it seems no less natural to take the next step and to ask: Well then, whose is the voice presenting us with all the positions here? Such a question was certainly natural enough within the rabbinic tradition to lead that tradition to identify the unattributed clauses in the Mishnah with the name of R. Meir. Based on such a commonsense approach, one might even suggest that the question of who is the stamma de-gemara or the anonymous voice of teachers and students in the Talmud is posed by the Talmud itself, and is not imposed in Maimonides from without as the result of foreign assumptions about a “thinking subjectivity.” However, common sense is not enough. In fact, attributions in the Talmud are contextual rather than absolute. They are made for the purpose of articulating disputations between students and teachers. In contrast, Maimonides, and more so Luzzatto, and even more so Halivni attribute the whole of the Talmud to a person or a group of people. Maimonides makes the first step in the absolute attribution of the Talmud as a whole, going far beyond conditional attributions of statements or “voices” to a subject as the agent behind them, which is native to the talmudic and other late antique discourses. Moreover, along with absolute attribution, he grants the thinking demonstrated by a person (agent, R. Ashi, etc.) to that very person, and places that person behind the whole of the Talmud, just as he places himself and his
version, that composer is Rav Ashi.\textsuperscript{11} Yet the picture becomes less straightforward if we take into account Luzzatto’s no less philosophical view of the Talmud. In Maimonides’ view, Maimonides and Rav Ashi represent different styles—a philosophically rigorous rational exposition of what is permitted or forbidden versus a rhetorical and nearly sophisticated style of refutations and counterrefutations—while in the view of Chayim Luzzatto, the philosophy of enlightened reason is said to be similar in intellectual style to the Talmud.

One way of explaining this striking contrast is to recognize that, for Maimonides, the emphasis is on the subject: the thinking subject is divine and is only partially represented through the thought processes of individuals. (In fact, Maimonides’ own thought processes are the best representation possible.) In contrast, for Luzzatto, the emphasis is on the thinking subject’s thinking, so that for him, divinity and humanity become of the same importance, as far as the thinking process is concerned. Thus, for Maimonides, the style of refutations and counterrefutations signifies philosophical disarray and an unnecessarily chaotic plurality of opinions that can be replaced with an exposition from just one philosophically sound point of view. In contrast, for Luzzatto, the style of refutations and counterrefutations is not at all chaotic. Rather, it is a vehicle for sharpening one’s rational position, so it does not really matter if a refutation is articulated by somebody else or by the speaker himself:

Let all roads lead to the same place that is the truth in the statements achieved by arranging them one against the other. The law of refutation that a person brings against a statement of his peer and the law of thinking behind Mishneh Torah. His heirs do even more. Even if Maimonides refers to the Talmud as a whole and ascribes it to R. Ashi, etc., he does not identify or label the overarching discourse as an embodiment of the otherwise disembodied reason of the “composer of the Talmud,” as in Luzzatto, or as the embodied but anonymous rationally thinking editor(s), as in Halivni. Unlike the latter, Maimonides does not use the traditional term stamma de-gemara (“an anonymous tradition in the Talmud”) to designate an anonymous person behind the whole of the Talmud. Only researchers of the twentieth century personify stamma de-gemara as anonymous redactors. Whether it is a question of terminology or of essence remains to be discussed separately.

\textsuperscript{11} In the text, Maimonides refers both to “R. Ashi” as a diegetic (“in-text”) character in the Talmud, and to “R. Ashi” as a meta-diegetical subject behind the anonymous exchanges in the Talmud. The former may or may not provide the “refutations and counterrefutations”; the latter, according to Maimonides’s text, is responsible for creating just this: “refutations and counterrefutations.” Two hypostases of R. Ashi—diegetic and editorial—are conflated, but only the second one gets to be a thinking subject, which Maimonides now comes to replace with a “higher” level of thinking (see previous note).
refutation that a supporter of the statement brings against himself are exactly the same…. For we should look not at the people, but rather at their statements themselves.12

Luzzatto’s language indicates both of the points on which he differs from Maimonides: his emphasis on the thought or “statement,” rather than on the person—the subject or “supporter” who thinks—and his appreciation of refutation and counterrefutation as the style proper for enlightened reason.13

Luzzatto’s emphasis on the thinking of the thinking subject sets the stage for the next step in the ongoing abstraction of the notion of the thinking subject. Two centuries later, in the work of Chanoch Albeck and David W. Halivni, the subject part of the thinking subject fades even more, almost to the point of disappearance. Yet it does not disappear. In Halivni’s and Albeck’s work, the personal traits of the redactors of the Talmud almost vanish as the thinking subject becomes anonymous—both in the sense of being unnamed and in the sense of acting because of a hidden drive to construct disagreements that is also unnamed, which Halivni hermeneutically discerns, attends to, and describes. Nevertheless, however close it may be to fading, disappearing, or vanishing, the unnamed subject must remain in the work of these later scholars, just as it was and indeed had to be there in the work of Maimonides.

