

THE CAMBRIDGE  
HISTORY OF



JUDAISM

VOLUME FOUR  
THE LATE  
ROMAN-RABBINIC  
PERIOD

EDITED BY  
STEVEN T. KATZ

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HISTORY OF JUDAISM  
VOLUME FOUR

# THE CAMBRIDGE HISTORY OF JUDAISM

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# THE CAMBRIDGE HISTORY OF JUDAISM

VOLUME IV

THE LATE ROMAN-RABBINIC PERIOD

VOLUME EDITOR

STEVEN T. KATZ



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## GENERAL ABBREVIATIONS

AA	<i>Archäologischer Anzeiger</i>
AAH	<i>Acta Academiae Scientiarum Hungaricae</i>
AASOR	<i>Annual of the American Schools of Oriental Research</i>
AB	<i>Anchor Bible</i>
ABD	<i>Anchor Bible Dictionary</i>
AcOr	<i>Acta Orientalia</i> (Copenhagen)
ACW	<i>Ancient Christian Writers</i>
Afo	<i>Archiv für Orientforschung</i>
AGG	<i>Abhandlungen der Gesellschaft der Wissenschaften, philologisch-historische Klasse, Göttingen</i>
AGJU	<i>Arbeiten zur Geschichte des antiken Judentums und des Urchristentums</i>
AGSU	<i>Arbeiten zur Geschichte des Spätjudentums und Urchristentums</i>
AHHI	<i>Alon ha-Hevra ha-numismatith l Yisra'el</i>
AHR	<i>American Historical Review</i>
AJA	<i>American Journal of Archaeology</i>
AJP	<i>American Journal of Philology</i>
AJSR	<i>Association for Jewish Studies Reviews</i>
AJT	<i>American Journal of Theology</i>
ALBO	<i>Analecta Iovaniensia biblica et orientalia</i>
ALGHJ	<i>Arbeiten zur Literatur und Geschichte des hellenistischen Judentums</i>
ALUOS	<i>Annual of the Leeds University Oriental Society</i>
AnBib	<i>Analecta Biblica</i>
ANET	J. B. Pritchard (ed.), <i>Ancient Near Eastern Texts</i> (Oxford and Princeton, 1950; 3rd ed. 1969)
ANF	A. Roberts and J. Donaldson (eds.), <i>Ante-Nicene Fathers</i> , 10 vols. (Edinburgh, 1867 ff.)
ANRW	<i>Aufstieg und Niedergang der römischen Welt</i>
APAT	E. Kautzsch (ed.), <i>Die Apokryphen und Pseudepigraphen des Alten Testaments</i> , 2 vols. (Tübingen, 1900)
APOT	R. H. Charles (ed.), <i>The Apocrypha and Pseudepigrapha of the Old Testament in English</i> , 2 vols. (Oxford, 1913)

ARW	<i>Archiv für Religionswissenschaft</i>
ASOR	<i>American Schools of Oriental Research</i>
ASTI	<i>Annual of the Swedish Theological Institute</i>
ATD	<i>Das Alte Testament Deutsch</i>
ATR	<i>Anglican Theological Review</i>
AusBR	<i>Australian Biblical Review</i>
BA	<i>Biblical Archaeologist</i>
BASOR	<i>Bulletin of the American Schools of Oriental Research</i>
BASP	<i>Bulletin of the American Society of Papyrologists</i>
Bav.	<i>Talmud Bavli</i>
BBB	<i>Bonner biblische Beiträge</i>
BETL	<i>Bibliotheca ephemeridum theologicarum lovaniensium</i>
BevT	<i>Beiträge zur evangelischen Theologie</i>
BGU	<i>Aegyptische Urkunden aus den Königlich-Preussischen Staatlichen Museen Zu Berlin, Griechische Urkunden, 15 vols. (Berlin, 1895–1983)</i>
BHT	<i>Beiträge zur historischen Theologie</i>
BiAR	<i>Biblical Archaeology Review</i>
Bib	<i>Biblica</i>
BIDR	<i>Bulletino dell'Istituto di Divitto Romano</i>
BIFAO	<i>Bulletin de l'Institut français d'archéologie orientale</i>
BiOr	<i>Bibliotheca Orientalis</i>
BJ	<i>Bible de Jerusalem</i>
BJRL	<i>Bulletin of the John Rylands University Library</i>
BJS	<i>Brown Judaic Studies</i>
BLE	<i>Bulletin de littérature ecclésiastique</i>
BMCRE	H. Mattingley (ed.), <i>Coins of the Roman Empire in the British Museum</i> (London, 1965–8)
BNTC	Black's New Testament Commentary
BPC	L. Pirot and A. Clamer, <i>La Sainte Bible</i> (Paris, 1951)
BrAR	<i>British Archaeological Reports</i>
BTB	<i>Biblical Theology Bulletin</i>
BWANT	<i>Beiträge zur Wissenschaft vom Alten und Neuen Testament</i>
BZ	<i>Biblische Zeitschrift</i>
BZAW	<i>Beibefte zur Zeitschrift für die alttestamentliche Wissenschaft</i>
BZNW	<i>Beibefte zur Zeitschrift für die neutestamentliche Wissenschaft</i>
CAH	<i>Cambridge Ancient History</i> (Cambridge, 1924–39; new ed. 1970–)
CAT	Commentaire de l'Ancien Testament (1963–)
CBQ	<i>Catholic Biblical Quarterly</i>
CCAR	<i>Central Conference of American Rabbis Journal</i>
CCHS	<i>Catholic Commentary on Holy Scripture</i> New York, 1953; 2nd ed., 1969

CCSL	<i>Corpus Scriptorum Series Latina</i>
CD	Cairo Genizah text of the Damascus Document
CGTC	Cambridge Greek Testament Commentaries
<i>ChE</i>	<i>Chronique d'Égypte</i>
CHJ	<i>The Cambridge History of Judaism</i> (Cambridge, 1984–)
CIG	<i>Corpus inscriptionum graecarum</i> (Berlin, 1825–)
CIJ	J.-B. Frey (ed.), <i>Corpus Inscriptionum Judaicarum</i> , I (1936; rev. B. Lifschitz, New York, 1975); II (Rome, 1952)
CIRB	V. Struve (ed.), <i>Corpus Inscriptionum Regni Bosporani</i> (Moscow, 1965)
<i>CJud</i>	<i>Conservative Judaism</i>
CJZC	<i>Corpus jüdischer Zeugnisse aus der Cyrenaika</i>
CMH	<i>The Cambridge Medieval History</i> (Cambridge, 1911–36; new ed. 1996–)
<i>CPb</i>	<i>Classical Philology</i>
CPJ	V. Tcherikover and A. Fuks (eds.), <i>Corpus Papyrorum Judaicarum</i> , 3 vols. (Cambridge, MA, 1957–64)
CQ	<i>Classical Quarterly</i>
CRAIBL	<i>Comptes-rendus de l'Académie des inscriptions et belles-lettres</i>
CRINT	<i>Compendia Rerum Iudaicarum ad Novum Testamentum</i> (Assen, 1984–)
CSCO	J. B. Chabot et al. (eds.), <i>Corpus Scriptorum Christianorum Orientalium</i> (Paris, 1903 ff.)
CSEL	<i>Corpus Scriptorum Ecclesiasticorum Latinorum</i> (Vienna, 1866–)
CTM	<i>Concordia Theological Monthly</i>
DACL	<i>Dictionnaire d'Archéologie chrétienne et de liturgie</i> , 15 vols. (Paris, 1907–50)
<i>DBSup</i>	<i>Dictionnaire de la Bible</i> , Supplément (Paris, 1928–)
DCA	W. Smith and S. Cheetham (eds.), <i>Dictionary of Christian Antiquities</i> , 2 vols. (London, 1875–80)
DF	B. Lifschitz, <i>Donateurs et fondateurs dans les synagogues juives</i> (Paris, 1967)
DJD	P. Benoit et al. (eds.), <i>Discoveries in the Judaean Desert of Jordan</i> (Oxford, 1955–)
DSD	<i>Dead Sea Discoveries</i>
DTC	A. Vacant and E. Mangenot, <i>Dictionnaire de théologie catholique</i> , 18 vols. (Paris, 1899–1972)
EB	Echter Bibel
<i>EBib</i>	<i>Études bibliques</i>
EKKNT	Evangelisch-Katholischer Kommentar zum Neuen Testament
<i>EncJud</i>	C. Roth and J. Wigoder (eds.), <i>Encyclopedia Judaica</i> , 2 vols. (Jerusalem and New York, 1971)



<i>EnsMiq</i>	<i>Ensiklopedia Miqra'it</i> (Jerusalem, 1950)
<i>ErIs</i>	<i>Eretz Israel</i>
<i>ESC</i>	<i>Annales. Economies, Sociétés, Civilisations</i>
<i>EstBib</i>	<i>Estudios bíblicos</i>
<i>ET</i>	English translation
<i>ETL</i>	<i>Ephemerides theologicae lovanienses</i>
<i>ETS</i>	Erfurter theologische Studien
<i>EvT</i>	<i>Evangelische Theologie</i>
<i>ExT</i>	<i>Expository Times</i>
<i>FC</i>	Fathers of the Church
<i>FGrHist</i>	<i>Fragmente der griechischen Historiker</i> , ed. F. Jacoby (Leiden, 1923–)
<i>FJB</i>	<i>Frankfurter Judaistische Beiträge</i>
<i>FRLANT</i>	<i>Forschungen zur Religion und Literatur des Alten und Neuen Testaments</i>
<i>FZPhTh</i>	<i>Freiburger Zeitschrift für Philosophie und Theologie</i>
<i>GaR</i>	<i>Greece and Rome</i>
<i>GCS</i>	Die griechischen christlichen Schriftsteller der ersten drei Jahrhunderten
<i>GL</i>	W. D. Davies, <i>The Gospel and the Land</i> (Berkeley, 1974)
<i>GLAJJ</i>	M. Stern (ed.), <i>Greek and Latin Authors on the Jews and Judaism</i> , 3 vols. (1974–84)
<i>GRBS</i>	<i>Greek, Roman and Byzantine Studies</i>
<i>HAT</i>	Handbuch zum Alten Testament
<i>HAW</i>	Handbuch der Altertumswissenschaft
<i>HDB</i>	<i>Hastings' Dictionary of the Bible</i> , 5 vols. (Edinburgh and New York, 1898–1904)
<i>HJPAJC</i>	E. Schürer (ed.), <i>The History of the Jewish People in the Age of Jesus Christ</i> , rev. and ed. by G. Vermes, F. Millar, and M. Black, 3 vols. (Edinburgh, 1973–87)
<i>HKAT</i>	<i>Handkommentar zum Alten Testament</i>
<i>HNT</i>	<i>Handbuch zum Neuen Testament</i>
<i>HSAT</i>	<i>Die heilige Schrift des Alten Testaments</i> , ed. F. Feldmann and H. Herkenne (Bonn, 1923–)
<i>HSCP</i>	<i>Harvard Studies in Classical Philology</i>
<i>HSM</i>	<i>Harvard Semitic Monographs</i>
<i>HTKNT</i>	Herders theologischer Kommentar zum Neuen Testament
<i>HTR</i>	<i>Harvard Theological Review</i>
<i>HTS</i>	<i>Harvard Theological Studies</i>
<i>HUCA</i>	<i>Hebrew Union College Annual</i>
<i>HZ</i>	<i>Historische Zeitschrift</i>
<i>IB</i>	Interpreter's Bible

- ICC International Critical Commentary
- IDBS<sup>Sup</sup> Supplementary volume to the *Interpreter's Dictionary of the Bible*, ed. K. Crim (Abingdon, 1976)
- IEJ *Israel Exploration Journal*
- IG *Inscriptiones Graecae*, ed. Preussische Akademie der Wissenschaften (Berlin, 1873–)
- IGLS *Inscriptions grecques et latines de la Syrie*
- ILR *Israel Law Review*
- ILS H. Dessau (ed.), *Inscriptiones Latinae Selectae*, 5 vols. (Berlin, 1892–1916)
- Int *Interpretation*
- IOSPE I. Latyshev, *Inscriptiones Antiquae Graecae Septentrionalis Ponti Euxini Graecae et Latinae* (Petrograd, 1916)
- JA *Journal Asiatique*
- JAAR (Sup) *Journal of the American Academy of Religion* (Supplement)
- JAC *Jahrbuch für Antike und Christentum*
- JAOS *Journal of the American Oriental Society*
- JBC R. E. Brown, J. Fitzmyer, and R. E. Murphy (eds.), *The Jerome Biblical Commentary* (Englewood Cliffs, 1968)
- JBL *Journal of Biblical Literature*
- JBLMS *Journal of Biblical Literature Monograph Series*
- JE *Jewish Encyclopaedia*, 12 vols. (New York, 1901–6)
- JEA *Journal of Egyptian Archaeology*
- JECS *Journal of Early Christian Studies*
- JEH *Journal of Ecclesiastical History*
- JESHO *Journal of the Economic and Social History of the Orient*
- JHS *Journal of Hellenic Studies*
- JIGRE W. Horbury and D. Noy, *Jewish Inscriptions of Graeco-Roman Egypt, with an index of the Jewish Inscriptions of Egypt and Cyrenaica* (Cambridge, 1992)
- JRIL A. Linder, *The Jews in Roman Imperial Legislation* (Detroit, 1987)
- JIWE D. Noy, *Jewish Inscriptions of Western Europe: vol. 1, Italy (excluding Rome), Spain and Gaul; vol. 11, The City of Rome* (Cambridge, 1993, 1995)
- JJS *Journal of Jewish Studies*
- JNES *Journal of Near Eastern Studies*
- JPFCS S. Safrai and M. Stern (eds.), *The Jewish People in the First Century*, 2 vols. (1974–6)
- JPS W. D. Davies, *Jewish and Pauline Studies* (Philadelphia, 1984)
- JQR *Jewish Quarterly Review*

<i>JR</i>	<i>Journal of Religion</i>
<i>JRAS</i>	<i>Journal of the Royal Asiatic Society</i>
<i>JRRW</i>	M. Pucci Ben Zeev, ed., <i>Jewish Rights in the Roman World</i> (Tübingen, 1998)
<i>JRS</i>	<i>Journal of Roman Studies</i>
<i>JSHRZ</i>	<i>Jüdische Schriften der hellenistisch-römischen Zeit</i>
<i>JSJ</i> (Sup)	<i>Journal for the Study of Judaism in the Persian, Hellenistic and Roman Period</i> (Supplements)
<i>JSJT</i>	<i>Jerusalem Studies in Jewish Thought</i>
<i>JSNT</i>	<i>Journal for the Study of the New Testament</i>
<i>JSOTSS</i>	Journal for the Study of the Old Testament Supplement Series
<i>JSP</i> (Sup)	<i>Journal for the Study of the Pseudepigrapha</i> (Supplements)
<i>JSQ</i>	<i>Jewish Studies Quarterly</i>
<i>JSS</i>	<i>Journal of Semitic Studies</i>
<i>JTC</i>	<i>Journal for Theology and the Church</i>
<i>JTS</i>	<i>Journal of Theological Studies</i>
<i>JWSTP</i>	M. E. Stone (ed.), <i>Jewish Writings of the Second Temple Period</i> (Assen and Philadelphia, 1984)
<i>KAT</i>	Kommentar zum Alten Testament
<i>KD</i>	<i>Kerygma und Dogma</i>
<i>KS</i>	<i>Kleine Schriften</i>
<i>LCL</i>	Loeb Classical Library
<i>LD</i>	<i>Lectio divina</i>
<i>LeS</i>	<i>LeSonénu</i>
<i>MAMA</i>	<i>Monumenta Asiae Minoris Antiqua</i>
<i>MBPAR</i>	<i>Münchener Beiträge zur Papyrusforschung und antiken Rechtsgeschichte</i>
<i>MEFR</i>	<i>Mélanges de l'Ecole française de Rome. Moyen Age. Temps Modernes</i>
<i>MeyerK</i>	H. A. W. Meyer, <i>Kritisch-exegetischer Kommentar über das Neue Testament</i>
<i>MGWJ</i>	Monatsschrift für Geschichte und Wissenschaft des Judentums
<i>MNTC</i>	Moffatt New Testament Commentary
<i>MPAT</i>	J. A. Fitzmyer and D. J. Harrington, <i>A Manual of Palestinian Aramaic Texts</i> (Rome, 1978)
<i>MTZ</i>	<i>Münchener theologische Zeitschrift</i>
<i>NEAEHL</i>	E. Stern (ed.), <i>New Encyclopaedia of Archaeological Excavations in the Holy Land</i> , 4 vols. (Jerusalem, 1993)
<i>NEB</i>	New English Bible
<i>NF</i>	Neue Folge

NJV	New Jewish Version
<i>NovT</i>	<i>Novum Testamentum</i>
NovTSup	Novum Testamentum Supplements
NPNF	Nicene and Post-Nicene Fathers
NRSV	New Revised Standard Version of the Bible
<i>NRT</i>	<i>Nouvelle revue théologique</i>
<i>NTAbb</i>	<i>Neutestamentliche Abhandlungen</i>
<i>NTS</i>	<i>New Testament Studies</i>
<i>OBO</i>	<i>Orbis Biblicus et Orientalis</i>
<i>OEANE</i>	E. M. Myers (ed.), <i>The Oxford Encyclopedia of Archaeology in the Near East</i> , 5 vols. (New York, 1997)
<i>OGIS</i>	W. Dittenberger (ed.), <i>Orientalis Graecae Inscriptiones Selectae</i> (Leipzig, 1903–5, repr. Hildesheim, 1970)
<i>OTL</i>	Old Testament Library
<i>OTS</i>	<i>Oudtestamentische Studiën</i>
P.	Papyrus
<i>PAAJR</i>	<i>Proceedings of the American Academy of Jewish Research</i>
<i>PCZ</i>	C. C. Edgar (ed.), <i>Zenon Papyri</i> , 4 vols. (Cairo, 1925–31)
<i>PEFA</i>	<i>Palestine Exploration Fund Annual</i>
<i>PEQ</i>	<i>Palestine Exploration Quarterly</i>
PER	Papyrus Erzherzog Rainer
PG	J. P. Migne (ed.), <i>Patrologiae cursus completus, series graeca</i> (Paris, 1875–)
P. Giess.	O. Eger, E. Kornemann, and P. M. Meyer (eds.), <i>Griechische Papyri zu Giessen</i>
<i>PJ</i>	<i>Palästina-Jahrbuch des deutschen Evangelischen Instituts</i>
PL	J. P. Migne (ed.), <i>Patrologiae cursus completus, series latina</i> (Paris, 1844–)
P. Lond.	F. G. Kenyon et al. (eds.), <i>Greek Papyri in the British Museum</i> (London, 1893–)
<i>PLRE</i>	A. M. H. Jones, J. R. Martindale, and J. Marris (eds.), <i>The Prosopography of the Later Roman Empire</i> , 3 vols. (Cambridge, 1971–92)
P. Petrie	J. P. Mahaffy and J. G. Smyly (eds.), <i>The Flinders Petrie Papyri</i> (Dublin, 1891–)
<i>PRJ</i>	W. D. Davies, <i>Paul and Rabbinic Judaism</i> (London and Philadelphia, 1948; 4th ed. 1980)
<i>PSI</i>	G. Vitelli et al. (eds.), <i>Publicazioni della Società italiana per la Ricerca dei Papiri greci e latini in Egitto: Papiri greci e latini</i> (Florence, 1912–)
<i>PVTG</i>	<i>Pseudepigrapha Veteris Testamenti graecae</i>

PW	A. F. von Pauly (ed.), <i>Real-Encyclopädie der classischen Altertumswissenschaft</i> , 24 vols. (Stuttgart, 1894–1978) (Pauly-Wissowa)
PWSup	Supplements to Pauly-Wissowa, <i>Real-Encyclopädie der classischen Altertumswissenschaft</i> (Stuttgart, 1903–)
QDAP	<i>Quarterly of the Department of Antiquities in Palestine</i>
1QH	<i>Hodayot (Thanksgiving Hymns)</i> from Qumran Cave 1
1QM	<i>MilHAMAb (War Scroll)</i>
1QS	<i>Serek ha-yaHad (Rule of the Community, Manual of Discipline)</i>
RAC	T. Klauser (ed.), <i>Reallexikon für Antike und Christentum</i> (Stuttgart, 1950–)
RArch	<i>Revue archéologique</i>
RB	<i>Revue biblique</i>
REA	<i>Revue des études anciennes</i>
RechBib	<i>Recherches bibliques</i>
REG	<i>Revue des études grecques</i>
REJ	<i>Revue des études juives</i>
REL	<i>Revue des études latines</i>
RevQ	<i>Revue de Qumran</i>
RevSR	<i>Review of Science and Religion</i>
Rev Tun	<i>Revue tunisienne</i>
RFIC	<i>Revista di filologia e di istruzione classica</i>
RGG	<i>Die Religion in Geschichte und Gegenwart</i>
RGVV	<i>Religionsgeschichtliche Versuche und Vorarbeiten</i>
RHPR	<i>Revue d'histoire et de philosophie religieuses</i>
RHR	<i>Revue de l'histoire des religions</i>
RIDA	<i>Revue internationale des droits de l'Antiquité</i>
RivAC	<i>Rivista di archeologia cristiana</i>
RN	<i>Revue numismatique</i>
RPh	<i>Revue de philologie, d'histoire et de littérature anciennes</i>
RQ	<i>Römische Quartalschrift für christliche Altertumskunde und Kirchengeschichte</i>
RSI	<i>Rivista storica italiana</i>
RSR	<i>Recherches de science religieuse</i>
RSV	Revised Standard Version of the Bible
SAH	<i>Sitzungsberichte der Heidelberger Akademie der Wissenschaften, philosophisch-historische Klasse</i>
SAW	<i>Sitzungsberichte, Oesterreichische Akademie der Wissenschaften in Wien, philosophisch-historische Klasse</i>
SB	<i>Sources bibliques</i>
SBL	Society of Biblical Literature
SBLASP	Society of Biblical Literature Abstracts and Seminar Papers

SBLDS	Society of Biblical Literature Dissertation Series
SBLMS	Society of Biblical Literature Monograph Series
SBLSCS	Society of Biblical Literature Septuagint and Cognate Studies
SBS	Stuttgarter Bibelstudien
SBT	Studies in Biblical Theology
SC	Sources chrétiennes
SCI	<i>Scripta Classica Israelica</i>
SCO	<i>Studi classici e orientali</i>
ScrHie	<i>Scripta Hierosolymitana</i>
SD	<i>Studies and Documents</i>
SE	<i>Studia Evangelica</i>
SEÅ	<i>Svensk exegetisk årsbok</i>
SEG	J. J. E. Hondius et al. (eds.), <i>Supplementum Epigraphicum Graecum</i> , (Leiden, 1923–)
SGUÄ	F. Preisigke et al. (eds.), <i>Sammelbuch griechischer Urkunden aus Ägypten</i> , (Strasbourg etc., 1913–)
SHA	<i>Scriptores Historiae Augustae</i>
SJLA	Studies in Judaism in Late Antiquity
SJT	<i>Scottish Journal of Theology</i>
SNT	<i>Studien zum Neuen Testament</i>
SNTSMS	Society for New Testament Studies Monograph Series
SP	<i>Studia patristica</i>
SPB	<i>Studia postbiblica</i>
SSM	W. D. Davies, <i>The Setting of the Sermon on the Mount</i> (Cambridge, 1964)
ST	<i>Studia theologica</i>
StLi	<i>Studia Liturgica</i>
Str-B	H. Strack and P. Billerbeck, <i>Kommentar zum Neuen Testament aus Talmud und Midrasch</i> , 6 vols. (Munich, 1922–61)
SUNT	<i>Studien zur Umwelt des Neuen Testaments</i>
SVF	<i>Stoicorum Veterum Fragmenta</i>
SVTP	<i>Studia in Veteris Testamenti Pseudepigrapha</i> H. Kreissig, <i>Die sozialen Zusammenhänge des jüdischen Krieges</i> (Berlin, 1970)
TAM	<i>Tituli Asiae Minoris</i>
TAPA	<i>Transactions of the American Philological Association</i>
TB	<i>Theologische Bücherei</i>
TBei	<i>Theologische Beiträge</i>
TDNT	G. Kittel and G. Friedrich (eds.), <i>Theological Dictionary of the New Testament</i> (Grand Rapids, 1964–); ET of TWNT
TextsS	<i>Texts and Studies</i>
Textus	<i>Textus, Annual of the Hebrew University Bible Project</i>

<i>TF</i>	<i>Theologische Forschung</i>
<i>ThViat</i>	<i>Theologia Viatorum</i>
<i>TLZ</i>	<i>Theologische Literaturzeitung</i>
<i>TRE</i>	G. Krause and D. Müller (eds.), <i>Theologische Realenzyklopädie</i> (Berlin, 1977–)
<i>TRev</i>	<i>Theologische Revue</i>
<i>TRu</i>	<i>Theologische Rundschau</i>
<i>TSAJ</i>	Texte und Studien zum antiken Judentum
<i>TSK</i>	<i>Theologische Studien und Kritiken</i>
<i>TU</i>	Texte und Untersuchungen zur Geschichte der altchristlichen Literatur
<i>TWNT</i>	G. Kittel and G. Friedrich (eds.), <i>Theologisches Wörterbuch zum Neuen Testament</i> (Stuttgart, 1933–)
<i>TZ</i>	<i>Theologische Zeitschrift</i>
<i>UNT</i>	<i>Untersuchungen zum Neuen Testament</i>
<i>USQR</i>	<i>Union Seminary Quarterly Review</i>
<i>UUA</i>	<i>Uppsala universitetsårsskrift</i>
<i>VC</i>	<i>Vigiliae Christianae</i>
<i>VCSup</i>	<i>Vigiliae Christianae</i> , Supplement
<i>VS</i>	<i>Verbum salutis</i>
<i>VT</i>	<i>Vetus Testamentum</i>
<i>VTSup</i>	<i>Vetus Testamentum Supplements</i>
<i>WF</i>	<i>Wege der Forschung</i>
<i>WHJP</i>	C. Roth et al. (eds.), <i>World History of the Jewish People</i> (1966–)
<i>WMANT</i>	Wissenschaftliche Monographien zum Alten und Neuen Testament
<i>WUNT</i>	<i>Wissenschaftliche Untersuchungen zum Neuen Testament</i>
<i>Yer.</i>	<i>Talmud Yerushalmi</i>
<i>ZAW</i>	<i>Zeitschrift für die alttestamentliche Wissenschaft</i>
<i>ZDMG</i>	<i>Zeitschrift der deutschen morgenländischen Gesellschaft</i>
<i>ZDPV</i>	<i>Zeitschrift des deutschen Palästina-Vereins</i>
<i>ZKG</i>	<i>Zeitschrift für Kirchengeschichte</i>
<i>ZNW</i>	<i>Zeitschrift für die neutestamentliche Wissenschaft</i>
<i>ZPE</i>	<i>Zeitschrift für Papyrologie und Epigraphik</i>
<i>ZTK</i>	<i>Zeitschrift für Theologie und Kirche</i>
<i>ZWT</i>	<i>Zeitschrift für wissenschaftliche Theologie</i>

## ABBREVIATIONS OF RABBINIC SOURCES

<i>Ab.</i>	<i>Abilut</i>
<i>Ar.</i>	<i>Arakbin</i>
ARN A/B	<i>Avot de-Rabbi Natan</i> , version A/B
<i>Av. Zar.</i>	<i>Avoda Zara</i>
<i>Bava K./M./B.</i>	<i>Bava Kamma/Metsial/Batra</i>
<i>Bekb.</i>	<i>Bekhorot</i>
<i>Ben.</i>	<i>Benachov</i>
<i>Ber.</i>	<i>Berachot</i>
<i>Bez.</i>	<i>Bezah</i>
<i>Bikk.</i>	<i>Bikkurim</i>
BT	Babylonian Talmud
<i>Cant. R.</i>	<i>Canticles Rabba</i>
<i>Dem.</i>	<i>Demai</i>
<i>Deut. R.</i>	<i>Deuteronomy Rabba</i>
<i>Eccles. R.</i>	<i>Ecclesiastes Rabba</i>
<i>Ed.</i>	<i>Eduyot</i>
<i>Er.</i>	<i>Eruvin</i>
<i>Esth. R.</i>	<i>Esther Rabba</i>
<i>Exod. R.</i>	<i>Exodus Rabba</i>
<i>Gen. R.</i>	<i>Genesis Rabba</i>
<i>Gitt.</i>	<i>Gittin</i>
<i>Hag.</i>	<i>Hagiga</i>
<i>Hor.</i>	<i>Horayot</i>
<i>Hull.</i>	<i>Hullin</i>
<i>Kel.</i>	<i>Kelim</i>
<i>Ker.</i>	<i>Keritot</i>
<i>Ket.</i>	<i>Ketubbot</i>
<i>Kidd.</i>	<i>Kiddushin</i>
<i>Kil.</i>	<i>Kilayim</i>
<i>Kinn.</i>	<i>Kinnim</i>
<i>Lam. R.</i>	<i>Lamentations Rabba</i>
<i>Lev. R.</i>	<i>Leviticus Rabba</i>
M.	Mishnah



<i>Maasr.</i>	<i>Maasrot</i>
<i>Maas. Sb.</i>	<i>Maaser Sheni</i>
<i>Makhsb.</i>	<i>Makhsbirin</i>
<i>Makk.</i>	<i>Makkot</i>
<i>Meg.</i>	<i>Megilla</i>
<i>Meg. Taan.</i>	<i>Megillat Taanit</i>
<i>Mekh.</i>	<i>Mekbilta (de-R. Yishmael)</i>
<i>Mekh. de-R. Sb.b.Y.</i>	<i>Mekbilta de-R. Shimon bar Yohai</i>
<i>Men.</i>	<i>Menabot</i>
<i>Midr. Ha-Gad.</i>	<i>Midrash ha-Gadol</i>
<i>Midr. Prov.</i>	<i>Midrash Proverbs</i>
<i>Midr. Pss.</i>	<i>Midrash Psalms (Shobar Tov)</i>
<i>Midr. Tanb.</i>	<i>Midrash Tanbuma</i>
<i>Midr. Tann.</i>	<i>Midrash Tannaim</i>
<i>Mikw.</i>	<i>Mikwaot</i>
<i>Moed K.</i>	<i>Moed Katan</i>
<i>Naz.</i>	<i>Nazir</i>
<i>Ned.</i>	<i>Nedarim</i>
<i>Neg.</i>	<i>Negaim</i>
<i>Nez.</i>	<i>Nezikin</i>
<i>Nid.</i>	<i>Niddah</i>
<i>Num. R.</i>	<i>Numbers Rabba</i>
<i>Oh.</i>	<i>Ohalot</i>
<i>Par.</i>	<i>Para</i>
<i>Pes.</i>	<i>Pesachim</i>
<i>Pes. de-R.K.</i>	<i>Pesikta de-Rav Kahana</i>
<i>Pirke de-R. El.</i>	<i>Pirke de-R. Eliezer</i>
<i>Pes. R.</i>	<i>Pesikta Rabbati</i>
PT	<i>Palestinian Talmud</i>
<i>Rosh H.</i>	<i>Rosh ha-Shanah</i>
<i>Ruth R.</i>	<i>Ruth Rabba</i>
<i>Sanh.</i>	<i>Sanhedrin</i>
<i>Sem.</i>	<i>Semaboth</i>
SEK	<i>Seder Eliyahu Rabba</i>
SEZ	<i>Seder Eliyahu Zutta</i>
<i>Shabb.</i>	<i>Shabbat</i>
<i>Shek.</i>	<i>Shekalim</i>
<i>Shev.</i>	<i>Sheviit</i>
<i>Shevu.</i>	<i>Shevuot</i>
<i>Sifre Deut.</i>	<i>Sifre Deuteronomy</i>
<i>Sifre Num.</i>	<i>Sifre Numbers</i>
<i>Sifrei Z.</i>	<i>Sifrei Zutta</i>

<i>S.O.(R.)</i>	<i>Seder Olam (Rabba)</i>
<i>Song R.</i>	<i>Song of Songs Rabba</i>
<i>Sot.</i>	<i>Sotab</i>
<i>Suk.</i>	<i>Sukkot</i>
<i>Taan.</i>	<i>Taanit</i>
<i>Tam.</i>	<i>Tamid</i>
<i>Tanh.</i>	<i>Tanhuma</i>
<i>Tanh. B.</i>	<i>Tanhuma ed. Buber</i>
<i>Tem.</i>	<i>Temura</i>
<i>Ter.</i>	<i>Terumot</i>
<i>Tev. Y.</i>	<i>Tevul Yom</i>
<i>Tg.</i>	<i>Targum</i>
<i>Tg. Jon.</i>	<i>Targum Jonathan</i>
<i>Tg. N.</i>	<i>Targum Neofyti</i>
<i>Tg. Onk.</i>	<i>Targum Onkelos</i>
<i>Tg. Ps.-Jon.</i>	<i>Targum Pseudo-Jonathan</i>
<i>Tob.</i>	<i>Toborot</i>
<i>Tos.</i>	<i>Tosefta</i>
<i>Ukts.</i>	<i>Uktsin</i>
<i>Yad.</i>	<i>Yadayim</i>
<i>Yal. Shim.</i>	<i>Yalkut Shimoni</i>
<i>Yev.</i>	<i>Yevamot</i>
<i>Zav.</i>	<i>Zavin</i>
<i>Zev.</i>	<i>Zevahim</i>

‘The map which appears here in the printed edition has been removed for ease of use and now appears as an additional resource on the chapter overview page’.



# INTRODUCTION

STEVEN T. KATZ

## I

The present volume of *The Cambridge History of Judaism* covers the period from the destruction of the Second Temple in Jerusalem in 70 CE to the rise of Islam in the beginning of the seventh century.<sup>1</sup> This era, after the biblical period, is the most consequential in Jewish history, for it is the era when Judaism took on its classical shape as a result of a variety of historical and religious factors, both internal and external. Coincident with the history of the Roman Empire from the early years of the reign of Vespasian to the death of the Byzantine Emperor Maurice in 602, it includes the response(s) of Jews to the cataclysm of 70; the failed Diaspora uprisings of 115–17 during the reign of Trajan; the catastrophic rebellion and defeat of Bar Kochba by the legions of Hadrian between 132 and 135; the ascent of Babylonian Jewry to pre-eminence in the Jewish world after c. 235<sup>2</sup> (the year that marked the end of the Severan dynasty of Roman emperors); the expansion of the influence of rabbinic culture and the composition of the great rabbinic corpora: the Mishnah, Tosefta, Palestinian Talmud, Babylonian Talmud, and a wide variety of midrashim (biblical commentaries); the early and growing conflict between Christianity and Judaism; and the eventual rise, after 325, of Christianity to world power as a result of the efforts of Constantine and his imperial heirs,<sup>3</sup> a circumstance that, in turn, produced devastating consequences for Jews and the practice of Judaism in both halves of the Empire.<sup>4</sup>

<sup>1</sup> Muhammad died in 632. His successor Omar I conquered Jerusalem in 638. By 644 the Islamic Empire controlled much of what had been the Byzantine and Persian Empires.

<sup>2</sup> This, of course, is a backwards-looking judgment. At the time, it was not evident to the Jews in Palestine or elsewhere – or even in Babylonia – that such a transition would occur.

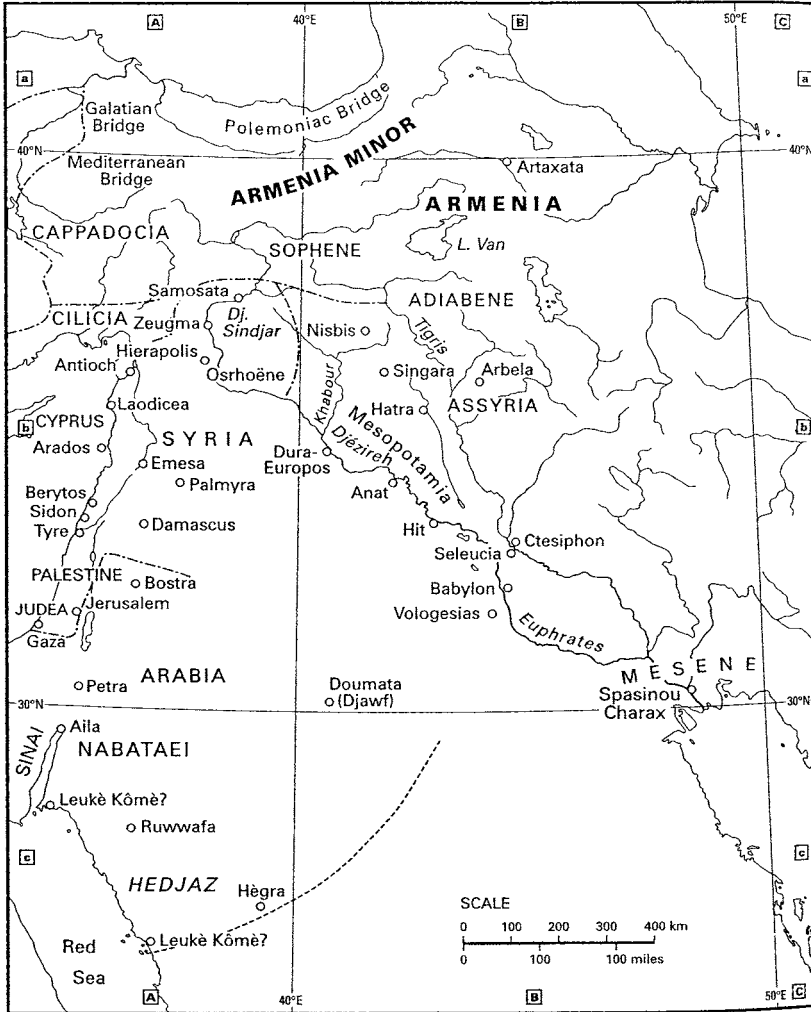
<sup>3</sup> Constantine made Christianity a “licit” religion within the Empire in 325 and died in 337. Among his heirs, the two who did the most to alter and undermine the status of Jews in the Empire were the Byzantine Emperors Theodosius II, who reigned from 408 to 450, and Justinian, who reigned from 527 to 565.

<sup>4</sup> The Roman Empire was divided into two parts after the death of Theodosius I in 395. The eastern branch of the Empire was centered in Constantinople, and the western branch in Rome.

This was also a time when Jews continued to speak and write<sup>5</sup> in Hebrew and Aramaic; when they shaped, out of earlier beginnings, the synagogue liturgy and began to create a new form of religious poetry for the synagogue (*piyyutim*); when they continued to produce Aramaic translations of the Bible (the *Targums*; in Hebrew *targumim*); when they built magnificent as well as less grand synagogues in the Land of Israel and throughout the Diaspora; when their popular culture continued to evolve at home, in the synagogue, and in the academy; when they engaged in magic and mysticism, celebrated the holidays, and hoped for the coming of the Messiah to mark the end of their exile.

The first eight essays of this volume provide a historical context for these repercussive developments. The first contribution, by Seth Schwartz, offers a detailed review of the political and social history of the Jewish community in the Land of Israel between 70 and 135. Schwartz's study indicates the degree to which Rome controlled events and transformed Palestine – politically, economically and culturally – into a typical eastern province of the Empire, run by Roman governors and bureaucrats and secured by Roman soldiers. It makes the striking and fundamental point that in contradiction to the historical reconstruction of events suggested by more traditional (and pious) historiography, rabbinic authority was still very limited in this period. Schwartz's study is followed by essays by Alan Kerkeslager, Claudia Setzer, Paul Trebilco, and David Goodblatt, which decipher the Jewish situation that then existed in the Diaspora. Kerkeslager focuses on the oppressive conditions in which Jews lived in Egypt and Cyrenaica following the defeat of 70; conditions that contributed to fomenting the uprising of 116–17 and a second great defeat for Jewish forces. In both Egypt and Cyrenaica the Jewish communities were almost completely destroyed as a result of this second round of conflict. Setzer gathers together and interprets the relatively sparse evidence, drawn from inscriptions, archaeological remains, rabbinic sources, and Christian North African writers, that depict communal life in Carthage and Western North Africa. These sources suggest that Jewish life in Carthage and its environs probably began in the late first century and continued uninterruptedly thereafter, and that Jews were little distinguished in their lifestyles except for matters of religious ritual. They do not appear to have been a political or economic force of any particular consequence. Nor is there evidence of any special animus towards them other than that displayed by the early Christian writer Tertullian. Trebilco summarizes what we know about the Jews of Asia Minor, especially in Sardis, Prienne, and Smyrna. He

<sup>5</sup> The relevant evidence suggests that relatively few Jews could write. Those who could wrote in Hebrew and Aramaic as well as Greek.



Map B The Roman East in the second century

reviews the considerable extent of Jewish participation in the general cultural and political life of the region, and the essentially cordial relations obtaining between Jews and their neighbors for long stretches of time. This circumstance may well account for their lack of participation in the revolts of 66–70 and 115–17. For Babylonia, the data is sparse. David Goodblatt, reviewing what evidence does exist, reflects on the political alliances that the Jewish community forged with the ruling dynasty, the shape of Jewish

self-government, and the influence of Palestinian Judaism on the Babylonian Jewish community.

Against this broad background, Miriam Pucci Ben Zeev reconstructs the history of the failed Diaspora insurrections under Trajan and Hadrian between 115 and 117. She makes the important observation that the causes of the revolts of 115–17 were multiple. Jews revolted as an expression of their resistance to Roman hegemony, as a response to negative local conditions, and as a consequence of the animus of their neighbors. Jews in many places took up arms against Rome and its vassals and Ben Zeev provides an incisive assessment of their successes and failures. Next, Hanan Eshel examines the devastating Bar Kochba Revolt. Eshel, on the basis of the limited available evidence, reviews the causes, military preparations, leadership, and administration of the Bar Kochba Revolt in order to explain the course of the war from the early Jewish victories in 132 to the final defeat in 135. He emphasizes that, contrary to much previous scholarship, Bar Kochba never conquered Jerusalem. Still, the Romans saw the insurgency as a major threat and utilized close to 50,000 Roman soldiers to suppress the revolt. At its conclusion, the Romans issued a series of edicts aimed at uprooting the rebellious proclivities of the Jewish people that had led to two major revolts in seventy years.<sup>6</sup> Then Amnon Linder considers the fundamental issue of Jewish legal status in the later Roman Empire. He is careful to point to the influence of both Jewish and non-Jewish legal traditions in establishing the situation of the Jews, a situation that began to decline with the defeat of 70 and deteriorated further under the Christian Roman emperors of the fourth and later centuries because of Christian theological dogmas that fueled an antipathy towards Judaism and things Jewish.

Complementing these essays, Eric Meyers's chapter takes up the challenging issue of the artistic and architectural creativity of the Jewish people in the period between 70 and c. 235. An understanding of this sort of productivity broadens our conception of Judaism drawn from literary sources, and supports the asking of a whole series of pertinent questions about what "Judaism" meant in this era. For example, pagan themes on Jewish sarcophagi from Beth Shearim, and the figure of Dionysius on a floor

<sup>6</sup> There is still considerable dispute among scholars about just how many edicts were issued by Rome in the aftermath of the war and what their contents and purpose were. For a new appraisal of this topic see R. Kalmin, "Rabbinic Traditions about Roman Persecutions of the Jews: A Reconsideration," *JJS* 54/1 (Spring 2003), 21–50. Earlier studies of importance of this topic are P. Schäfer, *Der Bar Kokba-Aufstand: Studien zum Zweiten Jüdische Krieg Gegen Rom* (Tübingen, 1981); and M. Smallwood, *The Jews under Roman Rule* (Leiden, 1976), 421–7.



in a Jewish home in Sepphoris, provide evidence of and for a porous Judaism in which non-Jewish sources and visual images made a regular appearance. In opposition to an older scholarly and religious view that pictured a Judaism increasingly isolated after 70, both by choice and by circumstance, from the Hellenistic-Roman culture that surrounded it, this material evidence indicates how Roman Jewish life had become. And if this was the case, then the evaluation of the phenomenon of cultural borrowings, the analysis of the issue of religious (and cultural) assimilation, the meaning of “acculturation” in this context, and the decipherment of the elusive topic of syncretism, are all issues that once again require fresh examination. Moreover, the evidence presented here, along with that analyzed by Lee Levine for the period after *c.* 235 in chapter 20 below, forces us to reconsider the very nature of Jewish views of iconographic representation, that is, the range, limits, and meaning of “images” used by Jews in the Roman era.

What now follows in the next nine contributions is, with one exception (the essay by Moshe Bar Asher on Mishnaic Hebrew), a series of erudite essays on Jewish religious activity in the tannaitic period (i.e., 70 to *c.* 235), as this was manifest primarily in and through a number of rabbinic compositions. The first of these studies, by Robert Goldenberg, describes the Jewish theological responses to the loss of the Temple. Goldenberg knowledgeably explains the traumatic impact of the Temple’s loss and the effort by the various Jewish groups of the day to explain how and why this loss occurred, both by recycling and by innovating theological positions. In particular, he pays close attention to rabbinic attitudes and the capacity of the rabbis to foster a religious system that provided a meaningful explanation and justification for continuing Jewish life despite national calamity. This discussion of rabbinic thought and influence is then extended by Hayim Lapin in his careful exploration of the historical and religious role of the Rabbis in the period after 70. He reconsiders and re-evaluates the traditions about Yavneh and the Patriarchate and the stages leading up to the redaction of the Mishnah. He also considers the cultural, social, and theological attributes of the Rabbis as a distinctive group of religious experts who existed, in the main, without official political authority and “possibly little popular appeal.” What Lapin’s minimalist reading does, along with the earlier argument of Seth Schwartz and the argument of David Goodblatt about the Sages in Palestine after *c.* 235 (in ch. 16 below), is support the need for a thorough reappraisal of the inherited historical understanding of the Rabbis and the influence of rabbinic Judaism that was developed in the scholarship of the nineteenth and twentieth centuries. (One thinks here, for example, of the work of Heinrich Graetz, Solomon Schechter, George Foot Moore, Louis Finkelstein, Solomon Zeitlin, Gedaliah Alon, and Ephraim Urbach.)

In the next three essays, by James Sanders, Peter Richardson, and Steven Katz, the categories of history and theology intersect in consequential ways. In the first of these, James Sanders takes up the subject of the final canonization of the Hebrew Bible in the period after 70. At this exceptional moment, in the aftermath of the loss of the Temple, confronted by an increasingly difficult political and religious circumstance, with an ever larger and more far-flung Diaspora, history had created the need for Jews finally to agree on what scriptures would be authoritative. As Sanders shows, this was a complex and contentious matter, with an already long history, about which it was difficult to reach a final consensus, though this was eventually achieved. History had also created a new theological and sociological circumstance, the rise of a sub-group of Jews (and others) who believed that Jesus of Nazareth was, at a minimum, the awaited Messiah of Israel. This belief put them at odds with the great majority of their Jewish co-religionists and began to engender the polemics that have defined Jewish–Christian relations for most of the past two millennia. Both Jews and Jewish (and other) Christians contributed to this growing schism. To help readers understand what was at issue in this theological confrontation, Peter Richardson reviews the early grounds of this conflict from the Christian side and Steven Katz examines the response of the Rabbis to the perceived danger of Christianity. Both authors emphasize that the full development of the animus between the two communities involved a more gradual process than is often thought, while Richardson stresses that there was considerable diversity within the early Christian view of Jews and Judaism and that the texts produced by the different Christian groups and authors reflected this diversity.

As fateful as the unprecedented encounter with Christianity would prove, it was internal Jewish developments, especially the production of the great rabbinic corpora, that would most profoundly affect the evolution of Judaism and the ongoing existence of the Jewish People. David Kraemer begins to introduce this rabbinic material by providing a helpful summary of the main features of the Mishnah, the first major compilation of rabbinic legal material that was redacted *c.* 200 by Judah Ha-Nasi (“the Prince”) in Tiberias. This innovative and unusual collection, organized by subject matter rather than as a commentary on the Torah, and written in a new form of Hebrew, became the key text – mediated by the commentary provided by the two Talmuds – in all future Jewish halachic (religious-legal) discussion. A second collection of legal material, known as the Tosefta, literally meaning “Supplement,” and produced, in the main, by the same Palestinian sages (the Tannaim), though edited in its present form after the close of the Mishnah somewhere between the mid-third and fourth centuries, is also historically significant, though it lacks the legal

importance of the Mishnah. The character of this less well known collection and its relation to the Mishnah, which it parallels in content and structure, is well described by Paul Mandel. This discussion of rabbinic sources is complemented by Jay Harris's analysis of the early halachic commentaries on scripture known as *midreshei halachah*. The main texts that comprise this body of material, all of which cite Palestinian sages of the tannaitic period, constitute a running commentary on the biblical books from Exodus to Deuteronomy. The value of this essay, in addition to its acute analysis of the textual and technical issues that arise in connection with study of these sources, lies in the fact that it shows how scriptural interpretation was pivotal to Jewish spiritual-intellectual creativity in this period. The rabbinic sages were committed to a constructive theological and exegetical encounter with the Bible without being literalists.

Moshe Bar-Asher completes the review of the rabbinic sources with a penetrating analysis of mishnaic Hebrew or, as it is traditionally known, "the language of the Sages." This is the Hebrew of the Mishnah, Tosefta, and early midrashim. A living language in Palestine until about 200 CE, it remained one of the two languages of scholarly discourse, the other being Aramaic, which, after 200, became the primary spoken language of the Jewish people in Palestine and elsewhere, up to the Muslim invasion, when it was displaced by Arabic.

These essays on the various early rabbinic corpora reflect the current scholarly understanding of their purpose, composition, and influence. Although many fundamental questions about these texts remain the subject of ongoing debate, these studies, while acknowledging the scholarly controversies that surround these sources, begin to explain how and why these legal and more than legal collections – initially the products of a rabbinic elite – became the fundamental, shared, basis of nearly all subsequent Jewish behavior and thought. Rabbinic literature supplemented the biblical narrative in providing for Jews a sense of national destiny and mission which helped them survive the difficult, often burdensome conditions of exile. In the pages of the rabbinic texts the Sages created a sociologically viable, psychologically powerful, theologically comprehensive, and persuasive portable culture that could – and did – provide Judaism with meaning, however hostile the environment in which Jews found themselves.

In the next two essays, David Goodblatt and Joshua Schwartz provide extensive reviews of the political, social and material realities in the Land of Israel in the later era between 235 and the Islamic conquest of Palestine in the mid-630s. After considering the demographic evidence, which shows that in many locales the Jewish population remained quite numerous and robust up until the early seventh century, Goodblatt judiciously revisits the relations between the Jewish leadership and the Roman authorities, the

history of the institution of the Patriarch (Hebrew *Nasi*), and the leadership role of the rabbis in the Palestinian community. Like Seth Schwartz (ch. 1) and Hayim Lapin (ch. 8), he argues that the Rabbis lacked institutional power as late as the fourth century. Accordingly, he supports a revisionist, scholarly paradigm of the nature of Jewish collective and religious affairs in the late Roman era. Complementing the analysis of these theological and political matters, Joshua Schwartz offers a wide-ranging study of the material culture of the Jewish People in the rural and urban environments of the Land of Israel after 235. He helps us to picture the conditions of rural subsistence centered around agriculture, and the nature of urban social and economic activity with its markets and fairs. He explains the nature of contemporary houses, courtyards, household utensils, roads, crops, farming instruments, and the city bathhouse. Thus he allows us to gain an understanding of life as it was actually lived.

Following this, the vernacular language of the day – Aramaic – is fully explored by Yochanan Breuer. Aramaic was the medium, along with Hebrew, in which Jews talked and thought for almost half a millennium. By so doing they indicated the reality of their integration within the encompassing, dominant, non-Jewish culture of the period. The continual need for Aramaic *Targums* (translations of Scripture), and the fact that the Babylonian Talmud was composed in Aramaic, attest to the degree – as well as the limits – of Jewish “acculturation.”

Two informative essays on the Diaspora, the first by Leonard Rutgers and the second by Scott Bradbury, complete the broad picture of Jewish history after 235. Rutgers concentrates on the long-standing Italian Jewish community. Through a careful appraisal of the evidence – inscriptions, tombs, synagogues, and texts – he makes the case for an Italian Jewry that, while self-consciously Jewish, was quite fully integrated culturally and politically within the fabric of Italian life. Importantly, he shows that this position changed only very gradually and at a date later than would generally be thought. Bradbury’s subject is Spain. Here, unfortunately, the lack of Jewish sources creates a dependency on secular lawcodes and Christian materials for an understanding of the Jewish presence in the country. What these sources reveal is a tale of growing, theologically grounded, anti-Judaism that translated into practical political and legal disabilities, especially after the Arian Visigothic monarchs were replaced by Catholic kings with the conversion of Reccared to Catholicism in 587. This explains much of the Jewish enthusiasm for Spain’s Muslim conquerors in 711.

In chapter 20, Lee Levine extends the analysis of Jewish art and architecture begun by Eric Meyers. Levine’s discussion covers all the later, main archaeological sites, including the cemeteries in Beth Shearim and Rome and a considerable array of synagogues from the breadth and length of the

Diaspora. Included in his survey is a detailed description of the famous third-century Dura Europos synagogue in Syria, an account of the impressive synagogue in Sardis, and instructive depictions of synagogues from late Roman-Byzantine Palestine. His examination of this material data concludes with a reconsideration of the significant question: why did Jewish art and architecture flourish in this era? His answer to this query is both provocative and persuasive: not only did Jewish authorities have a tolerant theological view of figural art in this era but, influenced by Christianity and the growing competition with Christianity, “iconography became the handmaiden of theology” and rose “to the level of theological commentary.”

The crucial role of the religious calendar and of the synagogue, both in the Land of Israel and outside it, are described in the essays by Joseph Tabory and Reuven Kimelman that now follow. Tabory, after helpfully explaining the technical character of the Jewish calendar, reviews all the major Jewish religious festivals, as well as the weekly Sabbath, that were celebrated in the late Roman era. Many of these were based on biblical obligations – for example, Passover, Shavuot and Sukkot – but by this time the yearly cycle also included post-biblical festivals such as Purim, Hanukkah and a set of fast-days. For the most part, this calendar of religious happenings, sanctioned by rabbinic authority, has remained unchanged down to today. Taken altogether, these religious occasions create the rhythm of Jewish life and distinguish the way in which Judaism organizes time. Kimelman, in his decipherment of the rabbinic conception of prayer, throws considerable light on the question of the relationship between the Temple and the synagogue, and the rabbinic attitude towards God’s presence and availability in the absence of the Temple. He makes the salient point – often misunderstood – that for the Rabbis, despite strong tendencies in this direction, the synagogue did *not* replace the Temple, though God was accessible through its liturgical performance, a liturgy now defined by a focus on the sovereignty of God, that is, on God as King. Most importantly, the ritual of the synagogue created a shared, communal, religious experience that provided much of Judaism’s spiritual vitality.

Next, Michael Satlow examines the issues of marriage, sexuality, and family life. He begins his discussion by advancing the argument that most Jews in the Roman era viewed marriage and sexuality in ways that were little different from the attitudes held by their non-Jewish neighbors. However, as one moves into the third and fourth centuries, the rabbinic class, through their influential halachic compositions, began to construct a more specifically “Jewish” understanding of these topoi. Achieving this was not a simple matter, as the divergent interpretations on specific subjects between the sages of Palestine and those of Babylonia indicate.

For example, the Palestinian sages saw the goal of marriage as creating a viable, functional, social unit within the national community, while the Babylonian sages saw marriage primarily as a means of controlling sexuality and its consequences. Likewise, they differed in their construction of sexuality and gender. Satlow, to the degree that the available evidence permits, helps us to understand the nature of these differences and why they are important.

Tal Ilan's essay on "Women in Jewish Life and Law" comes next. After a brief look at what the sources from Qumran have to tell us about gender issues, it presents a thorough re-examination of the rabbinic attitudes towards women, emphasizing the efforts of the rabbis to control the lives of women within halachically legitimate and socially desirable boundaries. Ilan scrutinizes the role of women at home, at work (done mostly at home in the form of a cottage industry), and in the main areas of religious life connected with the synagogue and study house. With regard to the former, she argues that, as a general rule, "the Rabbis were ideologically inclined towards the exclusion of women from Jewish religious life." In practice, however, that is, as a matter of practical *halachah* that defined the actual religious behavior of Jewish women, the situation was more inclusive and women were obligated to keep quite a number of *mitzvot* (commandments), including some that were "time-bound," that is, that had to be performed at specific times, and from which, as a general halachic principle, women were supposedly exempted. Alternatively, the situation *vis-à-vis* the study house, that is, with regard to formal, public Torah study, was exclusionary. Women were not permitted entry into the ranks of students (and teachers) in the rabbinic academies.

David Novak, in chapter 25, takes up the intricate subject of how the Rabbis understood the matter of Jewish–Gentile relations. He organizes his analysis of this issue through the use of seven different categories – ranging from "Amalakites" and "the seven Canaanite nations" to "slaves" and "proselytes" – that the Rabbis employed to classify non-Jews. He then carefully considers, based primarily on a wide array of rabbinic sources, just what the Sages thought was the appropriate form of behavior in each case. The "Amalakites," for example, were held by the Sages to exist no longer and therefore the biblical commandment to destroy them (Deut. 25.19, and see 1 Sam. 15.2–3) was understood as entailing merely an act of remembrance that involved no further initiative against any group or individual. At the other end of the spectrum, proselytes were welcome to join the Jewish People and "the Rabbis were supportive of conversion and converts." Given this accounting of the evidence, there is no one rabbinic view regarding the appropriate attitude and behavior towards Gentiles.

Two essays on major forms of rabbinic creativity now follow. The first, by Leib Moscowitz, introduces the Palestinian Talmud. The second, by Avigdor Shinan, covers the later midrashic literature, as well as the subjects of *piyyut* (synagogue poetry) and the later *Targums* (Aramaic translations of Scripture). Moscowitz carefully describes the contents of the Palestinian Talmud (known traditionally as the *Yerushalmi*) and its origin in the rabbinical academies centered in – though not exclusively restricted to – the Galilee in the third and fourth centuries. Accepting Y. Sussmann’s argument on the issue of dating, he places the redaction of the text between 360 and 370, a date one or two generations earlier than that accepted by most scholars, and argues that the majority of the work is the product of a single, uniform redaction. Following the analysis of these subjects, he analyzes a variety of technical literary issues that arise as a consequence of the nature of the text of the Palestinian Talmud and lays bare its basic literary structure. Avigdor Shinan has provided an equally comprehensive study of the main forms of non-legal rabbinic activity, the most important of which is represented by the aggadic midrashim. Shinan reviews the *Sitz im Leben* of these works, their theological purpose, and their literary style. He very clearly explains the fundamental distinction between exegetical midrashim – for example, *Genesis Rabbah* and the earlier *Sifra* (to Leviticus) and *Sifre* (to Deuteronomy) – and homiletical midrashim – for example, *Leviticus Rabbah* and the *Pesikta de-Rav Kahana* – and describes the main texts belonging to each category with precision. In addition, Shinan considers the influential midrashim to the five scrolls (*megillot*), (Esther, Lamentations, Song of Songs, Ecclesiastes, and Ruth), read annually in the synagogue, as well as the special type of *Tanhuma-Yelammedenu* midrashim that originated in the sixth century (and later).

Jewish inventiveness in this era was not restricted to, or exhausted by, “high” theological-cultural activity. As Michael Swartz ably shows in his essay on magic, Jews were deeply interested in this art. Despite biblical and rabbinic injunctions against such activity, the practice of magic was pervasive throughout Jewish society. The notion that these practices, and the theoretical underpinnings on which they were based, were foreign intrusions into Judaism and of little interest – especially to the learned elites – is belied by the evidence and, not least, by the content of many of the texts produced in the rabbinic period that belong to the early strata of the Jewish mystical tradition.

Likewise, the folklore of the day, as studied by Eli Yassif, reveals much about the religious beliefs and personal identity of the Jews of the time. This literature, which was the property of the entire Jewish people and which formed one of the cultural bonds among Jews, indicates how alike, as well as how different, Jews (and Judaism) were in the context of the late

Roman period. Motifs and themes common to the folk literature of the peoples of the Near East appear regularly in Jewish folk tales and related literary forms, though this shared element is often subtly (and not so subtly) transformed by a Jewish sensibility. It should also be remarked that the content of this body of traditions reveals just how large a gap actually existed between the rabbinic *Weltanschauung*, expressed most fully in the *halachah*, and actual Jewish practice and belief. Like the startling visual representations at Dura Europos, Bet Alpha, Bet Shearim, Sepphoris, and elsewhere, the folk tale (and folklore more generally) is a reminder that living Judaism – and Judaism as lived – in this era was not a simple translation of rabbinic law into practice.

Further evidence of the diversity and remarkable imaginative reach of Judaism in this period is provided by Rachel Elior's profound study of early Jewish mysticism. Emphasizing that the spiritually empowering actions envisioned in these mystical sources were primarily modeled after the priestly activity in the now destroyed Temple, she draws a full picture of how the mystics of the rabbinic era projected such ritual activity to the world above, where angels and other divine creatures – along with those human beings who could successfully navigate the heavenly ascent – performed the equivalent of the Temple service before the Almighty. In doing so she provides a truly fresh and thorough appraisal of the *Heikhalot* and *Merkavah* material.

Beginning in the third century, Babylonia began to gain an increasingly important role in Jewish religious life. This crucial historical development is described in a group of five erudite essays. The first of these, by Isaiah Gafni, provides an overall outline of the growth of Babylonian Jewry between 224 and 614. As compared to the late Roman Empire, Babylonia under the Sasanian kings was a relatively liberal environment in which Jews flourished economically and enjoyed “a rather cordial relationship” with the ruling class until at least the fifth century. Moreover, the Zoroastrian authorities, despite some occasions of intervention in Jewish religious life – and outright persecution in the second half of the fifth century – were, as a rule, quite tolerant and allowed the Jewish community, headed by the Exilarch, to function according to its own internal dynamics. Most significantly, this relative political freedom and economic success provided the basis for that religious autonomy and sustained theological activity that produced the Babylonian Talmud.

The second contribution on Babylonian Jewry, directly complementing Gafni's, is David Goodblatt's study of the Babylonian rabbinic academies. This essay begins with a detailed review of the state of scholarly opinion on the subject and then proposes, based on a close scrutiny of all the extant evidence, a revisionist position that directly challenges the inherited



consensus on this basic topic.<sup>7</sup> That is, Goodblatt questions the traditional claim that there were actual, established, continuously functioning rabbinic academies in Babylonia from the third century on. His review of the talmudic and other evidence leads him to conclude that the older history of the academies – as this was construed in both religious and scholarly circles – over-interpreted the relevant evidence, drawn primarily from the Babylonian Talmud, and constructed an account of major, permanent, and ongoing academies where none existed.

The next three essays deal with the defining achievement of Babylonian Jewry – the Babylonian Talmud (known as the *Bavli*). In the first of these, Richard Kalmin explains the character and composition of this work. He judiciously summarizes the circumstances surrounding its editing and final redaction in the sixth and early seventh centuries, the reasons for and the nature of its diverse contents, the distinctive structure of its internal dialogue, and the peculiarities of its textual form, and explains who its intended audience was. Taken in its entirety, this careful and lucid analysis provides a helpful starting point for the decipherment of talmudic literature. In the second essay, Hanina Ben-Menahem reviews the nature and methodology of rabbinic law. In doing so he considers such basic topics as: Is rabbinic law correctly thought of as a religious legal system? What is the relation of talmudic law to natural law? What, if any, is the connection between the *halachah* and historical events? What is the role and status of the judge in the rabbinic law system? What does the judicial process entail in rabbinic law? These are very complex issues that need to be explored and understood if one is to access the intellectual universe of the sages. In the third essay, Marc Hirschman introduces readers to the crucial idea that animates rabbinic learning: study is not only an academic pursuit but an activity that provides the opportunity for intense religious experience. There can be no full comprehension of the influence of the Talmud (and the related rabbinic literature) on Judaism and Jewish life for the last 1,500 years if this presupposition is neglected.

The Babylonian Talmud and related rabbinic sources also provided the mature theology of Judaism. This theology, drawing upon and interpreting its biblical roots, examined and prescribed what became the normative

<sup>7</sup> Goodblatt's position is supported, in varying degrees, by other recent scholarship. See, for example, B. Bokser, *Samuel's Commentary on the Mishnah* (Leiden, 1975), 213–14; C. Hezser, *The Social Structure of the Rabbinic Movement in Palestine* (Tübingen, 1997), 195–214; L. Levine, *The Rabbinic Class of Roman Palestine in Late Antiquity* (New York, 1989), 28–9; R. Kalmin, *Sages, Stories, Authors and Editors in Rabbinic Babylonia* (Atlanta, 1994), 15, 193–4; J. Rubenstein, "The Rise of the Babylonian Rabbinic Academy: A Re-examination of the Talmudic Evidence," *Jewish Studies, An Internet Journal* 1 (2001).

Jewish understanding of all the basic theological building blocks of the traditions. These included, in addition to the fundamental doctrines relating to the Torah and the centrality of Torah study discussed by Marc Hirshman, elemental anthropological and metaphysical doctrines such as the nature and potential of human beings and the character and attributes of God and the Jewish People. In the present context, cardinal doctrines that define Judaism's distinctive understanding of human existence (and religious community) are reviewed, at some length, by Steven T. Katz and Reuven Kimelman. Katz presents a detailed examination of the rabbinic understandings of human beings and their capacity to sin, their ability to acquire "merit" (*zechut*) in God's sight, the possibility of repentance and the human contribution to the phenomenon of redemption. And, complementarily, Kimelman explores what he refers to as "the rabbinic theology of the physical." By this formulation he means to call attention to the positive rabbinic estimation of the body and sensual pleasure, the doctrine of the resurrection of the body – as compared to the Platonic doctrine of the immortality of the soul and the Gnostic denigration of the body – and the election of physical Israel as God's covenantal partner. Taken together, these last two essays proved a wide-ranging and informative description of basic theological building blocks of the rabbinic *Weltanschauung*.

The development of Judaism, both in the West and in Babylonia, did not take place in a historical vacuum. In particular, Judaism after 70 was continually responding to, defining itself over against, and competing with, Christianity. The details of this struggle, the earliest layers of which have already been introduced in the essays by Peter Richardson and Steven Katz, now need to be provided for the period after 235. This is done in a definitive exploration of the subject of Christian anti-Judaism written by Paula Fredriksen and Oded Irshai. Fredriksen and Irshai document the multiple negative consequences, both theological and political, that the Church's polemic against Judaism caused as this assault assumed its full form in the *adversus Iudaeos* tradition of the early Church Fathers. The theological opposition to Judaism, begun in the New Testament, was deepened and expanded by the patristic authors of the third to the sixth centuries, and this polemical critique was then translated into practical political and legal disabilities because of Christianity's control of state power following Constantine's conversion.

Further context for this transmutation of the Jewish situation is provided by Steven Bowman, who carries the historical discussion to Byzantium. Tracing the main contours of Jewish history in the eastern Empire, Bowman allows us to follow the decline in the fortunes of the Jewish communities in this area between the fourth and early seventh centuries. His account supplies still further evidence of how the Byzantine emperors

actively sought to remake the legal and political status of Jews and Judaism according to their Christian theological calculus. Supporting this reading is Alfredo Rabello's short but sharply focused description of Justinian's (d. 565) innovative anti-Jewish legislation incorporated into the *Codex Justinianus*. This last major attempt to fix the status of Jews and Judaism in Roman law adversely affected Jews in the last century of the Roman Empire's existence and continued to impact upon their legal status in the medieval period.

The continued existence of Judaism as a way of life after the destruction of the Temple was built upon the assumption that, in time, God would redeem the People of Israel and return them to the Land of Israel as part of a more encompassing process of bringing lasting justice and perfection to the world. This was as much an ethical as an eschatological hope, for it would vindicate God's justice as well as His power. This belief, associated in Jewish tradition with the messianic idea, influenced Jewish history to an exceptional degree throughout the Roman era. The rise of Christianity, the revolt against Rome in 66 to 70, the insurrections under Trajan, the Bar Kochba Revolt, political-theological stirrings among Jews in the mid-fourth century related to the attempt of Emperor Julian (360–63) to rebuild the Temple in Jerusalem,<sup>8</sup> and an intense outbreak of eschatological spirituality in 614 (connected with the Persian conquest of Jerusalem, when there was a brief return of the city to Jewish rule), were all fueled, at least in part, by this expectation. So, too, if less overtly, was the theology of the rabbinic sages. It is therefore appropriate that the final contribution in this volume, by Lawrence Schiffman, should explore the eschatological and messianic ideas that lay at the center of Judaism in the Roman era.

## II

A few words need to be said about the principles that guided the planning and execution of this volume. First, the contents of this volume – as regards both chronology and specific subject matter – deviate from and extend the original plan of *The Cambridge History of Judaism* as this was conceived by its first editors, Professors Louis Finkelstein and W. D. Davies. Their original model called for a four-volume *History* that would end, at the very latest, with the redaction of the Mishnah c. 200 CE. As the *History* actually came to be published, this design was fulfilled by its first three volumes. This alteration in conception was the result of changes in the editorial control of the project. Now the present volume represents a still further revision in

<sup>8</sup> Julian is known in Christian tradition as Julian the Apostate because of this undertaking.

the plan for the *History*, brought about as a consequence of a decision by Cambridge University Press to continue the *History* up to the rise of Islam. This wise decision has allowed for a comprehensive review of the formative development of Judaism after 70, that period when Judaism as it has been known for the past two millennia took on its definitive form.

Second, there was the need to agree on what exactly to include in this volume. This issue took on a certain urgency in light of the limits suggested by the title of this project, *The Cambridge History of Judaism*. As a number of reviewers of the earlier volumes of this project have noted, the *History* contains essays that do not appear altogether warranted, or appropriate, in a series devoted to Judaism rather than one defined by the broader category of Jewish history. This is, on its face, a legitimate criticism. In thinking about this objection, however, the distinction itself, as both a practical and a conceptual matter, becomes quite difficult to maintain. It is not that this is a distinction without a difference – it is not – but, rather, that an informed understanding of Judaism suggests that there is, in a truly fundamental sense, almost nothing that happens to the Jewish People that does not affect, and is not reflected in, their Judaism. Not only do major events such as the destruction of the Jerusalem Temple have long-lasting theological (and other) repercussions that transform Judaism in elemental ways, but revolts like those of 115–17 and 132–35 directly and indirectly affect how Judaism is subsequently shaped by the Rabbis (and others)<sup>9</sup> in the wake of these events. For example, when the Hebrew Bible, which is certainly central to the history of Judaism, was closed through the process of canonization, it is almost certainly the case that what was finally included and excluded was influenced by the recent history of disastrous political miscalculation and military defeat. Thus the books of the Maccabees were knowingly excluded. The Sages did not want to encourage further insurrections like those of the Maccabees and therefore chose to marginalize the story of their military prowess by not including it in the Bible. Similarly, the need to redact the Mishnah (c. 200) and to change the “Oral Torah” into a written document, an issue central to the history of Judaism, was a consequence of the cumulative social, political and religious effects of the series of military defeats suffered by the Jewish People between 70 and 135, the increasing geographical diffusion of the Jewish People throughout the Mediterranean world as a result of these calamitous happenings, and the need to preserve a heretofore oral tradition in difficult times.

<sup>9</sup> In light of the newly emerging scholarly consensus, supported by a number of essays in this volume, that rabbinic authority and influence were significantly limited in the second century, one has to allow for the influence of other actors within the Jewish community at this time.

Moreover, much of the content of the Mishnah represents a backward looking reflection on the Temple. If one does not know this, then much of the substance of the Mishnah becomes not only puzzling but bizarre.

Again, it is relevant to see the economic and political events in third-century, fourth-century and seventh-century Palestine as catalysts that triggered the messianic enthusiasm of those periods. The various rabbinic and other discussions of eschatological matters – and the messianic texts that encouraged and carried forward this hope for redemption – are not wholly intelligible independent of the historical contexts that gave rise to them. Then, too, on the more practical level of halachic decision-making, which is a matter of basic significance to Judaism, one can decipher the meaning of the various rabbinic *gezerot* (decrees) only against the importation of foreign glass into the Land of Israel if one appreciates that the religious decrees were rooted in a rabbinic concern to protect local glass manufacturers.<sup>10</sup> Likewise, the rabbinic *gezerot* against drinking the wine of Gentiles and eating bread made by Gentiles was, at least in part, a response to the increasing romanization of Palestine, and especially, Jerusalem. There was nothing intrinsically dangerous about the wine or bread produced by non-Jews, but the rabbis feared the cultural and religious threat that Roman influence presented to Jews in the Land of Israel (and outside it). To prevent social interaction between Jews and Gentiles – and in turn religious assimilation – the Rabbis made it difficult for Jews and Gentiles to break bread together.<sup>11</sup>

<sup>10</sup> L. Ginzberg, *Mekomah shel ha-Halacha be-Hochmat Yisrael* (Jerusalem, 1931). Though this explanation has come under criticism in more recent scholarship, I believe Ginzburg was correct in his interpretation of this matter. Recent scholarship is right to warn students of rabbinic material to be cautious about using rabbinic sources for writing history. While this methodological stringency should always apply, it does not mean *per se* that there are not specific cases where the texts in question are responding to actual historical circumstances and situations.

<sup>11</sup> One is also tempted to mention here the claimed introduction of the *Shema* (the “Hear, O Israel” prayer) into the *Musaf Kedusha* (the additional prayer service said on Sabbath and festivals) as a result of persecution during the Byzantine period. According to the proponents of this claim, guards were sent to the synagogue to prevent the recitation of the *Shema* because its proclamation of God’s unity was thought to impugn, if only implicitly, the Christian notion of the Trinity. After the guards left, late in the service, the *Shema* was then said as part of the public proclamation of God’s holiness. If true, this is an example of the direct impact of historical events on Judaism. This “history,” however, is dubious, and therefore, despite its wide circulation, I do not cite this supposed event as an example in defense of the interpretive position presently being developed. For more on this issue see R. Kimelman, “The Shema Liturgy: From Covenant Ceremony to Coronation,” in J. Tabory (ed.), *Kenishta* (Ramat-Gan, 2001), 59 n. 169. The case for this historical relationship was made earlier by L. Finkelstein,

Purely religious issues were also influenced by matters of climate, geography, calendrical calculations, available types of food, and extant understandings of biology and nature. Thus, for example, to understand why there are differing rabbinic views on masturbation, that can be divided, primarily, according to geographical location, it is relevant to know that the Palestinian sages appear to have shared Galen's "two seed" theory of conception, that is, that both the man and the woman contribute "seed" to the fetus (cf. BT *Nid.* 31a; BT *Kidd.* 30b; *Lev. R.* 14.6). Therefore, while disapproving of masturbation, they have a specific understanding of the nature of semen and reproduction that does *not* equate semen *per se* with potential life. Thus their disapproval of this practice, while real, was not excessively harsh. Alternatively, the Babylonian sages (cf. BT *Er.* 18b) subscribed to a different embryology – found also in Zoroastrian sources – that leads them to condemn masturbation "as deserving of death" on the grounds that the wasting of semen, *per se*, represents the potential destruction of a life.<sup>12</sup> Similarly, the possibility, permitted by the *halachah*, of a man divorcing his wife because the couple has been "barren" is predicated at least in part on (faulty) biological assumptions, shared by both Palestinian and Babylonian sages, about procreation. Simply put, the Sages had preconceptions about fertility that failed to recognize that the husband might be the cause of the non-reproductive situation.

Climate and geography also made their impact on the *halachah* in diverse ways. For example, the *halachah* regarding sleeping in the *sukkah* (the temporary booth created in connection with the fall festival of *Sukkot*), was altered when Jews, as a result of their dispersion, came to reside in cold climates.<sup>13</sup> One could continue to give multiple examples of the connection between Jewish history and the history (and character) of Judaism, but I trust that even without doing so the fundamental, even inseparable, linkage between these two phenomena has been sufficiently established. Furthermore, as a matter of method, to define Judaism too narrowly, and to separate it too sharply from Jewish history, is to reify the concept of "Judaism" in inappropriate ways and to pursue an abstract consistency at the high cost of insight and understanding.

Third, there is the basic matter of periodization. The time span between 70 and 638 represents a well defined, widely accepted "period" of Jewish

"The Origin and Development of the Qedushah," in A. Chiel (ed.), *Perspectives on Jews and Judaism: Essays in Honor of Wolfe Kelman* (New York, 1978), 10; and J. Mann, "Changes in the Divine Service Due to Religious Persecutions," *HUCA* 4 (1927), 251–9, among others.

<sup>12</sup> For more on this issue see M. Satlow, "Wasted Seed: The History of a Rabbinic Idea," *HUCA* 45 (1994), 157–62.

<sup>13</sup> See D. Sperber, *Minhagei Yisrael* (Jerusalem, 1989), 11 75–7.

history. It begins with two related events of great moment, the crushing ending of the Jewish revolt against Roman rule that had begun in 66, and the destruction of the Second Temple in Jerusalem by the Roman forces, and it concludes with an equally dramatic event, the conquest of Jerusalem by the Muslim armies under Omar I.<sup>14</sup> Thus, the overall temporal parameters of this volume are easily justified. Breaking this large unit of 564 years into smaller units of time, and especially dividing the essays in this volume into two periods, the first running from 70 to *c.* 235 and the second from *c.* 235 to 638, is, however, more arbitrary and requires an explanation. The editor adopted this schema and the somewhat unusual dating of “*c.* 235” as a way of organizing the material in this volume because he wanted to signal to readers that a series of notable happenings occurred in the first half of the third century that brought about significant transformations in Jewish history. Among these were the redaction of the Mishnah in the Land of Israel in the early third century; the beginnings of the fundamental division in rabbinic tradition between the earliest generations of rabbinical sages known as Tannaim (teachers of the Mishnah) and those later generations known as Amoraim (teachers of the Talmud and other post-235 texts); and the early stages in the shift of the center of Jewish life from Palestine to Babylonia in the 220s associated with the arrival of Rav (Abba Arikha), the establishment of his academy at Sura, and the creation of a second academy begun by Rabbi Samuel in Nahardea. Other important events that occurred *c.* 235 and impacted on Jewish history and the history of Judaism were the ending of the Severan dynasty of Roman emperors (with the death of the Emperor Severus Alexander) in 235, leading to a fifty-year period of decline and disarray in the Empire which ended only with the accession of Diocletian in 284, and which, among other things, created instability in the Land of Israel; a series of Roman military defeats at the hands of the Sasanian kings of Persia, beginning in the 230s, that had negative consequences for the Jewish communities of the eastern Empire and contiguous areas; and a decline in the power and prestige of the office of the *Nasi* (Patriarch), the leader of Palestinian Jewry, from the time of Rabbi Gamliel II (220–30) and Rabbi Judah II (230–70), which was not an insignificant matter relative to the prosperity, status, and influence of Palestinian Jewry. Thus, while employing the individual year 235 as the marker of a change in periods is arbitrary, introducing a major break at “*c.*” 235, in so far as “*c.*” suggests approximation and stands for a

<sup>14</sup> The Muslim conquest of the Land of Israel involved a series of conquests that spread over the years 636 to 640.

*period* of change rather than any one year, seemed both reasonable and legitimate.

Fourth, the contents of this volume reflect a commitment to a broad conception of history. Accordingly, all the subjects covered in the more traditional intellectual and religious histories of Judaism, such as the origin and function of rabbis, the nature of the synagogue, and the form of the liturgy, as well as all of the many types of rabbinic literature – for example, the Mishnah, Tosefta, Talmuds, and Midrashim, along with the new poetry of the synagogue (*piyyut*) and the Aramaic translations of Scripture (*Targums*) – are fully described in the present work, if often from a non-traditional point of view. At the same time, historical interests of more recent vintage that have correctly gained the attention of contemporary scholars have also been given substantial representation. Thus, for example, material culture, family history, and social history are all part of the discussion. So, too, are folklore and magic, gender issues, and mysticism. Given our contemporary awareness of the significance of all of these subjects, no-one should doubt the need to take serious account of them in order to understand classical Judaism in its fullness and totality.

Fifth, in constructing a multi-author work such as this, it was evident from the outset that there would be some overlap in the presentation of the material. In editing the essays an effort has been made to reduce the amount of such duplication where possible. Inevitably, however, some overlap needed to remain, not least because different scholars explain the same evidence in different ways. Indeed, this diversity of view is itself an important datum. It is valuable for readers to know that varying opinions exist among scholars on many of the basic issues that are here under review and subject to analysis.

Lastly, given the concern to make the essays in this volume intelligible to non-specialists, a decision has been made to reduce the use of accent marks and to bypass the usual rules of Hebrew and Aramaic transliteration which produce English words and titles that bear little resemblance to the actual pronunciation of these same words and titles in their original languages. Thus the only accent mark that has been consistently retained is the use of the dot under the *b* in order to indicate the guttural sound “ch”, as in “Yohanan.” Other than this, accent marks have been deleted. The only exceptions to this rule are to be found in the two chapters on the technicalities of Hebrew and of Aramaic, by M. Bar-Asher and Y. Breuer respectively. As these chapters will certainly be of interest to professional linguists, it was felt necessary to follow the standard scholarly procedure governing accents and transliteration in their publication. In addition, Hebrew and Aramaic rather than translations and transliterations have been used in these two chapters.



## III

The publication of a work like the present one involves the efforts of many individuals as well as the assistance of many institutions, and it is one of the special pleasures reserved for the editor of the volume to acknowledge these contributions publicly.

First and foremost, the editor would like to acknowledge his substantial debt to the three members of the Executive Editorial Committee, Professors David Goodblatt (University of California, San Diego), Richard Kalmin (Jewish Theological Seminary of America) and Reuven Kimelman (Brandeis University). This group actively and diligently invested many hours in planning the contents of this volume, and their valuable assistance continued in a variety of ways as the book's essays began to arrive and proceed through the editorial process. At every stage the editor has been able to draw on their advice, erudition, and friendship. He is very appreciative.

The efforts of the editor and the Executive Editorial Committee were supported throughout the preparation of this volume, from its planning to its final form, by the learned assistance of the members of the International Editorial Board, whose members responded, at all stages of the project, with helpful advice and sage guidance. (The names of the members of the International Editorial Committee are listed on p. ii of this volume.)

The editor would also like to thank most sincerely the authors whose essays make up this volume. They all responded professionally, courteously, and promptly to the many requests made of them. Their contributions, which represent the most current scholarship on their individual subjects, speak more loudly than any editorial praise of their industry and expertise.

In the protocol governing the preparation of this volume, it was agreed between the editor and the editors overseeing the project for Cambridge University Press that each essay would undergo a blind review. In fulfilling this obligation the Editor has had the help of many scholars from all over the world. Their assistance has been enormously valuable. Though I cannot name them publicly, each should know how much the final version of this collection of essays has benefited from their expertise.

This project has also benefited from the generous support of the Lucius M. Littauer Foundation. Mr. William Frost, President of the Foundation, deserves special mention because he understood the importance of continuing the publication of *The Cambridge History of Judaism* so that it covered the development of Judaism after 70.

The continuation of *The Cambridge History of Judaism* could also not have happened without the interest and encouragement of Mr. Kevin Taylor of Cambridge University Press. His support and practical help has been invaluable. Near the completion of this volume Dr. Kate Brett assumed

editorial responsibility for the project at CUP and has provided valuable assistance in the final stages of the manuscript's preparation and publication.

Closer to home, the editor is deeply indebted to Ms. Pagiél Czoka, administrative assistant at the Elie Wiesel Center for Judaic Studies at Boston University. Ms. Czoka was the person mainly responsible for all the voluminous correspondence involved in this project and for keeping track of its progress through the various stages of writing, rewriting, and editing. She did all that was asked of her with great generosity and commitment.

Finally, I am profoundly indebted to my wife Rebecca, who, as always, is a true partner in my work.

Steven T. Katz  
Boston, October 10, 2003.

## CHAPTER I

# POLITICAL, SOCIAL, AND ECONOMIC LIFE IN THE LAND OF ISRAEL, 66–C. 235

SETH SCHWARTZ

### I THE AFTERMATH OF THE DESTRUCTION

The failure of the Jewish revolt against Rome (66–73/4 CE) brought about a comprehensive transformation of life in Palestine: the old political system was replaced by direct Roman rule, the Roman army became a permanent presence, the size of the population and the ratio of Jews to pagans changed. And these changes necessarily caused further changes in social, economic, and religious life, though in many cases we can do little more than speculate about their character.

#### A DEMOGRAPHY

According to the most responsible estimates, Palestine reached its maximum sustainable pre-modern population of approximately one million in the middle of the first century. Probably about half of this population was Jewish.<sup>1</sup> However, Josephus claims that 1.1 million people died in the siege of Jerusalem alone, and 97,000 were enslaved (*Bell.* 6.420–1). These figures, especially the former, are clearly impossible. Furthermore, we may infer from the course of the Bar Kochba Revolt, two generations later, that even the district of Judea, where the damage from the Great Revolt was concentrated, retained a fairly large Jewish population. Undoubtedly many Jews were killed or enslaved, or died of disease or starvation during the siege, but it is difficult to go beyond such unsatisfactory generalizations. It may be

<sup>1</sup> See M. Broshi, "The Population of Western Palestine in the Roman-Byzantine Period," *BASOR* 236 (1979), 1–10, supported by G. Hamel, *Poverty and Charity in Roman Palestine, First Three Centuries CE* (Berkeley, 1990), 137–40. Their figures are based on the carrying capacity of the land (and may assume a rather too high proportion of wheat harvested to that sown – 5:1 – and so may be slightly high). Though this is an imperfect criterion, it yields a far more realistic figure than that produced by taking Josephus' numbers seriously, as earlier scholars did. For a systematic criticism of the use of population numbers provided by ancient writers, on the grounds that they are regularly demographically impossible, see T. Parkin, *Demography and Roman Society* (Baltimore, 1992), 58–66.

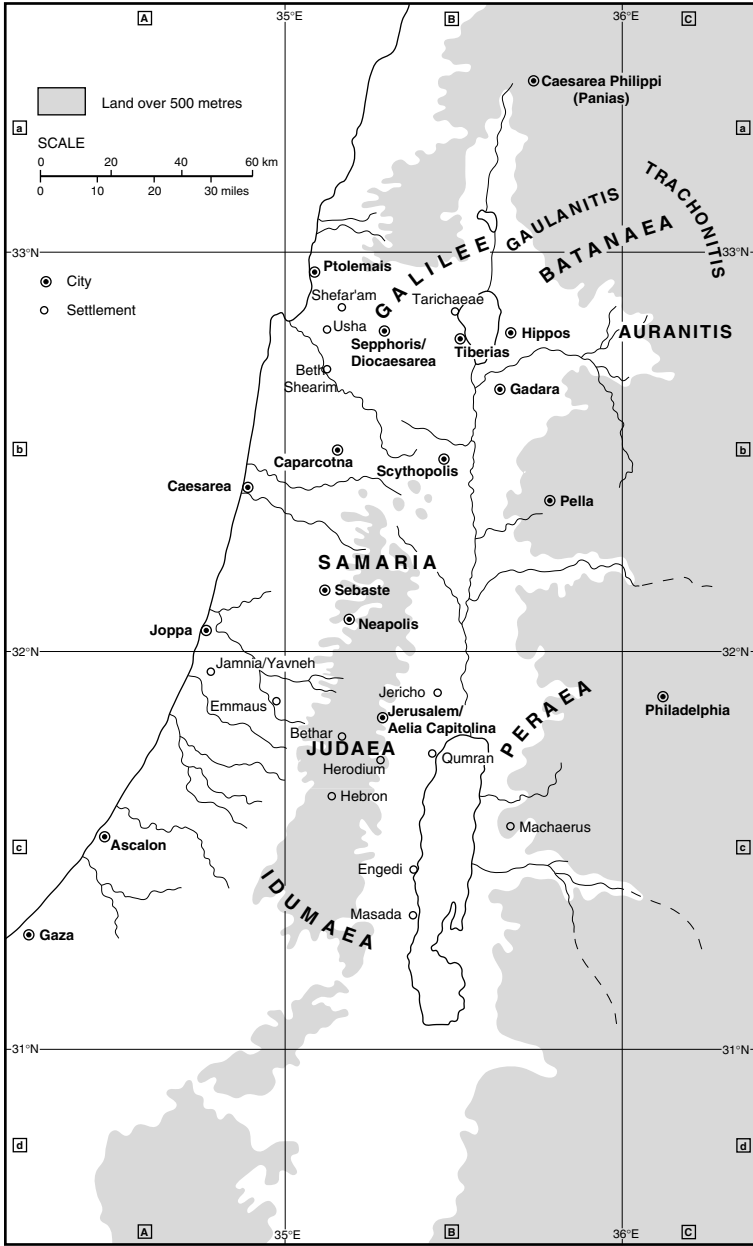


Figure 1.1 Judaea

speculated that casualty rates were higher in Judaea than in the other Jewish districts of the country, Galilee, Peraea, and Idumaea.

## B ANNEXATION

Palestine was annexed to the Roman Empire in 70 as an imperial province,<sup>2</sup> given the name Judaea (I shall henceforth refer to it as Provincia Judaea, to distinguish it from the homonymous district), and entrusted to a governor (a *legatus Augusti pro praetore*) of ex-praetorian rank. The Tenth Legion Fretensis was permanently encamped near the ruins of Jerusalem.<sup>3</sup> At an unknown date early in the second century, most likely around 120, a second legion was settled in the province, perhaps the II Traiana or the XXII Deiotariana. Whichever legion it was, it was replaced by the later 130s by the VI Ferrata. Starting in 130 at the latest, the second legion was permanently encamped at Capercotna (Kefar Othnai, later called Legio, and later still, Maximianopolis), on the border between Samaria and the Jezreel Valley.<sup>4</sup> Detachments of both legions were scattered around the province.<sup>5</sup> With the introduction of a second legion, the governors of Provincia Judaea were henceforth ex-consuls. Josephus wrote that in 70 CE the state confiscated the property of Jews and re-sold it, perhaps often to its original owners (*Bell.* 7.216–7). Most modern scholars suppose, however, that the confiscation was selective, affecting only property owned by supporters of the revolt (a category which may have included a large proportion of landowners in

<sup>2</sup> For the present purposes, the most important of the technical differences between imperial and senatorial provinces is that only the former had permanent legionary garrisons. Palestine's constitutional status between 6 and 66 CE had been anomalous: in some ways it was a private imperial estate associated with the province of Syria; in other ways, a quasi-autonomous client kingdom; in still others, a normal imperial province. See E. Gabba, "The Social, Economic and Political History of Palestine 63 BCE–CE 70," in *CHJ* 111, for full discussion.

<sup>3</sup> See E. Schürer, in G. Vermes et al. (rev. and ed.), *The History of the Jewish People in the Age of Jesus Christ*, 3 vols. (Edinburgh, 1973–87), I 514.

<sup>4</sup> On the military presence in Provincia Judaea, see F. Millar, *The Roman Near East* (Cambridge, MA, 1993), 107, 372; B. Isaac, *The Near East Under Roman Rule: Selected Papers* (Leiden, 1998), 182–210, reprinting three older articles by Isaac and I. Roll, with updating; W. Eck, "The Bar Kokhba Revolt: The Roman Point of View," *JRS* 89 (1999), 81. The old view of Eck, "Zum konsularen Status von Judaea im frühen 2. Jahrhundert," *BASP* 21 (1984), 55–67, that a second legion was stationed in Judaea from c. 100, is no longer regarded as tenable even by Eck himself. For a convenient summary of the evidence, see P. Schäfer, "Hadrian's Policy in Judaea," in P. R. Davies and R. T. White (eds.), *A Tribute to Geza Vermes: Essays on Jewish and Christian History and Literature* (Sheffield, 1990), 281–303.

<sup>5</sup> For a collection of the evidence, see B. Isaac, *The Limits of Empire: The Roman Empire in the East*, 2nd ed. (Oxford, 1992), 427–35.

the district of Judaea).<sup>6</sup> Furthermore, Jews throughout the Roman Empire were now obliged to pay the two drachmas per annum they had formerly transmitted to the Jerusalem Temple (the *maḥazit ha-sbeqel*) to a fund (the *fiscus Judaicus*) initially used to rebuild the temple of Jupiter Capitolinus at Rome, which had burned down in the civil wars of 69 (*Bell.* 7.218).<sup>7</sup>

The annexation was highly consequential. All political and legal authority was now in the hands of government officials and their agents. We have little direct evidence from Provincia Judaea for how this played out in life in this period, but we have fairly abundant evidence from the neighboring Provincia Arabia, formed in 106 from part of the former kingdom of the Nabataeans, in the form of two papyrological archives discovered in the Judaeian Desert. These are known respectively as the Babatha Archive and the archive of Salome Komaise, and are the private papers of two Jewish women who lived in the large-ish town of Maoza (Aramaic, Maḥoza) on the south shore of the Dead Sea in the first third of the second century.<sup>8</sup> The town had a mixed population of Jews and Nabataeans, who can be distinguished from each other in the documents by their names (though Greek, Latin, and certain neutrally Semitic names offer no help), and, in the case of witnesses, the version of the Aramaic alphabet in which they chose to sign their names.<sup>9</sup> This implies that at least some of the Jews of Maoza retained some sense of separation from their Nabataean neighbors. Strikingly, though, the post-annexation documents suggest that the Jews conducted their legal affairs almost exclusively according to the local version of Roman provincial law, not Jewish law. This is true even of marriage, inheritance, guardianship, and other issues of crucial halachic importance. Indeed, even though many of the documents concern legal interactions between Jews and were written by Jewish scribes, Jewish law has left few traces – several interest-free loans are recorded, but so are several loans in which interest was charged at the normal rates. Jewish judges and arbitrators nowhere appear: all suits, petitions, and so on are brought to the Roman governor of Arabia or the city council of Petra, then the chief city of Arabia.<sup>10</sup>

<sup>6</sup> The most important discussion is B. Isaac, "Judaea after AD 70," *JJS* 35 (1984), 44–50, reprinted in *The Near East Under Roman Rule*, 112–21.

<sup>7</sup> On the tax see *CPJ* II 106–36.

<sup>8</sup> Babatha (also known as P. Yadin): N. Lewis, *The Documents from the Bar Kokhba Period in the Cave of Letters: Greek Papyri* (Jerusalem, 1989); Salome Komaise, H. Cotton and A. Yardeni, *Aramaic, Hebrew and Greek Documentary Texts from Naḥal Hever and Other Sites*, *DJD*, xxvii (Oxford, 1997).

<sup>9</sup> See, for example, the subscription to P. Yadin No. 15 (139).

<sup>10</sup> See Cotton and Yardeni, *Aramaic, Hebrew and Greek*, 154–7; M. Goodman, "Babatha's Story," *JRS* 81 (1991), 169–75; B. Isaac, "The Babatha Archive: A Review Article," *IEJ* 42 (1992), 62–75.

Can we extrapolate from Arabia to Judaea? Probably yes, but cautiously. One difference between the two regions was that before 70 Palestine had probably had many scribes and judges authorized to apply Jewish law. Indeed, the few extant pre-Destruction documents from Jewish Palestine use some version(s) of Jewish law.<sup>11</sup> Though such officials were necessarily deprived of their authority in Provincia Judaea, some may have retained some residual prestige and continued to serve as informal arbitrators. This may be reflected in reports in tannaitic literature, analyzed by Shaye Cohen,<sup>12</sup> of “rabbis” of the immediate post-Destruction period, who decided cases (*maasim*) brought before them by Palestinian Jews. But Cohen also observed that these cases tended to concern a few restricted categories of ritual law; the questioners were presumably unusually pious, and may in fact have been mainly other rabbis. Most Jews in Provincia Judaea behaved like the families of Babatha and Salome Komaise, and conducted their affairs mainly in accordance with Roman provincial law as interpreted by the governor and his staff, the city councils, and perhaps some rural grandees, not Jewish law as interpreted by the rabbis and other scribal, sectarian and priestly survivors of the late Second Temple period.<sup>13</sup>

Similarly, the very fact of annexation makes it very unlikely that the Roman government in any way authorized any of the aforementioned survivors to serve as the leaders of the Jews. The point of annexation was to subject the inhabitants of a province to direct Roman rule, not to continue client kingship in an altered form. In other words, the Romans are unlikely to have supported a “patriarch” (*nasi*), still less to have imposed patriarchal rule on the Jews.<sup>14</sup> Priestly, sectarian and scribal survivors may have acknowledged the superiority of one or more of their number, and such

<sup>11</sup> See, for example, some of the documents collected in P. Benoit, J. T. Milik, and R. de Vaux, *Les Grottes de Murabba'at*, *DJD*, 11 (Oxford, 1961) (officially designated P. Murab.), especially the much discussed No. 18.

<sup>12</sup> “The Rabbi in Second-Century Jewish Society,” *CHJ* 111 922–90.

<sup>13</sup> For general discussion of the legal effects of annexation, see H. Galsterer, “Roman Law in the Provinces: Some Problems in Transmission,” in M. Crawford, ed. *L'Impero romano e le strutture economiche e sociali delle province* (Como, 1986), 13–27. Galsterer offers a plausible compromise between those who suppose that Roman annexation involved a thoroughgoing change in legal behavior (e.g., H. J. Wolff, “Römisches Provinzialrecht in der Provinz Arabia,” *ANRW* 11 13 (Berlin and New York: de Gruyter, 1978), 788–804, and “Le Droit provincial dans la province romaine d'Arabie,” *RIDA* 23 (1976), 271–90), and the pure *laissez-faire*ists, like Millar.

<sup>14</sup> These points are argued in greater detail in my review of D. Goodblatt, *JJS* 47 (1996), 167–9, and in “The Patriarchs and the Diaspora,” *JJS* 50 (1999), 208–22. Goodblatt has now responded by arguing that the Romans availed themselves of local intermediaries, as in the case of the Jewish high priests after the deposition of Archelaus in 6 CE, and as in the case of city councils elsewhere in the Empire (there was no Greek city in pre-70

figures may have enjoyed some prestige and influence among the Jews in general, but there is in fact no evidence for an institutionalized patriarchal office before the third century at the earliest. Indeed, the best evidence is later still, from the middle and late fourth century, when the Jews were gradually becoming, under Christian rule, a recognized and established religious community governed by authorized Jewish officials, chief among them the patriarch.

#### C ARMY

Two paradoxical factors in the long run eased the Jews' accommodation to direct Roman rule. One of these was the presence of Roman legions, and the other was the brutality of the Romans' suppression of the Great Revolt.

Provincia Judaea had an unusually high concentration of Roman troops, the largest garrison of any non-frontier province. The large and strategically sensitive province of Syria hosted only three legions (a legion contained 5,000–6,000 troops), while such provinces as Asia and Africa had no legionary presence at all. The Roman state was probably concerned about lingering revolutionary sentiment in Provincia Judaea (a concern justified by the events), about tensions between Jewish and pagan inhabitants of the province, and about conditions in the neighboring Nabataean kingdom/Provincia Arabia.

In any case, the legionary presence had important consequences. All Roman subjects complained of the insolence and brutality of the troops; such complaints are found also in rabbinic literature, and must be taken seriously. They reflect the real effects that the army had on the texture of daily life.<sup>15</sup>

But the troops were also rich: they were paid generously, mainly in coin, so they had an unusually large amount of disposable income.<sup>16</sup> Indeed, the Babatha papyri indicate that some troops achieved a high level of economic

Judaea). But Judaea from 6 to 66 was anomalous, as already observed, and in any case the state's compromise there between annexation and a form of vassal status had demonstrably failed; the annexation in 70 constituted a break with the past, and a normalization of the province's status. City councils were co-opted in ways that kings, ethnarchs and priests could not be; although, in a diffuse way, the councils embodied a kind of local autonomy, they also participated in a set of cultural and political norms which were Empire-wide. There were in any case many cities in post-70 Provincia Judaea/Syria Palaestina, on which see below. See D. Goodblatt, "Judaea between the Revolts," in A. Oppenheimer (ed.), *Jüdische Geschichte in hellenistisch-römischer Zeit: Wege der Forschung: Vom alten zum neuen Schüßler* (Munich, 1999), 101–18, especially 111–15.

<sup>15</sup> See S. Lieberman, "Jewish Life in Eretz Yisrael as Reflected in the Palestinian Talmud," *Texts and Studies* (New York, 1974), 180–9, for discussion of some relevant texts; and in general, Isaac, *The Limits of Empire*, 269–310.

<sup>16</sup> See M. A. Speidel, "Roman Army Pay Scales," *JRS* 82 (1992), 87–106.



and social integration in the province in which they were stationed, entering business partnerships with the locals, letting and leasing land, and so on, though such business dealings are likely often to have been exploitative.<sup>17</sup> From Tiberian inscriptions we learn that some troops remained in Palestine after their discharge, and became prominent citizens there.<sup>18</sup> In general we should suppose that the presence of some 10,000 cash-rich troops contributed to the prosperity of the province, though it is impossible to offer a detailed assessment of their impact.

Furthermore, the arrival of legions in the province led to a spurt in road construction – since legions could not function if they could not move. The earliest evidence for a Roman road in Palestine is from 69, and milestones, which usually recorded the date of construction, demonstrate bursts of activity under Hadrian, Marcus Aurelius and Septimius Severus, probably connected with those emperors' campaigns against the Parthian Empire. But, once constructed, the roads, too, contributed to the prosperity of the province, since they eased travel between city and country, between cities, and between Palestine and its neighbors.<sup>19</sup>

#### D REACTIONS TO THE DESTRUCTION

The Roman annexation had less concrete effects, too. Few Jews are likely to have easily forgotten how direct Roman rule had begun. We can, however, only speculate about how the illiterate, and so invisible, masses of the Jews responded to the Destruction. But we do know quite a lot about the responses of some of the literate elites and sub-elites. These responses indicate that many Jews responded by loosening their attachment to Judaism and heightening their participation in the Roman system.

<sup>17</sup> P. Yadin no. 11, from En Geddi (in Provincia Judaea), 124 CE, with Isaac, "The Babatha Archive," 62–3 – but some peculiarities of this document have suggested to its editor and many commentators that the Roman creditor was charging illegally high rates of interest; P. Murab. No. 114, Judaea, 171 CE. On the economic impact of the legions, see in general B. Isaac, *The Limits of Empire: The Roman Army in the East*, 2nd ed. (Oxford, 1992), 104–18. Z. Safrai, "The Roman Army in the Galilee," in L. Levine (ed.), *The Galilee in Late Antiquity* (Cambridge and New York, 1992), 103–14, was right to insist on the economic and social importance of the army, but went too far.

<sup>18</sup> M. Schwabe, "Letoldot Teveryah: Meḥqar Epigrafi," in M. Schwabe and Y. Gutmann (eds.), *Sefer Yohanan Lewy* (Jerusalem: Devir, 1949), 200–51, no. 14, no. 17, = L. Di Segni, "Ketovot Teveryah," in Y. Hirschfeld (ed.), *Teveryah: Meysudab ad Ha-kivush Ha-muslemi: Meqorot, Sikuim, Parashiyot Nivharot Ve-homer Ezer* (Jerusalem, 1988), no. 27 and no. 10.

<sup>19</sup> For full discussion, see B. Isaac, 'Milestones in Judaea: From Vespasian to Constantine,' *PEQ* 110 (1978), 47–60, reprinted with updating in *The Near East Under Roman Rule*, 48–75, and note also the map on p. xix of that volume.

Before proceeding with this, it is worth pausing to consider the implications of the recent (as yet unpublished) work of the historian of Roman religion, James Rives. Rives has shown that the Roman state generally regarded religion as a matter of public ritual. Private behavior, which we would regard as religious, they considered only mores – customary practice. The state took pains to supervise and control their subjects' religious activities, but took little interest in their mores, presumably because private behavior was uncontrollable under ancient conditions.<sup>20</sup> Thus, in Rives's view, when the Romans destroyed the Jerusalem Temple, they understood themselves to be stamping out Judaism, and were so understood by their victims. But they rarely attempted to interfere with the non-cultic aspects of Judaism, which they regarded as merely the private mores of the Jews. If this argument is correct, it implies that relations between the Jews and the pagan Roman state were more hostile and tense than has usually been supposed.

The standard characterization of Judaism as a *religio licita*, following a casual parenthetical remark of Tertullian in his *Apologeticum* (21.1), needs to be re-evaluated: Tertullian was probably using the word *religio* in its Christian sense, which is more or less our sense, too, rather than in its Roman sense (Christianity was unusual in being illegal in both its public and private manifestations; that is, it was illegal to be a Christian, in a way that it was never illegal to be a Jew).<sup>21</sup> Rives's argument may also explain why the Jews never attempted to rebuild the Temple despite the fact that there was in practice nothing preventing them from doing so before the foundation of Aelia Capitolina c. 130. It may furthermore help to explain why the Palestinian Jews failed to develop a specifically Jewish public life until the fourth century, a failure which will be discussed below. Finally, Rives's argument should serve as a warning to historians who would be inclined to minimize the religious meaning and effects of the destruction. Rives's thesis also forms an appropriate background against which to set Jewish reactions.

#### E SPECIFIC RESPONSES

Though the separation of Christianity from Judaism was a centuries-long process, and the polemics of Church Fathers remind us that some Christians

<sup>20</sup> Cf. P. Garnsey, "Religious Toleration in Classical Antiquity," in W. J. Sheils (ed.), *Persecution and Toleration: Studies in Church History*, xxi (Oxford, 1984), 9.

<sup>21</sup> Cf. the oddly periphrastic comment of Cassius Dio 37.17.1: the Jews, "though frequently persecuted, grew to such an extent that they won the right of public expression of their beliefs" (*eis parrhesian tes nomiseos eknikesai*).

continued to feel a sense of kinship, if not identity, with Jews down to the fifth century, the Destruction was certainly an important milestone in the process of separation. Indeed, many Christians may have responded to the Destruction by distancing themselves from other Jews. According to the Gospels, Jesus himself had been basically hostile to the Temple and its staff, though he sporadically recommended participation in the cult and submission to the priests, out of prudence. A similar attitude is said by Acts to have been adopted by Paul, though some members of the "Jerusalem church" may have been better disposed toward the central Jewish institutions. But the Gospels, which were composed after the Destruction, and most Church Fathers following them, also seem to have regarded the Jews' tribulations as just recompense for their rejection of Jesus. Even Matthew, commonly considered the most "Jewish" of the Gospels, is marked by a self-conscious distance from the Jews which exceeds what is found in even the most radically sectarian of the Dead Sea Scrolls.

Josephus, by contrast, believed that God had gone over to the Romans. This fact required the Jews to submit to their rulers. But it did not mean that the covenant between God and Israel was abrogated: on the contrary, God had turned away from the Jews because they had sinned, but if they repent, God will resume his protection of them (and free them from Roman domination? Of course Josephus never says anything of the sort explicitly). In other words, Josephus regarded the second Destruction as the conceptual equivalent of the first, and followed Jeremiah and the Deuteronomic Historian in seeing it as a confirmation of the validity of the covenant, and not as marking the covenant's abrogation.<sup>22</sup>

The surviving Jewish apocalypses of the immediate post-Destruction period, 2 *Baruch* and 4 *Ezra*, reach similar conclusions. 2 *Baruch* insists that though the Temple is gone, the Jews still have the Torah, and 4 *Ezra* ends with a defiant statement of the enduring validity of the covenant. But these books seem rather less sanguine about these points than Josephus. 4 *Ezra* raises special difficulties, which deserve mention here because they may hint at the reactions to the Destruction of less devotedly conservative Jews. The first half of the book consists of a series of dialogues between Ezra and an angelic representative of God, in which Ezra proposes an impassioned Job-like argument against the covenant: why should Israel continue to do God's will when God rewards them with unspeakable suffering? If Israel has sinned, have not their prosperous persecutors sinned more? To this the angel responds by reminding Ezra that he (Ezra) has been righteous and will be rewarded, a response which understandably fails to satisfy the man.

<sup>22</sup> See S. Cohen, "Josephus, Jeremiah, and Polybius," *History and Theory* 21 (1982), 366–81; S. Schwartz, *Josephus and Judaean Politics* (Leiden, 1990), 175–200.

Without even a transitional sentence, the book continues with a series of visions of the end of days, suggesting, according to some modern scholars, that Ezra has suddenly come to see the justice of the angel's position: God's ways are inscrutable only in the short term; in the end, Israel will be restored and its persecutors punished.<sup>23</sup>

Though this interpretation may be correct – at least it is less implausible than other suggestions which have been made – the first half of the book may still give us some idea of the panic which the failure of the revolt induced in some Jews, and not all will have responded like Josephus, or the authors of the apocalypses, with a renewed embrace of the Torah. Indeed, both Josephus and the author of 2 *Baruch* explicitly polemicized against Jews who had rejected the Torah, implying that this was a common response among literate Jewish survivors of the revolt.<sup>24</sup>

This point may be confirmed by several scattered pieces of evidence. The imperial biographer Suetonius observed that Domitian (reigned 81–96) had exacted the tax to the *fiscus Judaicus* with unusual harshness, levying it even from those “who without publicly acknowledging it yet lived as Jews, as well as those who concealed their origin and did not pay the tribute levied on their people.”<sup>25</sup> The first category may have included pagan “God-fearers” and/or Jewish tax-dodgers, but the second clearly consisted of Jews who no longer lived as such. Nerva (reigned 96–98) subsequently reformed the tax, so that such people could no longer be denounced to the government for failure to pay. That he saw fit to celebrate this reform with a coin issue, inscribed *calumnia fisci Judaici sublata* (in honor of the cessation of denunciation to the Jewish fisc), suggests that such scofflaws were numerous.<sup>26</sup> Attrition from Judaism may explain furthermore the presence of crypto- or ex-Jews among the Roman epigrammatist Martial's stable of deracinated urban debauchees, in precisely the same

<sup>23</sup> See e.g., M. Stone, in *Jewish Writings of the Second Temple Period*, CRINT 2.2 (Assen and Philadelphia, 1984), 412–4; but one cannot help being impressed by the difficulty of adequately explaining the jarring transition halfway through the book from profound pessimism to standard piety. I adopt Stone's interpretation with diffidence. For a general discussion of the post-Destruction apocalypses, see C. Rowland, “The Parting of the Ways: The Evidence of Jewish and Christian Apocalyptic and Mystical Material,” in J. D. G. Dunn (ed.), *Jews and Christians: Parting of the Ways, AD 70 to 134* (Tübingen, 1991), 213–37, especially 219–22. Rowland is especially good on why 4 *Ezra's* surrender (for he too adopts Stone's interpretation) may have been attractive after 70.

<sup>24</sup> See *Ant.* 4.126–55; 2 *Baruch* 41.3. This obliquely confirms Schäfer's hypothesis of widespread “hellenization” among the Jews before the Bar Kochba Revolt: *Der Bar-Kokhba Aufstand: Studien zum zweiten jüdischen Krieg gegen Rom* (Tübingen, 1981).

<sup>25</sup> *Dom.* 12.2, tr. J. C. Rolfe, LCL, slightly emended.

<sup>26</sup> See M. Goodman, *Mission and Conversion: Proselytizing in the Religious History of the Roman Empire* (Oxford, 1994), 121–4.

period.<sup>27</sup> Finally, and more relevant to Palestine, a rabbinic source mentions men who were recircumcised at the time of the Bar Kochba Revolt (Tos. *Shabb.* 15 [16].9); apparently they were Jews who had previously submitted to epispasm (surgical restoration of the foreskin) in order to participate fully and without embarrassment in Graeco-Roman urban life – their recircumcision was perhaps forcible.<sup>28</sup>

There is *a priori* no way to determine how exemplary any of the above might have been. But we should bear in mind that the Destruction, and perhaps even more so the failure of the Bar Kochba Revolt, resulted in death, enslavement, and dislocation on a large scale. For many of the survivors, a way of life which had once seemed validated by common sense inescapably lost its self-evident quality. We should certainly expect that Palestinian Jewish life after the revolts had a very different texture to that in the Second Temple period, probably for most Jews, a texture little influenced by the norms of the Torah. We shall see below how the norms of the Graeco-Roman city partly supplemented and partly replaced, as elsewhere in the High Roman Empire, native norms as the cultural ideal.

## II THE BAR KOCHBA REVOLT, 132–135 CE

Though our understanding of the revolt has been enhanced by some impressive archaeological discoveries, especially a series of letters written by Shimon ben Kosiba to his officers, and an abundant silver coinage minted by the rebels, the event remains unrecoverably obscure. Notwithstanding all the difficulties involved in their interpretation, the writings of Josephus still provide the most detailed account of any native revolt against the Romans. For the Bar Kochba Revolt, by contrast, the only accounts surviving are the highly folkloristic tales in rabbinic literature, brief notices in the works of Christian and pagan writers, and, most importantly, a few paragraphs in the Byzantine abridgment of the *Roman History* of the early third-century writer Cassius Dio.<sup>29</sup>

About the underlying causes of the revolt, our information is so poor as to make even speculation unprofitable. We can guess that in the aftermath of the Destruction many Jews were unhappy and messianic expectations

<sup>27</sup> See M. Stern, *GLAJJ* I 521–9.

<sup>28</sup> And note Schäfer's convincing refutation of Rabello's interpretation ("Hadrian's Policy," 293–5). Schäfer himself, in making this passage central to his argument that the Bar Kochba Revolt was caused by a conflict between hellenizing and traditionalist Jews, went too far, since there is obviously no way of telling how widespread cases like those discussed in Tos. *Shabb* were.

<sup>29</sup> 69.12.1–14.3, and see Stern's commentary on this passage in *GLAJJ* II 391–407.

were running high in some circles – another lesson of the apocalypses. Vespasian's redistribution of land in Provincia Judaea presumably sharpened the unhappiness of some Jews, especially those who had been most directly affected by it – the descendants of the well-to-do landowners who had led the first revolt. It may also be significant that as long as Jerusalem lay in ruins, hopes for its restoration may still have seemed realistic.<sup>30</sup>

Even the proximate cause of the revolt is uncertain. Hadrian visited Palestine in 130, as part of a tour of the eastern provinces of the Empire. It now seems likely, though not absolutely certain, that it was on this occasion that he announced his intention to restore Jerusalem, not as a Jewish city, but as a Roman colony to be named Aelia Capitolina, after himself (his full name was Publius Aelius Hadrianus) and Jupiter Capitolinus, the chief god of the Roman pantheon. This was presumably both intended and understood as a humiliating insult to the defeated God of Israel, who had previously occupied the site, and by extension to the people who persisted in worshipping Him. It also rendered the restoration of His Temple moot.<sup>31</sup>

But some sources mention another cause – Hadrian is supposed to have extended the traditional Roman prohibition of mutilation of the genitals to circumcision, practiced not only by the Jews but by many other peoples of the Near East.<sup>32</sup> But only the Jews and Egyptian priests regarded circumcision as an important religious obligation, as opposed to a customary practice, and so, though Arabs and others surrendered the practice unhappily but without resistance, and Egyptian priests were allowed to apply for government-issued circumcision permits, of which several examples survive, the Jews rebelled.<sup>33</sup>

Nowadays, most historians regard the first option as more plausible. Aside from serious doubts about the reliability of the *Historia Augusta*, in which the prohibition of circumcision is emphasized, the idea that Hadrian might have accidentally provoked the revolt, and then have been unable to quell it simply by exempting the Jews from the general prohibition, as all

<sup>30</sup> A point oddly neglected by Schäfer in his dismissal of the importance of the foundation of Aelia Capitolina as a cause of the revolt.

<sup>31</sup> Whether or not a temple of Jupiter Capitolinus was built on the Temple Mount, as Cassius Dio, or perhaps rather his Byzantine epitomator, claimed (69.12.1). The issue is unresolved: see Y. Eliav, "Hadrian's Actions in the Jerusalem Temple Mount according to Cassius Dio and Xiphilini Manus," *JSQ* 4 (1997), 125–44. Eliav demonstrated that the passage shows signs of Christian stylistic revision, but not that its content was changed.

<sup>32</sup> *Historia Augusta, Hadrian* 14.2. For discussion, see B. Isaac and A. Oppenheimer, "The Revolt of Bar Kokhba: Ideology and Modern Scholarship," in B. Isaac, (ed.), *The Near East Under Roman Rule*, 233–8 (= *JJS* 36 [1985], 33–60).

<sup>33</sup> The earliest permits are from the reign of Antoninus Pius; on these, and on Bardesanes' comments on the cessation of circumcision among the Arabs, see Stern, *GLAJJ* 11 620.

later emperors did, is unattractive.<sup>34</sup> Furthermore, there is no guarantee that the prohibition pre-dated the revolt. Still, it cannot be definitely excluded as a cause. Little, too, is known about the course of the revolt. In a general way, there are two distinct, though very poorly preserved, historiographical traditions, as Benjamin Isaac has observed. One is reflected primarily in the account of Cassius Dio, the other in Christian and rabbinic literature. Dio never mentions Bar Kochba or the siege of Bethar, but emphasizes the role of the Roman commander Julius Severus, transferred from Britain to quell the revolt, and characterizes the revolt as a guerrilla uprising. By contrast, the Church Fathers and the rabbis emphasize the role of the Roman governor Quintus Tineius Rufus in provoking the revolt, and the role of Bar Kochba in leading it, and consider the siege of Bethar its culmination.<sup>35</sup>

Elements of both traditions have been confirmed by archaeology. So, the many artificial caves and subterranean hiding places containing remains of the early second century seem partly to confirm Dio's assertion of the importance of guerrilla warfare.<sup>36</sup> Roman siege works discovered at the site of Bethar and coins and papyri naming Shimon ben Kosiba as the *Nasi* (Prince – a ruler ranking just below king) of Israel confirm elements of the Christian/rabbinic tradition.<sup>37</sup> But the same items may help explain Dio's silence about Bar Kochba. In contrast to the magnificent silver coinage of the first revolt, the Bar Kochba coins are crude overstrikes minted from

<sup>34</sup> But see A. M. Rabello, "The Ban on Circumcision as a Cause of Bar Kokhba's Rebellion," *Israel Law Review* 29 (1995), 176–214.

<sup>35</sup> See Isaac, "Cassius Dio on the Revolt of Bar Kokhba," *The Near East Under Roman Rule*, 211–9. Other questions have been the subject of modern, not ancient, debate. For example, was the revolt restricted to the district of Judaea, or did it affect the entire province? Very recently, W. Eck, "The Bar Kokhba Revolt," 76–89, has argued for the latter, but the fact remains that revolutionary coinage and "hiding places" are concentrated in the district of Judaea; note the moderate formulation of M. Smallwood, *The Jews Under Roman Rule*, 2nd ed. (Leiden, 1981), pp. 442–3. The other modern debate concerns the rebels' conquest of Jerusalem: should such coin legends as "Le-herut Yerushalayim" ("For the Freedom of Jerusalem") be understood as commemorative or wishful? For recent discussion, favoring conquest, see H. Cotton, "Documentary Papyri from the Judaeian Desert," in Oppenheimer, *Jüdische Geschichte*, 220–36, especially 225–7; for an opposing view, see L. Mildenberg, *The Coinage of the Bar-Kokhba War* (Aarau, 1984).

<sup>36</sup> See the special issue of *Cathedra* 26 (1983), dedicated to the hiding places, and A. Kloner and Y. Tepper (eds.), *Hiding Complexes in the Judaeian Shephelah* (Tel-Aviv, 1987).

<sup>37</sup> On Bethar, see D. Ussishkin, "Archaeological Soundings at Betar, Bar-Kokhba's Last Stronghold," *Tel Aviv* 20 (1993), 66–97 (little of interest was discovered in these soundings). For a list of the publication of the letters, see Schürer-Vermes 1 534, with additional bibliography in Isaac, *The Near East Under Roman Rule*, 253–6. Coins: L. Mildenberg.

often badly engraved molds, implying haste and poor control of resources, while the letters reveal the leader as cruel, petty, and ineffective.

No information is available about other leaders. It has sometimes been argued that the Rabbis as a group supported the revolt, and that this was crucial in winning for the revolt popular participation.<sup>38</sup> But it is uncertain that the Rabbis even constituted a group in the early second century, unknown what the views of individual rabbis aside from Rabbi Akiva might have been, and unlikely that rabbinic support would have made much of a difference in any case. Coins dated to the first year of the revolt bear the name of the otherwise unknown Elazar the Priest, which has led some scholars to ascribe to the revolt a “priestly character.”<sup>39</sup> Why indeed should priests not have participated, given their disenfranchisement by the Romans and the restoration which would certainly result from the revolt’s success? But such considerations do not demonstrate that the priesthood constituted part of the revolt’s leadership. It is at any rate fairly certain that Shimon ben Kosiba himself was neither a priest nor a rabbi, though he was apparently a pious Jew.<sup>40</sup>

It may thus be possible to offer a rough characterization of the revolt, even if its course cannot be described. While the Great Revolt seems to have been a set of scattered, mainly small scale local uprisings which coalesced around individual charismatic leaders and then, under pressure from the Roman army, converged in Jerusalem without ever becoming unified, the Bar Kochba Revolt seems to have been a mass uprising concentrated in Judaea. Its single leader may never have succeeded in controlling it fully.

#### A AFTERMATH

As in 70, many Jews were killed or enslaved in the aftermath of the Bar Kochba Revolt, but Dio’s figures, like Josephus’, are incredible (69.14.1).<sup>41</sup> The district of Judaea seems to have lost much, though not all, of its Jewish population; indeed, the population drop in the district affected the

<sup>38</sup> See B. Isaac and A. Oppenheimer, “The Revolt of Bar Kokhba: Ideology and Modern Scholarship,” 238–43.

<sup>39</sup> See L. Mildenberg, *The Coinage*, 29–31, and D. Goodblatt, “A Contribution to the Prosopography of the Second Revolt: Yehudah bar Menasheh,” *JJS* 38 (1987), 38–55, and idem, “The Title Nasi and the Ideological Background of the Second Revolt.”

<sup>40</sup> See H. Lapin, “Palm Fronds and Citrons: Notes on Two Letters from Bar Kosiba’s Administration,” *HUCA* 64 (1993), 111–35; the documents concern the rebel hierarchy’s efforts to secure lulavim and etrogim for their troops before Tabernacles. Lapin speculates about the messianic meaning of the festival for Bar Kochba and his men.

<sup>41</sup> Fifty fortresses and 985 villages destroyed, 580,000 killed in battle and raids, and countless others dead of hunger, disease, or fire.



character even of Aelia Capitolina, the Roman colony built on the ruins of Jerusalem and for its entire history a backwater.<sup>42</sup> Judaea's decline continued until the emergence of Jerusalem as an ecclesiastical and (Christian) pilgrimage center, and Judaea as a monastic center, in the fifth century. There is also no doubt that from 135 until the seventh century and beyond, Galilee, and later the western Golan, and such nearby cities as Joppa, Lydda, Caesarea, and Scythopolis-Beth Shean, among others, constituted the core of Jewish settlement in the eastern Mediterranean, with looser concentrations in the Carmel, the Beth Shean Valley, and the northwestern and southern fringes of Judaea.

But important questions remain. Did Hadrian prohibit the practice of Judaism after the revolt? Rabbinic sources claim that there was a period of persecution, in which observance of the Law was forbidden (called by the rabbis *sakkanah*, *gezerot*, or *shemad*). But this claim is unparalleled in pagan and, more significantly, in Christian sources – whose authors had a vested theological interest in emphasizing the Jews' suffering and whose silence on this point may therefore be telling. A law of Antoninus Pius (reigned 138–61) states that the Jews are permitted to circumcise their own sons but no one else. If the permission and not the restriction was the primary intention of the law, then it may imply that Hadrian had enforced a prohibition of circumcision until the end of his reign. This does not confirm the rabbinic stories of persecution, but may at least explain their origin.<sup>43</sup> On the other hand, there may have been some scattered episodes of persecution imposed not by the central government but by over-zealous local officials.

A more consequential question concerns some of the demographic impact of the revolt. Rabbinic and other late antique evidence, including archaeology, create the impression that in the fourth century and following, Galilee was densely settled and, except for a small strip in the western

<sup>42</sup> The 1967–8 surface survey of Judaea shows a sharp drop in inhabited sites throughout Roman periods I, II and III – i.e., the late first through fourth centuries; see M. Kochavi (ed.), *Judaea, Samaria and the Golan: Archaeological Survey 1967–8* (Jerusalem, 1972), 84–5; the evidence, much of it late antique, for continued Jewish settlement in Judaea is assembled by J. Schwartz, *Jewish Settlement in Judaea from the Bar Kokhba Revolt until the Arab Conquest* (Jerusalem, 1986).

<sup>43</sup> See A. Linder, *The Jews in Roman Imperial Legislation* (Detroit, 1987), No. 1. In M. Avi-Yonah's view (*The Jews of Palestine* [Oxford, 1976], 13) the Hadrianic persecution was unsystematic, and unsuccessful. Schäfer (*Der Bar-Kokhba Aufstand*, 194–235) observed that early rabbinic sources, unlike the *Bavli*, have little unambiguous to say about a general religious persecution, and suggested that the Jews had (mis)understood the prohibition of circumcision as a prohibition of the laws of the Torah in general – a suggestion in some tension with his observation, it seems to me.

foothills, more or less uniformly Jewish. Was this true also in the second and third centuries, when the evidence is both sparser and more ambiguous? It may be hoped that a full surface survey of the sort conducted in the late 1960s in other parts of the country will help to answer at least the question of population size, if not the far more complicated question of ethnicity. Indeed, scattered excavation has shown that in some areas population grew in the second and third centuries, but this does not mean that a similar pattern obtained throughout Galilee. The survey of the Golan showed that its population began to grow only in the fourth century.

### III ECONOMY AND SOCIAL STRUCTURE, 135–235

#### A CROP YIELDS

It is likely that most farmland in Palestine was used to grow grain – mainly wheat, but also in drier areas hardier but less desirable barley. The many olive and grape presses discovered by archaeologists suggest the importance of these crops as well, and discussions in rabbinic literature, the works of Josephus, and the New Testament indicate that legumes, garden vegetables, and herbs were grown, too.<sup>44</sup> Legumes were especially important, since they often grew in years when other crops failed, and could be kept for a long time. Livestock was used mainly for milk, butter, and cheese (though these were an insignificant part of the diet), for wool, and to feed Roman troops, whose diet, unusually in ancient conditions, included a daily ration of meat. Fish, presumably normally pickled, was also available, though not in abundance.<sup>45</sup> The name of the large town of Tarichaeae, not far from Tiberias, means “pickled fish” in Greek.

There were undoubtedly small areas of the province used mainly for growing cash crops – the balsam plantations in the vicinity of Jericho are the best-known example,<sup>46</sup> and Josephus implies that in his day the olive was extensively cultivated in some areas of Upper Galilee, and its oil sometimes marketed to nearby cities, though he represents this as an

<sup>44</sup> The evidence for olive and grape presses has been assembled by R. Frankel, *Wine and Oil Production in Antiquity in Israel and Other Mediterranean Countries* (Sheffield, 1999).

<sup>45</sup> For general discussion, see Y. Feliks, *Agriculture in Eretz Israel in the Period of the Bible and Talmud* (Jerusalem, 1990) (the first edition appeared in 1963; a summary in English appears in *Encjud S. V. 'Agriculture'*); Goodman, *State and Society in Roman Galilee, 135–212 AD* (Totowa, 1983); G. Hamel, *Poverty and Charity*; M. Broshi, “The Diet of Palestine in the Roman Period – Introductory Notes,” *Israel Museum Journal* 5 (1986), 41–56; J. Pastor, *Land and Economy in Ancient Palestine* (London, 1997), 1–12.

<sup>46</sup> See Y. Patrich, “Pituah Haqla'i Be-'et Ha-'atiqah: Shipurim Be-gidul Ha-afarsemon U-ve-hafaqato,” in Y. Friedman, Z. Safrai and J. Schwartz (eds.), *Hikrei Eretz: Studies in the History of the Land of Israel Dedicated to Prof. Yehuda Feliks* (Ramat-Gan, 1997), 139–48.

extraordinary practice.<sup>47</sup> From the Babatha papyri we know that dates, also a cash crop, were extensively cultivated south of the Dead Sea. For the most part, though, it seems overwhelmingly likely that most country people grew most of what they ate, transmitting most or all of the surplus to the cities in the form of taxes and rent. The Roman state preferred to collect most of its taxes in coin, not in kind, and taxation in coin might generate some economic growth, because it forced farmers to try to raise their earnings as much as possible (peasants engaged in dry farming were normally underemployed), and sell whatever they could in order to acquire silver. Furthermore, the Roman economy was large and complex enough to permit the development of a class of relatively prosperous peasants, artisans, merchants, and professionals – what we would call a middle class – small, but significant for the economy as a whole because their demand for luxuries and near-luxuries also generated trade on a large scale. But such trade-based growth was necessarily limited – by the poverty of the land, the frequency of crop failure, the relative difficulty and high expense of transportation, and the absence of a culture of technological innovation, among other factors.<sup>48</sup>

This implies that though trade was certainly not a negligible factor in the economy of Roman Palestine, on the whole, as in most other parts of the Roman Empire, the Palestinian economy was essentially an agrarian one, operating at slightly above subsistence level<sup>49</sup> – a likelihood whose implications will be explored below. It must first of all be noted that this conclusion has been rejected by many scholars.

Yehuda Feliks, for example, who has made a fundamental contribution to the interpretation of rabbinic agricultural law, was inclined to take rabbinic statements about crop yields at face value.<sup>50</sup> He thus concluded, after

<sup>47</sup> See S. Schwartz, "Josephus in Galilee: Rural Patronage and Social Breakdown," in F. Parente and J. Sievers (eds.), *Josephus and the History of the Greco-Roman Period: Essays in Memory of Morton Smith* (Leiden, 1994), 290–306.

<sup>48</sup> These issues are cogently discussed in P. Garnsey, K. Hopkins, and C. R. Whittaker (eds.), *Trade in the Ancient Economy* (Berkeley, 1983); that there was some limited potential for growth in the ancient economy, realized in the High Roman Empire, is argued by K. Hopkins, "Economic Growth and Towns in Classical Antiquity," in P. Abrams and E. A. Wrigley (eds.), *Towns in Societies: Essays in Economic History and Historical Sociology* (Cambridge, 1978), 35–79; "Taxes and Trade in the Roman Empire," *JRS* 70 (1980), 101–25.

<sup>49</sup> See M. Broshi, "Demographic Changes in Ancient Eretz Israel: Methodology and Estimates," in A. Kasher, U. Rappaport, and A. Oppenheimer (eds.), *Man and Land in Eretz Israel in Antiquity* (Jerusalem, 1986), 50–1.

<sup>50</sup> In addition to the work of Feliks cited above, see D. Sperber, *Roman Palestine, 200–400: The Land: Crisis and Change in Agrarian Society as Reflected in Rabbinic Sources* (Ramat-Gan, 1978), 30–44; and Z. Safrai, *The Economy of Roman Palestine* (London, 1994).

discussion of the relevant rabbinic sources,<sup>51</sup> that the average ratio of wheat harvested to that sown ranged from 22.5:1 in bad years to 45:1 in good years.<sup>52</sup> This conclusion was endorsed by Zeev Safrai.<sup>53</sup> Daniel Sperber, however, provided still more exhaustive discussion of rabbinic sources and concluded that the average yield was at least 50:1, but in the crisis of the third century may have declined to as little as 7:1. These figures imply that at least before *c.* 250 Palestinian Jews disposed of vast quantities of agricultural surplus, which in turn generated Safrai's description of the rural Palestinian economy as unusually dense and vibrant, characterized by large and populous nucleated settlements, each one possessing a surprising range of commercial, social, and religious institutions.<sup>54</sup> Correspondingly, Safrai argued that the population of rural Palestine west of the Jordan in the High and Later Roman Imperial periods reached 1.5 million (with at least one half-million in Galilee), and the population of the province as a whole was 2–2.5 million, or nearly half its present size.<sup>55</sup> The result is a modern-sounding characterization of the economy of rural Galilee.

<sup>51</sup> Y. Feliks, *Agriculture in Eretz Israel*, 139–46.

<sup>52</sup> Despite the fact that Feliks's estimates greatly exceed yields achieved in Palestine/Israel in the 1940s and '50s with the help of chemical fertilizers and newly developed disease- and drought-resistant strains of wheat: see Broshi, "Demographic Changes," 53.

<sup>53</sup> *The Economy of Roman Palestine*, 110.

<sup>54</sup> An unrealistic view of the importance of trade in, and so the economic integration of, Roman Palestine has also been inferred by several scholars, including Adan-Bayewitz himself, from the patterns of diffusion of pottery made at Kefar Ḥananiah in Galilee: D. Adan-Bayewitz, *Common Pottery in Roman Galilee: A Study in Local Trade* (Ramat-Gan, 1993); see, e.g., D. Edwards, "The Socio-Economic and Cultural Ethos of the Lower Galilee in the First Century: Implications for the Nascent Jesus Movement," in L. Levine (ed.), *The Galilee in Late Antiquity*, 53–73; and several of the contributions to D. Edwards and C. McCollough (eds.), *Archaeology and the Galilee* (Atlanta, 1997); but there is no reason to think that patterns of trade in general can be inferred, still less that conclusions about the velocity of trade can be drawn, from a small and chronologically unstratified sample of pottery.

<sup>55</sup> See *Economy*, 415–58, and "Godel Ha-ukhlusiyah Be-eretz Yisrael Bi-tequfah Ha-Romit-Bizantit," *Hikrei Eretz*, 277–305. Safrai provides a detailed criticism of Broshi's maximum figure of 1 million (see n. 1 above). But Israel Finkelstein's survey of "the land of Ephraim" (northern Judaea and southern Samaria) suggests that Broshi's figure was, if anything, a bit too high: at all periods for which statistics exist or can be relatively securely guessed, the population of Ephraim constituted 5–7 percent of that of Palestine as a whole; Finkelstein's estimate of Ephraim's population at the ancient peaks, Iron 11, the first century, and the fifth century, imply a Palestinian population of no more than 600,000. Safrai reaches his figure by rejecting the utility of estimates of carrying capacity (and rightly so, from his perspective, because carrying capacity is a useful criterion only for estimating the populations of subsistence agrarian societies, which Roman Palestine certainly was not if wheat yields averaged around 30:1), by positing a remarkably high population density of 150 people per dunam for settled areas, and by providing

But the evidence for this view, restricted as it is to a handful of passages in rabbinic literature, many of which are nostalgic or idealizing, is highly problematic. All ancient writers, Jewish, Greek, and Roman, provided impossible figures for grain yields; it is far preferable to depend on papyrological evidence, which is admittedly sparse, and especially on information from other parts of the Mediterranean world, or from Palestine in other pre-modern periods. These provide a sense of what was possible under pre-modern conditions. Such information (which is in fact supported by several passages in rabbinic literature: *M. Bava M.* 9.5 with *BT Bava M.* 105b; perhaps *PT Peah* 7.4, 20a) leads to the inevitable conclusion that wheat yields for dry farming around the Mediterranean (and it is worth recalling that Palestine was naturally poorer, and drier, than Italy, Tunisia, and most of Turkey) are more likely to have been between around 1:4 and 1:8, with barley yields somewhat higher.<sup>56</sup> These figures provide an important constraint on any attempt to provide a modernizing description of the ancient Palestinian economy because they imply that surplus was necessarily limited. The only way to sustain the view of the Galilean economy proposed by Feliks, Sperber, and Safrai, would be to suppose that the ancient Jews were utterly exceptional.<sup>57</sup> No doubt they were exceptional in some ways, but there is no reason to suppose that their exceptionalism extended to agriculture.

#### IV LAND TENURE AND SOCIAL DEPENDENCY

It has often been supposed, and not only by the Feliks school, that the small farmer who owned his own land predominated in rural Palestine, especially

amazingly high figures for the size even of rural settlements. By contrast, Finkelstein, "A Few Notes on Demographic Data from Recent Generations and Ethnoarchaeology," *PEQ* 122 (1990), 45–52, citing a great deal of comparative material, notes that population densities per dunam may have ranged from 6 to c. 22, but surely rarely if ever reached 40.

<sup>56</sup> For criticism of the high yields suggested by Feliks *et al.*, see the detailed discussion of G. Hamel, *Poverty and Charity*, 125–37; Hamel suggests an average yield of 1 to 5; Ben-David and Applebaum, in part following Heichelheim, cited by Hamel, had already suggested averages of 7:1. See also P. Garnsey, *Famine and Food Supply in the Graeco-Roman World* (Cambridge, 1988), especially 95–6. Garnsey emphasizes the frequency of crop failure.

<sup>57</sup> A supposition that Feliks makes in his *EncJud* article (cf., more cautiously, M. Avi-Yonah, *The Jews of Palestine*, 21). Safrai, by contrast, argues that Palestinian yields (of c. 30:1 for wheat, on the average) were in fact a bit *lower* than those obtained in more fertile parts of the Empire, like Tunisia or Italy! Comparative data from the Middle Ages or early modern period are useless, because yields then were, in Safrai's view, much lower than in antiquity. That Safrai regards the Palestinian figures from the British Mandatory reports of 1940–1, on which Broshi based his estimates, as uselessly *low* is especially problematic. To his credit, Safrai squarely confronted the implications of Feliks's work, and used it to construct a fairly coherent picture of the economy and society of ancient Jewish Palestine. But the result is impossible.

in Galilee.<sup>58</sup> This is consistent with the hypothesis of high wheat yields, which would have guaranteed the prosperity of the small farmer and protected him from debt, tenancy, clientele, self-enslavement<sup>59</sup> and, finally, starvation. Although rabbinic literature indicates that all these conditions were a normal part of life for Palestinian farmers (see below), the Mishnah takes it for granted that the nation of Israel consists primarily of small or mid-sized landowners. But the Mishnah also takes it for granted that there are priests offering daily sacrifices in the Temple, while in one of its side-chambers the Sanhedrin judges and legislates. There is no reason *a priori* to think that the Mishnah's *baalei ha-bayit* (literally, householders) are more realistic than its priests and elders.

The hypothesis of average wheat yields on the order of four or five to one has as its corollary the vulnerability of the small farmer. A small farmer who had to plow a fifth of his crop back into the ground and transmit a fifth to the state as tax may have been left with little leeway in the frequent event of a drier than average year, let alone of crop failure. Small farmers will often have been bought out by wealthier neighbors, and reduced in the process to tenancy, in the best case; others will have fallen into debt, tried to scratch together a living as day laborers (frequently encountered in the Mishnah, as are tenants), emigrated to cities, resorted to brigandage,<sup>60</sup> or submitted to the unreliable and oppressive ministrations of a patron. Nor were wealthier landowners immune; even substantial holdings might gradually break up, as they passed from generation to generation, or simply through a farmer's ineptitude or need for cash: in this world, upward social mobility was possible, but downward mobility was not rare. Though in hard times – periods of extended drought, epidemic, war, or political instability – these processes were accelerated, they were never absent, since they were a fixed and necessary component of the pre-modern Mediterranean agrarian economy.

The topography of the Palestinian interior guaranteed that farm plots were normally small, except in the richest areas, like the Jezreel and lower Jordan

<sup>58</sup> So already Avi-Yonah, *The Jews of Palestine*, 21.

<sup>59</sup> According to W. Harris, "Demography, Geography and the Sources of Roman Slaves," *JRS* 89 (1999), 62–75, especially 73, a far more widespread phenomenon than has usually been supposed. The issue of self-enslavement, indeed, of slavery in general, has not been adequately discussed for Jewish Palestine, but it does seem clear that the biblically derived laws of the "Hebrew slave" were not applied in the Roman period. Some have thought that this is because Palestinian Jews did not own Jewish slaves (e.g., E. E. Urbach, *The Laws Regarding Slavery* [New York, 1979], 87–93 – originally *Zion* 25 [1960] – but Babylonia was different). For a more realistic view, see D. Martin, "Slavery and the Ancient Jewish Family," in S. Cohen (ed.), *The Jewish Family in Antiquity* (Atlanta, 1993), 113–4; Goodman, *State and Society*, 38–9.

<sup>60</sup> On brigandage in post-Destruction Palestine, see Isaac, *Limits of Empire*, 83–97.

valleys. But these places had long been owned by local rulers and now belonged to the emperor.<sup>61</sup> The character of the hill-country farmland made the large slave-worked estate rare in Palestine, in contrast to Italy and North Africa, but did not inhibit the concentration of landholding. Prosperous landowners often owned many scattered farms, worked by tenants – a pattern common in the country until 1948 and still widespread on the West Bank.

It is thus necessary to reject the frequently encountered characterization of rural Palestinian, especially Galilean, society as essentially egalitarian.<sup>62</sup> There is admittedly little evidence of vast wealth. Palestine produced no senators before the late fourth century, and the only Palestinian grandee in any position to compete in economic terms with the great landowners frequently encountered in Asia and Africa was the patriarch. And even he is unlikely to have been truly rich and powerful much before the fourth century.<sup>63</sup> However, while the gulf between rich and poor may have been narrower than in wealthier provinces, it unquestionably existed. Josephus in the first century, and the Palestinian Talmud in the third and fourth, both knew of wealthy landowners who could dispose of large bands of dependants. Furthermore, the two cities of Lower Galilee, Tiberias and Sepphoris, were constitutionally Graeco-Roman, and so were required by law to have city councils containing several hundred citizens who owned property worth at least 100,000 sesterces. City councilors are in fact well attested both in the Palestinian Talmud and in archaeology (see n. 78). There was thus a substantial class of prosperous, though not necessarily hugely wealthy, city-based landowners in Lower Galilee – incidentally a serious objection to the growing tendency to dismiss the importance of urban–rural tension.

#### V COMMUNAL CHARITY OR PERSONAL DEPENDENCY?

In most places in the ancient Mediterranean world there was a wide range of methods for coping with the social and economic pressures just described. Emigration and brigandage are, for example, well attested in ancient Palestine at all periods. But what about relationships of social dependency? These also are well attested, but any attempt to estimate their diffusion must come to grips with a factor which may have distinguished Jewish

<sup>61</sup> See the surprisingly detailed account in Pliny, *Naturalis Historia* 12.111–24, with the comments of F. Millar, *The Emperor in the Roman World* (Ithaca, 1977), 185.

<sup>62</sup> See, e.g., D. Groh, “The Clash Between Literary and Archaeological Models of Provincial Palestine,” in Edwards and McCollough (eds.), *Archaeology and the Galilee*, 29–37; for a more moderate and credible view, see Goodman, *State and Society*, p. 33.

<sup>63</sup> S. Schwartz, “The Patriarchs and the Diaspora,” *JJS* 50 (1999), 208–22.

Palestine from other parts of the Roman Empire before the rise of Christianity – institutionalized charity.

Pentateuchal legislation, founded as it was on the notion of an egalitarian community of Israel, opposed patronage and other types of social dependency: “For the children of Israel are my slaves” (Lev. 25.55), God says, and not, as the rabbinic exegetes helpfully added, the slaves of slaves (BT *Kidd.* 22b). Hence the complex of laws – interest-free loans, various gifts of crops, and the occasional cancellation of debt and redistribution of land – which transformed redistribution from the foundation of social dependency to a communal religious obligation.<sup>64</sup> The pentateuchal legislators themselves recognized that these rules could not be completely effective, that such institutions as debt bondage could not be eradicated, but they strove to limit their impact (Exod. 21). We must wonder whether these laws continued to be observed under Roman rule, and, if so, what their social and economic impact might have been.

Martin Goodman argued that, in Judaea in the first century, the Pentateuch’s hostility to patronage, and its complex of redistributive laws, prevented the proliferation of relations of personal dependency.<sup>65</sup> But Josephus’ *Autobiography* offers abundant evidence for the importance of patronage or similar types of social dependency in Galilee in the same period.<sup>66</sup> In the second and third centuries, the Mishnah and Tosefta retained the Pentateuch’s redistributive program, and its hostility to patronage, largely intact, but there is no way to determine how generally the laws were actually practiced.<sup>67</sup> For the first century there is at least some sparse documentary evidence that the prohibition of interest and the septennial cancellation of debt were part of standard legal practice, though the same documents demonstrate that mechanisms existed to circumvent the laws.<sup>68</sup> It is furthermore nearly certain that the law requiring the redistribution of land was never observed in the Second Temple period, except perhaps in the administration of Nehemiah, in the fifth century BCE, *a fortiori* after the Destruction. Similarly, the post-Destruction Babatha papyri do not circumvent, but simply ignore, the redistributive laws. And while some pious Jewish farmers may have continued to leave the corners of their fields for gleaners, it seems very unlikely that there was any way after the Destruction to collect the poor-tithe, or enforce any of the other biblical laws.<sup>69</sup>

<sup>64</sup> Exod. 23.10–1; Lev. 19.10–1; 25.1–7; Deut. 14.28–9; 15.7–11; 24.19–22, etc.

<sup>65</sup> *The Ruling Class of Judaea* (Cambridge, 1987), 51–75.

<sup>66</sup> Schwartz, “Josephus in Galilee.”

<sup>67</sup> The main collection of the laws is in M. and T. Peah, with scattered references elsewhere.

<sup>68</sup> See Benoit, Milik, and De Vaux, *Les Grottes de Murabba’at*, No. 18.

<sup>69</sup> See Goodman, *State and Society*, 39.



The Mishnah and especially the Tosefta introduced some innovations in their legislation for the poor. Whereas in the Bible charity is incumbent on the individual and the nation, for the rabbis it is in addition incumbent on the local community (in the Diaspora, there were communal meals – in effect periodic food distribution – already in the first century BCE; see Josephus, *Ant.* 14.185–264).<sup>70</sup> Both the Mishnah and the Tosefta prescribe and attempt to regulate the *quppah* and the *tambui*, two types of communal funds for the distribution of food to the poor, and the appointments and behavior of *parnasim* and *gabbaim* (charity administrators).<sup>71</sup> But there is little evidence for such institutions outside rabbinic literature, not even in the fourth to seventh centuries, when we might have expected to find traces of them in synagogal epigraphy. This silence obviously does not mean that communal charitable foundations did not exist, but it may warn us against overestimating the extent of their diffusion. And even if widespread, they may have served mainly to keep the poorest people from starvation and so have fulfilled quite a different social and economic function from patronage.<sup>72</sup> Indeed, the Rabbis' often-expressed hostility to patronage, and the fact that many rabbis, and patriarchs, are themselves reported to have engaged in patronal behavior, indicates that however common observance of biblical and rabbinic redistributive laws may have been, they did not supplant completely models of social dependency common throughout the Roman world.<sup>73</sup>

## VI POLITICS

The political history of Palestine after 135 is, if anything, more difficult to reconstruct than its social and economic history. The best information is provided by archaeology and scattered hints in the works of contemporary authors. From these sources we know that the province was now renamed

<sup>70</sup> For a detailed commentary on these documents, see M. Pucci Ben Zeev, *Jewish Rights in the Roman World: The Greek and Roman Documents Quoted by Josephus Flavius* (Tübingen, 1998).

<sup>71</sup> See Goodman, *State and Society*, 121–2.

<sup>72</sup> Note, for example, the Emperor Julian's observation, c. 362 CE, that the Jews are saved from beggary by their charities: *Letter to Arsacius*, *apud* Sozomen, *Historia Ecclesiastica* 5.16.5ff., = Stern, *GLAJJ* 11 549–51. This may be contrasted with the persistent association of Jews with begging by earlier authors: see Stern, index, *s.v.* "beggars."

<sup>73</sup> Much of the rabbinic material denouncing patronage is collected and discussed by D. Sperber, *Roman Palestine*, 119–35; the collection of parables in *PT Ber.* 9.1, 12a–b would benefit from a fuller treatment. Sperber's discussion is useful, notwithstanding his problematic view that the material all reflects the "crisis" conditions of the middle to later third century. For rabbis and patriarchs, see C. Hezser, *The Social Structure of the Rabbinic Movement in Roman Palestine* (Tübingen, 1997), 353–403; S. Schwartz, "The Patriarchs and the Diaspora."

Syria Palaestina – a change which surely implies a shift for the worse in the state's attitude toward the Jewish inhabitants. It continued to host two legions, the Tenth Fretensis, based near Jerusalem, and the Sixth Ferrata, based at Legio-Capercotna. Correspondingly, it continued to have governors of consular rank; the names of several of these are known.<sup>74</sup> The processes of urbanization and road-building, which had begun after 70, continued. Several country towns, including the heavily Jewish settlement of Lydda, and the partly Jewish Beth Gubrin, were raised to municipal rank near the end of the second century, as a result of which they acquired the right to mint bronze coins and to use new names. Lydda adopted the name Diospolis (city of Zeus), Beth Gubrin, Eletheropolis (free city); around the same time, Diocaesarea-Sepphoris, too, adopted a pompous new titlature.<sup>75</sup>

Though a full account of the cultural life of the cities is beyond the scope of this chapter, it may be briefly noted here that the Graeco-Roman cities of Palestine, including those most of whose inhabitants were in some sense Jewish, can scarcely be distinguished on the basis of their physical remains from the cities of the High Imperial Roman east in general.<sup>76</sup> They too adopted Greek or Graeco-Roman names, often of a religious character

<sup>74</sup> For a list, see Smallwood, *The Jews Under Roman Rule*, 546–57; for an attempt to draw some conclusions about the governors, Avi-Yonah, *The Jews of Palestine*, 42–4.

<sup>75</sup> These changes may be connected either to the towns' support of the victorious Septimius Severus in the civil war of 193, or with the emperor's visit to Palestine in 200. See Millar, *The Roman Near East*, 118–25, 374–6.

<sup>76</sup> The common view that the “pagan” remains demonstrate that Trajan and/or Hadrian removed the cities from Jewish control, worked out most elaborately by B. Isaac and I. Roll, “Judaea in the Early Years of Hadrian's Reign,” *Latomus* 38 (1979), 54–66, cannot be sustained. There is excellent evidence for Jewish city councilors in the second and third centuries: e.g., the *bouleutai* of Sepphoris, who paid court to the Patriarch Judah I (PT *Hor.* 3.9, 48c = PT *Shabb.* 12.3.13c); many other references in the Palestinian Talmud to Jewish city councilors in Sepphoris are collected by Stemberger, *Juden und Christen im Heiligen Land*, 36; a lead weight (undated) from Sepphoris inscribed with the name of the agoranomos Simon; the statement attributed to the third century Rabbi, Yoḥanan, “If you are appointed to the boule, let the Jordan be your boundary” (i.e., run for it), obviously presupposing that rabbis are likely to be appointed (but this probably reflects conditions of a slightly later period than the one under discussion); the references to the *kenishta deboule* (boule-synagogue) at Tiberias, perhaps, however, named for its location: PT *Shek.* 7.3.3c; PT *Taan.* 1.2, 64a. Note also *Supplementum Epigraphicum Graecum* 38 (1988), 1647, a lead weight from Tiberias listing two agoranomoi, one of whose names is illegible; the other is called Iaesaias (or -os) son of Mathias; but the weight is dated to year 43 of Agrippa II (98/9?), before the city was under direct Roman rule. Note also a weight from “Roman period” Sepphoris naming as agoranomoi Simon son of Aianos (= Hiyya?) and Justus son of . . . : see R. M. Nagy *et al.* (eds.), *Sepphoris in Galilee: Crosscurrents of Culture* (Winona Lake, 1996), 201. Also, *CIJ* 11 985, a Tiberian sarcophagus decorated with Jewish symbols belonging to “Isidoros bouleutes.” See also J. Schwartz, “Hayei Yom-Yom,” 107, arguing from rabbinic sources. Finally, a

(Diospolis, Diocaesarea – city of Zeus and Caesar), commemorated their patron gods and emperors on the municipal coinage, built temples, theaters, and bathhouses, and decorated their streets and public buildings with divine and imperial images. Rather surprisingly, many anecdotes and laws in rabbinic literature confirm this view of the cities, whereas outside rabbinic literature there is little evidence that the public life of the cities had any sort of Jewish character before the fourth century (I am assuming that few if any of the post-Destruction synagogues discovered by archaeologists in Israel predate 300).<sup>77</sup> What this implies is that the public life, at least, of the larger Jewish settlements in Palestine, as controlled by city councilors and their kind, was normatively Graeco-Roman, rather than specifically Jewish. And yet it was in just this period that the rabbinic movement began to be concentrated in the cities, especially Tiberias, Sepphoris, and Diospolis-Lydda, but also in Caesarea Maritima, Scythopolis-Beth Shean, Ptolemais-Akko, Tyre, Sidon, and several others.<sup>78</sup> This fact may help explain why, though so much of rabbinic law assumes a rural environment, the laws of *avodah zarah* (idolatry) mainly offer rules for coping with life in cities.<sup>79</sup>

presumably Jewish city councilor from Ono, in 291 (it is unclear whether Ono was a city or a village): *CPJ* 111 no. 473.

<sup>77</sup> For the coinage, the basic corpus is M. Rosenberger, *The Rosenberger Israel Collection*, 3 vols. (vols. 11–111 entitled *City-Coins of Palestine*) (Jerusalem, 1972–7); some discussion and additional material in Y. Meshorer, *City Coins of Eretz Israel and the Decapolis in the Roman Period* (Jerusalem, 1985); for updating, see A. Kindler and A. Stein, *A Bibliography of the City Coinage of Palestine from the Second Century BC to the Third Century AD* (Oxford, 1987), with further information in the journal *Numismatic Literature*. For the archaeology of Sepphoris, see the articles and annual reports since the later 1980s in *IEJ*. *Ḥadasot Arkheologiyot* (= *Excavations and Surveys in Israel*), and so on, have concentrated on describing the structures and publicizing the spectacular mosaics. Most helpful for the small finds has been E. Meyers, E. Netzer, and C. Meyers, *Sepphoris* (Winona Lake, 1992) and R. Nagy *et al.*, *Sepphoris in Galilee*; see also *NEAEHL* (Eng.) 1324–8 for summary and bibliography, up to date as of c. 1991; for rabbinic passages discussing the public life of Tiberias, see *PT Av. Zar.* 3.1.42c and 4.4.43d, with additional material in Klein, *Sepher Hayishuv*, s.v. “Tiberias”; for Tiberian inscriptions, the main collections are M. Schwabe, “Letoldot Teveryah: Mehqar Epigrafi,” and L. di Segni, “Ketovot Teveryah,” in Hirschfeld (ed.), *Teveryah*. Schwabe’s restorations (not always followed by di Segni) of some of the most fragmentary texts are speculative. This material is discussed in greater detail in my *Imperialism and Jewish Society* (Princeton, 2001).

<sup>78</sup> See the essential study of H. Lapin, “Rabbis and Cities in Later Roman Palestine: The Literary Evidence,” *JJS* 50 (1999), 187–207.

<sup>79</sup> See my “Gamaliel in Aphrodite’s Bath: Palestinian Judaism and Urban Culture in the Third and Fourth Centuries,” in P. Schäfer (ed.), *The Talmud Yerushalmi and Graeco-Roman Culture* (Tübingen, 1998), 203ff.

## VII EVENTS

The fourth-century historian Ammianus Marcellinus wrote that on a visit to Palestine Marcus Aurelius remarked, upon encountering the Jews, that he had at last met a people more unruly than the Marcomanni, Quadi, and Sarmatians.<sup>80</sup> This may conceivably refer to some uprising or disturbance.<sup>81</sup> There is also reason to believe that some Jews supported Avidius Cassius against the victorious Aurelius in the civil war of 175, and the victorious Septimius Severus against Pescennius Niger in that of 193, an episode which may, furthermore, be identical to or connected with an enigmatic “Jewish and Samaritan war” briefly noted in Jerome’s translation of Eusebius’ *Chronicle*.<sup>82</sup> Cassius Dio, furthermore, discusses the career of the powerful brigand chief, Claudius, active in Syria and Palestine in the years after Severus’ victory (75.2.4), such presumably small-scale disturbances are important because they were in all likelihood a common feature of life in many provinces of the Roman Empire even at its height.<sup>83</sup> One should therefore not assume that the absence of full-blown revolts in Palestine after 135 implies that conditions were peaceful. Finally, the grant of Roman citizenship to almost all Roman subjects in 212, known as the *Constitutio Antoniniana*, presumably affected the Jews, among the other inhabitants of Palestine, though specific information is lacking. It may at least be understood as the culmination of the Roman imperial tendency towards centralization and integration.

## VIII CONCLUSION: WHO RULED THE JEWS?

The failure of the two Jewish revolts, the consequent geographical dislocation of large numbers of Jews, the centralizing character of Roman rule, and the undeniable prosperity and success of the Empire, all conspired to transform Roman Palestine into a conventional eastern province, normal in its social, economic, political, and even religious life. The Jews, like their Samaritan, Christian, and pagan neighbors, were ruled primarily by the Roman governor and his staff, and by the city councilors of an increasingly urbanized province. These same people also set the dominant cultural tone, widely emulated even in the countryside. This is not to say that Judaism

<sup>80</sup> *Res Gestae* 22.5.5 = Stern, *GLAJJ* 11 605–7. But *inquietiores* (more unruly) is an emendation for *inetiores*, which may stand for *ineptiores* (clumsier) or even *inertiores* (lazier).

<sup>81</sup> Isaac, *Limits of Empire*, 88.

