

Jewish Society under Sasanian Rule

From Isolation to Integration

An early medieval Middle Persian Zoroastrian source known as *The Provincial Capitals of Ērānšahr* describes the provinces and major cities of the Sasanian Empire and supplies several of them with short foundation myths. In describing the establishment of the cities of Susa and Šuštar in Khuzistan, *The Provincial Capitals* reports that they “were built by Šišīnduxt, the wife of Yazdgird, the son of Šābuhr, since she was the daughter of the Exilarch (*rēš-galūdag*), the king of the Jews (*jahūdagān šāh*), and was also the mother of Wahrām Gōr.”¹

According to this source, a Jewish woman named Šišīnduxt, the daughter of the Exilarch, married the Sasanian king Yazdgird I (r. 399–420), birthed the next Sasanian king Wahrām Gōr (r. 420–438), and was commanding enough in her own right to establish two major Iranian cities, Susa and Šuštar. *The Provincial Capitals* further details how Šišīnduxt leveraged her position of prominence to benefit the Jews, as Yazdgird I transported Jews to Isfahan “by the request of Šišīnduxt who was his wife.”

Šišīnduxt’s father is identified as the Exilarch, or “head of the diaspora,” the patriarch of a dynastic Babylonian Jewish family that, according to rabbinic sources, claimed genealogical descent from King David. Here, the Exilarch is identified as no less than the “king of the

¹ For text and translation, see Jivanji Jamshedji Modi, *Aiyādgār-I-Zarirān, Shatrōihā-I-Airān and Afđiya va Sabigiya-I-Sistān, Translated with Notes* (Bombay: 1899), 105; Josef Markwart, *A Catalogue of The Provincial Capitals of Ērānshahr, Pahlavi Text, Version and Commentary*, ed. G. Messina (Rome: 1931), 19; and Touraj Daryaee, *Šabrestānīhā ī Ērānšahr: A Middle Persian Text on Late Antique Geography, Epic and History* (Costa Mesa, CA: 2002), sec. 47.

Jews,” who had achieved the height of prominence in the Empire. Marrying one’s daughter to the king was no small feat, an honor reserved for the most aristocratic of noble families, and the Sasanian Empire was rarely willing to grant the title of “king” – even over a particular community – to anyone without some direct connection to the royal family. Judging from this source alone, one would no doubt conclude that the Exilarch was the imperially recognized leader of the Jews, and extrapolate from it about the Exilarch’s responsibilities and the nature of Jewish society.

Yet there is good reason to be skeptical of this account’s historicity.² Šišīnduxt’s existence is not corroborated by any other source, whether Jewish or not. Other elements of the story are clearly fictitious, such as the claim that the Jews settled in the region of Isfahan through Šišīnduxt’s intervention. Similarly, the name Šišīnduxt means literally “the daughter of Susa,” which suggests that Šišīnduxt was not a real name, but rather an epithet selected to associate her with the establishment of Susa. Indeed, Šišīnduxt’s connection to Susa bears a striking similarity to that of the biblical queen Esther, who also lived in Susa and wedded an Iranian king. The Šišīnduxt story is thus in some fashion a later adaptation of that biblical tale, in an Iranian Jewish context where Esther’s example carried special cultural weight.

The story of Šišīnduxt is most likely a fiction, the product of medieval exilarchal propaganda, as I have argued elsewhere.³ In the early medieval period, the power and prestige of the Exilarchate was a major source of contention, with some Jews seeking to undermine and belittle it, and others, none more ardently than the Exilarch and his coterie, defending and bolstering his position, especially through appeals to the past.⁴ It was at this precarious moment, from roughly the ninth to eleventh centuries CE, when the memory of the Sasanian past was imbued with particular cultural cachet across the Near East, that several dynasties, leaders, and aspiring elites began to trace their lineages back to Sasanian rulers, in a period sometimes called the Iranian Intermezzo.⁵

² For a full treatment of the story, see Simcha Gross, “The Curious Case of the Jewish Sasanian Queen Šišīnduxt: Exilarchal Propaganda and Zoroastrians in Tenth- to Eleventh-Century Baghdad,” *Journal of the American Oriental Society* 141 (2021): 365–380.

³ See e.g., Gross, “Reassessing Exilarchal Authority between Sasanian and Early Islamic Rule,” *Journal of Jewish Studies* 73 (2022): 263–287.

⁴ Arnold Franklin, *This Noble House: Jewish Descendants of King David in the Middle Ages* (Philadelphia, PA: 2013); see also Gross, “When the Jews Greeted Ali,” 122–144.

⁵ Coined by Vladimir Minorsky, *Studies in Caucasian History* (London: 1953).

One of the dynasties claiming genealogical descent from the Sasanians were the Buyids, the rulers of Iraq beginning in the tenth century. They traced their lineage to none other than Wahrām Gōr, the son of Šišīnduxt according to *The Provincial Capitals*. The story of Šišīnduxt therefore appears to reflect a move by the medieval Exilarchate to retroject its ancestors back onto the Buyid's own Sasanian lineage, as if to say that it was the Exilarch's ancestor who birthed the Buyid's forefather. This claim appears to have resonated outside of Jewish circles, such that it made its way into a medieval Zoroastrian work, *The Provincial Capitals*, which realized the originally Aramaic term meaning "Exilarch," or head of the diaspora, into Middle Persian (*rēš-galūdag*). The Exilarch's claim was, however, also tailored to a Jewish audience, cleverly connecting himself to the Sasanians through his daughter, thereby leaving untarnished his own claim of Davidic descent, which would continue to be transmitted to, and through, his sons.

While some scholars have accepted the historicity of Šišīnduxt and others have questioned some or all of its details, the lofty image of the Sasanian-era Exilarch and his place within Babylonian Jewish society has received widespread acceptance.⁶ Whether or not the Exilarch did in fact marry his daughter to the Sasanian king, according to scholars the story was right to grant him the title of "king of the Jews." The three central tenets of previous accounts of Babylonian Jewish society – that it was semi-autonomous, ordered into a centralized and self-regulating hierarchy, and siloed from its neighbors – ultimately derive from this understanding of the Exilarch.

Accordingly, the Exilarch allegedly served as the official intermediary who brokered relations between Jews and the Empire. The Exilarch is therefore frequently described as the head of an "office," "institution," or even "government"; the leading figure in a centralized, top-down, social system.⁷ The Exilarch supervised an internal Jewish bureaucracy, with

⁶ For previous treatments of the story, see Gross, "The Curious Case of the Jewish Sasanian Queen Šišīnduxt," 367–368.

⁷ For instance, the preeminent nineteenth-century Jewish historian Heinrich Graetz, *Geschichte der Juden von den ältesten Zeiten bis auf die Gegenwart*, vol. 4 (Berlin: 1853), trans. Bella Lowy in *History of the Jews*, vol. 2 (London: 1891), 508ff; Felix Lazarus, *Die Häupter der Vertriebenen: Beiträge zu einer Geschichte der Exilsführsten in Babylonien unter den Arsakiden und Sassaniden* (Frankfurt: 1890); Arthur Christensen, *L'Iran sous les Sassanides* (Copenhagen: 1944), 38; Neusner, *History of the Jews*, 5.244–245; Neusner, "Rabbi and Magus in Third-Century Sasanian Babylonia," *History of Religions* 6 (1966): 170; Moshe Beer, *The Exilarchate in Babylonia in the Mishnaic and Talmudic Period* (Tel Aviv: 1970), 33–43; Moshe Beer, *The Babylonian Amoraim: Aspects of Economic Life* (Ramat Gan: 1982), 9–10; Gafni, "Political, Social,

the rabbis and other Jewish officials functioning at his behest as judges and administrators, who occasionally jostled with him for power and recognition.⁸ As part of this supposedly imperially backed corporate Jewish community, the rabbis were widely recognized authority figures, shaping Babylonian Jewish practice and maintaining communal order through their courts. Under these conditions, Babylonian Jews had little reason to regularly interact with state administrators or other communities, or to be exposed to broader cultural and social pressures. They remained socially and culturally insular and segregated.⁹

Babylonian Jewish semi-autonomy was believed to be an instantiation of a consistent Sasanian policy to organize its subjects into self-governing centralized corporate communities, especially religious communities, regularly compared to the Ottoman *millet* system.¹⁰ This was one facet of the Sasanian Empire's feudalistic predilection to delegate authority.¹¹

and Economic History," 801–804; and Gafni, *Jews of Talmudic Babylonia*, 98ff. On "office," see Herman, *Prince without a Kingdom*, 179–180, and esp. 259. For "government," see Morony, *Iraq after the Muslim Conquest*, 316–319; and Wiesehöfer, *Ancient Persia*, 215–216.

⁸ For a review of these views, see Herman, *Prince without a Kingdom*, 2–11.

⁹ See the discussion in Introduction.

¹⁰ More stridently stated in F. Altheim and R. Stiehl, *ein asiatischer Staat, Feudalismus unter den Sasaniden und ihren Nachbarn* (Wiesbaden, 1954), but also found in R. N. Frye, *The History of Ancient Iran* (Munich: 1984), 318–319; R. N. Frye, "The Political History of Iran under the Sasanians," in *The Seleucid, Parthian, and Sasanian Periods*, ed. E. Yarshater, vol. 3, bk. 1, *The Cambridge History of Iran* (Cambridge: 1983), 132; Neusner, *History of the Jews*, 5.134, 244–245; Daryaei, *Sasanian Persia*, 20; Touraj Daryaei, "Ethnic and Territorial Boundaries in Late Antique and Early Medieval Persia (Third to Tenth Century)," in *Borders, Barriers, and Ethnogenesis: Frontiers in Late Antiquity and the Middle Ages*, ed. F. Curta (Turnhout: 2005), 127; Victoria Erhart, "The Development of Syriac Christian Canon Law in the Sasanian Empire," in *Law, Society, and Authority in Late Antiquity*, ed. R. W. Mathisen (Oxford: 2011), 128–129; Payne, *State of Mixture*, 15, 122, 184. Like feudalism, the characterization of the Ottoman *millet* system has been challenged and refined in many ways. For more on this, see Benjamin Braude, "Foundation Myths of the Millet System," in *The Central Lands*, ed. R. Braude and B. Lewis, vol. 1, *The Christians and Jews in the Ottoman Empire* (New York: 1982), 69–88; and Nir Shafir, "Vernacular Legalism in the Ottoman Empire: Law, and Popular Politics in the Debate over the "Religion of Abraham (millet-i Ibrāhīm)," *Islamic Law and Society* 28 (2020): 41n26.

¹¹ Christensen, *L'Iran sous les Sassanides*, 18–25; Arthur Christensen, "Sassanid Persia," in *The Imperial Crisis and Recovery, A.D. 193–324*, ed. S. A. Cook, F. E. Adcock, M. P. Charlesworth, and N. H. Baynes, vol. 12, *The Cambridge Ancient History* (Cambridge: 1939), 114; Geo Widengren, "Recherches sur le feodalisme iranien," *Orientalia Suecana* 5 (1956): 170–176; Geo Widengren, *Der Feudalismus im alten Iran: Männerbund, Gefolgswesen, Feudalismus in der iranischen Gesellschaft im Hinblick auf die indogermanischen Verhältnisse* (Köln: 1969); Zeev Rubin, "Persia and the Sasanian Monarchy (224–651)," in *The Cambridge History of the Byzantine Empire c. 500–1492*, ed.

These paradigms were reciprocally reinforcing: Foundational works in Sasanian studies, such as Arthur Christensen's *L'Iran sous les Sassanides*, argued that Jews epitomized the Empire's propensity to grant its communities "a certain degree of autonomy."¹² The Exilarch, Catholicos, and Zoroastrian "priest of priests" (*mowbedān mowbed*) were parallel figures mediating between particular communities and the empire, who headed their own centralized and self-governing communities and generated religious societies that nearly uniformly adhered to a "normative" system of practices and beliefs.¹³ A consequence of this policy was the erection of strong institutional boundaries between communities, which were thereby encouraged to live in isolation from other groups.¹⁴

Over the past few decades, pioneering revisionist approaches have challenged strikingly similar narratives of Jewish autonomy in other regions and periods.¹⁵ They have drawn attention to the fact that earlier

Jonathan Shepard (Cambridge: 2008), 130–155; Zeev Rubin, "The Reforms of Khusrō Anushirwan," in *States, Resources and Armies*, ed. Averil Cameron, vol. 3, *The Byzantine and Early Islamic Near East* (Princeton, NJ: 1995), 228n5; and Parvaneh Pourshariati, *The Decline and Fall of the Sasanian Empire: The Sasanian-Parthian Confederacy and the Arab Conquest of Iran* (London: 2008). More generally, see: Wiesehöfer, *Ancient Persia*, 171–191; Schippmann, *Grundzüge*, 80–86; Gignoux, "L'organisation administrative sassanide le cas du marzbān," *Jerusalem Studies in Arabic and Islam* 4 (1984): 1–29.

¹² Christensen, *L'Iran sous les Sassanides*, 38. See similarly Frye, *The History of Ancient Iran*, 319, and Wiesehöfer, *Ancient Persia*, 143, 215–216.

¹³ Uriel Simonsohn, *A Common Justice: The Legal Allegiances of Christians and Jews Under Early Islam* (Philadelphia, PA: 2011), 51; Herman, *Prince without a Kingdom*, 200–202 and passim; and Herman, "Exilarch and Catholicos: A Paradigm for the Commonalities of the Jewish and Christian Experience under the Sasanians," in *Jews and Syriac Christians: Intersections across the First Millennium*, ed. Aaron Michael Butts and Simcha Gross (Tübingen: 2020). Challenging the notion of uniformity among Sasanian Zoroastrians, see Shaul Shaked, *Dualism in Transformation: Varieties of Religion in Sasanian Iran* (London: 1994), with response by Mary Boyce, "On the Orthodoxy of Sasanian Zoroastrianism," *Bulletin of the School of Oriental and African Studies, University of London* 59 (1996): 11–28.

¹⁴ Morony, *Iraq after the Muslim Conquest*, 316–320, 332–342, 364–372.

¹⁵ On the Patriarch in Palestine, see: Seth Schwartz, "D. Goodblatt, *The Monarchic Principle*," *Journal of Jewish Studies* 47 (1996): 167–169; Seth Schwartz, "Big Men or Chiefs: Against an Institutional History of the Palestinian Patriarchate," in *Jewish Religious Leadership: Image and Reality*, vol. 1, ed. Jack Wertheimer (New York: 2004), 155–173; Catherine Hezser, *The Social Structure of the Rabbinic Movement in Roman Palestine* (Tübingen: 1997), 8–9; and Sacha Stern, "Rabbi and the Origins of the Patriarchate," *Journal of Jewish Studies* 54 (2003): 193–215. The position of the Exilarch in the early medieval period is rather opaque; see: Robert Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture* (New Haven, CT: 1998), 71–75; and Robert Brody, *Sa'adyah Gaon* (Oxford: 2013), 11–12. On Jewish semi-autonomy in the medieval period, see: Mark Cohen, *Jewish Self-Government in*

scholarship interpreted the past through a historiographical conviction that autonomy was a prerequisite for Jewish cultural efflorescence. But time and again, where earlier scholars saw rigid hierarchies, Jewish intermediaries, and self-contained social structures, Jewish society was, in fact, highly decentralized, dynamic, and deeply integrated into the prevailing legal, social, and cultural systems. Sources once thought dispositive of Jewish semi-autonomy have been dismissed, and minimalist and revisionist trends have revolutionized the study of Jews from Late Antique Palestine to early Islamic Egypt. And yet, regarding the Exilarch, and Sasanian Jewish society more generally, these paradigms persist.¹⁶

This chapter challenges the pillars of previous accounts and offers an integrationist portrait of Babylonian Jewish society under Sasanian rule.¹⁷ It is driven by the recognition that despite a modern tendency to assume that power and authority are centrally distributed and monopolized by governments, ancient societies tolerated and created space for conflict resolution outside of the strict confines of the state apparatus. Elite Jewish figures who exercised various forms of power among Jews derived their position not from the empire but from the recognition of their coreligionists, which they had to earn and maintain.

In particular, the chapter shows that the Exilarch did not serve as the official Jewish communal intermediary, and that there was no self-governing Jewish bureaucracy in which rabbinic and other Jewish courts functioned as the exclusive, or even primary, means of conflict resolution available to Jews. Jewish sources, together with Syriac Christian and Sasanian evidence, reveal just the opposite: that all subjects had direct recourse to imperial courts and administration, even as the empire tolerated local

Medieval Egypt: The Origins of the Office of the Head of the Jews, ca. 1065–1126 (Princeton: 1981); Marina Rustow, *Heresy and the Politics of Community: The Jews of the Fatimid Caliphate* (Ithaca, NY: 2008), 67–69; Simonsohn, *Common Justice*, 6–10, 47; and Lev Weitz, *Between Christ and Caliph: Law, Marriage, and Christian Community in Early Islam* (Philadelphia, PA: 2018), 6.

¹⁶ Like the story of Šišindux, other both pre- and post-Sasanian stories were assimilated by scholars into the narrative of the prominent position of the Exilarch. See: Josephus, *Antiquities of the Jews*, 18.310–79, with discussion in Geoffrey Herman, “Iranian Epic Motifs in Josephus’ *Antiquities* (XVIII, 314–370),” *Journal of Jewish Studies* 57 (2006): 245–268; and Adolf Neubauer, *Medieval Jewish Chronicles and Chronological Notes*, vol. 2 (Oxford: 1887), 76; with discussion in Herman, “The Mysterious Mar Zutra,” *Segula* 27 (2015): 40–47.

¹⁷ On the need to reevaluate the Exilarch, see Schwartz, “The Political Geography of Rabbinic Texts,” 89–93. Geoffrey Herman’s monograph *Prince without a Kingdom* offers critical correctives to previous scholarship, but it perpetuates older paradigms of semi-autonomy and the Exilarch as formal imperial intermediary.

forms of conflict resolution. In this context, aspiring communal elites could serve as arbitrators, provided they could convince their coreligionists to submit their cases to them rather than to imperial courts or even other religious arbitrators. This marketplace of legal options drove Jewish elites to jockey among themselves and pit themselves and their expertise against the empire, in part by juxtaposing the legitimacy of Jewish versus Iranian forms of jurisprudence.

EXILARCH AS ROYAL INTERMEDIARY?

The notion of Jewish semi-autonomy is first and foremost predicated on the idea that the Exilarch served as the official intermediary between the Jews and the empire. Despite this claim's importance, it is difficult to find reliable references to encounters between Exilarchs and Sasanian kings. Scholars have mainly drawn on medieval rabbinic chronographies, which, when commenting on talmudic stories featuring encounters between kings and particular rabbis, identify those rabbis *as* Exilarchs, although any such identification is absent from the stories themselves. It has been convincingly demonstrated that these medieval accounts do not preserve reliable traditions that accurately identify these rabbis as Exilarchs. Rather, the identification is circularly predicated on the assumption of the Exilarch's role as intermediary, such that any Jew who appeared before the king *must* have been an Exilarch.¹⁸ The following source exemplifies this dynamic between talmudic story and medieval reception:¹⁹

Rav Ashi said: Huna bar Nathan told me, "I appeared before King Yazdgird, and my belt (*hemiana*) was lifted up, and he lowered it for me. He said to me: 'a kingdom of priests and a holy nation (Exod. 19.6)²⁰ is written about you.' When I came before Amemar, he said to me, 'And kings shall be your nursing maids (Isa. 49.23) has been fulfilled through you.'

