

The Visual Fields: Early Rabbinic Agricultural Landscapes

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1. Seeing in the Rabbinic Landscape

Tannaitic literature prescribes a normative world, created by the distinctive actions of Jews. In Mishnah and Tosefta Zera'im ("Seeds"), the prescribed actions take this world building out of the home and city, into the agricultural spaces of the garden, vineyard, orchard, and field. Below, we shall see that particular actions, prescribed as innovative ways for fulfilling biblical commandments related to agriculture, mark rabbinic Jewish space as visually distinct from other spaces.¹ The actions of the farmers mark the spaces as (rabbinically) Jewish and maintained by Jews who abide by the biblical commandments (as interpreted by the Tannaim). The landscape created in the Mishnah and Tosefta should be legible to interested viewers. When approaching the creation and interpretation of *landscape*, the cultural geographer Stephen Daniels suggests that "conserv[ing] both an ideological and an ontological interpretation" of space allows for the interrogation of the dialectical tension between the material conditions of space, the built and the natural environment, and the social production of those spaces.² That is, when we envision the agricultural spaces in the Mishnah and Tosefta, we can consider how the spaces should be materially

- 1 These spatial distinctions are also part of the larger project of differentiation of persons, found throughout Tannaitic literature, where rabbinic Jews (men) are differentiated from a wide range of others. See below.
- 2 Daniels, "Marxism", 217. Daniels' work theorizing the constructedness of "landscape" is primarily focused on the modern English countryside. I use the term "landscape" advisedly, as the term in English is laden with specific historical developments from the 15th and 16th centuries, as Cosgrove demonstrates, and there is no equivalent term in Tannaitic Hebrew. See Cosgrove, "Prospect", 46. Yet, as Daniels alerts us to the importance of "ideological and ontological interpretation" of the modern landscape, we can see that the spaces of the Late Antique countryside were also laden with ideological and ontological significations, for rabbinic Jews and Romans alike.

created through human, plant, and animal action, and how the results of human actions demonstrate what sort of space is being cultivated (in this case, identifiably normative Jewish spaces, from the perspective of the Tannaim).³ This agricultural landscape, as seen in Mishnah and Tosefta Zera'im, is thus created by and populated by rabbinic Jews and by others who can see and interpret the spaces.

1.1 Visual Epistemology

Sight and visibility come to the foreground in early rabbinic discussions of Jewishness, Jewish practice, and the borders between identity and space.⁴ Sight is a key mode of verification of normative Jewish action in Tannaitic literature, particularly in Mishnah and Tosefta Zera'im ("Seeds"). Indeed, seeing correctly and being seen correctly are essential to early rabbinic epistemology:⁵ knowledge of normative behavior is transmitted via sight. The early rabbis describe ritual and mundane actions as complete, normative, and verified when they are perceived visibly.⁶ Moreover, actions that define one's Jewishness, such as particular

- 3 In a similar vein, Henderson has outlined four scholarly approaches to the interrogation of "landscape", including interpreting landscape as epistemological ("the legible, material record of human practice and belief") and as discourse. Henderson, "What (Else) We Talk About", 140-150; 146.
- 4 Recent scholarship has focused on the attention early (and later) rabbinic texts pay to issues of sight, visuality, and visibility. As Neis points out, "Late antiquity has been subject to a 'visual turn' both as a scholarly trend in the past decade or so, and as a characterization of the period itself". Neis, *The Sense of Sight*, 5. See Cox Miller, *The Corporeal Imagination*; Frank, *The Memory of the Eyes*; and Bartsch, *The Mirror of the Self*.
- 5 "All truth claims are based on an epistemology—an argument, explicit or assumed, about the reason to believe in the truth of the claim", Labendz, *Socratic Torah*, 68. Labendz argues that her "effort to delineate rabbinic epistemology—unsystematic and implicit it may be—can be thought of as part of the effort to understand the effect of the rabbis' setting in Roman Palestine on their thought and literary production" (69-70).
- 6 See Mira Balberg, "Unforgettable Forgotten Things"; Mira Balberg, "Rabbinic Authority, Medical Rhetoric, and Body Hermeneutics in Mishnah Nega'im"; and Gil P. Klein, "Forget the Landscape".

adherence to biblical law, always have the potential to be observed.⁷ Visual verification, or visual epistemology (confirming the truth of Jewish action through sight), is revealed in a telling way when the Tannaim explicitly append halakhic rulings with an explanation linked to sight and visibility.⁸ Visual evidence is a source of legal and midrashic knowledge in rabbinic literature.⁹ In agricultural contexts in particular, we find the rabbinic actor in a semi-public space, where his actions have the potential to be seen, albeit potentially infrequently, by his neighbors or other passers-by.¹⁰ This

- 7 For discussion of the misconception that Platonic and Neoplatonic thought drew a strict line between the unseen “real” and the visible “shadows” of our world, see Miles, “Facies ad Faciem”. Philo, for example, notes the power of sight to reveal the truths of the physical world, while he emphasizes the power of philosophy to move beyond the physical to the divine (e.g. *Special Laws* III.34-35; see Neis, “Eyeing Idols”, 533-4).
- 8 “At first stab, epistemology is the philosophical study of *knowledge*: its nature, its requirements, and its limitations”, BonJour, *Epistemology*, 1. Many epistemological approaches are positivistic – generally assuming that which is observed is reliable – yet, more recent approaches emphasize the dialectical relationship between subject and object, and that dialectical relationship is culturally contextual: “if something is socially constructed, it is not the durable, detached web of lawlike operations that positivism conjures up. It is—and we are—historically specific and changeable”, Sprague and Kobryniewicz, “A Feminist Epistemology”, 39. I follow Labendz, *Socratic Torah*, in emphasizing the contextual nature of epistemology here when I describe a specific, visual form of Rabbinic Jewish epistemology.
- 9 See Walfish, “Halakhic Confrontation Dramatized”; Fonrobert, *Menstrual Purity*, 105ff; Neis, “Eyeing Idols”, and *The Sense of Sight*, 43-81; Halberstam, *Law and Truth*, 50; Rosen-Zvi, *The Mishnaic Sotah Ritual*; Rosen-Zvi, “The *Sotah* in the Temple”; Cohn, *The Memory of the Temple*; Stein, *Textual Mirrors*, 119-20; Boyarin, “The Eye in the Torah”; and Bregman, “Seeing with the Sages”. There are other forms of knowledge production in the prescription and normativizing practices of halakha, including the psychological (“Did the rabbinic farmer *intend* to fulfill his halakhic obligations?” See Avery-Peck, “The Division of Agriculture”, 45 and Hoffmann Libson, *Law and Self-Knowledge*, 30) and the ontological (“Did the rabbinic farmer *actually* fulfill his obligations?”), but here we are concerned with how the actions of the rabbinic farmer appear to himself and others.
- 10 In t. Pe’ah 1:6-7, discussed below, one is told that one must leave the *pe’ah* (“edge” of one’s field) unharvested, for the needy, only at the end of the harvest, lest a neighbor who passes by the field at different times of the harvest might suspect that the farmer has not fulfilled the commandment. I have elected to describe those who hypothetically have the ability to view and evaluate the rabbinic farmer’s actions

potential for observation, or as the early rabbis put it with the explicit gloss, *mar'it ha-'ayin*, “the appearance of the eye”, is a cause for concern for the early rabbis and leads to prescriptions for practice that should be visibly identified as “correct” by hypothetical neighbors who view rabbinic practice.¹¹ There is value in *seeing* Jewish space and ritual action, and the possibility of *being seen*, as a form of epistemology: a form of knowledge that the rabbis attempt to communicate through visual signs, in the spatial realm.