<sup>82</sup> See on these events (?) the detailed discussion of H. Lapin, *Early Rabbinic Civil Law and the Social History of Roman Galilee* (Atlanta, 1995), 8–12, especially the notes *ad loc.*

<sup>83</sup> Isaac, *Limits of Empire*, 88, downplaying the significance but emphasizing the exemplarity of the episode.

disappeared – it no more did so than the traditional Egyptian religion disappeared in Roman Egypt.<sup>84</sup> In other words, it survived as a set of practices embedded in an Empire-wide cultural system of Graeco-Roman (that is, polytheistic) character. And the traditional exclusivism of the Jews was preserved, too, by the Rabbis. But the extensive evidence for the public life of High Imperial Jewish Palestine indicates that the Rabbis were marginal, not only politically, but as cultural ideals.

It must be acknowledged that this conclusion contradicts one of the common types of modern narrative of the political history of Jewish Palestine after the Destruction. According to this complex of historical reconstructions, after 70 CE, political authority over the Jews passed from priests and descendants of Herod to rabbis and patriarchs. This claim is never explicitly made in rabbinic literature itself, which ascribes little legal or political authority to rabbis and patriarchs.<sup>85</sup> It does describe rabbis as deciding legal cases on a limited range of issues, but the accounts of such cases indicate that it was normally individual rabbis, not rabbinic courts of three, who rendered decisions, almost certainly as informal arbitrators.<sup>86</sup> And rabbinic literature has in fact little to say about patriarchs before Rabbi Judah Ha-Nasi, who probably lived around 200.<sup>87</sup> But even he is never described as ruler of an autonomous Jewish population, or as a recognized intermediary between the Jews and the Roman state.<sup>88</sup> Modern scholars have often attributed quasi-constitutional rights and privileges to Judah and his descendants, but, except for the right to set the liturgical calendar, these are usually invisible in the sources. To be sure, there is little doubt that in the course of the third century the patriarchs were increasingly wealthy, powerful, and prestigious, possessing growing influence over the Jews in Palestine and the Diaspora; but even then, they were merely tolerated, not recognized, by the Roman state, and whatever power they had, they had painstakingly accumulated through their own efforts. Probably, too, they were helped in this by the inflation of the mid-third

<sup>84</sup> See in general D. Frankfurter, *Religion in Roman Egypt: Assimilation and Resistance* (Princeton, 1998).

<sup>85</sup> For fuller accounts, see S. Schwartz, "The Patriarchs and the Diaspora," and *Imperialism and Jewish Society*.

<sup>86</sup> See H. P. Chajes, "Les Juges juifs en Palestine de l'an 70 – l'an 500," *REJ* 39 (1899), 39–52.

<sup>87</sup> D. Goodblatt, *The Monarchic Principle: Studies in Jewish Self-government in Antiquity* (Tübingen, 1994); M. Jacobs, *Die Institution des Jüdischen Patriarchats* (Tübingen, 1995); K. Strobel, "Jüdisches Patriarchat, Rabbinentum und Priesterdynastie von Emesa: Historische Phänomene innerhalb des Imperium Romanum der Kaiserzeit," *Ktema* 14 (1989), 39–77.

<sup>88</sup> M. Goodman, "The Roman State and the Jewish Patriarch in the Third Century," in Levine (ed.), *The Galilee in Late Antiquity*, 127–39.

century, which worked to the disadvantage of the city councilors, surely the chief competition of the patriarchs for control over the Jews. Many passages in the Palestinian Talmud and other sources imply the development in the course of the third and early fourth centuries of an alliance between the patriarchs and the decurions, presumably at the partial expense of the rabbis.<sup>89</sup> It was only during the fourth century that the patriarchs and their clients, both rabbinic and non-rabbinic, attained recognized, though limited, authority over the Jews.

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<sup>89</sup> See Schwartz, "The Patriarchs and the Diaspora."

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## CHAPTER 2

# THE DIASPORA FROM 66 TO C. 235 CE

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## I THE JEWS IN EGYPT AND CYRENAICA, 66–C. 235 CE

ALLEN KERKESLAGER

### A INTRODUCTION

The geographical delimitation of this section of the chapter arguably glosses over cultural differences and Roman administrative boundaries that distinguished the Jewish communities of Egypt from those in Cyrenaica. Nevertheless, some justification for treating the Jewish communities of these two regions together may be found in the long history of close relationships between them.<sup>1</sup> Determining the chronological limits of this section is not difficult in the case of the lower limit because the outbreak of hostilities in Palestine in 66 had a decisive impact on these communities. However, fixing an upper limit is more problematic because the rebirth of Judaism in Egypt and Cyrenaica after the devastating revolt of 116–17 was only gradual. This process is not well attested until the fourth century. The demise of the Severan dynasty in 235 has been rather arbitrarily chosen as the formal date of the permeable upper limit for this section, however, because the growth of institutional Christianity in the mid-third century generates complexities that require separate treatment.

The literary sources available for this section are severely limited. Papyri and other non-literary sources have helped to fill this lacuna.<sup>2</sup>

<sup>1</sup> Surveys include J. M. G. Barclay, *Jews in the Mediterranean Diaspora from Alexander to Trajan* (Edinburgh, 1996); J. Mélèze-Modrzejewski, *The Jews of Egypt* (Philadelphia, 1995); A. Kasher, *The Jews in Hellenistic and Roman Egypt* (Tübingen, 1985); and S. Applebaum, *Jews and Greeks in Ancient Cyrene* (Leiden, 1979). Unavailable to me was G. Lüderitz, *Die Juden der Cyrenaika* (Tübingen, 1993). Abbreviations for papyri and related sources follow J. F. Oates, R. S. Bagnall, S. J. Clackson, A. A. O'Brien, J. D. Sosin, T. G. Wilfong, and K. A. Worp, *Checklist of Greek, Latin, Demotic and Coptic Papyri, Ostraca and Tablets*, continually updated at <<http://scriptorium.lib.duke.edu/papyrus/texts/clist.html>>.

<sup>2</sup> Especially *CJZC*; *JIGRE*; *CPJ*; and I. F. Fikhman, "L'Etat des travaux au 'Corpus Papyrorum Judaicarum' 1v," in B. Kramer, W. Luppe, H. Maehler, and G. Poethke (eds.), *Akten des 21. internationalen Papyrologenkongresses* (Stuttgart, 1997), 1 290–6.



Figure 2.1 Ancient synagogues in the Diaspora, selected sites

Reliance on ethnographic analogy, however, is inescapable in the following reconstruction.

B POLITICAL AND SOCIAL HISTORY, 66–115

The Jewish revolt in Palestine in 66–73 had unavoidable repercussions for Jews in Egypt and Cyrenaica.

First, any pretence of a patron–client relationship between Romans and Jews was shattered. Roman policy towards Jews, as towards other provincials, had always assumed the imperial custom of subdued benevolence towards the submissive, and ruthless suppression of resistance.<sup>3</sup> Hence, before 66, Jews in Egypt and Cyrenaica occasionally enjoyed Roman benefactions to building projects, guarantees of rights, and opportunities for individual advancement, as did other provincials.<sup>4</sup> In the decades after 66, however, such favors were rarely granted and many former privileges were revoked. This revocation is illustrated by Vespasian's order that Jews contribute to the *fiscus Judaicus*, which inverted their former right to send offerings to Jerusalem.<sup>5</sup> Synagogues in Egypt and Cyrenaica continued to operate.<sup>6</sup> However, the closure of the Jewish temple at Leontopolis in 73 suggests that after 70, Jewish institutions became subject to tight control because they were henceforth viewed as potential hotbeds of subversion.<sup>7</sup> Jews also became likelier targets for exploitation by corrupt Roman officials. Vespasian gave tacit approval to such activity by his lenient treatment of the Roman governor of Cyrenaica after he had slaughtered the Jewish aristocracy of Cyrene in 73.<sup>8</sup> The strain that had been placed on the imperial treasury by the Jewish Revolt provided an agreeable rationalization for such policies. The punitive policies of the Flavians were mitigated by Nerva.<sup>9</sup> This change, however, had a minimal impact on the attitudes of provincial officials drawn from among the Roman elite, who continued to harbor an antipathy to

<sup>3</sup> Cf. L. V. Rutgers, *The Hidden Heritage of Diaspora Judaism* (Leuven, 1998), 171–91.

<sup>4</sup> E.g., Philo, *Legat.* 157; cf. *CPJ* 2.153; Josephus, *Ant.* 16.160–70; 19.276–91; 20.100, 147; *CJZC* 71; possibly *CJZC* 70. M. Pucci Ben Zeev, *Jewish Rights in the Roman World* (Tübingen, 1998); idem, "Did the Jews Enjoy a Privileged Position in the Roman World?" *REJ* 154 (1995), 23–42; and M. W. B. Bowsky, "M. Titius Sex. F. Aem. and the Jews of Berenice," *AJP* 108 (1987), 495–510.

<sup>5</sup> Josephus, *Ant.* 16.160–78; cf. Dio, *Hist.* 66.7.2.

<sup>6</sup> *CPJ* 2.432; Josephus, *Bell.* 7.412; cf. 7.110–11.

<sup>7</sup> Josephus, *Bell.* 7.420–36; cf. Dio, *Hist.* 60.6.6.

<sup>8</sup> Josephus, *Bell.* 7.437–53; contrast Tacitus, *Hist.* 4.45.

<sup>9</sup> Dio, *Hist.* 68.1.2; cf. *BMCRE* Nerva 88, 98.

Judaism inspired by the Jewish Revolt.<sup>10</sup> Trajan continued efforts to restore a more balanced policy in the official treatment of Jews. For example, Greek perpetrators of attacks on Alexandrian Jews were prosecuted shortly before 113 and again in 115.<sup>11</sup> Under Trajan, however, Roman officials in Cyrenaica continued their practice of favoring other provincials over Jews in the surveying and redivision of state lands (see more fully below).

Second, the new imperial attitude after 66 created a legitimating climate for hostility toward Jews by other provincials. This hostility is most readily apparent in civic affairs. Some Jews had held citizenship and civic posts in the Hellenistic cities of Egypt and Cyrenaica before 66.<sup>12</sup> After 70, however, the status of Jews as defeated enemies of Rome offered a new pretext for local efforts to deprive Jews of these positions by legal or more violent means.<sup>13</sup> For example, the attacks by Greeks against Jews in Alexandria in the reign of Trajan seem to have been fostered by an expectation that the Roman prefect would grant immunity to the Greek perpetrators.<sup>14</sup> Less violent but nevertheless troublesome was the impact of the oppressive climate on daily business activities. This oppression is exemplified in the fees for water supplied to a synagogue and prayer house in Arsinoe in 113.<sup>15</sup> While other local businesses paid for this water on a basis approximating to actual usage, the Jewish institutions paid on the basis of a fixed fee and at a rate that was abnormally high.

In Egypt, local tensions were exacerbated by the mutual hostility expressed in the respective mythologies of Jews and Egyptians. Early in the Hellenistic period, the exodus story had already become a focus of Egyptian anti-Jewish rhetoric.<sup>16</sup> The war in Palestine in 66–73 promoted the success of this rhetoric with a wider audience.<sup>17</sup>

<sup>10</sup> Cf. anti-Jewish attitudes in Petronius, reprinted in *GLAJJ* 1 444; Tacitus, *Hist.* 5.1–2; *Ann.* 2.85; Dio, *Hist.* 66.15.4–5; 67.14.1–3; Suetonius, *Titus* 7.2, *Domit.* 12.2; Juvenal, *Sat.* 1.127–31; 6.542–7; 14.96–106; Eusebius, *HE* 3.17–20.

<sup>11</sup> *CPJ* 2.157–8, 435; M. Pucci Ben Zeev, “Greek Attacks against Alexandrian Jews during Emperor Trajan’s Reign,” *JSJ* 20 (1989), 31–48.

<sup>12</sup> E.g., Josephus, *Ant.* 12.119–28; 16.162; 18.159; *CJZC* 6, 7, 8, 36, 41; Applebaum, *Jews*, 175–90; J. Méléze-Modrzejewski, “How To Be a Jew in Hellenistic Egypt?,” in S. J. D. Cohen and E. S. Frerichs (eds.), *Diasporas in Antiquity* (Atlanta, 1992), 65–92; despite Kasher, *Jews*, ix, 312–13, 335–7; cf. 77–80, 86–8.

<sup>13</sup> Cf. Josephus, *Ant.* 12.119–28; *Bell.* 2.487–98; 7.100–11, 361–8, 407–21, 433–53.

<sup>14</sup> *CPJ* 2.157–8, 435; Pucci Ben Zeev, “Attacks,” 45–6.

<sup>15</sup> *CPJ* 2.432; W. Habermann, *Zur Wasserversorgung einer Metropole im kaiserzeitlichen Ägypten* (München, 2000), 131–48.

<sup>16</sup> E.g., Josephus, *Contra Ap.* 1.73–105; 228–52; cf. 1.304–11 and below.

<sup>17</sup> E.g., *CPJ* 2.157; 3.520; Tacitus, *Hist.* 2.2–5.4; Nicarchus, reprinted in *GLAJJ* 1 533; Philo of Byblos, reprinted in *GLAJJ* 1 329; Josephus, *Ant.* 2.177, 201–3; 3.265–8; *Contra Api.* (passim).

In Cyrenaica, Libyan incursions and Roman mismanagement of former Ptolemaic royal lands had impoverished tenant farmers, many of whom were Jewish descendants of military colonists settled on these lands by the Ptolemies.<sup>18</sup> Many of these Jewish tenant farmers were forced to relinquish their landholdings when they could not defend themselves against wealthier squatters from the Greek nobility in Cyrene. The plight of the remaining Jewish farmers took a desperate turn when the Cyrenean Jewish aristocracy was decimated in 73.<sup>19</sup> This decimation deprived Jewish farmers of their former advocates among the urban elite and led to the routine disregard of Jewish claims in the following decades. This turn of events confirmed the poverty of rural Jews and must have forced many of them to seek work in the cities.<sup>20</sup> There they swelled the ranks of urban Jews not yet adjusted to their own deterioration in status. The resulting economic distress at least partly explains why the later revolt of 116–17 erupted with such ferocity in Cyrene.

Third, the social dynamics within the Jewish communities in Egypt and Cyrenaica were radically altered by the war of 66–73 in Palestine. Even if inflated, the demographic figures provided by Josephus are witness to extreme convulsions in the composition of these communities: 97,000 enslaved Jewish captives from Palestine, many of whom were sent to Egypt; 60,000 Jews killed in Egypt, of whom 50,000 perished in Alexandria alone; and 5,000 Jews butchered in Cyrenaica, including “all” 3,000 landholding elite.<sup>21</sup> Insurgents and refugees who fled to Egypt and Cyrenaica must have numbered in the thousands. These violent demographic upheavals were compounded by economic stress, psychological trauma and other factors that immersed many Jews in anomie and bitterness.

The emergence of a new pool of Jewish leaders in Egypt and Cyrenaica who could galvanize the loyalties of the Jewish masses was inevitable because of the plunge in wealth and prestige of the older elite Jewish families in these regions. Many aristocratic families were crippled by factors that evolved during the revolt: the loss of many Jewish business contacts and increased strains on business relations with outsiders; new obstacles to advancement in civic and provincial administrations; the rupture of networks that formerly

<sup>18</sup> Josephus, *Contra Ap.* 2.44; Tacitus, *Ann.* 14.18; Strabo 17.3.21–2; Pliny, *HN* 19.15.38–40; Diodorus Sic., 3.49.1–5. For this and what follows, see J. Reynolds, “Cyrenaica,” *CAH*, 2nd ed., XI (2000), 550–2; J. Reynolds and J. A. Lloyd, “Cyrene,” *CAH*, 2nd ed., X (1996), 619–40; F. A. Mohamed and J. Reynolds, “An Inscribed Stone from the Sanctuary of Demeter and Kore in the Wadi Belgadir at Cyrene,” *Libyan Studies* 25 (1994), 211–17; and especially Applebaum, *Jews*, 202–20.

<sup>19</sup> Josephus, *Bell.* 7.437–46; Applebaum, *Jews*, 232–4.

<sup>20</sup> Cf. general tendency of migration to cities in Egypt; R. S. Bagnall and B. W. Frier, *The Demography of Roman Egypt* (Cambridge, 1994), 160–9.

<sup>21</sup> *Bell.* 2.487–93; 6.414–21; 7.369, 407–21, 433–53; *Vita* 424; cf. *Ant.* 2.203.

existed between wealthy Jews in these regions and the priestly and royal aristocracy in Judea; and challenges from within the Jewish community because of the previous benefits the older elite families had derived from supporting the Romans.<sup>22</sup> Nevertheless, some of the members of the Jewish elite almost certainly retained their earlier leadership roles by yielding to pressing psychological inducements in order to align themselves with the attitudes of other Jews. For example, after 66, many elite Jews may have been impelled toward apocalypticism by the increasingly intense alienation that they felt as a result of the new obstacles to their participation in Greek and Roman power structures.<sup>23</sup> In this way, they came to share a worldview that was already firmly rooted among the landless poor in Cyrenaica and the lower classes in Egypt.<sup>24</sup> The political and economic climate that developed after 66 thus dissolved many of the ideological barriers that had formerly distinguished social classes within Jewish communities.

A further impetus toward a more unified communal identity was the universality of the tax paid to the *fiscus Judaicus*.<sup>25</sup> Essentially, this tax was a cruel parody of pre-70 Jewish devotion to the Jerusalem Temple because it replaced the annual half-shekel offering that many Jews sent to the Temple with a tax directed toward the temple of Jupiter in Rome. Devotion to the Jerusalem Temple had never been universal among Jews in the pre-70 period. For example, ideological disagreements about the value of the Jerusalem Temple are implicit in Philo's complaint that some Jews in Egypt did not send the annual half-shekel offering (*Spec. Leg.* 1.153–5). Such disputes became trivial after 70. Receipts for the payment of the Jewish tax found in Upper Egypt demonstrate that even highly assimilated Jews distant from Palestine were not exempt from this frustrating humiliation.<sup>26</sup>

<sup>22</sup> Contrast before 73; e.g., Josephus, *Bell.* 2.114, 309; 6.114 (cf. *Ant.* 20.179, 189–96); 7.407–19, 433–50; *Ant.* 14.99–100, 127–39, 374–7; 15.320–2; 19.276–7, 297–8; 20.100–4, 147, 214; *Vita* 424–5; *CPJ* 2.418–20; Philo, *Flac.* 25–35.

<sup>23</sup> Possibly *Sib. Or.* 5; probably omit *Test. Job* (late Christian; see n. 65 below); *Test. Abraham* (probably much later); *Apoc. Elijah* (Christian; D. Frankfurter, *Elijah in Upper Egypt* [Minneapolis, 1993]). Cf. earlier Philo, *Legat.* 184–96, 261–75; *Wis. Sol.* 7.17–21. For analogy with other regions: 4 *Ezra*, 2 *Baruch*; *Apoc. Abraham*; *Sib. Or.* 4. See D. Frankfurter, “The Legacy of Jewish Apocalypses in Early Christianity,” in J. C. VanderKam and W. Adler, *The Jewish Apocalyptic Heritage in Early Christianity* (Minneapolis, 1996), 129–200, especially 142–6.

<sup>24</sup> E.g., Josephus, *Vita* 424; *Bell.* 7.437–50; Applebaum, *Jews*, 219–25.

<sup>25</sup> Cf. C. Salvaterra, “L'amministrazione fiscale in una società multi-etnica,” in L. Mooren, ed., *Politics, Administration and Society in the Hellenistic and Roman World* (Leuven, 2000), 287–348, especially 299–310; M. Goodman, “Nerva, the *Fiscus Judaicus* and Jewish Identity,” *JRS* 79 (1989), 40–4.

<sup>26</sup> *CPJ* II 160–229 and comments II, pp. 108, 116–18; cf. Salvaterra, “Amministrazione,” 295–310, on P. Carlsberg 421.

Consequently, Jews were thrust into a greater awareness of their own unique identity compared to others not subjected to the Jewish tax. The raw imperialism of the Jewish tax and its implicit parody of the Jerusalem Temple cult helped to consolidate this identity around revolutionary tendencies.<sup>27</sup> Possible evidence for this consolidation includes inscriptions testifying to the Jewish use of the imagery of the Jerusalem Temple cult during the revolt under Trajan.<sup>28</sup>

In summary, the Jewish war of 66–73 initiated a series of developments that contributed to a broad and unifying base of Jewish animosity toward outsiders on the eve of the revolt under Trajan. As in earlier periods, many Jews in Egypt and Cyrenaica must have accommodated themselves to the political realities; yet, at one and the same time, the forces and factors that encouraged Jewish unity in this context may have contributed to the broad scope of the revolt under Trajan.

#### C THE JEWISH REVOLT IN 116–117

Evidence for messianic pretensions among the leaders of the revolt suggests that they first consolidated their influence over the Jewish communities through appeal to apocalyptic hopes.<sup>29</sup> These leaders must have drawn support from a network of skilled tacticians because the initial phases of the revolt brought success on a considerable scale.

Recent research suggests revisions in the obscure chronology of the revolt.<sup>30</sup> Outbursts of violence in Alexandria in the summer and early fall of 115 that were once viewed as the beginnings of the revolt are now more effectively viewed in continuity with earlier episodes in pre-existing ethnic conflicts.<sup>31</sup> The revolt itself probably did not begin until the spring of 116, when Jews in Mesopotamia rose against troops attempting to confirm

<sup>27</sup> Similarly, Strabo, 17.1.53; Josephus, *Ant.* 18.2–10; *Bell.* 2.117–18; Tacitus, *Ann.* 6.41; Dio, *Hist.* 62.2.1–3.3.

<sup>28</sup> Applebaum, *Jews*, 234–7; *CJZC* 26, 30; but cf. 3–5, 42; R. Hachlili, *Ancient Jewish Art and Archaeology in the Diaspora* (Leiden, 1998), 312–44.

<sup>29</sup> Eusebius, *HE* 4.2.1–5; less likely *CPJ* 2.158; W. Horbury, “The Beginnings of the Jewish Revolt under Trajan,” in H. Cancik, H. Lichtenberger, and P. Schäfer (eds.), *Geschichte–Tradition–Reflexion* (Tübingen, 1996), 1 283–304; M. Hengel, “Messianische Hoffnung und politischer ‘Radikalismus’ in der ‘jüdisch-hellenistischen Diaspora,’” in D. Hellholm (ed.), *Apocalypticism in the Mediterranean World and the Near East* (Tübingen, 1989), 655–86.

<sup>30</sup> T. D. Barnes, “Trajan and the Jews,” *JJS* 40 (1989), 131–58. Cf. A. Fuks, “Aspects of the Jewish Revolt in AD 115–117,” *JRS* 51 (1978), 98–104; E. M. Smallwood, *The Jews under Roman Rule* (Leiden, 1976), 389–427.

<sup>31</sup> *CPJ* 2.158, 435; despite Horbury, “Beginnings,” 284–95, who partly agrees. See M. Pucci (Ben Zeev), “*CPJ* 2.158, 435 e la rivolta ebraica al tempo di Traiano,” *ZPE* 51 (1983), 95–103; *idem*, “Attacks,” 31–48.

Roman control of the region after Trajan's initial victories during his war against the Parthians.<sup>32</sup> Possibly in response to, or even in concert with, the Jewish uprising in Mesopotamia, Jews in Cyrenaica mobilized a campaign of terror and marched on Egypt. By the late summer of 116, they had been joined by Jews from all over Egypt and Cyprus. Previous deployments of Roman troops from these areas to the Parthian campaign had reduced the size of local Roman garrisons to as little as half the strength they had in earlier decades,<sup>33</sup> and this fact helps to explain the relative impunity with which Jews carried out their initial onslaught.

Evaluating the scope of the Jewish successes is difficult. Figures provided in ancient sources suggest that as much as 30 percent of the population of Cyrenaica was slaughtered during the revolt, but variations in the extent of the destruction from one location to another cast doubt on this estimate.<sup>34</sup> Similar figures that ancient sources provided for Cyprus also need to be evaluated with a healthy skepticism.<sup>35</sup> Losses among Roman troops in Egypt reached 30–40 percent of some units, but census returns do not register a major demographic rupture in the overall population of Egypt.<sup>36</sup> In spite of these ambiguities, the staggering scope of the insurrection is well attested in both Cyrenaica and Egypt. A partial list of structures damaged or destroyed in and around the city of Cyrene alone includes the Augusteum, agora, basilica, gymnasium, bath complex, civic archive, theater, road to Apollonia, and temples to Zeus, Hecate, the Dioscuri, Apollo (major temple and smaller shrines), Artemis, Isis, Demeter, and Asklepios (at nearby Balagrae).<sup>37</sup> The symbolic associations of these structures suggest that Jewish hostility was directed especially toward the Gentile civic and religious institutions most easily identified with Jewish oppression. Evidence from other sites is less extensive but indicates similar targets.<sup>38</sup> In addition, agricultural hinterlands also suffered from Jewish ravages and subsequent military engagements. Even decades afterwards, many farmlands had not yet been restored to full production.<sup>39</sup>

<sup>32</sup> Dio, *Hist.* 68.29.3—33.3; Eusebius, *HE* 4.2.1–5; Orosius, *Hist.* 7.12.6–8.

<sup>33</sup> A. Kasher, "Some Comments on the Jewish Uprising in Egypt in the Time of Trajan," *JJS* 27 (1976), 145–58.

<sup>34</sup> Dio, *Hist.* 68.32.2; Orosius, *Hist.* 7.12.6–7; A. Laronde, *Cyrene et la Libye hellénistique Libykai historiai de l'époque républicaine au principat d'Auguste* (Paris, 1987), 342.

<sup>35</sup> Dio, *Hist.* 68.32.2; Orosius, *Hist.* 7.12.8.

<sup>36</sup> *PSI* 9.1063 (*C. Mil. Rec.* 74); *BGU* 1.140 (*Cbr. Mitt.* 373); cf. *C. Epist. Lat.* 149; Kasher, "Comments," 156–8; Bagnall and Frier, *Demography*, 53–5, 173–8.

<sup>37</sup> *CJZC* 17–23 and pp. 23–4; J. Reynolds, "Cyrenaica," *CAH* 2nd ed., x1 (2000), 547–58; André Laronde, "La Cyrénique romaine, des origines à fin des Sévères," *ANRW* 11 10.1 (1988), 1006–64, especially 1034–57.

<sup>38</sup> For a survey, see M. Pucci, *La Rivolta Ebraica al Tempo di Traiano* (Pisa, 1981).

<sup>39</sup> *CPJ* 2.442, 443, 446, 449; prob. 2.444, 447; cf. Orosius, *Hist.* 7.12.6–7.



Jewish disruption of grain shipments was particularly ominous because it imperiled the stability of the entire empire.<sup>40</sup> Therefore, late in 116, Trajan was compelled to divert troops under Q. Marcius Turbo from the Parthian front to suppress the uprising.<sup>41</sup> This diversion decisively frustrated Trajan's ambitions in Parthia. In response, he appears to have charged Turbo with the extermination of all Jews in the affected areas.<sup>42</sup> The procedural foundation for this decision is implied in the phrase "impious Jews" (*anosioi Ioudaioi*) used by Roman officials to refer to the insurgents, which echoes terminology associated with the crime of treason (*crimen maiestatis*).<sup>43</sup> The typical sentence for treasonable crimes was annihilation and confiscation of property, often followed by *damnatio memoriae*.<sup>44</sup> In keeping with this sentence, Trajan established a new "Jewish account" to register land formerly owned by Jews.<sup>45</sup>

Turbo found willing allies when he arrived in Egypt late in 116 or early in 117. Anti-Jewish sentiments already resident in Egyptian mythology were now fueled both by the exigencies of war and by the legitimating power of imperial decree.<sup>46</sup> This anti-Jewish sentiment would have motivated indigenous Egyptians to join zealously in mob violence against Jews. Native Egyptians and Greeks also had more formal avenues for wreaking their vengeance because many of them had been conscripted into the army after the devastating losses suffered by Roman military units during the initial phases of the revolt.<sup>47</sup> Furthermore, Roman soldiers from the humiliated units would have been eager to restore their honor and to exact retribution for their fallen comrades. Therefore, when the beleaguered forces in Egypt were joined by a large body of seasoned Roman troops eager to vindicate the glory of the Roman people (*maiestas populi Romani*), the

<sup>40</sup> *CPJ* 2.439, 441; Appian, reprinted in *GLAJJ* 11 185–6, 348; Dio, *Hist.* 68.32.2–3; Eusebius, *HE* 4.2.3; Orosius, *Hist.* 7.12.8; cf. Tacitus, *Ann.* 2.59.

<sup>41</sup> Eusebius, *HE* 4.2.3; *Hist. Aug.* Hadrian, 5.8; P. Heid. Lat. 7; R. Seider, "Eine Heidelberger Lateinische Militärkunde," *ZPE* 29 (1978), 241–51.

<sup>42</sup> Appian, *BC* 2.90.380; Arrian, reprinted in *GLAJJ* 11 152–5, 332a; *PT Suk.* 5.1, 55b; cf. Eusebius, *HE* 4.2.5.

<sup>43</sup> *CPJ* 2.438, 443; cf. 2.157, 158; P. Mich. 8.478; Florus, *Epitoma* 1.40.30; Méléze-Modrzejewski, *Jews*, 207–22; idem, "Ιουδαῖοι ἀφαιρεθημένοι," *Symposion* 1985, ed. G. Thür (Cologne, 1989), 337–61; but Trajan, not Hadrian, is implicated by dates of *CPJ* 2.438; P. Mich. 8.478; *SEG* 17.584; possibly *Sammelbuch* 10.10502.

<sup>44</sup> E.g., *Dig.* 48.4.1–11; cf. similar penalties in *Gnomon of Idios Logos* 36–7 (*BGU* 5.1210.101–8); *Chrest. Wilck.* 13.

<sup>45</sup> P. Köln 2.97; *Sammelbuch* 12.10892, 10893; *CPJ* 2.445, 448; 3.454; P. Giess. 4 (*Chrest. Wilck.* 351); probably *CPJ* 3.458, 468; possibly 459; Méléze-Modrzejewski, "Ιουδαῖοι," *passim*; A. Swiderek, "Ιουδαϊκός λόγος," *JJP* 16/17 (1971), 45–62. Hadrian only modified policies on this land; cf. above note.

<sup>46</sup> D. Frankfurter, "Lest Egypt's City be Deserted," *JJS* 43 (1992), 203–20.

<sup>47</sup> *CPJ* 2.438, 439, 450; cf. possibly *BGU* 11.2085.

result could only have been unmitigated savagery. From this point on, every sector of the population of Egypt considered it a duty to participate in the emerging anti-Jewish violence. For this reason, analogy with the Holocaust cannot justify assumptions of Jewish survivors.

The campaign of ethnic cleansing appears to have been a devastating success. A gap in the extant evidence for Jews in Cyrenaica confirms that the area was essentially emptied of Jews by their migration into Egypt and the subsequent Gentile massacres of stragglers.<sup>48</sup> Few if any Jews survived anywhere in Cyprus.<sup>49</sup> Papyri and inscriptions testify to the annihilation of entire Jewish communities in many parts of Egypt.<sup>50</sup> Only in remote areas on the fringes of Roman control could any Jews have remained alive in the affected regions.

It is unlikely that any Jews remained in Alexandria after the war ended in the late summer of 117. The older views of Tcherikover and others, who posited the survival of a sizable Jewish remnant in Alexandria, rest almost entirely on a single text (*CPJ* 11 158) mistakenly thought to depict a Jewish embassy from Alexandria to the Emperor Hadrian in Rome in 119–20.<sup>51</sup> It now appears more likely that the text refers to an embassy sent to Trajan in Antioch before the revolt began.<sup>52</sup> Furthermore, papyrological evidence now more clearly suggests that the Roman garrison assigned to Alexandria suffered a number of setbacks during the Jewish onslaught in the summer of 116.<sup>53</sup> Any doubts about the ferocity that this onslaught would have elicited from the Roman troops after they had regained the upper hand are quickly dispelled when one takes into account the sources indicating that the Roman recovery of the city was aided by enraged Greeks who had fled to Alexandria to escape Jewish assaults in other parts of Egypt.<sup>54</sup> Even on the tenuous assumption that some Alexandrian Jews might have survived the brutal restoration of order in the city, it is unlikely that they could have escaped mob violence and official reprisals during the rest of the war or execution by Hadrian.<sup>55</sup> Evidence for vast tracts of confiscated Jewish land in various parts of Egypt suggests that the landholding Jewish aristocracy of Alexandria and other cities was not exempted from capital punishment.<sup>56</sup> The only Alexandrian Jews who might possibly have survived were refugees who had escaped to other regions at the very beginning of the revolt.<sup>57</sup>

<sup>48</sup> Dates in H. Z. Hirschberg, *A History of the Jews in North Africa* (Leiden, 1974), 138, are incorrect; see *CJZC* 41–69. The Hebrew inscription is fifth century or later; cf. *JLWE* 1.118, 129a, 183; *JIGRE*, p. 205.

<sup>49</sup> Dio, *Hist.* 68.32.3. <sup>50</sup> See below, 63–4. <sup>51</sup> *CPJ* 1, pp. 88–93; 11, pp. 87–99.

<sup>52</sup> Pucci, “*CPJ* 11 158, 435,” passim; idem, “Attacks,” 31–40. *Contra* C. Haas, *Alexandria in Late Antiquity* (Baltimore, 1997), 91–127.

<sup>53</sup> P. Mich. 8.477–8; cf. P. Mich. 8.471; Appian, *BC* 2.90.380; *Sammelbuch* 5.8774; 8.9863.

<sup>54</sup> Eusebius, *HE* 4.2.2–3; Orosius, *Hist.* 7.12.7–8.

<sup>55</sup> Cf. *Hist. Aug.* Hadrian 5.1–3; Syncellus, *Chron.* 348d. <sup>56</sup> Swiderek, “λόγος,” 60.

<sup>57</sup> Méléze-Modrzejewski, *Jews*, 227–31. Cf. *JIGRE* 141, 145–6, 148–51, though perhaps much later. On Smallwood, *Jews*, 516–19, see *JIGRE*, p. 214.

## D FROM DESOLATION TO THE BEGINNING OF RECOVERY

Jewish history in Cyrenaica was suspended by the revolt. Some possible evidence of Jewish farmers might appear in rural Marmarika (formerly part of Cyrenaica) at the end of the second century.<sup>58</sup> However, a significant Jewish presence does not seem to have been re-established in Cyrenaica until the fourth century.<sup>59</sup>

The situation is not appreciably different in Egypt. No Jewish inscriptions can be dated with certainty between 117 and the early fourth century.<sup>60</sup> The few papyri from Egypt that mention Jews before the end of the third century nearly all attest to isolated individuals and solitary families, not communities.<sup>61</sup> The Faiyum once had thriving Jewish communities, but tax records from Karanis in the middle of the second century list only one Jew among a thousand adult males.<sup>62</sup> At Edfu in Upper Egypt, approximately seventy receipts for the Jewish tax were discovered, dating to the period 71/2–116.<sup>63</sup> None has been found at this site dating after 116.<sup>64</sup>

In the absence of any significant Jewish community in Egypt for the remainder of the second century, the social mechanisms necessary for the production and transmission of literature by Jews in Egypt are entirely lacking. Most (if not all) of the Jewish literature that appears in Egypt between 117 and the end of the second century was originally written in earlier periods (as, for example, in the case of biblical texts).<sup>65</sup> Because both the physical

<sup>58</sup> *CJZC* 77.

<sup>59</sup> *SEG* 37.1702 (31.1578b); Procopius, *Aed.* 6.2.21–3; Synesius, *Epist.* 5–6. Cf. P. W. van der Horst, “Lord Help the Rabbi,” *JJS* 38 (1987), 101–6.

<sup>60</sup> Possibly third century but likely fourth: *JIGRE* 118, 131 (cf. Hachlili, *Art.* 316); fourth–sixth centuries: *JIGRE* 119–20, 131, 133 (cf. *JWE* 1.46, 48, 50, 53, 82, 101, 118, 183); sixth–seventh centuries: *JIGRE* 15, 16, 127 (cf. *CIJ* 964), probably 17 (cf. 16); date uncertain: *JIGRE* 19, 21. From outside of Egypt, probably fourth–fifth centuries: *JIGRE* 142–4, 147; see note 57 on *JIGRE* 141, 145–6, 148–50.

<sup>61</sup> P. Petaus. 126; *CPJ* 3.451, 453, 455. Possible: *CPJ* 3.461, 463–6, 469–71, 475–80 (unless Christian or otherwise). Dubious, *CPJ* 3.516 (perhaps confiscated lands). Uncertain second-century date: *CPJ* 3.452b, 457b, 515. Pre-117: *CPJ* 3.452a; P. Stras. 5.361; 7.609; original of *CPJ* 3.519 (see A. Kerkeslager, “Maintaining Jewish Identity in the Greek Gymnasium,” *JSJ* 28 [1997], 16–33). Roman and/or Christian: *CPJ* 3.462, 472, 474. Possible community in *CPJ* 3.467; certain in 3.473 (dated 291). No living Jews in *GLAJJ* 470b (cf. Tell el-Yehoudieh).

<sup>62</sup> *CPJ* 2.460.

<sup>63</sup> *CPJ* 2.160–229; *Sammelbuch* 18.14009 (cf. 14010); possibly *Sammelbuch* 18.14011.

<sup>64</sup> Cf. Méléze-Modrzejewski, *Jews*, 215.

<sup>65</sup> E.g., J. van Haelst, *Catalogue papyrus littéraires juifs et chrétiennes* (Paris, 1976), 29, 32–33, 409–12; cf. mss. in W. Clarysse, *Leuven Database of Ancient Books*, <<http://ldab.arts.kuleuven.ac.be>>. Probably later in the early third century are *Test. Abraham* (but date uncertain); *Sib. Or.* 12 (if Jewish); probably fourth-century Christian is *Test. Job*, as I will

buildings and living communities that had formerly preserved this literature were destroyed, it probably owes its presence in Egypt to circulation outside Egypt before 117 and subsequent reintroduction into Egypt by Christians.<sup>66</sup>

One corollary of these observations is that efforts to detect direct social continuities between Judaism in Egypt before 117 and later Egyptian Christianity must be greeted with extreme skepticism.<sup>67</sup> Occasionally it is pointed out that Sethian and Philonic traditions that were popular among Christians in Egypt after 117 might have developed first among Jews in Egypt before 117.<sup>68</sup> From this observation, it is sometimes concluded that Christian Jews or non-Christian Jews who held Sethian and Philonic notions may have survived the revolt and contributed to the re-emergence of Christianity in Egypt after 117. However, evidence for the use of these traditions in other regions before 70 indicates that they could have been adopted by Christians almost anywhere in the Roman world before their reappearance in Egypt after 117.<sup>69</sup> Hence, it is much easier to believe that Sethian Jews, Philonic Jews, and Christian Jews in Egypt simply perished along with other Jews in the revolt and that their ideas were reintroduced into Egypt from other regions after 117.

This observation suggests a convincing alternative to Walter Bauer's famous argument that the relative paucity of evidence for Christianity in Egypt in the first two centuries should be explained by the suppression of its "heretical" origins by later "orthodox" Christians.<sup>70</sup> A more cogent explanation is that most Christians in Egypt, including Gentile Christians, quite simply did not survive the revolt. On the eve of the revolt under Trajan, standard Roman policies that distinguished between various ethnic groups for taxation and other legal purposes were applied in distinguishing Jews (properly "Judeans") from non-Jews who had adopted the notion that outsiders viewed as "Jewish superstition."<sup>71</sup> However, fine

argue in a separate study. Omit *Joseph and Aseneth* and *3 Baruch* (both assume topography and climate typical of Syria-Palestine, not Egypt).

<sup>66</sup> Probably, e.g., P. Oslo 2.14 (*Sib. Or.* 5); P. Oxy. 1173 (Philo).

<sup>67</sup> Contrast, e.g., Attila Jakab, "Le Judaïsme hellénisé d'Alexandrie depuis la fondation de la ville jusqu'à la révolte sous Trajan," *Henoch* 21 (1999), 147–64.

<sup>68</sup> E.g., *Euangnostos the Blessed; Three Steles of Seth; Zostrianus*; possibly *Apocryphon of John*. See R. van den Broeck, "Juden und Christen in Alexandrien im 2. und 3. Jahrhundert," in J. van Amersfoort and J. van Oort (eds.), *Juden und Christen in der Antike* (Kampen, 1990), 101–115; B. A. Pearson, *Gnosticism, Judaism, and Egyptian Christianity* (Minneapolis, 1990).

<sup>69</sup> Josephus, *Ant.* 1.18–26 and Loeb notes; 1.67–71; 18.259–60; cf. John 1:1–18; Acts 18:24–8; 1 Cor. 2:6–3:6; Gal. 4:21–5:1; Hebrews, *passim*.

<sup>70</sup> W. Bauer, *Orthodoxy and Heresy in Earliest Christianity*, 2nd ed. (Philadelphia, 1971).

<sup>71</sup> Tacitus, *Ann.* 15.44; Suetonius, *Nero* 16; *Dom.* 12.2; Pliny, *Ep.* 10.96–7; cf. Salvaterra, "Amministrazione," 302–10, on P. Carlsberg 421. But note ambiguities: Tacitus, *Ann.* 13.32; and Suetonius, *Claud.* 25.4.

distinctions in legal status would not have prevented Gentile Christians from being lynched and formally executed as Jewish sympathizers during the revolt.<sup>72</sup> The devastating impact of the war on the Christian communities of Egypt is suggested by their dismal failure to preserve the literature that they certainly must have produced before the revolt and by the rupture in the production of Christian literature in Egypt that followed in the wake of the revolt. No certifiably Christian texts written in Egypt survive from the period before 117.<sup>73</sup> Most Christian texts known to have been used in Egypt even after 117 and up to the end of the second century originated outside Egypt.<sup>74</sup> In addition, some early Christian texts often attributed to Egypt probably should be assigned a provenance outside Egypt.<sup>75</sup> These points suggest that the Christianity that emerged in Egypt after 117 must have been essentially a new development fostered by missionaries from Syria, Asia Minor, and other regions.<sup>76</sup> In effect, early Christian movements that may have gained large followings in Egypt (e.g., Naasenes [Ophites], Basilideans, Valentinians, Carpocratians, et al.) did not actually emerge in Egypt until after 117.<sup>77</sup> Because these new movements were not constrained by a heritage in pre-117 Jewish Christian communities in Egypt or any notable influence from the few surviving Jews in the region, they were more comfortable than their predecessors with their own native Egyptian traditions mediated through Egyptian priest-healers and other indigenous religious specialists.<sup>78</sup> The resulting innovations (once called “Gnostic”) were deemed “heretical” by outsiders, but in reality they were essentially highly indigenized forms of Gentile Christianity.

<sup>72</sup> Compare Sulpicius Severus, *Chron.* 2.30.6–7 (reprinted in *GLAJJ* 11 64–7, 282).

<sup>73</sup> Hebrews is possibly by an Alexandrian Jew but not from Egypt; P. Oxy. 42.3057 is not certainly Christian and not a literary text. *Apocryphon of James* is after 117.

<sup>74</sup> E.g., NT texts (including conflation; P. Egerton 2); *Shep. Hermas* (Rome); Irenaeus, *Adv. Haer.* (Gaul/Italy); *Gos. Thomas* (Syria); *Gos. Hebrews* (Syria or Palestine; cf. Semitisms and Hegesippus); apocryphal *Gos. Egyptians* (Syria; cf. *Gos. Thomas*). See C. H. Roberts, *Manuscript, Society and Belief in Early Christian Egypt* (London, 1979).

<sup>75</sup> From Egypt is *Apocryphon of James*; possibly also *Gospel of Truth* and *Secret Gospel of Mark*; much less likely *Epistle of Barnabas*, *Preaching of Peter*, Greek *Apocalypse of Peter*; but almost certainly not 2 *Clement*; *Epistula Apostolorum*. With reservations, see H. Koester, *History and Literature of Early Christianity*, 2nd ed. (New York, 2000), 225–43; C. W. Griggs, *Early Egyptian Christianity* (Leiden, 1990), 13–78; B. A. Pearson and J. E. Goehring (eds.), *The Roots of Egyptian Christianity* (Philadelphia, 1986), especially 132–59, 161–75.

<sup>76</sup> E.g., Basilides, possibly from Syria-Palestine after 135 (cf. Eusebius, *HE* 4.7.3–9); apocalypticism from Asia Minor in Frankfurter, “Legacy,” 132–70.

<sup>77</sup> Possibly even after 135; e.g., Eusebius, *HE* 4.7.3–8.4; Hippolytus, *Haer.* 5.1–6; and Irenaeus, *Haer.* 1.30.1–15.

<sup>78</sup> Frankfurter, “Legacy,” 146–70.

An adequate appreciation for the extent of the destruction of the Jewish communities of Egypt also requires a rejection of Tcherikover's anachronistic view that these communities, now chastened by the revolt for their earlier infatuation with Gentile ways in the Diaspora, acknowledged the superiority of Jewish orthodoxy as it was evolving in the rabbinic movement in Palestine.<sup>79</sup> Tcherikover recognized that the Palestinian traditions appearing in the Jewish communities of Egypt after 117 were partly derived from immigrants from Palestine. It now appears, however, that immigration must in fact bear the entire weight in any explanation of the rebirth of Judaism in Egypt. The few isolated and impoverished Jews who might have survived the revolt could hardly have multiplied faster than the zero growth rate typical of the general population.<sup>80</sup>

Jewish immigration after 117 was initially unwelcome. Greeks at Oxyrhynchus were still commemorating the Roman victory of 117 almost a century later.<sup>81</sup> The copying of literary texts that portrayed Jews as paradigmatic enemies continued much longer.<sup>82</sup> In all likelihood, it was the simple progress of generations, perhaps aided by the extension of Roman citizenship to Jews along with other provincials in 212, that diminished native antagonism sufficiently to make Egypt and Cyrenaica receptive to Jewish immigration once again.

Shipping routes would have favored Alexandria as a potential site for the emergence of a wholly reconstituted community of Jewish immigrants. However, no certain evidence exists of a significant Jewish community in Alexandria in the early third century.<sup>83</sup> Even the writings of Clement that are witness to his extensive use of Jewish sources from earlier periods provide little evidence of actual contact with Jews before his departure from Alexandria.<sup>84</sup> The one Jewish teacher with whom he had contact was a Christian and an immigrant from Palestine.<sup>85</sup> Origen's commentaries testify to frequent dealings with Jews, but most of this interaction dates

<sup>79</sup> *CPJ* 1, pp. 101–11, imposing a model of history after the Holocaust.

<sup>80</sup> Bagnall and Frier, *Demography*, 53–5, 81, 173–8.

<sup>81</sup> *CPJ* 2.450. <sup>82</sup> *CPJ* 2.154–8; 3.520.

<sup>83</sup> Despite Haas, *Alexandria*, 91–127. *Dial. Tim. Aquila* is late and problematic; J. Z. Patis, "Representations of Jews and Judaism in the 'Dialogue of Timothy and Aquila,'" PhD diss., University of Pennsylvania (1994). *Disp. Jason Pap.* may be non-Alexandrian (Aristo of Pella), not from Alexandria (cf. Palestinian Jew in Ephesus in Justin, *Dial.*), and a mere foil (Tertullian, *Ans. Jews* 1; Origen, *Cels.* 4.52; Eusebius, *HE* 4.6.3; Maximus Confessor, *Comm. Dion. Areop.* 1.243. A spurious projection of a later reality is *Hist. Aug. Quad. Tyr.* 7:4–8:10 (*GLAJJ* 527).

<sup>84</sup> J. C. Paget, "Clement of Alexandria and the Jews," *SJT* 51 (1998), 86–97; see Clement, *Strom.* 1.11.2; possibly 1.153.1; 1.154.1; 2.2.1. Clement's *Judaizers* is post-Alexandrian; Eusebius, *HE* 6.13.3 (cf. 6.8.7; 6.11.1–3).

<sup>85</sup> *Strom.* 1.11.2. Is this Pantaenus? Cf. Eusebius, *HE* 5.10.1–11.5.

after his permanent removal to Caesarea in 231.<sup>86</sup> None of his works provides certain evidence of contact with Jews before his earlier flight to Caesarea in 215. It is therefore difficult to determine whether Jews mentioned in works he produced in Alexandria between 215 and 231 lived in Caesarea, Alexandria, or elsewhere.<sup>87</sup> If any of the Hebrew that he acquired was learned while still in Alexandria, one would have possible evidence for the presence in Alexandria of one or more Jewish immigrants from Palestine.<sup>88</sup>

By the end of the third century, however, the evidence that Jewish immigrants had firmly re-established communities in Egypt is unambiguous. A papyrus text from Oxyrhynchus in 291 testifies both to an active synagogue and to the Palestinian origins of one of its officials.<sup>89</sup> The tide of immigration from Palestine almost certainly intensified after this point, as is suggested by the frequency of Jewish funerary inscriptions, letters, legal documents, liturgical poetry, and magical spells in Hebrew and Aramaic from the fourth and fifth centuries.<sup>90</sup> Additional evidence of a demographic shift in the fourth and fifth centuries appears in the re-establishment of a Jewish population in Cyrenaica, which seems to have been settled by immigrants from Palestine and from the immigrant communities simultaneously being established in Egypt.<sup>91</sup>

The renewed Jewish communities in Egypt and Cyrenaica quickly became integral elements of their cultural environments. Many of the sources produced by these communities attest to a knowledge of Greek, although it is often permeated with semitisms or indicates direct translation from a Semitic original.<sup>92</sup> Furthermore, healing and other basic human

<sup>86</sup> N. R. M. de Lange, *Origen and the Jews* (Cambridge, 1976), 20–8; cf. R. Brooks, “Straw Dogs and Scholarly Ecumenism,” in C. Kannengiesser and W. L. Peterson (eds.), *Origen of Alexandria* (Notre Dame, 1988), 63–95.

<sup>87</sup> De Lange, *Origen*, 8–9, 25–28, 132, and notes.

<sup>88</sup> De Lange, *Origen*, 20–3; E. Ulrich, “Origen’s Old Testament Text,” in *Origen of Alexandria*, 3–33.

<sup>89</sup> *CPJ* 3.473.

<sup>90</sup> *JIGRE* 118 (unless third-century), 119, 133; C. Sirat et al., *Les Papyrus en caractères Hébraïques trouvés en Égypte* (Paris, 1985), 22, 92–126; F. Klein-Franke, “A Hebrew Lamentation from Egypt,” *ZPE* 51 (1983), 80–4; perhaps parts of later *Sepher ha-Razim*. Note especially P. Cologne 5853; Sirat, *Papyrus*, 23. See C. Sirat et al., *La Ketouba de Cologne* (Opladen, 1986). But note I. F. Fikhman, “Les Juifs d’Égypte à l’époque byzantine d’après les papyrus publiés depuis la parution du *CPJ* 3,” *SCI* 15 (1996), 223–9.

<sup>91</sup> Synesius, *Epist.* 5–6; probably also *SEG* 37.1702. Cf. above on Hirschberg, *History*, 1: 38.

<sup>92</sup> E.g., *Test. Abraham* (date uncertain); P. Egerton 5; *JIGRE* 15, 17, 127, 134; cf. P. W. van der Horst, “Neglected Greek Evidence for Early Jewish Liturgical Prayer,” *JSJ* 29 (1998), 278–96; in Cyrenaica, *SEG* 37.1702.

needs guaranteed a vigorous traffic in ritual power (“magic”) between these communities and the non-Jews around them.<sup>93</sup> Nevertheless, integration with the surrounding culture did not eliminate their distinctive features, nor did it eliminate the potential for renewed hostility toward Jews in these communities, as demonstrated by a pogrom in Alexandria in 414/5.<sup>94</sup>

#### E CONCLUSION

The Jewish communities that emerged in Egypt and Cyrenaica after 117 had no significant continuities with their predecessors in these regions because their predecessors had, to a very large extent, been eradicated from history. In time, however, the immigrant communities that reappeared in these geographical locations developed their own vibrant forms of communal life.

## II THE JEWS IN CARTHAGE AND WESTERN NORTH AFRICA, 66–235 CE

CLAUDIA SETZER

Recent works on Diaspora Judaism have said little about western North Africa. The physical remains for this early period are meager compared to the richness of evidence from Egypt and Cyrenaica. The earliest extant synagogue, at Hammam-Lif, dates from the late fourth or early fifth century. Y. Le Bohec gathers about a hundred Jewish inscriptions from this area in the Roman period (most of them later than 235), noting that they represent a tiny portion of the total of 50,000 inscriptions from the Roman provinces. Yet a Jewish presence in Carthage and the surrounding area is attested by three sets of materials: inscriptions and archaeological remains, scattered references in rabbinic literature, and references to Jews and their practices (as well as judaizing) in Christian North African writers.<sup>95</sup>

<sup>93</sup> E.g., R. Kotansky, *Greek Magical Amulets* (Opladen, 1994), part 1, nos. 59, 60; *PGM* 4.850–929; 7.619–27; 22b.1–26; et al.

<sup>94</sup> Socrates Scholasticus, *HE* 7.13; cf. P. Herm. 52–3.

<sup>95</sup> An earlier generation of scholars, notably W. H. C. Frend, J. Danielou, and G. Quispel, argued that earliest North African Christianity grew out of Judaism or Jewish Christianity. Others, such as C. Aziza and Y. Baer, argue for significant contact between Jews and Christians. Many, including T. D. Barnes and J. Rives, are now skeptical of these proposals. A cogent summary of the evidence and discussion appears in H. Solin, “Juden und Syrer im westlichen Teil der römischen Welt: eine ethnisch-demographische Studie mit besonderer Berücksichtigung der sprachlichen Zustände,” *ANRW* 11 29.2 (1983), 587–789; and J. Rives, *Religion and Authority in Roman Carthage from Augustus to Constantine* (Oxford, 1995), 214–23.



## A INSCRIPTIONS AND ARCHAEOLOGICAL EVIDENCE

The earliest evidence of Jews in Carthage and the surrounding area appears in inscriptions dated to the second century. Although some have suggested that Jews were there as early as the Punic period, there is no archaeological evidence or literary reference before the second century to support the idea.<sup>96</sup>

A Jewish necropolis, tentatively dated to the third century, was described over a hundred years ago by Fr. A.-L. Delattre at Gamart, north of Carthage.<sup>97</sup> A French military cemetery now covers much of it, but drawings of the necropolis are reproduced in several places.<sup>98</sup> Delattre reports finding 103 chambers with 15–17 loculi each, providing space for as many as 1500 burials. He subsequently found two more chambers, and J. Ferron found three more.<sup>99</sup> The Jewishness of the catacombs at Gamart is attested by the presence of Hebrew as well as Jewish symbols like the *menorah*, *shofar*, *lulav*, and *etrog*.<sup>100</sup> Numerous lamps decorated with menorahs, as well as ceramic vessels and painted tiles, were also found in the catacombs. The size of the necropolis suggests a relatively populous

<sup>96</sup> The tenth-century Josippon says Titus settled 30,000 Jews in Africa after the defeat of 70, deporting them to work the estates. Ibn Khaldun, the fourteenth-century Muslim writer, says he encountered Berber tribes who had converted to Judaism, leading M. Simon to speculate that Zealots from Palestine converted the Berber tribes during the Severan period: "Le Judaïsme Berbère en L'Afrique Ancienne," in *Recherche d'Histoire judéo-chrétienne* (Paris, 1962), 30–87. A. Chouraqui cites early legends from Josephus that the Berbers are Canaanites: *Between East and West: A History of the Jews of North Africa* (Philadelphia, 1968). Josephus reports that Jews are associated with the founding of Carthage: *Contra Ap.* 2.16. All these suggestions are tantalizing, but remain speculative.

<sup>97</sup> Delattre published his findings piecemeal in several issues of *Le Cosmos* and *Missions Catholiques*, as well as a pamphlet, *Gamart ou la nécropole juive de Carthage* (Lyon, 1985). These sources are difficult to obtain, but Delattre's results are summarized by de Vogüé in *RArch* 13 (1889) 163–86, and E. Goodenough, *Jewish Symbols in the Greco-Roman Period*, 11 (New York, 1953), 63–8.

<sup>98</sup> At least one catacomb was still open in 1996. Delattre's drawings appear in Y. Le Bohec, "Les Sources archéologiques du Judaïsme Africain sous l'empire Romain," in C. Iancu and J.-M. Lassere (eds.), *Juifs et Judaïsme en Afrique du Nord dans L'antiquité et le haut Moyen-Age* (Montpellier, 1985), 13–55; R. Hachlili, *Ancient Jewish Art and Archaeology in the Diaspora* (Leiden, 1998), 265; and Goodenough, *Jewish Symbols*, 111 figs. 865–6.

<sup>99</sup> A.-L. Delattre, *RevTun.* 11 (1904), 187–191; J. Ferron, *Cahiers de Byrsa*, 1 (1951), 175–206, and VI (1956), 105–17.

<sup>100</sup> R. Kraemer delineates the problem of identifying who is a Jew in inscriptions: "On the Meaning of the Term 'Jew' in Greco-Roman Inscriptions," *HTR* 82 (1989), 35–53, and "Jewish Tuna and Christian Fish: Identifying Religious Affiliation in Epigraphic Sources," *HTR* (1991), 141–62.

community that, at least in death, was recognizably distinct from the rest of the population.<sup>101</sup>

Y. Le Bohec published a valuable set of articles in the mid-1980s, gathering and evaluating inscriptions and onomasticons from Roman North Africa.<sup>102</sup> While many inscriptions are difficult to date, he cites fourteen that he thinks could be second- or early third-century (10, 11, 17, 23, 24, 28, 31, 40, 41, 43, 46, 64, 71, 74). L. Rutgers, however, rejects some as not clearly Jewish (10, 11, 46, 64).<sup>103</sup> Most come from Carthage, but a few come from nearby Tunis, Henchir Djouana, Cirta, and Sitifis. Nine of the inscriptions are in Latin, two are in Greek, and three are in Hebrew or have some Hebrew on them. Two of the inscriptions with Hebrew also show Jewish symbols, such as a *menorah*, *lulav*, *etrog*, or *shofar*. One name indicates a Palestinian origin (Tiberius). Two names incorporate the word “Sabbath” (Sabbatis, Sabbatarius). Two people are identified as *Iudea* or *Iudeae*,<sup>104</sup> one of whom is called *pater synagogae*. Half of these inscriptions carry the *tria nomina*, indicating citizenship, a privilege extended to all free provincials after 212.

The pagan formulae *DM* or *DMS* for *Dis Manibus* or *Dis Manibus Sacrum* (to the *manes*, the spirits of the underworld) appears on six of the inscriptions, including the one designated as *Judeae* (71). Considerable discussion about the significance of Jewish use of this pagan formula has not settled the matter. Rutgers has demonstrated that it was not popular among Jews elsewhere in the Diaspora and that *DMS* often appears on stone that has been reused, and so may carry almost no meaning for its second user.<sup>105</sup> He has also shown that Jewish, Christian, and pagan funerary art came from the same workshops.<sup>106</sup> Jews who had the same names as everyone else and

<sup>101</sup> Two inscriptions were thought by Delattre to be Christian, the first one mentioning St. Stephen, a popular figure in North Africa (Le Bohec, “Inscriptions juives” (see next note), 34), and the second referring to a certain woman as a holy virgin (*I.J.* 46). The possible burial of Christians in a Jewish cemetery suggested to P. Monceaux that there was a level of friendliness between Jews and Christians: *Histoire littéraire de l’Afrique Chrétienne* (Paris, 1901), 19. This idea has been seconded by LaBriolle, Parkes, and Simon. But the reconstruction of the first inscription is very questionable and the second inscription is not necessarily Christian.

<sup>102</sup> “Inscriptions juives et judaisant de l’Afrique romaine,” and “Juifs et Judaisants dans l’Afrique romaine: remarques Onomastique,” *Antiquités africaines* 17 (1981), 165–207, 209–29. His results are summarized in his article, “Les Sources archéologiques.”

<sup>103</sup> *The Hidden Heritage of Diaspora Judaism* (Leuven, 1998), 272.

<sup>104</sup> Kraemer notes how rarely the term “Jew” appears in Jewish inscriptions. She suggests it may indicate a pagan adherent to Judaism, a proper name, or, as A. T. Kraabel has argued, a geographic designation: “The Term ‘Jew,’” 35–53.

<sup>105</sup> *Hidden Heritage*, 269–72.

<sup>106</sup> “Archaeological Evidence for the Interaction of Jews and non-Jews in Late Antiquity,” *AJA* 96 (1992), 101–18.

no distinguishing Jewish feature on their inscriptions must remain invisible to us. Extrapolating from the rest of the Diaspora, we can assume that Carthaginian Jews ran the gamut from relatively low levels of assimilation and a high degree of Jewish distinctiveness to complete assimilation, using cultural expressions identical to their neighbors.<sup>107</sup>

No synagogue building survives from this early period, but the testimony of Tertullian suggests that more than one existed in his time. His claim that they are “founts of persecution” (*Scorp.* 10.10, *CCSL* 11 1089) may be a bit of metonymy. As many Diaspora synagogues had washing fountains in their forecourts, he may simply be identifying them by the feature most visible to him as an outsider.<sup>108</sup> Furthermore, third-century funerary inscriptions from three different places that employ *pater synagogae* or *archisynagogos* make it clear that there were synagogues in those places.<sup>109</sup>

A number of seals and amulets with Hebrew letters and/or the name of Israel’s God show their utility in ritual and formulae, but may have been employed by Jews, pagans, and Christians. A tablet found in a pagan cemetery in Carthage invokes the names of many gods, including Iao and Adonai, for success in a chariot race.<sup>110</sup> Two amulets from North Africa include the names of Israel’s God and angels.<sup>111</sup> Of the ten lamps cited by Le Bohec, only one dates to the first half of the second century. A trove of fourth/fifth-century Jewish lamps was found by a Danish excavation in the northern part of Carthage, suggesting to some that there had been a synagogue there.<sup>112</sup>

Le Bohec draws some general conclusions from the evidence he gathers. First, attempts to place Jews in North Africa before the late first or early second century have no material support. The reliable evidence comes from the second to fourth centuries, therefore the hypothesis of Jewish immigration to Africa in the Punic era should be abandoned. Second, economically, most Jews were indistinguishable from the rest of society. The tomb inscriptions at Gamart vary from white marble to red paint, but most are fairly modest. The Jews of early North Africa were “une minorité de notables et une majorité de misérables” (a few of prominence, a majority of needy).<sup>113</sup>

<sup>107</sup> Barclay, *Mediterranean Diaspora*, 320–35.

<sup>108</sup> L. Levine, *The Ancient Synagogue: The First Thousand Years* (New Haven, 2000), 306–11; A. T. Kraabel, “The Diaspora synagogue,” *ANRW* 11 19.1 (1995), 497.

<sup>109</sup> These appear in Sitifis (Le Bohec, “Inscriptions juives” 19), Cherchel (Le Bohec, “Inscriptions juives” 23) and Volubilis (Le Bohec, “Inscriptions juives” 79).

<sup>110</sup> J. Gager, *Curse Tablets and Binding Spells from the Ancient World* (New York, 1992).

<sup>111</sup> R. Kotansky, *Greek Magical Amulets* (Opladen, 1994), figs. 62, 64.

<sup>112</sup> J. Lund, “A Synagogue at Carthage? Menorah Lamps from the Danish Excavation,” *JRA* 8 (1995), 244–62.

<sup>113</sup> “Inscriptions juives,” 169.

The mosaics of the later Hammam Lif synagogue attest to some wealthy donors. Third, at least in art and funerary decoration, Jews were not at odds with pagan culture. Rutgers has demonstrated that pagans, Jews, and Christians might well have used the same workshops. At Rome, all three groups were buried together in the third and fourth centuries.

#### B LITERARY EVIDENCE

In materials later than our period, some rabbis are mentioned as being from Carthage, but this tells us little except that the rabbinic orbit extended as far as Carthage (BT *Ber.* 29a; BT *Ket.* 27b; BT *Bava K.* 114b; PT *Kil.* 1.9; PT *Yoma* 1.3). A tradition says as much: “From Tyre to Carthage, they know Israel and their Father in Heaven” (BT *Men.* 110a).<sup>114</sup>

A significant witness for Jews in Carthage is the prolific Christian writer Tertullian, who writes in the late second and early third century. His testimony is not without problems, however, since his term “Jews” sometimes refers not to contemporaries, but to Jews in the Bible, or to Jews as rhetorical types.<sup>115</sup> Scriptural typologies and real people may be interwoven and understood in light of each other.

Tertullian presents a range of material about Jews that suggests he has some personal knowledge of contemporary Carthaginian Jews. First, he mentions customs and habits of Jews, some of which would not be available from the Bible, like veiling of women (*Cor.* 4.2, *CCSL* II 1043; *Orat.* 22.8, *CCSL* I 270) or daily immersion (*Bapt.* 15.3, *CCSL* I 290). Second, he alludes to debates between Christians and Jews over the meaning of Scripture and elements of Christian faith, particularly Jesus’ identity as Messiah (*Apol.* 21.15, *CCSL* I 125), his ignominious death (*Ad. Jud.* 10, *CCSL* II 1374–80), his resurrection (*Apol.* 21.15, *CCSL* I 125; *Spec.* 30.6, *CCSL* I 253), and the virgin birth (*Spec.* 30.6, *CCSL* I 253). These four themes are prevalent in Jewish polemic in other sources, suggesting that he is citing contemporary disputes.<sup>116</sup> Third, some of Tertullian’s remarks seem to spring from competition with Jews for proselytes. *Adversus Judaeos* is ostensibly inspired by a debate between a Christian (perhaps Tertullian himself) and a pagan convert to Judaism. At times he seems to be answering

<sup>114</sup> For the references to North Africa and North Africans in the Talmud and Midrash, see H. Z. Hirschberg, *A History of the Jews in North Africa* (Leiden, 1974), 1. 27–35.

<sup>115</sup> D. Efroymson, “Tertullian’s Anti-Jewish Rhetoric: Guilt by Association,” *USQR* 36 (1980), 25–37.

<sup>116</sup> See W. Horbury, “Tertullian on the Jews in the Light of *De Spectaculis*, xxx.5–6,” *JTS* n.s. 22 (1972), 455–9; and C. Setzer, “‘You Invent a Christ!’ Christological Claims as Points of Jewish–Christian Dispute,” *USQR* 44 (1991), 315–28.

the charge that Christians are not as stringent in their practices as the Jews, eschewing Sabbath and circumcision (*Adv. Jud.* 2.3, *CCSL* II 1341–7) and baptizing only once (*Bapt.* 15.3, *CCSL* I 290).

Tertullian claims that Jews of his time persecute Christians, most famously calling synagogues “fountains of persecution.” However, he fails to cite a single unambiguous example from his own time. In one source, he says quite clearly that Christians will not be haled before Jews, but before Romans (*Fug.* 6.2, *CCSL* II 1142). In contrast to martyr acts from Smyrna and elsewhere, the early martyr acts from North Africa are free of complaints that Jews implicated or persecuted Christians.<sup>117</sup>

Jews function rhetorically in some of Tertullian’s work, as when he asserts the shared heritage of Jews and Christians and appropriates the antiquity of the Jews for Christianity. Judaism becomes part of his arsenal against paganism (*Apol.* 19.2, *CCSL* I 120–1). Opinion has vacillated regarding Tertullian’s knowledge and contact with Jews and Judaism, between Frensdorff’s claim of Jewish persecution<sup>118</sup> and C. Aziza’s extremely generous evaluation of Tertullian’s positive relations with Judaism.<sup>119</sup> The most reasonable position seems to be that he had a superficial knowledge, but not significant interaction. He was no Jerome or Origen, studying Scripture with the rabbis.

The remarks of Bishop Cyprian, a generation later, are remarkably free of Tertullian’s anti-Jewish rant. The *Adversus Judaeos* attributed to him is generally considered to be pseudonymous.<sup>120</sup> In Cyprian’s clearly authentic work, he avoids talking about contemporary Jews. In one case, where he complains of Jewish adversaries, he also cites Gentiles and heretics in a formula that emphasizes the totality of opposition (*Ep.* 59.2, *CSEL* III 667). He easily transfers remarks about biblical Israel to the church. Considering that the *Adversus Judaeos* tradition is well known to him and that he reads and reveres Tertullian, who makes some extremely hostile remarks about Jews, Cyprian’s silence is remarkable. Perhaps other issues are more pressing to him. Perhaps the situation between Jews and Christians has changed in the brief time since Tertullian. Possibly the Decian persecution made allies of Jews and Christians, or at least revealed to Christians who the real threat was.

<sup>117</sup> This is true of *The Acts of the Scillitan Martyrs* (180) and *The Passion of Perpetua and Felicitas* (202), but also slightly later martyr acts from Carthage, such as *The Acts of Cyprian* (258) and *The Acts of Montanus and Lucius* (259) and one from Cirta in Numidia, *The Acts of Marian and James* (259).

<sup>118</sup> *Martyrdom and Persecution in the Early Church* (Grand Rapids, 1981), 334–5.

<sup>119</sup> *Tertullien et le Judaïsme* (Nice, 1977).

<sup>120</sup> See C. Bobertz, “‘For the Vineyard of the Lord of Hosts was the House of Israel’: Cyprian of Carthage and the Jews,” *JQR* 82 (1991), 1–15; W. Horbury, “The Purpose of Pseudo-Cyprian, *Adversus Judaeos*,” in *Jews and Christians in Contact and Controversy* (Edinburgh, 1998) 180–99.

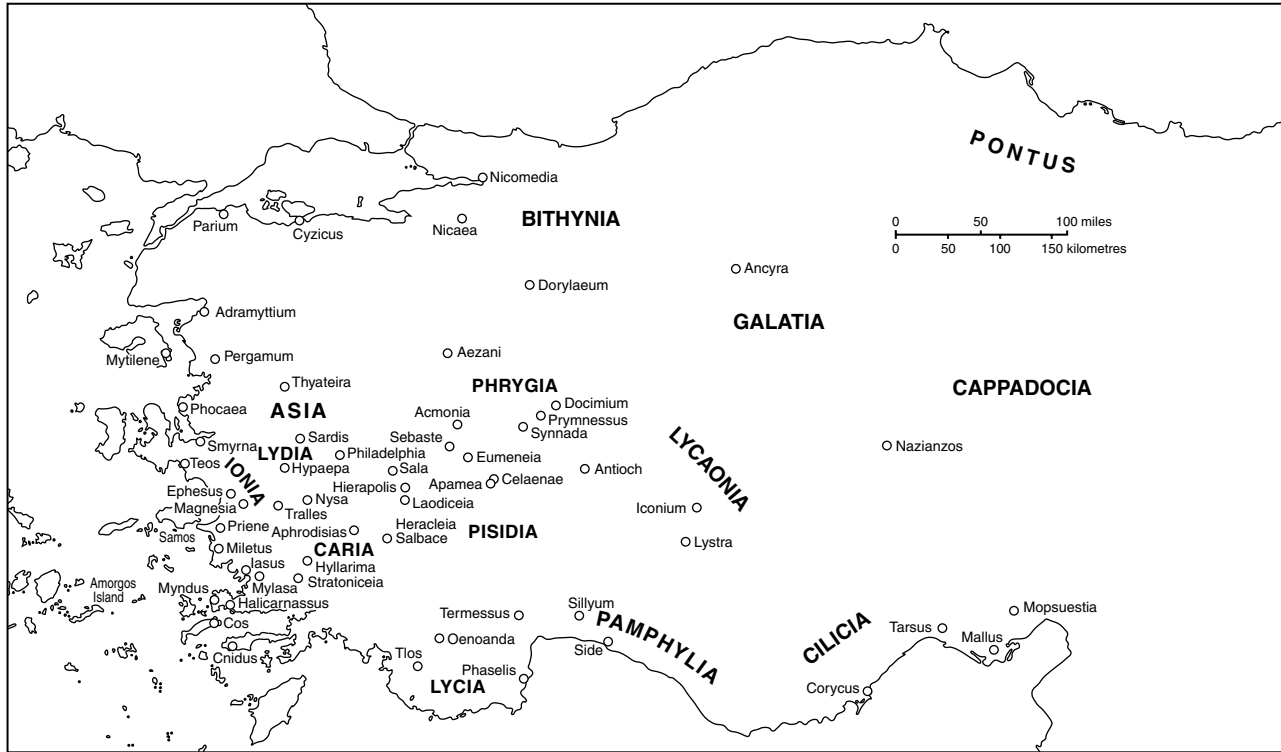


Figure 2.2 Asia Minor

In short, the occasional and discontinuous quality of the evidence allows only glimpses into the early Jewish communities of Carthage and environs. It suggests groups that partook of the broader Roman culture in language, names, funerary formulas, and ornamentation. Yet Jews were sufficiently distinct and self-identified to bury their dead separately, to associate with synagogues, and to show some Hebrew titles, names, and symbols in funerary and decorative art. In Carthage, Jews had enough visibility to raise both the ire and, occasionally, the grudging respect of the prolific Christian writer Tertullian.

### III THE JEWS IN ASIA MINOR, 66–C. 235 CE

PAUL TREBILCO

#### A SOURCES

During the period from 70 to 235 CE, literary, archaeological, and epigraphical evidence is available for a number of Jewish communities in Asia Minor.<sup>121</sup> The only document which is likely to have been written by Jews in this area is *Sibylline Oracles* books 1 and 2; however, a number of other authors, including Maccabees, Josephus, Philo, Cicero, and early Christian authors, provide evidence for these communities. In addition, synagogues have been discovered in Sardis and Priene, and a number of Jewish inscriptions from Asia Minor are available. However, partly because of the degree to which a number of these communities seem to have been integrated into their local cities, it is often difficult to determine whether an inscription is Jewish.<sup>122</sup> Furthermore, dating is often problematic. However, the publication of Walter Ameling's *Inscriptiones Judaicae Orientis*, Band 11: *Kleinasien*<sup>123</sup> now provides a comprehensive collection of Jewish inscriptions for this area,<sup>124</sup> replacing the inaccurate and incomplete *Corpus Inscriptionem Iudaicarum*.<sup>125</sup>

<sup>121</sup> Where sources and bibliography are not cited, see P. R. Trebilco, *Jewish Communities in Asia Minor* (Cambridge, 1991).

<sup>122</sup> See for example J. W. van Henten with A. Bij de Vaate, "Jewish or Non-Jewish? Some Remarks on the Identification of Jewish Inscriptions from Asia Minor," in *BiOr* 53 (1996), 16–28.

<sup>123</sup> See also E. Schürer, in *The History of the Jewish People in the Age of Jesus Christ (175 BC–AD 135)*, 3 vols., rev. and ed. G. Vermes, F. Millar, M. Black, and M. Goodman (Edinburgh, 1973–87), 111/1, 17–36.

<sup>124</sup> See also M. Hengel, "Der alte und der neue 'Schürer.' Mit einem Anhang von Hanswulf Bloedhorn," in M. Hengel, *Judaica, Hellenistica et Christiana: Kleine Schriften*, 11, ed. J. Frey and D. Betz (Tübingen, 1999), 157–99, especially 195–6.

<sup>125</sup> See also E. Miranda, "La comunità giudaica di Hierapolis di Frigia," in *Epigraphica Anatolica* 31 (1999), 109–56.

Evidence for Jewish communities in Asia Minor begins in the third century BCE and continues through the sixth century CE and beyond. It will be necessary here to discuss some evidence from a time prior to 70 CE and after 235 CE in order to understand the communities during the period under consideration.

B THE BEGINNINGS AND EXTENT OF JEWISH SETTLEMENT  
IN ASIA MINOR

Jewish settlement in Asia Minor probably began when Antiochus III settled 2,000 Jewish families from Mesopotamia and Babylonia in Lydia and Phrygia on favorable terms between 212 and 205/4 BCE. Although the authenticity of the letter that Josephus quotes in this regard has been disputed (see *Ant.* 12.148–53), it is probably reliable. Evidence from the second century BCE to the third century CE comes from 1 Maccabees 15.16–23, Philo,<sup>126</sup> Josephus,<sup>127</sup> Cicero,<sup>128</sup> the New Testament<sup>129</sup> and early Christian writers.<sup>130</sup> The authenticity of the many decrees that Josephus quotes, which show that on a number of occasions Roman authorities granted various rights to different Jewish communities in Asia Minor, has recently been defended by M. Pucci Ben Zeev.<sup>131</sup>

By the first century CE, Philo could report in *Flacc.* 281–2 that Jewish colonies were settled in “Pamphylia, Cilicia, [and] most of Asia as far as Bithynia and the remote corners of Pontus.” During our period, we know of Jewish communities in more than fifty places in Asia Minor, and doubtless there were many more.

C SYNAGOGUE BUILDINGS IN SARDIS AND PRIENE

Synagogue buildings have been discovered in Sardis and Priene. Although Josephus preserves a decree from the first century BCE that probably concerns a synagogue in Sardis,<sup>132</sup> the excavated synagogue dates from a later period.

<sup>126</sup> *Leg. Gai.* 281–2; 311–12; 315.

<sup>127</sup> *Ant.* 14.110–14, 185–267; 16.27–61, 160–78. <sup>128</sup> *Pro Flacco* 28.66–9.

<sup>129</sup> Acts 6.9–11; 13–14; 16.1–5; 19.8–10, 33–34; 21.17–36; Rev. 2.9; 3.9.

<sup>130</sup> Ignatius, *Phld.* 6.1–2; 8.2; *Mag.* 8.1; 9.1–2; 10.1–3; *Martyrdom of Polycarp* 12.2–18.1; *Martyrdom of Pionius* 2.1; 3.6; 8.1; 13.1–14.16; see J. M. Lieu, *Image and Reality: The Jews in the World of the Christians in the Second Century* (Edinburgh, 1996); and L. Robert, *Le Martyre de Pionios, prêtre de Smyrne* (Washington, 1994), 50, 54–5, 57–8, 81–90.

<sup>131</sup> See M. Pucci Ben Zeev, *Jewish Rights in the Roman World: The Greek and Roman Documents Quoted by Josephus Flavius* (Tübingen, 1998).

<sup>132</sup> *Ant.* 14.259–61; see also 14.235; 16.171.



The Sardis synagogue is the largest extant synagogue building from antiquity. It was an integral and prominent part of the bath-gymnasium complex situated on a major thoroughfare in the city. The point at which the building, which had probably been a civic basilica, was remodelled to become a synagogue is debated. Bonz has argued that the Jewish community in Sardis attained a prominent position in the city only in the late third century, as a result of a severe economic crisis, and that it was only at this time that the community acquired the synagogue; Botermann argued for a fourth-century date.<sup>133</sup> Approximately 270 CE is perhaps the most likely. The final form of the building resulted from remodelling in the mid- to late fourth century CE.

In the final form of the synagogue, one first entered a peristyle forecourt that was paved with mosaics and contained a central fountain and a washbasin. From there, one entered the hall of the synagogue, which measured 59 m by 18 m and was able to accommodate approximately 1,000 people. At one end were two shrines: one housed the Torah, and the other perhaps a large menorah. At the other end was an apse that could seat seventy people. In front of the apse was a large table whose supports bore carved eagles; it was flanked by Lydian stone lions in reuse. The floor and the walls were richly decorated with mosaics and marble revetments containing geometrical, floral, and animal designs. The building contained over eighty inscriptions, almost all in Greek, mainly commemorating donations. The style of the building was clearly determined by the local community, the building's previous history, and local architectural idiom.

The inscriptions note the contribution of some Jews to the life of the city and reveal that eight Jewish men were city councillors in Sardis. The building, its location, and the inscriptions suggest that the Jewish community in Sardis was respected and influential within the city to quite an extent and that some Jews were active in civic and political affairs. The

<sup>133</sup> M. P. Bonz, "The Jewish Community of Ancient Sardis: A Reassessment of its Rise to Prominence," *HSCP* 93 (1990), 343–59, especially 356. See also idem, "Differing Approaches to Religious Benefaction: The Late Third-Century Acquisition of the Sardis Synagogue," *HTR* 86 (1993), 139–54; and idem, "The Jewish Community of Ancient Sardis: Deconstruction and Reconstruction," in H. C. Kee and L. H. Cohick (eds.), *Evolution of the Synagogue: Problems and Progress* (Harrisburg, 1999), 106–22; see also H. Botermann, "Die Synagoge von Sardes: Eine Synagoge aus dem 4. Jahrhundert?" *ZNW* 81 (1990), 103–21. On the relation to Melito's *Peri Pascha*, see D. Satran, "Anti-Jewish Polemic in the *Peri Pascha* of Melito of Sardis: The Problem of Social Context," in O. Limor and G. G. Stroumsa (eds.), *Contra Iudaeos: Ancient and Medieval Polemics between Christians and Jews* (Tübingen, 1996), 49–58. For the inscriptions from the synagogue, see J. H. Kroll, "The Greek Inscriptions of the Sardis Synagogue," *HTR* 94 (2001), 5–127; and see also F. M. Cross, "The Hebrew Inscriptions from Sardis," *HTR* 95 (2002), 3–19.

## THE LATE ROMAN PERIOD

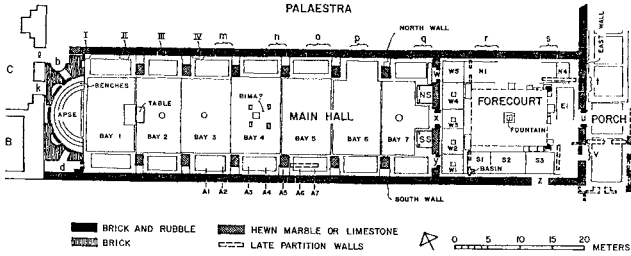


Figure 2.3 Sardis synagogue plan

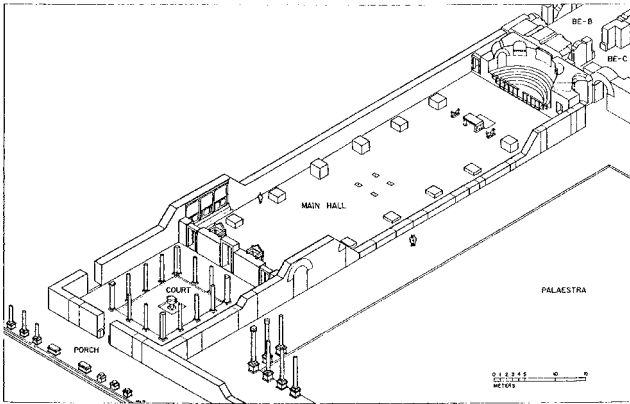


Figure 2.4 Sardis synagogue reconstruction

degree of the community's integration into the economic, social, and political life of Sardis is noteworthy. Nevertheless, one also sees significant features of Jewish identity in the synagogue. The Torah shrine, the *menorahs* discovered in the building, the table from which the Torah was read, and a number of the inscriptions all emphasize aspects of Jewish identity.

The Priene synagogue was a remodelled house with a small forecourt beyond which was the main room, measuring 10 m by 14 m. The focal point of the room, which contained one bench, was a square Torah niche in the east Jerusalem-facing wall. A large washbasin was found in the room, and depictions of the *menorah*, Torah scrolls, *lulav*, *etrog*, and *shofar* on plaques confirm the identity of the building, which perhaps dates to the second or third century CE.<sup>134</sup>

<sup>134</sup> See L. M. White, *The Social Origins of Christian Architecture*, 11 (Valley Forge, 1997), 328.

One notes the contrast between the two synagogues at Sardis and Priene. Clearly, significant diversity existed among different Jewish communities in Asia Minor.

#### D FACETS OF JEWISH IDENTITY IN ASIA MINOR

The available evidence provides insight into facets of Jewish identity. The organized, shared life of Jewish communities was crucial for the retention of Jewish identity. The synagogue was the focal institution of Jewish communities in Asia Minor and was the center of religious worship as well as serving many other communal functions. One learns of many different synagogue officials from the inscriptions. Communal organization is also clear from the evidence that groups of Jews actively approached ruling bodies and gained the right of assembly or permission to build a synagogue and to administer their own finances (for example, Josephus, *Ant.* 14.213–16, 256–8). Furthermore, the term “Jew” is often used to emphasize membership in the Jewish community.<sup>135</sup>

At least some communities clearly retained strong links with Jerusalem and with the Temple, as is demonstrated by communities taking active measures to ensure that they could pay the Temple tax (for example, *Ant.* 16.167–8).

The importance of the Torah for these communities is revealed by the decrees in Josephus that depict Jewish communities arguing that they should be able to follow the Torah in their everyday lives (e.g. *Ant.* 14.225–7), the architectural arrangements made for the Torah in synagogues, the group at Aphrodisias dedicated to the study of the Law, and inscriptions that quote from or allude to the Septuagint. In addition, according to the Acts, Jews in Asia Minor opposed Paul (Acts 13.45, 50; 14.2–6, 19; 19.8–9). The fundamental reason for this opposition was probably that Paul was preaching a law-free gospel to the Gentiles; Jewish opposition to Paul testifies to the significance of the Torah for the Jews concerned (see also Acts 6.9–15; 21.27–9).

Evidence exists that these communities also followed major Jewish practices and beliefs, such as observing dietary laws (e.g., *Ant.* 14.261), the Sabbath (e.g., *Ant.* 16.167–8), and Jewish festivals (*CIJ* 777). However, no clear evidence is available, as has sometimes been suggested, that these Jewish communities were syncretistic.

<sup>135</sup> See M. H. Williams, “The Meaning and Function of *Ioudaios* in Graeco-Roman Inscriptions,” *ZPE* 116 (1997), 249–62.

E OTHER FACETS OF THE LIFE OF JEWISH COMMUNITIES  
IN ASIA MINOR

The evidence enables one to comment on other significant features of Jewish communities in Asia Minor. First, there prevailed an openness to the leadership and involvement of women in some Jewish communities. In Smyrna in the second or third century CE, for example, Rufina was an ἀρχισυνάγωγος (CIJ 741),<sup>136</sup> the same title that was held by Theopempte later in Mydnos (CIJ 756), and Jael was a προστάτης in Aphrodisias.<sup>137</sup> When women held these titles, it seems most likely that the titles involved the same honor, benefactions, and responsibilities as they did for men, although this continues to be debated. A higher percentage of inscriptions from Asia Minor allude to women donors than is the case in most other areas. One of the reasons for this prominence of women as leaders and donors may have been that a number of pagan women held significant offices or titles in their cities in Asia Minor. Jewish communities were probably influenced by the same environment in their openness to the prominence of women.

Second, one knows of a number of “God-fearers” in Jewish synagogues in Asia Minor. These people were non-Jews associated with the Jewish community in some way, who adopted certain Jewish customs but did not become proselytes. A large inscription from Aphrodisias, probably dating from the late second or early third century CE, lists fifty-two people described as θεοσεβεῖς; most have Gentile names and are clearly “God-fearers.”<sup>138</sup> It is known that others were probably God-fearers in Tralles, Sardis, and Miletus (see also Acts 13.16, 26, 50; 14.1). It seems that these

<sup>136</sup> The meaning of the title is debated; see T. Rajak and D. Noy, “Archisynagogoi: Office, Title and Social Status in the Greco-Jewish synagogue,” *JRS* 83 (1993), 75–93; and L. Levine, “Synagogue Leadership: The Case of the Archisynagogue,” in M. Goodman (ed.), *Jews in a Graeco-Roman World* (Oxford, 1998), 195–213.

<sup>137</sup> Note that some scholars argue that “Jael” was a man. On women leaders, see B. J. Broton, *Women Leaders in the Ancient Synagogues: Inscriptional Evidence and Background Issues* (Chico, 1982).

<sup>138</sup> See M. P. Bonz, “The Jewish Donor Inscriptions From Aphrodisias: Are They Both Third-Century, and Who Are the Theosebeis?” *HSCP* 96 (1994), 281–99, who argues that the texts on the two faces of the stele do not belong to the one inscription (as was previously thought), but rather are independent, with the one on face *b* (with fifty-two “God-fearers”) being late second- or early third-century, and the other, on face *a* (with two “theosebeis”) being fifth-century. On this inscription, see also J. Reynolds and R. Tannenbaum, *Jews and Godfearers at Aphrodisias* (Cambridge, 1987); see also M. H. Williams, “The Jews and Godfearers Inscription from Aphrodisias – A Case of Patriarchal Interference in Early 3rd Century Caria?” *Historia* 41 (1992), 297–310; and H. Botermann, “Griechisch-jüdische Epigraphik: zur Datierung der Aphrodisias-Inschriften,” *ZPE* 98 (1993), 184–94. In general, see B. Wander, *Gottesfürchtige und Sympathisanten: Studien zum heidnischen Umfeld von Diasporasynagogen* (Tübingen, 1998).

Jewish communities were open to the involvement of Gentiles in their synagogues as “God-fearers” and that Gentiles found these communities attractive.

Third, one can discern some features of the relationship between Jewish communities and their cities in Asia Minor. Very few Jews in Asia Minor were citizens of their city or Roman citizens prior to 212 CE. No one model existed for the relationship of the Jewish community to the city, and different terms like *κατοικία* and *σύνοδος* were used for the Jewish community. In the first century BCE, some communities clearly experienced occasional hostility from their local cities. Reasons for hostility may include the distinctiveness of Jewish religious practices, the lack of tolerance by local cities, and the facts that Jewish rights were supported by Rome and that the Jewish communities wished to send significant amounts of money (as Temple tax) from the region to Jerusalem at times of local economic hardship.<sup>139</sup>

At least in some periods, however, good relations seemed to prevail. Some Jews and some Jewish communities in Asia Minor participated actively in city life and were influential and respected in their local cities into which they were integrated, and were acculturated to quite a degree. It is known that Jews held local office in their cities from the third century CE in Akmonia, Corycos, Ephesus, Hypaepa, Sardis, and Side. Evidence is available for Jews as “good residents” of their cities, for example, because they attended the theater or the gymnasium. From Apamea, a unique series of coins, dating from 193 to 254 CE, depict Noah and his wife; they illustrate that the Jewish influence upon civic life in Apamea was clearly significant.

It is also known that non-Jews contributed to Jewish communities in various ways, which again suggests that good relations existed with the wider society. Julia Severa, a pagan priestess of high standing, for example, established a synagogue for the Jewish community in Akmonia in the mid-first century CE. She can be regarded as a patron of the community.<sup>140</sup> Nine city councilors were also among the God-fearers in Aphrodisias.

One notes that Jewish communities were often influenced by local practices. This influence is clear from the way benefactors were honored in synagogues, the form of grave curses, the way graves were decorated, and the formation of a legally constituted Jewish burial society, as well as in the Sardis synagogue. However, as already noted, evidence also exists for Jews retaining

<sup>139</sup> See J. M. G. Barclay, *Jews in the Mediterranean Diaspora from Alexander to Trajan (323 BCE–117 CE)* (Edinburgh, 1996), 264–78.

<sup>140</sup> See T. Rajak, “The Synagogue Within the Greco-Roman City,” in S. Fine (ed.), *Jews, Christians and Polytheists in the Ancient Synagogue: Cultural Interaction During the Greco-Roman Period* (London, 1999), 161–73.

an active attention to Jewish identity, and clearly limits were established beyond which Jewish communities would not go in adopting local practices.

It is noteworthy that the evidence for hostility between Jewish communities and their cities dates from 49 BCE to 2 CE. No clear indications of hostility exist after this point. Furthermore, as far as one knows, no Jewish communities in Asia Minor were involved in the revolts against the Romans in 66–70 and 132–5 CE or in the Diaspora revolt of 115–17 CE. Although evidence is limited, it does suggest that many Jewish communities in Asia Minor lived peaceably and interacted positively with their local cities in the period under consideration.

Fourth, some evidence is available for relations between Jewish and Christian communities. Revelation 2.9 and 3.9 suggest that tension existed between Christians and Jews in Smyrna and Philadelphia in the 90s. Ignatius suggests that Gentile Christians were following Jewish practices in Philadelphia and Magnesia (see *Pbl.* 6.1–2; 8.2; *Mag.* 8.1; 9.1–2; 10.1–3). This mixed practice may indicate that no contact existed between Christians and Jews in these two cities and that Christians found Jewish practices attractive. This and other evidence suggests that the presence of strong and respected Jewish communities was a significant factor in the life of Christian communities in Asia Minor.

#### F CONCLUSION

The strength and vitality of many Jewish communities in Asia Minor are clear from the evidence. One also notes the significant differences among communities. In addition, rather than forming introverted groups, at least some of these communities felt comfortable in their local cities and interacted positively with the wider society. Some communities were influential and respected in their cities and some attracted “God-fearers”; many were influenced by the environment of the city in which they lived, and local factors were important in shaping these communities. Nevertheless, in many cases strong evidence exists for the retention of Jewish identity. As Jewish communities, they were a part of city life.

### IV THE JEWS IN BABYLONIA, 66–c. 235 CE

DAVID GOODBLATT

#### A INTRODUCTION

At BT *Kiddushin* 71b–72a, several masters of the third and fourth centuries discuss the extent of “Babylonia.” They delineate an area at the narrow

“waist” of the Tigris-Euphrates valley from approximately 32° to almost 34° north.<sup>141</sup> Most students of the history of the Jews in Babylonia have not limited themselves to these boundaries. Instead, they have included discussions of such locales as Dura Europos on the Middle Euphrates, Adiabene along the upper Tigris, and Nisibis in northern Mesopotamia.<sup>142</sup> However, most of the information on the Jews in these areas concerns the period before 70 or after 235. The first-named site comes closest to the years treated here. The synagogue at Dura Europos, famous for its wall paintings of biblical scenes, was built in 245 with work on the decorations continuing until the destruction of the city about a decade later. An earlier synagogue existed at the site, dating from the year 200, but one can say little about it beyond its dimensions. The rich treasures in the second building do provide much evidence for the life of the Jewish community at Dura in the second quarter of the third century, although scholars continue to debate the meaning of the decorations. The synagogue wall paintings do suggest regular use of biblical scrolls in the liturgy, and the inscriptions reveal the use of Greek and Aramaic by the community. However, the late date (with respect to the period surveyed in this chapter) and the eastern Roman political and cultural milieu of the town, so different from that of Parthian Babylonian, suggest that a detailed discussion of Dura Europos belongs elsewhere.<sup>143</sup>

Moving northeast to the Tigris area, one approaches the territory of Adiabene, a vassal kingdom within the Parthian Empire during the first century. In the first half of this century, members of the royal family and perhaps others converted to Judaism. Some of them established residences in Jerusalem, and some participated in the Judean Revolt of 66–70. Unfortunately, the fate of the Adiabenean Jews after 70 is unknown. Josephus mentions that the original Aramaic version of his *Jewish War* provided accurate information to “Parthians and Babylonians and the most

<sup>141</sup> See the fold-out maps of the “area of pure lineage” at the end of A. Oppenheimer, *Babylonia Judaica in the Talmudic Period*, Beihefte zum Tübinger Atlas des vorderen Orients, Reihe B, Nr. 47 (Weisbaden, 1983).

<sup>142</sup> For example, both Oppenheimer (*Babylonia Judaica*) and Neusner (below, n. 147) treat Dura, Adiabene, and Nisibis, while Gafni (n. 144) discusses the latter two sites. For an overview of the area outside Babylonia see J. B. Segal, “The Jews of North Mesopotamia Before the Rise of Islam,” in J. M. Grintz and J. Liver (eds.), *Studies in the Bible Presented to M. H. Segal* (Jerusalem, 1964), 32\*–63\*. On the Jews at Edessa (west of Nisibis), see the sparse and problematic evidence cited by Segal, 40\*, 44\*–6\*, and the comments below on Trajan’s Mesopotamian campaign.

<sup>143</sup> The literature on the Dura synagogue is extensive. For the finds, see C. H. Kraeling, *The Excavations at Dura-Europos, Final Reports: VII/1/1, The Synagogue* (New Haven, 1956; Augmented Edition, New York, 1979); and E. R. Goodenough, *Jewish Symbols in the Greco-Roman Period*, 1X–XI (New York, 1964). For further discussion, see J. Gutmann (ed.), *The Dura-Europos Synagogue: A Re-evaluation (1932–1992)* (Atlanta, 1992).

remote tribes of Arabia with our countrymen beyond the Euphrates and the inhabitants of Adiabene" (*Bell.* 1.6). It is unclear whether those inhabitants of Adiabene are also his "fellow countrymen" or are like the Parthians, Babylonians, and Arabs. In addition to the Jewish converts before 70, a few sources in the Babylonian Talmud mention scholars from Adiabene in connection with masters of the late third century. Thus no explicit references are made to Jews in this region for the period 70–235.<sup>144</sup>

Finally, the case arises of Nisibis, between the Tigris and the Euphrates, west of Adiabene. Josephus had mentioned a town by this name as a collection site, along with Nehardea on the lower Euphrates, for the two drachma Temple "tax" contributed by Jews prior to its transport to Jerusalem. Some suggest that this area is not the city in northern Mesopotamia but an otherwise unknown town near Nehardea. Against this, one wonders at the necessity for two collection sites next to each other. Having one site in Babylonia and the other in northern Mesopotamia makes more sense. In any case, this information applies to the period before 70. That Jews lived in Nisibis after 70 is indicated by a series of rabbinic traditions mentioning a master resident there named Judah son of Batera. Most of these traditions associate Judah with masters of the mid-second century. One legendary source uses the pre-70 period as its setting, leading scholars to suggest an earlier Judah, perhaps the grandfather of the second-century master. However, it is questionable whether this single, late, and unhistorical anecdote requires the positing of an otherwise unattested individual. Even the traditions concerning the second-century Judah son of Batera include material of doubtful historicity. Nevertheless, no reason exists to reject the evidence of the third-century sources for the presence in the preceding century of a master of rabbinic traditions in Nisibis. This master was in contact with colleagues both in Palestine and in Babylonia. One can safely assume that, like other masters, he convened a circle of disciples, and on this basis one can further assume the existence of a reasonably sized Jewish community. The existence of such a community at a later period is implicit in a tradition mentioning a sermon delivered in Nisibis by the third-century master Simlai. Beyond this tradition, however, it is difficult to proceed. Certainly the frequent assertion that the town hosted a formal rabbinic academy exceeds the evidence.<sup>145</sup>

<sup>144</sup> See the sources, comments, and bibliography in Oppenheimer, *Babylonia Judaica*, 21–4. Add I. M. Gafni, *The Jews of Babylonia in the Talmudic Era: A Social and Cultural History* (Jerusalem, 1990), *passim* (Hebrew).

<sup>145</sup> See the sources, comments, and bibliography in Oppenheimer, *Babylonia Judaica*, 319–34. Add Gafni, *Jews of Babylonia*, *passim*. On the reference to a *yeshivah* at Nisibis at *BT Ket.* 32a, see D. Goodblatt, *Rabbinic Instruction in Sasanian Babylonia* (Leiden, 1975), 69.



To summarize the evidence for Mesopotamia (outside Babylonia) during the years 70–235, one can be certain of the existence of an organized Jewish community in Dura Europos. However, the period for which abundant evidence exists is the generation *after* 235. One knows of a rabbinic master in Nisibis in the mid-second century, but nothing can be said about his community. Furthermore, a break occurs in the evidence on Jews in Adiabene between 70 and the end of the third century. The situation regarding Babylonia in this period is not much better. Nevertheless, this section will concentrate on the geographical area delineated by the Talmudic passage cited above. This focus will allow a more accurate comparison with the more complete picture of the same region available for the period following 235. The major theme of this survey will be how little one can say for certain about the Jews of Babylonia during the years 70–235. This fact is a partial justification for using the traditional tannaitic era.<sup>146</sup> For the following amoraic era, talmudic sources allow historians to produce a fairly detailed account of Jewish life in Babylonia. In contrast, the period before 235, as one historian states it, is “shrouded in mist.”<sup>147</sup>

The upper limit of the period 70–235 has additional justification. The end of the tannaitic period overlaps with the collapse of Parthian rule and its replacement by the Sasanian dynasty in the 220s.<sup>148</sup> If the end of this period contains a clear logic, however, the beginning does not. The year 70 was one of dramatic events in Judaea: the final suppression of the revolt against Rome and the destruction of the Jerusalem Temple. It is unclear, however, to what extent these events marked a turning point in the lives of the Jews in Babylonia.<sup>149</sup> Furthermore, to begin in 70 is to ignore more than half of the time during which the Arsacid dynasty ruled Babylonia. In any case, little can be said about Babylonian Jews from 70 to 235 concerning such issues as their role in Parthian–Roman affairs, the history of the Exilarchate, and the presence of rabbinic tradition.

<sup>146</sup> See H. L. Strack and G. Stemberger, *Introduction to the Talmud and Midrash*, trans. M. Bockmuehl (Minneapolis, 1992), 7–8.

<sup>147</sup> See J. Neusner, *A History of the Jews in Babylonia*, 5 vols., Studia Post-Biblica, 1X, XI, XII, XIV, and XV (Leiden, 1965–70), and Gafni, *Jews of Babylonia*. The first of Neusner’s five volumes treats the Parthian period. Note also the monographs in Hebrew of M. Beer, *The Babylonian Exilarchate in the Arsacid and Sassanian Periods* (Tel-Aviv, 1970) and *The Babylonian Amoraim: Aspects of Economic Life* (Ramat-Gan, 1974). On limited knowledge of the “pre-talmudic” or pre-Sasanian era, see Gafni, *op. cit.*, 14, 91.

<sup>148</sup> For the chronology of the end of the Parthian regime, see A. D. H. Bivar, “The Political History of Iran under the Arsacids,” in E. Yarshater (ed.), *Cambridge History of Iran*, 111/1 (Cambridge, 1983), 96–7; R. Frye, *The History of Ancient Iran* (Munich, 1983), 244.

<sup>149</sup> On responses to the destruction of the Jerusalem Temple, see ch. 7 in the present volume.

## B BETWEEN PARTHIA AND ROME

Several scholars have argued that the Jews of Babylonia actively supported the Parthians in the latter people's conflict with Rome during the second century.<sup>150</sup> Central to this argument is the role of the Jews during Trajan's Parthian campaign. However, the evidence concerning Babylonia is extremely slight. Christian sources, beginning with Eusebius, describe a campaign against the Jews of Mesopotamia by Lusius Quietus. The epitome of Cassius Dio's *History* briefly mentions that Trajan sent Quietus to subdue the Jews. However, this reference appears in the context of the Jewish revolt in the Roman provinces of Cyrenaica, Cyprus, and Egypt and does not specify the place where Quietus subdued the Jews. Elsewhere Dio relates that, as one of the generals Trajan dispatched to subdue anti-Roman uprisings, Quietus captured Edessa and Nisibis among other successes. The latter two cities, of course, are located in northern Mesopotamia. Seleucia, in Babylonia, also participated in the anti-Roman uprising, but it fell to Erucius Clarus and Julius Alexander. Dio says nothing about the Jews in this connection.<sup>151</sup> Scholars debate whether a specifically Jewish uprising occurred in the conquered Parthian territories as occurred in the west, or whether the Parthian Jews participated in the general, anti-Roman movement. Be that as it may, the only reference to punishing the Jews involves Quietus, and one hears of him operating only in the north. As a result, the case for a Jewish rebellion in Roman-occupied Parthia, uncertain at best, becomes weaker regarding Babylonia. Nothing in the surviving evidence indicates that Babylonian Jews played a prominent or in fact any role during the Parthian campaign of Trajan.<sup>152</sup>

## C JEWISH SELF-GOVERNMENT

Sources preserved by Josephus attest to the role of individual Babylonian Jews in local politics before 70. The evidence for Jewish communal institutions in this period, however, is quite limited.<sup>153</sup> For the years 70–235, the

<sup>150</sup> Neusner, *History of the Jews*, 1: *The Parthian Period*, second printing, revised (Leiden, 1969), 119. Compare his "The Jews East of the Euphrates and the Roman Empire, 1st–3rd centuries AD," *ANRW* 11 9.1 (New York, 1976), 46–69. Gafni, *Jews of Babylonia*, 30.

<sup>151</sup> On Jews in Seleucia, see the section on "The Mahoza Area," in Oppenheimer, *Babylonia Judaica*, 179–235.

<sup>152</sup> Contrast M. Pucci, "Traiano, la Mesopotamia e gli Ebrei," *Aegyptus* 59 (1979), 168–89, with T. D. Barnes, "Trajan and the Jews," *JJS* 40 (1989), 145–62.

<sup>153</sup> On involvement in local politics, see D. Goodblatt, "Josephus on Parthian Babylonia," *JAOS* 107 (1987), 605–22, and the case of Zamaris discussed by Neusner, *History*, 1 42–3. On the difficulty of deciding if a story refers to general or specifically Jewish

issue of Jewish self-government in Babylonia is reduced to the question of whether one can find evidence of the exilarchate in this era. Relatively ample evidence is available on the Babylonian Exilarch from the amoraic through Islamic eras. Recognized by the state (Sasanian and Islamic) as well as by the Jews themselves, he served as liaison with the authorities and chief judge of the Jewish community. He possessed large estates and a police force, and his position also had a religious aura, thanks to claims of his descent from the House of David.<sup>154</sup> When did this institution begin?

One view argues that the Exilarchate originated at the beginning of the period surveyed here. It sees the creation of the office as part of a reorganization of the Parthian state under Vologases I, who ruled from 51 to 79. New issues resulting from the destruction of the Jerusalem Temple, with which Babylonian Jews had maintained close ties, reinforced the concern to pacify and control this large population densely settled near the Parthian winter capital of Ctesiphon. Adopting the feudal structure typical of the Parthian state, the authorities created a Jewish ethnarch responsible to the king.<sup>155</sup> Some, relying on talmudic sources, date the origins of the Babylonian Exilarchate to the first half of the second century. Others are unwilling to trace its origins any earlier than a generation or two before the end of the Parthian era. Most cautious is an agnostic position: the available evidence does not allow one to trace the Babylonian Exilarchate into Parthian times.<sup>156</sup>

The agnostic position retains much in its favor. Several stories about second and turn-of-the-third-century masters imply or assert the existence of the Exilarchate, and one ostensibly tannaitic tradition mentions the office. However, these sources all appear to come from later times and so may be anachronistic. A good example is the story that many believe proves the existence of the Exilarchate by the middle of the second century. It relates an attempt by Nathan, the “father of the court,” to replace Simeon

administration, see the comments of Gafni, *Jews*, 97, on the story at BT *Gitt.* 14a-b // PT *Gitt.* 1, 43d = PT *Kidd.* 3, 64a.

<sup>154</sup> See Beer, *Babylonian Exilarchate*, and the relevant sections of Gafni, *Jews*, and Neusner, *History*. The chapters dealing with the Exilarchate from vols. II–V of Neusner have been collected and reprinted as *Israel's Politics in Sasanian Iran: Jewish Self-Government in Talmudic Times* (Lanham, 1986). For annotated sources, see I. Gafni, *Babylonian Jewry and Its Institutions in the Period of the Talmud* (Jerusalem, 1975), 53–77. On the Exilarchate in the Islamic era, see R. Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture* (New Haven, 1998), 67–82.

<sup>155</sup> Neusner, *History*, I 53–61, 103–18; II 92–5; III 41–3.

<sup>156</sup> See respectively Beer, *Babylonian Exilarchate*, 11–32; Gafni, *Jews*, 94–7; and S. W. Baron, *A Social and Religious History of the Jews*, 2nd ed., revised and enlarged (New York, 1952), II 195. See Beer, 20–9, for the view that other territories besides Babylonia had exilarchs.

son of Gamaliel II as patriarch in Palestine. Simeon rebukes Nathan by stating that “the ceremonial sash (*qamara*) of your father indeed helped you become ‘father of the court.’ Shall we also make you patriarch?” Medieval tradition explained that Nathan’s father was Exilarch in Babylonia, and Iranian epigraphy confirms that the *qamara* was worn by high-ranking dignitaries. However, the story appears to be an amoraic creation, and epigraphic attestation of the *qamara* appears in Sasanian, not Parthian, inscriptions. Therefore, one cannot rely on it as evidence for the second century.<sup>157</sup> Similar reservations apply to the other sources.<sup>158</sup> One appears to be on firmer ground with traditions connecting first-generation Babylonian amoraim, such as Rav and Samuel, with the Exilarch. This connection takes one into the Sasanian and post-235 period.<sup>159</sup> In view of all this information, the safest conclusion is that one cannot rule out the possibility that the Babylonian Exilarchate began in the Parthian era; however, one can be certain of its existence only from early Sasanian times.

#### D RABBINIC TRADITION

The final topic concerns rabbinic tradition in Babylonia during the years 70–235. Several sources report that individual Babylonians traveled to the land of Israel to study with masters who appear in tannaitic literature. Tradition also mentions Palestinian tannaim visiting Babylonia for a shorter or longer duration during the second century.<sup>160</sup> These and similar accounts suggest that travel between the Babylonian diaspora and the homeland continued during the period 66–235 despite the frequent tension between Rome and Parthia. They also indicate that masters of rabbinic tradition were involved in this movement of people and ideas. Less clear, however, and the subject of considerable debate among historians of Jewish tradition, is whether or not centers of rabbinic learning arose in Babylonia before the amoraic period. A number of traditions deal with

<sup>157</sup> See D. Goodblatt, “The Story of the Plot against R. Simeon B. Gamaliel II,” *Zion* 49 (5744), 349–74 (Hebrew).

<sup>158</sup> Several stories involving Judah I, who served as patriarch in the late second and early third centuries, and Hiyya, allude to the Exilarchate, but they appear to date to the late third or early fourth century. See D. Goodblatt, *The Monarchic Principle: Studies in Jewish Self-Government in Antiquity*, Texte und Studien zum antiken Judentums, xxxviii (Tübingen, 1994), 155–60; and O. Meir, *Rabbi Judah the Patriarch: Palestinian and Babylonian Portrait of a Leader* (Tel-Aviv, 1999), 77–83. On the midrash on Gen. 49.10 as a post-tannaitic, Babylonian *baraita*, see Beer, *Babylonian Exilarchate*, 34–9, and Goodblatt, *Monarchic Principle*, 159–60, 169–75.

<sup>159</sup> See the stories discussed by Neusner, *History*, II 101–2, 107–8, 112.

<sup>160</sup> See nn. 157–8 on Nathan and Hiyya, and Gafni, *Jews*, 77–81.

Rabbi Ḥananyah, the nephew of Rabbi Yehoshua, who apparently moved from Palestine to Babylonia in the middle third of the second century. Parallel anecdotes in the Palestinian and Babylonian Talmuds recount an abortive attempt by Hananyah to challenge the calendrical prerogatives of the Palestinian center. Clearly, later tradition considered the career of Ḥananyah as a step in the development of a self-confident and independent rabbinic movement in Babylonia. However, the parallel accounts concerning the calendar are stylized literary pieces from a later period. It is that later period, not the second century, that is reflected in these and other anecdotes about Ḥananyah. Historical facts about his career in Babylonia remain unknown.<sup>161</sup>

Another argument for an early rabbinic center in Babylonia concerns the same period. Several scholars suggest that in the wake of the Judaeen revolt against Rome of 132–5, a group of masters associated with the “school” of Ishmael established a center in the town of Husal, south of Nehardea. They attribute part of the corpus of tannaitic literature to this Babylonian center. Others reject this theory, arguing that it both misconstrues and exceeds the evidence.<sup>162</sup> It also proves difficult to isolate a body of tannaitic traditions unique to Babylonian masters and developed in their country. Such a corpus may have existed, but it is not now recoverable. If it did exist, it was swept away by tannaitic traditions imported from Palestine, especially the collection known as the Mishnah and attributed to Judah the Patriarch. Unfortunately, we do not know how this and other tannaitic materials were disseminated or won acceptance before the amoraic era.<sup>163</sup>

#### E CONCLUSION

By the end of the period treated here, the Mishnah of Judah the Patriarch was known and regarded as authoritative by some elements in the Babylonian Jewish community. The practice of studying the Mishnah in conjunction with cognate traditions, a process that would eventually result in the Babylonian Talmud, had begun. Attempts to apply the laws of the Mishnah to the lives of the Jewish masses were also under way. From this

<sup>161</sup> See I. M. Gafni, *Land, Center, and Diaspora: Jewish Constructs in Late Antiquity*, JSPSup 21 (Sheffield, 1997), 106–11. On the late and unhistorical nature of the anecdotes, see the comments of Gafni on 17, 66–7, with n. 16, and n. 39 on 116–17.

<sup>162</sup> For a summary of the debate and bibliographic references, see Oppenheimer, *Babylonia Judaica*, 161–2. The references to Neusner and Gafni given there can be updated with more recent publications. See Neusner, *History*, 1 (revised), 137–49, 184–7, 192–200; Gafni, *Jews*, 81–6.

<sup>163</sup> I follow Gafni, *Jews*, 86–91. On the Mishnah and its reception, see ch. 12 in the present volume. Note also ch. 13 in this volume regarding the Tosefta.

same period, the early Sasanian, one has evidence indicating the existence of the Exilarchate. It is possible that both developments began earlier. Some Babylonian Jews appear to have known and followed tannaitic traditions in the Parthian era although one can not know if these people were numerous or influential. Furthermore, the Exilarchate may have begun in Parthian times although firm evidence is lacking. The uncertainty on both points is typical of the situation with regard to the years 70–235. In the absence of epigraphic, archaeological, or contemporary literary evidence, one must rely on traditions formed or edited in later times. These conclusions illustrate how much historians owe to talmudic literature. Without it, the history of the Jews in Sasanian Babylonia would be as unknown and unknowable as their history in the late Parthian period surveyed here. Only at the end of this period, with the beginning of Sasanian rule and of amoraic tradition, do the mists begin to dissipate.

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## THE UPRISINGS IN THE JEWISH DIASPORA, 116–117

MIRIAM PUCCI BEN ZEEV

### I UNREST AMONG THE JEWS OF THE DIASPORA

Towards the end of Trajan's reign, violent Jewish uprisings erupted in several places in the Mediterranean world. The reasons that led the Jews to take up arms are difficult to grasp, since they are not mentioned by the sources that deal more with the fighting of wars than with their causes. However, a general ferment prevailed at the time among the Jews, caused by the destruction of the Temple in 70 CE and by the demeaning *fiscus Judaicus*, which compelled all Jews to pay an annual poll tax to the Roman state. Such works as the *Third Sibylline Oracle*, *4 Ezra*, and *2 Baruch* insist on an upheaval of the present political situation, on the coming of the Messiah, the destruction of the wicked, the ingathering of the exiles, the restoration of the Jewish state, and the rebuilding of the Temple in Jerusalem. It may be no accident that the Jews armed themselves while Trajan was busy with his war against the Parthians, a war that had begun in 114 and the results of which still appeared uncertain.

The causes of this uprising also included local factors. This fact is evident concerning Egypt, where social, economical, political, and ideological competition and rivalry between Jews and Greeks are attested since the third century BCE.<sup>1</sup> The situation had become more tense in Roman times, and twice earlier in Trajan's days – in 112 and in the summer of 115 – armed attacks had been perpetrated by Greeks against Jews, the last of which may definitely be considered a direct cause of the Jewish uprising.<sup>2</sup> As for Libya, the unrest that had occurred in 73 CE, which ended with the death and confiscation of property of a large number of wealthy Jews (Josephus, *Bell.*, 7.437–51), may have weakened the number and the

<sup>1</sup> See *CPJ* 1 55–86; and D. Frankfurter, "Lest Egypt's City Be Deserted: Religion and Ideology in the Egyptian Response to the Jewish Revolt (116–117 CE)," *JJS* 43 (1992), 203–20.

<sup>2</sup> M. Pucci Ben Zeev, "Greek Attacks Against Alexandrian Jews During Emperor Trajan's Reign," *JSJ* 20 (1990), 227–35.

restraining authority of the wealthier members of local Jewish communities, paving the way for the most extreme ones.<sup>3</sup>

## II THE UPRISINGS IN LIBYA, EGYPT, AND CYPRUS

### A LIBYA

Led by Andreas (according to Dio/Xiphilinus 68.32.1) or by Lukuas (according to Eusebius, *HE* 4.2.3) (either two different persons or one person with two names, a common practice at the time), the Jews attacked their Greek and Roman neighbors. To Lukuas Eusebius ascribes the title “king” (*HE* 4.2.4), a fact that has led scholars to assume that the uprising had a messianic background. The evidence, however, is scarce.<sup>4</sup>

The account of Dio, which attributes shockingly violent and cruel behavior to the Jews (68.32.1), has often been taken at face value, but it should be considered against the background of the well-established tradition concerning the description of revolts by “barbarians” against the Roman establishment. The atrocities attributed to the Jews by Dio are no more striking than the ones he attributes to the Britons when they were revolting against the Romans in 61 CE (62.7.1–3), or to the Bucoli, who revolted in Egypt in 171 CE (71.4.1).

Apart from rhetorical exaggerations, the epigraphical material attests attacks directed against temples, statues of gods, and centers of Greek civic life. In the city of Cyrene, in the sanctuary of Apollo, for example, “the baths with the porticoes, ball-courts and other neighboring buildings . . . were destroyed and burnt down in the Jewish revolt” (*CJZC* 23). The temple of Hecate, too, was “des[troyed] and [burnt down in] the Jewish revolt” (*CJZC* 21), and large destruction is also attested in the Caesareum (*CJZC* 17, 18, 19) and in the temple of Zeus (*CJZC* 22).

Possibly fearing that Roman military forces might arrive from the sea, the Jews tried to destroy the road connection between Cyrene and its port, Apollonia. A Hadrianic milestone commemorates the repair of the road “which had been overturned and smashed up in the Jewish revolt” (*CJZC* 24, 25). Reynolds notes that at Balagrae to the west an important sanctuary of Asclepius suffered severe damage. Moreover, a representation of a seven-branched candelabrum, deeply incised in the rock surface of a stretch of road

<sup>3</sup> See J. Reynolds, “Cyrenaica,” *CAH*, 2nd ed., XI (2000), 552.

<sup>4</sup> For a balanced assessment of sources and modern works, see W. Horbury, “The Beginnings of the Jewish Revolt under Trajan,” in P. Schäfer (ed.), *Geschichte–Tradition–Reflexion: Festschrift für Martin Hengel zum 70 Geburtstag*, 1 (Tübingen, 1996), 297–301.

northwest of Balagrae, suggests interference with the route between Cyrene and her neighbors to the west.<sup>5</sup>

Eusebius states that the Jews of Libya acted in co-operation with the Jews of Egypt and specifically mentions a military alliance (*symmachia*), adding that at a certain stage the Jews of Libya passed into Egypt (*HE* 4.2.3).

#### B EGYPT

Concerning the events transpiring in Egypt, papyrological evidence is available. Unfortunately, most of the papyri do not preserve the date, and the dates proposed in the *CPJ* rely on the incorrect assumption that *CPJ* II 435, written in October 115 and dealing with a Jewish–Greek conflict, is the starting point for the chronology of the Jewish revolt in Egypt.<sup>6</sup> On closer examination, however, it appears that this papyrus deals not with an uprising of Jews but with an attack of Greeks perpetrated against the Jews.<sup>7</sup>

The Jewish uprising, therefore, began later than October 115, which is also borne out by the ostraca found in the Jewish quarter of Apollinopolis Magna (Edfu), from which one learns that the receipts for Jewish payment of various taxes halted at the end of May 116. Barnes is probably correct in arguing that this date must be the *terminus post quem* for the beginning of the Jewish uprising, at least at Apollinopolis Magna.<sup>8</sup> As for the *terminus ante quem*, it is the beginning of September, when, at Hermoupolis, the wife of the *strategos* Apollonios, greatly worried, wrote the letter preserved in *CPJ* II 436.

The uprising covered large sections of the country: the Athribite district, the vicinity of Memphis (*CPJ* II 438–9) – a strategic center known for its anti-Semitism – the Fayum (*CPJ* II 449), Oxyrhynchos (*CPJ* II 445, 447, 450), and the Herakleopolite nome (*CPJ* II 445). Further south, the effects of fighting are recorded for the Kynopolite (*CPJ* II 445), the Hermopolite (*CPJ* II 436, 438, 442, 443, 446), as well as the Lycopolite and the Apollinopolite districts (*CPJ* II 444, 436).

Appian writes that during the events the shrine of Nemesis near Alexandria was destroyed by the Jews “for the exigencies of the war” (*BC* II 90), and Jewish attacks against pagan temples in Egypt and Cyrenaica may well account for the term “impious Jews” (ἀνόσιοι Ἰουδαῖοι) which appears in the papyri (*CPJ* II 438, 443).<sup>9</sup>

<sup>5</sup> Reynolds, “Cyrenaica,” 553. <sup>6</sup> *CPJ* I 88; II 228–33. <sup>7</sup> See n. 2.

<sup>8</sup> The last receipt is dated 18 May 116 (*CPJ* II 229). See T. D. Barnes, “Trajan and the Jews,” *JJS* 40 (1989), 157–8.

<sup>9</sup> This expression has deep roots in Egyptian literature since the third century BCE onwards. See Frankfurter, “Lest Egypt’s City Be Deserted,” 208–11.

Appian, in Egypt at the time of the uprising, writes that the Jews seized the waterways (in the vicinity of Pelusium: *Hist. Rom.*, fr. 19), and similar information may be deduced from *CPJ* II 441 and from a later Ethiopic source (Jean de Nikiou 72) dealing with the fortress of Babylon.<sup>10</sup>

The Greeks retaliated, led by their *strategoî* (the best-known is Apollonios at Apollinopolis-Heptakomia),<sup>11</sup> and were helped by the Egyptian peasants (*CPJ* II 438) and the Romans. It appears that the prefect himself, Rutilius Lupus, personally participated in the engagements (*SB* 10502). Some of them must have been successful, as in the case of the "victory and success" of "our lord Apollonios" in the vicinity of Memphis, recorded in *CPJ* II 439. Since many of the Roman forces had been sent to fight with Trajan in Mesopotamia, however, the Roman military forces present *in loco*, the *legio XXII Deiotariana* and a part of the *legio III Cyrenaica*,<sup>12</sup> were unable to restore order effectively.

#### C CYPRUS

Dio states that the Jews rebelled in Cyprus, led by a certain Artemion (68.32.2), while in Eusebius' *Chronicon* it is stated that the Jews attacked the pagan inhabitants of the island and destroyed Salamis.<sup>13</sup> Epigraphical evidence is scarce, indirect and difficult to interpret.<sup>14</sup>

The impression made by the revolt on the pagan and Christian sources is one of great destruction. Dio states that in Cyprus "two hundred and forty thousand perished" (68.32.2), whereas Orosius writes that "all the Greek inhabitants of Salamis were killed" (7.12.8).

#### D ROMAN REACTION

Against the Jews, Trajan sent "Marcius Turbo with land and sea forces including cavalry. He waged war vigorously against them in many battles

<sup>10</sup> On the strategic importance of the delta, see A. Kasher, "Some Comments on the Jewish Uprising in Egypt in the Time of Trajan," *JJS* 27 (1976), 155–6. According to Sijpestejn, the Egyptian waterways had a particular strategic importance in these years, constituting a link between Rome and the front of the Parthian war. See M. Pucci, *La rivolta ebraica al tempo di Traiano* (Pisa, 1981), 61–2, notes 181–3.

<sup>11</sup> See *CPJ* II 226–7.

<sup>12</sup> R. O. Fink, *Roman Military Records on Papyrus* (Princeton, 1971), n. 34 recto. See also Kasher, "Some Comments," 156.

<sup>13</sup> *Chron.*, ed. R. Helm, 196. For the possibility that other cities were destroyed too, see Pucci, *La rivolta ebraica*, 74.

<sup>14</sup> A few inscriptions are dealt with in Pucci, *La rivolta ebraica*, 75–6, but see L. Moretti's suggestions in *RFIC* 110 (1982), 253.

for a considerable time and killed many thousands of Jews, not only those of Cyrene but also those of Egypt" (*HE* 4.2.3–4).<sup>15</sup> Marcius Turbo, one of Trajan's best generals,<sup>16</sup> probably arrived as *dux* with specific military functions.<sup>17</sup> The additional forces who accompanied him may have included the *cobors I Ulpia Afrorum equitata* (*ILS* 8867) and the *cobors I Augusta praetoria Lusitanorum equitata* (*PSI* 1063), both of which are confirmed in Egypt in 117 CE, the latter of which suffered heavy losses in Egypt during the early summer of 117.<sup>18</sup>

The *legio XXII Deiotariana* and the *legio III Cyrenaica* also fought against the Jews: we have the very names of a number of Roman legionaries, belonging to these legions, who were killed in combat (*P. Vindob. L.*, 2). Moreover, from *P. Heid. lat.* 7 we learn about a plan for the mobilization of impressive military forces: the fleets from Misenum and Ravenna, the *legio III Cyrenaica* and additional auxiliary units such as the *cobors I Flavia Cilicum equitata*.

The harsh character of the Roman repression is attested by Appian, who states that in his day, Trajan "exterminated" the Jewish race in Egypt (*BC* 2.90), and by the Jerusalem Talmud, which additionally emphasizes the destruction of the great Alexandrian synagogue, one of the glories of Egyptian Jewry (*Sukk.* 5.1.55b).

Turbo's military actions may have been fought in Libya as well, where, during the war against the Jews, the Roman *praefectus castrorum* mentioned by Artemidoros Daldianus (*Oneirocriticon* 4.24) was slain. To Cyprus Trajan sent another of his generals, Caius Valerius Rufus, tribune of the Upper Moesian legion *II Claudia* (*ILS* 3,9491). The military operations against the Jews in Cyprus may also underline the statement of the Babylonian Talmud (*Sukk.* 51b) that the blood of the Jews killed in Egypt reached as far as Cyprus.

The uprising was certainly crushed before the autumn of 117 (see *CPJ* 11 443) and possibly by summer, before the death of Trajan, since, immediately after his accession to the throne in August 117, Marcius Turbo was

<sup>15</sup> Barnes suggests that it was the autumn of 116 or the winter of 116/7 (Barnes, "Trajan and the Jews," 159), but the spring of 117 cannot be excluded.

<sup>16</sup> See R. Syme, "The Wrong Marcius Turbo," *JRS* 52 (1962), 87–96; see also *Roman Papers*, 11 (Oxford, 1979), 541–56; and P. A. Brunt, *Roman Imperial Themes* (Oxford, 1990), 473–4.

<sup>17</sup> Syme has shown that he did not replace Lupus as prefect of Egypt: see R. Syme, "More Trouble about Turbo," in *Bonner Historia-Augusta-Colloquium 1979/81* (Bonn, 1983), 303–7.

<sup>18</sup> See I. F. Gilliam, "An Egyptian Cohort in AD 117," in *Bonner Historia-Augusta-Colloquium 1964/5* (Bonn, 1966), 91–7; and Fink, *Roman Military Records*, note 74, dated September 3, 117. On the forces active against the Jews, see also A. Kasher, "Some Comments," 154–8.

sent by Hadrian to Mauretania (*SHA, Hadr.* 5.8). At Oxyrhynchus, the victory over the Jews was commemorated by a festival that was still observed some eighty years later.<sup>19</sup>

#### E CONSEQUENCES

In Egypt and Libya, the Jews almost disappear from the sources after 117 CE.<sup>20</sup> In Egypt, the land that had belonged to the Jews was confiscated by the Roman government,<sup>21</sup> and a consequence of the revolt may have been the abolition of the Jewish court at Alexandria (*Tos. Peab* 4, 6; *Tos. Ket.* 3.1). As for Cyprus, scholars have doubted the statement found in Dio that after the revolt “no Jew may set foot on that island, and even if one of them is driven upon the shores by a storm he is put to death” (68.32.3). This statement is confirmed, though, by the epigraphical material, which provides no evidence of a Jewish presence on the island until the fourth century.<sup>22</sup>

In Egypt, agriculture suffered (*CPJ* II 444), slave labor and textiles were apparently in short supply (*CPJ* II 442), and signs of an economic crisis have been identified in unstable prices and a shortage of basic essentials, such as bread (P. Oxy 1454, P. Giess. 79). Damage to buildings, temples, and roads is attested by inscriptions, especially at Cyrene.<sup>23</sup> According to Eusebius’ *Chronicon*, the cities of Salamis and Alexandria were completely destroyed, and Orosius states that, had Hadrian not later collected settlers from elsewhere and sent them to Libya to found colonies, the land would have remained completely depopulated.<sup>24</sup> The extent of the destruction, however, is difficult to ascertain. Salamis, for example, had not been completely destroyed if in 123 CE it received the title of *metropolis* (*SEG* XX 123; XXIII 609), and one should be careful not to identify automatically all extant evidence as a consequence of the uprisings. Trajan’s sending a colony to Libya (*SEG* XVII 584), for example, and Hadrian’s edict in favor

<sup>19</sup> One learns this information from *CPJ* II 450. On the meaning of this festival, see D. Frankfurter, “Lest Egypt’s City be Deserted,” 214–15.

<sup>20</sup> In the *CPJ*, only fifty documents are available for the period 117–337 CE. Concerning Libya, see Reynolds, “Cyrenaica,” 554.

<sup>21</sup> *CPJ* II 445, 448; P. Berol. Inv. 7440; P. Berol. Inv. 8143. See also J. Modrzejewski, “*Ioudaioi apheremenoi*. La Fin de la communauté juive d’Égypte (115–117 de n.è),” in G. Thuer (ed.), *Symposium 1985: Vorträge zur griechischen und hellenistischen Rechtsgeschichte (Ringberg, 24–6 Juli 1985)* (Köln, 1989), 337–61.

<sup>22</sup> See T. B. Mitford, “Roman Cyprus,” *ANRW* II 7.2 (1980), 1380–1.

<sup>23</sup> See A. Laronde, “La Cyrénaïque romaine, des origines à la fin des Sévères (96 av.J.-C.–235 ap.J.-C),” *ANRW* II 10.1 (1988), 1049–52.

<sup>24</sup> *Hieron.*, ed. R. Helm, 196; and Orosius, *Hist. Adv. Pag.*, 7.12.6.

of Egyptian peasants (P. Brem. 36, 118 CE), are not necessarily to be regarded as consequences of Jewish uprisings, and it cannot be excluded that they should be linked to a situation antecedent to the Jewish uprisings.

### III THE REVOLT IN MESOPOTAMIA

A Jewish rebellion in Mesopotamia is not mentioned by Dio but is reported in Eusebius' *Chronicon*,<sup>25</sup> whereas Eusebius' *HE* records only the suspicion of the emperor that the Jews in Mesopotamia "would also attack the inhabitants" (*HE* 4.2.5).<sup>26</sup> Concerning the Roman reaction, however, all the Christian sources agree that Trajan ordered one of his most famous generals, Lusius Quietus,<sup>27</sup> to fight harshly against the Jews. "He organized a force and murdered a great number of the Jews there" (*HE* 4.2.5). A passage of the *Suida Lexicon* (I, no. 4325; IV, no. 590) may also refer to these events.

Although, in the account of Dio, no mention is made of a Jewish revolt in Mesopotamia, mention is made of a rebellious movement against Roman rule that occurred in the summer of 116 (probably before September), when Trajan left for a voyage to the Persian Gulf (68.29.4). One of the generals charged by Trajan with the task of suppressing the revolt was Lusius Quietus: "Lusius, in addition to many other successes, recovered Nisibis, and besieged and captured Edessa, which he sacked and burned" (68.30.1–2). However, Lusius Quietus is the Roman general also active against the Mesopotamian Jews mentioned by Eusebius. This may account for a possible identification of the Jewish revolt mentioned in Eusebius' *Chronicon* with that of "the conquered districts" reported by Dio. Confirmation is seen in Dio's establishing a connection between Lusius Quietus and the Jews. When dealing with the Jewish uprisings in other countries, he observes that "among others who subdued the Jews was Lusius, who was sent by Trajan" (68.32.3).

If this identification is correct, the Jewish revolt was an episode of the Parthian war meant to prevent Roman conquest. It was certainly not fortuitous that in Mesopotamia the Jews armed themselves and banded together with the other local population groups. This fact may well be explained by the relatively good position enjoyed by the Jews in the

<sup>25</sup> *Hieron.*, ed. R. Helm, 196, followed by Orosius, *Hist. adv. pag.*, 7.12.7, and by Syncellus, 348A.

<sup>26</sup> Eusebius' *HE* is followed by Rufinus, *HE*, 4.2.5, and by Nicephorus, *HE*, 3.22B.

<sup>27</sup> On Lusius Quietus, see the works of Groag, Jordanescu, Den Boer, and Roos, cited by L. Motta, "La tradizione sulla rivolta ebraica al tempo di Traiano," *Aegyptus* 32 (1952), 484, note 1. See also L. Petersen, "Lusius Quietus: Ein reitergeneral Trajans aus Mauretanien," *Altertum* 14 (1968), 211–17; and idem, *PIR*, 2nd ed., v/1 (Berolini, 1970), s.v. Lusius Quietus, 113–14, n. 439.

Parthian Empire, at least when compared with that of their brethren under the Roman government.<sup>28</sup>

#### IV THE “WAR OF KITOS” IN JUDAEA

Both Dio (68.32.5) and Eusebius (*HE* 4.2.5) report that, after his military operations against the Jews in Mesopotamia, Quietus was elected consul and appointed governor of Judaea by Trajan. Arriving in Judaea, he may have brought additional military forces, among which perhaps was the *vexillatio* of the *legio III Cyrenaica*, attested in Jerusalem after February 116 CE (*ILS* 4393).<sup>29</sup>

No details are available concerning the exact happenings, but a “war of Kitos” is mentioned in Jewish sources (*Seder Olam Rabbah* 30, *M. Sot.* 9, 14). It is dated fifty-two years after Vespasian’s war and sixteen before Bar Kochba, and, like the earlier and later wars, it was the occasion for the passing of sumptuary legislation and a prohibition against teaching Greek. The different and contradictory versions of the so-called “story of Lulianus and Pappus” also seem to refer to this war,<sup>30</sup> and perhaps a number of Jewish sources also interpreted as if dealing with the Bar Kochba rebellion.<sup>31</sup> Unrest in Judaea is additionally mentioned in two late Syriac sources, stating that the rebelling Jews moved from Egypt and Libya to Judaea, where they were destroyed by the Roman armies.<sup>32</sup> The problematic reliability of these late accounts, however, the non-historical character of the Jewish sources, and Dio Cassius’ and Eusebius’ silence concerning the events in Judaea, may account for the skeptical positions found in modern scholarship.<sup>33</sup>

<sup>28</sup> See J. Neusner, “The Jews East of the Euphrates and the Roman Empire, 1st–3rd Centuries AD,” *ANRW* 11 9.1 (1976), 46–69.

<sup>29</sup> The erection in Jerusalem of a shrine by an African contingent is dated by Alon to this time. See G. Alon, *The Jews in Their Land in the Talmudic Age*, 11, ed. G. Levi (Jerusalem, 1984), 417.

<sup>30</sup> See G. Alon, *The Jews*, 420–3. For other interpretations of these sources, see D. Rokeah, “The War of Kitos: Towards the Clarification of a Philological-Historical Problem,” *ScriHie* 23 (1972), 79–84; and M. Goodman, “Judaea,” *CAH*, 2nd ed., XI (2000), 671.

<sup>31</sup> See A. Oppenheimer, “The Jewish Community in Galilee During the Period of Yavneh and the Bar-Kokhba Revolt,” *Catbedra* 4 (1977), 182 (Hebrew).

<sup>32</sup> *The Chronography of Gregory Abu’l Faraj (Bar Hebraeus)*, 1, trans. E. A. W. Budge (Oxford, 1932), 52; see also Michael Syriacus, *Chron.* 4.105, ed. J. B. Chabot, 1 (Paris, 1899; repr. Brussels, 1963), 172.

<sup>33</sup> For example, see M. D. Herr, “The Participation of the Galilee in the ‘War of Qitos’ (Quietus) or in the ‘Ben-Kosba Revolt,’” *Catbedra* 4 (1977), 191 (Hebrew); see also G. Stemberger, *Die römische Herrschaft im urteil der Juden* (Darmstadt, 1983), 78; and P. Schäfer, “Hadrian’s Policy in Judaea and the Bar Kokhba Revolt: A Reassessment,” in P. R. Davies and R. T. White (eds.), *A Tribute to Geza Vermes* (Sheffield, 1990), 286.



Military operations occurring in Judaea, however, are also mentioned by an unquestionably reliable source, an inscription found in Sardinia, which mentions an *expeditio Iudaeae* among the other wars fought by Trajan.<sup>34</sup>

The events that occurred in Judaea in 117, obscure as they are in detail, were, however, serious enough to be responsible for a change in Judaea's status from praetorian to consular, and the addition of a second legion – most probably the *legio II Traiana* – at some point before 120 CE.<sup>35</sup> It may therefore be no accident that Lusius Quietus was elected consul before being sent to Judaea.<sup>36</sup> The change in Judaea's status remained a permanent one, since after Lusius Quietus, all known governors sent to Judaea occupied consular rank. L. Cossonius Gallus, consul in 116 and sent to Judaea between 118 and 120 CE, was mentioned in an inscription from Caesarea Maritima,<sup>37</sup> and M. Paccius Gargilius Antiquus, *consul suffectus* in 119, was confirmed at Dor between 122 and 125.<sup>38</sup>

Oppenheimer suggests that changes in the administration of Galilee were made by Hadrian at the beginning of his reign, and that at Sepphoris and Tiberias the administration passed into the hands of non-Jews.<sup>39</sup>

<sup>34</sup> *Ann. Ep.* 1929, 167. See also C. Bruun, "The Spurious '*expeditio Iudaeae*' under Trajan," *ZPE* 93 (1992), 98–106; see M. Pucci Ben Zeev, "L. Tettius Crescens' *expeditio Iudaeae*," *ZPE* 133 (2000), 256–8. During this *expeditio* a public building, the remains of which were found at Jaffo, may have been burned down. See J. Kaplan, "The Fifth Season of Excavations at Jaffo," *JQR* 54 (1963–4), 111–13.

<sup>35</sup> It was also suggested that Judaea became a consular province at the beginning of Trajan's reign (W. Eck, "Zum konsularen Status von Iudaea im frühen 2. Jh.," *BASP* 21 (1984), 55–67), but see also K. Strobel, "Zu Fragen der frühen Geschichte der römischen Provinz Arabia und zu einigen Problemen der Legionsdislokation im Osten des Imperium Romanum zu Beginn des 2. Jh. n. Chr.," *ZPE* 71 (1988), 270. On the presence of the *legio II Traiana* in Judaea, see B. Isaac and I. Roll, "Legio II Traiana in Judaea," *ZPE* 33 (1979), 149–56; and, by the same authors, "Judaea in the Early Years of Hadrian's Reign," *Latomus* 38 (1979), 54–61.

<sup>36</sup> Dio, 68.3.4 (*Exc. Val.* 290).

<sup>37</sup> See inscription note 1 in H. M. Cotton and W. Eck, "Governors and Their Personnel on Latin Inscriptions from Caesarea Maritima," *The Israel Academy of Sciences and Humanities Proceedings* 7/7 (2001), 219–23.

<sup>38</sup> D. Gera and H. M. Cotton, "A Dedication from Dor to a Governor of Syria," *IEJ* 41/4 (1991), 258–66. Some years later, however, relying on the works of Bowersock, MacAdam, and Isaac, Dabrowa argued that at the time Dor belonged to Judaea. E. Dabrowa, "M. Paccius Silvanus Quintus Corelius Gallus Gargilius Antiquus et son *cursus honorum*," in *Nunc de Suebis Dicendum est: Studia Archaeologica et Historica Georgii Kolendo ab Amicis et Discipulis Dicata* (Warsaw, 1995), 100.

<sup>39</sup> For different interpretations, see Oppenheimer, "The Jewish Community," 185; and P. Schäfer, "Hadrian's Policy in Judaea," 287, 296.

## V THE INTERRELATIONSHIP OF THE UPRISINGS

The summer of 116 is the one period in antiquity when the Jews in different places in the Diaspora took up arms at approximately the same time. This contemporaneity is outstanding, and it may support the possibility that some kind of concerted plan existed, perhaps with Parthian inspiration.<sup>40</sup> However, no evidence on this subject is available. A link is explicitly mentioned by Eusebius only as regards the revolts of Libya and Egypt,<sup>41</sup> while the possibility that Jews escaping from the repression of Turbo in Egypt moved to Judaea, as reported by late Syriac sources,<sup>42</sup> is impossible to substantiate.

Horbury is probably correct in arguing that the identification of a common strategic aim is speculative.<sup>43</sup> In each place, the Jews had their own good reasons for fighting.<sup>44</sup> In Mesopotamia, the rebellion seemed to be part of a general movement of local peoples meant to prevent Roman conquest, whereas in Libya, Egypt, and Cyprus the Jewish attacks seemed to be directed not so much against the Roman government as against their Gentile neighbors.

## VI ACHIEVEMENTS

It is undeniable that the simultaneity of the Jewish uprisings in different places was meaningful because it compelled Trajan to remove military forces led by his best generals from the Parthian front. At the same time, the resistance in Mesopotamia was not yet doomed, as the unsuccessful siege of Hatra demonstrates. The "revolt of the conquered districts" had been suppressed but had led to a compromise with the Parthians. It all coincided with Trajan's sickness and death, thus proving decisive in preventing the annexation of Mesopotamia. Brunt may be correct in suggesting that Hadrian's withdrawal from the east may have been necessitated not so much by the situation as by his policy of rejecting imperial expansion, in deliberate contrast to Trajan.<sup>45</sup> In any case, and in spite of the triumph celebrated during the funerals of Trajan,<sup>46</sup> the Parthian war had

<sup>40</sup> See Neusner, "The Jews East of the Euphrates," 58. <sup>41</sup> See above, p. 95.

<sup>42</sup> See n. 32. In any case, it remains very doubtful whether this meant that the movement of the Jews in Libya and Egypt had the purpose of a return "from exile to Zion," as Smallwood suggests (*The Jews*, 397).

<sup>43</sup> Horbury, "The Beginnings of the Jewish Revolt," 302.

<sup>44</sup> For a different view, see T. D. Barnes, "Trajan and the Jews," 162.

<sup>45</sup> P. A. Brunt, *Roman Imperial Themes* (Oxford, 1990), 473–4.

<sup>46</sup> J. C. Richard, "Les Funérailles des Trajan et le triomphe sur les Parthes," *REL* 44 (1966), 351–62. See also Barnes, "Trajan and the Jews," 162.

failed<sup>47</sup> and the Jews of Babylon had succeeded in remaining outside the Roman Empire. As one finds in the Babylonian Talmud, “The Holy One, blessed be He, knows that Israel is unable to endure the cruel decrees of Edom [Rome], therefore He exiled them to Babylonia” (BT *Pes.* 87b).

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<sup>47</sup> “Three years of Roman advances,” Lepper observes, “had in one year been virtually nullified.” F. A. Lepper, *Trajan’s Parthian War* (Oxford, 1948), 95.

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## THE BAR KOCHBA REVOLT, 132–135

HANAN ESHEL

## I INTRODUCTION

The fourth decade of the second century CE witnessed the outbreak and apex of the final Jewish uprising against Roman rule in Palestine. Named the Bar Kochba Revolt for its leader, its details remain shrouded in mystery. With no historical treatise to provide a systematic account of the revolt and no lost work (Roman or Jewish) describing it, any scholarly attempt to reconstruct its course inevitably confronts the stumbling block of reliance on sources representing varying objectives, reliability, and dates,<sup>1</sup> leaving many seminal issues unresolved. Continuing to be debated are the revolt's direct causes, the geographical extent of Bar Kochba's regime and whether it included Jerusalem, and the magnitude of the Roman reaction. Furthermore, the available literary, epigraphic, numismatic, and archaeological evidence reveals nothing of the revolt's military confrontations.

So terse is the one extant historical account of the revolt, found in the abridged version of the third-century historian Cassius Dio's *Roman History* (69.11–15),<sup>2</sup> that it fails even to name the rebel leader. Archaeological findings from 1952 to the present, mainly papyrological, fill the gaps to a certain extent; however, they by no means create a coherent account of events in Palestine during the three-year revolt.<sup>3</sup> Emerging is a partial picture of Bar

<sup>1</sup> P. Schäfer, *Der Bar Kokhba-Aufstand* (Tübingen, 1981).

<sup>2</sup> On this work, edited by a monk named Xiphilinus in the eleventh century, see *GLAJJ* 11 390–405; B. Isaac, "Cassius Dio on the Revolt of Bar-Kokhba," *SCI* 7 (1983/4), 68–76; and Y. Z. Eliav, "Hadrian's Actions in the Jerusalem Temple Mount according to Cassius Dio and Xiphilini Manus," *JSQ* 4 (1997), 125–44.

<sup>3</sup> The documents in question are as follows: (1) a group discovered in 1952 in Wadi Murabba'at and published by P. Benoit, J. T. Milik, and R. de Vaux (eds.), *Les Grottes de Murabba'at* (*DJD* 11); (2) documents discovered by Beduins in 1952 and 1953 found in the Seiyāl Collection (XHev/Se), published by H. M. Cotton and A. Yardeni, in *Aramaic, Hebrew and Greek Documentary Texts from Nabal Hever and Other Sites, with an Appendix Containing Alleged Qumran Texts, the Seiyāl Collection* 11 (*DJD* xxv11); and (3) documents discovered in the Cave of Letters in Nahal Hever in 1960 and 1961, bearing the siglum P. Yadin. For the Greek documents, see N. Lewis, *The Documents from the Bar Kokhba Period*

Kochba's leadership style and administration, his state's borders, Jewish observance under wartime conditions, and the strong Roman reaction.

## II CAUSES

Briefly described, factors contributory to the revolt include administrative changes in Judaea following the First Revolt of 66–70; the unrest caused by the sizable Roman military presence in Judaea; a possible economic decline – a shift from landowning to sharecropping; the nationalistic agitation provoked by Jewish uprisings in Egypt, Cyrenaica, and Libya during the Trajanic Revolt (115–17); and Trajan's war ("the War of Quietus") against the Jews of Mesopotamia (116–17).<sup>4</sup> For proximate causes, the sparse historical evidence focuses inconclusively on the foundation of the pagan city of Aelia Capitolina on the ruins of Jerusalem (Cassius Dio 69.12, 1–2),<sup>5</sup> or on Hadrian's ban on circumcision (*Historia Augusta, Vita Hadriani* 14.2). Although scholars are divided about these factors' weight and historicity,<sup>6</sup> the prevailing consensus ascribes a role to both.<sup>7</sup> One must also note the part played by the construction of a temple to Jupiter on the Temple Mount.<sup>8</sup> Reminiscent of the introduction of a statue of Zeus to the Temple in 167 BCE that had sparked the Hasmonean revolt, the Jews

*in the Cave of the Letters: Greek Papyri* (Jerusalem, 1989); for the Semitic documents, see Y. Yadin, J. C. Greenfield, A. Yardeni, and B. A. Levine, *The Documents from the Bar Kokhba Period in the Cave of the Letters: Hebrew, Aramaic and Nabatean-Aramaic Papyri* (Jerusalem, 2002). Subsequent references to these documents will note sigla only.

<sup>4</sup> M. Mor, *The Bar-Kochba Revolt: Its Extent and Effect* (Jerusalem, 1991), 15–97 (Hebrew); W. Eck, "Der Bar-Kochba Aufstand, der kaiserliche Fiscus und die Veteranenversorgung," *SCI* 19 (2000), 139–48; S. Applebaum, *Prolegomena to the Study of the Second Jewish Revolt* (Oxford, 1976), 1–22. See also chapters 2 and 3 in the present volume.

<sup>5</sup> P. Schäfer, "Hadrian's Policy in Judaea and the Bar Kokhba Revolt: A Reassessment," in P. R. Davies and R. T. White (eds.), *A Tribute to Geza Vermes* (Sheffield, 1990), 281–303. See also D. Golan, "Hadrian's Decision to Supplant 'Jerusalem' by 'Aelia Capitolina,'" *Historia* 35 (1986), 226–39.

<sup>6</sup> Y. Meshorer, for example, *Ancient Jewish Coinage*, 11 (New York, 1982), 132–3, subscribes to Dio's testimony; see also L. Mildenberg, *The Coinage of the Bar Kokhba War* (Salzburg, 1984), 102–9, who subscribes to that of *Historia Augusta*.

<sup>7</sup> See, e.g., *HJPAJC* 1 535–40; M. D. Herr, "The Causes of the Bar-Kokhba Revolt," *Zion* 43 (1978), 1–11 (Hebrew); and P. Schäfer, "The Causes of the Bar Kokhba Revolt," in J. J. Petuchowski and E. Fleischer (eds.), *Studies in Aggadab, Targum and Jewish Liturgy* (Jerusalem, 1981), 74–94. H. Mantel, "The Causes of the Bar Kokhba Revolt," *JQR* 58 (1967–8), 224–42, 274–96, is the only scholar who accepts Eusebius' statement attributing the revolt solely to messianic causes, rejecting Dio and *Vita Hadriani's* testimony.

<sup>8</sup> For two scholarly views that deny the report of a temple of Jupiter on the Temple Mount, see G. W. Bowersock, "A Roman Perspective of the Bar Kochba War," in W. S. Green (ed.), *Approaches to Ancient Judaism*, 11 (Chico, 1980), 131–41, and Eliav's "Hadrian's Actions."

evidently believed they could once again successfully rid the Temple Mount of this unwanted idolatrous presence.

Clouding the determination of the cause(s) of the revolt is the Church Father Eusebius' dating of the establishment of Aelia Capitolina to 136 (*HE* 4.6), thus making it an outcome rather than a cause of the conflict. In support of Eusebius' testimony, E. M. Smallwood cites the mishnaic report of the symbolic plowing of Jerusalem's circumference after the fall of Bethar (*BT Taan.* 4.6).<sup>9</sup> Proof for an earlier founding of Aelia Capitolina, however, comes from coins minted there prior to this date and found in hoards concealed in the Judaean desert in 135. These hoards – containing both Bar Kochba and Aelia Capitolina coins – lend corroboration to Dio's account of Aelia Capitolina's founding in 130 during Hadrian's visit to that city.<sup>10</sup>

Similarly, scholars question the historical basis for the purported inflammatory role played by Hadrian's ban on circumcision. Given *Historia Augusta's* doubtful historicity, Geiger argues that the ban was a punitive post-revolt measure.<sup>11</sup> Others, Mildenberg for example, accept the testimony of the *Historia Augusta* regarding the ban's role in sparking the revolt, postulating that this measure was a Hadrianic extension of Domitian's well-known prohibition against castration to circumcision. In the wake of Hadrian's visit to Palestine in 130, any Jewish misconceptions that they were exempt from this decree, as from emperor worship, were dispelled, ultimately sparking rebellion.<sup>12</sup> Grounded mainly in the testimony of the third-century jurist Modestinus, these hypotheses neither date the ban on circumcision conclusively<sup>13</sup> nor prove that it provoked the revolt.<sup>14</sup>

<sup>9</sup> E. M. Smallwood, *The Jews Under Roman Rule* (Leiden, 1981), 459. See also *HJPAJC* 1 551.

<sup>10</sup> Y. Meshorer, *Jewish Coins of the Second Temple Period* (Tel-Aviv, 1967), 92–3; B. Isaac and A. Oppenheimer, "The Revolt of Bar Kokhba: Ideology and Modern Scholarship," *JJS* 38 (1985), 47; and H. Eshel, "The Date of the Founding of Aelia Capitolina," in L. H. Schiffman, E. Tov, and J. C. Vanderkam (eds.), *The Dead Sea Scrolls Fifty Years After Their Discovery* (Jerusalem, 2000), 637–43.

<sup>11</sup> J. Geiger, "The Ban on Circumcision and the Bar-Kokhba Revolt," *Zion* 41 (1976), 139–47 (Hebrew); see also A. Rabello, "The Ban on Circumcision as a Cause of Bar Kokhba's Rebellion," *Israel Law Review* 29 (1995), 176–214; and P. Schäfer, "The Bar Kokhba Revolt and Circumcision: Historical Evidence and Modern Apologetics," in A. Oppenheimer (ed.), *Jüdische Geschichte in römischer Zeit: Wege der Forschung: Von alten zum neuen Schürer* (Munich, 1999), 119–32.

<sup>12</sup> Mildenberg, *Coinage*, 106–9.

<sup>13</sup> According to Modestinus, Antoninus Pius permitted the Jews to circumcise their own sons and forbade them to circumcise anyone from other nations. In E. M. Smallwood's view ("The Legislation of Hadrian and Antoninus Pius against Circumcision," *Latomus* 18 [1959], 334–47), this paragraph is a liberal amendment of the sweeping ban enacted by Hadrian, which had applied to Jews. This interpretation, however, is unconvincing, as the law was apparently designed only to bar Jews from accepting converts.

<sup>14</sup> Geiger, "Ban on Circumcision," 140–1.

D. R. Schwartz's re-examination of the abrogation of the Temple and of circumcision in divinely controlled historical events in the *Epistle of Barnabas*, presumably written during Hadrian's reign, points to a pre-revolt promulgation of the ban on circumcision.<sup>15</sup>

### III PREPARATIONS

Although its direct causes remain undetermined, large-scale Jewish preparations for revolt are described by Dio and evidenced by archaeological discoveries. Dio reported the following:

The Jews . . . purposely made of poor quality such weapons as they were called upon to furnish, in order that the Romans might reject them and that they themselves might thus have the use of them; but when he went further away they openly revolted. To be sure, they did not dare try conclusions with the Romans in the open field, but they occupied the advantageous positions in the country and strengthened them with mines and walls, in order that they might have places of refuge whenever they should be hard pressed, and might meet together unobserved underground; and they pierced these subterranean passages from above at intervals to let in air and light.<sup>16</sup>

No archaeological discoveries support Dio's description of the Jewish manufacture of defective weapons; on the contrary, the weapons excavated at insurgent-controlled sites are identical to Roman ones.<sup>17</sup> His remarks concerning the tunnels, hideaways, subterranean passageways, and shafts, however, have received positive confirmation with the discovery of hundreds of hiding complexes, particularly in the Judean Shephelah.<sup>18</sup>

<sup>15</sup> D. R. Schwartz, "On Barnabas and Bar-Kokhba," in *Studies in the Jewish Background of Christianity* (Tübingen, 1992), 147–53.

<sup>16</sup> *GLAJJ* 11 390–3.

<sup>17</sup> M. Gichon and M. Vitale, "Arrow-heads from Horvat 'Eqed," *IEJ* 41 (1991), 242–57.

<sup>18</sup> M. Gichon, "New Insight into the Bar Kokhba War and a Reappraisal of Dio Cassius 69.12–13," *JQR* 77 (1986), 15–43. On the hiding complexes, see A. Kloner and Y. Tepper, in *The Hiding Complex in the Judean Shephelah* (Tel-Aviv, 1987) (Hebrew). See also A. Kloner, "Underground Hiding Complexes from the Bar Kokhba War in the Judean Shephelah," *BA* 46 (1983), 210–12; idem, "The Subterranean Hideaways of the Judean Foothills and the Bar-Kokhba Revolt," *Jerusalem Cathedra* 3 (1983), 114–35. Kloner and Tepper date all the complexes to the Bar-Kokhba revolt. However, evidence exists that some complexes date to the First Revolt, including 755 bronze coins discovered in a small hiding complex at Khirbet Zeita in the Shephelah dating to years two and three of the First Revolt, reported by Y. Tepper and A. Kloner, "Khirbet Zeita," in *Excavations and Surveys in Israel* 7–8 (1988–89), 197–8 without noting their significance. See also Y. Tsafir and B. Zissu, "A Hiding Complex of the Second Temple Period and the Bar-Kokhba Revolt at 'Ain-'Arrub in the Hebron Hills," *The Roman and Byzantine Near East* (Portsmouth, 2002), 7–36.



Based on its proximity to Jerusalem, its numerous nearby springs, and its defensibility, Bethar was chosen to serve as the rebels' headquarters. Excavations at Bethar have uncovered fortifications presumably built by Bar Kochba's forces although serious damage inflicted on archaeological remains there during illegal excavations in the nineteenth or early part of the twentieth century hampers their precise identification. Moreover, the question at which stage of the revolt these defences were constructed – its outbreak or later in the war – is not easily resolved.<sup>19</sup>

#### IV LEADERSHIP AND ADMINISTRATION

The discovery of documents in the Judaeen desert in 1952 resolved the ambiguity regarding the name of the revolt's leader left by its sparse documentation. While some earlier scholars had maintained that Bar Kochba (Hebrew: "son of the star") was his original name, and the appellation Bar Kosiba (Hebrew: "son of disappointment") a reflection of post-revolt bitterness, the Judaeen Desert documents have categorically established that this leader's original name and title was Simeon ben Kosiba *Nasi Yisrael*.<sup>20</sup> Bar Kochba was the soubriquet bestowed by his supporters, based on Rabbi Akiva's messianic interpretation of Numbers 24.17: "A star (*kokhav*) rises from Jacob" (PT *Taan.* 4.8, 68d).<sup>21</sup> Rabbinic literature testifies to Rabbi Akiva's support of Ben Kosiba, also recording the dissenting opinion of Yoḥanan ben Torta.<sup>22</sup> Whether or not the latter's statement disputing Akiva's acclamation of Ben Kosiba as Messiah (PT *Taan.*, *ibid.*) reflects a personal stance or a broader opposition circle remains indeterminable.