The story itself does not identify Huna as an Exilarch, nor does it portray him functioning as an intermediary on behalf of the Jews. Yet, in his highly influential *Epistle*, composed in 987 CE in response to a question from

¹⁸ Moshe Beer, "Exilarchs of the Talmudic Epoch Mentioned in R. Sherira's Responsum," *Proceedings of the American Academy for Jewish Research* 35 (1967): 43–74; Neusner, *History of the Jews*, 5.49–50; and most robustly Herman, *Prince without a Kingdom*, 321–329. Herman, 38 discusses other terms in rabbinic literature that scholars, following medieval rabbis, assumed referred to the Exilarch.

¹⁹ b. Zeb. 19a, according to MS Vatican 118–119.

²⁰ For ancient Jewish interpretations of this verse, see Herman, *Prince without a Kingdom*, 323–325.

rabbinic leaders of the North African city of Qayrawan, Sherira Gaon, the head of the rabbinic academy of Pumbedita in Iraq, identifies Huna as the Exilarch.²¹ Many scholars followed his lead.²² Rabbinic literature, by contrast, never identifies Huna in this way. Indeed, he is labeled and functions as a rabbi, offering instruction and teaching even the great Rav Ashi.²³ Sherira appears to have identified Huna as an Exilarch based on his presuppositions about the Exilarch's role as an intermediary, rather than an authentic early tradition about Huna or the history of the Exilarchate.²⁴

The main sources to unquestionably depict encounters between an Exilarch and a Sasanian king are similarly of medieval origin. These include the story of Šišinduxt in the *Provincial Capitals* with which the chapter began, and a related set of medieval Jewish sources according to which the Caliph 'Umar ibn al-Khaṭṭāb (r. 634–644 CE) gave one of the two captured daughters of the Sasanian king Khusro II (or, in some accounts, Yazdگرد III) to the Exilarch Bustanai to wed, taking the other

²¹ On the Epistle, see Robert Brody, "Epistle of Sherira Gaon," in *Rabbinic Texts and the History of Late-Roman Palestine*, ed. Martin Goodman and Philip Alexander (Oxford: 2010), 253–264.

²² Gafni, *The Jews of Talmudic Babylonia*, 98; Beer, *Exilarchate*, 45–47, 191–195, 200–206; Neusner, *History of the Jews*, 5.12–13; Barak Cohen, "The Distinction between Sage and Exilarch in Sassanian Babylonia: The Case of (Rav) Huna bar Natan," *Jewish History* 36 (2022): 1–24 (who distinguishes between two talmudic figures of the same name, which he then unjustifiably uses to support Sherira's identification). See, however, Herman, *Prince without a Kingdom*, 321–329.

²³ On b. Giṭ. 59a as a reflection of the later redactors, and the problematic story in b. M. Qaṭ. 28a, see Herman, *Prince without a Kingdom*, 326–329.

²⁴ A similar case holds for another story in which three rabbis appear at the gates of the king, one named Mar Zutra (b. Ket. 61a–b), where Sherira Gaon lists Mar Zutra as an exilarch in both his *Epistle* and a related responsum, whereas another medieval rabbinic chronography, *Seder Tannaim VeAmoraim*, which shares a common source with Sherira's epistle, does not. See Beer, "Exilarchs of the Talmudic Epoch," 49–55; and Gafni, *The Jews of Talmudic Babylonia*, 98–99. Cf. Neusner, *History of the Jews*, 5.48–49; Avinoam Cohen, "More on the Question of the Amora Mar Zutra as Exilarch: A Study of Geonic Chronicles," *Sidra* 26 (2011): 19–60; and Herman, *Prince without a Kingdom*, 330–332. On the common source, see Robert Brody, "On the Sources for the Chronology of the Talmudic Period," *Tarbiz* 70 (2000–2001): 75–107. Other attempts to insert the Exilarch into stories in the Talmud that do not explicitly mention him are equally problematic, e.g., Beer, *Exilarchate*, 58–60; and Herman, "Midgets and Mules, Elephants, and Exilarchs: On the Metamorphosis of a Polemical Amoraic Story," in *Rabbinic Traditions between Palestine and Babylonia*, ed. Tal Ilan and R. Nikolsky (Leiden: 2014), 117–132. Both assume that a story in b. Giṭ. 14a–b, which makes no mention of the Exilarch, refers to the henchman of the Exilarch because they have Persian names and dress and are described as "close to the kingdom." This ignores several sources that characterize other figures similarly, but who are associated neither with the Patriarch nor the Exilarch (such as Jesus in b. Sanh. 43a, and Avtolmus ben Reuven in b. B. Qam. 83a and b. Soṭ. 49b).

daughter for himself.²⁵ Like the story of Šišīnduxt, the tale of Bustanai is fictitious; indeed, it is an adaptation of a story about the Caliph and the two Sasanian princesses found in Islamic sources from which the Exilarch was originally absent.²⁶ Again, the story reflects the contest for power and prestige in the medieval period through appeals to the past, but it has little value for our understanding of the Sasanian-era Exilarch.

A final medieval account is found in *al-Mahāsīn wal-aḏḏād* (*Good Qualities and [their] Opposites*), erroneously attributed to al-Jāhīz (d. 869). While describing the various stages and rituals of the festival of *Nowrōz* at the Sasanian court, the text reports that:²⁷ “It happened that when *Nowrōz* fell on a Saturday, the king ordered to give four thousand dirham to the Exilarch.”²⁸

This passage is consistent with other descriptions of the highly choreographed proceedings at the royal court on Zoroastrian festivals, and indeed, it is clearly related to the description of the *Nowrōz* festivities at the court of the king in another text known as the *Kitāb al-Tāj*, or *Book of the Crown*.²⁹ These sources describe how an array of elite figures

²⁵ An earlier discussion of the Bustanai story can be found in Chaim Tykocinski, “Bustanai rosh ha-gola,” *Devir* 1 (1923): 145–179. See also Moshe Gil, “The Babylonian Encounter and the Exilarchic House in Light of Cairo Geniza Documents and Parallel Arab Sources,” in *Judaeo-Arabic Studies: Proceedings of the Founding Conference of the Society for Judaeo-Arabic Studies*, ed. Norman Golb (Amsterdam: 1997), 135–173; Moshe Gil, *Jews in Islamic Countries in the Middle Ages*, trans. David Strassler (Leiden: 2004), 77–81. The relevant texts, with Hebrew translation, can be found in Abraham Grossman, *Rashut ha-Golah bi-Tequfat ha-Ge'onim* (Jerusalem: 1984), 22–44. These scholars attempted to preserve the basic historicity of the story.

²⁶ Geoffrey Herman, “Back to Bustanay: The History of a Legend,” in *Irano-Judaica* VII, ed. Geoffrey Herman and Julia Rbanovich (Jerusalem: 2018), 311–339; Gross, “The Curious Case,” 365–380.

²⁷ Text in G. van Vloten, *Le Livre des beautés et des antithèses, attribué à Abou Othman Amr ibn Bahr Al-Djahiz de Basra* (Leiden: 1898), 362. For an overview of Ps. Al-Jāhīz’s account, in the context of Sasanian court rituals, see de Jong, “Sub Specie Maiestatis,” 345–366. Intriguingly, this story does not appear in the parallel text of *Kitāb al-Tāj*, and breaks the flow of the larger passage in *al-Mahāsīn wal-aḏḏād*, which may suggest that it derives from a different source.

²⁸ Ignaz Goldziher, “Renseignements de source musulmane sur la dignité de resch-galuta,” *Revue des études Juives* 8 (1884): 122; R. Ehrlich, “The Celebrations and Gifts of the Persian New Year (Now Ruz) According to the Arabic Sources,” in *Dr. Modi Memorial Volume: Papers on Indo-Iranian and Other Subjects Written by Several Scholars in Honour of Sham-ul-Ulama Dr. Jivanji Jamsbedji Modi*, ed. The Dr. Modi Memorial Volume Editorial Board (Bombay: 1930), 95–101, esp. 99.

²⁹ Charles Pellat, *Le Livre de la Couronne* (Paris: 1954), 165–169. For medieval sources on the Sasanian court, see Henning Börm, “König und Gefolgschaft im Sasanidenreich: Zum Verhältnis zwischen Monarch und imperialer Elite im spätantiken Persien,” in *Die*

would appear before the king bearing gifts, and how the king would reciprocate in kind. *Nowrōz* was thus an occasion of ritualized gift exchange, where bonds of loyalty between king, nobility, and elites were reinforced and celebrated. According to the above passage, when *Nowrōz* and the Sabbath coincided, the Exilarch would receive an additional gift from the Sasanian king.³⁰

We do not know if all aspects of this source accurately describe Sasanian-era realities.³¹ Even granting some historical value, it need not suggest that the Exilarch was an official appointee of the Sasanian Empire or representative of the Jews as a corporate body. Instead, it only suggests that the Exilarch interacted with the Sasanian king as one elite among many.³² If true, the story demonstrates that the Exilarch was a – perhaps the most – noteworthy Jewish elite, but hardly an official representative on behalf of the Jewish community. Ample evidence makes clear that a variety of figures regularly appeared before the Sasanian king, including elites of different ranks, Christian bishops, school masters, and others seeking the king’s ruling or dispensations.³³ The festival described in Pseudo-al-Jāhiz was precisely one of the formal events intended to convene a wide range of elites and reaffirm their commitment, and subordination, to the Sasanian king. The Exilarch’s appearance would indicate his prominent elite status, but not his role as an intercessor on behalf of Jews.

If medieval sources do not corroborate the Sasanian-era Exilarch’s intermediary role, a series of interrelated anecdotes in both the Palestinian and Babylonian Talmuds place the Exilarch alongside major officials in the Sasanian Empire. One such tradition appears in both the Palestinian and

Interaktion von Herrschern und Eliten in imperialen Ordnungen des Mittelalters, ed. Wolfram Drews (Berlin: 2018), 38.

³⁰ The text continues and says: “And there was no reason known for this, except that their tradition was such; it had become like the *jizya*.” The gloss comparing the king’s gift to the Exilarch and the *jizya* is unclear. This led Goldziher, “Renseignements,” 121–125, and Moshe Gil, *Jews in Islamic Countries*, 90, to instead understand the passage as a reference to the Exilarch paying four thousand dirham to the Sasanian king, which, however, does not fit the grammar.

³¹ Gafni, *The Jews of Talmudic Babylonia*, 157, says this encounter took place during the reign of Khusro I.

³² Noteworthy, the Catholicos does not appear in any of these texts as one of the elites. For more on the Catholicos, see below.

³³ Indeed, the king’s court was mobile, and thus accessible to elites from around the empire. See Florence Jullien, “Parcours à travers l’Histoire d’Īšō‘sabran, martyr sous Khosrau II,” in *Contributions à l’histoire et la géographie historique de l’Empire Sassanide*, ed. Rika Gyselen (Bures-sur-Yvette: 2004), 179–80. For Christian school masters, see Adam H. Becker, *Sources for the History of the School of Nisibis* (Liverpool: 2008), 155.

Babylonian Talmuds with slight variations.³⁴ In it, Rabbi Ḥanina offers a heuristic device to remember the two dominant shades of leprosy, each of which is further subdivided into two, by paralleling them to a hierarchal list of Sasanian figures:

Rabbi Ḥanina said “A rabbinic parable: To what shall we compare this. . .”

Rav Adda bar Ahava said “Such as the king, and the *alqapaṭa*, and the general, and the Exilarch.”

But is this one above the other?

Rather, the king and the general, and the *alqapaṭa* and the Exilarch.

In these passages, the Exilarch appears last in a list of leading figures in the empire that includes king, general, and *arqapaṭa/alqapaṭa*, known in Middle Persian as *hargbed*.³⁵ While this source has served in the past to support the scholarly contention that the Exilarch was part of the imperial apparatus, it fails when subjected to critical scrutiny.³⁶ First and foremost, the list is intended as a heuristic device, not a precise account of the relative position of particular figures in the empire. Indeed, the list is simply one in a series of suggested heuristics which includes “two kings and two governors,” “Shapur and Caesar,” and “a [new white] woolen garment, and a worn-out woolen garment; and a [new white] linen garment, and a worn-out linen garment.” Lacking any further details, it is unclear what the Exilarch’s inclusion here means: do the rabbis really believe he is fourth in imperial rank, an impossibility given his absence from any imperial inscriptions that list, in often excruciating detail, administrative titles and elite figures? Alternatively, perhaps the Exilarch’s appearance at the end of the list does not mean he was fourth in the pyramid, but simply the lowest of the four in status and position. Indeed, elsewhere the rabbis use the term *hargbed* less to refer to a particular role than to evoke the

³⁴ B. Shebu. 6b, cf. y. Shebu. 1.2 (32d).

³⁵ While the king and general are self-evident, the *hargbed* went from a relatively unimportant position to a highly significant role by the late third century – as evidenced by its absence from earlier Sasanian administrative lists and its prominence in the list in King Narseh’s inscription in Paikuli – though we lack any clear definition of its attendant roles and responsibilities. On the *hargbed*, see: Herman, “Persia in Light of the Babylonian Talmud: Echoes of Contemporary Society and Politics: *hargbed* and *bidaxš*,” in *The Talmud in Its Iranian Context*, ed. C. Bakhos and R. Shayegan (Tubingen: 2010), 61–84; Chabot, *Synodicon Orientale*, 21, 260–261; Maria Macuch, “The Case against Mar Aba, the Catholicos, in the Light of Sasanian Law,” *ARAM* 26 (2014): 48n5; and Daryaei, “Palmyra and the Sasanians,” 41.

³⁶ As noted by Gafni, “Political, Social, and Economic History,” 803; and Herman, *Prince without a Kingdom*, 86–92.

notion of a member of the upper crust.³⁷ The Exilarch's placement at the end of the list would suggest not that he is literally fourth in the empire in terms of rank, nor that he occupies a formal position in the empire, but simply that he is an elite, lower than the other three figures.

Sasanian administrative positions are put to similar heuristic use by an admittedly later author, the twelfth-century Iranian scholar al-Shahrastānī, in a section describing the teachings of the enigmatic Mazdak, whose movement is said to have wreaked havoc in the Sasanian Empire in the late fifth century. According to al-Shahrastānī, Mazdak taught that “his object of veneration . . . has at his disposal four powers: Discrimination, Intelligence, Preservation and Joy, as there are under the control of a king four persons: *mōbedān mōbed*, the chief *hērbed*, the *išbahbaḍ* and the *rāmiškar*.”³⁸ Here too we find a heuristic list of four officials in the Sasanian Empire, this time the high priest, another kind of high priest, a general, and an entertainer or musician. This list hardly represents the four leading figures in the empire, nor does it constitute a single type of social hierarchy, and the final member of the list is not a leading figure at all. Instead, the list reflects the heuristic purposes of its author, who selected figures as counterparts to particular attributes. The same is likely true of the lists featuring the Exilarch.³⁹ These sources have understandably excited earlier scholars, but they are a flimsy basis upon which to build the case for the Exilarch's role as an officially recognized intermediary.⁴⁰

³⁷ b. Zeb. 96b. A legal discussion in b. B. Bat. 172b refers to the Sasanian king and the Exilarch together as examples of the very wealthy.

³⁸ See Mansour Shaki, “The Cosmogonical and Cosmological Teachings of Mazdak,” *Acta Iranica* 24 (1985): 527–543 (esp. 528 and 533–534).

³⁹ A related text (y. Ber. 2.4; [5a]) appears in a series of playful anecdotes concerning the difficulties rabbis faced concentrating during prayer, including one rabbi who counts birds and another stones. In this context, Rabbi Ḥiyya notes that once, when trying to concentrate in prayer, he asked himself “who enters first before the king, the *arqabaṭa* or the Exilarch?” Herman, *Prince without a Kingdom*, 90–92 compellingly argues that this source is derivative of the heuristic device discussed above, and that the attribution to Rabbi Ḥiyya is pseudepigraphic.

⁴⁰ The title Exilarch, or “Head of the Diaspora,” may be an additional reason that scholars have attributed an intercessory and official role to the Exilarch, but such appellations are not uncommon. The elite figure Yazdin is called “Head of the Believers” in the *History of Isho 'sabran*: J. B. Chabot, “Histoire de Jésus-Sabran, écrite par Jésus-Yab d'Adiabène,” in *Archives des missions scientifiques et littéraires* 7 (1897): 520. Moreover, he is analogized in the Chronicle of Khuzistan to Joseph before Pharaoh: Nasir al-Ka'bi, *A Short Chronicle on the End of the Sasanian Empire and Early Islam* (Piscataway, NJ: 2016), 44. Figures who do not assume ecclesiastical positions are referred to as “Head of the Christians” (رأس نصارى) in the *Martyrdom of Pethion*: Paul Bedjan,

In short, we lack any passages unproblematically dating to the Sasanian period that describe the appearance of the Exilarch before the king or present him as an imperial intermediary. Later Jewish and non-Jewish sources, including medieval chronographies, the story of the Exilarch's daughter Šišinduxt, and the story of Bustanai, largely reflect the (desired) cultural and political position of the medieval-era Exilarch retrojected onto the Sasanian past. If these passages do not offer clear evidence of the position of the Exilarch, we must turn to the functions and responsibilities attributed to the Exilarch in the Talmud to deduce his place within Jewish society. These can be divided into three areas: taxes, markets, and law.

TAXES

A common assertion is that the Exilarch was responsible for tax collection on behalf of Jews.⁴¹ Yet we lack any evidence to support this claim.⁴² The Talmud describes imperial tax collectors and royal policies pertaining to taxes without any indication that the Exilarch was involved in the process.⁴³ Several sources in the Babylonian Talmud portray a few Jews functioning, often begrudgingly, as low-level tax collectors working under the aegis of a more prominent – apparently non-Jewish – figure.⁴⁴ Even here, the Exilarch is absent.

The other major scholarly argument furnished to support the claim that the Exilarch was responsible for tax collection draws an analogy to the fourth-century East Syriac bishop, Simeon bar Šabba'e. Simeon is a prominent figure in the memory of East Syriac Christians and considered

ed., *Acta Martyrum et Sanctorum* (Leipzig: 1890–1897), 2.610. I note here that the one contemporary non-Jewish reference to Babylonian Jewish elites does not mention the Exilarch. See Theophylact, *History*, 5.7, 4–9 in Michael and Mary Whitby, *The History of Theophylact Simocatta* (New York: 1986), 141–142.