In addition, there are cases from Mishnah and Tosefta Zera'im where enactment of biblical law is made visible and confirmed through sight, and key examples, amplified by the explanatory gloss “because of the appearance of the eye,” will be discussed below. In the halakhic discussions from Mishnah and Tosefta Kil'ayim and Shevi'it, the early rabbis interpret biblical agricultural laws in a variety of ways that take into account the possibility of others viewing and judging the appropriateness of the enacted biblical commandments. Consideration of halakha that is literarily emplaced in agricultural spaces gives us an excellent opportunity to see how the rabbis idealize the interrelated realms of normative behavior and Jewish space, reflected through the gaze of the other. The early rabbis debate the *appearance* of Jewish space and practice, and they presume the suspicious gaze of nosy neighbors,¹² as they transform the landscape.

from beyond the borders of his (as throughout Tannaitic literature, the presumed subject of agricultural halakha is a male householder) farm as “neighbors,” “passers-by,” or “others.” The identity of these hypothetical persons cannot be verified, yet from the perspective of the Mishnah and Tosefta, they have enough rabbinic halakhic knowledge (and/or other interpretive modes of reading biblical agricultural commandments) to be interested in and to critique the actions of the rabbinic actor.

- 11 For discussion of other potential problems raised by observing or surveilling a rabbinic sage (to either confirm his right action or accuse him of wrong action), see Simon-Shoshan, ““People Talking Without Speaking””.
- 12 “Neighbors are accessible for comparisons as well as for borrowing. Thus they may become objects for jealousy, but also for admiration and for imitation. The possibility for comparing may open the eyes to problems inside the house, so that its dwellers may be inspired to introduce changes. Bonding across the fences of neighboring domiciles thus carries the potential of change, maybe of revolution”, Galit Hasan-Rokem, *Tales of the Neighborhood*, 53. Neis also considers how seeing and being seen (by neighbors, relations, and God) can and do direct the material practices found in rabbinic literature. “Eyeing Idols”, ““Their Backs toward the Temple””, and *Sense of Sight*.

Through normative Jewish practice, the material world is organized, differentiated, and presented to interested viewers as distinctly Jewish landscape.

1.2 “For the Sake of Appearances,” or “Because of the Appearance of the Eye”

A key part of how the early rabbis consider visual verification of halakhic practice to be an integral part of rabbinic epistemology is a phrase that is relatively uncommon in Tannaitic literature. This phrase, *mepnei mar'it ha-'ayin*,¹³ can be translated as “because of the appearance of the eye,” or “for the sake of appearances.” In context, this is an explanatory phrase, whereby the Mishnah or *baraita* is glossed with an explanation for a particular rabbinic ruling, with concern for how the action following that ruling might be misperceived by someone else. As we shall see, the use of *mepnei mar'it ha-'ayin* is not completely uniform in Tannaitic literature: while the phrase becomes axiomatic in later Hebrew usages for prescriptions “because of how it appears”, this article does not attempt to provide a genealogy of the phrase beyond the examples considered here.¹⁴ I am particularly interested in how the phrase is deployed in the Mishnah and Tosefta in the context of agricultural halakha and agricultural spaces,

13 The phrase can be found in several places in Mishnah and Tosefta. I have selected two examples in particular for analysis in this paper: m. Kil'ayim 3:5 (parallel to t. Kil'ayim 3:10 and 2:9) and m. Shevi'it 3:4. The other examples of the phrase in Mishnah and Tosefta can be found in m. Pe'ah 1:7, t. Pe'ah 1:6 (parallel to Sifra, *Kedoshim* 1:10), m. Kil'ayim 3:5 (parallel to t. Kil'ayim 3:10 and 2:9) and 7:2, m. Shevi'it 3:4, t. Shevi'it 2:2, 2:9, and 2:14, m. Shabbat 19:6, t. Shabbat 4:9, and m. Bekhorot 7:3 and 7:5. In addition, there is a midrashic tradition that relates the phrase to Saul disguising himself when he goes to meet the woman in En-dor (1 Samuel 28:7-25). Thus, the midrash relates, Saul goes to the banquet hall of the woman *without* his sons, “because of the appearance of the eye”, yet goes to war with the Philistines, knowing he will die, *with* his sons. In this usage, the phrase is used to describe not only Saul's concealment, but also his desire to stay hidden from view (a desire that is thwarted when the woman recognizes him, 1 Samuel 28:12) and is contrasted with *his inability to hide from view when he marches against the Philistines*. See Vayikra Rabbah 26:7, Midrash Tehillim 7:2, and Midrash Tanhuma Buber, *Emor*, 4:1.

14 A full genealogy of the phrase would of course be welcome in a different study.

in Seder Zera'im (in tractates Kil'ayim, Pe'ah, and Shevi'it).¹⁵ In these cases, some aspect of recommended rabbinic practice is changed or explained because of a rabbinic understanding (or suspicion) of how others might draw erroneous conclusions about what they see rabbinic Jews do. Thus, as in m. Kil'ayim 3:5,¹⁶ the halakha—here discussing the appearance of vines planted in the same hole—is explained by a general rule: “because everything that the sages forbid they only decreed because of the appearance of the eye”. In this article, I focus on the use of this phrase in agricultural contexts, in Mishnah and Tosefta Seder Zera'im: the appearance of transgression (or lack thereof) is accentuated in the semi-public, exterior spaces of Jewish agriculture, where interested and knowledgeable neighbors have the opportunity to see the rabbinic Jew adhering to Tannaitic halakha.

The perceived danger of the gaze of a neighbor is most explicit in t. Pe'ah 1:6-7.¹⁷ This *baraita* comes in the midst of four different explanations for why the Tannaim decree that a farmer designates part of the space as *pe'ah* (“edge”) only as the harvesters come to the final rows of a particular plot of land, leaving a visual marker of the conclusion of the harvest through an unharvested “edge” of the field. *Pe'ah* is a form of aid

15 See the list of citations of the phrase in note 10. The phrase “because of the appearance of the eye” becomes more axiomatic in later halakhic discourse, but it is relatively rare in Tannaitic literature. As the examples in this article show, I see particularly interesting usage of the phrase in agricultural contexts in the Mishnah and Tosefta, where the relationship between visibility and neighboring spaces are accentuated. (In modern Hebrew, the phrase is used in contemporary halakhic arguments related generally to avoidance of appearing to transgress the law. In *Raskin v. Jerusalem Religious Council*, rabbis charged with providing kosher certificates to hotels in Jerusalem argued that the presence of a belly dancer in the event spaces of those hotels would cause observers to think that the hotels were not kosher, “because of the appearance of the eye” (*Raskin v. Jerusalem Religious Council*, 673). Readers may be aware of the phrase from widespread use in later rabbinic arguments to indicate a ruling that is “as things appear,” but the phrase has a number of interrelated and not-quite-equal usages in Tannaitic literature.

16 This Mishnah will be analyzed as Case Study 1 in this article.

17 Lieberman, *Seder Zera'im*, 42-3. T. Pe'ah 1:6 is parallel to Sifra, *Kedoshim pereq* 1:10.

for the needy,¹⁸ found in the Hebrew Bible¹⁹ and elaborated by the Tannaim, whereby a section of the field is left unharvested, and can be freely reaped by those in need. One of those four explanations is *mar'it ha-'ayin* (t. Pe'ah 1:6²⁰): the farmer should designate his *pe'ah* at the end of the harvest “for the sake of appearances”. T. Pe'ah 1:6 elaborates:

“And for the sake of appearances”. What is the reason? Such that there will not be [people] going to and fro, saying, “Look! How is it that that so-and-so harvested his field and did not give from it *pe'ah*?!”

As it is written in the Torah, “he shall not complete the harvest of his field, etc.” (Leviticus 19:9)²¹

The explanatory gloss—“for the sake of appearances”—is dramatized here in the Tosefta, whereby the potentially suspicious neighbor enters the scene. This hypothetical neighbor repeatedly walks past the field being harvested. The Tannaim speculate: if this neighbor was not present at the moment the *pe'ah* was designated by the farmer during the harvest itself (and presumably was collected by other neighbors in need), but saw the conclusion of the harvest itself, would come to the erroneous conclusion that the farmer *never* designated the *pe'ah* at all. Alternatively, this passerby could very well be a needy person who missed the opportunity to partake of the beneficence of the *pe'ah* and therefore (erroneously) denounces the farmer for not leaving part of the field unharvested (even though the *pe'ah* was designated earlier, in the midst of the harvest).²² And

18 Gardner convincingly shows that *pe'ah* is not precisely “charity,” i.e. a beneficent gift from the have to the have-not, but rather the correct apportionment of that which is God’s (i.e. the growing produce) and which God has designated to the needy. Gregg E. Gardner, “Charity Wounds: Gifts to the Poor in Early Rabbinic Judaism,” in *The Gift in Antiquity*, edited by Michael L. Satlow, 173-188 (Malden, MA and Oxford, UK: Wiley-Blackwell, John Wiley & Sons, Inc., 2013), p. 173. See also Gregg E. Gardner, *The Origins of Organized Charity in Rabbinic Judaism* (Cambridge: Cambridge University Press, 2015).