Seventeen letters discovered in the Judaeen desert, which were dispatched from Simeon ben Kosiba's headquarters, not only disclosed

<sup>19</sup> On archaeological remains uncovered at Bethar, see W. D. Carroll, "Bittir and Its Archaeological Remains," *AASOR* 5 (1923–4), 77–103; see also B. Kirschner, "A Mint of Bar-Kokhba?" *BJPES* 13 (1946), 153–60 (Hebrew; English summary, xi); and D. Ussishkin, "Archaeological Soundings at Betar, Bar-Kochba's Last Stronghold," *Tel-Aviv* 20 (1993), 66–97.

<sup>20</sup> D. Goodblatt, "The Title *Nasi*' and the Ideological Background of the Second Revolt," in A. Oppenheimer and U. Rappaport (eds.), *The Bar-Kokhba Revolt: A New Approach* (Jerusalem, 1984), 113–32 (Hebrew; English summary, viii–ix).

<sup>21</sup> *HJPAJC* 1 543–4.

<sup>22</sup> P. Schäfer, "Rabbi Aqiva, and Bar Kokhba," in W. S. Green (ed.), *Approaches to Ancient Judaism*, 11 (Chico, 1980), 113–30. On the possibility that the Bar Kochba coins prove that the insurgents followed Rabbi Akiva's rulings, see D. Amit and H. Eshel, "A Tetradrachm of Bar Kokhba from a Cave in Naḥal Hever," *Israel Numismatic Journal* 11 (1990–1), 33–5.

Ben Kosiba's name but also shed light on his personality.<sup>23</sup> The Ben Kosiba of the letters emerges as a demanding leader and as a stickler for detail who constantly rebuked his subordinates for failing to fulfill their assignments scrupulously. Despite the information that these letters provide, they still leave many areas tantalizingly inaccessible; for example, these undated letters cannot be assigned to a specific point in the revolt – neither to its beginning, when Ben Kosiba was at the pinnacle of his strength, nor to its end, when his position was disastrous.

Ben Kosiba's undisputed position as the uprising's leader is supported by numismatic finds. Most rebel-manufactured coins bear the name "Simeon," while the name of an unidentified individual, "Eleazar the Priest," is inscribed on an additional group of coins. Three possible identifications have been proffered for the latter: Eleazar of Modiin (*baModai*), Eleazar ben Azariah, or Eleazar ben Harsom, but it is possible that Eleazar the Priest is otherwise unknown (that is, not mentioned in rabbinic literature).<sup>24</sup> In any event, the presence of a priestly figure in the insurgent leadership suggests plans to capture Jerusalem and restore the Temple cult, but these aspirations were not fulfilled.

Judaean desert documents also provide a glimpse of Bar Kochba's administrative system. Bar Kochba appointed military commanders and civilian administrators (*parnasim*) drawn from the local population in the areas under his control. All totaled, seven commanders are known. One, Yeshua ben Galgola, whose family lived in the village of Bet Bazi, near Herodium (Mur 115), was appointed commander of Herodium (Mur 42–4). Three individuals – Yonatan ben Baayan, Masbala ben Simeon, and Eleazar ben Hitah – jointly commanded the En-Gedi region. Fifteen letters from Yonatan ben Baayan's personal archive reveal Ben Kosiba taking a close interest in administrative affairs and maintaining frequent contact with his commanders (P. Yadin 49–63).

Additional letters disclose the names of other commanders: Yehudah Ben Manasseh, who served in Kiryat Arabaya (P. Yadin 57), and a superior commander named Elisha, whom En-Gedi's commanders had to obey (P. Yadin 53). Another commander, named Simeon ben Mahanim, reported to Bar Kosiba a military defeat in which "brethren were devoured" (XHev/Se 30). This letter's uncertain provenance makes a determination of the region that Simeon ben Mahanim controlled difficult. Nonetheless, either

<sup>23</sup> Two letters were discovered in Wadi Murabba'at and fifteen in the Cave of Letters in Nahal Hever. See Y. Yadin, "Expedition D," *IEJ* 11 (1961), 40–50; and idem, *Bar-Kokhba* (London, 1971), 124–39.

<sup>24</sup> See L. Miltenberg, "The Eleazar Coins of the Bar Kokhba Rebellion," *Historia Judaica* 11 (1949), 77–108; and idem, *Coinage*, 29–31.

the Machaerus region in Transjordan or the Zif region in the south Hebron hills appears a likely candidate.<sup>25</sup>

In addition, Judaeian desert documents reveal the existence of Ben Kosiba-appointed *parnasim* (administrators) to oversee civilian matters, primarily land-leasing and weights supervision. Regrettably, the scant information found in these documents discloses little more than these district administrators' names and involvement in land-leasing or other matters. For example, one document supplies the name of the Herodium administrator, Hillel ben Garis, who leased land in Ir-Nahash belonging to Ben Kosiba (Mur 24). The documents also reflect changes in personnel: if, during year one of the revolt, Yehoḥanan ben Yeshua and Ḥoron ben Yishmael served as En-Gedi's *parnasim* (P. Yadin 42), during year three Yonatan ben Maḥanim held this post (P. Yadin 44). At Bet Mashko, probably situated near Herodium, two *parnasim*, Yeshua ben Eleazar and Eleazar ben Yosef, were appointed, as a letter sent to Herodium commander Yeshua ben Galgola concerning the illegal confiscation of a cow divulges (Mur 42). Their failure to appeal to Herodium's civilian administrator is surprising. Finally, from an inscription on lead weights, one learns of a *parnas* named Simeon Dasoi, who served in the Shephelah.<sup>26</sup>

Notwithstanding these insights into Bar Kochba's administrative infrastructure, the hierarchy of command between its civilian and military leaders cannot be determined. Neither can one draw a precise map of the regional divisions in Ben Kosiba's state, although during the revolt Judaea was undoubtedly divided into smaller units than the Second Temple toparchies that were also in effect between 73 to 132 (see, for example, Mur 115).<sup>27</sup>

## V THE REVOLT

Given one's inability to chart the revolt's course – its military confrontations and its victories or defeats – this discussion of necessity must focus on other aspects of the event. Likewise, for their exploration of the dating, extent, and economic reality of the Bar Kochba regime, scholars are forced to rely on Ben Kosiba's undated letters, dated economic documents that do not relate directly to the revolt, and numismatic and archaeological discoveries.

The revolt most probably began in the summer of 132. The exact month in which 'year one' of the Bar Kochba regime began, however, is a matter of

<sup>25</sup> H. Eshel, "The History of Research and Survey of the Finds of the Refuge Cave," in H. Eshel and D. Amit, *The Bar-Kokhba Refuge Caves* (Tel-Aviv, 1998), 60–1 (Hebrew).

<sup>26</sup> A. Kloner, "Lead Weights of Bar Kokhba's Administration," *IEJ* 40 (1990), 58–67.

<sup>27</sup> *GLAJJ* 1 469–78.

debate. Although some scholars argue for the traditional beginning of the Jewish year in Nisan, that is, the spring of 132,<sup>28</sup> based on the joint consideration of two dated documents, one from Transjordan and the other from En-Gedi, I would argue that year one should be dated from the inception of Bar Kochba's regime – some time during summer 132 – or from Tishri, that is, the fall of 132. P. Yadin 27 indicates that as of August 132, Jews in Transjordan had not yet fled to En-Gedi. P. Yadin 42, dated “On the first of Iyyar, year one of the redemption of Israel by the hands of Simeon Ben Kosiba,” is the earliest extant document dated according to the revolt. For this latter document to reflect a stable administrative structure and economy with *parnasim* functioning in En-Gedi in Iyyar (May) year one, Bar Kochba's state must have been established months earlier. Taking these documents into consideration, and based on Eusebius' statement that the war began in 132,<sup>29</sup> it is appropriate to date ‘year one’ of the revolt from the summer or the fall of 132 to summer or fall 133; ‘year two’ from summer or fall 133 to summer or fall 134; and ‘year three’ from summer or fall 134 to summer or fall 135.<sup>30</sup> At present, no extant documents date from year four.<sup>31</sup> While it appears that the insurgents enjoyed military successes during the revolt's initial stage, the scope of these victories, like so many facets of the revolt, is unknown.

Life in Judaea appears to have continued as usual during the revolt's first summer. P. Yadin 42 testifies to a willingness to invest large sums in land rental, implying economic stability in the En-Gedi region. In this May 133 document, two of Bar Kochba's administrators granted a four-year lease on fields to farmers from En-Gedi for the astronomical sum of 650 dinars per year. Evidently, during the first year of the revolt, Bar Kochba managed to launch a state and an administrative apparatus that allowed daily life and the local economy, as documented for En-Gedi (and most likely other regions in Judaea), to proceed undisturbed.

This non-disturbance was not the case, though, for regions outside Judaea whose Jews felt the effects of the revolt. Soon after the initial uprising, Jews from the villages of Mehoza and Luhit in the Roman province of Arabia (Transjordan) left their homes. Sometime after August 132,

<sup>28</sup> Based upon Mur 30, dated Tishrei Year 4, it was previously assumed that the calculation began in Nisan. See F. Millar, *The Roman Near East, 31 BC–AD 337* (Cambridge, 1993), 545–52. This document, however, was written in year four of the First Revolt. See below.

<sup>29</sup> R. Helm, *Eusebius Werke VII: Die Chronik des Hieronymus* (Berlin, 1956), 200–1.

<sup>30</sup> H. Eshel, “The Dates Used During the Bar Kokhba Revolt,” in P. Schäfer (ed.), *The Bar Kokhba War Reconsidered* (Tübingen, 2003), 93–105.

<sup>31</sup> Two documents, Mur 30 and Mur 22, previously dated to year four of the Bar Kochba Revolt, were actually written during the First Revolt. See below.

two women, Babatha daughter of Simeon, and Salome Komaise, fled from Mehoza, near Zoar, to En-Gedi (P. Yadin 27).<sup>32</sup> When the revolt failed, they left En-Gedi and hid in a cave in Nahal Hever, taking their documents with them. Jews from Luhit in the 'Eglatain region also fled to En-Gedi (P. Yadin 44).

Like many aspects of the Bar Kochba regime, its geographical extent remains uncertain although it seems that Judaea proper, but not Jerusalem, remained under insurgent rule. Some likelihood also exists that Ben Kosiba gained hegemony over a small part of Transjordan. Thirteen economic documents and twenty-three letters discovered in the Judaeian desert confirm that Ben Kosiba was in control of the Herodium and En-Gedi regions until 135, when the people who owned these documents fled. The documents refer to the following regions: Herodium, Ir-Nahash (apparently to be identified with Khirbet Natash near Herodium), Tekoa, Kiryat Arabaya, and En-Gedi. Of particular significance are two documents (XHev/Se 8, 8a) from Adar 'year three' (February 135) relating to Ben Kosiba as ruling the village of Baru. If the identification of Baru with Baarou, located north of Machaerus – found in Josephus, rabbinic sources, Eusebius' *Onomasticon*, and the Madaba map – is correct,<sup>33</sup> during the third year of the revolt Ben Kosiba's regime even extended over part of the Peraea region (Jewish Transjordan).<sup>34</sup>

Coins and their geographical distribution make a crucial contribution to the discussion, despite the fact that most of these coins were unearthed during illegal excavations and therefore their place of origin cannot be established. Rather than mint new coins, the Bar Kochba regime overstruck Roman ones, and their blatant erasure of the imperial image along with the superimposition of Bar Kochba's name certainly served propaganda purposes. These overstruck coins were valid tender only in Bar Kochba-controlled areas. Based on the discovery of insurgent-hidden hoards of imperial coins – all of which pre-date 132 – that were concealed against the eventuality of the revolt's failure or if their owners left the region,<sup>35</sup> one can adduce a virtual state of economic isolation from neighboring regions.

<sup>32</sup> Yadin, *Bar-Kokhba*, 222–53; H. M. Cotton, "The Archive of Salome Komaise Daughter of Levi: Another Archive from the 'Cave of Letters,'" *ZPE* 105 (1995), 171–208; and H. Eshel, "Another Document from the Archive of Salome Komaise Daughter of Levi," *SCI* 21 (2002), 169–71.

<sup>33</sup> C. Clamer, "The Hot Springs of Kallirrhoe and Baarou," in M. Piccirillo and E. Alliata (eds.), *The Madaba Mosaic Map Centenary, 1897–1997* (Jerusalem, 1999), 221–5.

<sup>34</sup> W. Eck, "The Bar Kokhba Revolt: The Roman Point of View," *JRS* 89 (1999), 76–89.

<sup>35</sup> J. T. Milik and H. Seyrig, "Trésor monétaire de Murabba'at," *RN* 6 (1958), 11–26; see also E. Damati and Z. Erlich, "A Hoard of Denarii and a Tridrachm from Wadi ed-Daliyeh," *Israel Numismatic Journal* 5 (1981), 33–7; and H. Eshel and B. Zissu,



Figure 4.1 Bar Kochba didrachm (shekel)

Significantly, to date, no Bar Kochba coins have been discovered either in the well-excavated Galilee or in the much less studied Transjordan area.<sup>36</sup> Although this absence seems to exclude the Galilee from Bar Kochba's state (but not necessarily a small section of Transjordan, as seen above), this fact obviates neither the possibility that local Jewish guerrilla forces saw military engagement there nor that Bar Kochba's army operated beyond the borders of Judaea, in Samaria, the Jezreel Valley, Transjordan, and perhaps the Galilee.

Galileans appear in a letter discovered in Wadi Murabba'at (Mur 43), in which Ben Kosiba threatens to clap Yeshua ben Galgola and his men in fetters if injury befalls the Galileans in his region. The identity of these Galileans has provoked scholarly debate. Milik and Teicher assume that "Galilean" means Christian;<sup>37</sup> others identify them as Jews who joined Bar Kochba voluntarily or were otherwise forced to flee from the Galilee to Judaea, taking refuge in the Herodium region.<sup>38</sup> In the absence of Bar Kochba coins in the Galilee (an absence that suggests that the revolt failed to spread to this region), the latter explanation seems more likely. Dio's observation that "soon, however, all Judaea had been stirred up, and the Jews everywhere were showing signs of disturbance, were gathering together, and giving evidence of great hostility to the Romans, partly by

"Roman Coins from the 'Cave of the Sandal' West of Jericho," *Israel Numismatic Journal* 13 (1994–99), 70–7. These finds confirm that Mildenberg erred in claiming that all the coins in the insurgents' possession had been overstruck. See L. Mildenberg, "The Monetary System of the Bar Kokhba Coinage," in *Vestigia Leonis* (Göttingen, 1998), 203.

<sup>36</sup> D. Barag, "A Note on the Geographical Distribution of Bar Kokhba Coins," *Israel Numismatic Journal* 4 (1980), 30–3; B. Zissu and H. Eshel, "The Geographical Distribution of Coins from the Bar-Kokhba War," *Israel Numismatic Journal* 14 (2002), 78–87.

<sup>37</sup> J. T. Milik, "Une Lettre de Siméon Bar Kokheba," *RB* 60 (1953), 276–94. See also J. L. Teicher, "Documents of the Bar-Kokhba Period," *JJS* 4 (1953), 133–4.

<sup>38</sup> See, e.g., *HJPAJC* 1 547.

secret and partly by overt acts” may elucidate the circumstances that forced Jews from other areas, the Province of Arabia and perhaps the Galilee, to seek refuge in regions under Bar Kochba’s command.<sup>39</sup>

Another frequently debated issue – whether Bar Kochba captured Jerusalem – also hinges largely on numismatic evidence. The debate revolves around the question of the significance of Bar Kochba tetradrachms portraying the Temple. These coins have led some scholars to assert that Bar Kochba captured Jerusalem and renewed the sacrificial cult.<sup>40</sup> And they support this claim by referring to the “Freedom of Jerusalem” coins struck by Bar Kochba.<sup>41</sup> However, other scholars reject this claim. Instead, they contend that the “Freedom of Jerusalem” coins were expressly designed to encourage the insurgents, particularly in the third year when the Jewish military situation deteriorated, and do not count as evidence of the conquest of the city.<sup>42</sup>

Of the 15,000 coins unearthed in archaeological excavations in Jerusalem, the fact that only three coins overstruck by the insurgents have been discovered definitively proves, in my opinion, that Ben Kosiba never captured Jerusalem. It remained under Roman control for the entire length of the war.<sup>43</sup> Apparently, Roman soldiers took these three coins,<sup>44</sup> along with a Bar Kochba coin found in Caesarea<sup>45</sup> and one found in Hungary (in a Roman soldier’s grave), as souvenirs.<sup>46</sup> It seems likely that the minting of Roman Aelia Capitolina coins induced the counter-manufacture of Bar Kochba coins inscribed with the words “For the Freedom of Jerusalem.”<sup>47</sup> This slogan served propagandistic purposes: to remind the Jewish community that Jerusalem was a Jewish, not a pagan, city.

<sup>39</sup> *GLAJJ* 11 391–2. <sup>40</sup> *HJPAJC* 1 545.

<sup>41</sup> For the various views on the dating of Bar Kochba coins, see G. F. Hill, *Catalogue of the Greek Coins of Palestine* (London, 1914), cv; L. Miltenberg, “Numismatische Evidenz zur Chronologie der Bar-Kokhba Erhebung,” in *Schweizerische Numismatisch Rundschau* 34 (1948–9), 19–27; idem, *Coinage*, 29–31; and B. Kanael, “Notes on the Dates Used During the Bar Kokhba Revolt,” *IEJ* 21 (1971), 39–46.

<sup>42</sup> L. Miltenberg, “Bar-Kokhba Coins and Documents,” *HSCP* 84 (1980), 320–5.

<sup>43</sup> D. T. Ariel, “A Survey of the Coin Finds in Jerusalem (Until the End of the Byzantine Period),” *Liber Annuus* 32 (1982), 293–4.

<sup>44</sup> Applebaum, *Prolegomena*, 27.

<sup>45</sup> This piece is a medium bronze coin (note 1AA 6781). See G. Bijovsky, “Coins from Kh. Badd-Isah (Qiryat Sefer),” *The Land of Benjamin: Judea and Samaria Publications* 3 (Jerusalem, 2004), 243–300.

<sup>46</sup> K. Biro-Sey, “Coins from Identified Sites of Brigetio and the Question of Local Currency,” *Regeszeti Füzetek* 11/18 (1977), 47 n. 226.

<sup>47</sup> The discovery of Aelia Capitolina coins alongside overstruck Bar Kochba coins in a cave in Naḥal Michmash substantiates a pre-revolt founding for Aelia Capitolina. See Eshel, “Aelia Capitolina.”

A recent re-examination of four documents from Wadi Murabba'at previously ascribed to the Bar Kochba revolt, believed to indicate that Bar Kochba captured Jerusalem, revealed them to be irrelevant. Carbon-14 dating irrefutably established that these four documents, two written in Jerusalem (Mur 29, 30) and one containing a reference to the liberation of Jerusalem in year three (Mur 25) and another to the redemption of Israel in year four (Mur 22), date to the First Revolt.<sup>48</sup>

Fresh numismatic discoveries have further altered and extended the picture of the Bar Kochba regime's geographical boundaries. When first surveyed, only one Bar Kochba coin had been unearthed in Wadi ed-Daliyeh north of Jericho and none had been discovered in the region south of Ein Arub (Kiryat Arabaya) during authorized excavations.<sup>49</sup> On the basis of this evidence, Mildenberg proposed that Ben Kosiba controlled neither region.<sup>50</sup> Recent discoveries have overturned this assumption.<sup>51</sup> Consideration of both the geographical distribution of coins and the hiding complexes supports the argument that, with the exception of Jerusalem, which remained in Roman hands throughout the war, Ben Kosiba controlled all of Judaea from the northern Negev to southern Samaria, during the revolt's initial period (132–3).

Just as it is beyond one's ability to reconstruct the insurgents' early successes in gaining control of Judaea, it is difficult to trace the time and the manner in which the Romans turned the tide in 134/5. The latest extant document known to have been written during the Bar Kochba Revolt (XHev/Se 13), a receipt waiving a post-divorce payment, is dated "On the twentieth of Sivan Year Three [June 135] of the freedom of Israel in the name of Simeon Ben Kosibah" and the latest real-estate transactions are dated a month earlier (XHev/Se 7 and 8a).

Undated letters found in the Judaeian desert illuminate aspects of the collapse of Bar Kochba's state but do not pinpoint this process's inception. Letters from the administrators of Bet Mashko to Yeshua ben Galgola (Mur 42), noting Gentile proximity and citing this nearness as their reason

<sup>48</sup> H. Eshel, "Documents of the First Jewish Revolt from the Judean Desert," in A. M. Berlin and J. A. Overman (eds.), *The First Jewish Revolt: Archaeology, History and Ideology* (London, 2002), 157–63.

<sup>49</sup> Barag, "Geographical Distribution of Bar Kokhba Coins."

<sup>50</sup> Mildenberg, *Coinage*, 50 n. 117.

<sup>51</sup> See D. Amit and H. Eshel, "The Bar-Kokhba Revolt in the Southern Hebron Mountains," *ERLS* 25 (1996), 463–70 (Hebrew); J. Janai, "A Find of Bar-Kokhba Coins from the al Midya ar-Ras Area," *Israel Numismatic Journal* 13 (1994–99), 78–82; see also H. Eshel, "A Denarius of Bar Kokhba from the Southern Judean Highlands," in Y. Eshel (ed.), *Judea and Samaria Research Studies*, 1X (Ariel, 2000), 129–33 (Hebrew); and G. Bijovsky, "The Coins from Ḥorbat Zalit," *Atiqot* 39 (2000), 155–70.





Figure 4.2 The geographical distribution of the coins of the Bar Kochba Revolt



Figure 4.3 The group of letters from Naḥal Hever as they were found

for not coming in person, provide no clues regarding the time when the Romans neared Herodium. A fragmentary Hebrew letter (Mur 45) referring to people who perished by the sword and containing the expression “until the end,” may be a report on the battle waged by Ben Kosiba’s men. In a third fragmentary letter (Mur 46), En-Gedi administrator Yonatan ben Maḥanim requests the dispatching of a functionary “to bury the dead.”

Ben Kosiba’s letters dispatched to En-Gedi also convey a sense of his dire straits at the war’s end. In one letter (P. Yadin 49), he reprimands Masbalah and Yonatan for “living well, eating and drinking off of the property of the House of Israel, and [caring] nothing about your brethren.” In others, Ben Kosiba promises to punish those who disobey him and threatens to burn the houses occupied by refugees from Tekoa who had evaded joining his cause. Also indicative of the severity of Ben Kosiba’s plight are two letters, obviously written before the festival of *Sukkot*, which discuss bringing the Four Species to his camp (P. Yadin 52, 57).<sup>52</sup> In one of these letters, written in Aramaic (P. Yadin 57) and dated by Yadin to fall 134, Ben Kosiba writes that he is providing two donkeys to transport the Four Species. On this basis, Yadin concluded that Ben Kosiba was experiencing difficulties because, without provision of transport, the Four Species would not reach his encampment.<sup>53</sup>

<sup>52</sup> H. Lapin, “Palm Fronds and Citrons: Notes on Two Letters from Bar Kosiba’s Administration,” *HUCA* 64 (1993), 114–22.

<sup>53</sup> Yadin, “Expedition D,” 48–50.



Figure 4.4 A Greek letter from Shimon Bar Kosiba about the Four Species

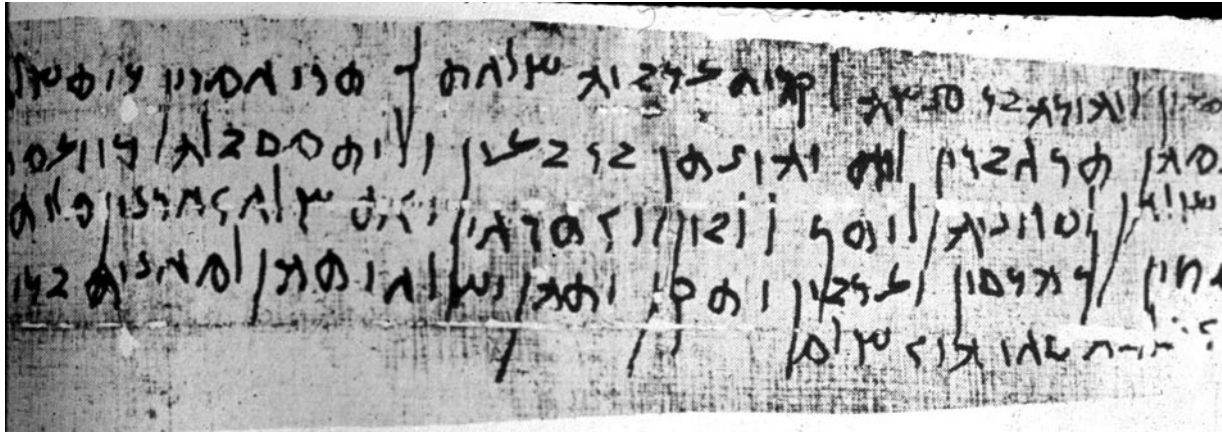


Figure 4.5 An Aramaic letter from Shimon Bar Kosiba about the Four Species

In addition to the two letters about the Four Species necessary to observe *Sukkot* (P. Yadin 52, 57), letters, economic documents, and other discoveries from the Judean desert caves show Ben Kosiba and the insurgents strictly observing Jewish law.<sup>54</sup> Two letters relate to Sabbath observance: one requests an officer be sent to Ben Kosiba before the Sabbath (P. Yadin 50) and another asks the Herodium commander for accommodations for his men over the Sabbath (Mur 24). Economic documents discovered in Wadi Murabba'at appear to indicate that the insurgents observed the sabbatical year for land (Mur 44), and artifacts found in the Cave of Letters reveal that in accord with Jewish law (M. *Av. Zar.* 4.5), the insurgents defaced the pagan deities on bronze utensils taken as booty from Roman military units. In addition, they are also known to have observed the precepts of *zizit* and *shaatnez*.<sup>55</sup>

Three documents from the end of the Bar Kochba Revolt may illuminate the economic reversal suffered in Bar Kochba's state as the war concluded. Each speaks to the high value of currency versus a drastic decline in real estate. In a deed penned on leather (XHev/Se 49) in Kislev of year two (December 134) of the redemption of Israel by Simeon ben Kosiba the *Nasi* of Israel, Yehosef ben Hananyah borrowed one tetradrachm from the soldier Yehudah ben Yehudah. The borrower promised to repay the tetradrachm immediately upon request. This transaction, recorded on leather and signed by three witnesses, clearly illustrates the enormous value of a tetradrachm at that time. A second document (XHev/Se 8a), written during the month of Adar in year three of the liberation of Israel (February 135), relates to the purchase of a house in the village of Baarou by Hadad ben Yehudah from Eleazar ben Eleazar for only two tetradrachms. Despite the assumption that this house was in a dilapidated condition or very small, this document seems to indicate a drastic situation in Baarou in winter 135. XHev/Se 7, written in Iyyar (May) of year three, reflects a similar situation. Taken together, these documents suggest that, given the economic conditions that prevailed near the end of the revolt, cash was favored over real-estate holdings.<sup>56</sup>

The war's last significant military engagement apparently occurred at Bethar, Ben Kosiba's capital. The Roman siege complex, similar to the one constructed by the Tenth Legion at Masada in 73 or 74, consisted of five

<sup>54</sup> A. Oppenheimer, "Bar-Kokhva and the Practice of Jewish Law," in Oppenheimer and Rappaport, *The Bar-Kokhva Revolt: A New Approach*, 140–6 (Hebrew; English summary, x–xi).

<sup>55</sup> Y. Yadin, *The Finds from the Bar Kokhba Period in the Cave of Letters* (Jerusalem, 1963), 42–83, 182–7, 262.

<sup>56</sup> Amit and Eshel, "Tetradrachm."

military camps and a 4-km-long dike.<sup>57</sup> Rabbinic literature notes the large number of Jewish fighters killed trying to breach the dike: “Sixty men went down to the *charkom*<sup>58</sup> at Betar and not a single one of them came back” (Tos. *Yev.* 14.8). Based on the mishnaic dating of the Roman conquest of Bethar to the Ninth of ’Av (M. *Taan.* 4.6), one can posit that the city was taken in summer 135.

## VI THE ROMAN ARMY’S WAR AGAINST BAR KOCHBA

Subjugating Judaea was by no means an easy task. The precise nature of the Roman response – its magnitude, the identification and number of participating legions and auxiliary units, and the roles of Rufus and Severus – continues to be debated. Without knowledge of important battles or their outcomes, one can gain a glimpse of Roman strategy and tactics (and their impact on Judaea’s inhabitants) from the following abridged version of Dio:

Then, indeed, Hadrian sent against them his best generals. First of these was Julius Severus, who was dispatched from Britain, where he was governor, against the Jews. Severus did not venture to attack his opponents in the open at any one point, in view of their numbers and their desperation, but by intercepting small groups, thanks to the number of his soldiers and his under-officers, and by depriving them of food and shutting them up, he was able, rather slowly, to be sure, but with comparatively little danger, to crush, exhaust, and exterminate them. Very few of them in fact survived. Fifty of their most important outposts and nine hundred and eighty-five of their most famous villages were razed to the ground. Five hundred and eighty thousand men were slain in the various raids and battles, and the number of those who perished by famine, disease and fire was past finding out . . . Many Romans, moreover, perished in this war. Therefore Hadrian in writing to the senate did not employ the opening phrase commonly affected by the emperors, “If you and your children are in health, it is well; I and the legions are in health.”<sup>59</sup>

The list of Roman forces that participated in suppressing the Bar Kochba Revolt, compiled on the basis of epigraphic sources (tombstone and commemorative inscriptions, milestones, and diplomas), assists in a tentative assessment of their magnitude. The second-century Roman army was divided into legions composed of heavy infantry, supposed to number 6,000 soldiers, and auxiliary forces – cavalry and archers – numbering either 480 or 850 soldiers.<sup>60</sup> Participants from some ten or eleven legions plus soldiers from over thirty auxiliary units, some brought from Britain,

<sup>57</sup> M. Kochavi, “The Survey in the Land of Judah,” in M. Kochavi (ed.), *Judaea, Samaria and the Golan* (Jerusalem, 1972), 24–6, 37, 38, 40–1.

<sup>58</sup> *Charkom* may be derived from Latin *circumvallatio*, “dike.” <sup>59</sup> *GLAJJ* 11 391–3.

<sup>60</sup> L. J. F. Keppie, *The Making of the Roman Army: From Republic to Empire* (London, 1984).

participated in the fighting.<sup>61</sup> In the case of the legions mentioned in inscriptions, one cannot always determine whether the entire legion or only some specific units participated. Nevertheless, the available evidence indicates that six legions (II, III, VI, X, XII, XXII) participated in their entirety and another four or five were partially represented.<sup>62</sup>

The extraordinary measures taken by the Romans to suppress the revolt – the large number of troops they employed and the experienced generals they engaged – and their celebration of the final victory by awarding the highest military honors and erecting a triumphal arch is proof that the Romans perceived the uprising as a genuine threat to their empire.<sup>63</sup> The Roman military force dispatched to quash the rebellion apparently numbered over 50,000 Roman soldiers. The size of Bar Kochba's force remains entirely conjectural. Although certainly smaller than the Roman forces, given the magnitude of their antagonists' response it must have numbered in the tens of thousands. Likewise, one cannot realistically estimate Roman losses during the war, although both Dio and the famous orator Fronto (a contemporary of Marcus Aurelius) note the large number of Roman casualties incurred in clashes with Jews. Fronto compared the number of casualties suffered in Judaea with Roman losses in Britain.<sup>64</sup>

Difficulty inheres even in the reconstruction of the precise succession in the Roman chain of command. When the revolt commenced, Q. Tineius Rufus was governing Judaea, having been appointed to this post in 130 after previously serving as consul in Rome in 127.<sup>65</sup> Following his service in Judaea, he disappears from the scene without a trace. However, Dio omits any reference to Rufus, relating only that Hadrian appointed the

<sup>61</sup> For Applebaum's contention that thirty auxiliary units participated in the Bar Kochba war, see *Prolegomena*, 65–8.

<sup>62</sup> Some scholars adduce that each epigraphic proof of a legion's participation in quashing the revolt confirms that the entire legion was dispatched. Others tend to restrict the number of Roman soldiers sent to Palestine on the assumption that the epigraphic records indicate that only part of the legion was dispatched. For the maximalist approach, see Applebaum, *Prolegomena*, 25–7, 44–9. For the minimalist position, see also M. Mor, "The Roman Legions and the Bar-Kochba Revolt (132–135 AD)," in H. Vetter and M. Kandler (eds.), *Akten des 14. Internationalen Limeskongresses 1986 in Carnuntum*, 1 (1990), 163–75.

<sup>63</sup> Eck, "Bar Kochba Revolt." On the arch, see below, n. 76.

<sup>64</sup> *GLAJJ* 11 176–7; Bowersock, "Roman Perspective on the Bar Kochba War." On the fate of the Legion XXII Deiotariana, see L. J. F. Keppie, "The History and Disappearance of the Legion XXII Deiotariana," in A. Kasher, U. Rappaport and G. Fuks (eds.), *Greece and Rome in Eretz Israel* (Jerusalem, 1990), 54–61; and M. Mor, "Two Legions – The Same Fate? (The Disappearance of the Legion IX Hispana and XXII Deiotariana)," *ZPE* 62 (1986), 267–78.

<sup>65</sup> M. Avi-Yonah, "When Did Judaea Become a Consular Province?" *IEJ* 23 (1973), 212.

former governor of Britain, Sextus Julius Severus, as commander of the Roman forces in Palestine during the revolt. Indeed, epigraphic evidence indicates that Severus was appointed governor of Judaea and of Syria. Yet, surprisingly, Severus is mentioned neither in rabbinic sources nor by the Church Fathers. Rabbinic sources attribute the ban on circumcision and Rabbi Akiva's execution to Rufus;<sup>66</sup> thus one can postulate a pre-Severan dating for both events. The Church Fathers – Eusebius, for example (*HE* 4.6), who notes that Rufus killed countless Jews and expropriated their lands – make no mention of Severus.

In so far as no historical source mentions both Rufus and Severus, placing the events connected to these two personages within a historical context is problematic.<sup>67</sup> Based on the testimony of the Church Fathers that Rufus officiated at the end of the war, Smallwood proposes that Rufus remained in Judaea to command the Tenth Legion even after Severus was appointed commander-in-chief of the Roman forces in Palestine.<sup>68</sup> Nonetheless, as Rufus held consular rank, one cannot automatically assume that he served under Severus in Judaea.

My reconstruction of the turnover in the Roman leadership places Rufus in command of the Roman forces in Palestine when the revolt began. And if Eusebius' information is accurate, these forces enjoyed some military success during the war's initial stages.<sup>69</sup> I suggest that Rufus died during the war, either in battle or of natural causes. For his part, upon first learning of the revolt in winter 132 while in Athens, Hadrian evidently assumed command of the Roman forces in Palestine at some time during 133.<sup>70</sup> Before departing from Palestine for Rome in May 134, Hadrian sent to Britain for Julius Severus. As an inscription from Britain documents his successor governing Britain in 135, one can date Severus' arrival in Palestine to late 134 or early 135.<sup>71</sup>

The following points substantiate the assumption that the revolt's severity warranted Hadrian's presence. First, a senior centurion of the Praetorian Guard received medals for his war service, from which one can extrapolate that he was in Judaea together with the Emperor.<sup>72</sup> Secondly, several Roman inscriptions refer to the war as *expeditio Iudaica*, a term used

<sup>66</sup> *HJPAJC* 1 549.

<sup>67</sup> S. Applebaum, "Tineius Rufus and Julius Severus," in idem, *Judaea in Hellenistic and Roman Times* (Leiden, 1989), 117–23.

<sup>68</sup> Smallwood, *Jews under Roman Rule*, 550. <sup>69</sup> Applebaum, "Rufus and Severus."

<sup>70</sup> R. Syme, "Journeys of Hadrian," *ZPE* 73 (1988), 165–7; and T. D. Bonner, "Emperors on the Move," *JRA* 2 (1989), 254.

<sup>71</sup> D. Atkinson, "The Governors of Britain from Claudius to Diocletian," *JRS* 12 (1922), 66.

<sup>72</sup> Birley, *Hadrian*, 272–3.



solely for battles in which the Emperor participated.<sup>73</sup> Thirdly, a treatise by Apollodorus of Damascus on the conduct of war, written in response to an imperial inquiry on the way to combat enemies operating in mountainous regions rather than barricading themselves within a city, is associated by some scholars with Hadrian's suppression of the Bar Kochba Revolt.<sup>74</sup> Finally, Dio states that Hadrian did not use the expression "I and the legions are in health," when he reported to the Senate.

The Roman sense of having won a great victory emerges from Hadrian's second acclamation as *imperator* some time after 135, following the revolt's suppression.<sup>75</sup> According to Dio, Hadrian's best commanders accompanied Julius Severus to Judaea. For their achievements in Judaea, Severus and two others – Certus Publicus Marcellus, the governor of Syria, and T. Haterius Nepos, governor of the province of Arabia – received the highest imperial Roman military honor: *ornamenta triumphalia*. The remains of a 10-m triumphal arch dedicated to Hadrian following his second acclamation as *imperator*, discovered 12 km south of Bet Shean (Scythopolis) near the Sixth Legion's camp at Tel Shalem, further corroborate the importance the Romans ascribed to their victory. Presumably, this arch's construction, built by Senate proclamation, dates to a time after the suppression of the Bar Kochba Revolt.<sup>76</sup> The construction of this arch was unusual in that it dates to a time when the Senate no longer dedicated triumphal arches in the provinces and because of its monumental 40-cm-high lettering.<sup>77</sup>

## VII AFTERMATH

Although Dio's figure of 985 as the number of villages destroyed during the war seems hyperbolic, all Judaeian villages, without exception, excavated thus far were razed following the Bar Kochba Revolt. This evidence supports the impression of total regional destruction following the war.

<sup>73</sup> Syme, "Journeys of Hadrian," 166–7.

<sup>74</sup> *GLAJJ* 11 134–7; Smallwood, *Jews under Roman Rule*, 451–2; S. Applebaum, "For Whom Did Apollodorus Write the *Poliorketika*?" in idem, *Judaea in Hellenistic and Roman Times*, 111–16.

<sup>75</sup> F. M. Heichelheim, "New Light on the End of Bar Kokhba's War," *JQR* 34 (1943–4), 61–3; and Eck, "Bar Kokhba Revolt," 87 n. 92.

<sup>76</sup> W. Eck and G. Foerster, "Ein Triumphbogen für Hadrian im Tal von Beth Shan bei Tel Shalem," *JRA* 12 (1999), 294–313.

<sup>77</sup> For more on this issue, see Eck, "Bar Kokhba Revolt," 82–8. Consult also S. Abbadi and F. Zayadin, "Nepos the Governor of the Provincia Arabia in a Safaitic Inscription?" *Semitica* 46 (1996), 155–63.

Historical sources note the vast numbers of captives sold into slavery in Palestine and shipped abroad.<sup>78</sup>

After the fall of Bethar and the end of the war in autumn 135, Jewish refugees, mainly military commanders, administrators, and their families, fled to natural caves outside Judaeen villages. Jerome reports that “the citizens of Judaea came to such distress that they, together with their wives, their children, their gold and their silver, in which they trusted, remained in underground tunnels and deepest caves” (*In Isaiam* 2.15). At present, twenty-seven refuge caves from the end of the Bar Kochba Revolt, some located on the steep cliffs along wadis in the Judaeen Desert, have been discovered.<sup>79</sup> Approximately half of these caves were found by Roman forces, who sometimes built siege camps above them, slowly starving the insurgents to death.<sup>80</sup> Their desperation may be preserved in the following legend found in *Lamentations Rabbah* 1.45:

Those Jews who were hidden [in the caves] devoured the flesh of their slain brethren. Every day one of them ventured forth and brought the corpses to them which they ate. One day they said, ‘Let one of us go, and if he finds anything let him bring it and we shall have to eat.’ On going out he found the slain body of his father which he took and buried and marked the spot. He returned and reported that he had found nothing. Thereupon a second individual was sent to find food. He uncovered the body hidden by the first and brought it to the camp. Upon discovering that he had eaten from his father’s corpse, the son exclaimed: ‘Woe to me! I have eaten the flesh of my father!’<sup>81</sup>

The final military operations continued in September and October 135,<sup>82</sup> and it may have taken until 136 for the Romans to subdue Judaea entirely.<sup>83</sup>

The Judaeen Jewish community never recovered from the Bar Kochba war. In its wake, Jews no longer formed the majority in Palestine, and the Jewish center moved to the Galilee. Jews were also subjected to a series of religious edicts promulgated by Hadrian that were designed to uproot the nationalistic elements within the Judaeen Jewish community,<sup>84</sup> these proclamations remained in effect until Hadrian’s death in 138. An additional, more lasting punitive measure taken by the Romans involved expunging

<sup>78</sup> Applebaum, *Prolegomena*, 52–6.

<sup>79</sup> Eshel and Amit, *Bar-Kokhba Refuge Caves*.

<sup>80</sup> Yadin, *Bar-Kokhba*, 46–9, 60–5.

<sup>81</sup> ET cited from A. Cohen (trans.), *Midrash Rabbah: Lamentations* (London, 1939), 126.

<sup>82</sup> M. E. Kislav, “Vegetal Food of Bar-Kochba Rebels at Abi’or Cave Near Jericho,” *Review of Paleobotany and Palynology* 73 (1992), 153–60.

<sup>83</sup> Eck, “Bar Kokhba Revolt,” 87–8.

<sup>84</sup> S. Lieberman, “The Martyrs of Caesarea,” *AIPHOS* 7 (1939–44), 395–446; M. D. Herr, “Persecutions and Martyrdom in Hadrian’s Days,” *Scripta* 23 (1972), 82–125. See also Schäfer, *Bar Kokhba-Aufstand*, 194–235.

Judaea from the provincial name, changing it from Provincia Judaea to Provincia Syria Palestina. Although such name changes occurred elsewhere, never before or after was a nation's name expunged as the result of rebellion.<sup>85</sup>

Following the appalling failure of the Bar Kochba Revolt, the Jews made no further attempts to achieve national independence. Within decades, the honorific title *nasi*, which had been bestowed on Bar Kochba as a military title, acquired a religious meaning. The next notable individual to be identified in this manner was Rabbi Judah *ba-Nasi*, the editor of the Mishnah. This shift from politics to religion encapsulates the decisive impact of the Bar Kochba Revolt on Jewish history.

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<sup>85</sup> Eck, "Bar Kokhba Revolt," 88–9.

# THE LEGAL STATUS OF THE JEWS IN THE ROMAN EMPIRE

AMNON LINDER

## I THE HISTORICAL AND LEGAL CONTEXT<sup>1</sup>

Given that legal status is determined by law – the social rules that prescribe conduct and are justiciable – the legal status of Jews in the Roman Empire was determined by more than one law. This situation resulted from their ambiguous existence within a non-Jewish society; while they participated in many activities of the general society, they endeavored to keep a significant portion of their life isolated from certain layers of the social order and to preserve a distinct Jewish sphere. Mutual compromise was necessary for such a situation to come into being and to endure. Both sides needed to strike a balance between integration and isolation, demarcating “Jewishness” and “non-Jewishness” in such a way that the spheres could interact without negating either what Jews considered the essentials of their Jewishness or the values non-Jews regarded as fundamental.<sup>2</sup> In this negotiation the role of the non-Jewish society was the more important because of the inherent

<sup>1</sup> Mainly because of space limitations, footnotes will contain only bibliographical references and quotations of texts in the original. As for bibliography, I will cite only recent publications (from c. 1990), with a view to offering an updated review of the research in this field as well as starting points for retroactive bibliography-building. I have selected studies that differ from my views as well as ones I have relied on or that concur in my approach.

All the legislative primary sources have been known and studied since the late Middle Ages, with the exception of Claudius’ letter to the Alexandrians. We read them in better editions, but our understanding of them is not substantially beyond that of the Gothofredus family (sixteenth–seventeenth centuries), and Juster’s monumental survey, from 1914, is still essentially adequate. A similar conclusion can be drawn about the relevant literary and historiographical sources: we possess better editions but read the same authors. Our knowledge of the historical context of the laws has been considerably extended, however, thanks to discoveries in archaeology, papyrology, and epigraphy. Most of the studies published during the last century consequently differ from one another in their approaches, interpretations, and the extent to which they use this sort of new evidence, but they do not bring new legislative source material.

The main legal and historical surveys relevant to the material analyzed in this chapter are listed in the Bibliography.

<sup>2</sup> See F. Millar, “The Jews of the Graeco-Roman Diaspora Between Paganism and Christianity AD 312–438,” in J. Lieu, J. North, and T. Rajak (eds.), *The Jews Among Pagans and Christians*

imbalance of power. The active good will, or at least the acquiescence, of the non-Jewish society was necessary to sanction such an arrangement and to make a functional compromise feasible.<sup>3</sup>

Such a compromise usually represented a shifting balance, uneasy and temporary. It depended on fundamental social attitudes toward the “other,” sometimes incarnated in their pure forms of either total exclusion or complete acceptance but more often in intermediate forms between these extremes. And it was constantly evaluated in the light of categorical values such as citizen/alien, civilized/barbarian, and religious/superstitious. The absolute identification of Jews and non-Jews with any of these dichotomies negated all compromise, by definition, while the existing equilibrium could be challenged from either side with disastrous results for the Jews. The great revolts in the Land of Israel (the 66–70 CE revolt and the Bar-Kochba War 132–5 CE) as well as the minor but no less calamitous revolts in the Diaspora during the second century originated in Jewish rejection of equilibriums they considered unacceptable and in their commitment to goals rejected by the non-Jewish society. Similarly uncompromising attitudes on the part of the non-Jewish authorities resulted in campaigns of “purification,” whether physical, cultural, or religious, as in the expulsions of Jews from Rome and the religious persecutions under Hadrian.<sup>4</sup>

On the whole, however, the history of the Jews under the Roman Empire can be described as one of practical compromise, interaction, and ambiguity, not inflexibility. Only three generic crimes were absolutely forbidden in the *halachah*, even under hazard of death: idolatry, illicit sexual relations, and bloodshed. As a consequence a wide range of accommodations and contingencies was admitted, by implication if not always explicitly. Equivocality was the hallmark of the Jewish existence in the Diaspora from its beginnings, and after Pompey’s conquest it became increasingly typical of the Jewish homeland in the Land of Israel as well. Hidden to some extent by the apparent autonomy of the Jewish authorities before the introduction of direct Roman rule, the equivocal reality was publicly affirmed and materially expanded with the destruction of the Temple in

*in the Roman Empire* (London, 1992), 97–123; J. M. G. Barclay, *Jews in the Mediterranean Diaspora: From Alexander to Trajan (323 BCE–117 CE)* (Edinburgh, 1996); L. V. Rutgers, “Interaction and Its Limits: Some Notes on the Jews of Sicily in Late Antiquity,” *ZPE* 115 (1997), 245–56; J. S. Crawford, “Jews, Christians and Polytheists in Late-Antique Sardis,” in S. Fine (ed.), *Jews, Christians, and Polytheists in the Ancient Synagogue: Cultural Interaction in the Graeco-Roman Period* (London, 1999), 190–200.

<sup>3</sup> The importance of this factor is best appreciated against the background depicted in P. Schäfer, *Judeophobia: Attitudes Towards the Jews in the Ancient World* (Cambridge, MA, 1997). See also H. D. Slingerland, *Claudian Policymaking and the Early Imperial Repression of Judaism at Rome* (Atlanta, 1997).

<sup>4</sup> On these wars and rebellions and their aftermath see chs. 1–4 in the present volume.

70 CE, the suppression of Jewish self-rule organs in the conquered land, the preference the Roman authorities showed for the non-Jews in the province, and the wide extension of Roman citizenship in the third century. Homeland and Diaspora were thus increasingly faced with the same challenge: sustaining Jewish specificity in a non-Jewish society.

The legal status of the Jews in the Roman Empire was determined, as a result, by a three-tiered system of laws.<sup>5</sup> First and highest was the Common law, based on the principles of personality and territoriality: it determined the status of the Jews as actors on the general legal stage. Their rights, duties, and scope of action derived both from their personal status (as citizens or otherwise, of either the local or the Roman civil communities) and from their domicile “within” a given legal system (in matters pertaining to public order and to their status as peregrines, *incolae*, *metics*, etc., in relation to the citizenry).<sup>6</sup> For example, Roman law dealt with the peregrines in Rome and, by inference, with the non-citizen Jews among them, by means of the *Ius gentium*, the framework that managed legal relations both between peregrines and between peregrines and citizens. In other words, the Common law regulated the life of the Jews in their non-Jewish capacity as members of any society they were domiciled in.

Second, a special law instituted by the appropriate organs of the non-Jewish society – Jewry law, to use the later term – dealt with their Jewish specificity and consisted of dispositions that supplemented, adapted, and sometimes suspended the Common law in its application to Jews. Jewry law created, in this way, a particular arena in which the interaction of Jews both with non-Jews and with the state could take place under the control of the state (or other governmental organs). Jewry law functioned as an interface between the two societies and their particular laws, establishing special rights, duties, limitations, and means of legal redress. It essentially aggregated privileges in the technical sense of “laws enacted for the sake of individuals”<sup>7</sup> and groups of same, in their favor or otherwise. In principle, Jewry law discriminated both for and against Jews, and any historical Jewry law, as well as individual measures of this type, usually worked in both directions, with differing emphases and levels of activity, according to circumstance.

<sup>5</sup> See A. Rousselle, “Vivre sous deux droits; la pratique familiale poly-juridique des citoyens romains juifs,” *Annales (ESC)*, 45 (1990), 839–59.

<sup>6</sup> On the different legal-social categories of the town populations in the East prior to the *Constitutio Antoniniana*, see A. D. Rizakis, “Incolae-paroikoi; populations et communautés dépendantes dans les cités et les colonies romaines de l’Orient,” *REA* 100 (1998), 599–617.

<sup>7</sup> See Cicero’s definition: “In privatos homines leges ferri noluerunt; id est enim privilegium” (*Leg.* 3.19.44).

The third tier in this system was the Jewish law, the *halachah*. It covered those domains in Jewish life that the Common law and Jewry law did not manage, whether intentionally, through indifference, or, not infrequently, because of the weakness and incompetence of government institutions. In the areas of the Land of Israel that were densely populated by Jews, the *halachah* amounted to a substantial portion of the Common law – aggregating both the personal statuses of the Jews domiciled in those regions and the rights recognized as applying to their national community. Jews in the Diaspora applied it voluntarily, in the main, carrying it as their personal law into any legal forum willing to accept it. The extraordinary growth of Jewish law and of the institutions that created and applied it under the Roman Empire should be appreciated in light of this willingness of the Roman authorities to abstain from acting in areas and on matters left – explicitly or tacitly, entirely or in part – to the jurisdiction of the Jewish authorities.

Saul, alias Paul of Tarsus, is an almost ideal example of this triune legal status. As a citizen of both Rome and Tarsus he was subject to the Roman law as well as to the law of his home town; as a Tarsic Jew he shared in Jewry-law privileges based on custom and on legal dispositions enacted by Hellenistic and Roman magistrates; and as an observant Jew he recognized the authority of the *halachah* and endeavored to act according to its precepts within the limits allowed by the other two laws. Similarly, Babatha's personal archive resurrects the everyday life of Jews living in small communities on the periphery of the Land of Israel, close to the Jewish heartland but under Nabatean and Roman provincial rule.<sup>8</sup> Both Paul and Babatha illustrate the delicate balancing act Jews in the Diaspora as well as in the Land of Israel (after 70) had to perform in ordering their lives according to different and frequently conflicting sets of legal relationships. All public-law acts that were performed in pagan or Christian contexts, and most civil-law acts, having to do with person, property, obligation, delict, or succession, entailed hard choices between conflicting demands and required an effort (often enough encouraged by the non-Jewish society) to find an accommodation that would preserve the triune legal status as a whole as well as the essentials of each of its parts.

This three-tiered system was a hierarchic structure: the Common law at its apex, Jewry law and the *halachah* well below. The Common law's pre-eminence reflects its role as the legal manifestation of society's fundamental

<sup>8</sup> See M. Goodman, "Babatha's Story," *JRS* 81 (1991), 169–75; B. Isaac, "The Babatha Archive: A Review Article," *IEJ* 42 (1992), 62–75; H. M. Cotton, "The Guardianship of Jesus Son of Babatha: Roman and Local Law in the Province of Arabia," *JRS* 83 (1993), 94–108.

values, as a hierarchy of norms derived from a *Grundnorm*. The Common law, therefore, determined the leeway permitted to deviant individuals and groups, and, consequently, the boundaries within which both Jewry law was established and Jewish law allowed. The privilege (which underpins the entire Jewry law) as a legally authorized exception to the rule depends on the rule; it is what it is by virtue of the rule and has no independent existence outside the field circumscribed by the rule. Privilege clearly follows law, not otherwise. The subordination of the Jewish law is even more pronounced: unless explicitly authorized and recognized as a constitutive element of the Common law, it functions on sufferance only, unsupported by the justiciary and penal institutions. It was, so to speak, on parole, always liable to be overruled and invalidated by the two superior laws.

This system was highly dynamic, its components and their interaction continually evolving during the period under discussion. The christianization of the Empire triggered the most important transformation, with the conversion of Classical Roman law into a legal system explicitly oriented toward and inspired by Christian values, though it never lost its pre-Christian philosophical bearings. But even within these two legal systems, pagan and Christian Roman, there was continuous adaptation to changes in other social domains – philosophical, economic, technological, political, religious, demographic. These changes affected also the other two laws, of course: Jewry law followed the lead of the Common law, while the *halachah* evolved not only in response to the same general social challenges but also to developments peculiar to Judaism, for example the far-reaching changes that resulted from the loss of the Temple and the cessation of the sacrificial cult.

The heuristic and methodological implications of this situation are obvious. Because the routine activity of Jews as ordinary actors in the sphere of the Common law was subsumed in the activity of the non-Jewish public, there is no particular Jewish record of it. Furthermore, our knowledge of that common activity by non-Jews and Jews alike is patchy and practically limited to Egypt, a highly atypical province. Research on the activity of Jews under the Common law depends therefore on sparse anecdotal evidence concerning persons of unmistakable Jewish identity – the discovery of the personal archive of Babatha is a fortunate but unique example – and on the meager indirect evidence provided by the other two laws as well as by extralegal sources. Jewry law, on the other hand, is directly documented in official sources; it has been preserved in some ninety legal documents, mainly in the *titles* consecrated to this law in the two legal corpora of Theodosius II and Justinian<sup>9</sup> and in the partial (in both

<sup>9</sup> B. Sirks, "From the Theodosian to the Justinian Code," *Atti dell'Accademia romanistica Costantiniana*, v1 Convegno internazionale (Perugia, 1986), 265–302.



senses of the word) selection of some thirty documents that Flavius Josephus incorporated in his *Antiquitates*.<sup>10</sup> Although too small to reflect Jewry law in its entirety or to record its evolution in detail, this number is nevertheless substantial enough to delineate the major contours of this law and its evolution. Finally, Jewish law is amply documented in an impressive corpus of legal sources, mainly the Mishnah, with its *Extravagant* and Midrashic satellite texts, and the two Talmuds, that is, the Babylonian Talmud and the Palestinian Talmud (the latter the more interesting because it is earlier and evolved entirely under Roman rule). This corpus gives direct and detailed evidence regarding those domains regulated by the *halachah*, and testifies indirectly on domains resigned to the other two laws. There is a problem, however, about the direct relevance of its sources to the legal status of the Jews. While any text making up Jewry law had, in principle, at least one moment of immediate relevance (and typically more than that), whole parts of the *halachah* are decidedly “academic” and were inapplicable in the legal sense, with others entirely extralegal. Clear distinctions between the legal and the extralegal and between relevant and irrelevant are therefore essential to any discussion based on Jewish law sources.<sup>11</sup>

## II THE PAGAN PERIOD (1ST–3RD CENTURIES)

### A THE COMMON LAW IN THE LAND OF ISRAEL

Jewish society in the Land of Israel underwent important structural changes following the Great Revolt of 66–70 and again after the Bar-Kochba War, in 132–5. In principle, the destruction of Jerusalem and the Temple in 70 entailed the cessation of all cultic practices that depended on the Temple (mainly the sacrifices) and of the hegemony of the priestly caste, as well as the dissolution *de facto* of the Sanhedrin as the supreme legal, political, and legislative authority of the Jewish nation.<sup>12</sup> Significant changes with legal

<sup>10</sup> A complete and commented edition is provided in M. Pucci Ben Zeev, *Jewish Rights in the Roman World: The Greek and Roman Documents Quoted by Josephus Flavius* (Tübingen, 1998) (henceforth *JRRW*). See also T. Rajak, “Was There a Roman Charter for the Jews?”, *JRS* 74 (1984) 107–23; M. Pucci Ben Zeev, “Did the Jews Enjoy a Privileged Position in the Roman World?”, *REJ* 154 (1995) 23–42; M. Pucci Ben Zeev, “Jewish Rights in the Roman World: New Perspectives,” in B. H. Isaac and A. Oppenheimer (eds.), *Studies on the Jewish Diaspora in the Hellenistic and Roman Periods* (Tel-Aviv, 1996), 39–53. For more on the status of Jews according to Justinian’s legal code see the Appendix to the present volume.

<sup>11</sup> See the discussion of these rabbinic sources in chs. 8 and 12 in the present volume.

<sup>12</sup> See A. Oppenheimer, “L’Elaboration de la halakha après la destruction du Second Temple,” *Annale (ESC)* 51 (1996), 1027–55. See, in addition, chs. 1, 7, and 22 in the present volume.

repercussions occurred in other areas as well: outbreaks of religious persecution, forcible transfers of populations, huge demographic losses, wholesale alienation of lands through confiscation and appropriation, crushing taxation, and material damage. The Bar Kochba War unleashed a similar and longer crisis; some of the persecutions related to it persisted during the reign of the Antonins.<sup>13</sup> These developments were bound to affect the legal status of the Jews in the Land of Israel after each of these two wars, but they did not abrogate the principle on which that status was secured, namely that the Jewish nation, like any other nation (*natio, ethnos*), is rightfully seized of its particular law, the *halachah*. A legal void was impossible in any event; life went on, constantly supported by whatever legal means were needed for carrying out ordinary social interaction and managing social deviations and breakdowns. The Jewish population in the Land of Israel retained its law, not only because this was the easiest practical expedient, but also for the simple reason that no other legal set was applicable to them in its entirety, that is, as a comprehensive body of law reflecting their social mores and cultural uniqueness. Some law had to be applied to them, and by right as well as contingency it was usually their own.

Nevertheless, the Common law that applied to the Jewish population in the Land of Israel did not consist of Jewish law alone. For one thing, far from being monolithic and normative, the *halachah* during the entire pagan period was a system being shaped, with the attendant stresses and conflicts. Its first *corpus iuris*, the Mishnah, was not promulgated before the beginning of the third century, and the two Talmuds, the Palestinian and the Babylonian, were edited even later, at the beginning of the fifth and sixth centuries respectively.<sup>14</sup> The adversarial nature of halachic discourse and the halachic recognition of several schools and opinions in legal deliberations underscored the fluid state of this evolving process.

Furthermore, Jewish law at the time was incomplete and in need of complementary activity by other systems. For example, it lacked the entire branch of capital jurisdiction, which was reserved to the Roman courts even before the 66–70 war. Even on their own turf of civil law, Jews not only were not barred from, but were enticed to apply to, the non-Jewish legal systems. The crossing over of litigants to non-Jewish courts probably occurred for the most part in cases between Jews and non-Jews and in localities with mixed populations, which seem to represent the majority by far of the rural and the urban settlements in the Land of Israel, certainly

<sup>13</sup> See for full details the analysis of the Bar Kochba War and its consequences in ch. 4 of the present volume.

<sup>14</sup> Readers should consult chs. 26 and 33 in the present volume for details of this process.

toward the close of the third century.<sup>15</sup> A marriage contract dated to 125–31 from the archive of Salome Komaise, daughter of Levi, from the village of Mahoza (in the province of Arabia), specifies that the bridegroom feed and clothe her and her children “in accordance with Greek custom and the Greek manner,” and a land declaration concludes with an oath on the *tyche* of the emperor.<sup>16</sup> This crossing-over is also documented in litigation between Jews in the heartland of the Land of Israel. Jews evidently were attracted to non-Jewish law and courts for a variety of reasons, and the trend was common enough to motivate a strict injunction in Jewish law against litigation before “courts of the Gentiles.” The extension of Roman citizenship to the provinces in the *Constitutio Antoniniana* of 212 undoubtedly reinforced the process. Although we do not know how and when this measure was implemented in the Land of Israel, particularly its rural areas, Jews were certainly not excluded from it as *dediticii* on grounds of their national identity. Their new status as Roman citizens was bound to undermine the *halachah* as a national Jewish law; Roman citizens were expected to adhere to the Common law and they usually recognized that their interest lay in that direction. Finally, *halachah* and non-Jewish law systems were not always contradictory.<sup>17</sup>

The diversity of the Common law practiced by the Jews in the Land of Israel during the pagan period is reflected in the heterogeneity of the judicial system that applied it. In the first place it consisted of the two systems of Jewish and non-Jewish courts, with the non-Jewish set further divided into Roman and Hellenistic subsets. The massive presence of the Roman government in the relatively tiny province of Judaea – both civil (the governors were appointed from the highest levels of the imperial administration and were obviously assisted by compatible staffs) and military (one legion was stationed permanently in the province before the Bar Kochba War, two after its suppression) – made it easily accessible.<sup>18</sup>

<sup>15</sup> B. Isaac, “Jews, Christians and Others in Palestine: The Evidence from Eusebius,” in M. Goodman (ed.), *Jews in a Graeco-Roman World* (Oxford, 1998), 65–74.

<sup>16</sup> “νομῶ ἐλληνικῶ καὶ ἐλληνικῶ τροπῶ,” “ὄμνημι τυχην κυρίου Καισαρος”; H. M. Cotton, “The Archive of Salome Komaise Daughter of Levi; Another Archive from the ‘Cave of Letters,’” *ZPE* 105 (1995), 204–7, 186. See also the references to Babatha’s archive, above, and H. M. Cotton, “The Rabbis and the Documents,” in Goodman (ed.), *Jews in a Graeco-Roman World*, 167–79, especially 172–3.

<sup>17</sup> See the recent conclusions on this subject in H. M. Cotton, “The Law of Succession in the Documents from the Judaean Desert Again,” *SCI* 17 (1998), 115–23, and the argument that these documents provide some evidence to the attachment of the Jews to the Sabbath in R. Katzoff and B. M. Schreiber, “Week and Sabbath in Judaean Desert Documents,” *SCI* 17 (1998), 102–14.

<sup>18</sup> H. Misgav, “Jewish Courts of Law as Reflected in Documents from the Dead Sea,” *Cathedra* 82 (1996), 17–24 (Hebrew).

The Jewish judicial system, furthermore, comprised five types of courts: (1) the Head-men (or Archons) (*Rashim*) and the Elders (*Zkenim*) in the municipal councils; (2) lay courts (*Shel Hediotot*) appointed by these councils; (3) courts of qualified judges (*Mumbim*) ordained (*Smuchim*) by the Patriarch and the Sanhedrin; (4) the Sanhedrin as a supreme court; and (5) arbitrators (*Borerim*) appointed by parties to a dispute. Obviously it was a disparate system, combining private/voluntary arrangements with public/formal institutions, and it reflected tensions among different cultural and social groups within the Jewish community. With time it became better integrated and orchestrated under the control of the Patriarch and the Sanhedrin, but it never entirely lost its original diversity.<sup>19</sup> When the central institutions were temporarily paralyzed – for example, during and after the Bar Kochba War – the system’s heterogeneity enabled it to function, albeit in reduced fashion and through the more peripheral tribunals.

By the close of the pagan period the Common law in the Land of Israel was highly heterogeneous, including a substantial component of Jewish law with its particular legislative and judicial institutions, which for the most part were recognized and supported by the Roman government.<sup>20</sup> The extraordinary expansion of the *halachah*, with all of its diversity and durability, is the best proof of its vitality and relevance within the framework of the Common law.

#### B JEWRY LAW

Jewry law during this period comprised two principal constituents: new imperial legislation (both general and local) dealing with the specific circumstances of the Jewish entity, and the traditional body of pre-war Diaspora privileges. The first was by far the more dynamic and effective: it practically determined Jewry law in the three contexts of the Great Revolt of 66–70 and the Bar Kochba War of 132–5 with their sequels, and the period of recovery and integration into the civil and municipal structures of the empire during the third century. The body of Diaspora privileges is by contrast a picture of certain decline: some of its more prominent components either were abolished (mainly on the institutional level) or became obsolete (those involved with the Temple and its cult), and it ceased to evolve through new grants. Its impact on Jewry law can nevertheless be

<sup>19</sup> See L. I. Levine, *The Rabbinic Class of Roman Palestine in Late Antiquity* (New York, 1989); K. Strobel, “Aspekte des politischen und sozialen Scheinbildes der rabbinischen Tradition: das spätere 2. und 3. Jh. n. Chr.,” *Klio* 72 (1990) 478–97.

<sup>20</sup> A. Oppenheimer, “Jewish Penal Authority in Roman Judaea,” in Goodman (ed.), *Jews in a Graeco-Roman World*, 181–91.

detected in the general reception of its main tenet – the religious essence of Jewishness – and in the recognition that Jewish religious life is now centered in the synagogue.

1. The earliest imperial measure dates from c. 70. It imposed a special Jewish tax, valued originally at 2 denarii (*didrachmon*), on all Jews – men and women – throughout the Empire between the ages of three and seventy. Perceived as a payment to Jupiter Capitolinus, a replacement of the traditional, voluntary half-shekel contribution that Jews made annually to the Temple in Jerusalem, it was designed to proclaim in a particularly oppressive manner their national and religious subservience to Rome and the Roman state cult. A second Jewish tax was added almost immediately, the “firstfruits” (*aparchai*), and both were consolidated toward the end of the century into one tax, the *Ioudaikon telesma*. This endured at least until the middle of the third century and probably the fourth. A special financial department, the *fiscus Iudaicus*, administered this tax, whose proceeds – evaluated in each province according to the local currency – were doubtless substantial. In the second-century province of Egypt, for example, the combined tax was equivalent to nine Egyptian *drachmae*, more than half the annual poll tax (*laographia*). By the end of the third century, however, the real value of the Jewish Tax (traditionally fixed in nominal terms) was wiped out by rampant inflation, but the tax was never abolished. Its value as a mark of infamy for Jews outlasted its fiscal worth. The extrafiscal implications of the tax can be appreciated across almost four centuries, from the degrading harassment carried out under Domitian as recorded by Suetonius (the historian was present in court when a ninety-year-old man was examined publicly to ascertain whether he was circumcised), to Nerva’s declaration that he abolished the *calumnia* of the *fiscus Iudaicus*, and to Julian’s claim that he eradicated these taxes and their inherent infamy.

The next stage in the evolution of Roman Jewish law was a campaign to obliterate the national and religious identity of the Jewish population in the Land of Israel and to a lesser extent in the Diaspora. Introduced in conjunction with the Bar Kochba War, the campaign was the first of its kind since Antiochus Epiphanes (during the decade of the 160s BCE). Jewish sources usually designate it as *shmad*, appropriately, meaning “annihilation,” with connotations of religious persecution and forced conversion. Seen in light of the present study, the Hadrianic legislation on Jewish matters, in terms of both general laws and local ordinances, was an attempt to abolish the *halachah* as a living reality. Some Hadrianic measures probably were among the war’s direct causes, others were introduced in conjunction with the fighting to suppress insurrection, and some of each group were retained by the Roman authorities after the war for preventive and punitive purposes.

An important element in this campaign was a ban on circumcision. Its scope, and its affinity with the ban on castration, could be interpreted as evidence of a general policy inspired by enlightened ideals rather than by anti-Jewish designs, though in that case one would have to account for the failure of the imperial administration to predict the repercussions on the Jews that such a policy was bound to have. Ignorance on this point is hard to reconcile with the widespread perception – notoriety, even – of circumcision as a central Jewish rite. Still, whether this was an enlightened general policy with accidental Jewish repercussions or an anti-Jewish policy based on enlightened ideals – and the distinction between the two, though of little practical import, implies different ideological stances with potentially important consequences – the authorities applied the ban harshly and systematically, until it was mitigated and regulated under Antoninus Pius some time in the 40s, at any rate before c. 155. The new disposition (as recorded by the jurists Modestinus and Paulus) became one of the principal Jewry-law measures in its contemporary form and in subsequent configurations. It authorized the circumcision of Jews by origin but retained the old ban in regard to all others, Roman citizens and non-citizens, freemen and slaves. By the same token it established a legally recognized identity between the “Jewish nation” and the “Jewish religion,” and by making circumcision legal for “born” Jews but illegal for all others, that is, proselytes, it authorized the continued existence of Judaism as a legally enclosed and confined entity, equally national and religious.

Hadrian’s initiative to rebuild Jerusalem as a pagan city was another easily predicted, hence intentionally ignored, *casus belli*: the two cities – *Aelia Capitolina*, founded on the plowed site of Jerusalem, and *Sion*, whose liberation by Bar Kochba was perceived as initiating a new era (*leberut Zion*, the liberation of Zion) – typify the ideological conflict that provoked the war of 132–5. The pagan victory was duly expressed in the extraordinary ban imposed on the very presence of Jews in Jerusalem, including visitors. Enforcement was extremely difficult, of course, and Jewish pilgrims and even permanent inhabitants are already recorded in Jerusalem under the Severi. But the ban was never repealed or forgotten and it was resurrected time and again in crises that focused on the right to, and possession of, the Holy City and the Temple, under Constantine, the Crusades, and well beyond.<sup>21</sup>

Other legal and repressive measures, introduced by the local authorities in the context of the war, targeted the more obvious religious elements of the *halachah*, such as the interdictions concerning holidays (*Hanukka*,

<sup>21</sup> For a different view, consult E. Kettenhofen, “Hadrian und die Juden: Ein Beitrag zur Glaubwürdigkeit von Mvses Horenaci 11, 60,” *Eranos* 96 (1998), 75–91.

*Sukkot*, and Passover) and essentially religious practices (*tefillin* and *mezuzah*, *tevillah*, *terumah*, and the sabbatical year). The closure of synagogues and schools (*bateyi-midrash*) seriously disrupted the regular cult and the study of the *halachah*; while a concomitant ban on ordination (*smicha*), together with the cessation of all the legislative and juridical activities of the Sanhedrin and the Patriarchate (both gravely compromised during the insurrection), practically paralyzed the highest levels of the Jewish legal system. These interdictions endured throughout the Antonine period.

The turning point came with the Severi and as early as the reign of Septimius Severus.<sup>22</sup> Now the Roman government returned to the pre-Hadrianic course of action, repealed the greater part of the Hadrianic prohibitions either explicitly or through abeyance, and revived the traditional recognition of Jewish law and its institutions. Its highest and most visible institutions, the Sanhedrin and the Patriarchate, were not only restored but significantly reinforced, and the impressive achievements of their legislative and codificatory activities in the Mishnah and subsequently in the Palestinian Talmud provide the best evidence of their restored vitality.

The extent of this success can be appreciated best against the backdrop of the gradual modification of the Jews' legal status – certainly since the Severi – and the effort to integrate them into non-Jewish society and in particular the ruling governmental structures. The inclusion of the Jews in the universal grant of Roman citizenship in 212 involved serving in municipal government as decurions and office-holders and consequently performing *liturgies*, although the imposition of these universally unwelcome burdens was couched in the rhetoric of honor and dignity. The centrifugal force such measures exerted on Jewish law was nevertheless substantially weakened by the “privilege of religion,” which exempted Jews from duties considered religiously incompatible.<sup>23</sup> Paradoxically, this situation probably strengthened the Jewish law system by turning it into a haven of immunity from state and city obligations. Indeed, in a general law issued in 321 Constantine recognized that “in the past an ancient custom” gave the Jews immunity from curial offices, and he preserved this exemption as a “vestige” for two or three Jews in each curia.

2. The traditional part of the pagan Jewry law that dealt with the Diaspora addressed Jewish custom and its principal manifestation, religion.

<sup>22</sup> For the particularly humane policies practiced by this emperor, consult N. Lewis, “The Humane Legislation of Septimius Severus,” *Historia* 45 (1996), 104–13.

<sup>23</sup> For a useful examination of the judicial aspects of the imposition of liturgies and grants of immunities, see H. Horstkotte, “Systematische Aspekte der munera publica in der römischen Kaiserzeit,” *ZPE* 111 (1996), 233–55.

It also emphasized religious matters because religion was the type of custom that created the most contention between Jews and non-Jews and therefore required attention and solutions.

In recognizing the Jews as a distinct entity, the non-Jewish society authorized them in principle to live according to their national “law,” that is, their peculiar body of social norms and prescriptions for action. In this context Mosaic law was perceived as Jewish in the same way that the “laws” of Lycurgus and Solon were recognized as typical of the Spartans and the Athenians, and like them it was enveloped in that aura of legitimacy and authority conferred by mythical origins and uninterrupted continuity. This perception highlighted the social aspect of Mosaic law, as can be observed in the negative judgments so common to Greek and Roman writers on this subject. For these authors the Mosaic law was intentionally, even maliciously, isolationist and xenophobic, a set of norms designed to prevent all civilized social contact between Jews and non-Jews. Jewry-law privileges from the pagan era explicitly recognize, nevertheless, the right of Jews to “live according to their customs,”<sup>24</sup> “to follow their particular ordinances according to their ancestral law,”<sup>25</sup> and “to practice their particular customs and laws,”<sup>26</sup> and decree that Jews are “not to be prohibited from practicing their customs.”<sup>27</sup> Claudius expressed this principle authoritatively: “It is right and just that the Jews should preserve their ancestral customs without any hindrance in the entire world ruled by us.”<sup>28</sup> Thus embraced by the government, the principle could legitimize a range of social activities and institutions, but in practice it resulted in very few social, non-religious dispositions. Its main effect can be seen in the recognition of Jewish legal autonomy in some leading communities, an effect similar to the recognition, tacit and otherwise, of the legal autonomy of the Jewish population in the Land of Israel.

In Sardis this principle was invoked to sanction the right of Jews who were also Roman citizens to have their own court with jurisdiction over Jews.<sup>29</sup> It is found again in Strabo of Amaseia’s characterization of Jewish

<sup>24</sup> “ζην κατα τα αὐτων ἐθη” (*JRRW* no. 7, *Ant.* 14.10.8).

<sup>25</sup> “τους Ἰουδαίους χρῆσθαι τοῖς ἰδίοις θεσμοῖς κατα τον πατριον αὐτων νομον” (*JRRW* no. 22, *Ant.* 16.6.2).

<sup>26</sup> “χρῆσθαι τοῖς ἰδίοις νομοῖς και ἐθεσιν” (*JRRW* no. 27, *Ant.* 16.6.7).

<sup>27</sup> “μη κωλυεσθαι Ἰουδαίους τοῖς αὐτων ἐθεσι χρῆσθαι” (*JRRW* no. 18, *Ant.* 14.10.21).

<sup>28</sup> “καλως οὖν ἔχειν και Ἰουδαίους τους ἐν παντι τῷ υφ’ ἡμας κοσμῷ τα πατρια ἐθη ἀνεπικωλυτως φυλασσειν” (*JRRW* no. 29, *Ant.* 19.5.3).

<sup>29</sup> “και τοπον ἰδιον, ἐν ῶ τα τε πραγματα και τας προς ἀλληλους ἀντιλογιας κρινουσι” (*JRRW* no. 14, *Ant.* 14.10.17).



communities “observing the ancestral Jewish laws”<sup>30</sup> and in his report that the Jewish Ethnarch in Alexandria “governs the people and adjudicates suits and supervises contracts and ordinances just as if he were the head of a sovereign state.”<sup>31</sup> It all sounds slightly exaggerated, but modern research has demonstrated that the Jewish community of Alexandria did have its own network of social and legal institutions, obviously with the acquiescence of the state. It functioned within a colonial hierarchical system that allocated levels of status and privilege to the national and ethnic entities that composed the Ptolemaic kingdom as well as the Roman province of Egypt. Similar institutions emerged in the satellite territories of Libya and Cyrene. While the Greeks occupied the summit of the socio-legal pyramid and the native population formed the base, the Jews, both as individuals and in their organized community, were in between, on a rather unstable and mutable level. They struggled to climb and acquire the legal status of the upper ranks, and at the same time to preserve their autonomous institutions and traditional status against hostile pressure emanating from both the Greeks and the provincial government. Ultimately they failed: Claudius finally denied the Jews of Alexandria the citizenship of that city, which he defined in his edict as “a city not their own,” thus effectively excluding them from the Greek institutions and the way of life typical of that Greek *politeuma*. In the end the separate Jewish *politeuma* of Alexandria, probably the last important Jewish-law enclave in the Diaspora, disappeared after Trajan.<sup>32</sup>

Religious matters are the principal and constant object of the traditional Jewry-law privileges in the Diaspora, a strong indication of their continuous relevance to life in these communities. Religion appears in these sources usually in close association with generic “custom”: Jews were allowed “to practice their ancestral customs and rites,”<sup>33</sup> “to observe the Sabbath and the other rites according to their ancestral laws,”<sup>34</sup> “to assemble in order “to pay to God their ancestral prayers and sacrifices/rites . . . according

<sup>30</sup> “τα συνταγματα των Ἰουδαίων . . . χρωμενα τοις πατριοις των Ἰουδαίων νομοις” (*GLAJJ* I 278).

<sup>31</sup> “ὅς διοικεῖ τε τὸ ἔθνος καὶ διαίτα κρίσεις καὶ συμβολαίων ἐπιμελεῖται καὶ προσταγμάτων, ὡς ἂν πολίτης ἀρχῶν αὐτοτέλους” (*ibid.*).

<sup>32</sup> For the recent papyrological evidence, see I. F. Fikhman, “Les Juifs d’Égypte à l’époque byzantine d’après les papyrus publiés depuis la parution du *Corpus Papyrorum Judaicarum* III,” *SCI* 15 (1996), 223–9.

<sup>33</sup> “τοις πατριοις ἔθεσι καὶ ἱεροῖς χρῆσθαι” (*JRRW* no. 7, *Ant.* 14.10.8).

<sup>34</sup> “τα τε σαββατα . . . καὶ τα λοιπα ἱερα ἐπιτελεῖν κατὰ τοὺς πατριοὺς νόμους” (*JRRW* no. 17, *Ant.* 14.10.20). A similar principle is enunciated in *JRRW* no. 19, *Ant.* 14.10.23.

to the customs incorporated in laws”<sup>35</sup> and to send “consecrated money” to the Temple “according to an ancient customary practice,”<sup>36</sup> or, in another privilege, according to their “ancestral custom.”<sup>37</sup> Claudius again formulated this principle concisely, declaring, in acceding to a petition concerning the paraphernalia of the High Priest, that he was motivated by “my piety and will that all should worship according to their ancestral [customs].”<sup>38</sup> References to religion unattached to custom appear in some ordinances, e.g., when “Jews . . . having Jewish rites and practicing them” obtain privileges “for the sake of religion”<sup>39</sup> (although the term *deisidaimonia* could be taken more as superstitious practices than as “religion”), and, again, in relation to persons guilty of stealing “consecrated money” who, though they have fled to a place of asylum, should be prosecuted for “sacrilege.”<sup>40</sup>

The corpus of privileges consisted of recognition and protection of religious institutions and practices, with a limited number of exemptions granted to Jews from impositions considered contrary to their religion. It reflected the uneasy mediatory role that the Roman state assumed in its eastern provinces and dependencies. Drawn into local conflicts between Greeks and Jews, often over religious sentiments and practices, Roman magistrates tended to preserve the status quo and to follow the rule that the state should protect legitimate religious practices. Some privileges became obsolete with the destruction of the Temple and the cessation of all the religious practices that depended on it. Such, for example, were the dispositions in favor of the yearly collection of the “consecrated money” and its transfer to the Land of Israel, an almost permanent matter of contention between Jews and non-Jews right up to the destruction of the Temple (and even after the destruction, when Vespasian replaced the annual collection with the Jewish Tax). This payment was later revived, to some extent, as a contribution toward the upkeep of the Patriarch and the Sages, obviously with the approval of the state. And even after the cessation of the Patriarchate in the early fifth century, the Roman authorities continued to collect it and appropriated its proceeds to the treasury.

<sup>35</sup> “κατα τα νομιζομενα ἔθη συναγωνται . . . ἐπιτελοιεν τας πατριους εὐχας και θυσιας τῷ Θεῷ” (*JRRW* no. 20, *Ant.* 14.10.24).

<sup>36</sup> “δι’ αρχαιαν συνηθειαν” (*JRRW* no. 23, *Ant.* 16.6.3).

<sup>37</sup> “το πατριον αὐτοῖς ἔθος” (*JRRW* no. 26, *Ant.* 16.6.6).

<sup>38</sup> “δια το ἑμαυτου εὐσεβες και το βουλευσθαι ἕκαστους κατα τα πατρια θρεσκευειν” (*Ant.* 20.1.2).

<sup>39</sup> “. . . Ἰουδαῖους ἱερα Ἰουδαϊκα ἔχοντας και ποιουντας . . . δεισιδαιμονιας ἐνεκα” (*JRRW* no. 11, *Ant.* 14.10.13). Also *JRRW* no. 13, *Ant.* 14.10.16; *JRRW* no. 15, *Ant.* 14.10.18; *JRRW* no. 16, *Ant.* 14.10.19.

<sup>40</sup> “των . . . ἱερων χρηματων . . . (οἱ ἱεροσυλοι)” (*JRRW* no. 24, *Ant.* 16.6.4).

Other religious privileges, concerned mainly with the synagogue and the practices centered on it, survived the debacle of 70 CE and acquired even greater significance given the transformation of the Jewish religion from a centripetal to a more multi-centered system. The synagogue functioned as the center of the community even before 70 CE, but in the new environment it emerged as the only focus of social and religious cohesion throughout the Jewish world, in the Land of Israel as well as the Diaspora. The old Jewry-law privileges that guaranteed the rights to assemble in synagogues and carry out social and religious activities in their precincts were therefore of particular value. They validated the embryonic communal structure inherent in synagogal life, a structure manifested in its year-long re-creation of a distinct national order through ritual and other social acts. The synagogues' particular offices, statuses and honors, property management, welfare activities, and other characteristics became central to Jewish life. Authorizing a synagogue was practically tantamount to warranting a community.<sup>41</sup>

<sup>41</sup> For some of the recent studies dealing with the history of the Jewish communities, see P. R. Trebilco, *Jewish Communities in Asia Minor*, (Cambridge, 1991); M. H. Williams, "The Jews and Godfearers Inscription from Aphrodisias: A Case of Patriarchal Interference in Early Third Century Caria?", *Historia* 41 (1992), 297–310; T. Rajak and D. Noy, "Archisynagogai: Office Titles and Social Status in the Graeco-Roman Synagogue," *JRS* 83 (1993), 75–93; P. M. Nigdelis, "Synagoge[n] und Gemeinde der Juden in Thessaloniki: Fragen aufgrund neuen jüdischen Grabinschrift der Kaiserzeit," *ZPE* 102 (1994), 297–306; M. H. Williams, "The Structure of Roman Jewry Reconsidered: Were the Synagogues of Ancient Rome Entirely Homogeneous?" *ZPE* 104 (1994), 129–41; A. Kasher, "Synagogues as 'Houses of Prayer' and 'Holy Places' in the Jewish Communities of Hellenistic and Roman Egypt," in D. Urman and P. V. M. Flesher (eds.), *The Ancient Synagogue: Historical Analysis and Archaeological Discovery* 1 (Leiden, 1995), 205–20; Z. Safrai, "The Communal Functions of the Synagogue in the Land of Israel in the Rabbinic Period," in Urman and Flesher (eds.), *Ancient Synagogue*, 181–204; L. V. Rutgers, *The Jews in Late Ancient Rome: Evidence of Cultural Interaction in the Roman Diaspora*, (Leiden, 1995); Barclay, *Jews in the Mediterranean Diaspora*; L. H. Feldman, "Diaspora Synagogues: New Light from Inscriptions and Papyri," in idem, *Studies in Hellenistic Judaism* (Leiden, 1996), 577–602; L. I. Levine, "Diaspora Judaism of Late Antiquity and Its Relationship to Palestine: Evidence from the Ancient Synagogue," in B. H. Isaac and A. Oppenheimer (eds.), *Studies on the Jewish Diaspora in the Hellenistic and Roman Periods* (Tel-Aviv, 1996), 139–58; L. I. Levine, "Synagogue Officials: The Evidence from Caesarea and Its Implications for Palestine and the Diaspora," in A. Raban and K. G. Holum (eds.), *Caesarea Maritima: A Retrospective After Two Millennia* (Leiden, 1996), 392–400; P. Richardson, "Early Synagogues as Collegia in the Diaspora and Palestine," in J. S. Kloppenborg and S. G. Wilson (eds.), *Voluntary Associations in the Greco-Roman World* (London, 1996), 90–109; L. M. White, "Synagogue and Society in Imperial Ostia: Archaeological and Epigraphic Evidence," *HTR* 90 (1997), 23–58; L. I. Levine, "Synagogue Leadership: The Case of the Archisynagogue," in Goodman

Few exemptions accompanied these privileges. Flavius Josephus emphasized several Jewry-law documents that granted exemption from military service to Jews who were Roman citizens, but this privilege lost value with the evolution of the Roman forces into a predominantly professional and career army. Only one exemption with distinct legal practical implications is to be found: Jews were exempted from legal business on the Sabbath. That is the only privilege in this corpus which confers on Jews some advantage in relation to non-Jews. This exemption is a practical application of the principle, clearly enunciated by Ulpian and Modestinus with respect to the Jewish religion, that religious piety takes precedence over public-order duties.

### III THE CHRISTIAN ROMAN EMPIRE

#### A FROM COMMON LAW TO JEWRY LAW

1. The christianization of the institutional framework of the Roman Empire inevitably implied also the conversion of the existing legal system – with its Jewry law – in accordance with Christian values and objectives. It was an evolutionary process, not a revolutionary event. Spectacular public acts, real or fictional (like the conversions of Constantine and his mother, Helena), should not be confused with long-term processes like the conversion of the governing elites and the “christianization” of the government organs they animated, let alone the christianization of the common people. Very lengthy and protracted processes, they were far from being over even in 380, when the principle of the religious uniformity of the Empire was laid down by law: “We want all the peoples governed by the serenity of our clemency to practice the religion that Saint Peter the Apostle gave to the Romans.”<sup>42</sup> As a system subordinate to and derived from the Common law, Jewry law reflected not only the slowness of the process but also a certain delay in relation to it.

Throughout most of the fourth century, in fact, the Common law of the Roman Empire evolved relatively slowly, retaining much of its pagan, or at any rate pre-Christian, form and substance. Even as late as the pious emperor Justinian, Roman jurists were usually reluctant to abandon the

(ed.), *Jews in a Graeco-Roman World*, 195–213; M. Williams, “The Structure of the Jewish Community in Rome,” in Goodman (ed.), *Jews in a Graeco-Roman World*, 215–28.

<sup>42</sup> *CTh* 16.1.2 = *CJ* 1.1.1. For the Christian Roman legislation on purely Christian matters, mainly the relations between Empire and Church, see E. Dove, “Occasioni e tendenze della normazione religiosa tardoantica,” *Laeco* 38 (1992), 147–99. A useful discussion of some of the main problems can be found in T. Brown, “The Jews in the Late Roman Empire,” *SCI* 17 (1998), 141–71.

classical legal tradition, and a similarly conservative disposition permeated other government branches. Christianization meant change of cadres much more than structural reforms. Conservatism in this area was both a choice and the result of the natural inertia of administrators and jurists serving in government organs that were universally acclaimed as legitimate and ancestral, even those originating in the relatively recent reforms of Diocletian. Finally, the victory of Christianity over paganism was not considered a foregone conclusion during most of the fourth century; by its close, pagans still accounted for a considerable proportion of the imperial and the municipal cadres, and traditional values (pagan almost by definition) still infused the culture shared by rulers and ruled alike. Continuity similarly marked contemporary Jewry law, as can be observed in the upholding of its traditional pagan hallmarks. The religious essence of the Jewish phenomenon over and above its national/ethnic nature was emphasized, and privileges were continued that derived from that stance, i.e., privileges concerned with religious practice, with the synagogue as the core of religious and communal activity, and with limited self-rule (mainly in the Land of Israel).

2. The Christian contribution to both systems of law nevertheless became increasingly meaningful and predominant from the beginning of the fifth century. Religion was at its core: all the constituents of the idea of the Roman Empire – vocation, nature, structure, and mode of action – were increasingly perceived as religious phenomena and defined in those terms.<sup>43</sup> While the classical jurists employed criteria free of religious content in differentiating between freeman and slave, adult and minor, citizen and foreigner, and the like, Christian legislators increasingly adopted religious criteria and discriminated between Christians and non-Christians, between orthodoxy and heresy within the Church and among various types of non-Christians (pagans, Jews, Samaritans, et al.) outside it. This tendency further reinforced the religious underpinnings of Jewry law, already recognized and complied with under the pagan Roman Empire.

Another Christian contribution concerned Judaism directly and had even more important repercussions on Jewry law: the constant awareness of Christians that Judaism was a fundamental part of Christianity and their recurrent endeavor to come to terms with this perception. This had obvious effects on both government and law. While the pagan governing elites usually considered Judaism to be culturally alien and inferior, preferred to ignore it, and took action in regard to Jews only when absolutely compelled

<sup>43</sup> See also F. Millar, "The Jews of the Graeco-Roman Diaspora Between Paganism and Christianity AD 312–438," in J. Lieu, J. North, and T. Rajak (eds.), *The Jews Among Pagans and Christians in the Roman Empire* (London, 1992), 102–3.

to do so,<sup>44</sup> Christians were aware of the extensive heritage they shared with the Jews and were convinced that this heritage was integral to the Christian *Weltanschauung*. They were therefore faced with the need to differentiate themselves from Jews (and Judaism) and to provide clear distinctions between the two religions while recognizing this common ground. To put it differently, Jewry law under the pagans was contingent, while under the Christians it was necessary and almost predetermined.<sup>45</sup>

This is undoubtedly one of the main determinants – perhaps the most important – of the condition of Jews and Judaism under Christian rule throughout the last two millennia. Its numerous implications in all historical Christian societies can nevertheless be reduced to two elementary approaches to the issue of Christianity's relationship to Judaism. As a practical matter, that is, beyond the theoretical and theological issues raised by this complex circumstance, Christian states generally opted for a compromise between inclusion and acceptance and exclusion and rejection, although cases of total, compromise-free rejection are not unknown.

Given this theologico-political reality two of the more obvious characteristics of Jewry law in the Christian Empire – its volume and the sustained legislative activity it represents – become almost self-explanatory. The extant Christian laws of this type are almost three times more numerous than the extant parallel laws from the pagan era. Christian legislation, which provided most of the laws preserved in the two Codes of Theodosius II and Justinian,<sup>46</sup> had, obviously, a better chance of survival. But, at the same time, this legislative activity testifies to the authentic interest that the Christian rulers manifested throughout the period.<sup>47</sup> No pagan ruler could

<sup>44</sup> See the treatment of this problem in E. Baltrusch, "Bewunderung, Duldung, Ablehnung: das Urteil über die Juden in der griechisch-römischen Literatur," *Klio* 80 (1998), 403–21. The author concludes that most of our sources transmit a negative judgment, and that while the Jewish religion was mostly seen in a positive light, Jewish life according to the religion, e.g., the Sabbath, circumcision, and dietary laws, was evaluated negatively.

<sup>45</sup> Consult also J. Lieu, "History and Theology in Christian Views of Judaism," in Lieu et al. (eds.), *Jews Among Pagans and Christians*, 79–96, and E. Baltrusch, "Die Christianisierung des Römischen Reiches: Eine Zäsur in der Geschichte des Judentums?" *HZ* 266 (1998), 23–46.

<sup>46</sup> For a broader perspective, see O. Bucci, "Intoleranza ellenica e libertà romana nel libro XVI del Codice teodosiano," *Atti dell'Accademia romanistica Costantiniana*, VI Convegno internazionale (Perugia, 1986), 363–417, and particularly 396–403 (on the Jews, the Heaven-Fearers and the Samaritans); and G. L. Falchi, "La tradizione giustiniana del materiale teodosiano (*CTh* XVI)," *Studia et documenta historiae et iuris* 57 (1991), 1–123, particularly 8–9, 12, 15–20, 22, 53, 60, 62, 64, 66–8, and the analytical summary on 85–7.

<sup>47</sup> I disagree with the simplistic view that the considerable number of extant laws indicates that they were not enforced.

approach the level of biblical erudition manifested by Julian, a prince raised and educated in a Christian court, while all Christians, emperors as well as subjects, became conversant with the Scriptures through routine ritual and education. Jewry law since the fourth century therefore represents a sustained preoccupation with Jewish affairs. For Augustus, Jews were objects of ridicule; in a private letter to Tiberius he joked about the observance of the Sabbath<sup>48</sup> and obviously had no strong opinions on the matter one way or another. For Augustine, on the other hand, the biblical commandments were divinely sanctioned, irrespective of whether and how they were to be observed under the Christian dispensation. He viewed them as a *Lex*, in an unmistakably legal perspective, as an aggregate of divinely ordained and socially enforced precepts for action, and did not fail to observe God's work in the obstinate persistence of the Jews to maintain their uniqueness even under the Roman yoke: "Although they dwell among all the nations they are still Jews, and they did not cease to be what they were; to wit, that nation did not fall under Roman rule so that it will lose the Jewish character; it has been subjected to the Romans in order to preserve its laws, which are God's laws."<sup>49</sup> For Christians like Augustine, the Sabbath, and other biblical institutions like circumcision or the Passover sacrifice and Unleavened Bread, were anything but a laughing matter, and their

<sup>48</sup> "Not even a Jew, my dear Tiberius, fasts so scrupulously on his Sabbaths as I have today" (Suetonius, *Divus Augustus* 76.2; *GLAJJ* 11 110). Jewish observance of the Sabbath was apparently a favorite topic with pagan comedians; see the account attributed to R. Abbahu (end of the third century): "the Gentiles, when they sit in theaters and circuses . . . eat and drink, and when they become drunk they talk about me [the Jewish nation] and ridicule me, saying: 'We certainly do not need carob as the Jews do,' and they converse together: 'How many years do you want to live?' – 'As a Jewish Sabbath shirt,' and they bring a camel to their theaters with his shirts on his back and say among themselves: 'What is he mourning over?' – 'These Jews observe the sabbatical year, and as they have no vegetables they have eaten his thorns and he mourns over them.' And they bring a mime into their theater with his head shaved, and they converse together: 'Why is his head shaved?' – and he answers: 'These Jews observe the Sabbath, and anything that they toil for during the week they eat on the Sabbath; and as they have no wood to cook with, they break their beds and cook with them, and sleep on earth and cover themselves with dust and anoint their bodies with oil – and this is why oil is expensive'" (*Lam. R. Proem.* and 3). The subject of circumcision offered another comic vein: see Z. Weiss, "The Jews and the Games in Roman Caesarea," in A. Raban and K. G. Holum (eds.), *Caesarea Maritima: A Retrospective After Two Millennia* (Leiden, 1996), 443–53; A. Kerkeslager, "Maintaining Jewish Identity in the Greek Gymnasium; A 'Jewish Load' in *CPJ* 3, 519," *JSJ* 28 (1997), 12–33.

<sup>49</sup> *Enarrationes in Psalmos* (completed in 416), in *Ps.* 58, 1–2: "Per omnes gentes manent certe, et Judaei sunt, nec destiterunt esse quod erant; id est, gens ista non ita cessit in iura Romanorum, ut amiserit formam Judaeorum; sed ita subdita Romanis est, ut etiam leges suas teneat, quae leges sunt dei" (E. Dekkers and J. Fraipont [eds.], *CCSL* 39 [1956], 746).

actual observance, which he interprets in several ways – most dramatically as the mark of Cain – are a subject for serious discussion and action by Christian theologians and rulers.<sup>50</sup>

## B JEWRY LAW

### 1 *Guiding principles*

Formal and stylistic analysis of the Christian Jewry law can cast light on both its conceptual premises and its role as means of propaganda. Legal rhetoric was never limited to the governing cadres; all laws were promulgated to the public as official proclamations of principles and prescriptions for action and should be considered with regard to those two roles.

Only three Christian laws have retained the classical identification of the Jews as an ethnicity determined by common origins – as *gens*<sup>51</sup> or *natio*<sup>52</sup> – and as a people (*populus*),<sup>53</sup> a voluntary association of persons who do not necessarily share a biological origin. The overwhelming majority of the Christian laws treat Judaism as a religion, as a social embodiment of a set of beliefs and practices in regard to the supernatural, an approach we have already encountered in the pagan Jewry law. In common usage the pair *religio*–*superstitio* has always denoted this phenomenon from two angles, positive and negative.<sup>54</sup> Christians tended to restrict *religio* to Christianity and *superstitio* to all other religions, which were by definition superstitions. This is the idea behind Constans' demand in 342 that “every superstition must be entirely uprooted.”<sup>55</sup>

But both terms were used by the classical jurists about the Jews,<sup>56</sup> and the Christian legislator followed suit, selecting one or the other according to the spirit of the laws enacted. This dual usage was maintained until 417, from which date *religio* was reserved for Christianity and *superstitio* for the Jews. The opposition between the two was highlighted in a law from 417 that referred to “slaves who partake of the right religion and are held under

<sup>50</sup> “Iudaei tamen manent cum signo; nec sic victi sunt, ut a victoribus absorberentur. Non sine causa Cain . . . posuit [Deus] in eo signum, ne quis eum occideret. Hoc est signum quod habent Iudaei: tenent omnino reliquias legis suae: circumciduntur, sabbata observant, pascha immolant, azyma comedunt” (*Enarrationes in Psalmos*, in *Ps.* 58, 2.2, Dekkers and Fraipont [eds.], *CCSL* 39 [1956], 744).

<sup>51</sup> *JRIL* no. 45 (*CTh* 16.8.24), from 418. <sup>52</sup> *JRIL* no. 11 (*CTh* 16.9.2), from 339.

<sup>53</sup> *JRIL* no. 40 (*CTh* 16.8.20), from 412.

<sup>54</sup> See F. Sini, “Dai peregrina sacra alle pravae et externae religiones dei bacchanali, alcune riflessioni su ‘alieni’ e sistemi giuridico-religioso romano.” *Studia et documenta historiae et iuris*, 60 (1994), 49–73, particularly 65–9.

<sup>55</sup> *CTh* 16.10.3.

<sup>56</sup> *JRIL* nn. 1 (Modestinus in *Digesta* 48.8.11) and 2 (Ulpian in *Digesta* 50.2.3.3).



the rule of the nefarious superstition,"<sup>57</sup> and again in 426 when a law characterized baptized Jews as persons "crossing over . . . from the darkness of their proper superstition to the light of the Christian religion."<sup>58</sup>

The term *secta*, originally denoting philosophical schools and later reserved for heretics, was used in this context as a synonym for *superstitio* and frequently employed to refer to Jews. As early as 329 we find Constantine pointing to the contrast between the Jewish "sect" and Christian worship,<sup>59</sup> and Theodosius II employed the three terms in his 417 law against the "corruption" of Christian slaves ("who partake of the true religion") owned by the Jewish "superstition . . . with the filth of its . . . sect."<sup>60</sup> In 438 he formulated two contrasts: first between the sects of the Jews and Samaritans on the one hand and the Christian imperial government on the other, and second between the "cult of the Christian religion" and the "abominable sect and its rite."<sup>61</sup>

The legislator further emphasized his hostile attitude toward the Jews through explicit value-laden rhetoric. Although most rhetorical elements were omitted from the texts of the laws in the process of codification under Theodosius II and Justinian, enough remained to warrant the conclusion that all the adjectives and most of the nouns and verbs that were applied to Jews were negative. One notices several religious composites with oppositional prefixes, such as "incredulity,"<sup>62</sup> "impiety,"<sup>63</sup> "the most impious,"<sup>64</sup> "nefarious,"<sup>65</sup> and "sacrilegious."<sup>66</sup> Other terms, for example deformity and illness, pestilence, filth, abomination, death, infamy and madness, expressed the conviction that the Jews represented the negation of wholesomeness, health, purity, life, honor, wisdom, and sanity. While not religious in themselves, these pairs acquired a religious connotation from the context in which they were used. Further terms include "turpitude,"<sup>67</sup> "perversity,"<sup>68</sup> "contagion,"<sup>69</sup> "pollution,"<sup>70</sup> "a plague . . . that spreads by contagion,"<sup>71</sup> "contamination,"<sup>72</sup> "to defile,"<sup>73</sup> "to purge [from

<sup>57</sup> JRIL no. 44 (CTh 16.9.4). <sup>58</sup> JRIL no. 52 (CTh 16.8.28).

<sup>59</sup> JRIL no. 8 (CTh 16.8.1 = CJ 1.9.3). <sup>60</sup> JRIL no. 44 (CTh 16.9.4).

<sup>61</sup> JRIL no. 54 (Theodosius II, *Novella* 3 = CJ 1.7.5).

<sup>62</sup> JRIL no. 39 (*incredulitas* contrasted with *fides Christiana*, CTh 16.8.19).

<sup>63</sup> JRIL nn. 50 (*impietatis amentia*, CTh 15.5.5) and 13 (*asebeia*, Julian's *Epist.* no. 51).

<sup>64</sup> JRIL no. 48 (*impiissimi* in contrast with *religiosissimi*, CTh 16.9.5).

<sup>65</sup> JRIL no. 8 (*nefarus*, CTh 16.8.1).

<sup>66</sup> JRIL (*sacrilegus*), nos. 12 (CTh 16.8.7) and 36 (CTh 16.8.18 = CJ 1.9.11).

<sup>67</sup> JRIL no. 11 (*turpitude*, CTh 16.8.6). <sup>68</sup> JRIL no. 45 (*perversitas*, CTh 16.8.24).

<sup>69</sup> JRIL no. 16 (*contagium*, CTh 16.7.3).

<sup>70</sup> JRIL nn. 16 (*polluere*, CTh 16.7.3) and 39 (*turpitude*, CTh 16.8.19).

<sup>71</sup> JRIL no. 37 (*pestis . . . contagione latius emanet ac profluat*, CTh 16.5.44).

<sup>72</sup> JRIL no. 17 (*adtañmet*, CTh 3.1.5).

<sup>73</sup> JRIL nn. 41 (*foedare*, CTh 16.8.22) and 48 (*inquinare*, CTh 16.9.5).

Jews],<sup>74</sup> “execrable,”<sup>75</sup> “corrupt with filth,”<sup>76</sup> “deed of disgrace,”<sup>77</sup> “senseless,”<sup>78</sup> and “madness.”<sup>79</sup> And this collection of epithets was complemented by a smaller group of pejorative political terms, asserting that Jews are “alien and hostile to the Roman state,”<sup>80</sup> “enemies of the Roman laws,”<sup>81</sup> and motivated by the spirit of “arrogance and revolt.”<sup>82</sup>

The legislator’s assumptions about Jews can also be perceived by considering whether he deals with them separately or associates them with other groups. Until the beginning of the last decade of the fourth century the legislator dealt with Jewish matters in separate, special laws, but from 390 the laws associated Jews and Samaritans on the assumption that they shared a common religion, or that their religions were close enough to warrant this association. Another semi-Jewish entity, the Heaven-fearers, was associated with Jews and Samaritans in the title of the chapter allocated to the Jews in the Theodosian Code. The association of Jews and Samaritans continued for a time under Justinian, for his early laws dealt with them together, the Jews usually preceding; but even these laws already indicate that the Samaritans were no longer perceived as a Jewish sect but as a separate religious entity. By 531 the legal distinction between Jews and Samaritans was evident,<sup>83</sup> and Justinian’s codifiers accordingly transferred laws dealing with the Samaritans to the chapter dealing with heretics and Manichaeans.<sup>84</sup>

The first law to associate Jews and pagans dates from 383,<sup>85</sup> and the next example of an analogous association appears in a 408 law that deals with Jews together with Donatists and heretics.<sup>86</sup> Most of the laws bearing on the Jews, which were promulgated between this date and 545, associated Jews, pagans, and heretics in a triple pattern. The usual order is “Jews, pagans, heretics,”<sup>87</sup> but one also finds “heretics, Jews, pagans,”<sup>88</sup> “Jews and

<sup>74</sup> JRIL no. 56 (καθαρευειν, CJ 1.5.12).

<sup>75</sup> JRIL no. 54 (*execrandus*, *Novella* no. 3 = CJ 1.5.7).

<sup>76</sup> JRIL no. 44 (*caeno confundere*, *CTh* 16.9.4). <sup>77</sup> JRIL no. 11 (*flagitium*, *CTh* 16.8.6).

<sup>78</sup> JRIL no. 54 (*sensibus excaecatus* in contrast to *sanitas mentis*, *Novella* no. 3).

<sup>79</sup> JRIL no. 50 (*Iudaeae impietatis amentia*, *CTh* 15.5.5).

<sup>80</sup> JRIL no. 39 (*perversitatem Iudaicam et alienam Romano imperio*, *CTh* 16.8.19).

<sup>81</sup> JRIL no. 54 (*supernae maiestati et Romanis legibus inimici*, Theodosius II, *Novella* no. 3).

<sup>82</sup> JRIL no. 48 (*spiritum audaciamque*, *CTh* 16.8.26). <sup>83</sup> JRIL no. 60 (CJ 1.5.21).

<sup>84</sup> CJ 1.5. <sup>85</sup> JRIL no. 16 (*CTh* 16.7.3). <sup>86</sup> JRIL no. 37 (*CTh* 16.5.44).

<sup>87</sup> JRIL nn. 48 (*CTh* 16.8.26), 49 (*CTh* 16.8.27 + *CTh* 16.10.23 + *CTh* 16.5.60 + *CTh* 16.10.24 = CJ 1.11.6), 54 (Theodosius II, *Novella* no. 3 = CJ 1.9.18 + CJ 1.7.5 + CJ 1.5.7), 61 (CJ 1.3.54), 62 (Justinianus, *Novella* no. 37) and 65 (Justinianus, *Novella* no. 131.14).

<sup>88</sup> JRIL nn. 38 (*Constitutio Sirmondiana* no. 14 = *CTh* 16.2.31 = CJ 1.3.10 + *CTh* 16.5.46) and 51 (*Constitutio Sirmondiana* no. 6 + *CTh* 16.5.62) + (*CTh* 16.2.46 + *CTh* 16.5.63) + (*CTh* 16.2.47 + *CTh* 16.5.64).

heretics”<sup>89</sup> or “Jews and pagans.”<sup>90</sup> The change from a separate Jewry law to Jewry-law measures enacted in conjunction with measures targeting heretics and pagans reflected a fundamental change in policy toward Jews at the beginning of the fifth century: they were progressively assimilated to pagans and heretics, and this tendency was bound to affect their legal status over the next two centuries.

The communicative role of the laws is particularly evident in their rhetorical parts, where the legislator proclaims the ideas that inspired him.<sup>91</sup> This aspect of the law illuminates the governmental attitudes on the subject of the law and also attests to governmental expectations about ideology-based compliance by the public; Roman legal rhetoric highlighting particular values was as concerned with legal legitimacy as it was with propagandizing.

Many laws on Jews asserted that the law followed established legal tradition, emphasizing the principle of legal continuity and the law’s “eternal” validity. When in 412 the Sabbath was declared an official day of rest for the Jews, the legislator cited the authority of “the ancient custom and usage,”<sup>92</sup> and Justinian insisted in 527 that “what was already laid down in the laws shall be recalled and made firmer through the present law.”<sup>93</sup>

Another broad legal rule, that authorities are bound to treat Jews according to general legal principles whose pertinence extended to them as well as to the other subjects of the Empire, was usually cited to justify protection measures. A good example is the citation of the principle that a duty imposed on a collectivity cannot be imposed on an individual member, in a decision from 390, in which it was ruled that the duty of naval transport of grain imposed on the Jewish and Samaritan communities in Egypt was illegal.<sup>94</sup> Similarly, the well-known rule that “it is just to assign to each man what is his own” was alleged in 396, when non-Jews were prohibited from establishing prices of merchandise owned by Jews,<sup>95</sup> and again in 412 in the law extending protection to synagogues and recognition

<sup>89</sup> *JRIL* no. 60 (*CJ* 1.5.21).

<sup>90</sup> *JRIL* nn. 50 (*CTb* 15.5.5 = *CJ* 3.12.6) and 52 ((*CTb* 16.8.28 = *CJ* 1.5.13) + (*CTb* 16.7.7 = *CJ* 1.7.4)).

<sup>91</sup> For a far-reaching – and problematical – distinction between laws designed to be enforced and laws as “moral proclamations designed to instruct and discipline society,” see S. Bradbury, “Constantine and the Problem of Anti-Pagan Legislation in the Fourth Century,” *Classical Philology* 89 (1994), 120–39.

<sup>92</sup> *JRIL* no. 40 (*vetus mos et consuetudo*, *CTb* 16.8.20).

<sup>93</sup> *JRIL* no. 56 (*CJ* 1.5.12).

<sup>94</sup> *JRIL* no. 19 (“quidquid enim universo corpori videtur indici, nullam specialiter potest obligare personam,” *CTb* 13.5.18).

<sup>95</sup> *JRIL* no. 23 (“Iustum est enim sua cuique committere,” *CJ* 1.9.9).

to the Jewish holidays – “all must retain what is theirs with unmolested right and without harm to religion and the cult.”<sup>96</sup> General principles of legality and public order are declared in several measures of protection. A law from 393 extended the state’s protection to synagogues on the grounds that “the sect of the Jews is prohibited by no law,”<sup>97</sup> and a similar law from 420 declared that “even if someone is entangled in his crimes, the vigor of the courts and the protection of public law appear to have been instituted for that very reason, that no one shall have the power to permit himself to take vengeance.”<sup>98</sup>

In persecutory laws quite different general principles were adduced, and although such principles were asserted less frequently, their influence seems to have been at least as important as that of the “protective” ones. The two principles that “Jewish perversity” was “alien to the Roman State” and that “anything that differs from the Faith of the Christians is contrary to the Christian Law” were stated in a law from 409<sup>99</sup> and again in 438, when discriminatory measures against Jews were validated on the grounds that they were “enemies of the Supreme Majesty and of the Roman laws.”<sup>100</sup> An even more dangerous rule was announced in 527, when the legislator equated the social and political status of every individual with his religious situation: “it shall be possible for all to perceive . . . that even what pertains to the human advantages is withheld from those who do not worship God rightfully,” and went on to declare, “We call heretic everyone who is not devoted to the Catholic Church and to our orthodox and holy Faith.”<sup>101</sup> He reformulated this principle in 537: Jews, Samaritans, and heretics “shall not enjoy any honor [public office], but . . . remain in that dishonor in which they also desired their souls to be.”<sup>102</sup> After the conquest of Africa, Justinian observed that the Jews and the heretics should be content with merely “staying alive.”<sup>103</sup>

<sup>96</sup> *JRIL* no. 40 (“sine intentione religionis et cultus omnes quieto iure sua debeant retinere,” *CTb* 16.8.20).

<sup>97</sup> *JRIL* no. 21 (“Iudaeorum sectam nulla lege prohibitam constat,” *CTb* 16.8.9).

<sup>98</sup> *JRIL* no. 46 (“etiam si sit aliquis sceleribus implicatus, idcirco tamen iudiciorum vigor iurisque publici tutela videtur constituta, ne quisquam sibi ipse [*in medio CJ*] permittere valeat ultionem,” *CTb* 16.8.21 = *CJ* 1.9.14).

<sup>99</sup> *JRIL* no. 39 (“Certum est enim, quidquid a fide Christianorum discrepat, legi Christianae esse contrarium . . . perversitatem Iudaicam et alienam Romano imperio,” *CTb* 16.8.19).

<sup>100</sup> *JRIL* no. 54 (“supernae maiestati et Romanis legibus inimici,” Theodosius II, *Novella* no. 3).

<sup>101</sup> *JRIL* no. 56 (*CJ* 1.5.12). <sup>102</sup> *JRIL* no. 64 (Justinianus, *Novella* no. 45).

<sup>103</sup> *JRIL* no. 62 (Justinianus, *Novella* no. 37).

These two opposing ideological directions starkly demonstrate the fundamental ambivalence that existed in the Jewish policy of the Christian Roman Empire. The legislator was not infrequently forced to choose, and observance of one line of action entailed non-observance of the other. The Callinicum Affair, in which Theodosius I was publicly humiliated by Ambrose and forced to desist from punishing the attackers of the Jewish synagogue in that locality, illustrates this dilemma. In his letter to Theodosius, Ambrose conceded that the emperor was motivated by considerations of law and order, but argued that “apparent law should yield to piety” and invited Theodosius to learn from the ominous example of Maximus, the usurper who was recently overthrown and put to death by Theodosius himself: “Was not Maximus overthrown precisely because when he heard – a few days prior to his departure for war – that a synagogue was set on fire in Rome, he issued an edict to Rome as though to assert law and order? Hence it was said by the Christian populace, ‘Nothing good can be expected for this one, for this king has become a Jew’ . . . and he was immediately defeated . . . everywhere.”<sup>104</sup>

When forced to make specific decisions, legislators would refer pragmatically to the common good, and while this did not bridge the ideological chasm, it had the merit of allowing the government to operate in an efficient and relatively value-free manner. Thus, when Jews and Samaritans were obliged in 438 to serve in the municipal administration, in contradiction to the prohibition against employing them in public office that was solemnly enunciated in the very same text, the legislator insisted that “it is appropriate that the Imperial Majesty should take care in all things that the public weal shall not be harmed in anything.”<sup>105</sup> A similar argument was presented in 531 when Justinian allowed Jews and certain heretics to give evidence in cases involving wills and contracts even though they were disqualified from testifying against orthodox Christians, “because of the benefit of the necessary practice, lest the means of demonstration be reduced.”<sup>106</sup> In a law

<sup>104</sup> “Disciplinae te ratio, imperator, movet . . . Quid igitur est amplius, disciplinae species an causa religionis? Nonne propterea Maximus destitutus est, quia ante ipsos expeditionis dies, cum audisset Romae synagogam incensam, edictum Romam miserat quasi vindex disciplinae publicae? Unde populus Christianus ait: ‘Nil bonum huic imminet, rex ipse Iudeus factus est . . . Ille igitur statim . . . ubique terrarum victus est’ (*Sancti Ambrosii Opera, Epistulae et Acta*, ed. M. Zelzer, 111 no. 1a (40), (CSEL 82), 1990, 167. See L. De Giovanni, “La politica religiosa di Teodosio I,” *Labeo* 40 (1994), 102–11, particularly 103–6.

<sup>105</sup> *JRIL* no. 54 (“Et quoniam decet imperatoriam maiestatem ea provisione cuncta complecti, ut in nullo publica laedatur utilitas,” Theodosius II, *Novella* no. 3).

<sup>106</sup> *JRIL* no. 60 (“propter utilitatem necessarii usus . . . ne probationum facultas angustetur,” *CJ* 1.5.21).

from 537, Justinian affirmed, tongue in cheek, that Jews are to be permitted to testify against orthodox Christians in cases in which the state appeared as plaintiff, "as they testify appropriately in favor of the orthodox state."<sup>107</sup>

## 2 *The operative level*

### A *The institutional framework*

Jewry law determined the special legal condition of the Jews in two ways: in relation to the enveloping non-Jewish society and by influencing matters within the Jewish sphere. As regards the latter, it operated indirectly through the social structures and environment that it authorized and supported and directly through intervention in typical Jewish matters. There was clear continuity between the pagan and Christian phases of Jewry law, for the Roman authorities (pagan and Christian alike) based their legislation in this area on the belief that Judaism was essentially a religion. An entire body of privileges granted by the pagan rulers was thus maintained, for example regarding the right of Jews to circumcise their sons, to celebrate Sabbath and religious festivals, and to be exempt from duties that would profane their religion. As late as 412 the Christian legislator recognized the right of Jews not to be summoned to court on a Sabbath or Jewish holiday and emphasized that this right derived from "ancient custom and usage," "former privileges," and "general constitutions of . . . past emperors."<sup>108</sup> This law was later received into the Justinian Code<sup>109</sup> and was strengthened further by the addition of another text, probably from the fourth century.<sup>110</sup>

The Christian contribution to Jewry law consisted in the greater readiness of Christian rulers to apply to the Jews religious concepts; people who conceived of the Empire in religious terms found it easier to apply the same criteria toward Jews, to define them in religious terms and to relate to them by analogy with the Christian Church itself. While the negatively phrased decision in 393 that "the sect of the Jews is prohibited by no law"<sup>111</sup> implied that Judaism was a legally recognized religion, a clear positive statement in 397 – "the Jews shall be bound to their rites"<sup>112</sup> – made the religious affiliation of the Jews not only legal but also obligatory.

<sup>107</sup> *JRIL* no. 64 (Justinianus, *Novella* no. 45, Rubric).

<sup>108</sup> *JRIL* no. 40 ("vetus mos et consuetudo . . . delata privilegia . . . retro principum generalibus constitutis . . . statutum esse videatur," *CTh* 16.8.20).

<sup>109</sup> *JRIL* no. 40 (*CJ* 1.9.13). <sup>110</sup> *JRIL* no. 57 (*CJ* 1.9.2).

<sup>111</sup> *JRIL* no. 21 ("Iudaeorum sectam nulla lege prohibitam satis constat," *CTh* 16.8.9).

<sup>112</sup> *JRIL* no. 27 ("Iudaei sint obstricti caerimoniis suis," *CTh* 16.8.13).

It would be a mistake to conceive of Jewry law under the Christian emperors as a streamlined and uniform body of law determined by one fundamental conception, but it seems that much of the disparate legislation of this type – in the first place, the laws that were intended to extend protection – was informed by the idea that Judaism was some sort of Church, a quasi-Christian Church. The state accordingly recognized the Jewish “priesthood,” prescribed to it certain areas of activity, and recognized the synagogue as the center of its religious activity. As early as 330, Constantine defined the autonomous Jewish leadership as “those who dedicated themselves with complete devotion in the synagogues of the Jews to the Patriarchs or to the Elders, and while living in the above-mentioned sect preside over that law.”<sup>113</sup> He named the office-holders referred to as “priests, Archsynagogues, Fathers of synagogues, and the others who serve in synagogues.”<sup>114</sup> A 392 law stated that the Primates of the Jews “are manifestly authorized to pass judgment concerning their religion, under the authority of the . . . Patriarchs.”<sup>115</sup> Arcadius in 404 went further when he emphasized the equivalence between the privileges granted to the “Archisynagogues, the Patriarchs, the presbyters and the others subject to the rule of the Illustrious Patriarchs” and those granted to “the first clerics of the venerable Christian Law.”<sup>116</sup> In the same year he ratified the privileges granted to “the Excellent Patriarchs and to those set by them over others.”<sup>117</sup> In 553 Justinian warned the Archipherekitae, the presbyters, and the Didascaloi in the synagogues not to impose excommunication upon those who wished to read the Torah in Greek, an indication that they still wielded this authority as late as the middle of the sixth century.<sup>118</sup>

In the Jewry-law context, the synagogue appears as the central constituent of Jewish religious life, not unlike the local church in the Christian environment, providing an authorized space for ritual and the seat for the official “priesthood.” Rooted in pagan Jewry law, this conception was maintained unchanged under Constantine.<sup>119</sup> Valentinian I in 370 officially

<sup>113</sup> *JRIL* no. 9 (“Qui devotione tota synagogis Iudaeorum patriarchis vel presbyteris se dederunt et in memorata secta degentes legi ipsi praesident,” *CTb* 16.8.2).

<sup>114</sup> *JRIL* no. 9 (“Hiereos et archisynagogos et patres synagogarum et ceteros qui synagogis deserviunt,” *CTb* 16.8.4).

<sup>115</sup> *JRIL* no. 20 (“primatibus suis, quos . . . patriarcharum arbitrio manifestum est habere sua de religione sententiam,” *CTb* 16.8.8).

<sup>116</sup> *JRIL* no. 27 (“privilegia his, qui inlustrium patriarcharum subiecti sunt, archisynagogis patriarchisque ac presbyteris ceterisque . . . perseverent ea, quae venerandae Christianae legis primis clericis sanctimonia deferuntur,” *CTb* 16.8.13).

<sup>117</sup> *JRIL* no. 32 (“Patriarchis vel his, quos ipsi ceteris praeposuerunt,” *CTb* 16.8.15).

<sup>118</sup> *JRIL* no. 66 (Justinianus, *Novella* no. 146).

<sup>119</sup> *JRIL* no. 9 (*CTb* 16.8.2 + *CTb* 16.8.4).

recognized the synagogue as “a place of religion,”<sup>120</sup> exempting it from the hospitality duty (a euphemism for forcible lodging and making provisions for soldiers and officials), while Theodosius deduced this status from the 393 decision that the “sect of the Jews is prohibited by no law.”<sup>121</sup> Such recognition encouraged the authorities to protect synagogues against violence, arson, spoliation, seizure, and conversion to churches, and between then and 423 no fewer than seven laws<sup>122</sup> were issued to this effect, attesting to the government’s resolute stand and at the same time to its ultimate failure to implement the policy. Finally the government had to compromise with the fanatical mobs in the streets and its own hardliners. In 415 Theodosius II prohibited the Patriarch Gamaliel VI from establishing new synagogues and ordered him to destroy ones in unpopulated places.<sup>123</sup> This prohibition, turned into a general rule<sup>124</sup> in 423 was reiterated<sup>125</sup> in 438, when it became the official policy on the matter: that is, the state guaranteed the continued existence of synagogues “in their present form” but prevented the construction of new ones. As a practical matter, a freeze of this sort might work for a short time, but in the long run it was bound to lead to legal chicanery, arbitrary harassment, and outright persecution.

The degree of recognition granted to the Jewish “priesthood” may be inferred from the status of its heads – the Patriarchs – in the political-administrative hierarchy of the Empire.<sup>126</sup> By the end of the fourth century they held two titles usually reserved for the senatorial order, *spectabilis*<sup>127</sup> and the more important *clarissimus et illustris*,<sup>128</sup> which was limited to a very small group of high government officials. The demotion of Gamaliel VI, in 415, casts light on the usual procedure of promotion. Patriarchs first received the title *spectabilis* and were later raised to *clarissimus et illustris* by

<sup>120</sup> *JRIL* no. 14 (the legislator distinguishes here between *privatorum domus* and *religionum loca*, *CTh* 7.8.2 = *CJ* 1.9.4).

<sup>121</sup> *JRIL* no. 21 (*CTh* 16.8.9).

<sup>122</sup> *JRIL* nn. 21 (*CTh* 16.8.9), 25 (*CTh* 16.8.12), 40 (*CTh* 16.8.20), 46 (*CTh* 16.8.21 = *CJ* 1.9.14), 47 (*CTh* 16.8.25), 48 (*CTh* 16.8.26), 49 (*CTh* 16.8.27).

<sup>123</sup> *JRIL* no. 41 (*CTh* 16.8.22).

<sup>124</sup> *JRIL* no. 47 (“Synagogae de cetero nullae protinus extruantur, veteres in sua forma permaneant,” *CTh* 16.8.25).

<sup>125</sup> *JRIL* no. 54 (Theodosius II, *Novella* no. 3 = *CJ* 1.9.18). This time the legislator permitted the propping up of old synagogues threatening to fall down.

<sup>126</sup> M. Jacobs, *Die Institution des jüdischen Patriarchen* (Tübingen, 1995); L. I. Levine, “The Status of the Patriarch in the Third and Fourth Centuries: Sources and Methodology,” *JJS* 47 (1996), 1–32; and idem, “The Patriarchate and the Ancient Synagogue,” in S. Fine (ed.), *Jews, Christians, and Polytheists in the Ancient Synagogue: Cultural Interaction in the Greco-Roman Period* (London, 1999), 87–100.

<sup>127</sup> *JRIL* no. 32 (*CTh* 16.8.15).

<sup>128</sup> *JRIL* nos. 20 (*CTh* 16.8.8), 24 (*CTh* 16.8.11) and 27 (*CTh* 16.8.13).



means of documents of appointment in which they were granted the titular *praefectura honoraria*, “honorary Praefectus Praetorio,” and this was seen as an elevation to “the pinnacle of dignities” with all attendant privileges.<sup>129</sup> The privileges of the “clergy” are documented as early as 330, when Constantine decreed that the Jewish religious leadership should continue to be exempt from personal and civic liturgies, and that those “clergymen” who were already decurions at that time should be exempt from transport duties, “for it would be appropriate that people such as these shall not be compelled for whatever reason to depart from their places.”<sup>130</sup> These privileges were repealed<sup>131</sup> in 383. They were fully reinstated in the East by Arcadius in 397, with an explicit reference to the analogous position of the Christian clergy and to previous legislation on this subject by Constantine, Constantius, Valentinian I, and Valens.<sup>132</sup> The Western Empire, however, refused to recognize this law, and in a law of its own from 398 it maintained the 383 abrogation.<sup>133</sup>

Some idea of the hierarchical structure of this Jewish “Church,” with the Patriarch exercising authority and jurisdiction over the communal institutions in the Diaspora, can be obtained from the history of the *aurum coronarium* (*dmeji klila*), the tax that the Patriarch’s House imposed on the Diaspora communities. Its mechanism was described in a law from 399: “the Archisynagogues, the Presbyters of the Jews, and those they call Apostles, who are sent by the Patriarch on a certain date to demand gold and silver, exact and receive a sum from each synagogue and deliver it to him.”<sup>134</sup> This tax was anchored in custom as well as in legislation, as Honorius attested in a law from 404, and it was collected regularly throughout the Empire except for an interruption in the West during 399–404 (an embargo imposed by the imperial government).<sup>135</sup> Both Julian<sup>136</sup> and Honorius<sup>137</sup>

<sup>129</sup> *JRIL* no. 41 (*fastigium dignitatum*, *CTb* 16.8.22).

<sup>130</sup> *JRIL* no. 9 (“cum oporteat istiusmodi homines a locis in quibus sunt nulli compelli ratione discedere,” *CTb* 16.8.2).

<sup>131</sup> *JRIL* no. 15 (“Iussio, qua sibi Iudaeae legis homines blandiuntur, per quam eis curialium munerum datur immunitas, rescindatur,” *CTb* 12.1.99 = *CJ* 1.9.5). Jewish “clergymen” obligated to the curia had to provide adequate replacement.

<sup>132</sup> *JRIL* no. 27 (*CTb* 16.8.13).

<sup>133</sup> *JRIL* no. 29 (“decernimus, ut eadem, si qua est, lege cessante,” *CTb* 12.1.158).

<sup>134</sup> *JRIL* no. 30 (*CTb* 16.8.14).

<sup>135</sup> *JRIL* no. 34 (“ex consuetudine . . . secundum veterum principum statuta privilegia,” *CTb* 16.8.17).

<sup>136</sup> *JRIL* no. 13 (“I have recommended to my brother Julius, the most reverent Patriarch, that that which is called among you Apostle-Tax be abolished, and that in the future no one could harm your multitudes by exacting such taxes,” *Epistulae*, no. 51).

<sup>137</sup> *JRIL* no. 30 (“Noverint igitur populi Iudaeorum removisse nos depraedationis huiusmodi functionem,” *CTb* 16.8.14).

attest to resentment over it. The state maintained the mechanism after the demise of the Patriarchate, and appropriated the proceeds for the Treasury as an “annual payment from all synagogues, on the Primates’ responsibility.”<sup>138</sup> This example is probably characteristic of the other areas of action traditionally reserved to the Jewish “clergy,” and although the cessation of the Patriarchate some time before 429 decapitated that clergy, it did not abolish the body; the Jewish office-holders continued to function, fully recognized, presumably less structured, and decentralized – certainly in comparison with the period under the Patriarchs – and with weaker links between the Diaspora communities and the Land of Israel.

The activities of the Jewish courts during the fourth century presumably did not provoke the interference of the state, but the situation changed dramatically toward the end of the century. A law promulgated in 398 restricted the jurisdiction of the Jewish courts to cases of “their superstition” only, that is, religious matters. Such cases were reserved to the courts of “the Jews or the Patriarchs.” As Roman citizens the Jews had to have recourse to the regular courts and the Roman laws on all matters pertaining to “court, laws, and rights” (practically all non-religious cases, but obviously an extremely problematical distinction when applied to the *halachah*).<sup>139</sup> The Jewish court was prohibited from judging regular court cases, except for civil matters in which both parties agreed to go before it, in which case the verdict was recognized as from a court of arbitration. Further restrictions were introduced in 415; the legislator explicitly prohibited the trying of Christians in the Patriarch’s court and transferred all litigation between Jews and Christians to the jurisdiction of the provincial governors.<sup>140</sup> An astute editing of the 398 law by Justinian’s codifiers (omission of *non*) resulted in the complete abrogation of the jurisdiction of the Jewish courts, except as courts of arbitration in civil matters<sup>141</sup> between Jewish litigants only. Some competence in economic matters is documented in a law from 396, which granted the Jewish authorities the right to establish prices of merchandise and prohibited the provincial governors (consequently it was not limited to the Land of Israel) from appointing their own officials (“discussor” or “moderator”) to act in this area.<sup>142</sup> The

<sup>138</sup> *JRIL* no. 53 (*CTb* 16.8.29 = *CJ* 1.9.17).

<sup>139</sup> *JRIL* no. 28 (“Iudaei Romano et communi iure viventes in his causis, quae non tam ad superstitionem eorum quam ad forum et leges ac iura pertinent, adeant solemniter more iudicia omnesque Romanis legibus inferant et excipiant actiones: postremo sub legibus nostris sint,” *CTb* 1.1.10).

<sup>140</sup> *JRIL* no. 41 (*CTb* 16.8.22).

<sup>141</sup> *JRIL* no. 28 (“Iudaei communi iure viventes in his causis, quae tam ad superstitionem eorum quam ad forum et leges ac iura pertinent (etc.),” *CJ* 1.9.8).

<sup>142</sup> *JRIL* no. 23 (*CTb* 16.8.10 = *CJ* 1.9.9).

legislator paid little attention to sanctions imposed by these courts, and when in 392 he dealt with the sanction of excommunication, he provided complete support to the Jewish courts (perhaps because he recognized this sanction as typically religious, not unlike Christian excommunication) and prohibited the provincial governors from interfering.<sup>143</sup>

### *B Relations between the Jews and the State*

Jewry law regulated relations between the Jews and the state on two distinct levels: municipal government, and the imperial administration in its civil and military branches. The pagan Jewry law stipulated that Jews were allowed to serve in government functions and were obligated to undertake liturgies unless doing so profaned their religion.

During the second and third centuries Jews did serve in the municipal government in the Land of Israel and in the Diaspora, but it is reasonable to assume that they fully utilized exemptions offered them on religious grounds. A law passed by Constantine in 321 indeed suggests that until then Jews did not serve in the curias by reason of “the ancient custom,” for in it he imposed curial service on all Jews,<sup>144</sup> and in 330 he granted to all Jewish “clergy” of curial status exemption from personal and civil liturgies, declaring furthermore that “those . . . who are definitely not decurions shall enjoy perpetual exemption from the decurionate.”<sup>145</sup> As the “clergy” alone was henceforth exempted from curial liturgies, it is obvious that the Jewish population as a whole could not claim and did not enjoy sweeping exemption in this regard, although they still benefited from the old exemption on grounds of possible profanation.<sup>146</sup> A striking example of the government’s determination in the western part of the Empire to impose this duty can be seen in a law passed by Honorius in 398: it alleged that many curias in Apulia and Calabria “tottered” because their Jewish members claimed exemption from liturgies owing to a law passed to that effect in the eastern part of the Empire. Honorius abrogated the law from the East – “if it does exist” – and decreed that “all who are obliged in any way to serve legally in the curia, no matter of whatever superstition they may be, shall be obliged

<sup>143</sup> *JRIL* no. 20 (*CTb* 16.8.8).

<sup>144</sup> *JRIL* no. 7 (“Cunctis ordinibus generali lege concedimus Iudaeos vocari ad curiam,” *CTb* 16.8.3).

<sup>145</sup> *JRIL* no. 9 (“Hi autem, qui minime curiales sunt, perpetua decurionatus immunitate potiantur,” *CTb* 16.8.2 + *CTb* 16.8.4).

<sup>146</sup> For a broader perspective of this question, see P. Frezza, “L’esperienza della tolleranza religiosa fra pagani e cristiani dal IV al V sec. d. C. nell’Oriente ellenistico,” *Studia et documenta historiae et iuris* 66 (1989), 41–97, particularly 84–5.

to perform the liturgies of their cities."<sup>147</sup> If the Jews in the East enjoyed the exemption, it did not endure beyond Justinian, who in 537 sharply reprovved the Praefectus Praetorio of the East for hearing claims of Jews, Samaritans, and Montanists that they should be freed from the curial obligation on religious grounds: "We were . . . amazed, how – if indeed – . . . could your sharp mind and quick comprehension bear such words . . . how it did not immediately tear them to pieces . . . Therefore all such as these shall serve as decurions even if they bitterly wail." The Emperor ruled accordingly that "no superstition shall discharge them from this order (for this is said neither in the old laws, nor in the new)," and hastened to strip the new unwilling recruits to the curial order of any privilege that office still conferred.<sup>148</sup>

We have no knowledge of a formal prohibition on Jews' serving in the imperial administration prior to the fifth century, although under the pagan emperors the likelihood of such a career was slim – a brilliant career like that of Tiberius Julius Alexander (1st century CE) was extremely rare and always involved some sort of apostasy from Judaism – and the advent of Christianity probably reduced it even further. Some lower-grade posts apparently were still open to Jews during the fourth century. The first formal expulsion of Jews from the imperial administration was decreed by Honorius in 418; Jews were prohibited from serving as Executive Agents, Palatins, or soldiers – a prohibition that makes it clear that Jews were serving in these three branches at that time.<sup>149</sup> While Honorius still permitted Jewish advocates to practice, Valentinian III in 425 closed this profession to Jews and reiterated the general ban on their service in the imperial administration.<sup>150</sup> Theodosius II repeated this exclusion in 438, although he permitted Jews to serve in the lower offices of cohortalins and apparitors that were far closer to compulsory liturgies than to posts of honor.<sup>151</sup> Despite the prohibitions, Jews were still employed in some services, as shown by the fact that Justinian in 527 criticized those responsible for neglecting the ban, reimposed the prohibition on the admission of

<sup>147</sup> *JRIL* no. 29 ("omnes, qui quolibet modo curiae iure debentur, cuiuscumque superstitionis sint, ad complenda suarum civitatum munia teneantur," *CTb* 12.1.158 = *CTb* 12.1.157 = *CJ* 10.32.49).

<sup>148</sup> *JRIL* no. 64 (Justinianus, *Novella* no. 45).

<sup>149</sup> *JRIL* no. 45 ("In Iudaica superstitione viventibus adtemptandae de cetero militiae aditus obstruatur . . . Sane Iudaeis liberalibus studiis institutis exercendae advocacionis non intercludimus libertatem," *CTb* 16.8.24). On the possible effect of this law on one military unit, see R. Sharf, "Regii Emeseni Iudaei": Bemerkungen zur einer spätantiken Truppe," *Latomus* 56 (1997), 343–59.

<sup>150</sup> *JRIL* no. 51 ("Iudaeis quoque vel paganis causas agendi vel militandi licentiam denegamus," *Constitutio Sirmondiana* no. 6).

<sup>151</sup> *JRIL* no. 54 (Theodosius II, *Novella* no. 3 = *CJ* 1.9.18).

any heretic, pagan, Jew, or Samaritan to any post of honor, and emphasized that “nor shall he put on an official belt, neither civil or military, nor belong to any office, with the exception of the so-called Cohortalsins. . . . Neither do we allow them to be joined to the most learned advocates.”<sup>152</sup> In another law on this subject, from 537, Justinian mentioned the subaltern fiscal office of *taxeota* as the only one left open to Jews.<sup>153</sup> The imperial administration was therefore almost entirely closed to Jews from the beginning of the fifth century, although practice could lag behind precept, particularly regarding subaltern and relatively unnoticed positions.

### C *Relations between Jews and Christians*

Jewry law regulated relations between Jews and Christians in two essentially confrontational areas: legal interaction and religious rivalry. Its main premises were that the state should uphold the Christian side in these confrontations through discriminatory measures and that it should secure the complete and final conversion of the Jews.<sup>154</sup>

The legislator intervened for the first time in legal interaction between Jews and Christians in 415, when Theodosius II forbade the Patriarch to judge between Christians and between Jews and Christians – apparently referring to civil cases that previously could be adjudicated in the Jewish court upon agreement of the litigants – and reserved the “mixed” cases to the provincial governors.<sup>155</sup> The edited text of this law in the Justinian Code enunciates the rule that such mixed cases should be tried not in Jewish courts but before the “ordinary judges.”<sup>156</sup> While this measure does not discriminate against Jews, it does signal the beginning of a tendency to tie court, legal procedure, and rights to the litigants’ religion, even in cases with no obvious

<sup>152</sup> *JRIL* no. 56 (*CJ* 1.5.12). <sup>153</sup> *JRIL* no. 64 (Justinianus, *Novella* no. 45).

<sup>154</sup> On proselytizing under the pagan and the Christian emperors, see L. H. Feldman, “Proselytes and ‘Sympathisers’ in the Light of the New Inscription from Aphrodisias,” *REJ* 148 (1989), 265–305; M. Goodman, “Jewish Proselytizing in the First Century,” in Lieu et al. (eds.), *Jews Among Pagans and Christians*, 53–78; L. H. Feldman, *Jew and Gentile in the Ancient World: Attitudes and Interactions from Alexander to Justinian* (Princeton, 1993); idem, “Proselytism by Jews in the Third, Fourth and Fifth Centuries,” *JSJ* 24 (1993), 1–58; M. Goodman, *Mission and Conversion: Proselytizing in the Religious History of the Roman Empire* (Oxford, 1994); L. V. Rutgers, “Attitudes to Judaism in the Greco-Roman World: Reflections on Feldman’s *Jew and Gentile in the Ancient World*,” *JQR* 85 (1994/5), 361–95, particularly 370–80 (the imperial legislation). The general impulse to use legislation as a means to convert is highlighted in M. R. Salzman, “The Evidence for the Conversion of the Roman Empire to Christianity in Book 16 of the Theodosian Code,” *Historia* 42 (1993), 362–78. The author concentrates on the pagans, overlooking the parallel measures concerning Jews.

<sup>155</sup> *JRIL* no. 41 (*CTh* 16.8.22). <sup>156</sup> *JRIL* no. 41 (*CJ* 1.9.15).

religious content. Outright discriminatory legislation against the Jews in this area does not appear, however, until the sixth century, and is certainly due to the growing perception that they, together with the pagans and the heretics, formed an anti-Christian entity (although the legislator usually distinguished between groups in this common front). In response to a request by “many judges,” Justinian in 531 ruled that heretics and Jews were disqualified from giving evidence against orthodox Christians in cases in which at least one party was orthodox Christian, although their evidence was to be accepted in cases in which the litigants were Jews or heretics.<sup>157</sup> They could still consider themselves fortunate in comparison with the Manichaeans, the pagans, the Samaritans, and certain heretical sects, who were denied all legal activity whatsoever.<sup>158</sup> Justinian reaffirmed this policy in 537.<sup>159</sup> An essentially identical principle underlay another legal disqualification: in 545 Justinian forbade the sale or transfer of property with a church in the premises to Jews, pagans, Samaritans, and heretics; such sales if made were to be invalidated and the property assigned to the local church.<sup>160</sup>

Religious relations between Jews and Christians claimed the attention of the Christian legislator from the very beginnings of the Christian Roman Empire and continued to do so throughout the period under discussion. On the whole he was concerned with the movement of individuals between the two religions, and the idea that guided him was simple: encourage conversion to Christianity and suppress proselytism. Jewish law dealt with the practical application of this idea.

Encouraging conversion entailed protecting the converts from persecution and discrimination by their former coreligionists, as well as offering inducements. Constantine in 329 gave converts protection from violence,<sup>161</sup> condemning perpetrators to death on the stake, and did so again<sup>162</sup> in 335. Valentinian III in 426 introduced another type of protection: he prohibited the Jews from disinheriting their apostate children.<sup>163</sup> Such children were entitled to their guaranteed portion in the estate in accordance with the Falcidian Law even if convicted for their parents' murder, “in honor of the religion they have chosen.” Justinian reissued this measure<sup>164</sup> in a law dated 527/8. Toward the end of the fourth century a certain reticence arose about Jewish converts, presumably caused by cases

<sup>157</sup> *JRIL* no. 60 (*CJ* 1.5.21).

<sup>158</sup> “Sed et his quidem . . . omne testimonium sicut et alias legitimas conversationes sanctimus esse interdictum” (*JRIL* no. 60, *CJ* 1.5.21).

<sup>159</sup> *JRIL* no. 64 (Justinianus, *Novella* no. 45).

<sup>160</sup> *JRIL* no. 65 (Justinianus, *Novella* no. 131, cap. 14).

<sup>161</sup> *JRIL* no. 8 (*CTb* 16.8.1 = *CJ* 1.9.3).

<sup>162</sup> *JRIL* no. 10 (*Constitutio Sirmondiana* no. 4 = *CTb* 16.8.5).

<sup>163</sup> *JRIL* no. 52 (*CTb* 16.8.28). <sup>164</sup> *JRIL* no. 58 (*CJ* 1.5.13).

of unworthy and mercenary ones, and the authorities backpedaled. Arcadius in 397 prohibited the baptism of Jews burdened with debts or subject to legal proceedings and ordered that their conversion be postponed until they had paid the debts or established innocence.<sup>165</sup> Honorius in 416 reiterated this policy and permitted such converts to return to Judaism under the state's protection.<sup>166</sup> Justinian in 527 and again in 553 resumed the aggressive line on conversion,<sup>167</sup> allowing the reading of the Torah in synagogues in languages other than Hebrew and prohibiting the study of the Mishnah, with the declared intent of rendering the Jews more receptive to missionary persuasion.<sup>168</sup>

Suppressing the apostasy of proselytes to Judaism was the inverse of encouraging the conversion of Jews to Christianity. These two objectives were dealt with, not infrequently or unreasonably, in the same laws, starting with Constantine's legislation from 329. The Christian legislator adopted the prohibitions against conversion to Judaism found in the pagan Jewry law, and to their emphasis on circumcision as the most easily detectable sign of Judaism he added another criterion, applicable to females as well – joining the synagogue and the Jewish cult. Not only did this extended definition of conversion as unlawful simplify the proof, it also spread the responsibility for the crime among a larger number of people, now including those responsible for performing the acts of conversion (the pagan law, too, punished the circumciser as well as the circumcised). The law, in this perspective, was intended to deter prospective proselytes as well as the office-holders in the Jewish community, and various references in Jewish sources attest to the problems that Jews had to confront in this context.

The sequence of the seven extant laws on proselytism, spread over the years 329,<sup>169</sup> 353,<sup>170</sup> 383,<sup>171</sup> 409,<sup>172</sup> 415,<sup>173</sup> 423,<sup>174</sup> and 438,<sup>175</sup> testifies to the ongoing actuality of this problem in both parts of the Empire during the fourth and the fifth centuries. But while the Justinian Code incorporated some of these texts, the absence of original laws on freeborn proselytes from the sixth century is noteworthy; apparently this form of proselytism ceased to preoccupy the government. One can appreciate how seriously the legislator considered it during the previous two centuries by the punishments he imposed on the guilty, adopting in principle those imposed in the

<sup>165</sup> *JRIL* no. 26 (*CTh* 9.45.2 = *CJ* 1.12.1). <sup>166</sup> *JRIL* no. 43 (*CTh* 16.8.23).

<sup>167</sup> *JRIL* no. 58 (*CJ* 1.5.13). <sup>168</sup> *JRIL* no. 66 (Justinianus, *Novella* no. 146).

<sup>169</sup> *JRIL* no. 8 (*CTh* 16.8.1 = *CJ* 1.9.3). <sup>170</sup> *JRIL* no. 12 (*CTh* 16.8.7 = *CJ* 1.7.1).

<sup>171</sup> *JRIL* no. 16 (*CTh* 16.7.3 = *CJ* 1.7.2). <sup>172</sup> *JRIL* no. 39 (*CTh* 16.8.19).

<sup>173</sup> *JRIL* no. 41 (*CTh* 16.8.22). <sup>174</sup> *JRIL* no. 48 (*CTh* 16.8.26 = *CJ* 1.9.16).

<sup>175</sup> *JRIL* no. 54 (Theodosius II, *Novella* no. 3 = *CJ* 1.9.18).

matter of circumcision by the pagan legal sources: property confiscation and exile for Roman citizens and capital punishment for circumcising physicians. Some variations occur: Constantius II in 353 punished the proselytes with property confiscation only, while Gratian in 383 denied them the right to leave their property in a will and imposed “harsher penalties than usual” upon those who converted them. Permanent exile and confiscation are also mentioned in laws from 409 and 423, and the 438 law threatened anyone who converted a Christian both with confiscation of property and with death. The penalties for conversion to Judaism were draconian from the start and over time became harsher.

The same religious impulse motivated the Christian legislator in his only intervention in personal relations between Jews and Christians, the prohibition imposed by Theodosius I in 388 on intermarriage. He applied the punishments for adultery to such marriages, and allowed an unlimited right to prefer charges – a particularly harsh disposition given that existing practice limited this right in cases of adultery to relatives only.<sup>176</sup> Clearly this was designed to close another channel for the spread of Judaism. As a secular law it was unique, but it certainly conformed to the attitudes of both the rabbinical and the ecclesiastical establishments, and by abolishing the possibility of civil marriage between Christians and Jews it reinforced the religious monopoly on both sides with far-reaching and durable repercussions on the exclusive formation of the two communities.<sup>177</sup> “Mixed marriages” could arise, however, as a result of the conversion to Christianity of one spouse. Various legal solutions were applied to this problem in the course of time, always safeguarding the Christian partner’s religious interest. The only Roman law that dealt with a somewhat similar situation was promulgated by Justin and Justinian in 527, giving orthodox parents preferential legal standing in disputes with non-orthodox spouses over the Christian education of their common children.<sup>178</sup>

The drive to encourage conversion to Christianity and suppress apostasy toward Judaism is the source of one of the more intriguing issues between the two religions: ownership by Jews of Christian and other non-Jewish slaves.<sup>179</sup> Jewry law dealt with this as a religious matter, but it affected the Jews beyond the religious sphere as restrictions on ownership were bound to have a serious impact in an economy based on servile labor. Moreover, this

<sup>176</sup> *JRIL* no. 18 (*CTb* 3.7.2 + *CTb* 9.7.5 = *CJ* 1.9.6).

<sup>177</sup> See the judicious analysis of this problem in H. Sivan, “Rabbinic and Roman Law: Jewish–Gentile/Christian Marriage in Late Antiquity,” *REJ* 156 (1997), 59–100.

<sup>178</sup> *JRIL* no. 56 (*CJ* 1.5.12).

<sup>179</sup> See G. de Bonfils, *Gli schiavi degli Ebrei nella legislazione del IV secolo: storia di un divieto* (Bari, 1993).



legal limitation would, in turn, undermine the status of the Jews in a society that viewed the legal dichotomy of freedom and slavery as a fundamental principle of social organization.<sup>180</sup> The legislator sometimes adduced for these measures religious motives of a more affective type, assimilating the dichotomies “superiority/subordination” and “Christianity/Judaism,” and rejecting the “shameful” and “sacrilegious” situation in which Jews (Judaism) exercised power over Christians (Christianity),<sup>181</sup> but on the whole he pursued practical aims through practical means.

At the beginning of the fourth century, two complementary prohibitions were imposed: on the conversion to Judaism of slaves (circumcision for males) and on the purchase and possession of Christian and other non-Jewish slaves by Jews. These prohibitions appear in ten laws from 335,<sup>182</sup> 339,<sup>183</sup> 384,<sup>184</sup> 415,<sup>185</sup> 417,<sup>186</sup> 423,<sup>187</sup> 438,<sup>188</sup> 527/534,<sup>189</sup> 534,<sup>190</sup> and 535.<sup>191</sup> If they had been consistently applied, their implications would have been much too radical, and consequently there were vacillations. In 415 Honorius responded to appeals by Jews and permitted them to hold Christian slaves on condition that they be allowed to observe their religion,<sup>192</sup> and Theodosius II in 417 allowed Jews to inherit Christian slaves provided they would refrain from converting them.<sup>193</sup> In 423, however, he returned to the stringent line,<sup>194</sup> and in 438 he reaffirmed this position with fervor.<sup>195</sup> From then on the two prohibitions reappeared in full, although laws passed on this subject in the sixth century indicate that the legislator was still preoccupied with the issue; the law from 534, for example, testifies that at that time Jews in Africa possessed Christian slaves.<sup>196</sup>

<sup>180</sup> “Summa itaque divisio de iure personarum haec est, quod omnes homines aut liberi sunt aut servi” (*Digesta* 1.3.1).

<sup>181</sup> *JRIL* no. 48, (“Nefas enim aestimamus religiosissimos famulos impiissimorum emptorum inquinari dominio,” *CTb* 16.9.5).

<sup>182</sup> *JRIL* no. 10 (*Constitutio Sirmondiana* no. 4 = *CTb* 16.9.1). Unless Constantine passed another law forbidding Jews to possess Christian slaves, the *Vita Constantini* (4.27.1) probably refers to this law, for it ascribes to him this prohibition (*GCS* 7 [1975] [ed. F. Winkelmann, 130]).

<sup>183</sup> *JRIL* no. 11 (*CTb* 16.9.2 = *CJ* 1.10.1, *CTb* 16.8.6). See F. Lucrezi, “*CTb* 16.9.2; Diritto romano-cristiano e antisemitismo,” *Labeo*, 40 (1994), 220–34.

<sup>184</sup> *JRIL* no. 17 (*CTb* 3.1.5). <sup>185</sup> *JRIL* no. 41 (*CTb* 16.8.22).

<sup>186</sup> *JRIL* no. 44 (*CTb* 16.9.4 = *CJ* 1.10.1).

<sup>187</sup> *JRIL* no. 48 (*CTb* 16.8.26 = *CJ* 1.9.16, *CTb* 16.9.5).

<sup>188</sup> *JRIL* no. 54 (Theodosius II, *Novella* no. 3 = *CJ* 1.7.5).

<sup>189</sup> *JRIL* no. 59 (*CJ* 1.10.2). <sup>190</sup> *JRIL* no. 61 (*CJ* 1.3.54(56)).

<sup>191</sup> *JRIL* no. 62 (Justinianus, *Novella* no. 37). <sup>192</sup> *JRIL* no. 42. <sup>193</sup> *JRIL* no. 44.

<sup>194</sup> *JRIL* no. 48. <sup>195</sup> *JRIL* no. 54. <sup>196</sup> *JRIL* no. 61.

The punishments imposed in these laws had three goals: (1) to gain the co-operation of slaves owned by Jews in the campaign against conversion to Judaism; (2) to deter Jews from acquiring, possessing, and proselytizing non-Jewish slaves; and (3) to punish Jews who had violated these prohibitions while “rectifying” the injury done to the religious status of the converted slave.

Constantine in 335 decreed that a non-Jewish slave who had been bought or circumcised by a Jew should go free,<sup>197</sup> but by 339 the policy changed and Constantine II declared that the state Treasury should sue for purchased (and probably circumcised) slaves of this kind, while Christian women who were formerly held in a state *gynaeceum* and later converted to Judaism should be returned there.<sup>198</sup> By 384 the procedure for freeing such slaves changed: they were to be redeemed by Christians, who should pay “the right price” for them, and another ruling (in the same text) established that they were to be removed from their owners’ possession, though no details are given.<sup>199</sup> Still another practice, ascribed to Constantine in a law from 415, calls for the ownership of these slaves to be transferred to the Church.<sup>200</sup> Two years later, in 417, Theodosius II changed the approach and promised freedom to slaves illegally acquired by Jews who would report their masters to the authorities. Jewish owners of slaves – who were illegally acquired and who reported their masters – would have their right of ownership invalidated, though the law did not specify who was to take possession of their slaves.<sup>201</sup> By the sixth century the principle that these slaves were to be emancipated from their Jewish owners was well established. It was decreed in a law promulgated by Justinian between 527 and 534<sup>202</sup> and reconfirmed in 534 with the declaration that these slaves were “free in any way whatsoever, according to our previous laws.”<sup>203</sup> Furthermore, non-Jewish slaves who converted to Christianity were to be emancipated without any compensation to their Jewish owners, who could not repossess them even if they themselves later converted.

There was greater consistency in the punishments imposed upon Jewish slave-owners. Owning or purchasing non-Jewish slaves was subject to relatively light punishment, while converting non-Jewish slaves, particularly Christians, to Judaism was punished severely. This distinction appeared in a law of Constantine II from 339, which imposed the death penalty and confiscation of property on those Jews who converted others, while purchasers of non-Jewish slaves were to suffer only the loss of those slaves.<sup>204</sup> Laws promulgated by Theodosius II in 417 and in 438 affirmed that the conversion of Christian slaves to Judaism was punishable by death and property

<sup>197</sup> *JRIL* no. 10.    <sup>198</sup> *JRIL* no. 11.    <sup>199</sup> *JRIL* no. 17.    <sup>200</sup> *JRIL* no. 41.

<sup>201</sup> *JRIL* no. 44.    <sup>202</sup> *JRIL* no. 59.    <sup>203</sup> *JRIL* no. 61.    <sup>204</sup> *JRIL* no. 11.

confiscation.<sup>205</sup> Finally, Justinian ruled that owners of Christian slaves were to forfeit ownership and pay a fine of thirty pounds of gold.<sup>206</sup>

#### *D Slavery laws: Jewry law in action*

Three centuries of continuous efforts to stamp out the enslavement of Christians to Jewish masters proved ultimately unsuccessful. Should this failure be ascribed to ineffective government,<sup>207</sup> a corrupt judiciary, and resourceful lawyers and owners? The answer to each of these questions is assuredly yes, but this explanation is only partial; the fuller cause lies with the central place of slavery in the Roman empire. Slavery in a slave society is innate, elemental; consequently, it cannot be eradicated simply and instantaneously in regard to one particular group while society as a whole still depends on it for many of its vital activities. The continuous reiteration of this particular legislation testifies, therefore, to the continuous commitment of the legislator to a goal that was, almost by definition, unattainable.

Toward the end of the sixth century, then, almost four centuries after Constantine the Great initiated the Christian legislation on this matter, the issue of the Christian slaves of Jews was still real. The official correspondence of Gregory the Great documents eight separate interventions in such cases in less than eight years, between September 591 and July 599, illustrating the difficulties the Pope faced in dealing with the matter in his twin capacities as administrator of the Roman Patrimony and as the supreme ecclesiastical authority in the West.

On two occasions<sup>208</sup> he reiterated the general prohibition, but the six other documents depict more complex situations. He strongly objected to the practice either of extraditing back to their Jewish masters slaves who escaped to churches (in order to be baptized and emancipated), or of redeeming them at the church's expense;<sup>209</sup> but on another occasion he directed his representative in Gaul to pay the price for four brothers who had previously been redeemed from slavery to Jews but were, nevertheless, still being held as slaves by Jews in Narbonne.<sup>210</sup> He reacted angrily when a Jew in Sicily bought Christian slaves and held them with impunity while the Praetor of Sicily "put off avenging the injury done to God, softened

<sup>205</sup> *JRIL* nos. 44 and 54. <sup>206</sup> *JRIL* no. 59.

<sup>207</sup> This is by far the most popular explanation. See L. H. Feldman's formulation: "The simplest explanation of this constant reiteration of legislation pertaining to conversion by Jews is that the laws were not being obeyed" (*Jew and Gentile in the Ancient World*).

<sup>208</sup> *Epist.* 2.6 (A. Linder, *The Jews in the Legal Sources of the Early Middle Ages* [Detroit, 1997], no. 706, 422–3), and *Epist.* 9.214 (Linder, *Legal Sources*, no. 720, 440–1).

<sup>209</sup> *Epist.* 4.9 (Linder, *Legal Sources*, no. 709, 425–6).

<sup>210</sup> *Epist.* 7.21 (Linder, *Legal Sources*, no. 714, 431).

(as we have been informed) by the unguent of avarice.” The next Praetor was instructed to put things right and free them.<sup>211</sup> On another occasion Gregory decreed that the Christian slaves held by Jews in the city of Luni were to be freed, and regulated their condition as *coloni* in regard to their former masters.<sup>212</sup> Still another case involved the legal distinction between Jewish slave-owners and Jewish slavers: he prohibited Jewish owners from selling their pagan or Jewish slaves once those slaves made known their wish to convert to Christianity, and imposed on Jews who bought them abroad the obligation to sell them within three months of their return. If within that time limit the slaves were to flee to a church, the owner was to receive their price from a Christian buyer, but after that time limit he was to receive nothing and the slave was to be freed.<sup>213</sup> Another aspect of this slave trade concerned a Jew, Basilius the Hebrew, who imported on commission pagan and Christian slaves from Gaul for Christian buyers (including government officials). The Pope decreed that they must be transferred to the mandators or to Christian buyers within forty days, although some delay could be granted if the slaves proved too ill to be supplied on time, and further delay was granted before this measure was to be enforced.<sup>214</sup> Basilius devised another astute method to circumvent the law: he transferred ownership of his Christian slaves to his baptized son, while keeping them in his possession and employment. Gregory ordered that they were to be removed from Basilius’ possession, although a provision was made for circumstances in which the non-baptized father might really need their help.<sup>215</sup> No wonder, then, that the Pope complained that the law was subverted by “experts,” through “artifice and argument.”<sup>216</sup> This was law in action, in real life.