A careful and unhurried reading of Halivni’s hermeneutical analysis will help explain the seemingly natural necessity of the subject to remain in accounts of the thinking subject in the texts of the Talmud; it will also help to undo the connection between thinking processes in the Talmud and the medieval-modern idea of a thinking subject. To undo that connection is to inquire about thinking processes in the Talmud independently of either endorsing or rejecting the assumption of a

12 Luzzatto, Sefer derekh tavnovot, 11.
13 Luzzatto’s “composer of the Talmud” (mehabber ha-Talmud) is not intrinsically a diegetic or intra-textual figure in the Talmud, but rather a meta-diegetic figure of the rationally thinking composer of Talmud text. Therefore, his “focusing on statements” rather than on characters, and on thinking styles rather than on thinking personae does not contradict his construction of such a mehabber as the one from whom to learn the ways of truly enlightened reason, which Luzzatto’s book seeks to promote. Unlike that of Maimonides, Luzzatto’s terminology does not automatically conflate a meta-diegetic editorial figure of the mehabber or “composer” with diegetic names in the Talmud. At the same time, Luzzatto’s approach does not explicitly resist such a conflation either. By all means, Luzzatto promotes the mehabber, or the “composer of the Talmud,” as a figure of enlightened reason more than he demotes him as an ancient and antiquated representative of rabbinic thought to be replaced by a philosopher.
thinking subject. To begin this reading, I must return to the example of a talmudic discussion in terms common to Maimonides, Luzzatto, and Halivni, that is, in the style of “bringing refutations and counter-refutations.”

*Refutation and Counterrefutation: The Rhetoric of the Talmud*

I see no point in retelling even a small portion of this talmudic discussion. Such an account will always be poor, compared with the original text. Instead, my goal is to use a magnifying glass both to enlarge and bring into focus what underlies the text, as well as to bring to light the idealized setting that the literary form of the text implies and creates, but does not describe. The task of describing that setting is what any reader, including myself, will have to accomplish through conjecture by restoring a context or a setting to the phrases of the text: the rhetorical context of the Talmud.

One way to restore the implied scene is to see it opening as a *tanna*, a master of recitation, stands in front of a gathering of teachers (*amoraim*) and students (*talmidei hakhamim*) in a rabbinic academy in Babylonia. The *tanna* declaims a portion of text. The caveat in his role is that he is supposed to have a good mechanical memory and the will to exercise it, but no other elements of authority. Thus, in a setting remote from the mishnaic sages in both time and place, the *tanna* quotes a fragment from the Mishnah before an assembly of *amoraim* in the house of study.

A historian would say that the *tanna* recites an early-third-century instruction codex for rabbinical courts called the Mishnah. A linguist would observe that each segment of that body of instruction is also called a mishnah and that unlike in modern languages, its phrases are structured as a theme and a rheme, an affirmation about the theme, rather than in a subject-verb-object structure, as in sentence. A theorist in rhetoric might note that the mishnah prescribes how a court should proceed in a representative example of a category of litigation, rather than describing or representing a state of affairs. In this case:

Two [litigants] hold to one and the same piece of a cloak (*talith*). The first claims “I have found it!” and the second claims “I have found it!” The first claims “It is all mine!” and the second claims “It is all mine!”

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14 Here, I am presenting the mishnah and the gemara on it in an English translation that reflects David Weis Halivni’s interpretation.
Under such circumstances, the mishnah instructs the court:

The first [litigant] should swear that s/he at least owns a half of it, and the second should swear that s/he owns at least a half of it. And they should split it.

In a slightly different situation, the instruction is different, too:

The first claims “It is all mine!” and the second claims “A half of it is mine!” The one claiming “all is mine” should swear s/he owns at least three-fourths of it, and the one claiming “A half of it is mine” should swear that s/he owns at least one-fourth of it.

When the tanna has finished reciting what he memorized, the people in the courtroom or in the house of study interrogate its textual content, acting in what Maimonides called the style of “refutations and counter-refutations.” Here, a heuristic attack (or refutation of the validity) of the mishnah’s instruction comes in the rhetorical form of a soliloquy. Linguistically, in a soliloquy, an argument is presented from the point of view of a first-person speaker conversing with himself or herself. Rhetorically, the power of that form lies in inviting the audience to observe and to identify with the soliloquist, who engages himself or herself in dialogue. In this particular case, the soliloquist (with whom, again, his audience rhetorically identifies) raises doubts about the accuracy of the instruction’s language as recited. In linguistic terms, all the questions that the soliloquist raises are identical in their pragmatic meaning: they all are asked from the rhetorical standpoint of the audience’s identification with the speaker. As a result, the silent audience is persuaded that it is as if it were asking these questions itself.

What is the role of a personal name, then? Although it is always possible, introducing (or supplying) a personal name for the soliloquist is extrinsic to that genre of persuasion. For maximal rhetorical effect, the name of a soliloquist is effective only if the person is already famous or at least known to his or her audience. Otherwise, the name is not important. A name also can be rhetorically effective when the soliloquist is trying to emphasize his or her authority or uniqueness. Otherwise, the soliloquy does not require the name of its speaker. Therefore, if imitated, it can work effectively without the presence of the original speaker. Ultimately, it neither requires nor implies any original speaker—neither now, at the time of its performance, nor in the past. Yet it surely represents an intensive process of thinking that has more than one virtual (and fundamentally nameless) person involved. This is not the soliloquist, but rather those who constructed both the soliloquy and the
soliloquist as part of it while not necessarily being identical with the soliloquist they construct. Just as the name of the soliloquist is not intrinsically important for the genre, so, too, the name(s) of those who constructed the soliloquy are not as important as their thinking leading to that construction, so that they naturally remain unnamed. In this specific case, as in many other instances of talmudic soliloquy, the speech starts and proceeds directly, with no name introduced. A soliloquist asks himself or herself a question of the form, “Why would I...?":

[If I were the tanna] why would I present the claims [in the mishnah] so nonlinearly? “The first claims ‘I have found it!’ and the second claims ‘I have found it!’ The first claims ‘It is all mine!’ and the second claims ‘It is all mine!’” The claims should instead be presented one by one, like this: “One claims ‘I have found it and it is all mine!’ and the other claims ‘I have found it, and it is all mine!’” And yet the instruction does not present claims one by one!