19 Leviticus 19:9-10 and 23:22, and Deuteronomy 24:19-22.

20 Lieberman, *Seder Zera'im*, 43.

21 See also b. Shabbat 23a; Sifra, *Kedoshim pereq* 1:10; and y. Pe'ah 22a 3:1.

22 I thank an anonymous reader for this suggestion. While thinking of this character in the drama as a needy person who feels cheated out of reaping the harvest makes

unsurprisingly, this judgmental neighbor (or needy person), as depicted by the Tannaim, quotes the Torah, drawing direct attention to the farmer's supposed transgression. Thus, a specific Tannaitic argument, that the designation of the *pe'ah* must occur at the end of the harvest, is contextualized and explained by the gaze of neighbors, whom the rabbis imagine to be not only scrupulous with regard to adherence to biblical law, but also always watching for transgression.²³

1.3 Some Non-Agricultural Contexts for *Mar'it ha-'ayin*

This explanatory phrase, *mepnei mar'it ha-'ayin*, is not found in many places in early rabbinic literature.²⁴ As I argue that the suspicion of eyes that incorrectly see rabbinically mandated Jewish action is generative of innovations in halakha, one can conclude that correct seeing is as important as correct doing: knowledge of normative Jewish practice is transmitted through visual, and spatial, signs.²⁵ The phrase does appear in a few other

sense, t. Pe'ah 1:6 also brings three other reasons for why the farmer must designate the portion of the field as *pe'ah* at the end of the harvest, including the needy persons "robbing" the farmer (entering the field unsupervised and taking what they see fit), the needy persons "interrupting" the harvest (constantly demanding to know when the *pe'ah* will be available), and because of farmers who are "cheaters," who say "I already gave the *pe'ah*," even though they had not. In light of the first two reasons, which directly mention the needy, I think that the third reason—"for the sake of appearances"—is directed to other outsiders who observe the harvest.

- 23 The designation, presentation, recognition, and acceptance of *pe'ah* is inherently visual, as seen throughout the Mishnah and Tosefta's tractates. Notably, Mishnah Pe'ah emphasizes the requirement to visually identify each "field" as distinct for the purposes of designating left-behind crops as *pe'ah*. For example, material marks on the landscape (e.g. streams or fences) visually divide crops into distinct fields (m. Pe'ah 2:1). T. Pe'ah 1:6 is explicit in naming one concern for the rabbis in the leaving of *pe'ah* as "the appearance of the eye," as seen above.
- 24 See Avery-Peck, "The Division of Agriculture"; Primus, *Aqiva's Contribution*; Newman, *The Sanctity of the Seventh Year* (Newman concurs with my argument that visual demonstration of normative practice is a key component of halakhic argumentation. "All Israelites have a responsibility to demonstrate to one another that they are not transgressors, as well as to uphold the law in fact", 75).
- 25 As noted above, the "visual turn" in Late Antiquity is found beyond Rabbinic Jewish texts, insofar as other communities also used visual verification as a form of in-group knowledge. See Cox Miller, *The Corporeal Imagination*; Frank, *The Memory of the*

contexts beyond Seder Zera'im.²⁶ The following examples, from t. Shabbat, m. Bekhorot, and m. Shabbat, show how the phrase is used in non-agricultural contexts and show how the examples from Seder Zera'im are distinct, insofar as they focus both on visibility and on spatial distinctions in the idealized Tannaitic landscape. Thus, in t. Shabbat 4:9,²⁷ in the midst of a discussion of various physical adornments that one is forbidden to wear during the Sabbath, such as rings and necklaces, there is a distinction between “expertly made” and “non-expertly made” amulets.²⁸ The statement in the Tosefta decrees that even though “expertly made” amulets are permitted during the Sabbath, one may not incorporate the approved amulet into a piece of jewelry. Why? Because wearing this amulet gives the appearance of transgression, *mar'it ha-'ayin*, the transgression of wearing prohibited jewelry on the Sabbath. Two other examples of the phrase “because of the appearance of the eye” can be found outside of discussion of agricultural halakha, both of which concern

Eyes; and Bartsch, *The Mirror of the Self*. For example, Cox Miller describes how early Christian devotional practices turn toward the visual through images and relics, and “the animation of statues and the devotions to relics—involve a kind of material engagement not characteristic of earlier forms of self-construal (31).

26 See citations of the phrase above in note 12.

27 Lieberman, *Seder Moed*, 18-19. This *baraita* is parallel to m. Shabbat 6:2. In that Mishnah, the explanatory gloss, “because of the appearance of the eye”, is missing.

28 In the Mishnah and Tosefta (m. Shabbat 6:2, t. Shabbat 4:5, and t. Shabbat 4:9), the amulet in question is either made by an expert or a non-expert, while in some places in the Babylonian Talmud (for example, b. Shabbat 61a), the amulet itself is described as “effective”. The Babylonian Talmud on Shabbat 61a first affirms that the Mishnah describes the amulet as “expertly-made”, and then brings a *baraita* to discuss how an amulet itself is deemed “effective” or “expert”. (The *baraita* that the Babylonian Talmud brings is also found in the Tosefta [t. Shabbat 4:9] and describes an amulet as “effective”: “[the amulet] healed, and a second time, and a third time”. Lieberman thinks that this phrase is a retrojection from the Talmud back into the Tosefta, and is thus later than the Tannaitic version, which focuses on the “expert” who crafted the amulet. Saul Lieberman, *Tosefta Ki-Fshuta: Part 3*, 65.) The object of “expert” thus shifts from the craftsperson to the amulet itself in the later Babylonian Talmud. For discussion of such “expert” amulet-makers, see Manekin-Bamberger, “Who Were the Jewish ‘Magicians’”, 248-51.

the appearance of physical bodies.²⁹ In the halakhot found in m. Bekhorot chapter 7, priests are disqualified from service in the Temple because of physical defects (either the loss of eyelashes – 7:3 or teeth – 7:5), and this disqualification comes with the explanation “because of the appearance of the eye”. In a somewhat similar case, in m. Shabbat 19:6, the halakha demands a “fix” to confirm the circumcision of an obese boy, whose fleshy body occludes his penis, “because of the appearance of the eye”. In the former case, the priest is disqualified because his body does not conform to an idealized, unblemished priestly body and appears incomplete;³⁰ in the latter case, the circumcision is invalid because the extra flesh makes it appear that too much of the foreskin is left, such that the individual appears not to have been circumcised at all. Compared to the appearance of transgression of practice found in the examples from Mishnah and Tosefta Seder Zera'im and t. Shabbat, the examples from m. Bekhorot and m. Shabbat relate more directly to the physical (and imperfect) appearance of a man's body, which he does not have control over, rather than the appearances of his activities. In these two cases, the explanatory phrase *mar'it ha-'ayin* has a different inflection: instead of describing a form of misperception, where the viewer sees an action being performed and does not recognize that the action is approved, here the phrase describes a form of visual difference, writ on the bodies of these men.³¹ While in this paper I am primarily investigating how the threat of misperception is a driver of how the Tannaim argue for normative halakhic practice, these other

29 See also the midrash, mentioned above, where King Saul is described as leaving for a banquet house (to question the woman of En-dor) alone, without his sons, “because of the appearance of the eye”, as Saul attempts to stay disguised and alone (Vayikra Rabbah 26:7 and its parallels).