### E Conclusion

Roman Jewry law underlies Gregory’s policy on the Jews. He repeatedly invokes in this context “the vigor of the laws,”<sup>217</sup> “the most pious laws,” and “the laws’ sanction,”<sup>218</sup> as well as the “legal rule,”<sup>219</sup> and formally declares: “as [the Hebrews] are permitted to live by the Roman laws, justice

<sup>211</sup> *Epist.* 3.37 (Linder, *Legal Sources*, no. 708, 424–5).

<sup>212</sup> *Epist.* 4.21 (Linder, *Legal Sources*, no. 710, 426–7).

<sup>213</sup> *Epist.* 6.29 (Linder, *Legal Sources*, no. 713, 429–31).

<sup>214</sup> *Epist.* 9.105 (Linder, *Legal Sources*, no. 718, 436–7). <sup>215</sup> *Ibid.*

<sup>216</sup> “Sed quia . . . nec voluntatem nostram nec legum statuta suptili scientes discretione pensare in paganis servis hac se non arbitrantur condicione constringi . . . sub quolibet ingenio vel argumento” (above, no. 713).

<sup>217</sup> *Vigorem legum* (*Epist.* 1.66, Linder, *Legal Sources*, no. 704, 419–20).

<sup>218</sup> “Secundum piissimarum legum tramitem . . . ex legum districtione” (above, no. 710).

<sup>219</sup> *Legalis definitio* (*Epist.* 9.196, Linder, *Legal Sources*, no. 719, 438–40).

allows that they should manage their affairs as they see fit.”<sup>220</sup> At the beginning of the fifth century, Cassiodorus, another Father of the Western Church but also the minister of Theodoric, adopted the same ideological premise, solemnly declaring, in Theodoric’s name: “Observance of laws is proof of civilized life . . . In the application you [the Jews] have presented, you demand . . . that the privileges that provident antiquity decreed in its laws in favor of the Jewish way of life should be observed in your regard; this we willingly concede, for we desire that the laws of the ancients should be observed for the sake of our reverence. We decree, therefore . . . that anything instituted by the laws in your regard should be observed inviolate.”<sup>221</sup>

Italy under Theodoric could, with effort, still be considered part and parcel of the Roman Empire, but contemporaries of Gregory the Great were perfectly aware of the demise of the imperial government in the West. With this demise, Roman law, however, including Jewry law, did not disappear. It was adopted and evolved further under the new organs of government: ecclesiastical institutions (popes, councils, and other authoritative sources of canon law) and secular authorities that exercised power in the ‘successor’ Germanic states.

A striking example of the continued validity of Roman Jewry law in this new Europe may be seen in the following ruling of Gregory the Great: “Just as the Jews should not have the freedom to presume anything in their synagogues beyond what is permitted by law, in the same way, they should not suffer any prejudice in those matters that were granted them.”<sup>222</sup> The idea this expresses, indeed its very formulation, became a central element in the canon-law variant of Jewry law, during the Middle Ages and well beyond.<sup>223</sup>

<sup>220</sup> “Sed sicut Romanis vivere legibus permittuntur, annuente iustitia actosque suos ut norunt nullo impediende disponant” (*Epist.* 2.6, Linder, *Legal Sources*, no. 706, 421–3, in an explicit reference to *CTb* 2.1.10, *JRIL* no. 28).

<sup>221</sup> “Custodia legum civilitatis est indicium . . . Oblata . . . supplicatione deposcitis privilegia vobis debere servari, quae Iudaicis institutis legum provida decrevit antiquitas; quod nos libenter annuimus, qui iura veterum ad nostram cupimus reverentiam custodiri, atque ideo . . . censemus, ut quaecumque legum statuta moverunt circa vos, illibata serventur” (*Variae* 4.33, Linder, *Legal Sources*, no. 402, 202–3).

<sup>222</sup> “Sicut Iudaeis non debet esse licentia quicquam in synagogis suis ultra quam permisum est lege praesumere, ita in his quae eis concessa sunt nullum debent praeiudicium sustinere” (*Epist.* 8.25 (Linder, *Legal Sources*, no. 716, 433–4), and again in *Epist.* 9.38, Linder, *Legal Sources*, no. 717, 434–6).

<sup>223</sup> A comprehensive study of this subject is in S. Simonsohn, *The Apostolic See and the Jews* (Toronto, 1991).

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# JEWISH ART AND ARCHITECTURE IN THE LAND OF ISRAEL, 70–C. 235

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## I INTRODUCTION

Several methodological issues make this topic a difficult one. First is the chronological issue. While the date of 70 CE recognizes the importance of the destruction of the Jerusalem Temple, it nonetheless does not provide a helpful or defining moment for the consideration of Jewish material culture in all of its complex aspects. Indeed, recent research into Second Temple Judaism indicates that a great many forces of continuity were operating towards the end of the Second Temple period and after 70 CE, demonstrating why the Jewish community adjusted so rapidly to the new reality of the post-70 era.<sup>1</sup> The plethora of literary and geographical references to pre-70 CE synagogues, worship, Torah-reading, administrators, and functionaries, despite the dearth of archaeological remains in Eretz Israel, reveals the centrality of the institution of the synagogue to Jewish life before and after 70 CE.<sup>2</sup> Extensive remains of domestic space from pre-70 Jerusalem fit effectively with patterns of Jewish housing found in Galilee later. In a real sense, therefore, one may speak of the forces of continuity in the formative first century despite the Great Revolt and Destruction of the Temple. Those forces of continuity are also relevant to discussions of other social and religious aspects affecting the post-70 transition, such as the formation of rabbinic Judaism, the process of canonization, the rise of early Christianity, and so forth.

The question of Jewish art is much more complex. Previous treatments have noted that Jewish attitudes toward art were more permissive in the First Temple period and the early Second Temple period when Persian and Greek influence made such great inroads. From the beginning of the Hasmonean period, however, the second century BCE until the second century CE, Lee I. Levine has proposed that Jewish attitudes towards art

<sup>1</sup> E. M. Meyers, "Jewish Culture in Greco-Roman Palestine," in D. Biale (ed.), *Cultures of the Jews: A New History* (New York, 2002), 162–9.

<sup>2</sup> D. D. Binder, *Into the Temple Courts: The Place of the Synagogues in the Second Temple Period* (Atlanta, 1999), 1–31.

became much “more polarized and practice more restrictive.”<sup>3</sup> He suggests, therefore, that a stricter understanding of the Second Commandment banning images was operative for 300 years. The so-called aniconic attitudes of the fully assimilated and hellenized Hasmoneans will not be discussed, but the notion that Judaism remained essentially aniconic for some eighty years after the fall of Jerusalem suggests a dramatic change during the period under discussion, which I do not accept. Certainly, the Second Revolt (Bar Kochba) in 132–5 CE had an enormous impact on the post-70 community. However, if indeed some sort of short period of aniconic behavior existed in the Jewish community, the combined effects of the two revolts certainly would have inspired Jews to seek new ways of expressing their feelings in the visual medium after 70. Indeed, one of the orienting ideas underlying Goodenough’s *Jewish Symbols* suggested that art along with mysticism was a new outlet for Jewish self-expression and self-understanding after 70. In so far as such a short time span is so difficult to recognize in individual artifacts and also to reorganize for general chronological considerations, it will be assumed that a more tolerant attitude toward art began shortly after 70 and is reflected in the slightly later literary formulation attributed to Rabban Gamaliel II of Yavneh c. 120 CE.

Proklos, the son of Philosophos, asked Rabban Gamaliel who was bathing in Acco in the Bath of Aphrodite, “It is written in your Torah, ‘And nothing of the devoted (forbidden) thing should cling to your hand’ (Deut. 13.17). Why are you bathing in the Bath of Aphrodite?” He answered: “One ought not respond in the bath.” When he came out, Rabban Gamaliel said to him: “I did not come into her borders, she came into mine! People do not say, ‘Let us make a bath for Aphrodite,’ but rather, ‘Let us make Aphrodite an ornament for the bath.’ Moreover, even if they would give you a large sum of money, you would not approach your idol naked and suffering pollutions, and urinate before it; yet, this goddess stands at the mouth of the gutter and all the people urinate before her. [Lastly,] it is written ‘Their gods’ (ibid., 12.3), that which they refer to as a god is forbidden and that which is not referred to as a god is permitted.” (M. Av. Zar. 3–4)<sup>4</sup>

While one can find a much stricter attitude found in the *Mekhilta*, in view of the widespread use of images in later Roman and Byzantine times, especially in mosaics, one may take at face value the simple reading of *Avodah Zarah*, namely, that figural art was generally permitted where idolatry was not involved, and apply it to the post-70 CE period in general.

<sup>3</sup> L. I. Levine, *Judaism and Hellenism in Antiquity: Conflict or Confluence?* (Seattle and London, 1998), 106. The Tobiad residency at Iraq el-Emir in Transjordan, however, is a stunning exception to this pattern. See F. Zayadine, “Iraq el-Amir,” in *OEANE* III 177–81.

<sup>4</sup> From Levine, *Judaism and Hellenism*, 107.

The dearth of archaeological<sup>5</sup> materials from 70 to 235 CE, however, certainly makes it difficult to apply such a principle across the board. Nonetheless, as the Jewish community in Palestine slowly adjusted to the post-70 and post-135 reality of accommodation to Roman rule once again, the Jewish community became more and more at home in its cultural expression through art and architecture expressed in the Graeco-Roman style.

To accept Jewish aniconism as a reality even for a brief period after the end of the Second Temple period, however, means admitting the possibility of overlooking “the visual dimension of Jewish life . . . in the study of the Jewish past,”<sup>6</sup> something this author is not prepared to do. Richard Cohen adopts a broad definition of Jewish art that allows one to cast a net in the broadest manner possible when he offers that Jewish art is any object or artifact “that reflects the Jewish experience.” Among the artifacts he includes are “ritual objects, illuminated manuscripts, medals (coins), drawings and paintings relating to Jewish figures and ritual (by Jews and non-Jews), amulets, and architecture.”<sup>7</sup> Most of this definition can be embraced except the notion of including paintings of Jews and Jewish subjects in non-Jewish contexts, which would perforce draw one into the Christian catacombs and the church at Dura Europos in the later periods. However, Cohen’s inclusion of non-Jews in an assessment of Jewish art is a major part of this discussion, since in the Graeco-Roman period in general the question has arisen of specialized Gentile artisan guilds hired to do work for Jews, and I have no hesitation in including their work, whether it might be a sarcophagus with a pagan theme from Beth She’arim, or the Great Mansion at Sepphoris with a Dionysus mosaic, as long as its context or setting is Jewish. The same notion holds for architecture: so long as Jews commissioned or oversaw the construction of a building, it may be identified as “Jewish” by its context and setting, although one would not argue that a theater in a Jewish city, for example, if commissioned by the Jewish community and used mainly by them, as was the case at Sepphoris, is an example of Jewish architecture. That Jewish art and architecture reflect their surroundings or dominating culture is hardly surprising. In the case of the synagogue, while it reflects its Graeco-Roman milieu, it is uniquely a Jewish creation.

<sup>5</sup> Ibid.

<sup>6</sup> R. I. Cohen, *Jewish Icons: Art and Society in Modern Europe* (Berkeley, 1998), 3; and K. P. Bland, *The Artless Jew: Medieval and Modern Affirmations of Denials of the Visual* (Princeton, 2000), 5.

<sup>7</sup> Cohen, *Jewish Icons*, 7.

One might suggest that the apparent paucity of remains dated from 70 to 235 CE in both Palestine and the Diaspora is partially the result of the inability to date artifacts and architectural remains to so narrow a time span and partially because architectural remains are best preserved in their later-use phase, an archaeological datum which might obscure the early phase of use. A perfect example is the case of the Jerusalem Temple, where remains of the Second Temple have nearly obliterated all evidence of Solomon's Temple. Similarly, at Sepphoris in the domestic quarter on the western summit, most houses have been best preserved in their Late Roman phase of use and their earlier occupational history has been obscured by it, except in cases whereby collapses and repairs have sealed basements, cisterns, baths and so on from earlier periods. Hence, the following treatment will in many instances have to speak more synthetically and more generally than perhaps one would like.

## II REMAINS FROM THE LAND OF ISRAEL

### A SYNAGOGUES

One of the most remarkable aspects of this problem is the virtual absence of synagogues from the period of the survey. Even more noticeable and modest but quite ample evidence exists in both text and monument for Second Temple synagogues. In terms of archaeological data, the following synagogues may clearly be recognized as existing in the Late Second Temple period: Gamla, Masada, Capernaum, Herodium (\*?), Qiryat Sefer (Modi'in), and Chorazin (?).<sup>8</sup> Although other sites have been suggested, the veracity of the identification of the ruins there as synagogues has been seriously questioned (for example, Jericho, northern Jerusalem, and Shuafat). While none of these buildings save for Capernaum is believed to have been in existence after 70 CE, the fact that such structures from Palestine and many from the Diaspora are available underscores even more the anomalousness of the negative evidence after 70. Given that the synagogues became the vehicle *par excellence* for enabling Judaism to survive and thrive after the loss of the Temple, it is highly unlikely that it was not immediately employed after 70 to implement the rabbinic plan to re-establish Judaism as a non-Temple religion and way of life from Yavneh onward. Nevertheless, the archaeological evidence clusters around the mid-third century, a period to which the construction of many new synagogues

<sup>8</sup> In addition to D. Binder's *Into the Temple Courts*, see L. I. Levine, *The Ancient Synagogue: The First Thousand Years* (New Haven and London, 2000), 42–73. To this list may be added Khirbet Etri, also near Qiryat Sefer and as yet unpublished.

is attributed despite the fact that literary sources record as many as eighteen synagogues in existence at Sepphoris in the time of Rabbi Judah the Patriarch there (first third of the third century CE).<sup>9</sup>

While the stratum A or early synagogue of Capernaum remains controversial,<sup>10</sup> the author's excavations at Nabratein in Upper Galilee, Israel, uncovered a second-century synagogue that became the basis for the larger third-century synagogue in which the remains of a Torah shrine were recovered.<sup>11</sup> Its construction is dated to approximately 135 CE and its dimensions are 11.2 × 9.35 m with its entrance on the Jerusalem-oriented southern wall. It is a broadhouse in conception, with the focus of worship on the longer, southern wall. Benches that use elements of older structures below are situated on the eastern and western walls. Because the synagogue was expanded some 48 percent in the mid-third century CE and was transformed at that time into a basilica with six columns, it is impossible to determine with absolute certainty whether or not the second-century building contained four columns, although their subsequent location in the Late Roman and Byzantine periods suggests that it had four. The extensive length of the roof span strongly supports such a hypothesis. Two *bemas* or platforms on either side of the southern wall, which remained in the third-century building, suggest the liturgical functions performed there: one used as a reader's platform and the other possibly for the storage of scrolls in a portable wooden Torah shrine. A mark in the center of the building imprinted on the plaster floor suggests that a table or lectern might have stood there, possibly related to the place where the sermon was delivered or Scripture interpreted. From literary sources, one knows that the reading of Scripture was central to the liturgy of the synagogue from its inception, but it is difficult to understand one of the *bemas* at Nabratein being associated with such a practice.

#### B DOMESTIC SPACES

Regarding domestic space, only houses and ritual baths need to be considered. Although cisterns, aqueducts, pools, and other technological

<sup>9</sup> PT *Kil.* 9, 32b. The earliest synagogue remains from Sepphoris date to the Byzantine period, or fifth century CE. The question of a later Byzantine date for Galilean synagogues has been debated most recently in the volume A. J. Avery-Peck and J. Neusner (eds.), *Judaism in Late Antiquity*, Part Three: *Where We Stand: Issues and Debates in Ancient Judaism*, 1v: *The Special Problem of the Synagogue* (Leiden, 2001). In this volume, the author has defended a Roman-period date of the Khirbet Shema' and Gush Halav synagogues (*ibid.*, 49–70), in light of a proposed Byzantine-period date by J. Magness, in *ibid.*, 1–49, 71–8.

<sup>10</sup> Levine, *The Ancient Synagogue*, 48–9.

<sup>11</sup> E. M. Meyers, "Nabratein," in *OEANE* 1v:85–7, and bibliography.

innovations are prevalent, one might consider domestic space, including *mikvaot*, as the best way to understand the way local architectural and building practices were adapted to the concerns of a more Jewish nature.

While Hirschfeld has published a major study of the Palestinian house in the Graeco-Roman period,<sup>12</sup> he has not tried to isolate Jewish domestic space from non-Jewish space, although he attempts to draw conclusions from his data based on rabbinic sources and ethnographic material derived exclusively from modern Arab contexts.<sup>13</sup> Nonetheless, building upon his work and his typology of the simple house, the complex house, the courtyard house, and the peristyle house, one may draw a number of important inferences that may be attributed to the period under discussion, using evidence exclusively taken from Jewish sites (Meiron, Khirbet Shema', and Sepphoris).<sup>14</sup>

One of the most important questions that has been raised recently regarding private domiciles in the Galilee has been the issue of whether or not the organization of domestic space reflects, especially in relation to the surrounding environment in city or town, the male-dominated or androcentric views of rabbinic literature. The term *baal habayit*, "master of the house," gives one a sense of the general ideological schema of the times, while the notion that domestic space is considered part of the private domain, and hence that household activities are normally associated with women, points to the dominant scholarly paradigm of dividing space according to a public/private dichotomy with its specific connotations of gender.<sup>15</sup>

Judging from the excavations mentioned previously, but especially from Meiron, no basis exists for such a dichotomy, and indeed, like so many houses in the Old City of Jerusalem today, many Roman-period domiciles are located on top of the shops beneath. Indeed, in the lower part of Meiron, the excavation team uncovered workshops within a common structure on the ground floor, including a cooperage or carpenter's shop with a staircase leading to an unpreserved first floor and a ritual bath off the courtyard. The

<sup>12</sup> Y. Hirschfeld, *The Palestinian Dwelling in the Roman-Byzantine Period* (Jerusalem, 1995).

<sup>13</sup> *Ibid.*, the former on 217–80 and the latter on 109–211.

<sup>14</sup> Much of the following is based on two papers that are soon to be published. The first, delivered at the American Schools of Oriental Research/Albright Centennial in Jerusalem in May 2000, is entitled: "Roman-period Houses from Sepphoris: Domestic Architecture and Gendered Spaces," to be published by ASOR. The other, presented at Brite Divinity School at a conference on "The Early Christian Family," is entitled "The Problems of Gendered Space in Syro-Palestinian Domestic Architecture: The Case of Roman-period Galilee," to be published by Westminster John Knox Press.

<sup>15</sup> This theme has been explored in depth by C. M. Baker in her unpublished PhD thesis, *Rebuilding the House of Israel: Gendered Bodies and Domestic Politics in Roman-Jewish Galilee c. 135–300 CE*, Duke University, 1997, and in a fully revised form, *Rebuilding the House of Israel: Architectures of Gender in Jewish Antiquity* (Stanford, 2002).

structure represents 180 m of interior space plus the courtyard. Hence, in no way can one understand the Meiron complex house as representing private as distinct from public workspace. Moreover, all manner of work was completed there, namely, food production, textile work, carpentry, and so on.<sup>16</sup>

One cannot say that men and women did not work in proximity to one another. The people who inhabited this space were members of an extended family. The individuals who lived in the households at Sepphoris did not serve as a barrier between the public and private domains as Hirschfeld suggests, namely, in that the more complex domiciles offered the most privacy.<sup>17</sup> On the contrary, many of the in-house activities belonged to the public sphere in so far as they related to the local economy. As the example of Meiron provides, along with a large Roman-period domicile from Sepphoris, a courtyard house and variant on the complex house, the household complex itself was the location of many different work activities, some of which were completed in the courtyard. Because these sorts of activities occurred together within the confines of a living accommodation, English vocabulary fails properly to convey the multi-purpose nature of such residences. Galor's suggestion that one should call such spaces "condominiums" or "apartments" fails to answer the question of multi-purpose and multi-gendered space.<sup>18</sup>

On the other hand, Galor's conclusion that the domestic architecture of Roman-period Galilee and other places in ancient Palestine provides a stunning contrast with the Graeco-Roman villa, especially the peristyle house, is most apt. Hirschfeld himself has commented that the peristyle house represents the clearest example of borrowing from the Graeco-Roman architectural tradition.<sup>19</sup> The example of the great mansion at Sepphoris, built in the first third of the third century CE at approximately the time of Rabbi Judah the Patriarch, is indicative of the extensive inroads of hellenization by this period.<sup>20</sup> While a number of examples exist of this type of house, their limited number clearly indicates that local styles of building

<sup>16</sup> On the Meiron space, see E. M. Meyers, C. L. Meyers, and J. F. Strange, *Excavations at Ancient Meiron* (Cambridge, MA, 1981), 23; and M. Peskowitz, "Family/ies in Antiquity: Evidence from Tannaitic Literature and Roman Galilean Architecture," in S. J. D. Cohen (ed.), *The Jewish Family in Antiquity* (Atlanta, 1993).

<sup>17</sup> Hirschfeld, *The Palestinian Dwelling*, passim.

<sup>18</sup> K. Galor, "The Roman-Byzantine Dwelling in the Galilee and the Golan: 'House' or 'Apartment,'" in R. R. Holloway (ed.), *Miscellanea Mediterranea* (Providence, 2000), 109–24, especially 118.

<sup>19</sup> Hirschfeld, *The Palestinian Dwelling*, 94.

<sup>20</sup> See n. 14 above and also Z. Weiss and E. Netzer, "Hellenistic and Roman Sepphoris: The Archaeological Evidence," 29–38; and C. L. Meyers, E. M. Meyers, E. Netzer, and Z. Weiss, "The Dionysos Mosaic," 111–16, both in R. M. Nagy, C. L. Meyers, E. M. Meyers, and Z. Weiss (eds.), *Sepphoris in Galilee: Crosscurrents of Culture* (Raleigh, 1996).



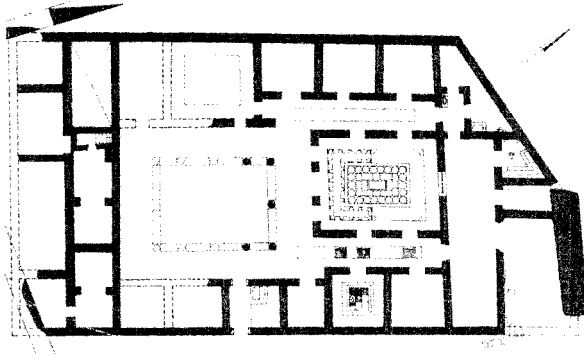


Figure 6.1 Dionysos mansion at Sepphoris

architecture predominated throughout antiquity and that those types, more than the peristyle one, reflect the attitudes and mores of the people who occupied them.

It is uncertain who lived in the mansion at Sepphoris, however. Since the early third century, while one may assume that some Gentiles were living in the city and no doubt a few sectarian (Judaeo-) Christians, the vast majority of the Sepphoreans were Jewish. Despite the pagan theme of the triclinium or banquet hall, with a mosaic featuring Dionysos in a drinking contest with Heracles (central panel), and fifteen panels in all with Greek labels pointing to various aspects of the life and legend of Dionysos (and several scenes that may even be associated with the cult of Dionysos), as the largest domicile discovered to date at the site, it is not impossible that the villa belonged to a leading Jewish citizen, if not to Rabbi Judah himself. In light of the suggestion of Meshorer that the city of Sepphoris was administered by a *boule* or municipal council,<sup>21</sup> commemorated on the well-known Caracalla coin, it is possible that the Dionysos villa served as a meeting place for the *boule* and/or a guesthouse for visitors. In any event, such a house may surely reflect the broad Graeco-Roman aesthetic values of the same period from which the Mishnah emerged at the beginning of the third century CE. While the artists and artisans who executed the mosaic may have been Gentile, it is difficult not to conclude that its patrons and sponsors were Jewish, were drawn from the majority population, and were comfortable in the hellenized world of Roman-period Palestine.

<sup>21</sup> Ibid., Y. Meshorer, coin no. 50, 198. Z. Weiss has communicated his inclination to identify the Dionysos mansion as belonging to Rabbi Judah.

Many of the Jewish domiciles mentioned have ritual baths or *mikvaot* associated with them. While a minimalist approach to such plastered “stepped pools” has emerged in recent years,<sup>22</sup> to some degree disagreements over some of their identification may be attributed to lack of clarity concerning definition. In Roman-period times, the word *mikveh* can connote “the religious qualification attributed to a variety of depressions or constructions that can hold water and have the ability to purify.”<sup>23</sup> The minimum amount of “pure” water required for a natural depression or built structure is 40 *seabs* (250–1,000 l, normally assumed to be approximately 500 liters of rain or spring water).<sup>24</sup> At Sepphoris, most of the *mikvaot* have associated structures: cisterns, holding pools, and other plastered depressions that may be associated with other aspects of the purification process for objects or people.

The location of the *mikvaot* with domestic units is fairly random, although in all cases they are roofed by a vaulted or flat ceiling to insure privacy and to keep the water clean. The configuration, size, and shape of each ritual bath seems to be determined by the particular space established for it and the nature of the bedrock. Measurements of the cisterns versus the stepped pools suggest that cisterns were used for the water-consumption needs of the population, and the stepped pools for ritual needs. The presence of such *mikvaot* at Meiron, Sepphoris, Susiyeh, and other sites after 70 CE indicates that their decline was less than some scholars have suggested. Their absence outside of Palestine is therefore enigmatic.

### C PUBLIC SPACES

The question of identifying Jewish public space is complex, and one may only offer a few suggestions regarding a way to pursue this difficult question. It has been noted that in the period under review (70–235 CE), little material culture is presented that might be so closely dated. Once again, the Jewish city of Sepphoris offers a rich variety of data, as do other

<sup>22</sup> Represented by H. Eshel, “A Note on ‘Miqva’ot’ at Sepphoris,” in D. R. Edwards and C. T. McCollough (eds.), *Archaeology and the Galilee: Texts and Contexts in the Greco-Roman and Byzantine Periods* (Atlanta, 1997), 131–4. However, see my critical remarks in defense of the pools at Sepphoris as *mikvaot*, “The Pools of Sepphoris – Ritual Baths or Bathtubs?” *BiAR* 26 (2000), 46–8, 60–1.

<sup>23</sup> See K. Galor, “The Stepped Water Installations at the Sepphoris Acropolis,” forthcoming. An early form of her paper was delivered at the 2000 Annual Convention of ASOR in Nashville. Professor Galor and the author are preparing a final report on all of these installations on the western summit and I have benefited greatly from my collaboration with her on these matters.

<sup>24</sup> See my article mentioned in n. 22 above.

towns and villages of Galilee. Bathhouses were major public places where individuals in cities met, and the rabbinic literature on them is quite extensive, locating them in or near the market area.<sup>25</sup> Sepphoris has several uncovered to date and both are in the Lower City near the marketplace.<sup>26</sup> Since the market in Sepphoris is still under excavation, the reader is referred to the literature and especially Daniel Sperber's excellent discussion of marketplaces based on talmudic literature.<sup>27</sup>

Although twenty-three theaters have been uncovered in Palestine and Transjordan from the Roman period, only the theater in Sepphoris may be situated in a predominantly Jewish context and therefore understood to reflect Jewish sensitivities or architectural preferences. Dated to the late first or early second century CE, it contains 4,200–4,500 seats and is situated on the western hill, carved into the bedrock. It fell into disuse with the destructive earthquake of 363 CE, which wreaked tremendous damage in the entire region.

Weiss has noted that while all of the ancient theaters in the region were built according to the Roman model with the use of vaults and arches to support the upper parts of the cavea, and the use of corridors (*vomitoria*) to facilitate movement of the audience entering and exiting the building. In addition to the use of a stone-paved orchestra for seating honored guests, and so on, all the local theaters used the natural slope to build the cavea, and none is exactly like another.<sup>28</sup> At Sepphoris, the construction of the theater coincides with the presence of a Gentile, pagan presence at the site, although numerous scholars believe it may be associated with the tastes of the Jewish leadership at the time and perhaps of Herod Antipas himself, who rebuilt the city earlier in the first century CE.<sup>29</sup> While the repertoire of theaters in the east did not include classic comedy, tragedy, or satire, and in most places served Gentile tastes and interests, sufficient references are available in the rabbinic literature to recognize that it had appeal to Jewish audiences as well, which was certainly the case at Sepphoris. In addition to being used for mime, pantomime, the Atellan farce, and other games,<sup>30</sup> no

<sup>25</sup> D. Sperber, *The City in Roman Palestine* (New York, 1998), 58–86.

<sup>26</sup> See Z. Weiss and E. Netzer in Meyers et al. (eds.), *Sepphoris in Galilee* (see n. 20 above); and their essay "Architectural Development of Sepphoris During the Roman and Byzantine Periods," in Edwards and McCullough (eds.), *Archaeology and the Galilee*, 121.

<sup>27</sup> Sperber, *The City in Roman Palestine*, 68–72.

<sup>28</sup> Weiss, "Buildings for Entertainment," in *The City in Roman Palestine*, 77–91.

<sup>29</sup> On the demographic situation in the first century and the date of the theater, see M. Chancey and E. M. Meyers, "How Jewish was Sepphoris in Jesus' Time?" *BiAR* 26 (2000), 18–33, 61. See also J. Reed, *Archaeology and the Galilean Jesus* (Harrisburg, 2000), 23–55.

<sup>30</sup> See Weiss, "Buildings for Entertainment," 83–4.

doubt the theater at Sepphoris was also used as a place for a distinguished visitor to address a large audience.

#### D TOMBS AND BURIALS

Regarding tomb remains and Jewish burials, one occupies a better position *vis-à-vis* the material remains in comparison to any of the other categories. As a result of the strong and respectful attitude toward the deceased in Jewish tradition, family tombs and catacombs did not expand at the expense of earlier remains; furthermore, because so many tombs have been uncovered in the Jerusalem area, a disproportionate percentage of the remains derive from the Late Second Temple period. This brief summary of the data is intended merely to introduce the subject and to provide a means for additional study and exploration.

Jewish tombs in the period under consideration are typically carved into rock-cut chambers, with one or more rooms. This tradition of the family tomb harks back to the Iron Age and much earlier periods, and reflects the Israelite notion of family continuity in death, when individuals were “gathered to their ancestors (fathers).”<sup>31</sup> The entrances to the tombs were typically closed by a rolling door or some sort of sealing mechanism. Individual burials were laid to rest in loculi or *kokhim*, a narrow niche cut perpendicularly into the wall. Oftentimes an arcosolium, an arch-shaped recess, was carved into the wall of the underground tomb and loculi carved into it. Both of these architectural devices are innovations of the Graeco-Roman period, dating to the Hellenistic period and continuing until Byzantine times. The arcosolium was introduced to Palestine from the Aegean world via Egypt; the loculus appears to be associated with the east Semitic world, where it is known more widely.<sup>32</sup>

While individual coffins of wood or limestone are known since Hellenistic times, decorated limestone sarcophagi are frequent in Roman times. Although they are usually associated with individual burials inserted permanently into the container at the end of life (primary burial), considerable evidence reveals that individual sarcophagi were also used as receptacles for secondary burials, that is, the reinterred remains of individuals whose flesh had desiccated. Highly ornamented sarcophagi are normally associated with wealthy families and individuals. Catacomb number 20 at

<sup>31</sup> See my treatment of this subject in E. M. Meyers, *Jewish Ossuaries: Reburial and Rebirth*, *Biblica et Orientalia* (Rome, 1971), 3–16.

<sup>32</sup> See B. McCane, *Jews, Christians, and Burial in Roman Palestine* (unpublished PhD dissertation, Duke University, 1992), especially 40–55; and Meyers, *Jewish Ossuaries*, 64–9.



Figure 6.2 The Necropolis at Beth Shearim

Beth Shearim, for example, is dated to the third century and includes sarcophagi with elaborate pictorial representations.<sup>33</sup> Whether their origin dates to before 235 CE, however, is difficult to say, and I leave a detailed presentation of that evidence to the essay by Lee I. Levine to be found later in this volume (ch. 20).

The custom of secondary burial, or ossilegium, predominates throughout the Roman period. When the reinterred remains of individuals are buried in small containers known as ossuaries, most scholars are inclined to think of this phenomenon as being associated with Jerusalem. However, reburial into a variety of receptacles, including ossuaries and sarcophagi, loculi, pits, and charnel rooms, continued throughout the Roman period although the use of individual limestone ossuaries clearly declined after 70 CE. The reasons for secondary burial are complex. Certainly reburial was a convenient way of returning the remains of a loved one to the family tomb if to do so was impossible at death. Given the biblical injunction for rapid inhumation, it is no wonder that secondary

<sup>33</sup> For a chart summarizing the date of the Beth Shearim catacombs, see McCane, *Jews, Christians, and Burial*, 91–2. For the original report, see B. Mazar, *Beth She'arim*, 1: *Catacombs 1–4* (Jerusalem, 1973); and N. Avigad, *Beth She'arim*, 111: *Catacombs 12–23* (Jerusalem, 1971).

burial is such a long-standing custom in ancient Palestine. As a means of reburial in the Holy Land from distant places it was especially popular, as may be inferred from the inscriptions at Beth She'arim, where the overwhelming majority of burials are secondary interments.<sup>34</sup> The period of decomposition of the flesh was also understood in Jewish theology to have expiatory effects.

#### E ARTIFACTS

Perhaps the most important group of artifacts dating to the period under review is coins. As for Jewish coins, the coins of the Bar Kochba Revolt constitute the sole corpus from this era and shed light not only on the revolt itself but also on the symbols that were valued. Excavation of caves in the Judean desert by Yadin also revealed important artifactual evidence of the second century, most of which has been overshadowed by the scrolls found there.<sup>35</sup> It is evident from both the numismatic and the written evidence that Bar Kochba, the messianic leader of the Second Revolt, regarded himself as "*nasi*" (Prince) of Israel" (his name taken from Christian sources and Rabbi Akiva's appellation "a star out of Jacob") (Num. 24.17).<sup>36</sup> The coins of the revolt were all restruck on old Roman coins, tetradachms, drachms, and denarii. The legends read "Year One of the Redemption of Israel," "Year Two of the Freedom of Israel," and in the third year, "For the Freedom of Jerusalem."

The motifs on the coins, however, reveal the repertoire of Jewish symbols of the day, namely, the Temple facade and ark within; the musical instruments that the Levites used during worship, lyre and trumpets, oil juglet, and amphora. The floral motifs include the *lulab*, *etbrog*, palm branch, grape cluster, and wreath of leaves. This corpus represents the latest exclusively Jewish group of coins in ancient Jewish life.<sup>37</sup> Meshorer, however, has made a case for construing the coin or medallion minted in Sepphoris between 211 and 217 CE, with a bust of Caracalla on the obverse and reference to the treaty of friendship between Rome and the city on the reverse, as a byproduct of the Sanhedrin under Rabbi Judah the Prince, indicating the extraordinary friendship between the Emperor and the

<sup>34</sup> M. Schwabe and B. Lifshitz, *Beth She'arim*, 11: *The Greek Inscriptions* (Jerusalem, 1974), 217 and passim.

<sup>35</sup> Y. Yadin, *The Finds from the Bar-Kochba Period in the Cave of Letters* (Jerusalem, 1963).

<sup>36</sup> Yadin's reconstruction of the historical revolt is presented in his popular book, *Bar Kochba: The Rediscovering of the Legendary Hero of the Last Jewish Revolt against Imperial Rome* (London, 1971). For another interpretation, see ch. 4 in the present volume.

<sup>37</sup> See A. Kindler, *Coins of the Land of Israel* (Jerusalem, 1974), 58.

Patriarch as well as the co-operation that resulted between the Jewish people and Rome.<sup>38</sup>

Only one other type of artifact – the terracotta lamp – fits the chronological scheme and also sheds light on Jewish art in the formative period after the destruction of the Temple until the beginning of the amoraic period. While many symbols occur on round lamps with a decorated discus, including the Torah shrine and *menorah*, they date only from the middle of the third century onwards. Of the earlier lamps, only the Judaeen molded lamp may be dated to the mid-first century CE, to approximately 135 CE, possibly slightly later. Lamps of this type have a round body, a pierced loop handle, a low ring base, and one or two spatulate nozzles.<sup>39</sup> The context of this lamp type is universally regarded as Jewish and the repertoire of symbols is quite large. Usually located on the upper surface of the nozzle and shoulder are depictions of single objects, such as an amphora or coin, the image exaggerated by its central placement on the nozzle. Several scholars have identified *menorot* on this type of lamp, which would make it the only depiction of the *menorah* on a lamp prior to its appearance in mid-third-century synagogues and discus lamps after 70 CE. Others have identified these same symbols as depictions of stylized drinking vessels known as *kantharoi*.<sup>40</sup>

These lamps originated in the first century CE in Second Temple times, and because they are also found in the Bar Kochba caves and in post-70 CE contexts in Judea and the Shephelah, it is fair to assume that they remained in use to the mid-second century, when other non-Judean types replaced them.<sup>41</sup> Other motifs on this lamp type include arborescent depictions of

<sup>38</sup> See n. 21 above, and the technical article on this subject, Y. Meshorer, "Sepphoris and Rome," 166–70. See also S. Miller, "New Perspectives on the History of Sepphoris," in E. M. Meyers (ed.), *Galilee Through the Centuries: Conference of Cultures* (Winona Lake, 1999), 145.

<sup>39</sup> This brief discussion of lamps is based on a superb study of ancient lamps by E. C. Lapp, *The Archaeology of Light: The Cultural Significance of the Oil Lamp from Roman Palestine* (unpublished PhD dissertation, Duke University, 1997). On the Judaeen molded lamp, see 34–9; on the decorations see 50, and for illustrations, see nn. 58–62 and 345–9.

<sup>40</sup> Lapp, *Archaeology of Light*, 81–2. Levine, in *The Ancient Synagogue*, 570–2, has an excursus on the history of the *menorah*, but see his more thorough treatment, "The History and Significance of the Menorah in Antiquity," in L. I. Levine and Z. Weiss (eds.), *From Dura to Sepphoris: Studies in Jewish Art and Society in Late Antiquity*, *Journal of Roman Archaeology* Supp. Ser. 40 (Portsmouth, RI, 2000), 131–53. Lapp is inclined to accept the identification of the symbols as *menorot*, as do I, but hardly a consensus prevails.

<sup>41</sup> Varda Sussman makes the strongest case for their being *menorot* in *Ornamented Jewish Oil-Lamps from the Destruction of the Second Temple Through the Bar Kochba Revolt* (Warminster, 1982), 17–28.

olive and laurel branches, ivy, palm branches and grape leaves, and folk-art depictions of earrings, combs, clay or glass lamps, bird traps, and some renderings of architectural elements.

### III CONCLUSION

The evidence of Jewish art and architecture from the latter part of the Early Roman Period (approximately 70–135 CE) through the Middle Roman Period (approximately 135–235 CE) supports the most obvious conclusion, namely, that the process of hellenization continued its steady advance on the material culture of ancient Palestine. Although the process had begun centuries before, its greatest vigor was reflected in the buildings and art of Sepphoris, a city with a clear Jewish majority in the Roman period, and in the architectural development of the synagogue in the classical style.

In contrast, but participating in the broader aspects of Graeco-Roman culture, are the domestic spaces and housing in general that are found in Jewish contexts in the Galilee, Golan, and Samaria, where domestic space is well documented for the sectarian community in the Roman period. In such contexts, a limited adoption of Graeco-Roman style may be observed, although the peristyle house may be viewed as reflecting a greater degree of borrowing from Graeco-Roman culture. The example of Jewish tombs and burials seems to reflect a slightly more acquisitive attitude toward borrowing from Graeco-Roman culture, especially in the design of tombs, sarcophagi, and ossuaries. In the manner of burial and form of inhumation, however, more traditional attitudes seem to be operating.

It is no surprise to find in the artifacts of Roman-period Palestine an increasing percentage of imported items, although prior to the Late Roman Period (the late third to the fourth centuries CE) that number is relatively low. The Bar Kochba era represents the last period of explicit Jewish art on the coins of ancient Palestine.

In summary, during the period after the fall of Jerusalem and its Temple (70 CE) until the completion of the Mishnah (235 CE), the material culture of the Jewish people in the Land of Israel demonstrates that neither the rabbinic leadership nor the masses of Jews living in Galilee and other locations saw any inherent conflict between the dominant Graeco-Roman culture of the day and their own Jewish way of life. Indeed, by participating in a larger cultural identity, the Jewish community exhibited its enormous adaptability and resilience after two debilitating wars with Rome. In preserving its own unique Jewish culture at the same time, however, the Jewish people demonstrated the ongoing appeal of and connection to their own indigenous Jewish culture.



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# THE DESTRUCTION OF THE JERUSALEM TEMPLE: ITS MEANING AND ITS CONSEQUENCES

ROBERT GOLDENBERG

## I INTRODUCTORY COMMENT

Any investigation of ancient Judaism is bound to rely heavily on the vast corpus of early rabbinic literature. No other body of ancient Jewish writing matches those materials with respect to their scope, their volume, or their subsequent influence on Jewish life. However, this reliance, compounded by the early Rabbis' own insistence that they were merely handing down an ancient tradition unchanged, creates a pair of dangers.

For one thing, it is tempting to assume that the situations and arrangements reflected in rabbinic documents must already have existed in earlier periods. More particularly, it is tempting to assume that descriptions of the Jerusalem Temple and Jewish attitudes toward its cult that are found in rabbinic documents must shed light on the reality that prevailed when the Temple once stood. This assumption is unwarranted,<sup>1</sup> however, and has been avoided in the preparation of this chapter. When rabbinic materials are cited, they will be used with due consideration of the likely time and place of their origin (when these two can be determined).

Second, it must be kept in mind that non-rabbinic forms of Judaism survived throughout antiquity: no reliable evidence exists of rabbinic leadership in Europe or North Africa before the Middle Ages, yet these areas contained substantial Jewish communities that antedated the Common Era. Rabbinic materials, despite their volume and their importance, present only a partial image of *ancient* Jewish responses to the loss of the Jerusalem Temple. Unfortunately, non-rabbinic Jewish writings from later antiquity (if any existed) have disappeared: the rest of the picture must remain a blank.

<sup>1</sup> The voluminous *oeuvre* of Jacob Neusner, starting with *The Development of a Legend* (Leiden, 1970), has conclusively demonstrated that rabbinic narrative and legal materials continued to evolve throughout antiquity as they were passed from one tradent to the next. Nevertheless, the old style of writing would-be history by indiscriminately assembling rabbinic stories has not completely disappeared.

## II THE CENTRALITY OF THE JERUSALEM TEMPLE

The Hebrew Scriptures take for granted that the God of the covenant should be worshiped through a sacrificial cult. No set of regulations in the Torah is more detailed than those pertaining to the rituals of sacrifice and the accompanying rules of purity and defilement. The origins and early development of the cult need not be explored here; it is sufficient to note that the centrality of sacrificial worship remained essentially unchallenged throughout the so-called biblical period. Despite vociferous prophetic objections to the cult as currently practiced,<sup>2</sup> the loss of the Temple at the hands of Nebuchadnezzar was perceived as a terrible calamity and the cult was restored under the Persians as soon as practicable. The so-called Second Commonwealth, under Persian, then Greek, then Hasmonaean rule, was essentially a priestly state revolving around the central shrine in Jerusalem.

The centrality of the Jerusalem Temple, indeed its unique legitimacy, had been established before the Exile, under the reign of King Josiah (640–609 BCE). Following instructions found in the Mosaic book of Deuteronomy, all shrines in the kingdom of Judah, other than the main Temple in Jerusalem, were closed, and all priesthoods outside the capital were forced to transfer their operations to that Temple (2 Kgs. 23). In theory, Jews were now permanently forbidden to offer sacrifice to their God in any other location.<sup>3</sup>

In practice, however, the ban did not remain inviolate. Toward the end of the turmoil that brought the Maccabees to power in Judaea, one of the ousted Oniad dynasty of high priests escaped to Egypt and there, under the sponsorship of the Ptolemies, built a new Temple. This structure was the so-called “Temple of Onias” in Leontopolis, a suburb of Memphis, and it functioned as an alternative Jewish Temple for more than two centuries.<sup>4</sup> Later rabbinic law, framed at a time when no Temple stood at all, declared

<sup>2</sup> See, e.g., Hos. 6.6, Amos 5.25, Jer. 7.21–2. It is not easy to determine whether these were rhetorically extravagant objections to a corrupt system or actual rejections of its principles, and this chapter is an inappropriate place to pursue the matter.

<sup>3</sup> This ban apparently did not apply to Gentiles. See Elias Bickerman, “The Altars of Gentiles,” in *Revue Internationale des Droits de l’Antiquité*, 3rd series, 5 (1958), 137–64.

<sup>4</sup> It is not certain whether this Temple was built by the deposed High Priest Onias III himself or by his son, also called Onias (IV). Josephus himself is inconsistent; in *Ant.* 13.62, he attributes the initiative to Onias IV, but *Bell.* 1.33 and 7.423 suggest otherwise. According to 2 Macc. 4.34–5, Onias III was murdered by treachery outside Antioch and never reached Egypt. According to Josephus (*Bell.* 7.436), the Temple of Onias stood for 343 years; this number is possibly an error for the more plausible 243, but it may represent an attempt at schematic chronology ( $7 \times 7 \times 7 = 343$ ). See the comment of Thackeray in the Loeb edition (111 627), also A. Schalit in *EncJud* x11 1404–5.

that vows to sacrifice at the “House of Onias” were legally binding and sacrifices brought in fulfillment of such vows legally valid, although vows that did not stipulate this Temple had to be fulfilled in Jerusalem. Therefore, the Temple of Onias, its apparent violation of Torah-law notwithstanding, was held free of the taint of idolatry.<sup>5</sup> After the Jerusalem shrine was destroyed in 70 CE, the Romans closed this one as well, apparently fearful that the Jews would simply transfer their loyalty to it. In fact, it is difficult to assess the significance of this shrine in the mind of ancient Jewry. The Temple of Onias was no doubt frequented by local Egyptian Jews, but no surviving evidence suggests that Jews from elsewhere visited in significant numbers. Philo, himself living in Egypt, never mentions it. The Temple of Onias was therefore the last Jewish Temple in history, but no sign was evident that world Jewry considered its loss a calamity. That dubious honor was reserved for the more ancient shrine in Jerusalem.

The Temple offered more worldly satisfactions to the Jews as well. Famous as a tourist attraction and pilgrimage site even for Gentiles, the Temple made Jerusalem a wealthy city, while the demands of its elaborate cult created a demand for animals and agricultural products that provided constant economic stimulus for the surrounding countryside. The city and its shrine were the jewel in Israel’s crown.

Some additional insight into the religious significance of the Jerusalem Temple – its site, its rituals, its personnel – can be gleaned from ancient Jewish literature. The altar was believed to rest on a boulder, the so-called Foundation Stone (*Even Sbtiiyya*), which served as a kind of cosmic plug preventing a resurgence of the Deluge, or which marked the point from which the solidification of the Earth had proceeded outward when the world was first created. The very cosmos therefore depended on this place for its origins and continued existence.<sup>6</sup> Philo, for his part, provides an extremely detailed allegory of the layout of the desert sanctuary, the priestly garments, and the sacrifices themselves; parallels in Josephus imply that such allegorization was a widespread trope in Jewish writing of the time.<sup>7</sup>

During the last period of the Temple’s existence, religious groups in Judaea engaged in heated religious controversy regarding its management

<sup>5</sup> See *M. Men.* 13.10; *BT Men.* 109ab.

<sup>6</sup> A convenient collection of relevant sources can be found in L. Ginzberg, *Legends of the Jews* 6 vols. (Philadelphia, 1909–39), v 14–16 n. 39.

<sup>7</sup> Philo, *Vita Mos.* 2.71–140. Strictly speaking, he is describing the desert sanctuary (Exod. 25–40) rather than the Jerusalem Temple, but these were similarly furnished, and Philo clearly intends his allegory to apply to the Temple of his own times. Like Philo, Josephus provides his description in the context of a biography of Moses rather than a digest of the Law; see *Ant.* 3.102–87; additional fragments of allegory can be found in his more straightforward description in *Bell.* 5.184–237.

and its procedures. Different interpretations of the rules of purity and different determinations of the proper timing of the festivals and other disagreements of this sort gave rise to a literature of conflict and denunciation; sometimes these conflicts were contained within the broader population of those who still participated in the Temple cult,<sup>8</sup> but sometimes groups entirely withdrew from participating in that cult and contented themselves with patient waiting for divine intervention in an abhorrent situation.<sup>9</sup> Increasingly widespread disapproval of the actual Temple<sup>10</sup> produced a growing readiness among the Jews to survive its destruction, although they did not know this readiness at the time.

### III THE DESTRUCTION OF THE JERUSALEM TEMPLE IN 70 CE

The Temple was destroyed by a Roman army in the year 70 CE, approximately halfway through a fierce seven-year struggle between Jewish rebels and the Empire. This apparent act of sacrilege became controversial almost at once and has remained that way since that time. Josephus, our chief source of information about the war (although also an apologist for the Empire), describes the burning of the Temple as the unauthorized act of a hothead, an ordinary Roman soldier who impulsively threw a brand into the captured building. According to Josephus, Titus had previously ordered that the Temple should not be damaged and had even attempted to extinguish the fire, but the Roman rank and file, entrapped in the excitement, continued adding to the flames until the building could no longer be saved.<sup>11</sup> However, another historiographic tradition, now found among later Christian writers but apparently traced to Tacitus,<sup>12</sup> reports,

<sup>8</sup> Thus, the Pharisees remained in a Temple dominated by Sadducean High Priests but dissented from numerous specific policies; see *M. Hag.* 2.4; *M. Yad.* 4.6–7. The Qumran document called “Some Actions of the Torah” (4QMMT: *Miqsat Ma’ase ha-Torah*) apparently contains an early version of such disputes from a time before any side had altogether abandoned the Temple.

<sup>9</sup> The most famous non-participant community settled at Qumran and probably assembled (or wrote) the so-called Dead Sea Scrolls. These documents express fervent expectation that God will soon destroy the Temple and its corrupt priesthood and allow the “Children of Light” to build and preside over a new and better one. See 1QpHab 12.7–9, *CD* 5.7–8; 6.12. Christian reactions to the Temple and its loss will be considered below.

<sup>10</sup> Rabbinic tradition preserved a popular song complaining about the High Priests’ violence and greed: see *BT Pes.* 57a and *Tos. Men.* 13.21.

<sup>11</sup> See *Bell.* 6.241–66.

<sup>12</sup> The main Christian sources are Orosius and Sulpicius Severus; for a complete bibliographical survey, see *GLAJJ* 11 64–7. Cassius Dio, *HR* 66.6.3, reports that the Temple was “set on fire,” without indicating the manner.



Figure 7.1 The Temple seven-branched candelabrium (*menorah*); detail from the Arch of Titus

to the contrary, that Titus had specifically authorized the destruction of the sanctuary, which was now also serving as the main Jewish fortress in Jerusalem. Modern scholarship tends to favor this latter view, but the question cannot be declared settled.

Once the Temple was destroyed, it was never rebuilt. The Flavians as a matter of policy apparently refused to restore the Jewish cult; hence, the closure of the “House of Onias.” It appears that at first many Jews expected a quick resumption of the cult, as had occurred centuries earlier when the first Temple was destroyed. Reconstruction did possibly begin early in the reign of Hadrian, and again during the reign of Julian the “Apostate,” but neither project proceeded very far.<sup>13</sup> Expectation of a rebuilt Temple

<sup>13</sup> In all of rabbinic literature, only one report of such an aborted restoration of the Temple is available: see *Gen. R.* 64.10, referring to Rabbi Joshua ben Ḥananiah (early second century). Reports in later Christian writers normally refer to a later episode under Julian; these reports variously suggest that a natural disaster, possibly an earthquake or a lightning storm, burned the partly built structure, and work was then not resumed.

remained part of Jewish spirituality for centuries – no publicly recognized teacher of Judaism spoke otherwise until the nineteenth century – but in the course of time the actual absence of the cult had an unavoidable effect on Jewish religious life.

#### IV EXPLAINING THE DESTRUCTION

The destruction of the Temple and the Jews' failure to secure its restoration gave rise to two questions that could not be ignored: why had God's own house been destroyed, and what should be done now that it was gone? How was the covenant now to be maintained?

The Scriptures themselves, largely a product of and reaction to the earlier Destruction of 586 BCE, offered answers to these questions. The dominant response, associated most strongly with the so-called Deuteronomic writings, was that the covenant people received the history they deserved: loyalty to God's will brought prosperity and safety, while violation brought poverty, exile, and destruction.<sup>14</sup> The classical prophets persistently repeated this message, framing it as a warning before the actual disaster and as explanation thereafter; after the people had been driven from their land, though only then, the denunciation was combined with promises that God would never abandon them or their covenant completely. Different prophets identified different patterns of behavior as the cause of God's fury, with some emphasizing oppression of the poor and others the worship of foreign deities ("idols"), but the logic of the explanation was identical in all cases: exile was their own fault, but repentance and return to the obligatory way of life could reverse its effects and literally bring them home again.<sup>15</sup> When the new Persian Empire allowed the exiled Judaeans to return and rebuild their shrine, this lesson seemed confirmed for all time.

At the time of the Maccabees, however, the author of the book of Daniel began to devise a different approach to the question at hand. Writing under the worst persecution that followers of Moses had ever experienced, this writer must explain the reasons why the pious of Israel are singled out for suffering and death while flagrant sinners who voluntarily honor foreign

The relevant sources are surveyed at M. Avi-Yonah, in *The Jews under Roman and Byzantine Rule* (New York, 1976), 185–204, see also 266; and G. Alon, *The Jews in Their Land in the Talmudic Age*, 2 vols. (Jerusalem, 1984), II 435–60. Avi-Yonah considers but rejects the idea that the building was destroyed by arson.

<sup>14</sup> Affirmation of this viewpoint was later incorporated into the Jewish (that is, rabbinic) liturgy through the twice-daily recitation of Deut. 11.13–21.

<sup>15</sup> These themes are too familiar and too pervasive to need documentation. To the best of my knowledge, Jer. 44 provides the only surviving expression from the time of Exile of an alternative viewpoint, namely that the Exile was the work of the other gods, angry that Israel had excluded them from its religious life.



gods enjoy riches and power. His answer portrays history as a pre-set drama that must inevitably run its course.<sup>16</sup> If the pious are destined to suffer, then their suffering cannot be viewed as punishment for sin but merely as a test they must endure in order to be worthy for the promised ultimate reward. The actual reason for their suffering will never be known.

Jews several centuries later, facing the loss of their capital and its Temple, sought to apply these teachings to the events of their own time. If the destruction had been their own fault, then it was critically important to identify the sin for which they had been punished and to find ways of atoning for that offense. This task was not easy; the penalty had been so enormous that it was difficult to think of a crime for which it would have been fitting.<sup>17</sup> Perhaps it was better to adopt the solution of the book of Daniel and abandon the quest for understanding.

The historian Josephus thought the catastrophe could indeed be incorporated into the old paradigm; indeed, he presented his writings as a reiteration of the ancient prophetic message. In a long speech reportedly delivered at the walls of Jerusalem, he describes the Romans as the new Babylonians, sent by God to rule the land, and himself as a new Jeremiah imploring his countrymen to surrender to them. As part of a broader attempt to exonerate the Jewish nation as a whole, he blames the rebellion on a small group of hotheads repeatedly described as brigands (*lēstai*), who compelled the nation to fight a war he knew they should not have begun because it could not be won.<sup>18</sup>

Another group, as well, thought it could precisely identify a crime so monstrous that exile and destruction were no more than fitting: early Christian writing brims with the triumphal claim that by murdering the Son of God, the Jews were responsible for their own downfall.<sup>19</sup> This explanation stood squarely within the biblical paradigm of sin and

<sup>16</sup> See in particular Dan. 10—12, which purports to offer a detailed summary of future events. If the future can be known in advance, then it cannot also be seen as a divine response to (unpredictable) human behavior.

<sup>17</sup> A poignant question attributed to Rabbi Yoḥanan ben Torta (mid-second century) gives expression to this perplexity: “The first Temple was destroyed on account of idolatry, fornication, and bloodshed. But the second Temple was a place of Torah, commandments, and loving-kindness: why was it destroyed?” See BT *Yoma* 9b; PT *Yoma* 1.1 38c; and Tos. *Men.* 13.22. The answer given that “causeless hatred” is the moral equivalent of idolatry or fornication seems no more than homiletic moralizing. It does not relieve the despair expressed in the question.

<sup>18</sup> The long speech: *Bell.* 5.376–419. Futility of war: *Bell.* 3.135–6.

<sup>19</sup> One quotation will have to represent many: “Why was the Temple made desolate? Was it on account of the ancient fabrication of the calf? Or was it on account of the idolatry of the people? Was it for the blood of the prophets? Was it for the adultery and fornication of Israel? By no means, for in all these transgressions they always found pardon open to them.

punishment and, from within that paradigm, asserted the collapse of Israel's covenant. Scriptural categories thus served to dissolve Jewish nationhood and the Jewish religion.

Indeed, many must have reacted to the catastrophe with despair and total abandonment of Judaism. Apostates from Judaism (aside from converts to Christianity) received little notice in antiquity from either Jewish or non-Jewish writers, but ambitious individuals are known to have turned pagan before the war,<sup>20</sup> and it stands to reason that many more did so after its disastrous conclusion. It is impossible to determine the number who joined the budding Christian movement<sup>21</sup> and the number who disappeared into the polytheist majority.

An attempt to employ biblical categories while preserving Jewish covenantal identity survives in several of the so-called Jewish pseudepigrapha. Many of these documents express bewildered acceptance of the divine judgment on a sinful Israel, but insist that the other nations, with their idols and their moral corruption, surely deserve worse; why then have they (and in particular the terrible Romans) been allowed to rule the world in secure prosperity while God's own people languish?<sup>22</sup> Confidence in God's eventual vindication enabled these people to persevere, but their deep pain at living in a world that seemed unjust could not be borne easily. Elements

But it was because they killed the Son of their benefactor" (Hippolytus, *Contra jud.* 7). Hippolytus therefore explicitly rejects the three worst sins known to rabbinic thought as inadequate to explain the Destruction, and then substitutes a sin that is in his view still worse as the cause of Israel's fall.

<sup>20</sup> For example, Tiberius Julius Alexander, nephew of the philosopher Philo, a high officer in the Roman army that besieged and then destroyed Jerusalem. For an earlier period, see 3 Macc. 1:3.

<sup>21</sup> Of course not all Christians considered themselves to be abandoning Judaism. Several generations passed before the Christian religion was generally perceived as a Gentile movement.

<sup>22</sup> Again one example will have to represent many: "You commanded [David] to build a city for your name, and in it to offer you oblations from what is yours. This was done for many years; but the inhabitants of the city transgressed, in everything doing as Adam and all his descendants had done, for they also had the evil heart. So you delivered the city into the hands of your enemies.

"Then I said in my heart, Are the deeds of those who inhabit Babylon [sc. Rome] any better? Is that why she has gained dominion over Zion? For when I came here I saw ungodly deeds without number, and my soul has seen many sinners these thirty years. And my heart failed me, for I have seen how you endure those who sin, and have spared those who act wickedly, and have destroyed your people, and have preserved your enemies, and have not shown to any one how your way may be comprehended. Are the deeds of Babylon better than those of Zion? Or has another nation known you besides Israel? Or what tribes have so believed your covenants as these tribes of Jacob? Yet their reward has not appeared and their labor has borne no fruit." (2 Esdras [4 Ezra] 3.24–33 [RSV, slightly modified]); see also 1 *Enoch* 94.6–100.9 and 2 *Baruch* 14–15; 44.

of such thinking, anticipating God's direct intervention in a world gone wrong, found their way into the emerging body of rabbinic teaching, but the circles among whom these documents were produced and circulated did not survive as distinct communities. The documents themselves were preserved throughout the Middle Ages by Christians, not Jews.

Groups of Jews who cannot otherwise be identified seem to have engaged in systematic, highly ascetic mourning for the lost Temple. A single rabbinic tradition<sup>23</sup> describes a dialogue between the early master Joshua ben Hanania and some unnamed interlocutors who propose that Jews should no longer drink wine or eat meat, since these contributions had been offered on the now-destroyed altar. Joshua responds that such logic should also lead to abandoning bread, fruit, and water, and his hearers have no answer.<sup>24</sup> The dialogue concludes on a compromise: even in times of greatest happiness, Jews should reduce their celebration in some way, but the nation must not allow catastrophe to lead to self-obliteration. Home-building, marriages, and the generation of children must continue. Not surprisingly, this compromise position was eventually adopted by the rabbinic tradition overall.

## V THE RESPONSES OF THE RABBIS TO THE LOSS OF THE TEMPLE

Regarding the history of Judaism, the most important reactions to the destruction of the Temple were those that found expression in the voluminous literary output of the early Rabbis. The Sages who witnessed the catastrophe, and the disciples who succeeded them, began with the same choices as the other groups just surveyed; they could seek to incorporate the Destruction into the Deuteronomic paradigm of sin and punishment, or they could apply the teaching of the book of Daniel that historical events should not be studied for meaning, or they could lapse into despair. They refused this last option. They continued to employ the rhetoric of sin and punishment without ever quite identifying the specific sin that deserved such punishment,<sup>25</sup> but simultaneously they labored to distract their followers altogether from the question of history and its meaning.<sup>26</sup> The

<sup>23</sup> Tos. *Sot.* end and BT *Bava B.* 60b.

<sup>24</sup> During the Middle Ages, organized groups known as Mourners of Zion seemed to emerge in many Jewish communities, perhaps in some association with Karaism. See, e.g., *Pes. R.* 34.

<sup>25</sup> See n. 17 above.

<sup>26</sup> Jacob Neusner's many works on the Mishnah have stressed that document's carefully ahistorical perspective; see his *Judaism: The Evidence of the Mishnah* (Chicago, 1981), 25–44. For a much earlier statement of the same insight, now with reference to the

challenge to Israel for the present meant overcoming the disaster however they might, and fashioning a way of life for themselves that would be immune to any additional blows. The early Rabbis' great achievement was their accomplishment of this daunting task.

The oldest surviving rabbinic document is the Mishnah, commonly dated near the turn of the third century CE. This manuscript is a curious document, ostensibly concerned with the systematic presentation of issues in Jewish law, but in fact entirely unconcerned with the practicability of the laws thereby presented. Rabbinic tort laws or rabbinic laws of marriage and divorce *may* have been in force at the time the Mishnah was compiled, but these laws appear without being distinguished from laws of sacrifice or laws of capital punishment, which surely were not. The cult center in Jerusalem had been destroyed more than a century before the Mishnah was compiled, but the fifth Order of the Mishnah is replete with cultic regulations presented as if they enjoyed everyday currency.

The Mishnah is framed as though rabbinic opinion on all matters were determinative for the larger Jewish society, but the modern scholar has no grounds for judging the validity of that implied claim. Do these rules purport to describe actual norms of conduct that governed the lives of most Jews (or even most Galilean Jews) in the late second century? Perhaps they governed only some Jews, those who can be designated "rabbinic" Jews, while leaving one largely ignorant of the norms that other Jews sought to follow. Perhaps nobody actually lived this way, but the editor (or editors) of the Mishnah thought that people should. Perhaps nobody expected that such rules could or would be completely followed prior to the advent of the Messiah. The Mishnah describes either the real world, or the Rabbis' impression of the real world, or an ideal world that Rabbis were attempting to build, or an ideal messianic world that Rabbis felt helpless to build; it is difficult to decide which of these options provides the most accurate description.

The Mishnah's predominant response to the destruction of the Temple centered on acting as if the disaster had never occurred; the document's relentlessly ahistorical tone allows it to speak as though the Temple were still intact, its cult functioning as in centuries past.<sup>27</sup> This almost willful

Babylonian Amoraim, see Neusner, "The Religious Uses of History," *History and Theory* 5 (1966), 153–71.

<sup>27</sup> Cracks appeared in this resolute wall of silence. It is acknowledged (*M. Moed K.* 3.6; *M. Suk.* 3.12; *M. Rosh H.* 4.3; *M. Men.* 10.5, and see especially *Maas. Sh.* 5.2) that certain details of the law have been affected by the loss of the Temple. The long narrative description of the Temple ritual on the Day of Atonement (*M. Yoma* 1–7) is written in the past tense. A list of disasters said to have occurred on the ninth of Av (*M. Taan.* 4.6) includes the destruction of the Temple (see also *M. Sot.* 9.12, 15). Most poignantly, the

disregard of historical reality allowed the Mishnah's author(s)<sup>28</sup> to adumbrate a way of life that could simply disregard the appalling events of recent times and enclose itself in a world of its own. Unlike the life of Temple and sacrifice, the life of Torah and commandments could be maintained anywhere and was not dependent on structures that enemies could destroy.

The great rabbinic compilations of later antiquity (two Talmuds and numerous collections of *midrash*) acknowledge more openly that Jewish religious life now functions without a component once deemed essential. Rabbinic treatments of prayer portray the emerging structure of public worship as a liturgical substitute for the previous regime of sacrifices.<sup>29</sup> Prayerful appeals that the Temple be rebuilt "speedily, in our [own] day" are scattered throughout the material. More generally, ancient rabbinic authorities developed the legal concept *ba-zman ha-zeh* ("in this time"), denoting the period between the destruction of the Temple at the hands of Rome and its eventual restoration by the Messiah; "in this time," however, certain requirements of the Torah cannot be fulfilled as they should; certain other practices have been instituted to overcome this problem; still other scriptural requirements have been discarded altogether; and so on. The general sense is that Judaism "in this time" is an improvised substitute for the religion actually contemplated in the Torah, much like that religion in many respects, but in the long run not a permanent replacement for it.

The later documents also present a far more elaborate eschatology than the Mishnah. This observation largely reflects the general fact that the Mishnah is a terse, concise document essentially concerned with the law (*halachah*), which leaves many other important matters undeveloped; but it is possible as well that the Mishnah's resolute inattention to contemporary reality seemed less necessary as time passed: the rabbinic redesign of Judaism was working, and its improvised character less obvious or less disturbing. Rabbinic eschatology revolves around a number of powerful images, among them the coming of the Messiah, the ingathering of Israel's exiles, the rebuilding of the Temple and the restoration of its cult, the

long description of the daily ritual that occupies nearly all of tractate *Tamid* ends with a one-sentence plea (7.3) that the Temple soon be rebuilt and the cult restored. Other early examples can be found at Tos. *Rosh H.* 2.7 and Tos. *Ter.* 10.15; occurrences in later collections are too frequent to be enumerated here.

<sup>28</sup> Later tradition identified Rabbi Judah the Patriarch (approximately 200) as the chief redactor of the Mishnah, but the text itself does not provide this information. The Mishnah is full of sayings attributed to known authorities, but the collection as such remains anonymous. Neusner consistently refers to the "authorship" of the Mishnah; this practice retains awareness that the Mishnah was a carefully shaped document while removing the need to mention who did the shaping.

<sup>29</sup> See BT *Ber.* 26b; PT *Ber.* 4.1.7a; and *Gen. R.* 68.9. See also chs. 21, 22, and 40 in the present volume.

resurrection of the dead and the final judgment. However, rabbinic teachers never worked these images into a normative scenario; neither the sequence of events nor their details could be known in advance, and concentrated attention to these matters was discouraged.

The dominant rabbinic attitude toward the lost Temple and the hope for its restoration was thereby complex and ambivalent; the Rabbis had succeeded in building a Jewish way of life that made the Temple unnecessary in practice while it remained indispensable in theory. This ambivalence was intensified by concern with their own role in Jewish life; they had made themselves the recognized leaders of Judaism by virtue of their knowledge of Torah, but the Torah itself presupposed a hereditary leadership of priests, and the Rabbis' own eschatology anticipated the leadership of God's anointed. All of this ambivalence was expressed in the idea that the arrival of the Messiah would be accompanied by terrible and violent suffering; "May the Messiah come speedily," one rabbi reportedly said, "but not while I am alive."<sup>30</sup>

## VI CHANGES IN JEWISH IDENTITY AS A CONSEQUENCE OF THE TEMPLE DESTRUCTION

In the centuries following the destruction of the Temple, Jewish identity underwent a fundamental transformation. Initially perceived as an *ethnos*, albeit one with a distinctive religious culture, the Jews increasingly came to be viewed as a religious community, albeit one that saw itself as a nation. An important impetus behind this change was the Roman transfer of the half-shekel Temple tax to the temple of Jupiter Capitolinus once the Jerusalem sanctuary was no more. Now it was the task of Roman officials to determine who was liable for this annual payment and who was not; was Jewish ancestry to be determinative or the practice of Jewish rites? It appears that after some uncertainty, it became the policy to let religious practice rather than ancestry settle this question.<sup>31</sup> Thereby, persons of Jewish ancestry could become Gentiles in the eyes of Rome, while others could become Jews. This concept was new. The loss of the Temple was not the direct cause of this transformation – rather the Roman intervention in Jewish tax-collecting – but it initiated a chain of developments that produced this result.

In later centuries, the transformation of Jewry into a religious communion was accelerated by the increasing dominance of Christian ways of

<sup>30</sup> Ulla (late third century), BT *Sanh.* 98a.

<sup>31</sup> See in particular M. Goodman, "Nerva, the *Fiscus Judaicus* and Jewish Identity," *JRS* 79 (1989), 40–4.

thinking in the Roman world. In Christian eyes, ethnic identity was of no consequence;<sup>32</sup> in Christian eyes, the Jews mattered only (or chiefly) because Jewish religious traditions had provided a matrix for the emergence of the new covenant. Nevertheless, this development was propelled by other factors as well, and it might have occurred with the Temple still there. A paradox exists here nevertheless; the Jewish *ethnos* turned into the *synagoga* of the Middle Ages only after losing its central religious institution. Only the removal of the Temple could have produced the rabbinic Judaism familiar in later times.

Of the many sects and the various interpretations of Judaism that proliferated and flourished during the Temple's last century, only two survived past antiquity: on the one hand a body of rabbinic teaching that finally constituted Judaism *tout court*, and on the other hand Christianity, itself diverse but finally estranged from its Judaic origins. Grounded in the Scriptures of Israel, each found a way to dispense with the mode of worship that those Scriptures took for granted. One continued to look forward to the restoration of that worship while the other celebrated its demise, but in fact neither had any practical need for it and neither would have developed as it did if the ancient cult had remained in operation.<sup>33</sup>

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<sup>32</sup> See most famously Gal. 3.28.

<sup>33</sup> Over the course of the Middle Ages, Jewish religious practice continued to anticipate the eventual rebuilding of the Temple. Numerous customs expressed lingering sorrow over the lost center. Of these customs, the best-known is the shattering of a glass at Jewish weddings (see BT *Ber.* 31a). It was also the custom to leave a corner of one's home unpainted, to leave off one piece of jewelry when dressed for festive occasions, and so on (see Tos. *Sot.* 15.11–15; Tos. *Bava B.* 2.17; and BT *Bava B.* 60b). In addition, one sees messianic expectation continually burst into premature excitement. Pre-eminently, the tumultuous career of the pseudo-messiah Sabbatai Zvi (seventeenth century) revealed both the Jews' unabated eagerness to celebrate restoration and their growing readiness to be liberated from the restrictions of rabbinic teaching. Only in the nineteenth century did the founders of Reform Judaism finally take the fateful step of declaring that they had no wish to be removed from their western homelands and therefore no longer anticipated the restoration of Zion and its Temple. The traditional community, however, refused to follow this example; in 1967, when (potential) Jewish control over the Temple site was restored, agitation for restoring the ancient cult began almost immediately. The matter stands unresolved.

The destruction of Jerusalem was a cataclysmic event, but few ancient Jewish writings provide sustained explorations of its meaning to those who experienced it. Instead it lies as a kind of subsurface beneath almost everything that Jews wrote and did after the year 70. Among texts that do reflect on the meaning of this catastrophe, 4 *Ezra* (2 *Esdras*) and 2 *Baruch* stand out. Very many Christian works point to the loss of the Temple as decisive proof that the old Israel's covenant had lapsed, but this claim usually appears in passing, in works devoted to other themes. (The New Testament epistle to the Hebrews makes the broader claim that the Temple cult has become obsolete in the new Christian order, but this claim does not necessarily presuppose that the Temple is actually destroyed.)

As for the rabbinic corpus, here too the destruction of the Temple is a pervasive background theme rather than the subject of prolonged discourse. A long narrative of the Destruction and its causes can be found at BT *Gitt.* 55b–57a; see also *Midrash Rabba* on the book of Lamentations, especially the long series of proems at the beginning of the *Midrash*. The present author's 1982 article, cited below, cites additional scattered source materials.

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# THE ORIGINS AND DEVELOPMENT OF THE RABBINIC MOVEMENT IN THE LAND OF ISRAEL

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## I INTRODUCTION

The emergence of the rabbinic movement was epoch-making, although perhaps only in retrospect. For the period covered in this chapter, between 70 CE and the middle decades of the fourth century, rabbis in Palestine appeared to be a numerically small group of religious experts with limited influence. Less external evidence exists for comparison in Babylonia, but the same appeared to be true there as well. The “rabbinization” of Jewish communities in Palestine, Babylonia, and elsewhere, confirmed by the early Middle Ages, is difficult to trace because it occurred in obscurity, but in terms of rabbinic literature it was quite a productive period between the last people whom the texts cite or mention by name (some time after 350 CE in Palestinian texts; after 500 in Babylonian texts) and the documents preserved in the Cairo Genizah (of which only relatively few are as early as the ninth century).<sup>1</sup>

Recent generations of historians have learned to disentangle the question of rabbinic origins from the history of the Second Temple period. Less uniformly, they have begun to revise their views of the centrality of the rabbinic movement in reshaping the Jewish community in Palestine in the years after the suppression of the Judean Revolt and the destruction of the Jerusalem Temple in 70 CE.<sup>2</sup> The historiography of the rabbinic movement is almost entirely dependent upon rabbinic literature, a literature fundamentally uninterested in historiography (in a conventional modern sense) even as it regularly deploys “history” (for example, accounts of events or personalities) for its own ideological purposes. Reconstructions based on rabbinic stories of specific events in which one can discern the motivations and interests of the primary actors are therefore problematic, and the stringing together of multiple stories into a coherent historical narrative compounds the problem. Rather than attempt this method, the following discussion uses a rather coarse chronology, retaining, for present

<sup>1</sup> S. D. Goitein, *A Mediterranean Society*, 6 vols. (Berkeley, 1967–93), 1:18.

<sup>2</sup> E.g., C. Hezser, *Social Structure of the Rabbinic Movement* (Tübingen, 1995).

purposes, the conventional distinction between the “tannaitic” and “amoraic” periods (that is, approximately pre- and post-dating the early third century), and only tentatively proposes developments within those periods. The focus, furthermore, is not on individual rabbis and their contributions – unrecoverable in most cases – but on such “structural” problems as geographical distribution, institutionalization and its limits, and social location, which may better allow one to locate the development of the rabbinic movement in its Roman provincial context.<sup>3</sup> In addition, rabbinic accounts of their history are read as steps along the way to constructing a specifically rabbinic past.

## II UNRECOVERABLE ORIGINS

The origins of the rabbinic movement are not recoverable with any specificity. Conventionally, those origins have been traced to pre-70 antecedents (usually identified with Pharisees), the post-70 academy at Yavneh, and the establishment of the Gamalielide Patriarchate. The story of Yoḥanan ben Zakkai’s founding of Yavneh, fundamental to this convention, illustrates what is problematic about the entire approach. In fact, this classic story varies (four versions are extant, one omitting Yavneh altogether) and includes unlikely details and chronological problems that make it impossible to rely upon it for historical reconstruction of the events described.<sup>4</sup> Since it appears only in relatively late texts, it may well have been created exegetically, at least partially to explain the traditional association of Yoḥanan with Yavneh.<sup>5</sup> Potentially more productive are attempts to identify underlying interests and groups that shaped the traditions that we have – for example, priests’ opposition to Yoḥanan ben Zakkai (Büchler, Alon); priests’, scribes’, and householders’ respective contributions to the Mishnah (Neusner); “Akiban opposition” to the prerogatives of the Palestinian Patriarch (Baumgarten)<sup>6</sup> – however, in practice these prerogatives have been highly schematized or reliant on the dubious historicity of individual narratives, early and late.

<sup>3</sup> S. Schwartz, *Imperialism and Jewish Society, 200 BCE to 640 CE* (Princeton, 2001); and H. Lapin, *Economy, Geography, and Provincial History in Later Roman Palestine* (Tübingen, 2001).

<sup>4</sup> *Lam. R.* 1.31 (Vilna ed.) to 1.4; *BT Git.* 56a–b; *ARN a1* (ed. Schechter, 22–4); *ARN b6* (ed. Schechter, 19).

<sup>5</sup> See also the story of the deposition of Gamaliel and the temporary appointment of Eleazar ben Azariah: *PT Ber.* 4.1, 7c–d; *BT Ber.* 27b–28a.

<sup>6</sup> A. Büchler, *Ha-kohanim ve-Avodatam*, trans. N. Ginton from *Die Priester und die Kultus* (Jerusalem, 1966), 15–20; see also G. Alon, “*Nesuto sbel Rabban Yoḥanan ben Zakkai*,” in idem, *Studies in Jewish History* (Tel-Aviv, 1957–8), 1 255–9 (Hebrew); also A. I. Baumgarten, “The Akiban Opposition,” *HUCA* 50 (1979), 179–97; and J. Neusner, *Judaism: The Evidence of the Mishnah* (Chicago, 1982), 230–56.

The following paragraphs discuss those same three issues – Pharisaic antecedents, Yavneh, and the Patriarchate – with attention to traditions in corpora that are generally (not universally) considered “early” (that is, “tannaitic” texts, excluding *baraitot* in the Talmuds, and *ARN.*). This approach does not guarantee the historicity of individual traditions, but it does point to “historical” assumptions or claims that were known or used at earlier periods. Within that early material are areas of fundamental ambiguity (in connection with both Pharisees and Gamaliel) and of contest (particularly over Gamaliel’s status). Perhaps more important, traditions about Yavneh underscore the apparently circumscribed and specialized concerns that this early literature associated with rabbis. Instead of casting rabbis as the autonomous and widely acknowledged Jewish leadership of post-70 Palestinian Jews (as older scholarly convention does), these concerns make rabbis look rather more like Second Temple “sectarian” groups.

Rabbinic texts, particularly from Palestine, do not identify rabbis with Pharisees.<sup>7</sup> They do claim as early or proto-rabbinic certain individuals identified by Josephus and the New Testament as Pharisees;<sup>8</sup> they give *perushim* (presumably “Pharisees”) the last word in traditions about disputes and present their views as corresponding to rabbinic rules;<sup>9</sup> in addition, they echo concerns about purity and tithing that the Gospels assign to Pharisees.<sup>10</sup> It is possible that early rabbinic literature minimizes or suppresses a strong genealogical connection with Pharisees as a group. If such is the case, this suppression may be due to a rabbinic interest in claiming to speak to and for all of Israel, to shifts in ideology or in the memberships that distinguished “Pharisees” from their post-70 rabbinic successors, or to the concerns of the much later tradents who formulated, transmitted, or edited the material. Nevertheless, it remains possible that only a fairly weak historical connection with Pharisees existed (for example, in the person and family heritage of Gamaliel) that was subsequently amplified in the longer history rabbis constructed for themselves.<sup>11</sup>

<sup>7</sup> S. J. D. Cohen, “The Significance of Yavneh: Pharisees, Rabbis, and the End of Jewish Sectarianism,” *HUCA* 55 (1984), 27–53.

<sup>8</sup> Josephus, *Ant.* 14.172–6; 15.3, 370 (Samaias, plausibly the rabbinic Shammai or Shemaya); Acts 5.34 (Gamaliel I); Josephus, *Vita* 191 (Simeon ben Gamaliel). Note also the (post-70) rhetoric of Pharisees and “those called rabbi by men” in Matt. 23.1–12; see also Lapin, *ABD*, s.v. “Rabbi, Rabboni.”

<sup>9</sup> *M. Yad.* 4.6–8. Cf. *M. Bava K.* 8.4; *M. Tob.* 1.4; *M. Makhsb.* 5.9; *M. Yad.* 3.5.

<sup>10</sup> Purity, e.g., Mark 7.1–23; Matt. 23.25–6; Luke 11.39–41; tithing: Matt. 23.23; Luke 11.42.

<sup>11</sup> E.g., in *M. Avot* 1–2. Unfortunately, this material is hardly determinative and might alternatively be read as casting a “Pharisaic” heritage as a genealogy of “Torah.”

As for the Palestinian Jewish Patriarch (*nasi*), nothing in early texts requires that the Romans created or authorized the Gamalielide Patriarchate as the autonomous Jewish leadership.<sup>12</sup> Clear evidence for such authorization arises only in Roman legal texts from the late fourth and early fifth centuries, possibly a short-lived administrative experiment under substantially altered circumstances.<sup>13</sup> The evidence of Origen in the third century implies that the Patriarch acted outside official authority in trying cases, although Roman provincial officials themselves may have been complicit in the Patriarch's ascendancy – perhaps a measure of the limitations of the Roman state.<sup>14</sup> The traditions of the interactions of “Judah the Patriarch” with “Antoninus” (assuming that they refer to an emperor), if at all historical, similarly do not imply any formal authority.<sup>15</sup> The Mishnah states that Gamaliel was once absent “to get authorization/permission (*reshut*) from the governor (?) in Syria.”<sup>16</sup> This tradition can be and has been read to mean that a special status or benefit was conferred on him by a Roman official, although the occasion, duration, and content of such a grant are entirely unspecified. However, it may imply instead that at a fairly early date, rabbinic circles were enmeshed with a prominent scion of the old Jerusalem aristocracy who could court the patronage or (at times perhaps unwanted) attention of Roman officials.<sup>17</sup>

The title *ba-nasi* (usually “the Prince” or “the Patriarch”) is first attached to Judah, traditionally Gamaliel's grandson.<sup>18</sup> Patriarchal claims to Davidic and possibly Hillelide descent also appeared to originate only in the early third century or later, possibly in connection with Judah.<sup>19</sup> In a

<sup>12</sup> G. Alon, *Toldot ha-Yebudim be-Eretz Yisrael betekufat ha-mishnah ve-ha-Talmud* (Tel-Aviv, 1953–7), II 111 n. 127; he notes the absence of evidence that Gamaliel's successor, Simeon ben Gamaliel, had such authorization.

<sup>13</sup> The relevant texts are *CTb* 16.8.9 (393), 11 (396), 13 (397), 14 (399), 15 (404), 17 (404), 22 (415), 29 (429), presumably 2.1.10 (398). Whether 16.8.1 (329) already presupposes a “patriarchate” of this kind is less clear. The relevance of *CJ* 3.13.3 (293) is unclear.

<sup>14</sup> Origen, *Ep. ad Afric.* 20.14 (*PG* XI: 81–83); see also *De Princip.* 4.3 (*GCS* v 297); *Sel. in Ps.* (*PG* XII 1056B); see the discussion and bibliography in M. Jacob, *Die Institution des jüdischen Patriarchen* (Tübingen, 1998), 248–58.

<sup>15</sup> E.g. *Mekb. Shira* 2.6 (ed. Horovitz, 125, 137); *PT Meg.* 3.2, 74a; *Gen. R.* 11.4 (ed. Albeck, 90); *Lev. R.* 10.4 (ed. Margalio, 203); *BT Av. Zar.* 10a–11a.

<sup>16</sup> *M. Ed.* 7.7; For *hegemon* as provincial governor in Judaeon documents see *PT Yadin* 14.30; 15.10, 28, 25.

<sup>17</sup> Cf. *Sifre Deut.* 344, 351 (ed. Finkelstein, 401, 408).

<sup>18</sup> See *M. Avot* 2.2; *BT Sot.* 3.16; 6.8; *Mekb. Yitro* 2 (ed., Horovitz and Rabin, 202). The title in “Rabban Gamaliel the son of Rabbi Judah the *nasi*” may refer to the father.

<sup>19</sup> I. Lévi, “L'Origine Davidique de Hillel,” *REJ* 30 (1895), 202–11. D. Goodblatt, *The Monarchic Principle* (Tübingen, 1994), 174–5, challenges descent from Hillel as well.

few passages involving figures earlier than Judah, *nasi* more or less unambiguously refers to a central position of authority.<sup>20</sup> One member of each of the pairs of rabbinic antecedents listed in *M. Hagiga* 2.2 is called *nasi* (possibly assigning that title to Shammai, not Hillel) perhaps as head of the (fictive) Sanhedrin.<sup>21</sup> Gamaliel is connected to the position of *nasi* once as head of the Sanhedrin and once with royal associations, but in both cases this position may be the result of (late) editorial activity.<sup>22</sup> None of these traditions requires a date earlier than the third century.

The assignment to Gamaliel of some special role may be part of a developing “patriarchal” ideology. The presence in *M. Avot* of Gamaliel and his descendants (into the third century) in direct succession from Moses at Sinai through Hillel and Shammai alongside a competing line culminating with Yoḥanan ben Zakkai and his disciples, points to the emergence of such an ideology and to its potentially contested character.<sup>23</sup> Some aspects of the role assigned to Gamaliel may plausibly be dated earlier, particularly his association with calendrical adjustments.<sup>24</sup> However, precisely this role is also the setting for questions about his authority: Gamaliel’s absence to get *reshut* raises the issue of “the court[’s]” ability to intercalate in his absence,<sup>25</sup> and a dramatic story of the challenge to the authority of the “court of Rabban Gamaliel” and its reassertion centers on calendrical matters.<sup>26</sup> Even as an internal rabbinic matter, the patriarchate of Gamaliel and its significance for an emerging rabbinic movement is hardly secure except in retrospect and as a matter of some controversy.

In the Mishnah, Yoḥanan ben Zakkai and Gamaliel are given strong associations with Yavneh.<sup>27</sup> The attribution to Yoḥanan of “enactments” with a formula that is otherwise used for “patriarchal” figures and the response of those enactments to the destruction of the Temple suggest a construction of his role as significant, perhaps as a kind of

<sup>20</sup> Cf. *M. Taan.* 2.1; *M. Ned.* 5.5, both readable as references to (idealized) local village leadership; *Tos. Pes.* 4.14 (cf. *PT Pes.* 6.1, 33a; *BT Pes.* 66a): regarding Hillel, not clearly an appointment to a generally powerful position; and the numerous discussions of biblical usage (with what contemporary resonance?), especially *Lev.* 4.22–3.

<sup>21</sup> Cf. *Tos. Hag.* 2.8 (making Hillel *nasi*).

<sup>22</sup> *Tos. Shabb.* 7.18 (cf. *Tos. Sanb.* 4.3); *Tos. Sanb.* 8.1, with Goodblatt, *Monarchic Principle*, 187–90.

<sup>23</sup> *M. Avot* 1.16–2.4; 2.8–14, with overlapping material in *ARN*.

<sup>24</sup> Goodblatt, *Monarchic Principle*, 200–7.

<sup>25</sup> *M. Ed.* 7.7; cf. *Tos. Sanb.* 2.13–14, with S. Kanter, *Rabban Gamaliel II: The Legal Traditions* (Chico, 1980), 173; *M. Rosh H.* 4.4.

<sup>26</sup> *M. Rosh H.* 2.8–9, with Kanter, *Gamaliel*, 108–11.

<sup>27</sup> Yoḥanan ben Zakkai: *M. Shek.* 1.4; *M. Rosh H.* 4.1. Gamaliel: *M. Rosh H.* 2.8–9; *M. Kel.* 5.4.

(re)founder.<sup>28</sup> Other tannaitic corpora do not appear to place Yohanan explicitly at Yavneh, but do locate Gamaliel there (and his son Simeon attests to practice there from personal memory) and make explicit a Yavnean role for Eleazar ben Azariah (according to the late-attested story of Gamaliel's deposition, a temporary *nasi*).<sup>29</sup> A "mythology" of Yavneh also appears more developed in "tannaitic" texts other than the Mishnah in terms of both "institutionality" (practices of the court of Gamaliel; a "week" or "Sabbath" for a particular sage – specifically Eleazar ben Azariah)<sup>30</sup> and ideology (heavenly voices and merit to receive the Holy Spirit; the preservation of Torah).<sup>31</sup> A dispute over which places may follow the ritual practice of the Temple – Yavneh or "any place where there is a court (*beit din*)" – may echo contestation over claims about Yavneh's special role as successor to Jerusalem.<sup>32</sup>

The comparison between Yavneh and "any place where there is a *beit din*" (here, apparently, an archetypal authorized gathering of rabbis) underscores one of the two prominent roles Yavneh plays in early rabbinic texts: it is a place where legal traditions are confirmed or debated by experts and where matters are brought before sages for discussion or

<sup>28</sup> Yohanan ben Zakkai: M. *Suk.* 3.12 (M. *Rosh H.* 4.3; *Sifra, Emor* 16.9 [ed. Weiss, 102s]); 4.1, 4; M. *Men.* 10.5 (Tos. *Men.* 10.26; *Sifra, Emor* Par. 10.10 [ed. Weiss, 100c]); also Tos. *Rosh H.* 2.9. Other "enactments": Hillel: *Maas. Sh.* 10.3 (M. *Gitt.* 4.3); M. *Ar.* 9.4 (*Sifra, Be-bar* Par. 4.8 [ed. Weiss, 108d]); Gamaliel the Elder: M. *Rosh H.* 2.5; M. *Gitt.* 4.2, 3. "Enactments" not in the Mishnah: Simeon ben Shetah: Tos. *Ket.* 12.1; Judah the Patriarch: Tos. *Rosh H.* 1.14. See also Alon, "Nesuto," 255 nn. 7–8. Surprisingly, such enactments are not attributed to Gamaliel in the Mishnah but appear in the Tosefta, in some cases to be attributed to Gamaliel III, son of Judah the Patriarch: Tos. *Kil.* 4.1; Tos. *Shev.* 1.1; 6.27; see S. Lieberman, *Tosefta Ki-Fshutah* (New York, 1955–88), 11 482–3, 569–70).

<sup>29</sup> Gamaliel: Tos. *Ber.* 2.6; Tos. *Sanh.* 8.1; *Sifre Deut.* 1 (ed. Finkelstein, 4) (cf. *Sifra, Kedoshim* 4.9 [ed. Weiss, 89b], Yavneh is lacking). Simeon ben Gamaliel: Tos. *Rosh H.* 2.11 (*Sifra, Emor* Par. 11.5 [ed. Weiss, 101d]). Eleazar ben Azariah: Tos. *Sot.* 7.9–12, *Mekb. Bo* 16 [ed. Horovitz, Rabin, 58–9]; see already M. *Ket.* 4.6 (not unlike other sages' activity at Yavneh: M. *Shek.* 1.4; M. *Ed.* 2.4; M. *Bekb.* 6.8; see also Tos. *Kel.*, BT *Bava B.* 5.6; Tos. *Nid.* 6.5); M. *Yad.* 3.5–4.4 (not localized at Yavneh). The connection of Tarfon with Yavneh, otherwise associated with Lydda in *Mekb. Beshallah* 5 (ed. Horovitz and Rabin, 106) (cf. Tos. *Bekb.* 4.16, Yavneh absent); *Sifre Num.* 118 (ed. Horovitz, 138); 124 (ed. Horovitz, 158–9) (cf. Tos. *Mikv.* 7.11, Lydda; see also 7.10), may reflect the interference of a growing tradition of Yavnean centrality.

<sup>30</sup> Gamaliel's court: Tos. *Sanh.* 8.1; see also *Sifre Deut.* 1 (ed. Finkelstein, 4) (cf. *Sifra, Kedoshim* 4.9 [ed. Weiss, 89b]). Sabbath of Eleazar ben Azariah: Tos. *Sot.* 7.9–12; *Mekb. Bo* 16 (ed. Horovitz and Rabin, 58–9).

<sup>31</sup> Heavenly voice: Tos. *Sot.* 13.4; cf. 13.3. Preserving Torah: Tos. *Ed.* 1.1.

<sup>32</sup> M. *Rosh H.* 4.1.

determination.<sup>33</sup> In the Mishnah, the legal profile of matters said explicitly to have been discussed at Yavneh is in part utopian (the place of Yavneh in the Jerusalem-centered court system; priests' payment of the Temple tax now collected by Roman officials) and in general quite limited, concentrating on purity or biblical agricultural rules that, as rabbis themselves acknowledged, will have marked off *amme ba-aretz* from themselves, with only one foray into contractual or marital law.<sup>34</sup> The other tannaitic texts broaden the repertoire to a certain extent but nevertheless limit it to the concerns of specialists.<sup>35</sup>

The second major area in which Yavneh's role is highlighted, particularly in the Mishnah, is regulation of the calendar. Yavneh may have been seen by rabbis (perhaps only in retrospect) as representing Jerusalem in some liturgical and calendrical capacities.<sup>36</sup> It is certainly possible (and it would have been good promotion) that rabbis orchestrated elaborate procedures for setting the calendar; and the story of the contest to Gamaliel's calendrical authority sets the stakes quite high.<sup>37</sup> However, nothing is known about calendar-setting in post-70 Palestine outside rabbinic texts. The calendar was a significant point of division in earlier and later "sectarian" conflicts. Early rabbinic calendar-setting (and intra-rabbinic conflicts over it) is perhaps better seen as marking rabbis as a distinctive circle of practitioners. Indeed, a passage in the Tosefta appears to make the lack of universal or automatic recognition of rabbinic calendrical adjustments explicit.<sup>38</sup>

<sup>33</sup> Attestation, debate: e.g., *M. Sanh.* 11.4; *M. Ed.* 2.4 (cf. *Tos. Yev.* 2.9); *M. Bekb.* 6.8 (*Tos. Bekb.* 4.11); *Tos. Yev.* 6.6; *Tos. Yev.* 10.3 (*Sifre Deut.* 247 [ed. Finkelstein, 276]); *Tos. Hull.* 3.10; *Tos. Nid.* 6.5 (note contestation here); *Sifre Num.*, *Korab* 118 (ed. Horovitz, 138). Bringing legal matters: see, e.g., *M. Kel.* 5.4; *M. Para* 7.6; *Tos. Kil.* 1.3–4; *Tos. Hull.* 3.10; *T. Kel.*, *BT Bava B.* 5.6; *Tos. Mikw.* 4.6; *Tos. Nid.* 4.3–4.

<sup>34</sup> Yavneh and courts: *M. Sanh.* 11.4 (the punishment of a dissenting "elder"; see also *Sifre Deut.* 153, 154 [ed. Finkelstein, 206, 207]). Priests and temple tax: *M. Shek.* 1.4. Purity: *M. Ed.* 2.4 (*Tos. Yom* 2.9); *M. Kel.* 7.6; *M. Par.* 7.6 (*Tos. Par.* 7[6].4); also *Tos. Kel.*; *BT Bava B.* 5.6; *Tos. Mikw.* 4.6; *Tos. Nid.* 4.3–4; *Sifre Num.* 124 (ed. Horovitz, 158–9). Contracts, marriage: *M. Ket.* 4.6. Agricultural laws: *M. Ed.* 2.4; *Tos. Yead.* 2.16. Note also the rules on firstborn animals: *M. Bekb.* 6.8 (*Tos. Bek.* 4.11); also *Sifre Num.* 118 (ed. Horovitz, 138).

<sup>35</sup> Marriage and marriageability: *Tos. Yev.* 6.6; *Tos. Yev.* 10.3 (*Sifre Deut.* 247 [ed. Finkelstein, 276]); *Tos. Nid.* 6.5. Permissibility of slaughtered animals: *Tos. Hull.* 3.10. Liturgical formulas: *Tos. Rosb H.* 2.8; see also *Mekb. Beshallah* 5 (ed. Horovitz and Rabin, 106).

<sup>36</sup> *M. Rosb H.* 4.1–2. The place of the court of Yavneh in the setting of the calendar, *M. Rosb H.* 2.8–9, follows immediately on the description of Jerusalem procedure, 2.5–7.

<sup>37</sup> *M. Rosb H.* 2.8–9, with possible resonance to *1QpHab* 11.7–8.

<sup>38</sup> *Tos. Sanh.* 2.13.



## III THE DEVELOPMENT OF THE RABBINIC MOVEMENT

The preceding survey underscores the limits of our knowledge about rabbinic origins, although it is at least consistent with the formation of a group with a highly specialized set of interests and concerns. Patristic, legal, and epigraphic evidence raises the possibility that rabbis in Palestine had emerged as a group with some prominence by late antiquity. In the fourth century, for instance, and particularly late in the century, garbled references appear to the transmission of rabbinic tradition and to *deuterosis* (perhaps translating a form of *snb/tny*, the roots of several rabbinic technical terms for “study” or “transmission”); this phenomenon may, however, begin with Origen in the third century.<sup>39</sup> The earliest of the few epigraphic texts that may be connected with rabbinic circles (that is, not merely using *rabbi* as an honorific title) is not necessarily earlier than the fifth century.<sup>40</sup> The development of *piyyut* (in Palestine) and *Heikhalot* literature (perhaps in Babylonia) as sub-rabbinic genres also suggest a rise to prominence by the end of antiquity in both regions in which the rabbinic movement flourished.<sup>41</sup>

At the same time, classical rabbinic literature implies that rabbis were never as authoritative as they claimed to be as judges or as the co-ordinators of the ritual life of Jews except among their adherents.<sup>42</sup> Preserved marriage documents from the Judean desert contemporaneous with the early rabbinic period just considered, for instance, do reveal that rabbis commented on current documentary practice. However, the scribes who produced those documents either did not know or disagreed with Eleazar ben Azariah’s reading of the clause qualifying a father’s obligation to support his daughters.

<sup>39</sup> Eusebius, *Praep. Ev.* II.5.3; II.1.3, 4.2 (GCS XLIII 2, II, 88, 90); Epiphanius, *Panarion* 15.2.1; 33.9.4; 42.11 (GCS XXV 209–10, 459; XXXI 135–6); Jerome, *Com. in Abacuc* I (to 2.15) (CCSL LXXVIA 610); *Epistulae* 121 (CSEL LVI 48–9); *Com. in Esaiam* 3 (to Isa. 8.11–5) (CCSL LXXIII 116); Justinian, *Novellae* 146.1 (553). See also Origen, *Commentary to Song of Songs*, Prologue (GCS VIII 62) has analogies to *M. Hag.* 2.1 (but *deuterosis* here refers to biblical passages not taught to children).

<sup>40</sup> J. Naveh, *On Mosaic and Stone* (Jerusalem, 1978) (Hebrew), n. 6 (Dabbura); 49 (Rehov); *CIJ* I 611 (*JIVE* I 86, Venosa, Italy). For the late antique floruit for the Jewish sites in the lower Golan, see Z. U. Ma’oz, “[Golan:] Hellenistic Period to the Middle Ages,” *NEAHL* I 539–45 (although without assigning the inscription a late date).

<sup>41</sup> Y. Yahalom, *Poetry and Society in Jewish Galilee of Late Antiquity* (Tel-Aviv, 1999) (Hebrew); M. D. Swartz, *Scholastic Magic: Ritual and Revelation in Early Jewish Mysticism* (Princeton, 1996), especially 209–29.

<sup>42</sup> Judges: for example, see *PT Sanh.* I.1 (18a); and see H. P. Chajes, “*Les Juges juifs en Palestine de l’an 70 à l’an 500*,” *REJ* 39 (1899), 39–52; G. Alon, “Those Appointed for Money,” in Alon, *Studies* II 15–57. Ritual life: e.g., L. I. Levine, *The Ancient Synagogue* (New Haven, 2000), 440–70.

Precisely the matter of maintaining children (and wives) is one in which scribes or their clients availed themselves of other documentary forms, one notably invoking “Greek” law or custom.<sup>43</sup> It now also seems that one document attests to a woman enacting her own divorce as opposed to the standard rabbinic construction of the right of divorce.<sup>44</sup>

The kind of “movement” these circles of ritual and legal specialists will have constituted is also unclear. One important recent reconstruction has taken the ubiquity of disputes, a characteristic of all classical rabbinic works, to reflect more effectively a fragmented, highly fissile, network of personal associations and allegiances, lacking consensus on all but the most basic and general issues.<sup>45</sup> Rabbinic traditions rationalize, explain away, or in other ways express anxiety over the presence of disputes.<sup>46</sup> However, the preservation of disputes within a formalized framework may also simultaneously constitute a specialized rabbinic discourse in which such disputes could occur.<sup>47</sup>

Moreover, the redaction of early rabbinic texts themselves may reveal the faultlines of an ongoing tension between a potentially centrifugal, fissile, and conflictual network and countervailing attempts to consolidate or invent a specifically rabbinic “tradition.”<sup>48</sup> The Mishnah, in its extended legal sweep and more specifically in its citation, adaptation, and appropriation of existing source material, may be read as a grand formalization of rabbinic Torah.<sup>49</sup> The characteristic rhetoric and syntax of the Mishnah, like the peculiar logical structures and hermeneutical obsessions of the tannaitic midrashim and the technical terminology and citationality of the Talmuds, are the work of and addressed to (even “constitute”) audiences of insiders who can make sense of them.<sup>50</sup> Some of the Mishnah’s source

<sup>43</sup> M. Ket. 4.6. Compare P. *Hever* 11, 65, 69 (P. *Yadin* 37); P. *Murrabba'at* 20, 21, 115, 116, P. *Yadin* 10, 18.

<sup>44</sup> P. *Hev.* 13; cf. M. *Yev.* 14.1. This view remains contested.

<sup>45</sup> C. Hezser, *The Social Structure of the Rabbinic Movement* (Tübingen, 1995); idem, “Social Fragmentation, Plurality of Opinion, and Non-observance of Halachah: Rabbis and Community in Late Roman Palestine,” *JSQ* 1 (1993–4), 234–51.

<sup>46</sup> E.g., M. *Taan.* 3.8; M. *Rosh H.* 2.8–9; M. *Yev.* 1.4; M. *Ed.* 1.4–6; 5.6; Tos. *Hag.* 2.9 (Tos. *Sanh.* 7.1); Tos. *Sot.* 7.12.

<sup>47</sup> Note, for example, the projection on to Hillelites and Shammaites disputes in terms of later generations; J. Neusner, *A History of the Mishnaic Law of Purities*, Part 17: *Makhsirin* (Leiden, 1977), 202–20; and the creation of a “genealogy” of dispute over several pre-rabbinic generations in M. *Hag.* 2.2.

<sup>48</sup> These paragraphs summarize one line of argument in H. Lapin, *Early Rabbinic Civil Law and the Social History of Roman Galilee* (Atlanta, 1995).

<sup>49</sup> See, e.g., Tos. *Ed.* 1.1.

<sup>50</sup> See S. Fraade, *From Tradition to Commentary: Torah and its Interpretation in the Midrash Sifrei to Deuteronomy* (Albany, 1991); and D. Kraemer, *The Mind of the Talmud* (Oxford, 1990).

material may originate in circles with special regard for specific figures<sup>51</sup> and may in turn reflect earlier consolidation efforts undertaken at the level of such circles. Taken as a whole, the Mishnah gives the appearance (whether or not due to pseudepigraphic attributions) of favoring certain lines of transmission: Akiva and four of his traditional disciples, Meir, Shimon, Judah, and Yose.<sup>52</sup>

These processes of consolidation, traceable largely through the texture of literary remains, can be dated only approximately. In the case of the Mishnah, the use of source material allows one to push partial or competing attempts at consolidation back into the second century; the linguistic and rhetorical coherence of the Mishnah (which cannot be entirely attributed to the final redactors) suggests chronological and social proximity. Some scholars continue to argue that substantial portions of the other “tannaitic” works reflect collection or composition pre-dating the Mishnah.<sup>53</sup> If so, the Mishnah may be one among several projects of formalization, some perhaps in competition with one another. Since, in the form in which they have come down, those same tannaitic corpora are largely the editorial products of a period contemporary with or later than the redaction of the Mishnah, the redaction of the Mishnah cannot be seen as the culmination of the consolidation process either. Portions of the so-called “Ishmael” midrashim (notably the *Mekhilta* and *Sifre Numbers*) favor a slightly different line of transmission from that of the Mishnah (whether or not they really derive from the “school” of Ishmael); one strain in the formation of the tannaitic midrashim (especially *Sifra*) may be a critique of the Mishnah’s failure to root its legal traditions in Scripture; and Lieberman long ago argued that *Sifre Zutta* presupposed a different mishnah from “the” Mishnah.<sup>54</sup>

Moving forward into the “amoraic” period, one can ask about the role the Mishnah and other seemingly “tannaitic” traditions played in the shaping

<sup>51</sup> E.g., Lapin, *Civil Law*, 113–5.

<sup>52</sup> Hence the role played, especially by Akiva and Meir, in theories of the Mishnah’s redaction; see H. L. Strack, rev. G. Stemberger, *Introduction to the Talmud and Midrash*, trans and ed. M. Brockmuehl (Philadelphia, 1992), 124–6, 129–33.

<sup>53</sup> Strack and Stemberger, *Introduction*, 250–1 (and to the individual texts); S. Friedman, “The Primacy of Tosefta in Mishnah–Tosefta Parallels – Shabbat 16, 1, *kol kitve kodesh*,” *Tarbiz* 62 (1993), 313–38 (Hebrew); J. Hauptman, “Mishnah as a Response to ‘Tosefta,’” in S. J. D. Cohen (ed.), *The Synoptic Problem in Rabbinic Literature* (Atlanta, 2000), 13–34. Cf. Lapin, *Civil Law*, 311–29.

<sup>54</sup> Strack and Stemberger, *Introduction*, 152–5, 245–51; see also J. Neusner, “The Documentary Form-History of Rabbinic Literature I,” in idem (ed.), *Approaches to Ancient Judaism* (Atlanta, 1997), 88–90 (a summary statement); and S. Lieberman, *Sifre Zutta (The Midrash of Lydda)* (New York, 1968).

and preservation of rabbinic legal materials.<sup>55</sup> In the limited case of the Palestinian Talmud tractate *Shevi'it*, half or more of all traditions in every post-Mishnaic generation after the first (that is, from the mid-third century onward) are dependent on the Mishnah or some other “tannaitic” tradition (*baraita*). Moreover, it appears that dependence upon the Mishnah in particular played a significant role in selecting which (or at least how) statements of post-mishnaic rabbis were transmitted. This dependence is particularly strong for those rabbis belonging conventionally to the second generation (mid-third century). The high degree of dependence may reflect the emergence of a more or less authoritative body of legal or exegetical traditions. At any rate, the pattern of traditions dependent upon the Mishnah suggests (it can do no more) that the Mishnah had emerged as a curricular document for mid-third-century rabbinic circles.<sup>56</sup> At the same time, a substantial minority (between a fifth and a quarter) of “amoraic” rabbinic statements are said by one rabbi in the name of another. Nearly all of these statements are attributed to rabbis conventionally dated to the latter part of the third century and later. This attribution suggests (but no more) the emergence of a self-consciously “amoraic” rabbinic tradition that appears to antedate the redaction of the Palestinian Talmud itself. Despite substantial differences in the cultural history of Palestinian and Babylonian rabbis, in this respect analogous processes appear to shape and preserve amoraic tradition.<sup>57</sup>

It is possible, then, to hypothesize that however rabbis first emerged (perhaps as mutually independent masters and their disciples), the second half of the second century saw the articulation and consolidation of a tradition whose culmination can be seen in the Mishnah and possibly in other works; that tradition may have served as the basis for the development of a more or less coherent, if nevertheless fractious and fissile, movement in the third and fourth centuries. Beyond this movement, philosophical schools and voluntary associations offer possible models for imagining the emergence of the rabbinic movement as a local variation on Graeco-Roman forms of association. An analogy with philosophical schools is suggested by the genealogy of rabbinic Torah and the collected wise sayings in *M. Avot* and their amplifications in *Avot de-Rabbi Natan* (the latter certainly, and the former possibly, reflecting post-tannaitic developments);

<sup>55</sup> The following is based on H. Lapin, “Institutionalization, Amoraim, and Yerushalmi *Shevi'it*,” in P. Schäfer (ed.), *The Talmud Yerushalmi and Graeco-Roman Culture* (Tübingen, 2002), III 161–84.

<sup>56</sup> See also J. N. Epstein, *Mavo le-nusah ha-mishnah* (Jerusalem, 1948), 595–672.

<sup>57</sup> Mishnah: see B. M. Bokser, *Samuel's Commentary on the Mishnah*, Part I: *Mishnayot on the Order of Zera'im* (Leiden, 1975). For more on the Amoraic tradition, see D. Kraemer, “On the Reliability of the Attribution in the Babylonian Talmud,” *HUCA* 60 (1989), 175–90; idem, *Mind*.

in the use of stylized anecdotes (*kbreiai*) and the insistence on discipleship and possibly in rabbis' mobility and in the barest hints of esoteric, cosmological knowledge, all of which are adumbrated in "tannaitic" corpora although more developed in later texts.<sup>58</sup> Political language used to describe rabbis (notably *beit din*, "court," and conflation with the high court of Jerusalem<sup>59</sup>), invite analogies – again in a more locally specific cultural idiom – with the rhetoric of the *polis* in Roman-period voluntary associations.<sup>60</sup> The concern with table fellowship and particularly with the format of meals and the prescription of at least one ritual banquet (on Passover) fit approximately with this model as well.<sup>61</sup>

In addition, concern with "table fellowship" links rabbinic preoccupations with more distinctively Judaeian aspects of piety in cultic associations; purity regulations and priestly and levitical gifts from agricultural production are both confirmed at Qumran (purity far more amply) and, as noted above, specified as a concern of Pharisees in the New Testament.<sup>62</sup> These concerns dominate the material explicitly said to have been discussed at Yavneh, at least in the Mishnah, and they continued to be part of rabbinic legal work and the setting for rulings (where the texts purport to comment on people's actions by "Tannaim" early and late.<sup>63</sup> One may add to these characteristically "sectarian" concerns the bare possibility that in favoring deferred bride-wealth (*ketubah*) over dowry and early marriage of daughters and (more rarely mentioned) sons, early rabbis cultivated a distinctive marriage regime.<sup>64</sup> A passage in the Tosefta that expresses (and rejects) the perception that the pursuit of Torah was opposed to the conventional social obligations of marriage and reproduction betrays concern over

<sup>58</sup> Hezser, *Social Structure*, 130–2. Genealogies and "schools": A. Saldarini, *Scholastic Rabbinism* (Chico, 1982), developing insights of Fischel, Bickerman, and Goldin (see bibliography). *Kbreiai*: C. Hezser, "Die Verwendung der hellenistischen Gattung Chrie im frühen Christentum und Judentum," *JSJ* (1996), 371–439. Mobility: see the examples in Hezser, *Social Structure*, 165–71. Esoterica: M. Hag. 2.1; Tos. Hag. 2.1–7.

<sup>59</sup> E.g., M. Sanb. 11.4; Tos. Sanb. 8.1.

<sup>60</sup> See the "elders" of Acts 15 (modeled on Israelites in the desert?) and the Greek decree conventions of 15.22–3. See also J. P. Waltzing, *Étude Historique sur les Corporations Professionnelles chez les Romains* (Louvain, 1895); and F. Poland, *Geschichte des griechischen Vereinswesens* (1908; repr. Leipzig, 1967).

<sup>61</sup> E.g., M. Bekb. 8; M. Pes. 10.

<sup>62</sup> Qumran: 4Q266.6.4; 4Q270.3; 4Q271.2; purity material is reviewed in H. K. Harrington, *The Impurity Systems of Qumran and the Rabbis: Biblical Foundations* (Atlanta, 1993), 47–110. New Testament: see n. 10 above.

<sup>63</sup> S. J. D. Cohen, "The Rabbi in Second Century Jewish Society," in *CHJ* III 961–74; Goodman, *State*, 94–110.

<sup>64</sup> For these issues most recently, see M. Satlow, *Jewish Marriage in Antiquity* (Princeton, 2000), 202–4, 104–9.

rabbinic practices of marriage that will have set rabbis apart.<sup>65</sup> Therefore, while it is true that no rabbi was said to be a member of a pietist *ḥavurah* whose rules are spelled out in the Mishnah and Tosefta,<sup>66</sup> it seems reasonable to wonder whether still, in the second century, interests in ritual requirements that reinforced strong social boundaries served as the organizing concerns of a substantial constituent of rabbinic circles.<sup>67</sup>

“Sectarian” tendencies may have dissipated by the time the Palestinian “amoraic” material was transmitted and compiled. In that literature *ḥaver* comes to mean simply “member of rabbinic circles.”<sup>68</sup> However, rabbis of the late third or early fourth century are said to rule on tithing matters<sup>69</sup> and may continue to be concerned with purity.<sup>70</sup> Texts that set relatively high boundaries – of comportment or relationships with *amme ha-aretz* – between rabbis and non-rabbis, although attributed to Palestinians, appear in the Babylonian Talmud. This view certainly reflects a redactional or compositional preference of the Babylonian Talmud (in which also the closest identification of Pharisees and rabbis occurs) to mark rabbis as distinct.<sup>71</sup> Whether it correspondingly reflects the suppression of similar material (and traces of social practices) in Palestinian editorial circles is unknown.

#### IV SOCIAL LOCATION

By some time in the third century, if not before, it is possible to talk about a rabbinic movement. By that time, there had emerged particular, if contested, constructions of the past and a developing literature that would in part serve as the model and classical substratum for subsequent material. To state the obvious, that movement consisted of Jewish males who were most likely literate, given their view of reading instruction as elementary. Less obviously, perhaps, rabbis as a group may generally have been well off, at least by local standards. To this limited extent and despite substantial differences in the

<sup>65</sup> T. *Yev.* 8.7. Later texts, e.g., *Gen. R.* 95 (ed. Theodor and Albeck, 1232) (*Lev. R.* 21.8 [ed. Margaliot, 484–7]), attribute long absences to early rabbis already dealt with in theory in M. *Ket.* 5.6.

<sup>66</sup> Especially M. *Dem.* 2.2–3; Tos. *Dem.* 2.2–19.

<sup>67</sup> Cohen, “Rabbis,” 969. Note, in general, that attributions among *ḥavurah* rules are middle- to late-second-century (“Ushan”) *Tannaim*; see also Büchler, *The Galilean Am Ha-Aretz* (Jerusalem, 1964) (Hebrew; trans. from German).

<sup>68</sup> M. Beer, “On the Havura in Eretz Israel in the Amoraic Period,” *Zion* 47 (1982), 178–85 (Hebrew).

<sup>69</sup> PT *Maasar* 1.3 (48d).

<sup>70</sup> PT *Ber.* 6 (20a) (Vat. ms. and Sirillo), with Alon, “The Bounds of the Laws of Purity,” in *Studies* 11 174 n. 106.

<sup>71</sup> R. Kalmin, *The Sage in Jewish Society of Late Antiquity* (London, 1999).

social and cultural formation of the two rabbinic communities, development of the rabbinic movement in Palestine seemed to parallel that in Babylonia.<sup>72</sup>

In Palestine, at least, none of these categories of social location is entirely straightforward. Rabbis were “Jewish,” more or less by definition, but precisely the way in which Judaism was constituted was substantially reshaped in late antiquity.<sup>73</sup> Rabbinic wealth has long been challenged (although frequently from the vantage point of rabbis’ popular representation).<sup>74</sup> Legal traditions, however, tend to presuppose a landed population of some means, and narratives, although hardly uniform, regularly assume wealth, with individual rabbis or their families (leaving aside the Patriarchs) described as having endowed synagogues or houses of study or as susceptible to service in the city councils when cities were increasingly under pressure to find new members.<sup>75</sup> Literacy correlated in complicated ways with wealth and social status in the Roman world (for example, the cultivation of learning on the part of elites, but writing as the work of retainers, free or slave), and little information is available about the social functions and cultural capital of specifically Hebrew or Aramaic literacy in Roman period Palestine.<sup>76</sup> Moreover, a rabbinic ideology of oral study and discipleship may have made space for non-literate rabbis.<sup>77</sup>

Rabbis’ “maleness” was culturally freighted already in the “tannaitic” period.<sup>78</sup> The possibility that rabbis cultivated peculiar marriage practices

<sup>72</sup> I. Gafni, *The Jews of Babylonia in the Talmudic Era: A Social and Cultural History* (Jerusalem, 1990) (Hebrew).

<sup>73</sup> In their different ways, see Schwartz, *Imperialism*, and D. Boyarin, *Dying for God: Martyrdom and the Making of Christianity and Judaism* (Stanford, 1999).

<sup>74</sup> Hezser, *Social Structure*, 257–66, for discussion and literature.

<sup>75</sup> For earlier rabbis, see Lapin, *Civil Law*; and S. J. D. Cohen, “Rabbi,” 930–7. For the later period, see, e.g., H. Lapin, “Rabbis and Cities: Some Aspects of the Rabbinic Movement in Its Graeco-Roman Environment,” in P. Schäfer and C. Hezner (eds.), *The Talmud Yerushalmi in Graeco-Roman Culture*, II (Tübingen, 2000), 53–4 n. 5.

<sup>76</sup> C. Hezser, *Jewish Literacy in Roman Palestine* (Tübingen, 2001); see also S. Schwartz, “Language, Power, and Identity in Ancient Palestine,” *Past and Present* 148 (1995), 3–47; and K. Haines-Eitzen, *Guardians of Letters: Literacy, Power, and the Transmitters of Early Christian Literature* (New York, 2000).

<sup>77</sup> M. Jaffee, *Torah in the Mouth* (Oxford, 1999).

<sup>78</sup> Recent literature includes C. M. Baker, *Rebuilding the House of Israel: Architectures of Gender in Jewish Antiquity* (Stanford, 2002); see also D. Boyarin, *Carnal Israel: Reading Sex in Talmudic Culture* (Berkeley, 1993); and S. J. D. Cohen, “Menstruants and the Sacred in Judaism and Christianity,” in S. B. Pomeroy (ed.), *Women’s History and Ancient History* (Chapel Hill, 1991); see also C. E. Fonrobert, *Menstrual Purity: Rabbinic and Christian Reconstructions of Biblical Gender* (Stanford, 2000); T. Ilan, *Jewish Women in Graeco-Roman Palestine* (Tübingen, 1995; rp. Peabody, 1996); M. B. Peskowitz, *Spinning Fantasies: Rabbis, Gender and History* (Berkeley, 1993); M. Satlow, *Jewish Marriage*; and J. R. Wegner, *Chattel or Person? The Status of Women in the Mishnah* (New York, 1988).

has already been raised. The terms in which rabbis in the Mishnah debate whether or not a daughter should be taught Torah embed women within a sexualized sinfulness.<sup>79</sup> The overlaps and disjunctures between rabbinic documentary assumptions and actual marriage deeds from the Dead Sea region, and Eleazar ben Azariah's comment about maintenance of daughters, suggest that a "normative" Jewish household might in practice be quite variable and ideologically subject to dispute and manipulation.<sup>80</sup> These examples are of a piece with the rabbinic construction, from the Mishnah onwards, of "normative" households as organized radially around a property-holding adult male, however demographically atypical these households may have been.<sup>81</sup>

In these areas, a broad if complicated continuity exists between earlier and later rabbis. One aspect of social location where there does appear to have been a significant change involved a residence pattern. Later rabbis – as early as those thought to date to the second half of the second century – are presented as primarily settled in Galilee. Galilean residence is frequently understood in terms of poorly documented and misunderstood ethnic and demographic shifts in Palestine set in motion by the suppression of the Judaeen Revolt of 66–70 and the Bar Kochba Revolt of 132–5 CE, but is in any case consistent with the distribution pattern of (substantially later) archaeologically confirmed synagogues as markers of "Jewish" populations.<sup>82</sup> In addition, whereas rabbis of the late first and second centuries appeared to be dispersed and frequently located by the texts in village contexts, later rabbis tend to be associated with a few large settlements administratively designated as cities: Sepphoris, Tiberias, Caesarea, and to a lesser degree Lydda.<sup>83</sup> As an aspect of social history, the significance of this designation has less to do with the relocation of rabbis to cities<sup>84</sup> than with rabbis' emergence as a late Roman provincial urban group who might recruit other urban Jewish men into their circles or draw mobile men

<sup>79</sup> *M. Sot.* 3.4. <sup>80</sup> See n. 43 above.

<sup>81</sup> H. Lapin, "The Construction of Households in the Mishnah," in J. Neusner and A. J. Avery-Peck (eds.), *The Mishnah in Contemporary Perspective* (Leiden, forthcoming).

<sup>82</sup> See Y. Tsafir, L. Di Segni, and J. Green, *Tabula Imperii Romani: Iudaea. Palaestina* (Jerusalem, 1994), 13–14 and the synagogues map.

<sup>83</sup> H. Lapin, "Rabbis and Cities: The Literary Evidence," *JJS* 50 (1999), 187–207; and idem, "Rabbis and Cities." For the earlier period, see also Cohen, "Rabbi," 937–41. See also Hezser, *Social Structure*, 157–65. The place of Yavneh and Lydda in tannaitic corpora suggests an earlier association with that which could be called *poleis* in a first- or a second-century context (e.g. Josephus, *Bell.* 2.156, 165–6, 515; see also Philo, *Legatio* 200; Ptolemy, *Geogr.* 5.15.3, 5 (5.16.4, 6); and see J. Schwartz, *Lod (Lydda): Israel From its Origins through the Byzantine Period, 600 BCE–640 CE* (Oxford, 1991), 79–99.

<sup>84</sup> Levine, *Rabbinic Class*, 25.



from the villages in the countryside into the cities,<sup>85</sup> recapitulating in some measure the predominance of cities in the provincial economic, administrative, and political geography. This historical embeddedness of the rabbinic movement in the social history of provincialization in Palestine seems clear from the third century onward. If there is some historicity to the Yavneh traditions (Yavneh was part of an imperial estate in the first century<sup>86</sup>), rabbis may have been embroiled in the politics of post-70 provincialization from the beginning.

The texts present rabbis as drawing on a provincial (sub-)elite.<sup>87</sup> However, no direct basis exists for evaluating the impact rabbis may have had on the greater population, although the apparent limits to the authority of rabbis as legal arbiters have been noted previously. Even the number of rabbis is effectively unknown. Approximately 500 Palestinian rabbis are identified by name, dating to the three centuries between 70 and the late fourth century CE.<sup>88</sup> Their distribution by generation has been shaped by processes of preservation and redaction (numbers assigned to the last generation of Tannaim in the Mishnah and of Babylonian and Palestinian Amoraim tend to dwindle) and in any case ought to represent a minimum, since not every rabbi was likely to be “remembered.” On the other hand, assuming high mortality rates and recruitment sufficient to maintain stable figures, the number of rabbis active at any one time should have been substantially lower than the sum total active over a “generation.”

It is worth considering, however, the implications of “urbanization” for a hypothetical (and purposely vastly exaggerated) stable population of 400 “rabbis” (teachers and committed disciples).<sup>89</sup> In the geographically diffuse setting that seemed to characterize first- and second-century rabbis, rabbis may have been notable when they gathered (perhaps at Yavneh or Lydda). It is worth noting that early rabbinic corpora do not provide any reason to

<sup>85</sup> R. S. Bagnall and B. W. Frier, *The Demography of Roman Egypt* (Cambridge, 1994), 164–8.

<sup>86</sup> As noted by Cohen, “Rabbis,” 938; see *GLAJJ* 1 473.

<sup>87</sup> Cf. P. Brown, *Poverty and Leadership in the Later Roman Empire* (Hanover, 2002).

<sup>88</sup> “Tannaim”: H. Albeck, *Introduction to the Mishnah* (Jerusalem and Tel-Aviv, 1959) (Hebrew), 216–33 (about 100 in the Mishnah); M. S. Zuckerman, *Supplement zu Tosefta* (1881), rp. with Tosefta (Jerusalem, 1970), xxxi–xlii (approximately 120 titled rabbi, excluding some who clearly should be counted in any enumeration of “rabbis”). “Amoraim”: H. Albeck, *Introduction to the Talmud, Babli and Yerushalmi* (Tel-Aviv, 1969) (Hebrew) includes 367 (see the tabulation in Levine, *Rabbinic Class*, 69).

<sup>89</sup> The most “populous” generation (the third generation of “Amoraim”) had 135 people; a male death rate, for example, of 25 per 1,000 (see Bagnall, Frier, *Demography*, 105) over a 30-year period implies some 77 rabbis at any one time. Assuming this number accounts for only 20 percent of all rabbis and disciples flourishing (that is, 385), and rounding to the nearest 100, yields 400. Projected as a stable population over a 300-year period, it would correspond to 3,400 rabbis or nearly seven times the number of known rabbis.

think that early rabbis could or did mass in numbers even approaching several hundred.<sup>90</sup> Individuals may have enjoyed local prominence as sages, holy men, or ritual experts, but, as a “movement,” rabbis may well have been invisible. Even a greater concentration in cities in the third and fourth centuries would leave rabbis as a miniscule proportion of the urban population. If half of this hypothetical population were resident at Tiberias and Sepphoris (with the remainder in Caesarea, Lydda, or the Galilean countryside), rabbis might have constituted a minority, although, at 200, perhaps a substantial one, of the literate, male population of those cities.<sup>91</sup> This description fits the picture that rabbinic literature provides of rabbis as living in a world of others: other religious experts (for example, *minim* [heretics], philosophers), other (Jewish) judges, and so on. On the other hand, clustered in cities even at substantially smaller (and more realistic) numbers, rabbis may have been numerous and sufficiently visible to make a cultural impact, particularly if rabbis were actively engaged in teaching, preaching, judging, and performing successful prayers for rain and averting disaster, and perhaps attempting through recruiting and patronage to influence the kinds of (limited) elementary education that did occur.<sup>92</sup>

Moreover, a few dozen rabbis concentrated in a small number of cities – closer to the texts’ presentation – would be sufficient to support limited rabbinic “institutionalization” in the third and fourth centuries. This institutionalization was not primarily sought in the use of the title *rabbi*, or in references to “offices,” or “appointments,” which even within rabbinic

<sup>90</sup> E.g., *M. Zev.* 1.3; *M. Yad.* 3.5; *Tos. Mikw.* 7.11 (cf. *Sifre Num.* 124 [ed. Horovitz, 158–9]).

<sup>91</sup> One calculation for heuristic purposes follows. Sepphoris was about 60 ha at its largest (in the “Byzantine” period); Tiberias approximately 100 ha (see H. Lapin, *Economic Geography*, 88 Table 3.1; both estimates are high). At 300 people per hectare, this number represents a population of some 48,000; since the cities realized growth in late antiquity, I take 75 percent (36,000) as the figure for the third century. If adult males constitute about 30 percent of the total population (see Bagnall, Frier, *Demography*, 104 Table 5.4) this number leaves 10,800 adult males. Assuming rather high urban male literacy rates of between 5 percent and 25 percent (see, e.g., M. Bar Ilan, “Illiteracy in the Land of Israel in the First Centuries CE,” in S. Fishbane, S. Schoenfeld, and A. Goldschlaeger (eds.), *Essays in the Social Scientific Study of Judaism and Jewish Society*, 11 (New York, 1992), 46–61; see also W. V. Harris, *Ancient Literacy* (Cambridge, 1989); and K. Hopkins, “The Christian Number and its Implications,” *J ECS* 6 (1998), 185–226), 540 to 2700 men would have been literate, of whom 200 rabbis would constitute between 37.2 percent and 7.4 percent. The proportion would tend to be higher to the extent that urban population and literacy rates were lower than assumed, but the number of rabbis is probably a fraction of the hypothetical 200.

<sup>92</sup> For the last of these see, e.g. *PT Meg.* 4.5, 75b; *PT Hag.* 1.7, 76c (see *Pes. de-R.K., Êkâ* [ed. Buber, 120b; ed. Mandelbaum, 253]; *Lam. R.*, proem to 1.1).

literature have something of an *ad hoc* character to them.<sup>93</sup> Instead “institutionalization” is perhaps best traced in the development of a fairly coherent rabbinic tradition and in the development of “study houses.”<sup>94</sup>

What rabbis called a *beit midrash* (one of the standard terms for “study house”) was perhaps marked by little more than the (temporary) act of Torah study itself,<sup>95</sup> and the study relationship may have differed little in character from the intense, highly personal circles around their contemporaries Plotinus or Origen.<sup>96</sup> Nevertheless, “study houses” were sufficiently central to rabbinic construction of Jewish “institutional” life that rabbinic texts projected them on to the social landscape. The expression *bet midrash* appears dozens of times in the *Yerushalmi* and early “amoraic” midrashim. In a surprisingly high proportion of these texts (the majority in some of the midrashic texts sampled), it is paired with *beit kenesset* (synagogue), supposedly marking the constituent institutions of “Jewish” communities and occasionally retrojecting them into biblical times.<sup>97</sup> The higher prevalence of this pairing in “amoraic” as opposed to “tannaitic” texts, together with the emergence of elaborate purpose-built synagogues (it is now becoming clear) only in the fifth and sixth centuries,<sup>98</sup> may mean that this construction of communities as constituted by synagogues and rabbinic study houses was a relatively late development. At any rate, rabbinic texts

<sup>93</sup> For instance, compare the specification of prerogatives in “appointments” articulated in PT *Sanh.* 1.2, 19a, with examples of appointment by individuals: PT *Hag.* 1.8, 76c–d (PT *Ned.* 10.10, 42b); PT *Shev.* 6.1, 36d (*Deut. R.* [ed. Lieberman, 60–1]); and see PT *Meg.* 4.5, 75b.

<sup>94</sup> Lapin, “Rabbis and Cities,” 66–8; and idem, “Jewish and Christian Academies in Roman Palestine,” in A. Raban and K. G. Holm (eds.), *Caesarea Maritima: A Retrospective after Two Millennia* (Leiden, 1996), 496–512.

<sup>95</sup> See Hezser, *Social Structure*, 195–214; but note the possible allusions to formal practices, e.g. PT *Ber.* 4.1, 7d; PT *Meg.* 1.11, 71d (*Gen. R.* 1.11 [ed. Theodore and Albeck, 10]).

<sup>96</sup> See Porphyry, *Life of Plotinus*; and the *Address of Thanks* attributed to Gregory Thaumaturgos (ed. H. Crouzel, *SC* 148); see also A. Knauber, “Das Anliegen der Schule des Origenes zu Cäsarea,” *MTZ* 19 (1969), 182–203; H. Crouzel, “L’Ecole d’Origène à Césarée,” *BLE* 71 (1970), 15–27.

<sup>97</sup> A search for *beit midrash* on the Bar Ilan University Responsa CD version 7.0 (1990) in sample texts yielded the following: *Mishnah*, 12; *Tosefta*, 22; *Sifra*, 13; *Yerushalmi*, 40; *Gen. R.*, 11; *Lev. R.*, 6; *Cant. R.*, 14; *Pes. de-R. K.*, 16. When paired with *beit kenesset* the numbers were as follows: *Mishnah*, 2; *Tosefta*, none; *Sifra*, 1; however, the following for “amoraic” texts: *Yerushalmi*, 15; *Gen. R.*, 6; and *Lev. R.*, 6; *Cant. R.*, 6; *Pes. de-R. K.*, 11. The retrojection on to biblical times and claims of communal necessity are both expressed, for example, by *Lev. R.* 11.7 (ed. Margalioth, 230) (PT *Sanh.* 10.2, 28b).

<sup>98</sup> J. Magness, “The Question of the Synagogue: The Problem of Typology,” in J. Neusner and A. J. Avery-Peck (eds.), *Judaism in Late Antiquity*, 111: *Where We Stand*, Part 1v (Leiden, 2000), 1–40. This approximate date may be the sole epigraphically confirmed study house (notably from a rural village); J. Naveh, *Mosaic*, 6 and n. 40.

begin to assign permanent “study house” locations within the (urban) landscape,<sup>99</sup> and in presenting Yohanan (middle to late third century) as expounding in the “study house of R. Benayya” (of the last “tannaitic” generation), they create the impression of study places that outlasted a given teacher by a generation or more.<sup>100</sup> Notably, in the places where the texts make explicit reference, “study houses” generally appear in cities and typically they are associated with rabbis dated to the mid-third century or later.<sup>101</sup> It may well be that the emergence of rabbis as an urban group in the third century facilitated long-term and more intense relationships between rabbis, including conflict or hostility, but also clustering into loci used by other rabbis and the emergence of semi-formalized rules of interaction and rank that may have punctuated and contextualized competition and conflict.<sup>102</sup>

## V FINAL OBSERVATIONS

Rabbis in Palestine emerged in a period of provincial revolt and restoration, administrative reorganization (by the early second century, “administration” meant two legions in the province of Judaea, Syria Palaestina), and “urbanization,” a process that to a certain extent devolved governmental obligations and with it opportunities for local power on urban, generally landed, elites. In this respect, Palestine looked unremarkably like other eastern Mediterranean provinces of the second and third centuries. “Christianization” in the fourth century and later brought with it substantial changes – many of these changes quite typical – but with important implications for the concentrated, but minority, populations of Jews and Samaritans. This provincial context, rather than the “natural” development of Jewish national practices or a Roman imperial policy of Jewish or Palestinian exceptionalism, provides the setting in which to interpret the emergence of the rabbinic movement in Palestine. The successful contemporaneous development of a rabbinic community in Babylonia militates against any geographical or political determinism. Nevertheless, attending

<sup>99</sup> PT *Shabb.* 6, 8a (PT *Sanh.* 10.1, 28a).

<sup>100</sup> PT *Shabb.* 12.3, 13c (PT *Hor.* 3.7, 48c); PT *Bava M.* 2.12 (8d) (cf. PT *Hor.* 3.7 [48b]). Benayya: Albeck, *Introduction to the Talmud*, 159; Strack and Stemberger, *Introduction*, 83.

<sup>101</sup> Examples collected in H. Lapin, “Rabbis and Cities,” 55–6 and n. 9. Where early figures are involved, e.g. PT *Hag.* 2.1, 77b (*Kobelet R.* 7.18) to 7.8; *Ruth R.* 6.6; *Ruth R.* 3.4 (cf. *Kobelet Zuta* 118), these may reflect a (later) tendency of assigning Tiberian backgrounds to early rabbis. “Early” “study houses” are associated with both Yavneh and Lydda (Tos. *Sot.* 7.9; Tos. *Yad.* 2.16; Tos. *Pes.* 3.11; 10.12; cf. Tos. *Eruv.* 6.4: Ardasqos, but the text is uncertain).

<sup>102</sup> See Hezser, *Social Structure*, 191: “informal institution.”

to Palestinian rabbis' patterns of association, to their relative wealth, geographical distribution, numbers, and limited authority helps explain the rabbinic movement as part of an ongoing cultural struggle by a segment of a Roman provincial population in a political and administrative setting where they would have had no official authority and possibly little popular appeal. An association of religious experts claiming ancestral knowledge,<sup>103</sup> employing a rhetoric of self-representation with affinities to Graeco-Roman associations and especially to philosophical schools, and capable of using wider cultural motifs to their own ends,<sup>104</sup> the rabbinic movement developed through processes that track the transformation of the Palestinian provincial landscape while simultaneously denoting the contours of a self-consciously ethnic culture. At the time of the latest rabbis mentioned in classical Palestinian rabbinic literature (the second half of the fourth century), rabbis remained a small and possibly marginal group. In the period that followed, however, editors produced those classical texts, poets and mystics developed sub-rabbinic literary genres,<sup>105</sup> and rabbis or their cultural products left traces in epigraphic, patristic, and legal texts. The contours of that formative period remain to be studied.

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<sup>103</sup> See D. Frankfurter, *Religion in Roman Egypt: Assimilation and Resistance* (Princeton, 1998), especially 198–237.

<sup>104</sup> E.g., B. L. Visotzky, “Trinitarian Testimonies,” in *Fathers of the World: Essays in Rabbinic and Patristic Literatures* (Tübingen, 1995), 61–74; and J. Levenson, “The Tragedy of Romance: A Case of Literary Exile,” *HTR* 89 (1996), 227–44.

<sup>105</sup> See O. Irsai, ‘The Byzantine Period,’ in A. Shinan (ed.), *Israel: Land, People, State* (Jerusalem, 1998), 114–16; and S. Schwartz, ‘Rabbinization in the Sixth Century,’ in P. Schäfer, *Yerushalmi* 111, 55–69.

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## THE CANONICAL PROCESS

JAMES A. SANDERS

## I THE IDEA OF CANONIZATION

At some point during the early history of rabbinic Judaism there emerged a tripartite Hebrew Bible known by the Hebrew acronym *TaNak*, which stands for *Torab*, *Neviim*, *Ketuvim*, that is, Pentateuch, Prophets, Writings. This was similar to but different from the first testament of the double-testament Greek Bibles being used at the same time in Christian communities throughout the Graeco-Roman world. The exact date is difficult to determine; however, thanks to the recovery of the Judaean Desert Scrolls since the mid-twentieth century, the process that led to the stabilization of the tripartite Jewish canon into a certain number of books in a certain order is now clearer.<sup>1</sup>

Before a study of the Scrolls began to have an effect on the understanding of the history of the formation of the *TaNak*, general agreement prevailed from the beginning of the twentieth century until its fourth quarter, stemming from work completed in the eighteenth and nineteenth centuries showing that the Torah was “canonized” by approximately 400 BCE and the Prophets by approximately 200 BCE, and that the Writings were canonized by a council of rabbis meeting in the Palestinian coastal town of Yavneh (Jamnia) toward the end of the first century CE. This view emerged because of the perspectives demanded in the eighteenth and nineteenth centuries by the developing critical methods of studying the history of the Bible’s formation in the West.<sup>2</sup> That history, whether seen as

<sup>1</sup> J. VanderKam, “Questions of Canon Viewed through the Dead Sea Scrolls,” in L. McDonald and J. A. Sanders (eds.), *The Canon Debate: The Origins and Formation of the Bible* (Peabody, 2002), 234–51.

<sup>2</sup> Johann Salomo Semler in the eighteenth century had already sought to limit the concept of canon to its closure; see H. Gottfried, *Die Anfänge der historisch-kritischen Theologie: Johann Salomo Semlers Schriftverständnis und seine Stellung zu Luther* (Göttingen, 1961). In the nineteenth century, Heinrich Graetz, Franz Buhl, H. E. Ryle, and Karl Budde all seemed to agree that the Jewish canon was closed during the rabbinic gathering at Yavneh; see the helpful discussion in J. P. Lewis, “Jamnia Revisited,” in McDonald and Sanders (eds.), *The Canon Debate*, 146–62.

beginning with ancient documents or with oral traditions, had to have an end; with “the Bible” in hand, it would help explain why this and not other literature was included in “the canon,” which only the final product could be called.

The word “canon” as applied to a closed Scripture was a Christian term stemming from decisions made by later official church bodies; it was not a Jewish concept. Nevertheless, because of the technological change occurring during the course of late antiquity, namely the invention and use of the codex for reading and studying instead of the scroll, the question inevitably arose as to which books should be included between the covers of the codex and in what order.<sup>3</sup> The desire to understand the history of the Bible’s formation from its inception to its completion meant that scholars needed to limit the concept of canon to the final stage of that history, and the council at Yavneh seemed to provide the necessary terminus. The concept of canon was thus limited to the closure of a critically understood history of the Bible’s formation.<sup>4</sup>

## II THE MEANING OF THE TERM “CANON”

The word “canon” has two distinct meanings, to do with structure and function.<sup>5</sup> In other words, while the word “canon” indeed refers to a discrete body of literature having a stable structure, it nevertheless refers to the function of a particular literature in the communities that find their identity and ethos in it.<sup>6</sup> Several canons of Christian Scripture of differing contents exist, ranging from the eighty-one-book Ethiopian Orthodox canon to the sixty-six-book Protestant canon.<sup>7</sup> Christian communities thus may not agree about a Christian canon’s contents, but they all agree without exception that their canon is and has always been relevant to their ongoing history and lives. Except perhaps to critical scholarship, a canon’s

<sup>3</sup> See R. A. Kraft, “The Codex and Canon Consciousness,” in McDonald and Sanders (eds.), *The Canon Debate*, 229–33.

<sup>4</sup> Note the position taken by E. Ulrich in “The Notion and Definition of Canon,” in McDonald and Sanders (eds.), *The Canon Debate*, 21–35. Compare the writer’s position in J. A. Sanders, “The Issue of Closure in the Canonical Process,” in *ibid.*, 252–63.

<sup>5</sup> J. A. Sanders, “Adaptable for Life: The Nature and Function of Canon,” in F. Cross et al. (eds.), *Magnalia Dei: The Mighty Acts of God. Essays on the Bible and Archaeology in Memory of G. E. Wright* (New York, 1976), 531–60; G. T. Sheppard, “Canon,” in M. Eliade (ed.), *The Encyclopedia of Religion* (New York, 1987), 111 62–9; and J. A. Sanders, “Canon: Hebrew Bible,” in *ABD* 1 837–52.

<sup>6</sup> J. A. Sanders, *Canon and Community: A Guide to Canonical Criticism* (Philadelphia, 1984).

<sup>7</sup> See R. Beckwith, *The Old Testament Canon of the New Testament Church* (Grand Rapids, 1985), 478–505; and L. M. McDonald, *The Formation of the Christian Biblical Canon*, rev. ed. (Peabody, MA, 1995), 225–7.

relevance has always been a more important characteristic than its stability, although both meanings of “canon” are indeed included in the term. It was the property of relevance (adaptability/stability//repetition/recitation) of the literature to numerous communities over a span of time that started the canonical process initially.<sup>8</sup> Without the phenomenon of repetition/recitation, a story or song being selected and reread (*relu*) in a later different situation, no canon would exist. The first *relecture* or repetition in community began the process in the first place.

The word “canon” derives from words in the ancient world meaning “stick,” “rod,” or “measure” of some sort, and one expects a canon to maintain a stable structure (like a meter or yard stick) at all times in order to be able to function reliably when applied as a measure, like the royal measure (see “the king’s weight” in 2 Sam. 14.26) in ancient cultures, with focus on the instrument of measure.<sup>9</sup> However, the word equally refers to its application or function in a community, starting well before the canonical process. When used to refer to a community’s Scripture, the word “canon” refers to the way it is employed as well as to its content and order. Both meanings are valid.

### III THE HISTORY OF THE PROCESS OF CANON FORMATION

The history of the Jewish canon’s formation is complicated by the fact that several canons issued from the process before closure and not merely the *TaNak*. The Judaean Desert Scrolls offer no hint of the idea of closure.<sup>10</sup> Current Christian double-testament canons of Scripture (except the Protestant) have more content in their first testament than does the *TaNak*.<sup>11</sup> Even Protestant Bibles often include the books Luther called apocryphal, printed between the testaments, whereas the *TaNak*, once crystallized, has

<sup>8</sup> J. A. Sanders, “Canonical Criticism: An Introduction,” in J.-D. Kaestli and O. Wermelinger (eds.), *Le Canon de l’Ancien Testament: sa formation et son histoire* (Geneva, 1984), 341–62; and Sanders, “The Issue of Closure.”

<sup>9</sup> B. M. Metzger, *The Canon of the New Testament* (Oxford, 1987), 289–93; see also E. Ulrich, “The Notion and Definition of Canon”; and G. A. Kennedy, “The Origin of the Concept of a Canon and Its Application to the Greek and Latin Classics,” in J. Gorak (ed.), *Canon and Culture: Reflections on the Current Debate* (New York, 2001), 105–16.

<sup>10</sup> See C. A. Evans, “The Scriptures of Jesus and His Earliest Followers”; and J. A. Sanders, “The Issue of Closure,” both found in McDonald and Sanders (eds.), *The Canon Debate*.

<sup>11</sup> The Protestant Christian first testament contains the same books as the Jewish one but ordered differently, whereas other Christian canons include other books. See the discussion of the effect of Jerome’s concept of *Hebraica veritas*, and Luther’s acceptance of it, in J. A. Sanders, “Hermeneutics of Text Criticism,” *Textus* 18 (1995), 1–26.

never contained such deuterocanonical literature.<sup>12</sup> Rabbinic Judaism neither attempted to append the Mishnah to the *TaNak* nor included it in the same codex or printed book. Prophecy or revelation had ceased.

Whereas the *TaNak* is tripartite, the Christian first testament is quadripartite in structure.<sup>13</sup> Furthermore, whereas early references to the growing Jewish canon almost invariably list the Torah and Prophets in that order, the earliest Greek codices and other manuscripts in which order is discernible put the Prophets last in the first testament. The two major differences between the structures of the *TaNak* and the first Christian testament are, first, the Christian emphasis on the history or storyline that begins in Genesis and continues well into Early Jewish history, and second, its placing the prophetic corpus last. The structure of each one provided the hermeneutic by which each community read the content of its canon, although that content was the same.<sup>14</sup>

As Abraham Joshua Heschel taught, Torah consisted of both *halachah* and *aggadah*.<sup>15</sup> While Jews view the Torah/Pentateuch as primarily God's gift of Torah to Israel that comes encased in a story, Christians view the Torah/Pentateuch as primarily a story beginning in Genesis, with laws certainly embedded in it, but culminating in the New Testament story of God's work in Christ and the early church. Christian first testaments, therefore, put all the books continuing that history, such as Esther, Chronicles, and Ezra/Nehemiah, in a continuing storyline after the books of Kings, so that with the books of Maccabees, Judith, Tobit, and others in Catholic and Orthodox canons, the story reached sufficiently into history for Christians then to

<sup>12</sup> J. Neusner rightly understands the body of accepted early rabbinic Jewish literature to comprise the Mishnah, the Tosefta, the Talmuds, and the great commentaries, as the full canon of Judaism as it had reached its shape by the end of late antiquity; see, e.g., "The Mishnah in Philosophical Context and Out of Canonical Bounds," *JBL* 112/2 (1993), 291–304. However, no evidence exists of a rabbinic attempt to include it with the *TaNak* in the same codex.

<sup>13</sup> The correspondence between Jerome and Augustine late in the fourth century clearly reveals the latter's resistance to Jerome's *Hebraica veritas* principle and insistence on the quadripartite form of the first testament. As a form of respect for his friend, Augustine suggested the dual inspiration of the (proto-)MT and the LXX (*Civ. Dei* 18.42–4). BT *Bava B.* 14b–15b is the first clear affirmation of the tripartite Jewish canon and its contents and was probably written partly to counter the Christian quadripartite first testament. See the discussion by J. N. Lightstone, "The Rabbi's Bible: Canon of the Hebrew Bible and the Early Rabbinic Guild," in McDonald and Sanders (eds.), *The Canon Debate*, 163–84.

<sup>14</sup> J. A. Sanders, "Spinning the Bible," *Bible Review* 14/3 (1998), 22–9, 44–5; and "Intertextuality and Canon," in S. Cook and S. Winter (eds.), *On The Way to Nineveh: Studies in Honor of George M. Landes* (Atlanta, 1999), 316–33.

<sup>15</sup> A. J. Heschel, "A Time for Renewal," *Midstream* 18/5 (1972), 46–51; see J. A. Sanders, "Torah and Christ" and "Torah and Paul," in *From Sacred Story to Sacred Text* (Philadelphia, 1987), 41–60 and 107–23, based largely on Heschel's wisdom.

append the Gospels and Acts as its theological climax – a clear statement that Christians disagreed that prophecy or revelation in history had ceased in the Persian period. In the Jewish canon, the story culminates at the end of 2 Kings, at the early sixth-century BCE beginning of the Babylonian Exile, with the fifteen books of the Major and Minor Prophets following next to explain the uses of adversity in the hands of the one God of all, and therefore the reason that the disaster occurred – both the reason and the purpose. In addition, most of them have editorial superscriptions that attempt to align them in that history.<sup>16</sup> However, the Christian first testament places the Prophets last, after the history, because of the universal Christian belief at the time that the Prophets had foretold Christ. The structure of a canon indicated the hermeneutic by which a community read it.

#### IV THE EFFORTS OF THE RABBIS AFTER 70 CE

A number of references in ancient Jewish literature indicate the beginning of the Jewish tripartite canon, starting with the Torah and the Prophets. However, no clear reference exists to the third section, the *Ketuvim* (the Writings) until well into the early history of rabbinic Judaism.<sup>17</sup> However, some Early Jewish (pre-rabbinic) literature refers to “other writings” or “Psalms and other writings” after first mentioning the Torah and the Prophets.<sup>18</sup> Even after fifty years of Dead Sea Scrolls study, debate still rages about such vague phrases and their references.<sup>19</sup> Jack Lewis’s in-depth study of all the references to a council of rabbis at Yavneh in effect adjourned that assembly as a canonizing council.<sup>20</sup> While a few scholars interpret it to mean that the *Ketuvim* had been closed before Yavneh, many now understand it to mean that the *Ketuvim* were not crystallized until later.<sup>21</sup> However, no one knows the occurrences exactly.

<sup>16</sup> G. M. Tucker, “Prophetic Superscriptions and the Growth of a Canon,” in G. W. Coats and B. O. Long (eds.), *Canon and Authority: Essays in Old Testament Religion and Theology* (Philadelphia, 1977), 56–70.

<sup>17</sup> See J. Trebolle-Barrera, “Origins of a Tri-partite Old Testament Canon,” in McDonald and Sanders (eds.), *The Canon Debate*, 128–45.

<sup>18</sup> See the ancient references carefully discussed in L. McDonald, *The Formation*, 34–54.

<sup>19</sup> See J. A. Sanders, “The Issue of Closure.”

<sup>20</sup> J. P. Lewis, “What Do We Mean by Jabneh?” *JBR* 32 (1964), 125–32, and his more recent “Jamnia Revisited” in McDonald and Sanders (eds.), *The Canon Debate*.

<sup>21</sup> Those who understand it to mean that the *TaNak* had been closed before Jamnia include the following: S. Z. Leiman, *The Canonization of Hebrew Scripture* (Hamden, 1976); R. T. Beckwith, *The Old Testament Canon of the New Testament Church* (Grand Rapids, 1985); P. R. Davies, *Scribes and Schools: The Canonization of the Hebrew Scriptures* (Louisville, 1998); and A. E. Steinmann, *The Oracles of God: the Old Testament Canon* (St. Louis,

A tenet of rabbinic Judaism that separated it from other forms of Judaism (those at Qumran, those who produced the Apocrypha and Pseudepigrapha, and Christianity) was the rabbinic belief that prophecy or divine revelation/intervention in history ceased in the Persian period. Nevertheless, it is unclear if this tenet was fully functional in nascent rabbinism before the Bar Kochba Revolt against Rome in the second quarter of the second century CE.<sup>22</sup> It seems quite probable that the tenet did not become established seriously until after the debacle of the Bar Kochba Revolt, the messianic claims of which the honored and highly respected Rabbi Akiva supported. Akiva believed that Bar Kochba was the messiah of God and that God would intervene on behalf of the messiah's efforts to defeat the highly oppressive Roman occupying presence.<sup>23</sup> However, the rabbinic leader who was so tragically wrong historically became a highly revered model for centuries in rabbinic Judaism, which he then helped to shape into its final form. Thereafter, the expectation of God's messiah to come was not considered to be divine intervention in history but rather signalled its end.

In the earlier revolt in the previous century, 66–73 CE, Rome destroyed the Temple and forbade Jews to live in the remaining parts of Jerusalem; for this reason, the Rabbis gathered instead on the Mediterranean coast in Yavneh near Jaffa to examine what, under God, had happened to them in the horrible disaster. Instead of its having been a “canonizing council,” however, it undoubtedly was one in which they asked the troubling question: where had God been to let such a disaster happen to them? It was a holocaust question they addressed, and the question became all the more poignant after that worse debacle in the following century.

These two events left their lasting imprint on surviving rabbinic Judaism as perhaps no other did or has done. Two major decisions were apparently made.<sup>24</sup> The first was to affirm the belief that God must indeed

1999). See the contributions to McDonald and Sanders (eds.), *The Canon Debate* for the growing majority who date the closure of the *TaNak* to the second century CE and later.

<sup>22</sup> As L. Silberman has illustrated in his work, apocalyptic thinking in the sense of dramatic divine intervention in history continued under the surface, emerging occasionally in formative and classical Judaism. See a critical review of his work in Sanders, “Identity, Apocalyptic, and Dialogue,” in W. G. Dever and J. E. Wright (eds.), *The Echoes of Many Texts: Reflections on Jewish and Christian Traditions. Essays in Honor of Lou H. Silberman* (Atlanta, 1997), 159–70.

<sup>23</sup> See the discussion in ch. 3 in the present volume.

<sup>24</sup> These decisions were shaped by the tragedies of the first and second centuries CE and have sustained Judaism through centuries of repression, including the Holocaust of the twentieth century. They were founded in the earlier tenets taught by the Torah and the Prophets; see J. A. Sanders, *Suffering as Divine Discipline in the Old Testament and Post-Biblical Judaism* (Rochester, NY, 1955).

have departed from ongoing history well before these events, and the second concerned the shaping of surviving rabbinic Judaism into a community in pursuit of Torah as a way of thought and life. They would be faithful and obedient to Torah until God chose to send His Messiah in His own good time – as the end of history and the beginning of the world to come, not as intervention or revelation in ongoing history.<sup>25</sup> By contrast, ongoing divine revelation is at the heart of the story that lies behind both the Torah and the Prophets, which for Christians continued in the Gospels and the Acts of the Apostles, and at Qumran.

If God departed from history, becoming more and more transcendent after Ezra and Nehemiah, then later surviving rabbinic Judaism would do likewise. Henceforth, after the debacle of the revolts against Rome, rabbinic Judaism basically existed in close-knit communities scattered throughout the Roman Empire. Obedience, among other things, meant limitations on walking to the synagogue on the Sabbath. Those who did not live in such a manner assimilated to the dominant culture and lost their Jewish identity. Here then was the origin of the ghetto, as it is known, a “safe place” where Jews could be themselves in pursuit of Torah, a place where calendar and clock would be those of the Temple as though it were still standing. Development of *halachah* could proceed, much as Scripture had proceeded in the earlier canonical process, to relate the earlier revelations of God to constantly changing circumstances and needs. Jewish communities would fit in, but not adapt to the Graeco-Roman pagan world around them. With the old Jewish belief in keeping divine revelation alive and vigorous in memory, they would resist as much as they could the depths of hellenization that Christianity, the other vibrant survivor of Early Judaism, had succumbed to with apparent abandon (despite the efforts of Christian “Judaizers”). The two surviving Judaisms by the end of the second century CE became quite distinct religions.

Jews, on a limited scale, debated with Christians about the meaning of crucial scriptural passages, but in such contacts they would consciously resist as much as possible any further hellenization. An important feature of rabbinic Judaism, shaped in discussions such as those at Yavneh and after the Second Revolt, was tolerance of diversity within Jewish communities regarding the way traditional obedience to Torah, *halachah*, should be

<sup>25</sup> The founding of the State of Israel in 1948 precipitated considerable debate within Judaism about whether a messianic era (if not the messiah) had been introduced (by God); the debate intensified between the victorious Six-Day War of 1967 (see the assertions in A. J. Heschel's *Israel: An Echo of Eternity* (New York, 1967)) and the defeat in the Sinai during the Yom Kippur War of 1973, after which it subsided.



expressed.<sup>26</sup> Rabbinic Judaism henceforth embraced diverse and contradictory interpretations of Torah, as clearly seen in Mishnah and Talmud, whereas Christianity needed to develop heresies, reformations, and denominations in order to have such dialogues.

“Torah is Judaism and Judaism is Torah, and until one understands that equation, one cannot understand Judaism.”<sup>27</sup> Torah in this broad sense includes not merely the Torah or Pentateuch, but the whole stream of tradition that has been rabbinic Judaism’s effort to remain obedient and loyal to the gift given at Sinai.<sup>28</sup> As Scripture itself is replete with diverse voices and understandings of God’s will at any given time, so Mishnah, Talmud, and Responsa include many voices and different views of Torah’s meaning for any given situation.<sup>29</sup> As Scripture is a dialogical literature, so Judaism is a dialogical *beit midrash* – house of study – of Torah. Undoubtedly facilitating such diversity within one tent was the firm Jewish belief at the time of the birth of rabbinic Judaism in one God of all. The vestiges of polytheism that clung to layers and strata of Scripture had given way to the power of the monotheistic thrust of the canonical process that produced the Bible itself.<sup>30</sup>

Study of the Scrolls has clarified the canonical process in numerous ways. By the time of the founding of the Qumran community in the middle of the

<sup>26</sup> S. Cohen, “The Significance of Yavneh: Pharisees, Rabbis, and the End of Jewish Sectarianism,” *HUCA* 55 (1984), 27–53. Cohen’s argument states that because rabbinism decided at Yavneh to allow diversity and sharp debate within its broad Torah tent, unlike Christianity it did not need to produce heresies, reformations, and denominations in order to conduct vigorous debate. A similar observation was made at the conclusion of the symposium held at Heidelberg University in 1995 on “Abweichung in der Kirche”; the role of heresy in Christianity provided dialogue and debate otherwise lacking. Accusations of heresy in one generation sometimes inspire apology in a later one. Contrast the current Roman Catholic apology concerning Galileo and his personal holocaust.