⁴¹ For a review of the literature, see David Goodblatt, "The Poll Tax in Sasanian Babylonia: The Talmudic Evidence," *Journal of the Economic and Social History of the Orient* 22 (1979): 270, 293; and Herman, *Prince without a Kingdom*, 176n72–73. See also y. Sot. 5.5 (20b), often understood to refer to taxes, with Herman, *Prince without a Kingdom*, 237–238.

⁴² See discussion in Goodblatt, "Poll Tax," 250; Herman, *Prince without a Kingdom*, 176–179; and contra Beer, *Exilarchate*, 118–123.

⁴³ See the fascinating reference in b. Ta'an. 20a to the effect that Jews are not appointed to certain positions in the Sasanian Empire.

⁴⁴ b. Sanh. 25b; B. Bat. 167a, 8a; Bek. 31a. See Moshe Beer, "Were the Babylonian Amoraim Exempt from Taxes and Customs?" [in Hebrew], *Tarbiz* 33 (1964): 249–250, and discussion in Chapter 2.

the arch-martyr of what became known as the Great Persecution under Shapur II.⁴⁵ As commonly understood, the accounts of his death attribute his martyrdom to his refusal to collect taxes on behalf of the Sasanian Empire.⁴⁶ The implication of this report is that, as a function of his position as head of the East Syriac ecclesiastical hierarchy, he was expected to collect taxes from Christians on behalf of the empire. If part of the *Catholicos*' remit as communal intermediary was to collect taxes, the Exilarch was thought by analogy to perform a similar function for Jews.

Some skepticism has, however, rightly been expressed about this analogy.⁴⁷ The imperial order to Simeon came at a time of increased tension between the Empire and its Christian subjects. It is difficult, therefore, to extrapolate broadly beyond it. A lack of corroborating evidence for other *Catholicos* collecting taxes further problematizes the extent to which Simeon's story is representative.

Yet these cautionary notes do not go far enough. The royal order to Simeon to collect taxes from Christians is in fact a later hagiographical embellishment.⁴⁸ There are two main Syriac versions of Simeon's story: *The Martyrdom of Simeon bar Šabba'e* and the *History of Simeon bar Šabba'e*, and there is a derivative Greek account in Sozomen's *Ecclesiastical History*, composed in Constantinople in the 440s. Simeon is ordered to collect taxes in the *History* but not in the *Martyrdom*, nor in Sozomen's retelling. The significance of this disparity is illuminated by understanding the interrelationship of these sources.

In 1967, Gernot Wiessner influentially argued for the existence of a common source (ABx), of which the *Martyrdom* (A) and *History* (B) were different recensions, and from which Sozomen also drew.⁴⁹ He thus

⁴⁵ For further detail, see Chapters 3 and 4.

⁴⁶ For recent discussions, see: Karin Mosig-Walburg, "Die Christenverfolgung Šāpūrs II. vor dem Hintergrund des persisch-römischen Krieges," in *Inkulturation des Christentums im Sasanidenreich*, ed. A. Mustafa and J. Tubach (Wiesbaden: 2007), 171–186; Kyle Smith, *The Martyrdom and History of Blessed Simon bar Šabba'e* (Piscataway, NJ: 2014), xvii–l; Smith, *Constantine and the Captive Christians of Persia*; and Payne, *State of Mixture*, 40–44.

⁴⁷ Goodblatt, "Poll Tax," 249–250; Herman, *Prince without a Kingdom*, 177–178.

⁴⁸ For more, see Gross, "Being Roman in the Sasanian Empire," 380–382.

⁴⁹ Gernot Wiessner, *Untersuchungen zur syrischen Literaturgeschichte I: Zur Märtyrerüberlieferung aus der Christenverfolgung Šchapurs II* (Göttingen: 1967). Wiessner's views were popularized in English through Sebastian Brock, "Review of G. Wiessner's Zur Märtyrerüberlieferung," *Journal of Theological Studies* 19 (1968): 300–309.

contended that shared elements in the three accounts derived from the earlier common source. Following Wiessner's schema, if the king ordered Simeon to collect taxes in the *History*, and if there was a similar narrative in the *Martyrdom*, this shared story was presumed to emerge from the common source, the earliest record of Simeon's martyrdom.

Recently, Kyle Smith has convincingly challenged Wiessner's reconstruction.⁵⁰ He has argued, instead, that the *Martyrdom* was composed first, and that both the *History* and Sozomen's account were directly dependent on it. The later *History* presents a hagiographical revision of the *Martyrdom*, or a closely related source, that seeks to diminish the appearance of Christian disobedience and offer a more moderate version of Simeon's opposition to the king. For instance, whereas the *Martyrdom* speaks of Christians refusing to pay any taxes, in the *History*, Simeon refuses the draconian imperial order that Christians pay an onerous *double tax*.⁵¹

What continues to go unnoticed is the fact that the story in the earlier *Martyrdom* and the derivative story in Sozomen do not contain any order from the king directing Simeon himself, in his ecclesiastical capacity, to collect taxes. Instead, these texts, and Simeon as a character in them, criticize the avaricious imperial tax collectors, whose behavior causes Simeon to argue that Christians should not pay any taxes at all. In the *History* – a later adaptation offering a more moderate image of Christian opposition to Sasanian rule – the Christians as a group neither refuse to pay taxes, nor does Simeon refuse to obey the king as a matter of principle. Rather, Simeon challenges the premise that Christians should pay a double tax, and specifically that *he* should be responsible for and complicit in the double tax's collection.⁵² The reason we lack

⁵⁰ Kyle Smith, "Constantine and Judah the Maccabee: History and Memory in the Acts of the Persian Martyrs," *Journal of the Canadian Society for Syriac Studies* 12 (2012): 16–33; Smith, *Constantine and the Captive Christians of Persia*, 110–111; and, especially, Smith, *The Martyrdom and History*, xvii–l.

⁵¹ The tax is embellished further in the *Chronicle of Seert*: Addai Scher, ed., *Histoire nestorienne (Chronique de Séert)* (Paris: 1908), 1.90 (hereafter, *Chronique de Séert*). For excessive taxation against Christians in Armenia, see Robert Thomson, *History of Vardan and the Armenian War by Elishe* (Cambridge: 1982), 77.

⁵² It is likely not coincidental that the same word for "edict," from Middle Persian *frawardag* ("letter"; "edict"), is used in the *History of Simeon* (Bedjan, *Acta martyrum et sanctorum*, 1.136) for the edict of the king compelling a double tax, and in the Synod of 410 for the edict gathering the bishops to the royal court. See Claudia Ciancaglini, *Iranian Loanwords in Syriac* (Wiesbaden: 2008), 238. This also suggests the *History of Simeon* is responding to a post-410 reality; on which see more below.

corroborating evidence of other bishops or Catholicoi serving as tax collectors is because this detail is an apologetic embellishment of a later account: It does not reflect the actual duties conferred by the state upon the Catholicos in any period. The case of Simeon shows how preexisting assumptions about the Sasanian Empire's supposed delegation of authority to particular religious communities skews our understanding of the textual evidence.

No evidence, therefore, supports the involvement of the Exilarch – or for that matter of the Catholicos – in tax collection. Tax collection was the remit of imperial appointees of various kinds. These appointees may occasionally have been Jews and Christians, but they owed their positions to their direct participation in the state apparatus, rather than a Jewish or Christian autonomous hierarchy.⁵³

MARKETS

In a few pericopes in rabbinic literature, the Exilarch is depicted as exercising some control over agricultural markets.⁵⁴ In one story in the Palestinian Talmud, the Exilarch appoints a rabbi to oversee weights and prices in the market, using the Greek *agoranomos*, or market overseer, as his title.⁵⁵ While this source has often been taken at face value, Geoffrey Herman notes that there are reasons to doubt its facticity. The source follows a discussion that exegetically derives from the Bible an obligation for Jews to appoint an *agoranomos*.⁵⁶ The *agoranomos* in these sources is therefore not a government appointee, but rather a position within the rabbinically imagined Jewish community. The story of the Exilarch is introduced to problematize the precise nature of the *agoranomos*' responsibilities, with Exilarch and rabbi offering different understandings. Strangely, however, while the Babylonian Talmud's version of this story, which appears to be derivative of the earlier Palestinian source, states that the house of the Exilarch appoints *agoranomoi*, the Exilarch and his

⁵³ On Jewish tax collectors, see Chapter 2, p. 129. ⁵⁴ b. B. Bat. 22a.

⁵⁵ y. B. Bat. 5.5 (15a–b). Here the Exilarch is referred to as the *resh galuta*, while in b. B. Bat. 89a his household is referred to as *be nesiya*. The figures in the story are the Babylonian rabbis Shmuel and Qarna. See Beer, *Exilarchate*, 123–126; and Herman, *Prince without a Kingdom*, 162–172. Louis Jacobs, “The Economic Conditions of the Jews in Babylon in Talmudic Times Compared with Palestine,” *Journal of Semitic Studies* 2 (1957): 355, suggests that the existence of the *agoranomos* is a holdover from Hellenistic rule in Babylonia.

⁵⁶ Sifre Deuteronomy, *Ki Tešei*, 394 (ed. Louis Finkelstein, *Sifre Deuteronomy* [New York: 1939], 313); Sifra *Qedoshim* 8 (ed. Isaac Weiss, *Sifra de-bei rav* [Vienna: 1862], 91).

household are absent from the ensuing account, again suggesting that the Exilarch did not, in reality, appoint any such figure.⁵⁷

In general, the *agoranomos* was a Greek, and then Roman, overseer, and often one of low rank and local appointment, responsible for ensuring good order in the market.⁵⁸ There is less evidence of a widespread position akin to the *agoranomos* in Babylonia. In Shapur I's trilingual inscription at *Ka'ba-ye Zardošt* from the second half of the third century, the fifty-seventh figure on a list of officials in Middle Persian is the *wāzārbed*; a market head (the word "bazaar" derives from *wāzār*). This is translated in the Greek version of the inscription as *agoranomos*. Yet in the context of an inscription listing the top positions of the Empire, the *wāzārbed* does not sound like a position equivalent to the *agoranomos*, but instead was likely a distinct office that was best approximated in Greek by the word *agoranomos*.⁵⁹ All of this suggests, as Herman argues, that these stories "originated in Palestine" and depict "Babylonia in accordance with the reality of Palestine."⁶⁰

In another story, the Exilarch is depicted as possessing the ability to "seize the market" in the capital city of Meḥoza, removing marketplace competition by allowing a particular merchant to complete selling their wares before others may sell theirs. According to the story, Rav Dimi from Nehardea arrives at Meḥoza with a boat filled with figs. The Exilarch instructs Rava to examine the rabbi and see whether he is in fact a "rabbinic scholar" and therefore worthy of market seizure.⁶¹ Rava delegates this task to his junior, Rav Adda bar Ahava, who effectively insults Rav Dimi, both by his crass questions (if an elephant swallowed an Egyptian basket and expelled it through its anus, what is its status?), and subsequently by demeaning Rav Dimi himself. As Barry Wimpfheimer has shown, this story is a literary creation, comprised of a variety of sources throughout the Talmud, with the purpose of serving as a counterweight to an earlier legal discussion.⁶² More to the point, the story hardly conveys

⁵⁷ b. B. Bat. 89a.

⁵⁸ See especially Daniel Sperber, "On the Office of the Agoranomos in Roman Palestine," *Zeitschrift der Deutschen Morgenländischen Gesellschaft* 127 (1977): 227–243.

⁵⁹ There is also one case in b. B. Qam. 98a, where an Arab merchant is described as an *agoranomos* and provides rabbis with information about currency appreciation.

⁶⁰ Herman, *Prince without a Kingdom*, 172.

⁶¹ The precise meaning of "rabbinic scholar" is unclear and demands further study. See Goodblatt, *Rabbinic Instruction*, 286–288 and *passim*.

⁶² Barry S. Wimpfheimer, *Narrating the Law: A Poetics of Talmudic Legal Stories. Divinations, Rereading Late Ancient Religion* (Philadelphia, PA: 2011), 122–46. See also the discussion of Marc Hirshman, *The Stabilization of Rabbinic Culture 100 C.E.–350*

the “centralized authoritative structure of the Babylonian Jewish community” as some have argued.⁶³ Indeed, other rabbis are similarly said to have exercised the ability to freeze the market and to intervene in market affairs.⁶⁴ For instance, according to a rabbinic discussion, local merchants sell their wares before itinerant merchants.⁶⁵ This does not appear to have been a set law, as the locals of one town asked Ravina to intercede when itinerant basket-sellers came to sell their wares, and rather than rule decisively in one direction, Ravina offers a compromise intended to appease both parties. In an adjacent story, Rava allows two rabbis to break the rules of priority so that they may return to their studies more quickly. This suggests that the ability to seize and manipulate the market stemmed not from imperial *diktat* but from communal influence, or simply lived in the literary imagination of the rabbis altogether.⁶⁶

Indeed, the story of Rav Dimi can be read instead as a subtle critique of the way the Exilarch and his henchman doled out social privileges and deployed power and status; not in a formal capacity, but one imposed by social pressure. The story concludes with Rav Dimi disgraced and his figs spoiled and unpurchased. When Rav Dimi reports his misfortunes to Rav Joseph, the latter curses those who harmed Rav Dimi. As a result, Rav Adda bar Ahava, who ultimately did the bidding of the Exilarch by submitting Rav Dimi to questioning, dies. We find a similar condemnation of ecclesiastical use and abuse of power and privilege outside of the centralized power of the state in Aphrahat’s *Demonstration* 14.⁶⁷ Composed just prior to the middle of the fourth century, Aphrahat denounces the bishop of Seleucia-Ctesiphon for exploiting his flock for the sake of his own self-exaltation and aggrandizement, and for doling out favors, titles, and honors to his corrupt cronies.⁶⁸ The bishop needlessly foments social strife, when instead he should pursue concord. According to the story of Rav Dimi, in his seizure of the markets, the

C.E.: *Texts on Education and Their Late Antique Context* (Oxford: 2009), 83–95; and Herman, *Prince without a Kingdom*, 173–176.

⁶³ Gafni, “Political, Social, and Economic History,” 803.

⁶⁴ Rav Hama in b. B. Meṣ. 65a. See Herman, *Prince without a Kingdom*, 175.

⁶⁵ b. B. Bat. 22a.

⁶⁶ For exilarchal enforcers, see e.g., b. Giṭ. 67b (abusing Rav Amram). The rabbis depict themselves intervening in disputes involving the market. See b. B. Bat. 21b–22a.

⁶⁷ Herman, *Prince without a Kingdom*, 176.

⁶⁸ J. Parisot, *Aphraatis Sapientis Persae Demonstrationes I–XXI*, *Patrologia Syriaca* 1.1 (Paris: 1894), 577–582, 587–592, 635–650.

Exilarch similarly fosters discord in Babylonian Jewish society, pitting rabbi against rabbi and Jew against Jew in a competition for honor and privileges.

The Exilarch did not collect taxes, nor did he appoint Jews to formal governmental oversight of the markets. He may have had some power to seize the markets, but this did not derive from some official imperial position. Instead, this power was likely a product of the Exilarch's prestige and social capital and could therefore be deployed by others with some degree of social capital, including particular rabbis.

LEGAL JURISDICTION

The Exilarch is commonly thought to have overseen a system of official Jewish courts which regulated Babylonian Jewish society.⁶⁹ Few sources, however, can be mustered to support this view.⁷⁰

According to one source, judges were present at the gate of the Exilarch:⁷¹

R. Naḥman said to R. Huna, "Does the law follow our opinion or yours?" He replied, "The law follows your view, since you are closer to the Exilarch's court/gate (*baba*), where judges are prevalent (*škbibe*)." ⁷²

Rav Huna argues that Rav Naḥman's legal view carried more weight by virtue of his closer proximity to the Exilarch's court or gate where judges were, depending on the translation, present, available, or prevalent.⁷² Rav Naḥman is elsewhere identified as the son-in-law of the Exilarch, and his

⁶⁹ Neusner, *History of the Jews*, 2.64–72; Neusner, *A History of the Jews*, 5.244–259; Neusner, *School, Court, Public Administration: Judaism and Its Institutions in Talmudic Babylonia* (Atlanta, GA: 1987), esp. 130–131; Gafni, "Political, Social, and Economic History," 802; Simonsohn, *Common Justice*, 50–52; Herman, *Prince without a Kingdom*, 194–209.

⁷⁰ Herman, *Prince without a Kingdom*, 195n112, shows the extent to which scholars must stretch to ground exilarchal judicial authority. See also Herman, 309–319, which examines how the rabbi and judge Mar 'Uqba appears to be treated as an Exilarch only in later layers of the Talmud and is only explicitly identified as such in medieval chronographies (cf. Neusner, *History of the Jews*, 2.106–107).

⁷¹ b. B. Bat. 65a. See discussion in David M. Goodblatt, *The Monarchic Principle: Studies in Jewish Self-Government in Antiquity* (Tübingen: 1994), 287; and Beer, *Exilarchate*, 77–78.

⁷² MS Vatican 115b reads דשכיחי להו דייני.

assumed access presumably stems from his close familial relationship with the Exilarch.⁷³

This brief story has been taken to suggest that the Exilarch superintended a network of courts. Yet the source makes no mention of a general court system; it refers only to a group of judges who, for whatever reason, frequent the court of the Exilarch. It is also unclear whether the word *baba* refers to the “court” of the Exilarch, which judges frequented perhaps as guests, or more specifically to the gate of his estate, which may have served as a meeting place to resolve communal affairs.⁷⁴ There is a long history in the Near East of judges adjudicating at the entrance to a city or noteworthy landmark, a phenomenon found in the Bible and also the Talmud.⁷⁵ In either case, there is no indication that the judges in question answer to the Exilarch.

The same Rav Naḥman appears in one of the other stories cited as evidence of the Exilarch’s system of courts. A rabbi is encouraged to accept a summons sent by Rav Naḥman to display “the honor due to the Exilarchate.”⁷⁶ In the ensuing story, there is no court, but simply Rav Naḥman in his home hearing a dispute between two litigants. Moreover, the rabbi appears before Rav Naḥman not because he has authority; indeed, he originally considers ignoring the summons. Ultimately, he agrees to appear before Rav Naḥman after a rabbi encourages him to express “honor due to the Exilarchate,” but no more. This suggests that attending Rav Naḥman’s summons was not mandatory, nor did it carry coercive power. In another story, Rav Naḥman issues a ruling on behalf of the Exilarch, and his ruling document is torn up in protest by another

⁷³ For Rav Naḥman as son-in-law of the Exilarch, see b. Ḥul. 124a. For Rav Naḥman in the court or residence of the Exilarch, see Herman, *Prince without a Kingdom*, 149 and esp. n80 there.

⁷⁴ See similarly b. B. Bat. 58a, and Becker, *Sources*, 155n510. Another story (b. Shab. 126b) describes a rabbi teaching at the entrance or “opening” of the Exilarch, although the word there is different (*pitḥa*). A story in b. Sanh. 7b, which reworks y. Bik. 3:3 (65d), pertains to the Patriarch and Palestine, not the Exilarch, contra the intimation in Herman, *Prince without a Kingdom*, 192n112.