After further pondering that question, the soliloquist feels dissatisfied with his or her own search for a direct answer. As a result, in the eyes of the learned audience, the mishnah is now under attack. The style of refutation and counterrefutation requires a defense.

The defense comes from the audience, which cites the names of the amora'im. The audience recalls a tradition attributed to the names of either Rav Pappa or Rav Simi, the members of the older and therefore more authoritative rank of post-Mishnaic authorities, the amora'im. Their dictum about the mishnah is offered as a counterrefutation and answer to the soliloquy.

Said Rav Pappa, or according to some, Rav Simi the son of Ashi, the instruction in the mishnah said so [i.e., proceeded in a nonlinear fashion] because its first part deals with the claims of having found [the cloak], and the second with the claims of having bought it from a merchant.

Regardless of the current context of its emergence, according to this quotation the earlier masters or amora'im found the instruction to refer to two different categories of litigation, one concerning the ownership of a thing found and the other the ownership of a thing bought and sold. In the current context, the teaching of the amora'im successfully addresses the concern about the order of instruction that the soliloquist has raised. It suggests the instruction did not present claims one by one because it in fact refers to two different litigations, one between two people claiming they found the cloak, the other between two people claiming they bought it. That allows the soliloquist to conclude that a seemingly inexplicable nonlinearity has a reason: The mishnah refers
to two different kinds of litigation. And so he or she and the audience conclude: “Hence it [i.e., the nonlinear order of instruction] was necessary.”

At this point, the first round of refutation and counterrefutation is over, but the soliloquist’s conversation with himself or herself (or rhetorically with his or her audience) is not. A new round begins. The counterrefutation becomes a target of a new refutation—an attack that, as the style requires, will be followed by a counterattack. But by this point I have explained enough to prepare the stage for analyzing Halivni’s reading of the Talmud.15

Who Forced the Redaction?

Halivni explains the soliloquist’s attack on the mishnah as an artificial course of action compelled by a certain line of thought. He simultaneously and perhaps too quickly attributes that line of thought to a person whom he found facing a difficult choice: to create a rather artificial question for a ready-made, but otherwise useless answer (as I will explain, that of Rav Pappa or Rav Simi the son of Ashi); or to give up that answer altogether, thereby undermining the authority that the answer must represent.

He furthermore posits persons, subjects, and agents—in a word, the anonymous redactors—as the cause of that line of thought. In doing so, he fundamentally (and axiomatically) considers that line of thought

15 The soliloquist needs to do one more thing: explain from the amoraim’s perspective what the import of the mishnaic instruction would be in practical terms. The answer that he or she contemplates is: In mentioning “It is all mine!” the instruction refers to the case of two litigants each claiming that they purchased the cloak in a store. Of course, the court might just ask the merchant and decide based on that, yet in that case no special instruction is needed. Therefore, the real point of the instruction is whether the merchant took money from both of the litigants. In this case, the mishnah prescribes that the court should have the litigants swear an oath, rather than leaving the case unresolved. In the soliloquist’s own words: “One still might just ask from whom the merchant took money, yet if the merchant took money from both of them the instruction to swear is necessary; it teaches that a possession in doubt is to be split [by that swearing], etc.” The first-person inquirer rhetorically addressed himself or herself—and in effect the audience—as he or she made an attempt to solve the concern about the mishnah using his or her own power of judgment, but ended up eliciting an answer from the teaching of the amoraim, and then making a viable argument for the answer he or she thus found. In sum, stylistically, we have just observed a soliloquy refuting the mishnah, followed by a defense that recalls a tradition that, regardless of its original purpose, helps to respond to the attack and thus provides the counterrefutation required.
as an act of thinking, a difference that is greater than it may seem, for, as I have noted, thought was seen in Greek philosophy as a faculty (*dynamis*) that only extrinsically connects to an agent who possesses it. In contrast, thinking was seen as an action (*energeia*) that absolutely requires an agent to act it.

Thus, we deal here with three different paradigms. To take “Ego cogito ergo sum” as an emblem of a modern paradigm, it axiomatically considers “ego cogito” to be an act and the human “ego” to be an agent or subject both behind and in that act. Medieval rationalists, both in philosophy and in the study of the Talmud, would differ from that model on only one point—in attributing thinking to G-d as the ultimate agent or subject of any thinking, rather than to a human subject. They would consequently limit the intellectual role of the human to reading divine thoughts written in human minds. But the fundamentals remain the same: thought is an act of thinking and therefore requires an agent or subject (either divine or human) in and behind it. However, there is a third paradigm, and in that paradigm, rather than being intrinsically an action of thinking, thought is a faculty or ability that different individuals may possess in different degrees. In that sense, in Greek philosophy, the thought process can be independent of any subject or agent, divine or human. This independence disappears as soon as the faculty of thought becomes thinking—that is, firmly associates itself with an individual, an agent, or a subject. In this paradigm, the possession of a “cogito” is rather a question than a starting point for the Cartesian enthymeme “Ego cogito ergo sum.” Halivni is using the modern/medieval paradigm in which a difference between thinking and thought gets erased. A space cleared by that erasure gets populated with thinking agents, and, as I will show in detail, Halivni’s anonymous redactors in/of the Talmud are of this kind.