<sup>27</sup> A statement my revered teacher, Samuel Sandmel, often made.

<sup>28</sup> See J. A. Sanders, *Torah and Canon*, 2nd ed. (Eugene, 2005), 53, concerning the answer offered in the Torah as shaped in the Exile: “that was when we knew that our true identity, the Torah par excellence, included the conquest neither of Canaan (Joshua) nor of Jerusalem (David) but that Sinai, which we never possessed, was that which we would never lose.”

<sup>29</sup> The affirmation in Deut. 30.11–14 that God’s Torah is not in heaven but was given by God to His people, Israel, in order to develop according to the constantly changing needs of the people is dramatically underscored in *Bava M.* 59a–b. See J. A. Sanders, “The Integrity of Biblical Pluralism,” in J. P. Rosenblatt and Joseph C. Sitterson Jr. (eds.), *Not in Heaven* (Bloomington, 1991), 154–69.

<sup>30</sup> Recent study has confirmed that belief in one God and belief that the Church was the true successor of ancient Israel were the two universals within the diversity of early Christianity. See P. Balla, “Ancient Lists of Christian Scriptures and the Surviving New Testament Manuscripts: Two Perspectives,” in McDonald and Sanders (eds.), *The Canon Debate*, 372–85.

second century BCE, it is clear that the first two sections of the tripartite Jewish Bible were secure, but that the third was not. Work on the Psalter at Qumran, as well as on the Temple Scroll and other scrolls, has revealed that the *Ketuvim* was a work in progress.<sup>31</sup> Review of the full spectrum of Early Jewish literature and history has shown that the canonical process was “highly multiform” in the scattered and diverse Jewish communities in the Persian and early Hellenistic periods.<sup>32</sup>

## V THE PROCESS OF CANONIZATION AND THEOLOGY

A review of the process that produced the Torah and the Prophets affirms a pattern of community recall of early precious traditions in times of crisis (the work of the conjectured editors and redactors in the process) and the survival of those traditions that continued to provide life and identity to the surviving Jewish communities. That process was largely a monotheistic process, for it was the “tough stuff” that affirmed that God was the God of Israel and of her neighbors and enemies, and judge and redeemer of both, that infused those traditions with life as well as infusing those who found life in them.<sup>33</sup> The messages that claimed that Yahweh was their tribal god, obligated for his own cosmic reputation to guarantee his earlier gifts of land and institutions, became dust in the mouths of Jewish hostages, prisoners, exiles, and refugees. What gave them strength to survive with their Jewish identity intact were the prophetic traditions of Torah and the Prophets that stressed the one God of all as their own judge as well as redeemer, who harshly judged but thus redeemed Israel with a purpose. Study of true and false prophecy reveals that the only certain criterion of distinction between them was affirmation in the prophetic message that God was creator of all people, redeemer of Israel, and eventually redeemer of the world.<sup>34</sup>

<sup>31</sup> See P. Flint’s probing study, *The Dead Sea Psalms Scrolls and the Book of Psalms* (Leiden, 1997); and most of the pertinent articles in McDonald and Sanders (eds.), *The Canon Debate*.

<sup>32</sup> See D. Carr’s incisive study, “Canonization in the Context of Community: An Outline of the Formation of the *TaNak* and the Christian Bible,” in R. Weis and D. Carr (eds.), *A Gift of God in Due Season: Essays on Scripture and Community in Honor of James A. Sanders* (Sheffield, 1996), 22–64.

<sup>33</sup> See the discussion of biblical hermeneutics in J. A. Sanders, *Canon and Community*, 46–60.

<sup>34</sup> J. A. Sanders, “Hermeneutics of True and False Prophecy,” in G. W. Coats and B. O. Long (eds.), *Canon and Authority: Essays in Old Testament Religion and Theology* (Philadelphia, 1977), 21–41; and J. A. Sanders, “The Exile and Canon Formation,” in J. M. Scott (ed.), *Exile: Old Testament, Jewish, and Christian Conceptions* (Leiden, 1997), 37–61.

Michael Fishbane's pivotal study of citations and reflections on pre-exilic biblical traditions in exilic and post-exilic biblical literature effectively illustrates the process.<sup>35</sup> However, it had begun much earlier. General literary criticism assumes that all literature builds on earlier literature. One can see such intertextuality illustrated throughout biblical literature, even the earliest. One of the most fascinating aspects of critical biblical study involves seeing the way biblical authors used and adapted ancient near-eastern traditions and literature. They often resignified the material they used, such as the Babylonian creation and flood stories, and adapted them to their own distinct purposes. If the adaptation was meaningful to the situation for which it was resignified and was then repeated in later, different, circumstances because it was meaningful to them as well, it received a permanent place in the canonical process. Critical readings of Scripture have revealed that the process included the editorial work of combining early Israelite traditions and adapting them to later situations, and often the editing left "fractures" in the text that provide windows today that allow us to see the process at work.<sup>36</sup> Ancient historians and editors who completed such work often demonstrated respect for their sources by leaving such fractures obvious rather than editing them and smoothing them over. Despite effective editorial work in some cases in antiquity, the seams are there for all with eyes to see.<sup>37</sup>

One area of study in connection with the canonical process is that of seeing the way that prophetic literature is used and the way it adapted early traditions to score points in later situations.<sup>38</sup> The eighth-century prophet, Isaiah of Jerusalem, for example, several times reflected on earlier Davidic traditions and adapted them to the situation in his time of the Assyrian threat to the southern kingdom of Judah and its capital, Jerusalem, where Isaiah lived. One such poignant reference is contained in Isaiah 28.21. Isaiah, like Amos, Hosea, and Micah before him, took an early tradition used by "false" prophets or by those claiming that God would protect Israel in their day just as he had benefited Israel earlier. The true prophets,

<sup>35</sup> M. Fishbane, *Biblical Interpretation in Ancient Israel* (Oxford, 1985).

<sup>36</sup> D. M. Carr, *Reading the Fractures of Genesis: Historical and Literary Approaches* (Louisville, 1996).

<sup>37</sup> For a clear appreciation of the respect biblical tradents showed their ancient sources, and for the way a first-rate scholar in another field perceives the process, see D. H. Akenson, *Surpassing Wonder: The Invention of the Bible and the Talmuds* (New York, 1998); for the writer's assessment of his perception, see Sanders, "The Issue of Closure."

<sup>38</sup> See Sanders, *Torah and Canon*, 54–90; R. M. Weis, *A Definition of the Genre Massa' in the Hebrew Bible* (unpublished PhD dissertation, Claremont Graduate University, 1986); and J. A. Sanders, "The Scrolls and the Canonical Process," in P. Flint and J. VanderKam (eds.), *The Dead Sea Scrolls After Fifty Years* (Leiden, 1999), 11 1–23.

however, subverted it or turned it inside out in order to illustrate that reading the same tradition in a monotheistic mode supported the view that God, far from obligated to protect Israel like a purely national deity, had in their eighth-century BCE situation chosen to judge Israel in order to discipline, transform and redeem it for God's broader purposes. Often, by inferential exegesis, one can see that the nationalist prophets had used the early tradition to claim that God would deliver His people from their enemy – the exact same tradition the “true” prophet applied to his situation to affirm his message of judgment and redemption but with a totally different hermeneutic. God was truly becoming One.<sup>39</sup>

In Isaiah 28.21, the prophet agrees with the nationalists that God would indeed arise as a holy warrior, as He had done more than two centuries earlier to save David on Mount Perazim and in the Valley of Gibeon (2 Sam. 5.17–20 // 1 Chr. 14.12–13), but this time at the head of the enemy troops entering Jerusalem to judge it. God, the one God of all, was using the adversity of foreign enmity to judge and redeem His own people.<sup>40</sup>

When the situation was reversed and Israel a century and a half later had indeed been defeated and was powerless in prisoner-of-war camps in Babylonia, another Isaiah arose to claim that in the Persian defeat of Babylonia in 540 BCE God was using Persia to effect the release of Jews from exile, so that they could return home to Jerusalem (Isa. 45). This Isaiah claimed that Cyrus of Persia was God's messiah or anointed one, God's king, who brought about the salvation of Israel's remnant, those who had retained their Jewish identity throughout the exilic experience. The same Isaiah also stressed that the God who had judged His people was now the God who was saving them (Isa. 42.24–5). Only one God of all existed, who judged and then redeemed through the judgments.

When the various prophetic messages were reviewed and repeated in exile, it was the “tough stuff” that spoke to the people, not the popular messages that nationalist prophets had preached. It was undoubtedly in exile, when remnant Israel was powerless, that such intense reviews of the old pre-exilic traditions occurred – Israelite, Judahite, prophetic – and the editorial work of synthesizing the meaningful old songs and stories into the Torah and the Prophets was eventually accomplished.

The process of repetition and adaptation of pre-exilic traditions that occurred in the Babylonian camps was nothing new. It had already been part of Israel's life- and identity-giving process. A people's corporate

<sup>39</sup> See A. J. Soggin's progressive thesis in *Israel in the Biblical Period* (New York, 2001), ch. 4.

<sup>40</sup> See J. A. Sanders, “Hermeneutics of True and False Prophecy,” and D. Barthélemy, “La Critique canonique,” in *Revue de l'Institut Catholique de Paris* 36 (1990), 191–220.

identity lies in the stories it tells from generation to generation, and the more relevant and commanding the stories, the more cohesive and effective the corporate identity. Judah/Israel's rebirth as Judaism in the Exile resulted from this canonical process of selective review and editorial adaptation of the old stories that were keeping them alive as Jews and giving them purpose. Then, after the disaster of the two revolts against Rome and belief in the cessation of prophecy or revelation was firmly grasped, the *Ketuvim* assumed a definite shape to meet the need of the surviving rabbinic Jewish communities to live apart in order to study Torah, and it supported the rabbinic belief that Scripture is the "Book of Life" (*Sefer Hayyim*) for surviving Judaism. Rereading its life-giving traditions in destitution had proved the point. A canon was assuming a distinctive form.

## VI CLOSING THE CANON, AND WHAT FOLLOWS

All texts have some built-in constraints that work against their complete subversion. If the older cited or echoed text was so modified that it could not be recognized by the community for which the newer writing was intended, the point of reference was lost and the perceived authority vanished.<sup>41</sup> Adaptability and stability must balance each other for the canonical process to be effective. Stabilization and closure of the formative canonical process occurred because historical and cultural factors demanded it.<sup>42</sup> However, the process was clearly not on a single track. The diversity within early Judaism clarifies the evidence indicating a multiple-track canonical process. The principal factors were undoubtedly the destruction of the city and the Temple in the sixth century BCE and in the first century CE, and subsequently the disaster of the Bar Kochba Revolt and its cataclysmic blow to revelatory thinking within surviving rabbinic Judaism. Royal programs, scribal decisions, and ecclesial councils had to reflect the communities' needs or they did not survive.<sup>43</sup>

The canonical process continued even after closure.<sup>44</sup> When the fluid becomes frozen, as comparative midrash shows, the issue of the hermeneutics brought to the stabilized text to render it once more fluid and adaptable

<sup>41</sup> J. A. Sanders, "Stability and Fluidity in Text and Canon," in G. Norton and S. Pisano (eds.), *Traditions of the Text: Studies Offered to Dominique Barthelemy in Celebration of his 70th Birthday* (Göttingen, 1991), 203–17.

<sup>42</sup> See the cogent argument of S. Talmon in "The Crystallisation of the Canon of Hebrew Scriptures' in the Light of Biblical Scrolls from Qumran," in E. Tov and E. D. Herbert (eds.), *The Bible as Book: The Hebrew Bible and the Judaean Desert Discoveries* (London, 2002), 5–20, especially 14–15.

<sup>43</sup> Pace Davies, *Scribes and Schools*. <sup>44</sup> See Sanders, "The Issue of Closure."

comes to the fore.<sup>45</sup> When the tradent can no longer paraphrase or gloss or modify or edit the text itself, the needs of the community demand that the stable text continue to be opened and rendered understandable and helpful to the ongoing life of the community. That which the earliest biblical tradents – prophets, psalmists, historians, or editors – did for their communities was not all that different from that which later and current tradents in any community would have done in order to make a (canonically) stable text understandable in constantly changing cultural and contemporary terms. Indeed, the scholarly quest of “original” meanings in the past three centuries since the Enlightenment contains its own history of dependence on cultural factors and modern scholarly and community needs.

As long as a canon continues to function as the continual source of identity and ethics (faith and obedience) for a believing community, the canonical process, begun at the headwaters of canon formation, will continue.

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<sup>45</sup> Comparative midrash was effectively explained in M. Calloway, *Sing, O Barren One: A Study in Comparative Midrash* (Atlanta, 1986), especially 5–12.

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# THE BEGINNINGS OF CHRISTIAN ANTI-JUDAISM, 70–C. 235

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## I THE CONTEXT

Irenaeus claimed that a high degree of Christian unity and harmony existed everywhere: “The import of the tradition is one and the same. For the churches which have been planted in Germany do not believe or hand down anything different, nor do those in Spain, nor those in Gaul, nor those in the East, nor those in Egypt, nor those in Libya, nor those that have been established in the central regions of the world” (*Adv. Haer.* 1.10.2). Despite his assertion about regional uniformity, considerable variety existed in Christian tradition, life, and thought, not least in the development of anti-Judaism. Since regional variation is now commonly stressed in studies of Judaism and Christianity, this chapter takes a geographic approach.<sup>1</sup> It concludes that anti-Judaism was found mainly in areas where Christianity was strong, especially in cities with mixed pagan and Jewish populations, places where religious rivalries were more likely to be expressed openly. In some regions, such as Judaea and Greece, anti-Judaism was less pronounced, perhaps because the population constituency and blend of rivalries were different.

The term “anti-Semitism,” used in influential earlier studies, has now been replaced in the scholarly literature by the more nuanced term “anti-Judaism”<sup>2</sup> in order to distinguish ancient historic phenomena from the recent horrors of the Holocaust. Numerous studies of Christian origins have revealed that early Christian anti-Judaism played a substantial role in

<sup>1</sup> W. Bauer, *Orthodoxy and Heresy in Earliest Christianity*, ed. R. A. Kraft and G. Krodel (Philadelphia, 1971); and J. T. Sanders, *Schismatics, Sectarians, Dissidents, Deviants: The First One Hundred Years of Jewish–Christian Relations* (Valley Forge, 1993).

<sup>2</sup> By “anti-Judaism” is meant a deliberate Christian attitude of opposition to Judaism (of various kinds, for various reasons) that was not as virulent and prejudicial as “anti-Semitism.” In the period covered by this volume, Christians had neither power nor authority to shift explicit anti-Judaism to outright anti-Semitism. Even documents written by Christian Jews for fellow Jews might still be considered anti-Jewish if the arguments employed were aimed at undercutting the continuing validity of Judaism.



pointing ultimately towards anti-Semitism.<sup>3</sup> Some scholars have argued recently that Christian anti-Judaism was as much image as reality,<sup>4</sup> while others have emphasized rhetorical and theological factors in the development of early Christian attitudes towards Judaism.<sup>5</sup>

Most surviving texts from the period 70–235 CE derived from that which subsequently became “orthodox” Christianity. Because the notion of orthodoxy is anachronistic, this chapter explicitly looks beyond the “Great Church” to include such variant communities as Marcionism, Ebionism, Gnosticism, and Montanism. Recent studies, sometimes using such innovative methodologies as social-scientific approaches,<sup>6</sup> have emphasized the following: first, the prevalence of broader religious rivalries, especially in large mixed cities such as Rome, Ephesus, and Alexandria; second, Judaism’s importance in these rivalries because Christianity and Judaism were “complexly related subsystems of one religious polysystem”;<sup>7</sup> and third, internal rivalries, often bitter, between forms of Christian belief and practice.

<sup>3</sup> See the early studies of G. F. Moore, *Judaism in the First Centuries of the Christian Era: The Age of the Tannaim*, 3 vols. (Cambridge, MA, 1927–30); see also J. Parkes, *The Conflict of the Church and the Synagogue: A Study in the Origins of Antisemitism* (Cleveland, 1961); J. Isaac, *The Teaching of Contempt: The Christian Roots of Anti-Semitism*, trans. H. Weaver (New York, 1964); M. Simon, *Verus Israel: A Study of the Relations between Christians and Jews in the Roman Empire (135–425)*, trans. H. McKeating (Oxford, 1986); W. Eckert, ed. N. P. Levinson and M. Stöhr, *Antijudaismus im Neuen Testament? Exegetische und systematische Beiträge* (Munich, 1967); S. Sandmel, *Anti-Semitism in the New Testament?* (Philadelphia, 1978); G. Baum, *Is the New Testament Anti-Semitic? A Re-examination of the New Testament* (Glen Rock, 1965); and R. R. Ruether, *Faith and Fratricide: The Theological Roots of Anti-Semitism* (New York, 1974); more recent studies are found in L. Goppelt, *Christentum und Judentum im ersten und zweiten Jahrhundert* (Gütersloh, 1954); P. Richardson (ed.), *Anti-Judaism in Early Christianity 1: Paul and the Gospels* (Waterloo, ON, 1986); S. G. Wilson (ed.), *Anti-Judaism in Early Christianity 11: Separation and Polemic* (Waterloo, ON, 1986); J. G. Gager, *The Origins of Anti-Semitism: Attitudes towards Judaism in Pagan and Christian Antiquity* (New York, 1983); D. Rokeah, *Jews, Pagans and Christians in Conflict* (Leiden, 1982); A. Segal, *Rebecca’s Children: Judaism and Christianity in the Roman World* (Cambridge, MA, 1986); and S. G. Wilson, *Related Strangers: Jews and Christians 70–170 CE*. (Minneapolis, 1995).

<sup>4</sup> Lieu takes a nuanced and moderate view.

<sup>5</sup> Among others, see J. D. G. Dunn (ed.), *The Parting of the Ways between Christianity and Judaism and their Significance for the Character of Christianity* (Philadelphia, 1991); M. S. Taylor, *Anti-Judaism and Early Christian Identity: A Critique of the Scholarly Consensus* (Leiden, 1995); C. A. Evans and D. A. Hagner (eds.), *Anti-Semitism and Early Christianity: Issues of Polemic and Faith* (Minneapolis, 1993); and the extended analysis by S. T. Katz in volume 1 of his *The Holocaust in Historical Context* (New York, 1994).

<sup>6</sup> J. G. Gager, *The Origins of Anti-Semitism: Attitudes towards Judaism in Pagan and Christian Antiquity* (New York, 1983); and Sanders, *Schismatics, Sectarians*.

<sup>7</sup> D. Boyarin, *Dying for God: Martyrdom and the Making of Christianity and Judaism* (Stanford, 1999), 92 and passim.

The range of attitudes was complex.<sup>8</sup> On the one hand, it included criticism of Judaism by non-Jews (Ignatius, Marcion, Melito) and Jews (Matthew, John); on the other hand, it involved benign neglect (Gnostics) and accommodation to Judaism by absorbing and adapting its documents (*Didache*, *Synagogue Prayers*). As Judaism and Christianity institutionalized their differences beyond the period 70–235 CE, the Great Church through councils and creeds reduced this variety from the mid-third century onward. Nevertheless, the boundaries between the two communities remained permeable for some time, as John Chrysostom's sermons on Judaizers demonstrated clearly for the city of Antioch in the years 386–7 CE.

## II PALESTINE: JERUSALEM, JUDAEA, AND GALILEE

No single event affected a “parting of the ways” between Judaism and Christianity; the process was incremental and gradual.<sup>9</sup> In the Jewish homeland, the cumulative consequences of the Great Revolt of 66–73 CE and the Bar Kochba Revolt of 132–5 CE devastated Jewish culture not only in Jerusalem but also more broadly in Judaea,<sup>10</sup> resulting in the introduction of Roman structures and institutions together with the prohibition of Jewish settlement in the city. From late first through the middle second century CE, the economic, religious, and social fabric of the land was strained, and this tension occurred precisely at the time when the neighboring Hellenistic-Roman city-states were experiencing renewal,<sup>11</sup> exacerbating this effect. As a consequence, the center of Jewish life shifted north to the Galilee.

The letter of James was typical of some Christian Jewish documents in Judaea/Palestine in this early period. It engaged in no polemic against Judaism; quite the opposite: it shared essentials with Judaism (as Luther complained), including antagonism towards a faith-alone understanding of Christian behavior (Jas. 2.14–26). The continued vitality of a Jerusalem-centered Christian community is illustrated by Hegesippus (110–70 CE), a Jewish Christian who followed the traditions of James and traced the subsequent traditions about Jerusalem bishops.<sup>12</sup> He was concerned about the

<sup>8</sup> This chapter overlooks other Jewish groups – for example, the Dead Sea community – who believed themselves to be a new community that superseded Judaism or the Temple. See also ch. 11 in the present volume.

<sup>9</sup> For the gradual development of the period to 160 CE, see P. Richardson, *Israel in the Apostolic Church* (Cambridge, 1969).

<sup>10</sup> Recently, see Dunn (ed.), *The Parting of the Ways*, and chs. 1 and 3 in the present volume.

<sup>11</sup> P. Richardson, *City and Sanctuary: Religion and Architecture in the Roman Near East* (London, 2002).

<sup>12</sup> J. Painter *Just James: The Brother of Jesus in History and Tradition* (Columbia, 2003), especially ch. 5.

families of Jesus and David, James's death, circumcision, and fissiparous groups. Nevertheless, Hegesippus' circle was also outward-looking, judging from his travels through Corinth to Rome.<sup>13</sup> A few years later (approximately 190), Theophilus of Caesarea (along with Narcissus of Jerusalem, Clarus of Ptolemais, and Cassius of Tyre) apparently supported the Sunday celebration of Easter rather than 14 Nisan (the Quartodeciman view), based surprisingly on Alexandrian practice (Eusebius, *HE* 5. 23–5).

The Gospel of John originated as a Judaeian document, perhaps as a sign source. In this form, it contained little that might be called anti-Jewish, although in its final form – possibly deriving from Ephesus – it adopted a persistently polemical use of “the Jews.” To the author and original readers, “Jews” may well have meant “Judaeans,” but to its ultimate readers it probably implied all or most Jews. Its deep communal concerns, mainly at the second stage, fitted well a late first-century situation when Christians used polemic deliberately to enhance the self-identification of the new community. John's passion narrative was consistent with this later approach, sharing the animus of other trial accounts against the priests and leaders of Jewish society but with more emphasis on Pilate's role.

The letter of James and the Gospel of John were written by Christian Jews for other Christians. Using a different strategy, some authors usurped pre-Christian Jewish documents and interpolated them with Christian materials. In one example of this approach – the *Testaments of the Twelve Patriarchs* (the early second century), which emphasized broadly based adherence to Torah (*T. Benj.* 10) and right living (*T. Benj.* 4–5) – a noteworthy Christian interpolation suggested that both Jews and Gentiles would be saved (*T. Benj.* 3, 11; cf. Paul in Rom. 11, and *T. Benj.* 10).<sup>14</sup> The *Martyrdom and Ascension of Isaiah*, with late second-century Christian interpolations, noted that Jesus' “disciples will abandon the teaching of the twelve apostles and their faith . . . and there will be much contention” (3.13–4.22, especially 3.21–2; 6–11).

Christian communities in the Holy Land were deeply influenced by their origins within Judaism. Most of the preceding evidence implies that little explicit Christian animosity arose towards Jews in the homeland of the new movement in the late first and second centuries. The anti-Judaism of John, which at first sight might seem an exception to this generalization, in fact fitted this general understanding effectively if a two-stage writing process is correct.

<sup>13</sup> P. Richardson, “Judaism and Christianity in Corinth after Paul: Texts and Material Evidence,” in J. Cappel Anderson, P. Sellw, and C. Setzer (eds.), *Pauline Conversations in Context: Essays in Honor of Calvin J. Roetzel* (Sheffield, 2002), 42–62.

<sup>14</sup> Wilson, *Related Strangers*, 105–7.

## III SYRIA AND THE EAST

Peoples with various patrimonies – Semitic, Hellenistic, and Roman – jostled alongside each other in the Roman Near East.<sup>15</sup> Major cities often had substantial Jewish communities where Christianity grew quickly. Some Christian documents emerged from heavily Jewish or Semitic areas in western Syria. The *Gospel of the Nazoreans* (early to middle second century) expanded the Gospel of Matthew, but it is known only from later allusions and quotations in which it is called “the Jewish gospel.” The *Gospel of the Ebionites* (middle second century, perhaps trans-Jordan) harmonized Matthew and Luke but emphasized no sacrifice, meat, or virgin birth. The church manual *Didache* (late first century) hints at Christian use of Jewish practices, yet simultaneously distances Christians from Jews by differentiating the practices of praying and fasting in the two communities (8.1–3).

Matthew (late first century), the *Gospel of Peter* (early second century) and the *Acts of Pilate* (middle second century) probably all derived from urban Syria. All of the texts heightened Jewish culpability in Jesus’ death: Matthew, which interpreted Torah in noticeably Christian terms (Matt. 5.17–20)<sup>16</sup> by implicating “the whole people” (Matt. 27.25);<sup>17</sup> the *Gospel of Peter* by reducing Pilate’s responsibility and having the people crucify Jesus (“of the Jews none washed their hands”); the *Acts of Pilate* by making Jewish leaders and people culpable while exonerating Pilate. Indeed, the *Acts of Pilate* turned Pilate’s wife into a God-fearer – a Gentile attracted to Judaism – and it concluded with the prediction: “If Jesus is remembered after fifty years, he will reign forever and create for himself a new people.” At the same time, it revealed little animosity toward such Jewish institutions as the Temple, sacrifice, or the Sabbath.

One group of texts seemed to presuppose tensions, such as those plausibly located in the Decapolis. Mark’s Gospel may have been one such document. His trial narrative emphasized the leaders’ animosity towards Jesus directly through the accusation of “blasphemy” and indirectly through the illegalities of the process he describes.<sup>18</sup> The *Epistle of Barnabas* (late 90s, also from the Decapolis) was the product of a Gentile

<sup>15</sup> Richardson, *City and Sanctuary*. <sup>16</sup> Wilson, *Related Strangers*, 46–56.

<sup>17</sup> E. Buck, “The Setting of Matthean Anti-Judaism,” in Richardson (ed.), *Anti-Judaism in Early Christianity*, 1 181–200.

<sup>18</sup> C. P. Anderson, “The Trial of Jesus as Jewish-Christian Polarization: Blasphemy and Polemic in Mark’s Gospel,” in Richardson (ed.), *Anti-Judaism in Early Christianity*, 1 107–26.

Christian who may earlier have been a Jewish proselyte.<sup>19</sup> He argued typologically that Christianity had superseded Judaism: Scripture, covenant, Temple, and circumcision were reinterpreted, although the author thought they were still dangerous (“beware of being shipwrecked upon their law,” *Barn.* 4.6–8). Its rhetorically clever hermeneutic argued that everything “theirs” was “ours,” in opposition to Christians holding a two-covenant approach that stated it was “theirs and ours.” The *Dialogue between Jason and Papiscus* (not unlike Justin’s *Dialogue with Trypho*), attributed to Aristo in the Decapolis city of Pella, reflected a Jewish Christian debating the prophetic texts with an Alexandrian Jew (Origen, *Contra Cels.* 4.52; cf. also Eusebius, *HE* 4.6). Theophilus of Antioch (approximately 180 CE, who was converted as an adult) presented Christianity as continuous with Judaism to a fellow rhetorician in *To Autolytus*. The document drew few quotations from Christian texts; virtually all of them derived from the Septuagint, which he described as “this great and wonderful law” (3.9), “divine law,” and “holy law” (2.35), not superseded or allegorized, but straightforwardly affirmed.

The earlier Jewish document *4 Ezra* (approximately 100 CE) was usurped in the third century by adding Christian interpolations at the beginning and the end (*5 Ezra*, chs. 1–2; *6 Ezra*, chs. 15–16). “Other nations” now carried God’s name; God “rejected your feast days, and new moons, and circumcisions of the flesh,” and has given Jerusalem, “which [He] was going to give to Israel,” to a “new people” (1.24, 31, 38; 2.10, 40). Curiously, *2 Baruch* was not Christianized, although *3* and *4 Baruch* were; note especially the emphasis on Jerusalem in *3 Baruch* 1.3: the Temple was removed and prayer substituted (11, 14–15). The *Odes of Solomon*, illustrating close affinities with Johannine language and ideas, was adapted as a Christian hymnbook in a relatively uncomplicated manner in the late first or early second century, with little that sounded anti-Jewish. Similarly, a collection of Hellenistic *Synagogue Prayers* was interpolated only lightly; often a phrase, such as “in Christ,” was added without modifying the underlying Jewish piety. A few insertions exceeded this idea, such as the reference to “Christ-murderers” (7.14) and the implication that “Gentiles” have become “the true Israel” (5.8).

A harsher note was sounded in a glancing allusion in the *Acts of John* (second century, eastern Syria) although this harshness was not sustained

<sup>19</sup> P. Richardson and M. B. Shukster, “Barnabas, Nerva, and the Yavnean Rabbis,” *JTS* n.s. 34 (1983), 32–55; see also M. B. Shukster and P. Richardson, “Temple and Bet Ha-midrash in the Epistle of Barnabas,” in Wilson, *Anti-Judaism in Early Christianity*, 11 17–31.

throughout: “before he was arrested by the lawless Jews, whose lawgiver is the lawless serpent, he assembled us all” (*Acts of John* 94).

Literature associated with the figure of Thomas reflected the piety of some Syrian Christians. The *Gospel of Thomas*, composed of independent sayings without a passion narrative, had a much-reduced sense of anti-Judaism compared to the canonical Gospels (cf. 43, 102). The *Infancy Gospel of Thomas* (the middle second century) concluded with Jesus in Jerusalem (19, repeating Luke 2.41–52); childhood conflict stories set Jesus against various Jewish leaders, namely, a “certain Jew” (2); Annas and his son (3); Zacchaeus (6–7); teachers (4, 15); Temple authorities (19). The underlying issue was debate over matters of interpretation. The *Protevangelium* – or *Infancy Gospel* – of *James* (late second century) was located comfortably within a Jewish-oriented understanding of Christianity. It emphasized the historic twelve tribes of Israel and focused on the Temple and Temple service, claiming that the young Mary wove the veil of the Temple. It presupposed Christian presence in Jerusalem and Judaea along with the validity of the priesthood and the Temple. The *Apocryphon of James* (early second century, possibly from Egypt) alluded to two secret books delivered “to Peter and me” in Hebrew, and concluded with James traveling to Jerusalem.

Some of the Nag Hammadi documents originated in Syria, particularly the Valentinian *Gospel of Philip* (late second or the early third century), which included a number of allusions to the letter to the Hebrews that interpreted “Judaism as an inferior form of existence and Christianity as a superior and independent venture.”<sup>20</sup> The anti-Paulinism of the *Kerygmata Petrou* (approximately 200 CE) provides an unusual flavor (see also the third-century *Pseudo-Clementines*); in its polemic against Paul (H 2.16–17, 48–52), the author was firmly in touch with Jewish religious convictions. In summary, Syria exhibited different forms of Christianity that adopted a range of attitudes, but the clearest forms of anti-Judaism derived from major cities with mixed populations.

#### IV ASIA MINOR

Like Syria, Asia had large cities containing significant Jewish communities. Christianity spread early to these regions, both in coastal cities, such as Ephesus, and in hinterland areas. Religious and cultural friction was common, in some cases involving Jews. In the early period and in the Pauline tradition, some texts were relatively positive (Ephesians, the

<sup>20</sup> S. G. Wilson (ed.), *Anti-Judaism in Early Christianity*, 11 *Separation and Polemic* (Waterloo, ON, 1986), 201.

Pastorals, *Acts of Paul*): “now in Christ Jesus . . . you have been brought near” (to Israel) (Eph. 2.13, but compare 2.15: “abolishing . . . the law of commandments”); “the law is good if anyone uses it lawfully” (1 Tim. 1.8); “he had determined to save the house of Israel” (*Acts of Paul* 8.3.10 = 3 Cor.). The Johannine letters (Ephesus, late first century) neglected Jewish concerns and focused on internal conflict whose source remains unclear.

Ignatius, a non-Jewish Christian from Antioch, wrote several letters to churches in Asia, some of which presupposed a substantial degree of antagonism. “If we are still living in the practices of Judaism, it is an admission that we have failed to receive the gift of grace” (*Magn.* 8); “To profess Jesus Christ while continuing to follow Jewish customs is an absurdity . . . Judaism looks to Christianity” (10). In the haphazard process of editing the *Sybilline Oracles* (middle second century), particularly revising Oracles 1, 2, 7, and possibly 8, the emphasis lay on the relation of Jews and Gentiles (1.346, 360–6, 383–4, 393–6; see also 2.174, 249–51). One suggestive comment may have reflected early Gentile–Christian judaizing when it alluded to those who “claim to be Hebrews, which is not their race.”<sup>21</sup>

The *Martyrdom of Polycarp* described the Jewish community in Smyrna as antagonists of the Christian community and attributed to it part of the blame for Polycarp’s death (12, 13, 18). The early apologetic literature from Asia – *Quadratus* (a lost document), *Aristides*, and the *Epistle to Diognetus* – presented Christianity in as favorable a light as possible while differentiating it from its competitors. Each one used a three- or four-part division of humanity (three-part in *Diognetus* and *Aristides* in Greek; four-part in *Aristides* in Syriac and Armenian), with Christianity being compared closely with Judaism. For example, Syriac *Aristides* saw Jews as “nearer the truth than all the peoples” although they do not observe “perfectly” the Sabbath, new moons, Passover, the great fast, circumcision, and cleanness of meats (14). Greek *Aristides* and the *Epistle to Diognetus* (provenance and date unclear) were less generous; in the latter, Christians disclaim “the superstitions professed by the Jews” (*Diog.* 1).

Melito of Sardis, like most Asians, was a Quartodeciman, celebrating Easter at the same time as the Jewish Passover on 14 Nisan, on whichever day it occurred. The West was largely committed to a Sunday observance of Easter, regardless of Passover’s date. In his paschal homily, Melito adopted a strongly anti-Jewish rhetorical stance, so the sermon became a classic *tour de force* demonstrating how far Christians were from Jews. Claudius Apollinarius, Bishop of Hierapolis (161–80 CE), supported Melito and

<sup>21</sup> M. D. Murray, “Playing a Jewish Game”: *Gentile Christian Judaizing in the First and Second Centuries CE* (Waterloo, 2004).

authored a polemical *Jews Answered*, matching his *Greeks Answered* (Eusebius, *HE* 4.25, 27). Polycrates (approximately 130–96 CE) cited several early figures in support of his Quartodeciman beliefs, although nothing more is known of his views on Judaism. Marcion developed his teachings on Christian differences from Judaism in Asia, too, but since these teachings were propagated in Rome, they will be discussed below.

While Asia, like Syria, generated some anti-Jewish hostility, conditions were variable, and hostility could be absent. In both regions, antagonism emerged more clearly in the context of enthusiastic paganism, such as in the Decapolis cities or Sardis, where growing Christian groups rubbed shoulders with substantial Jewish communities.

## V GREECE AND MACEDONIA

Not much early Christian literature is available from Greece and Macedonia, nor is a great deal of information extant about Christian relations with Jews. None of the literature was directed primarily against Judaism. Some was mainly apologetic, such as Luke-Acts (possibly from Achaia) and the apologies of *Quadratus* and *Aristides* (located in Achaia by Jerome but more likely from Asia). Other literature was designated for Christian instruction (2 *Clement*, Dionysius, Bacchylus). Some anti-Jewish elements can be found in Luke and Acts, especially in Acts' retrospective perceptions of the death of Jesus, although other passages, such as Acts 4.13, 27; 5.28, sound less antagonistic. Luke's passion narrative exculpated Pilate, accused the people less than the other Gospels and avoided the procedural illegalities in Mark's account. Nevertheless, Luke-Acts' overall plan implied a "Gentile" replacement of Jews because of the Jewish rejection of Jesus, with Luke 4.16–30 matching Acts 28.23–8 at the two ends of the combined narrative.

The homily 2 *Clement*, produced by the Corinthian church,<sup>22</sup> reflected a church in which Gentiles had become more numerous than Jews: "our people seemed to be deserted by God, but . . . now we who have believed have become many more than those who seemed to have God" (2 *Clem.* 2.3; 1.6–7).<sup>23</sup> The author incited the "first church, the spiritual one," and set it against "those who became a den of robbers" (14), suggesting that the Corinthian church had separated itself from Judaism. Dionysius of Corinth (approximately 170 CE) worked with "inspired industry" (*HE* 4.23), writing letters to "foreign lands," opposing Marcion and other heretics, and

<sup>22</sup> K. P. Donfried, *The Setting of 2 Clement* (Leiden, 1974).

<sup>23</sup> The phraseology suggests a harsh mind set, contrasting "our people" with "those who seem to have God"; Richardson, *Israel in the Apostolic Church*, 19, 25, 29.



emphasizing Corinth's closeness to Rome. Few details are known. Bacchyllus of Corinth (approximately 190 CE) was active against the Quartodecimans (*HE* 5.22–3), possibly suggesting that he and “all the Achaian bishops” (Jerome, *Vir. Ill.* 44) avoided both Marcion's denigration of Judaism and the Quartodeciman adoption of Jewish ceremonial practice.

Insufficient textual evidence is available, but it seems that mainland Greece did not generate vigorous anti-Judaism, a suggestion that might fit well with the minor indications in Corinth, for example, that the synagogues and churches developed simultaneously.<sup>24</sup>

## VI ROME, ITALY, AND THE WEST

In the west, only the situation in Rome can be detailed. Its immense population supported numerous religious communities within which every conceivable current flowed. The large Jewish community may have contributed in due course to an expanded, diverse, and conflictual Christian community,<sup>25</sup> which, even in the earliest days, was not homogeneous. The epistle to the Hebrews' typological use of the Hebrew Bible, instructing Christians to hold firmly to Jesus rather than to Moses, existed alongside 1 Peter's possession of the inheritance of Israel and 2 Peter's strongly Jewish apocalyptic character, if all of them were written in Rome.

In the next generation, 1 *Clement* (middle 90s) showed the well-developed and confident Christian use of Scripture, but 1 *Clement* did not apply Scripture – as *Barnabas* did elsewhere at the same time – to undercut or attack Judaism. Likewise, the *Shepherd of Hermas* (early second century) ignored Judaism because, in the image of the church as building, Israel did not form part of the foundation.

*Ptolemy's Letter to Flora* (early or middle second century) described, from an incipiently gnostic stance, diverse attitudes toward the Mosaic law (Epiphanius, *Haer.* 3.3–7). It claimed that Torah was ordained neither by God nor the devil, arguing that Torah consisted of three parts: the one completed by the Saviour, the one entirely destroyed, and the one changed from literal to spiritual (“symbolic legislation”).

As Rome gradually became the center of Christianity, it became home to a range of Christian opinions: Justin, Marcion, and Valentinus were active in Rome at the same moment but expressing acutely different views of Christianity, Judaism, and their relationship. Marcion<sup>26</sup> radically opposed

<sup>24</sup> Richardson, “Judaism and Christianity in Corinth after Paul.”

<sup>25</sup> Donfried and Richardson (eds.), *Judaism and Christianity in First-Century Rome*.

<sup>26</sup> Died about 154 CE, born in Sinope, and settled in Rome about 140 CE. See Wilson, *Related Strangers*, ch. 7.

law and gospel: Judaism was inferior to Christianity and the two were to remain separate, yet Judaism still had a future when its own messiah came, since, by definition, Jesus was not the Jewish messiah.<sup>27</sup> On the other hand, Valentinus<sup>28</sup> could write the *Gospel of Truth* with its high Christology and emphasis on truth and joy, largely ignoring Judaism, like most Gnostics. In addition, Justin Martyr,<sup>29</sup> who wrote two *Apologies* and a *Dialogue with Trypho*, demonstrated that the cumulative effect of incremental possessions and transpositions of Jewish attributes and prerogatives was the conviction that “we are the true, spiritual Israelite nation, and Judah and Jacob and Isaac and Abraham” (*Dialogue* 11.5).

### VII EGYPT AND NORTH AFRICA

With the strong Jewish communities of Alexandria and the Fayum, Christianity in Egypt had a decidedly Jewish flavor. Such fragmentary gospels as the *Gospel of the Egyptians* (early second century) are tantalizing. The *Gospel of the Hebrews* (late first century or early second century) represented a Jerusalem-centered branch of early Christianity. In the *Epistle of the Apostles* (middle second century), Jesus descended to speak to the heroes of the old covenant so that they could hear (27), the apostles were supposed to “go and preach to the twelve tribes of Israel and to the Gentiles and Israel and to the land of Israel” (30), and Paul was confirmed as an elect vessel (31–3).

The collection of documents from Nag Hammadi included several from Egypt. The *Apocryphon of John* (pre-185 CE) portrayed John in the context of the Temple and controversy with Pharisees. The *Apocalypse of Peter* (considered Scripture by Clement of Alexandria; 135 CE) located Jesus within the Temple, covenant, remnant, Law, priests, and the people. Even the cross, at which Jesus laughs, was “under the law.” Certainly, an implicit rejection of Israel is noticeable, so the readers were supposed to present the matters they observed “to those of another race who are not of this age.” Pieces of quotations of Basilides (early second century, Alexandria) implied that some Egyptian Gnostics held relatively harsh views.

Mainstream Christian documents from Egypt tended to divide Christianity from Judaism. The *Preaching of Peter* (*Kerygma Petri*, early

<sup>27</sup> Wilson, *Related Strangers*, especially 216–17; and Gager, *The Origins of Anti-Semitism*, 167–73.

<sup>28</sup> Died after 160 CE, born in Alexandria, arrived in Rome approximately 135–40, and resettled in Cyprus approximately 160.

<sup>29</sup> Died 165 CE, born in Flavia Neapolis (modern Nablus), moved to Ephesus, and then to Rome.

second century) viewed Christianity as a radically new “third way” (fragments 4 and 5 especially). Clement of Alexandria (160–215 CE) suggested similar views (especially *Strom.* 6.5.41, 43). For Clement, philosophy was the Logos’s covenant with the Gentiles, while Israel’s Scriptures formed the covenant with the Jews. Tertullian,<sup>30</sup> in *Against Jews*, spoke of two peoples and nations so that Israel was “divorced” from divine favor (ch. 1), no doubt because “all the synagogues of Israel” slew Jesus (ch. 8). He argued that circumcision, Law, the Sabbath, and sacrifices had all been abolished as Jerusalem had been laid waste or “exterminated.”

### VIII CANONICAL DEVELOPMENTS

One important element in this regard in the “Great Church” was the developing concern for a canon. As the Church’s internal battles raged, clarity was needed on what was authoritative and what was not authoritative as Scripture. Marcion’s canon comprised parts of Luke and the Pauline letters, but he excised passages that contained generous assessments of Jews and of Israel’s place (e.g. Rom. 9–11), so that it proceeded in a fairly strongly anti-Jewish direction. On the other hand, the Gnostic “canon,” if one existed, included little that was anti-Jewish, and the Ebionite “canon” would have included much that accommodated Christianity to Judaism. The orthodox canon balanced competing emphases: slightly polemical Gospels, such as Matthew and John, stood alongside supersessionist texts, such as Hebrews and 1 Peter, and non-polemical documents, such as James, while overlooking other non-polemical gospels, such as *Q* and *Thomas*. Within the Great Church tradition, those who inclined towards anti-Jewish theology and those more pacifically inclined could simultaneously claim support for their views.

### IX MATERIAL REMAINS

By the fifth and sixth centuries, Christian groups in a few places had taken possession of synagogues and remodeled them to serve as churches (The Synagogue Church in Gerasa<sup>31</sup> and “Hashmunit” synagogue in Antioch-on-Orontes).<sup>32</sup> In the fourth century, Joseph of Tiberias, a Jewish convert to

<sup>30</sup> *Floruit* 200 CE; an advocate of Montanism in Carthage; only the first eight chapters are considered authentic.

<sup>31</sup> The basic structure of the synagogue (walls, columns, and capitals) was reused, but the plan reversed the orientation.

<sup>32</sup> L. I. Levine, *The Ancient Synagogue: The First Thousand Years* (New Haven, 2000), 117, 287.

Christianity, was commissioned by Constantine to build churches in Tiberias, Nazareth, and Capernaum in order to subvert Judaism and convert Jews to Christianity. At one stage, the Capernaum church may have confronted the contemporaneous synagogue located there, so the material evidence may have implications for the local relationship between Jews and Christians. There were important differences between the urban situation at Gerasa, in which the church took possession of the synagogue, and the less aggressive situation at Capernaum. In the early third century, the church and synagogue at Dura were located on the same street, adapted patrons' houses in similar ways, and used similar strategies of decoration. The material evidence, although weaker and later, reflects much the same variety as the texts.

## X CONCLUSION

The foregoing analysis leads to the following conclusions:

1. The development of anti-Jewish attitudes was complex and varied.
2. Some geographic regions (Decapolis, Asia Minor, and Italy) were more fertile ground for expressions of anti-Judaism than others (Judaea and Greece) where anti-Jewish trends were less noticeable.
3. Some cultural contexts, particularly large cities with their religious rivalries between significant Christian communities, strong Jewish communities, and a strong paganism, encouraged anti-Jewish developments.
4. Where a Christian community emerged from a Jewish community and chose to differentiate itself from it (e.g., the Gospel of John), anti-Judaism tended to appear; churches that were largely "pagan" in background tended to be less anti-Jewish.
5. Anti-Judaism was slightly more prevalent in the Great Church than among groups eventually labeled heretical.
6. Anti-Judaism was partly a product of one group's canonization of writings and the subordination of others. The Church of the third and fourth centuries selected writings from the first century that, although they formed an eclectic collection, often reflected confrontation with Judaism at a time when confrontation was still a desideratum.

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# THE RABBINIC RESPONSE TO CHRISTIANITY

STEVEN T. KATZ

## I INTRODUCTION

No full accounting of the separation of Christianity from Judaism can be provided because of the paucity and ambiguity of the existing evidence. The rabbinic sources of the mishnaic era provide very little information on the subject and what information is supplied is almost always subject to dispute as to its exact meaning and historical value, while the Christian evidence is often suspect because of its polemical theological agenda.

Given what we do know, it is fair to assume that the situation was complex and that the separation took place over a number of decades and was due to a variety of factors, social, theological, and political.

## II BEGINNINGS

Despite its tendentiousness, the narrative of the martyrdom of Stephen (Acts 6.8—8.3) appears to be accurate in reporting that the earliest Christian preaching almost immediately provoked Jewish antagonism. No consensus, however, has been reached by modern scholars concerning which features of the Christian message were most responsible for the hostility.<sup>1</sup> It is sometimes supposed that halachic nonconformity on the

<sup>1</sup> This issue has been reviewed by W. H. C. Frend, *Martyrdom and Persecution in the Early Church* (New York, 1967); S. G. Wilson, *Related Strangers: Jews and Christians 70–170 CE* (Minneapolis, 1995); M. Simon, *Verus Israel* (Oxford, 1986); J. T. Sanders, *Schismatics, Sectarians, Dissidents, Deviants: The First One Hundred Years of Jewish–Christian Relations* (Valley Forge, 1993); idem, *The Jews in Luke–Acts* (Philadelphia, 1987); C. Setzer, *Jewish Responses to Early Christians: History and Polemics, 30–150 CE* (Minneapolis, 1994); W. Horbury, *Jews and Christians in Contact and Controversy* (Edinburgh, 1998); E. P. Sanders, A. Baumgarten, and A. Mendelson (eds.), *Jewish and Christian Self-Definition*, 3 vols. (Philadelphia, 1980–5); J. Parkes, *The Conflict of Church and Synagogue* (London, 1934); D. Rokeah, *Jews, Pagans and Christians in Conflict* (Jerusalem, 1982); L. Schiffman, *Who Was a Jew? Rabbinic and Halakic Perspectives on the Jewish–Christian Schism* (Hoboken, 1985); E. P. Sanders, *Paul, the Law, and the Jewish People* (Philadelphia, 1983); S. Krauss, *The Jewish–Christian Controversy from the Earliest Times to 1789*, 1: *History*, ed. and rev. W. Horbury (Tübingen, 1995); D. R. A. Hare, *The Theme of Jewish Persecution of Christians*

part of Christians was the primary cause of friction.<sup>2</sup> In view of the wide diversity of halachic practice in the period of the Second Temple, however, this is hardly an adequate explanation in itself, especially for the very earliest antipathy that predates the conversion and teaching of Paul, although, as we shall see, it was probably a contributory factor. It is more likely that Christology was at the center of the conflict. The exact nature of the early christological formulation(s) is the subject of intense scholarly dispute,<sup>3</sup> but it would appear that the christological construals represented a dramatic, to some considerable degree innovative, remythologization of Judaism. Claims for the person of Jesus in the cosmic drama – which later would lead to trinitarian formulations and assertions that Jesus was the “Son of God,” and the like – along with claims regarding the resurrection, already found repeatedly in early Christian documents (e.g., 1 Cor. 15.3–8), would contest existing theological understandings and make claims for the centrality of Jesus that challenged, if they did not altogether transcend, the boundaries of first-century Palestinian Judaism, even with all its acknowledged diversity.

Here one notes that in the second century CE, early Christianity was claiming more than that Jesus was the promised Messiah – though this was, as Matthew’s Gospel makes evident (see Matt. 28.11–15), also contested and the claim that Jesus was the “Son of David” is several times rejected (2.1–6; 9.27–34; 12.22–4; 21.9–15) – and this in various ways. It is clear that Christian preaching went far beyond the simple identification of Jesus as the Messiah, and in the course of its theological teaching threatened the central symbols of Jewish self-identification: Temple, Torah, the covenant and election, and monotheism. Let us examine each of these in turn.

The importance of the Temple, the *Bet ha-Mikdash*, was the subject of debate between the various Jewish groups in the first century. The attitude of the Qumran community was, for example, at best ambivalent (cf. 1QS9.4f.). Yet among the participants in this debate the Christian

*in the Gospel According to St. Matthew* (Cambridge, 1967); and M. S. Taylor, *Anti-Judaism and Early Christian Identity* (Leiden, 1995).

<sup>2</sup> For example, I. Ziegler, *Der Kampf zwischen Judentum und Christentum* (Berlin, 1907), 73.

<sup>3</sup> There is a vast literature on this subject. For an introduction to the complicated issues connected with the origins and development of Christology see C. Setzer, “You Invent a Christ! Christological Claims as Points of Jewish–Christian Dispute,” *USQR* 44 (1991), 315–28; R. Scroggs, *Christology In Paul and John* (Philadelphia, 1988); P. Fredriksen, *From Jesus to Christ* (New Haven, 1988); J. D. G. Dunn, *Christology in the Making* (London, 1980); J. N. D. Kelly, *Early Christian Doctrines*, 2nd ed. (London, 1960); and M. Hengel, *The Son of God: The Origin of Christology and the History of Jewish–Hellenistic Religion* (London, 1976).



stance was the most provocative. Stephen is already charged with violating the norms of the Temple (Acts 6.11–15) and with criticizing the Temple as inferior: “Solomon built him a house; but the Most High does not dwell in things hand-made” (Acts 7.47–8). In Matthew, Jesus foretells the destruction of the Temple (Matt. 24.2, and see also Mark 13.2), and in Luke he is reported as having taught: “Not one stone will be left here upon another, all will be thrown down”<sup>4</sup> (21.6).<sup>5</sup> Christians, moreover, transmitted a saying that subordinated the Temple to their proclamation of the kingdom of heaven (“But I say to you, something greater than the Temple is here,” Matt. 12.6). For Jewish Christians, Jesus had replaced the Temple as a self-defining symbol, and his crucifixion had made the Temple cult irrelevant. (See, for example, John 19.32–6; the *Epistle of Barnabas* 7; 8; 16; and Melito of Sardis, *Paschal Homily* 762–4; 782–800).

Despite the variety of halachic practices found in the Jewish community in the first century, Christians threatened the Torah principle more seriously than other organized groups in Judaism (except perhaps the Allegorists against whom Philo inveighs, and antinomian Gnostics, whose existence in the first century has not yet been clearly demonstrated).<sup>6</sup> Though the followers of Jesus continued to observe aspects of the Jewish law, they distinguished themselves from the Pharisees (and other Jewish groups) by the kind of authority they attributed to their teacher: “The Son of man is lord also of the Sabbath” (Mark 2.28). This subordination of Torah to Jesus is reflected again in Mark 10.2–12, where the issue in dispute is hand-washing (7.2–5), and the matter of clean and unclean foods (7.14–23), and in Matthew’s repeated emphasis on the conflict between Jews and Christians over the question of halachic practice: common meals

<sup>4</sup> See on this prediction L. Gaston, *No Stone on Another: Studies in the Significance of the Fall of Jerusalem in the Synoptic Gospels* (Leiden, 1976).

<sup>5</sup> This presentation assumes that the original core of the Gospels of Mark, Luke, and Matthew reflects pre-70 traditions even when, as with Matthew, the present, final version of the Gospel is a post-70 product. Given this assumption, one is justified in using material from Matthew as well as from Mark and Luke to decipher possible pre-70 grounds of conflict between the nascent Christian community and the Jewish community.

<sup>6</sup> The Allegorists are attacked by Philo in *Migr. Abr.* 89–93. G. Vermes, “The Decalogue and the *Minim*,” in M. Black and G. Fohrer (eds.), *In Memoriam Paul Kahle* (Berlin, 1968), 232–40, argues that the *minim* who claimed that only the Ten Commandments were of divine origin (PT *Ber.* 3c; cf. BT *Ber.* 12a) were not Jewish Christians but Jewish Hellenists, “the ancient forebears of what is known today as ‘Liberal Judaism’” (240). This article was reprinted with other essays by Vermes in *Post-Biblical Jewish Studies* (Leiden, 1975), 169–77. Alternatively, the *minim* were identified as Jewish Gnostics by M. Friedländer, *Der vorchristliche jüdische Gnosticismus* (Göttingen, 1898), and by A. Marmorstein, “The Background of the Haggadah,” *HUCA* 6 (1929), 141–204, especially 183. A more extended discussion of the term *minim* will be provided below, 287–93.

(9.11), fasting (9.14), practices on the Sabbath (12.2–14), hand-washing (15.1–12), and divorce (19.3); and in Luke 6.1–11; 13.10–14.6; 10.25–8; 16.18 (among other passages).<sup>7</sup>

This threat was then radicalized in the teachings of Paul. Though a subject of enormous scholarly controversy, it is difficult to read Paul as anything but a critic of halachic practice. According to Paul, no one shall be justified by works of the law (i.e., Judaism): “If justification were through the law, then Christ died in vain . . . For all who rely on works of the law are under a curse.”<sup>8</sup> Judaism, with its requisite regimen of *mitzvot*, does not lead to God but away from Him. To uphold the Torah is to be spiritually entombed. And this conclusion is inescapable,<sup>9</sup> for the law is of no positive import: “For no human being will be justified in his [God’s] sight by works

<sup>7</sup> Acts 6.11–14 also reports that Stephen criticized the Law. For more on Stephen’s criticism of Judaism see J. J. Killgallen, *The Stephen Speech: A Literary and Redactional Study of Acts 7.2–53* (Rome, 1976); and J. Bihler, *Die Stephanusgeschichte im Zusammenhang der Apostelgeschichte* (Munich, 1963). For a detailed review of Luke’s view of Jews and Judaism see J. T. Sanders, *The Jews in Luke-Acts* (Philadelphia, 1987); idem, “Who Is a Jew and Who Is a Gentile in the Book of Acts?” *NTS* 37.3 (July 1991), 433–55; J. B. Tyson (ed.), *Luke-Acts and the Jewish People: Eight Critical Perspectives* (Minneapolis, 1988); E. Haenchen, *The Acts of the Apostles* (Oxford, 1971), is thoroughly straightforward on Luke’s attitude toward the Jews: “Luke has written the Jews off” (278). This is also the critical reading of J. C. O’Neill, *The Theology of Luke-Acts in Its Historical Setting*, 2nd ed. (London, 1970), 84. J. Jervell takes a position opposite to Haenchen’s in his *Luke and the People of God* (Minneapolis, 1972); see also J. A. Fitzmyer, *Luke the Theologian: Aspects of His Teaching* (New York, 1989).

<sup>8</sup> Gal. 3.10–14; see also 3.21. This passage has been the subject of intense discussion, not least as regards its intended audience: was it aimed at Jews, Jewish Christians, or Gentile Christians? For a further discussion of these issues see H. D. Betz, *Galatians: A Commentary on Paul’s Letter to the Churches in Galatia* (Philadelphia, 1979); F. Mussner, *Der Galaterbrief* (Freiberg, 1974); T. L. Donaldson, “The Curse of the Law’ and the Inclusion of the Gentiles: Galatians 3.13–14,” *NTS* 30 (1984), 382–94; J. D. G. Dunn, “Works of the Law and the Curse of the Law (Galatians 3.10–14),” *NTS* 31 (1985), 523–42; idem, *Jesus, Paul, and the Law: Studies in Mark and Galatians* (Louisville, 1990); J. B. Tyson, “‘Works of Law’ in Galatians,” *JBL* 92.5 (September 1973), 423–31; G. Wagner, “Pour comprendre l’apôtre Paul,” *Lumière et vie* 27 (1978), 5–20; and Sanders, *Paul, the Law, and the Jewish People*, 17–27.

<sup>9</sup> Paul emphasizes that his negative view of the Torah and *mitzvot* is not the consequence of any particular weakness on his part, the projection of his own idiosyncratic shortcomings on to the Jewish community. He does *not*, as many Jewish exegetes have charged, become a Christian because he cannot fulfill the Law, because he is too spiritually enfeebled to observe the *mitzvot*. Indeed, he tells us the converse is true: “As to righteousness under the law I am blameless” (Phil. 3.6). On this claim, note W. Kümmel, *Römer 7 und die Bekehrung des Paulus* (Leipzig, 1929); and H. Räisänen, *Paul and the Law* (Tübingen, 1983), 132ff., which offer a reading different from Kümmel’s of this important autobiographical material.

of the law, since through the law comes knowledge of sin."<sup>10</sup> That is, *even the most perfect observance of the Law will not make one righteous*<sup>11</sup> in God's sight, or earn one eternal life. Judaism, Jewish law, Torah, Israel's covenant with God are all, according to Paul, "a dispensation of death, carved in letters of stone . . . a dispensation of condemnation . . . which fadeth away."<sup>12</sup> For Paul, the coming of Christ had, of necessity, put an end to the era of "the Law."

A significant corollary of this subordination of Torah to Jesus was Christian deviation from normal Jewish proselytizing among the Gentiles. Whereas other Jews understood the importance of maintaining the rigid distinction between Jew and Gentile by requiring proselytes to observe the Torah as fully as those born within the covenant, Christians, whose self-definition focused more on Jesus than on Torah, were inclined to be less rigorous in their demands of Gentile converts. Whatever may have been the situation prior to Paul's conversion,<sup>13</sup> this former Pharisee soon distinguished himself as the primary spokesman for the view that it was not necessary for Gentiles who accepted Jesus as their *kyrios* to observe the ritual requirements of the Torah. Indeed, according to Paul, it was spiritually dangerous for Gentile Christians to adopt Jewish practices because this

<sup>10</sup> Rom. 3.20; cf. Rom. 3.27; 4.2ff.; 7.7ff., and 10.2–3. For more on this crucial theme consult H. Räisänen, "Legalism and Salvation by the Law," in *Die paulinische Literatur und Theologie* (Aarhus, 1980), 63–83; idem, *Paul and the Law*; idem, *Jesus, Paul and Torah: Collected Essays* (Sheffield, 1990); and Sanders, *Paul, the Law, and the Jewish People*.

<sup>11</sup> On the meaning of *righteousness* in Paul, see E. P. Sanders, "Torah and Christ," *Interpretation* 29 (1975), 372–90; idem, *Paul and Palestinian Judaism* (Philadelphia, 1977), 504–8; J. D. G. Dunn, "'Righteousness from the Law' and 'Righteousness from Faith': Paul's Interpretation of Scripture in Romans 10.1–10.," in G. F. Hawthorne (ed.), *Tradition and Interpretation in the New Testament: Essays in Honor of E. Earle Ellis* (Grand Rapids, 1988), 216–28; E. Käsemann, "The Righteousness of God in Paul," in his collected essays, *New Testament Questions Today* (Philadelphia, 1969), 168–92; and J. Ziesler, *The Meaning of Righteousness in Paul* (Cambridge, 1972).

<sup>12</sup> 2 Cor. 3.6–11. Commenting on this Pauline attitude, E. Käsemann has written correctly, "Not sins, but pious works prevent Judaism from obtaining the salvation held out to it, and keeps it in bondage," *Commentary on Romans*, trans. G. W. Bromiley, Grand Rapids, 1980), 302. In contrast, L. Gaston's reconstruction of Paul's polemic against the Law ("Paul said nothing against Torah and Israel, but simply by-passed them as irrelevant to his gospel") is untenable on the evidence ("Paul and the Torah," in *Antisemitism and the Foundations of Christianity*, 66); cf. also Gaston's monograph *Paul and the Torah* (Vancouver, 1987).

<sup>13</sup> The use of this term to describe Paul's becoming a follower of Jesus is not altogether satisfactory as Paul (formerly Saul) still saw himself as a Jew, albeit one who now had a specific messianic belief that he understood as the fulfillment of biblical prophecies and Jewish messianic hopes. For more on this issue see A. Segal, *Paul the Convert* (New Haven, 1990).

indicated an unwillingness to trust fully in the efficacy of Jesus' saving death (Gal. 2.19–21; 5.2–6).

Partly as a result of the success of Christian proselytizing among the Gentiles, some Jewish Christians seem to have challenged the concepts of election and covenant which are so integral to Jewish self-understanding. Although no New Testament writer went so far as to appropriate the title "Israel" for the Church and to deny it to non-Christian Jews, as was done by Justin Martyr and his successors in the Gentile Church, it can be assumed that the sectarian tendency of primitive Christianity inclined in this direction.<sup>14</sup> That at least some Christians (probably Gentiles), even before the destruction of the Temple in 70, argued that synagogue Jewry had forfeited its right to be considered God's people is probably to be seen as the provocation for Paul's impassioned defense of Israel in Romans 9–11 ("I ask, then, has God rejected his people? By no means!" Rom. 11.1). In the closing decades of the first century Matthew's Gospel testifies to this view, which Paul had attempted to combat: "Therefore I tell you, the kingdom of God will be taken away from you and given to a nation producing the fruits of it" (Matt. 21.43; and see also Matt. 22.7 and Mark 12.9). Matthew's anti-Judaism (and Mark's<sup>15</sup>) was not unique. In the so-called 5 *Ezra*, which is presented in the first two chapters of the Latin translation of 4 *Ezra* (also known as 2 *Esdras*),<sup>16</sup> a Christian author has written that God is to deliver the homes of the Jews "to a coming people who, though they have not heard me, believe" (1.35). This people will come from the east and God will give them Abraham, Isaac, and Jacob and the twelve prophets as leaders (1.38–40), and finally God will give them Jerusalem, "which I would have given to Israel . . . I will give them the eternal tabernacle which I prepared for them" and the tree of life (2.10–14). (This notion later finds its way into, among other sources, ch. 26 of Justin Martyr's *Dialogue with Trypho the Jew*.<sup>17</sup>) Jewish Christians who uttered such words must surely have been regarded as apostates by fellow Jews. As Ephraim Urbach has remarked, "What made a Jew a heretic was not a slackness in observing the

<sup>14</sup> Cf. P. Richardson, *Israel in the Apostolic Church* (Cambridge, 1969).

<sup>15</sup> For a discussion of this issue see J. Marcus, "The Intertextual Polemic of the Markan Vineyard Parable," in G. N. Stanton and G. G. Stroumsa (eds.), *Tolerance and Intolerance in Early Judaism and Christianity* (Cambridge, 1998), 211–27.

<sup>16</sup> *I & II Esdras*, trans. J. M. Myers (New York, 1974), 140–58.

<sup>17</sup> One may conjecture that it is unlikely that such a harsh denial of Israel's election and covenant, and such open advocacy of Israel's replacement by Gentiles, would have been preached by Christian Jews still involved in the attempt to win other Jews to faith in Jesus. It may reflect the failure of such attempts. G. Strecker, *Der Weg der Gerechtigkeit* (Göttingen, 1962), 33, regards Matt. 21.43 as an indication that the final redactor was a Gentile, not a Jew.

precepts, or even alienation from tradition, but the act of denying the election of the Jews; for that act destroys the conceptual basis on which the separate existence of the Jewish people is founded and endangers its survival.<sup>18</sup>

It is difficult to assess the extent to which early Christian preaching was perceived as a threat to monotheism. It is unlikely that any of the rabbinic texts concerning the heresy of “two powers in heaven” derive from the period of the Second Temple.<sup>19</sup> On *a priori* grounds, however, one must assume that many Jews, especially the Sages and their followers, would have reacted negatively to Christian exegesis of such biblical passages as Psalm 110, according to which Jesus had been elevated to a position at the right hand of God, where he was seated (which could be taken as an indication of divinity), and given “the name which is above every name” (Phil. 2.10).<sup>20</sup> It would appear that some Christians had already identified the figure at the right hand of God with the divine Wisdom by means of which God had created the world; this seems to underlie Paul’s statement in 1 Cor. 8.6; cf. 2 Cor. 8.9; Phil. 2.6; Col. 1.15–20:

He is the image of the invisible God, the firstborn of all creation; for in him all things in heaven and on earth were created, things visible and invisible, whether thrones or dominions or rulers or powers – all things have been created through him and for him. He himself is before all things, and in him all things hold together. He is the head of the body, the church; he is the beginning, the firstborn from the dead, so that he might come to have first place in everything. (Col. 1.15–18)

A cosmological role for the pre-existent divine being which had become incarnate in Jesus of Nazareth is also clearly affirmed in other New Testament documents which, however, may be later than 70 (John 1.1–18; Heb. 1.1–4). Speculation concerning God’s principal angel (or “image,” “word,” or “wisdom”) was rife in first-century Judaism, as we can see from a variety of sources.<sup>21</sup> In the case of Philo we can assume that such speculation did not in itself bring its adherents into odium with their coreligionists. Alternatively, what distinguished the Christian form of this speculation was the audacious claim that Jesus of Nazareth had been the incarnation of this divine entity. Undoubtedly this appeared to many as compromising the monotheistic faith of Judaism. (See, for example, John 5.16–18 and 10.30ff.; the latter has Jesus say: “I and the Father are One,”

<sup>18</sup> “Self-Isolation or Self-Affirmation in Judaism in the First Three Centuries: Theory and Practice,” in Sanders et al. (eds.), *Jewish and Christian Self-Definition* II 292f.

<sup>19</sup> A. F. Segal, *Two Powers in Heaven* (Leiden, 1977), 148–53, 260.

<sup>20</sup> Segal, *Two Powers*, 60–1, commenting on BT *Hag.* 15a, points out that the apostasy of Elisha ben Abuya was attributed to his vision of Metatron seated in heaven.

<sup>21</sup> Segal, *Two Powers*, passim; and Dunn, *Christology in the Making*, 129ff.

while the Jews who hear this respond: "For a good work we don't stone you, but for blasphemy and because you, a human being, make yourself God.")<sup>22</sup>

The causes for friction between Christians and other Jews were therefore manifold. The missionary impulse of Christians was bound to antagonize whenever, in the course of the Church's early proselytizing activity, the central symbols of Jewish identity were challenged. It is not surprising that missionaries such as Paul were frequently punished at the hands of Jewish authorities (2 Cor. 11.24), and that in a few instances crowds effected unofficial punishment (Stephen was probably lynched by Jerusalem opponents, Acts 7.57f.). On the other hand, the extent of the persecution of Christians by their fellow Jews, and in particular by Jewish officialdom, while the Temple stood, appears to have been very limited. Thus, for example, Paul was able to persist in his controversial activities in the Diaspora for many years, and apparently found the Palestinian church at peace on his infrequent visits to Jerusalem.<sup>23</sup>

### III THE REVOLT OF 66–70

It has been contended that, because of the intensity of nationalistic feeling during the revolt of 66–70, it is probable that incidents of violence against Christians in Palestine increased at this time.<sup>24</sup> There is, however, no direct evidence in support of this assumption. The report of the migration of the

<sup>22</sup> Christological issues, that is, Jewish condemnation of certain claims made for Jesus, also appear central to Justin's criticism of Jewish behavior (see, e.g., *Dial.* 10.3; 32.1; 38.1; 71.2; 73.6; 89.1; 90.1). But there is nothing about this issue, in any of its different forms, in the Mishnah. Only post-200 rabbinic sources make any reference to Christological matters, and even then only infrequently. Moreover, most later talmudic references to Jesus criticize him as a magician who misused his powers. (For example, BT *Sanh.* 43a declares: "He is to be stoned for sorcery and leading Israel astray." See also BT *Sanh.* 107b.) Note also Morton Smith's analysis in his *Jesus the Magician* (New York, 1978).

<sup>23</sup> Especially to be avoided is the baseless charge that Jews were responsible for instigating the Neronian and subsequent persecutions of Gentile Christians by the Roman state, as asserted by A. Harnack, *The Mission and Expansion of Christianity in the First Three Centuries* (London, 1904), 1 66, and repeated by W. H. C. Frend, *Martyrdom and Persecution in the Early Church*, 164, 184, 334 (for the Doubleday edition, Garden City, 1967, see 126, 138, 252). For critiques of this accusation see I. Abrahams, *Studies in Pharisaism and the Gospels*, 2nd series (Cambridge, 1924), 56–71; and Hare, *Theme of Jewish Persecution*, 66–77.

<sup>24</sup> See, e.g., Harnack, *Mission and Expansion of Christianity*, 1 64–7; S. G. F. Brandon, *The Fall of Jerusalem and the Christian Church* (London, 1968), 12–14 and 168–73; Richardson, *Israel in the Apostolic Church*, 33–8; and the sources cited in n. 1 above. For the withdrawal of Christians from Jewish national life see also S. Baron, *A Social and Religious History of the Jews*, 2nd ed. (New York, 1952), 11 82.

Jerusalem church to Pella (Eusebius, *HE* 3.5.3) substantiates neither an intensification of the persecution for this period nor a subsequent hardening of opposition to the church in the succeeding decades.<sup>25</sup> If the revolt affected the relationship between the church and the synagogue at all, the change was probably primarily due to the significant alteration in the institutional structure of the church that resulted from the fall of Jerusalem rather than to any hardening of Jewish attitudes *vis-à-vis* Palestinian Christians, though some change may also have occurred on this front. With the demise of the Jerusalem church, Palestinian Jewish Christians ceased to provide the central leadership of the Christian movement. Henceforward, the Gentile churches of Asia Minor and Europe were to dominate Christianity.<sup>26</sup>

Neither the rabbinic literature nor the New Testament suggests that the forerunners of the Rabbis were responsible for any organized opposition to the Christians before 70. Indeed, Acts 5.34–39 reports that “a Pharisee called Gamaliel, who was a teacher of the Law respected by the whole People,” advised the Sanhedrin not to persecute the apostles. And Acts 2.46 tells us that Jewish Christians still attended the Temple. Accordingly, the conclusion of G. Alon merits repeating: “Until the destruction, the Pharisees did not as a rule take punitive measures against Jews who believed in Jesus, even if on occasion they punished them as sinners.”<sup>27</sup>

<sup>25</sup> The historicity of the Pella legend has been challenged by Brandon, *The Fall of Jerusalem and the Christian Church*, 168–73, and idem, *Jesus and the Zealots* (Manchester, 1967), 208ff. Cf. also the careful study by G. Lüdemann, “The Successors of Pre-70 Jerusalem Christianity: A Critical Evaluation of the Pella-Tradition,” in E. P. Sanders et al. (eds.), *Jewish and Christian Self-Definition*, 1 161–73; idem, *Opposition to Paul in Jewish Christianity* (Minneapolis, 1989), 200–11; J. Wehnert, “Die Auswanderung der Jerusalmier Christen nach Pella-historische Faktum oder theologische Konstruktion,” *ZKG* 102 (1991), 321–55; C. Koester, “The Origin and Significance of the Flight to Pella Tradition,” *CBQ* 51 (1989), 90–106; and J. Verheyden, “The Flight of the Christians to Pella,” *Ephemerides Theologicae Lovanienses* 66 (1990), 368–84. M. Simon has defended the historicity of the Pella tradition – see his *Vetus Israel*, 246–7, 264; as has F. Blanchetière and R. Pritz, “La Migration des ‘Nazaréens’ à Pella,” in F. Blanchetière and M. D. Herr (eds.), *Les Origines juives du Christianisme* (Jerusalem and Paris, 1994), 93–110, but they deny that this caused a rift with the main Jewish community; and J. Marcus, “The Jewish War and the *Sitz im Leben* in Mark,” *JBL* 111 (1992), 441–62.

<sup>26</sup> The significance of this change is nicely summarized by J. Pelikan’s observation: “To the Christian disciples of the first century the conception of Jesus as a rabbi was self-evident, to the Christian disciples of the second century it was embarrassing, to the Christian disciples of the third century and beyond it was obscure,” *Jesus through the Centuries: His Place in the History of Culture* (New Haven, 1985), 17.

<sup>27</sup> *Toledot ha-yehudim be-Eretz Yisrael bi-Tequfat ha-Mishnah ve-ba Talmud* (Tel-Aviv, 1952), 190.

## IV FROM 70 TO THE DEFEAT OF BAR KOCHBA, 135

Under the leadership of R. Yoḥanan ben Zakkai and his circle at Yavneh, Judaism sought to reconstitute itself and find a new equilibrium in the face of the disaster of 70. Although contemporary evidence is almost totally absent, it is plausible to hypothesize that R. Yoḥanan and his associates, given the new realities, took a tougher line regarding theological divergences. The exact form of the Jewish reaction specifically to Christianity during this period is, however, undetermined. So, too, is the extent to which the rabbinic leadership had the authority within the Jewish community in the Land of Israel or outside its borders to implement any decisions which it had reached *vis-à-vis* Jewish Christianity (or any other matter).

It has been alleged that the separation of the Church from the synagogue was an important concern of the Sages at Yavneh and that this was accomplished by means of four specific actions: messengers and letters were dispatched from Yavneh to discredit Christianity in Palestine and the Diaspora; the excommunication of Christians from the synagogues was ordered; a prohibition against the “reading” of “heretical books” was instituted; and the *Birkat ha-Minim* was formulated and inserted into the ritual of the synagogue.<sup>28</sup> Each of these repercussive allegations must be examined in turn.

## A MESSAGES AND MESSENGERS FROM YAVNEH

According to Justin Martyr, writing c. 150–68, even before 70 CE, messengers were already sent out from Jerusalem into the Diaspora to report that the godless heresy of the Christians had sprung up (*Dial.* 17; 108).<sup>29</sup> This tradition is repeated by Eusebius, with the further note that the messengers carried letters (*Comm. in Isa.* 18, *PG* XXIV 218). This claim, however, is unlikely, because it is improbable that the nascent Christian movement attracted such attention from the Sadducaic authorities while the Temple

<sup>28</sup> I. Elbogen, *Der jüdische Gottesdienst in seiner geschichtlichen Entwicklung*, 2nd ed. (Frankfurt, 1924), 36, maintained that Gamaliel's intention in revising the Eighteen Benedictions was to effect the separation of Christians from the synagogue. As P. Schäfer has remarked, (“Die sogenannte Synode von Jabne: Zur Trennung von Juden und Christen im 1/2 Jh. n. Chr.,” *Judaica* 31 [1975], 57), Elbogen's thesis has been practically canonized by subsequent scholarship. Schäfer's article has been reprinted in his collection, *Studien zur Geschichte und Theologie des Rabbinischen Judentums* (Leiden, 1978).

<sup>29</sup> According to Justin, Jews had, in fact, persecuted and murdered Christians in many different ways. They had killed Jesus (*Dial.* 16.4, 133.6, 136.2); they killed other Christians such as Stephen and James (*Dial.* 96.2–3; 109.1–3; 133.6; 137.1–3); and Jewish proselytes attacked Christians (*Dial.* 122).



stood. According to Acts 28.21f., Roman Jews acknowledged that they had not received any letters from Judaea concerning Paul. In response to his appeal to speak to them about accusations against him, they replied: "We have received no letters from Judaea about you, and none of the brothers has reported or spoken anything evil about you." Had the author of Acts known of the tradition transmitted by Justin, it would certainly have suited his purpose to report it, since he intends to present the obduracy of the Jews as Paul's justification for taking the gospel to the Gentiles (28.25–8).

It is however possible – though not proven – that Justin's report has some basis in the realities of the post-70 situation. Liturgical decisions made at Yavneh by the Sages were communicated to congregations in Palestine and the Diaspora as part of their broad effort – whose practical success before 135 may well have been only marginal – to encourage a larger measure of doctrinal and halachic conformity in the wake of the destruction of the Temple and the total loss of Jewish political power in the Land of Israel.<sup>30</sup> Similarly, issues concerning the fixing of the calendar needed to be dealt with.<sup>31</sup> In addition, the vital economic support that the Diaspora communities provided for the Jews of Palestine had to be collected and transmitted. Thus a network of communication and exchange, whose detailed functioning remains obscure, was established between center and periphery. It is not impossible that letters conveying decisions on these and other matters also included warnings concerning the Christian movement, though no specific evidence of such correspondence exists and therefore placing major weight on this putative factor in creating the Jewish-Christian schism is unjustified.

It should also be noted that there is limited evidence that leading Palestinian Tannaim traveled in the Diaspora. A journey by Rabbi Gamaliel, Rabbi Eliezer ben Azariah, Rabbi Akiva, and Rabbi Joshua to an unnamed location is brought to notice in a number of rabbinic sources (BT *Suk.* 41b; M. *Shabb.* 16.8; Tos. *Shabb.* 13; and PT *Suk.* 2.4). And Rabbi Akiva and other sages are said to have visited Rome (see M. *Er.* 4.1; *Sifre Deut.* 318; BT *Makk.* 24a; and BT *Av. Zar.* 10b, among other sources). In addition, Rabbi Akiva, along with Rabbi Eliezer and Rabbi Joshua, is reported to have visited Antiochea (*Lev. R.* 5.4); while other sources reveal that Rabbi Akiva journeyed to Caesarea Mazaca, the capital of Cappadocia

<sup>30</sup> Cf. M. *Rosb. H.* 1.4; Tos. *Sanb.* 2.6. Though real power in Palestine had already been assumed by Rome earlier in the first century, the defeat of 70 created an altogether different political situation.

<sup>31</sup> On the fixing of the calendar see M. *Rosb. H.* 4.1–4; M. *Suk.* 3.1. W. D. Davies, *The Setting of the Sermon on the Mount* (Cambridge, 1964), 261–2, discusses Yavneh's calendrical concerns.

(PT *Yev.* 16.4; BT *Yev.* 121a), as well as to Arabia, Gallia, Africa, Nahardea, and Ginzak (or Gazaka) in Media<sup>32</sup> (see, for details, BT *Rosh H.* 26a; BT *Yev.* 98a; BT *Hull.* 47b; M. *Yev.* 16.7; BT *Yev.* 115a; BT *Av. Zar.* 34a, 39a; and *Ber. R.* 33.5, among other sources). Moreover, there is no reason to think that Akiva and his circle of colleagues were unique with regard to such travel to various places in the Diaspora. Thus, should the Sages have been of such a mind, these visits would have provided the opportunity to communicate their criticisms of Jewish Christians and Christianity orally. But the existence of such possible criticism is, given the total absence of evidence, pure speculation.

It would also not be surprising if the folk traditions critical of Jesus, the virgin birth, the crucifixion, the resurrection, and the miracles – traditions that were later to receive written form in the *Toledot Yesbu* – began to emerge in inchoate and primitive forms at this time. There is, however, no tannaitic material that attests to such a tradition of opposition and caricature, though there are a few early Christian sources that seem to be referring to such abuse.<sup>33</sup> Yet, even given the content of these Christian sources, it must be emphasized that such popular criticism should not be confused with any “official” letter of condemnation from Yavneh or elsewhere.<sup>34</sup> The excesses

<sup>32</sup> R. Akiva’s journeys are discussed by Peter Schäfer in his “Rabbi Akiva and Bar Kochba,” in W. Scott Green (ed.), *Approaches to Ancient Judaism* (Chico, 1980), 114–17. For more on this issue readers should see also M. D. Herr, “The Historical Significance of the Dialogues between Jewish Sages and Roman Dignitaries,” in *ScriHie* 22 (Jerusalem, 1971), 123–50.

<sup>33</sup> The classic study of this text is that of S. Krauss, *Das Leben Jesu nach jüdischen Quellen* (Berlin, 1902). Cf. also the study by E. Bammel, “Christian Origins in Jewish Tradition,” *NTS* (1967), 317–35; H. J. Schonfield, *According to the Hebrews* (London, 1937); and Krauss and Horbury, *The Jewish–Christian Controversy*, 11–13. The present form of the *Toledot Yesbu* text is the result of editorial activity in the early medieval period. Krauss and Horbury put it “not earlier than the fifth century or later than the ninth” (12–13). The text, however, almost certainly incorporates earlier material. In this regard it is to be recalled that from the Jewish–Christian side, Paul, for example, already reports that the form of crucifixion is a “scandal for the Jews,” following Deut. 21.23; and Matt. 28.11–15 reports Jewish criticism of the empty tomb and resurrection accounts. See also on this issue the tradition spoken of in Justin, *Dial.* 108.2.

<sup>34</sup> J. L. Martyn uncritically accepts Harnack’s view on the issue of such communications. Harnack’s, and now Martyn’s, view has, however, no evidentiary basis in Jewish sources. Martyn appears to read later events back into the late first century. See his *History and Theology in the Fourth Gospel* (New York, 1968), 76 n. 123. Likewise, W. Horbury cannot cite any pre-200 rabbinic sources in support of his literal reading of Justin to the effect that “there are traces of a probably testimony-linked tradition on an organized Jewish rebuttal of the apostolic preaching,” “Jewish–Christian Relations in Barnabas and Justin Martyr,” in J. D. G. Dunn (ed.), *Jews and Christians: The Parting of the Ways, AD 70 to 135* (Grand Rapids, 1992), 341.

of Harnack, repeated by many, must be rejected.<sup>35</sup> Furthermore, in the absence of supporting evidence from contemporary Jewish documents (the Mishnah, Tosefta, and tannaitic midrashim),<sup>36</sup> Justin's report must be treated with great caution, and assertions concerning the content of the communications in question must be approached with suspicion, not least because Justin himself reports (*Dial.* 47) that even in his day, in the middle of the second century, Jewish Christians are still known to be participating in Jewish rituals.<sup>37</sup>

#### B EXCOMMUNICATION OF JEWISH CHRISTIANS

It has often been asserted that Jewish Christians were officially excommunicated from the synagogues<sup>38</sup> as a result of actions taken at Yavneh (if not earlier).<sup>39</sup> Yet, despite this consensus, there is no clear evidence that

<sup>35</sup> Harnack, *Mission and Expansion*, 1: 65: "and systematically and officially they [the Jews] scattered and broadcast horrible charges against the Christians, which played an important part in the persecutions as early as the reign of Trajan." See also Frend, *Martyrdom and Persecution*, 192f. (Doubleday ed., 146–7). Frend's harsh anti-Judaic position was rightly identified by F. Millar in his review of *Martyrdom and Persecution* in *JRS* 56 (1966), 231–6. See also J. Parkes, *Conflict of Church and Synagogue* (London, 1934), who concluded: "The statement of Jewish hostility in general terms is based on theological exegesis and not on historical memory" (148) – a judgment affirmed by M. Simon who, after a careful review, concluded: "There is no question of any general conspiracy on the part of Judaism. Neither do the Jews in any of these cases [of Christian martyrs and the persecution of Christians] play a decisive role," *Verus Israel*, 123.

<sup>36</sup> It is striking that the Mishnah contains no clear references to Jesus at all, while the Tosefta and certain scattered *baraitot* contain a few slim allusions that scholars have argued over without conclusive results. The discussion of Jesus and Jewish Christianity in the pre-200 sources is, in fact, almost, or altogether, non-existent.

<sup>37</sup> In the third century Origen criticizes Christians for repeating in church on Sunday what they had heard the day before in the synagogue (*Homilies on Leviticus* 5.8), while as late as the end of the fourth century John Chrysostom is still criticizing judaizers in the Church who attend synagogue services. See, e.g., his *Contra Jud.* 4.3. For further analysis of Origen's position see N. de Lange, *Origen and the Jews* (Cambridge, 1976); and for Chrysostom's vitriolic views see R. Wilken, *John Chrysostom and the Jews: Rhetoric and Reality in the Late Fourth Century* (Berkeley, 1983).

<sup>38</sup> See, e.g., Davies, *Sermon*, 276, and his entire argument, 276–9. Davies does not sufficiently distinguish between the two main types of ban – *Niddui* and *Herem* – nor does he take up the question of their possible application in the Yavneh and pre-70 periods. The views of other scholars on this issue will be considered as we proceed.

<sup>39</sup> Paul's series of confrontations with Jewish authorities in synagogues (reported in Acts 13.45–51; 14.1–6; 17.1–15; 18.4–7; 18.9; and 1 Thess. 2.15) does not relate to this issue, as each incident appears to have been a local response by local authorities to what they perceived as Paul's subversive theological message. Furthermore, Paul, according to his own testimony in 2 Cor. 11.24, is subjected to the Jewish punishment of thirty-nine lashes five times. This means that both he and those who ordered this punishment

there was in fact any general or efficacious use of the “ban” against Jewish Christians.

To reach a defensible understanding regarding the employment of the “ban” before and after 70 one must begin by distinguishing between the two types of “bans” mentioned in rabbinic sources: the first is *Niddui*; the second, and more serious, is *Herem*.<sup>40</sup> The sources that refer to *Niddui* are earlier and indicate that *Niddui* was a means of communal discipline used to support and defend halachic decisions against recalcitrant members, especially (or only?) sages, of the community.<sup>41</sup> *Herem*, in contrast, appears to have come into use in the sense of “excommunication,” that is, permanent exclusion from the community, only after 200. The *Niddui* was intended as a temporary, revocable ban, usually of at least thirty days’ duration, that was leveled against those who threatened either the halachic process<sup>42</sup> or halachic decisions. There is no mishnaic or other evidence from before 200 that it was used as a means of cutting someone off from the Jewish community on a permanent basis. The evidence in *Sifre Numbers* 105 and *M. Eduyot* 5.6 regarding R. Akabiya, the very significant tale of the ban on Rabbi Eliezer ben Hyrcanus (BT *Bava M.* 59b), and particularly the various talmudic accounts of his death (BT *Sanh.* 68b; BT *Ber* 28b; *ARN* chs. 20 and 25 and elsewhere), in so far as they deal with the matter, all indicate that the ban (*Niddui*) on these sages was meant to be temporary. The ban (*Niddui*) on Rabbi Eliezer, for example, is said to have been lifted before his death.<sup>43</sup>

As with other disciplinary techniques, the levying of the *Niddui* was never aimed at separating a Jew from Judaism but was intended to bring him back into the fold by the acceptance of communal-rabbinic authority.<sup>44</sup> Thus, for example, someone under the ban (*Niddui*) was not excluded from

considered him a Jew who was still part of the Jewish community and subject to its discipline. The same is true of the later Matthean reference to “floggings” in the synagogue (10.17). Those individuals who are punished in this way are still considered Jews and part of the Jewish community.

<sup>40</sup> The various instances in which the term *Niddui* appears are conveniently collected in C. H. Hunzinger, *Die jüdische Bannpraxis im neutestamentlichen Zeitalter* (university thesis, Göttingen, 1954), 24ff.

<sup>41</sup> It is very important to recognize that *Niddui* is not an exact synonym of the English term “excommunication.” Someone placed under the ban of *Niddui* was *not* totally cut off from the community but was rather under a disciplinary sentence while remaining a member of the group. 2 Thess. 3.14–15 suggests an early Christian equivalent.

<sup>42</sup> See the reason for R. Eliezer’s “excommunication” (in the sense of *Niddui*) in BT *Bava M.* 59a–b.

<sup>43</sup> See the talmudic sources cited above. For a discussion and analysis, see J. Neusner, *Eliezer Ben Hyrcanus* (Leiden, 1973), 11 41ff.

<sup>44</sup> This is also the judgment presented by P. Billerbeck in his extended excursus on this theme in Str-B IV 293–333, especially his conclusion, 329–30.

participation in the life of the synagogue<sup>45</sup> or visitation to the Temple.<sup>46</sup> In so far as the aim of the ban was halachic conformity, it also appears to have been applied primarily against scholars, but only rarely and after much effort to avoid taking this step.<sup>47</sup> Then again, in contradistinction to those who claim that the *Niddui* was introduced against Jewish Christians as a group, the available evidence indicates that the *Niddui* was a ban leveled only against individuals, not groups or persons of a particular class or religious posture. It would seem, therefore, that: (1) if any ban were issued at Yavneh it could only have been the *Niddui* (because we have evidence for the existence of the *Niddui* only before 200); and (2) it is unlikely that the *Niddui*, given its primary usage against individual Torah sages in defense of halachic unanimity, would, in fact, have been used – or could serve – as the general sort of “ban” against Jewish Christians as a group that has been projected.

The still weightier possibility that the *Herem* was issued against Jewish Christians at some time in the first two Christian centuries, as many scholars have contended,<sup>48</sup> is altogether unlikely. Its implausibility derives from the fact that all rabbinic sources that use this term to mean “permanent exclusion,” that is, full excommunication from Judaism and the Jewish community (in a way commensurate with the actions indicated in the early Christian sources), have a post-mishnaic provenance. Before the third century there is no evidence that the term had the extreme connotation it later acquired. Moreover, even in those later contexts where the term *Herem* is used, and where it signaled an official sanction of separation, it did not completely annul the offender’s status as a Jew and his continuing liability to the *halachah*. *Herem* made one an excommunicant, but an excommunicant Jew.<sup>49</sup> David Weiss Halivni, for example, has called attention to a halachic ruling that one contracts impurity through killing an apostate, a clear indication that even an apostate Jew remains a Jew.<sup>50</sup>

<sup>45</sup> Str-B IV 330; see also Hare, *Jewish Persecution*, 52.

<sup>46</sup> See M. Middoth 2. On these measures consult also the discussion in C. Forkman, *The Limits of Religious Community* (Lund, 1972), 101.

<sup>47</sup> Both Hunzinger (*Jüdische Bannpraxis*) and now Martyn (*History and Theology in the Fourth Gospel*, 42–8, 156–7) agree with this interpretation. Nevertheless, there are rare cases where the “ban” is mentioned in relation to persons who are not scholars, e.g. BT *Mo’ed K.* 17a. See also Forkman, *Limits*, 92–8.

<sup>48</sup> See, e.g., Schürer, *HJPAJC*, div. II, II 60ff.; W. Bauer, *Griechisch-Deutsches Wörterbuch* (Berlin, 1952), 188; R. Bultmann, *The Gospel of John: A Commentary* (Oxford, 1964); R. E. Brown, *The Gospel According to St. John I–XII* (Garden City, 1966), 880; and Davies, *Sermon*, 276–9.

<sup>49</sup> See further on this the material collected and analyzed by J. Katz in “Af al pi She Hata’ Yisrael Hu,” in *Tarbiz* 27 (1957–8), 203–17.

<sup>50</sup> D. Weiss Halivni, *Mekorot u-Mesorot to Nashim* (Toronto, 1993), 67 n. 3.

Understood in this way, the *Herem*, when issued, was intended as a disciplinary action against recalcitrant members of the Jewish community rather than as an act that marked the designee as representing a separate and distinctive community.

The issuance of a ban at Yavneh may have been considered unnecessary in light of the (yet to be discussed) *Birkat ha-Minim*, though of course one must remember that this malediction involved a self-imposed exclusion. But whatever the reason, there is no reliable Jewish evidence that an official ban (in either sense) ever existed.<sup>51</sup> The Gospel passages cited by scholars as evidence for the existence of a ban even before 70 (e.g., Matt. 5.11; Luke 6.22; John 9.22; 12.42; 16.2), should not be taken as unimpeachable or unambiguous historical testimony. Matthew 5.11 and its parallel, Luke 6.22, are too imprecise to posit a formal process of excommunication, especially in light of the rabbinic evidence already discussed.<sup>52</sup> These passages tell of criticism and abuse, but this is not equivalent to formal excommunication. The references in John 9.22 and 12.42 are more specific and seem to suggest a formal ban from the synagogue. However, there are also difficulties with these sources, not the least of which is that the Johannine texts are both post-70 and post-Yavneh, and therefore cannot simply be taken as reflecting the pre-70 situation, or even the Yavnean reality.<sup>53</sup>

The fact is that we do not know enough about the pre-70 situation to speak definitively one way or the other on the matter. What little we do know suggests that the pluralistic theological, political, and social conditions did not favor the use of any sort of ban. Relevant here is the fact that the *Niddui*, as noted, seems to have been connected with the need for halachic uniformity, but before 70, with all the existing sects, no such uniformity existed, nor could the desire for such uniformity, even if it existed, be the basis for actual juridical enactments. It was the defeat of 70 that made uniformity a possibility under Pharisaic leadership, and even then this occurred in a definitive way only after the redaction of the Mishnah in c. 200, that is, in the third century.

A statement found in Justin that is quoted in support of the contrary view has Trypho say, "Sir, it were good for us if we obeyed our teachers, who laid down the law that we should not even have any communication with you on these questions" (*Dial.* 138.1).<sup>54</sup> But this remark, which says nothing about

<sup>51</sup> Parkes's *Conflict*, 80, notwithstanding.

<sup>52</sup> Hunzinger's speculations to the contrary (*Jüdische Bannpraxis*, 72–4) are not convincing.

<sup>53</sup> Hunzinger's arguments do not alter this judgment. He goes far beyond what is warranted by the evidence in suggesting even pre-70 formal excommunication. Hare (*Jewish Persecution*, 49–53) has also challenged Hunzinger's assertions on this matter.

<sup>54</sup> See Davies, *Sermon*, 279.

any sort of ban, is not evidence that the formal excommunication of Jewish Christians had taken place. Rather, it refers to instructions regarding an internal act of Jewish self-isolation from Jewish (and Gentile?) Christians and other heretics. Such Jewish self-defense could, at one and the same time, be viewed by Jewish Christians and other heretics (*minim*) as direct acts of aggression against them, but this understandable subjective response tells us nothing about the existence of a formal act of excommunication.

There is one significant rabbinic source that may bear on this issue. Tos. *Hullin*, in discussing relations with *minim*, teaches:

the slaughter (of animals) of a heretic [*min*] is idolatrous (*avodah zarah*), their food is Samaritan food, their wine is the wine of (idolatrous) libations, their fruits are treated as untithed, their books are books of magic and their children bastards. It is forbidden to sell to them or to buy from them, to enter into marriage<sup>55</sup> with them, to teach their children a trade, to allow them to heal man or beast!

Though the class being criticized here is *minim* (heretics), not specifically *Notzrim*<sup>56</sup> (Jewish Christians), the continuation of the discussion in Tos. *Hullin* 2.22–4 does make a clear connection between *minuth* and Jewish Christians. Whether this linkage was a later editorial connection is impossible to say. In any case, the essential point is that all these instructions are directed at members of the Jewish community and their mode(s) of behavior, their forms of interaction, with heretical individuals. Thus it is correct to interpret the passage in the Tosefta as forceful social comment recommending the shunning of *minim*, including Jewish Christians and others, but one should not confuse this with the very different matter of the issuance of a formal ban of excommunication. (It should also be noted that the need for the issuance of this recommendation suggests that continued relations with *minim*, including Jewish Christians,<sup>57</sup> existed at

<sup>55</sup> Some read here, “enter into argument with them.” I follow J. Neusner’s translation in *The Tosefta, Kodashim* (New York, 1979), 74. In trying to assess the status and meaning of this passage, it should be noted that its absence from the Mishnah is particularly significant. Had a legal ban of the sort suggested in the Tosefta been in effect, one would expect to find it in the Mishnah as well.

<sup>56</sup> For a discussion of the meaning of these terms, see the section below on the *Birkat ha-Minim*.

<sup>57</sup> Two incidents recorded in Tos. *Hull.* 2.22–3 and 2.24, which refer to “Jesus ben Pandira,” indicate the ongoing social relationship that existed between Jews and Jewish Christians who are identified in 2.24 as *minim*. Furthermore, extrapolating from this evidence, one might fairly ask: if sages such as R. Elazar ben Damah and R. Eliezer, who are referred to in these passages in the Tosefta, had relations with Jewish Christians, what was the social practice of the ordinary Jew and the majority of Jews in late first- and second-century Palestine? In this context, it is also worth recalling that Elisha ben Abuyah, the most famous heretic in talmudic literature, who is described as

this time. Christian sources also indicate continued relations – friendly and polemical – between Jews and Christians into the third and fourth centuries.)

In sum, the preponderance of rabbinic evidence, while it provides some basis for those who would argue that Jewish Christians and other *minim* were socially ostracized, provides no evidence regarding the issuance of any sort of formal ban against Jewish Christians prior to 135.

#### C “HERETICAL” BOOKS AND THE PROCESS OF CANONIZATION

The modern examination of the relationship between early Christian writings and the process of canonization was initiated by George Foot Moore, who held that the prohibition against “heretical books” (*sifre minim*) emanating from rabbinic circles (Tos. *Yad* 2.13 and Tos. *Shabb.* 13(14).5) was directed at Christian writings. In his view, “it was not the diversity of opinion in the schools about Ecclesiastes and the Song of Songs that first made deliverances about the ‘scriptures’ necessary, but the rise of the Christian heresy and the circulation of Christian writing.”<sup>58</sup> In response to this claim, Louis Ginzberg criticized Moore’s use of the relevant rabbinic evidence,<sup>59</sup> and, in particular, Moore’s reading of the key term *seforim ba-chizonim*<sup>60</sup> (“books of the heretics”) (M. *Sanb.* 10.1; and see also BT *Sanb.* 100b) as referring to Christian books rather than “outside books,” that is, non-canonical books with particular reference to the apocryphal literature in circulation. He concluded that, *contra* Moore, the presence of Christian materials, for instance, the Gospels, had little impact on the process of canonization. The correctness of Ginzberg’s position has been reinforced by

having read heretical books that led him astray, is never identified as having been excommunicated. Indeed, the talmudic evidence indicates continued, for the most part respectful, intercourse between him and the Sages. For more on this see E. Urbach, *The Sages*, trans. by I. Abrahams (Jerusalem, 1979), 1 465–6 and 11 892 n. 75; and A. Goshen-Gottstein, *The Sinner and the Amnesiac: The Rabbinic Invention of Elisha ben Abuyah and Eleazar ben Arach* (Stanford, 2000).

<sup>58</sup> G. F. Moore, “The Definition of the Jewish Canon and the Repudiation of Christian Scriptures,” in *Essays in Modern Theology* (New York, 1911), 101; repr. in S. Leiman (ed.), *The Canon and Masorah of the Hebrew Bible* (New York, 1974), 115–41.

<sup>59</sup> L. Ginzberg, “Some Observations on the Attitude of the Synagogue toward Apocalyptic Writings,” *JBL* 41 (1922) 115–26; repr. in *Canon and Masorah*, 142–63.

<sup>60</sup> The relevant talmudic passage in M. *Sanb.* 10.1 reads as follows: “But the following have no share in the world to come: he who maintains that the resurrection is not intimated in the Torah, or that the Torah was not divinely revealed, and an Epicurean. R. Akiba adds: One who reads the outside books (*b’seforim ba-chizonim*), and one who whispers a charm over a wound and recites: ‘I will not bring upon you any of the diseases that I brought upon the Egyptians, for I the Lord am your healer’ (Exod. 15.26).”



Sid Leiman's<sup>61</sup> careful review of the entire question that indicates that the debate on the closing of the canon was carried on before Yavneh and that by the time of the final discussions at Yavneh the existence of Christian materials exerted little influence on the matter.

There is, however, a difference between little and none. Given the historical circumstances, one should not discount totally the possibility that there was some debate about canonization and heresy that carried over to Yavneh and beyond. Given what is involved in trying to create a canon, it is reasonable to think that a concern with heterodoxy, including Jewish Christianity, was a subject influencing, at least minimally, the final stages of the discussion on canonization. Hence, Ginzberg can be judged to have gone too far in completely discounting the anxiety over heterodoxy, including Jewish Christianity.<sup>62</sup> Yet in acknowledging this possible influence, one must at the same time emphasize that heterodoxy meant more than Jewish Christianity at Yavneh. Gnostics, apocalypticists, and others, also presented the Sages with cause for worry. Still more important, interest in the process of canonization was not spurred on, *contra* Moore, primarily by fear of heterodoxy. Other matters relevant to Jewish survival, especially in the Diaspora (for example, the need for a common text for teaching, the newly pressing concern with halachic uniformity, and the desire for liturgical standardization), all made the issue of canonization a priority. Hence, while it is correct to include the desire to stem the rise of heresy, which now included Jewish Christianity, among the factors in the debate over canonization, it is excessive to give this motive pride of place in this complex circumstance.

#### D "SIFRE MINIM": THE BOOKS OF HERETICS

The Sages, in various contexts, discussed the issue of *sifre minim*, heretical books. They distinguished at least four types of literature that fell under

<sup>61</sup> See Leiman, *Canonization*, 135. For more on this issue see J. Sanders's essay in this volume. J. Bloch, "Outside Books," in M. Davis (ed.), *Mordecai M. Kaplan Jubilee Volume*, English section (New York, 1953), 87–108, has recycled and updated Moore's position but with little success.

<sup>62</sup> Note his remarks in "Some Observations," 122 (*Canon and Masorah*, 149). Against Ginzberg's reading of *seforim ha-chizonim* as meaning non-heretical "books outside the canon," it should be noted that R. Akiba's ire, mentioned in this context, could hardly be generated merely by the non-canonical status of these "outside" books, and suggests that these texts were offensive for still other reasons. This inference is particularly reinforced by the context, that is, by the other "heretical" acts mentioned in the Mishnah under discussion. Therefore, to interpret *seforim ha-chizonim* as Ginzberg does makes the debated sentence regarding the reading of certain sorts of literature incongruent with the passage as a whole. Moreover, it is hard to conceive of being punished with "no share in the world to come" merely for reading non-heretical "outside books."

this broad category: (1) Jewish Christian writings that, although clearly heretical, contained biblical materials or quotations, for example, the Gospels; (2) copies of Jewish texts that were produced by “heretics,” for example, Jewish Christian scribal reproductions of the Torah in whole or in part; (3) apocryphal and other non-canonical Jewish texts; and (4) heretical books produced by *minim* other than Jewish Christians. In the present context only the first two categories of texts are of concern.

1 *Jewish-Christian writings containing canonical material*

These sources, as the work of *minim*,<sup>63</sup> would fall under the strictures set out in Tos. *Shabbat* 13(14).5:

We do not save from a fire (on the Sabbath) the Gospels (*gilyonim*)<sup>64</sup> and the books of the *minim* (“heretics”). Rather, they are burned in their place, they and their Tetragrammata. Rabbi Yose Ha-Gelili says: During the week, one should cut out their Tetragrammata and hide them away and burn the remainder. Said Rabbi Tarfon: May I bury my sons! If (these books) would come into my hand, I would burn them along with their Tetragrammata. For even if a pursuer were running after me, I would enter a house of idolatry rather than enter their houses. For the idolators do not know Him and deny Him, but these know Him and deny Him . . . Said Rabbi Ishmael: If in order to bring peace between a husband and his wife, the Everpresent has commanded that a book which has been written in holiness be erased by means of water, how much more so should the books of the *minim* which bring enmity between Israel and their Father Who is in Heaven be erased, they and their Tetragrammata . . . Just as we do not save them from a fire so we do not save them from a cave-in, nor from water nor from anything which would destroy them.<sup>65</sup>

<sup>63</sup> The relation of the term *minim* to Jewish Christians and Gentile Christians will be analyzed in more detail below.

<sup>64</sup> This reading of *gilyonim* as Gospels was supported by S. Lieberman, *Tosefta Ki-Fshutab*, 111 206–7; and more recently by Leiman, *Canonization*, 93, 190–1 n. 511. Alternatively, Alon, *Jews in their Land*, 1 276; K. G. Kuhn, “Gilyonim und Sifre Minim,” in W. Eltester (ed.), *Judentum–Urchristentum–Kirche: Festschrift für J. Jeremias* (Beiheft zur ZNW 26) 2nd ed. (1964), 24–61; and E. Urbach, “Self Isolation and Self Affirmation in the First Three Centuries,” in E. P. Sanders et al. (eds.), *Jewish and Christian Self-Definition* (Philadelphia, 1981), 11 269–98, have argued – unpersuasively in my view – that *gilyonim* should be understood as “margins.” This reading follows the lead of Maimonides, cited by Leiman, *Canonization*, 191 n. 54, and the Vilna Gaon, *Commentary on the Tosefta*, ad loc., cited by Leiman, in the same note.

<sup>65</sup> English translation by L. Schiffman, “At the Crossroads: Tannaitic Perspectives on the Jewish–Christian Schism,” in Sanders et al. (eds.), *Jewish and Christian Self-Definition*, 11 158. See his careful analysis of this text, 153–4. The passage is best dated to the early second century.

This passage makes it clear that the *gilyonim*, understood as meaning Gospels, and *sifre minim*, even though they may contain God's name, are not to be saved from the fire or other acts of destruction.<sup>66</sup> Furthermore, they are specifically singled out to be burned if found during the week. This is severe censure indeed. Though not all references to *sifre minim* refer to Jewish-Christian sources, the explicitness of this toseftan text makes it evident that Jewish-Christian writings of a certain type were condemned as part of a more general ban against "heretical books."

Jewish-Christian writings that contained biblical material, especially the Gospels, however, presented distinctive problems. Since they contained Torah teachings – including direct, even lengthy, quotations – their status was more difficult to determine. So, for example, the question needed to be raised: do the *gilyonim*, Gospels, have any holiness because of the Torah citations they contain? And if they do, does this mean that, consistent with the *halachab*, they "defile the hands"<sup>67</sup> and require that after handling them one must wash one's hands? To this question the Sages gave a clear reply: "the *gilyonim* and the other heretical books do not defile the hands" (Tos. *Yad.* 2:43). The Gospels are not canonical and possess no holiness.

## 2 Jewish-Christian copies of Scripture

These texts, specifically identified as Christian writings, are not mentioned in the rabbinic sources. Nevertheless, they would in all probability fall under a more general prohibition which states that copies of Scripture made by heretics, even if seemingly exact replicas, should be banned. BT *Gittin* 45b, echoing the earlier controversies over the *sifre kutiim*, the Samaritan Torah,<sup>68</sup> unambiguously declares such volumes forbidden and orders their destruction:

R. Naḥman [an *Amora* of the late third century]<sup>69</sup> said: we have it on tradition that a scroll of the Law which was written by a heretic [*min*] should be burnt, and one

<sup>66</sup> Schiffman ("At the Crossroads") is of a similar opinion. See his fuller analysis, 153–4.

<sup>67</sup> The meaning of the reference to "making the hands unclean" relates to canonicity. Canonical texts, understood to be holy because of their inclusion in the Hebrew Bible, make the "hands unclean" (in a ritual sense); non-canonical texts do not. In addition to the passage in Tos. *Yad.*, see also BT *Shabb.* 116a. For a fuller discussion of this matter consult Ginzberg, "Some Observations," 122ff. (149–50 in *Canon and Masorah*). Further analysis of this issue is provided by M. Goodman, "Sacred Scripture and Defiling the Hands," *JTS* 41 (1990), 99–107; and P. S. Alexander, "The Parting of the Ways from the Perspective of Rabbinic Judaism," in J. D. G. Dunn (ed.), *Jews and Christians: The Parting of the Ways AD 70 to 135* (Grand Rapids, 1992), 11–15.

<sup>68</sup> See BT *Sanh.* 90b and BT *Sot.* 33b.

<sup>69</sup> Though R. Naḥman was a third-century teacher, this passage reflects an older tradition.

written by a heathen [*oved kokhavim*] should be withdrawn. One that is found in the possession of a heretic [*min*] should be withdrawn; one that is found in the possession of a heathen, according to some should be withdrawn and according to others may be read.

Three reasons for this fourfold course of action suggest themselves. First, it would appear that the sanctity of the entire text was considered to have been undermined by the assumed heretical “intent” of its authors. Therefore these copies are unfit (*pasul*) in themselves, and any use of them would not fulfil the obligations, either of study or of public reading, with which they were associated. Second, such a ruling was a precaution against the use of a Torah scroll that might have been edited or revised in any manner whatsoever according to a sectarian interpretation. Third, such a ruling directly affected the synagogue service. It was, in effect, another way of protecting the synagogue from *minim*, here meaning all heretics including Jewish Christians.

The sages at Yavneh and after were concerned with eliminating the use of religious material produced by *minim*, including Jewish Christians. Accordingly, they ruled against the liturgical, and in all probability even private, use of such material. In this struggle against *minuth* (heresy) they were not preoccupied with Jewish Christian writings, but they did oppose them as part of their more general effort to create a Jewish self-defense strategy for those who would follow their lead.

#### E THE BIRKAT HA-MINIM

Central to a consideration of rabbinic responses to early Christianity is the so-called *Birkat ha-Minim*. This was the malediction against heretics that talmudic tradition tells us was added to the *Amidah* prayer at Yavneh.<sup>70</sup> According to BT *Berachot* 28b–29a, Rabbi Gamaliel II was vexed by the increase in heresy in the Jewish community, and, some time between 85 and 95,<sup>71</sup> asked for the composition (or adaptation) of a prayer against the

<sup>70</sup> It is possible that the malediction composed at Yavneh adapted an earlier malediction against various groups of communal “troublemakers” that was already extant. For more on this process of adaptation see below, 285–8.

<sup>71</sup> D. Chwolson, *Das letzte Passamahl Christi und der Tag seines Todes* (St. Petersburg, 1892), 99–100; and M. Joel, *Blicke in die Religionsgeschichte* (Breslau, 1880), 1 24–5, argued that the malediction was created some time after 100. This, however, is too late. See also, on the issue of dating, Jocz, *Jewish People*, 55; and more recently D. Instone Brewer, “The Eighteen Benedictions and the *Minim* before 70 CE,” *JTS* 54/1 (April 2003), 25–44. Instone Brewer argues that “Samuel the Lesser and possibly Simeon ha-Pakoli . . . lived in the time of Gamaliel I before 70 CE” (44) and that the curse was first aimed “at Sadducees for their rich lifestyle and offering incense in the Temple in the wrong way” (44).

heretics.<sup>72</sup> The account of this event as recorded in the Talmud reads as follows:

Our Rabbis taught: Simeon Ha-Paqoli ordered the Eighteen Benedictions before Rabban Gamaliel in Yavneh. Rabban Gamaliel said to the sages: Is there no one who knows how to compose a benediction against the *minim*? Samuel Ha-Qatan stood up and composed it. Another year (while serving as preceptor), he (Samuel ha-Qatan) forgot it and tried to recall it for two or three hours. Yet they did not remove him.<sup>73</sup>

Three interrelated questions, beyond the difficult but fundamental question of historical veracity, immediately emerge with regard to this text. First, what was its original form? Second, who are the *minim* (“heretics”) against whom this imprecation was directed? Third, what was its purpose (as distinct from its result)? Though these three questions are ultimately inseparable, we shall treat them individually for the purposes of analysis, beginning with the matter of the original form of the malediction.

### 1 *What was its original form?*

The malediction, as it presently exists in the traditional prayer book as the twelfth benediction of nineteen in the *Amidah*, is the result of both internal and external censorship. The earliest version that we presently have was found by Solomon Schechter in the Cairo Genizah.<sup>74</sup> This Genizah fragment reads: “For apostates [*meshumaddim*] let there be no hope, and the dominion of arrogance [*malchut zadon*] do Thou speedily root out in our days; and let Christians [*ve-ha-Notzrim*] and heretics [*minim*] perish in a moment, let them be blotted out of the book of the living and let them not be written with the righteous.” Schechter’s discovery in and of itself, however, contrary to a considerable body of scholarly opinion, does not settle the issue of the original form of the malediction, since the question must be asked whether the Genizah version, including the term *Notzrim*, represents the original Yavnean formulation or whether it, too, is just another later and, in this case, expanded version of the benediction.

<sup>72</sup> For more on this action see Jocz, *Jewish People*, 55; Elbogen, *Der jüdische Gottesdienst in seiner geschichtlichen Entwicklung*, 36, 252; and Alon, *Jews in their Land*, 1 288.

<sup>73</sup> This translation is from the Soncino edition of the Talmud (London, 1935).

<sup>74</sup> See S. Schechter, “Genizah Specimens,” *JQR* o.s. 10 (1898), 197–206, 654–9; and also J. Mann, “Genizah Fragments of the Palestinian Order of Service,” *HUCA* 2 (1925), 269–338. I have altered one word in the English translation: where Schechter gives “persecutors” for the opening Hebrew term, I translate “apostates,” which is the more usual meaning of *meshumad*.

A number of scholars have been persuaded that the Genizah wording, *Notzrim* and all, is the original formula.<sup>75</sup> Three salient factors are marshaled in support of this contention. First, the early Church Fathers provide descriptions of what many take to be direct references to an anti-Christian malediction in the *Birkat ha-Minim*. Justin refers to Jews “cursing Christians in your synagogues,” and Origen, Jerome, and Epiphanius repeat the charge.<sup>76</sup> Epiphanius’ accusation is particularly important because, writing in the late fourth century, he refers to thrice-daily cursing, and only the *Amidah* is repeated three times in the synagogue liturgy, except on Saturday and festivals. Second, the Genizah material generally reflects the old Palestinian liturgical tradition and as such is not to be too casually dismissed. Third, the Gospel of John refers three times to Jews expelling Christians from the synagogue (9.22; 12.42; 16.2).<sup>77</sup> Thus, it is argued, there is convincing evidence for the antiquity of the Genizah version

<sup>75</sup> See, e.g., Davies, *Sermon*, 276. His argument is based largely on the stylistic features of the blessing with and without the reference to *ba-Notzrim*: “if *Ha-Nozrim* be removed from Samuel’s prayers, its structure is seriously disturbed, whereas its inclusion gives a balanced form to the whole” (276). Other recent scholars who also contend that the original version included the term *Notzrim* include R. Wilde, *The Treatment of the Jews in the Greek Christian Writers* (Washington, DC, 1949), 119; Martyn, *History and Theology in the Fourth Gospel*; and J. T. Townsend, “The Gospel of John and the Jews,” in A. Davies (ed.), *Antisemitism and the Foundations of Christianity* (New York, 1979), 72–97. See also Hare, *Jewish Persecution*, 54–6, 65–6; Simon, *Versus Israel*, 198; E. Lerle, “Liturgische Reformen des Synagogen-gottesdienstes als Antwort auf die judenchristliche Mission des ersten Jahrhunderts,” *NovT* 10 (1968), 31–42; K. G. Kuhn, *Achtzehn Gebet und Vater unser und der Reim* (Tübingen, 1950), 18–21; and M. C. De Boer, “The Nazareans: Living at the Boundary of Judaism,” in G. N. Stanton and G. G. Stroumsa (eds.), *Tolerance and Intolerance in Early Judaism and Christianity* (Cambridge, 1998), 251.

<sup>76</sup> For these sources and the argument that the original malediction included the term *Notzrim* “Nazareans,” consult S. Krauss, “The Jews in the Works of the Church Fathers,” *JQR* o.s. 5 (1892–3), 122–57; 6 (1893–4), 82–99, 225–61. See also R. Kimelman, “Birkat ha-Minim and the Lack of Evidence for an Anti-Christian Jewish Prayer in Late Antiquity,” in Sanders et al. (eds.), *Jewish and Christian Self-Definition* (Philadelphia, 1981), 11 235–40. Among recent authors, W. Horbury is perhaps the most insistent on connecting Justin’s comments with an organized program of “cursing” Christians in the synagogue. He links this to either the *Birkat ha-Minim* or, following T. C. G. Thornton, “cursing such as that associated with cursing Haman at Purim” (“Jewish-Christian Relations in Barnabas and Justin Martyr,” in Dunn [ed.], *Jews and Christians*, 343), though he ultimately prefers linking it to the *Birkat ha-Minim* (ibid., 343 n. 79). Unfortunately, as I shall show below, relying on the evidence of Justin for the *Birkat ha-Minim* is very dubious. The connection to cursing Haman is eccentric and indefensible, and there is no relevant tannaitic evidence that Horbury can call on as support for his views.

<sup>77</sup> On these Johannine texts consult Martyn’s *History and Theology in the Fourth Gospel*, 51–62; and Brown, *John*, 1 380. For reservations about connecting these Johannine references to the *Birkat ha-Minim* see Hare, *Jewish Persecution*, 55; Wayne Meeks, “‘Am

or something like it, including a specific reference to *Notzrim*. But, as we shall see, the matter is not yet decided.

Just as there is putative evidence that favors accepting the Genizah text as the original version of R. Samuel the Small, there are also significant factors that support rejection of this claim. To begin with, the repetition of *Notzrim* and *minim* appears unnecessary because Jewish Christians, as Jews, would have been covered by the general term *minim*, while non-Jewish Christians would be of no concern, in this context, to the Yavnean sages. The issue involved in the formulation of the *Birkat ha-Minim* at Yavneh was *minuth* (heresy), and at this time, and by definition, the only Christians who could be *minim* (heretics) were Jewish Christians.<sup>78</sup> The later, wider, amoraic usage, particularly in Babylonia, of the term *minim* to cover Gentile Christians as well as Jewish Christians is a new, post-200 development.<sup>79</sup> Second, the Church Fathers themselves testify indirectly to this significant terminological departure found in post-200 amoraic sources. That is, both Justin and Origen, two earlier sources,<sup>80</sup> while referring to Jews cursing Christians, make no special mention of the use of the term “Nazarai.”<sup>81</sup> In comparison, both Epiphanius and Jerome explicitly do so. This suggests that the term “Nazarai” was added, at the earliest, late in the second century or early in the third, as Jewish (and other) Christians became increasingly removed from Judaism. Moreover, even these references to “Nazarai” have to be carefully evaluated in order to determine whether

I a Jew?’ – Johannine Christianity and Judaism,” in J. Neusner (ed.), *Christianity, Judaism, and Other Greco-Roman Cults* (Leiden, 1975), 1: 163–86; and Townsend, “John and the Jews.” For a more positive view, see Barnabas Lindars’ “The Persecution of Christians in John 15.18–16:4,” in W. Horbury and B. McNeil (eds.), *Martyrdom in the New Testament* (Cambridge, 1981), 48–69; and C. K. Barrett, *The Gospel of John and Judaism* (London, 1975). See also our further discussion below.

<sup>78</sup> Davies’s rejection of this point (*Sermon*, 276) is not convincing. Alternatively, J. T. Sanders, *Schismatics, Sectarians, Dissidents, Deviants*, agrees that the “term *nosrim* ... probably does not appear at [Yavneh]” (59).

<sup>79</sup> For more details of the use of the term *minim*, see below, 287–93.

<sup>80</sup> Justin died in the mid-160s. Origen died in the 250s.

<sup>81</sup> Justin Martyr, *Dial.* 16.4. For more on Justin’s anti-Jewish polemic see L. Barnard, *Justin Martyr* (Cambridge, 1967); B. Z. Bokser, “Justin Martyr and the Jews,” *JQR* n.s. 59 (1973), 97–122, 204–11; P. Sigal, “An Inquiry into Aspects of Judaism in Justin’s Dialogue with Trypho,” *Abr. Nabrain* 18 (1978–9), 74–1; and W. Horbury, “The Benediction of the Minim and Early Jewish-Christian Controversy,” *JTS* 33 (1982), 19–61. Unfortunately, despite all the detail that Horbury brings forward in his lengthy analysis, the subject is not really clarified, since almost all the evidence he cites on this issue comes from a much later period and is irrelevant to an analysis of the first- and early second-century context, or deals with issues other than “cursing in the synagogue,” e.g. his reference to *M. Sanh.* 7.11, which considers the issue of sorcery and its punishment.

Jewish Christian sectarians or Christians at large are meant.<sup>82</sup> Third, while John repeatedly refers to Christians being expelled from the synagogue, he does not explicitly mention any Jewish liturgical practice or any specific malediction in connection with these ejections. The absence of any mention of such practices seriously undermines the value of John's testimony as far as the *Birkat ha-Minim* – and its exact early wording – is concerned. In addition, John's statement is idiosyncratic in the Christian literature of this earliest period, both in its general reference to exclusion from the synagogue – which is not attested elsewhere and is therefore suspect as a reference to a universal phenomenon<sup>83</sup> – and also in its use of the expression *aposynagogos*, which is without parallel in early Christian material,<sup>84</sup> to describe this expulsion.

Fourth, with regard to method, we should not overestimate the importance of Christianity (and Jewish Christianity) to the Sages at Yavneh and, reading backwards, inject into their age and work a consciousness of the later significance of Christianity such as to elicit a curse against *Notzrim*. This restrained interest is perhaps best indicated by the curious report included at the end of the very talmudic pericope that tells us about the composition of the imprecation at Yavneh (BT *Ber.* 28b–29a) and reads: “Another year [while serving as preceptor] he [Samuel ha-Qatan] forgot it [the malediction on heretics] and tried to recall it for two or three hours. Yet they did not remove him.” Obviously this lapse of memory indicates that Samuel had not been reciting the prayer against heretics – whatever its form at the time – three times daily in the *Amidah*, while the community with which he prayed had also not been reciting it or they would have been

<sup>82</sup> Kimelman (“*Birkat ha-Minim*,” 237–42) has made an interesting, though not irrefutable, case for associating the term “Nazaraei” only with Jewish Christians, even at this later date. See on this also A. F. J. Klijn and G. J. Reinink, *Patristic Evidence for Jewish-Christian Sects* (Leiden, 1973); R. A. Pritz, *Nazarine Jewish Christianity* (Leiden, 1988); and de Boer, “The Nazareans.” We shall not enter further into this discussion, since it lies outside our chronological limits.

<sup>83</sup> In fact, as we have already pointed out, there is considerable evidence that Christians continued to visit the synagogue into the third and fourth centuries.

<sup>84</sup> For a more detailed discussion of the Johannine sources, see Kimelman, “*Birkat ha-Minim*,” 234–5. Kimelman also summarizes the view of several scholars that the Johannine passages are complete fabrications created to make Christians fearful of visiting synagogues (234–5). Interestingly, W. Meeks has also come to conclude “that the *Birkat ha-Minim* has been a red herring in Johannine research,” “Breaking Away: Three New Testament Pictures of Christianity’s Separation from the Jewish Communities,” in J. Neusner and E. Frerich (eds.), *To See Ourselves as Others See Us: Christians, Jews, “Others” in Late Antiquity* (Chico, 1985), 102–3. And Wilson has glossed Meeks’s comments, noting that: “If so, it is equally true that the Johannine evidence has been a red herring in trying to understand the *Birkat ha-Minim*,” *Related Strangers*, 180.



able to supply the forgotten lines at once. Furthermore, the (rabbinic) community of which Samuel was a part was not deeply troubled by this act of forgetfulness, for they took no immediate action to remedy the problematic situation or to replace Samuel as the prayer-leader.

Finally, there is the apposite consideration advanced by R. Kimelman:

In all six versions of *birkat ha-minim* published by A. Marmorstein, the opening word is *nosrim* not *minim*. If *nosrim* were present ab initio the talmudic nomenclature would likely have been *birkat ha-nosrim*. Secondly, if the term were a part of the statutory liturgy from the first century onwards, the term *nosrim* should have become a common term in rabbinic literature. In fact *nosrim* does not appear in tannaitic literature.<sup>85</sup>

While Kimelman's contention is not definitive, his last point bears repeating: the term *Notzrim* is absent from the entire corpus of tannaitic literature.

Compounding these uncertainties about the original form of the malediction is the contention advanced by D. Flusser, following the earlier lead of J. Heinemann and S. Lieberman,<sup>86</sup> which in turn picks up an older thesis resting on discussions in Tos. *Berachot* 3.25 and BT *Megillah* 17b,<sup>87</sup> that the original form of the benediction goes back to early in the first century CE, when it was composed by the Pharisees with various pre-Christian sectarians and dissidents in mind.<sup>88</sup> According to this argument, the blessing was definitely not originally directed against Jewish Christians but, rather, was later adapted to that end when, some time in the latter part of the second century, Jewish Christians (and Gentile Christians) became the main "heretics." It was at this time (or later) that the term *Notzrim* was

<sup>85</sup> Kimelman, "Birkat ha-Minim," 238. The Marmorstein article referred to by Kimelman is "The Amidah of the Public Fast Days," *JQR* n.s. 15 (1924), 409–18.

<sup>86</sup> See J. Heinemann, *Prayer in the Talmud* (Berlin, 1977), 225ff.; and Lieberman's reading of Tos. *Ber.* 3.25 in his *Tosefta ki-Fshutab* (New York, 1955), ad loc.

<sup>87</sup> See the citation of earlier proponents of this view in V. Aptowitz, "Bemerkungen zur Liturgie und Geschichte der Liturgie," *MGWJ* 74 (1930), 109 n. 3; Elbogen, *Der jüdische Gottesdienst*, 34; the analysis offered by L. Ginzberg, *A Commentary on the Palestinian Talmud* (New York, 1941), 1 335–6; and Marmorstein, "The Amidah of the Public Fast Days," 409–18.

<sup>88</sup> D. Flusser, "Jerusalem in the Literature of the Second Temple Period," in *Veim be-Geuroth: Jubilee Volume for the 80th Anniversary of Rubin and Hanna Mass* (Jerusalem, 1974), 269–78 (Hebrew). See also his chapter on "The Jewish Religion in the Second Temple Period," in M. Avi-Yonah and Z. Baras (eds.), *The World History of the Jewish People*, v111: *Society and Religion in the Second Temple Period* (Jerusalem, 1977), 23–4. In framing his argument, Flusser follows Heinemann, *Prayer in the Talmud*, 225, and Lieberman, *Tosefta Ki-Fshutab*, 1 53. See also E. Urbach, "Self-isolation or Self-Affirmation," 288–9, who adopts the same view. The older sources that consider this issue are cited by Strack in *Str-B* 1v 208–20.

added for individuation and emphasis.<sup>89</sup> Flusser presented his thesis in two versions. In the simpler, he argued that, in essence, the work of R. Samuel the Small consisted of the addition of the explicit mention of *minim* to an existing malediction against “separationists” (*perushim*).<sup>90</sup> In his second, more complex, and somewhat different presentation of this argument, Flusser repeated the thesis that the original text of the *Birkat ha-Minim* was of pre-Christian origin, having been originally propounded against the opponents of the Pharisees, namely, the Sadducees, and perhaps also the Essenes, as well as informers to the Roman authorities and other types of heretics and dissidents.<sup>91</sup> Now, however, he saw the innovation of Rabbi Samuel the Small as residing in the act of combining into one paradigmatic malediction two previously separate (and pre-Christian) imprecations. The first of these had been against the “minim, the traitors and the apostates” according to the formula of Tos. *Sanhedrin* 13.4–6 (or the slightly different version in Tos. *Ber.* 3.25),<sup>92</sup> and the second cursed “the dominion of arrogance” (*zedim*), that is, the Gentile powers (meaning, in his day, Rome).<sup>93</sup> Rabbi Samuel the Small was thus an editor rather than a composer, though his linking of the *minim* with the external *zedim* (Rome) in his new version of the malediction would exaggerate the negative connotation of the prayer and emphasize that the *minim* were mortal enemies of the community.

The difficulty that lies in the way of accepting Flusser’s reconstruction is that Flusser pays little attention to the all-important question of the date of the rabbinic sources quoted in support of his thesis. The toseftan pericope in *Sanhedrin* and *Berachot* cannot, with any confidence, be dated before 70, and the passages in *Rosh ha-Shana* and *Avot de-Rabbi Natan* to which appeal is made, are undoubtedly much later, as is the relevant reference in the *Midrash Seder Olam*. In addition, this account renders the contribution of R. Samuel

<sup>89</sup> Kimelman (“Birkat ha-Minim,” 241–4) has argued that the added term was not *Notzrim* but *nasrim*, i.e., a particular sect of Jewish Christians.

<sup>90</sup> Flusser, “The Jewish Religion in the Second Temple Period,” 23–4.

<sup>91</sup> See Flusser, “Jerusalem in the Literature of the Second Temple Period,” 269–73.

<sup>92</sup> See the remarks by Lieberman on Tos. *Ber.* 3.25 in *Tosefta Ki-Fshutab*, 1: 53–5.

<sup>93</sup> P. Schäfer, in his essay on “Die sogenannte Synode von Jabne zur Trennung von Juden und Christen im 1/2 Jh. n. Chr.,” has made the correct suggestion that there was more than one old version of the malediction. Indeed, there is little evidence that Jewish prayer in general was rigidly standardized before Yavneh (or even in the decades following Yavneh). For different, old versions of the blessing against heretics and others see L. Finkelstein, “The Development of the Amidah,” *JQR* 16 (1925–6), 156–7; G. Stemberger, “Die sogenannte ‘Synode von Jabne’ und das frühe Christentum,” *Kairos* 19 (1977), 14–21; and Alon, *The History of Jews in Eretz Israel in the Mishnaic and Talmudic Period*, 1: 179–92 (Hebrew). On the use of the term *zedim* (“dominion of arrogance”) in the synagogue liturgy see L. Zunz, *Die Synagogale Poesie des Mittelalters* (Frankfurt, 1920), 454ff.

the Small quite insignificant. Still, the claim, both that the malediction in some form had a pre-history before Yavneh, and that the malediction created at Yavneh did not include the term *Notzrim*, is persuasive.<sup>94</sup>

One final point. In all later versions of this imprecation, except for two based on the Old Palestinian rite – one found in Schechter's Genizah fragment and the other in a manuscript of the *Seder R. Amran Gaon* of 1426<sup>95</sup> – no version from either a Christian or, what is more significant, a non-Christian country (where there was no concern with Christian sensitivities and no Christian censors) includes reference to *Notzrim*. This implies, although it does not prove, that the original *Birkat ha-Minim* of Yavneh did not include explicit reference to the *Notzrim*. Had it done so, it would almost certainly have made a more universal appearance in the liturgy. Added to this is the further textual detail that none of the versions of the lists of sinners as evildoers recorded in the rabbinic sources mentions *Notzrim*.

We can now draw the discussion of the form of the Yavnean benediction together and offer the following conclusion. The original version of the imprecation formulated by Samuel the Small cannot be precisely recovered on the basis of available evidence; however, one can propose with some confidence that the benediction formulated at Yavneh did not include an explicit reference to *Notzrim*. Instead, in all probability, it addressed itself to *perushim*, understood as “outsiders,” “deviationists,” and/or “opponents,”<sup>96</sup> *minim* (heretics) and *zedim* (the “arrogant of the nations”). In exactly what order these groups of malefactors were arranged and when the very first form of the malediction was composed (that is, if there was a curse in existence before 70) are questions that are not answerable with any assurance or finality given the textual data that are available to us.

## 2 *Who were the minim?*

Let us now turn to our second and related question concerning the *Birkat ha-Minim*. Who were the *minim* who were being cursed in the malediction? Three main theories on this subject have been propounded. The first

<sup>94</sup> Horbury also endorses this view, “The Benediction of the Minim,” 42; as does Alexander, “The Parting of the Ways,” 7–8.

<sup>95</sup> Edited by D. Goldschmidt (Jerusalem, 1971), 25. The manuscript evidence for the *Sefer R. Amran Gaon*, however, is not uniform. One manuscript version, as indicated, has the term *Notzrim*, while others do not. Professor Ruth Langer (of Boston College) has also informed me that, in connection with a work on the *Birkat ha-Minim* in the medieval era that she is soon to publish, she has found one additional reference to *Notzrim* in the malediction in a manuscript from Aleppo.

<sup>96</sup> The meaning of the term *perushim* is explored in more detail by Alexander, “Parting of the Ways,” 8 n. 12.

contends that the malediction was directed against Jewish “heretics” of all persuasions, meaning all who deviated from Pharisaic norms. This included not only Jewish Gnostics and Jewish Christians but, at certain times, also Hellenizers, Essenes, apocalyptical groups, and probably Sadducees. A second interpretation insists that the malediction was propounded with the Jewish Christians particularly in mind, although it used the general term *minim* rather than *Notzrim*. A variant of this argument connecting *minim* with Gnostics is also found in the literature.<sup>97</sup> The third proposes that the benediction was aimed primarily against Gentile Christians or pagans and others outside the Jewish community – including the Roman Empire – who were perceived as a threat to Jewish survival and continuity. Let us consider each possibility in turn, in reverse order, keeping in mind that we are primarily concerned with these matters only as they relate to the period up to 135.

The contention that the imprecation against *minim* was directed against non-Jews has found some, if relatively minor, support among scholars. Here one must proceed with caution, however, paying close attention to matters of dating. The most extended analysis of the tannaitic (as well as amoraic) passages which has concluded that *minim* means non-Jewish heretics of various sorts is that of Adolph Büchler.<sup>98</sup> Though much of his evidence is inadequately analyzed – and when more carefully reviewed does not support his claim – the fact does remain that certain tannaitic passages may refer to non-Jews. But for our purposes the essential point, reinforced by Büchler’s study, is that none of these tannaitic references predates 135. Büchler correctly recognized that “the use of this word [*min*] before the year 135 shows that it denoted heretical Jews.”<sup>99</sup> Thus his findings, even if accepted relative to rabbinic sources that can be attributed to the period between 135 and the early third century, do not justify reading *minim* at Yavneh as a reference to non-Jews. Kuhn’s suggestion along similar lines for the period after 180 is likewise irrelevant, even if it contains some merit on other grounds.<sup>100</sup> Hence, we can reject the argument that *minim* in the Yavnean malediction referred to “non-Jews.”

The argument favoring the association of the *minim* of the *Birkat ha-Minim* primarily with Jewish Christians is more widely held and more

<sup>97</sup> Segal has provided the fullest discussion of this conviction in his *Two Powers in Heaven*, 98.

<sup>98</sup> A. Büchler, “The Minim of Sepphoris and Tiberias in the Second and Third Centuries,” in A. Büchler, *Studies in Jewish History*, ed. I. Brodie and J. Rabbinowitz (London, 1956). He concludes that the *minim* in Sepphoris and Tiberias were “not Jewish Christians but either Gnostics or heathen Christians” (269).

<sup>99</sup> *Ibid.*, 247.

<sup>100</sup> Kuhn, “Giljonim und sifre minim,” in *Judentum–Urchristentum–Kirche*, 39.

plausible, though not without problems of its own. S. Krauss put forward a reasoned argument for this contention, as did many scholars of an earlier age. Krauss's position turns, in particular, on the evidence supplied by the patristic writings. This material, however, must be handled with great care, for while there is good reason to contend that by the time of Origen (d. c. 254), Epiphanius (d. 403), and Jerome (d. 420), the main, if still not the only, referent of *minim* was Jewish Christians,<sup>101</sup> the question remains: who constituted the original target when the benediction was first formulated (or reformulated by Samuel the Small) two or three centuries earlier at Yavneh? Krauss recognized that the blessing has undergone change and speculates that the original "must have explicitly named the Nazarenes [*Notzrim*], for Epiphanius gives us the definite formula, 'may God curse the Nazarenes.'" He advances this claim despite his own explicit notice that the Talmud, in discussing the *Birkat ha-Minim*, "nowhere hints that the Nazarenes figure in it," an absence he speculates is due "to medieval Christian censors."<sup>102</sup> But Krauss's argument fails on two counts. First, even the forms of the benediction emanating from Muslim countries – that is, in the absence of Christian censors – lack the term *Notzrim*, as already noted. Second, all of Krauss's putative evidence in support of this reading of *Notzrim* is post-tannaitic in origin and thus is of little help in this deliberation. Particularly weighty as a contrary indicator is the fact that he is unable to cite Justin as providing evidence of a liturgical malediction that specifically mentions the "Nazarenes," though Justin does refer repeatedly to a Jewish practice of cursing Christians.<sup>103</sup> Had Justin, writing within two decades of the Bar Kochba Revolt, cited a form of the *Birkat ha-Minim* that included the term "Nazarenes," it would have provided strong grounds for a direct link of this prayer with Jewish Christianity. The lack of such a mention suggests the need for a different solution regarding the target group against whom this benediction was directed.

<sup>101</sup> Krauss, "Jews in Church Fathers." R. Kimelman, "Birkat ha-Minim," 229–32, has made a sound case for associating *minim* only with Jewish heretics in the amoraic literature emanating from Palestine. The meaning of *min* among the Babylonian Amoraim is less certain. See also the lengthy discussion by Pritz, *Nazarine Jewish Christianity*; de Boer, "The Nazareans," 239–62; J. Lieu, "History and Theology in Christian Views of Judaism," in *The Jews Among Pagans and Christians in the Roman Empire* (London, 1992), 87–91; and the material collected by Klijn and Reinink in their *Patristic Evidence for Jewish-Christian Sects*.

<sup>102</sup> Krauss, "Jews in Church Fathers," 131–2.

<sup>103</sup> Kimelman, "Birkat ha-Minim," 233–6, gives a useful summary of additional arguments against taking Justin's testimony as evidence relative to the *Birkat ha-Minim*. See also J. Lieu, *Image and Reality: The Jews in the World of Christians in the Second Century* (Edinburgh, 1996), 103–53. Of Justin's charge regarding Jews cursing Christ and Christians she writes: "The latter [charge] should not be taken too formally" (134).

This same caveat holds for the several Johannine references to Jewish animus against Christianity, including expulsion from the synagogue (see the *apostynagogos* passages in John 9.22; 12.42; 16.2). Here one must take account of J. L. Martyn's extended discussion of the *Birkat ha-Minim*.<sup>104</sup> Martyn links the imprecation with John 9.22 and argues that it was created at Yavneh under Rabbi Gamaliel II expressly with Jewish Christians in mind.<sup>105</sup> Martyn's argument is, however, unacceptable for at least three reasons. First, and crucial, is that none of the three Johannine passages cited as evidence by Martyn refers to cursing Christians in the synagogue, that is, to the existence of anything like the *Birkat ha-Minim*. Even if one takes no account of John's virulent anti-Judaism,<sup>106</sup> his thrice-stated description of Jewish Christians being put "out of the synagogue" refers explicitly to synagogue expulsion, not to an anti-Christian imprecation recited during the synagogue service. John's testimony does speak to the growing estrangement between the synagogue and Jewish Christians (and Christian Jews). And it certainly reflects his deep resentment of Jewish rejection of the messianic claims made for Jesus, as well as profound bitterness at the ostracization of those who accepted these beliefs. It does not, however, shed any distinctive or individuating light on the content or form of the benediction against heretics. Second, it rests heavily on Kuhn's misconstrued argument, which is based in turn on the Genizah fragment of the *Amidah* already discussed.<sup>107</sup> That is to say, Martyn accepts uncritically that Samuel the Small's revision of the malediction included the two terms – *Notzrim* and *minim* – found in the Genizah fragment.<sup>108</sup> Third, his appeal to the patristic evidence, similar in kind to Krauss's, is, for like reasons, not sustainable. In light of these substantive considerations his conclusion that

henceforth, in the very center of Jewish worship, the Prayer, there is included a petition that God may cause Christian Jews (among others) to be destroyed and

<sup>104</sup> Martyn, *History and Theology in the Fourth Gospel*, 50–66. <sup>105</sup> *Ibid.*, 50ff.

<sup>106</sup> On the profoundly unsympathetic views of Jews and Judaism in the *Gospel of John*, see C. K. Barrett, *The Gospel of John and Judaism*; J. Townsend, "John and the Jews," in A. T. Davies (ed.), *Anti-Semitism and the Foundations of Christianity* (New York, 1979), 72–97; R. Fuller, "The Jews in the Fourth Gospel," *Dialog* 16 (1977), 31–7; J. Epstein, "Roots of Religious Prejudice," *Journal of Ecumenical Studies* 5/4 (Fall 1968), 697–725; E. J. Epp, "Anti-Semitism and the Popularity of the Fourth Gospel in Christianity," *CCAR* 22/4 (1975), 35–57; Reinhold Leistner, *Antijudaismus in Johannesevangelium? Darstellung des Problems in der neueren Auslegungsgeschichte und Untersuchung der Leidensgeschichte* (Bern, 1974); and E. Grasser, "Die antijüdische Polemik im Johannesevangelium," *NTS* 11 (1964), 74–90.

<sup>107</sup> Martyn, *History and Theology in the Fourth Gospel*, 58ff. <sup>108</sup> *Ibid.*, 58.

excluded from life. The formulation is an official and authoritative decision, and is directly related to the Christian movement,<sup>109</sup>

is seen to be untenable. It remains to be proved that the original form of the malediction included the term *Notzrim* and that its main target was Jewish Christianity or, as Martyn describes them, Christian Jews.<sup>110</sup>

Gedaliah Alon favors another form of this same argument.<sup>111</sup> He proposes that the original Yavnean version of the *Birkat ha-Minim*, following the medieval Genizah fragment, included both *minim* and “Nazarenes,” and that “in this liturgical fragment *minim* and *Notzrim* are synonymous, i.e., that both refer to the Jewish Christians.”<sup>112</sup> But Alon’s “assumption” about the form of the original version is unconvincing, and this not least because, if the terms *minim* and *Notzrim* are synonymous, there would be no need for both of them in the benediction. Thus, as already argued, it appears more reasonable to suspect that *Notzrim* was added to a pre-existing malediction after the period of Yavneh – and most likely after the Bar Kochba Revolt (or later) – when the *Notzrim* became an increasingly separate and powerfully distinct challenge to rabbinic Judaism.<sup>113</sup>

<sup>109</sup> Horbury, “The Benediction of the Minim and early Jewish–Christian Controversy,” 60, holds the view that “the scattered but hostile references to Christianity in early rabbinic literature suggest that Christians were prominently in view at the time of the benediction’s (*Birkat ha-Minim*’s) approval.” This view, while seemingly based on a careful scrutiny of the sources, is misleading, for Horbury cannot cite a single mishnaic source in its defense, that is, the rabbinic material from “the time of the benediction’s approval.” Using sources as disparate and as late as Rashi, Maimonides, and a seventeenth-century Yiddish work, on the one hand, and various amoraic sources on the other, proves nothing about what happened at Yavneh. That Jews and Christians grew far apart later needs little proof; what still requires some proof are the claims made for the intention and original context surrounding the *Birkat ha-Minim*. That Horbury can assert that “Christians were prominently in view” at Yavneh c. 80 to 95 is speculation based on not a shred of Jewish evidence. Indeed, the Mishnah, in its near-total silence regarding Christians, refutes the claim.

<sup>110</sup> Martyn too freely juxtaposes Justin’s statements and those of John, not allowing for major developments between the two. He also does not mention in this connection the Bar Kochba Revolt, which intervened between them. In general, Martyn overstates the importance of the *Birkat ha-Minim*, which he characterizes as “the awesome Benediction” (*History and Theology*, 62; and see also his discussion on 65–6).

<sup>111</sup> Alon, *Jews in their Land*, 29.

<sup>112</sup> Alon cites the text provided in Mann, “Genizah Fragments of the Palestinian Order of Service,” 306.

<sup>113</sup> It is possible that as Christianity grew further away from Judaism, and especially as it became an increasingly Gentile community, those individuals who belonged to the Church could no longer be labeled *minim* for this, in tannaitic times, meant heretics within the Jewish social and theological orbit. Therefore another term, *Notzrim*, indicating the ethnic (and religious) identity of this oppositional group, needed to be added to the imprecation. The explicit reference to “Nazarenes” in Epiphanius and

The third opinion, that *minim* is a broadly defined term meant to cover all types of Jewish heretics, is the most plausible.<sup>114</sup> The terms *min*, *minim*, and *minuth* are undoubtedly used in tannaitic sources to refer to heretical groups other than Jewish (or Gentile) Christians, and so the one-to-one correspondence of these terms – that is, that *minim* = Jewish Christians – is untenable.<sup>115</sup> The Palestinian Talmud, in fact, speaks of “twenty-four types of heresy” within the Jewish community while the Temple still stood (PT *Sanh.* 10.5). Hence, the many scholars who interpret the term broadly as applying to all kinds of Jewish heretical groups before 135, and after 135 to a variety of Jewish groups as well as to certain groups of Gentiles, seem on safest textual and historical grounds.<sup>116</sup>

Jerome, not found in Justin or earlier sources, lends support to this reconstruction. Still, even this cautious hypothesis regarding the evolution of the *Birkat ha-Minim*, which allows for the possibility that the word *Notzrim* was added some time after 135, is advanced with great reservation because this term is absent from all tannaitic sources. Thus a date after 200 may, in fact, be the time when the term *Notzrim* was appended to the earlier benediction against heretics.

<sup>114</sup> Friedlander, *Die religiösen Bewegungen*, 171ff., already suggested this, but at the same time argued against applying it to Jewish Christians. See also his *Der vorchristliche jüdische Gnosticismus* (Göttingen, 1898). His views were rightly criticized by Herford in *Christianity in Talmud and Midrash*, 368–76, though Herford’s own work is, in turn, unreliable on this issue. For further discussion see also W. Bacher, “Le Mot ‘minim’ dans le Talmud désigne-t-il quelquefois des Chrétiens?” in *REJ* 38 (1899), 38ff.; Büchler, “The Minim of Sepphoris and Tiberias in the Second and Third Centuries,” 245ff.; Jocz, *The Jewish People and Jesus Christ*, 178ff.; and Goldstein, *Jesus in Jewish Tradition*.

<sup>115</sup> A. Schlatter, *Die kirche Jerusalem vom Jahre 70–130* (Gütersloh, 1898), 795, argued for this correspondence. Alternatively, it was correctly criticized by G. F. Moore, *Judaism in the First Centuries of the Christian Era* (Cambridge, MA, 1980), 3 n. 68; and Herford, *Christianity in Talmud and Midrash*, 122. Herford wanted to make the narrow identification *minim* = Christian (17ff.), but he eventually recognized that this was wrong. Also see his essay in S. Baron (ed.), *Jewish Studies in Memory of George Kobut* (New York, 1985), 359ff; and H. L. Strack, *Jesus, die Häretiker* (Leipzig, 1910).

<sup>116</sup> Among the many scholars who have held this view are E. Schürer, *HJPAJC*, div. 11, 11 88 n. 164; Herford, *Christianity in Talmud and Midrash*, passim; Moore, *Judaism*, 3 n. 68; Strack, *Jesus, die Häretiker*, 66–8; R. Marcus, “Pharisees, Essenes and Gnostics,” *JBL* 73 (1954), 157–61; L. Ginzberg, *An Unknown Jewish Sect* (New York, 1975); Kuhn, “Giljonim und sifre minim”; Segal, *Two Powers in Heaven*; and B. Visotsky, “Prolegomenon to the Study of Jewish Christianities in Rabbinic Literature,” *AJS Review* 14 (1989), 47–70. In the recent literature (especially Segal, *Two Powers in Heaven*) the association of *minim* and Gnosticism has gained a new emphasis. The idea itself has often been discussed. See, e.g., G. Vermes, “The Decalogue and the Minim,” in M. Black and G. Fohrer (eds.), *In Memoriam Paul Kahle*, *BZAW* 103 (Berlin, 1969), 232–40; Marcus, “Pharisees, Essenes and Gnostics”; A. D. Nock, “Gnosticism,” *HTR* 57 (1964), 255–79; F. Grant, *The Earliest Gospel* (Nashville, 1943), 92–3. Grant’s view, among others, has been criticized by H. Hirschberg, “Once Again – the Minim,” *JBL* 67 (1948), 304–18; A. Marmorstein, “Judaism and Christianity in the Middle of the



This usage, in turn, indicates that the *Birkat ha-Minim*, when promulgated (or revised) after 70, was aimed against all Jewish heretics and detractors of the Jewish community who existed in the last two decades of the first century – including of course, but not only, Jewish Christians. Here an important hermeneutical consideration needs to be borne in mind – the difference between speaker and hearer. The Jewish leadership directed its malediction against all heretics, while the Jewish Christians, who knew of the animosity against them and of the feeling that they were heretics, “heard” the *Birkat ha-Minim* as particularly aimed at them. This was a perfectly natural response. Thus Christian authors who were narrowly focused on the relationship between the general Jewish community and the nascent Jewish Christian community could well speak of Jews cursing Christians in the synagogue as if this were the primary, or even exclusive, concern of those who created and repeated the imprecation, when in fact the malediction was against *minim* in general. Had we the relevant gnostic sources from this same period – the late first and second century CE – we might well find the same angry denunciations against Jews “cursing” them.

### 3 *What was the purpose of the benediction?*

This brings us to our third and most important question: what was the intended purpose of the *Birkat ha-Minim*? Many scholars, building on the work of I. Elbogen, have held that the malediction was introduced for the single purpose of separating Jewish Christians from the synagogue.<sup>117</sup> A *min*, here understood specifically as a Jewish Christian, would not want to curse himself or be cursed by others, and so would exclude himself from the synagogue and thereby from the Jewish community.<sup>118</sup> This construal, however, is not fully convincing because it turns on a voluntary exile from the synagogue on the part of the Jewish Christian, that is, the application of the term *min* to oneself. Second, it is almost certainly an error to concentrate, as some students of the subject have, on the function of the prayer as a “test” for identifying Jewish Christians while they served as preceptors during the synagogue liturgy.<sup>119</sup> The more outspoken Jewish Christians

Third Century,” *HUCA* 10 (1935), 223–63; Friedlander, *Die religiösen Bewegungen*; and K. Kohler, *The Origins of the Synagogue and the Church* (New York, 1929). The identification with Gentiles is also made by Gershom Scholem; see his *Major Trends in Jewish Mysticism* (New York, 1946), 359 n. 24; and his *Jewish Gnosticism, Merkabab Mysticism and Talmudic Tradition* (New York, 1965). Lastly, for a useful summary discussion of the issue, see also Goldstein, *Jesus*, 45–51.

<sup>117</sup> Elbogen, *Der jüdische Gottesdienst*, 36. Many recent studies have advocated this same view; see, e.g., Davies, *Sermon*, 275–6; and Segal, *Two Powers in Heaven*, 152.

<sup>118</sup> See here the discussion in *Tanh. Vayikra* 3 (ed. S. Buber, 2a).

<sup>119</sup> So the view of H. Loewe as cited in Jocz, *Jewish People*, 53.

would have been known without the aid of the malediction, and it is unlikely in any case that they would be invited to lead the service. As a rule, the yield from such activity would hardly be commensurate with the effort. Third, and most important, before 135 the word *minim* was not a term that applied exclusively to Jewish Christians. Thus this explanation, with its exclusive focus on Jewish Christians, is too narrow.

Instead, consistent with the use of the term *minim* in tannaitic texts, it is preferable to treat the malediction as a curse broadly directed against all types of heretics,<sup>120</sup> and this with several purposes in mind. First, it was intended to act as a filter and self-imposed ban on all heretics. Second, it was intended to raise awareness in the Jewish community that heretics were a serious threat to Jewish survival in the post-70 context. And third, it was meant to call heaven's wrath down upon them, either to awaken their *teshuvah* (return) or, less happily, to damn them.

## V CONCLUSION

It remains to be demonstrated that emerging Christianity was of urgent concern to the rabbinic sages between the fall of Jerusalem and the defeat of Bar Kochba. The Sages were certainly aware of the new faith and its theological challenges to rabbinic Judaism, but there is no evidence that this awareness led to extreme official actions specifically against Jewish Christians – for example, the circulation of anti-Christian letters to the Jewish communities in Israel and the Diaspora by the Jewish leadership. Jewish (and other) Christians certainly separated themselves for purposes of worship and teaching (and social support) from the synagogue at an early date, but this was a free choice based on internal Christian needs and wants. It was not the consequence of actions taken by Jewish leaders in Jerusalem or Yavneh.

At the same time, rabbinic actions against *minim* and *minuth* taken before 135 (and after) would have been meant to include Jewish Christians in so far as they were understood to belong to the category of heretics. Thus the instruction to separate oneself from heretics, the internal censorship of books, and the *Birkat ha-Minim* – combined with more vulgar, unofficial, polemics, taunts, and hostile caricatures – would have created a growing sense of alienation between Jewish (and other) Christians and rabbinic Jews (and rabbinic Judaism).

<sup>120</sup> This is also in keeping with the intent of other, similar “curses” found in early rabbinic literature. See for more on this issue L. Ginzberg, *Perushim ve-Hiddushim be-Yerushalmi* (New York, 1946–61), III 280.

During and after the Bar Kochba Revolt the situation almost certainly changed for the worse. In contrast to the situation before 135, the actions of both Jewish Christians and Bar Kochba during the revolt of 132–5 exacerbated tensions between the two communities. The Jewish Christians did not share in the enthusiasm for the revolt, not least because they did not concur with Bar Kochba's messianic claims; while he saw their non-commitment as both theological and national betrayal.<sup>121</sup> This sense of betrayal may well have grown after Rome's suppression of the revolt in 135, and if it did this would have led to a deeper schism between the Jewish and Christian (now increasingly Gentile) communities.<sup>122</sup> But even with regard to the period between 135 and the end of the tannaitic period, caution is required in characterizing rabbinic attitudes and policy towards Jewish Christians and Christianity in the absence of sufficient meaningful evidence on this matter.

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<sup>121</sup> For more on this crucial turning point see Justin, *Apol.* 31.6; B. Isaac and A. Oppenheimer, "The Revolt of Bar Kochba: Ideology and Modern Scholarship," *JJS* 36 (1985), 33–60; R. Bauckham, "The Apocalypse of Peter: A Jewish Christian Apocalypse from the Time of Bar Kochba," *Apocrypha* 5 (1994), 7–111; idem, "Jews and Jewish Christians in the Land of Israel at the time of the Bar Kochba War, with special reference to the Apocalypse of Peter," in Stanton and Stroumsa (eds.), *Tolerance and Intolerance in Early Judaism and Christianity*, 228–38; P. Schäfer, *Der Bar Kochba Aufstand* (Tübingen, 1981); and ch. 4 in the present volume.

<sup>122</sup> Here I concur with S. G. Wilson, who has made the informed "speculation" that the final division between the two communities was a result of "the replacement of the Jewish leadership of the Jerusalem Church by Gentiles. This, perhaps more than any other incident, would have brought home to Jews the irrevocably Gentile direction of the Christian movement," *Related Strangers*, 183.

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## THE MISHNAH

DAVID KRAEMER

## I ORIGIN AND GENERAL CHARACTER

The Mishnah, universally attributed to the editorial hand of Rabbi Judah, Patriarch of the Jewish community in Palestine in the late second to the early third century, is the earliest redacted record of rabbinic opinion. The name “Mishnah,” from the Hebrew root *sh-n-h*, meaning “to repeat,” was used in early rabbinic circles to refer to various teachings or collections of rabbinic law, but Rabbi Judah’s Mishnah quickly gained priority and was soon known as “our Mishnah” or simply *the* Mishnah. The Mishnah became the foundation of virtually all subsequent rabbinic legal deliberation, constituting the organizing shank of both Talmuds (the *Yerushalmi* = Palestinian, and the *Bavli* = Babylonian).

In significant respects, the Mishnah was “revolutionary,” having no known precedent in received Jewish tradition. It is the first Jewish document after the Torah to organize an almost comprehensive system of Jewish law and practice. Nevertheless, it is unlike the Torah in virtually every quality. Its language, a new form of Hebrew, is not that of the Torah, nor does it follow the Torah in its organization of the law. Rather, it lays out its rulings in six “orders” (*sedarim*) arranged according to large themes and then subdivides these larger categories into “tractates” (*masekhetot*, singular *masekhet*), each devoted essentially to a single topic. (Notably, the number six has no significance in earlier Jewish traditions.) These categorical divisions were evidently invented in early rabbinic circles, if not by R. Judah himself.<sup>1</sup> Crucially, the Mishnah in many respects is independent of Scripture – more so than a casual reading would suggest. It quotes

<sup>1</sup> It is virtually impossible to reconstruct the prehistory of the received mishnaic text reliably. The relative uniformity of the received text suggests that whatever the sources were that might have been used to formulate the Mishnah, they have been appropriated and homogenized in order to erase evidence of their incorporation. (This erasure was not done intentionally but was only the consequence of the nature of transmission and repetition in rabbinic circles.) For a detailed discussion of the scholarship on the Mishnah’s origins, see H. L. Strack and G. Stemberger, *Introduction to the Talmud and Midrash*, trans. and ed. M. Bockmuehl (Minneapolis, 1996), 124–33.

Scripture infrequently, and its intimated allusions to scriptural sources are often relatively problematic. Contrary to the popular (mis)representation, the Mishnah is far from being a commentary on the Torah.