⁷⁵ Natalie N. May, “Gates and Their Functions in Mesopotamia and Ancient Israel,” in *The Fabric of Cities: Aspects of Urbanism, Urban Topography and Society in Mesopotamia, Greece and Rome*, ed. Natalie N. May and Ulrike Steinert (Leiden: 2014), 77–123; Lee Levine, *The Ancient Synagogue: The First Thousand Years* (New Haven, CT: 2005), 28–42; and b. Ned. 66b. For the formalization of the Exilarch’s “gate” as a place of judgment in the medieval period, see Gil, *Jews in Islamic Countries*, 87.

⁷⁶ b. Qid. 70a. See Gross, “Rethinking Babylonian Jewish Acculturation”; and Chapter 2 for further analysis of this source.

rabbi.⁷⁷ The Exilarch asks Rav Naḥman for an explanation, and two versions of his response are offered: The latter either replied that Rav Yehuda must have had a good reason, or that Rav Yehuda's action can be dismissed because Rav Naḥman is a greater judge. Neither answer assumes the Exilarch carries any special legal authority.

There are astonishingly few additional sources that even tangentially associate the Exilarch with adjudication.⁷⁸ In one case, the Exilarch suspects that a Jew killed a man, and he instructs a rabbi to investigate the matter, and if it is confirmed, the rabbi should “dim his (i.e., the murderer's) eyes,” a form of extra-judicial punishment also employed elsewhere by rabbis.⁷⁹ The Exilarch is not involved in the subsequent story. This suggests that the Exilarch may have been interested in maintaining social order but did not have a court system of his own ready to deploy. He also lacked the authority to impose punishment, or at least capital punishment, and so encouraged the rabbi to use discrete and clandestine measures, presumably to avoid the watchful eye of the actual imperial authorities.⁸⁰ In another story, the Exilarch is asked to rule in a case, but his judgment is rejected by the litigant, who instead approaches a rabbi to receive a different ruling altogether.⁸¹ This hardly suggests formal legal authority.

As with taxes, the assumption of exilarchal legal authority was misleadingly read back into earlier sources. A particularly instructive example is an admittedly complicated, albeit brief, talmudic passage that has been instrumental to the notion of exilarchal legal authority. This short legal discussion seeks to clarify an enigmatic mishnah in tractate 'Eruvin. The tractate is dedicated to the laws for establishing a boundary marker, or *'eruv*, that permits people to carry objects in a city's public

⁷⁷ b. B. Meṣ. 66a.

⁷⁸ I have discussed the most prominent source, b. Sanh. 5a, elsewhere, and have shown that it reflects post-Amoraic developments in rabbinic imaginations about the authority of the Exilarch. See Gross, “Reassessing Exilarchal Authority,” and 266n7 there for how medieval commentators and scholars have read b. Sanh. 5a into other passages, such as b. Ket. 94b, where Rav Naḥman rejects the opinion of Rav Sheshet for two reasons, one of which is that “I am judge and the master (i.e., Rav Sheshet) is not.” Medieval and modern commentators have considered this again to refer to formal exilarchal appointment, but given that it is coupled with a second argument invalidating Rav Sheshet's opinion, it appears to constitute a simple boast, similar to those made by Rav Naḥman elsewhere. See also Gross, “Reassessing Exilarchal Authority,” 269n18.

⁷⁹ b. Sanh. 27a–b; compare with b. Ber. 58a.

⁸⁰ Beer, *Exilarchate*, 62–64, claims that this proves the Exilarch had authority *even* over capital cases, arguing against Lazarus who had contended that the Exilarch was authorized to rule in civil but not capital cases.

⁸¹ b. B. Qam. 58b. To be discussed below.

spaces on Shabbat, a typically forbidden activity. In general, the theory behind the law is that one may carry in enclosed private property, and the 'eruv is a legal fiction that turns public spaces into nominally private spaces. The mishnah discusses the unusual case of a city that was once privately owned, presumably occupied by tenants, but that has since become publicly owned and is now divided among each of its residents. The mishnah presupposes that different rules typically apply to the application of 'eruv in privately versus publicly owned cities; in the former case, since it is privately owned already, a single 'eruv suffices.⁸² In publicly owned cities, by contrast, it must be made clear that it is only the 'eruv that allows people to carry, lest they mistakenly infer that carrying is always permitted in public. Therefore, in publicly owned cities, a designated space was left outside of the 'eruv to serve as a reminder that it is the 'eruv that permits carrying on Shabbat in the rest of the city. In the ambiguous case of a privately owned city that becomes public, the mishnah rules, without explanation, that a single 'eruv still suffices, as when it was privately owned, and no additional space must remain outside of the 'eruv to serve as a reminder.

The Talmud seeks to identify an example of a private city that becomes public, and the reason it should be exempt from the typical requirements of a publicly owned city:⁸³

What is a city of an individual [i.e., private] that became a city of the masses [i.e., public]?

R. Yehuda replied, "For example, the *disqarta* of the Exilarch."

Said R. Nahman to him, "What is your reason [for singling out the *disqarta* of the Exilarch]? If it be suggested: Because many people meet at [the residence/office of] the *harmana* (or *kahramana*) they would remind each other – but are not all Israel assembled together on a Sabbath morning also?"

Rather said R. Nahman, "For instance, the *disqarta* of Nitzwoi."

Previously understood as reflecting the Exilarch's imperial authority (*harmana*), careful analysis of this complex source uncovers crucial flaws with this interpretation. Rav Yehuda offers an example of a city that was privately owned and became public: the "*disqarta* of the Exilarch." *Disqarta* derives from the Middle Iranian term for an elite estate, realized as *dastgird* in Middle Persian.⁸⁴ These were large landholdings that often included both

⁸² m. 'Eruv. 5.6. ⁸³ b. 'Eruv. 59a.

⁸⁴ Michael Sokoloff, *A Dictionary of Jewish Babylonian Aramaic of the Talmudic and Geonic Periods* (Baltimore, MD: 2002), 344–345 (hereafter, DJBA). Linguistic analyses include Wojciech Skolmowski, "On Middle Iranian *dstrkt(y)*," in *Medioiranica: Proceedings of the International Colloquium Organized by the Katholieke Universiteit*

agricultural fields and living quarters.⁸⁵ These estates, as described by both Sasanian law and elsewhere in the Babylonian Talmud, required large staffs, including slaves, for upkeep and maintenance.⁸⁶ The legal discussion in the Talmud here therefore seems to refer to what was previously a privately owned estate of the Exilarch that has since become publicly owned. The process of a *disqarta* transforming from private estate to public city was, in fact, fairly common; a number of Sasanian cities in Late Antiquity were named *dastgird*, a vestige of their previous status as private estates.⁸⁷ In a similar vein, *disqartas* also became homes to monasteries and schools, again sometimes bestowed by a single wealthy benefactor, showing how they could transition between various

Leuven, ed. Wojciech Skalmowski and Alois Van Tongerloo (Leuven: 1993), 157–162; Ciancaglioni, *Iranian Loanwords in Syriac*, 153–154; and Antonio Panaino, “Between Semantics and Pragmatics: Origins and Developments in the Meaning of *dastgerd*. A New Approach to the Problem,” *Sasanian Studies* 1 (2022): 215–242.

⁸⁵ Dastgirds are also mentioned in b. Meg. 16a (see Chapter 2); ‘Erub. 59a; and Giṭ. 40a. See P. Gignoux, “Les inscriptions en moyen-perse de Bandiān,” *Studia Iranica* 27 (1998): 251–258; Gignoux, “Dastgerd,” in *Dārā(b)–Ebn al-Aṭīr*, vol. 7, *Encyclopædia Iranica*, ed. Ehsan Yarshater (Costa Mesa, CA: 1994), 105–106; Jean de Menasce, “Inscriptions pehlevies en écriture cursive,” *Journal asiatique* 244 (1956): 424; Herman, *Prince without a Kingdom*, 137–138; and Richard Payne, “Territorializing Iran in Late Antiquity: Autocracy, Aristocracy, and the Infrastructure of Empire,” in *Ancient States and Infrastructural Power*, ed. Clifford Ando and Seth Richardson (Philadelphia, PA: 2017), 189–190. For Khusro II’s opulent *dastgird*, see Frye, *History of Ancient Iran*, 337; and Hugh Kennedy, “From Shahrīstan to Medina,” *Studia Islamica* 102 (2006): 13. Identified with Khosrow-shad-Kavadh, attested in a number of seals, this city was an estate of the king, and it featured a palace, was built on waterways, and grew in size over the course of the Sasanian period.

⁸⁶ *Book of a Thousand Judgments* 18 in Maria Macuch, *Rechtskasuistik Und Gerichtspraxis Zu Beginn Des Siebenten Jahrhunderts in Iran: Die Rechtssammlung Des Farrohmard i Wahrāmān* (Wiesbaden: 1993), 153, 158–159; and Anahit Perikhanian, *Mādayān ī Hazār ī Dādestān: Book of a Thousand Judgments, a Sasanian Law-Book* (Costa Mesa, CA: 1997), 62–63; MHD 39 in Macuch, *Rechtskasuistik*, 279, 284–285; and Perikhanian, *Book of a Thousand Judgments*, 106–107, where it is MHD 38; and MHD A36, in Perikhanian, *Book of a Thousand Judgments*, 314–315; and b. Giṭ. 40a.

⁸⁷ *Dastgirds* appear as a toponym in b. Shab. 93a; Soṭ. 6b; and Giṭ. 28b. Similarly, a Rav Huna is said to be from *Disqarta* in b. B. Meṣ. 47a; see references in Aharon Oppenheimer, *Babylonia Judaica in the Talmudic Period* (Wiesbaden: 1983), 115–117; and *The Provincial Capitals of Ērānšahr*, sec. 20 (Touraj Daryaei, *Šahrestānīhā ī Ērānšahr: A Middle Persian Text on Late Antique Geography, Epic and History* [Costa Mesa, CA: 2002], 19). In the Synod of Dadisho in 422, one Sharbil appears to live in the *dastgird* of the king. See Nina Viktorovna Pigulevskaia, *Les villes de l’État iranien aux époques parthe et sassanide: contribution à l’histoire sociale de la basse Antiquité* (Paris: 1963), 151–153; and Smith, *Constantine and the Captive Christians of Persia*, 186.

states of private and public ownership.⁸⁸ In seeking to understand the Mishnah's ruling concerning "a private city that became public," Rav Yehuda therefore provides a local Babylonian example of such a phenomenon: The *disqarta* of the Exilarch, which was once privately owned by the Exilarch, and later publicly owned.

Based on the principle that a specific example would only be furnished due to some novelty it introduces to the discussion, the later Rav Naḥman seeks to understand whether there is something particularly instructive about the *disqarta* of the Exilarch. He wonders if perhaps Rav Yehuda selected it because of the additional novelty that people regularly meet there at the residence or office of the so-called *harmana*, a Persian loanword broadly meaning "authority," in this case, "authority figure." When gathered at the *harmana*, people would remind each other of the city's shift from private to public ownership, thereby obviating the need for a space outside the 'eruv to serve as a formal reminder. He rejects this explanation, however, because Jews also regularly meet weekly on Shabbat wherever they are, and therefore the fact that people gather at the *harmana* is not a novelty. Instead, Rav Naḥman proposes that a better example is the *disqarta* of Nitzwoi, although he elaborates no further. The implication is that the *disqarta* of Nitzwoi also transitioned from private to public ownership, like many other *disqartas*, and that even though no *harmana* resides there, the Mishnah's law still applies to it.⁸⁹ The lesson is that any city that transitions from private to public ownership can count on regular encounters, like those that occur on Shabbat, to remind residents of its status as a formerly private city.

The significance of this passage in scholarly accounts of the Exilarch derived from two fundamental misunderstandings. First, scholars simply failed to recognize that the *disqarta* of the Exilarch referred to in the text was *once* owned by him, but no longer. They therefore assumed that the *harmana* who dwelled in the *disqarta* must refer to the Exilarch himself, and to his imperial appointment and/or judicial authority.⁹⁰ The very premise of the Talmudic discussion, however, is that the *disqarta* was no

⁸⁸ Philip Wood, *Chronicle of Seert: Christian Historical Imagination in Late Antique Iraq* (Oxford: 2013), 77. See Adam Becker, *Fear of God and the Beginning of Wisdom: The School of Nisbis and Christian Scholastic Culture in Late Antique Mesopotamia* (Philadelphia, PA: 2006), 80–81.

⁸⁹ This is almost certainly a personal or family name, not an office, contra Herman, *Prince without a Kingdom*, 137n19.

⁹⁰ Herman, *Prince without a Kingdom*, 137–138.

longer privately owned by the Exilarch, and the *harmana* located there was therefore *not* the Exilarch at all.

A second error was that scholars preferred the reading *harmana*, and assumed this referred to the Exilarch, who therefore enjoyed some degree of “authority.” The word *harmana*, however, is in fact a clear scribal error.⁹¹ Most manuscripts instead have the related but less common word *kabramana*, realized in Middle Persian as *kārframān*.⁹² The term can refer to a general deputy or appointed official, someone with oversight capacity or delegated authority of some kind, or to a servant.⁹³ The term has the former meaning elsewhere in the Babylonian Talmud, where it refers to the appointment of a lessee with authority over one’s property.⁹⁴

However, there is also a more technical use of the term in several cases in the so-called Sasanian law book, the *Book of a Thousand Judgments* (*Mādayān ī Hazār Dādestān*, hereafter *MHD*), a collection of earlier case law typically dated to the early seventh century. Here it refers to the authority conferred upon certain Sasanian judicial officials to validate documents with their seals.⁹⁵ These “seals for the exercise of authority” (*muhr ī pad kār-framān dāštan*), or just “official seals,” were used by regional officials of different ranks to sign depositions, whether in criminal or civil cases. Papyri dating from the period of the Sasanian occupation of Egypt in the early seventh century feature a figure named Saralaneozan (Middle Persian, *Shahrālānyōzān*) who is identified as the *kārframān-i dar*, the *kārframān* of the court.⁹⁶ Among his other functions, he too appears to be responsible for sealing judicial documents, but also for collecting taxes and approving goods and persons for travel

⁹¹ This should already have been clear from the fact that elsewhere in the Babylonian Talmud, the word typically appears as the “*harmana* of the king,” when referring to imperial edicts and/or authorization. Yet here “of the king” is conspicuously absent.

⁹² Oxford Heb. b. 10/9–12+, Oxford Heb. d. 21/6–9, CUL: T-S F 1(1).85; Vatican 109 (where the q is erased). As noted by Sokoloff, *DJBA*, 989; and Herman, *Prince without a Kingdom*, 137.

⁹³ For the former, see *MHD* 48, 7–10 (Macuch, *Rechtsskautistik*, 308, 324, 356–357; and Perikhanian, *Book of a Thousand Judgments*, 128–129). For the latter, see Frantz Grenet, *La geste d’Ardashir fils de Pābag. Kārnāmag ī Ardaxšēr ī Pābagān* (Paris: 2003), 92–93 and passim. For the borrowing of the Persian word into Arabic, see Mushegh Asatrian, “Iranian Elements in Arabic: The State of Research,” *Iran & the Caucasus* 10 (2006): 96n8.

⁹⁴ b. B. Bat. 46b.

⁹⁵ See Maria Macuch, “The Use of Seals in Sasanian Jurisprudence,” in *Sceaux d’Orient et leur mploy*, ed. Rika Gyselen (Bures-sur-Yvette: 1997), 80–82.

⁹⁶ Dieter Weber, “Eine spätsassanidische Rechtsurkunde aus Ägypten,” *Tyche* 17 (2002): 185–192.

through Sasanian territory.⁹⁷ The word *kārframān* therefore has a range of possible meanings, but all pertain to officials in a position of authority who validate legal documents and oversee other crucial administrative functions.

We may now fully understand the brief talmudic discussion. What was formerly the private *dastgird* of the Exilarch is now a public site occupied by, among other people, the *kārframān*, an imperial official. Jews would frequent the *dastgird* not to see the previous owner, the Exilarch, but to appear before the *kārframān* and perhaps avail themselves of one of his prerogatives, such as sealing relevant judicial documents. The Talmud elsewhere makes mention of Sasanian criminal deposition documents by their Middle Persian name (*pursišn-nāmag*), correctly noting that the legal case is closed once it is sealed, and in another place recognizes the need for official seals to validate documents in civil cases under Sasanian law.⁹⁸ This shows that Jews had first hand familiarity with the Sasanian legal system, presumably through access to it and to figures like the *kārframān*, a topic we will return to below. Far from pointing to the imperial authority of the Exilarch or his judicial and administrative jurisdiction, this talmudic source shows that Jews had regular and direct recourse to Sasanian administrative figures, like the *kārframān*.

In all, there is very little to support the contention that the Exilarch was responsible for overseeing the administration of judgment among Jews, a negative conclusion to be added to the absence of evidence of the Exilarch serving as formal intermediary, the Exilarch's noninvolvement in tax collection, and at best narrow deployment of social pressure in the case of markets.⁹⁹ To be clear, the Exilarch is undoubtedly viewed as a prominent Jewish figure, and by dint of his elevated social and cultural position, Jews may well have occasionally deferred to him in particular domains, such as seizure of the markets. The Exilarch may have

⁹⁷ See Patrick Sanger, "The Administration of Sasanian Egypt: New Masters and Byzantine Continuity," *Greek, Roman, and Byzantine Studies* 51 (2011): 653–665. See also Jairus Banaji, "On the Identity of Shahrālānyōzān in the Greek and Middle Persian Papyri from Egypt," in *Documents and the History of the Early Islamic World*, ed. Alexander Schubert and Petra Sijpesteijn (Leiden: 2014), 27–42.

⁹⁸ b. Giṭ. 28b and 'Erub. 62a. See below.

⁹⁹ Even Herman's more moderate position (*Prince without a Kingdom*, 195–196) in which he recognizes that "it would seem unlikely that the Jewish judicial system as a whole was subordinate to the Exilarchate," but insists that the Exilarch did possess "considerable judicial power," goes too far.

occasionally had some involvement in resolving conflicts among Jews, but this was not because they filled any formal position vis-à-vis the Empire.

BABYLONIAN RABBINIC JUDGES

If the Exilarch was considered the superintendent of a Babylonian Jewish court system, the rabbis were its official judges. The spiritual and judicial authority of rabbinic courts in both Palestine and Babylonia was once taken for granted. According to this view, the rabbis of both centers were perceived to be leaders of the Jewish community, officiating over law courts and exacting and meting out punishment.¹⁰⁰ Jews were governed first and foremost by Jewish law, or Halakha, as understood and promulgated by the rabbis. The history of ancient Jewish society became, in many ways, a history of rabbinic rule. And yet, while this paradigm has long since fallen out of favor for late antique Palestine, it persists in the study of Babylonia.