30 For discussion of the visual epistemology of priestly bodies in rabbinic literature, see Balberg, “Rabbinic Authority”. See also Watts Belser, “Reading Talmudic Bodies”; and Lehman, “Imagining the Priesthood”.

31 An anonymous reviewer of this article notes that the circumcision example (m. Shabbat 19:6) could be seen as more related to the tractate Zera'im examples insofar as circumcision is also a ritual practice that must be verified by sight, like the leaving of *pe'ah*. As we see throughout this article, the agricultural examples rely both on the verification of a visual sign *and* the possibility that the rabbinic interpretation of the biblical law may be misapprehended by interested observers in a way that is distinct from the imperfect viewing of the penis of the obese boy.

examples are illuminating insofar as they also rely on visual signs for knowledge of normative bodies (either priests who are disqualified, or obese infants who must have their circumcisions “fixed”³²).

1.4 Intention, Action, and Visual Interpretation

The explanatory gloss, “because of the appearance of the eye”, may imply that the innovations in halakha are driven by presumptions about the inner mind of the Jew participating in the agricultural practices.³³ There is an ongoing scholarly debate about how rabbinic sources display arguments (or lack thereof) about human will, intention, and action, how such arguments relate to contemporaneous arguments in the Greco-Roman world, and the diachronic change in such arguments, particularly from the Mishnah to the Babylonian Talmud. Refuting earlier claims that in the Mishnah human will and intention precede, and in contexts related to God supersede, action,³⁴ Hoffmann Libson argues that “tannaitic law deploys intention in a limited manner, reflecting a self-defined primarily by action. By contrast, later rabbinic texts expand and intensify the role of various mental categories and grant intention significant value independent of action”.³⁵ Thus, for the rabbis of the Mishnah, action primarily defines the actor in question, rather than his mental states prior to or during the completion of the action. Likewise, Rosen-Zvi concludes: “first, that Tannaitic halakha has no interest in human’s inner realm unless it is

32 This “fix” is explained by two opinions in b. Shabbat 137b, including one opinion that requires a second circumcision, to remove more flesh, and an opinion attributed to Shmuel (and reinforced by a *baraita* attributed to Rabban Shimon ben Gamliel) who says that if the penis appears circumcised when it is erect, no “fix” is necessary.

33 Avery-Peck claims that the latest layer of the Mishnah is primarily interested in the “intention” and “purposefulness” of the actions of rabbinic Jews. Avery-Peck, “The Division of Agriculture”, 45; see also Primus, *Aqiva’s Contribution*, 178. In analysis of another form of God’s charity—*shikhehah*, “the law of forgetting”, leaving “forgotten” sheaves behind after the harvest for “the alien, the orphan, and the widow” (Duet. 24:19)—, Balberg also emphasizes the Mishnah’s emphasis on the cognition of the landowner. “The opportunity for the poor to get their share is not offered by the characteristics of the produce or by its location, but rather by mental oversight on the side of the owner” Balberg, “Unforgettable Forgotten Things”, 3.

34 Eilberg-Schwartz, *The Human Will in Judaism*, 46-7.

35 Hoffmann Libson, *Law and Self-Knowledge*, 30.

connected to actions and deeds; second, that the halakhic practice imagines, and participates in forming, subjects of a specific kind, whose inner realm is but an internalization of the outer realm.”³⁶ Moreover, Rosen-Zvi claims, for the Mishnah, “in contrast [to Hellenistic philosophy], the subject...as formed by rabbinic halakha is flat; its thoughts and deeds are on the same plane.”³⁷ These arguments are of importance for my analysis of *mar’it ha-‘ayin* in agricultural contexts because both the material landscape created by normative practice and the interpretive sight of an interested observer (either a passer-by or a needy person) are engaged by the Tannaim in prescribing their innovations to agricultural halakha.³⁸ In line with the arguments of Hoffman Libson and Rosen-Zvi, the use of the explanatory phrase *mar’it ha-‘ayin* in contexts of agricultural halakha shows that knowledge of normative and completed action is grounded in the material world: correct practice comes through action rather than intention, and is verified and verifiable through sight.³⁹

36 Rosen-Zvi, “The Mishnaic Mental Revolution”, 57.

37 Rosen-Zvi, “The Mishnaic Mental Revolution”, 56.

38 Action and mental states are thus intertwined in Tannaitic literature. Rosen-Zvi is emphatic that mental states are not privileged by the Tannaim. “Tannaitic halakha shows no interest in thoughts and wills which are not related to actions (in the form of accompanying intentions and motivations or preceding plans). Mediations, in and of themselves, are not objects of prohibitions or regulations”, Rosen-zvi, “The Mishnaic Mental Revolution”, 56. Balberg argues, however, that even though the rabbinic worldview is different than contemporary Greco-Roman arguments, “we cannot ignore the fact that the rabbis’ preoccupation with what people think, feel, intend, see, and want as formative components in the making of the halakhic world speaks to a vested interest in human consciousness”, Balberg, *Purity, Body, and Self*, 95. See also Balberg, *Purity, Body, and Self*, 74-95; Balberg, *Blood for Thought*, 27-64; and Balberg, “The Subject Supposed to Forget”.

39 Again, this conclusion, that materiality, spatiality, visibility, and action are emphasized here in the leaving of *pe’ah*, runs somewhat counter to other analyses of how rabbinic literature emphasizes intention and cognition (see Hoffman Lisbon above). Balberg, speaking again about the “law of forgetting” sheaves at the end of the harvest, notes that that commandment is “defined by intentionality and lapse of consciousness...The rabbis, who famously considered intention, attention, and will to be some of the most determining features in the performance of commandments, were highly aware of the aberrant nature of the law of forgetting”, “Unforgettable Forgotten Things”, 30-1.

1.5 A field in question

A primary unit of agricultural production is the grain field. Early rabbinic literature presumes a rectilinear field of grain (see m. Kil'ayim 2:7, which describes two grain fields that are not quite parallel to each other, such that the "corner" of one rectangular field juts "into" the side of another, potentially causing observers to suspect prohibited "mixed-kinds")⁴⁰. Evenly arranged rectangular fields of grain, divided by stone walls, have been found throughout the Roman Empire. "Centuriation..., the systematic division of land into rectangular units by surveyors (*agrimensores*) as an initial step to facilitate its distribution, offers tantalizing but limited evidence for rural settlement since, while the grids are readily visible from the air, they are often quite hard to date."⁴¹ Gil P. Klein has shown that rabbinic vocabulary and spatial grammar overlaps with Roman surveying practices, and in a case regarding the Sabbath boundary of towns (Tosefta Eruvin 4:4), "whether the mnemonic technique here was acquired from a manuscript or through the oral transmission of professional expertise, the method of impressing information onto the memory ultimately affected the halakhic formulation of a spatial practice".⁴² In the spatial descriptions of the early rabbis, in the agricultural plotting of centuriated fields, and in Roman survey practices, rabbinic subject and potential interested observer may expect regularly arranged agricultural spaces with clearly defined boundaries.⁴³ The garden plots and cattle pens described below also hold to regularized rectangular or square shapes.⁴⁴

40 The Mishnah rules that this interposition of the corner of one field into the side of another is *not* prohibited, "If the corner of the wheat field enters into the barley field, it is permitted because it appears to be the end of the [wheat] field."

41 David B. Hollander, *Farmers and Agriculture in the Roman Economy*, 11.

42 Gil P. Klein, "Forget the Landscape", 30.

43 For further discussion of fencing and fenced spaces in the Mishnah and Tosefta, see Mandsager, "To Stake a Claim", and Weisberg, "Before There Was Nature".