The Mishnah also follows the model of no known post-scriptural, pre-rabbinic document. Most of the abundant Jewish literature from the late Second Temple period organizes its expression by reference to Scripture. Some of these documents are written to imitate known scriptural models (for example, 1 Maccabees and the Qumran hymns). Others pseudepigraphically assume the voices of ancient scriptural heroes. A few (most prominently among them, Jubilees) supplement and extend Scripture, while claiming the mantle of original revelation. Others simply follow Hellenistic models (for example, 2 Maccabees). Nevertheless, the Mishnah is like none of them, nor is it genuinely like the unusual document to which it has often been compared, the Qumran “Halachic letter” (MMT), because small similarities in language and topical concern pale by comparison to differences in style, purpose, and scope. Instead, the Mishnah is genuinely unique and original, and it must be understood in light of its originality.

## II THE MISHNAH’S ORGANIZATION

The Mishnah’s six orders are the following: (1) *Zeraim* (“Seeds,” including regulations pertaining to priestly gifts taken from one’s agricultural produce, restrictions on planting and harvesting, and other laws emerging from the notion that “the earth is the Lord’s”); (2) *Moed* (“Appointed Times,” including laws pertaining to the Sabbath and festivals); (3) *Nashim* (“Women,” including laws that regulate a woman’s status in relation to men, that is, marriage, divorce, prohibited sexual relations, and vows [which are subject to the approval of a female’s father or husband]); (4) *Neziqin* (“Damages,” including torts, criminal law, and court procedures); (5) *Kodashim* (“Holy Things,” including regulations for the construction and operation of the sacrificial cult in Jerusalem); and (6) *Toharot* (“Purities,” a euphemism, because the laws contained in this section define the ways people and things contract or eliminate *impurity*, the presence of which would make them ineligible to enter the sacred precincts). Knowing these categorical headings, one can more or less easily deduce which tractates are found in which order;<sup>2</sup> *Zeraim*, for example, contains such

<sup>2</sup> I say “more or less” because it is difficult to discern the rationale for the inclusion of certain tractates in certain orders. *Avot*, a collection of wisdom teachings mostly from early mishnaic sages, is a prime example. *Berachot*, which has often been seen as another such example, is included in *Zeraim* because it describes steps that must be taken



tractates as *Terumot* (the priestly “heave offerings”) and *Maaser* (tithes); *Moed* contains tractates like *Shabbat* and *Pesachim* (Passover); *Nashim*, tractates like *Kiddushin* (betrothals) and *Gittin* (divorce writs); *Neziqin*, tractates like *Baba Kamma* (damages) and *Sanhedrin* (court procedures); *Kodashim*, tractates like *Zevachim* (sacrifices) and *Middot* (the dimensions of the Temple); and *Tobaro*t, such tractates as *Niddah* (menstrual impurity) and *Mikvaot* (laws defining a proper ritual bath). Originally, sixty mishnaic tractates were available, with *Baba Kamma*, *Baba Metsia*, and *Bava Batra* constituting a single long tractate (also known as *Neziqin*), and *Sanhedrin* and *Makkot* as one. The order of tractates within a *seder* generally proceeds from longest to shortest, with *Zeraim* as a singular exception.

### III MISHNAIC STYLE AND FORMULATION

To appreciate the particular characteristics of the Mishnah, it is perhaps best to begin by examining several representative examples. The first teaching in the Mishnah delimits the times during which the Shema (Deuteronomy 6.4–9, along with other scriptural passages and rabbinically ordained blessings) is recited in the evening. The text of the Mishnah is as follows:

(A) From what time do we recite the Shema in the evening? From the hour that priests enter to eat their terumah, until the end of the first watch – these are the words of R. Eliezer.

But the sages say: until midnight.

Rabban Gamliel says: until the first light appears.

(B) It happened that his sons came from a wedding feast. They said to him: we have not recited the Shema. He said to them: if the first light has not appeared, you are obligated to recite.

(C) And not only this, but everything with respect to which the sages said “until midnight,” the obligation is until the first light. The burning of the fats and the limbs [of the sacrificed animals], their obligation is until the first light. And all [sacrifices] that must be consumed in a single day, their obligation is until the first light.

(D) If so, why did the sages say “until midnight?” In order to distance a person from transgression.

M. Ber. 1.1

In the second example, the Mishnah commences its discussion of the liabilities of one with whom property has been deposited for safe keeping by outlining the bailee’s options upon the loss of the deposited property:

(I) If one deposits with his fellow an animal or vessels to watch, and they are stolen or lost,

(the recitation of blessings) before the produce of God’s earth may be enjoyed by an Israelite. This common theme unites tractates of this order.

(A) if he paid and did not want to [instead] take an oath [eliminating his liability] – for they have said, “a gratuitous bailee may take an oath and go out [free of any liability]” – if the thief is found, he makes a double payment; if he slaughtered or sold [the animal], he makes a four- or five-fold payment [depending upon the type of animal].

To whom does he pay? To the one with whom the object [or animal] had been deposited.

(B) If he [instead] took an oath and did not want to pay, if the thief is found, he makes a double payment.

If he slaughtered or sold [the animal], he makes a four- or five-fold payment [depending upon the type of animal].

To whom does he pay? To the owner of the deposited object [or animal].

M. *Bava M.* 3.1

In the last example, the Mishnah describes the first steps taken in the High Priest’s preparation for service on the Day of Atonement:

Seven days before the Day of Atonement, they remove the High Priest from his house to the *Palbedrin* chamber, and they set up another priest under him, lest he experience some disqualification.

R. Judah says: they even set up another wife, lest his wife die, for it says “and he should atone for himself and for his household” (Lev. 16.6); “his household,” this means his wife.

They said to him: if this is so [that you must take precautions against such unlikely scenarios], then there is no end to the matter.

M. *Yoma* 1.1

Each of these texts typifies some common quality or qualities of the Mishnah, although several relatively unusual features are represented as well. Most typical, in its way, is the second quoted text, from *Bava Metsia*. The first characteristic when examining this text is perhaps its casuistic elaboration of the law. In other words, the Mishnah in its own anonymous voice presents its law in the form of a case described in relevant details that is meant to represent a legal principle or principles that are rarely explicitly articulated. Unusual, in this instance, is the Mishnah’s expression of a general principle (“they have said, ‘a gratuitous bailee may take an oath and go out [free of any liability]’”), but this slight elaboration allows one to see the principles that are being specified: this Mishnah is about the liabilities of bailees (*shomerim*, watchers or guards) and the way they change as a function of the status of the bailee (Is he or she being paid? Is he or she performing this service without payment?) and of the nature of the property being kept. The Mishnah’s formulation of the law is striking; after announcing the subject at hand (“If one deposits with his fellow an animal or vessels to watch, and they are stolen or lost”), it describes two scenarios, one in which the bailee decides to pay and the other in which he decides

to release himself from liability by taking an oath. Both scenarios are expressed in virtually identical language, adjusted slightly for differences in the case and the outcome (and putting aside the unusual general principle that interrupts the flow and balance of the first scenario). This repetition suggests that the Mishnah was formulated for memorization and subsequent recitation.

The Mishnahs from *Berachot* and *Yoma* both include, like the one from *Bava Metsia*, sections articulated in the Mishnah's own anonymous voice. However, both also include dissenting opinions, attributed to specific named sages or to the collective labeled as "the Sages." This dissent is relatively common throughout the Mishnah, although unusual chapters or tractates appear in which such dissent is rare or non-existent. Crucially, when such dissent is recorded, it is rare to find a decision. In the vast majority of instances, disagreements are allowed to stand and the Mishnah's student may have no idea which opinion is accepted in practice.

As one identifies the voice of the Mishnah, its only claimed authorities are the named sage, the community of sages (if I am correct in surmising that this message is intended in the Mishnah's anonymous voice), or Scripture. In the present instances, the only actual quotation from Scripture is the one in Mishnah *Yoma*, "proving" for Rabbi Judah that a potential substitute wife (as well as a potential substitute High Priest) must be established for the High Priest in advance of his service on the Day of Atonement. However, this single small quotation is somewhat misleading because both the *Berachot* and *Bava Metsia* Mishnahs presuppose Torah texts in their background: the former, the Torah's command that one "speak of them . . . when you lie down and when you rise up" (Deut. 6.7), and the latter, the Torah's law concerning guarded property (Exod. 22.6–12). When one compares the Mishnah's law with the Torah's foundation, however, one recognizes that the relationship between the two is extremely complicated. At this point, the Mishnah seems to claim Scripture as one of its authoritative sources but indirectly. Moreover, irony permeates the one example that explicitly cites Scripture and begins by elaborating a law (the separation of the High Priest before Yom Kippur) that has no foundation at all in Scripture.

Also notable in the quoted Mishnahs, and indeed typical of the Mishnah as a whole, is the common reference to or discussion of the Temple, its priests, and its sacrifices. This is true not only in the case of *Yoma*, wherein the Mishnah devotes considerable energy to describing the details of the Temple ritual enacted by the High Priest before and during the Day of Atonement, but also in the instance quoted from *Berachot*, in which one might consider it irrelevant. Why is it a priestly action that marks the beginning of the period to recite the evening *Shema*? Why does a discussion

of the end of the period during which to recite the evening Shema precipitate an elaboration of parallels in the sacrificial system? Again, at this point one is only identifying these mishnaic features, but the frequency of such references will not allow an answer to the questions by supposing that they speak for the realia of the day. Remember, the Temple was destroyed more than a century before the Mishnah was formulated. This mishnaic characteristic, with the others, will form the basis of interpretation of this foundational rabbinic document. It is now time to examine the noted qualities in greater detail.

#### IV THE VOICE OF THE MISHNAH

One will find only three distinct voices in the Mishnah. The first is the Mishnah's anonymous voice, that is to say, the voice of the Mishnah itself. This voice is one whose speaker stands in the background. He speaks or they speak in a particular rare form of Hebrew, a Hebrew that can only be identified as "rabbinic." This language is dissimilar from the biblical forms, from which it is descended. It bears similarities to the Hebrew of certain Qumran compositions (such as the Halachic letter) and is essentially the same as the language of Bar Kochba's Hebrew letters. However, it is not the language of "the people" – at least not by the time of the Mishnah's composition – for the evidence is clear that most of the Jewish population in Palestine (and particularly in the Galilee) in the latter half of the second century spoke Aramaic and/or Greek.<sup>3</sup> Therefore, the Mishnah's predominant voice speaks for itself in a language that is mostly its own and claims no known authority beyond itself.

The Mishnah's second voice is the one attributed to individually named sages or to collections of sages ("the Sages," "the School of Shammai," "the

<sup>3</sup> On the language of the Mishnah and its history, see E. Y. Kutscher, *A History of the Hebrew Language* (Jerusalem, 1982), 115–20. The documents discovered in the so-called "Cave of Letters" in Nahal Hever, including the Bar Kochba letters, established definitively that Rabbinic Hebrew (MH1) was not merely an academic language employed by the Rabbis. Nevertheless, the evidence of those documents is extremely revealing for the light it sheds on the linguistic history of the period. Of the sixty-four documents discovered in the caves, thirty-one are written in Greek, sixteen in Aramaic, nine in Nabatean, and ten in Hebrew. Of the Hebrew documents, four are biblical texts and three are formal documents (leases of land). Three are letters from Bar Kochba himself, but, of those, two are fragmentary, one extremely so. Nevertheless, it is clear that Bar Kochba's Hebrew is highly inflected by Aramaic. On the basis of this collection, Hebrew was a secondary or tertiary language in Palestine during this period. By the second half of the century, after the defeat of Bar Kochba, it was, scholars agree, essentially a dead language (that is, outside limited rabbinic circles). For a detailed bibliography of relevant scholarship, see Strack and Stemberger, *Introduction*, 101–2.

School of Hillel”). The voice of these sages is identical to that of the anonymous Mishnah, but they step to the foreground, the Mishnaic editor allowing them to weigh in personally on behalf of their own opinions. Named sages typically, although not always, appear in the context of disputes. Their appearance might be in the form of a stated opinion, or it might take the form of a story (as in *Berachot*), in which case a sage’s actions are evidently taken to speak louder than his words. In instances of dispute, apparently, such identifications matter most. Therefore, the answer seems to have something to do with claims for authority. Crucially, in these instances as in others, Scripture is rarely used to buttress proffered opinions.

The Mishnah’s third voice, clearly not its own, is that of Scripture – primarily the Torah – which is sometimes quoted to support one opinion or another. Such quotations are not all that common; over the course of the entire Mishnah, scriptural quotations average only slightly more than one for every two mishnaic chapters. Accounting for the fact that certain small sections of the Mishnah are “scripture-saturated,” one recognizes that quotations from the canonical sources are rare indeed.

As far as the Mishnah’s inclusion of disputing voices is concerned, the Mishnah itself comments on this phenomenon:

4. And why do we mention the words of [both] Shammai and Hillel for naught [since the *halacha* is recognized as following the opinion of Hillel]? To teach coming generations that a person should not stand by his words [and refuse to accept the view of his fellow], for the fathers of the world did not stand by their words.

5. And why do we mention the words of the individual next to those of the many, when the *halacha* follows the opinion of the many? Because a court may [in the future] agree with the words of the individual and rely upon them [to change the *halacha*], for one court may not annul the opinion of another court until it be greater in number and wisdom . . .

6. R. Judah said: If so, why do we mention the words of the individual next to those of the many for naught, so that if a person says, “this is what I have received [in tradition],” the other can say to him, “you have heard according to the opinion of so-and-so” [which, being the opinion of an individual against the many, is not accepted]?  
M. Ed. 1

The Mishnah suggests three explanations for the inclusion of the individual or rejected opinion: (1) to illustrate that one should not stand by one’s contrary opinion when a decision has been made; (2) to provide a basis for future revisions of the law; and (3) to preserve evidence for the refutation of erroneous traditions regarding the *halachab*. Notably, the latter two explanations are in tension with each other: the former suggests that the purpose centers on supporting the possibility of future redirections in the law, and the latter suggests that the purpose involves militating against

such redirections. Almost perversely, this latter view, seeking to explain the inclusion of individual opinions, is itself an individual opinion (R. Judah). In other words, the very Mishnah that seeks to explain the inclusion of disputes is itself marked by such a dispute, emphasizing the conundrum and permitting no ready solution. More than anything else, this text illustrates that the culture constructed by the mishnaic sages is a culture of dispute, one in which alternative opinions might be quoted, although some general rule might say that they are irrelevant in practice. In fact, if one did not know the general rule, one would have no idea of a way to adjudicate such disputes. One might even say that this lack of clear direction is consonant with the Mishnah's intent, since rules for adjudication, even where they exist, are rarely quoted and almost never explicitly applied. It is more important for the Mishnah in such cases that the disputes be preserved. The variety of views, apparently, is meant to be studied and explored.

## V RELATIONSHIP TO SCRIPTURE

Concerning its relationship to Scripture, the Mishnah also has something to say:

(A) [Laws concerning] the releasing of vows fly in the air, for they have nothing [in Scripture] on which to depend.

(B) Laws of the Sabbath, festival offerings, and the misappropriation of sacred things, they are like mountains hanging by a hair, for they have little Scripture and many laws.

(C) [And the laws of] judgments, the sacrificial service, purities and impurities, and prohibited sexual relations, they have [Scripture] on which to depend . . .

*M. Hag.* 1.8

Not surprisingly, in his detailed review of the relationship of the Mishnah's laws to Scripture, Neusner concludes that three categories of relationship exist, categories that effectively echo those proposed in the Mishnah: (1) "there are tractates which simply repeat in their own words precisely what Scripture has to say," (2) "there are . . . tractates which take up facts of Scripture but work them out in a way in which those Scriptural facts cannot have led us to predict," and (3) "there are . . . tractates which either take up problems in no way suggested by Scripture, or begin from facts at best merely relevant to the facts of Scripture."<sup>4</sup> In other words, sometimes the Mishnah submits to scriptural dictates, sometimes it reads Scripture aggressively, and sometimes it sets its own agenda, mostly ignoring

<sup>4</sup> J. Neusner, *Judaism: The Evidence of the Mishnah* (Chicago, 1981), 221–2.

Scripture's contribution to the subject. Behind the Mishnah, undoubtedly, often lies the Torah, but how and whether it reads that Torah is its own choice.

This complex and varied relationship is echoed in the Mishnah's rhetoric. On the one hand, much of the Mishnah's technical vocabulary, along with the institutions it assumes, is derived from Scripture. This fact, together with the occasional verse quoted, suggests that the relationship between the Mishnah and Scripture is profound if non-specific. The less-educated student will certainly hear many scriptural echoes behind the Mishnah and conclude that it is a powerfully traditional document. On the other hand, students with greater erudition will quickly appreciate that even when the Mishnah reads Scripture, its reading is sometimes not so "traditional" (in the popular sense). They will see the Mishnah defining its own categories, even forcing Scripture into a mold that the Mishnah alone creates.

A superb example of the Mishnah's "misreading" of Scripture for its own ends is found in the text quoted earlier from *Bava Metsia*, chapter 3. The Mishnah assumes as its background the law of Exodus 22.6–12. There, in verses 6 and 9, the Torah makes a clear and natural distinction: "If a man should give to his neighbor money or vessels to watch, and it be stolen from the man's house [there is no liability] . . . If a man should give to his neighbor an ass or an ox or a sheep, or any beast, to watch . . . if it be stolen from him he shall make payment to its owner." According to these verses, the law changes as a function of the nature of that which is given to be watched; inanimate movables involve a lower level of liability, and animals a greater level. This interpretation is clearly the simplest and most natural reading of the verses at hand. However, the Mishnah suggests a different category distinction, denying explicitly, in the process, the distinction offered in the Torah: "If one deposits with his fellow *an animal or vessels* to watch, and they are stolen or lost, if he paid and did not want to [instead] take an oath [eliminating his liability] – for they have said, 'a gratuitous bailee may take an oath and go out [free of any liability]' – if the thief is found . . ." (emphasis added). For the Mishnah, the important difference is whether or not the bailee is paid – a distinction utterly without precedent in the Torah's law. The Torah's distinction is simultaneously erased without any reason offered to justify this shift.

Now, if pressed, no doubt the rabbis behind this Mishnah could justify their proposed categorization with reference to Scripture. Some rabbinic author does, in fact, in the halachic midrash to the same verses (see *Mekh. Neziqin* 15; ed. Horowitz and Rabin, 301). However, the reading in the Midrash is defensive and forced, and the Mishnah, in any case, typically does not bother with such a justification. A common student might not

note such fine distinctions, but the rabbinic disciple surely realized the problems posed in the present Mishnah. He understood, in other words, that the Mishnah's law, even when related to the Torah, is not dictated by the Torah. In the shadow of the Torah, the Mishnah is its own authority – its own master.

## VI THE MISHNAH'S AUDIENCE AND SOCIAL SETTING

The way one interprets the Mishnah's rhetoric concerning its relationship with Scripture will depend upon the capacities of its assumed audience. A variety of factors suggest powerfully and unambiguously that the Mishnah was formulated for rabbinic sages and their disciples and not for a mass audience. This conclusion is supported, first, by the Mishnah's language, which was not a language commonly spoken by the Jewish population in the Galilee in the late second century. In fact, it was at this stage a sort of academic tongue, a "Rabbinic Hebrew" in the most literal sense of the word. If the Mishnah is composed in a language not of the people, it is obviously not directed to them, at least not in any immediate sense.

A second factor supporting the same conclusion is the expertise the Mishnah assumes of its audience. When one reviews the examples quoted earlier, one immediately appreciates the considerable nature of this expertise. As in those examples, the Mishnah commonly refers with little or no explanation to concepts and institutions that are unlikely to be fully comprehensible to any but a specialized audience (it assumes one is familiar with the parameters of "the *Shema*" or that one understands the concept of "a gratuitous bailee," and so on). It details and elaborates the esoterica of the Temple cult ("the time to eat *terumah*," "the burning of the fats and the limbs," "sacrifices that must be consumed in a single day," and so on). It describes liabilities according to categories and principles that were familiar only to trained experts (rules for taking oaths, "four- or five-fold payment"). It quotes only parts of scriptural sources, assuming that the larger original context is familiar ("and he should atone for himself and for his household"). In other words, in the absence of considerable preparatory training, large parts of the Mishnah are foreign to the student seeking to master its teachings.

In addition, the Mishnah often expresses itself by means of ellipsis, assuming that its student is capable of filling in the many blanks it leaves. Consider, again, the example quoted above from *Bava Metsia*: "if he paid and did not want to [instead] take an oath [eliminating his liability] – for they have said, 'a gratuitous bailee may take an oath and go out [free of any liability]' – if the thief is found, he makes a double payment; if he slaughtered or sold [the animal], he makes a four- or five-fold payment



[depending upon the type of animal].” This translation in brackets completes the Mishnah’s incompleteness – it demands comprehensibility before one makes sense of its ruling. Only one who is already a master of sorts, or one presently the disciple of such a master, has the means to make such gapped texts comprehensible. This mastery is a teaching of the rabbinic-disciple circle, a circle from which the majority of Jews were practically – although not ideologically – excluded.

In fact, a central characteristic of the Mishnah’s formulation supports this same conclusion. As noted earlier, the Mishnah is composed according to clear mnemonic criteria.<sup>5</sup> Virtually without exception, the Mishnah’s teachings employ a limited repertoire of formulaic, mnemonic structures. This repertoire, repeated continually regardless of the subject at hand, is clearly intended to facilitate memorization of the Mishnah’s teachings. Similarly intended is the common repetition of vocabulary and specific formulation in any given context. In fact, these features render repetition sufficiently “mechanical” that it is not uncommon to find different versions of the same Mishnah (one preserved in the *Yerushalmi* and the other in the *Bavli*) rendering precisely the same teaching (“if a person does X . . .”) with exactly the opposite conclusion (*bayyav*, “he is liable,” or *patur*, “he is exempt from liability”); in a formulaic context, both conclusions have the same mnemonic weight and the same purpose, making them effectively identical when recited orally. This is not to suggest that the Mishnah was formulated orally, at least not in its entirety. Martin Jaffee has convincingly demonstrated that some parts of the Mishnah display the qualities of written compositions.<sup>6</sup> However, the Mishnah was meant to be memorized, and the “official” version of the Mishnah was the one recited by the rabbinic *tanna* (“repeater”). In other words, the Mishnah was an “Oral Torah” because it was performed orally as a series of teachings meant to be memorized and reproduced by mouth before the assembled rabbinic disciples. Obviously, such methods will have restricted mastery of the Mishnah to a small, specialized audience. This mastery was an elite teaching, and interpretation of its features must account for that recognition.

This mastery of interpretation means, for example, that the Mishnah’s rhetoric of Scripture was directed to an audience intimately familiar with the scriptural text. Hence, in the example considered earlier, the student will know that the Mishnah’s law explicitly contradicts that of the Torah, and he will know that the rabbinic law constructs categories that are unknown in Scripture. Aware of this fact, he will assume either that

<sup>5</sup> For a detailed exposition on what follows, see J. Neusner, *The Memorized Torah: The Mnemonic system of the Mishnah* (Chico, 1985).

<sup>6</sup> See M. Jaffee, *Torah in the Mouth* (Oxford and New York, 2001), ch. 6.

rabbinic masters had a means of deriving the rabbinic law from Scripture (perhaps he will have learned the derivation preserved in the *Midrash Halachah*, justifying the Mishnah's redrawing of applicable categories) or that the Rabbis had the authority to delineate the law as they deemed proper despite the apparent meaning of the scriptural foundation. In either case, he will be confronted with the reality of an aggressive exercise of rabbinic authority, an authority that did not hide itself from the view of trusted insiders.

## VII THE MISHNAH'S PRIESTLY QUALITY

Because it was formulated more than a century after the destruction of the Jerusalem Temple, perhaps the Mishnah's most surprising feature is the proportion of its laws dedicated to the Temple cult. This observation is true of the vast majority of tractates in *Kodashim* and *Tobaro*t, the former describing the Temple and its service and the latter delineating the sources and means of transmission of impurities that rendered a person unfit for entry into the sacred precinct. Therefore, initially two of the Mishnah's six orders are almost exclusively concerned with matters of the cult. However, this concern masks the real proportion, for significant quantities of the tractates in *Mo'ed*, outlining the practices of the festivals, have the same primary focus. Therefore, for example, the first seven of *Yoma*'s eight chapters detail the service of the High Priest in the Temple during Yom Kippur. Chapters 5–9 (of ten) of tractate *Pesachim* give the rules for the slaughter and consumption of the Paschal lamb. Chapters 4 and 5 (of five) of tractate *Sukkah* describe the celebration of the *Sukkot* pilgrimage in the Temple in Jerusalem. When the Mishnah conceives of the festivals, they are festivals celebrated in Jerusalem with the Temple still standing and its service still functioning in all of its glory.

However, even this detailing of the Mishnah's subject matter does not do justice to the extent of its "priestly" sensibilities. Seder *Zeraim* is primarily devoted either to the so-called "priestly gifts" one must separate from one's produce (*terumot*, certain tithes, firstfruits) or to obligations pertaining to one's produce that originate in the unique perspectives of the Torah's "priestly code." This scriptural code defines the range of prohibited mixtures, including those that pertain to seeds, animals, and humans. Therefore, when tractate *Kilaim* elaborates the requirements for separating different species, whether in planted fields or in manufactured cloth, it is speaking in the tradition of priestly interests (see Lev. 19.19 and Deut. 22.9–11). When, in addition, the tractates of *sefer Nashim* struggle to delineate the boundaries of marriage, to assign women definitively to one man or another, and otherwise to detail the range of prohibited sexual

relations, they again speak for the same interests (see Lev. 18 and 20). The law of the priesthood is anxious about maintaining clear sexual boundaries. The sensibility of this priestly law is reflected in the tractates of *Nashim*.

What is one to make of the fact that the Mishnah is in such significant respects a document driven by priestly concerns? Why did the Rabbis, a century or more after the Temple's destruction, organize their first statement of "Torah" around priestly foci?

### VIII WHAT IS THE MISHNAH?

To answer these questions properly, one must broaden the question, asking what one can say about the Mishnah as a whole when considering the variety of characteristics outlined above. One can ask about the Mishnah's priestly concerns, surmising that they are intended to recollect the Temple's lost service, or that they are intended to describe Israel's restored, messianic future. However, any answer must account for the rest of the Mishnah as well. Therefore, if the Mishnah is an act of memory, why does so much of it speak of laws that are still practiced after the destruction? If the Mishnah provides a vision of the restored, messianic future, why does it still speak of rape, murder, war, and other less than messianic matters (at least according to common understanding)? In either case, why does the Mishnah fail to offer comprehensive regulations for central matters of Jewish life and practice – laws for writing a Torah or other sacred texts, laws for the manufacture of *tefillin* and ritual fringes, laws of mourning, and more? Any general definition offered for the Mishnah will have to account for all of these factors. For this reason, a consensus concerning such a general definition has been impossible to achieve.

A great deal of learned discussion has sought the best way to characterize the Mishnah. Some have understood the Mishnah as the earliest rabbinic lawcode, pure and simple.<sup>7</sup> Others have seen the Mishnah as a rabbinic curriculum or "textbook" intended for mastery by all rabbinic disciples.<sup>8</sup> One prominent scholar has argued that the Mishnah is a sort of "scientific" record of the most reliable early rabbinic teachings preserved without consideration of applied *halachah* or any other broad ideological agenda.<sup>9</sup>

<sup>7</sup> Historically speaking, this notion has probably been the most common understanding of the Mishnah. This view was assumed already by one of the earliest of modern scholars of rabbinic literature, Zecharias Frankel; see *Darkhei ha-Mishnah*, new ed. (Warsaw, 1923), 282. The same position is defended by J. N. Epstein, *Mevo'ot lesifrut batannaim* (Jerusalem and Tel-Aviv, 1957), 225–6.

<sup>8</sup> A. Goldberg, "The Mishna – A Study Book of Halachah," in S. Safrai (ed.), *The Literature of the Sages, Part One* (Assen, Netherlands, 1987), 211–51, 213–14.

<sup>9</sup> See H. Albeck, *Mavo le-Mishnah* (Jerusalem, 1984), 105–7.

In addition, Jacob Neusner has insisted that the Mishnah, a lawcode by appearances, in significant respects, is a philosophical opus, displaying the characteristics and interests of common philosophical works of its day.<sup>10</sup>

The difficulties with maintaining that the Mishnah is a lawcode are twofold. (1) If the Mishnah is a lawcode, then why does it include so many disputes without resolution? One might suggest that general rules (“the law follows the majority,” “the law follows the School of Hillel”) allow the student to decide between disputing opinions. In specific contexts, however, it is not always clear whether such rules should apply. Moreover, many cases – such as the place where an individual disputes with an individual – are not covered by rules known already in the Mishnah. (2) If the Mishnah is a lawcode, then why does it leave out significant areas of Jewish practice? The Mishnah says little about the way to write a Torah scroll or the method of manufacturing *tefillin* and ritual fringes. It fails to elaborate a cohesive system for burying and mourning the dead. Nevertheless, these everyday concerns exist in Jewish life. It also barely mentions Hannukah and the way it is to be observed, although it recognizes and supports the importance of this observance. Nevertheless, the claim that the Mishnah is a lawcode admits that it is an odd one, displaying significant qualities that are untypical of the genre.

The latter objection to viewing the Mishnah as a lawcode also pertains to the argument for its being a canonical rabbinic curriculum. Simply stated, what would be the rationale for constructing a curriculum that omits essential elements that one must master to be a good rabbinic Jew? It is reasonable to surmise that the rabbinic disciple was expected to master as much of the Mishnah as possible, but calling it a curriculum fails to explain the precise shape of this canon as opposed to another. The same failure challenges the notion that the Mishnah is a “scientific” record of early rabbinic teachings. This latter picture is additionally problematic because it re-creates the early Sages in the image of latter-day university scholars. Such an image is anachronistic and therefore implausible.

Is Neusner correct in viewing the Mishnah as a breed of rabbinic philosophy? Certainly such a characterization engages in no anachronism; Neusner persuasively demonstrates that the Mishnah’s concern for the correct categorization of all things finds ample precedent in the philosophical writings of antiquity. The distinction between religion and philosophy was often minor in the ancient imagination, and Jews in the centuries before the composition of the Mishnah were often called “philosophical” or “wise” by Gentile observers. As Neusner admits, however, it is one thing

<sup>10</sup> J. Neusner, *Judaism as Philosophy: The Method and Message of the Mishnah* (Columbia, 1991).

to note that the Mishnah has philosophical qualities, and quite another to insist that it is *bona fide* philosophy. In his view, the Mishnah is philosophical in method and message but not in form. It is therefore not “a philosophical work in the ways in which other writings of its time and place are properly regarded as philosophical works.”<sup>11</sup> Even if one grants that someone familiar with the philosophical tradition may recognize in the Mishnah some philosophical traits, one still has to insist that this method is not the way the common rabbinic “reader” was likely to understand the document.

Perhaps, then, the Mishnah represents the early rabbinic vision of a restored, Torah-perfected, “messianic” world.<sup>12</sup> To be sure, this picture would be an incomplete vision; hence, the crucial omissions. However, a vision makes its priorities clear. The Temple and its cult are central to this world. Israel lives on its own land and Jews are their own masters. Humans are humans, and neighbor-to-neighbor transgressions must therefore be adjudicated. However, they are adjudicated according to the law of the Torah as elaborated by the Sages. This might rightly be termed a “messianic” world because, in the Mishnah’s vision, the anointed King rules in Israel and the anointed High Priest presides in the Temple. This world is imperfect, but, as the early talmudic sage, Samuel, teaches (in the generation immediately following the redaction of the Mishnah): “There is no difference between this world and the days of the Messiah except for [Israel’s] enslavement to the exile/[foreign] kingdoms” (BT *Sanh.* 91b and parallels).

## IX THE RECEPTION ACCORDED THE MISHNAH

Whatever the best understanding of the Mishnah – and it may be best to describe the Mishnah as “mishnah,” that is, a genre unto itself – no doubt exists concerning the way the Mishnah was received and understood by subsequent generations. The Mishnah forms the outline and primary focus of both Talmuds, the *Bavli* (or Babylonian) and the *Yerushalmi* (or Palestinian). That is to say, both Talmuds represent themselves primarily as commentaries on the Mishnah, despite the accuracy of such a representation. Traditions recorded in the Talmuds leave little doubt that the Mishnah constituted the central curriculum of study in rabbinic circles in Palestine and Babylonia for centuries after its redaction. Indeed, it was studied as *bona fide* “Torah” by the amoraic sages (those whose views are

<sup>11</sup> *Judaism as Philosophy*, x.

<sup>12</sup> I use the term “messianic” loosely, recognizing that the Mishnah barely refers to a messiah as such or to a redemption.

recorded in the Talmuds), who examined its precise formulation and sought to make sense out of each and every word.

This, however, does not mean that the Mishnah stood as the single authority, or that its teachings were necessarily authoritative for the determination of halachic practice. Both Talmuds preserved, side by side with the Mishnah, a plethora of teachings emerging from sages of the same period but excluded from the Mishnah. Such teachings, termed *baraitot* (singular *baraita*) from the Aramaic *bar*, meaning “external” or “outside,” were presumably excluded from the Mishnah for a reason (if the Mishnah is a lawcode, then their exclusion would indicate their rejection as law; if it is a canonical study curriculum, then their exclusion would be indicative of the estimation that they are not canonical). The Talmuds’ recovery of these teachings therefore represent a challenge to the Mishnah’s authority – a reopening of the Mishnah’s canon or a broadening of the Mishnah’s earlier narrowing of options in the law. It is not uncommon for these *baraitot* to become the focus of Talmudic discussion in precisely the same fashion as the Mishnah, and either Talmud – but particularly the *Bavli* – might prefer the rulings of *baraitot* to those of the Mishnah. Hence, while it is in some sense correct to say that the Mishnah was authoritative in the eyes of the Sages of the Talmud, it is essential to recognize that its authority was a much compromised one. The Mishnah pointed the direction but it stood at the beginning, not at the end, of the journey.<sup>13</sup>

In centuries after the formulation of the Talmuds, the Mishnah was studied and understood mostly through the lenses of these massive commentaries and overwhelmingly through that of the *Bavli*, which is not to say that the Mishnah was not studied independently. Little reason exists to doubt the claim of the *baraita* appended to the end of the fifth chapter of *Avot*: “Age ten for [the study of] Mishnah, age fifteen for [the study of] Talmud”; certainly in line with this instruction, a primary student would have studied Mishnah for several years before he was prepared to take on the complexities of the Talmud. Furthermore, independent commentaries on the Mishnah continued to be written throughout the medieval centuries (the most notable of these by Maimonides) and beyond. However, with rare exceptions, these commentaries provide interpretations that are themselves based upon and often abbreviations of the Talmud’s commentary. The Mishnah remained the foundation of rabbinic study, but, after the Talmuds, it rarely again spoke for itself.

<sup>13</sup> For more details concerning the attenuation of the Mishnah’s authority in generations following its redaction, see D. Weiss Halivni, “The Reception Accorded to R. Judah’s Mishnah,” in E. P. Sanders, A. I. Baumgarten, and A. Mendelson (eds.), *Jewish and Christian Self-Definition: Aspects of Judaism in the Greco-Roman Period* (Philadelphia, 1981), II 204–12.

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## THE TOSEFTA

PAUL MANDEL

I THE NAME “TOSEFTA” AND THE ORIGIN  
OF THE WORK

As with most names of individual works of rabbinic literature, so too the name “Tosefta,” literally “supplement,” did not originally denote one particular work, but rather a characteristic type of traditional teaching of the tannaitic period. Teachings of this period were transmitted orally in the form of short sayings, presented anonymously or attributed to a particular sage; these traditions were memorized through repetition (Hebrew *shanab*). The sayings dealt mainly, although not exclusively, with law (*halachab*), and provided the basis for what was later called the “Oral Torah” (*torah she-al peh*), or “orally transmitted instruction.” The individual sayings were thus called either *mishnah* or *halachab*. Some of these sayings were, in time, supplemented by clarifying remarks or additional legal material.<sup>1</sup> As the original sayings were transmitted together in various collections,<sup>2</sup> so too the supplemental sayings were collected and transmitted (most probably orally); an individual supplemental saying was called *tosefet* (Aramaic [det.] *tosefta*), a collection of these (in plural): *tosafot* (Aramaic [det.] *tosefata*). These two corpora, *halachot* and *tosafot*, along with the *aggadot* (transmitted non-legal traditions), comprised the basic

<sup>1</sup> The verb *hosif* (“he added”) is used in early rabbinic sources, especially in the names of Rabbi Akiva and his students, to denote additional categories or items supplemented to a previously transmitted list. See *M. Kil.* 1.3; *M. Ed.* 2.1; 8.1; *Tos. Gitt.* 2.12; *Tos. Sanh.* 5.5; *Tos. Men.* 10.23; *Tos. Kel. Baba Kama.* 7.4; *Sifra*, *Hova* perek 7.2; *PT Rosb H.* 1.1 (56d), *PT Av. Zar.* 3.11 (42c); *BT Shabb.* 75b; *BT Av. Zar.* 43a; and elsewhere. It may be assumed that later usage applied such “accretions” to any saying appended to earlier traditional statements. See *PT Shabb.* 8.1 (11a) (= *Pes.* 10.1 [37c]), where a sage (Rabbi Abbahu) is asked whether he had perhaps heard a “new law,” to which he pointedly replied: “(Not a new law but) an old supplement,” *tosefta atikta*.

<sup>2</sup> The separate collections, each one called collectively *mishnah*, were often transmitted in the name of the sage who taught them; thus, *mishnato shel Rabbi Hiyya*, *mishnato shel Rabbi Hoshaya*, *mishnato shel Bar Kappara* (*PT Hor.* 3.7 [48c]).



curriculum of study (the “Oral Torah”) for the Sages of the first two centuries of the Common Era (the Tannaim).<sup>3</sup>

It would seem that at first these terms were no more than a generic description of collections, recited and transmitted by different scholars. However, Babylonian Talmudic sources mention a fixed work known by the name *tosefta*, which is included in the basic curriculum expected of a scholar;<sup>4</sup> a section of *tosefta* is even cited in the Babylonian Talmud.<sup>5</sup> By the time of the Geonim, it is clear that there is a single work in existence that has received the name Tosefta (or Tosefata in plural form); this work is identical with that known today by the same name.<sup>6</sup>

This (“our”) Tosefta is indeed a collection of tannaitic traditions closely allied to the Mishnah of Rabbi Judah the Patriarch. Its structure is identical to that of the six orders of the Mishnah, with almost all mishnaic tractates having a corresponding tractate in the Tosefta, with the exception of *Avot*, *Tamid*, *Middot*, and *Kinnim*. Each tractate of the Tosefta is divided into chapters,<sup>7</sup> which are subdivided into individual *halachot*. While the topical material in the Tosefta corresponds in general to that of the Mishnah, there are significant differences in the ordering of sub-collections, as well as in the contents and extent of the tannaitic passages of each tractate. The

<sup>3</sup> Thus the phrase *halachot*, *aggadot*, and *tosafot* delineates the entire Oral Torah; the scholastic expansion upon these materials was called *talmud*. See PT *Peab* 2.6 (17a): “R. Zeira said in the name of Samuel: One cannot derive law (*ein lemedim*) from the *halakhot*, nor from the *aggadot*, nor from the *tosafot*, but rather from the *talmud*.” In an earlier period (before the existence of canonized collections?) the terms used to delineate the Oral Torah were *midrash*, *halakhot* and *aggadot*; these were collectively called *mishnah* (see Tos. *Ber.* 2, 12; *Sifre Deut.* 48 [ed. Finkelstein, 113], 306 [339]; 344 [401]).

<sup>4</sup> The other works included in this curriculum are *hilekbeta* (= *Mishnah*), *sifra* (= legal midrashic exegesis of Leviticus), and *sifrei* (= legal midrashic exegesis of Exodus [?], Numbers and Deuteronomy); see BT *Meg.* 28b, and cf. BT *Shevu.* 41b; BT *Kidd.* 49b.

<sup>5</sup> BT *Yoma* 70a; the passage occurs (with minor variations) in our work Tos. *Yoma* 3.19. In post-talmudic Palestinian midrashic sources the entire rabbinic corpus includes *Mikra* (= Scripture), *Mishnah*, *Tosefet* (or *Tosafot*), *Aggadot*, and *Talmud*; see *Gen. R.* 16.4 (ed. Theodor, 147); *Lev. R.* 22.1 (ed. Margolies, 497); 30.2 (692). This is a continuation of the amoraic compendium (see n. 3 above), with the canonical Mishnah now taking the place of the earlier *halachot*.

<sup>6</sup> The Tosefta as a work is mentioned in the epistle of Rav Sherira Gaon (tenth century), who answers a question put to him by Rabbi Jacob ben Nissim of Qairouan concerning, among other things, the nature, purpose, and time of its writing. However, as S. Lieberman has shown, the work figures prominently in the curriculum of the geonic *yeshiva* in the time of Rav Natronai Gaon (mid-ninth century), and is attested to having been mastered by Rav Yehudai Gaon (mid-eighth century – in the letter of Pirkoi ben Baboi); see S. Lieberman, *Tosefta Ki-Fshutab* (New York, 1955), 1, Introduction, 14.

<sup>7</sup> The division into chapters is not original, and does not necessarily correspond to the division of topics, nor to speak of a correspondence with chapters of the Mishnah to the same tractate; see J. N. Epstein, *Mevo'ot leSifrut haTannaim* (Jerusalem, 1957), 262.

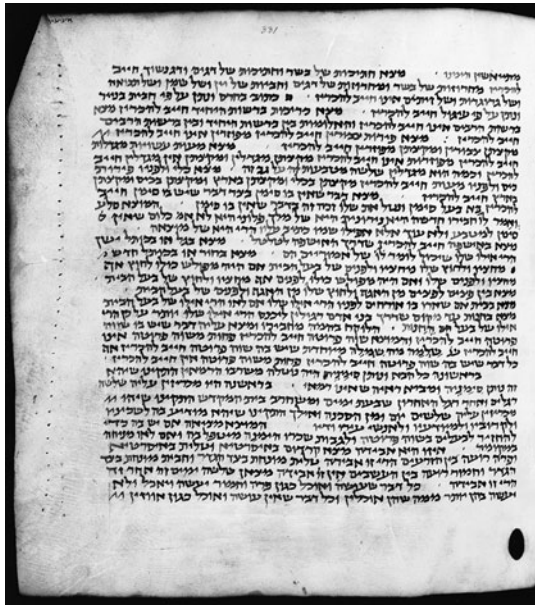


Figure 13.1 A page from the Tosefta: *Baba Metsia*, ch.2 (the Erfurt manuscript)

Tosefta is larger in scope than the Mishnah, being approximately three times as long, containing a considerable amount of *aggadah* as well as *halachah*.<sup>8</sup> The language of the Tosefta is mishnaic Hebrew (see below), and the Rabbis mentioned in the mishnaic corpus are also found in the Tosefta, with notable additions.<sup>9</sup>

The work known to us as the Tosefta is thus a development of the early collections of *tosafot* known in tannaitic and amoraic times, and as such its

<sup>8</sup> The Tosefta includes a significantly greater amount of *aggadah* than does the Mishnah, often assembled in lengthy collections. As an example, two entire chapters of Tos. *Shabb.* (chs. 6 and 7) relate various superstitious practices that are forbidden (these are called “Emorite customs”). While clearly constituting a separate, independent unit (see BT *Shabb.* 67a, where the collection is called “the chapter of the Emorite [practices]”), the presence of the collection of sayings at this point is related to M. *Shabb.* 6.10, where the term “Emorite customs” is mentioned tangentially. Similarly, while the mishnaic tractate *Sotah* (dealing with the laws pertaining to the “suspected adulteress” discussed in Num. 5.11–31) includes several sections of *aggadah* and midrashic comments which are related tangentially to the legal discussions, the parallel toseftan chapters greatly expand on the material, including much additional *aggadah* and *midrashic* comments (principally in Tos. *Sot.* 3–4; 8; and chs. 10–15).

<sup>9</sup> Most of the Tannaim who figure more prominently in the Tosefta than in the Mishnah are contemporaries of Rabbi Judah the Patriarch; see next note.

contents might be assumed to be “supplemental” to that of the Mishnah, at least with regard to the work as a whole. Indeed, the presence in the Tosefta of passages naming scholars of the generation after Rabbi Judah the Patriarch<sup>10</sup> point to a date of redaction which is necessarily later than the publication of the Mishnah itself. This, however, should not be taken as an indication of the date of the individual pericopae making up the work. In fact, the problem of the relationship between individual mishnaic passages and their toseftan counterparts is a highly complex one, to which numerous solutions have been given by scholars of all generations.

It should be stressed that the issue of the relative dating of Mishnah and Tosefta is not simply a scholarly question of the comparative dating of documents. A central concern of the study of Mishnah is the question of the prior history of its individual pericopae, and the degree to which the original formulations underwent subsequent editorial changes. This, in turn, is related to a more fundamental question of the purpose of the redaction of the Mishnah, and the extent of Rabbi Judah’s contributions to its final formulation. Thus, the comparative study of parallel material is of prime importance for the study of the literary development of the *halachah* as embodied in its earliest compilations.

Connected to these issues is the question of the relationship of both Mishnah and Tosefta passages to the numerous citations of tannaitic traditions in both Palestinian and Babylonian Talmuds. These citations, known by the term *baraitot* (lit. “external” [tradition]; viz. [tannaitic] statements external to the Mishnah), are closely related in form and content to parallel passages in Mishnah and Tosefta, and, indeed, at times are almost equivalent to such passages. The *baraitot* are cited by the post-mishnaic sages (Amoraim) in conjunction with their discussions of the mishnaic pericopae: collections of *baraitot* are attributed to various early amoraic sages,<sup>11</sup> although little is known of the nature of these collections. The comparison of Tosefta passages to parallel *baraitot* raises the issues of the origin of Tosefta traditions as well as their subsequent development and transmission.

Thus, the study of the development of tannaitic tradition is intimately connected to the comparative study of the major collections of such traditions: the Mishnah, the Tosefta, and the *baraitot* in Jerusalem and

<sup>10</sup> The amora known as Rav is cited by his proper name, Rabbi Abba (Tos. *Yom Tov*. 1.7; Tos. *Hull*. 6.3; Tos. *Neg*. 8.6; see Lieberman, *Tosefta Ki-Fshutah*, v 923), who in turn mentions Rabbi Ḥiyya (“Rabbi Ḥiyya the Great”). Several scholars of the generation of Rabbi Judah the Patriarch, who are hardly cited in the Mishnah, are mentioned frequently in the Tosefta; among them Rabbi Yose ben Yehuda, Rabbi Eleazar ben Shimeon (ben Yoḥai), and the sons of Rabbi Yose ben Ḥalafta (Rabbi Ishmael, Rabbi Eleazar, and Rabbi Menahem).

<sup>11</sup> See n. 2 above.

Babylonian Talmuds. The nature of the Tosefta and its relationship to these other collections is the subject of controversy among scholars, as we shall see in the ensuing discussion.

## II AUTHORSHIP OF THE TOSEFTA

As with the other works of Talmudic literature, the Tosefta itself gives no hint as to its authorship. However, as noted above, collections of *mishnayot* are ascribed to certain contemporaries of Rabbi Judah the Patriarch, namely, Rabbi Ḥiyya, Rabbi Hoshaya, and Bar Kappara, and it might be assumed that these collections have something to do with the compilation of the Tosefta. Another significant passage occurs in BT *Sanhedrin* 86a, where Rabbi Yochanan is quoted as attributing the anonymous portions of the Tosefta (*stam tosefta*) to the younger contemporary of Rabbi Akiva, Rabbi Neḥemia. From these and other passages<sup>12</sup> scholars since the times of the Geonim have attributed the formation of the Tosefta collection to one or another of these sages, principally Rabbi Ḥiyya.<sup>13</sup> However, there is no evidence that any of these late Tannaim were responsible for the final editing of our Tosefta text, although their collections may have been included in it.<sup>14</sup>

Nonetheless, there is no doubt that the Tosefta is a Palestinian work, and that its final redaction occurred after the compilation of the Mishnah. The disagreement among scholars concerning its date of composition depends

<sup>12</sup> See BT *Taan*. 21a, where the second-generation Palestinian amora, Ilfa (also known as Hilfa), mentions “the *matnita* of Rabbi Ḥiyya and Rabbi Oshaya” as secondary collections to the Mishnah. Laws in recorded *baraitot* (some attributed to Rabbi Ḥiyya) that are at variance with the Mishnah are sometimes criticized as spurious in the Babylonian Talmud, with the rhetorical statement, “If Rabbi [Judah the Patriarch] did not teach it [i.e., include it in his Mishnah], from whence could Rabbi Ḥiyya know it?” (BT *Yev.* 43a; BT *Er.* 92a; BT *Nid.* 62b) – an indication of the important status attributed to Rabbi Ḥiyya’s collection of *baraitot* while substantiating the primacy and accuracy of the Mishnah text. These and other statements form the basis of the traditional attribution of the Tosefta collection to Rabbi Ḥiyya; see next note, and cf. Rabbi Nissim ben Jacob, *Sefer ha-Mafteah* to *Berachot*, Introduction.

<sup>13</sup> See *Iggeret Rav Sherira Gaon*, ed. B. Lewin (Haifa, 1921), 34, who accepts the assumption of the question of Rabbi Jacob ben Nissim, that Rabbi Ḥiyya wrote the Tosefta; so too Maimonides, in his Preface to the *Mishnah Torah*, and in his introduction to the commentary to the Mishnah; and Rashi, commentary to BT *Bava M.* 85b, lemma “*matnita demar kamatinina*.” HaMeiri ascribes the compilation of the Tosefta to Bar Kappara (introduction to *Avot*); while mention is made in a fragmentary letter from the Cairo Genizah (printed by S. Schechter, *Saadyana* [Cambridge, 1903], 141 n. 1), to Rabbi Hoshaya as the author of the Tosefta.

<sup>14</sup> Indeed, Rabbi Ḥiyya is mentioned in the Tosefta (Tos. *Yom Tov.* 1.7; Tos. *Hull.* 6.3; Tos. *Neg.* 8.6); this would indicate that he was not himself the editor of the work.

largely on their opinion regarding the relationship of the Tosefta to the Palestinian and Babylonian Talmud (see below). Most scholars place the editing of the Tosefta in the mid-third century, after the compilation of the Mishnah, although those who view the Tosefta as post-talmudic necessarily cite a date closer to the end of the fourth century or later.<sup>15</sup>

### III THE LANGUAGE OF THE TOSEFTA

In general the language of the Tosefta may be classified as characteristic of the Hebrew of the tannaitic period as spoken in Palestine during the first through third centuries CE (including many Greek and Latin loan-words, and occasional Aramaic sentences). This dialect of Hebrew (“middle Hebrew 1”) is distinguished from the Hebrew of the amoraic period (“middle Hebrew 2”), the latter of which may be termed the “scholastic language” of those scholars who had already been raised in an Aramaic environment, using Hebrew only in synagogue and study hall.<sup>16</sup> However, it has been shown that the Hebrew of the Tannaim as recorded in the *baraitot* of both Palestinian and Babylonian Talmuds is not a pure representative of “middle Hebrew 1,” but rather has been influenced by the later, scholastic dialect of Hebrew (through their “recitation” in the academies by professional “reciters”).<sup>17</sup> In this context, it is significant that the Hebrew of the Tosefta concurs, on the whole, with that of the Mishnah.<sup>18</sup> Nevertheless, distinctions have also been demonstrated to exist between

<sup>15</sup> It should be noted that these opinions concern the compilation of what should be considered as the “original” Tosefta, undoubtedly a Palestinian work. Our text of the Tosefta, however, reflects a recension which was transmitted through the Babylonian Geonim, and may include later material, as, for example, the “Babylonian *baraitot*” in the Tosefta noted by Lieberman (*Tos. Suk.* 2.8—3.1; see Lieberman, *Tosefta Ki-Fshutab*, 111, Introduction, 14; and IV 861ff.).

<sup>16</sup> See E. Y. Kutscher, “Some Problems of the Lexicography of Mishnaic Hebrew and its Comparison with Biblical Hebrew,” in E. Y. Kutscher (ed.), *Archive of the New Dictionary of Rabbinical Literature*, 1 (Ramat-Gan, 1972), 29–82 (Hebrew; English abstract, xi–xxvii).

<sup>17</sup> M. Moreshet, “The Language of the Baraytot in the Babylonian Talmud is not Mhe<sup>1</sup>,” E. Y. Kutscher (ed.), *Henoch Yalon Memorial Volume* (Ramat-Gan 1974), 275–314 (Hebrew; English abstract, xxi–xxii); idem, “New and Revived Verbs in the Baraytot of the Babylonian Talmud,” in *Archive of the New Dictionary of Rabbinical Literature*, 1: 117–62 (Hebrew); idem, “Further Studies of the Language of the Hebrew Baraytot in the Babylonian and Palestinian Talmudim,” in M. Z. Kaddari (ed.), *Archive of the New Dictionary of Rabbinical Literature*, 11 (Ramat-Gan, 1974), 31–73 (Hebrew); and see the discussion of Y. Elman, *Authority and Tradition: Toseftan Baraitot in Talmudic Babylonia* (Hoboken, 1994), 44–6.

<sup>18</sup> M. Moreshet, “The Predicate preceding Two Subjects in Rabbinic Hebrew,” *Hebrew Language Studies Presented to Professor Zeev Ben-Hayyim* (Jerusalem, 1983), 359ff.

the language of Mishnah and Tosefta.<sup>19</sup> These may be due to dialectical differences within the spoken Hebrew of Palestine.<sup>20</sup> However, the character of the Mishnah as a unified, edited work, upon which Rabbi Judah the Patriarch put his stamp in language as well as in content, as opposed to the heterogeneous character of the Tosefta collection, may explain why certain linguistic phenomena have wider variance in the Hebrew of the Tosefta than in the Mishnah. If we may assume that the Tosefta cites ancient traditions without undue editorial intervention (see below), this would allow for the greater preservation of older linguistic forms in the Tosefta than may be found in the parallel passages in the Mishnah.<sup>21</sup>

#### IV THE EVOLUTION OF TRADITION: MISHNAH AND TOSEFTA – COMMENTARY, SOURCE, OR PARALLEL?

To illustrate the nature of the Tosefta in its relationship to the Mishnah and *baraitot* of the Talmudim, we shall present the following example, a *halachah* which deals with lost and found objects. The Bible enjoins one who finds a lost object (whether it be a straying animal, or an inanimate object left somewhere) to return it to the rightful owner.<sup>22</sup> Do all lost objects require the finder to locate the owner and return it to him? Indeed, the first chapter of tractate *Bava Metsia* discusses the laws concerning found objects, and assumes that the finder may acquire immediate possession of them. In which cases does a found object become available for possession by the finder, and in which is the finder required to proclaim the object lost, keeping it only until the owner claims it? This question is posed at the beginning of the second chapter of the tractate, and is answered through the provision of a list of found objects which can be acquired immediately, and

<sup>19</sup> See Moreshet, "The Predicate," and also N. Braverman, "Concerning the Language of the Mishnah and the Tosefta," in *Proceedings of the Ninth World Congress of Jewish Studies*, Div. D.1 (Jerusalem, 1986), 31–8 (Hebrew). Lexical distinctions between Mishnah and Tosefta were already noted by the Geonim; see J. N. Epstein (ed.), *The Gaonic Commentary on the Order Toharoth Attributed to Rav Hay Gaon*, (Berlin, 1921–4), 141, and see Epstein, *Mevo'ot leSifrut haTannaim*, 239–40.

<sup>20</sup> See H. Nathan, *The Linguistic Tradition of the Erfurt MS of the Tosefta* (Jerusalem, 1984), 344–5; N. Braverman, "An Examination of the Nature of the Vienna and Erfurt Manuscripts of the Tosefta," in M. Bar-Asher (ed.), *Language Studies*, v–vi (Jerusalem, 1992), 153–70 (Hebrew).

<sup>21</sup> See Braverman, "An Examination," and cf. S. Friedman, *Tosefta Atikta*, 71–3. The distinction between early Toseftan language as opposed to a more formulated, stylistic language of the Mishnah was noted already by E. Ben-Yehuda; see the Introduction to his *A Complete Dictionary of Ancient and Modern Hebrew* (New York and London, 1940), 58–66; and cf. Friedman, *Tosefta Atikta*, 72 n. 234.

<sup>22</sup> Exod. 23.4; Deut. 22.1–3.

another list of objects requiring ‘proclamation’ – a public notice of the existence of the found object. Comparison between the lists leads to the principle guiding the distinction, namely, the existence of some particularity in the object or in the way it was found, allowing the possibility of identification by the owner to substantiate his claim on it. Here is an abridgment of the beginning *mishnayot* of the second chapter:<sup>23</sup>

*Mishnah* Bava Metsia 2.1–2: Which found objects are his (i.e., the finder may take them into his permanent possession), and which must be proclaimed?

These found objects are his: If one finds scattered fruit, scattered coins, small sheaves in the public domain . . . strings of fish, pieces of meat . . . – these are his . . .

Rabbi Shimeon ben Eleazar says: All *enporia* vessels (= commercial goods<sup>24</sup>) need not be proclaimed.

And these must be proclaimed: If one found fruit in a vessel, or an empty vessel, money in a bag, or an empty bag, heaps of fruit or heaps of money, three coins one on top of the other, small sheaves in a private domain . . . pitchers of wine or pitchers of oil – these must be proclaimed.

Let us compare this mishnah with excerpts from the corresponding passage of the Tosefta:<sup>25</sup>

*Tosefta* Bava Metsia 2.1–8: Rabbi Shimeon ben Eleazar concedes in the case of *enporia* vessels (commercial goods) which have been used that [the finder] is required to make a proclamation.

And these are *enporia* vessels: poles [upon which are strung] needles and hooks, and axes strung together.

Similarly did Rabbi Shimeon ben Eleazar say: All those of which it is said “these are his” – Under which circumstances? – when he has found them one by one. But if he found them in twos, he must proclaim [them].

Similarly did Rabbi Shimeon ben Eleazar say: He who rescues [an object] from the mouth of a lion, from the mouth of a wolf, from the riptide in the sea . . . he

<sup>23</sup> Square brackets used in this and future translations enclose supplemental explanatory words not found in the Hebrew original; parentheses enclose additional comments and translations of terms. Concerning the relationship of Mishnah and Tosefta in this passage, see S. Friedman, “The Primacy of Tosefta in Mishnah–Tosefta Parallels,” in *Proceedings of the Eleventh World Congress of Jewish Studies*, Div. C.1 (Jerusalem, 1994), 19 (Hebrew).

<sup>24</sup> *Enporia*, or, more properly, *emporia*, is a Greek word (ἐμπορία) meaning “commerce,” “trade,” and also “merchandise”; thus *enporia* vessels are commercially sold merchandise (often small items identical in form – see the examples brought in the Tosefta text below), as opposed to merchandise purchased especially from the artisan.

<sup>25</sup> The translation is based on the two major manuscripts of the Tosefta, the Erfurt and Vienna manuscripts (see below). A section of this passage (from the Erfurt manuscript) can be found in the photographs reproduced in Fig. 13.1. Significant manuscript variants are noted below.

who finds [an object] in a thoroughfare or large plaza – these are his, for the owners despair [of ever retrieving] such objects.

If he found pieces of meat, or pieces of fish, or a ripped fish – he must proclaim.<sup>26</sup> Strings of meat, or strings of fish, casks of wine or of oil . . . – he need not proclaim.

[If he found writing] written on a shard and placed on the mouth of a jar, or on paper and placed on the hole of a loaf [of dried figs] – he must proclaim.

If he found small sheaves in the private domain – he must proclaim; in the public domain – he need not proclaim. Large sheaves – whether in the private domain or in the public domain – he must proclaim.

If he found heaped fruit – he must proclaim; scattered [fruit] – he need not proclaim. [If] some [fruit] are heaped and some are scattered – he must proclaim.

If he found coins arranged in [the form of] towers – he must proclaim; scattered [coins] – he need not proclaim. [If] some [coins] are piled in towers and others are not piled in towers – he must proclaim. How many [coins] makes a pile? Three coins one on top of the other.

If he found a vessel and fruit in front of it, or a bag and coins in front of it – he must proclaim.<sup>27</sup> [If] some [fruit] are in the vessel and some are on the ground, some [coins] are in the bag and some are on the ground – he must proclaim.

What is immediately apparent is the fact that the Tosefta text is not self-contained. The passage begins, as it were, in the middle of the issue, without any introductory passage providing the general law governing the return of lost objects, as appears in the Mishnah. Moreover, the first statement concerning Rabbi Shimeon ben Eleazar presupposes the existence of another statement by the same sage, precisely the one appearing at the end of the first mishnah. It seems clear, therefore, that the first statement of the Tosefta here indeed serves as a supplement to the statement by Rabbi Shimeon ben Eleazar cited in the Mishnah, limiting his view.<sup>28</sup> The subsequent passages of Tosefta may also be seen as supplements to the general mishnaic laws, as they provide additional qualifications to the law (the case of finding both scattered and heaped fruit or coins), additional cases (large sheaves, an object rescued from the mouth of a lion or found in a public thoroughfare), an explicit mention of a guiding principle (“for the

<sup>26</sup> In the Vienna MS: “these are his”. See Lieberman, *Tosefta Ki-Fshutab*, 1x 157.

<sup>27</sup> So in all text witnesses. However, the commentator Rabbi David Pardo suggested to emend “he need not proclaim”; this emendation is tentatively accepted by Lieberman, see *Tosefta Ki-Fshutab*, 1x 158.

<sup>28</sup> Rabbi Shimeon states in the Mishnah that commercially produced goods, being manufactured wholesale with no significant difference between each individual item, are not susceptible to the law of return of lost objects (and are thus always available for immediate possession by the finder), whereas the Tosefta passage relates the additional information that Rabbi Shimeon himself limited such a view only to those items which are still in “mint” condition, not yet having been used.



owners despair [of ever retrieving] the lost objects”), all of which are absent from the mishnaic discussion.

On the other hand, the Tosefta text seems at one point to contradict the Mishnah (casks of wine and oil are available for immediate possession according to the Tosefta, while the Mishnah explicitly mentions these items among those for which it is necessary to proclaim), while in other passages, the Tosefta repeats laws which are already made explicit in the Mishnah (e.g., three coins make a “pile,” requiring proclamation). Moreover, much of the Tosefta discussion seems to have originated in independent “collections” of traditions, which are presented here one after the other. In the passage quoted above, a series of three passages attributed to Rabbi Shimeon ben Eleazar is followed by a series of laws concerning different found items, each formulated in a similar, dialectical style. Rather than appearing as “commentary” to an assumed text, these may be seen in their own right as independent collections of laws, brought together because of similarities in topic and form.

Thus we find the Tosefta passages leading towards two seemingly contradictory conclusions: they assume knowledge of passages presently incorporated in our Mishnah and may be seen as commenting on them, but in other cases they seem to be oblivious to passages of our Mishnah, or even contradict them. In some cases (not represented by the above example), the laws as presented in the Tosefta clearly assume a different ordering from that of the corresponding Mishnah pericopae. Is the Tosefta then a commentary on the Mishnah, or is it a separate collection of laws? It has been the task of every scholar dealing with the issue of the Tosefta to try to navigate between these two poles in an attempt to explain the origin and nature of the Tosefta. The opinions and solutions are numerous, and may be classified according to the emphasis placed on the one or the other aspect of this conundrum. Thus, most scholars, from the time of Rav Sherira Gaon (tenth century) and on, have assumed that, while much material found in the Tosefta may be of early origin, “from the scholars of the Mishnah,” the redaction of these (and later) materials in the Tosefta was linked to the Mishnah in the form of commentary and elucidation, and with that purpose.<sup>29</sup> Seeming contradictions and lack of order in the Tosefta compilation have been explained as resulting from

<sup>29</sup> See *Iggeret Rav Sherira Gaon*, 34. Maimonides, who attributes the redaction of the Tosefta to Rabbi Hiyya (see above), states simply: “Rabbi Hiyya composed the Tosefta to elucidate the matters of the Mishnah” (Introduction to *Mishneh Torah*). Ze. Frankel (*Darkei haMishnah* [Warsaw, 1923], 322–5), one of the first modern scholars to discuss the issue of the compilation of the rabbinic corpora, also assumes the purpose of the compilation of the Tosefta to be the elucidation of the Mishnah; see the discussion by Friedman, *Tosefta Atikta*, 16–17.

its nature as “notes” appended to the Mishnah, whether as an appended work,<sup>30</sup> or quite literally as scholia written in the margins of the Mishnah.<sup>31</sup> The presence of mishnah texts embedded in the Tosefta text has been widely viewed as *lemmata*, snippets of the Mishnah provided by the redactor as a basis for the wider presentation of other materials.<sup>32</sup> An example of this view is that propounded in recent decades by A. Goldberg, who sees the Tosefta as presenting layers of explication intimately connected to earlier layers of Mishnah. In fact, says Goldberg, the Mishnah itself includes layers of “mishnah” and “tosefta,” the difference between their redaction in the Mishnah and the Tosefta being mainly chronological: the redaction of the Tosefta is simply the later continuation of the work of the redaction of the Mishnah.<sup>33</sup>

Other views have emphasized the parallel nature of the two traditions of Mishnah and Tosefta, and have suggested more complicated maps of dependence. One of the earlier attempts in this vein is that of Zuckermann, the editor of the first modern edition of the Tosefta, who claimed that Mishnah and Tosefta are actually two parts of an originally combined work, which was subsequently separated in the Babylonian academies, with precedence there given to the Mishnah. This view has been shown to be insupportable and naive. A more sophisticated approach is taken by the talmudic scholar J.N. Epstein. A foundation of Epstein’s approach is an understanding of the *oral transmission* of tannaitic materials by the “reciters” (*tannaim*) and the independent status of the individual “recitations”: Since the major form of preservation and transmission of the ancient texts of law (*halakhot*, *shemuot*) was through their recitation by generations of scholars in the second, third, and fourth centuries CE, the different compilations of these passages may preserve at one and the same time ancient traditions, as well as later modifications of these traditions as resulting from later developments of the tradition. The continued oral recitation of these texts allowed for changes to be made quite naturally by later reciters; thus, side by side in the Tosefta

<sup>30</sup> A. Guttmann, *Das redaktionelle und sachliche Verhältnis zwischen Misna und Tosephta* (Breslau, 1928), 176–8.

<sup>31</sup> A. Schwarz, *Die Tosifta des Traktates Nesikin, Baba Kamma geordnet und kommentiert* (Frankfurt, 1912), iv, vii; A. Spanier, *Die Toseftaperiode in der tannaitischen Literatur* (Berlin, 1922); and idem, *Zur Frage des literarischen Verhältnisses zwischen Mischnah und Tosefta* (Glückstadt, 1931).

<sup>32</sup> This view, already propounded by the twelfth-century French talmudist, Rabbi Jacob ben Meir (apud *Shibolei Haleket Hasbalem*, ed. Berliner, *Kevod Halevanon* [Paris, 1928], 612), was adopted by S. Lieberman as a major tool in the critical analysis of Tosefta in relationship to Mishnah; see the discussion in Friedman, *Tosefta Atikta*, 23–8, 35–41.

<sup>33</sup> Neusner also understands the Tosefta text as necessarily following that of the Mishnah and commenting upon it, providing a “first Talmud” on the Mishnah; see J. Neusner, *The Tosefta: Its Structure and Its Sources* (Atlanta, 1986), 1–7; idem, “The Synoptic Problem in Rabbinic Literature,” *JBL* 105 (1986), 501–2.

may be ancient recitations and later reworkings. The assumption of preservation of earlier material in the Tosefta can explain the divergences of wording and content between Mishnah and Tosefta, as well as the variations in the order of the laws in the two compilations.

While usually seen in opposition to the view propounded by Epstein, the theory of C. Albeck concerning the Tosefta<sup>34</sup> rests, ultimately, on similar grounds. For reasons which we shall presently discuss, Albeck assumes a late date for the compilation of the Tosefta (after the compilation of the two Talmuds); however, he steadfastly argues that the compilers of both Mishnah and Tosefta did nothing more than preserve the ancient traditions, without tampering with them. Thus, while Rabbi Judah the Patriarch laid the foundations for the preservation of the materials known and studied in the academies of his day by compiling them in the Mishnah, he continued, even after the completion of the Mishnah, to compile these materials, incorporating them in his “talmud” – the set of supplemental traditions necessary for the explication and correct understanding of the Mishnah text. Subsequent generations continued his work, ultimately creating, at the end of the amoraic period, the collection preserved in the Tosefta. Thus, while disagreeing with Epstein regarding the date of compilation of the Tosefta itself, Albeck may be seen to agree with Epstein’s basic approach to the material embedded in the Tosefta: side by side with later, explanatory pericopae in the Tosefta can be found also early statements culled (whether transmitted orally or through written copies) from the tannaitic scholars.

In most of the approaches discussed thus far, the parallel nature of many of the traditions in the Tosefta has been recognized,<sup>35</sup> the discrepancies between those traditions and the traditions of the Mishnah being explained as the result of variations in the tradition. Usually, no preference is given to either recension of the tradition, both being seen as independent, free formulations of a common source, that source – assumedly an oral one – being unavailable to us. A different approach has been taken by S. Friedman in his studies on the Tosefta. Not content with the assumption that variation between existing parallel texts be viewed as resulting from the free transmission of an unknown, common source, and, indeed, emphasizing that long sections of identical segments in two parallel texts would indicate a “genealogical” connection between them, Friedman posits a developmental process,

<sup>34</sup> C. Albeck, *Studies in the Baraita and the Tosefta and Their Relationship to the Talmud* (Jerusalem, 1944) (Hebrew); *Introduction to the Talmudim* (Jerusalem, 1969), 51–78 (Hebrew).

<sup>35</sup> For a discussion of the phenomenon of parallel traditions between Mishnah and Tosefta in comparison to the parallels between the “synoptic” Gospels, see M. Smith, *Tannaitic Parallels to the Gospels* (Philadelphia, 1951), 6, 142–51.

whereby the Tosefta parallels to the Mishnah often preserve the ancient, early tradition, with that of the Mishnah being a later, edited version of these very traditions. Thus, in these passages the Tosefta should not be seen as a commentary and elucidation of the Mishnah, but rather as its source, with the Mishnah actually “commenting” on and reworking the original tradition appearing in our Tosefta text. Friedman’s approach has widespread consequences for the understanding of the genesis of the Mishnah. For if, in many cases, the Mishnah text is seen to be a studied re-edition of an earlier tradition as embedded in the Tosefta, it may be able to characterize and define the criteria which Rabbi Judah the Patriarch used to reformulate these earlier traditions. Indeed, Friedman claims that laws recorded in the Tosefta are often “more essential . . . earthy and anthropological . . . rooted in the concrete historical situations of ancient Palestine,” whereas the Mishnah formulations exhibit a higher degree of abstraction and adaptation, pointing to a later development in the evolution of the ancient law.<sup>36</sup>

#### V THE TRANSMISSION OF TRADITION: TOSEFTA AND TALMUDIC *BARAITA* – THE QUESTION OF VARIANT READINGS

As mentioned above, parallels to Tosefta passages appear in the many *baraitot* cited in the two talmudic collections, the Palestinian and Babylonian Talmuds. In turning again to the example concerning lost and found items cited above, we find passages parallel to our Tosefta text appearing in the discussions of both Talmuds to this mishnah (the beginning of the second chapter of *Bava Metsia*), mostly with minor variations:

*Tosefta* Bava Metsia 2.5: If he found small sheaves in the private domain – he must proclaim; in the public domain – he need not proclaim. Large sheaves – whether in the private domain or in the public domain – he must proclaim.

*Palestinian Talmud*:<sup>37</sup> If he found small sheaves<sup>38</sup> in the public domain – he need not proclaim; in the private domain – he must proclaim. Large sheaves – whether in the public domain or in the private domain – he must proclaim.

<sup>36</sup> S. Friedman, “The Primacy of Tosefta to Mishnah in Synoptic Parallels,” in H. Fox and T. Meacham (eds.), *Introducing Tosefta: Textual, Intratextual and Intertextual Studies* (New York, 1999), 106. See also J. Hauptman, “Mishnah As a Response to ‘Tosefta,’” in S. J. D. Cohen (ed.), *The Synoptic Problem in Rabbinic Literature* (Providence, 2000), who reaches similar conclusions.

<sup>37</sup> PT *Bava M.* 2.1 (fol. 8b).

<sup>38</sup> In the Escorial MS of the Palestinian Talmud the word *havihot* is used for “small sheaves” instead of *kerikbot*, and may represent the original reading of the Talmud here; see S. Lieberman (ed.), *Yerushalmi Neziqin: Edited from the Escorial Manuscript* (Jerusalem, 1983), 46.

*Babylonian Talmud*:<sup>39</sup> If he found small sheaves in the public domain – *these are his*; in the private domain – he *takes and proclaims* (*notel umakbriz*). And large sheaves – whether in the public domain or in the private domain – he *takes and proclaims*.

Both Talmuds provide parallels to the Tosefta text which vary principally in the order of their components. It should be noted, nonetheless, that whereas the version in the Palestinian Talmud contains no significant differences besides this, the Babylonian Talmud substitutes the phrase “these are his” for “he need not proclaim”, and “he takes and proclaims” for “he must proclaim”. It is notable that in both these substitutions, the variant phrase is to be found in the adjacent *mishnayot* of the chapter.<sup>40</sup>

In the following case a *baraita* cited in the Babylonian Talmud parallels the Tosefta text, but with a more significant difference in terminology:<sup>41</sup>

*Tosefta* Bava Metsia 2.1: Rabbi Shimeon ben Eleazar concedes in the case of *enporia* vessels (commercial goods) which have been used that [the finder] is required to make a proclamation.

And these are *enporia* vessels: poles [upon which are strung] needles and hooks, and axes strung together.

*Babylonian Talmud*:<sup>42</sup> Rabbi Shimeon ben Eleazar concedes in the case of *new vessels to which the eye has become accustomed*<sup>43</sup> that [the finder] is required to proclaim.

And these are *new vessels to which the eye has not become accustomed*, that he need not proclaim: Such as poles [upon which are strung] needles and hooks, and axes strung together.

What explanation can be given for the variants? One possible conclusion might be that the Tosefta text was known to the Amoraim, or at least to the redactors of the Talmud. Two facts mitigate against this hypothesis: on the one hand, the passages are often not cited verbatim, and thus the assumption that our Tosefta text is being cited needs to address the question of why and in what circumstances the text was altered. On the other hand, many passages appearing in our Tosefta are not cited at all in the talmudic discussions, neither in related discussions where one might expect the passages to be cited,

<sup>39</sup> BT *Bava M.* 22b.

<sup>40</sup> The two phrases appear together in mishnahs 3 and 4 of the chapter.

<sup>41</sup> For a discussion of the relationship between these passages in Tosefta, Mishnah and *baraita*, see S. Friedman, “Form Criticism of the Sugya in the Study of the Babylonian Talmud,” *Proceedings of the Seventh World Congress of Jewish Studies* (Jerusalem, 1981), 111–251–4 (Hebrew). See also D. Weiss Halivni, *Sources and Traditions: A Source Critical Commentary on the Talmud: Tractate Baba Metzia* (Jerusalem, 2003), 71–2 (Hebrew).

<sup>42</sup> BT *Bava M.* 24a.

<sup>43</sup> Lit., “the eye has become satiated” (*seva’ atan ha’ayin*); see the biblical phrase *lo tisba’ ayin* in Eccles. 1.8.

nor in places where the talmudic discussion might have solved its problems much more simply by appeal to the Tosefta passage, raising the question why use was not made of the relevant passages.

Here, too, scholarly opinion has been divided. One solution is to suggest that the Tosefta was compiled only at the end of the talmudic period, drawing from a pool of transmitted material only partially familiar to the Amoraim and redactors of the Talmud.<sup>44</sup> Another solution is to posit the existence of parallel traditions of a transmitted Tosefta text already at an early date, so that one Talmud or the other might have cited the Tosefta passage according to a variant text.<sup>45</sup> And finally, it can be suggested that while some form of the Tosefta text may already have existed at the time of the Amoraim, quotations from it were not intended to be provided verbatim, but rather were excerpted, abridged, and interpolated in light of the needs and contexts of the talmudic discussions themselves.<sup>46</sup>

This last suggestion becomes particularly relevant with regard to the parallels in the Babylonian Talmud. It is a commonplace that the parallels in the Palestinian Talmud are closer on the whole to the Tosefta passages as we have them than the Babylonian parallels are.<sup>47</sup> The tendency of the Babylonian Talmud to produce new, altered versions of traditional texts was noted already by the medieval talmudic commentator, Nahmanides: "It is the nature of the authors of the *gemara* to change the language of the *baraitot*, to interpolate explanatory commentary or to abridge [them]."<sup>48</sup> The methods of reworking of the earlier materials in the Babylonian recension include linguistic and stylistic changes, harmonization and other exegetical methods intended to align the *baraita* text with terms and laws known from other sources, be they tannaitic (Mishnah) or amoraic (statements of *amoraim*), and finally the inclusion and adaptation of the early *baraita* to fit subsequent developments in law and lore.<sup>49</sup>

<sup>44</sup> C. Albeck, *Studies in the Baraita and the Tosefta and Their Relationship to the Talmud*, 89–138, especially 91–3, 137. See also J. H. Duenner, "Halachah-kritische Forschungen," *MGWJ* 19 (1870), 289–308, 355–64; and idem, *Die Theorien über Wesen und Ursprung der Tosefta* (Amsterdam, 1874).

<sup>45</sup> Epstein, *Mevo'ot leSifrut haTannaim*, 251–2.

<sup>46</sup> Epstein, *Mevo'ot leSifrut haTannaim*; Goldberg, "The Tosefta," 292–3.

<sup>47</sup> See Epstein, *Mevo'ot leSifrut haTannaim*, 245; Lieberman, *Tosefta Ki-Fsutab*, 111, Introduction, 14. Cf. Elman, *Authority and Tradition*, 2–3; S. Friedman, "The *Baraitot* in the Babylonian Talmud and their Relationship to their Parallels in the Tosefta," in D. Boyarin et al. (eds.), *Atara L'Haim: Studies in the Talmud and Medieval Rabbinic Literature in Honor of Professor Haim Zalman Dimitrovsky* (Jerusalem, 2000), 197 (Hebrew).

<sup>48</sup> Nahmanides, *Novellae* to BT *Bava M.* 48b; and see Friedman, "The *Baraitot* in the Babylonian Talmud," 171, 192, 200.

<sup>49</sup> Friedman, "The *Baraitot* in the Babylonian Talmud."

A look at our examples above will demonstrate some of these categories. Even in the first example, where the Tosefta passage does not undergo major changes in either Talmud, the phrase *notel umakbriz* ("he takes and proclaims") appearing in the Babylonian parallel may well have been substituted under the influence of the texts of the adjacent *mishnayot*. But especially in the second example, a process of adaptation of the early *baraita* may be noted. The Greek word *enporia* is missing from the Babylonian *baraita*, the phrase appearing in its stead being "new vessels to which the eye has not become accustomed." This phrase is precisely the interpretation given by the Babylonian amora Samuel to the word *enporia*,<sup>50</sup> and seems to be related to the term *tevi'ut ha'ayin*, visual recognition (lit., "the impression of the eye"), a concept, unattested in tannaitic literature, denoting an impressionistic familiarity with an object on the part of the owner even in the absence of a recognizable external mark.<sup>51</sup> Thus, it may be suggested that the citation of the *baraita* was emended to replace the Greek term *enporia* with its (amoraic) equivalent, a fact which has relevance for the development of Babylonian Jewish legal terminology.

Recent studies indicating the wide extent to which even previously fixed texts were transmitted orally in rabbinic circles suggest another approach to the problem of the citations. Variations in language and content may be the result of a more free, oral transmission of the Tosefta materials. And so it may also be posited that, whether the Tosefta as a whole was composed already at the beginning of the amoraic period or not, the transmission of its contents in oral form may have aided in the transformations that we find in the parallel *baraitot* in the Babylonian Talmud.<sup>52</sup>

## VI THE TEXT OF THE TOSEFTA: EDITIONS, TRANSLATIONS, AND COMMENTARIES

The Tosefta text has survived in three manuscript copies from the twelfth to the fifteenth centuries, as well as in citations in medieval rabbinic authors,<sup>53</sup> and in a collection of fragments from the Cairo Genizah. Among the manuscript versions, the Vienna manuscript (Austrian National Library, Cod. Hebr. 20), an early fourteenth-century Spanish

<sup>50</sup> BT *Bava M.* 23b.

<sup>51</sup> The phrase, which is also absent from the Palestinian Talmud, is mentioned first in the name of the early Palestinian amora, Rabbi Yohanan; see BT *Shabb.* 114a; and cf. BT *Gitt.* 23a; BT *Bava M.* 19a; BT *Hull.* 95b–96a, as well as in our text, BT *Bava M.* 23b–24a. See Weiss Halivni, *Sources and Traditions: Baba Metzia*, 71.

<sup>52</sup> See Epstein, *Meso'ot*, 246; Elman, *Authority and Tradition*, 275–81 and passim.

<sup>53</sup> Collected and discussed by S. Lieberman in *Tosefet Risbonim*, 4 vol. (Jerusalem, 1937–9).

manuscript, is the only nearly complete textual witness; its text is generally close to that of the printed editions, as well as to the Genizah fragments. The Erfurt manuscript (now housed in the Oriental Department of the Berlin State Library, Ms. Or. Fol. 1220 – see plate x), written in Ashkenazi script of the twelfth century, contains only the first four orders. And finally, the order *Moed* (along with tractate *Hullin*) is also attested in the London manuscript (British Library, Add. MS 27296), written in Spanish script of the fifteenth century.<sup>54</sup> The first printed edition of the Tosefta appeared as an appendix to Rabbi Isaac Alfasi's compendium to the Talmud in Venice, 1521–2, and has since been printed in editions of the Babylonian Talmud which include this work.<sup>55</sup>

As Saul Lieberman has demonstrated, the Tosefta was a standard part of the curriculum in geonic *yeshivot*, and is attested in Babylonian geonic writings, either directly or indirectly, already from the eighth century.<sup>56</sup> In this context, the discovery, again by Lieberman, that “our” Tosefta text – in all text witnesses – includes a section of “Babylonian” *baraitot* which could not have been known in their entirety by the redactors of the Palestinian Talmud, is especially significant: their inclusion in the text of the Tosefta is an indication of the extent to which the original Palestinian work must have undergone some revision at the hands of the “reciters” of the Babylonian *yeshivot* (although this revision may have not been substantial or widespread), as well as a reminder that all extant text witnesses of the Tosefta have no doubt evolved from the early geonic text tradition itself.<sup>57</sup> Of the manuscript witnesses, the Vienna MS is closest to the textual tradition attested in Egypt at the time of Maimonides as well as in writings of Spanish scholars, and may also be closest to the original geonic text tradition. The Erfurt MS, on the other hand, shows signs of “scholastic” revision and harmonization with both Babylonian and Palestinian Talmuds, and in this respect may be indicative of certain “scholastic” scribal tendencies in the Germanic lands, although it is possible that this emendatory activity predated the entrance of the Erfurt text type to Europe.<sup>58</sup>

<sup>54</sup> While the Erfurt and Vienna MSS seem to reflect two different text types, the London MS is a mixed text, agreeing at times with one, at times with the other.

<sup>55</sup> The text of the printed edition is similar, but not identical, to that of the Vienna MS.

<sup>56</sup> Lieberman, *Tosefet Risbonim*, Introduction, 11, Introduction, 7–15; IV, Introduction, 12; *Tosefta Ki-Fsbutab*, I 14.

<sup>57</sup> See Lieberman, *Tosefet Risbonim*, I 199; II, Introduction, 3; *Tosefta Ki-Fsbutab*, 111, Introduction, 14; and IV 861–71. Cf. E. S. Rosenthal, “HaMoreh” (Hebrew), *PAARJ* 31 (1963), 70 (Hebrew section); and Elman, *Authority and Tradition*, 29–32.

<sup>58</sup> *Tosefta Ki-Fsbutab*, I: Introduction, 19; 111: Introduction, 13f.; Rosenthal, “Ha-Moreh,” 68–70. However, the linguistic evidence of both the Vienna and the Erfurt MSS also reflect early Palestinian linguistic phenomena, and thus these texts are still to be



Present editions contain representatives of both the Erfurt and Vienna manuscripts: M. S. Zuckerman based his edition, which covers the Tosefta in its entirety, on the Erfurt MS,<sup>59</sup> whereas Lieberman chose the Vienna MS as the basis of his critical edition; both editions present the variant readings of the other text witnesses. Lieberman's edition is a model of thoroughness, clarity, and accuracy (including discussion of the texts appearing in the Genizah fragments), but unfortunately covers only the first three orders (*Zeraim*, *Moed*, *Nashim*), and the three tractates of *Neziqin* (the three *Bavot*). Besides an eighteenth-century Latin translation of parts of the Tosefta,<sup>60</sup> a full English translation in six volumes has appeared under the editorship of J. Neusner,<sup>61</sup> and a German translation, edited by K. H. Rengstorf, is appearing in installments.<sup>62</sup>

Although the Tosefta was studied and used considerably by Geonim as well as by early medieval scholars,<sup>63</sup> individual commentaries to the Tosefta began to appear only in the seventeenth century. The most important pre-modern commentary is by David Pardo (*Sefer Hasdei David* [Livorno, 1776 and 1790; Jerusalem, 1890 and 1970–7]), which is a paragon of erudition and clarity (an abridged version of this commentary has appeared in the classical Talmud edition of the Tosefta since the 1878 Romm Vilna edition).<sup>64</sup>

reckoned as important witnesses to the original Tosefta text. See Natan, *The Linguistic Tradition of the Erfurt MS*, and Braverman, "An Examination." Regarding early Ashkenazic scribal tendencies of active emendation of texts, see I. Ta-Shma, "The Libraries of Ashkenazic Scholars of the Eleventh and Twelfth Centuries," *Kiryat Sefer* 60 (1985), 298–309 (Hebrew); P. Schäfer, "Once Again the *Status Quaestionis* of Research in Rabbinic Literature: An Answer to Chaim Milikowsky," *JJS* 40 (1989), 92; and Friedman, *Tosefta Atiketa*, Introduction, 61, n. 201, and cf. the discussion there concerning the Erfurt MS, 60–7, especially n. 230.

<sup>59</sup> The Erfurt MS stops in the middle of the fourth chapter of *Zevahim*, after which Zuckerman claims to use the Vienna MS; however, neither manuscript is presented accurately.

<sup>60</sup> B. Ugolini, *Thesaurus Antiquitatum Sacrarum*, xvii–xx (Venice, 1755–7) (to the orders *Zeraim*, *Moed*, and *Kodashim*).

<sup>61</sup> *The Tosefta*, 6 vols. (New York, 1977); 2nd ed., 2 vols. (Peabody, 2002).

<sup>62</sup> *Die Tosefta: Text, Übersetzung, Erklärung*, 12 vols. (Stuttgart, 1953–) (incomplete).

<sup>63</sup> Special note should be made of the extensive use of the Tosefta by Rabbi Samson ben Abraham of Sens (France, thirteenth century), in his commentary to the Mishnah orders of *Zeraim* and *Tobarovot*.

<sup>64</sup> Other pre-modern commentaries worth mentioning are that of Rabbi Elijah Gaon of Vilna, to the order *Tobarovot* (appearing in the Romm edition of 1881), the *Minbat Bikkurim* to orders *Zeraim*, *Moed*, and *Kodashim* by Rabbi Shmuel Avigdor (Vilna, 1855), and *Hazon Yehezkel* of Rabbi Yehezkel Abramsky (from 1925 on). See also Strack and Stemberger, *Introduction to the Talmud and Midrash*, 162; and A. Goldberg, "The Tosefta: Companion to the Mishnah," in S. Safrai (ed.), *The Literature of the Sages*, 1: *Oral Torah* (Assen, 1987), 298–9.

There is no question that the most important modern study of the Tosefta to date is that of S. Lieberman, who first collected the *testimonia* to the Tosefta with notes (*Tosefet Rishonim* [Jerusalem 1937–9]), and then presented his full critical edition, along with short notes on the page (*Tosefta*), and extensive commentary in separate volumes (titled *Tosefta Ki-Fshutab* [New York 1955–88]). These notes combine philological comments, text criticism, historical studies, and rabbinic commentary.

Besides the monumental study of Lieberman,<sup>65</sup> major studies of the Tosefta, particularly in the context of its relationship to other sections of rabbinic literature, have been executed by J. N. Epstein<sup>66</sup> and C. Albeck,<sup>67</sup> and, in recent times, by A. Goldberg,<sup>68</sup> S. Friedman,<sup>69</sup> and J. Neusner.<sup>70</sup> Each of these scholars has dealt with the major issues of the composition, origin, and purpose of the Tosefta, as well as its relationship to the other corpora of rabbinic literature.<sup>71</sup> The wide variance of opinions among these and other scholars attests to the complex nature of the text and transmission of the Tosefta.

<sup>65</sup> Although Lieberman wrote many introductions to the separate volumes of *Tosefet Rishonim* and *Tosefta Ki-Fshutab*, in which he commented extensively on the tradition history of the text of the Tosefta, he unfortunately never completed his promised introduction to the Tosefta.

<sup>66</sup> Epstein, *Mevo'ot leSifrut haTannaim*, 241–62.

<sup>67</sup> Albeck, *Studies in the Baraita and the Tosefta and Their Relationship to the Talmud; Introduction to the Talmudim* (Tel-Aviv, 1969), 51–78.

<sup>68</sup> Goldberg, “The Tosefta,” 283–302. Goldberg frequently refers to the parallel Tosefta in his editions of Mishnah tractates: *Shabbat* (Jerusalem, 1976); *Ohalot* (Jerusalem, 1985); *Eruvin* (Jerusalem, 1986); and *Bava Kamma* (Jerusalem, 1999); and has written a full commentary to Tosefta tractate *Bava Kamma*: *Tosefta Bava Kamma: A Structural and Analytic Commentary* (Jerusalem, 2001).

<sup>69</sup> S. Friedman, “Tosefta Atikta: On the Relationship of Mishnah and Tosefta Parallels [1],” *Tarbiz* 62 (1993), 313–38 (Hebrew); “Tosefta Atikta: On the Relationship of Mishnah and Tosefta Parallels [11],” *Bar-Ilan* 26–7 (1995), 277–88 (Hebrew); “Mishnah and Tosefta Parallels,” *Proceedings of the Eleventh World Congress of Jewish Studies*, Div. C.1 (Jerusalem 1994), 15–22 (Hebrew); *Tosefta Atikta: Pesah Rishon* (Ramat-Gan, 2003).

<sup>70</sup> J. Neusner, *The Tosefta: Its Structure and Its Sources* (Atlanta, 1986); *The Bavli That Might Have Been: The Tosefta's Theory of Mishnah Commentary Compared with the Bavli's* (Atlanta, 1990); and *The Tosefta: An Introduction* (Atlanta, 1992).

<sup>71</sup> Mention should also be made of the following studies: B. Cohen, *Mishnah and Tosefta: A Comparative Study*, 1: *Shabbat* (New York, 1935), which includes introductory chapters to the Mishnah, *baraita*, and Tosefta; Y. Elman, *Authority and Tradition* (New York, 1994); H. Fox and T. Meacham (eds.), *Introducing Tosefta* (includes bibliography). Finally, further bibliographical references to separate studies, in addition to detailed information, may be found in the chapter on Tosefta in H. L. Strack and G. Stemberger, *Introduction to the Talmud and Midrash* (Edinburgh, 1991, 1996), 149–163 (translated from the German, *Einleitung in Talmud und Midrasch* [Munich, 1982, 1992], ed. and trans. M. Bockmuehl).

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## MIDRASH HALACHAH

JAY M. HARRIS

I THE MEANING OF THE TERM *MIDRASH HALACHAH*

The term *midrash halachah* was apparently coined in the nineteenth century, although the phenomenon to which it applies certainly goes back to the earliest Christian centuries, if not before. *Midrash halachah*, or legal interpretation, refers to specifically rabbinic forms of biblical exegesis whose ostensible purpose involves deriving broader and fuller legal conclusions from the text of the Torah than is evident from the context; some argue that it creates the illusion of deriving such conclusions. The term comprehends forms of exegesis that claim that implicit within the words of the Torah lay important legal information not immediately evident to the untrained reader. For example, the Torah identifies the animal that must be used for the Passover sacrifice as a sheep (Exod. 12.3). An early midrash states that the term “sheep” includes goats, based on Deuteronomy 14.4. Therefore, one might have thought that only sheep fulfill the biblical commandment, but the midrash explains that the word in question allows a broader range of choices (*Mekb.*, *Bo* 3, p. 11). Over time, the term has assumed two meanings: (1) it has come to refer to a series of texts replete with such legal interpretations (despite the fact that many of them contain significant amounts – in some cases perhaps more than 50 percent – of non-legal interpretation as well) while (2) retaining its use as an umbrella term for all these forms of exegesis, wherever they may be found. This chapter will be devoted primarily to these texts, although it will consider aspects of *midrash halachah* drawn from other presumably later materials as well.

## II THE TEXTS

Four texts are sufficiently devoted to *midrash halachah* that they have come to be called *midreshe halachah* that have survived the vicissitudes of Jewish history more or less intact, although many corruptions and other textual problems are nevertheless associated with these four texts. They are the *Mekbilta de-Rabbi Yishmael*, *Sifra*, *Sifre Be-Midbar*, and *Sifre Devarim*. These texts cover most of the biblical books of Exodus through Deuteronomy,

respectively. It is generally believed that these texts – or their underlying material – originated in the period of the Tannaim, which extended into the early third century, although few deny that later interpolations are found in these texts. Some scholars deny the tannaitic date and suggest the fourth, fifth, or even eighth century as the most likely period of composition.<sup>1</sup> For the purposes of the present discussion, it is not crucial to reach a resolution; for an understanding of the history of Judaism, it is sufficient to recognize that much of the material now contained in these texts, although not necessarily all, and certainly not the complete texts that are now available, derives from the earliest period of rabbinic creativity. Furthermore, one can readily state that much of the material now included in these texts pre-dates the redaction of the two Talmuds (that is, it pre-dates the fifth century, which presumably witnessed the beginning of talmudic redaction) and that much of this material was known to the Talmud's redactors and was considered by them (and, thus, by the post-talmudic rabbinic Jews) as tannaitic. The extent to which they may or may not tell much about Jewish culture in the first through the third Christian centuries (as opposed to earlier or later) is unclear, although it is true that they provide some broad indicators of rabbinic intellectual efforts in these centuries; they certainly help one to understand the way later Jews understood that culture.

In addition to the four texts mentioned, other collections have been identified, most especially the so-called *Mekhilta de-Rabbi Shimon bar Yoḥai*, an alternative midrash on Exodus, and the *Sifre Zutta*, an alternative midrash on Numbers. Fragments of alternative *midreshe balachab* have

<sup>1</sup> Most scholars advocate a mid-third-century date for these texts, primarily on philological and traditionalist grounds. Jacob Neusner is the primary advocate for a fourth-century date on the grounds that the message he discerns in these texts is most readily correlated with a Christianity triumphant, that is, the fourth century. Leaving aside the question of whether Neusner has correctly reconstructed the message of these texts, correlating this message with Christian triumph and dating the texts accordingly is strikingly reminiscent of the questionable methods of Krochmal and Graetz in their dating of biblical books. The primary advocate of the fifth century is Hanokh Albeck, who argues that the Talmuds do not cite these texts when they "should," thus proving they did not know them in their present form. This lack of paper citation, in turn, proves that the texts did not exist until the fifth century at the earliest. Such a claim is rather dubious and unhistorical, as it argues from silence and presses an almost theological claim beyond its appropriate limits. See his *Untersuchungen über die halakischen Midraschim* (Berlin, 1927), 87–120. The only advocate of an eighth-century date, for the *Mekhilta de-Rabbi Yishmael* at least, is Ben Zion Wacholder. See his "The Date of the Mekhilta de-Rabbi Ishmael," *HUCA* 39 (1968), 117–44. For a reply, see G. Stemmerger, "Die Datierung der Mekhilta," *Kairos* 21 (1979), 81–118; and M. Kahana, *Mahadurot ba-Mekhilta de-Rabi Yishma'el li-Shemot be-Re'i Qite ba-Genizah* (1986), 515–20.

been found for the books of Leviticus and Deuteronomy as well.<sup>2</sup> In addition to these collections of *midreshe balachab*, the two Talmuds (the *Bavli* and the *Yerushalmi*) contain substantial amounts of halachic exegesis, often seeking to determine the exegetical reasoning that undergirds laws in the Mishnah, the authoritative early third-century legal collection.<sup>3</sup> In addition, a certain amount of halachic midrash may be found in the Mishnah and the Tosefta, as well as the so-called aggadic midrashim. The contents of these texts validate the claim that legal exegesis played a central role in the cultural orientation of early rabbinic Judaism.

All the major collections of *midrash balachab* originated in Palestine, presumably towards the end of the tannaitic period, that is, the late second and early third century (following scholarly consensus). Many manuscript and manuscript fragments of all these texts exist, and numerous printed editions as well.<sup>4</sup> Some of these printed editions have been “corrected,” sometimes on the basis of logic, sometimes on the basis of other textual witnesses. There exist to date critical editions of the *Mekhilta de-Rabbi Yishmael*, *Sifre Bemidbar*, and *Sifre Devarim*, as well as the first two parts of the *Sifra*. Nevertheless, as Menahem Kahana has argued, these editions can only be considered preliminary critical editions, as many new textual witnesses have emerged since they were prepared in the early decades of the twentieth century, and the standards of textual scholarship have evolved considerably.<sup>5</sup> Therefore, it is fair to say that no definitive versions of any of these texts is extant. While some versions may be more corruption-free than others, reliable texts are nevertheless not within reach. For this reason, the texts discussed below, which draw on these existing editions, are presented for the purpose of illustrating general tendencies among the creators of midrash and cannot be considered definitive versions of the specific passages in question.

Since 1853, the year that saw the publication of volume IV of Heinrich Graetz’s *Geschichte der Juden*, a consensus has emerged among scholars of *midrash balachab* that in the second century two main schools of exegesis prevailed, namely, that of Rabbi Ishmael, seen as more rational and less

<sup>2</sup> Examples include the so-called *Midrash Tannaim al Sefer Devarim*, ed. David Z. Hofmann (Berlin, 1908) and the materials collected by M. Kahana in *Tarbiz* 54 (1985), 485–551; 56 (1987), 19–59; 57 (1988), 165–201; and most recently, M. Kahana (ed.), *Sifre Zuta Devarim* (Jerusalem, 2002).

<sup>3</sup> See J. M. Harris, *How Do We Know This? Midrash and the Fragmentation of Modern Judaism* (Albany, 1995), chs. 2 and 3.

<sup>4</sup> See M. Kahana, *Otsar Kitve-Yad shel Midreshe Ha-Halachab: Shibzur ba-Otaqim ve-Te’uram* (Jerusalem, 1995).

<sup>5</sup> See his dissertation, *Aqdamot le-Hotza’ab Hadashab shel Sifre Be-Midbar* (Jerusalem, 1982), passim, especially 277–94.

fanciful, and that of Rabbi Akiva, seen as less interested in philologically disciplined exegesis and more prone to rather far-reaching definitions. Furthermore, it was later claimed that these two major schools were responsible for the different tendencies apparent among the midrashic texts previously enumerated. That is, from Abraham Geiger (1810–74) through David Z. Hoffmann (1849–1921) and beyond, a consensus emerged that the *Mekhilta de-Rabbi Yishmael*, *Sifre Be-Midbar*, the first part of *Sifre Devarim*, and two portions of *Sifra* derive from the school of Rabbi Ishmael, while the rest of *Sifra* and *Sifre Devarim* (except perhaps the concluding aggadic sections) as well as *Mekhilta de-Rabbi Shimon bar Yohai* and perhaps *Sifre Zutta* derive from the exegetical school of Rabbi Akiva. If this theory is correct, it sheds considerable light on the nature of Jewish learning in the second century, and certainly suggests that midrashic activity was a central cultural occupation of two main schools of the rabbinic movement in that fateful century. Although the validity of the theory has recently been challenged, the consensus seems unshaken to date.<sup>6</sup> In any event, even those scholars questioning or rejecting the consensus acknowledge that the materials in these texts represent the work of at least two, perhaps three, distinct redactional schools, because the technical terminology of the texts differ consistently.<sup>7</sup> Since it is more difficult to locate this redactional activity in time and place, the latter, minimalist way of explaining the differences among the texts seem to provide a less repercussive historical picture of rabbinic learning in the second century.

### III THE CULTURAL SETTING

It is extremely difficult to reconstruct the cultural setting of rabbinic activity because virtually no outside information pertains to such activity *per se*. While archaeological and textual data from outside the rabbinic world shed light on important aspects of Jewish life in Palestine in the first through the third centuries, and illuminate the political and economic frameworks within which rabbinic activity occurred, and while some texts raise interesting questions about the extent of rabbinic authority, no independent means exists of determining the way rabbis actually spent their time and the amount of that time that may have been devoted to

<sup>6</sup> See Albeck, *Untersuchungen über die halakischen Midraschim*; G. Porton, *The Traditions of Rabbi Ishmael*, 4 vols (Leiden, 1976–82), *passim*, and especially vol. II (1977), 2–3; and Harris, *How Do We Know This?* ch. 2 and 3. For a careful and nuanced statement of the matter, see Kahana, *Sifre Zuta*, 109–10.

<sup>7</sup> See the judicious remarks of G. Stemmerger in H. L. Strack and G. Stemmerger, *Introduction to the Talmud and Midrash* (Minneapolis, 1992), 271–73; and Kahana, *Sifre Zuta*, 109–10.

midrashic activity. One cannot know the actual contexts in which rabbis engaged in such activity. Was biblical interpretation a practical enterprise used by rabbis as they adjudicated actual legal and ritual questions, or was it strictly an academic or pious exercise? Was it a vehicle for creating law, or was it a vehicle for justifying existing legal decisions that may in their origins have relied on factors other than the biblical text's nuances or on different biblical roots?

These questions have engaged scholars for more than a century, and they seem no closer to a consensus today. In many ways, these questions are the wrong ones to ask, at least in their "either/or" form, given the materials available. No reason exists to assume that all rabbis who engaged in midrashic activity did so identically and for similar reasons every time. It is the guiding assumption of this chapter that the cultural and temporal origins of midrashic activity in the rabbinic world cannot be determined with any precision (and the Rabbis did not invent midrash, as even the biblical text itself reveals signs of such activity).<sup>8</sup> Nevertheless, one can identify the cultural concerns that may have led to rabbinic midrashic interpretation wherever and whenever it emerged, and thereby provide a useful phenomenological description of *midrash balachab*. Furthermore, one can discuss the techniques used and try to extrapolate from them that which the Rabbis and/or the redactors of rabbinic texts thought they were doing. Consider the following passage from the Mishnah:

On that day, Rabbi Akiva expounded: "Should an impure object fall into an earthenware vessel, everything that is in it will convey impurity (*yitma*, here to be translated as if vocalized *yetame*)" (Lev. 11.33). It does not say *tame* [which could only be translated as {everything that is in it} is impure]; rather [it says] *YTM'* [here to be read *yetame*], indicating that it renders other things impure. This teaches that a loaf with a second degree of impurity will [by contact] transmit third-degree impurity. Rabbi Yehoshua said, "Who will wipe the dust from your eyes, Rabban Yoḥanan ben Zakkai?" (i.e., would that you were here to see this); for you used to say that a future generation will come and declare the third remove pure, for there is no verse that establishes that an object three removes [from the original source of impurity] is impure. And Akiva, your student, cites a verse from

<sup>8</sup> See M. Fishbane, *Biblical Interpretation in Ancient Israel* (Oxford, 1985). While much of Fishbane's discussion cannot be seen as identical to midrash, some of it can, especially the techniques used to resolve legal contradictions. Similarly, biblical interpretation which is not identical in all respects with rabbinic midrash manifests itself in the Dead Sea Scrolls library or the New Testament; however, considerable overlap exists. While it may be best to reserve the word "midrash" for rabbinic activity in order not to imply too great an overlap between rabbinic exegesis and other exegetical worlds, one must nevertheless recognize that some significant overlap is present.



the Torah [that establishes that such an object] is impure, as it says, “everything that is in it will convey impurity.” (M. *Sot.* 5.2)

The technical details regarding impurity need not detain one, nor should one be concerned with the question of the historical value to assign to this discussion. It matters little if any of the historical people referred to here actually said any of the words attributed to them. What is important is that at some point in the tannaitic period, a concern was expressed that law passed on without explicit scriptural authority might fail to stand the test of time. The position attributed to Yoḥanan ben Zakkai here gives voice to that anxiety precisely. One cannot know how widespread such anxiety may have been in the rabbinic world of the second century, or that the teaching attributed to Akiva was motivated by it; nor, finally, can one conclude that *midrash halachah* originated in response to such anxiety. The only thing one can know is that in the tannaitic period, some large or small segment of the rabbinic estate developed a deep-seated concern that unjustified law would not seem compelling to later generations.<sup>9</sup> A suggestion can be made that midrashic activity, no matter its origins, serves *inter alia* to address such anxiety. (It is striking that such anxiety finds expression in the Mishnah, which, with important exceptions, is the vehicle of unjustified law *par excellence*.) This anxiety also manifests itself in another better-known passage in the Mishnah. In *Hagiga* 1.8, one reads that certain central areas of law, among them the Sabbath laws, are like “mountains hanging from a thread, for there is little [explicit legislation in] Scripture, but many *halachot*.” This stands in contradistinction to other areas of law, such as the purity law, which are well grounded; noting this contradistinction seems to indicate some anxiety regarding the status of the Sabbath laws. It was therefore deemed necessary (by at least some rabbis) to connect law to Scripture; clearly, this connection required such techniques as the one on display in the first passage from the Mishnah, previously cited, in which the consonantal text of the Torah can be manipulated to generate a new understanding of a biblical verse. (More on techniques presently.)

The mishnah passage in *Hagiga* seems to touch on another rabbinic anxiety, at least if one is to judge by the way rabbinic *midrash halachah*

<sup>9</sup> I am perplexed by E. E. Urbach’s interpretation of this passage, found in his article “Ha-derashaah ki-sod ha-Halakhah u-ve’ayat ha-Soferim,” in his *Me-Olamam shel Hachamim* (Jerusalem, 1988), 60–1. He reads Yoḥanan ben Zakkai’s position as an anxious one evincing concern that justifying law through midrash undermines it, rather than the obvious implication that *failing* to justify law by attaching it to Scripture undermines such a law. That historically the association of *halachah* with midrash did indeed lead many to question the former’s validity (see Harris, *How Do We Know This?*, *passim*), has no relevance to the way one interprets the statement attributed to Yoḥanan ben Zakkai.

actually works. Satisfaction by the divine author of the biblical text with a scant scriptural reference to the Sabbath laws seems to indicate that techniques exist to supply the details.<sup>10</sup> Nevertheless, when it comes to the purity laws or to laws regarding illicit sexual relationships, little is left to the reader's ingenuity; instead, the text excruciatingly details particulars, including the ones that seem to follow logically from those that preceded them.

At the same time, *midrash balachab* cannot be said to be devoted only to providing the scriptural foundation for areas of law partially devoid of it. After all, while the Mishnah identified the purity laws as quite fully presented in Scripture, nothing prevented these laws from becoming the object of extensive midrashic investigation. Here, the midrashists seem primarily interested in explaining scriptural anomalies, that is, explanations that sometimes generated new legal understanding. Therefore, if one extrapolates from the content of the existing midrashic materials available, one can say that *midrash balachab* served two distinct cultural purposes, namely, to provide scriptural foundations for laws that seem to have none, and to interrogate the text of Scripture thoroughly, being certain that anomalies are addressed.

While these two purposes are not mutually exclusive, a tension seems to exist in their underlying assumptions. On the one hand, the prevalence of that which the Rabbis considered underdeveloped areas of law suggests that that which can be derived by logic should not be written; hence, the Sabbath laws (and do not forget that Sabbath violation is a capital crime in this world) can be stated with a high degree of generality. The details can be supplied by the properly trained reader. On the other hand, elsewhere the Torah seems to reject the notion that human readers can supply the details (consider, for example, the material in Lev. 18; 20), hence the fully developed law codes in the Torah.

The content of the midrashic collections seems to suggest that at least some significant rabbis arrived at the following (never openly stated) conclusion: the Torah will never state that which is readily available to human reflection. When it appears to do precisely that, it is the job of the interpreter to illustrate that logical reflection on the verse would not necessarily and reliably arrive at the intended norm, hence the need to state that which might appear obvious but which proves to be readily misconstrued. As seen presently, even more than justifying laws, much of the efforts of the authors of *midreshe balachab* authors are devoted to supporting the notion that nothing superfluous appears in the Torah,

<sup>10</sup> It seems it cannot indicate an independent oral tradition as medieval Jews claim (see Harris, *How Do We Know This?*, ch. 4), for then why is it akin to a mountain hanging from a thread? It seems rather that the author of this mishnah assumes that the limited scriptural discussion suffices, although it leaves many laws in a precarious place.

although much of the Torah appears superfluous by midrashic standards. That is to say, the efforts of the authors of these texts appear devoted to resolving the central cultural tension outlined above; without such resolution, rabbinic expansions of the field of biblical law would indeed be like mountains hanging from a thread.

In the rabbinic world, then, one finds considerable anxiety regarding the authority of the many extrabiblical practices that characterized rabbinic Judaism, for they seemed to have no biblical warrant. In addition, one finds considerable anxiety about the peculiarities of the biblical lawcodes themselves, which (among rabbinic readers) seem to invite expansion in some places while leaving little room for it in others. Through the media of midrash, the Rabbis sought to alleviate these anxieties – no matter what other concerns and goals they may have had and no matter what role the independent study of the biblical text might have had. Exegesis of the Torah was the means through which the Rabbis established the authority of the extrabiblical laws and practices they apparently inherited; they employed this medium in order to create new laws in their own times. At the same time, it was the tool they used to resolve other cultural problems, such as contradictions within the Torah or between the Torah and other biblical books.<sup>11</sup> It was the tool they used to account for the Bible's verbosity and repetitiveness in some places and reticence in others. Whatever the historian may wish to say about the origins of extrabiblical Jewish practice (a question that this chapter makes no effort to address),<sup>12</sup> or the nature of the biblical lawcodes and their different features, the judgment of the midrashic documents seems to me to be beyond question: the vast majority of those practices not explicitly stated in the Bible emerge

<sup>11</sup> For example, readers familiar with rabbinic texts know full well that at least some rabbis living some time during the first six centuries of the Christian era expressed the thought that the book of Ezekiel should be withdrawn from circulation; they apparently were uncomfortable with its canonical status because it blatantly contradicts the Pentateuch in a number of places. The remedy for their discomfort became exegesis. Therefore, according to a report in the Talmud, the discomfort created by the book of Ezekiel was relieved by the herculean exegetical efforts of Hanina (or Hananiah) ben Hizkiah. (See BT *Shabb.* 13b; BT *Hag.* 13a; and especially BT *Men.* 45a.) It is striking that the Talmud does not record Hanina's exegeses, although Rashi, commenting on the *Shabbat* passage, identifies some of the Talmud's reconciliations between Ezekiel and the Torah, found in the *Menabot* passage, as those of Hanina. (That someone with appropriate status resolved the difficulties was sufficient.) The historical veracity of such a report is not particularly important for this purpose; the claim stands as an important cultural marker quite apart from whether or not it happened. It makes the point that through exegesis a culture can continue to grow and develop.

<sup>12</sup> For a review of recent literature on this matter, see Strack and Stemberger, *Introduction to the Talmud and Midrash*, 141–5.

through human exegesis of the Bible's language, and such exegesis can also show that the Bible is internally consistent throughout.

Certainly, exegesis of the Bible for legal purposes (or harmonizing purposes) was scarcely an innovation of the Rabbis of the first five Christian centuries. Exegesis of the Bible is as old as the biblical documents themselves, which frequently contain exegetical reworkings of previous biblical passages.<sup>13</sup> Similarly, as the nineteenth-century scholars (Samuel David Luzzatto, Zacharias Frankel, and Abraham Geiger) first argued, the ancient Greek and Aramaic translations of the Pentateuch exhibit intensive exegetical reflection on the Hebrew text(s) from which they were translated. Furthermore, as Geiger argued brilliantly if not always compellingly, the Masoretic text itself may be seen as the product of politically and religiously oriented "exegesis" (read eisegesis) of a previous Hebrew text.<sup>14</sup> The Samaritan Pentateuch may also reflect religio-political exegetical reworkings of received materials, but in any event, Samaritan religion incorporates numerous exegetical extensions of the Torah.<sup>15</sup> The extent of the connection between these exegetical endeavors and rabbinic exegesis is subject to debate, although few would deny phenomenological overlap, if not direct historical connection.<sup>16</sup>

Beyond the texts and translations of the Bible, various religiously and culturally identifiable groups that comprised the intellectual elite of the ancient world all developed systems of exegesis of important texts. The Samaritans, the Sadducees (about whose exegetical approaches little is known), the Qumran community, the Greek philosophical schools, and the early Christian communities all engaged in textual study and interpretation. Although rabbinic legal exegesis contains features that distinguish it from all these approaches, many parallels exist between each of them and the interpretations of the Rabbis. Considerable scholarly effort has explored these parallels and discussed their significance.<sup>17</sup> It is not the goal here to discuss

<sup>13</sup> See especially Fishbane, *Biblical Interpretation in Ancient Israel*, 91–277.

<sup>14</sup> A. Geiger, *Urschrift und Übersetzungen der Bibel in Ihrer Abhängigkeit von der Innern Entwicklung des Judentums*, 2nd ed. (Frankfurt, 1928); and more recently, see Fishbane, *Biblical Interpretation*; and E. Tov, *Textual Criticism of the Hebrew Bible* (Minneapolis, 1992), 199–285, especially 262–75. Most of Tov's examples pertain to the non-Pentateuchal parts of the Hebrew Bible.

<sup>15</sup> For a review of the literature on Samaritan exegesis, see R. Plummer, "Einführung in den Stand der Samaritanerforschung," in F. Dexinger and R. Pummer (eds.), *Die Samaritaner* (Darmstadt, 1992), 34–7.

<sup>16</sup> See Fishbane, *Biblical Interpretation*, 157 n. 36, 247–50, 273–7.

<sup>17</sup> The most extensive presentations of purported Sadducean exegesis are found in rabbinic literature. Given the rabbinic tendency to present Gentiles as arguing with the Rabbis by using rabbinic techniques to achieve different results, one should attach little or no

this material again; for whatever the limited overlaps among these differing exegetical “communities” and the Rabbis, no one denies that the material encountered in the texts of halachic midrash evinces far greater difference than overlap. Therefore, if one wishes to understand this material, comparative analysis will not help; instead, one must direct attention to the way *midrash balachab* actually works, from which one can then draw broader conclusions regarding its importance in understanding Jewish culture. That is to say, for all the parallels that may be drawn between midrash and other exegetical endeavors, the midrashic texts – first and foremost – illuminate the world of rabbinic culture (rather than broader exegetical endeavors of the early Christian centuries in and around Palestine), and one’s primary concern must be focused on that which the light allows one to see.

#### IV THE EXEGETICAL TECHNIQUES

The questions are the following. How did the authors of *midrash balachab* read the text of Scripture and why? What features caused midrashic comment? Attempts to answer these questions usually lead to a discussion of the thirteen hermeneutical principles attributed to the tanna Rabbi Ishmael and their assumptions. Such a discussion is inadequate for two reasons. First, as noted by many, most of the principles are rarely, if ever, actually applied in a

historical value to its presentation of Sadducean exegesis. Its presentation of basic legal disputes between Sadducees and Pharisees may be more valuable. If L. H. Schiffman is correct in maintaining that the acceptable teachings of the Qumran scroll 4QMMT reflect the teachings of early Sadducees, one may be better able to reconstruct Sadducean exegetical approaches. Schiffman’s identification is based on the Mishnah’s attribution of certain opinions to the Sadducees. It seems clear, however, that at a certain point, “Sadducee” in rabbinic literature became a generic designation, much like the use of the term “Protestant.” On the sole basis of a seventeenth- or eighteenth-century Catholic polemic against a set of ideas identified as Protestant, one could not say that the ideas in question reflect the teachings of, say, Luther and his followers. See L. H. Schiffman, “The Sadducean Origins of the Dead Sea Scroll Sect,” in H. Shanks (ed.), *Understanding the Dead Sea Scrolls* (New York, 1992), 36–49; see also J. Sussmann, “History of *Halachab* and the Dead Sea Scrolls – Preliminary Observations on *Miqat Ma’aseh ha-Torah* (4QMMT),” *Tarbiz* 59 (1989–90), 11–76. On the Qumran community, see M. Fishbane, “Use, Authority and Interpretation of Mikra at Qumran,” in M. J. Mulder (ed.), *Mikra: Text, Translation, Reading and Interpretation of the Hebrew Bible in Ancient Judaism and Early Christianity* (Assen, 1988), 339–77; S. D. Fraade, “Interpretive Authority in the Studying Community at Qumran,” *JJS* 44 (Spring 1993); L. H. Schiffman, *The Halachab at Qumran* (Leiden, 1975), 22–76, 84–136; idem, *Sectarian Law in the Dead Sea Scrolls: Courts, Testimony and the Penal Code* (Chico, 1983), 14–17; P. W. Flint (ed.), *The Bible at Qumran: Text, Shape, Interpretation* (Grand Rapids, 2001), Part 2, and the “Select Bibliography.” On the methods of the Greek schools, see the classic article by S. Lieberman, “Rabbinic Interpretation of Scripture” in idem, *Hellenism in Jewish Palestine* (New York, 1962), 47–67.

rabbinic text. Furthermore, even those that are used scarcely exhaust the techniques used in rabbinic legal midrash. More exegetical techniques are available than are encapsulated in this list of principles.<sup>18</sup>

Second, and more important, understanding the techniques used to interpret Scripture is only half the battle. Acknowledging that many biblical passages stand *ke-fesbutam*, according to their simple meaning, one must ask which scriptural problems excite midrashic interpretation? When do the Rabbis comment and when are they content to allow Scripture to stand as written? This question is not to be answered in the abstract; instead, one must attend to some typical pieces of midrash to discern the answer from the actual practice of *midrash halachab*.

The following example considers the book of Deuteronomy (24.16): “Fathers shall not be put to death for sons, nor sons for fathers; a man shall be put to death for his own sin.” A modern reader, unfamiliar with the criteria used in *midrash halachab* and unfamiliar with the rest of the Bible, will have no difficulty understanding the simple meaning (*pesbat*) of this verse. It means that each individual will be held accountable for his or her own actions, and only he or she may suffer the ultimate punishment, if appropriate. Guilt is not hereditary, nor is it visited upon one’s ancestors.<sup>19</sup> A reader with knowledge of the rest of the Bible might see in this verse an admonition directed towards kings not to visit punishment on the children of those whom the king executes; such a practice was not uncommon.<sup>20</sup> None of these readers is likely to be troubled excessively by the verse’s verbosity and redundancy. The modern reader may well attribute these methods to stylistic preference.

Those with some legal training, aware of the importance of statutory construction, may, however, be troubled by these features. They may seek to tease more meaning from the verse, and may simply attribute the verbosity to different legal standards, or to careless construction. They might choose to argue that this one is not a legal principle at all but a theological statement, meaning that God will not punish fathers for sons and so on, although such a claim is not necessarily justified.<sup>21</sup> However, what if the

<sup>18</sup> This idea was implicitly noted already by Rav Sherira Gaon in the tenth century, who, in his famous *Epistle*, provides an extended although not exhaustive list of rabbinic exegetical techniques; they greatly exceed the thirteen principles attributed to Ishmael.

<sup>19</sup> Such an understanding of the plain meaning of the verse is not limited to modern readers. Biblical commentators themselves insist that this plain reading is the meaning. See *inter alia* the comments of Gersonides to 2 Kgs. 14.6. See also M. Greenberg, “Some Postulates of Biblical Criminal Law,” in J. Goldin (ed.), *The Jewish Expression* (New Haven, 1976), 29–34.

<sup>20</sup> This interpretation accords with 2 Kings 14.6 and 2 Chron. 25.4; see the comments of Ovadiah Seforno to Deuteronomy, ad loc.

option of careless construction were not available? What if one assumed that the author was incapable of careless construction – indeed, incapable of less-than-perfect construction? What if one assumed that, even in “mere” theological statements, no redundancies can occur in this text? One would then be forced to find in each of the three clauses three distinct statements to vitiate the redundancy, and, indeed, that is precisely the method the *darshan* (the author of a midrash piece) used in the *Sifre Devarim*, as in the following verse:

“Fathers shall not die for sons.” What does this clause come to teach us? That fathers shall not die for sons, nor sons for fathers? Does it not already say “a man shall die on account of his own sin”? Rather [it comes to teach that] fathers shall not die through the *testimony* of their sons, nor sons through the *testimony* of their fathers. And when it says “and sons” (*u-vanim*) it includes [other] relatives; and these are they: his brother, his father’s brother, his mother’s brother, his sister’s husband, the husband of his father’s sister, the husband of his mother’s sister, his mother’s husband, his father-in-law and his brother-in-law. [When it says] “a man shall die on account of his own sin” [this means] fathers die on account of their own transgression and sons die on account of their own transgression.<sup>22</sup>

In the hands of this *darshan*, the verse, apparently intended to establish a relatively straightforward principle of human justice, becomes the source for an important law unstated in the Torah but of biblical authority, namely, that people may not testify against (or on behalf of) their relatives. Fathers may not testify against sons nor sons against fathers; furthermore, no person may testify against a relative, this last point established by the appearance of the conjunctive “and” (in Hebrew, a one-letter prefix) and also deemed superfluous.

While this interpretation addresses the textual irritants, it should be noted that its legal conclusions are also derived from another verse in another midrashic collection, namely, the *Sifre Be-Midbar*. Numbers 35:24 states: “In such cases the assembly shall decide *between* the slayer and *between* the blood-avenger” (emphasis added). The *Sifre* asks: “Whence do we know that relatives may not judge? Scripture says ‘between the slayer and between the blood-avenger.’” This statement apparently means that the judging body must in some sense stand between the parties, equidistant, as it were, from each.<sup>23</sup> This idea is apparently based on the repetition of the word translated “between” which occurs twice in the verse; although this

<sup>21</sup> See the comments of Ibn Ezra, ad loc. See Greenberg, “Postulates,” 29–30.

<sup>22</sup> *Sifre Devarim, piska* 280 (ed. Finkelstein, 297).

<sup>23</sup> See the commentator on *Sifre Be-Midbar*, Naftali Zvi Yehudah Berlin (1816–93). Others explain that a relative of the blood-avenger would himself be a (potential) blood-avenger, and the verse demands judgment between slayer and blood-avenger, indicating that the latter may not serve as judge.

repetition may be seen as good Hebrew, the Rabbis seemed to feel that the repetition could generate additional knowledge. To this point, all that has been established is that relatives may not be judges. The *Sifre Be-Midbar* establishes that they may not be witnesses either, by an argument *a fortiori*.<sup>24</sup>

One has no reason to assume that either one of these midrash pieces was fashioned with an awareness of the other. Each takes as its starting point the conviction that God encoded within the language of the Bible the additional information that relatives may not serve as witnesses. Each locates this coded information in a different place in the Torah. While it is easy to see the way this code might have been perplexing to a traditional Jew from a later period, one has no reason to assume that it was perplexing in its original cultural context. All one can say is that two distinct teachers can see this important information encoded within different linguistic anomalies (or alleged anomalies) of the Torah; midrash provides the means to decode these anomalies and reveal the hidden meaning of the biblical text. Thus, one can begin to see the way that midrash relates to Scripture. At the same time, however, one must note that one is, in all likelihood, in the presence of two distinct rabbinic attempts to justify an existing principle of judicial procedure. The underlying thinking seems to be that the Torah left this principle unstated, although it encoded the information within its language so that an interpreter could disclose it.

Before proceeding further, one must digress for a moment. Many scholars have argued that examining the way midrashic texts decode Scripture is not really the correct question to ask of them. For these scholars, it is clear that the existing corpora of *midrash halachah* are not primarily concerned with Scripture but with the Mishnah, that is, the body of law incorporated within this fundamental text. They claim that *midrash halachah* represents an attempt to locate, within the scriptural text, sources or support for laws that exist independently of it. In this reading, the starting point for midrash is not Scripture at all but “traditional” law; midrash is not elicited by scriptural anomalies but by the needs of the legal system, in this case to provide scriptural warrant for a law first formulated in the Mishnah (*Sanh* 3.4). From this position, Jacob Neusner has located within the halachic

<sup>24</sup> N. Z. Y. Berlin cleverly argues that this idea applies only to relatives of the blood-avenger (who may also be relatives of the victim). He is undoubtedly motivated by reducing the tension between this passage and the one previously discussed, although he is aware that they disagree regarding judges. In any event, it is clear that the *Yerushalmi* did not understand the passage this way, seeing it as an alternative way of excluding witnesses of the accused, and by extension, all litigants (see *PT Sanh.* 3.9).



midrashim, particularly the *Sifra*, a sustained polemic arguing the superiority of revelation over human logic.<sup>25</sup>

From one perspective, Neusner's position overlaps with mine precisely; one has in this example an effort to provide scriptural foundations for traditional law; nevertheless, to see this polemic as arguing for the superiority of revelation over logic seems to miss an essential point. Neusner's position attends only to the formal and rhetorical presentation of the midrashic passages but not their content. Form and rhetoric are crucial, but no more so than content. Attention to content will reveal that the distinction between logic and revelation does not mesh with the cultural assumptions of these texts.<sup>26</sup> His overall claims (and those of other scholars) regarding the relationship of the midrashim to the Mishnah needs to be taken more seriously. Certainly, the midrashim at times take pains to indicate when the verse being explicated served as the "source" of mishnaic law. Certainly, some and probably most midrashic passages strike one as inconceivable unless one assumes that the legal conclusion was already

<sup>25</sup> See the introduction to his *Sifra: An Analytical Translation* (Atlanta, 1988), passim, especially 31, in which, in n. 111, he claims that the same program motivates the *Sifre Be-Midbar*, and 46–53. On p. 31, he claims that the *halo din hu'* passages of the *Sifra* serve no purpose other than to argue for the supremacy of revelation over logic. However, as seen below, they serve the important function of accounting for scriptural excess. They point to instances in which Scripture states more than is necessary, for one could easily learn the conclusion without a verse. At other times, as in the discussion of Lev. 1.3 below, they impose a certain discipline on a *darsban*, for one should not account for scriptural excess or anomalies by saying that they come to teach the obvious. It is important to reveal that the principle they teach is not obvious, hence the introduction of an argument *a fortiori* that must then be unraveled in order to demonstrate that Scripture is not excessive. See below and next note.

<sup>26</sup> A reading of midrashic passages that attends to their content will allow one to see the dialectical relationship of these categories. On the one hand, as the *Sifra* itself often notes, the revelation itself depends on human reader logic. Thus, when the text includes X and excludes Y, the question is asked: Why has one done so, when one could have done the opposite? It will then provide some response, elaborating why the presented way is superior. Sometimes these texts can be quite involved, as in the *kelakh bederekh zu* passages. Therefore, "revelation" can scarcely be seen in the *Sifra* as independent of human logic; the demands of revelation are determined by human logic. Likewise, to refer to the process of extending scriptural imperatives as "logic," as though it were an independent exercise of human thought, is scarcely adequate. The "logic" that exists here is not an independent human jurisprudential exercise, but an attempt to draw logical connections between scriptural facts – connections that the *Sifra* is happy to make when it suits its purposes. When, however, such connections render Scripture superfluous, they cannot be allowed to stand. See the discussion of the *Sifra* to Lev. 1.3 below. Although one example is provided in the text, one could readily add dozens more. It should be noted that a position on the matter that overlaps partially with Neusner's may be found in the Gaon of Vilna's biblical commentary, *Aderet Eliyahu*, on Deut. 11.32.

known. On the other hand, one must note that the midrashim deal with legal issues untouched by the Mishnah, and their legal conclusions occasionally disagree with those of the Mishnah.<sup>27</sup> This disagreement indicates that while the relationship between the midrashic and legal corpora (the Mishnah and the Tosefta) is quite complex, the midrashic texts have their own integrity and direct relationship to Scripture, or at least to material other than the Mishnah. Furthermore, the historical issue of the origin of Jewish law is less important for our purposes than the inner systemic judgment regarding the source of Jewish practice. It seems clear that the texts are advancing the claim that they are interpreting the Torah with an eye to revealing all the laws encoded within its multivalent language.

Therefore, when, as a historian or a literary critic, one insists that the law is obvious and readily known or explicitly stated in the Mishnah, one must note that the exegetes are still concerned with scriptural anomalies (such as verbosity or redundancy, as in the “witnesses” example) that in their view create law by genuinely revealing the underlying message of the Scriptures, rather than with anchoring acknowledged existing law in a scriptural passage. A good example is the *Sifra*’s discussion of Leviticus 1.3, to be treated below. However much the rabbinic exegetes may wish to anchor the Mishnah’s laws in Scripture, they must operate with a theory of Scripture to achieve this end. They must be able to answer the question, “How do we know this?” by plausibly demonstrating that the norm under discussion is encoded within the scriptural language; without this encoding, the norm would never be known and remains devoid of biblical authority. Whatever their historical point of departure, the *systemically recognized* point of departure for these exegetes is Scripture, and not the Mishnah or some other source of traditional law.<sup>28</sup>

<sup>27</sup> With remarkable erudition, Rabbi Yitzhak Hutner collected all the *halachot* whose source is the *Sifra* (that is, those not dealt with in the Babylonian Talmud; most of them are not treated in the Mishnah); he counts 325 of them. Rabbi Hutner’s comments on these laws make clear the extent to which Maimonides relied on the *Sifra* in codifying many areas of Jewish law, as other sources were unavailable to him. See his *Quntres Osef ha-balakhot ba-mehudasbot ha-nimzaot ba-Sifra asher lo ba-Zakbran ba-Talmud Bavli*, appended to S. Koloditzky’s edition of the *Sifra im Perush Rabbenu Hillel* (Jerusalem, 1961). Certainly, some of these identifications are questionable, as they rely on a particular interpretation of a medieval commentator, and other interpretations are possible. Nevertheless, if only half survive scrutiny (and the number would be much higher), one would still have a large body of laws that are independent of other rabbinic documents. Figures cannot be provided for the other *midresbe halachab*. Intuition states that none provides nearly this number of “new” *halachot*; nevertheless, all of them deal with numerous issues dealt with incompletely or not at all in the Mishnah.

<sup>28</sup> In a number of places in tannaïtic documents, laws regarded by certain rabbis, such as Yoḥanan ben Zakkai or Tarfon, as devoid of scriptural foundation and thus subject to

To return to the issue under discussion, one must ask which scriptural anomalies elicit the use of midrashic techniques. An analysis of *midrash balachab* that delves beneath the form in which it is presented will not fail to note the extent to which concern for *yitur lashon*, superfluities in language (which, for these purposes, includes repetition, extra words, and extra letters) is the prime mover (as in the text from Deuteronomy discussed above).<sup>29</sup> It appears that to the authors of this material, Scripture should never say in two words what can be said in one, nor in three what can be said in two. In addition, it should never say the same thing twice. When it does, it is the *darshan's* responsibility to prove that it is not identical; some idea has been added by virtue of the repetition. In some cases, the wording is slightly different, and this difference holds the key to extrapolating a new legal result. In other cases, the wording of the repeated law is identical; then the imagination of the *darshan* must use other possible applications of the law to explain this otherwise unacceptable anomaly.

Certainly, the most famous resolution of the difficulty of scriptural repetition is the *midrash balachab* that explains why Scripture states, "You shall not seethe a kid in its mother's milk," three times. Many explanations are offered, each of which involves noting possible distinctions in the application of the law; some focus on different types of animals, some focus on different actions one might take. The most famous and ultimately normative explanation states that the first time prohibits cooking, precisely as the wording demands. The second time it cannot intend merely that, for this has been established. Thus, Scripture must intend prohibiting consumption of a kid seethed in its mother's milk (and, by extension, all meat combined with milk

forgetting, are subsequently identified by Akiva as being derived from a verse (as in the passage from *M. Sot.* 5.2 cited earlier). This view does not challenge the claim being made here. That is to say, the texts do not understand Akiva as having connected traditional law to a verse; instead, they understand Akiva as having revealed the actual scriptural *source* of laws whose scriptural source had been forgotten. Otherwise, he would have accomplished nothing other than establishing a mnemonic; this device would scarcely have relieved the concern of ben Zakkai that the law would one day be abrogated because its scriptural source was unknown.

<sup>29</sup> Many of the so-called thirteen principles of Rabbi Ishmael, in the end, are attempts to deal with scriptural redundancies and superfluities. The various techniques for dealing with the *kellal* and *perat* are responses to the fact that Scripture, having provided a general prohibition, proceeds unnecessarily to enumerate particulars. Explaining that the particulars serve a purpose removes its apparent superfluity. Even the *gezerah shavah* often begins with a word superfluous in context and explains its appearance as intending a comparison with some other place in the text in which the word occurred. In light of the following, it should be noted that this technique appears in all of the tannaitic texts, although only the *Mekhilta de-Rabbi Yishmael*, the *Sifre Bemidbar*, and the so-called *Mekhilta de-Arayot* actually identify the word as superfluous. Cf. *Sifra Emor* 14.9, for example.

or milk derivatives). The third time, Scripture intended to prohibit any benefit drawn from a kid seethed in its mother's milk, such as, to use a contemporary example, serving it to another in a restaurant.<sup>30</sup>

Another example, this time with different wording, may be seen in various interpretations of Leviticus 20 preserved in rabbinic sources and today found in the printed editions of the *Sifra*.<sup>31</sup> As is well known, many of the prohibited sexual relationships written plainly in this chapter are repetitions of those stated in Leviticus 18. In the latter source, a blanket punishment (namely, *karet*<sup>32</sup>) for all violations is given in verse 29, whereas in chapter 20 almost every verse carries a statement of the appropriate punishment (death, by an undefined method, or by burning). Chapter 18 is then understood as stating the prohibitions, while chapter 20 states the punishment. Indeed, an *ad hoc* legal principle is developed for these cases, insisting that both the prohibition and the punishment be explicitly promulgated. The blanket statement of punishment in 18.29 applies only to those transgressions not repeated in chapter 20. Therefore, no superfluity exists in the text; each verse provides new legal information.

To the authors of *midrash balachab*, even prepositions should not be used indiscriminately, although people might normally speak that way; the appearance of a preposition whose use could have been avoided demands a search for additional meaning. For example, Leviticus 1.2–3 uses the phrase “from the herd” (*min ha-baqar*) in describing an animal to be brought for sacrifice. While this phrasing may appear to be a perfectly normal way of indicating the kind of animal to be brought,<sup>33</sup> the interpreter(s) in the *Sifra* apparently felt that the word *min*, “from,” is unnecessary; in his/their reading, it is exclusionary, designed to indicate that only some from the herd may be brought as a sacrifice while others cannot. The “from” that appears in verse 2 excludes cattle that have been used for idolatry. The *Sifra* continues in the following excerpt:

And when it says “from the herd” below (i.e., in verse 3), [this phrase is unnecessary; thus it must come to impart additional information, namely] it comes to exclude a *terefab*.<sup>34</sup> But would we not know this by an argument *a fortiori*. If a

<sup>30</sup> See *Mekhilta de-Rabbi Yishmael, Mishpatim* 20, 335–6.

<sup>31</sup> See H. L. Strack and G. Stemberger, *Einleitung in Talmud und Midrasch* (Munich, 1982), 245–6, for an explanation.

<sup>32</sup> For an explanation of this punishment in the Bible, see B. Levine, *Leviticus*, JPS Torah Commentary (Philadelphia, 1996), Excursus 1, 241–2.

<sup>33</sup> One should note that Abraham Ibn Ezra understands the preposition to indicate that the animal must be selected “from” the superior animals, suggesting that the preposition must have some exclusionary intent, albeit not the one the midrash will identify.

<sup>34</sup> A *terefab* is an animal that suffers from a serious disease of its organs; such an animal is unfit for consumption and, as this passage indicates, for the altar as well.

blemished animal, which is permitted [to be consumed] as *ḥullin*<sup>35</sup> is unfit for the altar, a *terefab* which is forbidden [even] as *ḥullin* is obviously unfit for the altar.

One must carefully attend to the force of this argument. The Torah uses an allegedly superfluous word; the author states that the word excludes a *terefab* from the altar. Another voice enters the discussion and says that this meaning is obvious and that one knows this meaning without a verse.<sup>36</sup> One has therefore not dissolved the superfluity. Note that the argument *a fortiori* has the same force as an explicit scriptural statement; indeed, an irrefutable argument *a fortiori* is sufficient to render “explicit” scriptural statements unnecessary. Therefore, it appears that the verse cannot be the source of the law prohibiting a *terefab*, and, therefore, the allegedly superfluous *min* remains unaccounted for. The passage continues in the following words:

The fat and blood [of the animal] will show that this line of reasoning is not correct, for they are unfit for consumption as *ḥullin* but are fit for the altar.

At this point, the fat and blood of the animal illustrate that not all things forbidden to ordinary individuals outside a cultic context are necessarily forbidden on the altar. Perhaps the *terefab* is comparable to fat and blood, and therefore logic could yield the conclusion that it too would be permitted on the altar. Therefore, the argument *a fortiori* does not work, and one needs the verse to prohibit the *terefab*; it is not superfluous. The passage continues, however, in the following way:

No, if you say this in regard to blood and fat, which come from that which is otherwise permitted (namely, the healthy animal, and that is why they are permitted to the altar), can you say it with regard to a *terefab*, which is entirely forbidden.

The author(s) note that the blood and fat are not really comparable to a *terefab*, although they share the characteristic of being forbidden for everyday consumption. The blood and fat are acceptable on the altar for they derive from an animal that is otherwise acceptable as *ḥullin*; only those particular parts are not permitted. The *terefab*, on the other hand, is entirely forbidden as *ḥullin*. The point emphasizes that blood and fat do not render the argument *a fortiori* unacceptable as previously claimed. The argument

<sup>35</sup> That is to say, the ordinary meat one normally eats as opposed to an animal prepared for sacrifice on the altar, regarding which higher standards prevail. An animal with a blemish is considered kosher, and may be consumed, but may not be brought as a sacrifice.

<sup>36</sup> For a discussion of the way one might understand this “other voice,” see G. Stemberger, “Zur Redaktionsgeschichte von Sifra,” in J. Neusner (ed.), *Approaches to Ancient Judaism*, n.s. XI (Atlanta, 1997), 39–82, especially 49–50. Stemberger plausibly argues that the initial exegesis dates from a considerably earlier time, probably the second half of the second century, whereas the “other voice” probably dates from the third century (80).

remains valid, and the explanation that the verse excludes a *terefab* from the altar is thus unacceptable; the verse remains superfluous and a textual problem remains. The passage continues in the following excerpt:

[Then] the nipping [off the head] of the bird will show that this line of reasoning (the original argument *a fortiori*) is not correct. [For a bird killed in such a manner] is entirely forbidden [as *hullin*], and yet acceptable on the altar.

Yet again, the *Sifra* reveals that the argument *a fortiori* does not follow, because a bird killed by nipping off its head, which is the prescribed manner for killing birds intended for the altar (Lev. 1.15, *inter alia*), may not be eaten under non-cultic circumstances; it is, nevertheless, acceptable on the altar. Thus, the argument *a fortiori* is ineffective, and the verse is necessary to prohibit a *terefab* from the altar. The passage continues:

No, if you say this in regard to nipping the bird, which is forbidden [as *hullin*] by the very act that makes it sacred, can you say it in regard to a *terefab*, which is not forbidden by an act that makes it sacred. And since it is not forbidden by any act that makes it sacred, is it not unfit for the altar?

As above, the midrash illustrates that the disproving case is not comparable to the case of *terefab*. Thus, the argument *a fortiori* remains valid, and the superfluity of the verse unresolved. The passage concludes in the following words:

And if you reply to this, [I say] when it says “from the herd” below, this is only necessary to exclude the *terefab*.

The conclusion is perplexing, and resolving this perplexity occupies the better part of a page in the Babylonian Talmud (*Men.* 5b–6a), with varying attempts to demonstrate that the argument *a fortiori* is not valid and therefore a verse is necessary. Whether the author of the passage in the *Sifra* had any of these arguments in mind one cannot say. What can be said, however, is that the author assumed that the argument *a fortiori* that made the resolution of the superfluity unacceptable could be challenged, and this assumption was sufficient to establish the necessity of the verse.

What is happening here? One may take for granted, at least for the sake of argument, that the unacceptability of the *terefab* on the altar precedes this midrash; indeed, it seems to be directly implied by the prophet Malachi (1.8). One must remember, too, that the Temple was no longer standing when this *derashah* was formulated. It seems most unlikely that, in the Temple, animals having the characteristics of *terefot* (plural of *terefab*) were sacrificed on the altar. Was the *darshan*, then, simply interested in supporting this law with a scriptural basis? Perhaps. In the end, however, this could be established by the argument *a fortiori*; that the argument *a fortiori* is sufficient to provide biblical authority, indubitably, is the operating assumption of the entire

passage. If establishing the biblical authority of the law excluding *terefab* from the altar were all the *darshan* had in mind, he could have relied on this argument. Instead, it seems undeniable that the *darshan* was perplexed, if only heuristically, by that which he considered an anomalous scriptural phrase. In his view, the Torah should not have used the word *min* if its interest was simply in conveying the surface message of this verse. A deeper message must have resonated; something must be excluded by the word *min*. That the *darshan* identifies an apparently well-established principle as that deeper message does not change the fact that at least one of his primary goals centered on rescuing Scripture from a superfluity, an imperfection. The only way for him to accomplish that goal involves suggesting that this superfluity exists to impart the law of the *terefab*, which readers would otherwise not have known. If the *darshan* considered the unacceptability of the *terefab* to be a traditional law, this passage would be totally incoherent. Therefore, it is Scripture and not the law or the Mishnah that is the exegete's point of departure, and the reconstruction of the creation of the law, not its *post factum* justification, is his destination.

Another common form of midrash exists in which the concern, perhaps obsession, of the authors of *midrash halachah* with (alleged) scriptural superfluity and the laws that (allegedly) derive therefrom becomes clear. One may even doubt whether to call this commentarial pattern "midrash," for it seeks to draw little or no additional meaning from the scriptural text. It may leave the plain meaning of the passage intact, or it may add some piece of information that would be readily deduced anyway. While this form may not seek to add much to the text, it is troubled by the sense that there was no need for the particular scriptural statement that serves as its point of departure. It questions why this statement appears, since it is superfluous, perhaps even inappropriate; that is to say, a more general prohibition appears to establish the particular point that Scripture elaborates. The *darshan* then creates an argument, usually *a fortiori*, to illustrate that the inclusion of the particular is not obvious, indeed, one has had ample reason to think otherwise. Now, these arguments are usually thoroughly contrived; they exist for the sole purpose of removing the (often justified) impression that Scripture repeats itself, or, as in the case to be cited, Scripture includes an inappropriate phrase.

To illustrate the point, one must consider the *Sifra's* comments to Leviticus 13.42.<sup>37</sup> The passage and this discussion of it are rather technical

<sup>37</sup> This passage was chosen because it is treated by J. Neusner as a prime example of the polemic he locates in the *Sifra*. Attention to the scriptural trigger for this comment, to the contrived logic involved in it, and to the fact that the words of "revelation" are ultimately bound with the reasoning of the exegete negates his interpretation. See his *Midrash in Context* (Philadelphia, 1983), 38–9, and below.

and will probably be more difficult to follow than that which was seen heretofore. Leviticus 13.42–4 reads as follows:

<sup>42</sup>But if a white affection streaked with red appears on the bald part in the front or at the back of the head, *it is a spreading leprosy* on the bald part in the front or at the back of the head. <sup>43</sup>The priest shall examine him; if the swollen affection on the bald part in the front or at the back of his head is white streaked with red, like the leprosy of body skin in appearance, <sup>44</sup>the man is leprous; he is unclean. The priest shall pronounce him unclean; he has the affection on his head.<sup>38</sup>

One will readily agree that the passage is wordy. The focus will center on only the italicized portion, for it is the point of departure for the *Sifra*'s comments on verse 42. The phrase "it is a spreading leprosy" is not appropriate here because this verse is merely describing symptoms that may be leprous. Only after the priest examines the patient (v. 43) can it be determined that the patient is leprous (v. 44).<sup>39</sup> The term "leprosy" in this phrase is commented on by the *Sifra* in the following manner:

A leprosy: This teaches that it [the bald spot] is rendered unclean with live flesh. For we would logically have learned otherwise: If the boil and the burning, which are unclean because of a white hair, are not unclean because of live flesh, a bald area in the front or back of the head, which is not unclean because of white hair, should certainly not be unclean because of live flesh. Scripture states "leprosy"; this teaches that it is rendered unclean with live flesh. (*Sifra*, Neg. 11.1).<sup>40</sup>

Because the word "leprosy" is inappropriate in verse 42, the *darshan* argues that it was added to the verse to teach that (one of) the signs of uncleanness in bald pates is the presence of "live flesh." However, this phrase adds little, since living flesh is one of the regular signs of uncleanness in scaly leprous spots on the body (see Lev. 13.9–11, 14–17; *M. Neg.* 3.3; *inter alia*), to which the condition of the bald pate is compared in verse 43. (One must note that the Torah does not describe the signs for which the priest is looking, other than the determination that the affliction resembles bodily leprosy.) One then has little reason to think that living flesh was not a symptom of uncleanness here. The *darshan* therefore explains why this

<sup>38</sup> Emphasis added. I have followed the New JPS translation except for the italicized portion, wherein the translator, in trying to resolve the problem of the *Sifra*, translated the word *zava'at* (generally, if probably not accurately, translated as "leprosy") differently from in the other two places in which the word or a form thereof occurs in this passage. That is to say, in v. 42, the word is translated as a descriptive term, whereas in vs. 43 and 44 it is a technical term. This procedure is totally justified in translating the Bible. It does not provide adequate understanding, though, of the way the Rabbis read the verse.

<sup>39</sup> See the comments of Meir Leibush Malbim (1809–79) on this verse.

<sup>40</sup> It should be noted that the *Sifra* discusses the word "spreading," also inappropriate for the same reason, in the same manner, and also the word *hi*, "it is."



additional piece of information is significant. Without Scripture's noting this addition, one might have thought otherwise, although living flesh is a normal sign of uncleanness for scaly leprous spots. Boils and burns, another category of uncleanness, do not require the presence of living flesh in order to be considered unclean (see Lev. 13.18–28; M. *Neg.* 3.4). They do require, however, the presence of a white hair. Thus, "logic" demands that a possibly leprous bald head does not require the presence of living flesh in order to be considered unclean. "Scripture states": thus revealing that live flesh is (one of) the sign(s) of uncleanness on a bald pate.

In some sense, the formal requirements for a good argument *a fortiori* are present. After all, one could make the case that the fact that a white hair rendered unclean in the case of boils and burns does seem to establish that they are "[more] severe" cases, more so than reddish or whitish bald spots that are not rendered unclean by the presence of white hairs. This is particularly the case when one more piece of information is added. In addition to scaly affections to a bald head, as well as boils and burns, another category is relevant here, namely, leprous spots on the body. These spots may be rendered unclean by living flesh, white hairs, or spreading flesh, while boils and burns are rendered unclean by spreading flesh or white hairs only. This idea seems to establish that living flesh is a more stringent requirement that may be suspended in "lesser" cases. The "logic," then, is the following: first, bodily leprous spots are rendered unclean by the presence of one of three things. Second, boils and burns are rendered unclean by one of two things, dropping live flesh as a concern. Third, reddish or whitish scaly spots on a bald head, which are not rendered unclean by one of the two conditions *included* in step two (namely, white hairs – established by the *Sifra* in 11.2), ought not to be rendered unclean by the condition *dropped* in step two. One should, then, consider three levels: bodily leprous spots, rendered unclean by any of three conditions; boils and burns, rendered unclean by two conditions; and leprous bald spots, rendered unclean by one condition. The conclusion reached by this logic states that since the boils and burns are not unclean because of living flesh, neither should leprosy on a bald head be. Thus, one needs a verse to teach the opposite.

It does not, however, require much thought to realize that this "logic" is thoroughly contrived. Obviously, a bald pate cannot be rendered unclean by the presence of hairs! It is *bald*, after all!<sup>41</sup> The only reason Scripture treats the status of bald pates at all is precisely because, unlike the other forms of uncleanness dealt with in Leviticus 13, they by definition are devoid of hairs. They are then in no sense "less severe" than boils and burns, and

<sup>41</sup> See *Sifra*, *Neg.* 10.6, which defines these spots as incapable of growing hair. Thus, it is clear, one is talking about spots that are fully smooth, devoid of any hair.

falling white hairs as a sign of uncleanness scarcely makes them so; they are simply different. It is inconceivable without an “explicit” scriptural statement that one would have doubted that living flesh is a sign of the impurity of a leprous bald head because of the absence of the white-hair possibility. The *darshan* has accomplished a formal, ultimately contrived, case for the necessity of that which otherwise is a scriptural anomaly. This matter was his goal and he has accomplished it. He has made the case by illustrating that this scriptural anomaly did not actually create law, but *prevented* students from erroneously creating a law based on the normally acceptable technique of *gal ve-homer*.

The midrashic focus on repetitions and allegedly excessive wording in the scriptural text can be illustrated with hundreds of examples drawn from all of the tannaitic midrashim (and later texts).<sup>42</sup> The questions *lamah ne'emar* or *mab talmud lomar*, “Why was this word or phrase stated?,” appear on virtually every page of the midrashim. When they are absent, as in the passage just considered, this question is often an implicit one. The answer remains always that this anomalous phrase directs the trained reader to generate new legal conclusions or directs the trained reader from drawing such conclusions when they were inappropriate. However complex the relationship of *midrash balachab* and traditional law may be, the halachic midrashim represent a remarkably sensitive reading of Scripture informed by a sense of verbal economy that tolerates no excess.

Scriptural verbosity is not the only feature, however, that triggers midrashic comment, although it is overwhelmingly the most frequent. Occasions arise in which only the most obtuse argue against the proposition that the cause for a particular midrashic comment is a conflict between the legal demands of a verse and the rabbinic sense of what justice and/or *balachab* demands. Nevertheless, even here the *darshan* is aided by his sensitivity to scriptural anomalies, which allows him to “derive” the law from the Bible. A case in point is Leviticus 20.14. The verse states: “If a man marries a woman and her mother, it is depravity; both he and they shall be put to the fire, that there be no depravity among you.” The meaning of this verse seems obvious. It envisions a situation in which a man “marries” (Hebrew *yiqab*) a woman and her mother, and they set up house as a threesome over a period of time. This arrangement is depravity, and all three should be put to the fire. This understanding seems to be confirmed by a statement attributed to Rabbi Akiva (see below).

<sup>42</sup> The techniques that are used to deal with these superfluties vary from one midrashic text to another, and I certainly do not mean to imply otherwise. My point here is simply to note that, while interpretive techniques vary across the differing texts, the problem of redundancy is a shared feature of all them.

This biblical statement conflicts with the laws as the Rabbis develop them. No matter how one analyzes it, whichever woman he married first, he married legally. His original relationship with her was fully legal; his continued relationship with her (and hers with him), while now illicit, in rabbinic thinking, is not a capital crime. Why, then, should she be burned? The verse cannot be allowed to stand as stated; the halachic considerations demand that the first “wife” be seen as innocent of a capital crime. Establishing a reading of the verse that conforms to this requirement is obviously the goal of Rabbi Ishmael’s exegesis (see below). Nevertheless, even here he takes note of and works with an unusual scriptural form that calls for an explanation.

Literally, the verse reads “burn him and them in fire.” The Hebrew word for “them” is *et-ben* rather than the more common *otan*.<sup>43</sup> Therefore, in a passage found in current versions of the *Sifra*,<sup>44</sup> one finds “him and them; him and one of them, the words of Rabbi Ishmael. Rabbi Akiva says him and both of them.”<sup>45</sup> It appears that Rabbi Akiva is simply interpreting in accord with the simple meaning of the verse. However, in the Babylonian Talmud the fourth-century sages Abbaye and Rava consider such a suggestion absurd. They, each in his own way, interpret Rabbi Akiva’s remark so that the first woman married is spared burning. The same talmudic passage justifies Rabbi Ishmael’s reading of *et-ben* as “one of them” by noting that “*ben*” is “one” in Greek. Therefore, the word *et-ben* is seen as a Hebrew–Greek compound indicating that only one of them – the second one – is subject to death by burning. If only one is to be burned, one might ask why the Torah speaks this way. Another talmudic passage explains that while only one is to be burned, in the event that the court is unable to complete the death sentence, *both* women are prohibited from remaining with the husband. Therefore, the unusual *et-ben* communicates that one is to be burned, but both are henceforth prohibited from being with the man.

The issues are complex, and lead beyond the *Sifra* to the Talmud. The version in the Palestinian Talmud is slightly different, although it, too, maintains one is to be burned, while both are prohibited from being with the man. It is important to note that the exegesis of two important tannaim, as their teaching was refracted through the prism of the Talmuds, completely

<sup>43</sup> The word in question, *et-ben*, does appear elsewhere in the Bible; indeed, it appears thirteen times. Nevertheless, it is unusual and becomes the basis for the legally acceptable reading.

<sup>44</sup> The passage comes from the so-called *Mekhilta de-'Arayot*; see Strack and Stemberger, *Introduction*, 245–6.

<sup>45</sup> I have followed the version of the manuscript, which is supported by the version of Rabbenu Hillel and the emendation of the Gaon of Vilna. The printed versions have been emended to conform to the conclusion of Rava in the Babylonian Talmud concerning the meaning of Rabbi Akiva’s statement. See BT *Sanh.* 76b, and the discussion below.

obliterates the obvious meaning of the biblical verse.<sup>46</sup> Even if the later talmudic discussion is ignored, one still has Rabbi Ishmael teaching that the punishment of burning can apply only to one of them, ostensibly on legal grounds, but nevertheless making use of the unusual word *et-ben* which generates the reading, “he, and one of them (*aḥat me-ben*).” It is of more than passing interest to note that virtually all traditional post-talmudic commentators accept this reading of the verse, apparently convinced by the legal difficulties of reading the verse in a straightforward manner.<sup>47</sup> Even Abraham Ibn Ezra (1089/92–1164/67), generally known for his allegiance to the *peshat*, accepts that the verse intends only one of them to be burned.<sup>48</sup> Certainly the primary difficulty is the halachic result of letting the verse stand as stated. Nonetheless, close attention to scriptural formulation is evident, and a new understanding is drawn from this formulation.

A number of examples have been cited to illustrate the scriptural problems that elicit midrashic comment. Along the way, one has seen the way the midrashim resolve these problems. It is now necessary to attend more carefully to the way in which *midrash halachah* responds to the scriptural anomalies that elicit it in the first place, as this response will help illuminate the role of *midrash halachah* in ancient rabbinic culture. As already seen, often the *darshan* will indicate that the superfluous word or phrase exists in order to include or exclude some part within or from the purview of the verse. This indication is one way in which the *darshan* may respond to the scriptural “problem” while filling the legal lacunae of the biblical text. To take the leprosy example, the Torah does not specify the symptoms for which the priest is looking, other than a spot that resembles leprosy of the body. The characteristics of this kind of leprosy relevant to the bald pate are not stated. The *darshan* uses a scriptural anomaly as his pretext for supplying the details.<sup>49</sup> Similarly, Scripture nowhere specifically prohibits the sacrifice of a *terefah*; while one has little difficulty

<sup>46</sup> I have not dealt with other instances in which rabbinic midrash uproots the plain meaning of a biblical verse, as opposed to adding to it. For a discussion of this phenomenon, see D. Weiss Halivni, *Peshat and Derasb: Plain and Applied Meaning in Rabbinic Exegesis* (Oxford, 1998).

<sup>47</sup> To my knowledge, the only one who may be called traditional and does not accept this meaning is the nineteenth-century Italian exegete, Samuel David Luzzatto (1800–65), who explains that the first woman is punished for remaining in a marital threesome with her husband and mother or daughter.

<sup>48</sup> See his comments ad loc. For more discussion of Ibn Ezra and his approach to such matters, see Harris, *How Do We Know This?*, ch. 4.

<sup>49</sup> In the full passage, all three inappropriate words, namely, *zara’at porabat hi*, fill the lacuna, the *porabat* indicates that a “spreading” is also a disqualifying symptom whereas *hi* indicates that a white hair is not.

deducing it from other scriptural information, an extraneous scriptural phrase, which must be accounted for, will be enlisted to generate the prohibition, in turn demanding a dismantling of the notion that such a prohibition would indeed be evident from other scriptural information.