Halivni sees the soliloquy as resulting from both an action and thinking, rather than from thought. Thought as a faculty (*dynamis*) becomes exclusively reduced to the action of thinking in the sense of *energeia*, as what thus must be attributed to a *subiectum*, to a *hypokeimenon*, or to some underlying matter that consequently becomes personified in his theory as the anonymous redactors of the Talmud. His automatic choice to look at thought in terms of thinking, rather than in terms of a faculty or *dynamis* that does not act, but rather makes agents act, conceals the key to the mystery of Halivni’s concept of the anonymous redactors who produce forced interpretations of the teachings of earlier masters.
In the actions of the anonymous redactors that he posits, Halivni further sees (1) the activity of subjects as agents, (2) in whom thoughts are inherent, (3) to whom they can be attributed, and (4) whose name (the name is “anonymous”) they can bear, who are also those who form the subjects as the (5) support, (6) substance, or (7) persons who are then (8) subject to those thoughts. These eight heterogeneous elements, which I have already introduced above in two distinct groups (elements of action: acting agency, inherence, attribution, and denomination; and elements of being acted upon: support, substance, person, and subjection) work simultaneously in what seems to be a single act that Halivni finds the redactors to be forced to make in their thinking.

He explains their move as a response to a need to supply a new refutation to a counterrefutation that was unsuccessful in its original context. Supplying a new refutation is of course an action. But this is not enough. He therefore posits an instance (in de Libera’s technical terms, a matter involved in an action—a \textit{subiectum}) that underlies that action. Furthermore, he attributes that action to that instance, assumes that the underlying instance was always inherently there in the action, and uses that instance to give the action its name—a set of moves not foreign to either Greek or Latin philosophy of the \textit{subiectum}, or “matter,” that in Greek or Latin philosophy underlies any action. Yet he also does something that a medieval theologian likely would do, but that a pagan Aristotelian philosopher would not. He connects the thinking behind the action to the \textit{subiectum} of that action, making that \textit{subiectum} into a person who thinks, thus into a thinking subject, whom he will then quite logically designate as a thinking subject without a name.

In his final and most effective move for us, as moderns, he attributes both the thinking and the action to that personified \textit{subiectum}—the anonymous redactors of the Talmud, who, remarkably, must have thought of or “conjectured” the forced interpretations in exactly the same way as Halivni did. The origin of that personification lies in his projection of the moves he discovered when confronting the text onto someone whom he assumes to be behind it.

There is more. Halivni emphasizes both the difference and the strong connection between the soliloquy as a refutation of the mishnah and the tradition of the \textit{amoraim} used as a counterrefutation of the soliloquy.\footnote{It might seem that strategically, the soliloquist had the \textit{amoraim} in mind from the outset and does nothing but ask questions that prepare for their emergence on}

\textit{amoraim} used as a counterrefutation of the soliloquy.
His first step is to claim that the soliloquist’s attack on the mishnah is a strange decision to make. The mishnah’s nonlinear style could have been explained as a mere convenience of memorization, yet that answer would deny the very necessity of being linear.

Halivni thus opens his source-critical analysis of the soliloquy by presenting an alternative approach to the mishnah. In that approach, the mishnah relates to only one case of litigation—that of two litigants claiming they found the cloak. That helps eliminate the seemingly nonlinear character of the instruction by conceiving it as linear through and through: What seemed nonlinear in fact proceeded in a syntactic order from general to particular. “I found it and it is all mine!” is just one claim with two parts, one more general and one more particular. The mishnah presents the general parts of the claim of each litigant first, followed by a series of their possible particular parts. Halivni finds support for that approach not only in a modern eastern European commentator on the Talmud, Rabbi Manasseh of Ilya, but also in the syntactic connections that he supplies to the language of the mishnah. With the addition of syntactic connectors (presented here in {curly brackets}), the mishnah now accords with Rabbi Manasseh’s linear reading of it:

Two {litigants} hold to one and the same piece of cloak. The first claims “I have found it!” and the second claims “I have found it!” {The decision is that if} [t]he first claims “It is all mine!” and the second claims “It is all mine!” {then} the first {litigant} should swear that s/he at least owns a half of it, and the second should swear that s/he owns at least half of it. And they should split it. {Yet, if} [t]he first claims “It is all mine!” and the second claims “A half of it is mine!” {then} [t]he one claiming “all is mine” should swear s/he owns at least three-fourths of it, and the one claiming “A half of it is mine” should swear that s/he owns at least one-fourth of it.