44 Geography does not always accommodate spatial idealization, of course. Water features and especially steep hillsides break up attempts to plot fields on a right-angle grid. For example, Tosefta Pe'ah 1:9 rules that a hillside that has been terraced (with each level at least ten handbreaths high) creates individual "fields" at each terrace level, each of which requires its own *pe'ah* left for the needy after the harvest,

2. Case study 1: The Spatial Arrangement of Plants to Avoid the Questioning Gaze of One's Neighbor

In Mishnah Kil'ayim ("Mixed-Kinds"), we find a concern about the perception of one's neighbors in regards to how one plants one's fields.⁴⁵ This fear of misperception drives the development of particular ways the Tannaim legislate the halakha prohibiting planting "mixed-kinds" in one's garden. The laws of *Kil'ayim* ("mixed-kinds") are biblical: Leviticus and Deuteronomy group several prohibitions together, prohibiting the sowing of two varieties of produce in the same field, the mating of two different species of animal, or the wearing of a garment with two types of thread.⁴⁶ In the Mishnah, possible theological or sociological explanations of these prohibitions are missing,⁴⁷ rather, as is typical of the Tannaim in the Mishnah and Tosefta, the early rabbis take the prohibitions as a given and do not provide further explanations. In the following example, the early rabbis interpret and enact the biblical prohibition on planting two different species in the same space, the garden.

In the Mishnah, when a farmer plants individual vegetables in garden, he must not *appear* to transgress the prohibition against "mixed-kinds":

unless the terrace spirals around the hill, such that the field stays connected. See Mandsager, "To Stake a Claim", 232 and Lieberman, *Tosefta, Zera'im*, 44 n. 41.

- 45 Vision, or the perception of others' vision, drives a great deal of the boundary policing found in these halakhic innovations. For discussion of the dangers of sight in Deuteronomy (both the danger of misperception and the danger of demanding more visual access to God), see Weitzman, "Sensory Reform in Deuteronomy".
- 46 Leviticus 19:19 ("You shall not let your animals breed with a different kind; you shall not sow your field with two kinds of seed; nor shall you put on a garment made of two different materials". NRSV) and Deuteronomy 22:9-11 ("You shall not sow your vineyard with a second kind of seed, or the whole yield will have to be forfeited, both the crop that you have sown and the yield of the vineyard itself. You shall not plough with an ox and a donkey yoked together. You shall not wear clothes made of wool and linen woven together". NRSV).
- 47 For summary of a range of explanations for the biblical prohibition against "mixed-kinds", see Carmichael, "Forbidden Mixtures". For an argument about who were the intended beneficiaries of the sabbatical year in the Hebrew Bible, see Kim, "The Group Identity". A modern theological argument for interpreting the sabbatical year in the twenty-first century can be found in Krone, "A Shmita Manifesto".

A man may plant a cucumber and a gourd in the same hole, but only if he shall plant one to one side and the other to the other side. And he shall lean the crown of the plant in one direction and the crown of the other in the other direction, because everything that the sages forbid they only decreed because of the appearance of the eye.⁴⁸ (m. Kil'ayim 3:5)

The context of this Mishnah in chapter three of m. Kil'ayim is the ways in which a farmer may plant his vegetable garden and not transgress the prohibition on “mixed-kinds”. Mishnayot 3:1-4, while complicated, outline a number of specific geometric configurations wherein a garden bed may be planted with multiple kinds of vegetables (which would be considered “mixed-kinds”) by clearly delimiting the space between the various vegetables and their proximity to one another. For example, m. Kil'ayim 3:4 states that one can plant two rows each of cucumbers, gourds, and “Egyptian beans” next to one another, but the gardener may not plant a single row of each next to one another: two rows constitute a designated space for each vegetable, but single rows render the vegetables “mixed” with one another. In general, each variety of vegetable must cover enough

- 48 Both Mss. Kaufman and Parma are missing the second sentence of this Mishnah: “And he shall lean the crown [lit. “hair”] of the plant in one direction and the crown of the other in the other direction, because everything that the sages forbid they only decreed because of the appearance of the eye”. The version of the Mishnah upon which Maimonides comments contains the sentence, since his commentary contains reference to the phrase (“Halakhot of *Kil'ayim*”, 4:15, *ad loc.*). See also t. Kil'ayim 2:9, where the gardener is permitted to plant four different kinds of produce in one hole, as long as he directs each plant away from the others. The Palestinian Talmud (Kil'ayim 4:4, 6a-b) quotes this as a *baraita* to explain our Mishnah. Mandelbaum claims that because this second sentence is missing in the manuscripts, “it probably forms a commentary to A-B which has been mistakenly inserted into the text” (Mandelbaum, *Mishnaic Law of Agriculture*, 126; see also Sacks, ed., *Mishnah Zera'im*, 247 n. 34). Contra Mandelbaum, I find the presence of the phrase here in the printed edition of the Mishnah (and in the Tosefta) to be an important and persuasive use of the phrase to indicate the importance of “correct seeing”, even over and above transgressing “mixed-kinds”, as we will see below.

ground to be considered its own unit and distinct from its neighbors.⁴⁹ Cucumbers and gourds present a particular problem in this regard because of their tendency to spread out on the ground and their large leaves to overlap with one another.⁵⁰ These spatial configurations take into account the visibility of vegetables as they grow: two rows of cucumbers, rather than one, are visibly identifiable as a garden plot separate from two rows of gourds.⁵¹ Nevertheless, m. Kil'ayim 3:5 allows a cucumber and a gourd to be planted *in the same hole*, just as long as the gardener directs their growth away from each other.⁵²

And here is the revealing explanation found in the second half of this Mishnah: after explaining that the gardener shall train the two plants away from one another, we read, “Because everything that the sages forbid they only decreed because of the appearance of the eye”. Even though these two plants were planted *in the same hole*, the Mishnah explains that what is not important is the *planting* of mixed-kinds (which would seem to be quite evident in this case), but rather *the appearance* of mixed-kinds.⁵³

49 Mandelbaum explains that the garden-bed configurations in chapter 3 define the “minimum area which a secondary kind must cover in order to avoid the appearance of diverse-kinds” (*Mishnaic Law of Agriculture*, 115).

50 Cf. the commentary of Obadiah ben Abraham of Bartenura (15th c.), *ad. loc.* קישות ודלעת.

51 For material and spatial analysis of m. Kil'ayim 3:4 and other passages related to the potential for “mixing” of vine crops as the vines as they intertwine, see John Mandsager, “Material Disruptions in the Rabbinic Landscape”.

52 M. Kil'ayim 3:5 is paralleled by t. Kil'ayim 2:9: “A man may make in his field a small hollow with a depth of a handbreadth, and he may place within it four kinds [different species]. And he bends them to the four directions of [the hole]”. In the Tosefta's version, the Tannaim say that the farmer may even plant four different varieties of vine in the same hole, as long as the four vines stretch out in different directions.

53 An anonymous reviewer of this article draws our attention to the visual aspects of *Kil'ayim* in the Hebrew Bible itself. In Deuteronomy 22:10, we read: “you shall not plow with an ox and an ass together” (as compared to Leviticus 19:19, “you shall not let your cattle mate with a different kind”)—it is possible to read this commandment as relying on the visual difference between the two species in Deuteronomy. Nevertheless, even taking the visual component of the mixed animals commandment into account, I think that the Tannaim are considering the prohibition on mixed seeds in a different way. As is often the case in Tannaitic literature, the

Therefore, according to this Mishnah, all the regulations regarding how and where one may plant different vegetables are based not on the biblical prohibition on mixed-kinds (“you shall not sow your field with mixed-kinds”, Leviticus 19:19), but rather on how the plants appear in one’s field: even plants growing out of the same hole may be permitted, if the two (or four) plants are trained away from one another in such a way as to appear to other people to be distinct from one another.