Over the course of the last half century, the hegemony of the rabbis in Palestine has been thoroughly challenged. Revisionist approaches that highlight what Shaye Cohen described as the “great tension between rabbinic ideology and social reality” have concluded that the rabbis were not widely recognized sources of spiritual or legal authority across Palestinian and, by extension, Mediterranean Jewish society during the first centuries of the Common Era. Indeed, the rabbis themselves were not institutionalized in any serious fashion, a fact that belies notions of a unified rabbinic movement, to say nothing of a centralized Jewish society.¹⁰¹ Rabbinic influence, instead, grew gradually over many centuries.¹⁰² Romantic notions of the elevated position of the rabbis across ancient Jewish populations and regions have grown untenable.

Palestinian rabbinic court cases recorded in rabbinic literature are no longer regarded as evidence of the formal position of the rabbis in society. Instead, rabbis functioned as arbitrators, and “depended on the consensus

¹⁰⁰ For a critical history of the field, see Schwartz, “Political Geography of Rabbinic Texts.”

¹⁰¹ Levine, *Rabbinic Class*; Hezser, *Social Structure of the Rabbinic Movement*.

¹⁰² On the question of rabbinization, see Seth Schwartz, “Rabbinization in the Sixth Century,” in vol. 3, *The Talmud Yerushalmi and Greco-Roman Culture*, ed. Peter Schäfer (Tübingen: 2002), 55–69; Lapin, *Rabbis as Romans*, 126–150; and the essays in *Diversity and Rabbinization: Jewish Texts and Societies between 400 and 1000 C.E.*, ed. Gavin McDowell, Ron Naiweld, and Daniel Stökl Ben Ezra (Cambridge: 2021).

of the ruled.”¹⁰³ As a result, the rabbis used various means of social pressure to enforce their rulings; they “could threaten, plead, or cajole, but could not subpoena or impose a sentence.”¹⁰⁴ In some Palestinian rabbinic stories, for instance, rabbis brandish excommunication to compel compliance.¹⁰⁵

Even as scholars grew skeptical about the extent to which rabbis in Palestine enjoyed widespread recognition and authority, Babylonian Jewish society was thought to fall more fully under the sway of the rabbis by dint of their formal position in the centralized Jewish social hierarchy, whether deriving from or independent of the Exilarch.¹⁰⁶ Pioneering revisionists like E. R. Goodenough and Jacob Neusner, who challenged the hegemony of the rabbis in Palestine, insisted that in Babylonia the rabbis were authoritative, and that Jewish society therefore lived in broad conformity with their instructions. Goodenough, for instance, questioned the place of the rabbis in Palestinian Jewish society based on synagogue mosaics, which employed motifs that he argued would have been objectionable to the rabbis and evinced theologies distinct from those of the rabbis.¹⁰⁷ He made a similar argument about the magnificent frescoes in the Dura Europos synagogue, the only synagogue from late antique Mesopotamia to survive. Nevertheless, he believed that this community was an aberration from an otherwise rabbinized Jewish Babylonia.¹⁰⁸ Jacob Neusner contended that Goodenough had overstated the authority of the rabbis over other synagogues in Mesopotamia. He nevertheless held that the rabbis “exerted full and unchallenged authority” in matters of trade, real estate, civil law, marriage, and divorce, not to mention that they were revered, at least by some, as wonder workers.¹⁰⁹ As Neusner

¹⁰³ Schwartz, *Imperialism and Jewish Society*, 121. For courts of arbitration, see Lapin, *Rabbis as Romans*, 98–125.

¹⁰⁴ Schwartz, *Imperialism and Jewish Society*, 120. In a law from 392, Theodosian explicitly grants Jewish leaders the right to excommunicate without governmental interference: Amnon Linder, *The Jews in Roman Legislation* (Detroit, MI: 1987), 186–190.

¹⁰⁵ Schwartz, *Imperialism and Jewish Society*, 120n57; Shaye Cohen, “The Rabbi in Second-Century Jewish Society,” in *The Roman Period*, vol. 3, *The Cambridge History of Judaism*, ed. William Horbury, W. D. Davies, and John Sturdy (Cambridge: 1999), 971.

¹⁰⁶ See Beer, *Exilarchate*, 91–93; Gafni, *The Jews of Talmudic Babylonia*, 233–234; and Jonathan Pomeranz, *Ordinary Jews in the Babylonian Talmud: Rabbinic Representations and Historical Interpretation* (PhD diss., Yale University, 2016), 150–154.

¹⁰⁷ Erwin R. Goodenough, *Jewish Symbols in the Greco-Roman Period* (Princeton: 1988).

¹⁰⁸ See discussion in Neusner, “Rabbis and Community,” 441.

¹⁰⁹ Neusner, “Rabbis and Community,” 443.

phrased it, the authority of the rabbis therefore “depended not upon popular acquiescence, though it was considerable, but upon the coercive capabilities of their courts.”¹¹⁰ Assuming imperial sponsorship precluded any serious need to address when and how the Babylonian rabbis attracted followers and spread their influence. Their authority and influence were guaranteed by their “coercive abilities” via the state, and therefore existed at least from the Sasanian Empire’s rise in the early third century onwards. Others countered that Neusner *underestimated* the extent of rabbinic authority, arguing that the Jews of Babylonia on the whole followed rabbinic precepts, beginning in the Parthian period onwards.¹¹¹

The rabbis were so self-assured in Babylonia, according to Richard Kalmin, that in contrast with the rabbis of Palestine, they remained aloof from and disdainful toward non-rabbinic Jews, and needless to say, non-Jews as well. They were also highly decentralized.¹¹² But rather than inferring from this that the rabbis were a loose collection of figures without any clear center of power or institutionalization, Kalmin concludes that “Babylonian rabbis in their own localities, part of a city, or an entire city and its environs, presided over their own ‘fiefdoms.’”¹¹³ This situation contrasted with Palestine, where, according to Gafni, lay leaders played a far greater role than in the rabbinically run Babylonian society.¹¹⁴ Babylonian Jewish society was governed by the rabbis and rabbinic law.¹¹⁵

Even as this narrative of rabbinic hegemony persists, several studies have offered important correctives. In a watershed work, David Goodblatt demonstrated that the larger institutionalized rabbinic academies known from the medieval period and assumed to have originated among the earliest Babylonian rabbis, emerged in the post-talmudic

¹¹⁰ Neusner, *A History of the Jews*, 5.449.

¹¹¹ Isaiah Gafni, “Court Cases in the Babylonian Talmud: Literary Forms and Historical Implications,” *Proceedings of the American Academy of Jewish Research* 49 (1982): 23–40; Gafni, *The Jews of Talmudic Babylonia*, 26.

¹¹² Richard L. Kalmin, *The Sage in Jewish Society of Late Antiquity* (New York: 1999), 175–214. For a critical discussion of the notion of Babylonian rabbinic insularity, see Gross, “Prolegomena to a Study of Babylonian Rabbinization in Late Antiquity.”

¹¹³ Kalmin, *Sage in Jewish Society*, 11. For a critical discussion, see Gross, “Where Did Rav and Shmuel Preside.”

¹¹⁴ Gafni, *Jews of Talmudic Babylonia*, 98–109.

¹¹⁵ See the credulous account in Richard Hidary, *Dispute for the Sake of Heaven: Legal Pluralism in the Talmud* (Providence, RI: 2010), 155–161, relied on by Mokhtarian, *Rabbis, Sorcerers, Kings, and Priests*, 106–108.

era.¹¹⁶ The rabbis in the Talmud, by contrast, were neither centralized nor institutionalized. They were organized in small study circles, a few students congregating around a particular master in cities across Babylonia.¹¹⁷ Centralized and major academies arose after the last named rabbis in the Talmud in the early sixth century, as Goodblatt and Jeffrey Rubenstein have demonstrated, even as editorial interpolations in the Talmud retrojected the later institutionalized movement onto the rabbinic past.¹¹⁸ Yet these changes have been taken to narrowly reflect pedagogical and institutional developments, rather than serve as an index of the state of the rabbinic movement in Babylonia at the time.

The more marginal position of the rabbis in Babylonia is clear from the many sources that contradict the general self-presentation of the rabbis as widely respected authority figures. Although the rabbis tended not to readily describe episodes in which they were challenged, several rabbinic sources indicate that there were those in Babylonian who belittled the rabbis or did not recognize them, even in their own locales.¹¹⁹ Despite the general image of a compliant Jewish society that is found throughout rabbinic literature, the rabbis sometimes do acknowledge that they were disobeyed.¹²⁰

The insecurity of Babylonian rabbis appears to have impacted the readiness with which they deployed excommunication against those who merely disrespected them, unlike what we find among Palestinian rabbis.¹²¹ This was not out of a “desire to protect . . . the honor of the Jewish self-governmental authorities in Babylonia,” as some have argued,

¹¹⁶ Goodblatt, *Rabbinic Instruction*.

¹¹⁷ Including less prominent cities. See Barak Cohen, “Local Academies in Talmudic Babylonia,” *Zion* 70 (2005): 447–471.

¹¹⁸ Goodblatt, *Rabbinic Instruction*; Jeffrey Rubenstein, *The Culture of the Babylonian Talmud* (Baltimore, MD: 2003).

¹¹⁹ Yaakov Elman, “Middle Persian Culture and Babylonian Sages: Accommodation and Resistance in the Shaping of Rabbinic Legal Tradition,” in *The Cambridge Companion to the Talmud and Rabbinic Literature*, ed. Charlotte Elisheva Fonrobert and Martin S. Jaffe (Cambridge: 2007), 176–178. See also b. Qid. 70a and Sanh. 99b. The latter is particularly interesting, as it suggests rabbis might be viewed as marginal and serving no purpose in broader society.

¹²⁰ b. Shab. 110a; Meg. 5b; Yom. 19a; M. Qat. 17a–b. Though he elsewhere assumed that rabbinic courts possessed enforcement power, even Neusner, “Rabbis and Community,” 444–445, acknowledged that the rabbis depended on the willingness of Jews to obey them.

¹²¹ Bar Belinitzky and Yakir Paz, “Bound and Banned: Aphrahat and Excommunication in the Sasanian Empire,” in *Jews and Syriac Christians: Intersections across the First Millennium*, ed. Aaron M. Butts and Simcha Gross (Tübingen: 2020), 85–87.

but more plausibly reflects recourse to social pressure out of a lack of formal power or official means of enforcement.¹²² Even stories that boast about the position of the rabbis in Jewish society often reflect a rather minor following.¹²³ There is little to suggest any kind of formal hierarchy or the existence of a structured court system, and the ad hoc nature of rabbinic courts is apparent.¹²⁴ There was no central governing body to determine rules, regulations, even basic laws, nor to disseminate them to the public at large.

A reappraisal of the sources typically used to support the normativity and formal authority of rabbinic courts in the Sasanian Empire shows that the notion of semi-autonomy was read into rather than derived from them. Two related stories, often cited as evidence of rabbinic judicial power, may in fact thematize precisely their lack of formal right to rule. In both cases, the rabbis sentence the guilty party to flogging. In response, it is reported to the empire that a rabbi “passes judgment (*dina*) without the authority of the king (*harmana d-malka*).”¹²⁵ As mentioned above, the term for authority here, *harmana*, is a Persian loanword used throughout the Talmud to refer to royal authority and edicts. These two rabbinic stories have typically been understood as referring to the limits of rabbinic judgment; the Sasanians allowed Jewish courts to rule in civil cases, but they lacked the “authority of the king (*harmana d-malka*)” to deliver corporal punishment.¹²⁶

The continuations of both stories are, however, crucial. In one story, the rabbi flogged a man for fornicating with a non-Jew. When confronted by the government, he dissembles, both by mischaracterizing the offense of the guilty party and by offering praise of God that is misunderstood to be praise of the Sasanian king himself. As a result of the rabbi’s “solicitousness for the government,” the king hands him a staff (described by a Middle Persian loanword) and tells him: “You may judge cases.”¹²⁷ This story appears to reflect a miraculous reversal of fortune: A rabbi with no

¹²² Gideon Libson, “Determining Factors in Herem and Nidui (Ban and Excommunication) during the Tannaitic and Amoraic Periods” [in Hebrew], *Annual of the Institute for Research in Jewish Law* 2 (1975): 292–342, esp. 335.

¹²³ b. Shab. 59b. See Pomeranz, *Ordinary Jews*, 132. ¹²⁴ E.g., b. Ket. 105a–b.

¹²⁵ b. Ber. 58a and Ta’an. 24b. A literary analysis of the former is provided by Jonah Fraenkel, “The Story of Rabbi Sheila” [in Hebrew], *Tarbiz* 40 (1970): 33–40. The related story in b. B. Bat. 58a is discussed below.

¹²⁶ See discussion in Mokhtarian, *Rabbis, Sorcerers, Kings, and Priests* 114–116; Neusner, *History of the Jews*, 2.32–2.34, understood it to refer to the increased supervision of Jewish law under the Sasanians, without challenging the notion of Jewish self-rule.

¹²⁷ On the loanword, see Sokoloff, *DJBA*, 991–992.

formal imperial authority to judge successfully tricks the king, not only evading punishment for arrogating authority, but now recognized as a judge by the empire. Notice also that the rabbi's newfound right to judge is here imagined as granted directly by the king and not as a feature of the rabbi's position in any Jewish hierarchy. In the other story, the flogging leads to the death of the guilty party, and the rabbi is defended by the king's mother Ifra Hormiz, who warns the king "do not have any dispute with the Jews." This is a signal perhaps that Jewish conflict resolution was outside of the immediate purview or interests of the state, but hardly evidence for an independent Jewish court system.¹²⁸ These stories do not indicate that, excepting cases of flogging, rabbis had power to rule. They instead show that corporal punishment was severe enough an arrogation of authority to rise to the attention of the Empire, which otherwise rarely interfered in local conflict resolution.¹²⁹ We will return to the Sasanian evidence for this below.

A more likely scenario is that, as in Palestine, Babylonian rabbis functioned as arbitrators. This explains the rabbinic discussion that advises Jewish judges to exempt themselves from liability by receiving the consent of both parties.¹³⁰ As in Palestine, Babylonian rabbis lacked the coercive powers of the empire or an internal Jewish hierarchy, resorting instead to mechanisms of social enforcement like the ban, or excommunication.¹³¹ The ban was also used in the Babylonian Talmud to coerce Jews to appear before rabbinic courts and to obey their verdicts.

¹²⁸ Indeed, the term for "dispute" here is Persian, and is particularly resonant as it is used in Persian texts to refer to both performative disputations before the king (Secunda, *Iranian Talmud*, 62) and legal disputes (Philippe Gignoux, "Une archive post-sassanide du Tabaristān (I)," in *Objets et documents inscrits en pārsīg*, ed. R. Gyselen. Res Orientales 21 [Bures-sur-Yvette, 2012], 34).

¹²⁹ The idea that Sasanians particularly interfere in cases of corporal and capital punishment is the thematic core of a story in b. B. Qam. 117a, on which see Daniel Sperber, "The Unfortunate Adventures of Rav Kahana: A Passage of Saboraic Polemic from Sasanian Persia," in *Irano-Judaica* I, ed. Shaul Shaked (Jerusalem: 1982), 83–100. For a Palestinian story that conveys a similar theme, see y. Meg. 3.2 (74a); and Lapin, *Rabbis as Romans*, 118. Compare also Rabbula's *Admonitions* (Arthur Vööbus, *Syriac and Arabic Documents regarding Legislation Relative to Syrian Asceticism* [Stockholm: 1960], 45), where he warns not to flog (𐤒𐤓𐤁), but that instead it is indeed better to send the guilty party to "the judges of the world."

¹³⁰ b. Sanh. 5a, with Gross, "Reassessing Exilarchal Authority."

¹³¹ Libson, "Determining Factors in Ḥerem and Nidui," 292–342; Belinitzky and Paz, "Bound and Banned," 84–85 (ample sources are cited here); Jason S. Mokhtarian, "Excommunication in Jewish Babylonia: Comparing Bavli Mo'ed Qatan 14b–17b and the Aramaic Bowl Spells in a Sasanian Context," *Harvard Theological Review* 108 (2015): 552–578. See the story in b. Qid. 39b that thematizes the liberality with which

Rabbis additionally deployed bans to prevent litigants from appearing before non-Jewish courts. We will see below that Syriac Christian sources deploy the ban similarly. This shared use of the ban reflects, according to Belinitzky and Paz, “a social reality in which leaders of minorities, who did not have the full enforcement apparatus of the Empire at their disposal, used the ban as one of their few means for consolidating their authority and upholding their honour.”¹³²

The Talmud includes diverse cases that were purportedly judged by individual rabbis. Thematically, they cover an impressive array of legal fields, spanning from ritual to civil law, with few cases of criminal law.¹³³ Granting, for the sake of argument, that most of these stories reflect the types of cases that might be judged by rabbis, it has been a standard assumption that they also indicate a centralized court system and official right to judge. However, while the rabbis may have been an attractive legal venue for some Jews, their capacity to rule derived from their popularity rather than from formal authority. More critically, as Lapin has noted in the case of Palestinian rabbinic case law, we cannot “assume that the cases, taken together, correspond in any simple way [to] the actual activity of Rabbis as judges.”¹³⁴ With regard to Babylonia, many of the cases reported in the Talmud reflect the concerns of rabbis and their close adherents and were likely preserved or invented because they address a particularly uncertain area of rabbinic law. Outside of a highly romantic vision of a society entirely under the thrall of the rabbis, it is difficult to maintain that these laws constituted a central aspect of a standardized system of law.¹³⁵ Further work on these cases may offer insight into those areas of law that at least some Jews brought to the rabbis, but they are not dispositive of an official position occupied by the rabbis, and certainly not of Babylonian Jewish self-governance.

There is, therefore, little to support the notion of Babylonian Jewish semi-autonomy. The Exilarch did not enjoy any intercessory function or unique oversight of Jewish dispute resolution. Similarly, rabbinic courts

some rabbis deployed the ban. For physically binding a suspect until they confessed, see b. Nid. 25b and b. B. Bat. 167a.

¹³² Belinitzky and Paz, “Bound and Banned,” 88.

¹³³ Neusner, *History of Jews in Babylonia*, 3.272–338 (Neusner did not clearly distinguish between formal case law and rabbinic opinions, compromising the usefulness of his tabulations and percentages); Gafni, “Court Cases in the Babylonian Talmud”; Eliezer Segal, *Case Citation in the Babylonian Talmud: The Evidence of Tractate Neziqin* (Atlanta, GA: 1990).

¹³⁴ Lapin, *Rabbis as Romans*, 104. ¹³⁵ Similarly, Lapin, *Rabbis as Romans*, 106–107.

functioned outside of the direct purview of the empire. These results challenge our understanding not only of Babylonian Jewish society, but also of key paradigms concerning Sasanian imperial policy toward its religious communities. They demand an alternative model of Sasanian rule and legal culture that make sense of elite figures like the Exilarch and networks of non-imperial legal experts like the rabbis, outside of notions of semi-autonomy. For a fuller picture, we must compare the evidence of Jewish society with the other non-Zoroastrian Sasanian community for whom we have abundant sources, Christians.