Sometimes, the “filling in” of biblical lacunae seems thoroughly arbitrary, and one cannot imagine arriving at the particular conclusion were the said conclusion not, in fact, foregone. Certainly, the ineligibility of relatives as witnesses (or judges) pre-dates the formulation of the midrashim examined. Nevertheless, the goal of such *midrash halachah* involves accounting for Scripture by revealing the way its anomalies encode information that the exegete must decipher. However, numerous instances occur in which even historians standing outside the system are led to the conclusion that the legal norms do indeed emerge as a result of the midrashic exegesis.<sup>50</sup> Be that as it may, the impression of arbitrariness is at times inescapable. Occasionally the existing collections reveal an awareness of the arbitrary character, and ask, for example, why one has included X and excluded Y, when one could just as easily have done the opposite. The answer will generally argue that X is better suited to the legal and/or exegetical occasion.<sup>51</sup> It is important to note that, arbitrary or not, the response that extraneous phrase A includes or excludes X or Y is the single most common retort to the question, “Why does Scripture say this?”

The response has already been seen: “Scripture needed to say this because otherwise one might ‘logically’ have concluded otherwise.” As demonstrated, the logic is scarcely impeccable. The point centers on accounting for Scripture by illustrating the way it governs legal options. Another possible response to the identification of a word or phrase as extraneous involves using that word in a *gezerah shavah*, a lexical comparison, one of the “thirteen principles” of Rabbi Ishmael. The force of this response means that Scripture included the word in question in order to call attention to a desired comparison between its legal context and some other in which the word also occurs. Such instances are specifically identified in the *Mekbilta de-Rabbi Yishmael* and the *Sifre Be-Midbar*; that is to say, these documents identify the word in question as “available” for a *gezerah shavah*; the other documents do not specifically state that the word is “available,” which has led scholars to assert that the technique is found only in these documents and reflects only one “school” of rabbinic midrash.<sup>52</sup> This assertion needs

<sup>50</sup> See, for example, the (admittedly theoretical) discussion of the altar location in *Sifra*, *Ned.* 7.1–2, in which the issue clearly revolves around the way the words “before the Lord” are interpreted. Note that the historical issues, the realia, are insignificant.

<sup>51</sup> See, e.g., *Sifra*, *Shem.* 6.4.

<sup>52</sup> For a complete discussion, see Harris, *How Do We Know This?*, chs. 7–9.

refining, however. The *Sifra*, without specifically stating that extraneous word X is “available” for a *gezerah shavah*, occasionally accounts for such a word by using it as part of such an analogy. That is to say, it uses the same technique without the same terminology.

The occasional arbitrary extension or limitation of a verse’s purview, the explanation that a word was included to preclude a different “logical” conclusion, or that it was included to elicit a *gezerah shavah*, are the most common responses to the scriptural trigger of extraneity. Some others exist. Among them is the use of *kelal u-ferat (u-khelal)* and *ribbui u-miyyut (ve-ribbui)*. These techniques, which wrestle with the accumulation of inclusive and exclusive language in a particular legal context and their histories, have been thoroughly discussed by Michael Chernick, and need not detain one.<sup>53</sup> For these purposes, it is sufficient to note that both of these techniques are, each in its own way, a response to verses or parts of verses that say the same thing with differing degrees of generalization and specificity. They each resolve the apparent redundancy in different ways.

A fanciful if infrequently applied technique that may be seen as a sign of midrashic excess is *gor’in mosifin ve-dorsbin*, “we subtract, add and interpret.”<sup>54</sup> For example, Leviticus 2.6 reads “[You shall pour] [on it] [oil] [a meal offering] [it is].” Each phrase within brackets represents one Hebrew word, and the clumsy translation reflects the word order of the verse. The antecedent of the first “it” is a meal offering prepared on a griddle, as identified in the previous verse. The problem is obvious. The phrase “it is a meal offering” (now put into normal English) is obviously superfluous; what would one think it was? The *Sifra* comments, “‘You shall pour oil a meal offering’ (note the absence of “on it” in the scriptural citation). This absence includes all meal offerings in the commandment to pour oil. Perhaps even the baked meal offering? Scripture reads “on it” [thus excluding the baked meal offering]. Perhaps I exclude only the [baked meal offering in the form of] cakes but not the [baked meal offering in the form of] wafers? (See Leviticus 2.4.) Scripture states “it is” (*hi*) [indicating that one also excludes baked meal offerings in the form of wafers].” (*Sifra*, *Ned.* 12.6)<sup>55</sup>

<sup>53</sup> M. Chernick, *Hermeneutical Studies in Talmudic and Midrashic Literature* (Lod, 1984) (Hebrew).

<sup>54</sup> The technique is used most, although still infrequently, in the Babylonian Talmud. See, e.g., BT *Bava B.* 111b, and the parallels cited there. See also *Arukh*, s.v. “gara,” noted by the *Masoret ha-Sbas*.

<sup>55</sup> See the version in Finkelstein’s edition, 11 82, and the variants he collects ad loc. Some versions have the word *aleha* in the scriptural citation and others do not. Obviously, the *Sifra* operates here on the understanding that *aleha* is temporarily removed from the verse.

The following has happened: The *Sifra* has identified the superfluous phrase. It argues that this phrase comes to extend the commandment to all meal offerings. The problem is that the Torah specifies “on it,” thus seeming to limit the range of the commandment only to the griddled-meal offering. The *darsban* “subtracts” the word(s) “on it” (*aleba*) momentarily so that the verse is no longer specific and can be generalized to all meal offerings. However, the *darsban* already knows from other material that baked meal offerings do not have oil poured on them. He thus “adds,” actually restores, the subtracted word(s) “on it” in order to restrict the range of the verse’s meaning; it now excludes the baked meal offering although it includes the other types.<sup>56</sup> The extraneous *hi* is enlisted to exclude the baked wafers as well as the baked cakes.

Assuming one were willing to follow the *darsban* this far, one would scarcely have thought that only one sub-category of baked meal offering was excluded by the verse’s “on it.” Again, the *darsban* works with the scripture, and here he has an extra *hi*, “it is” that demands accounting for. Scripture has fortuitously divided the baked meal offering into two sub-categories; the verse contains two words that require accounting for (when one has extended the boundary of “meal offering” to include the other meal offerings) – *aleba* and *hi*. From all this sub-categorizing, a *derashah* is born. Certainly, such a “reading” is scarcely typical, but it is also not beyond the pale; it may represent the outer limit of midrashic approaches to Scripture, but certainly it is important to have a sense of those limits. Such a “reading” reveals the importance assigned to grounding law in Scripture and, equally, the importance assigned to accounting for alleged scriptural anomalies. This importance is especially evident here, since grounding the law regarding baked offerings did not require the distinction between wafers and cakes. Providing a different scriptural “source” for each offering can have been elicited only by the highly developed sensitivity to scriptural anomalies and the need to assign meaning to them.

Often, a scriptural imperative is rendered extraneous by an argument *a fortiori*, as seen in the discussion of Leviticus 1.3. The assumption is that Scripture should not reveal that which one can easily determine. The usual response to this assumption reveals that the argument *a fortiori* is invalid for some reason, usually the presence of a disproving case. As seen above, a

<sup>56</sup> For an identification of the technique at work here, see PT *Sot.* 5.1. There one can find a much more surprising use of the technique *gor'in mosifin ve-dorsbin*, attributed to amora Rabbi Yoḥanan. It should also be noted that Maimonides, in codifying the absence of oil-pouring on baked meal offerings, cites Lev. 2.4 in support, and not 2.6, despite the *Sifra* passage and its quotation by the Babylonian Talmud at *Men.* 75a, and the Palestinian Talmud in several places. See Maimonides, *Mishneh Torah, Hilkhot Ma'aseh ha-Qorbanot* 13.8.

particular urgency is derived, and at times the argument *a fortiori* seems much stronger than the argument that disproves it. Nevertheless, the disproving argument must prevail, for otherwise a superfluity remains.

In most cases, it seems correct to assume that virtually all midrashic exegeses should be read in an *ad hoc* and *ad locum* manner. This assumption becomes clear when one examines the collections writ large. When accomplished, one sees that no attempt is made to impose consistency within a document or across documents. As an example, within the *Sifra* one finds numerous *derashot*, eleven to be precise, on the phrase *ish ish*, literally “man man,” which appears primarily in the book of Leviticus. It is used generally at the beginning of a verse and carries the force of “anyone” (who does X). While the word *ish* by itself requires comment, since in Hebrew, as in many languages, “man” can mean males or people, the phrase *ish ish* requires comment more urgently, since, in the understanding that governs the exegesis, the repetition intensifies Scripture’s intent. Thus, the *Sifra* consistently seeks to extract further meaning from the repetition. But within this one document the phrase *ish ish* is explained as including minors, women, or even Gentiles, but also as excluding minors, women, or Gentiles. This too reinforces the picture of arbitrariness within the document, for the superfluity apparently comes to serve whatever legal purposes the *darshan* desires. Yet, if we think about these exegeses as *ad hoc*, *ad locum* readings, generated to solve a particular problem in a particular verse, and not governed by what this *darshan* or some other has done with a different verse, we shall, I think, arrive at a better understanding of what is conveyed in these texts.

Nevertheless, the impression of arbitrary manipulation of Scripture remains. At times the Sages themselves express exasperation at this apparent arbitrariness. In one of the truly great lines in rabbinic literature, Rabbi Ishmael reacts to a colleague’s midrashic excess by exclaiming, “You say to Scripture, ‘Be silent until I interpret you.’”<sup>57</sup> That is to say, the speaker, in effect, is saying that one approaches Scripture as if its language contained no meaning apart from that which one imposes on it. One has transgressed all natural boundaries of linguistic usage; the language of Scripture is now as putty in one’s hands to do with it as one will. While most rabbinic interpretations are not as aggressively oblivious to linguistic boundaries as is the one that elicited this comment, it nevertheless seems that this remark says a great deal about the approach of the rabbinic exegetes to Scripture. One must attend to the response as well. Ishmael is identified by his opponent, Eliezer, as a *deqel harim*, a mountain palm. That is to say, he is identified as a tree that bears no fruit, one that is unproductive. In essence,

<sup>57</sup> *Sifra Tazria* 13.2.



in Eliezer's response, midrashic readings are identified as the creative forces that allow rabbinic Judaism to be fruitful.

Certainly, at a later time, the approach of early Jewish exegetes to the legal sections of the Torah – an approach that said to the text, “Be silent until I interpret you” – struck many readers as simply preposterous. Jews and Gentiles alike considered the rabbinic reading of Scripture to represent the epitome of intellectual decadence. Such reactions belong, however, to different chapters in the history of Judaism, not to this one.

#### V THE LEGACY OF EARLY MIDRASH HALACHAH

From the literature attributed to the Amoraim onward, Jews have related to the midrashic materials in different ways.<sup>58</sup> The two Talmuds continue the midrashic enterprise, although, in the halachic sphere, no longer as a formally independent commentary on Scripture but primarily by connecting the teachings of the Mishnah with a midrashic reconstruction of the thought process that resulted in that Mishnah's laws. They use the same array of techniques, perhaps, in the case of the Babylonian Talmud, in more creative ways. Whether or not these reconstructions accurately reflect the formulator's thoughts is moot; what is critical is that this talmudic enterprise intensifies the impression that the earlier midrashic texts created: almost all laws of biblical authority, including those that are completely unmentioned in Scripture, are nevertheless grounded in the text.

For many Jews in the post-talmudic era, the Talmuds' claims of scriptural support for mishnaic law caused considerable consternation. To a certain extent, the problem post-talmudic Jews faced is similar to the one faced by any group whose exegetical (or any other) traditions have achieved authoritative status while exegetical assumptions change. Under such circumstances, one's sacred literature can become a distinct intellectual burden. The problem is particularly interesting in Jewish religious history in the Christian era because rabbinic Judaism is characterized, in general, by a belief in the greater religious authority of earlier sages, as opposed to later ones.<sup>59</sup> It is an axiom of talmudic Judaism axiom that later authorities may not generally disagree with the Tannaim, the earliest rabbinic teachers.

<sup>58</sup> I have elsewhere dealt at length with the appropriation and rejection of midrashic methods as an authentic expression of Jewish culture. Here I wish only to record some general observations. See Harris, *How Do We Know This?*, chs. 2–8.

<sup>59</sup> It is not crucial that one is able to date the time this position became dominant. The problem one seeks to investigate involves the difficulty facing those who accept the authority of the *halachic midrashim* and the Talmuds; certainly, such people accepted this position as axiomatic. For a discussion of this phenomenon, see S. Z. Havlin, “Al'ha-Ḥatimah ha-Sifrutit' ke-yesod ha-Ḥalukah le-Tequfot be-Halachah,” in *Mehkarim*

Furthermore, in many cases, as a result of the Talmuds' efforts, it is precisely the Tannaim who are viewed as the authors of the largest percentage of rabbinic *midrash balachab*. Even when all traditional students of rabbinic literature acknowledge that no tanna actually composed a given piece of midrash, it is often assumed by such students that the midrash accurately reflects the tanna's reflections on issuing a legal ruling without its exegetical underpinnings (there was little questioning whether the ruling had such underpinnings).<sup>60</sup> When a law is transmitted in the name of a tanna, and an exegetical reconstruction of the way the tanna arrived at that law is offered, the midrash will be understood by most post-talmudic students as the *source* of the law in question. If no disputes are reported, the legal teaching will become normative, and the midrash will generally be considered the authoritative source of that law.

Later generations faced the problem that the midrashic literature considered tannaitic contains many disputes of an exegetical nature. To cite but one example, the Torah (Exod. 22.11) states that when an item has been entrusted to someone to guard (according to rabbinic interpretation, such a person is being paid for his services) and it is stolen, the guardian is liable for payment. The *Mekhilta de-Rabbi Yishmael* asks: whence do we know that the trustee is liable if the item was lost, which is not stated in the Bible? It proceeds to offer two responses in the names of two rabbis; one an argument *a fortiori*, and the other an inference drawn from the use of *kefel lashon*, doubled language, here the use of the infinitive absolute with the conjugated verb. While the Talmud tries to explain the underlying dispute (BT *Bava M.* 94b), in this passage and in hundreds like it, one is left with the impression that exegesis represents nothing more than the personal preference of different sages and, therefore, one might conclude that its results cannot be considered part of the essential message of the divine lawgiver.

Here the problem for a hypothetical post-talmudic Jew is compounded by the fact that the Palestinian Talmud cites another exegetical option from which one may learn that a lost object is the same as a stolen one in terms of

*be-Sifrut ha-Talmudit* (Jerusalem, 1983), 148–92. Furthermore, to say that rabbinic Judaism is characterized by this belief is not to claim that unanimity prevailed regarding it. I simply claim that, in the culture shaped by rabbinic Judaism, this position became a commonplace, although I cannot specify the time.

<sup>60</sup> For the present purpose, one abstract example should suffice. Rabbi X is quoted in the Mishnah as saying that Y is prohibited. The Gemara, the product of later sages, asks how he knows this. The answer will almost invariably be a midrash. In this situation, the tanna, Rabbi X, did not actually compose the midrash; traditional students of the Talmud normally assume, nevertheless, that the midrash is an authentic reflection of his exegetical thinking.

liability, in this case the presence of the word *o*, “or,” in the verse. For the rabbinic Jew living in the post-talmudic period, the law that apparently derives from this exegetical chaos is unquestionably authoritative as a biblical law. Nevertheless, once moved to reflect on the matter, he would be quite confused as to the way this biblical law had been precisely derived.

Also problematic from the perspective of post-talmudic rabbinic culture is that with the close of the Talmud (fifth–sixth century), the gates of *halachic* scriptural exegesis were effectively, if not entirely, closed. That is to say, later authorities generally refrained from deciding legal issues by turning to a biblical text and interpreting it.<sup>61</sup> This decision means that subsequent Jewish culture inherited a body of biblical exegesis that undergirded the ritual and legal practices that defined it, to which, in general, it could not add and with whose legal conclusions it could not disagree without a revolutionary reshaping of Jewish legal culture. Therefore, the midrashic foundations – real or imagined – of the rabbinic legal system eventually presented profound cultural difficulties to some Jews, who worked diligently to develop strategies that diminished or denied the creative role of midrash. At the same time, to other Jews these foundations represented a partially successful human attempt at grasping the profundity of the divine mind whose uniquely polysemic language bestowed upon humans the right – indeed the obligation – to engage the text and decode it.<sup>62</sup> Jewish jurists, polemicists, apologists, and reformers all staked a position on this issue, as one’s approach to the question of *midrash balachab* and its authority was central to one’s understanding of Judaism.

<sup>61</sup> Exceptions to this rule exist. These and the principle generally are discussed by the seventeenth-century Italian scholar Malakhi ben Ya’akov ha-Kohen in his *Yad Malakhi*, part 144. See also Yiaq D. Gilat, “Midrash Ketuvim ba-Tequfah ha-batar-talmudit,” in idem, *Peraqim be-Hishtalsbelut ba-Halachab* (Ramat-Gan, 1992), 374–93; and A. Grossman, *Hakbme Ashkenaz ha-Rishonim* (Jerusalem, 1981), 154–7. Note that one is talking about definitive and binding legal rulings; these were no longer drawn midrashically from the biblical text. I do not mean to imply that the Bible itself ceased to serve as an important focus of study or that commentary halted. On the contrary, this is scarcely the case. In 1840, Isaac Reggio could count more than 140 Pentateuch commentaries composed by Jews since the onset of the Middle Ages. With all that has been discovered and written since that time, I am confident that the number must exceed 300. If one then adds all of the commentaries on the other books of the Bible, the overall number of Jewish Bible commentaries numbers well into the hundreds or thousands. The Bible, therefore, remained very much a source of study and reflection throughout the ages, although more so in some places and times than in others. The point here is that these commentaries were never intended to create new halachic rulings on the basis of the biblical text.

<sup>62</sup> See especially the comments of the Gaon of Vilna in his Bible commentary, *Aderet Eliyahu*, on Exod. 21.2.

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# MISHNAIC HEBREW: AN INTRODUCTORY SURVEY

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## I MISHNAIC HEBREW AND RABBINIC LITERATURE

Mishnaic Hebrew (MH) is the language of the Tannaim and Amoraim in Palestine and Babylonia. The Hebrew name for the language of these writings is *Lešon ḥakhamim*, meaning “the language of the Sages.” Literature in MH covers a period of about 450 years, roughly between 70 CE and 500 CE. The literature of the Tannaim – which includes the Mishnah, the Tosefta, the halachic midrashim, and *Seder ‘olam Rabba* – was redacted between 70 CE and 250 CE approximately. The literature of the Amoraim was formed over a period from the end of the third century down to about 500 CE. In Palestine, the work of the Amoraim includes the Jerusalem Talmud and the ancient aggadic Midrashim, such as the *Genesis Rabbah*, *Leviticus Rabbah*, and *Pesikta de-Rav Kahana*; in Babylonia, the work of the Amoraim is represented by the Babylonian Talmud.

Most tannaitic texts were redacted in roughly the period 200–50 CE, when Rabbi Judah the Patriarch completed his compilation of the Mishnah. However, research has shown that the Mishnah contains a great deal of material contemporary with the destruction of the Second Temple in 70 CE. Most of this material consists of texts describing ceremonies performed while the Temple still stood.<sup>1</sup> Thus the offering of first fruits (*M. Bik* 3) is described almost wholly in the present tense, by one who had been present at this ceremony.

Research has further shown that Hebrew was spoken in Palestine until roughly 200 CE. The view is generally accepted that the Hebrew preserved in tannaitic literature reflects living speech current in various regions of Palestine.<sup>2</sup> The literature of the Amoraim, however, was formed in an

This essay was translated into English by my learned friend Dr. Michael Weitzman, who passed away recently in London.

<sup>1</sup> J. N. Epstein, *Prolegomena ad litteras Tannaiticas* (Tel-Aviv, 1957), 21–58.

<sup>2</sup> There is little doubt that Hebrew continued to be spoken here and there in Palestine at the time of the Amoraim, several generations after the close of the Mishnah. See E. Y. Kutscher, “The Present State of Research into Mishnaic Hebrew (Especially Lexicography) and Its Tasks,” “Some Problems of the Lexicography of Mishnaic Hebrew

environment where, in all probability, Aramaic rather than Hebrew was spoken. The dialect then current in Palestine is now termed Galilean Aramaic, or Jewish Palestinian Aramaic, while the dialect current in Babylonia is termed Babylonian Aramaic. It is well known that certain portions of the literature of the Amoraim, both in Palestine and in Babylonia, are written in Aramaic, or on occasion in a mixture of Hebrew and Aramaic.<sup>3</sup>

The language reflected in the texts of rabbinic literature is equally known to us through external evidence, such as the Copper Scroll from Qumran,<sup>4</sup> the letters of Simon Bar-Koseba (Bar Kochba) discovered in the Judean desert and dating from about 130 to 140 CE,<sup>5</sup> further inscriptions discovered in synagogues elsewhere,<sup>6</sup> and also more recent letters, like that

and Its Comparison with Biblical Hebrew," *Archive of the New Dictionary of Rabbinical Literature*, 1 (Ramat-Gan, 1972), 57–60, and the Oxford papyrus mentioned below.

<sup>3</sup> It is very likely that in Galilee, during the period of the Amoraim, the Jews spoke Aramaic only (except that Greek, too, was spoken in such cities as Tiberias and Beth-Shean). For this dialect we have now the important dictionary of M. Sokoloff, *A Dictionary of Jewish Palestinian Aramaic* (Ramat-Gan, 1990). Some of their major literary works, however, continued to be produced in Hebrew (cf. Kutscher, "Present State").

<sup>4</sup> The consensus of scholarly opinion would date it around the middle of the first century CE.

<sup>5</sup> E. Y. Kutscher, *Hebrew and Aramaic Studies*, Hebrew section, 66–67, surveys briefly the features which MH shares with the Hebrew letters of Bar-Koseba. Examples are אַתָּן ('atten, as second person masculine plural pronoun) and אֵלֵּי ('ēllī, plural demonstrative). Compare the important observations of Yalon (1964), in his chapter on spoken Hebrew (204–8).

<sup>6</sup> This corpus is analyzed in detail by Joseph Naveh, *On Stone and Mosaic: The Aramaic and Hebrew Inscriptions From Ancient Synagogues* (Jerusalem, 1978). See e.g. the inscription of Kfar-Bar'am (19–20): יהוה שלום במקום הזה ובכל מקומות ישראל יוסה הלוי בן לוי עשה השקוף הזה. תבא ברכה במען[ש]י של[ת]ם יוסה (yōšē), a name characteristic of the rabbinic period, and very probably an abbreviated form of יֹסֵף (yōšēp̄). The spelling of the final vowel with *hé* rather than the usual *yōḏ* is peculiar to Palestine. The second feature is the form for "lintel." While Biblical Hebrew (e.g. at Exod. 12.7, 22, 23) uses מִשְׁקוֹף (*mašqōp̄*), the inscription instead has מִשְׁקוֹף, which is typical of the Mishnah, as at *M. Neg.* 12.4 (in both manuscripts and printed editions). It is true that H. J. Kosovsky's concordance to the Mishnah shows seven occurrences of מִשְׁקוֹף. However, that concordance is based on printed editions, and in six of these passages the best manuscripts (Parma B, K) have שְׁקוֹף. The six passages are as follows: (1) אֵין בִּינָה לְבֵין הַשְּׁקוֹף (*M. Ob.* 9.10: "between it and the lintel there was not . . ."). (2) וְהִיא נֹוגַת בַּשְּׁקוֹף (*M. Ob.* 10.7: "it would . . . touch the lintel"). (3) and (4) מִכְּנֶגֶד הַשְּׁקוֹף (*M. Ob.* 11.7: "opposite the lintel"). (5) and (6) מִדְּרֵבֵק לַשְּׁקוֹף . . . נֹוגַת בַּשְּׁקוֹף (*M. Ob.* 12.8 [10]: "[if it] cleaved to the lintel . . . [if one] touched the lintel"). The editions, however, systematically show the biblical form מִשְׁקוֹף. There is only one place in the Mishnah where the true reading appears to be מִשְׁקוֹף, namely הַזֵּאת בְּאֵנְדֵּת אוֹזֵב עַל הַמִּשְׁקוֹף וְעַל הַמְּזוּזוֹת (*M. Pes.* 9.5: "this required sprinkling with a bunch of hyssop on the lintel and the side-posts"). This is, however, a clear reference to the biblical prescription: וְלָקְחוּ מִן הָדָר וּגְרָגָנִים עַל שְׁתֵּי הַמְּזוּזוֹת וְעַל הַמִּשְׁקוֹף

found in an Oxford papyrus dating from about 500 CE.<sup>7</sup> All these documents attest Hebrew as a spoken language, used in daily life, and not merely as a language of scholarship confined to the learned.

## II THE ORIGIN OF MISHNAIC HEBREW

Down to 200 BCE, that is to say before the Hasmonean period, the literary language was Biblical Hebrew (BH), even in the late books of the Bible, such as Ezra-Nehemiah, Chronicles, and Esther. Literary works from before and after the Exile, despite their grammatical and lexical differences, share an impressive array of common features. Most of the Qumran writings, composed (or copied) between 250 BCE and 70 CE, likewise exhibit a biblical style, despite the presence of certain special features, some of which reappear in MH.<sup>8</sup> MH did not become a *literary language*, as stated above, until the end of the first century CE. What exactly is its origin?

Most scholars agree that MH originates in the language spoken in various regions of Palestine throughout the period of the Second Temple.<sup>9</sup> Some go further and believe that it reflects a Hebrew dialect of the era of the first Temple. It is true that certain characteristics of the language of the Mishnah already appear here and there in the Bible, proving that they then existed in a living dialect, some centuries before their appearance in MH. For example, the word בִּזְיָוִן (*bizzāyōn*), meaning “outrage” or “contempt,” is a typically mishnaic term, as in the following examples: רצה הכהן לנהוג בייזון בעצמו אין שומעין לו (Tos. *Sanh.* 4.1) (“If a priest wished to behave without respect for himself, one does not listen to him”); שלא לנהוג בייזון בקדשים (PT *Shabb.* 9, 13a) (“so as not to treat holy things with contempt”). This word appears for the first time in Esther 1.18: וכדי בייזון וקצף “whence (will come) contempt and anger.”

(Exod. 12.7): “they shall take of the blood and put it on the two side-posts and on the lintel (ועל המשקוף).” See further below, and n. 32.

<sup>7</sup> Cf. M. Mishor, “Ashkenazi Traditions: Toward a Method of Research,” *Massorot* 3–4 (1989), 87–127. A few examples from that document are יסר בן יוסה (1.4, “Le’azar son of Yosé”), מפני שבאת לכאן (1.7, “since you came here”), בערב השבת (1.16, “on the eve of the Sabbath”). This document tends to confirm the hypothesis that Hebrew continued to be used in daily life in some corner of Eretz Israel during and even beyond the period of the Amoraim (see n. 2 above).

<sup>8</sup> See e.g. Z. Ben-Hayyim, “Massoret Ha-šomronim ve-Ziqqatah le-Massoret Ha-Lašon šel Megillot Yam-Hammelaḥ, ve-li-Lšon Ḥazal,” *Lešonenu* 22 (1958), 223–45 (according to *Qovetz Ma’amarim bi-lšon Ḥazal* [Jerusalem, 1972], 36–58); and H. Yalon, *Studies in the Dead Sea Scrolls* (Jerusalem, 1967) (Hebrew), 29f., 32f., etc.

<sup>9</sup> See E. M. Lifschitz, “Haddiqduq Hammiqra’i we-Haddiqduq Hammišnati,” *Sefatenu*, 1 (Jerusalem and Berlin, 1917), 40, and also M. Bar-Asher, “The Study of Mishnaic Hebrew Grammar: Achievements, Problems and Goals,” *Proceedings of the Ninth World Congress of Jewish Studies* (Jerusalem, 1988), 6, §4 (and literature there cited).

A second example: it is well known that MH uses the form *ḥā'ōl* as a *nomen agentis*, e.g. *sārōq* “wool-comber” (M. *Kel.* 26.5),<sup>10</sup> *ṭāḥōn*, “miller” (*Machshirin* 3.5).<sup>11</sup> This form is typical of MH, setting it apart from BH. Yet we find the first traces of this form in the book of Jeremiah, written more than 700 years before the close of the Mishnah.<sup>12</sup> There we find the words *bāḥōn* (Jer. 6.27), “watcher,” *‘āšōq* (Jer. 22.3), “oppressor,” *šārōḥ* (Jer. 6.29), “metal-founder,” *bāḡōdā* (Jer. 3.7, 10), “traitress”. Likewise it seems that the word *ḥ<sup>a</sup>lōmōtēkem* (27.9; 29.8) should not be derived from *ḥ<sup>a</sup>lōm* and rendered “your dreams,” but rather understood as “your dreamers,” from *ḥālōm*, “dreamer.”<sup>13</sup>

Cases of this sort may be found in the biblical texts from the end of the First Temple period onwards, but especially in the post-exilic period. They attest the existence of a Hebrew dialect which was gaining currency towards the end of the biblical period but was to become a written language only after several centuries had passed. It was in fact to become the *written language* of the Tannaim, i.e. Mishnaic Hebrew.

<sup>10</sup> עור הַקְרוֹק (so ms. K), “the hide of the comber,” i.e. “the hide worn by the wool-comber.”

<sup>11</sup> The text in fact has המוליך חיטים לטחון, “one who carries the wheat to the miller” (for grinding). The reading לטחון (*la-ṭ-ṭāḥōn*) is found in two excellent manuscripts, Parma-B and Antonin. In K and the editions, however, the word (לטחון) has been vocalized (*li-ṭḥōn*) “to grind,” as an infinitive from the *Qal* conjugation. Likewise, in another passage of the Mishnah, namely M. *Dem.* 3.4, the printed editions show three successive occurrences of the form *tōḥēn*, i.e. the present participle of the same conjugation in use as a noun: לטחון נכרי . . . לטחון עם הארץ (“one who brings wheat to a Samaritan miller, or an ignorant miller, or a Gentile miller”). The best manuscripts, however, namely K and Parma-A, as well as ten others, have instead three successive occurrences of the type *ḥā'ōl*: טָחוֹן (*ṭāḥōn*). Cf. M. H. Segal, *Diqduq Lešon Hammišna* (Tel-Aviv, 1936), 75, 94.

<sup>12</sup> Cf. M. H. Segal, “Ḥālōm – Ḥālōmōt – Ḥ<sup>a</sup>lōmōt,” *Lešonenu* 10 (1939–40), 154–6; M. Bar-Asher, “Rare Forms in Tannaitic Hebrew,” *Lešonenu* 41 (1977), 135–7; idem, “The Historical Unity of Hebrew and Mishnaic Hebrew Research,” *Mebqarim ba-Lashon* 1 (1985), 93–4.

<sup>13</sup> The vocalization הַלּוֹמוֹתֵיכֶם (*ḥālōmōtēkem*) might have been expected. Indeed, the Massoretic vocalization הַלּוֹמֹתֵיכֶם (*ḥ<sup>a</sup>lōmōtēkem*) may well intend the plural of הַלּוֹם (*ḥ<sup>a</sup>lōm*) – a dream – rather than הַלּוֹם (*ḥālōm*) – a dreamer. However, the context shows that dreamers (and not their dreams) are meant, as the ancient versions recognized (cf. the excellent analysis in Segal, “Ḥalōm,” 154–5). Furthermore, the vocalization (*ḥ<sup>a</sup>lōmōtēkem*) need not in fact indicate that *ḥālōm* was confused with *ḥ<sup>a</sup>lōm* at all. This reading may rather reflect dissimilation of vowel quantity (*ḥālōmōtēkem* > *ḥ<sup>a</sup>lōmōtēkem*), to avoid too many long vowels in succession. This phenomenon can be observed in the Bible in relation to other words. Thus the feminine plural of צִדּוֹנֵי (*šidōnī*) is צִדְנֵי (*šēdnīyyōt*), rather than *šēdnīyyōt*; the proximity of the other long vowels has caused syncope of the long vowel *ō* in the second syllable.



## III BIBLICAL HEBREW AND MISHNAIC HEBREW

## A COMMON AND CONTRASTING FEATURES

On comparing the grammar and vocabulary of MH with those of BH, one discovers numerous features common to the two eras (and literary corpora) of the language. A few scholars go so far as to consider the grammar of BH and MH identical, particularly as regards morphology.<sup>14</sup> However, there are undeniable differences between the two periods.<sup>15</sup> Here let us note the following phenomena:

1. Certain features of BH have disappeared in MH. For example, the model forms of *yaf'ul*, such as the cohortative (*'āšrāb*, "I wish to sing," *'āqūmāb*, "I wish to arise," *nāgālā*, "let us rejoice!") are common in BH but completely absent in MH. Similarly, the shortened *yaf'ul* (or jussive, e.g. *yāqēm*, "may he fulfil," *ta'mēn*, "have faith"), current in BH, has disappeared almost completely from MH.
2. Certain features typical of MH are wholly or almost absent from BH. One example is the type *pa'lān* / *po'lān*, used for nouns indicating occupation or quality, such as *gazlān* / *gozlān* ("thief"), *sarbān* / *sorbān* ("rebel").<sup>16</sup> Another feature of MH, never found in the Bible, is the type *nūpa'el*, with *nun* (alongside *mitpa'el*, with *mem*), for the present participle of the intensive-reflexive conjugation.<sup>17</sup>
3. Other features too are rare in BH but exceedingly frequent in MH. Thus there are hardly thirty occurrences of *-in* as the plural ending in the Bible; examples are *millin*, "words" (Job 12.11 and twelve further occurrences, as against *millim* in ten passages) and *šidōnīn* ("Sidonians," 1 Kgs. 11.33). Such cases are probably Aramaisms, limited to a few texts. However, the phenomenon becomes very common in MH. Its widening currency should be attributed not to Aramaic influence but rather to a phonological law connected to the treatment of the consonants *m/n* at the end of a word.<sup>18</sup>

The differences between BH and MH are particularly obvious in the domain of vocabulary. We need only cite one example, the word *šibbūr*. In the Bible, its meaning is "heap," as in *שִׁמּוּ אוֹתָם שְׁנֵי צְבָרִים פֶּתַח הַשַּׁעַר* (2 Kgs. 10.8), "Put them in two heaps at the entrance of the Gate." This sense is likewise found in MH, e.g. *שְׁנֵי צְבוּרֵי זֵיתִים וְחֲרוּבִים* "two heaps of olives and

<sup>14</sup> This question is the subject of Z. Ben-Hayyim, "The Historical Unity of the Hebrew Language and its Division into Periods," in M. Bar-Asher (ed.), *Language Studies*, 1 (Jerusalem, 1985), 3–25.

<sup>15</sup> This is the position of Bar-Asher, "Historical Unity," as against that of Ben-Hayyim, "Historical Unity."

<sup>16</sup> The only example of this pattern in BH is *הַתְּקִינֹת* (Lam. 4.10), = clement (pp. fem).

<sup>17</sup> See Bar-Asher, "Rare Forms," 128–35.

<sup>18</sup> See Bar-Asher, "Historical Unity," 84 n. 44, and references there cited. A fuller discussion of the examples mentioned in this paragraph will be found there on 77–86.

carobs" (M. *Peab* 6.4). The principal and far commoner meaning of the word, however, is "community," as in the following examples: אל תפרוש מן הציבור (M. *Avot*. 2.4), "do not separate from the community"; העוסק בצרכי ציבור כעוסק; בדברי תורה (PT *Ber.* 5.8d), "he that occupies himself with the needs of the community has as much merit as he that occupies himself with Torah."

#### B DIACHRONIC DIFFERENCES

The differences between BH and MH can be seen on examination to be due in large measure to the chronological gap between them. The linguistic situation of MH reflects a stage subsequent to that of BH. For example, the reflexive-passive form of the new intensive conjugation is expressed by *biṭpa*"*al* / *biṭpa*"*el* in the Bible, but by *niṭpa*"*al* in MH. Linguistic analysis shows that the mishnaic form results from a development due to the analogy of the reflexive form of the simple action, *niṭp*"*al*, whence initial *nun* has been borrowed.

In the semantic domain, we may cite the word *m'zūzā*. In the Bible this indicates one of the two doorposts which stand to the left and right of the threshold and support the lintel. Examples are: (1) והגישו ארניו אל האלהים והגישו אל הדלת או אל המזוזה (Exod. 21.6), "his master shall bring him before the tribunal, and take him near the leaf or post of the door"; (2) ולקחו מן הדם ונתנו על שתי המזוזות ועל המשקוף (Exod. 12.7), "they shall take the blood and put it on the two doorposts and the lintel."

In the Mishnah, however, *m'zūzā* indicates the little parchment scroll upon which two extracts of Deuteronomy (6.4–9 and 6.13–21) were copied, and which is fixed upon the right-hand doorpost in a Jewish house. For example: אין כותבין ספרים הפילין ומזוזות במועד (M. *Moed. K.* 3.4), "one does not copy scrolls (of the Torah) or (verses of) phylacteries or *m'zūzōt* on (the intermediate days of) a festival."

In this case, too, it is clear that the sense of the word in MH results from later evolution of the language: metonymy leads from a general sense to a specific sense, connected with the Jewish way of life as determined by rabbinic law in the time of the Mishnah.

#### C DIALECTAL DIFFERENCES

However, diachronic explanations do not suffice to explain all the differences between the two states of the language. In fact, on close scrutiny one can find cases where MH actually shows a more ancient form than BH. Consider for example the proto-Semitic word *laylay*, "night." This appears in the Bible in three forms: (1) *laylā*, (2) *layil*, (3) *lēl*. The first of these forms

shows the reduction of the second diphthong  $ay > \bar{a}$ .<sup>19</sup> The two other forms, *layil* and *lél*, are due to haplology. That is to say, one of the two diphthongs  $ay$  has dropped out: *laylay*  $>$  *layil* / *lél*. Now in MH we in fact find a fourth example: *lélē*, in the construct state of the singular. For example: לַיְלָה וַיּוֹם כְּלַיְלִי שֶׁבַת וַיּוֹמוּ (M. *Nid.* 4.4), “a night and a day, like the night and the day of the Sabbath.” The context shows clearly that לַיְלָה is a singular, not a plural.<sup>20</sup> This form derives from *laylay* and has undergone in both syllables the normal monophongization  $ay > \bar{e}$ . Remarkably, it is in MH, the later stage of the language, that we find the form which most resembles the primitive quadriconsonantal form *l.y.l.y.*: *laylay*.

Let us take a further example. In BH, the nearer demonstrative (“this”) in the singular is זֶה (masc. *ze*) / זאת (fem. *zōl*). In MH, however, the two corresponding forms are זֶה *ze* and זוּ *zō*.<sup>21</sup> Comparative grammar shows that the form זוּ, parallel to Aramaic ܙܘܐ,<sup>22</sup> is the older. By contrast, זאת is a secondary form, *zōl*: the ending *l* has been added to mark the feminine more transparently.<sup>23</sup>

<sup>19</sup> The diphthong  $ay$  is usually reduced in Hebrew to  $\bar{e}$ , e.g. בַּיִת (*bayit* / *bait*)  $>$  בֵּית (*bēt*). Sometimes, however, it is reduced to  $\bar{i}$ , as in דַּיִשׁ (*dayiš* / *daiš*)  $>$  דִּישׁ (*dīš*, Deut. 25.4). Occasionally it is reduced to  $\bar{a}$  ( $\bar{a}$ ), as in עֵנָם (*enām* / *enām*, Josh. 15.34), which is simply a development of עֵנַיִם (*enayim*, e.g. Gen. 38.14). (However, *laylā* can be explained as *laylā* [indicating adverb, *laylā*, “at night”], which became a noun.)

<sup>20</sup> The Mishnah is speaking of a period of twenty-four hours (לַיְלָה וַיּוֹם, “a night and a day”), and takes as an example לַיְלִי שֶׁבַת וַיּוֹמוּ, i.e. the duration of the night and day of the Sabbath.

<sup>21</sup> The demonstrative *zō* is hardly ever found in the Bible, while *zōl* hardly ever appears in rabbinic literature. For further details, see Bar-Asher, “Historical Unity,” 90–1, with nn. 67–8.

<sup>22</sup> The Arabic cognate, as is well known, is *bādā*, which is, however, used for the masculine only.

<sup>23</sup> Evidently one could hardly maintain that *all* the linguistic forms which appear in a more ancient state in MH than in BH go back to dialect variants. This caveat applies particularly to matters of vocabulary. For example, חֶתֶךְ (“cut, slice”) is confined in the Bible to the figurative sense “decide,” “decree,” as in חָתַךְ עַל עַמְךָ שְׁבַעִים שָׁבָעִים נְחָתֶךָ (Dan. 9.24, “Seventy weeks are decreed upon thy people”). Yet the concrete sense, which must have been primary, first appears in MH. One occurrence is . . . חָתַךְ אֶת הָרֵאשׁ . . . חָתַךְ אֶת הָרֵגְלִים (M. *Tam.* 4.2, “he cut off the head . . . he cut off the shanks . . . he cut off the forelegs”). Another occurrence is at M. *Betzā* 4.4: וַאֲיֵן חוֹתְבֵין אֶת . . . חָתַךְ אֶת הָרֵגְלִים (M. *Tam.* 4.2, “he cut off the head . . . he cut off the shanks . . . he cut off the forelegs”). Another word whose primary sense appears in MH rather than BH is זֶרֶת. In BH it indicates a unit of measurement: זֶרֶת אַרְבֵּי זֶרֶת רַחְבּוֹ (Exod. 28.16; 39.9: “its length was one span, its breadth was one span”). In MH, by contrast, זֶרֶת indicates the little finger (perhaps from זָעֵרָה), as at BT *Men.* 11a, which gives the different terms for the five fingers: זֶרֶת זֶרֶת, זֶרֶת זֶרֶת, זֶרֶת זֶרֶת, זֶרֶת זֶרֶת, זֶרֶת זֶרֶת. In these two cases (cited by Lifschitz, “Haddiqduq,” 40 n. 27), the concrete sense first appears in MH, while BH has the figurative sense alone. From the semantic viewpoint,

How can one explain the fact that MH sometimes presents a more ancient form than BH for the same word? It is not enough simply to posit two successive states of the language. We have rather to think of two simultaneous but distinct states, reflecting two different dialects. In other words, MH is the continuation not of BH itself but of a related dialect. There is no other way to explain how the later form of Hebrew (i.e. MH), which one would have expected to show in every area a general development from the earlier form (i.e. BH), in fact exhibits at certain points a more archaic state.<sup>24</sup>

#### D DIFFERENCES OF TRADITION

Quite apart from this question of historical and dialectal differences, there is one further point in which MH diverges from BH. This further difference is in the traditions by which BH and MH have come down to us. Let us recall that in Hebrew, as in other Semitic languages, not all the elements of the word are transcribed. Thus the grapheme דבר (= *d.b.r.*) may be read *dābār* (“word, thing”), *deber* (“pestilence”), *dibbēr* (“he spoke”), *dabbēr* (“speak!”), *dubbar* (“it was spoken of”), etc. In itself, a certain written word, or grapheme, may be interpreted in various ways. Only a wholly vocalized text can give a complete image of the word. Without full vocalization, even the full context of a written word may leave us in doubt as to the precise form. An example is the vocalization of חרש *ḥrš* at Genesis 4.22, in the phrase (*lōṭēš kol ḥrš (n<sup>o</sup>ḥōšēṭ ū-barzel*). The Tiberian Massora has חרש *ḥōrēš*, while the Babylonian has חרש *ḥārāš*. This is one of the cases where we have two divergent traditions, giving equally credible readings – even though in purely historical terms one form alone could have been intended by the author.<sup>25</sup>

The fact that the script does not record every element in pronunciation has important implications in many areas of the history of Hebrew, not

MH evidently reflects the older state. One may suppose, however, that the mishnaic usage already existed in the biblical period but happens not to be attested in the Bible.

<sup>24</sup> Compare further Kutscher, “Present State,” 30 n. 5, and Bar-Asher, “Historical Unity,” 89–93.

<sup>25</sup> See I. Yeivin, *The Hebrew Language Tradition as Reflected in the Babylonian Vocalization* (Jerusalem, 1985) (Hebrew), 1163. Yeivin lists at length many differences between the Tiberian and Babylonian traditions of the biblical text. Most of these differences concern the vocalization, though many concern the consonantal text itself. Examples are the Tiberian שָׁבַר (*šābar*) against Babylonian שִׁבְבַר (*šibbēr*) at 1 Kgs. 13.28, or Tiberian לִיקָּוּ (*liqāqū*) against Babylonian לִיקְקִי (*liqqū*) at 1 Kgs. 21.19. Further discussion of the differences between the two traditions in individual passages would lie beyond the scope of this chapter.

least as regards the differences between BH and MH. For example, the name ללל occurs both in the Bible (Judg. 12.13, 15) and in the Mishnah (e.g. M. *Shev.* 10.3). Today the name is read in both cases ללל (billēl); however, certain manuscripts of the Mishnah give ללל (bellēl). Some researchers have tried to explain this divergence in diachronic terms: in an unstressed closed syllable, the vowel *i* changed in MH to *e*: billēl > bellēl.<sup>26</sup> However, a very different explanation is possible. The difference between billēl and bellēl is not only diachronic, but reflects a difference in the traditions of the reading of this name. One tradition, attached to a certain place (a dialect or school), read billēl; the other, reflecting a different school or dialect, read bellēl; but those who pronounce billēl do so consistently both in the Bible<sup>27</sup> and in the Mishnah, and those who pronounce bellēl are equally consistent. Now we have solid evidence for either readings both in the Bible and in the mishnaic language.<sup>28</sup> We have no compelling argument to show which is the older of the two forms. The form for which we have the oldest attestation is in fact bellēl. The Septuagint gives, in its text of Judges, the reading Ελληλ,<sup>29</sup> identical with bellēl. However, we cannot conclude that the form billēl is the younger, on the ground that the sources attesting it are later than the Septuagint.<sup>30</sup> We can only accept that we have

<sup>26</sup> This is the thesis that E. Y. Kutscher, *Hebrew and Aramaic Studies* (Jerusalem, 1977), Hebrew section, 135–66, sets out to prove.

<sup>27</sup> The reading ללל (billēl) is attested by the Tiberian vocalization (as shown in the example from Judges cited above) and also by the Babylonian vocalization (see Yeivin 1985, 963). The reading ללל (bellēl) is attested by the Septuagint, which reads Ελληλ.

<sup>28</sup> As to MH, we find ללל in Italian manuscripts such as K, as noted in Kutscher, *Hebrew and Aramaic Studies*, Hebrew section, 84–5, 150. The same form appears in ms. Parma-A (cf. G. Haneman, *A Morphology of Mishnaic Hebrew, according to Parma Manuscript* (De Rossi 138), (Tel-Aviv, 1980), 2) and of the Paris manuscript, as well as other works of Italian origin (see M. Bar-Asher, *The Tradition of Mishnaic Hebrew in the Communities of Italy* (Jerusalem, 1980), 11, 64, 92). On the other hand, we find ללל in ms. Parma-B (see M. Bar-Asher, “An Introduction to Mishna Parma-B-Codex De Rossi 497” (Jerusalem, 1971), 171, 183) and in the Babylonian vocalization of the Mishnah (cf. Yeivin 1985, 963). One should perhaps emphasize that we have no case of a manuscript of the Bible and a manuscript of the Mishnah both copied and vocalized by a single scribe.

<sup>29</sup> See n. 27 above.

<sup>30</sup> The evidence for vowels in the text of the Septuagint pre-dates all the vocalization systems applied to the Hebrew text of the Bible and the Mishnah. However, the vowels shown by those systems reproduce a linguistic situation far earlier than the date of the invention of those systems. Thus the Masoretic system of vocalizing the Bible is no earlier than the seventh century CE, and the corresponding system for the Mishnah is later still. The vowels that those systems present, however, reproduce the linguistic situation many centuries earlier (cf. Yalon 1967, 16ff., Kutscher, “Present State,” 52–53; idem, *Hebrew and Aramaic Studies*, Hebrew section, 73ff).

here two traditions with different readings for the same word. This example is far less common.<sup>31</sup>

E LITERARY INFLUENCE OF BIBLICAL HEBREW UPON  
MISHNAIC HEBREW

The points raised above show how complex and delicate is the distinction between BH and MH. We now turn to another aspect of the problem, namely that MH is not only later than BH but inferior in prestige. The biblical text enjoyed such authority that its influence could not be escaped. That influence is apparent both in the redaction of rabbinic literature and in its transmission, through the Middle Ages down to the present. Let us consider two examples.

To signify “further” or (of time) “onward,” BH uses הלאה, while MH uses להלן or אילך (ו) (מכאן ו). However, there is one mishnaic passage where the word הלאה occurs twice: נדרים . . . כשרין מיום שלושים והלאה . . . ועולותיהן . . . נדרבות הבכור והמעשר והפסח כשרים מיום השמיני והלאה (M. *Parab.* 1.4), “The sin-offerings and burnt-offerings of the community . . . are valid from the thirtieth day onward . . . Vows and freewill offerings, the first-born, the tithe and the Passover sacrifice . . . are valid from the eighth day onward.”

Normal usage would have been מיום שלושים ולהלן (or מיום שלושים ואילך), but instead the word והלאה is used. Evidently whoever formulated this Mishnah recalled the underlying biblical verse: מיום השמיני והלאה ירצה לקרבן אשה לה (Lev. 22.27), “from the eighth day onward, it shall be accepted as a fire-offering to the Lord.” This borrowing is due to the literary influence of the biblical text on the language of the Mishnah. It seems authentic and in all probability goes back to the very author of the Mishnah in tractate *Parab.*

On the other hand, there are changes which must doubtless be attributed to later scribes who substituted biblical forms for the original forms of mishnaic language. For example, the nominative first person plural pronoun at the time of the Mishnah was *'ānū*, as in הררי אנו מטמאין את כולכם (M. *Ter.* 8.12), “we declare you all unclean.” However, in two places the biblical form *<sup>a</sup>nahñū* has crept into the printed editions of the Mishnah. These places are: (1) לפיכך אנהנו חייבים להודות וכו' (M. *Pes.* 10.4), “therefore we are in duty bound to praise”; (2) אנהנו מועלין על נכסי אבינו (M. *Ket.* 10.2), “we add to the value of our father’s property.” The biblical form is the reading given by the Livorno edition and by M. J. Kosovsky’s concordance to the Mishnah. However, all the major manuscripts (K, Parma-A, Cambridge, Paris), as well as the *editio princeps* (Naples 1492) show, in

<sup>31</sup> See further n. 124 below.

both passages, the form *'ānū*. It was evidently the later copyists who replaced the mishnaic form *'ānū* by the biblical *'anahū*. Such modifications, due to the literary influence of the biblical text on the rabbinic writings as transmitted by copyists, are certainly common,<sup>32</sup> though far less so than was thought in the past.<sup>33</sup>

#### IV UNITY AND DIVERSITY IN MISHNAIC HEBREW

##### A THE PRECONCEPTION OF UNIFORMITY EXAMINED

For a long time there has been a widespread tendency to view MH as utterly homogeneous. The grammar by M. H. Segal (*Diqduq Lešon Hammišna*) is a prime representative of this conception; its many chapters offer examples culled indifferently from the language of the Tannaim and of the Palestinian and Babylonian Amoraim. Thus, when Segal discusses denominative verbs, he cites examples from the Mishnah: מְתַרְעֵין (M. *Taan.* 2.1), “one plays the trumpet,” from תְּרֹעָה, “trumpet blast,” etc.; and from the Babylonian Talmud: הַנִּיב (BT *Er.* 53a), “turn to the south,” from נֹב, “south,” יִדְרִים, “turn to the south,” from דְּרוֹם, “south,” and יִצְפִּין, “turn to the north,” from צָפוֹן, “north” (*Bava B.* 25b). Similarly, in his chapter on פִּי verbs (i.e. verbs whose initial consonant is *yod*), he gives לִישָׁן (“to sleep”), which is mishnaic (*Bava B.* 2.3), לִיַּע (“to touch”), which comes from the Jerusalem Talmud (*Berachoth* 9.5), and לִיַּק (“to suck, to nuzzle”), which is to be found in the Babylonian Talmud (*Pes.* 112a).

H. Yalon likewise studied together different periods and different literary units. For example, in chapter 27 (Yalon 1964, 171–5) he speaks of “the present participle of the simple form of the פִּי verbs and of geminate verbs with vowel *ō*.” Yalon takes his examples from tannaitic literature

<sup>32</sup> The example of מְשַׁקֵּף, discussed above (n. 6), is relevant here too, since it well illustrates the literary dependence of the Mishnah upon the Bible. That dependence affected both the author of the mishnaic passage, at the point of redaction, and the copyists in the Middle Ages. In this particular case, the use of the term מְשַׁקֵּף in the tractate *Pesahim* is authentic, inasmuch as the author of this Mishnah had the text of Exodus in mind (12.7, 22, 23). Thus Exod. 12.23, וְרָאָה אֶת הָרֶם עַל הַמִּשְׁקָף וְעַל שְׁתֵּי הַמְּזוּזוֹת, has influenced the author of the phrase וְשָׁעֵן הַזֶּה בְּאֵמֶת אוֹיֵב עַל הַמִּשְׁקָף וְעַל שְׁתֵּי הַמְּזוּזוֹת in *Pesahim* 9.5. By contrast, the introduction of the word מְשַׁקֵּף in place of שַׁקֵּף in tractate *Oholot* (in six places) is probably due to the secondary change by copyists. The older manuscripts prefer שַׁקֵּף (and some have this term exclusively), but the printed editions replaced it on at least six occasions by מְשַׁקֵּף, under the influence of the biblical text (see further n. 6 above).

<sup>33</sup> Kutscher, *Hebrew and Aramaic Studies*, Hebrew section, 73ff., and also “Present State,” 39–40, argues that cases where texts in MH have been conformed to BH are very numerous. Against this see the detailed analysis in 27–32.





A third and final example is provided by the expression כל שהוא (literally “whatever it be”). In the language of the Tannaim this is used to mean “a little,” as in הַגַּב חַי כֵּל שֶׁהוּא (M. *Shabb.* 9.7): “a grasshopper that is half alive.” The usage of the Amoraim of Palestine seems identical, as in PT *Ber.* 3.6d: נתן בתוכו מים כל שהוא “he put into it a little water.” However, the Babylonian Amoraim express that sense instead through the word משהו (literally “something”), as in BT *Pes.* 12a: שתי שעות חסר משהו, “a little less than two hours.”<sup>36</sup>

#### C MISHNAIC HEBREW AND ITS VARIOUS DIALECTS

In the tannaitic period, when MH was a living language spoken in several regions, it was clearly not uniform. It is only natural that different areas should exhibit differences of language. Even though the texts in general show a reasonably homogeneous written language, evidence for the existence of different dialects can still be traced, both in literary sources themselves and in certain external documents.

For example, the word *šel*, indicating possession (equivalent to English *of*), may be used in two different ways, both attested in various texts. In the letters of Bar Koseba, the word *šel* is written as a separate word from the noun that it governs, as in שהיו של הגויאין (Letter 2),<sup>37</sup> “that belonged to the Gentiles.” In the manuscripts of the Mishnah, however, it is always prefixed to the following word: if the letter contains the definite article ה, syncope of the ה takes place, so that we find systematically שלגוים instead of של הגוים. See for example M. *Kelim* 8.7: שלכירה ... שלתנור “of the oven ... of the double stove.”<sup>38</sup>

Another example involves the root *’l.m.n* in the *niṭpa‘al* conjugation, meaning “be widowed” in MH. In the best manuscripts of the Mishnah we find *niṭ’alm’nā(h)* in the third person singular and *niṭ’alm’nū* in the plural (M. *Yeb.* 2.10; M. *Ned.* 11.10; M. *Mak.* 1.1 and eight further references<sup>39</sup>). In the editions of the Mishnah and Babylonian Talmud (and other texts), however, we find the reading *niṭ’arm’lā(h)* (M. *Yeb.* 6.3; 13.4 [twice], M. *Ket.* 2.1; 4.2 [twice]; 5.1; M. *Ned.* 11.9), coming from another root, namely *’r.m.l*. Some consider the latter a Babylonian form, since it is frequent in the editions of the Babylonian Talmud and in manuscripts of

<sup>36</sup> See Y. Breuer, “On the Hebrew Dialect of the Amoraim in the Babylonian Talmud,” *Mehqarim ba-Lashon* 2–3 (1987), 139–40. This essay is devoted to the description and study of the linguistic features that characterize the Hebrew of the Babylonian Amoraim.

<sup>37</sup> See Kutscher, *Hebrew and Aramaic Studies*, Hebrew section, 57.

<sup>38</sup> See *ibid.*, and also Yalon 1964, 26–7 (§18), 189–93.

<sup>39</sup> See Bar-Asher, *Tradition*, 33.

halachic midrashim.<sup>40</sup> However, it is also attested in a Palestinian Hebrew dialect. At Qumran, in a passage of the Damascus Scroll, we find the very similar form *hiṭ'arm<sup>l</sup>ā(b)*, which is *hiṭpa'al* of the root 'r.m.l.<sup>41</sup>

Our third and last example involves the word *ma'yān*, "spring," which is very frequent in MH (e.g. at *M. Bik.* 1.6). In *Sifrei Numbers* (22), however, in the story of the shepherd from the south who came to Simon the Just, we find a different pronunciation of this word. Manuscript Rome 32 reads: והלכתי למלאות מים מן הנעים ("I went to draw water from the spring"). The form here is *na'yām*, with metathesis of the consonants *m* and *n*.<sup>42</sup>

These three examples show clearly that various dialects were current in the different regions of Palestine. The literary language of the Mishnah (which belongs to a specific place or region within Palestine) may be contrasted with the language of neighboring places: the letters of Bar Koseba in the south (של הנואין as against שלגים), Qumran in the region of the Dead Sea (נתארמלה = [נתארמלה] as against נתארמנה), and the shepherd from the south (מעין נעים as against מעין).

In relation to this question of dialectal variants, there is a particular aspect of rabbinic literature which has to be considered. J. N. Epstein pointed out that some of the controversies in the Mishnah and Tosefta are merely apparent. There are discussions in which the Rabbis agree on the substance but disagree on the wording, each following the linguistic usage of his own region or school.<sup>43</sup> Thus we read in one Mishnah (*M. Kel.* 8.9): בור שיש בו שפיתה טמא. ושל עושי זכוכית . . . טמא. כבשן של סידין ושל זנגין ושל יוצרים טהורה, "A pit in which a fire can be lit is susceptible to uncleanness, as is also the pit of a maker of glass . . . The furnace of lime burners or of glassmakers or potters, is not susceptible to uncleanness."

In the first sentence, the artisans who work the glass are called עושי זכוכית (literally, "the makers of glass"); in the second, they are called by the single word זנגין. Similarly, the artisans called חישיין, "tailors" (*M. Shabb.* 1.3; *M. Pes.* 4.6; etc.) are also called תופרי כסות, "those who sew garments" (*M. Kil.* 9.6).

Another example may be found at *Parab* 2.5: היו בה שתי שערות שחורות או לבנות בתוך גומא אחת פסולה. רבי יהודה אומר בתוך כוס אחד. "If one found on [the red cow] two black or white hairs within one single hole it is invalid. Rabbi Judah says: inside one single hollow." The Jerusalem Talmud explains (*PT Av. Zar.* 2.42a): הן כוסות הן גומות: "holes and hollows are the same." The discussion between the first teacher and Rabbi Judah thus rests on a

<sup>40</sup> See M. Moreshet, *A Lexicon of the New Verbs in Tannaitic Hebrew* (Ramat-Gan, 1980), 105.

<sup>41</sup> See M. Bar-Asher, "Linguistic Studies in the Manuscripts of the Mishna," *Proceedings of the National Israeli Academy of Sciences*, 7 (Jerusalem, 1986), 185–6.

<sup>42</sup> See J. N. Epstein, "Peruše Ha-Rivan u-Peruše Wermayza," *Tarbiz* 4 (1933), 192.

<sup>43</sup> For further details see Epstein, *Prolegomena*, 234–40.

simple problem of language. However, we cannot always trace the provenance of a particular dialect form.

#### D LINGUISTIC DIFFERENCES WITHIN THE MISHNAH

Even in a closed Tannaitic corpus like the Mishnah, the language is not absolutely uniform. Of course, the six orders of the Mishnah exhibit general homogeneity of language, but some units are marked by particular features. These units, as a rule, depart from the norms of MH in the direction of BH. Some of these peculiarities are discussed below.

(1) The most ancient passages, dating from around 70 CE (and therefore contemporary with the destruction of the Second Temple), exhibit grammatical or lexical usages proper to BH. An example is the verb for “begin.” The usual word in the Mishnah is the secondary form *hiḥp̄l*, as at *Peab* 7.2: התחיל בו, “he began it.” However, tractate *Tamid* uses the biblical form *hēḥēl*: החלו מעלין, “they began bringing up” (M. *Tam.* 2.2, 3), החלו עולין, “they began going up.”<sup>44</sup>

Another example is the verb for “take.” In BH, this is the primary sense of the root l.q.ḥ. In MH, however, the meaning of this root has usually shifted to “buy.” Contrast, for example, לקח את ספר התורה הזה (Deut. 31.26),<sup>45</sup> “take this book of the Torah,” with לקח מן הנחתום ככר בפונדיון (M. *Shev.* 8.4): “he bought from the baker a loaf for a pondiyon.” To signify “take,” MH uses the root n.ṭ.l., as in נשל מומנה מקל או שרביש (M. *Av. Zar.* 3.10): “he took from it a branch or a twig.” However, we find the biblical usage in an ancient mishnah, from the period of the Second Temple, dealing with the sanctification of the new moon: ואם צודה להן לוקחין ואם היתה הדרך רחוקה לוקחין בידן מזונות . . . and if any lie in wait for them, they take staves in their hands . . . and if the journey be long they take food in their hands.” In this passage, it is the verb *lōq̄ḥ̄n* (and not *nōṭ̄l̄n*)<sup>46</sup> which is used twice in the sense “take.”

(2) In general, it is in the realm of the cultus that the language is most conservative and closest to BH. Examples are the phrases והשתחוה ויצא, “he bowed down and went out” (M. *Bikk.* 3.6), or התנדב, “he made a freewill offering” (M. *Men.* 12.6). These two passages deal with matters linked to the sanctuary, and most of our sources show *hīṭpa* “al forms (with initial

<sup>44</sup> See *ibid.*, 27, and Bar-Asher, “Historical Unity,” 94–8.

<sup>45</sup> One passage where BH perhaps comes within sight of the sense usual in MH is Gen. 19.14, לקחי בנותיו (“those who took his daughters”). Here the probable reference is to Lot’s future sons-in-law, who were due to “take,” i.e. “acquire,” his daughters.

<sup>46</sup> See E. Y. Kutscher, *Words and Their History* (Jerusalem, 1961), 55 and Bar-Asher, “Historical Unity,” 96–7 (§27).

be: *hištaḥ<sup>a</sup>wa*, *bitnaddab*). These are the biblical forms, rather than the expected mishnaic forms (*nitpa<sup>a</sup>al*, with initial *nun*), such as appear in *Hullin* 10.4 (*nitgayyar*, “convert to Judaism”), *Halla* 4:3 (*nithayyab*, “be liable”), *Eruvin* 7.5 (*nitma<sup>a</sup>at*, “be reduced”).<sup>47</sup>

(3) The mishnaic texts which imitate the style of biblical poetry likewise show particular affinity with BH. The best examples can be found among the exhortations of the tractate *Avot*, e.g. the use of the jussive form in *אל תעש עצמך* (M. *Avot*. 1.8), “do not make yourself,” *אל האמן בעצמך* (2.4), “do not believe in yourself until the day of your death.” The forms *'al ta<sup>a</sup>as* and *'al ta<sup>a</sup>mēn* are used instead of *'al ta<sup>a</sup>ase* and *'al ta<sup>a</sup>mīn*, which would have been the regular future forms in MH. Compare further *יהי כבוד חברך חביב עליך כשלך* (M. *Avot* 2.10):<sup>48</sup> “Let the honor of your friend be as dear to you as your own,” with the form *y<sup>e</sup>hī* (יהי) and not *yihye* (יהיה), or *y<sup>e</sup>hē* (יהא) (the usual form in MH).

#### E EDITIONS AND MANUSCRIPTS

The works of the Tannaim were edited more than 1,700 years ago, and those of the Amoraim more than 1,400 years ago. We possess no manuscripts going back to those periods. Most of the extant manuscripts are no more than a thousand years old; very few rabbinic texts survive that were copied before the year 1000.<sup>49</sup> Of these manuscripts, few are complete. Nevertheless, several of these manuscripts have been the subject of research to assess their fidelity to the original language. Most were copied between 1100 and 1400 or thereabouts. The printed editions follow, from the end of the fifteenth century onward. The first edition of the Mishnah dates from 1492.<sup>50</sup>

Even after the final redaction, the Mishnah (and other tannaitic texts) continued to be transmitted orally. Most scholars are agreed that few people possessed written copies. Many centuries were to pass before the Mishnah came to be copied in a large number of exemplars, probably around 700.

<sup>47</sup> Compare the excellent analysis by Haneman, *Morphology*, 208–11.

<sup>48</sup> See *ibid.*, 31–3, and S. Sharvit, *Textual Variants and Language of the Treatise Avot* (unpublished PhD thesis, Bar-Ilan University, Ramat-Gan, 1976), 12–14.

<sup>49</sup> See D. Rosenthal, *Mishna Aboda Zara: A Critical Edition with Introduction* (Jerusalem, 1980), 96ff., and Kutscher, “Present State,” 52 (§53).

<sup>50</sup> See Kutscher, *Hebrew and Aramaic Studies*, Hebrew section, 73–107, an outstanding study on the special value of ms. K. See also Haneman, *Morphology*, on ms. Parma-A, as well as Bar-Asher’s evaluations of the importance of ms. Parma-B (1971) and the Paris manuscript (1980). Compare further Bar-Asher’s study (“Different Traditions”) of various manuscripts, especially 5–6.

In these circumstances, it was almost inevitable that modifications would be introduced into the text transmitted. This is the reason that even the oldest manuscripts already reflect certain departures from the original language. Research has shown that, overall, most of the manuscripts from before 1250 (and even, to a great extent, those from before 1400) have faithfully preserved the original language. Divergence from that standard is to be found, however, in manuscripts copied from 1400 onwards and even more so in printed editions.<sup>51</sup> The reasons for this situation are beyond the scope of this work. It is sufficient to note that many differences can be found between the manuscripts and the printed editions of the Mishnah.

Some examples will illustrate the phenomenon. The words *qardōm*, “axe,” and *qarsōl*, “peg,” appear in those forms in the printed editions, while the manuscripts have *qordōm* / *qurdōm* and *qorsel* / *qursel*: קורדום (M. *Kel.* 29.3 in ms. K), קורסל (M. *Ob.* 1.9 in manuscripts Parma-B and K). The reason that such forms were eliminated from the printed editions may be their incompatibility with BH.<sup>52</sup> Another example involves the *niṭpa*“al conjugation. This could be used transitively when MH was a living language, as the manuscripts well attest, e.g. גול ועריות שנפשו של אדם מתאוה ומהחמדתן, “robbery and incest, which a man’s soul longs for and desires” (M. *Makk.* 3.15, ms. K). The verbal form is here accompanied by an accusative pronominal suffix: ומהחמדתן is equivalent to ומהחמדת אותן, “she desires them” (*niṭḥammedet* + pronominal suffix). In the editions,<sup>53</sup> however, this form is replaced by the corresponding intensive (*pi*“el) form: ומהחמדתן (*niḥammedet* + pronominal suffix), which would be usual for the active sense.<sup>54</sup> Examples of this sort could easily be multiplied.

<sup>51</sup> See Kutscher, *Hebrew and Aramaic Studies*, Hebrew section, 73ff.; Bar-Asher, *Tradition of Mishnaic Hebrew*, especially 34, 53–8; idem, “On Vocalization Errors in Codex Kaufman of the Mishnah,” in idem (ed.), *Massorot*, 1 (Jerusalem, 1984), 1–17; idem, “Historical Unity,” 27ff.

<sup>52</sup> See Bar-Asher, “Introduction,” 171 and 176, and references cited there. One possible explanation is that the process (which here led to the replacement, in certain editions, of *qursel* by *qarsol* and of *qordōm* by *qardōm*) is due to the influence of the biblical vocalization. However, one could equally well suppose that there were traditions of MH in which these (and other) words had been read from the very first in the same forms as are attested in the biblical vocalization. See above, and especially n. 124 below.

<sup>53</sup> Even some good manuscripts have lost the reading ומהחמדתן; for example, Parma-A gives ומהחמדתן.

<sup>54</sup> Occasionally, even the printed editions preserve the special usage of the *niṭpa*“al with a direct object. In particular, the verb *niṭqabbal* provides a number of examples, such as נתקבלה כתובתה . . . אלמנה (M. *Ket.* 11.4, “a widow . . . has received her *ketuba*”), or מןך מנה התקבלת (M. *Ket.* 5.1, “I have received from thee one mina”).



Babylonian branch not only are phonetic and morphological but also concern matters of syntax.

#### G SPECIAL TRADITIONS

There are a number of linguistic forms attested in one manuscript alone. Linguistic analysis of these features shows that there is no reason to suspect the authenticity of these uniquely attested forms. Of course, we cannot determine at what date these forms entered the language. Hence, when confronted with such a form, we can hardly determine whether it reflects actual spoken Hebrew or whether it results from a transformation that occurred in the course of textual transmission during the Middle Ages. Given the complexity of this question, the most prudent course is simply to note carefully the linguistic facts offered by the manuscripts concerned, until new tools and data are available to help us control the transmission process. Here are three examples of peculiarities of this sort:

1. The word צפון (*ṣāḥōn*, “north”) appears in that form in all manuscripts, except for one passage in codex Parma-A, where we instead find *ṣippūn*, לְצַפּוּנָה (M. *Rosh H.* 2.6: “northwards”). This is identical with the Aramaic form, and also occurs in the Hebrew of the Samaritan Pentateuch (cf. Gen. 13.14: *ṣibbūnā*).<sup>61</sup>
2. The totality of manuscripts and oral traditions give the plural of אֶבֶר (*‘ēber*, “limb”) as אֶבְרִים (*‘ēbārīm*), nearly always written *plene* (אֵבְרִים); see for example *Shek.* 7.3. However, ms. Parma-B stands apart in reading consistently אֶבְרִים (*‘bārīm*), e.g. at *Kel.* 18.9. We may note in passing that H. Yalon (1964, 30) considered that this form reflected a biblical vocalization, but this is hardly justified, as the plural of אֶבֶר never occurs in the Bible.
3. The word עֵגְלָה (*‘ēglā*, “heifer”) is extremely common in MH. When the Mishnah has the phrase עֵגְלָה עֲרוּפָה (“the heifer whose neck was broken,” cf. Deut. 21.6), ms. K vocalizes עֵגְלָה (*‘ēglā*), e.g. at *Sot.* 7.2, 9.1, etc. However, when the definite article is prefixed, this manuscript stands alone in reading הָעֵגְלָה (*hā-‘ēglā*), as at *Sot.* 9.7; *Sanh.* I 3; *Hull.* 1.6, etc.),<sup>62</sup> although there is no obvious reason for such a distinction between the definite and indefinite forms. The remaining manuscripts all agree in הָעֵגְלָה / הָעֵגְלָה (*‘ēglā* / *hā-‘ēglā*).

#### H WRITTEN AND ORAL TRADITIONS

Those manuscripts which reflect ancient traditions faithful to the original language were written before 1400, and in the main before 1250. Despite the many centuries that have elapsed, they stand far closer than any of the

<sup>61</sup> See Kutscher, “Present State,” 69.

<sup>62</sup> This point is also discussed in Bar-Asher, *Tradition of Mishnaic Hebrew*, 55 n. 262.

printed editions to the spoken language. Quite apart from the manuscripts, however, the research of the last fifty years has demonstrated the need to consider also the oral traditions preserved by the scholars (old sages) of different countries. H. Yalon was the first to draw attention to the reading traditions of ancient Jewish texts, transmitted orally from master to pupil over the generations.<sup>63</sup> Following Yalon's lead, specialists in MH began to examine closely the manner in which the Mishnah is read, within the various Jewish communities, by the oldest sages, steeped in the tradition. It was found that these sages, while perfectly well acquainted with the proper reading of the Bible, preserved in their reading of the Mishnah a number of linguistic forms which differed from those of the Bible. The oral traditions recorded in our day, while they attest primarily the situation of the most recent centuries, can be shown on careful scrutiny to have preserved forms that agree perfectly with those transmitted by manuscripts a thousand years old. Such research has so far concentrated on the traditions of the Yemenite Jews and of other oriental Jewish communities, such as those of Iraq, Syria, and North Africa.<sup>64</sup> There is also a growing interest in the Ashkenazi traditions of the Jews in Europe.<sup>65</sup>

A few examples must suffice here. The Yemenites, like the Sepharadim, read the form  $\text{נִתְּפַל}$  with *patah* in the last syllable, i.e. as *nitpa'al*, not *nitpa'el* (with *šere*).<sup>66</sup> Again, the Yemenites, Sepharadim, and Ashkenazim read the pronominal suffix of the second person masculine singular as  $\text{אַך}$  (*āx*), not  $\text{אַי}$  (*xā*); thus *bētāx*, "thy house," *sifrāx*, "thy book," and so on.<sup>67</sup> Another phenomenon, preserved by both the Yemenite and Sepharadi traditions, is to double the *reš* no differently from other consonants, as in  $\text{עִרְרֵב}$  ('*irreḇ*, "he mixed"),  $\text{אַרְרֵס}$  ('*irreš*, "betroth"),  $\text{לְעִרְרֹת}$  (*le-'arrōt*, "to pour").<sup>68</sup> A recent study

<sup>63</sup> See e.g. H. Yalon, *Introduction to the Vocalization of the Mishnah* (Jerusalem, 1964) (Hebrew), 11–23, and Bar-Asher, *L'Hébreu mishnique*, 254.

<sup>64</sup> Cf. S. Morag, *The Hebrew Language Tradition of the Yemenite Jews* (Jerusalem, 1963); and Y. Shvitiël, "Massorot Hattemanim be-Diqduq Lešon Hakhamim, etc.," *Qovetz Ma'amarim bi-Lšon Ašzal* 1 (Jerusalem, 1972), 207–51 (both dealing with the Yemenite tradition); M. Morag, *The Hebrew Language Tradition of the Baghdadi Community: The Phonology*, 1 (Jerusalem, 1977) (on the traditions of the Jews of Baghdad); K. Katz, *The Hebrew Language Tradition of the Community of Djerba (Tunisia): The Phonology and the Morphology of the Verb* (Jerusalem, 1977) (on the tradition of the Jews of Djerba in Tunisia); and A. Maman, "The Reading Tradition of the Jews of Tetouan: Phonology of Biblical and Mishnaic Hebrew," *Massorot* 1 (1984), 51–120 (on the tradition of the Jews in Tétouan in Morocco).

<sup>65</sup> See Mishor, "Ashkenazi Traditions," on the traditions of the Ashkenazi Jews.

<sup>66</sup> Cf. Yalon 1964, 15–18.

<sup>67</sup> See Yalon 1964, 13–15, and Kutscher, *Hebrew and Aramaic Studies*, Hebrew section, 91–2.

<sup>68</sup> See e.g. Shvitiël, "Massorot Hattemanim," 211; Katz, *Hebrew Language*, 217.



has shown that the same phenomenon is also attested in Ashkenazi tradition. The pronunciations \**me'urabin* (with *u* after the 'ayin) and *miṣṭarḫin* (with *a* after the *ṭet*), have been rightly interpreted as evidence of the ancient pronunciations *m'urrahin*, *miṣṭarrḫin*.<sup>69</sup>

## V MISHNAIC HEBREW AND OTHER LANGUAGES

### A THE SITUATION OF MULTILINGUALISM

Throughout the Second Temple period and for centuries later, indeed for more than 700 years altogether, Hebrew was in direct contact with other languages. The biblical books of the Second Temple period reflect this multilingualism. In the first place we must consider contact with Aramaic, mainly Imperial Aramaic, which leaves traces in the books of Ezra-Nehemiah, Daniel, Esther, and elsewhere. The biblical text even includes continuous passages in Aramaic.<sup>70</sup> In addition, Persian and Greek also intrude to some extent into the later biblical books, and Akkadian, too, has exerted an influence, no doubt through Aramaic.<sup>71</sup>

Contact with Aramaic continued into the tannaitic period. This contact was however no longer with Imperial Aramaic but with a later form of Aramaic, with its own distinctive dialectal features. Here, too, Aramaic carried the influence of yet other languages, notably Persian and Akkadian. Furthermore, the language of the Tannaim, and later that of the Amoraim, bears clear marks of growing contact with Greek and also of the encounter with Latin.<sup>72</sup> This question will now be treated in detail, with particular emphasis on the contact between MH and other languages.

### B MISHNAIC HEBREW AND ARAMAIC

Whether a situation of bilingualism applied here is much debated. Some consider that true bilingualism existed throughout Palestine, so that speakers could express themselves equally well in either Hebrew or Aramaic. Others, however, believe that in certain areas only one of these two

<sup>69</sup> See Mishor, "Ashkenazi Traditions," 102.

<sup>70</sup> These are *יֵר שְׁהִירוּתָא* (Gen. 31.47, "heap of testimony"), the verse in Aramaic in Jer. 10.11, and the Aramaic portions of Ezra and Daniel.

<sup>71</sup> See N. H. Tursinay (Torczyner), "Millim Se'ulot bi-Lšonenu," *Lešonenu* 8 (1937), 261–4.

<sup>72</sup> The basic materials will be found in the work of S. Krauss, *Griechische und latienische Lehnwörter im Talmud, Midrasch und Targum*, 1–11 (Berlin, 1898–9), though very many points of detail have been corrected by subsequent scholarship, notably in the works of J. N. Epstein (on the Mishnah and Talmudim) and of S. Liebermann (on the Tosefta and Palestinian Talmud).

languages was spoken, although it would have been exposed to influence from the other.<sup>73</sup>

Contact between Hebrew and Aramaic is well attested in the written language. The extent of the influence of Aramaic upon Hebrew is, however, the subject of intense debate. For example, some consider the usual form in MH of the second person masculine pronoun, namely אַתָּה ('at), to be a borrowing from Aramaic, the original Hebrew pronoun being, אַתָּה ('attā).<sup>74</sup> Others, however, regard 'at as an original Hebrew form.<sup>75</sup> The form 'at is certainly attested occasionally in the Bible, e.g. וְאַתָּה כַּכָּה עוֹשֶׂה לִּי הֲרֹגֵנִי נָא הֲרֹג (Num. 1.15), "If you will treat me thus, kill me rather, I pray." However, it does not become established in the written language until we reach MH.

Let us pass to another example. The best mishnaic manuscripts attest a particular verbal form, the *pē'el* (*pā'el*), characterized by long *ā* after the first radical and the absence of doubling of the second, as in מְאַבְּקִימ *m'ē'ābb'qīm* (ms. K, M. *Shev.* 2.7:<sup>76</sup> "they cover with dust"). One scholar tried to find here a conjunction borrowed from Aramaic and parallel to Arabic *fā'ala* (with long *ā*).<sup>77</sup> Another opinion, however, regards this form as a development within Hebrew: on this view, the form derives from the Hebrew *pi'el* conjugation, but with the expected doubling of the second radical replaced by lengthening of the preceding vowel.<sup>78</sup> On this view, *m'ē'ābb'qīm* is a variant of *m'ē'abb'qīm*.<sup>79</sup>

However, even those who posit the least Aramaic influence agree that MH adopted certain grammatical, lexical, and semantic elements peculiar to Aramaic. An example is the *nittap'al* conjugation, used for פִּי"ו verbs (i.e. verbs whose first radical is *yod*), e.g. *nittōsap* (נִתְּוֹסְפִי, *nittōs'pū*, M. *Er.* 7.7: "they were increased"), *nittōqad* (נִתְּוֹקְדִי, *nittōqedet*, *Lev. R.* 7.8: "[the fire] is consumed"). This conjugation is generally interpreted as a late

<sup>73</sup> The theory was once proposed that MH had never been a living language, but was an artificial creation, and that the Jews in the tannaitic period had spoken Aramaic exclusively. This view has now been universally abandoned. See Yalon 1964, pp. 204–8, and Kutscher, *Hebrew and Aramaic Studies*, Hebrew section, 68–9.

<sup>74</sup> See Kutscher, *Hebrew and Aramaic Studies*, Hebrew section, 86, and I. Gluska, *The Influences of Aramaic on Mishnaic Hebrew* (unpublished PhD thesis, Bar-Ilan University, Ramat-Gan, 1987), 186–7.

<sup>75</sup> See Bar-Asher, "Introduction," 172, and Haneman, *Morphology*, 460–5.

<sup>76</sup> See Bar-Asher, *Tradition of Mishnaic Hebrew*, 70 n. 361.

<sup>77</sup> See S. Morag, "Pāel and Nitpael in Lešon-Ḥakamim Traditions," *Tarbiz* 26 (1957), 349–56 (according to *Qovetz Ma'amarim bi-Lšon Hazal*, 1 [Jerusalem, 1972], 93–100), especially 96.

<sup>78</sup> See Z. Ben-Hayyim, *The Literary and Oral Tradition of Hebrew and Aramaic amongst the Samaritans*, v (Jerusalem, 1977), 82–3.

<sup>79</sup> See Bar-Asher, *Tradition of Mishnaic Hebrew*, 125f.

development, peculiar to Hebrew, of the Aramaic form *hittaḫ'al*, which is common in several Aramaic dialects.<sup>80</sup>

Various Aramaic terms and expressions likewise entered the Hebrew language. One example is *חצר הכבד* (M. *Tam.* 4.3). *חצר* (הכבד), which indicates the lobe (of the liver), is a loan from the Aramaic; thus *Onkelos* translates the Hebrew *חצרת על הכבד* (Exod. 29.13 etc.) by *חצרא דעל כבדא*.

Similarly the word *šibbūqīn*, found in the expression *אגרת שבוקין* (*Gitt.* 9.3: “bill of divorce”) is a Hebrew form, following the pure Hebrew pattern *pi'ul*,<sup>81</sup> but based on the Aramaic root *š.b.q.*, meaning “forsake”. As a final example, the expression *שכב מרע* (M. *Peab* 3.7; *Bava B.* 9.6), “one that lay sick,” is borrowed from Aramaic, in which language we find not only the adjectival *מרע* but also the verbal expression *ישכוב מרע*, with the verb in the imperfect.<sup>82</sup>

Aramaic influence is equally evident in calques, i.e. words that in themselves are Hebrew but derive a new usage or meaning from Aramaic. Such a calque may be either semantic or grammatical.

An example is the verb *'āḥaz*, which in Hebrew means “grasp, hold,” as in *שלה ירך ואחז בנבוכד* (Exod. 4.4: “put forth your hand and grasp its tail”). The Aramaic cognate *'āḥad* has also the sense “close.” The influence of the Aramaic verb causes the Hebrew likewise to bear the sense “close.” This already occurs in Nehemiah, a book of the Second Temple period: *גינפו הדלתות ואחזו* (Neh. 7.3, “let them close and bolt the doors”). The context leaves no doubt that closing, not grasping, is meant. The same meaning for Hebrew *'āḥaz* recurs in MH, in a midrashic explanation of the name of Ahaz, the wicked king of Judah: *למה נקרא שמו אחז. שאחז בתי מדרשות*: “Why was he called Ahaz? Because he closed (*'āḥaz*) the synagogues and houses of study” (*Lev. R.* 11.7). In this case, the Aramaic meaning has been transferred to the Hebrew cognate, whence a semantic calque.<sup>83</sup>

Let us now consider calques of a grammatical nature. The words *šāde*, “field,” and *kōs*, “cup,” occur both in the Bible and in the Mishnah, but change gender between the two. In the Bible, *kōs* is feminine, as in Lamentations 4.21, *תעבור כוס*, “the cup will pass.” In MH, however, it is masculine, e.g. *כוס ראשון* (M. *Pes.* 10.2, “the first cup”). This change of gender no doubt derives, as a calque, from Aramaic *kās*, which is masculine.<sup>84</sup>

<sup>80</sup> See Yalon 1964, 127–35.

<sup>81</sup> Many terms related to family life are formed in MH on the pattern of *pi'ul* in the plural (*pi'ulīm*). Examples are *qiddūšīm*, “betrothal,” *nissū'īm*, “marriage,” *gērūšīm* (<*girrūšīm*), “divorce,” and *šibbūqīm*, “release.”

<sup>82</sup> See Gluska, *Influences*, 1197f.

<sup>83</sup> See Kutscher, *Hebrew and Aramaic Studies*, Hebrew section, 389, 404; Gluska, *Influences*, 139f.

<sup>84</sup> See Kutscher, *Hebrew and Aramaic Studies*, 404; Gluska, *Influences*, 542–4.

Similarly, the word *sāde* is masculine in the Bible, as in ויקם השדה (Gen. 23.20, “the field was assured”), but almost everywhere feminine in MH, e.g. שדה שקצרה גוים (M. *Peab* 2.7, “a field harvested by Gentiles”). In this case likewise it seems that the Aramaic *ḥ<sup>a</sup>qal*, which is feminine, has influenced the Hebrew.<sup>85</sup>

Aramaic has sometimes been the channel whereby Akkadian and Persian forms and terms entered MH. Here again, a few examples will suffice.

The first occurrence in Hebrew of the word *'asquppā(b)*, meaning “threshold,” is in the Mishnah, e.g. היה קורא בספר על האסקופה (M. *Er.* 10.3, “if one was reading a scroll on the threshold”). This evidently goes back to Akkadian *askuppātu*, which had been borrowed and become current in many Aramaic dialects, including those of Palestine.<sup>86</sup> By the medium of Aramaic, which had long been in contact with Akkadian (which it had in fact replaced as the spoken language of Mesopotamia), this word penetrated into Hebrew.

Another example is the word *'etṣōg*, “citron,” which likewise appears for the first time in the Mishnah: שלושה הדסים. שתי ערבות. לולב אחד. רבי ישמעאל אומר: פירי אילנא אתרוגין לולבין (M. *Suk.* 3.4: “Rabbi Ishmael says: Three [branches of] myrtle, two [branches of] willow, one palm [branch] and one citron”). Research has shown that this term comes from Persian *turung*. It occurs in Aramaic texts of the tannaitic period, such as *Targum Onkelos*: ... פירי אילנא אתרוגין לולבין (Lev. 23.40): “fruits of the tree, citrons, palm-branches.” Another Aramaic source is a letter of Bar-Koseba: וישלחן למהנהי לותך לולבין ואתרוגין (Letter 8, line 3: “and they shall send you at the camp palm-branches and citrons”). This word also occurs in the Palestinian Aramaic dialects of the period of the Amoraim.<sup>87</sup> It therefore seems certain that Aramaic was the channel whereby this word entered MH.<sup>88</sup>

#### C BORROWINGS FROM GREEK AND LATIN

Greek and Latin have also penetrated MH,<sup>89</sup> but their influence is essentially limited to vocabulary. Many terms borrowed from one or other of these languages have become naturalized in Hebrew. Having appeared in MH, they remained in use throughout the Middle Ages and still feature in Modern Hebrew. Such words as אַזְמַל (σμίλη), “chisel, scalpel,” פּוֹלְמוֹס

<sup>85</sup> See Kutscher, *Hebrew and Aramaic Studies*, 405; Gluska, *Influences*, 1233–5.

<sup>86</sup> See Gluska, *Influences*, 170f. <sup>87</sup> See *ibid.*, 187f.

<sup>88</sup> For further material see Tursinay, “Millim,” 265–78. Cf. further E. Y. Kutscher, *Words and Their History* (Jerusalem, 1961), following the index on 126–36.

<sup>89</sup> This was the subject of Krauss, *Griechische und latienische Lehnwörter*. See also H. Albeck, *Introduction to the Mishna* (Jerusalem and Tel-Aviv, 1959), 203–15.

(πόλεμος), “polemic,” פּוֹנֵקֵס (πίναξ), “booklet,” קתדרה (καθέδρα), “platform, pulpit,” have been current ever since the mishnaic period. The same applies to words of Latin origin such as לְבַלָּר (libellarius), “clerk,” סַבְסֵל (subsellium), “bench.” It may be noted that in old manuscripts these words appear in a form that stands particularly close to the form in the language of origin. For example, לַבְלָר is vocalized לְבַלָּר, with its original vowel *i*,<sup>90</sup> סַבְסֵל has the form סַבְסֵל with *e*, again as in the original language.<sup>91</sup> The difference between Hebrew *pinqās* (פּוֹנֵקֵס) and Greek *pinax* (πίναξ) arose because Hebrew phonetic structure avoids a cluster of consonants at the end of a word. Hence the consonants *ks* (or *qs*) were separated by a vowel *a*. However, the original form is preserved by the manuscripts in the plural פּוֹנֵקֵיית<sup>92</sup> (M. Kel. 24.7), to be transliterated *pinaxs-āyōt*, not *pinqas-āyōt*. The reason the original structure is preserved here is that it is compatible with the laws of Hebrew phonology: the combination *qs*, not being at the end of the word, can stand (the *q* ends one syllable, the *s* opens the following one).

Lastly it is important to note that nouns and adjectives borrowed from Greek or Latin have sometimes become so well naturalized in Hebrew that they have given rise to verbs of a purely Hebrew pattern, which remain in use to this day.

Thus the term σφόγγος, which in Hebrew became סָפוֹן (*s̄pōḡ*, “sponge”), gave rise to several verbal forms. The *Qal* *sāḫaḡ* means “sponge up, absorb,” as at *Zeb.* 6.6: וְלֹא סָפְנָה הַמֶּלַח, “and the salt did not absorb it.” The *Pi* “*el*” (intensive) pattern *sippēḡ* appears in *Par.* 12.2: יִסְפְּנֶה, “it absorbs.” We also find the *Nitpa* “*al*” form נִסְפְּנָה in *Makh.* 2.1, as well as the nouns *s̄pāḡ* (in the expression מַטְפְּחוֹת הַסָּפֵן, *Kil.* 9.3, “bath-towels”) and *sippūḡ* (*Zav.* 1.4, “act of drying oneself”).

The word κατήγωρ gave rise to the verb *qitrēḡ*, “accuse,” with metathesis of the consonants *g* and *r*: אֵין הַשֵּׁטָן מוֹקְטְרֵנִי אֵלֶּא בְשַׁעַת הַסְּכָנָה (PT *Shabb.* 5.2), “Satan accuses only in the hour of danger.”

From the adjective καλός, “good, fine,” came the verb *qillēs*, “extol.” Examples occur in לִפְיֶכָךְ אֲנִי חַיִּיבִין לְהוֹדוֹת לְהַלֵּל וּלְקַלֵּס (Pes. 10.5, “therefore we are bound to thank, praise, and extol”) and in אֲשֶׁרִי הַמֶּלֶךְ שֶׁמְקַלְסִין אוֹתוֹ בְּבֵיתוֹ (BT *Ber.* 3a, “happy the king who is extolled in his own house”).

Lastly, Greek βάσις gave rise to the noun בְּסֵיס and then to the verb *bissēs*, as in וּמִי בִסֵּס הָעוֹלָם (Song of Songs R. 1.9), “and who laid the foundation of the world?”

<sup>90</sup> See Bar-Asher, *L'Hébreu mishnique*, 272f. <sup>91</sup> See *ibid.*, 273.

<sup>92</sup> The vocalization פּוֹנֵקֵיית (*pinaxsāyōt*) appears in ms. Parma-B. Ms. K has the slightly different form פּוֹנֵקֵיית (*pinaxsāyōt*). Both, however, preserve the stem *pinaxs* before the plural ending.

APPENDIX: MISHNAIC HEBREW FROM  
INDIRECT SOURCES

## A DIRECT AND INDIRECT SOURCES

In linguistics the principle is taken for granted that a dialect or language can be described only on the basis of direct evidence, which may be in either written or (preferably) oral form. This rule is easy enough to apply to the languages of today, given the advanced techniques of recording and preservation now available. It breaks down, however, when one is dealing with languages no longer spoken. Of course, the investigator of a language of the past, however ancient it may be, must go back to witnesses that are as close in time as possible to the linguistic information that they transmit. Unfortunately, however, one does not always have access to documents containing all the linguistic data necessary for a complete description of the grammatical and lexical system. This is the case for ancient Hebrew, whether Biblical or Mishnaic.

The study and description of MH, which was spoken about 1,800 years ago, encounters a number of difficulties. (Similar difficulties beset the study of Biblical Hebrew, where at least 2,200 years separate us from the spoken language.) Two problems are particularly serious:

- (1) The virtual absence of contemporary documents from the era when MH was spoken. As stated earlier, a few of our manuscripts date from the end of the first millennium CE, while the majority date from the beginning of the second.<sup>93</sup> One of the most ancient tannaitic documents extant is the halachic inscription discovered in the excavations at Re'Av, in the Beth-Shean valley. It probably belonged to the seventh century CE,<sup>94</sup> some centuries after Hebrew ceased to be a living spoken language.
- (2) The lack of information from the graphic system of Hebrew. That system records the consonants, but even these are not recorded without ambiguity.

The phonemes ש (š) and ש (ś) are not distinguished, nor are such allophones as כּ (b) and כ (b̄). Vowels are only partially recorded. Thus כפר (when it is to be read כּפּר, *kāḫar*) bears no indication of the vowels; in כּיפּר (= כּפּר, *kippēr*), only the first vowel is indicated. Hence a single written sequence of letters may stand for a number of different forms: for example, מכתב could be read as any of מִכְתָּב (*miktāb*), מִכְתֵּב (*maktēb*), מִכְתֵּב (*m<sup>l</sup>kattēb*), מִכְתָּב (*m<sup>l</sup>kuttāb*), and so on. This very word in fact gives rise to divergence among the manuscripts at *Kel.* 13.2, מכתב שניטל הכותב שמה מפני המוחק, "If a stylus has

<sup>93</sup> See above, 384.

<sup>94</sup> Cf. J. Sussmann, "A Halachic Inscription from the Beth-Shean Valley," *Tarbiz* 43 (1974), 88–158.

lost its writing point it is still susceptible to uncleanness because of its eraser." Manuscripts Parma-A and Parma-B read מִקְהָב, while K and Paris manuscripts have מִקְהָב.<sup>95</sup>

The problem of lack of information in the written text of tannaitic literature is partially solved by recourse to vocalized texts. Most of these, however, are later than 1000 CE. This fact prompts one to ask how early the vocalizations themselves can be. We in fact know that these texts were subject to conscious adjustments and involuntary errors in their transmission throughout the Middle Ages.

Of course, when a certain form is attested by several (if not all) of the extant witnesses, and these come from different geographical regions, this form is very likely to be original. It could then be attributed with some confidence to the era when Hebrew was a living language. The word שעה (*šā'ā*, "hour") provides an example. Many sources attest in the first syllable a stable *qāmeṣ* that remains throughout the declension: שְׁעָה (not שֶׁעָה), שְׁעָרָה (not שֶׁעָרָה), שְׁעָרוֹ, שְׁעָרָם, and so on. As Yalon showed, the evidence of vocalized manuscripts and oral traditions converges here.<sup>96</sup> It is a fair conclusion that this is an authentic form going back to before 200 CE. The sheer number of witnesses, and their mutual independence, point cogently to this conclusion.

There are a number of indirect sources which enable us to check the antiquity of the information given by the oral and written traditions whereby tannaitic literature has been handed down. The witnesses (written and oral) that transmit those traditions are many centuries later than the spoken language of MH; but when the forms attested by those witnesses are supported by outside documents, this agreement forms a powerful argument in favor of the forms concerned.

There are a good number and variety of sources of indirect evidence: the writings discovered in the Judaean desert (including the Qumran manuscripts and the documents from the time of the Bar-Koseba Revolt), the Hebrew of the Samaritans, transcriptions of Hebrew words into Greek in the Septuagint, and other transcriptions into Greek and Latin by the Church Fathers. These sources have the advantage of being independent of the traditional transmission of Jewish literature.

The reason we need such an outside check on the information presented by the traditional (written and oral) Jewish witnesses lies in the continuing tension between the different languages and dialects in which the various literary corpuses handed down by the Jews have been edited. The language of the Bible, MH, and the language of prayer each comprises a more or less

<sup>95</sup> Further details will be found in Bar-Asher, "Vocalization Errors," 14f.

<sup>96</sup> Cf. Yalon 1964, 117–23.

separate linguistic system. Furthermore, the Aramaic portions of the Bible, the Targums, the Talmud of Jerusalem, the aggadic midrashim, and the Babylonian Talmud all reflect different Aramaic dialects. In such a vast collection, some corpora inevitably enjoy greater prestige than others. Hence the suspicion that the language of one corpus may have been assimilated in transmission to the language of a more prestigious corpus.<sup>97</sup> Sources outside the Jewish tradition are not susceptible to this particular problem, and are therefore more objective, as a few brief examples will show.

#### B DOCUMENTS FROM THE JUDEAN DESERT

The suffixed preposition forms הֵימְנֵי (*bēmennū*, “from him”) and הֵימְנָה (*bēmennā*, “from her”), are common in the Mishnah according to the Babylonian tradition. However, the Palestinian text of the Mishnah<sup>98</sup> prefers the forms מִמְנֵי (*mimmennū*, “from him”) and מִמְנָה (*mimmennā*, “from her”).<sup>99</sup> At first sight it would seem that the forms *bēmennū*, *bēmennā* originated in Babylonia in the talmudic era. But this pattern can now be shown to have existed already in Palestine in the second century CE, when Hebrew was still a living spoken language. In the letters and documents discovered in the Judean desert and dated from the beginning of the second century we find such examples as יוֹרֵר הֵימְנו עוֹד דִּינָרִים שְׁשָׁה עֶשֶׂר, “more than sixteen dinars more than that” (in a document from the “Cave of Letters”).<sup>100</sup>

Again, the preposition *b-* is realized in rabbinic literature in two forms, exemplified by בְּבֵית (*b<sup>h</sup>bēt*) and אֲבֵית (*abbēt*).<sup>101</sup> The latter pattern is rare in MH,<sup>102</sup> and for a long time its date of origin was not known. The documents from the Judean desert now show that it already existed in the second century: יַעֲקֹב בֶּן יְהוֹרָה שׁוֹשֵׁב אֵבֵית מִשְׁכוֹ (Letter 8 of Bar-Koseba, lines 3–4).<sup>103</sup>

<sup>97</sup> See Kutscher, *Hebrew and Aramaic Studies*, Hebrew section, 73, where, however, the formulation is too categorical. Contrast Bar-Asher, “Different Traditions,” 27–33.

<sup>98</sup> The question of different linguistic types is considered above, 386–7.

<sup>99</sup> The material is presented in detail in Bar-Asher, “Different Traditions,” 30–2.

<sup>100</sup> See *ibid.*, 31, with n. 169.

<sup>101</sup> This form developed in the following way. The original *b<sup>h</sup>bēt* first became *bbēt*, with loss of the initial *shewa*. This created a consonant cluster, consisting of a doubled consonant, at the beginning of the word. Hence a prosthetic vowel was needed, whence *abbēt*. Cf. Yalon 1967, 69; Kutscher, *Hebrew and Aramaic Studies*, Hebrew section, 63; Ben-Hayyim, *Literary and Oral Tradition*, v 38.

<sup>102</sup> See J. N. Epstein, *Mavo’le-Nosah Hammišna* (Jerusalem, 1948), 1258f.

<sup>103</sup> See Kutscher, *Hebrew and Aramaic Studies*, Hebrew section, 62f.



“Jacob son of Judah, dwelling at Bet-Mashko”). Here (משכו) בבית אביה stands instead of the more familiar (משכו) בבית.

There are many more examples<sup>104</sup> that fill out the record of the rabbinic sources. Some of the forms attested in these indirect sources reflect a living Hebrew dialect spoken somewhere in Palestine at the time of, or shortly after, the existence of the Second Temple. The two examples given here seem to reflect dialects from the south of the country.<sup>105</sup>

### C THE SAMARITAN TRADITION

This tradition is known to us primarily through the masterly work of Ze'ev Ben-Hayyim, who devoted a series of thoroughgoing studies to Hebrew and Aramaic in the Samaritan tradition.<sup>106</sup> Although much of the information has been gathered from the Samaritans in modern times, Ben-Hayyim has used the linguistic texts of the Samaritans<sup>107</sup> to show that most of the features of the Samaritan tradition of today go back to the period when Hebrew was still a spoken language.<sup>108</sup> Hence if any linguistic feature found in our witnesses of MH is also attested in the tradition of the Samaritans, that feature will be especially likely to represent an authentic survival from the era when Hebrew was a spoken language. Two examples will illustrate this.

(1) The pronunciation *špōren* (the *p* being realized as a spirant) is representative of the eastern tradition of MH.<sup>109</sup> The western tradition instead uses the form *šippōren*,<sup>110</sup> found also in the Bible (in both the Tiberian<sup>111</sup> and Babylonian<sup>112</sup> biblical texts). One can view the eastern form as a secondary medieval development that arose somewhere in the eastern Diaspora. However, the Samaritan tradition reads *šēfēr<sup>ē</sup>n*,<sup>113</sup> and

<sup>104</sup> Cf. the remarks on 382 above on *biš'arm'la(b)* in the Damascus Document.

<sup>105</sup> Cf. 381–3 above. <sup>106</sup> See Ben-Hayyim, *Literary and Oral Tradition*.

<sup>107</sup> The linguistic literature of the Samaritans is the subject of the first two volumes of Ben-Hayyim, *ibid*.

<sup>108</sup> Ben-Hayyim's works provide abundant evidence that the transmission of texts by the Samaritans preserves a language that goes back to the time when Hebrew and Aramaic were still spoken languages.

<sup>109</sup> See 386 above, and also Bar-Asher, *Introduction*, 181, 183, and *idem*, “Different Traditions,” 20.

<sup>110</sup> See Bar-Asher, “Different Traditions,” 20.

<sup>111</sup> Cf. *נַפְרָן* (Jer. 12.1) and *נַפְרָןִי* (Deut. 21.12). <sup>112</sup> See Yeivin 1985, 1069.

<sup>113</sup> Cf. *šēfermiyya*, “her nails,” Deut. 21.12, on which see Ben-Hayyim, *Literary and Oral Tradition*, 111a 134. Ben-Hayyim reconstructed what he thought was a hypothetical Hebrew form *נַפְרָן*, corresponding to the Samaritan reading. As it turns out, however, this form is actually attested. The form *נַפְרָן* (*špōren*) is found in the manuscripts Parma-B and Antonin, and in the Mishnayot vocalized according to the Babylonian system and the Yemenite tradition (see references in n. 109 above).

so tends to show that the spirant form of the *p* is not late at all but was already current when Hebrew was still spoken.<sup>114</sup>

(2) The Mishnah attests two pronunciations for the name  $\text{תְּלַיִם}$ : either  $\text{תְּלַיִם}$  (= 'ēlat), or  $\text{תְּלַיִם}$  (= 'aylat). The former appears in ms. K and Parma-A at *Ma'aser Sheni* 5.2. The latter is supported by various other witnesses in the same passage of *Ma'aser Sheni*<sup>115</sup> and by the adjectival form  $\text{תְּלַיִמִּי}$  (*aylāṭī*) in ms. K at *Machshirin* 6.3.<sup>116</sup> This name occurs in the Bible at Deut. 2.8, 2 Kgs. 14.22, and elsewhere. The Tiberian system of vocalization in these passages gives  $\text{תְּלַיִם}$  ('ēlat). The Samaritan Pentateuch, however, where it is available, namely at Deut. 2.8, shows *mi'aylat* ( $\text{מִיאֵלַת}$ ),<sup>117</sup> i.e. a form with diphthong *ay* in the first syllable of the name. The Greek transcriptions likewise have 'Αιλα, 'Αιλαθ, as already observed by Kutscher.<sup>118</sup>

#### D GREEK AND LATIN TRANSCRIPTIONS

Transcriptions into Greek and Latin are a rich additional source for verifying the authenticity of mishnaic forms. Some of the forms shown in these transcriptions differ from those of the Tiberian vocalization of the Bible and yet agree perfectly with the readings of manuscripts (vocalized or unvocalized) of rabbinic literature. Two instances from the Septuagint have already been cited: Ελληλ, corresponding to  $\text{לְלֵל}$ ,<sup>119</sup> and 'Αιλα, 'Αιλαθ, corresponding to  $\text{תְּלַיִם}$ .<sup>120</sup> Space allows us to cite only one out of many possible examples.

The word  $\text{סֵרַק}$ , "ankle," appears in two parallel passages in the Bible, namely 2 Sam. 22.37 and Ps. 18.37, in a suffixed form which the Tiberian

<sup>114</sup> I have suggested elsewhere that  $\text{שִׁפְּרֵן}$  (*šippōren*) could be a development from  $\text{שִׁפְּרֵן}$  (*šippōren*) by haplology. On this view, the consonant *p* ceased by haplology to be doubled, whereupon the vowel *i* was reduced to *sheva* (see Bar-Asher, "Introduction," 181). There is, however, an alternative possibility. It may be that both *šippōren* and *špōren* are each derived from an original form such as \**šippōren*. As Ben-Hayyim (*Oral Tradition*, 111a 134) has shown, the cognate word in other Semitic languages does not exhibit gemination of this *p*. The form may have developed in two different directions: (1) *šippōren*, where the first syllable becomes closed in order to protect the short vowel *i*; and (2) *špōren*, where the first syllable remains open and the vowel *i* is reduced to *sheva*. The same double process of development seems to underlie the doublet  $\text{יִסְרָר}$  (*issār*) and  $\text{יִסְרָר}$  (*'sār*), meaning "vow." Both forms seem derived from an original \**'isār*, which evolved both to *'issār* ( $\text{יִסְרָר}$ , Num. 30.3) and to *'sār* (as in  $\text{יִסְרָר}$ , Num. 5.6).

<sup>115</sup> See Bar-Asher, *Tradition of Mishnaic Hebrew*, 127.

<sup>116</sup> See Kutscher, *Hebrew and Aramaic Studies*, Hebrew section, 444f., but Parma-B in the tractate *Machshirin* reads  $\text{תְּלַיִמִּי}$  'ēlāṭī.

<sup>117</sup> See Ben-Hayyim, *Oral Tradition*, IV 317.

<sup>118</sup> See Kutscher, *Hebrew and Aramaic Studies*, Hebrew section, 444f. (At Deut. II [ $\text{מִאֵילַת}$ ]) the inseparable preposition *m-*, "from," precedes the name. The Tiberian vocalization is *mē-*, while the Samaritan is *mi-*.)

<sup>119</sup> See 376ff. above. <sup>120</sup> See 397 above.

system vocalizes as קָרְסָלִי (“my ankles”). The singular would presumably have been, on the Tiberian vocalization, *qarsōl* (<*qarsul*). This agrees with the form קָרְסָלְיוֹ, “his ankles,” found in ms. K at *Bechorot* 7.6<sup>121</sup> and also in the Babylonian vocalization of the Mishnah.<sup>122</sup> However, we also find the form קורסל at *Obolot* 1.8; these are the consonants in ms. K;<sup>123</sup> Parma-B vocalizes as קורסל. Now this form agrees with Origen’s transcription in the second column of his *Hexapla* at Ps. 18.37: χορσελαι. (Cf. Kutscher, *Language*, 359). Thus Origen’s form is identical with the form *qursēl* / *qorsēl*, attested in manuscripts Parma-B and K (the first hand). Origen lived at the time of the closure of the Mishnah, and his evidence is in effect contemporary with the era when Hebrew was spoken, many centuries before the Mishnah manuscripts extant today.<sup>124</sup>

#### E THE LANGUAGE OF LITURGY AND THE *PIYYUT*

The importance of indirect sources for knowledge of the grammar and lexicon of MH should now be clear. Other types of Jewish source may be added, such as the language of the liturgy and *piyyut*, which both contain forms parallel to those of the Mishnah. It was shown by Yalon<sup>125</sup> and Kutscher,<sup>126</sup> and later by Eldar<sup>127</sup> and Yahalom,<sup>128</sup> that many forms that are characteristic of the language of the Mishnah have been incorporated into the language of liturgy and into numerous *piyyuṭim*. An example is the *nuḥal* conjugation. This is found in the manuscripts of the Mishnah, e.g. at *Sot.* 9.12:<sup>129</sup> נוטל טעם הפירות, “and the taste of fruits has been taken away.” A form (*nuṭṭal*) from the same conjugation is found in the liturgy. One example occurs within the phrase וְנִטְל כְבוֹד מִבֵּית חַיֵּינוּ, “and glory has been removed from the house of our life,” from the prayer אַתָּה יִצְרָת, recited when the New Moon falls on a Sabbath. Many *piyyuṭim* offer further examples of this conjugation.<sup>130</sup> Another example of a pattern in the

<sup>121</sup> The last two letters of this word are written over an erasure: [קרסול]י.

<sup>122</sup> See Yeivin 1985, 987.

<sup>123</sup> These are the consonants written by the scribe, but the vocalizer erased the *waw* and read קָרְסָל (*qarsūl*).

<sup>124</sup> It is worth emphasizing once more that alternations of the type *bēmennū* / *mimmennū*, *šippōren* / *špōren*, *’elat* / *’aylat*, *qarsōl* / *qursēl* need not represent two diachronic stages of a single form, even though Kutscher tended to regard them as such. Instead, one could see two alternative forms that were in simultaneous use, perhaps in different dialects.

<sup>125</sup> See Yalon 1964, *passim*, and n. 129 below.

<sup>126</sup> See Kutscher, “Present State,” 53f. <sup>127</sup> See nn. 130 and 131 below.

<sup>128</sup> See J. Yahalom, *Poetic Language in the Early Piyyut* (Jerusalem, 1985), 162–76.

<sup>129</sup> See Yalon 1964, 152–9.

<sup>130</sup> See I. Eldar (Adler), *The Hebrew Language Tradition in Medieval Ashkenaz* (ca. 950–1350 CE), 11, *Morphology* (Jerusalem, 1979), 381–3, and bibliography there cited.

*piyyuṭim*, which at the same time is very frequent in the manuscripts of the Mishnah, is the noun of the type *po'lan* / *pu'lan*, as Eldar has shown;<sup>131</sup> examples from the Mishnah are בּוֹשָׁן *bōyšān* (= *bayšān* בּוֹשָׁן, “shy,” at M. *Avot*. 2.5) and תּוֹרְגָמָן – תּוֹרְגָמָן (*torgē mān* / *turḡē mān*, “translator,” twice in M. *Meg.* 4.4). Further examples of this phenomenon are easily multiplied.<sup>132</sup>

## CONCLUSION

This survey has attempted to outline the basic issues in research into MH. First, having defined the literature written in this language, we examined its origin and its character in relation to Biblical Hebrew (five different aspects of that topic were examined). Second, we considered the question of the homogeneity of MH, under eight different headings. Third, we examined the relationship between MH and other languages. We indicated what light could be shed by indirect sources, and in particular by three of those sources, upon our knowledge of MH; and we also pointed out the kinship between MH and the Hebrew of the liturgy and *piyyuṭ*.

Each of these topics offers ample material for decades of scholarly research. The purpose of the present chapter is not, of course, to exhaust the field but to open up perspectives for those interested in an area of Jewish scholarship which has recently entered a new phase of expansion, and is attracting – especially in Israel<sup>133</sup> – a new generation of investigators. Careful examination of numerous manuscripts and research into oral traditions are constantly modifying our understanding of this discipline. In this way, research and analysis of problems old and new, both of grammar and of lexicon, have become more rigorous than ever before.

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<sup>131</sup> See *ibid.*, 180, 184, etc.

<sup>132</sup> This question of the proximity of MH to liturgical language and to *piyyuṭ* has been the subject of a number of important observations (see nn. 125–9), but room remains for a full, in-depth analysis.

<sup>133</sup> The number of doctorates devoted to MH and presented over the last twenty-five years at Israeli universities (especially the Hebrew University of Jerusalem) runs into double figures.

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# THE POLITICAL AND SOCIAL HISTORY OF THE JEWISH COMMUNITY IN THE LAND OF ISRAEL, c. 235–638

DAVID GOODBLATT

## I INTRODUCTION

The chronological boundaries of this chapter are based on well-known events in world history. The year 235 saw the end of the Severan dynasty of Roman emperors, while the Muslim invasion of Palestine began in 634. These dates also have some logic in terms of the traditional periodization of Jewish history.<sup>1</sup> The beginning of our period more or less coincides with the end of the tannaitic and the start of the amoraic era, conventionally marked by the death of the Patriarch Judah I, around 225. And the transition from Byzantine Christian rule to that of Muslim Arabs is generally seen as a major turning point, though recently scholars have emphasized both material and cultural continuities between late Byzantine and early Islamic Palestine.<sup>2</sup> Still, discussing the Jewish community of Late Roman and Byzantine Palestine as a unit makes more sense than any alternative.<sup>3</sup>

<sup>1</sup> Use of the phrase “Jewish history” does *not* imply that ancient Jews formed a monolithic, unchanging, or impermeable group. On the nature of Jewish identity in antiquity see S. J. D. Cohen, *The Beginnings of Jewishness: Boundaries, Varieties, Uncertainties* (Berkeley, 1999); and the essays edited by H. Lapin, *Religious and Ethnic Communities in Later Roman Palestine* (Bethesda, 1998).

<sup>2</sup> See A. Zeyadeh, “Settlement Patterns, An Archaeological Perspective: Case Studies from Northern Palestine and Jordan,” in G. R. D. King and A. Cameron (eds.), *The Byzantine and Early Islamic Near East* 11 (Princeton, 1994), 117–31. Cf. A. Cameron, “The Jews in Seventh-Century Palestine,” *SCI* 13 (1994), 91.

<sup>3</sup> The terms “Late Roman” and “Byzantine” have different connotations in different regions. In the context of Palestine, the Byzantine era obviously ends with the Muslim conquests in the seventh century. But the starting points of the Late Roman and Byzantine periods are debated, as is the very appropriateness of these categories. See D. E. Groh, “Jews and Christians in Later Roman Palestine: Towards a New Chronology,” *BA* 51 (1988), 83. Compare Cameron, “Jews in Seventh-Century Palestine,” 77 n. 6; H. Lapin, “Introduction: Locating Ethnicity and Religious Community in Later Roman Palestine,” in idem (ed.), *Religious and Ethnic Communities*, 6–8; S. T. Parker, “The Byzantine Period: An Empire’s New Holy Land,” *Near East Archaeology* 62 (1999), 139. The geographical extent of the Late Roman-Byzantine province of Palestine underwent several modifications in the third and fourth centuries. The internal Jewish concepts of “the Land of Israel” were not coterminous with these administrative boundaries. See Y. Tsafir, L. Di Segni, and J. Green, *Tabula Imperii*



One reason it makes sense to treat this era as a unity is the abundance and variety of sources at our disposal, in contrast to both the preceding and following years. These include Jewish, pagan, and Christian literary material, Roman legal texts and an ever-growing corpus of epigraphical and archaeological data. While the evidence is relatively abundant and varied, it also is unevenly distributed and often of uncertain value. Even when the data overlap chronologically, it is not always clear what conclusions to draw. The debate over the events of 351/2, discussed below, illustrates this problem. We also lack a continuous account of the Jews in this era analogous to what Josephus provided for the Hellenistic–Early Roman eras. All this discourages efforts at a narrative history. A good example involves the dramatic events of the final generation of the period surveyed here. The roles of the Jewish community during the Persian conquest and occupation of Palestine from 614 to 628, the Byzantine reconquest, and the ultimate Muslim victory remain obscure at best. Or, to return to the fourth century, the Jewish response to the abortive attempt by the Emperor Julian to rebuild the Jerusalem Temple is far from clear.<sup>4</sup> Consequently the approach adopted here is thematic, focusing on topics that are well documented and thoroughly discussed in recent historiography. Demographic issues will represent social history. Political history will take up more space as we look first at the Jews and the imperial regime and then at the internal Jewish institutions of the Patriarchate and Rabbinate.

## II DID THE JEWISH COMMUNITY SUFFER A DEMOGRAPHIC DECLINE?

A major theme in both popular perceptions and scholarly accounts of this period is a decline in the strength and influence of the Jewish community in Palestine. Jewish tradition asserted that the destruction of the Second Temple, like that of the First, was accompanied by an exile of the Jews from their homeland. The *amidab* prayer of the additional (*musaf*) service on festivals expresses the traditional view: “Because of our sins we were exiled from our land and driven far from our soil.” Historians were aware that in

*Romani Iudaea-Palaestina: Eretz Israel in the Hellenistic, Roman and Byzantine Periods* (Jerusalem, 1994), 13–18.

<sup>4</sup> On the events in the final years of our period see Z. Baras, “Hakibbush haparsi veshilhe hashilton habizanti,” in idem et al. (eds.), *Eretz Israel from the Destruction of the Second Temple to the Muslim Conquest*, 1: *Political, Social and Cultural History* (Jerusalem, 1982), 300–49; G. Stemberger, “Jerusalem in the Early Seventh Century: Hopes and Aspirations of Christians and Jews,” in L. I. Levine (ed.), *Jerusalem: Its Sanctity and Centrality to Judaism, Christianity, and Islam* (New York, 1999), 260–72. On the Julian affair see G. Stemberger, *Jews and Christians in the Holy Land: Palestine in the Fourth Century*, trans. R. Tuschling (Edinburgh, 2000), 198–216.

fact the Romans did *not* carry out extensive deportations of Judaeans as the Assyrians and Babylonians had done centuries earlier. Still, most believed that the fall of Jerusalem in 70 CE and the suppression of the Second Revolt in 135 were the beginning of the end of a Jewish majority in Israel. They also believed that the steady decline in demographic strength, coupled with an increasingly precarious political standing when the Roman Empire became Christianized, led to a loss of hegemony within the Jewish world.<sup>5</sup> Long the regnant view, this position needs to be revised.

Few would disagree that, in the century and a half before our period began, the Jewish population of Judah (in the narrow sense, distinguished from Samaria, Galilee, etc.) suffered a serious blow from which it never recovered.<sup>6</sup> The destruction of the Jewish metropolis of Jerusalem and its environs and the eventual refoundation of the city as the Roman colony of Aelia Capitolina had lasting repercussions. However, in other parts of Palestine the Jewish population remained strong. Literary and archaeological evidence indicates that in the Late Roman-Byzantine era Jewish communities thrived along the eastern, southern, and western edges of Judah, in the Galilee, the Golan, and the Bet Shean region. And a strong Jewish presence continued throughout this period in many *poleis*, including Caesarea and Scythopolis. Thus it is difficult to see any decline outside of Jerusalem and the heart of Judah.<sup>7</sup> Furthermore, there is now a consensus that the country reached its highest population density ever (until the twentieth century) precisely in the Byzantine period. It is likely that the Jews shared in this increase.<sup>8</sup> Of course, an increase in absolute numbers could accompany a

<sup>5</sup> M. Avi-Yonah, *The Jews under Roman and Byzantine Rule: A Political History of Palestine from the Bar Kokhba War to the Arab Conquest* (Jerusalem, 1984 [repr. of the 1976 ed.]), 123–5, is typical. A more recent example is Z. Safrai, *The Missing Century: Palestine in the Fifth Century: Growth and Decline* (Leuven, 1998), 51, who subtitles his chapter on “The Ethnographic History” with the words “The Decline of the Jewish Community in the Byzantine Period . . .” The detailed overview he gives on 78–82 is more nuanced.

<sup>6</sup> See the analysis of S. Schwartz, ch. 17 in the present volume, for a fuller picture of this period.

<sup>7</sup> This is not to deny fluctuations within this period. For details on areas of Jewish settlement see J. Schwartz, *Jewish Settlement in Judaea After the Bar-Kochba War Until the Arab Conquest, 135 CE–640 CE* (Jerusalem, 1986); D. Urman, “Public Structures and Jewish Communities in the Golan Heights,” in D. Urman and P. V. M. Fleisher (eds.), *Ancient Synagogues: Historical Analysis and Archaeological Discovery*, 11 (Leiden, 1995), 273–617; S. Safrai, “Hayishuv hayehudi bagalil uvagolan bame’ot hashelishit veharevi’it,” in *Eretz Israel from the Destruction, 144–79*; G. Stemberger, “Jewish–Christian Contacts in Galilee (Fifth to Seventh Centuries),” in A. Kofsky and G. G. Stroumsa (eds.), *Sharing the Sacred: Religious Contacts and Conflicts in the Holy Land, First–Fifteenth Centuries CE* (Jerusalem, 1998), 131–46.

<sup>8</sup> For the peak in settlement activity and population during the fourth through the seventh centuries, see Y. Tsafir, “Some Notes on the Settlement and Demography of Palestine in the Byzantine Period: The Archaeological Evidence,” in J. D. Seger (ed.), *Retrieving the*

decline in percentage.<sup>9</sup> And it is a decline in the relative position of the Jews in Late Roman-Byzantine Palestine that most scholars emphasize.

This is an issue that cries out for quantification, but reliable data on the population of Palestine do not exist.<sup>10</sup> Consequently, most discussions focus on relative, rather than absolute, numbers. Perhaps the most common method for estimating the population percentage of each of the country's ethnic or religious communities relies on the number and size of settlements. For example, fluctuations in the density of Jewish settlement over time are assumed to indicate fluctuations in Jewish population.<sup>11</sup> On this basis one scholar estimated that, at the end of the third century, the Jews constituted half of the total population of the Galilee, though only a fourth in the rest of the country. Between this time and the Muslim conquest the total number of Jewish settlements fell from over 160 to under 50! Using other data, he estimated that by the time of the Persian invasion in 614 the Jews comprised only 10–15 percent of the total. The latter estimate, based on the number of Palestinian Jews alleged to have joined the Persian forces, seems highly uncertain.<sup>12</sup> But even the estimates based on the number of Jewish settlements may not be reliable.

*Past: Essays on Archaeological Research and Methodology in Honor of Gus W. Van Beek* (Winona Lake, 1996), 269–83. Further archaeological evidence for demographic expansion appears in Parker, "Empire's New Holy Land," 142–9. For the Jewish population sharing in the increase, see Stemberger, *Jews and Christians*, 18–21, 314.

<sup>9</sup> This possibility is raised by Tsafir, "Some Notes," 279, and by B. Isaac, "Jews, Christians and Others in Palestine: The Evidence from Eusebius," in M. Goodman (ed.), *Jews in a Graeco-Roman World* (Oxford, 1998), 67.

<sup>10</sup> For estimates of the total population, see M. Broshi, "The Population of Western Palestine in the Roman-Byzantine Period," *BASOR* 236 (1979), 1–10; and idem "Methodology of Population Estimates: The Roman-Byzantine Period as a Case Study," in A. Biran and J. Aviram (eds.), *Biblical Archaeology Today, 1990: Proceedings of the Second International Congress on Biblical Archaeology* (Jerusalem, 1993), 420–5. Broshi's minimalist position has won wide support, but see the dissent of Z. Safrai, *The Economy of Roman Palestine* (London and New York, 1994), 436–7.

<sup>11</sup> See Avi-Yonah, *Jews under Roman and Byzantine Rule*, 15–19, and the chart on p. 20. An up-to-date version of this enterprise is C. Dauphin, *La Palestine byzantine du IV<sup>e</sup> siècle au VII<sup>e</sup> siècle a. J.C. – le peuplement*, 3 vols. (doctoral dissertation, Paris, 1994). I have not had access to this, but some of the results are summarized by G. Bowersock, "The Greek Moses: Confusion of Ethnicity and Cultural Components in Later Roman and Early Byzantine Palestine," in Lapin (ed.), *Religious and Ethnic Communities*, 43–4.

<sup>12</sup> Avi-Yonah, *Jews under Roman and Byzantine Rule*, 20, 132–3, 241. It is not clear whether the combination of half in the Galilee and a quarter elsewhere yielded an overall Jewish majority. That it did was concluded by M. D. Herr, *The History of Eretz Israel: The Roman-Byzantine Period* (Jerusalem, 1985), 109. The number of Jewish fighters comes from the tenth-century Christian author Eutychius ibn Batriq. Moreover, claims about the size of fighting forces in pre-modern sources are notoriously unreliable.

Estimating relative population from density of settlement assumes that, while the major cities had mixed populations of pagans, Jews, Samaritans, and Christians, the smaller towns and villages tended to be more homogeneous. Literary and archaeological evidence seemed to support this assumption. Eusebius, writing around the turn of the third to the fourth century, noted villages that were all Jewish or all Christian. The story of *comes* Joseph, recorded by Epiphanius, asserted that the Jews were able to keep Christians out of the Galilee during the first half of the fourth century. And a famous, but undatable, rabbinic source listed five pairs of neighboring and rival towns, one set Jewish and the other set Gentile. Some archaeological surveys also seemed to confirm self-segregation in both Galilee and Golan. Building on this approach, most students of Roman-Byzantine Palestine assumed that in the third and fourth centuries the coastal plain and the south were predominantly pagan, the center strongly Samaritan, and the Galilee and Golan overwhelmingly Jewish.<sup>13</sup> Recently, some scholars have challenged the consensus, arguing that mixed settlement was much more common even in the villages. They, too, are able to marshal literary and archaeological evidence.<sup>14</sup> Clearly, on the latter view we cannot estimate the fluctuation of the Jewish population by counting the number of Jewish settlements. Even if the revisionist position is only partially right, it complicates the attempted estimates.

In light of this complication, other approaches should be noted. The literary sources invoked to support the common view of demographic decline are also uncertain. For example, a passage from the Palestinian Talmud is often taken to show that a mid-third-century rabbi was aware of

<sup>13</sup> On the religious/ethnic concentration in the three regions see Z. Rubin, "Hitpashtut hanasrut b'erezt-yisra'el mime yulyanos ad tequfat yustinyanus," in Baras et al. (eds.), *Eretz Israel from the Destruction*, 234; Safrai, *Missing Century*, 65–82. Eusebius refers to Jewish and Christian villages in his *Onomasticon*. The story of *comes* Joseph appears in Epiphanius, *Panarion* 30.4–12. The rabbinic source, which is anonymous, appears in *Lev. R.* 23.5 (ed. Margulies, 533) and parallels. The Jewish towns are Naveh, Tiberias, Haifa, Na'aran, and Ono. Their respective Gentile rivals are Ḥalamish, Susita, Castra, Jericho, and Lod. For the archaeological evidence of distinct areas of settlement see Z. Ma'oz, "Comments on Jewish and Christian Communities in Byzantine Palestine," *PEQ* 117 (1985), 59–68; and M. Aviam, "Christian Galilee in the Byzantine Period," in E. M. Meyers (ed.), *Galilee through the Centuries: Confluence of Cultures* (Winona Lake, 1999), 281–300.

<sup>14</sup> For archaeological evidence of less homogeneity see C. M. Dauphin, "Jewish and Christian Communities in the Roman and Byzantine Gaulanitis: A Study of Evidence from Archaeological Surveys," *PEQ* 114 (1982), 129–42; and compare the article of D. Urman cited above, n. 7. For the argument that exclusively Jewish or Christian villages are the exception to the norm of mixed population in Eusebius' *Onomasticon*, see Isaac, "Jews, Christians and Others," 65–74.

the loss of the Jewish majority. In fact, the opinion is not directly attributed to the third-century master. It is the editorial stratum of the Talmud which suggests that a dispute between Rabbi Yohanan (d. 279) and his disciple Rabbi Eleazar can be explained by the following assumption. According to the editorial explanation the former believed that most of the Land of Israel was in the hands of Israel (i.e., the Jews), while the latter thought that most of the country was in the hands of Gentiles. More importantly, these comments concern land ownership, not population. And it is not clear from them whether the situation is a new one or an ongoing one.<sup>15</sup>

Still another method has been used to estimate the Jewish share in the population in the Byzantine period. Comparing the ratio of synagogues to churches in Western Palestine (i.e., west of the Rift Valley), one scholar concluded that the Jews comprised no more than a quarter of the total inhabitants of this area.<sup>16</sup> One problem with this approach is that not every church indicates a local Christian community. Some churches were built to mark holy sites by outside benefactors. Be that as it may, we recall that the ratio of one in four was suggested above for the situation around 300 CE. If both estimates are accepted, this would indicate that the percentage of Jews in the province remained stable from the Late Roman to the Byzantine era. This is precisely the conclusion of one scholar, who argues that the Jews constituted the largest population group in the province at the beginning of the fourth century and still held this position in the early fifth. That is, they continued to outnumber the pagans, Samaritans, and Christians.<sup>17</sup>

Literary evidence from the turn of the fourth to the fifth century tends to support this conclusion. John Chrysostom, writing in the 380s, claimed that the Jews were very numerous in Palestine. The *Life* of Bar-Sauma, describing the situation at the beginning of the fifth century, asserts that the pagans were numerous and that the Jews and Samaritans outnumbered the Christians. Writing in the first decade of the fifth century, Jerome complained that the Jews were breeding like worms.<sup>18</sup> And the

<sup>15</sup> The passage, at PT *Dem.* 2.I.22c, is cited as evidence “of a general feeling of decline” by Avi-Yonah, *Jews under Roman and Byzantine Rule*, 133. For recent treatment see D. Sperber, *Roman Palestine 200–400: The Land: Crisis and Change in Agrarian Society as Reflected in Rabbinic Sources* (Ramat-Gan, 1978), 178–80. Sperber adduces a source to show that the concentration of land ownership in the hands of Gentiles could happen even in an area where Jews were a majority. He also asserts that these comments, which he dates to no later than the mid-fourth century, attest a trend that began in 70.

<sup>16</sup> Tsafir, “Some Notes,” 278. <sup>17</sup> Stemberger, *Jews and Christians*, 18–21, 314.

<sup>18</sup> Chrysostom, *Contra Iudaeos et Gent.* 16 (PG XLVIII col. 835); and Jerome, *Commentariorum in Esaiam* ad 48.17–19, CCL LXVIII A, 531, are cited by Avi-Yonah, *Jews under Roman and Byzantine Rule*, 222, but in a paragraph that begins by noting the decline in the number of Jews! The passage from Bar-Sauma is cited by Avi-Yonah, *Jews*, 220.

archaeological records suggest Jewish demographic strength or stability in the sixth and seventh centuries.<sup>19</sup> Moreover, the exuberant literary activity attested in halachic work, *piyyut*, *targum*, and mystical texts into the Muslim era suggest an active and vibrant Jewish community.<sup>20</sup> The struggle between the Palestinian and Babylonian rabbinic center over hegemony would take place later yet, in the eighth through tenth centuries. Its causes and the eventual success of the Babylonian center lie in that era, not in any decline of the Jewish community of Late Roman-Byzantine Palestine.<sup>21</sup>

In sum, we can demonstrate neither a decline in absolute numbers nor even a drop in percentage of the whole. What does seem clear is a different kind of change. Immigration of Christians and the conversion of pagans, Samaritans, and Jews eventually produced a Christian majority. So even if the Jews' percentage of the total population of Palestine remained constant, their situation was different. From one of several groups of relatively equal weight, or perhaps even being the largest single group, the Jews now found themselves a distinct minority.<sup>22</sup> And the new majority was supported by the government. The new situation emerged gradually during the fourth through seventh centuries, and it presumably took a while before the Jews were conscious of it. How the emerging minority status of the Jews of Palestine (and the majority status of the Christians) affected the political and social position of the former remains to be seen.

### III THE JEWS AND THE IMPERIAL REGIME: REBELLION OR COLLABORATION?

Between the end of the Bar Kochba Revolt in 135 and the support by some Jews of the Persian invasion of 614, we hear of only one possible Jewish uprising. And even this one case is uncertain. At issue are events usually

<sup>19</sup> See Safrai, *Missing Century*, 65, for recovery in Palestine in general; 79, for recovery in the Galilee; and 82, for "stability" in the southern Hebron hill country in the fifth through seventh centuries.

<sup>20</sup> Safrai, *Missing Century*, 51, 62, characterizes the transition from the talmudic genre to others as "a serious weakening of . . . literary output" and "a decline in creative output." In both cases he refers to the disappearance in post-fourth-century Palestinian Jewish literature of directly attributed statements and debate between named masters, features common in amoraic literature. However, it is not clear why we should so privilege the talmudic genre. One can equally assert that the burgeoning of new genres such as *piyyut* was a sign of enhanced creativity.

<sup>21</sup> See R. Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture* (New Haven, 1998), 100–22.

<sup>22</sup> On the Christianization of Palestine in our period see Z. Rubin, "Hitpathut hanasrut," in Baras et al. (eds.), *Eretz Israel from the Destruction*, 234–51; and Safrai, *Missing Century*, 65–78.

dated to 351/2 during the rule of Gallus as Caesar in the East.<sup>23</sup> In addition to its intrinsic interest, this topic is an excellent example of the difficulty in reconstructing an event even when we have overlapping literary and archaeological evidence.

We begin with the literary sources. The earliest is Aurelius Victor, who wrote within a decade of the events. Between notices of the defeat of Magnentius by Constantius and the elimination of Gallus, he inserts the following:

And meanwhile a revolt of the Jews (*Judaeorum seditio*), who had raised Patricius against all law to a kind of royal position (*in regni speciem*), was suppressed.<sup>24</sup>

Writing a generation later in his edition of Eusebius' *Chronicle*, Jerome reports:

Gallus suppressed the Jews, who had killed soldiers by night and captured weapons for a revolt. Many thousand people were killed, even harmless children; and their cities of Diocaesarea [Sepphoris], Tiberias and Diospolis [Lod], as well as countless villages, he gave over to the flames.

But later Christian authors mention only Sepphoris in this context.<sup>25</sup> Several fourth-century Jewish sources mention Ursicinus, the commander of Roman forces in the East during the reign of Gallus. Some of these place his forces in Palestine, and some have rabbis interact with him. One passage refers to some Sepphoreans being sought by the authorities under Ursicinus.<sup>26</sup> Finally, a later midrashic source alludes to mourning in Akko, Lod, Sepphoris, and Tiberias. The latter three cities are the three mentioned by Jerome in his notice on the revolt.<sup>27</sup>

Supplementing the literary sources is archaeological evidence of destruction and/or abandonment at several Galilean sites dating to around the middle of the fourth century. Some have invoked this evidence in support of

<sup>23</sup> Following Stemberger, *Jews and Christians*, 46–7, 265, I ignore as extremely unlikely an uprising under Constantine or one in 418. As to the revolt at the time of Gallus, I am aware of only one monograph-length study. This is B. Geller Nathanson, *The Fourth-Century Jewish "Revolt" During the Reign of Gallus* (unpublished PhD thesis, Duke University, 1981), which was not available to me. For a summary of her views see B. Geller Nathanson, "Jews, Christians, and the Gallus Revolt in Fourth-Century Palestine," *BA* 49 (1986), 26–36. A thorough and critical review of both the scholarship and the sources appears in Stemberger, *Jews and Christians*, 161–84.

<sup>24</sup> *Liber de Caesaribus* 42.11. ET of Stemberger, *Jews and Christians*, 162.

<sup>25</sup> Eusebius, *Werke*, VII, ed. R. Helm, GCS (Berlin, 1956), 238. ET of Stemberger, *Jews and Christians*, 162. See there, 162–3, for citations of Socrates, Sozomen, and Theophanes, who mention only Sepphoris.

<sup>26</sup> See the citations and discussion in Stemberger, *Jews and Christians*, 166–7.

<sup>27</sup> *Pes. R.* 8.3, on Zeph. 1.10. See Stemberger, *Jews and Christians*, 163–6.

the reliability of Jerome's account and the relevance of the midrashic text to the events of 351/2. On this view, the uprising encompassed much of Jewish Palestine.<sup>28</sup> The opposing tendency limits the uprising to Sepphoris. It notes the uniqueness of Jerome's reference to additional locales, questions the relevance of the midrash, and either ignores or is skeptical of the archaeological evidence.<sup>29</sup> It points out that the earthquake of 363 can account for much of the latter, emphasizes the difficulty of pinpointing destruction and abandonment within an eleven- or twelve-year span, and observes that these phenomena can have various causes.<sup>30</sup>

Aside from the debate over geographical extent, scholars disagree about the nature and causes of the uprising. Some suggest that Aurelius Victor means only that some Sepphorean Jews supported a local Roman commander who rebelled in pursuit of higher office.<sup>31</sup> At issue is whether the phrase *Iudaeorum seditio* could describe a locally based Roman usurper supported by the local Jews. Or can it only mean a specifically Jewish uprising?<sup>32</sup> Some who assume the latter suggest that it was a response to the adoption of Christianity by the Roman emperors. One scholar argues that the uprising was a response to the harming of Jewish economic interests by new legislation. Another suggests that the Jews rose up in protest against government efforts to make Palestine a Christian Holy Land. Both suggestions go beyond the available evidence and founder if the revolt was limited to Sepphoris.<sup>33</sup>

<sup>28</sup> Thus Avi-Yonah, *Jews*, 176–81; Y. Geiger, “Hamered bime Gallus ufarashat binyan habayit bime Yulyanos,” in Baras et al. (eds.), *Eretz Israel from the Destruction*, 202–8; Geller Nathanson, “Gallus Revolt”; Stemberger, 183–4, despite his acknowledgment of the limitations of the archaeological data and skepticism about the relevance of the midrashic text.

<sup>29</sup> This view goes back to S. Lieberman, “Palestine in the Third and Fourth Centuries,” *JQR* 36 (1946), 329–41, who wrote before much of the archaeological evidence became known.

<sup>30</sup> On the earthquake, see K. W. Russell, “The Earthquake of May 19, AD 363,” *BASOR* 238 (1980), 47–62. On the potential for interpretive errors regarding signs of destruction, see K. W. Russell, “The Earthquake Chronology of Palestine and Northwest Arabia from the 2nd through the mid-8th Century AD,” *BASOR* 260 (1985), 51. This problematic is noted by P. Schäfer, “Der Aufstand gegen Gallus Caesar,” in J. W. Henten et al. (eds.), *Tradition and Re-Interpretation in Jewish and Early Christian Literature: Essays in Honour of Jürgen C. H. Lebram* (Leiden, 1986), 198–9; and Stemberger, 183.

<sup>31</sup> Thus Lieberman and Geiger.

<sup>32</sup> Schäfer, “Aufstand gegen Gallus Caesar,” 200–1, argues that the phrase is ambiguous and could describe either situation. Stemberger, *Jews and Christians*, 173–5, appears to assert that it means a specifically Jewish affair. He is also the only one to adduce in this context the evidence that Patricius is attested as a Jewish name in late Roman-Byzantine Palestine.

<sup>33</sup> The first view is Avi-Yonah's, refuted by Stemberger, *Jews and Christians*, 176–81. The second is that of Geller Nathanson, “Gallus Revolt,” 34.



In view of the disputes summarized above, there is surprising unanimity about the impact of the revolt. Scholars note the relative silence of the Jewish sources, as well as the neutral to favorable view of Ursicinus appearing in them. This suggests that neither the Jewish elites nor the majority of Jews participated in the uprising. And even those who argue for a widespread Jewish uprising against Rome in 351/2 concede that its long-term effects were minimal.<sup>34</sup> In the absence of new evidence, further speculation is pointless. What is clear is that even when we have Jewish and non-Jewish literary sources and archaeological data, recovery of the event remains extremely difficult.

The evidence for Jewish resistance to the imperial regime turns out to be limited and problematic. In contrast, evidence for Jewish collaboration is more abundant and unambiguous. That evidence is Jewish participation in imperial offices and in municipal institutions co-opted into the imperial system. Several passages in the Palestinian Talmud clearly imply Jewish membership on city councils. One portrays the Patriarch Judah I resolving a conflict between the *boule* and *strategoï*, that is, the city council and *duoviri*. While the story is set at the beginning of the third century, the tradent of the version appearing in the Babylonian Talmud was active at the end of the third century.<sup>35</sup> So the story probably reflects conditions in the period surveyed here. This is certainly the case with four other passages mentioning Jewish *bouleutai*, all of which must be dated between the third quarter of the third century and the editing of the Palestinian Targum in the early fifth. Three mention Rabbi Yohanan (d. 279) and the fourth a contemporary master, Simeon the *Bouleutes*.<sup>36</sup> A different kind of municipal office may be mentioned in a midrashic source. It ascribes the office of the

<sup>34</sup> Safrai, *Missing Century*, 52, n. 1, asserts that the numismatic evidence “proves that the revolt was quite significant.” But in his summary, 131, he states that the revolt “caused serious harm to only a limited number of Jewish communities and settlements; the population as a whole did not incur significant damage.”

<sup>35</sup> See PT *Yoma* 1.2.39a, and the parallel at BT *Bava B.* 143a. I follow the interpretation of A. Oppenheimer, “Roman Rule and the Cities of the Galilee in Talmudic Literature,” in L. I. Levine (ed.), *The Galilee in Late Antiquity* (New York, 1992), 115–21. See there for earlier scholarly literature. The tradent of the BT parallel is Rabbi Isaac son of Joseph.

<sup>36</sup> The Yohanan passages are PT *Moed K.* 2.3.81b; PT *Peab.* 1.16a; and PT *Hag.* 3.48c // *Shabb.* 12.3.13c. On the first two, see S. Lieberman, “Palestine in the Third and Fourth Centuries,” 347–8. On the third, see L. I. Levine, “The Jewish Patriarch (Nasi) in Third-Century Palestine,” *ANRW* 11 19.2, 660–2, and S. S. Miller, “Those Cantankerous Sepphoreans Revisited,” in R. Chazan et al. (eds.), *Ki Baruch Hu: Ancient Near Eastern, Biblical, and Judaic Studies in Honor of Baruch A. Levine* (Winona Lake, 1999), 550–7. The Simeon passage is PT *Pes.* 4.1.30c. Other passages are more ambiguous as to whether the *boule* or *bouleutai* mentioned were Jewish. Thus “the synagogue of the *boule*” in Tiberias, PT *Shek.* 7.50c and PT *Taan.* 1.64a could derive its name from its location near the

*archiriparios*, which involved the execution of condemned criminals, to a Jewish master. While this title is not otherwise attested, a municipal police official called the *riparios* is well known from the Egyptian papyri. The protagonists of our story are from the late second century, but the office of *riparios* is not attested before the fourth. So the text probably reflects the sense of a storyteller from the Byzantine period that a Jew could serve as a municipal police chief.<sup>37</sup> Finally, Roman legal texts, to be cited below, allow us to add the Jewish Patriarchs to the list of Jews holding imperial honors in Late Roman-Byzantine Palestine.

Epigraphic attestation of Jewish officials in Late Roman-Byzantine Palestine is scant. A sarcophagus inscription from Tiberias, datable to the third or fourth century, names Isidorus *Bouleutes*. A lead weight uncovered in Sepphoris mentions a Simon son of Aianos son of Justus, who served as a market inspector. Both individuals were probably Jewish.<sup>38</sup> Somewhat more abundant are references to service in the imperial administration. An inscription from Bet She'arim mentions "Julianus the *palatinus*."<sup>39</sup> Three others from the fifth or sixth century attest Jews holding the position of *comes*.<sup>40</sup> A Jewish "*centenarius* of the camp" appears on a tombstone from Yafo.<sup>41</sup> Three more inscriptions mention Jews who held the position of *phrontistes*. However, it is not clear whether this was an imperial position, or one in the private sector or in the Jewish community.<sup>42</sup>

The limited epigraphic evidence has suggested to some that Jewish civil or military officials in Palestine constituted only "a tiny minority."<sup>43</sup>

council quarters rather than from its membership. See L.I. Levine, *The Ancient Synagogue: The First Thousand Years* (New Haven and London, 2000), 191.

<sup>37</sup> The story appears at *Pes. de-R.K., Vayyehi Beshballah* 19 (ed. Mandelbaum, 1 195). For discussion and literature see D. Goodblatt, "The Poll Tax in Sasanian Babylonia: The Talmudic Evidence," *JESHO* 22 (1979), 257 n. 69.

<sup>38</sup> For Isidorus, see *CIJ* 11 985. For Simon see the preliminary report of Y. Meshorer in E. M. Meyers, E. Netzer, and C. L. Meyers, "Sepphoris – 'Ornament of All Galilee,'" *BA* 49 (1986), 16–17.

<sup>39</sup> See M. Schwabe and B. Lifshitz, *Beth She'arim*, 11 *The Greek Inscriptions* (New Brunswick, 1974), # 61.40–1.

<sup>40</sup> See L. Roth-Gerson, *The Greek Inscriptions from Synagogues in Eretz-Israel* (Jerusalem, 1987), 105–10, for an inscription possibly from a synagogue in Sepphoris. And see there p. 173 for a discussion of the title and n. 53 for references to a Greek tomb inscription from Shiqmonah and an Aramaic inscription from the Hamat Gader synagogue.

<sup>41</sup> *CIJ* 11 132, # 920. See S. Appelbaum, "Jews and Service in the Roman Army," *Roman Frontier Studies*, 1967: *The Proceedings of the Seventh International Congress held at Tel-Aviv* (Tel-Aviv, 1971), 182.

<sup>42</sup> See the discussion with references in Roth-Gerson, *Greek Inscriptions*, 115–16; and H. Lapin, "Palestinian Inscriptions and Jewish Ethnicity in Late Antiquity," in Meyers (ed.), *Galilee through the Centuries*, 249–50 n. 29.

<sup>43</sup> Stemberger, *Jews and Christians*, 306.

Whether this is a legitimate argument from silence can be debated. Equally unclear is the effect of *Novella* 3 of Theodosius II, dated 438 CE and addressed to the praetorian prefect of the East. This law prohibits Jews and Samaritans from serving in the imperial administration or holding offices of dignity in municipal government. However, dating all the evidence cited above before 438 on this basis seems like circular reasoning. There are ample instances of Roman laws not being applied conscientiously.<sup>44</sup> In the case at hand, failure to implement the 438 novella is admitted in a law from 527 that renews the prohibition. This time the law was enforced, for eleven years later another law was needed to clarify issues raised by its application. This legislation explained that Jews and Samaritans should still bear the burdens of curial service, but not the benefits.<sup>45</sup> These sixth-century developments are sufficient to explain the dearth of references to Palestinian Jews in municipal and imperial service in the inscriptions, many of which postdate 527.

While the holders of these offices may have been a minority, it is significant that so much of the evidence relates them to internal Jewish institutions: Jewish burials, synagogues, rabbis, the Patriarch. There is no sign that imperial service conflicted with being a loyal member of the Jewish community. Only the source on the *archiriparios* indicates criticism, and that explicitly concerns the taking of lives. In other words, there is no blanket condemnation of government service. And the evidence, sparse as it is, spans most of the period surveyed here. To it we can add additional data. The office of Patriarch was an internal, Jewish institution. But for at least part of its history it was involved in some form of collaboration with the imperial authorities. These various strands of evidence for Jewish collaboration contrast with the unique and problematic case of resistance by some Jews to the imperial regime discussed above. The preponderance of the evidence, then, points to a general Jewish acquiescence in Roman-Byzantine rule in Palestine. Some might argue that this is further proof of an awareness of demographic decline. That is, minority status limited political options. But acceptance of rule by a foreign suzerain has a long history in Jewish tradition, going back to the biblical books from the Achaemenid era. It need not result from consciousness of demographic weakness.

<sup>44</sup> Compare the argument of Stemberger, *Jews and Christians*, 136. He himself notes, 196, that the law of 416 (*CTb* 16.10.21), excluding pagans from public office, was not effective. On general and specific arguments on laws not being enforced see also 158–60, 299, 308.

<sup>45</sup> See A. Linder, *The Jews in Imperial Roman Legislation* (Detroit, 1987), ## 54, 56, 64 (pp. 323–37, 356–67, 393–8).

## IV THE PATRIARCHATE

We now turn to institutions internal to the Jewish community, though also subject to imperial interference. The best-documented is the institution known as the Patriarchate, from the Latin *patriarcha*. This title appears in Greek and Latin sources as the apparent equivalent of the Hebrew *nasi* and the Aramaic *nesiab*. The latter titles were borne by, or ascribed to, Jewish leaders in second- through early fifth-century Palestine. The nature and competence of their position have been the subject of considerable debate in the past generation. No consensus has emerged, despite, or perhaps because of, the fact that we have more – and more varied – evidence about the Patriarchs than about any other Jewish leadership institution in Roman-Byzantine Palestine.<sup>46</sup> The evidence, much of which is contemporary, includes Jewish, Christian, and pagan literary sources, Roman legal texts, and some epigraphic materials. At issue is how to evaluate each individual source and then how to relate it to the other sets of evidence.

The older historiography tended to accept most of the evidence at face value and combine it all into a harmonizing account of the Patriarchate from its origins to its demise between 415 and 429. On this view, the Patriarch was the supreme leader, first of the Jewish community in Palestine, and eventually of Jews throughout the Roman-Byzantine Empire. He was recognized as such both by the Jewish community and by the Roman authorities, enabling him to function as a liaison between the two. His powers and influence encompassed areas that modern observers would classify as both religious and secular. He was in charge of the Jewish calendar, with its implications for festival observance. He could appoint and depose officials of local Jewish communities, impose legal and ritual decisions, and collect taxes for the support of his administration. That administration included a court of legal experts (“Rabbis”), emissaries to communities in Palestine and abroad, and a unit of bodyguards/enforcers.

<sup>46</sup> The only full-length study published so far is M. Jacobs, *Die Institution des jüdischen Patriarchen: Eine quellen- und traditionskritische Studie zur Geschichte der Juden in der Spätantike*, (Tübingen, 1995). This book contains an exhaustive treatment of all the relevant sources. I have not seen E. Habas-Rubin, *The Patriarch in the Roman Byzantine Era – The Making of a Dynasty* (unpublished PhD thesis, Tel-Aviv University, 1991). An excellent brief survey of all the sources appears in L.I. Levine, “The Status of the Patriarch in the Third and Fourth Centuries: Sources and Methodology,” *JJS* 47 (1996), 1–32. This article also contains a full bibliography of studies through 1993. In addition to Jacobs, other works appearing after 1993 with relevant discussion are D. Goodblatt, *The Monarchic Principle: Studies in Jewish Self-Government in Antiquity* (Tübingen, 1994), 131–231; C. Hezser, *The Social Structure of the Rabbinic Movement in Roman Palestine* (Tübingen, 1997), 405–49; and Stemberger, *Jews and Christians*, 230–68.

The status of the Patriarch within the Jewish community was based in part on his family's claim to descend from King David. Some Jews disputed this claim. Some also opposed patriarchal assertions of power. According to the older historiography, significant opposition to the Patriarchate came from the ranks of the Rabbis. The ups and downs in the relations between the Patriarchs and the Rabbis constitute a major theme in this body of scholarship.<sup>47</sup>

More recent scholarship can be divided into two camps. One camp, while treating the sources much more critically than the older historiography, tends to accept the general outlines of the account summarized above. It continues to find continuity, if not uniformity, in the history of the Patriarchate.<sup>48</sup> The other camp is skeptical of the evidence for continuity and tends to disaggregate the sources and emphasize the ambiguities in them. The result is a minimalization of the powers and special status of the Patriarchs. Some have questioned the very legitimacy of positing a single institution whose history is reflected by the different sources.<sup>49</sup> But this last point seems extreme. Positing a single institution does *not* mean that the latter enjoyed a seamless history during the centuries of its existence, without any development or variation. The history of the American presidency provides a useful, comparative perspective. This is an office formally institutionalized in a written constitution. Yet the power of the presidency in relation to the other branches of the federal government, the states, and the private economy has varied considerably. Does this justify ceasing to view the presidency as a single, ongoing institution? The point is that it is unrealistic to invoke a standard of uniformity lacking even in the most explicitly formalized institutions. And in fact even the most skeptical scholars assume some kind of continuity, at least for the history of the Patriarchate during the period surveyed here.

Debate continues concerning the very existence of the Patriarchate before the final quarter of the second century.<sup>50</sup> In contrast, there appears to be unanimous agreement concerning the influence and stature of Judah I, who

<sup>47</sup> Represented by Avi-Yonah, *Jews under Roman and Byzantine Rule*, 54–64, 116–23.

<sup>48</sup> Levine, Goodblatt, and Stemberger can be included here.

<sup>49</sup> The minimalists include M. Goodman, *State and Society in Roman Galilee* (Totowa, NJ, 1983), 111–18; idem, “The Roman State and the Jewish Patriarch in the Third Century,” in Levine (ed.), *Galilee in Late Antiquity*, 127–39; S. Schwartz, “The Patriarchs and the Diaspora,” *JJS* 50 (1999), 208–22; Jacobs, *Institution*; and Hezser, *Rabbinic Movement*. The call for “a non-institutional history of the patriarchs” appears in Schwartz, “Patriarchs and the Diaspora,” 209.

<sup>50</sup> See the discussion in Goodblatt, *Monarchic Principle*, 177–231. Add Levine, “Status,” 29. Compare the critique of Jacobs, *Institution*, 107–11, 349–50, and Schwartz, “Patriarchs and the Diaspora,” 209–10.

flourished at the end of the second century and beginning of the third. This is the individual subsequently referred to as *Yebudab ha-Nasi*, or Judah the Patriarch.<sup>51</sup> Indeed, many scholars see him as the real founder of the Jewish Patriarchate in Palestine.<sup>52</sup> But the competence of his successors in the third and fourth centuries, and whether he or they enjoyed Roman recognition, continue to be contested issues. The minimalist position limits Roman recognition and an institutionalized Patriarchate to the end of the fourth century and the beginning of the fifth. From this period we have Roman laws and non-Jewish literary sources attesting the powers and privileges of the Patriarchs.<sup>53</sup> Giving most credence to these data, the minimalist position considers the fully empowered and institutionalized Patriarchate an innovation of the 390s, characterizing it as “Rome’s brief experiment.”<sup>54</sup>

The minimalists do not deny the existence of Patriarchs before the late fourth century. Instead they emphasize the informal and strictly inner-Jewish character of the earlier Patriarchate. They discount evidence suggesting that the arrangements mentioned in the Roman laws were in effect earlier. But an institution or practice may exist for a while before it leaves a “paper trail,” whether literary or legal. The legislator may ignore something until he feels it requires the attention of the state. Thus the first Roman law mentioning patriarchal fundraising outside of Palestine, from 399, forbade an existent practice. Further, the law from 404 permitting fundraising again described it as a custom of long standing allowed by the ancient emperors (*veterum principum*). So here and elsewhere one can argue that the extant legal references to the practice should be taken as *termini ad quem*, not *a quo*.<sup>55</sup>

Perhaps the single most crucial text in the debate between the minimalists and those who assume a longer history for an institutionalized Patriarchate recognized by Rome comes from the very beginning of our period. The text in question is a letter from Origen to Sextus Africanus that

<sup>51</sup> Though less frequently than assumed. He is more commonly designated *rabbi*, i.e., master. See the data surveyed by Jacobs, *Institution*, 115–22. Whether the latter fact means that rabbinic tradition considered him primarily a teacher is another question.

<sup>52</sup> Thus Goodman, S. J. D. Cohen, Jacobs, and Hezser. See Hezser, *Rabbinic Movement*, 409–10, for summary and references. Stemberger, *Jews and Christians*, 230, also must have Judah I in mind when he traces Roman recognition of the Patriarch as the “representative of the Jewish people in Palestine” to the late second century.

<sup>53</sup> See *CTb* 16.8.8, 11, 13, 14, 15, 17, 29; Linder, *Roman Imperial Legislation*, ## 20, 24, 27, 30, 32, 34, 53 (pp. 186–9, 196–7, 201–4, 215–17, 220–2, 224–5, 320–3). The literary sources include Julian (authenticity debated), Libanius, the author(s) of the *Scriptores Historia Augustae* (relevance debated), Epiphanius, John Chrysostom, Jerome, Rufinus, and Palladius.

<sup>54</sup> Goodman, *State and Society*, 116–18; compare Hezser, *Rabbinic Movement*, 405, and especially 415. Goodman subsequently moderated his position. See below.

<sup>55</sup> Compare Levine, “Status,” 18, 27; Hezser, *Rabbinic Movement*, 415–7.

is commonly dated to around 240.<sup>56</sup> Africanus had written to express his doubts about the authenticity of the book of Susannah. Among the problems that aroused his skepticism was the following: the story depicts the Judaeon community in Babylonia as possessing capital jurisdiction. Africanus asked how was it possible that exiles could enjoy such a degree of autonomy. Origen replied that there was a contemporary example of a subject people exercising capital jurisdiction. He writes:

Now, for instance, that the Romans rule, and the Jews pay the two drachmas [the tribute known as the *fiscus Iudaicus*] to them, how great is the power wielded by the ethnarch, granted (*sygchorountes*) by Caesar. We who have experienced it know that he differs in no way from a king of a nation (*ethnos*). Secret trials are held according to the Law, and some people are condemned to death – neither with explicit permission nor without the knowledge of the rulers. And this we learned in the land (*chora*) of this nation (*ethnos*) where we spent much time and were fully convinced.<sup>57</sup>

Assuming with most scholars that the title “ethnarch” is equivalent to “patriarch,” this passage is a clear indication of patriarchal power tolerated by Rome in the first half of the third century. If so, then the explicit references to the judicial powers of the Patriarch in laws from the late fourth and early fifth centuries do not reflect innovations. They simply give expression to arrangements that originated at least a century and a half earlier.