Likewise, in m. Kil’ayim 7:2 it is “forbidden [to plant a new grapevine] next to a grapevine that has dried-up”: even though the vine is dead and no longer producing grapes, the Mishnah prohibits using the soil next to the dried-up vine for a new vine (and perhaps the old vine as a trellis for the new). What is the explanation for this prohibition, which again seems to contradict the biblical law itself and not actually be prohibited “mixed-kinds” (“you shall not sow your vineyard with a second kind of seed”, Deuteronomy 22:9)?⁵⁴ In this case, the Mishnah does not provide an explicit explanation for why the new vine may not be planted next to a dead vine, but it is clear that the visual effect of a new vine trellised to the old may appear to constitute prohibited mixed-kinds.⁵⁵

commandment here is atomized and localized – we need not look to the prohibitions on mixed animals to understand the innovations on mixing seeds we find here in Mishnah and Tosefta Kil’ayim. Instead, I think that as the Tannaim consider the *end result* of growing the two or four seeds in one hole (vines that grow apart from each other), they circumvent a possible reading of the biblical command (do not plant two seeds in one field) through the visual sign of the vines in separation and explained by “the appearance of the eye”. For an excellent analysis of hybrid animals in rabbinic literature, see Neis, *When a Human Gives Birth to a Raven*.

54 Instead of “contradicting” the biblical law against sowing two seeds in the same field, one could also say that the innovative prohibition on planting a living vine next to a dead vine is more akin to “a fence around the Torah”, i.e. a law that goes beyond the biblical commandment to insure that the commandment is not inadvertently broken, *but* it is the visual sign that remains important. Because the living vine and the dead vine *appear* to be distinct species (even though they are not), the Mishnah prohibits the planting, “because of the appearance of the eye”. For discussion of other rabbinic innovations that consider near-yet-still-different objects, animals, and humans, see Neis, *When a Human Gives Birth to a Raven*, and Mandsager, “Material Disruptions in the Rabbinic Landscape”.

55 A later commentator, the Bartenura, explains, in his commentary on the Mishnah, that this prohibition falls under the rationale of m. Kil’ayim 3:5, stating: “It is

Unlike in the previous case, where the planting of a cucumber and a gourd in the same hole would seem to violate the prohibition on mixed-kinds (but does not, because they are carefully kept distinct from one another as they grow), here we have a case where the planting of another crop next to a dead vine would not be mixed-kinds at all, but would appear to be so.⁵⁶ Thus, the dead vine is visually distinct enough from the living one to cause an observer to assume that the farmer has transgressed the prohibition on mixed-kinds. Again, the appearance of mixed-kinds is impetus for the rabbis to take extra steps to regulate where and how different crops grow.

These examples show an explicit link between arguments about normative practice, spatial awareness and arrangement, and visual confirmation. Perception, or more precisely imagining other people's perception, in part drives the development of the halakha: how do the actions and spaces of the rabbinic farmer *appear* to his neighbors, and are they *distinct enough* to curtail any suspicion or confusion about his actions. The careful arrangement of the plants in a garden or vineyard creates an intricate visual signal to the imagined neighbors of the rabbinic farmer. By precisely aligning his crops and his fences (in the next example, from Mishnah Shevi'it), his agricultural spaces look different, and others can visually read this care and spatial awareness. Moreover, the early rabbis fear that those neighbors might suspect that the Jewish farmer is neglecting

forbidden to plant next to the trunk [of the withered vine] because of the appearance of the eye" (Commentary of the Bartenura, *ad. loc.* גפן שיבשה אסורה). He continues and explains that the "dried-up vine" is analogous to grapevines in general, which "dry up" in the winter and lose their leaves: vines in the winter are still required to be kept apart from other produce by an unplanted area of four *amot*. See also Albeck's comment (Albeck, *Seder Zera'im*, 110 n. 5).

- 56 As a helpful reviewer of this article points out, while the prohibition in Deuteronomy 22:9 prohibits the planting (and thereby growing) two different seeds in the same field, 22:11 prohibits plowing a field with an ox and an ass joined to the same plow (without attention to a hybrid offspring, as in Leviticus 19:19). In the later case, perhaps more analogous to m. Kil'ayim 7:2, where the new grape vine is prohibited next to the dead one, the presence and appearance of the two animals is prohibited, similar to the dead and living vines. (I thank to one of my reviewers for pointing out this note).

his biblical obligations.⁵⁷ The fencing of the rabbinic field and the actions the farmer performs within it in part serve to confirm that the rabbinic farmer is *different enough* from his neighbors that he may avoid such suspicion and confusion.

3. Case Study 2: Fences to Avoid the Suspicion that One is Improving the Soil During the Sabbatical Year

Exodus, Leviticus, and Deuteronomy command a year of “release,” *shmita*, for the land after six years of production,⁵⁸ and the early rabbis prohibit the consumption of *Shevi‘it*, or produce that is grown with human intervention during this sabbatical year. Mishnah and Tosefta *Shevi‘it* include wide-ranging discussions about what sorts of actions are prohibited during the year of “release.”⁵⁹ In the following example, the Tannaim ask: what may one do with waste or debris in one’s fields during the sabbatical year?⁶⁰ One may imagine, and the rabbis certainly do, that there will arise the need to dispose of, collect, or move detritus during the sabbatical year, *and* one may ask if these actions would compromise the commandment to leave the land to its sabbatical rest. Thus, in chapter three of m. *Shevi‘it*, the rabbis discuss the accumulation of animal waste and rubble in one’s field, while chapter four includes discussion of the collection of sticks and grasses from one’s field. In each case, there is a reasonable assumption that these materials might need to be moved or collected – whether for sanitation, safety, or for firewood, in the case of

57 The rabbinic command to avoid of the appearance of *Kil‘ayim*, like the clear and visual presentation of the gift of *pe‘ah*, does not require us to assume that all Jews in Late Antiquity were following the biblical laws (in whole or in part), or that all Jews were practicing these agricultural commands in the same way, or that they could all interpret what each other were doing. For our purposes here, what is important is that for the Tannaim, they thought Jewish farmers should farm in these prescribed ways, and they thought that others would be interested and potentially judgmental about the rabbinic innovations described here. And it is these literary and ideological claims—the Mishnah as normativizing—which produce a rabbinic landscape in the pages of the Mishnah.

58 Exodus 23:10-11; Leviticus 25:1-7 and 25:20-22; and Deuteronomy 15:1-6; 31:10-13. See also Isaiah 37:30 (parallel to 2 Kings 19:29) and Nehemiah 10:31.

59 See Alexander Matthew Weisberg, *Before There Was Nature*.

60 See m. *Shevi‘it* 3:1-4 and t. *Shevi‘it* 2:11-14.

sticks and grasses. But, in each case, either removal of debris, or the addition of animal waste, i.e. fertilizer, might be seen as improving the fields' cultivation potential. The rabbis prohibit such improvement as a form of prohibited labor during the sabbatical year.

A preliminary example of Tannaitic concern over potential prohibited improvement can be found in the discussion in m. Shevi'it 3:10.⁶¹ In this example, we find an activity that does not directly improve the land for agriculture – the building of a fence – but does have some potentially impactful side effects. The Mishnah asks “What shall one do with the soil?” dug up while preparing to build the fence. The first solution is attributed to Rabbi Yehoshua: “He collects the soil in the public domain and thus improves it”. But Rabbi Akiva objects with a general principle: “Just as we do not cause damage to the public domain, so too he shall not improve it”. So, what then should the farmer do with the soil? The Mishnah concludes: “He collects it in his field in the same manner as those who spread manure”. While the construction of a fence is a substantial labor that visually impacts the landscape, especially within the context of how early rabbinic literature focuses on the demarcation of agricultural space, it is of note that the early rabbis do not have objections to the construction itself, just the detritus that results from the construction. And the solution of this Mishnah – “he collects the dirt in his field in the same manner as those who spread manure” – is also subject to visual observation and confirmation.

How, then, do the rabbis legislate the spreading of manure? In short, in ways that visually indicate that the farmer is not actively improving his land during the sabbatical year. In m. Shevi'it 3:1-3, the rabbis contend that the farmer must allow the manure to dry out, move the manure only after the farmer's potentially lax neighbors have moved their animals' waste, and the farmer must place the waste in visually distinct piles.⁶² Thus, manure *may* be brought into the field, but may only be placed in such a way as to *dispose of* the waste and may not be spread around to fertilize the field. These trash piles serve to contain and dispose of the animal waste generated during the sabbatical year, but do not materially

61 See parallels in t. Bava Kamma 2:6 (12), t. Shevi'it 3:5, and m. Bava Batra 3:8.

62 See also t. Shevi'it 2:14.

benefit the field in question by fertilizing it. But, of course, they do impact the land, leaving visual signifiers of the actions of the farmer.