CHRISTIAN INTERMEDIARIES AND LAW IN THE SASANIAN EMPIRE

Christians, too, were often thought to enjoy a form of semi-autonomy, consistent with Sasanian organization of its Jewish and other subject communities, a picture that is beginning to crumble.

Prior to the fifth century, we lack robust records of the undoubtedly many Christians who lived under Sasanian rule.¹³⁶ There is no evidence from this early period of a centralized hierarchy, single leader, or recognized representative. Our first consistent collection of evidence suggests that the increasing Christianization of the Roman Empire over the course of the fourth century fostered a growing anxiety among Sasanian officials toward their Christian subjects. Christians could be perceived as potential fifth columns for Rome, which triggered eruptions of imperial violence against them.¹³⁷ This period became known in Christian sources as the “Great Persecution,” commemorated in the martyr acts relating the death of the bishop Simeon bar Šabba‘e.¹³⁸

However, in the year 410, the relationship between the Sasanian Empire and its Christian subjects underwent a profound transformation. The Roman Christian emissary Marutha of Maypherqat, on behalf of other bishops in the Roman Near East, enjoined Yazdgird I to convene

¹³⁶ On Christians arriving in the Sasanian Empire, see Walker, “From Nisibis to Xian.”

¹³⁷ Sebastian P. Brock, “Christians in the Sasanian Empire: A Case of Divided Loyalties,” in *Religious and National Identity: Papers Read at the Nineteenth Summer Meeting and the Twentieth Winter Meeting of the Ecclesiastical History Society*, ed. Stuart Mews (Oxford: 1982), 1–19. For a review, see Gross, “Being Roman in the Sasanian Empire,” 390–397.

¹³⁸ For the martyr acts concerning Simeon, see Smith, *Martyrdom and History*; and for the spinoffs, see Simcha Gross and Yakir Paz, *The Great Persecution: Martyrs at the Court of Shapur II* (Piscataway, NJ: forthcoming).

the bishops of his empire in the capital of Seleucia-Ctesiphon in order to establish a formal ecclesiastical hierarchy.¹³⁹ Marutha's own interest was to have Christians in the east ratify the canons of the Council of Nicaea and consolidate the bishops of the east into an ecclesiastical hierarchy parallel to that in the west. The Sasanian king appears to have viewed this as an opportunity to foster close ties of loyalty and dependency with a distrusted population.¹⁴⁰ That imperial patronage of Christians was an alternative to violence against them is explicit in the synod itself and in the epistles it attributes to the king.¹⁴¹

By patronizing the church hierarchy and its regular meetings under his aegis, the Sasanian king encouraged the identification of Christianity with the Sasanian Empire.¹⁴² Upon arrival at the Synod of 410, the bishops, having gathered in the major church by order of the king, collectively thanked God and beseeched him to "add days unto the days of the victorious and illustrious king, Yazdgird the King of King."¹⁴³ These ties were to be reinforced biannually, as Canon 6 makes clear, with the synods convening in Seleucia-Ctesiphon, and only when the king was present. Like the Synod of 410, later synods would extoll the Sasanian kings for their patronage. In time, Sasanian kings would be added to the litanies to be recited during the liturgy.¹⁴⁴

The Synod of 410 elevated the Catholicos as the leading figure of the East Syriac hierarchy backed by the Sasanian king. The Catholicos was to be the bishop of Seleucia-Ctesiphon, so that he remained in close proximity to the king.¹⁴⁵ The king ensured the position of the Catholicos and warned that "no one may be divided against them, and should anyone

¹³⁹ See Chabot, *Synodicon Orientale*, 17–23; and Ralph Marcus, "The Armenian Life of Marutha of Maipherkat," *The Harvard Theological Review* 25 (1932): 47–71.

¹⁴⁰ See similarly McDonough, "Bishops or Bureaucrats," 89. Royal support for Christians extended beyond the church hierarchy in the form of donations to churches, martyria, and more. See Chapter 6.

¹⁴¹ Gross, "Being Roman in the Sasanian Empire," 390–397.

¹⁴² On the notion of Yazdgird as a new Constantine, see Nina Garsoïan, "Armenia in the Fourth Century: An Attempt to Redefine the Concepts 'Armenia' and 'Loyalty,'" *Revue des Etudes Armeniennes* 8 (1971): 350–351; Scott McDonough, "A Second Constantine? The Sasanian King Yazdgard in Christian History and Historiography," *Journal of Late Antiquity* 1 (2008): 127–141.

¹⁴³ Chabot, *Synodicon Orientale*, 18.

¹⁴⁴ Chabot, *Synodicon Orientale*, 121; and see Brock, "Christians in the Sasanian Empire," 11.

¹⁴⁵ Indeed, according to John of Ephesus (*Ecclesiastical History*, 6.20), the Catholicos was regularly at the court of the king. See R. Payne Smith, trans., *The Third Part of the Ecclesiastical History of John Bishop of Ephesus* (Oxford: 1860), 418.

rise up against them and resist their will, they shall inform us, and we shall inform the King of Kings. He shall have himself to blame for the evil which will come heavily upon him, whoever he may be.” The Catholicos’ position was enforced not only by the anathema of the bishops, but, as the seventeenth canon makes clear, by the King of Kings himself. The Catholicos’ power, which was contested by competing bishops several times over the course of Sasanian history, rested on the king’s support, making him more pliable to the king’s will. The king was often actively involved in the selection and approval of Catholicoi, and the Church experienced acephalous periods as a result of royal disapproval of the Catholicos selected by the bishops.¹⁴⁶ Subsequent synods were no less dependent on the king’s support, who again legitimated the canons they produced.¹⁴⁷

The Catholicos therefore clearly enjoyed an elevated position as part of a centralized Church hierarchy supported by the state. Yet the Catholicos was not recognized as part of a general Sasanian policy of semi-autonomy for its subject communities; otherwise, he would have been recognized long before the early fifth century, when many Christians were already living under Sasanian rule. His position instead emerged out of Sasanian anxieties over potential Christian disloyalty. The group-specific circumstances that generated the East Syriac ecclesiastical hierarchy are also clear from the fact that it was overtly modeled on its western counterpart.¹⁴⁸ It was, after all, western bishops who sent Yazdgird the letter, and who sought to bring the eastern churches into conformity with western Christian canons and creed. The Catholicos’ elevated position parallels the elevated position of the Christian patriarch in the west. Sasanian support for the establishment of the church hierarchy was not part of a comprehensive imperial policy, but was a response to particular concerns triggered by the empire’s Christian subjects.¹⁴⁹

¹⁴⁶ See Nasir al-Ka’bi, *A Short Chronicle on the End of the Sasanian Empire and Early Islam* (Piscataway, NJ: 2016), 16.

¹⁴⁷ For instance, in 497 CE a synod was convened by the order of King Jamasp, and a letter read out to the bishops in attendance reforming marriage practices such that all Christians – bishops and priests included – must eschew celibacy and take wives. Chabot, *Synodicon Orientale*, 62–68.

¹⁴⁸ Stephen Gerö, “The See of Peter in Babylon: Western Influences on the Ecclesiology of Early Persian Christianity,” in *East of Byzantium: Syria and Armenia in the Formative Period*, ed. Nina G. Garsoïan, Thomas F. Mathews, and Robert W. Thomson (Dumbarton Oaks: 1982), 45–51.

¹⁴⁹ Questions about the precise nature of the Zoroastrian hierarchy and its relationship to the state are also unclear. See Rubin, “Persia and the Sasanian Monarchy,” 140–144;

Even in this elevated position, however, there is little to support the notion of the Catholicos' role in Christian self-governance, or that the ecclesiastical figures were officially tasked with governing the empire's Christians. Like the Exilarch and rabbis, civil legislation was not among the official functions of the East Syriac ecclesiastical hierarchy.¹⁵⁰ Over the course of the Sasanian period, the Church sought to regulate a select few areas of law, especially marriage and inheritance.¹⁵¹ Although scholars have had a tendency to inflate even this narrow engagement into a full-fledged officially recognized legal system, there is little to commend the notions that ecclesiastical legislation extended beyond these legal domains or that the Sasanian Empire authorized their enforcement.¹⁵² Indeed, to the contrary; the church's interest in marriage emerged decades after the establishment of a church hierarchy in the east, out of a particular concern that members of its community, according to the Synod of 484, "imitate the Magians in impure marriage . . . and violate the law of the Church of Christ."¹⁵³ In the mid-sixth century, the Catholicos Mar Aba embarked on an extensive campaign to proscribe and mark as un-Christian the close-kin marriages that were permitted and even encouraged by Sasanian and Zoroastrian law, one of the causes of imperial prosecution against him.¹⁵⁴ Even the church's interest in regulating these narrow areas of law should not be mistaken for a reality in which they had the power to enforce their prescriptions.

Christian sources themselves reflect the local and contested nature of Christian forays into civil law, as Richard Payne has recently shown.

Schippmann, *Grundzüge*, 92–102; and Philippe Gignoux, "Church-State Relations in the Sasanian Period," in *Monarchies and Socio-Religious Traditions in the Ancient Near East*, ed. H. I. H. Prince T. Mikasa (Weisbaden: 1984), 72–80.

¹⁵⁰ Compare Christian litigation under Roman rule until after Constantine's reign, for instance in Caroline Humfress, *Orthodoxy and the Courts in Late Antiquity* (Oxford: 2007), 153–165.

¹⁵¹ For a helpful overview, see Nima Jamali, *A Study of the Interactions among Zoroastrian, Jewish and Roman Legal Systems during the 7th and 8th Centuries CE Based on a Critical Edition of Išō'-bokt's Corpus Juris with Commentary and an English Translation* (PhD diss., University of Toronto, 2021), 14–60; and Amir Harrak, *The Law Code of Išō'yabb I, Patriarch of the Church of the East* (Piscataway, NJ: 2022).

¹⁵² For former views, see Michael Morony, "Religious Communities in Late Sasanian and Early Muslim Iraq," *Journal of the Economic and Social History of the Orient* 17 (1974): 113–135.

¹⁵³ Chabot, *Synodicon Orientale*, 623–624.

¹⁵⁴ Payne, *State of Mixture*, 108–117; Manfred Hutter, "Mār Abā and the Impact of Zoroastrianism on Christianity in the 6th Century," in *Religious Themes and Texts of Pre-Islamic Iran and Central Asia*, ed. Carlo Cereti, Mauro Maggi, and Elio Provasi (Wiesbaden: 2003), 167–173; and Lev Weitz, *Between Christ and Caliph*, 145–171.

A particular telling example is the *History of Mar Aba*, a text which describes the accusations against Mar Aba by a high-ranking Zoroastrian *mowbed*, or priest:¹⁵⁵

He [Mar Aba] summoned away from the house of judgment many Christians who had judicial disputes with one another [resolved by] a document of acquittal [*bōxtnāmag*] with the seal of the *mowbedān mowbed*, and he broke the document of acquittal. He judges all the judicial disputes we should judge, and we suffer much violence from him.¹⁵⁶

According to the *mowbed*, Mar Aba both contradicted the verdicts of the Zoroastrian high priest and improperly drew Christians away from judicial disputes under the *mowbed's* authority.¹⁵⁷ Indeed, the *History of Mar Aba* earlier describes how “From four in the afternoon until the evening, [Mar Aba was occupied with] judging cases and resolving conflicts between the faithful and one another, and between pagans and the faithful.”¹⁵⁸ In response to these attacks, Mar Aba does not argue that Christians have legal autonomy, or that they enjoy broad rights over intracommunal litigation. Instead, he downplays his involvement in the judicial process and limits the nature of his authority: “I am not commanded by the divine scriptures to restrain or strike anyone or to confiscate anything of his, but rather we pray and beseech God concerning those who err to return to true knowledge.”¹⁵⁹ The *History of Mar Aba* makes clear that Mar Aba’s forays into dispute resolution functioned outside of the formal channels of Sasanian law.¹⁶⁰

Certainly, there is evidence of Christian courts. But these should be understood, as Payne notes, as “just one element of a society with

¹⁵⁵ Payne, *State of Mixture*, 104–108.

¹⁵⁶ *History of Mar Aba* in Bedjan, *Histoire de Mar-Jabalaha*, 234, and Florence Jullien, *Histoire de Mār Abba, catholicos de l’Orient; Martyres de Mār Grigor, général en chef du roi Khusro Ier et, de Mār Yazd-panāh, juge et Gouverneur*, vol. 1 (Louvain: 2015), 18.

¹⁵⁷ On the term *bōxtnāmag*, see Shaul Shaked, “Some Legal and Administrative Terms of the Sasanian Period,” in vol. 2, *Monumentum H. S. Nyberg* (Leiden: 1975), 216–217; and Maria Macuch, “Jewish Jurisdiction within the Framework of the Sasanian Legal System,” in *Encounters by the Rivers of Babylon: Scholarly Conversations between Jews, Iranians and Babylonians in Antiquity*, ed. Uri Gabbay and Shai Secunda (Tübingen: 2014), 158.

¹⁵⁸ *History of Mar Aba* (Bedjan, *Histoire de Mar-Jabalaha*, 226; Jullien, *Histoire de Mār Abba*, vol. 1, 13–14).

¹⁵⁹ *History of Mar Aba* (Bedjan, *Histoire de Mar-Jabalaha*, 232; Jullien, *Histoire de Mār Abba*, vol. 1, 17).

¹⁶⁰ On Mar Aba, see Manfred Hutter, “Mār Abā and the Impact of Zoroastrianism,” 167–173; and Macuch, “The Case against Mār Abā,” 47–58.

multiple sources of judicial authority,” participating “in a broader legal culture rather than creating autonomous, rival courts.”¹⁶¹ These courts were not elements in a centralized system but were predominately local courts of voluntary arbitration. Thus, Sabrisho is praised for bringing “upright laws and just verdicts” to Lashom, thereby rendering it “a city of holiness and faith.”¹⁶² Similarly, the canons of the School of Nisibis seek to regulate disputes between its members, but in a revealing way. They rule that “a brother who has a contention with his companion or against someone else, shall not go to the court of the outsiders of his will without permission of the brothers and the steward.”¹⁶³ Even here, the canons simply seek consensus before appealing to outsiders to resolve disputes they consider internal to the community. Two Christian synods similarly caution “a cleric or a monk who has a charge against a lay person” from turning “voluntarily and under no coercion . . . to the tribunals of the outsiders (*barrāyē*).”¹⁶⁴

This type of local Christian legislation appears to be evidenced already in Aphrahat’s decidedly polemical *Demonstration* 14, dated to 344 CE.¹⁶⁵ The *Demonstration* rails against the elite church officials in Seleucia-Ctesiphon, and especially the bishop, for seeking their own elevation through corrupt means, such as the improper exercise of social enforcement. They “pervert justice,” “declare innocent the guilty, and condemn the innocent,” and appear to have been particularly eager to receive bribes. They impose bans and excommunicate without justification, just “as if to say, ‘I am powerful!’”¹⁶⁶ They are interested in the

¹⁶¹ Payne, *State of Mixture*, 107. ¹⁶² Bedjan, *Histoire de Mar Jabalaha*, 300.

¹⁶³ Arthur Vööbus, *Statutes of the School of Nisibis* (Stockholm: 1961), 80 (no. 12), 83–84 (no. 20) may allude to the court of the school itself.

¹⁶⁴ Chabot, *Synodicon Orientale*, 623; compare with Chabot, 117, 376. For discussion, see Uriel Simonsohn, “Seeking Justice among the ‘Outsiders’: Christian Recourse to Non-Ecclesiastical Judicial Systems under Early Islam,” *Church History and Religious Culture* 89 (2009): 191–216, esp. 202.

¹⁶⁵ On the question of the authorship and dating of this *Demonstration*, see discussion in Alberto Camplani, “L’Esposizione XIV di Afraate: una retorica antiautoritaria nel contesto dell’evoluzione istituzionale della Chiesa siriana,” in *Storia e pensiero religioso nel Vicino Oriente: L’età bagratide – Maimonide – Afraate*, ed. C. Baffioni, R. Bianchi Finazzi, A. Passoni Dell’Acqua, and E. Vergani (Milan, Rome: 2014), 191–235. On questions pertaining to the authorship of the *Demonstrations* as a whole, see James Walters, “Reconsidering the Compositional Unity of Aphrahat’s *Demonstrations*,” in *Syriac Christian Culture: Beginnings to Renaissance*, ed. Aaron Michael Butts and Robin Darling Young (Washington, DC: 2020), 50–64.

¹⁶⁶ *Demonstration* 14.3, 7 in Parisot, *Aphraatis Sapientis Persae*, 577–582, 587–588. See Belinitzky and Paz, “Bound and Banned,” 67–88.

pursuit of self-enrichment and social advancement. There is no indication that these figures serve at the behest of the empire. Intriguingly, later in the *Demonstration*, Aphrahat analogizes the relationship between God and his “stewards” the priests, to that of a king and his “prison wardens, prosecutors, and executioners,” who have the right to place people in “chains, prisons, and fetters,” and who use this power to excommunicate “anyone who offends them.”¹⁶⁷ Like the rabbis, Christian judges enforced their rulings through social pressures and excommunication, not through the mechanism of an independent judicial system.

It is mainly in the post-Sasanian period that civil law is perceived by some Christian figures to fall more fully under the purview of the church.¹⁶⁸ This is first articulated in the Synod of 676, where it is ruled that “judgment for Christians . . . should be [performed] in the church before the presence of those designated by the Bishop with the consensus of the community, by priests and the faithful, and . . . they should not go outside the church to receive judgment, neither before pagans nor the unfaithful.”¹⁶⁹ By the eighth century, a number of Christian codes of civil law appear.¹⁷⁰ The East Syriac cleric Isho‘bokht composed the *Makbāmutā d-‘al Dinē* (“A Treatise concerning Judgments”), a comprehensive overview of Christian civil law, and a shorter treatise on inheritance law is ascribed to Simeon of Rev-Ardashir.¹⁷¹ Yet these do not reflect the consolidation of centuries of Christian civil law; instead, they are

¹⁶⁷ Aphrahat, *Demonstration* 14.44, with Adam Lehto, *The Demonstrations of Aphrahat, the Persian Sage* (Piscataway, NJ: 2010), 353–354.

¹⁶⁸ Payne, *State of Mixture*, 107. For an overview of East Syriac law, Hubert Kaufhold, “Sources of Canon Law in the Eastern Churches,” in *The History of Byzantine and Eastern Canon Law to 1500*, ed. W. Hartmann and K. Pennington (Washington, DC: 2012), 295–313.

¹⁶⁹ Chabot, *Synodicon Orientale*, 219–220. Compare with Amir Harrak, *The Law Code of Simeon, Bishop of Rev-Ardashir* (Piscataway, NJ: 2020), 42–43 for the prohibition of taking a fellow Christian to a non-Christian court.