Read in that way, the mishnah still can allow implications for a different litigation case, one that involves buying and selling, rather than finding. Yet those implications would no longer be an intrinsic or direct part of the case to which the mishnah is referring. Halivni emphasizes. What was a reference that had to be dealt with becomes an implication that might be, but does not have to be taken into account. In the new reading,

the stage. In that sense, the soliloquist is a direct adept of, and apologist for, the amoraim. But Halivni’s point is that there also is an important difference between the amoraim and the soliloquist: the soliloquist is a rhetorical position created by the redactors, not the redactors “themselves.”
the mishnah no longer refers to litigation over buying and selling, but can yield implications about it. In Halivni’s and Rabbi Manasseh’s linear reading, unlike what the soliloquists make the *amoraim* say, the mishnah does not directly instruct on litigation about buying and selling, but refers only to a dispute about things found. Yet the alliance between Rabbi Manasseh and Halivni is not complete. Rabbi Manasseh simply dismisses the soliloquy as making no sense; Halivni takes the lack of sense as a symptom indicating there were hidden forces at work.

Rabbi Manasseh did not distinguish between the *stamma de-gemara* (the anonymous soliloquy, in my reading) and the *amoraim* (whom the soliloquist has engaged in that soliloquy). Neither was he concerned with the fact that the amoraic tradition, marked as “Said Rav Pappa, or according to some, Rav Simi the son of Ashi,”

means that the opening of the Mishnaic instruction refers to finding a thing, but the continuation of it to buying and selling it, because and only because of the power [i.e., in the context] of the question that the soliloquist proposed at the start of his speech, “How can I explain the reason for which the instruction presents claims nonlinearly: ‘The first claims “I have found it!” and the second claims “I have found it!” The first claims “It is all mine!” and the second claims “It is all mine!”’?—It should instead be presenting claims one by one!”

The Lithuanian rabbi R. Manasseh was sure that the mishnah refers to only one general case of claims—things found—followed by several possible variations on that claim, as far as the extent of claimed ownership is concerned. Thus, a litigant can claim generally “I have found it” and supplement it by either “It is all mine” or “Half of it is mine,” depending on his or her feelings of justice in dividing the found thing, which might be different from case to case. With this linear reading, the Lithuanian commentator leaves no room for the question of non-linearity in the mishnah. For him, the mishnah is linear through and through, and both the *amoraim* and the soliloquist have simply overlooked that. At this point, though, Halivni’s argument diverges from Rabbi Manasseh’s. He claims that the *amoraim* did not overlook the possibility of a linear reading, but simply had to reject it silently, due to persistent polemical pressures that the *amoraim* felt; that the soliloquist knew, but did not mention; and that Halivni has helped to discover.

These pressures had to do with the issue of acquiring a thing for someone else without acquiring a part of it for oneself, an issue on

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which the *amoraim* as a group disagreed, without resolution, as witnessed elsewhere in the Talmud. Acknowledging that unresolved disagreement in the camp of the *amoraim* (no matter whether it was a retroactively constructed disagreement or not, although I will return to that question in a moment), the soliloquist, as a faithful adept of all the *amoraim*, had to support those who might see the mishnah as relevant to the disagreement at hand. The soliloquist thus calls on the stage those of the *amoraim* who would read the mishnah at hand in light of that disagreement. In doing so, the soliloquist rejects a possible linear reading of the mishnah even before he starts speaking, for how can one speak while undercutting the source of his or her own authority? The soliloquist therefore prepares his audience to read the mishnah as strongly as possible (which in this case means nonlinearly), that is, as referring not only to finding things in the street, but also to buying them in a store.

In sum, according to Halivni, the anonymous soliloquy was constructed by the redactors in response to an ongoing disagreement among *amoraim* elsewhere in the Talmud (I will have more to say about that broader disagreement) in which one of the parties, represented by the names of Rav Pappa or Rav Simi the son of Ashi, was about to lose. To prevent that, the redactors were forced to create an artificial soliloquy that engages this mishnah in that disagreement. The soliloquist has read and presented the mishnah in such a way as to keep that disagreement alive. To do so, the soliloquist strategically creates a perspective on the mishnah to make it a foil for the argument of at least one camp of the *amoraim* in the disagreement and does so with the sole purpose of introducing the mishnah into the field of the ongoing disagreement, not to resolve that disagreement. To that end, the soliloquy is created in order to dismiss a more obvious, linear reading of the mishnah as not relevant to the disagreement of the *amoraim*, as well as to create an artificial attack on the mishnah, resolving it by introducing a reading that fits the perspective of one camp in the disagreement—the weakest camp.

All these considerations and strategies of the anonymous redactors become clear to Halivni as a result of his conceptual a priori decision to draw a distinction between the *stamma de-gemara* (the “anonymous tradition,” a term that he reads as an anthropomorphic personification: *stammaim*, the anonymous redactors) and the *amoraim*. On the other hand, for Halivni, Rabbi Manasseh’s dismissal of the original attack on the mishnah as merely erroneous is a result of the rabbi’s (and of the tradition’s) failure to draw that a priori distinction, assuming instead
that in the diegesis (that is, in the represented content) of the Talmud, what the soliloquist says is a direct and naive continuation of the thought process of the amoraim. Indeed, Rabbi Manasseh sees neither the legitimacy of the problem that the soliloquist presents in the interpretation of the mishnah nor any discontinuity between the soliloquist and the amoraim whom the soliloquist diegetically cites. Of course, Rabbi Manasseh might have agreed that on the level of diegesis, the soliloquist and the amoraim whom he cites are obviously not the same, but he sees no difference whatsoever in their positions or considerations. The soliloquist would for him be at best a later adept of the amoraim who expresses their view of the mishnah at hand, not someone who created or invented these views.