While in mishnayot 3:1-3 we learn that manure may be placed in one's field to dispose of it, but only in such a manner as the farmer does not actively improve the field with the fertilizer (and such that no one would suspect him of transgressing the prohibition on improving one's field during the seventh year), in 3:4 we find another action that might be construed as actively fertilizing one's field during the Shevi'it.

If one makes his field into a cattle pen, he may make a stable for the area of two *se'ah*. Then he may uproot three sides and leave standing the middle fence, thereby creating an area of four *se'ah*... (m. Shevi'it 3:4a)

Here we see the following situation: a farmer has a field laying fallow during the sabbatical year, and he has a herd of livestock. The Mishnah permits him to fence in a section of the field (two *se'ah*) and keep his livestock within the fenced area. After some time, he may uproot the fencing from three sides of the pen, swing them around the "middle" fence, and create a new pen opposite the first one, creating a space of four *se'ah* that has held the livestock and thereby received the waste of the animals, without the farmer actively spreading the fertilizer on the field.⁶³

Thus, we see that a dedicated enclosure *to hold livestock*, not *to improve one's field* is what is permitted in this Mishnah, and this conclusion is made explicit in the second half of the Mishnah.

If the whole⁶⁴ of his field encompasses the space of four *se'ah*, he shall leave a small part [unfenced], because of the appearance of the eye. (m. Shevi'it 3:4b)

63 The commentary of the Bartenura explains that the farmer moves the fencing "when the stable fills with manure" (*ad loc.*).

64 Following Ms. Munich and the printed edition of the Mishnah, which read "all" (*kol*) of his field, while Ms. Kaufmann reads "on" (*'al*). The alternative reading would have a similar meaning: "If it [a fenced area] was [already] on his field encompassing an area of four *se'ah*, he shall leave a small part [unfenced] because of the appearance of the eye".

In this case, the field in question is the exact size allowed by the first half of the Mishnah, four *se'ah*. If the farmer makes an enclosure of this size, his cattle will “cover” the whole of the field with manure. This raises a problem: even if the pen is intended only for securing the livestock, and not for fertilization, it may *appear* that the farmer was in fact improving his field, because the whole area was fenced and “fertilized”. Therefore, the Mishnah explains, “he shall leave a small part [unfenced], because of the appearance of the eye”. It is of particular note that the rabbis are concerned that certain practices may appear to be transgression to those watching the farmer at work, *even when his practices are valid*. Thus, the Mishnah instructs the farmer to “leave a small part” unfenced, making sure that anyone looking at his field would see that the cattle are confined to one area, but are not “improving” the entire field.⁶⁵ This apparent concern for appearances requires a bit of imagination. We can conclude that behind this ruling are the following assumptions: 1) someone outside the farm knows a prohibition on fertilizing one’s property with livestock during the Shevi’it, and 2) will be convinced that an enclosure that surrounds *most but not all* of a field is for guarding the livestock, not for fertilization. These assumptions are fascinating because the Mishnah describes a world where the avoidance of work during the Sabbatical year is a given, where using dung for fertilizer is considered improvement of fields, but where fields are known to be distinguished as fields only by precise fencing. Incomplete fencing serves as a recognizable sign of adherence to biblical

65 An anonymous reviewer of this article reminds me of a tradition in the Babylonian Talmud that demands that when building a new home, a small section (one *amah* by one *amah* in area) of the wall must be left bare without plaster. An opinion attributed to Rav H̥isda says that the bare section of the wall must be opposite the door, such that it is easily visible from the outside (b. Baba Batra 60b). This unfinished plastering is designed to be a visual reminder of the destruction and loss of the Jerusalem Temple. While this unplastered area of wall may be similar to the unfenced portion of the cattle pen described here in Mishnah Shevi’it, insofar as both are visual signs of the actions of the householder (i.e. to demonstrate adherence to the prohibition of work during the Sabbatical Year and to show fidelity to the loss of the Temple), I think that the common thread between these two traditions remains in the realm of visual and spatial grammar, where the unusual and uncompleted work of the Jewish householder can be read as evidence of a particular form of Jewish practice. I thank the anonymous reviewer for this intriguing comparison.

law, a sign that can be read by just those whom the Mishnah fears: the knowledgeable and judgmental neighbor who is watching over the fence. The farmer keeps the commandment of avoiding improving his fields during the sabbatical year by making configuring his fences in such a way that others *can see that he is keeping the commandment*. The “facts” of the farmer’s adherence to biblical law, in the rabbinic system, are only revealed through visual signs.⁶⁶

4. Who is watching?

Explaining innovations to agricultural halahka by concern over “the appearance of the eye” leaves these passages open to a number of questions. What sort of social world is imagined in these passages? It is possible that this emphasis on seeing, watching, and deliberate action to forestall misperception indicates a social world with panoptic vision, a surveillance “state”. Instead of Bentham’s watch guards⁶⁷ or modern surveillance cameras and drones, we might imagine the all-seeing eye of those outside of the rabbinic farmer’s fence. While this may be a possibility, and further consideration is warranted,⁶⁸ I think that there is an asymmetrical power dimension implied by analogy to a society permeated by surveillance that is missing in Tannaitic literature. In the Mishnah, it is quite unclear what the consequences of the judgmental viewing might be, beyond imagined public opprobrium, unless perhaps we imagine that the viewers are an extension of the Roman Empire itself. Who then did the

66 Again, we cannot assume that Jews in Late Antiquity were practicing the Sabbatical year in consistent, sustained, or unified way. While Josephus does attest to the Sabbatical year during the Maccabean revolt (*Antiquities* 13(8):1), what we have here is a *claim* in the Mishnah that Jews kept the Sabbatical year and considered unregulated corralling of animals to be a form of purposeful fertilization, requiring the material and visual innovations we see here. Beyond a hypothetical “rabbinic farmer” who follows the Mishnah here, we could speculate that other Jews could interpret these actions similarly (because they interpreted such actions during the Sabbatical year the same way), but we have no evidence for such persons.

67 See Bentham, *Panopticon*, and in his classic analysis, Foucault, *Discipline and Punish*.

68 I thank an anonymous reviewer of the paper, for offering this possibility. In this article I am unable to fully address the implications of reading Tannaitic literature as imbued with the possibility of continuous and all-seeing surveillance.

Tannaim imagine were watching rabbinic Jews adhere to biblical law? One possibility, perhaps linked to the previous suggestion of an “all-seeing” eye, is that it is God who is watching. I find the idea that God is the interested and suspicious viewer unconvincing, however, since God is rarely present as an interested party in Tannaitic literature.⁶⁹ Another possibility is that the “eyes” in question belong to non-Jews, the categorical other.⁷⁰ Since the others in these passages do comprehend (or miscomprehend) what the rabbinic Jew is doing, it seems unlikely that the eyes belong to non-Jews. These are not “Others” in the same sense that Ophir and Rosen-Zvi describe: “Otherness as positioned between two asymmetric poles.”⁷¹ If not non-Jews, the most likely conclusion is that the viewers are in some way insiders, Jewish neighbors able to interpret the actions of their rabbinic neighbors. It may well be that the distinction being drawn here is between “rabbinic” Jews, imagined by the Tannaim as perfectly following their prescriptions, and non-rabbinic Jews.⁷² Yet,