¹⁷⁰ Around the sixth century, the *Syro-Roman Lawbook* was translated into Syriac. For edition and German translation, see Walter Selb and Hubert Kaufhold, *Das syrisch-römische Rechtsbuch*, 3 vols. (Vienna: 2002). For an English translation, see Arthur Vööbus, *The Syro-Roman Lawbook: the Syriac Text of the Recently Discovered Manuscripts Accompanied by a Facsimile Edition and Furnished with an Introduction and Translation* (Stockholm: 1982). For the earliest dated Syriac version, see Sebastian Brock and Lucas van Rompay, *Catalogue of the Syriac Manuscripts and Fragments in the Library of Deir al-Surian, Wadi al-Natrun (Egypt)* (Leuven: 2014), 377–379.

¹⁷¹ For the former, see Sachau, *Syrische Rechtsbücher* (Berlin: 1914), 3.2–201; and Jamali, *A Study of the Interactions*. It was originally composed in Middle Persian but survives only in Syriac translation replete with Persian loanwords. For the latter, see Sachau, *Syrische Rechtsbücher*, 3.207–253, and Harrak, *The Law Code of Simeon*.

replete with Iranian laws and legal technical terms, and in fact offer some of our best evidence for Sasanian law.¹⁷² These works are ambitious attempts by post-Islamic Christians to expand the scope of church authority and legislation with little preceding Christian material to draw from, in part by coopting the legal rules that were once solely the remit of Sasanian officials.¹⁷³

SASANIAN LEGAL CULTURE

If neither Jewish nor Christian sources support the existence of a Sasanian policy to grant religious communities semi-autonomy, Sasanian sources themselves reflect a well-defined imperial system of law that was intended to apply to all its inhabitants, though not equally, even as it made space for local forms of conflict resolution.¹⁷⁴

Judging from the main source of Sasanian law, the *Book of a Thousand Judgments* (*MHD*), Sasanian law was broadly applicable to all of its subjects.¹⁷⁵ As such, the law enforced by the empire was not exclusively predicated on Zoroastrianism. *MHD* makes “no reference to any theological, dogmatic, ritual, or moral questions whatsoever,” as Macuch notes.¹⁷⁶ The cases in the *MHD* address matters of family, property, procedural, and criminal law, but the work as a whole “does not discuss a single case relating to religious matters.”¹⁷⁷ This is not to say the laws were entirely independent of Zoroastrian concerns; family law in *MHD*, in particular, is heavily informed by Zoroastrian notions of

¹⁷² For more on these works, see Simonsohn, *Common Justice*, 99–112; Maria Macuch, “Ein mittelpersischer terminus technicus im syrischen Rechtsbuch des ʿĪṣōʿbōht und im sasanidischen Rechtsbuch,” in *Studia Semitica necnon Iranica Rudolpho Macuch septuagenario ab amicis et discipulis dedicata*, ed. Maria Macuch, Christa Müller, and Bert Fragner (Wiesbaden: 1989), 149–160; Harrak, *The Law Code of Simeon*; and Jamali, *A Study of the Interactions*.

¹⁷³ Weitz, *Between Christ and Caliph*, 33–34.

¹⁷⁴ For synthetic overview of legal hierarchy and procedure, see Maria Macuch, *Das Sasanidische Rechtsbuch “Mātakdān i Hazār Dātistān,”* vol. 2 (Wiesbaden: 1981), 13–20; Mathieu Tillier, *L’invention du cadī: La justice des musulmans, des juifs et des chrétiens aux premiers siècles de l’Islam* (Paris: 2017), 385–400.

¹⁷⁵ On *MHD*, see Macuch, “Pahlavi Literature,” 188.

¹⁷⁶ Maria Macuch, “Jewish Jurisdiction within the Framework of the Sasanian Legal System,” in *Encounters by the Rivers of Babylon: Scholarly Conversations between Jews, Iranians and Babylonians in Antiquity*, ed. Uri Gabbay and Shai Secunda (Tübingen: 2014), 151.

¹⁷⁷ Macuch, “Jewish Jurisdiction,” 151.

kinship.¹⁷⁸ But participation in the judicial system was not limited to Zoroastrians.

Nevertheless, Sasanian law recognized and reinforced a fundamental distinction between Iranians and “adherents of the good tradition” (*ērān* and *weh-dēnān*, respectively) on the one hand, and non-Iranians and “adherents of the bad tradition” (*an-ērān* and *ag-dēnān*, respectively) on the other; distinctions we will return to throughout the book.¹⁷⁹ These latter terms of otherness are not clearly defined, and at different points in Middle Persian literature refer to apostate Zoroastrians, non-Iranians, and non-Zoroastrians, or all of these simultaneously. Whatever these terms meant in any instance, this fundamental distinction informed Sasanian law.

In *MHD*, non-Iranians and “adherents of the bad tradition” were circumscribed in legal matters that impinged on Iranian identity.¹⁸⁰ For instance, a slave belonging to a Christian who became “an adherent of the good tradition” was automatically manumitted, although he owed financial remuneration to his former master.¹⁸¹ Similarly, it was forbidden to

¹⁷⁸ Macuch, “Zoroastrian Principles and the Structure of Kinship in Sasanian Iran,” in *Religious Themes and Texts of Pre-Islamic Iran and Central Asia*, ed. C. Cereti, Mauro Maggi, and Elio Provasi (Wiesbaden: 2003), 231–246.

¹⁷⁹ Shaked, “Religion in the Late Sasanian Period”; Maria Macuch, “Legal Constructions of Identity in the Sasanian Period,” in *Iranian Identity in the Course of History*, ed. Carlo Cereti (Rome: 2010), 61; de Jong, “Zoroastrian Religious Polemics,” 61; de Jong, “Zoroastrian Self-Definition,” 21; and Jason Sion Mokhtarian, “The Boundaries of an Infidel in Zoroastrianism: A Middle Persian Term of Otherness for Jews, Christians, and Muslims,” *Iranian Studies* 48 (2015): 99–115. For particularly acute cases of terminological blurring, see *Dādestān ī Dēnīg* 40.1–40.2 in Mohmoud Jaafari-Dehaghi, ed. and trans., *Dādestān ī Dēnīg: Part I, Transcription, Translation and Commentary* (Paris: 1998); F. M. Kotwal and P. G. Kreyenbroek, *The Hērbedestān and Nērangestān*, vol. 1 (Paris: 1992), 64–65. The categories are distinguished but serve the similar function of marking alterity in *Dēnkard* 3.140.1–140.6, on which see Philippe Gignoux, *Man and Cosmos in Ancient Iran* (Rome: 2001), 98. On the problematic translation of the word *dēn*, see Prods Oktor Skjaervø, “The Zoroastrian Oral Tradition as Reflected in the Texts,” in *The Transmission of the Avesta*, ed. Alberto Cantera (Wiesbaden: 2012), 3–48 (esp. 20–25); and Yuhan S.-D. Vevaina, “‘Enumerating the Dēn’: Textual Taxonomies, Cosmological Deixis, and Numerological Speculations in Zoroastrianism,” *History of Religions* 50 (2010): 111–143.

¹⁸⁰ Macuch, “Jewish Jurisdiction,” 148–149. Mokhtarian, *Rabbis, Sorcerers, Kings, and Priests*, 99–106; and Mokhtarian, “Boundaries of an Infidel.” For a case of an *an-ēr* who is a *weh-dēn*, see Rivāyat of Adurfarnbag 139 in Shai Secunda, *The Talmud’s Red Fence: Menstrual Impurity and Religious Difference in Babylonian Judaism and Its Sasanian Context* (Oxford: 2020), 150.

¹⁸¹ Perikhanian, *Book of a Thousand Judgments*, 28–29; Macuch, *Rechtskasuistic*, 22–25. Similar legislation is found in Kotwal and Kreyenbroek, *Hērbedestān and Nērangestān*, 60–61. For similar legislation in the Byzantine Empire related to Jewish slaves who

sell a slave to an “adherent of the bad tradition” (*ag-dēnān*), and in case of violation, both buyer and seller were branded.¹⁸² Most interestingly, according to *MHD*, “adherents of the bad tradition” could not serve as substitute successors (*stūr*) to a deceased “adherent of the good tradition,” an institution whose function was to produce a male heir to the sonless deceased.¹⁸³ Appointing an “adherent of the bad tradition” as substitute successor would imperil the Iranian identity of the family unit, and the legacy of the deceased believer. Further, *MHD* rules that a son who was an “adherent of the bad tradition” was exempt from the debts of his father, a financial benefit that nevertheless indicated that the son had severed his connection with his family. The law, however, hastens to add that “all other decisions concerning them (i.e., ‘adherents of the bad tradition’) are the same as those regarding adherents of the good tradition (*weh-dēnān*).”¹⁸⁴ Other references in *MHD* to adherents of the bad tradition similarly affirm their equal status under the law, an affirmation that paradoxically signals their alterity.¹⁸⁵ The division between these opposing groups was maintained and reinforced through specific laws intended to demarcate and reify the boundaries between them.¹⁸⁶ Additional Iranian sources note that non-Iranians could litigate against Iranians in court and detail a number of cases wherein Iranians must obey

converted to Christianity, see Linder, *The Jews in Roman Imperial Legislation*, nos. 11, 44, 59, 61, and discussion on 82–85. This is the only law in *MHD* to explicitly mention Christians; for other Zoroastrian texts on Christians, see Mokhtarian, “Boundaries of an Infidel,” 102–103 and 114 there. On conversion of, apparently, Christians to Zoroastrianism, and the restrictions and protections placed on their wives, see Macuch, “The Hērbedestān as a Legal Source: A Section on the Inheritance of a Convert to Zoroastrianism,” *Bulletin of the Asia Institute* 19 (2005): 92–93. On the value of converts in Zoroastrian literature, see Kotwal and Kreyenbroek, *Hērbedestān and Nērangestān*, 63–65; and Mokhtarian, “Boundaries of an Infidel,” 105–107.

¹⁸² Perikhanian, *Book of a Thousand Judgments*, 28–29.

¹⁸³ Macuch, “Legal Constructions of Identity,” 202–203; Perikhanian, *Book of a Thousand Judgments*, 154–155; Simonsohn, *Common Justice*, 48; and Richard Payne, “East Syrian Bishops, Elite Households, and Iranian Law after the Muslim Conquest,” *Iranian Studies* 48 (2015): 5–32.

¹⁸⁴ Macuch, *Rechtsskasuistik*, 409 (transliteration), 415 (translation), 425–426 (commentary).

¹⁸⁵ It is worth noting that there may well be attitudinal and practical differences between how Sasanian versus Zoroastrian sources view non-Iranians/adherents of the bad tradition. On issues of intercourse and intermarriage, see de Jong, “Zoroastrian Religious Polemics,” 54–56. For an example of the reduced legal status of non-Iranians in a Zoroastrian source, see Kotwal and Kreyenbroek, *Hērbedestān and Nērangestān*, 64–65. Similarly, according to the *Dēnkard* 8.20.29, non-Iranians are not admissible as witnesses. See Macuch, “Legal Constructions of Identity,” 199–200.

¹⁸⁶ Macuch, “Legal Constructions of Identity”; Mokhtarian, “Boundaries of an Infidel.”

contracts with non-Iranians even to the detriment of fellow Iranians.¹⁸⁷ Sasanian law was therefore conceptualized as applying broadly to all subjects, yet simultaneously intended to protect and enshrine the distinctiveness of Iranians.

No Sasanian or Zoroastrian source ever acknowledges separate spheres of legal autonomy for particular communities, religious or other.¹⁸⁸ These sources do, however, reflect the availability within Sasanian law of different means of legal resolution. These included forms of arbitration with the consent of the litigants. Thus, the ninth-century encyclopedic Zoroastrian compilation known as the *Dēnkard* lists different means of dispute resolution, which included typical judicial disputes before a state-sanctioned judge, but also disputes in the presence of one's "own judge," a dispute held before three "good/righteous/Zoroastrian men," and a dispute before witnesses, who presumably would serve as arbitrators.¹⁸⁹ Some cases in *MHD* are similarly predicated on forms of arbitration.¹⁹⁰ Both Iranians and non-Iranians therefore had multiple legal venues open to them, from the formal courts of the empire to more local forms of arbitration. By making space for arbitration, the empire created the necessary conditions for various kinds of social collectivities to practice their laws "to a certain degree as long as they did not interfere with the law of the Sasanian state and offend the norms set in Zoroastrian society."¹⁹¹

Far from being unusual, the possibility of legal resolution on the local level outside the strict confines of the state prevailed throughout the ancient world, where arbiters and local forms of communal dispute resolution thrived alongside formal imperial courts.¹⁹² Sasanian law similarly applied to its various inhabitants, and at no point formally

¹⁸⁷ Macuch, "Legal Constructions of Identity," 200–203.

¹⁸⁸ Shaked, "Religion in the Late Sasanian period," 104n7, incorrectly describes a text as encouraging kings to include leaders of various religions as part of his court. The text appears to refer to non-conforming Zoroastrians.

¹⁸⁹ *Dēnkard* 8.16.6, with Macuch, "Jewish Jurisdiction," 155–157. References to the *Dēnkard* follows the outline in E. W. West, *Sacred Books of the East: Pahlavi Texts*, Part IV (Oxford: 1892). For an attempted reconstruction of procedures of Sasanian imperial courts, see Janos Jany, "Sasanian Law," *e-Sasanika* 9 (2011): 1–33; and Janos Jany, *Judging in the Islamic, Jewish, and Zoroastrian Legal Traditions* (Farnham: 2012).

¹⁹⁰ Macuch, *Das Sasanidische Rechtsbuch*, vol. 2, 14; Macuch, "A Zoroastrian Legal Term in the *Dēnkard*: Pahikār-Rad," in *La période ancienne*, ed. Philip Huyse, vol. 1, *Iran: Questions et connaissances*. *Studia Iranica* 25 (Paris: 2002), 77–90.

¹⁹¹ Macuch, "Jewish Jurisdiction," 150.

¹⁹² The literature is ever-growing. In general, see Peter Brown, *The World of Late Antiquity, From Marcus Aurelius to Muhammad* (London: 1971), 90–99; Simonsohn, *Common*

recognized or authorized a parallel system of adjudication only applicable to particular communities. But Sasanian rule also created space for individuals and groups to resolve disputes legitimately outside of the strict confines of imperial courts. We may speculate that the decisions of an arbitration court could be enforced by imperial courts, but this is nowhere stated explicitly.¹⁹³ Local courts did not act with impunity, but rather functioned within certain circumscribed parameters, which explains those rabbinic stories discussed above in which rabbis were pursued by the empire for enacting corporal or capital punishment. These local courts also had to maintain certain standards and adhere to recognizable legal procedures, as indicated by a related story in which a rabbi is brought to the attention of the empire for ruling “without witnesses [most manuscripts continue: and without legal documents].”¹⁹⁴ Other means of conflict resolution were, it seems, ultimately appealable to the empire’s courts themselves.

This environment of overlapping mechanisms of legal recourse created the conditions for litigants to pursue what legal scholars call “forum shopping,” selecting between the menu of available venues of conflict resolution.¹⁹⁵ Local courts of arbitration, in turn, discouraged their potential litigants from appealing to the imperial court system, and made the case for their superiority as means of resolution on religious, social, or other grounds. Christians established local judges to resolve disputes while discouraging their followers from availing themselves of the courts of “outsiders.”¹⁹⁶ Some Christian judges apparently mimicked Iranian laws in their rulings, while others sought to create a stark difference between imperial and Christian forms of resolution. Thus, the Synod of 540 condemns a bishop like Abraham of Bet Lapaç for mixing the law of

Justice, 1–62; and Traianos Gagos and Peter van Minnen, *Settling a Dispute: Towards a Legal Anthropology of Late Antique Egypt* (Ann Arbor, MI: 1994), 30–47.

¹⁹³ Such a situation concerning Jewish law is explicit in Roman legislation. See Linder, *Jews in Roman Imperial Legislation*, 204–211; Alfredo Mordechai Rabello, “Civil Jewish Jurisdiction in the Days of Emperor Justinian (527–565): Codex Justinianus 1.9.8.,” *Israel Law Review* 33 (1999): 51–66. For Palestinian rabbis and Roman law, see Martin Goodman, *State and Society in Roman Galilee* (Totowa, NJ: 1983), 155–171; and Lapin, *Rabbis as Romans*, 98–125.

¹⁹⁴ b. B. Bat. 58a.

¹⁹⁵ Caroline Humfress, “Thinking through Legal Pluralism: ‘Forum shopping’ in the Later Roman Empire,” in *Law and Empire: Ideas, Practices, Actors*, ed. Jeroen Duindam, Jill Harries, Caroline Humfress, and Nimrod Hurvitz (Leiden: 2014), 223–250.

¹⁹⁶ E.g., Chabot, *Synodicon Orientale*, 155, 415.

the outsiders (*barrāyē*) with the law of the Church.¹⁹⁷ Theodoret of Cyrrhus describes Jacob of Nisibis' confrontation with a Persian judge, whose unjust verdict he repudiates by cursing a boulder and shattering it into thousands of pieces, leading the judge to revoke his ruling.¹⁹⁸ *The History of Mar Aba* describes Mar Aba's success at luring Christians away from imperial courts, much to the dismay of the magi. It also describes how imperial acquittals might be overturned by Christian judges, setting up direct confrontation between the two legal systems. Christian sources evince local forms of dispute resolution coexisting and competing with formal imperial courts.

The Babylonian Talmud reflects similar dynamics between Jewish and imperial means of resolution. Despite rabbinic literature's tendency to present an idealized image of the place of the rabbis in Jewish society, it provides evidence that Jews too took advantage of the broader Sasanian environment of legal pluralism and forum shopping.¹⁹⁹ Jews had access to non-Jewish courts, which the rabbis often sought to curb, precisely as Church synods and the School of Nisibis threaten those who bring cases to "outsiders." For instance, in one story, rabbis impose a ban on those who resort to the "guard" (פּהַרְגְּבָנָא, from Middle Iranian *pāhrag-bān**) of the king to resolve an inter-Jewish dispute over the ownership of a moveable object.²⁰⁰ Other stories feature Jews reporting other Jews to non-Jewish administrators, although the precise circumstances are unclear.²⁰¹

In one stunning passage, the rabbis distinguish between different kinds of Sasanian courts. It is reported that Palestinian rabbis ruled that a Jew who offers uncoerced testimony in a non-Jewish court against a fellow Jew is to be placed under a ban.²⁰² An anonymous discussion in the Babylonian Talmud qualifies this principle.

This holds good if only one witness was concerned but not where there were two. And even to one witness it applies only if he appeared before the court of the

¹⁹⁷ Chabot, *Synodicon Orientale*, 77, 329.

¹⁹⁸ R. M. Price, trans. *History of the Monks of Syria by Theodoret, Bishop of Cyrrhus* (Kalamazoo, MI: 1985), 14–15.

¹⁹⁹ We unfortunately lack the kind of data that we have for Rome in terms of the factors that made various avenues of dispute adjudication more or less appealing, such as relative cost (Simonsohn, *Common Justice*, 29), although in several places in the Talmud Sasanian officials are depicted as bribable (e.g., b. Giṭ. 28b; see also b. Yeb. 63b and b. Ḥag. 5a–b).