Halivni’s position is radically different. He goes beyond diegetic relationships between the amoraim and the soliloquist and discovers the behind-the-scene forces—the allegiance of the soliloquist (or rather of the redactors who must have invented him and his speech) to the amoraim as a larger group of masters in disagreement, an allegiance that justifies reading the mishnah in the light of and for the sake of not letting that disagreement drop. That decision is clearly not a part of
the diegesis. Rather, it comes from Maimonides’ view of the intellectual style of the Talmud as refutations followed by counterrefutations. The soliloquists silently decide to account for the presumably retroactively constructed disagreement between the amoraim, letting that disagreement inform the way in which the talmudic argument is developed—or, rather, he creates room for such a development.

For Halivni, this silent decision is not only a fundamental factor working behind the scenes (and behind the diegesis) of the talmudic discussion, it radically informs the direction that the talmudic discussion takes. However, although the decision is clearly not a part of the diegesis, Halivni in fact introduces the strategic decision the alleged redactors made behind the scenes into the diegesis of the talmudic discussion. This is the only way for him to differentiate his position from that of Rabbi Manasseh and to defend his a priori conception of redactors. As a result, the old traditional term stamma de-gemara, referring to an “anonymous tradition,” is used to represent a soliloquist who is remarkably transformed from a rhetorical position into an instance of independent thinking, indeed, into the redactor of the Talmud, “the author,” as we can call whoever or whatever occupies this position, who acts both behind the scenes and on stage. In fact, that position even becomes an independent, yet hidden authority, as opposed to representing a direct teaching inherited from a group of the amoraim, contrary to what both Rabbi Manasseh and the previous rabbinic tradition would hold.

The difference between Halivni’s and Rabbi Manasseh’s positions deserves an even closer look in terms of the question “Who thinks in the Talmud?” Again, according to Rabbi Manasseh, had the stammaim seen the mishnah the way he did, there would be no question of non-linearity. Therefore, if asked to explain why that discussion in the Talmud takes place, Rabbi Manasseh would be forced to say that it happened either by mistake or because his way of parsing the mishnah syntactically was overlooked by both the amoraim and the anonymous soliloquist alike. As powerful and insightful as he is, the modern Lithuanian rabbinic commentator would thus surely see no difference between the amoraim and the soliloquist, for all of them would be at fault.

Not so is Halivni’s much more nuanced sense of the case. He draws a distinction between the amoraim and the soliloquist, who becomes

Also, can we be sure that the disagreement between the amoraim on the issue of acquiring an object for the other without acquiring part it for yourself is not a retroactive construct?
both a speaker on the stage and the redactor behind the scenes. The soliloquist/redactor knew about the polemics and disagreements in the camp of the amoraim, and in order to preserve their strength, chose to read the mishnah as a foil for that disagreement, that is, from the perspective of those of the amoraim who would see the mishnah as relevant for the dispute concerning acquiring a thing for another without acquiring it for yourself and thus from the perspective of “Rav Pappa, or according to some, of Rav Simi the son of Ashi,” that is, of the amoraim for whom this mishnah would be helpful in their dispute, which they are about to lose elsewhere.

Halivni therefore accepts Rabbi Manasseh’s syntactic parsing of the mishnah, but rejects the conclusion that Rabbi Manasseh drew from it. The point at which his position diverges from that of Rabbi Manasseh is precisely the point of seeing a difference between the amoraim and the soliloquist. That difference is that the amoraim had a polemical agenda of their own, and the soliloquist, aware of that, silently rejected a reading of the mishnah that would exclude the mishnah from the area of that polemic. The soliloquist thus supported those of the amoraim who included the mishnah in that polemic.\(^{19}\)

Aware of the internal polemics among amoraim, the soliloquist had to conclude that even if the stammaim could have contemplated Rabbi Manasseh’s view, due to the pressures of their internal polemics they could in no way have approved of it.\(^{20}\) Yet, as Halivni argues, the

\(^{19}\) In Halivni’s words (Meqorot u-masorot, 2–3), “Rabbi Manasseh did not differentiate between stamma de-gemara and the amoraim. . . . However, we do draw a distinction between stamma de-gemara and the amoraim. In many cases in the Talmud, other arguments made by the stamma de-gemara are assumed to belong to the words of the amoraim. Yet we also are trying very hard to explain why [Halivni’s emphasis] stamma de-gemara neglects to explain [the mishnah] our way, [i.e., Rabbi Manasseh’s and Halivni’s way]. Only we cannot satisfy ourselves with an explanation that it simply did not occur to them to think that way. In this case, too, we will be looking for an explanation: Why was stamma de-gemara not able to accept Rabbi Manasseh’s way of reading the mishnah?”