- 69 In Balberg’s analysis of “*The Reinvention of Sacrifice in Early Rabbinic Literature*” (the subtitle to her book), she argues “that the noninteractive model that the rabbis devised derives to some extent from a theological agenda—namely, from the rejection of the notion that God is pleased or persuaded by material substances—but also, and in my view more importantly, from an attempt to promote an idealized vision of Israelite sacrifice as a perfected manifestation of a collective reverence for the law and of a communal sense of solidarity” (*Blood for Thought*, 64).
- 70 See Rosen-Zvi and Ophir, “*Goy: Toward a Genealogy*”, Ophir and Rosen-Zvi, *Goy*; Wasserman, “Rabbis and Their Others;” and the collected articles in “*Goy: An AJR Forum*”. “Like any similar opposition, the division of humanity into Jews and gentiles functions as part of a larger conceptual grid and is a relatively stable configuration, situated in a network of relations and oppositions” (Ophir and Rosen-Zvi, *Goy*, 10).
- 71 Ophir and Rosen-Zvi continue: “The opposition is constitutive for both parties. Otherness is a relation of alterity in which one pole, of the Self, is implicated in the construction of its opposite, and this implication is *necessary* for the self” (*Goy*, 12).
- 72 Even as categorical distinctions between Jews and non-Jews are pervasive in early rabbinic literature (see Ophir and Rosen-Zvi, *Goy*), there are also a wide range of more or less “insider” Jews in rabbinic literature. “There are different kinds of ‘others’ in rabbinic literature, and each kind brings to our understanding of the rabbis a unique set of questions, problems and insights. Dialogues with women may be understood as part of the marginalization of the voices of women in rabbinic antiquity. The dialogues with foreign rulers (even if fictional) contain valuable

unlike the uneducated *'am ha-'aretz*, the non-rabbinic Jew who is often the foil to rabbinic expertise, these others know how to interpret what they are seeing.⁷³ The key question, then, in thinking about these others is how do these hypothetical others know what they are seeing? They certainly must be privy to the same claims as the Tannaim, in order to be able to participate in the confirmation or suspicion of rabbinic practices. One possibility is that we can hypothesize that the audience for the normative rabbinic farmer are others who are just as educated in rabbinic Torah as the farmer himself, a utopian neighborhood where everyone is trying to apply rabbinic halakha equally, yet checking to see that everyone is adhering to biblical law. If this is the case, we must consider that even normative rabbinic Jews are cautioned by this explanatory phrase to correctly interpret what they are seeing, the movement of fences during the sabbatical year or the careful position of vines in the garden, to confirm that transgression of halakha has not taken place. On the other hand, however, I think that the implied suspicion of the gaze of the neighbor is evidence of a rare bird indeed: the Tannaim populate the countryside with Jewish neighbors who are punctilious about following biblical law, who are well versed in rabbinic normative arguments about those laws, and are able and willing to assess the practices of their neighbors.

5. Conclusions: The Rabbinic Landscape

These examples are part of larger selection of rabbinic discussions where we find the early rabbis discussing the borders and fencing of Jewish spaces, the actions of the farmer within those spaces, and how others might view such spaces and actions. In aggregate, the mass of rabbinic prescriptions about Jewish agriculture produce an idealized landscape wherein normative Jewish farming would be visibly distinct from the

information about the Jewish relationship with and negotiation of imperial power. Dialogues with *minim* or heretics in particular have attracted the attention of scholars in evaluating the interaction of 'Christian' and 'Pagan' ideas with rabbinic ones and blurring of boundaries between rabbis and 'others'". Kattan Gribetz and Vidas, "Rabbis and Others in Conversation," 95 (see scholarship noted there).

73 For discussion of the *'am ha-'aretz* in Tannaitic literature, see Furstenburg, "*Am Ha-Aretz*", and for discussion of the *'am ha-'aretz* in the Babylonian Talmud, see Rubenstein, *The Culture of the Babylonian Talmud*.

micro to macro levels.⁷⁴ The material world appears in Tannaitic literature transformed and idealized by the actions of the rabbinic Jew.⁷⁵ This landscape is created through the actions of the farmer, and confirmed by the eyes of interested neighbors. As elsewhere in Tannaitic literature, early rabbinic legislation is both about the idealization of the rabbinic subject and how he thinks about and understands the world, but is equally about the material impact such thoughts and their attendant actions have on the world.⁷⁶

74 Particularly in Mishnah and Tosefta seder Zera'im, there are further examples of Tannaitic halakha that emplace rabbinic Jews in an idealized landscape. This rabbinic landscape includes gardens, grain field, vineyards and orchards, as well as fences, paths, and "empty" spaces that differentiate the distinct spatial units of the landscape. Tannaitic interpretations of agricultural biblical commandments (such as the prohibition on "mixed-kinds" and the sabbatical year, as seen above, and the various tithes and charitable gifts) provide the ground for idealizing and emplacing Jewish life in the countryside. Consider the following examples of spatial arrangements in the garden that mark the rabbinic garden as visually distinct. M. Kil'ayim 3:1 describes an intricate geometry of vegetables in the rabbinic garden, maintaining a bare minimum of space (one handsbreadth) between garden vegetables to avoid prohibited mixtures (*Kil'ayim*, Leviticus 19:19 and Deuteronomy 22:9-11), while m. Kil'ayim 3:4 (t. Kil'ayim 2:13-14) demands that vegetables that grow on vines (cucumbers, gourds, beans) be planted such that their vines do not entangle with each other and occupy specific spaces in the garden. See Mandsager, "Material Disruptions". The rabbinic orchard also has specific dimensions that might be visibly distinct to the interested observer: see m. Shevi'it 1:2-4 (Weisberg, "Assemblages and Realism", 100-103). For further discussion of the rabbinic landscape, see Mandsager, *To Stake a Claim*.

75 See Henderson, "What (Else) We Talk About", and Daniels, "Marxism".

76 In Rosen-Zvi's argument that thought and action are on the same discursive plane in legislation about sacrifice, he claims that "Rabbinic 'thoughts' are subject to the laws of the external world. They are concerned with prohibitions and commandments, not with truth statements. The intentions revealed in the sources above create not only subjects but external realities such as pure and impure objects" (Rosen-Zvi, "The Mishnaic Mental Revolution", 45). Likewise, discussing the dialectic of purity and impurity, Balberg argues that "In the Mishnah human beings not only respond to the world of impurity (that is, to the ongoing presence of impure things and people in their vicinity) by choosing how to conduct themselves in relation to it, but also *construct* the world of impurity by forming or not forming mental investments in objects and by reacting to what happens to these objects in particular ways" (Balberg, *Purity, Body, and Self*, 94).

By focusing on these two examples, both of which explain particular rabbinic prescriptions as necessary because of *mar'it ha-'ayin*, “the appearance of the eye”, we see a key component of how the early rabbis conceived of Jewish space and identity, as well as a visual epistemology, where a determining factor of whether or not a biblical commandment is adhered to is whether or not the action or non-action of the farmer can be seen and interpreted. If we can extrapolate from these examples, where the rabbis self-consciously consider and imagine the gaze of curious neighbors, then we can turn back to the rabbis themselves to consider the role of borders, visibility, and vision in the construction of Jewish identity. The parameters for Jewish life and identity are by no means certain in the third century, and much of rabbinic literature can be thought of as not only prescriptive but as normativizing. Within this program of making arguments about the definitions of Jewish identity, then, there is an additional piece of the puzzle: concern about what others might think when they *see Jews in action, following rabbinic interpretations of biblical norms*. In this case, rabbinic Jewish identity is performed in front of neighbors who know how to see “correct” Jewish practice.⁷⁷ In describing the farmer planting his garden or keeping his animals in pens, the early rabbis assume that there will be careful and attentive viewers in the neighborhood, viewers who have the tools to see and interpret *Jewish* behavior. At least in these cases, the early rabbis thought of Jewish praxis both in terms of material action and in terms of appearances, whereby the interested viewer could see, verify, and perhaps “make real” the rabbinic project of enacting Jewish identity in Jewish spaces.

77 And perhaps the focus on appearances here and the imagined audience of the interested viewers of rabbinic practice shows some of the self-consciousness of the rabbinic project itself. As the Mishnah and later texts claim authority over Jewish practice, scholars have identified some ambivalence to those claims to normativity within the rabbinic corpus itself. See, for example, Christine Hayes, “Rabbinic Contestations of Authority”; Fonrobert, *Menstrual Purity*; and for discussion of scholarship on the question on rabbinic authority, see Moshe Simon-Shoshan, “Between Philology and Foucault” and Avraham Walfish, “The Nature and Purpose of Mishnaic Narrative”.

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