²⁰⁰ b. B. Qam. 117a; cf. b. B. Qam. 113b–114a. ²⁰¹ b. B. Qam. 117a–b.

²⁰² b. B. Qam. 113b–114a.

megista, but not before the court of the *dawār* where they similarly impose an oath upon the evidence of a single witness.²⁰³

The anonymous discussion first argues that a Jew may in fact testify in a non-Jewish court if a second witness is also involved. It continues to argue that even one Jewish witness may offer uncoerced testimony in the case of a non-Jewish court of the *dawār*, because the court imposes an oath on the witness. However, Jews may not offer testimony in the case of the court of the *megista*, because they do not impose an oath.

As several scholars have argued, *dawār* is most likely to be identified with the Middle Persian *dādwar*, literally a “bearer of law,” or judge.²⁰⁴ As Maria Macuch notes, *MHD* lists “four types of judges with the title *dādwar*” who were “state officials engaged in the daily work of the courts.”²⁰⁵ The Talmud’s anonymous discussion therefore qualified the earlier Palestinian ruling to allow for Jews to serve as voluntary witnesses in these Sasanian courts, reflecting the fact that Jews did make use of them, and that even the rabbis, perhaps begrudgingly, acknowledged that they followed legitimate legal procedures. The court of the *dawār* appears in two other places in the Talmud, and there too reflect the fact that Jews had recourse to them. One source advises that a Jew may excuse himself to a non-Jew by saying “I have an appointment at the court of the *dawār*”; in another, the expectation is that if a Jew wanted to contest the legal action of a non-Jew, they would appeal to the *dawār*.²⁰⁶

The *megista*, by contrast, is a different type of non-Jewish court, one with allegedly lower evidentiary standards.²⁰⁷ Many etymologies have been offered for *megista*, but none are definitive or without problems. Spicehandler suggested that *megista* is simply another form of, or related to the word for magian, such that the rabbis are distinguishing between official imperial courts on the one hand (*dawār*) and arbitration courts

²⁰³ b. B. Qam. 113b–114a. Translation based on MS Escorial.

²⁰⁴ The various interpretations have been discussed extensively in Ezra Spicehandler, “בִּי דִּוְרָא and דְּמִגִּיסְתָּא דִּינָא: Notes on Gentile Courts in Talmudic Babylonia,” *Hebrew Union College Annual* 26 (1955): 333–354. Compare with Shaked, “Notes on the Pahlavi Amulet and Sasanian Courts of Law,” *Bulletin of the Asia Institute* (1993): 168–169; and Ciancaglioni, *Iranian Loanwords in Syriac*, 221. Simonsohn, *Common Justice*, 46 suggests that *be dawār* was “a direct extension to the Sasanian judicial apparatus,” whereas the *be megista*, which “operated in the countryside,” was “administered by lay figures,” an explanation whose basis is unclear to me.

²⁰⁵ Macuch, “Jewish Jurisdiction,” 154. ²⁰⁶ b. ‘Abod. Zar. 26a; Giṭ. 58b.

²⁰⁷ It also appears in b. B. Meṣ. 30b, where it is incredulously juxtaposed with “Torah law (דִּין תּוֹרָה).” For a discussion of manuscript variants here, see Spicehandler, “Notes on Gentiles Courts,” 344–345.

run by magi on the other (*megista*). Support for Spicehandler's identification of *megista* with magi comes from a talmudic discussion in which a rabbi suggests the temple was destroyed because of judgments that adhered only to biblical law, to which an anonymous comment incredulously retorts "were they to follow the law of *megista*!?" If this source does indeed refer to the courts of the magi, the rabbis are acknowledging and seeking to circumscribe Jewish access to the Sasanian legal marketplace, permitting imperial courts (*dawār*), but disavowing forms of Zoroastrian arbitration (*megista*).²⁰⁸ The *megista* may have met rabbinic disapproval because of its overtly Zoroastrian legal bases, which is evidenced in a recently published Manichaean text depicting a Zoroastrian judge ruling outside of a fire temple, in which the fire is referred to explicitly to authorize the judge's pronouncements.²⁰⁹ Although the rabbis here discredit Zoroastrian forms of arbitration on procedural grounds – namely, admitting too few witnesses or not requiring an oath – these may be pretexts to deprecate the overtly Zoroastrian nature of the judgment which provoked rabbinic disapproval.²¹⁰

Given that Jewish litigants had regular access to imperial courts, it is hardly surprising that the Babylonian Talmud reflects familiarity with Sasanian legal terminology and court procedure. The Talmud includes legal discussions concerning Sasanian court documents and the proper use of seals to validate documents.²¹¹ It also discusses the validity of

²⁰⁸ This may be the setting to which Agathias (2.26.5) refers to when he reports that Persians insist that even a "private dispute" must be presided over by the magi. See Joseph Frendo, *Agathias: The Histories* (Berlin: 1975), 61.

²⁰⁹ The Chester Beatty Kephalaia Codex chapter 326 (ed. and trans. Iain Gardner, Jason BeDuhn, and Paul C. Dillely, *The Chapters of the Wisdom of My Lord Mani* [Leiden: 2018], 36–49). Certainly, there were procedural differences between approved forms of conflict resolution; see Macuch, "Jewish Jurisdiction," 155–156.

²¹⁰ The rabbis were also disdainful of Iranian officials who appear to have been enforcers of court decisions. See b. Shab. 139a; Sanh. 98a; b. Ta'an. 20a; Mokhtarian, *Rabbis, Sorcerers, Kings, and Priests*, 116–120; and Ciancaglini, *Iranian Loanwords in Syriac*, 143. An opaque reference in b. Git. 11a to a document produced in the "assembly of Aramaeans" may also show that Jews approached other local communal courts, which in this case as well, a rabbi rules to be invalid. See Sokoloff, *DJBA*, 575. Compare this assembly of Aramaeans with the report in Amir Harrak, ed., *The Acts of Mār Mārī the Apostle* (Atlanta, GA: 2005), 42ff, and discussion in xxii–xxvi.

²¹¹ b. Git. 28b. See Macuch, *Rechtskasuistik*, 727–730; Maria Macuch, "Iranian Legal Terminology in the Babylonian Talmud in the Light of Sassanian Jurisprudence," *Iran-Judaica* IV, ed. Shaul Shaked and Amnon Netzer (Jerusalem: 1999), 91–101; and Maria Macuch, "Allusions to Sasanian Law in the Babylonian Talmud," in *The Talmud in Its Iranian Context*, ed. Carol Bakhos and M. Rahim Shayegan (Tübingen: 2010),

Persian documents composed in non-Jewish courts and used by Jews.²¹² Other passages accurately describe differences between Jewish and Sasanian law.²¹³ Technical Sasanian legal terms are deployed in discussions of Jewish law without any reference to Sasanian law itself, reflecting the internalization of legal concepts to which the rabbis, like other Jews, were regularly exposed.²¹⁴

In one passage, an Exilarch relates several Sasanian laws:²¹⁵

Rabbah said: These three matters were told to me by ‘Ukba b. Nehemiah the Exilarch in the name of Shmuel: the law of the kingdom is law; Persians acquire ownership (*dārišn*) by forty years’ occupation; and rich landlords who buy up land and pay the tax on it, the sale is valid.

According to this passage, the Exilarch maintained that the law of the kingdom is binding, a well-known saying to be discussed momentarily, which may serve as a heading to introduce the next two laws.²¹⁶ He then explains that possession under Iranian law – using the appropriate

104–105. See also Becker, *Sources*, 81–82n57. For the latter, see b. ‘Erub. 62a with Macuch, “Allusions to Sasanian Law,” 104; and b. B. Meṣ. 73b with Mokhtarian, *Rabbis, Sorcerers, Kings, and Priests*, 110–111. See also Shai Secunda, “‘Lost Property to the King!’: The Talmudic Laws of Lost Property in the Shadow of Sasanian Bureaucracy,” *Bulletin of the Asia Institute* 28 (2014): 45–55.

²¹² b. Giṭ. 19b, and cf. b. Giṭ. 11a.

²¹³ b. Bat. 173b and B. Meṣ. 71b, with analysis in Secunda, *The Iranian Talmud*, 107–109. See also b. B. Meṣ. 28b and Ber. 60a, discussed in Shai Secunda, “Gaze and Counter-Gaze: Textuality and Contextuality in the Anecdote of R. Assi and the Roman (b. B.M. 28b),” in *The Aggada of the Babylonian Talmud and Its Cultural World*, ed. Geoffrey Herman and Jeffrey Rubenstein (Providence, RI: 2018), 149–171; and b. ‘Abod. Zar. 71a.

²¹⁴ Macuch, “Iranian Legal Terminology,” 91–101 (referring to b. ‘Arak. 28a and b. Qid. 60b). Geoffrey Herman has suggested orally that later layers of the Talmud reflect greater awareness of Sasanian legal terminology, although the sample size is quite low, and some references appear to be early (e.g., b. B. Qam. 58b below). But if such a change is meaningful, it may be explained in a host of ways, including greater willingness by the anonymous layer to acknowledge Jewish recourse to imperially sponsored venues and Sasanian realia more generally (see my “Editorial Material in the Babylonian Talmud and Its Sasanian Context,” *Association of Jewish Studies Review* 47 [2023], 51–76), or a growing preference among Jews to seek imperial versus local means of recourse. On the latter change in Roman provinces, see Ari Bryen, “Judging Empire: Courts and Culture in Rome’s Eastern Provinces,” *Law and History Review* 30 (2012): 771–811.

²¹⁵ b. B. Bat. 55a. See discussion in Herman, *Prince without a Kingdom*, 203–207.

²¹⁶ Herman, *Prince without a Kingdom*, 204.

Persian technical term, *dārišn* – lasts for forty years,²¹⁷ and that wealthy landlords can acquire ownership of a property by paying its overdue property taxes.²¹⁸ Here an Exilarch is shown to express particular interest in and familiarity with Sasanian law.

The Exilarch's supposed interest in Sasanian law appears in another passage, which reflects how rabbis might delegitimize other Jewish arbitrators by tarring them for adhering to Sasanian law, just as the Synod of 540 condemned Abraham of Bet Lapaṭ:²¹⁹

A certain person cut down his neighbor's date tree.

He came before the Exilarch, [and the latter] said to him: "I myself saw the place; three date trees stood in a cluster and they were worth one hundred zuz. Pay the other party thirty-three and a third [zuz]."

Said the defendant: "Why do I need the Exilarch who judges in accordance with Persian Law?"

He therefore appeared before R. Naḥman, who said to him [that each tree should be valued at] sixty [*se'ah*, based on rabbinic standards of damage evaluation discussed earlier in the pericope].

The defendant, apparently unhappy with the Exilarch's seemingly commonsensical ruling that cutting down one of three fruit trees reduces the property's productivity, and therefore value, by one third, dismisses the ruling as one based on "Persian law" and brings the case before a rabbi instead.²²⁰ It is striking that the defendant either assumes that the

²¹⁷ The precise law in question is unclear, but it does not appear to refer to adverse possession, as it is often understood, but rather the extent of possession, perhaps after which the ownership of land reverts to the state or the previous owner.

²¹⁸ This also conforms to what is described as the law of the land in b. B. Bat. 54b. The last law is potentially self-serving, as the Exilarch himself was an acquisitive landowner who might avail himself of this Sasanian law to purchase yet more land. See Chapter 2.

²¹⁹ b. B. Qam. 58b, according to MS Vatican 116.

²²⁰ In one of the two other places in which this accusation of ruling in accordance with Persian law appears (b. B. Bat. 173b), the parallel with Sasanian law is clear. See Maria Macuch, "This is the Law of the Persians': An Allusion to the Sasanian Law of Surety in the Babylonian Talmud," *Iran Namag* 1 (2016): 18–28. In the other location (b. Shebu. 34b), which does not appear in all manuscripts, it is more difficult to determine how the law in question relates to Sasanian law. On the accusation of "Persian law" as derogatory, see Spicehandler, "Notes on Gentile Courts," 354; and Secunda, *Iranian Talmud*, 90–109. Herman, *Prince without a Kingdom*, 208–209 and Secunda, *Iranian Talmud*, 97, based their understanding of the passage on a medieval commentary on the story which has been rightly challenged by Brody, "Irano-Talmudica," 213–214. See Secunda's response in "This, but Also That': Historical, Methodological, and Theoretical Reflections on Irano-Talmudica," *Jewish Quarterly Review* 106 (2016): 233–241. Interestingly, although here R. Naḥman and the Exilarch are juxtaposed, they are often conflated, on which see Chapter 2.

Exilarch's ruling was in fact based on Iranian law or disparages it by (mis) characterizing it as Iranian law. Here we see how certain Jewish arbitrators may have applied Iranian law in their own conflict resolution, and how the rabbis might rhetorically pit themselves against other arbitrators by portraying the latter's judgments as insufficiently Jewish/rabbinic, or excessively Iranian. The rabbis may well have attracted litigants precisely by laying claim to the mantle of proper Jewish judgment over and against what they marked as "foreign" and "Persian," just as the Exilarch and other Jewish elites may have attracted litigants precisely by offering judgments that were in some form Jewish, while being closely aligned with Sasanian law.

Finally, in the context of the relationship between Jewish and Sasanian law, it is necessary to discuss the famous dictum "the law of the kingdom is the law," found only in the Babylonian Talmud.²²¹ While it is often presented as articulating a sweeping vision of Jewish acceptance of imperial law, this dictum appears only a handful of times and articulates a narrow legal notion that is already implicit in earlier rabbinic statements.²²² As applied, the dictum does not endorse the replacement of Jewish law by Sasanian law, nor is it equating the two. Instead, the dictum recognizes the validity of the government to expropriate land based on tax law and rules of land tenure. Thus, in one case, a field whose original owners did not pay the tax for a field lose it to those who did pay the tax, because such is the law of the kingdom.²²³ When tax collectors act outside of their remit, they are not considered to be following the law of the land and their actions are not deemed valid under Jewish law either.²²⁴ The statement does acknowledge that Sasanian law is halakhically relevant in certain cases, but does not add much to earlier rabbinic material that came to the same conclusion regarding other imperial contexts.²²⁵ For instance, a mishnah states that the contracts of non-Jewish courts are legally valid for Jews, and the Talmud cites "the law of the kingdom is the law" to supply the

²²¹ b. B. Bat. 54b, 55a; B. Qam. 113a–b; Ned. 27b–28a; Git. 10b; and b. Sanh. 25b according to MS Yad HaRav Herzog I.

²²² The lengthiest discussion is found in Shmuel Shilo, *Dina De-Malkhuta Dina* (Jerusalem: 1974). See also Neusner, *History of the Jews*, 3.43–44; Herman, *Prince without a Kingdom*, 202–207; Yaakov Elman, "Returnable Gifts in Rabbinic and Sasanian Law," in *Irano-Judaica VI*, ed. Shaul Shaked and Amnon Netzer (Jerusalem: 2008), 140–141; and Payne, *State of Mixture*, 104.

²²³ b. B. Bat. 54b. ²²⁴ b. B. Qam. 113a; b. Ned. 27b–28a.

²²⁵ Contra Gafni, "Political, Social and Economic History," 796, and many others, but in line with Brody, "Irano-Talmudica," 212–213.

mishnah's rationale.²²⁶ The totality of evidence suggests a more dynamic encounter between rabbinic and other courts, in which rabbis permitted access to non-Jewish courts in some cases, erected boundaries in others, and promoted their courts above all.

THE SASANIAN EMPIRE AND ITS COMMUNITIES

The Sasanian Empire oversaw a single overarching administrative and legal system to which all its subjects had recourse. All evidence therefore suggests that Jews, Christians, and other communities were integrated into the state and did not enjoy any formalized semi-autonomy. The Exilarch was not an imperially recognized intermediary on behalf of the Jews and did not head a highly centralized and formal Jewish hierarchy. Instead, he was an elite figure who drew support and power through persuasion and social cachet. The rabbis did not serve as the designated official judges in a Jewish centralized social hierarchy. Instead, like other aspiring Jewish elites, they were in a constant process of competing for prestige, power, and influence.

The Empire nevertheless left spaces for individuals and communities to create alternative means of conflict resolution. Jews, like their Christian and Zoroastrian neighbors, could appeal to Sasanian courts but also to local community-based forms of legal resolution. Some elites, like rabbis and bishops, offered alternative venues for legal settlement, casting rival Sasanian courts as "outsider" or "Persian," and their own courts as governed by communal traditions. Other elites, perhaps including the Exilarch, might draw from Sasanian legal principles in their own judgments. Jews and Christians had access to Sasanian courts, even as the state allowed for communities to resolve conflicts locally through process of arbitration. The existence of multiple avenues of legal recourse, both imperial and communal, forced Jewish and Christian religious experts to compete with imperial courts and persuade followers to choose them instead.

Within this environment, Sasanian communities developed independently from one another. The East Syriac ecclesiastical hierarchy was explicitly modeled on the ecclesiastical hierarchy in the west, even as the loose network of rabbis resembles their Palestinian counterparts. Unlike the Catholicos, the Exilarch did not sit atop a sprawling hierarchy with imperial support. This is not to mention other crucial differences between

²²⁶ b. Git. 10b.

the two, such as the fact that the Exilarch was simply the patriarchal head of an aristocratic family, whereas the Catholicos was appointed or elected. These two elites were not commensurate, and their distinctive characters derived from their own contingent histories.

The Sasanian Empire in turn approached Jewish and Christian communities in both similar and dissimilar ways. Sasanian rule offered a single legislative system for all its subjects while tolerating localized forms of dispute resolution. These local forms of social order did not insulate their participants from the Sasanian Empire. Sasanian subjects were invariably embedded in the empire's social and cultural realities. At the same time, given that Christians provoked political anxieties in the context of the Sasanians' protracted conflict with Rome, the Sasanians fostered unique ties with Christian elites through the foundation of an ecclesiastical hierarchy. Even so, the Catholicos was not a formal representative of all Christians at the court, and the Sasanians did not grant Christians semi-autonomy or the right to self-govern. The empire simply elevated elite Christian figures who encouraged their flocks to comply with the Sasanian Empire and functioned as ambassadors and representatives of the court to frontier communities and to the Roman Empire. It seems that Babylonian Jews, who did not provoke similar levels of anxiety, merited neither increased surveillance nor the same scale of benefaction and support.²²⁷

The integrated picture of Sasanian rule and legal culture sketched above demands a wholesale rethinking of the nature of Jewish society. Indeed, it is in many ways incoherent to speak of Babylonian Jewish society as a single entity at all, outside of the models which assume state sponsorship of a single centralized hierarchy. An alternative approach takes seriously the fact that Babylonian Jews were participants in Sasanian society more broadly, even as some might rhetorically and ideologically seek to stand apart from it. Exilarch and rabbis alike were dynamic figures whose positions depended on the accrual of social prestige and cultural capital as configured within the broader social context in which they were embedded. It is to this more dynamic model of authority in Babylonian Jewish society that we now turn.

²²⁷ For more on the Sasanians' differential treatment of Jews and Christians, see Chapter 3.