\(^{20}\) Halivni asks why, in the eyes of the soliloquist, the amoraim could not have accepted reading the mishnah as Rabbi Manasseh did, even if they contemplated it. His answer comes from additional material on the amoraim. In particular, as evidenced in b. Baba Metzi’a 8a and 10a, and in j. Peah 4:6, the amoraim disagreed on a question related to the matter of the mishnah at hand. The amora Rami b. Chama inferred from a mishnah that if a person found a thing and possessed it with his or her hands and claimed that he or she did it for a friend, the friend becomes the owner of the thing, yet Raba disagreed with that inference. The possibility of disagreement arises from the question of whether one can possess a thing for another to acquire without acquiring a part of it for himself or herself. In different places in the Talmuds, other amoraim disagree on the same issue. Given their ongoing disagreement on acquisition without possession, the stamma de-gemara
Lithuanian rabbi sees no difference in either rank or time between the _amoraim_ and the anonymous subject—the _stamma de-gemara_—who recalls them. Rabbi Manasseh sees no obstacle to replacing the _amoraim_ in the originary context of the inquiry about the mishnah, either. 21

concludes that the _amoraim_ must have seen the mishnah at hand in the light of that disagreement, which means in light of the more general issue of acquiring by possessing, rather than in the light of the much more particular issue of acquiring the thing found. In short, for the _stamma de-gemara_, the _amoraim_ must have dismissed Rabbi Manasseh’s view of the mishnah as dealing with found things only, because they had a broader polemical agenda regarding the more general issue of acquiring a thing without possessing it.

The force or drive that made the alleged anonymous redactors act thus was their desire to preserve the disagreement between the _amoraim_. Their goal was to make sure that the arguments of the weakest party in it had either an extra support or at least a use, in this case, from the mishnah at hand. What did that disagreement entail, and how exactly does the soliloquist lend support to it?

In _b. Baba Metzi’a_ 10a, both Rav Nachman and Rav Hisda are reported to say that “possessing a found thing for your fellow does not afford acquisition for that fellow.” As the placement of that statement contextually suggests, these _amoraim_ refute any interpretation of the mishnah on the principle that “since one gets to own it, he or she can afford ownership of it for his or her fellow.”

In _b. Baba Metzi’a_ 8a, Rami Bar Chama infers from the mishnah _m. Baba Metzi’a_ 1:1 that “possessing a found thing for your fellow does afford acquisition for that fellow.” Ad locum, Rava refutes this inference, proposing another one in its stead: “Since one gets to own it for himself, he or she can afford ownership of it for his fellow.”

Rav Nachman and Rav Hisda cannot refute Rami Bar Chama the way Rava did, for given the context of _b. Baba Metzi’a_ 10a, Rav Nachman and Rav Hisda refute the “since” principle, as well.

As reported at _b. Baba Metzi’a_ 2b, “Rav Pappa, or as some say Rav Shimi Bar Ashi” reassigns the “ending part” or the second clause in the mishnah _m. Baba Metzi’a_ 1:1 to refer to possessing and acquiring things bought and sold, instead of things found. Reassigning a clause in the mishnah that would otherwise obviously refer to acquiring things found was originally done to solve a problem. It was to undermine the inference of Rami Bar Chama in order to help defend the otherwise losing position of Rav Nachman and Rav Hisda. However, like later medieval commentators, and indeed in accord with a conversation between Rav Acha Bria deRav Ada and Rav Ashi, the alleged anonymous redactors of the Talmud must have noticed that reassignment gave no effective help, for even after that, the mishnah still yields firm ground for Rami Bar Chama’s inference, and the attack on Rav Nachman and Rav Hisda remains without a defense.

In an effort to preserve what would otherwise become an unsuccessful defense, the redactors created another—and as a much later commentator, Rab Manasseh of Ily, helped to explain, artificial—attack on the mishnah _m. Baba Metzi’a_ 1:1. As a result, the defense is now paired with that new attack.

What the redactors did was, as Halivni contends, the work of conjecture, which he traces by the forced interpretations to which that work leads and without which it could have not been accomplished, nor could the talmudic text have appeared the way it does now.
What is conceptually at stake here is no less than understanding the role of subject in thinking. As we have just seen, acting behind the scenes and in both continuity and rupture with the amoraim, the redactors are said to have decided to create a rhetorical character, the soliloquist, and to pair the answer that the mishnah gives with a question that the soliloquist offers. Halivni addresses the element of rupture with his notion of forced interpretation. In fact, that notion is the core of Halivni’s method of analyzing the Talmud. The notion of stammaim as empirical-historical subjects to whom the interpretation is attributed is only a superstructure built on top of it. To make the leap from tracing forced interpretations to the concept of an entity behind them, however, requires subscribing to the problematic and theologically charged concept of the thinking subject, either in whole or in part. Halivni thus follows the tradition of attributivism, in de Libera’s terms, which requires that any act of thinking be attributed to an agent in and behind it and that the agent be identified as both the substance and the subject of that thinking.

However, the desire to preserve the disagreement between the amoraim that Halivni (or Rav Manasseh of Ily) discovers does not necessarily mean that a decision to preserve it, conscious or unconscious, was made. It could simply mean supplying an attack for a defense that is not employed anywhere else. Yet for that, no deciding agency is required, only a careful working up of a question to which this decision might be an answer. Just as it would be “absurd to speak of a builder as being altered when he is using his skill in building the house,” as Aristotle put it, it would be also “wrong to speak of a wise man as being ‘altered’ when he uses his wisdom [i.e., learns things].” Hence, for Aristotle knowing or learning is either not to be considered a passive process of being acted upon or “altered,” or else the “alteration” that occurs when a wise man learns or understands a new thing does not mean what it does in the case of teaching or in other cases of being acted upon. A sense of “alteration” proper for learning as opposed to teaching is “the development of an existent quality from potentiality in the direction of fixity or nature.”

22 I will address the principle of attributivism later in this argument, following de Libera’s treatment of it.
thinking and learning have nothing to do with the subject, according to Aristotle and in the Greek tradition of thinking at large.

The long tradition that Halivni follows, that of supplementing the thinking process with a subject, first registered at the time of Thomas Aquinas and Maimonides, thus follows Maimonides and Luzzatto in two ways: in seeing the perpetuation of refutation and counterrefutation as the default and almost de rigueur style in the Talmud, and in subscribing to the tradition that associates thought with a subject, thus erasing the classical concept of thought under the name of thinking.24

The Subject Undone

As I have just shown, Halivni’s a priori notion of anonymous redactors, like the figure of “the author,” requires them to stand in both rupture and continuity with the amoraim—in rupture behind the scenes of the talmudic refutations and counterrefutations and in continuity on the stage. Yet the concept of anonymous redactors in and of the Talmud is not just another version of the thinking subject retroactively applied to a text from a different chronological period. It is at odds with the historically and philosophically relevant conceptions of a subject who also thinks.

In the philosophical tradition of the West, as we have seen, following de Libera, two different networks of concepts have been involved in the notion of the subject, subjectivity and subjectivity: the subject as the

24 That leads to yet another conceptual question to ask about Halivni’s work and perhaps of the larger tradition of harmonizing the talmudic arguments in one coherent piece of intellectual production, rather than as local refutations and counterrefutations. Is such harmonization possible only if the statements of the amoraim are taken as apodictic claims, rather than as products of a rhetorical-probabilistic give and take and intrinsically bound to the local argument in which they occur? At this point, it would be also important to ask if Maimonides (typologically, if not also historically) is responsible for the view of the talmudic local rhetorical lemmas as universally apodictic claims. The early talmudic commentators, with their integrative approach to the Talmud, have already identified that problem, but without such an integrative approach, the Talmud only does what it does—it locally defends the Mishnah. This question, however, is beyond the scope of my current analysis. What remains important in the context of my present inquiry is that without that integrative approach, claiming the existence of the stammaim or anonymous redactors is not possible. Conceptually, they are a projection of that integrative view of the Talmud as a harmonic whole with one, uniting thinking subject at work amid and despite the local, but always required format of refutations and counterrefutations.
support, substance, and person behind an action; and the subject who acts, to whom action is attributed, in whom it inheres, and who can be named as its agent. Likewise, following the philosophy of Aristotle and until the Middle Ages, a similar distinction existed between thinking considered as a faculty (dynamis), as opposed to an action (energeia), or in my terms here, between “thought” and “thinking.”

To add one more distinction, we can note that a teacher of de Libera and perhaps an indirect, but strong influence on his project, Emmanuel Levinas, distinguished between thought as wisdom and thought as knowledge. The latter is closer to what I have called “thinking,” as opposed to “thought.” Thought as knowledge (or “thinking” in my terms here) understands knowledge and truth in the context of ontology. It considers thinking to be responsibility to what both confronts the limits of the ontological power of control over what is and calls for a response to those limits. Thought as wisdom, by contrast, involves the point at which the human subject is no longer “able to be able” and thus needs to respond or to be responsive to that inability, instead of attempting either to escape from it or to ignore it through the irresponsible extension of efforts at domination where they cannot reach. Viewed in light of these distinctions, the thinking subject (the redactor of the Talmud, for example) has nothing to do with at least half of the thinking processes in the Talmud.

That other half has to do with thought as wisdom and ethics, as opposed to thought as knowledge and ontology. The thinking subject can only know, while wisdom or ethics in such a subject might be only a secondary result of his or her ability to know, that is, to have and execute power, command, domination, or subjection. That area of thought in the Talmud has to do, in particular, with haggadah, which means thought in connection or disconnection with the ethical character of the sage. An heir of Maimonides, Halivni leaves haggadah outside his paradigmatic view of the thinking in the Talmud. Instead, the view of redactors as thinking subjects created an unbridgeable gap between the halakhic (legalistic) and haggadic parts in the Talmud.

25 Emmanuel Levinas, in “Ethics as First Philosophy” (in *The Levinas Reader*, ed. Seán Hand [Cambridge, MA: Blackwell, 1984]), outlines two views of thought: ethics and ontology, wisdom and knowledge. Where is the Talmud? On the side of a sage? But the latter does not claim any knowledge of what is, prior to responding to the other as an area of no longer being able to be able.
engendering thereby a philosophy-driven logical-apodictic approach to both thinking and thought displayed in talmudic texts.\textsuperscript{26}

How to understand the erasure of thought by the notion of the thinking subject in the Talmud and beyond? Exploring that question further will require looking into other late antique traditions associating, and in particular disassociating, the notions of subject and thinking. Anticipating the next steps in that analysis, I can only highlight the importance of what we have already learned in the case of the Talmud: the theory of the redactors as thinking subjects disallowed appreciating the ethical import of the intrinsically local rhetorical style of refutations and counterrefutations in the Talmud. That style, however, entails more ethical responsibility in Levinasian terms than any ontological notion of the thinking subject allows, and therefore requires attention as not only thinking, but also as thought.

\textsuperscript{26} Halivni’s theory also has to pay a price for its view of the rhetorical nature of talmudic thinking: the redactors become for him not only the a priori thinking/knowing subjects behind the scenes of the Talmud, but also the immediate, although anonymous participants who are absent from the scene, but still indirectly actively participating in it.