The minimalist camp discounts the significance of this passage. One scholar asserts that Origen proves only that the patriarch “began to establish political control over many of the Jews in Galilee” while “the attention of the Roman administration [was] directed elsewhere in the third-century political crisis . . .” Indeed, “only in the fourth century did Rome take any cognizance of this new local ruler in the Galilee.”<sup>58</sup> However, this conclusion ignores the explicit statement of Origen that the power of the ethnarch was “granted by Caesar.”<sup>59</sup> Subsequently, the same scholar took the phrase

<sup>56</sup> Based on Eusebius, *HE* 6.31. But this tradition might not be accurate. A dating to 228 was tentatively suggested long ago by C. T. Cruttwell, *A Literary History of Early Christianity: Including the Fathers and the Chief Heretical Writers of the Ante-Nicene Period* (New York, 1893), 11: 517. On the latter alternative, the letter reflects Origen’s experiences during his visit to Palestine in 215–18.

<sup>57</sup> Origène, *La Lettre à Africanus sur l’histoire de Suzanne*, Sources Chrétiennes CCCII, ed. N. de Lange (Paris, 1983), 566. English translation modified from L. I. Levine, “Jewish Patriarch,” *ANRW* II 19.2, 662–3.

<sup>58</sup> Goodman, *State and Society*, 116. See here also ch. 8 in the present volume.

<sup>59</sup> Note that this phrase is omitted (without indication of ellipsis) in the English translation provided by Goodman, *State and Society*, 116, and “Roman State and Jewish Society,” 128. Similarly, Hezser, *Rabbinic Movement*, 415, concludes that “official Roman recognition of

into account. His revised conclusion is that Origen shows that the Romans permitted the Patriarch to “exercise a jurisdiction voluntarily accepted by the Jews.” And the Romans did so because they saw the *nasi* “simply as a religious leader.” An analogy would be the role of Christian bishops. But he also concedes that the jurisdiction of the Patriarch was secular as well as religious.<sup>60</sup>

The significance of Origen’s testimony may be further enhanced. As noted by one commentator, the reference to capital trials is phrased impersonally: “There are secret trials according to the Law and some are sentenced to death . . .” The trials are not explicitly connected to the ethnarch, and might conceivably refer to incidents of vigilante justice.<sup>61</sup> What is important to note is that Origen could have responded to Africanus’ question without mentioning the ethnarch! All that he needed to do to make his point was to refer to Jewish capital trials carried out with Roman acquiescence. So it is difficult to see how allusion to the ethnarch and his powers can be explained as hyperbole to make a case. Further, the existence of the ethnarch, all the more so one with extensive powers, was a theological embarrassment to Christian authors, including Origen himself. It contradicted Christian interpretations of Genesis 49.10 that held that the failure of Jewish royalty coincided with the advent of Jesus.<sup>62</sup> So Origen’s mention of the ethnarch adds nothing to the point he needs to make to Africanus, and is theologically embarrassing.<sup>63</sup> Why then would he mention it? A logical answer is that an empowered ethnarchate was a reality and probably connected to those capital cases. In citing the latter, required to make his case, he had to mention the ethnarch’s administration. If so, then the testimony of Origen is crucial.

The minimalists also argue that the Patriarch was different only in degree, not in kind, from other rabbis in Roman Palestine. Until recognized and institutionalized by Roman law in the late fourth century, the Patriarchs were simply an aggressive rabbinic dynasty. On the basis of reputation, learning, wealth, and political contacts they claimed prerogatives and extended patronage. The personal, rather than institutional,

the patriarch and an acknowledgement of certain prerogatives is only substantiated by sources which stem from the late fourth century.” But what Origen describes is at least an “acknowledgement of certain prerogatives.” S. Schwartz, “Patriarchs and the Diaspora,” 214, cites the notice of Origen but does not address its significance.

<sup>60</sup> Goodman, “Roman State and the Jewish Patriarch,” 129, 139. Compare Jacobs, *Institution*, 248–51, 259: the reality behind Origen’s rhetoric is inner-Jewish jurisdiction allowed by Rome in the religious sphere.

<sup>61</sup> Jacobs, *Institution*, 251. He uses the less specific term *Eigenjustiz*.

<sup>62</sup> See the the discussion in Goodblatt, *Monarchic Principle*, 170–2. On Origen, see Jacobs, *Institution*, 251–5.

<sup>63</sup> Both points are made by Levine, “Status,” 30.



nature of the dynasty's power explains the variation in its influence during the third and fourth centuries.<sup>64</sup> On this view, the situation described by Origen was unique and short-lived. Perhaps it reflects the unparalleled success of Judah I. Others who followed Judah may have been less successful in pressing their claims. The close involvement of the Roman authorities with the Patriarch in the late fourth and early fifth centuries could be the result of a Roman agenda based on imperial policy concerns, or perhaps the successful culmination of extended efforts by the patriarchal family to establish patronage over Jewish communities in the Diaspora.<sup>65</sup>

The alternative approach assumes that the Patriarchate did differ in quality from the Rabbinate. Rabbinic traditions asserting that the Patriarchs were no more than "first among equals" or less competent than leading rabbis may reflect opposition and resentment. Certainly no rabbi is ever described by Christian sources as ruling like a king with the consent of Caesar, as Origen says of the ethnarch. The career of no rabbi is said to fulfill the messianic promise of Genesis 49.10, as third-century Jewish sources and third- through fifth-century Christian sources report with regard to the ethnarch/Patriarch. Nor can any dynasty of rabbis match the two- to four-century history of the patriarchal line. And the only other Jewish family with such a long pedigree known from our period is that of the Babylonian exilarchs.<sup>66</sup>

All of this indicates that the Patriarchs differed in significant ways from the (other) rabbis. Of course, at certain times someone outside the patriarchal dynasty might enjoy great acclaim and influence. And a distinguished rabbi's disciples might believe that their master had a greater influence on affairs than did the contemporary Patriarch. (Even today, disciples of certain rabbis believe their masters to have greater impact than presidents and prime ministers.) But such cases were ephemeral. There is no rabbinic parallel to the dynastic and institutional continuity between the ethnarch with powers "granted by Caesar" in the early third century through the honorary praetorian prefect Gamaliel, mentioned in the Roman law of 415.

It may help if we clarify what those in favor of long-term continuity mean by Roman recognition of the Patriarch. They mean that the Romans

<sup>64</sup> Hezser, *Rabbinic Movement*, 411–15. Compare S. Schwartz, "Patriarchs and the Diaspora." Stemberger has the office grow out of the rabbinic movement.

<sup>65</sup> The first position is that of Levine. The second is that of S. Schwartz.

<sup>66</sup> See Goodblatt, *Monarchic Principle*, 143–6, on the Gamaliel dynasty, despite the skepticism of Jacobs, *Institution*, 205–11. On the Babylonian exilarchate in our period see J. Neusner, *Israel's Politics in Sasanian Iran: Jewish Self-Government in Talmudic Times* (Lanham, 1986).

recognized this Jewish official as an authoritative liaison with the Jewish community in Palestine. That recognition in turn enhanced the inner-Jewish position of the Patriarch, which in turn helped in his relations with the non-Jewish authorities. Scholars have noted other local/native institutions co-opted into the imperial regime in the Roman East: *poleis*, the priestly dynasty of Emesa, the ruling family of Palmyra, and the shaykhs of Byzantine Palestine.<sup>67</sup> The closest parallel to the Patriarchate comes from Jewish society in the Roman province of Judaea in the years preceding the outbreak of the revolt of 66. Before that revolt, the high priests had provided some kind of countrywide, ethnic leadership for the Jews of the Roman Judaea. This leadership role drew on the heritage of the priestly rulers of Judah in late Persian, Ptolemaic, Seleucid, and especially Hasmonean times, and on the wealth and prestige of the Jerusalem Temple. As a result, many Jews saw the high priests as the highest-ranking native authority, while the foreign suzerain saw them as useful liaisons with the native population. Because of the high priests' actual or potential influence on the Jews, the Roman authorities supervised the office in various ways, from controlling the priestly vestments to deposing incumbents. So high priests wanting to stay in office had to co-operate with the Roman provincial authorities. Looking back on this period, Josephus refers to the position of the high priests as "the leadership (*prostasia*) of the nation (*ethnos*)."<sup>68</sup> With the destruction of the Temple in 70, the high priests disappear. The resultant vacuum in ethnic leadership would eventually be filled by the Patriarchate. The new "leadership of the nation," like the older version supplied by the high priests, was monarchical (vested in a single person) and dynastic (though now the dynasty was lay, not Aaronid). And it survived into the first quarter of the fifth century.

After the disappearance of the Patriarchate, there is no clear evidence for any acknowledged form of province-wide Jewish leadership in Byzantine Palestine. Some find such evidence in the law of 429 that mentions the cessation of the Patriarchate. It orders the Jewish authorities to continue to collect the old patriarchal tax, the *aurum coronarium*, and turn it over to the state treasury. The order is directed at "The Primates of the Jews, who are nominated in the Synhedriis of either of the provinces of Palestine (*qui in*

<sup>67</sup> See P. Garnsey and R. Saller, *The Roman Empire: Economy, Society and Culture* (Berkeley, 1987), 26–40, on the *poleis*; K. Strobel, "Jüdisches Patriarcat, Rabbinetum und Priesterdynastie von Emesa: Phänomene innerhalb des Imperium Romanum der Kaiserzeit," *Ktema* 14 (1989), 39–77, for Palmyra and Emesa; and I. Shahid, *Byzantium and the Arabs in the Fourth Century* (Washington, DC, 1984), 517, and idem, *Byzantium and the Arabs in the Fifth Century* (Washington, DC, 1989), 501–2, on the shaykhs appointed as phylarchs.

<sup>68</sup> On the theory and practice of priestly leadership see Goodblatt, *Monarchic Principle*, 6–76.

*utriusque Palaestinae synedriis nominantur*) or stay in other provinces.” Some understand this to refer to a provincial council, serving as the chief legal and political authority for the Jews, in each of the Byzantine provinces with large Jewish populations, namely, Palaestina Prima and Palaestina Secunda. However, it is equally possible to understand the text to allude to several *synedrii* in each of the provinces. On this interpretation the *synedrii* were local community boards rather than national councils.<sup>69</sup>

Another possible source for a national institution appears in a medieval chronicle. This source tells of a scion of the exilarchic family from Babylonia who moved to Palestine in the early sixth century. Following his arrival he held the office of *resh pirqa* (according to one interpretation) and head of the Sanhedrin. However, the significance of the former phrase is very uncertain. And the historical value of the notice as a whole is equally unsure.<sup>70</sup> Other notices, suggesting some kind of Jewish leadership centered in Tiberias in the sixth and seventh centuries, are equally uncertain. Syriac Christian sources refer to “priests” sent by the Jews of Tiberias to the Jewish king of Himyar in the early sixth century. And Greek sources refer to an individual from Tiberias named Benjamin, who was involved in Jewish affairs during the Persian invasion and the Byzantine reconquest of Palestine in the first half of the seventh century. The nature of the “priests,” the identity of those who sent them, and the very historicity of the account are all subject to debate. Similarly, the existence and identity of Benjamin is uncertain. Even if historical, his leadership position could have been completely informal.<sup>71</sup>

## V THE RABBIS

The other Jewish leadership institution for which we have extensive data is the Rabbinate.<sup>72</sup> The title *rabbi*, literally “(my) master,” appears

<sup>69</sup> *CTb* 16.8.29 (Linder # 53, 321). For the inference see Linder’s comments at 322, nn. 5–6. Compare Avi-Yonah, *Jews under Roman and Byzantine Rule*, 237; L. I. Levine, *The Rabbinic Class of Roman Palestine in Late Antiquity* (Jerusalem and New York, 1989), 82; and Stemberger, *Jews and Christians*, 266, 276, 296–7. For the argument that local councils are meant see Goodblatt, *Monarchic Principle*, 273–4.

<sup>70</sup> The source is *Seder Olam Zutta*, a Babylonian chronicle commonly dated to the ninth century. For literature and discussion see Goodblatt, *Monarchic Principle*, 274–6.

<sup>71</sup> See Avi-Yonah, *Jews under Roman and Byzantine Rule*, 252–3, 271. On the case of Himyar, see G. D. Newby, *A History of the Jews of Arabia from Ancient Times to Their Eclipse under Islam* (Columbia, 1988), 46–7. On Joseph see Z. Baras, “Hakibush haparsi,” in idem (ed.), *Eretz Israel from the Destruction*, 342.

<sup>72</sup> Recent studies include Levine, *Rabbinic Class of Roman Palestine*; Hezser, *Rabbinic Movement*; and Stemberger, *Jews and Christians*, 269–97. Despite the slightly different chronological focus in each of these works, there is considerable overlap and dialogue.

occasionally in inscriptions and in non-Jewish literature. Debate continues over whether this was a “generic title of respect” or applied only to teachers of Torah.<sup>73</sup> Be that as it may, modern historiography in European languages commonly uses the title to refer to the masters of the traditions collected in the Mishnah and cognate documents (*viz.*, tannaitic compilations), in the Palestinian and Babylonian Talmuds, and in the midrashic literature. Consequently, the latter materials are referred to as “rabbinic literature.” Not all of the masters named in this literature actually bore the title “rabbi.” And Jewish tradition itself, followed by modern Israeli scholarship, preferred to use the phrase *ḥachamim*, “sages,” or the acronym *ḥz”l*, standing for *ḥakhamenu zikhronam livrakhab*, “our sages of blessed memory.” We give the term “Rabbis” its usual, albeit circular, meaning: people who created, mastered, and transmitted the traditions appearing in rabbinic literature.

The contents and history of rabbinic literature are discussed elsewhere in this volume. Our focus is the social and political role of the Rabbis. Older views saw the Rabbis emerging as “the leading class in the surviving fragment of the Jewish nation” and “the real rulers of the nation” in the decades following the suppression of the revolt of 66–70. And “the resultant rule of the rabbis has continued since then in Judaism almost down to the present generation.”<sup>74</sup> As powerful as the Patriarchs may have been, the Rabbis eclipsed them during the third century and were “the official leaders of the nation” in the fourth. In the fifth and sixth centuries “the rabbis residing at Tiberias were still regarded as the heads of the whole nation.”<sup>75</sup> More recent scholarship has been more skeptical. It notes that our sources, produced by the Rabbis and representing their viewpoint, may well exaggerate rabbinic influence. In fact, even their own traditions concede limitations on the standing of the Rabbis in Jewish society. The accumulated

Treating an earlier period, but touching on developments relevant to our era, is S. J. D. Cohen, “The Rabbi in Second-Century Jewish Society,” *CHJ* 111 922–90, 1197–201, revised and condensed as “The Place of the Rabbi in Jewish Society of the Second Century,” in Levine (ed.), *Galilee in Late Antiquity*, 157–73. For a thorough and critical discussion of earlier scholarship on the Rabbis, up to and including Levine and Cohen, see Hezser, *Rabbinic Movement*, 1–36.

<sup>73</sup> The former view is that of S. J. D. Cohen, *CHJ* 111 924, shared by Levine, *Rabbinic Class*, 15. The latter view is that of Hezser, *Rabbinic Movement*, 59–62. On the inscriptions mentioning the title, see Cohen, “Epigraphical Rabbis,” *JQR* 72 (1981–2), 1–17, and compare the comments of Hezser, *Rabbinic Movement*, 119–23.

<sup>74</sup> Avi-Yonah, *Jews under Roman and Byzantine Rule*, 64, for the first and third quotation, and 12 for the second. And see 26–30, 48–9, 63–4, for rabbis allegedly issuing binding legislation.

<sup>75</sup> For the alleged eclipse of patriarchal status and power in the third century, see Avi-Yonah, *Jews under Roman and Byzantine Rule*, 116–23. See there 178, 181, 197, for the fourth century; 228, 237, for the fifth; 252–3, for the sixth.

archaeological and epigraphic evidence and the application of more sophisticated social scientific analysis have also contributed to a reassessment of rabbinical status in Late Roman-Byzantine Palestine. The results of that reassessment follow.

Recent scholarship agrees that during the second century the Palestinian Rabbis lacked institutionalized power. They were a self-proclaimed elite. Whatever influence they had was the result of personal standing which could be based on social position, wealth, learning, or charisma. They controlled no communal institutions, not even synagogues. Compliance with the Rabbis' wishes, in matters of religion no less than in civil affairs, was purely voluntary. Disagreement appears with regard to the subsequent era. Some argue that the situation described above changed at the end of the second or beginning of the third century. Previously the Rabbis had been located primarily in the villages and smaller towns, in rural areas. By the third century they were concentrated in such urban centers as Tiberias, Sepphoris, Caesarea, and Lod. The new urban setting increased the contacts between the Rabbis and the broad spectrum of the Jewish population of the province. As a result, the Rabbis seem to have become more tolerant of the masses and more willing to accept into their ranks individuals from lower socio-economic strata. They may also have become more open to Graeco-Roman civilization. The Rabbis also began to participate more in public life and in communal institutions like the synagogues. It is now that we find Rabbis holding positions of authority, such as judges and administrators. Finally, some suggest that only now were academies created for the training of rabbis.

The latter two developments created an institutional foundation for the Rabbis and their attempts to influence Jewish society. The urbanization of the Rabbis parallels the urbanization of Palestine in general in the third century. Perhaps more relevant is a parallel developments in the Patriarchate. Early in the third century, Judah I moved from his center in Bet She'arim to the city of Sepphoris. Moreover, the enhanced authority of Judah I benefited the Rabbis. Judah was willing to use his powers to appoint rabbis to positions of communal authority. To be sure, the Rabbis continued even now to depend on the willingness of people to accept their influence. But the new institutional bases and the urban setting encouraged more and more Palestinian Jews to follow the lead of the Rabbis.<sup>76</sup>

<sup>76</sup> This summary is based on Levine, *Rabbinic Class*, and Cohen "Rabbi in Second-Century Jewish society." Levine sees the enhanced position of the Patriarch as a cause, and Cohen sees it as a symptom, of the increasing institutionalization of the Rabbinate. Compare the discussion of their approach in Hezser, *Rabbinic Movement*, 31–6. Stemberger, *Jews and Christians*, 275–83, appears to agree with Levine. On the role of the Rabbis in ancient synagogues, see the detailed discussion in Levine, *Ancient Synagogue*, 440–70.



Figure 16.1 Ancient synagogues in the Land of Israel, selected sites

Others reject the claims of an increasingly institutionalized rabbinic “movement” in the third and fourth century. This dissenting view concedes that beginning in the third century more rabbis lived in certain urban centers and that some rabbis held positions of formal authority. However, it

sees generalizations from these facts as misleading. Some individual rabbis gained advancement on the basis of alliances with the Patriarch, but others kept their distance and independence from him. More rabbis operated in more public venues, such as the synagogues, but they still did not control them. Nor is there evidence for rabbinic academies. Instead, we continue to find non-institutionalized disciple circles, that is, a small group of students clustered around a master. In sum, the Rabbis may have had a higher public profile in the third and fourth centuries, but they still lacked institutional authority as rabbis. Their influence still flowed from the willingness of others to acknowledge and accept their authority. Indeed, the very status of a master depended on recognition as such by others, especially established masters or people willing to become disciples. The requirements for recognition were expertise in rabbinic tradition and adherence to certain standards of conduct. Thus the rabbinic “movement” remained what it had been from the start: a loose network of individual masters with shared values and a common body of traditions.<sup>77</sup>

Study of the Palestinian Rabbis has concentrated on the third and fourth centuries because rabbinic literature generally does not name contemporary masters after this period. But people continued to study and transmit this literature during the remaining two-and-a-half centuries of our period. Indeed, the collection and editing of the Palestinian Talmud and midrashic literature took place after the time of the named masters. Does the literature of the fifth through seventh centuries tell us anything about the status of the Rabbis? One area where increased rabbinic influence is detected is the synagogue liturgy.<sup>78</sup> Thus some argue that the post-talmudic compilation of synagogue procedures, Tractate *Soferim*, attests considerable rabbinic influence on the prayer service. So does the liturgical poetry of late antiquity. These poems both correlate with the liturgical structures ordained in rabbinic literature and are full of allusions to the themes and language of rabbinic midrash. The Aramaic targumim also contain considerable parallels with rabbinic literature.<sup>79</sup> Whether the *maasim* literature, the collection of legal cases from late Byzantine Palestine, also attest rabbinic authority remains to be studied. In general, the post-talmudic evidence has yet to be systematically reviewed for the light it may shed on this and other social questions.<sup>80</sup>

<sup>77</sup> This is the view of Hezser, *Rabbinic Movement*. She agrees with Cohen to the extent that she sees the Patriarchate as just a particularly successful dynasty of rabbis. Hence increased patriarchal influence is an instance of increased rabbinic influence.

<sup>78</sup> In addition, readers should consult the analysis in ch. 8 of this volume.

<sup>79</sup> See Levine, *Ancient Synagogue*, 468–9, 546–60.

<sup>80</sup> I have not seen H. Newman, *Ha-Ma'asim li-Vnei Eretz Israel and Their Historical Background* (unpublished MA thesis, Hebrew University, 1987), cited by Stemberger, “Jewish–Christian Contacts,” 132 n. 9.

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THE MATERIAL REALITIES OF JEWISH  
LIFE IN THE LAND OF ISRAEL,  
C. 235–638

JOSHUA J. SCHWARTZ

I INTRODUCTION

A commonplace among historians is the notion that every age must be understood as it really occurred. However, agreement on perspective and methods of observation is less common. The study of material culture provides a tool for understanding the basic building blocks or the ground floor of history. To some scholars, this study concerns the banal, and it is not surprising that the interests students of material culture might enjoy have often escaped the notice of normative historians. Students of material culture might answer, however, that these “banalities” accumulate into forces reflecting the essence of society.<sup>1</sup>

More surprisingly, though, people do not always agree about the composition of material culture. Combining some of the more common perceptions, one might suggest the following two definitions: the landscape-oriented definition claims that material culture is the segment of one’s physical environment shaped by humans according to culturally dictated plans,<sup>2</sup> whereas the artifact school maintains that material culture is the totality of artifacts in culture and includes all remnants left behind from the physical world, such as farm tools, houses, furniture, utensils, and landscape-oriented remains, such as roads or cities.<sup>3</sup> Common to these two approaches is the notion that there is not sufficient evidence available to the

<sup>1</sup> See J. Deetz, *In Small Things Forgotten: The Archeology of Early American Life* (Garden City, 1975), 25; and T.J. Schlereth, *Cultural History and Material Culture: Everyday Life, Landscapes, Museums* (Ann Arbor, 1990), 1. As does Schlereth (18), I use the phrases “material culture,” “material history,” and “material life” interchangeably. Much discussion prevails regarding the extent to which the study of the individual can lead to conclusions pertaining to society generally and to the study of ethnicity particularly. Many of these discussions are related to differences between processual (“new”) archaeology and post-processual archaeology, and restrictions of space prevent discussion of these matters further.

<sup>2</sup> J. Deetz, “Material Culture and Archaeology – What’s the Difference?” in L. Ferguson (ed.), *Historical Archaeology and the Importance of Material Things* (Lansing, 1977), 10.

<sup>3</sup> T. Schlereth, *Material Culture Studies in America* (Nashville, 1982), 2.

normative historian to reconstruct society. Ironically, the study of material culture introduces so much new data that it simply staggers the imagination.<sup>4</sup>

All of the previous information relates to the study of ancient Jewish life, and a number of attempts have been made to examine certain aspects of the material culture of ancient Judaism, including the Mishnah and Talmud period. The groundbreaking work was that of Samuel Krauss, and the outstanding modern-day scholar of this field is Daniel Sperber, although their work, as the work of their colleagues past and present, is primarily descriptive and makes little use of the theoretical guidelines involved in the study of material culture.<sup>5</sup>

The purpose of this chapter centers on a brief presentation of the material realities of Jewish life in the Land of Israel in the Late Roman period. The sources at one's disposal are both literary and archaeological, but since the dominant Jewish source of the period to be discussed is rabbinic literature, the study of material culture is deeply grounded in the study of "talmudic (or rabbinic) realia." However, since much of the material life of the Jews was influenced by that of their non-Jewish neighbors, this chapter will also serve to illustrate the importance of rabbinic literature for understanding everyday life in Palestine in general.

The methodological problems in this undertaking, however, are immense. First, the very nature of rabbinic literature is problematic. The halachic and aggadic traditions of this literature must be mined for material culture. Layers of extraneous material have to be peeled away. Chronologies must be determined, and it has to be demonstrated whether or not this literature in general allows the writing of history, including material culture. Little agreement exists among scholars on this matter.

It is also necessary to determine the geographic milieu of various traditions, namely, Palestinian, Babylonian, Judaeen, Galilean, and the like. This determination is not necessarily difficult; the problem arises over whether or not it is possible to use traditions from one area in relation to another. Although this would not normally be done, the universal nature of material culture makes it feasible to pursue this goal.

The time frame is also critical. Can a tradition from second-century Galilee regarding a utensil be used for the third century? Since developments in material culture are extremely slow and many functions are

<sup>4</sup> Cf. F. Ferguson, "Historical Archaeology and the Importance of Material Things," in Ferguson (ed.), *Historical Archaeology*, 7.

<sup>5</sup> See the detailed bibliography and methodological comments in D. Sperber, *Material Culture in Eretz-Israel During the Talmudic Period* (Jerusalem, 1993), 3–23 (Hebrew).

universal, occasional crossovers of chronological and geographical boundaries may be methodologically acceptable.

It is also important to remember that the major literary source at one's disposal is "rabbinic" literature, thus leading to the problem of whether or not traditions there also reflect the everyday life of everyone else and whether it is relevant to non-rabbinic Jewish society; then it is necessary to determine to which social strata this method applies.

Needless to say, clear-cut parallel material from archaeological remains, Jewish or otherwise, and parallels from the literary traditions of the Graeco-Roman world might do much to obviate the problems previously mentioned. It is the scholar's task to find these parallels, because very few studies are devoted to them.<sup>6</sup> Restrictions of space prevent one from devoting too much time to these issues, but it is extremely important to remember that the material culture and everyday life of the Jews of Palestine do not function in a vacuum and in many ways were probably no different from the material culture of non-Jews in Palestine.

It is extremely difficult to write the material history of the Jews of Roman Palestine, and occasionally a "leap of faith" or a vivid imagination is necessary.

## II RURAL SOCIETY

Jewish society in Roman-period Palestine was rural and agricultural; therefore, much of the material culture was shaped by that reality. In this section the elements of everyday life relevant to those who lived and worked in rural Palestine will be described. In many ways, the Jews were no different from their non-Jewish neighbors, but some aspects of daily rural life were peculiar to Jewish society.

### A RURAL SETTLEMENTS

Most Jews in the Roman period lived in villages of various sizes.<sup>7</sup> These communities were homogeneous and monolithic in their social, economic, and religious composition, and few "mixed" communities existed at any level. Clearly, much of daily life was determined by these realities, and the

<sup>6</sup> See, for example, the studies of S. Lieberman and of D. Sperber. Among younger scholars, it is possible to mention the works of D. Adan-Bayewitz and Z. Weiss.

<sup>7</sup> Y. Hirschfeld, "Changes in Settlement Patterns of the Jewish Rural Populace Before and After the Rebellions against Rome," *Cathedra* 80 (1996), 3–18 (Hebrew). I refrain from entering the fray regarding the extent to which Jews lived in isolated, large, manor houses or farms, since this was a minority phenomenon.

monolithic nature of rural society might then produce a monolithic material culture. It should be added, though, that this same reality provided opportunities for autonomy and feelings of security. The larger village settlements contained more safety and might have existed within walled enclosures.<sup>8</sup>

The absence of social stratification produced villages belonging to the lower classes of the socio-economic spectrum. Relatively speaking, a low level of building existed in the rural sphere. In private houses, it is unusual to find dressed stones, capitals, or coloured mosaic floors, and “shaky” houses were not uncommon.<sup>9</sup> The quality of life in these settlements was probably not high. Likewise, public buildings were few, although stores and markets of a semi-permanent nature were built;<sup>10</sup> the larger rural settlements might have had a hostel, a synagogue, or a school building. In addition, these rural Jewish settlements had a low level of hellenization, and what there was more likely reflected political factors than cultural ones. Therefore, rural Jewish society exhibited little in the way of Greek language, and the Greek that was found there was usually of a low level.

#### B COURTYARDS

These rural Jewish settlements also exhibited little in the way of planning.<sup>11</sup> Narrow streets led to alleys and courtyards around which people lived. Often, allegiance was more to one’s courtyard and surrounding alleys than to the settlement itself, a reality strengthened by the trend of religious laws, such as the ones pertaining to the *erub*, which made it possible to carry on the Sabbath and to use these local systems of courtyards and alleys as their point of reference. Moreover, physical changes in the courtyards or their vicinity required the approval of all the local residents, not always easy to secure, but the system did heighten their sense of neighborhood identity and allegiance.

Neighborhood allegiance and courtyard existence, nevertheless, did not mean that individual residents had to reject an independent lifestyle. On the contrary, individual residents of a courtyard, in the quest for privacy, might attempt to build fences or partitions. It was not easy, however, to

<sup>8</sup> Comments here and following are based upon the following: Z. Safrai, “The Village of Judaea,” in S. Dar and Z. Safrai (eds.), *The Village in Ancient Israel* (Tel-Aviv, 1997), 11–73 (Hebrew). Villages in Egypt and Syria appear to have had a higher degree of social stratification. See also Z. Safrai, *The Jewish Community in the Talmudic Period* (Jerusalem, 1995), 109 (Hebrew).

<sup>9</sup> See Safrai, *Jewish Community*, 183, on such houses having to be demolished.

<sup>10</sup> Z. Safrai, *The Economy of Roman Palestine* (London, 1994), 231.

<sup>11</sup> Discussion here is based on S. Safrai, “Home and Family,” in S. Safrai and M. Stern (eds.), *The Jewish People in the First Century* (Philadelphia, 1976), 728–31.

maintain the continued integrity of the courtyard, whether as a whole unit or in relation to its parts. Over the course of time, for instance, sales and inheritance would often result in divided possession of residences, and arguments ensued. In addition, changes in family demographics and improved economic fortunes might dictate the need to add rooms and storeys to original dwellings<sup>12</sup> and eventually it was unclear who owned which property part: for example, stairs or balconies: were they private or communal? Courtyard existence, then, was not without its strife and tensions.

In addition to residences, courtyards often contained many different structures, such as dovecotes, chicken coops, storage areas, toilet facilities, water cisterns, and primitive sewage gutters.<sup>13</sup> There might also have been shops there, open either to the courtyard or to the street. Often a shop doubled as workshop and residence. Much of the everyday life in the courtyard was often boisterous and noisy, with laundering, cooking, baking, grinding, and eating often occurring there. When relations among neighbors were not strained, much of this work was shared on a communal basis. In addition, the noise of children playing and the sounds of non-grazing animals were often heard in the courtyard.<sup>14</sup> At night, some residents might have tried to sleep there, but sometimes the courtyard was locked at night.<sup>15</sup> Nevertheless, people were always coming into and exiting the courtyard, and this movement might explain why doors to private residences were often locked, why guests had to ring or knock to obtain entry, and why rabbinic literature devotes a good deal of discussion to keys and locks.<sup>16</sup>

<sup>12</sup> Talmudic sources cite a “marital house” built on the roof of a family house when a son married, and a “widow’s house” built for a widowed-returning daughter. See Safrai, “Home and Family,” 731.

<sup>13</sup> See Safrai, *Jewish Community*, 181. Rural settlements, unlike urban ones, did not have much in the way of sewage systems, and rural dwellings themselves rarely had toilets (cf. BT *Shabb.* 25b). Some of the storage areas might have been located in underground installations or caves.

<sup>14</sup> Children were quite adept at finding toys and playthings and a good deal of playing would have occurred outside. They might have played with nuts, dates, pottery, and animals. They usually played among themselves, but sometimes a parent (the sources usually refer to fathers) might have participated. See J. Schwartz, “Ishmael at Play: On Exegesis and Jewish Society,” *HUCA*, 66 (1995), 203–21. On playing indoors with a toy wagon, see J. Schwartz, “‘A Child’s Cart’: A Toy Wagon in Ancient Jewish Society,” *Ludica* 4 (1998), 7–19.

<sup>15</sup> Safrai, “Home and Family,” 730. See also Y. Hirschfeld, *The Palestinian Dwelling in the Roman-Byzantine Period* (Jerusalem, 1995), 272ff. On stores, see Safrai, *The Economy*, 224–8. On animals in the courtyard, see J. Schwartz, “Dogs in Ancient Jewish Rural Society,” in A. M. Maier, S. Dar, and Z. Safrai (eds.), *The Rural Landscape of Ancient Israel* (Oxford, 2003), 127–36. On courtyard quality of life, see M. Bava B. 2.3.

<sup>16</sup> Safrai, “Home and Family,” 734. See also Sperber, *Material Culture*, 49–59.

## C HOUSES

Different types of houses were constructed in the courtyard. Of course, some might have also been found in an urban setting, not only in a rural one. For the moment, those basic elements found in a rural setting will be described, but it is important to remember that the line of demarcation between rural and urban in residential matters was not always absolute.<sup>17</sup>

The basic residential structure was a one-room house built either in front of or behind an open courtyard.<sup>18</sup> The single room would occasionally be divided, with the lower part serving as a storage and work area and the upper section as the living quarters. This arrangement hardly provided a high quality of life, and this condition could deteriorate further if security forced residents to keep domestic animals inside the residence. People living in such houses would have preferred to spend as much time as possible in the courtyard, in spite of the noise and commotion. It is also easy to understand why few people might have been happy living in these basic residential conditions.

Those who did not adjust to the relatively primitive living conditions sought a more sophisticated residential style. For example, a popular rural residence was the “simple house,” which was a broad building with a portico along the front wall. It might have been fairly large and might have had a second storey that served as the actual residence, while the lower one was used for storage.<sup>19</sup> The “courtyard house,” with the courtyard surrounded on all four sides by the house, was occasionally found in the rural sector.<sup>20</sup>

Those who could manage it also sought to progress beyond the restrictions of a one-room house.<sup>21</sup> The way that space is divided and the reason for such division is often a good reflection of social structure. Gender, age, and social rank are defining factors instrumental in determining the division of space in ancient residences. The amount of access to this space, that is, determining whether an area was public or private, can also help in evaluating lifestyles. While rabbinic literature and archaeology

<sup>17</sup> Most of the discussion here is based on Hirschfeld, *Dwelling*.

<sup>18</sup> PT *Maasr.* 3.50d. PT *Sot.* 8.22d describes the halachic minimal dwelling unit as  $4 \times 4$  cubits or approximately  $2 \times 2$  m, certainly rather “cramped” quarters.

<sup>19</sup> Rabbinic literature also describes the meetings of sages and others as taking place there. See Safrai, “Home and Family.”

<sup>20</sup> See Hirschfeld, *Dwelling*, 36, on the “simple houses” found in Susiyah and in Horvat Shema, and 57, on the “courtyard houses” found in Capernaum and Khorazin.

<sup>21</sup> Cf. Hirschfeld, *Dwelling*, 260ff.



provide relevant data, little work has been done in relation to the Jewish home.<sup>22</sup>

Rabbinic literature mentions additional rooms, such as the *traklin* and the *kiton*. The *traklin*, derived from the Latin *triclinium*, was the “dining room.” Numerous rabbinic sources mention meals, of a family or formal nature, as occurring there, and rooms of this type have been found in archaeological excavations.<sup>23</sup> Before entering the *traklin*, however, the guests will have assembled in an anteroom, where they were served hors d’oeuvres and might have sat on chairs or stools. They then entered the *traklin* itself and ate while reclining on couches.<sup>24</sup> Much of the meal was eaten in accordance with accepted Roman custom, although it is difficult to be certain of the extent, because the majority of relevant sources refer to internal Jewish dining matters, such as the order of blessings when various foods were served.

In the *traklin*, different tables were used. The diner might have an individual table, low, and often round, with three legs. Food left on such tables, often known as a *Delphica*, was not touched by other diners, and even if a Jew left wine on such a table while dining with a non-Jew, and went out for a while, the wine remained untouched.<sup>25</sup> However, it is important to note that, like today, dining was not restricted to the “official” dining room, but occurred in every other domestic space inside and outside of the house except the bedrooms. The actual cooking often occurred in the courtyard, although occasionally kitchens or “oven areas” were found inside the house.<sup>26</sup>

Behind the *traklin* was the *kiton* or bedroom. This location provided some degree of privacy, although sometimes all family members slept in the same room.<sup>27</sup> In addition, there might have been curtains or partitions, permanent or temporary, dividing this room from other spaces in the house. The size and condition of this room determined the nature of the sleeping

<sup>22</sup> It is indeed the purpose of the doctoral dissertation on Jewish residences in ancient Palestine soon to be completed by E. Baruch at Bar-Ilan University to deal with these issues.

<sup>23</sup> The *traklin* has been found in houses in almost every type of settlement area from village (e.g., Susiyah), to farmstead (e.g., Ein Yael), to city (e.g., Sepphoris).

<sup>24</sup> Tos. Ber 4.8 (ed. Lieberman, 20). The rich or the assimilated might actually have reclined on a genuine *lectus tricliniarius*, a couch adapted for three people.

<sup>25</sup> Cf. M. Av. Zar. 5.5. On these and other tables see most recently A. Klöner and B. Zissu, “A Round Table-top of a Single-pedestalled ‘Delphica’ from Horvat Tabaq,” *IEJ* 49 (1999), 242–8.

<sup>26</sup> Safrai, “Home and family,” 733. See also A. Killebrew and S. Fine, “Qatzrin: Reconstructing Village Life in Talmudic Times,” *BiAR* 17 (1991), 51, 55, on an indoor kitchen. This room is probably the *megerion* of PT Bez 5.63b.

<sup>27</sup> Safrai, “Home and Family,” 733.

arrangements. A bed on a wooden frame, mattresses, pillows, and blankets were desired and considered status symbols. Rabbinic literature specifically mentions that “wives of the poor” were not entitled to receive fancy bedding from their husbands upon marriage, unlike their wealthier sisters; and apparently not everyone had a bed, since rabbinic literature mentions sleeping mats.<sup>28</sup>

Domestic furniture that might be found in these rooms was relatively simple and was a good indicator of status.<sup>29</sup> Couches and sofas, mostly of the type used while eating, were considered most elegant. The wealthy might also have had a *cathedra*, or many of them, with backs and cushions. The less affluent had various types of simple chairs, stools, and seats.<sup>30</sup> Sitting on the floor was a sign of poverty. Rabbinic and non-Jewish sources mention different types of chests, boxes, and cupboards for storage.<sup>31</sup>

Not much light shone in most rooms, and, for illumination, one had to depend on natural sunlight or various forms of artificial lighting, especially the oil lamp. Fortunately, the importance of the lamp in ritual produced a good deal of discussion and detail on lamps, oils, and wicks in rabbinic literature.<sup>32</sup> Portable lamps could have been located at various points in the house, with lamps sometimes hung from the ceiling. The need to maintain light in the house on the Sabbath, when it is forbidden to kindle a fire, led to various attempts to construct “slow-drip” lamps, such as those described in Mishnah *Shabbat* 2.4. Indeed, such a lamp, bearing the inscription “Shabbat,” was found at Hurvat Uza, 8 km to the east of Acco, proving that the literary sources here reflect reality.<sup>33</sup>

The component rooms of a residence did not always make a clear residential whole. Thus, the various rooms of the house could have been connected to one another via inner passageways, but it was also possible that no connection was available between the rooms, with each one

<sup>28</sup> See J. Schwartz, “Material Culture and Rabbinic Literature in Late Antique Palestine: Beds, Bedclothes, and Sleeping Habits,” in L. I. Levine (ed.), *Continuity and Renewal: Jews and Judaism in Byzantine-Christian Palestine* (Jerusalem, 2004), 191–209 (Hebrew).

<sup>29</sup> See in general G. M. A. Richter, *Ancient Furniture: A History of Greek, Etruscan and Roman Furniture* (Oxford, 1926).

<sup>30</sup> Cf. *Midr. Ps.* 4.3 (ed. Buber, 21b) which states that the first time a guest comes to one’s home, he is seated on a couch. When he returns a second time, he is seated on a chair, probably a *cathedra*. The third time, he is seated on a stool, probably a *sella*, and the fourth time, he is unwelcome.

<sup>31</sup> Safrai, “Home and Family,” 744.

<sup>32</sup> See Y. Brand, *Ceramics in Talmudic Literature* (Jerusalem, 1953) (Hebrew). See also U. Zevulun and Y. Olenik, *Function and Design in the Talmudic Period: Exhibition and Catalogue* (Tel-Aviv, 1978), 39–43.

<sup>33</sup> H. Eshel and D. Avshalom-Gorni, “A Stand for a Sabbath Lamp from Hurvat Uza,” *Atiqot* 29 (1996), 57–61.

opening into the courtyard. The latter plan was usually adopted in order to isolate the *traklin* from the other rooms of the house, and, since much of the activities that today would be associated with a residence occurred in the courtyard, an internal connection between rooms was not deemed essential, although some type of entrance-way or vestibule led into the house.<sup>34</sup> The courtyard seemed to overshadow the house and might explain why the walls of these houses for the most part remained blank, with little or no decoration. Courtyard life was boisterous; residential life was bleak.<sup>35</sup>

Ascent to the upper storey, if one existed, would have been via an external staircase connected to a balcony supported by columns, surrounded by a balustrade, and known as the *exedra*. The balcony could have faced the courtyard or been attached to an external wall.<sup>36</sup> The roof of the house was flat, provided more living space if necessary, and was occasionally used for drying fruits and vegetables. Some of the activities that might have occurred in the courtyard could also be achieved on the roof; this provided more privacy and lowered the noise level in the courtyard.<sup>37</sup> Some houses also had their own water cisterns and were not dependent on the communal one in the courtyard.<sup>38</sup>

#### D UTENSILS

In addition to the basic furniture found in these houses or the courtyards, one would have found in them implements, vessels, and equipment of many types for various purposes. The kitchen may not have been a prominent room in the house, but cooking and subsequent eating were undoubtedly important activities, as indicated by the number and variety of cooking utensils mentioned in various sources and discovered at archaeological sites.<sup>39</sup>

The Jewish housewife appeared to have a well-stocked kitchen of utensils and appliances.<sup>40</sup> For the most part, she would not have been different from her non-Jewish neighbors, and indeed both Jews and non-Jews often bought kitchen wares from the same producers. The pottery of the

<sup>34</sup> Hirschfeld, *Dwelling*, 263.

<sup>35</sup> This structure contrasts with the Roman house, for instance, in which decorations on walls and otherwise were a means by which they might mark the status of individual rooms.

<sup>36</sup> Hirschfeld, *Dwelling*, 265. <sup>37</sup> Safrai, "Home and Family," 732. <sup>38</sup> *M. Ab.* 5.6.

<sup>39</sup> Much of the discussion on these and other implements is based on Zevulun and Olenik, *Function*. See also D. Adan-Bayewitz, *Common Pottery in Roman Galilee: A Study in Local Trade* (Ramat-Gan, 1993), and the extensive bibliography cited there. Constraints of space prevent the discussion of questions concerning "form." Suffice it to say, albeit simplistically, that form was for the most part determined by function.

<sup>40</sup> Apparently, however, men also engaged in cooking. See, e.g., *BT Pes.* 112a.

Galilean village Kefar Ḥanaya, for example, was apparently the most popular among residents in Mishnah-period Galilee. Good quality, a high level of fire resistance and hardness, and reasonable prices were important factors when economic circumstances determined the number of utensils the kitchen would hold.<sup>41</sup> Jews also bought kitchen utensils from non-Jews.<sup>42</sup> However, certain aspects were unique to the Jewish kitchen. For example, stone measuring cups were popular because they were not susceptible to impurity,<sup>43</sup> and the *meyḥam*, a wide-necked, bulbous vessel for heating water, could be stacked on another boiling-hot *meyḥam* or on a pot-bellied, round-bottomed *kederah* or cooking pot in order to keep its contents warm over the Shabbat.<sup>44</sup>

Cooking could be accomplished on various types of stoves, the most common of which was the *kirab*, a single, hollow compartment allowing air to circulate through top holes on which pots or pans could be placed. It could be permanent or portable; it could have one or more heating points; and sometimes a number of *kirot* might be joined together. The best were made of metal or stone and were considered status symbols.<sup>45</sup> The fuel for firing the stove, whether wood, scrub brush, grass, or straw, was taken from a storage area in the house or courtyard. In addition, hot coals provided an effective means of heating the stove.<sup>46</sup>

The most common cooking vessel was the pot-bellied *kederah*. The housewife had them in various sizes, allowing convenient stacking, which would have caused them to be blackened by fire. The *ilpas* or casserole-type vessel for stewing and steaming was also common. This vessel usually had a lid, while the *kederah* did not.<sup>47</sup> As well as the *meyḥam*, a number of different vessels were available for heating water, such as the *yorah* and *kumkum*, made of ceramic or metal. Rabbinic sources also mention two types of frying pans (*teganon*), one for deep frying in oil and the other for a more solid fry.<sup>48</sup>

<sup>41</sup> Adan-Bayewitz, *Common Pottery*. <sup>42</sup> *Tos. Av. Zar.* 8(9).2 (ed. Zuckerman, 473).

<sup>43</sup> This was certainly the case in the Second Temple period in relation to both priestly and non-priestly purity. In the Mishnah and Talmud periods, there were still those who observed non-priestly purity. See E. Regev, "Non-Priestly Purity and Its Religious Aspects According to Historical Sources and Archaeological Findings," in M. J. H. M. Poorthuis and J. Schwartz, *Purity and Holiness: The Heritage of Leviticus* (Leiden, 2000), 223–4.

<sup>44</sup> *Tos. Shabb.* 3(4).23.

<sup>45</sup> Zevulun and Olenik, *Function*, 32. As was the case regarding most utensils when they broke, the rich bought new ones and the poor repaired them.

<sup>46</sup> S. Krauss, *Qadmoniot ha-talmud* (Tel-Aviv, 1929), 1 2, 120ff.

<sup>47</sup> *Ibid.*, 32–4, and the sources cited ad loc.

<sup>48</sup> *Ibid.*, 35–7. On the frying pans see *M. Av. Zar.* 5.8.

Once cooked, the food was served on various utensils, for instance the round, fancy glass serving platter known as the *iskutla*.<sup>49</sup> Food could also have been brought to the table in a large ceramic serving bowl known as the *tambui*, which was usually removed from the table after circulation. Bread was placed in the *keara*, a bowl which could have been either shallow or deep and was made of metal, glass, clay, or wood.<sup>50</sup>

Numerous utensils were also connected to the serving and drinking of beverages, usually wine, during the meal. Large quantities of wine were stored in wine cellars in a *havit* or sealed storage jar. Pricking open a vent hole allowed a narrow stream to flow out, or greater quantities could be poured through various types of funnels.<sup>51</sup> The wine would have been poured into decanters (the *lugin*), into bottles or flasks (the *tslohit*), or into clay pitchers (the *tzartzur*). The wine could not be drunk neat and had to be diluted with cold water from a canteen-like vessel known as the *kiton*, or with hot water from the *meyham*. One drank the wine from a *kos*, or cup, which in Jewish society was personal and not shared. In the Mishnah period, a glass cup was preferred, and one's social position was often reflected by the texture of one's cup. Clear, colorless glass was favored by the rich, whereas coloured glass full of impurities was used by the poor.<sup>52</sup>

#### E AGRICULTURE: CROPS

Agriculture was the main sphere of production in Roman Palestine and it affected the lives of everyone, whether as consumers or producers. Consumption was a matter not only of survival but also of Jewish life, such as Sabbath or holiday meals. While consumption was not limited to the rural sphere, cultivation and production were, and, therefore, a description of agriculture in the rural sphere is necessary.<sup>53</sup> The following two sources provide a capsulated view of Jewish agriculture:

One must not give to the poor at the harvest less than half a *kab* of wheat and a *kab* of barley. R. Meir says, Half a *kab*. A *kab* and a half of spelt and a *kab* of dried figs or a *maneb* of pressed figs; R. Akiva says, a half. Half a *log* of wine; R. Akiva says, a fourth. A quarter of oil; R. Akiva says an eighth. And in the case of all other kinds of fruit . . .  
(M. *Peab* 8.5 and parallels)

<sup>49</sup> M. *Moed K.* 3.7. Food could have also been served or transported on a plate (*tavla*), on a wicker tray, or in a basket.

<sup>50</sup> Zevulun and Olenik, *Function*, 15, 21. <sup>51</sup> *Ibid.*, 26–7.

<sup>52</sup> *Ibid.*, 12–20. The *kiton* was used not only for diluting wine but also for washing hands during the meal, since the use of knives, forks, and spoons at the table was unknown.

<sup>53</sup> Vegetables were grown in gardens, and small private gardens were also found in cities. See Safrai, *Economy*, 144–5.

If one supported his wife through a third person, he must not give her less than two *kab* of wheat or four *kab* of barley . . . And he must give her also half a *kab* of pulse and half a *log* of oil and a *kab* of dried figs or a *maneh* of fig-cake. (M. *Ket.* 5.8)

The first source refers to the “poor man’s tithe,” while the second discusses a husband’s providing for his wife. One can also learn about basic crops. The sources above mention three types of grain: wheat, barley, and spelt. The first two were the more important, and wheat was the most important crop grown in Palestine. Barley was cultivated mainly in the southern regions of Palestine.<sup>54</sup> The second source mentions pulse or legumes. More than twenty kinds of legumes, such as lentils, green beans, and *ful* are mentioned in rabbinic literature. They were a food popular among the poor in the form of porridge or grain substitute.<sup>55</sup>

The above-cited sources also mention oil and wine, that is, the cultivation of olives and grapes. The olive was grown essentially for its oil, which was a popular dip for bread and important as a source of fat.<sup>56</sup> The grape was an extremely profitable cash crop in the ancient world, but wine consumption on a regular basis was not great, although wine was supposed to be a regular component of the Sabbath or festival meal and was a necessary element in many religious ceremonies connected to and independent of these meals.<sup>57</sup>

Pressed and dried figs were also mentioned in the sources. They were a good source of sugar and most farmers maintained at least a few fig trees. When grown in greater quantities, they could be a profitable cash crop.<sup>58</sup> “All other kinds of fruit” mentioned in Mishnah *Peab* might be, for example, dates, carobs, pears, apples, peaches, nuts, and pomegranates.<sup>59</sup> Finally, although the sources cited above do not mention them, vegetables were often grown in gardens of various sizes, but the extent of their cultivation was limited because they required supplementary irrigation beyond that provided by rainfall.<sup>60</sup>

Indeed, one universal requirement for all the crops mentioned above was water. Unfortunately, an abundance of water was lacking and a great deal of

<sup>54</sup> Rabbinic literature mentions eight different types of grain grown in Palestine. On grains in general, see Safrai, *Economy*, 108–18.

<sup>55</sup> Safrai, *Economy*, 145–6. <sup>56</sup> *Ibid.*, 118–26.

<sup>57</sup> *Ibid.*, 126–36. Wine is not mentioned in M. *Ket.* 5.8, cited above. Tos. *Ket.* 5.8 states that the wives of the poor did not drink wine, while PT *Ket.* 5.30b adds that rich women did. In the special benediction recited over the drinking of wine, see M. *Ber.* 6.1. The grace after meals was also recited over a cup of wine, and it was preferred that the *kiddush* and *havdalah* ceremonies be recited over wine (cf. BT *Pes.* 105b–106a).

<sup>58</sup> Safrai, *Economy*, 136–8. <sup>59</sup> *Ibid.*, 138–44.

<sup>60</sup> PT *Peab* 8.20d states that the Mishnah does, however, mention a “pound of vegetables.”

agriculture depended entirely on rainfall. Irrigation was possible only in the areas near fountains, streams, or water cisterns.<sup>61</sup>

#### F AGRICULTURE: IMPLEMENTS AND LABOR

Different agricultural methods and techniques were used for the cultivation of all the crops. However, since grain was the most important crop, a brief discussion will be limited to those techniques and implements necessary for the cultivation of that crop. Some of these tools and methods were also been used for other crops.

Farmers spent a good deal of time plowing.<sup>62</sup> This softening of the earth prepared the land to absorb water, air, seeds, and necessary micro-organisms, as well as removing crab grass. The first two plowings, in the summer and in the fall after the first rain, were fairly shallow, with broad lines to allow rain to soak the ground and also to prevent erosion. The third, with deep, close furrows and usually for a winter grain, was completed just before seeding; and the final time covered the seeds. Fields kept fallow on a rotation system were also plowed a number of times a year.

The plow has been fairly untouched by time. The metal plowshare or *yated*, funnel-shaped with a sharp point, cut into the earth. It was connected to a sharp wooden tailpiece called the *berev*, which was also attached to the knee (*borekb*). This knee was connected to a long pole attached to the yoke, and another pole placed on the neck of an ox or cow. If two animals were used, an additional pole connected the two yokes. The plowman held the handle with one hand and a goad with the other.

Fertilization was also an important part of preparing the land for sowing and planting. Organic materials, especially sheep droppings and compost, were used, as well as blood, ash, and fine sand.<sup>63</sup>

Since the grains cultivated in Palestine were generally winter crops, the plantings were staggered before and during the early fall rains to prevent total ruin should some natural disaster occur.<sup>64</sup> After planting the crop, hoeing and weeding kept the cultivated area free of weeds and crab grass. Different implements, such as the *maader* and *kardom*, were used, the former for shallower penetration and weeding and the latter for deeper penetration.<sup>65</sup>

<sup>61</sup> Safrai, *Economy*, 144.

<sup>62</sup> Most of the discussion on agricultural technique is based on Y. Feliks, *Agriculture in Eretz-Israel in the Period of the Bible and Talmud*, new ed. (Jerusalem, 1990) (Hebrew). On plowing, see 19–76.

<sup>63</sup> Feliks, *Agriculture*, 78–101.   <sup>64</sup> *Ibid.*, 105–15.   <sup>65</sup> *Ibid.*, 36, 43.

Harvesting usually occurred in the spring, with barley ripening first and then wheat, although some regional variations existed.<sup>66</sup> The work was backbreaking, done for the most part with a *maggal* or short-handled sickle, and the spring weather was often quite oppressive. The grain was collected in small piles and eventually gathered into larger stacks for transportation to the threshing floor.

The threshing floor could be private or public, with the latter more prevalent.<sup>67</sup> Location was important. To prevent the chaff from blowing into the city, it had to be threshed at least 50 cubits or 25 m from a settlement (*M. Bava B.* 2.8). For this same reason it could not be located on high ground, because strong winds might scatter the grain; but, since winds were necessary for winnowing, a lower elevation open to the winds was desirable as the threshing floor. A fence of thorn bushes occasionally surrounded it to provide protection.

Threshing separated the kernels from the husks, consisting of chopped straw and chaff.<sup>68</sup> A stick was used with small amounts of grain or with various threshing tools pulled by animals over the grain. Sometimes it was sufficient to have several oxen, or other animals, harnessed together to trample the grain. Various pitchforks and shovel-like instruments were then used to throw the threshed grain into the air. The wind scattered the lighter chaff and straw, while the kernels remained. The kernels continued to undergo additional processes of cleansing and sieving until they were later crushed or milled.<sup>69</sup> To prevent waste, the leftover straw was used to feed livestock or was made into compost, while the chaff was used as a flammable material.<sup>70</sup>

Wherever olives or grapes were grown, olive or grape presses would be available, since these crops were cultivated for the oil or wine and not for the fresh produce.<sup>71</sup> Various systems of weights, levers, presses, crushing basins, and the like were developed over time. Regarding the actual procedure, the olives were first crushed into a paste and then pressed. The oil was stored in vats in which, eventually, the oil rose while the water and other impurities sank. Most olive presses were community property and were meant to service all local growers.<sup>72</sup>

Wine presses were either public or private property, with the more complex and larger ones usually common property. As was the case

<sup>66</sup> *Ibid.*, 173–203. <sup>67</sup> *Ibid.*, 217–22. <sup>68</sup> *Ibid.*, 222–36. <sup>69</sup> *Ibid.*, 236–48.

<sup>70</sup> *Ibid.*, 257–65.

<sup>71</sup> R. Frankel, *The History of the Processing of Wine and Oil in Galilee in the Period of the Bible, the Mishna and the Talmud* 1–11 (unpublished doctoral dissertation, Tel-Aviv University, 1984) (Hebrew).

<sup>72</sup> Safrai, *Economy*, 124.



with olives, various systems of presses and vats were developed. The grapes were brought to the surface of the wine press and crushed. The remaining grape skins and stalks were also pressed. The liquids ("must") flowed into a vat with various straining systems, guaranteeing that the impurities settled. A first fermentation quickly occurred, and the juice was eventually stored in jars and placed in a cool area, while it underwent a second fermentation and eventually became a wine concentrate.

All of the agricultural work was completed by the farmer himself with the aid of his family, but sometimes the additional help of permanent or temporary workers was necessary because the farm was too large or because certain tasks required the aid of specialists.<sup>73</sup> Since the general Hebrew term *poel*, literally translated as "worker," seems to apply to farm workers, most farm owners had help. The *poel* was a more permanent worker, and the *laqit* was a temporary hand hired during the harvest season. Rabbinic literature also mentions such specialized workers as vegetable growers, date-palm planters, fig pickers (and driers), threshers, oxen drivers (for plowing or threshing), fertilizers, and straw workers (who collected straw and prepared compost) although it is never possible to be certain that these terms did not refer to the owner himself while he was fulfilling these particular functions.

#### G ROADS

The rural settlements were connected to one another by a series of local and village roads.<sup>74</sup> Most were paved in a perfunctory manner and were fairly narrow. These roads, however, were sufficient for the development of local and regional trade. The rural sector was connected to the cities of Palestine through a series of major highways. Many of these highways existed before the Roman period, but the Romans paved them and turned them into genuine roads, at first to facilitate movement of military forces but later to encourage economic development. Important routes of this type were, for instance, the road from Gaza to Acco, connecting the various coastal cities as well as Egypt and Syria, and the roads from Neapolis to Beth Shean, Caesarea to Eleutheropolis, and Jerusalem to Ascalon.<sup>75</sup> Inns were built along the major roads to provide services and some protection, because

<sup>73</sup> On the various tasks to be described below, see M. Ayali, *A Nomenclature of Workers and Artisans in the Talmudic and Midrashic Literature* (Tel-Aviv, 1984), 15–36 (Hebrew).

<sup>74</sup> Safrai, *Economy*, 274–87.

<sup>75</sup> Y. Roll, "The Roman Road System in Judaea," *The Jerusalem Cathedra* 3 (1983), 136–61.

security along the roadways was minimal and meeting a band of armed robbers while traveling was not unusual.<sup>76</sup>

### III URBAN SOCIETY

Although most Jews lived in rural villages, a significant Jewish population also resided in the cities of Palestine. The realities of urban life, much different from those that governed life in the countryside, exerted a significant impact on the lives of city Jews. The cities were more crowded than villages and the population density was greater. The villages did not have much of a sewage system, while the cities did; but it is likely that in spite of this convenience the cities smelled much worse than the villages and were probably dirtier. In addition, more money was made in cities and more opportunities were provided, but many of these opportunities also presented challenges to Jewish life. In the city, the Jew might have faced the temptation of brothels, taverns, and dangerous city markets. In Roman Palestine, the cities were still pagan and the urban Jews came into contact with non-Jews and their urban religious institutions, which presented challenges for urban Jews. However, describing the entire complex of urban material culture of Roman Palestine is not presently intended; instead, only those elements that presented challenges to Jewish life will be reviewed. For example, it was unlikely that the Jews had much to do with pagan temples; they probably made every effort to avoid them.<sup>77</sup>

#### A THE BATHHOUSE

One of the most prominent institutions of Roman city life was the bathhouse, although bathing was not necessarily the most important pastime. Rather, this institution symbolized many elements of the cultural, social, and religious life of the Roman world and in particular of its cities.<sup>78</sup> The Jews were apparently no strangers to these baths, which is clear from the discussion in Mishnah *Avoda Zara* 3.4, between Proklos and Rabban Gamaliel, concerning the Patriarch Rabban Gamaliel's attendance in the bathhouse of

<sup>76</sup> Safrai, *Economy*, 287–9.

<sup>77</sup> Much of the discussion here will be based on D. Sperber, *The City in Roman Palestine* (Oxford, 1998). On the physical background of the cities, see J. Schwartz, "Archaeology and the City," in Sperber, *The City*, 149–94.

<sup>78</sup> See I. Nielsen, *Thermae et Balnea: The Architecture and Cultural History of Roman Public Baths* (Aarhus, 1990).

Aphrodite. And independently of this exchange,<sup>79</sup> it is evident that urban Jews did not think that the bathhouse was forbidden to them.<sup>80</sup>

One visited the bathhouse in the late afternoon. Rabbinic sources mention rabbis visiting close to the onset of Sabbath. The first step upon entering was to disrobe in the changing room. Most of the time, the bathers, including the Jews, were completely naked. This nakedness might have been acceptable in a Hellenistic-Roman milieu, but was hardly common in Jewish circles. Rabbinic literature stresses that no “religious” activities should be undertaken in such a state, but clearly this rule was not meant to cover the bathhouse.

The bathhouse was a popular institution and aesthetically pleasing, but unfortunately it was not always safe. The danger of collapse existed, whether because a new bathhouse was not built to high standards or because an old one was not properly maintained. Ironically, the issue of cleanliness arose in relation to the condition of the bathhouses, and as a result, a great deal of anointing occurred, during which water and oil were splashed on the floor. Although attendants kept the bathhouse clean, they were hard pressed to maintain a state of cleanliness. In addition, slipperiness added to the danger. In spite of all this danger and inconvenience, the atmosphere of the bathhouse contained elements of the modern-day health club. In addition to the actual bathing, massaging, and anointing, a large part of the bathhouse experience involved exercise. The Jews appear to have had no problems participating in this sort of activity, and indeed did not limit their exercising to the bathhouse alone.<sup>81</sup>

#### B MARKETS AND FAIRS

Near the bathhouse there might have been a market that was part of the urban civic center. It could have been constructed according to Hellenistic-Roman concepts of town planning. Sometimes, however, markets were the result of “organic” growth and were more like latter-day oriental bazaars. Furthermore, the more affluent the city, the more specialized the markets and stores.<sup>82</sup> Occasionally, seasonal fairs offered goods at relatively good discounts.<sup>83</sup>

<sup>79</sup> See, most recently, E. Friedheim, “Rabban Gamaliel and the Bathhouse of Aphrodite in Akko: A Study of Eretz-Israel Realia in the 2nd and 3rd centuries CE,” *Cathedra* 105 (2002), 7–32.

<sup>80</sup> A detailed description may be found in Sperber, *City*, 58–72.

<sup>81</sup> See J. Schwartz, “Ball Playing in Ancient Jewish Society: The Hellenistic, Roman and Byzantine Periods,” *Ludica* 3 (1997), 16–39.

<sup>82</sup> See J. Schwartz, “Archaeology and the city,” in Sperber, *City*, 161.

<sup>83</sup> Safrai, *Economy*, 243–62.

The Jews had no problems with markets *per se* and bought and sold items there. Sometimes, though, problems might arise. It was generally prohibited for a Jewish craftsman to provide ornaments for an idol sold at an urban market. One view, however, that of the first-century CE sage Rabbi Eliezer, permitted this if the item(s) were specifically to be sold at the market.<sup>84</sup> Buying goods with marked pagan symbols on them could also be problematic. However, dispensation for such purchases was often obtained by “desecrating” the object, sometimes in a manner bordering on the fictional, such as in the case of the cups of Rabbi Hiyya ben Abba, which were engraved with an image of the Roman “Fortune” and which were permitted because the liquid running over the image was considered desecration.<sup>85</sup>

Although some pagan aspects might have been associated with the urban markets, it could hardly be expected that the Jews would avoid them. The fairs, however, were another matter, since these were usually connected with some pagan rite or cult. A number of talmudic traditions explicitly forbid frequenting urban fairs, such as the famous one of Tyre, and some traditions required that merchandise bought there be destroyed. Not all Jews, however, followed these restrictions.<sup>86</sup>

The occasional pagan nature of the market or fair was not the only problem that Jews encountered. In addition to goods or commodities, a “good time” could also be purchased. A tradition in BT *Pesahim* 113b tells of Rabbi Hanina and Rabbi Oshaya working as cobblers in the “market of prostitutes,” probably in Tiberias, making shoes but not being tempted to look at these prostitutes. The tradition, however, states that they were known as the “holy rabbis of the land of Israel” and assumes that not everyone, given the nature of this market, could or would exercise such self-control. Therefore, a tradition in *Sifre Numbers* 131 (ed. Horowitz, 170–1, and parallels), theoretically relating to events that occurred in the desert (*Num.* 25.1–2), describes a store fronting as a brothel. An old woman, apparently the procuress, lures young men into the store. Once inside, a comely young woman offers the merchandise for less than the initial price suggested by the old woman, plies the customer with wine, and eventually seduces him. The rabbis of the tradition, however, seem to be

<sup>84</sup> M. *Av. Zar.* 1.8. I cite the view of Rabbi Eliezer based on a reading of the Spanish manuscript of this tractate. See E. E. Urbach, “The Rabbinical Laws of Idolatry in the Second and Third Centuries in the Light of Archaeological and Historical Facts,” *IEJ*, 9 (1959), 149–65, 229–45.

<sup>85</sup> PT *Av. Zar.* 3.42d.

<sup>86</sup> PT *Av. Zar.* 1.39d. Fairs were also held in such cities as Acco, Gaza, and Eleutheropolis. See Safrai, *Economy*, 243–7.

less bothered by the sexual misconduct than by the fact that the art of prostitution in this context involved pagan elements.<sup>87</sup>

Other ways to enjoy a good time were also available. One could visit a “wine shop” which usually served as a public house. The quantity of Jewish moralizing traditions against drunkenness seems to indicate that Jews were not averse to frequenting such establishments and occasionally imbibed too much, leading to sexual promiscuity or bar-room violence and brawling.<sup>88</sup> These pubs also served as gambling dens. While the rabbinic attitude toward professional gambling was quite negative, indicating that some Jews made a living in this manner, it was much more forgiving of the casual gambler. Compared to the Roman world, gambling was not too serious a problem in Jewish society, but the archaeological evidence indicates that most Jewish gambling occurred in an urban setting and probably in the market.<sup>89</sup> If gambling and prostitution were insufficient, the market offered more exotic entertainment, such as watching bear-baiting and similar attractions.<sup>90</sup>

#### C CLOTHING AND ACCESSORIES

“Clothes make the man,” or as the Rabbis less poetically stated, “the adornment of mankind is his clothes” (*Derech Eretz Zutta* 10.10), and they are therefore especially significant identity markers.<sup>91</sup> It is important, then, to determine whether or not any distinctive Jewish dress was available or whether the clothing worn by the Jews was similar to that worn by their non-Jewish neighbors.

Two distinctive types of Jewish clothing were prominent: the *tzitzit* or fringes attached to the four corners of one’s outer garment (Num. 15.37–41), and the *tefillin* or phylacteries, the leather containers strapped

<sup>87</sup> Cf. Sperber, *City*, 15–16. <sup>88</sup> *Ibid.*, 48–57.

<sup>89</sup> See *Mekh. de-R. Sh. b. y.* 1.8 and *M. Sanh.* 3.3 (and parallels) on dicing, the major form of gambling. *M. Sanh.* adds the statement of Rabbi Judah that only the professional gambler (and not the casual gambler) is disqualified from serving as a witness. See in detail J. Schwartz, “Gambling in Ancient Jewish Society and in the Graeco-Roman World,” in M. Goodman (ed.), *Jews in a Graeco-Roman World* (Oxford, 1998), 145–65.

<sup>90</sup> *Gen. R.* 86.4 (ed. Theodor-Albeck, 1056–7).

<sup>91</sup> Much of the discussion here is based on S. J. D. Cohen, *The Beginnings of Jewishness: Boundaries, Varieties, Uncertainties* (Berkeley, 1999), 30–7 (with a detailed bibliography). See also, L. A. Roussin, “Costume in Roman Palestine: Archaeological Remains and the Evidence from the Mishnah,” in J. L. Sebesta and L. Bonfante (eds.), *The World of Roman Costume* (Milwaukee, 1998), 182–90; and see also G. Hamel, *Poverty and Charity in Roman Palestine, The First Three Centuries CE* (Berkeley, 1990), 58–64. The translation is that of M. van Loopik, *The Ways of the Sages and the Way of the World* (Tübingen, 1991), 329.

to one's arm and head containing excerpts from the Bible. *Tzitzit* have been discovered from the time of Bar-Kochba and *tefillin* have been found at Qumran.<sup>92</sup> While these articles should have been sufficient to distinguish Jews from their neighbors, a number of traditions indicate that they were worn only by sages and rabbis and not by those not belonging to these classes.<sup>93</sup> Another tradition exempts the *toga* and other Roman and Hellenistic clothing from *tzitzit*.<sup>94</sup> Therefore, the more assimilated urban Jew would not have worn these Jewish "markers," and the less assimilated rural Jews, also removed from rabbinic circles, would probably not have done so, although exceptions to this rule occurred.<sup>95</sup> Nonetheless, differences in clothing probably reflected socio-economic status and not ethnic identification. The only other Jewish marker, refraining from weaving garments made of flax and wool because of the law of "mixed kinds," would not have been discernible in dress.<sup>96</sup>

Rabbinic literature refers to many different garments, and most can be identified with clothing regularly found in the Graeco-Roman world.<sup>97</sup> Among the most common were the *talit* and the *haluq* (also known as *kutonet*). The former was the outer garment or cloak, worn by men and women, that was wrapped around the body, and could refer to any of the numerous garments popular in the Graeco-Roman world.<sup>98</sup> The *haluq* was the tunic worn underneath. In the Roman world, sometimes two such garments were worn, and rabbinic literature additionally mentions wearing multiple tunics.<sup>99</sup> Strips of cloth serving as belts were used to adjust the length and width of the tunics, and the folds could serve as a purse. Underneath the tunic, one might have worn the *apiqrisin*, technically another tunic serving as underwear, or a loincloth. In addition, rabbinic tradition mentions different caps, headdresses, and veils for men and women to cover their heads.<sup>100</sup> Both men and women wore shoes or sandals.

<sup>92</sup> Cohen, *Beginnings*, 33. <sup>93</sup> See, e.g. BT *Ber.* 47b.

<sup>94</sup> *Sifrei Deut.* 234 (ed. Finkelstein, 266–7).

<sup>95</sup> See the review of Cohen in *Zion* 65 (2000), 382 (Hebrew).

<sup>96</sup> M. *Kil* 9.1. Clothes were spun from wool, the hair of goats and camels, flax, and hemp. Archaeological remains have not found Jewish clothing that ignored the law of mixed kinds. The only exception seems to be in the weaving of the fringes of the *tzitzit*, which sometimes had a string of flax.

<sup>97</sup> M. *Shabb.* 16.4 states in the name of Rabbi Jose that it is permissible to carry as many as eighteen different garments from a burning house on the Sabbath. For a list of those garments see PT *Shabb.* 16.15d and BT *Shabb.* 120a.

<sup>98</sup> See in detail M. G. Houston, *Ancient Greek, Roman and Byzantine Costume and Decoration* (London, 1947).

<sup>99</sup> Tos. *Kil* 5.6 et al. <sup>100</sup> See sources cited in Hamel, *Poverty*, 63.

Clothes were a status symbol in Jewish society.<sup>101</sup> Therefore, it is not surprising to find words of Torah compared to fine woolen cloth while words of foolishness are compared to the material of a coarse sack.<sup>102</sup> Sages were expected to dress well, to maintain clean clothes, and to have a change of clothes. Husbands, even poor ones, were expected to provide the basic clothing requirements for their wives and to replace worn-out clothing, whereas those better off were expected to provide much more.<sup>103</sup> Unfortunately, the poor were unable to reach minimal standards of dress and often had to wear rags. In light of this circumstance, the Rabbis, in the course of their halachic discussions, took up such issues as whether one could pray when wearing rags that insufficiently covered the body.<sup>104</sup>

Clothing was not the only external status marker. Those who could afford it (men, women, and children), wore jewelry, although most of the traditions refer to women's jewelry, and this association appears to reflect the common reality.<sup>105</sup> The wearing of jewelry was popular, apparently not only among urban women, but also among their rural sisters, and a tradition in BT *Bava Kama* 82 a–b required merchants to visit such settlements in order to provide these women with the opportunity to acquire such jewelry.<sup>106</sup> Many of the traditions mention not only jewelry but also cosmetics, the purpose of which was to make the women pleasing to their husbands.<sup>107</sup> This liberal position, however, was not always the normative one towards fancy dress, cosmetics, and jewelry in Jewish society, and a number of traditions from the Second Temple period express an attitude of disapproval. A tradition in BT *Shabbat* 64b dates the change in attitude in a more liberal direction to the time of Rabbi Akiva, who stated that if women did not use eye makeup, blush, or wear colorful clothing, they became despicable in the eyes of their husbands.<sup>108</sup> While it is difficult to know the extent to which this tradition is historical, it is

<sup>101</sup> J. Schwartz, "Material Culture in the Land of Israel: Monks and Rabbis on Clothes and Dress in the Byzantine period," in M. Poorthuis and J. Schwartz (eds.), *Saints and Role Models in Judaism and Christianity* (Leiden, 2004), 121–37.

<sup>102</sup> ARN a, ch. 28 (ed. Schechter, 43a); b, ch. 31 (34b).

<sup>103</sup> M. *Ket.* 5.8 and parallels. It is significant to note the importance of the worn-out clothing and rags. These garments were not discarded but served a multitude of purposes. Ancient Jewish society was to a great extent a repair-oriented community.

<sup>104</sup> See the sources in Schwartz, "Material Culture."

<sup>105</sup> Much of the discussion is based on Z. Grossmark, *Jewelry and Jewelry Making in the Land of Israel at the Time of the Mishnah and Talmud* (unpublished doctoral dissertation, University of Tel-Aviv, 1994) (Hebrew).

<sup>106</sup> The tradition is dated to the time of Ezra, which is highly unlikely.

<sup>107</sup> See the traditions cited in Grossmark, *Jewelry*, 146ff.

<sup>108</sup> *Ibid.* The tradition relates to the period of menstruation, but if it were permitted then, it would certainly be permitted at other times.

conceivable that Rabbi Akiva, in the wake of the catastrophes of the Bar-Kochba Revolt, took steps to guarantee the continuation of family life. Moreover, from a psychological standpoint, he may have felt that enough gloom prevailed at that time without adding to it by dressing down. The impression that one receives from these traditions on clothing is that external appearance was important and that steps should be taken to improve one's appearance.

#### IV SUMMARY

To what extent was the material reality of Jewish life in the Land of Israel in the Late Roman period any different than that of non-Jews in Palestine at the same time? The answer is that for the most part it was not. A Jewish farmer in the rural sphere was not particularly distinguishable from his non-Jewish neighbor. Their dress would have been similar, they would have farmed with the same implements, returned home to the same simple houses with the same basic furniture, and eaten the same foods. Their wives dressed in a similar fashion and their children played similar games. They might indeed actually have been neighbors.

What made their lives different in terms of material culture? In any time period in which the *halachah* or Jewish law bore a direct influence on material life, there would have been differences or at least different emphases on certain elements of material culture. Theoretically, a male Jew was recognized by the *tzitzit* attached to the corners of his outer cloak, but this garment was not always worn, and modern-day strictures on head-coverings were not particularly applicable beyond what was common in ancient society more generally.

There were, however, some clear influences of Jewish law on the material reality that came to exist. For example, the slow-drip lamp was developed in response to the need to provide light in Jewish households on the Sabbath without kindling that light. Non-Jews had no need for such devices. In addition, those particular about religious purity might prefer to use stone implements instead of pottery, since the former were not susceptible to ritual purity, while the latter were, and had to be broken if defiled. Again, farmers who continued to observe the commandments dependent upon the land, and in particular the laws of the Sabbatical Year, might have cultivated the land in a far more intensive manner in the later years of the cycle and, unlike their non-Jewish neighbors, left the corners and gleanings for the poor, as prescribed by Jewish law. However, their actions at harvest time would have been the same as their neighbors'.

Material culture might have even provided the impetus for the development of certain aspects of Jewish law, such as the issue of the courtyard *erub*.



Architectural reality, not limited only to Jewish society, provided solutions to the problem of carrying on the Sabbath.

In terms of urban Jewish life, Jewish city dwellers apparently participated in most aspects of material urban life, apart from the ones that were blatantly pagan, and any differences between them and their neighbors was connected to socio-economic reality more than to religious-ethnic factors.

Essentially, the material reality of the Jews reflects their openness to influences outside the immediate confines of Jewish society. To what extent this influence was "aggressive" and conscious, or "passive" and a product primarily of cultural osmosis, is extremely difficult to determine and depends on the study of elements in Jewish society beyond the purview of the present study. Jewish society might have been more open to external influences in the realm of material culture because of the non-threatening nature of such influences. Only when there was an issue of idolatrous influences was resistance evoked. This conclusion, while it might be detrimental in terms of describing a unique Jewish material culture, does highlight the possibility of meshing Jewish and non-Jewish archaeological and literary material in order to reconstruct the material life of Jew and non-Jew in Late Roman Palestine. Needless to say, a tremendous amount of work remains to be done.

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## ARAMAIC IN LATE ANTIQUITY

YOCHANAN BREUER

## I THE ARAMAIC VERNACULAR OF THE JEWS

The Hebrew and Aramaic languages are related tongues and resemble each other in many ways. They both belong to the northwestern branch of the Semitic language family. According to the text of the Pentateuch, the Hebrews originate in Aram, since Abraham, the ancestor of the Jews, came from there, as did all the Matriarchs.<sup>1</sup> Nevertheless, the Aramaic language was almost unknown in the Land of Israel during the period of the First Temple. Clear evidence of this is the story of Rabshaq, which took place not long before the end of this period. Rabshaq was sent by the King of Assyria to Jerusalem, where he spoke to the besieged inhabitants in the language of Judaea, *Yebudit*, despite the request of the Judaeans: “Pray, speak to your servants in the Aramaic language, for we understand it; do not speak to us in the language of Judah within the hearing of the people who are on the wall” (2 Kgs. 18.26). The significance of this incident lies in the fact that apparently only the princes spoke Aramaic, as they came into frequent contact with foreigners, whereas the commoners of Judaea did not understand that tongue.

The knowledge of Aramaic in the Land of Israel, however, spread with the return of the Babylonian exiles. This development had two causes: first, the return to Zion was marked by the arrival of a large wave of Babylonian Jews whose main language seems to have been Aramaic. Second, the status of the Aramaic language was rising and strengthening throughout the entire region during this period until it became the major language both in the Land of Israel and throughout the East. Even in Babylonia it appears that Akkadian was on the decline and was being replaced by Aramaic.

Scholars had been of the opinion that, after the return of the Babylonian exiles, Hebrew no longer served as a spoken language. On this account

<sup>1</sup> The awareness of this Aramaic origin is especially evident in the verse recited annually with the bringing of the first fruits to the Temple: “And you shall make response before the Lord your God, A wandering Aramean was my father; and he went down into Egypt” (Deut. 26.5).

Hebrew retained its status as a holy tongue and was used in prayer and in Torah study, and for this reason the Mishnah and contemporary tannaitic literature was composed in Hebrew, but in everyday life Aramaic alone was spoken.<sup>2</sup> Today this view is no longer accepted, the scholarly consensus now being that Hebrew speech survived in all walks of life at least until the end of the tannaitic period (the beginning of the third century CE).<sup>3</sup> Nonetheless, the use of Aramaic undoubtedly became very common during this period, while the use of Hebrew declined in importance. This can be seen first and foremost in the large number of texts written in Aramaic. In all the books of the Bible composed before the destruction of the First Temple in 586 BCE, Aramaic is not to be found except for two words in the book of Genesis (31.47, uttered by Laban the Aramean) and in a single verse in the book of Jeremiah (10.11, aimed at the Gentiles). In contrast, during the Second Temple period, the situation underwent a complete change: lengthy sections in Aramaic appear in the Bible (in the books of Ezra and Daniel) and in the Judaean Desert Scrolls. Likewise, many Aramaic sentences can be found in tannaitic literature, while in the period of the Amoraim most rabbinic literature was written in Aramaic. In addition, Aramaic translations of the Bible were compiled during this period. These translations were read in public when excerpts from the Torah were read, and their very existence bears witness to the fact that many Jews were no longer able to understand Hebrew without an accompanying translation.

The Hebrew of this period, Mishnaic Hebrew, also reflects considerable Aramaic influence. This topic, however, will not be dealt with here, for it is part and parcel of the regular description of Mishnaic Hebrew.<sup>4</sup> It needs only to be noted in the context that the vernacular during this period, at least in certain areas, reflected this influence to an even greater degree than the contemporary literature. Two examples will make this point: in the Bar Kochba letters there appears the sentence *שהפרה שלקח יהוסף בן ארצטון מן יעקב בן* *rytwn* *שהי שלו מזבנות* *יהודה שיושב אבית משכו שהי שלו מזבנות*, “that the cow that Yehosef son of Ya‘aqov son of Yehudah, who is residing in Beit *Mškw*, that it (= the cow) is his through purchase” (Muraba‘at 42);<sup>5</sup> *זבנות* is the equivalent of *זבנית*, “purchase.”<sup>6</sup> The root *zbn* appears nowhere in the Hebrew of the

<sup>2</sup> See, e.g., A. Geiger, *Lehr- und Lesebuch zur Sprache der Mischnah* (Breslau, 1845), 1–2; F. Rosenthal, *Die Aramaistische Forschung seit Th. Nöldeke's Veröffentlichungen* (Leiden, 1939), 106.

<sup>3</sup> See, e.g., E. Y. Kutscher, *A History of the Hebrew Language* (Leiden, 1982), 117–18.

<sup>4</sup> For this see ch. 15 in the present volume, 369–403.

<sup>5</sup> A. Yardeni, *Textbook of Aramaic, Hebrew and Nabataean Documentary Text from the Judaean Desert and Related Material*, 1–11 (Jerusalem, 2000), 1155. Translation, 1164.

<sup>6</sup> See E. Y. Kutscher, “The Language of the Hebrew and Aramaic Letters of Bar Koseba and His Contemporaries, Part 11: The Hebrew Letters,” *Lesbonenu* 26 (1962), 16 (Hebrew).

mishnaic sources, and its appearance here in a Hebrew context demonstrates that the root had penetrated from the Aramaic into one of the Hebrew dialects spoken in that period. The second example is more instructive, and shows the complexity of the relationships between Hebrew and Aramaic. In the *Mekhilta*, a *midrash halacha* composed during the tannaitic period, the word תִּכְסוּ appearing in the verse אִישׁ לְפִי אֲכָלוּ תִכְסוּ עַל הַשֶּׁה “according to what each can eat, *takossu*, the lamb” (Exod. 12.4) is interpreted thus: רַבִּי יוֹשִׁיָא אָמַר: לְשׁוֹן סוּרְסִי הוּא זֶה. כְּאָדָם שְׂאוֹמֵר לְחַבְרֵרוּ כּוֹס לִי מִלֶּה זֶה (*takossu*) is a Syriac expression, as e.g. when one says to his neighbor: Slaughter (*kos*) for me this lamb” (*Mekhilta* 1.28). The Aramaic verb נִכַּס, “slaughter,” does not appear in Mishnaic Hebrew, and here it is considered Aramaic (“a Syriac expression”). Nevertheless, it appears in a purely Hebrew sentence – כּוֹס לִי מִלֶּה זֶה – ascribed to “one saying to his neighbor”;<sup>7</sup> it may therefore be concluded that it was by virtue of the close relationship between the two languages that so free a borrowing of a verb could take place from one language to the other. These two examples show that in the spoken Hebrew of the period there existed a certain degree of openness towards Aramaic, which enabled the Hebrew speaker to borrow a word from Aramaic on occasion and to use it in his natural speech, without considering the question whether it actually belonged to the stock of the Hebrew vocabulary.

It seems, on occasion, that the linguistic awareness of the Tannaim was Aramaic even when they were speaking Hebrew. This is especially noticeable in their commentaries on the Bible. For example: “קַח אֶת אֶהֱרֹן וְאֶת בְּנָיו אִתּוֹ. מִה תִּלְמֹד לֹמֵר. וְהִלָּא בְּכַמָּה מִקּוֹמוֹת נֹאמְרוֹת בּוֹ בְּמִשָּׁה לְקִיחָה בְּבְנֵי אָדָם. שְׂנֹאמֵר ‘וּלְקַחְתָּ אֶת הַלְוִיִּים לִי אֲנִי ה’...’ וְכִי מִפְּשִׁיל הִיָּה מִשֶּׁה בְּנֵי אָדָם לְאַהֲרֹן. אֵלֶּא אָמַר לוֹ הַקְדּוֹשׁ בְּרוּךְ הוּא. קַח־” “Take Aaron and his sons’ (Lev. 8.2): what is the point of this statement? And is it not the case that in a variety of passages, there is reference to Moses’ taking other people, for instance, ‘and you shall take the Levites for me’ (Num. 3.41) . . . Now did Moses throw people over his back [and seize them]? The Holy One, blessed be He, said to them: Take them through persuasion, so that their intention should not be for some other matter [than my service]” (*Sifra* 40d). The difficulty of the *midrash* is obscure, for the verb לָקַח is often used to signify taking people, and the Hebrew sentence קַח אֶת אֶהֱרֹן וְאֶת בְּנָיו does not give rise to any difficulties at all. The difficulty is understandable only on the basis of Aramaic, which has two verbs in place of the Hebrew לָקַח: the verb נִסַּב is used with objects, and דָּבַר with animals or people, such as וְנִסַּב שְׂמֵן וְהִלָּב “Then he took curds and milk” (*Tg. Onk. Gen.* 18.8), in contrast to וְדָבַר יֵת תְּרִין עוֹלִימוֹדֵי עֵמִיָּה, “and he

<sup>7</sup> While the verb is adduced in order to explain the verse, such a sentence could not have been framed without suitable background in the vernacular.

took two of his young men with him" (*Tg. Onk. Gen.* 22.3). Since the Hebrew verb לקח parallels the Aramaic verb נסב, which is used for objects which one can "throw over one's back," it became necessary to make it clear that the sentence קח את אהרן ואת בניו contains a verb which is not the equivalent of נסב but rather that of דבר, and this is done by means of the similar Hebrew expression קחם בדברים.

The coexistence of Hebrew and Aramaic and their similarity to each other resulted in a sense of close connection between them, so that a speaker of Greek could feel that they were a single language. Thus in certain sources Aramaic words are termed "Hebrew,"<sup>8</sup> while on the other hand Philo states that the Torah was written in the language of the Chaldeans, that is, in Aramaic.<sup>9</sup> This sense of linguistic similarity was discussed explicitly in the Talmud: לא הגלה הקדוש ברוך הוא את ישראל לבבל אלא מפני . . . שקרוב לשונם ללשון תורה: "The Holy One, blessed be He, exiled Israel to Babylonia only because . . . their language is akin to the language of the Torah" (*BT Pes.* 87b). Nevertheless, despite the steadily growing use of Aramaic, this language was still considered inferior to Hebrew. Hebrew is "a holy tongue," while Aramaic is merely "a secular language" or "a popular language," as in מסית אומר בלשון הקודש ומריח אומר בלשון הדיוט, "one who incites [to idolatry] speaks in the holy language, while one who seduces [to idolatry] speaks in the popular language" (*PT San.* 25d); דברים של חול מותר לאומרן בלשון קודש. "Secular matters may be uttered in the holy language, whereas sacred matters must not be uttered in secular language" (*BT Shabb.* 40b). In these cases it may well be that reference is made to any foreign language and not specifically to Aramaic, but it seems that even among foreign languages the status of Aramaic was not very prestigious, with both Greek and Persian held to be superior to it: והאמר רבי. בא"י לשון סורסי למה. אלא אי לשון הקודש אי לשון יונית. ואמר רב יוסף. בבבל לשון פרסי ארמי למה. אלא אי לשון הקודש אי לשון פרסי. "For Rabbi said: Why use the Syrian language in the Land of Israel? Use either the holy tongue or Greek! And Rabbi Joseph said: Why use the Syrian language in Babylon? Either use the holy tongue or Persian!" (*BT Sota* 49b). Such principles, however, indicate values rather than reality, for Aramaic was undoubtedly the dominant language, in practice, during much of the mishnaic period.

<sup>8</sup> For example: ἡ ἐπιλεγομένη Ἑβραϊστί Βηθεσδα, "which is called in the Hebrew tongue Bethesda" (*John* 5.2). This is not a Hebrew name but rather an Aramaic one: בית הכסא, "the house of Hisda."

<sup>9</sup> το παλαιον ἐγραψαν οι νομοι γλωσση Χαλδαικη, "In ancient times the laws were written in the Chaldean tongue" (*Vita Mois.* 2.7); see G. Dalman, *Grammatik des Jüdisch-palästinschen Aramäisch* (Leipzig, 1905), 1.



## II SUBDIVIDING ARAMAIC BY PERIOD AND BY DIALECT

In order to classify the types of Aramaic described in this chapter within the broad context of the Aramaic language, I shall present the subdivision of Aramaic as this is generally accepted at the present time:<sup>10</sup> (1) Early Aramaic: up until 700 BCE. This material includes, in the main, inscriptions found in Syria. (2) Imperial Aramaic: from 700 to 200 BCE. This period includes, for example, both Biblical Aramaic and the Aramaic of the Elephantine Documents. (3) Middle Aramaic: from 200 BCE to 200 CE. (4) Late Aramaic: from 200 to 1000 CE. (5) Neo-Aramaic: from 1000 CE to the present day.

Two distinct branches have been identified from the period of Late Aramaic on: Eastern Aramaic and Western Aramaic. Each of these two branches subdivides into three dialects: Jewish Palestinian Aramaic (Galilean Aramaic), Samaritan Aramaic, and Christian (Syrian-Palestinian) Aramaic belong to the western branch, while Jewish Babylonian Aramaic (or the Aramaic of the Babylonian Talmud), Syriac, and Mandaic belong to the eastern branch.

This chapter will present a survey of Jewish Aramaic after the period of Imperial Aramaic, that is, the Aramaic used during the time of the Tannaim and Amoraim. In light of the aforesaid subdivision, this language embraces two periods of time and two lands. The two periods of time are period (3), which includes Middle Aramaic until the end of the Tannaitic period, and period (4), which includes Late Aramaic of the amoraic and post-amoraic periods. The two lands are Palestine and Babylonia.

## III JEWISH LITERATURE IN ARAMAIC

### A HALACHIC LITERATURE (DOCUMENTS DEALING WITH RABBINICAL LAW)

The Mishnah, the Tosefta, and the *Midreshei Halachah* were compiled during the tannaitic period. This literature is written in Hebrew, but short Aramaic sentences are scattered within it. During the amoraic period the Babylonian Talmud and Palestinian Talmud were compiled, as well as some of the *midreshei Aggada* (*Genesis Rabba*, and later *Leviticus Rabba* and *Pesikta de-Rav Kahana*). During this period the linguistic situation changed completely. In Amoraic literature, though there is a good deal of Hebrew

<sup>10</sup> See J. A. Fitzmyer, *A Wandering Aramean* (Ann Arbor, 1979), 60–3.

material, the usual language of halachic give-and-take is Aramaic.<sup>11</sup> After the Amoraic period several halachic documents were written, mainly in Babylon. These included such comprehensive works as *Halachot Pesukot*, *Halachot Gedolot*, and many *responsa* that were sent from the geonic academies to various communities in the Diaspora.

#### B BIBLE TRANSLATIONS

Five types of Jewish targum (Bible translation) of the Pentateuch have survived to the present day: (1) *Targum Onkelos*;<sup>12</sup> (2) *Targum Pseudo-Jonathan*;<sup>13</sup> (3) The *Fragment Targum*;<sup>14</sup> (4) The *Fragments of the Palestinian Targum*;<sup>15</sup> and (5) *Targum Neophyti*.<sup>16</sup> Only one targum of the Prophets, known as *Targum Jonathan*, has reached us.<sup>17</sup> There are a number of different types of targum to the Hagiographa, which change from one book to another. All these targums can be classified by character and language to a number of types. From the standpoint of character, some are literal translations with but few additions from the *Aggada* (*Onkelos*, *Neophyti*, and *Jonathan*), while others contain lengthy, midrash-like elaborations (*Pseudo-Jonathan*, the *Fragment Targum*, and the *Fragments of the Palestinian Targum*). With regard to their language, they divide up into two groups: (1) *Onkelos* to the Pentateuch and *Jonathan* to the Prophets: these are to all intents and purposes a single targum. These targums were well known in Babylon, and they are quoted word for word in the Babylonian Talmud,<sup>18</sup> whereas in Palestine there is no evidence of them

<sup>11</sup> An early document written entirely in Aramaic during the period of the Second Temple should be noted: the *Megillat Taanith*, which contained a list of festival occasions which were celebrated during the Second Temple period (during the tannaitic period a commentary in Hebrew was compiled to this document). See the 1931–2 Lichtenstein edition.

<sup>12</sup> A. Sperber, *The Bible in Aramaic*, 1 (Leiden, 1959).

<sup>13</sup> M. Ginsburger, *Pseudo-Jonathan* (Berlin, 1903).

<sup>14</sup> M. L. Klein, *The Fragment-Targums of the Pentateuch*, 1–11 (Rome, 1980).

<sup>15</sup> M. Klein, *Genizah Manuscripts of Palestinian Targum to the Pentateuch* 1–11 (Cincinnati, 1986).

<sup>16</sup> A. Diez Macho, *Neophyti 1: Targum Palestinense Ms de la Biblioteca Vaticana*, 1–v1, (Madrid and Barcelona, 1968–79).

<sup>17</sup> A. Sperber, *The Bible in Aramaic*, 11 (Leiden, 1959). For more on these targums see also ch. 27 in the present volume.

<sup>18</sup> For instance: "יום יבבא יהא לכון" ומתרגמין "יום תרועה יהיה לכם". "it shall be a day of *teru'ah* unto you,' and we translate [in Aramaic], 'a day of *yebaba*'" (BT *Rosh H.* 33b); "כייבעל בחור בתולה", ומתרגמין "ארי כמה דמיתוב עולם עם בתולהא יתיבתון בנויך בנייד" "Behold as a young man settles down with a maiden, thy sons shall become settled in the midst of thee" (BT *Moed K.* 2a). These translations appear word for word in *Targum Onkelos* (Num. 29.1) and in *Targum Jonathan* (Isa. 62.5), with slight changes in spelling.

at all. There are also Babylonian traces in their language. (2) The *Fragment Targum*, the *Fragments of the Palestinian Targum*, and *Neophyti*: the language of these differs from that of the first group, and most of the material belonging to them has been discovered only during the past century.

Much has been written about the origin and the age of the targums. Earlier scholars had tended to believe that *Targum Onkelos* and *Targum Jonathan* were late targums that had been composed in Babylon, while those of the second group were earlier, having been compiled during the period of early Christianity. This belief was not based on a linguistic analysis of any kind, but rather emerged from considerations of content and of *halachah*. Modern scholars have reached the opposite conclusion by means of linguistic analysis: that *Onkelos* and *Jonathan* were compiled during the tannaitic period (during the first or second centuries CE), while the targums of the second group were written in the age of the Amoraim.<sup>19</sup> Regarding the other targums mentioned above – *Targum Pseudo-Jonathan* and the Targums to the Hagiographa – their origin may be early, but later elements have clearly found their way into their language indicating that they were undoubtedly edited at some later date. Our treatment of these targums will take their time of origin into consideration, as stated here.

#### C EPIGRAPHIC MATERIAL

From Palestine the Aramaic scrolls discovered in Qumran are especially significant: they date from the period between 100 BCE and 100 CE. Similarly important are the Aramaic Bar Kochba letters (from the middle of the second century CE).<sup>20</sup> This material belongs to the period of Middle Aramaic. Other inscriptions have been discovered in Palestine from the periods of the Tannaim and the Amoraim. From Babylon we have a good deal of epigraphic material that includes incantation texts written in an Aramaic similar to that of the Babylonian Talmud.<sup>21</sup>

<sup>19</sup> A. Tal, *The Language of the Targum of the Former Prophets and Its Position within the Aramaic Dialects* (Tel-Aviv, 1975) (Hebrew), is devoted to proving the early origin of *Targum Jonathan*, and Tal's articles (see n. 40 below), to proving the late origin of the targums of the second group.

<sup>20</sup> Published in the series *Discoveries in the Judaean Desert of Jordan* (Oxford, 1955–). See also ch. 4 in the present volume for more on these letters.

<sup>21</sup> Most of the incantation texts have been published in the following studies: J. A. Montgomery, *Aramaic Incantation Texts from Nippur* (Philadelphia, 1913); J. Naveh and S. Shaked, *Magic Spells and Formulae* (Jerusalem, 1993); J. Naveh and S. Shaked, *Amulets and Magic Bowls* (Jerusalem, 1998); W. H. Rossel, *A Handbook of Aramaic Magical Texts* (Ringwood Borough, NJ, 1953). For more on this material see also ch. 28 in the present volume.

## IV ARAMAIC TO THE END OF THE TANNAITIC PERIOD

The Aramaic of this era is classified as Middle Aramaic. In this period the Aramaic language was quite similar to that used previously, but one can detect in it many features heralding the coming of Late Aramaic as well.

## A THE ARAMAIC OF QUMRAN

The Qumran documents were discovered in recent decades and constitute the most important source for the Aramaic of this period.<sup>22</sup> Many early features have been preserved in this Aramaic. Consider the following examples:

(1) In Early Aramaic the relative pronoun is  $\text{דַּי}$ , as in  $\text{צַלְמָא דַּי הַקִּים נְבוּכַדְנֶצַר}$  מַלְכָא, “the image which King Nebuchadnezzar had set up” (Dan. 3.2), and so it is in the Aramaic of this period as well, as in  $\text{אַרְעַ מְדַבֵּר בַּי לֹא אִנְשׁ בַּה}$ , “the land of wilderness, where there are no people” (*Tg. Job* 38.26, col. 31.3–4 [ed. Martinez-Tigchelaar-Van der Woude, 151]). In Late Aramaic the pronoun is contracted, and takes the form  $\text{-ד}$ , as in  $\text{כַּנְאֵשׁ דְּסַלְק מִטְּבֵרְיָא לְצִיפּוֹרִין}$  “as a man who goes up from Tiberias to Şipporin” (PT *Yoma* 43d).

(2) Early Aramaic has a special form to denote the passive of the verbal theme *qal*, i.e., *q<sup>l</sup>til*, as in  $\text{בַּה בְּלַיְלִיא קְטִיל}^{23}$  בְּלֹאֲשַׁצַּר מַלְכָא כַּשְׂדִּיא “That very night Belshazzar the Chaldean king was slain” (Dan. 5.30). This form has survived in the Aramaic of Qumran, as in  $\text{וְשִׁבְקַת אֵנָה אַבְרָהָם בְּרִילְהָא וְלֹא קְטִילָת}$ , “And I, Abram, was spared because of her. I was not killed” (*Genesis Apocryphon* [hereafter *GA*] 20.10 [62]). In Late Aramaic this form has disappeared, and its place is taken by the verbal theme *itp<sup>el</sup>*, as in  $\text{לֹא מְהַקְטֵלָא}$  בְּרִי אֶתְקַטֵּל יוֹסֵף בְּרִי, “Joseph my son has not been killed” (*Fragments of the Palestinian Targum* [hereafter *FPT*], Gen. 37.33 [81]).

(3) The first person plural possessive suffix in Early Aramaic is  $\text{-נָא}$ , as in  $\text{הֲרִנּוּ אֲבֹהֵתְנָא לְאַלֹהַ שְׁמַיָא}$ , “our fathers had angered the God of heaven” (Ezra 5.12), and so also in the Aramaic of Qumran, as in  $\text{חֲלַפְנָא אֲרַעְנָא}$ , “we crossed (the border of) our land” (*GA* 19.13 [58]). In Late Aramaic, however, the final vowel has been dropped, the suffix now being  $\text{-ן}$ , as in  $\text{לֵיתָ מְבוּעֵן מְסַפֵּךְ לָן}$ , “our spring does not supply us” (PT *Dem.* 22a).

These are all examples of ancient features surviving in this period. In contrast, there are many new features resembling their parallels in Late Aramaic. Note, for example, the following:

<sup>22</sup> The important and pioneering article on this topic is E. Y. Kutscher, “The Language of the ‘Genesis Apocryphon’: A Preliminary Study,” in C. Rabin and Y. Yadin (eds.), *ScriHie* 1v: *Aspects of the Dead Sea Scrolls* (Jerusalem, 1957), 1–35.

<sup>23</sup> The vocalization throughout this chapter is always taken from the source quoted.

(1) The Aramaic verbal theme *baf'el*, like its Hebrew parallel *bif'il*, begins with ה; this is the regular form, for instance, in Biblical Aramaic, such as והשכחו לרניאל בעא ומתהנן קדם אלהא, “and they found Daniel making petition and supplication before his God” (Dan. 6.12). In the Aramaic of Qumran, an א appears instead of the initial ה, and the verbal theme is 'af'el; this is the only form e.g. in *Genesis Apocryphon*, such as ואשכח אנון שרין בבקעת דן, “and he found them encamped in the valley of Dan” (GA 22.7–8 [ed. Fitzmyer, 72]); this is so in Late Aramaic as well, such as ונפק ולא אשכח בר נש, “and he went out and did not find anyone” (PT *Kil.* 32b). Similarly, in Early Aramaic the conditional particle begins with ה: הן, as in הן על מלכא טב, “if it seem good to the king” (Ezra 5.17), but in the Aramaic of Qumran א may appear in place of the ה, as in אן מן הווש עד ערקא דמסאן, “that I shall not take so much as a thread or a sandalstrap” (GA 22.21 [ed. Fitzmyer, 74]), and this applies to Late Aramaic as well, as in אין את עליל את מקלקל וורדיה, “if you enter you will ruin the roses” (PT *Maas.* 49d).

(2) In Early Aramaic the masculine demonstrative pronoun is דנה, as in דנה פשר מלהא, “this is the interpretation of the matter” (Dan. 5.26). In the Aramaic of Qumran, the final vowel has been elided and the form דן results, as in דן ומנדך הריונא דן, “this seed is from you; from you is this conception” (GA 2.15 [ed. Fitzmyer, 52]), as in Late Aramaic, as in דין הוא בכורא, “this is the firstborn” (FPT *Gen.* 48.18 [ed. Klein, 155]).

(3) A prominent late feature in the Aramaic of Qumran is the *plene* spelling of short vowels, which is characteristic of Late Aramaic, such as וואודית תמן קודם אלהא על כול נכסאי ושבתיא, “and I gave thanks there before God for all the flocks and the good things” (GA 21.3 [ed. Fitzmyer, 66]), as well as the use of א as a *mater lectionis*, such as והואת כתשא לה, “and it kept afflicting him” (GA 20.17 [ed. Fitzmyer, 64]). In Early Aramaic all such cases show *defectiva* spelling; for example: לכל הכימי בכל, “that all the wise men of Babylon should be brought before me” (Dan. 4.3); והת בטלא, “and it ceased” (Ezra 4.24).

All these features, when considered together, show that the Aramaic of Qumran represents an interim stage between Imperial Aramaic and Late Aramaic.

A similar type of interim-stage<sup>24</sup> Aramaic is found in the Bar Kochba letters. For example: in the sentence די אנתנה צריכין לה, “because we need him” (Naḥal Hever 56),<sup>25</sup> there appears the early first person plural personal pronoun אנהנא; this pronoun in Late Aramaic is אנן, as in אנן ידעין, “we do

<sup>24</sup> For a linguistic analysis of the Bar Kochba letters, see E. Y. Kutscher, “The Language of the Hebrew and Aramaic Letters of Bar Koseba and His Contemporaries, Part 1: The Aramaic Letters,” *Lesbonenu* 25 (1961), 117–33 (Hebrew).

<sup>25</sup> A. Yardeni, *Textbook of Aramaic*, 1176. Translation, 1167.

not know" (*FT Gen.* 42.13 [ed. Klein, 63]). In addition, we encounter in the first example the ancient pronoun **די**, but we also find together with it the later form of this pronoun, **-ד**, as in **דככל ראלישע אמר לך עבד לה**, "that all that "Elisha" says to you, do for him" (*Naḥal Hever* 53).<sup>26</sup>

#### B THE BIBLICAL TRANSLATIONS

*Targum Onkelos* and *Targum Jonathan* belong to this period. The many features which link their language with the Aramaic of Qumran demonstrate that these targums were indeed compiled during this period.<sup>27</sup> For example, in the Aramaic of the Dead Sea Scrolls we find the sentence **עשר שנין שלמא מן יום די נפקתה מן הרן**, "ten years have elapsed since the time you departed from Haran" (*GA* 22.27–8 [ed. Fitzmyer, 74]). The third person plural feminine form of the past tense is denoted by a final *a* vowel in the word **שלמא**. Such a formation is common in *Targum Onkelos*, as in **ודרהילא חיתא מן קדם ה' ולא עברא כמא דמליל עמהון מלכא דמצרים**, "But the midwives feared God, and did not do as the king of Egypt commanded them" (*Tg. Onk. Exod.* 1.17), whereas in Late Palestinian Aramaic the corresponding form is **קטלין** (*i* vowel, + *n* to close the final vowel), as in **נפקן תרתין נשין מתמן**, "two women went out from there" (*Gen. R.* 34.15 [ed. Theodor-Albeck, 1 327]). Another example: in the sentence adduced above from the *Genesis Apocryphon* the past tense of the verb in the second person masculine singular form **נפקתה** is denoted by a suffixed *-ta* (as in Hebrew), as is the case in *Onkelos*, as in **מא עברתא**, "What have you done?" (*Tg. Onk. Gen.* 4.10). In Late Aramaic the final vowel has dropped, leaving the suffix *-t*, as in **מה היא דא דעבדת**, "What is this, that you have done?" (*FPT Gen.* 4.10 [ed. Klein, 9]). The following items are two vocabulary examples: the word **ארי** appears regularly both in the Aramaic of the Judaean Desert documents and in that of *Targum Onkelos*, as in **ארי לך ולורעך אנתנה**, "For I shall give it to you and to your descendants" (*GA* 21.14 [ed. Fitzmyer, 68]); **והוה אתתא ארי טב אילנא למיכל**, "and the woman saw

<sup>26</sup> *Ibid.*, 1 170. Translation, 11 67.

<sup>27</sup> For a review of the prominent features in the Aramaic of *Targum Onkelos*, see M. Z. Kaddari, "Research on Onqelos Today," in B. Uffenheimer (ed.), *Bible and Jewish History: Studies in Bible and Jewish History dedicated to the Memory of Jacob Liver* (Tel-Aviv, 1971), 370–4 (Hebrew). For the language of *Targum Jonathan*, see Tal, *The Language of the Targum of the Former Prophets*. For the dating of *Targum Onkelos* and *Targum Jonathan*, to the tannaitic era prior to the "Palestinian" targums (the *Fragments Targum*, the Cairo Geniza fragments, and *Neophyti*), see Kutscher, "The Language of the 'Genesis Apocryphon,'" 1–35; and Tal, *The Language of the Targum of the Former Prophets*. For a list of the differences between the Aramaic of *Targum Onkelos* and Galilean Aramaic, see Dalman, *Grammatik des jüdisch-palästinischen Aramäisch*, 44–51.

that the tree was good for food" (*Tg. Onk. Gen.* 3.6), yet it does not appear in Late Aramaic. The word לַחְדָּא, "very (much)" is also common in this Aramaic, as in עַתְרְךָ וְכֶסֶף יִשְׁנֹן לַחְדָּא, "Your wealth and your flocks will increase very much" (*GA* 22.31–2 [ed. Fitzmyer, 74]); אַגְרְךָ סְנֵי לַחְדָּא, "your reward shall be very great" (*Tg. Onk. Gen.* 15.1), but has vanished from Late Aramaic.

Though the language of *Targum Onkelos* is Palestinian in the main, eastern features appear in it as well. Over a long period of time this targum was known only in Babylon, and the text that has come down to us has certainly come from there.<sup>28</sup> Scholars have deduced from this that it was compiled in Palestine, and that the eastern features found in it made their way into it during the process of its being handed down from generation to generation in Babylon. (In contrast, were we to assume that it originated in Babylon, we would be unable to explain the western features in it.) The following is an example of an eastern feature: in Classical Aramaic the plural form of the active participle in ל"י verbs is *qatayin*, and in Galilean Aramaic *qatay*, as in הוּוּ בְּעֵין עֵלָה לְהַשְׁכַּחַה לְדַנְיָאֵל, "they sought to find a ground for complaint against Daniel" (*Dan.* 6.5); וְאַתּוֹן בְּעֵי מְבַטְלָה מִצְוֹתָא מִיֵּן, "And you want to abolish the commandments from us" (*PT Ber.* 4c). The original diphthong in these forms broke up in Biblical Aramaic: *ayn* > *ayin*, while in Galilean Aramaic the final *n* was dropped: *ayn* > *ay*. In Eastern Aramaic another development took place: the diphthong contracted: *ayn* > *an*, and the result was the form *qatan*, which appears both in the Babylonian Talmud, such as בְּעַן בְּמַעֲרַבָּא, "In the West they ask" (*BT Tem.* 21a); הֵנָּךְ אִינְשֵׁי רַכְּנָן בְּעַלְלִיתָא, "Those people who walk in perversity" (*BT Shabb.* 88b), and in *Targum Onkelos*, as in אַרִי יְתָה אִתּוֹן בְּעֵן, "for that is what you desire" (*Tg. Onk. Exod.* 10.11); הֲלֵא אִחְךָ רָעֵן בְּשֶׁכֶם, "Are not your brothers pasturing the flock at Shechem?" (*Tg. Onk. Gen.* 37.13). Nevertheless, as noted above, the language of *Targum Onkelos* is mainly western in character, and so it undoubtedly originated in Palestine.

#### C THE ARAMAIC FRAGMENTS IN TANNAITIC LITERATURE, MEGILLAT TAANIT

Though the tannaitic literature is written in Hebrew, it does have scattered through it short passages in Aramaic that are not part of the normal sequence of *halachah*: sayings, documents, prophecies, proverbs, etc.<sup>29</sup>

<sup>28</sup> For a proposed explanation of how *Targum Onkelos* was preserved in Babylon while disappearing from the land of its origin, Palestine, see E. Y. Kutscher, "The Language of the Genesis Apocryphon: A Preliminary Study," *ScriHie* 1v: *Aspects of the Dead Sea Scrolls*, 10 n. 44.

<sup>29</sup> For a list of the Aramaic sentences in the Mishnah, see Dalman, *Grammatik des jüdisch-palästinischen Aramäisch*, 9–10.

Thus, for example, the *kethubba*, the marriage contract, which is a legal document, is written in Aramaic: אינון ירתון כסף כתובתך: “Male children which thou shalt have by me shall inherit thy *Ketubah* besides the portion which they receive with their brethren” (*M. Ket.* 4.10), and so is the *get*, the writ of divorce: רדין דיהוי ליכי, “Let this be from me thy writ of divorce and letter of dismissal and deed of liberation, that thou mayest marry whatsoever man thou wilt” (*M. Git.* 9.3). The following is an example of a saying: בן בנבג אומר: הפוך בה והפוך בה. דכולה בה. ובה: “Ben Bag-Bag said: Turn it and turn it again for everything is in it; and contemplate it and grow grey and old over it and stir not from it” (*M. Avot* 5.22).

Though this Aramaic language has never been studied systematically, it appears to be similar to that of contemporary sources (such as *Targum Onkelos*), and yet it seems to have many signs of Late Aramaic.<sup>30</sup> For instance: יוהנן כהן גדול שמע דבר מבית קדש הקדשים: נצחון (מרא) שליא דאזלון לאנחא קרבא באנטכיא, “Yohanan the High Priest heard a word from the house of the Holy of Holies: The young men who went to fight in Antioch won the battle” (*Tos. Sota* 13.5). The phrase שליא לאנחא קרבא is characteristic of the Aramaic of *Targum Onkelos* as well, as in האחיכון ייתון לאנחא קרבא, “Shall your brethren go to the war?” (*Tg. Onk. Num.* 32.6). In a later Palestinian targum, the *Targum Neophyti*, the same verse is translated as האחיכון יעלון לסדרי קרבא (*Tg. N. Num.* 32.6 [ed. Diez Macho, IV 297]). On the other hand, two features in this sentence are characteristic of Late Aramaic: שליא is a common form in Galilean Aramaic, as in ליה [הו]א בנובא, “The boy is not in the pit” (*FPT Gen.* 37.30 [ed. Klein, 81]), as opposed to עלימא ליהויה in *Targum Onkelos* to the very same verse; and the past tense form of the third person masculine plural נצחון and אזלון end in *n* as in Galilean Aramaic (the form in Classical Aramaic is קטלו).<sup>31</sup>

The Aramaic of the ancient Megillat Taanit resembles Classical Aramaic and displays very few late features. For example, the passive of the *qal* verb theme still appears in it: אחידת מגדל צור, “Migdal Şor was captured” (*Meg. Taan.* [ed. Lichtenstein, 319]). A late feature that does appear in this scroll is the verb theme 'ittaf'al (the passive of the *baf'el* verb theme), as in אנתקם תמידא, “the *tamid* was established” (*Meg. Taan.* [ed. Lichtenstein, 318]), which is characteristic of Late Aramaic.

<sup>30</sup> See in the meantime D. Talshir, “The Nature of the Aramaic in Tannaitic Literature,” in M. Bar-Asher (ed.), *Sugyot Bi-Ishon Hachamim* (Jerusalem, 1991), 69–70 (Hebrew).

<sup>31</sup> See below, 471.



## V THE ARAMAIC OF THE AMORAIC PERIOD

In this period Aramaic split into two branches, the eastern branch and the western one.<sup>32</sup> In both, changes took place within inherited Classical Aramaic, but the changes in the eastern branch are more noticeable.

## A GALILEAN ARAMAIC

In the wake of the Bar Kochba Revolt (132–5 CE) Judaea was destroyed and the Jewish cultural center moved to the Galilee.<sup>33</sup> This is where the Palestinian Amoraim were active, and so the Aramaic they spoke is known as Galilean Aramaic. This dialect belongs to the western branch of Aramaic. A number of unique features of Galilean Aramaic distinguish it both from the classical language and from Babylonian Aramaic.

(1) In Classical Aramaic a final *a* vowel could be marked either with ה or with א. The choice between them was one of grammatical category. For example: רחום בעל טעם ושמשׁי ספרא כתבו אנרה חרה על ירושלם, “Rehum the commander and Shimshai the scribe wrote a letter against Jerusalem” (Ezra 4.8) – the definite noun form was denoted by a final א and thus we have ספרא, whereas the feminine noun form was marked with ה, and so אנרה חרה. In Galilean Aramaic this distinction no longer existed, and a final ה denotes all final *a* vowels, as in זערה לא שאל בשלמה דרבה, “the lesser does not greet the greater one” (*Yerushalmi Fragments from the Genizah* [hereafter YF] [ed. Ginzberg, 6]) – the ה appearing in definite noun forms as well.<sup>34</sup>

(2) Aramaic, too, like other Semitic languages, has its first person singular of the future tense beginning with א, but in Galilean Aramaic, under certain circumstances, this form begins with נ, as in אמר ליה לאחוי צלי עלי, “he asked his brother: Pray for me. He replied: Why should I pray for you?” (*Gen. R.* 6.5 [ed. Theodor-Albeck, 144]),<sup>35</sup> and it is identical to the first person plural form. This feature may possibly have developed from prefixing אנה to the verb, i.e., אנה אקטול > נקטול.<sup>36</sup>

<sup>32</sup> Traces of dialectical differences may appear already in Early Aramaic; see J. C. Greenfield, “The Dialects of Early Aramaic,” *JNES* 37 (1978), 93–9.

<sup>33</sup> See, e.g., J. Schwartz, *Jewish Settlement in Judea* (Jerusalem, 1986), 42–6 (Hebrew).

<sup>34</sup> E. Y. Kutscher, *Studies in Galilean Aramaic*, trans. M. Sokoloff, (Ramat-Gan, 1976), 16.

<sup>35</sup> In the *Beresbit Rabba* volume of H. Freedman and M. Simon (eds.), *Midrash Rabba* 1 45, this form is translated, “Why should we pray?,” but the context renders the translation “I” certain. The form of the imperative in the first sentence is צלי in the second person singular masculine, i.e., the request was that his brother pray for him, and if so, then מה נצלי is singular and not plural.

<sup>36</sup> E. Y. Kutscher, “Aramaic,” *EncJud* 111 272. For other explanations, see S. E. Fassberg, *A Grammar of the Palestinian Targum Fragments from the Cairo Genizah* (Atlanta, 1990), 167.

(3) The infinitive of the verb in the *qal* theme is *miqtal* in Aramaic; the vowel of the second syllable is *a* even when the forms of the future tense have some other vowel. Thus, for example, the future of *qʿal* is *yiqtol*, while the form of the infinitive is *miqtal*, as in וְגַבַר אֲרִי לְמִקְטוֹל כָּל נַפְשָׁא דְאַנְשָׁא “He who kills a man” (*Tg. Onk. Lev.* 24.17), as contrasted with דְּלֵא לְמִקְטוֹל “lest any who came upon him should kill him” (*Tg. Onk. Gen.* 4.15). In Galilean Aramaic the infinitive assimilates to the form of the future tense, thus forming *miqtol*, as in the *Fragments of the Palestinian Targum* to the very same verse: דְּלֵא לְמִקְטוֹל יִתְּהוּ כָּל דְּמִשְׁכַּח יִתְּהוּ (*FPT Gen.* 4.15 [ed. Klein, 9]).<sup>37</sup>

(4) In Classical Aramaic the form of the infinitive of the *qal* verb theme opens with *m*: *miqtal*, whereas in the other verb themes the infinitive begins with the theme pattern; the infinitive of the *paʿel*, for example, is *qattala*, as in לְקַיְמָה קִים מַלְכָּא וּלְתַקְפָּה אַסַּר “that the king should establish an ordinance and enforce an interdict” (*Dan.* 6.8). In Galilean Aramaic the infinitive form of each theme opens with *m*, and thus the infinitive form of the *paʿel* theme is *mʿqattala*, as in וּבְעִית מְקַיְמָה הֲרִין קְרִיִּיא “and I wanted to fulfill this verse” (*PT Ber.* 11b). The prefixed *m* seems to have been transferred from the *qal* to the other verb themes.<sup>38</sup>

(5) The following is a vocabulary example: “to see” in Aramaic is חוּזָה, as in וַיְדַחֲלֵנִי חוּזָה, “I had a dream which made me afraid” (*Dan.* 4.2), whereas in Galilean Aramaic it is חוּמָה, as in חוּמָה בְּחִלְמִי דְרִקְעָא נָפַל “In my dream I saw the sky falling down” (*PT Kil.* 32b).

These features reflect development of the language in contrast to Early Aramaic, but many features have remained as they were in Early Aramaic. Galilean Aramaic includes a number of ancient words, the use of which sheds light on their meaning in the early sources. For example: in the verse עֵינָיו כִּיּוֹנִים עַל אַפְיָי מִים רַחֲצוֹת בְּחֵלֶב יִשְׁבוֹת עַל מְלֵאָתָא “His eyes are like doves beside springs of water, bathed in milk, sitting on *milleth*” (*Song* 5.12) the word *mʿlata* appears for the first and only time in the biblical text, and its meaning is obscure, but in Galilean Aramaic it appears in a clear context: אִזְלָא לְמַלְיָתָהּ. שְׁמַע קְלָהֶן דְּמַלוּתָהּ אַמְרוּן. בְּתוֹ שְׁלַחֲכִינֵי. מַלְיֵי קוּלְתִּיךְ וְסוּךְ לִיךְ “He went to the *mlyth* and heard the voice of the women water-drawers saying: Daughter of Hachinai, fill your pitcher and go up” (*Gen. R.* 35 [ed. Theodor-Albeck,

<sup>37</sup> Dalman, *Grammatik des jüdisch-palästinischen Aramäisch*, 279; A. Tal, “The Forms of the Infinitive in Jewish Aramaic,” in M. Bar-Asher, A. Dotan, G. B. Sarfatti, and D. Tene (eds.), *Hebrew Language Studies Presented to Professor Zeev Ben-Hayyim* (Jerusalem, 1983), 202–3 (Hebrew). (The *seghol* of the ם results from the shift *i* > *ε* under certain phonetic circumstances.) Mishnaic Hebrew shows a similar feature: the biblical infinitive form לְתַת has been replaced by the form לְתִת, which reflects the form of the future tense יִתֵּן.

<sup>38</sup> Dalman, *Grammatik des jüdisch-palästinischen Aramäisch*, 278; Tal, “The Forms of the Infinitive in Jewish Aramaic,” 211.

III 1232]). Its use here makes it clear that it denotes “a place of drawing water,” and it can be deduced that this is its meaning in the biblical verse as well.<sup>39</sup>

#### B THE TARGUMS AS COMPARED WITH THE TWO TALMUDS

Though most of the features of Galilean Aramaic are shared by all its sources, there are features that enable us to distinguish between the language of the talmudic literature and that of the targums (the *Fragment Targum*, the *Fragments of the Palestinian Targum*, and *Targum Neophyti*). These features reflect not dialectical differences but rather temporal ones, and can be used to determine that the Aramaic of the targums was earlier than that of the two Talmuds.<sup>40</sup> Some relevant examples will help support this claim.

(1) The closing of final open syllables with *n*: the Aramaic of Qumran already shows signs of final open syllables being closed with *n*, and so the word תמה, “there,” becomes תמן, as in לאתרא די בניית תמן בה מדבהא “the place where I (had) built the altar” (*GA* 21.1 [ed. Fitzmyer, 66]), but in that dialect the feature appears only rarely. In Galilean Aramaic, this feature has become much more common: in the targums it appears only with ל”י verbs, and so in the verse וסגון מיא וטענו ית תיבותה “and the waters increased and lifted the ark” (*FPT Gen.* 7.17 [ed. Klein, 21]), the word סגון is closed with *n*, as it belongs to the ל”י category, while the strong verb טענו appears without such *n*. In Talmudic Aramaic this feature has spread to all categories: the third person plural of the past tense *qatlu* always appears as *qatlun*, as in אזלון ופשפשוון ואשכחוון חכינתה “they went and searched and found a snake” (*PT Shabb* 8d); the second person plural imperative form *qitlu* has become *qitlun*, as in אזלון ואמרון לין צומא רבה הוא “go and tell them, it is the great fast” (*PT Yoma* 45a), and similarly in additional categories.<sup>41</sup>

<sup>39</sup> Kutscher, *Studies in Galilean Aramaic*, 33.

<sup>40</sup> E. Y. Kutscher pointed out the existence of differences between the Aramaic of these targums and the Galilean Aramaic of the Talmuds, and concluded from this that the targums “present a type of Aramaic which is *slightly different* from the Galilean type”; see Kutscher, *Studies in Galilean Aramaic*, 4 n. 14, 50. A. Tal demonstrated on the basis of convincing evidence that these differences are temporal ones; see Tal, “Layers in the Jewish Aramaic of Palestine: The Appended Nun as a Criterion,” *Lesbonenu* 43 (1979), 165–84 (Hebrew); idem, “Studies in Palestinian Aramaic: The Demonstrative Pronouns,” *Lesbonenu* 44 (1980), 43–65 (Hebrew); idem, “The Forms of the Infinitive in Jewish Aramaic,” 201–18 (Hebrew). For a grammar of the Cairo Geniza fragments, see Fassberg, *A Grammar of the Palestinian Targum Fragments from the Cairo Genizah*.

<sup>41</sup> Tal, “Layers in the Jewish Aramaic of Palestine,” 165–84 (Hebrew).

(2) The position of the demonstrative pronoun: in the Aramaic of the targums the demonstrative pronoun generally appears after the noun it refers to, as in *דחילמא הדין חלם ביש הוא*, “because this dream is a bad dream” (*FT Gen.* 40.18 [ed. Klein, 62]), while in Talmudic Aramaic it normally appears before its noun, as in *לא תילפון מיני הדין עובדה*, “do not learn that case from me” (*PT Rosb H.* 58d).<sup>42</sup>

(3) The object pronominal suffix: in Classical Aramaic the object pronominal suffix is attached to the verb, as in *והשליטה על כל מדינת בבל*, “and he made him ruler over the whole province of Babylon” (*Dan.* 2.48). In the Aramaic of the targums this pronoun is no longer attached to the verb, but rather appears after *יה*, as in *ונסב יתהון ועבר יתהון יה נחלא*, “And he took them, and brought them across the river” (*FPT Gen.* 32.24 [ed. Klein, 67]). In Talmudic Aramaic the particle *יה* is contracted to *ה* and is attached to the verb, thus forming once again an object pronominal suffix, which is now attached to *ה*, as in *אזל ונסבתון מן תמן*, “he went and took them from there” (*PT Ket.* 35b). Similarly: *רבי שמעון בן לקיש צם תלת מאוון צומין למיהמי רבי חייה רובה*; *ולא תמתייה*, “Rabbi Shim’on ben Lakish fasted three hundred fasts in order to see Rabbi Hiyya the Great, but he did not see him” (*PT Kil.* 32b); the development which took place is *h<sup>a</sup>ma + yateb > h<sup>a</sup>mateb*.<sup>43</sup>

#### C TARGUM PSEUDO-JONATHAN AND THE TARGUMS TO THE HAGIOGRAPHA

These targums, though they apparently originated in an early period, absorbed late features while they were transmitted from one generation to the next, and their language does not reflect a pure Galilean Aramaic. It is possible to distinguish in them traces of the influence of the Babylonian Talmud as well, which in later periods was to be found everywhere.<sup>44</sup> I shall adduce two examples from the *Targum Pseudo-Jonathan*: *וקרא ית עשו בריה רבא*, *בארביסר בניסן*, “He called Esau, his older son, on the fourteenth of Nisan” (*TPJ Gen.* 27.1 [ed. Ginsburger, 47]); *ונאפילו הכי בריך יהי*, “And even so, he will be blessed” (*TPJ Gen.* 27.33 [ed. Ginsburger, 49]) – the forms *ארביסר* and *אפילו הכי* are clearly Babylonian forms that do not appear in Palestinian Aramaic.

<sup>42</sup> Tal, “Studies in Palestinian Aramaic: The Demonstrative Pronouns,” 49–51, 54.

<sup>43</sup> Dalman, *Grammatik des jüdisch-palästinischen Aramäisch*, 360; Fassberg, *A Grammar of the Palestinian Targum Fragments from the Cairo Genizah*, 252; Kutscher, “The Language of the Hebrew and Aramaic Letters of Bar Koseba and His Contemporaries,” 131 n. 59, 132 n. 62b.

<sup>44</sup> For the language of *Targum Pseudo-Jonathan*, see E. M. Cook, *Rewriting the Bible: The Text and Language of Pseudo-Jonathan Targum* (unpublished PhD thesis, Los Angeles, 1986).

## D BABYLONIAN ARAMAIC

Babylonian Aramaic belongs to the eastern branch of Aramaic. The following are a number of features rendering Babylonian Aramaic unique among Aramaic dialects.

(1) Spelling: denoting a final *a* vowel with ה is almost non-existent in Babylonian Aramaic, where נ is the regular suffix denoting a feminine noun as well, as in דַּאִיתְתָּא שְׂכִיחָא בְּבֵיתָא וְיִהְבָּא רִיפְתָּא לַעֲנִי “because a wife stays at home and gives bread to the poor” (BT *Taan* 23b).<sup>45</sup>

(2) An obscuring of the emphatic state of the noun: the mark of the emphatic state in Classical Aramaic is a final *a*, such as בַּאֲדִין . . . דִּנְיָאֵל הָלָם חִזָּה . . . הִלְמָא כְּתָב “Daniel had a dream . . . then he wrote down the dream” (Dan. 7.1) – הָלָם, “a dream,” as compared with הִלְמָא, “the dream.” In Babylonian Aramaic the form ending in *a* has become predominant, so that it also denotes an indefinite noun, as in הָאֵי מָאן דְּחִזָּא חֲלֻמָּא וְלֹא יִדַּע מָאן חִזָּא “If one has seen a dream and does not remember what he saw” (BT *Ber.* 55b); וְיִמָּא חַד שְׁקִל “one day he took a cock” (BT *Ber.* 7a).<sup>46</sup> As a result of this predominance of the final *a* form, Babylonian Aramaic has no way to denote a definite noun form, which means that this category no longer exists in Babylonian Aramaic. The disappearance of the emphatic state apparently stems from the influence of Akkadian, which has no definite noun form either. Akkadian was the vernacular of Babylon before the Aramaic tongue spread to that area, and for some time both of these languages were spoken there. Although, in the end, Aramaic survived while Akkadian disappeared, the latter managed to leave traces in a number of linguistic features of Babylonian Aramaic, including the disappearance of the emphatic state of the noun.<sup>47</sup>

(3) The weakening of the guttural consonants: the gutturals weakened in Akkadian and, under its influence, in Aramaic as well.<sup>48</sup> Examples: in accordance with the rules of phonetic shifts one would expect the Hebrew root *ḥzr*, “return,” to have as its counterpart in Aramaic the root *ḥdr* (as

<sup>45</sup> M. L. Margolis, *A Manual of the Aramaic Language of the Babylonian Talmud* (= *Clavis Linguarum Semiticarum*, 111), (Munich, 1910), 3–4.

<sup>46</sup> *Ibid.*, 62.

<sup>47</sup> For Akkadian influence in Aramaic see S. A. Kaufman, *The Akkadian Influences on Aramaic* (Chicago, 1974).

<sup>48</sup> Y. Kara, *Babylonian Aramaic in the Yemenite Manuscripts of the Talmud* (Jerusalem, 1983), 57–76 (Hebrew); Margolis, *A Manual of the Aramaic Language of the Babylonian Talmud*, 8; S. Morag, “On the Background of the Babylonian Aramaic Tradition of the Yemenite Community and Clarification of Two Topics in this Tradition,” in S. Morag and I. Ben-Ami (eds.), *Studies in Geniza and Sepharadi Heritage: Presented to Shelomo Dov Goitein on the Occasion of his Eightieth Birthday* (Jerusalem, 1981), 141–4 (Hebrew).

actually appears in Syriac), but this root exists in Babylonian Aramaic as *hbr*, as in *האי מאן דבשיניפוק באורחא ובעי דנידע אי הדר לביתיה* “When one is about to go on a journey and wishes to know whether he will return home” (BT *Ker.* 5b). In Babylonian Aramaic the word *הרדי* (literally “one by one”) derives from the word *חד*, “one,” as in *ינאי מלכא ומלכתא כריכו ריפתא בהדי הרדי* “King Jannai and his queen were taking a meal together” (BT *Ber.* 48a). The word *מברא*, “a ferry,” in Babylonian Aramaic is derived from the root *br*, “cross,” as in *רבי זירא כי הוה סליק לא”י לא אשכח מברא למעבר* “When Rabbi Zera went up to the Land of Israel he could not find a ferry wherein to cross [the river]” (BT *Ket.* 112a).

(4) The elision of final consonants: in Babylonian Aramaic final consonants tend to be elided.<sup>49</sup> Examples: the classical plural suffix in Aramaic is *-in*, as in *וּלְאֵלֹהֵי כְסָפָא וּדְהַבָּא . . . דִּי לֹא חֲוִין וְלֹא שְׁמַעִין וְלֹא יִרְעִין שְׂבַחְתָּ* “and you have praised the gods of silver and gold . . . which do not see or hear or know” (Dan. 5.23), but in Babylonian Aramaic the final *n* has been elided and the morph *-i* has resulted, as in *וְהַנֶּךְ לֹא יַדְעֵי וְאֻלַּי וְכַתְּבֵי יוֹהֵבֵי* “and those do not know and they go and write [the *Get*] and give [it to her]” (BT *Gitt.* 33b); similarly, the final *b* has been elided from the word *חוב* (the counterpart of the Hebrew *שוב*), and the resulting form in Babylonian Aramaic is *חו*, as in *וְלִימָא הָאֵי פְסוּקָא וְתוּ לֹא* “let us then say this one verse and no more” (BT *Ber.* 12b). Again, instead of the form *ניקום*, “let us arise” (from the root *qūm*), the form *ניקו* appears in Babylonian Aramaic, as in *ניקו מקמיה. דגבר דחיל חטאין הוא* “Let us arise before him, because he is a sin-fearing man” (BT *Shabb.* 31b).

(5) The elision of final vowels: in Babylonian Aramaic the elision of final vowels is widespread as well.<sup>50</sup> For instance, the first person possessive suffix in Classical Aramaic is denoted by a final *-i* (as in Hebrew), whereas in Babylonian Aramaic this vowel tends to drop, as in *ההוא דאמר להו. תלתא לברת ותלתא לברת ותלתא לאיתת* “[Once] a certain [dying] man said to them: A third [shall be given] to [one] daughter of mine, a third to [the other] daughter of mine, and a third [of the fruit] to my wife” (BT *Bava B.* 132b). This, too, is the origin of the title bestowed on the Babylonian Amoraim: *רב*, such as *רב פפא*, which corresponds to the original Palestinian form *רבי*.<sup>51</sup>

<sup>49</sup> D. Boyarin, “The Loss of Final Consonants in Babylonian Jewish Aramaic,” *Afroasiatic Linguistics* 3 (1976), 103–7; J. N. Epstein, *A Grammar of Babylonian Aramaic* (Jerusalem and Tel-Aviv, 1960), 18–19 (Hebrew); Kara, *Babylonian Aramaic in the Yemenite Manuscripts of the Talmud*, 87–92.

<sup>50</sup> Kara, *Babylonian Aramaic in the Yemenite Manuscripts of the Talmud*, 121; Margolis, *A Manual of the Aramaic Language of the Babylonian Talmud*, 14; and Morag, “On the Background of the Babylonian Aramaic Tradition,” 144–5 (Hebrew).

<sup>51</sup> See Y. Breuer, “*Rabbi* is Greater than *Rav*, *Rabban* is Greater than *Rabbi*, the Simple Name is Greater than *Rabban*,” *Tarbiz* 66 (1997), 41–59 (Hebrew).

## E MORPHOLOGICAL VARIETY IN BABYLONIAN ARAMAIC

A very common feature of Babylonian Aramaic, though it is generally rare, is the use of a number of alternative forms in the same role and with the same meaning. Here are some examples.

(1) As a result of the elision of the final consonant, the form קאי is usual in Babylonian Aramaic instead of קאים, “he is standing.” Yet the ancient form קאים has not disappeared, and so קאים and קאי co-exist without any distinction between them, as in רבי אלעזר הוה קאים קמיה דמר שמואל “R. Eleazar was once standing before Mar Samuel” (BT *Hull.* 111b) in contrast to גידל בר מניומי “Giddol b. Manyumi was once standing before R. Nahman” (BT *Ber.* 49a).

(2) The classical form of the third person singular feminine of the past tense is *q̄talat*. In Babylonian Aramaic this form becomes *q̄tala* as a result of the elision of final consonants. This form again becomes *q̄tal* (a form identical with that of the third person singular masculine) as a result of the elision of final vowels.<sup>52</sup> In fact, Babylonian Aramaic has three different forms for the third person feminine singular of the past tense: *q̄talat*, *q̄tala*, *q̄tal*. Compare, for example, these three sentences: אולתה הא איתתא ואינסיבא להנאה, “this woman went and married a shopkeeper” (BT *Pes.* 110b, ms. Munich 6); אולת דביהו דחסא, ואינסיבא דההוא, “Hasa’s wife went and married” (BT *Yev.* 121b, ms. Munich 141); גברא דגרשה לדביהו ואול אינסיב להניא, “a man who divorced his wife and she went and married a shopkeeper” (BT *Pes.* 110b, ms. Jewish Theological Seminary Rab. 1623). Similarly: ההיא איתתא דעלת לההיא ביתה למיפא, “A certain woman entered a neighbor’s house to bake [there bread]” (BT *Bava K.* 83a, ms. Florence 11-1-7); ההיא איתתא דעלת למיפא בההיא ביתא, “A certain woman entered a neighbor’s house to bake [there bread]” (BT *Bava K.* 48a, ms. Florence 11-1-7); and שבשתא כיון דעל על כיון דעל על “once a mistake entered, it entered” [= once a mistake is implanted it cannot be eradicated] (BT *Bava B.* 21a, ms. Florence 11-1-7).

(3) As already noted, the elision of the final vowel included the elision of the vowel denoting the first person possessive suffix, hence ברת, “my daughter.” Yet this suffix often survives, as in הבו ליה ארבע מאה זוזי לפלניא, “Give four hundred *zuz* to So-and-so and let him marry my daughter” (BT *Bez.* 20a, ms. London 400).

The reason for this variety is unknown. The Babylonian Aramaic that appears in the Talmud may have developed from a mix of a number of dialects.<sup>53</sup>

<sup>52</sup> E. Y. Kutscher, “Research in the Grammar of the Aramaic of the Babylonian Talmud,” *Lesbonenu* 26 (1962), 168–9 (Hebrew).

<sup>53</sup> See, e.g., D. Boyarin, “A Review of Yehiel Kara, *Studies in the Aramaic of the Yemenite Manuscripts of the Talmud*,” *Lesbonenu* 51 (1987), 254 (Hebrew); Kara, *Babylonian Aramaic in the Yemenite Manuscripts of the Talmud*, 70 (Hebrew).

Some postulate that the variety stems from a mix of the language being transmitted and the vernacular: in transmitting the talmudic text from one generation to the next, efforts were made to preserve the archaic language, as commonly occurs when an ancient text is being transmitted, but the changes that had taken place in the spoken language penetrated into the language of the transmitted text, resulting in the morphological mix.<sup>54</sup> The most likely answer is, however, the following: the various alternating forms are related chronologically to one another; for instance, the three third person feminine singular past tense forms result from a discernible chronological process – *q̄talat* > *q̄tala* > *q̄tal*. Since the Talmud came into being over a period of at least 300 years, it appears that the variation in morphological forms reflects a development that took place during the years of its formulation: the ancient forms date from the early period, the later forms from the later period.<sup>55</sup> This means that the Talmud never experienced the unifying effect of linguistic editing, and so ancient forms survive in it alongside more modern ones.

#### F THE ARAMAIC OF THE GEONIM

The period of the Amoraim was followed by that of the Geonim. The Aramaic in geonic literature has not yet been systematically analyzed. This Aramaic resembles that of the Babylonian Talmud, but on occasion differs from it in a number of basic features. As an example I shall adduce two sentences from geonic *responsa*: *הכין חזינא דהרא שאלה לא כשאלתא קרמייתא*, “so we have seen that this question is unlike the first question”;<sup>56</sup> *ופקידנא וקריו יתהון* *קדמנא ועיננא בהון וקמנא על כל מאי דכתיב בהון ופקידנא וכתבו תשובות דילהון לפום דאחוו לנא מן שמיא*, “and we ordered that they read them [the questions] in our presence and we studied them and we investigated all that was written in them and we ordered that they write answers to them according to what we were shown from heaven.”<sup>57</sup> These sentences contain many forms which differ from those of the Babylonian Talmud, such as:

<sup>54</sup> Morag, “On the Background of the Babylonian Aramaic Tradition,” 145–7 (Hebrew).

<sup>55</sup> See, e.g., Kutscher, “Research in the Grammar of the Aramaic of the Babylonian Talmud,” *Lesbonenu* 26 (1962), 167 (Hebrew); S. Morag, “Some Notes on the Grammar of Babylonian Aramaic as Reflected in the Geniza Manuscripts,” *Tarbiz* 42 (1972–3), 75 (Hebrew). In the end these forms were all mixed together, and so, it seems, there is no linguistic differentiation between the early and the later strata (see C. Levias, *A Grammar of the Aramaic Idiom Contained in the Babylonian Talmud* [Cincinnati, 1900], 2). Nevertheless, E. Wajsberg is of the opinion that early *Amoraim* tend to use early forms; see E. Wajsberg, “The Aramaic Dialect of the Early Amoraim,” *Lesbonenu* 60 (1997), 95–156 (Hebrew).

<sup>56</sup> J. Müller (ed.), *Responsen der Lehrer des Ostens und Westens* (Berlin, 1888), 21b.

<sup>57</sup> Lewin (ed.), *Genze Kedem* (Haifa, 1922), 1.



הכין In the Talmud the final *n* has been elided and the form is thus הכי, as in מאי טעמא עברת הכי, “Why did you do [it] like that?” (BT *Ber.* 18b).

הרא In the Talmud the *d* has been elided and the form is thus הא, as in כי הא מילהא, “such a thing” (BT *Zev.* 44a).

קדמיהא In the Talmud the *d* has assimilated to the *m* and the form is קמיהא, as in גזרתא קמיהא, “the first decree” (BT *Gitt.* 55b).

לנא In the Talmud the final vowel has dropped and the forms are קמן and לן, as in כי קא מיבעיא לן רובא דליהיה קמן, “our question relates to cases where the majority is not before us (the majority is undefined)” (BT *Hull.* 11a).<sup>58</sup>

It is not surprising that the Aramaic of the Geonim differs from that of the Talmud, for language is subject to change. Yet it is unexpected that the Aramaic of the Geonim, being later than that of the Talmud, should have features indicating an early language, such as those adduced above. The geonic form הכין is undoubtedly earlier than the talmudic הכי. There is no agreed solution to this problem. It is of course possible that the Aramaic of the Geonim reflects another dialect which preserved various archaic features, but this seems unlikely, since the earliest Geonim lived in the very same places as the Babylonian Amoraim.<sup>59</sup> The following may be the solution: the Talmud and contemporary literature composed by the Amoraim were mainly compiled orally, and were not written down until a later period of time. Even as the talmudic text was being transcribed, the original wording – an oral text in the vernacular – was preserved. The geonic literature, on the other hand, was written down from the very beginning; for example, the *responsa* of the Geonim were written down in order that they might be sent to the Diaspora. A written language generally preserves classical features, in contrast to a spoken one, as is well known. It is thus possible that the Aramaic of the Geonim represents the official, more archaic written language, whereas that of the Talmud reflects the spoken, vernacular tongue.

#### G THE LANGUAGE OF THE SPECIAL TALMUDIC TRACTATES

A number of talmudic tractates display an Aramaic different from the usual language of the Talmud, which resembles the language of the Geonim. These

<sup>58</sup> See, e.g., C. Levias, *A Grammar of the Aramaic Idiom Contained in the Babylonian Talmud*, 4. For a summary of this unusual Babylonian Aramaic (the Aramaic of the Geonim and other types to be discussed below – the language of the special tractates and that of the incantation texts) and for a review of the theories propounded concerning its origins, see T. Harviainen, “Diglossia in Jewish Eastern Aramaic,” *Studia Orientalia* 55 (1984), 97–113.

<sup>59</sup> According to Harviainen, “Diglossia in Jewish Eastern Aramaic,” 17–19, this language is that of the rural areas, which tends to preserve ancient features, whereas Standard Babylonian Aramaic is an urban tongue.

tractates are *Nedarim*, *Nazir*, *Karethoth*, *Mei'la*, *Tamid*, and part of *Tractate Temura*.<sup>60</sup> Examples: *הדין אמר. שבועתא דהכי אמר רב. והדין אמר. שבועתא דהכי אמר רב*, “One said, I swear that Rab taught this, while the other asserted, I swear that he taught this” (BT *Ned.* 25b) – in the standard Babylonian Aramaic both the *d* and the final *n* were elided, thus facilitating the appearance of the form *האי*, as in *האי אמר דידי הוא והאי אמר דידי הוא*, “One said, It is mine, and the other said, It is mine” (BT *Bava K.* 117a). Again, we read, *רבא יומא קדמאה, רבא יומא קדמאה*, “Whenever Rava fell sick, on the first day he would ask them, do not reveal [it] to anyone” (BT *Ned.* 40a) – instead of *להון*, standard Babylonian Aramaic has *קמא*, and instead of *להון*, it has *להו*, as in *יומא קמא אמר להו*, “On the first day he said to them” (BT *Gitt.* 68b). Actually, the language of these tractates is not uniform; rather, it contains an incomprehensible mixture of the usual language of the Talmud and that of the Geonim, as in *הא לא קא מיבעיא לי דעללתא כל מיילי משמע. הדיא הוא דאיבעיא לי*, “Of this I have no doubt, that *‘allalta* means everything; it is of this that I am doubtful” (BT *Ned.* 55a) – in this sentence both early *hada* and Babylonian-Aramaic *ba* appear. There is no satisfactory solution for the special nature of these tractates. They would seem to have been edited separately from the rest of the Talmud,<sup>61</sup> but exactly where and when they were edited remains a mystery.

#### H PALESTINIAN INSERTS IN THE BABYLONIAN TALMUD

A special type of Aramaic that appears in the Babylonian Talmud is the language of Palestinian inserts dating from the period of the Amoraim.<sup>62</sup> Such inserts often show Palestinian elements, so that it is possible that they actually preserve the authentic wording of the originator of the insert. As an example, I shall adduce two such sentences, one in the name of the Palestinian Amora, Rabbi Johanan, and the other which is introduced by the phrase “a word was sent from there [Palestine]”: א”ר יוחנן. כס דחרשין ולא כס: “Rabbi Johanan said: A cupful of witchcraft, but not a cupful of tepid water” (BT *Bava M.* 29b, ms. Hamburg 165); *והיינו דשלאו מתם. יבש רחמי*.

<sup>60</sup> See, e.g., Epstein, *A Grammar of Babylonian Aramaic*, 1960, 14–16 (Hebrew); C. Levias, *A Grammar of the Aramaic Idiom Contained in the Babylonian Talmud*, 2–18; Margolis, *A Manual of the Aramaic Language of the Babylonian Talmud*, 2. For a study of the language of *Nedarim*, see S. Rybak, *The Aramaic Language of Nedarim* (unpublished PhD thesis, Yeshiva University, 1980).

<sup>61</sup> See Epstein, *A Grammar of Babylonian Aramaic*, 15 (Hebrew).

<sup>62</sup> See, e.g., *ibid.*, 16. The reference here is to quotations from amoraic sources, and not to quotations from tannaitic sources, which appear in the Talmud in their original language – whether Hebrew or Aramaic. Of course, whenever the language of the tannaitic source is Aramaic, it will be found to be Palestinian Aramaic.

אתכליא על עלייא, דאלמלא עליא לא מתקיימין אתכליא, “This is what was meant when word was sent from there [Palestine], Let the clusters pray for the leaves, for were it not for the leaves the clusters could not exist” (BT *Hull.* 92a, ms. Hamburg 169). Three distinctly Palestinian features may be distinguished in these quotations.

(1) Noun determination: קס – in the Babylonian Talmud nouns end in *a* and the form קסא is to be expected, as in בפניא וכסא בצפרא וכסא בפניא, “it is usual for people to drink one cup in the morning and another in the evening” (BT *Er.* 29b).

(2) The prefixed *y* in the third person plural of the future tense: יבעו רחמי – here this form opens with *y* as in Western Aramaic; in Babylonian Aramaic the corresponding form opens with *l*, as in לבעו רחמי האידנא, “let them pray now” (BT *Tann* 24b).

(3) The suffix denoting the plural (of nouns): הרשין as opposed to עלייא אתכלייא – this preserves the form of Classical Western Aramaic, where the plural of indeterminate nouns is denoted by the suffix *-in* and the plural of determinate nouns is denoted by *-ayya*. In Babylonian Aramaic neither of these suffixes has survived, both having been replaced by *-e*, which denotes a plural noun, either determinate or indeterminate, as in זווי ואישתפך הנהו זווי, “and the money poured out on the ground” (BT *Ned.* 25a).

This phenomenon is extremely instructive: although these sayings were brought from Palestine and then transmitted orally in Babylon for hundreds of years in a different linguistic environment, and even though they were not collected in a single place but remained scattered throughout the Talmud and embedded in a Babylonian Aramaic environment, they have preserved their original Palestinian grammatical markings.

#### I THE INCANTATION TEXTS

Additional texts written in Babylonian Aramaic are the epigraphic material discovered in Babylon, some of which was certainly composed by Jews. This material includes incantation texts against demons and hostile spirits, and it is especially important because the texts it includes were never treated by copyists. The language of this material is very similar to Babylonian Aramaic, although it displays ancient features that do not appear in the usual Babylonian Aramaic.<sup>63</sup> For example: חוב מומינא ומשבנא ונורנא ומשמינתא וינורנא ומשבנא ומשמינתא, “Further, I adjure, invoke, decree, ban and annul all mysteries of sorcerers” (*Magic Spells and Formulas* [hereafter *MSF*] 19.5–6 [ed. Naveh-Shaked, 124]). On the one hand, the forms מומינא etc. are

<sup>63</sup> For a grammar of the language of the incantation texts, see H. Juusola, *Linguistic Peculiarities in the Aramaic Magic Bowl Texts* (Helsinki, 1999).

characteristic of Babylonian Aramaic, in which the participle is declined by persons, and so משבעא אַא = משבע אַא; compare, for instance, in the Talmud, אַא טַרְחַנַא וּדְרַעַנַא וּמִיִּיתִינַא, “I will exert myself, sow it, and bring [you the crop]” (BT *Kidd.* 61a).<sup>64</sup> This feature does not exist in Classical Aramaic or even in Western Aramaic. On the other hand, the forms תּוּב and יֵת do not appear in the usual Babylonian Aramaic, in which תּוּב has become תּוּ, and the direct object is not marked by the preposition יֵת, but rather by the preposition -ל, as in אַשְׁכַּחִיה רַבִּי יוֹהַנֵּן לְיַעֲקֹבִיה דְרִישׁ לְקִישׁ, “Rabbi Johanan met the young son of Resh Laqish” (BT *Taan* 9a).<sup>65</sup> It is also to be noted that ancient phrases preserving early linguistic features are common in incantation texts.

#### J DISTINGUISHING BETWEEN EASTERN ARAMAIC AND WESTERN ARAMAIC

As already indicated, the Jewish Aramaic of the talmudic era falls into two different categories: the Aramaic of the Babylonian Talmud belongs to the eastern branch, and most of its features are characteristic also of the other dialects of this branch, while Galilean Aramaic belongs to the western branch, with most of its features resembling those of the other dialects of this branch. Because of the unbroken connection between Babylon and Palestine, the differences between the branches of Aramaic were familiar to the Amoraim, and in talmudic literature one encounters explicit references to these differences, as follows.

(1) The following question is raised in the Palestinian Talmud: אִישׁ מִהוּ? לְהַתְּפִישׁ לוֹ נִזְרִית בְּלִשׁוֹן אִשָּׁה? “As for a man, can he take upon himself the Nazirite’s vow in the language of a woman” (PT *Naz.* 51d) – if a man took upon himself the vow of a Nazirite using feminine forms, and says הֲרִי אֲנִי נִזְרִיה (instead of נִזִּיר), is his vow valid or not? The answer to this question is: תַּמָּן אַמְרִין: הֵא נִזְרִיה אֵיעֵבֵר “There [in Babylon] they say: behold! A Nazirite (i.e., *n<sup>e</sup>zira*) is passing by [even though it is a man, i.e., *n<sup>e</sup>zira* can also denote a man].” This Babylonian custom stems not from the weakening of the distinction between the sexes, but rather from the way in which the Babylonian language was interpreted in Palestine. In Babylon, where every noun ends in a final *a*, any Nazirite is termed *n<sup>e</sup>zira*. In Palestine, on the other hand, the indeterminate form was preserved as well, and so the word נִזִּיר was pronounced *n<sup>e</sup>zir* when the intention was not to determine it. A Jew from Palestine, upon hearing that in Babylon a Nazirite is called *n<sup>e</sup>zira* even when there is no intention to determine the word, will

<sup>64</sup> Margolis, *A Manual of the Language of the Babylonian Talmud*, 40. <sup>65</sup> *Ibid.*, 84.

automatically interpret the form as being feminine, and thus he concludes that in Babylon נזירה denotes the masculine form as well.<sup>66</sup>

(2) The Talmud tells of a series of errors stemming from a mutual lack of understanding between speakers of the two dialects:

ההוא בר בבל דסליק לארעא דישראל. נסיב איתתא. . . אמר לה: זילי אייתי לי תרי בוציני. אזלת ואייתי ליה תרי שרני. אמר לה: זילי תברי יתהון על רישא דבבא. הוה יתיב בבא בן בוטא אבבא וקא דאין דינא. אזלת ותברת יתהון על רישיה. אמר לה: מה הדין דעברדת? אמרה ליה: כך ציוני בעלי. אמר: את עשית רצון בעליך. המקום יוציא ממך שני בנים כבבא בן בוטא.

A certain Babylonian went up to the Land of Israel and took a wife [there] . . . He said to her, "Go and bring me two *buzine* [= cucumbers]," so she went and brought him two candles. He said to her, "Go and break them on the head of the *baba* [= door]." Now Baba ben Buta was sitting on the threshold, engaged in judging in a lawsuit. So she went and broke them on his head. He said to her, "What is the meaning of this that you have done?" She replied, "Thus my husband did order me." "You have performed your husband's will," he rejoined; "may the Almighty bring forth from you two sons like Baba ben Buta." (BT *Ned.* 66b).

Two dialectical features can be distinguished here: בוצינא in Babylon meant "cucumber," as in מקרא טב בוצינא טב מקרא, "A cucumber is better than a pumpkin" (BT *Suk.* 56b), while in Palestine it meant "candle," as in איזיל ארליק לי בוצינא, "Go and light a candle for me" (*Gen. R.* 36.1 [ed. Theodor-Albeck, 1 335]); in Babylon the word for "candle" was שרנא, as in אתא ההוא נכרי אדליק שרנא, "A Gentile came and lit a candle" (BT *Shabb.* 122b). בבא, "a door," is a very common word in the Babylonian Talmud but does not exist in Palestinian Aramaic, where the same concept is expressed by the word הרעא; compare איזיל רב ששת קם אבבא, "Rabbi Shesheth went and stood at the door" (BT *Er.* 11b) with איזיל וקם ליה על תרעא דמערתא, "he went and stood at the entrance to the cave" (PT *Hag.* 78a); in Palestine בבא was merely a proper noun.

(3) The Babylonian Talmud tells of an argument between Rabbi Ḥiyya, whose origin was from Babylon and who was a student of Rabbi Judah the Prince, and Rabbi Shim'on, the son of Rabbi Judah the Prince:

אמר ליה רבי חייא לרבי שמעון בר רבי: אלמלי אתה לוי פסול אתה מן הדוכן. משום דעבי קלך. אתא אמר ליה לאבוב. אמר ליה. זיל אימא ליה. כשאתה מגיע אצל "וחכיתי לך" – לא נמצאת מחרף ומגדף?

Rabbi Ḥiyya said to Rabbi Shim'on ben Rabbi: If you were a Levite, you would not be qualified to chant, because your voice is thick. He went and told his father, who said to him: Go and say to him, When you come to the verse, "And I will wait [*we-bikkithi*] for the Lord," will you not be a reviler and blasphemer? (BT *Meg.* 24b)

<sup>66</sup> S. Lieberman, "Tiqqune Yerushalmi 5," *Tarbiz* 3/4 (1932), 456 (Hebrew).

One who pronounces *b* instead of *ḥ* will replace 'והכיתי לה', "I will wait for the Lord" (Isa. 8.17), with 'והכיתי לה', "I will hit the Lord," a clear case of blasphemy. Because of the weakening of the guttural consonants which occurred in Babylon, Rabbi Ḥiyya – of Babylon – found it difficult to pronounce the *ḥ*, replacing it with *b*.<sup>67</sup> Residents of Palestine, where there are only occasional indications of a weakening of the gutturals,<sup>68</sup> had no difficulty in pronouncing the *ḥ*.

## VI THE INFLUENCE OF FOREIGN LANGUAGES ON ARAMAIC

Aramaic was greatly influenced by the languages spoken in its vicinity. Jewish Aramaic was especially influenced by Hebrew. For example, in the Aramaic of the Judean Desert there appear the words הריון and עליון with a *bolam* in their final syllable, from which we conclude that they are Hebrew words, for in Aramaic the corresponding vowel would have been *qames*:<sup>69</sup> מנך זרעא דן ומנך הריונא דן, "this seed is from you; from you is this conception" (GA 2.15 [ed. Fitzmyer, 52]); לאל עליון, "to the Most High God" (GA 12.17 [ed. Fitzmyer, 56]).<sup>70</sup> In *Targum Onkelos* and *Targum Jonathan* use is made of the word ארון, which originates in Hebrew: וסמוריהם בארונא במצרים, "and they put him in a coffin in Egypt" (*Tg. Onk. Gen.* 50.26); דתמן ארונא דה', "where the ark of God was" (*Tg. Jon. 1 Sam.* 3.3).<sup>71</sup> In Galilean Aramaic there appear, for example, the Hebrew words מצווה and תהום, as in דר"ש בר אבא מדקרק במצוותא סגין, "that Rabbi Shim'on ben Abba is very exacting in observing commandments" (PT *Ber.* 4b); and חפר חמש עשר מאוין דאמין ולא אשכח תהומא, "He dug 1500 cubits and did not find the lower depth" (PT *Sanh.* 29a). In Babylonian Aramaic, too, the influence of Hebrew is very widespread, in words such as הגדה. קידושין. הלל. הגדה. קידושין. הלילא. אנדחא, "since he is to recite the Haggada and Hallel" (BT *Pes.* 115b); קביל ביד אבוך קידושי, "your father accepted *qiddušbin* on your behalf" (BT *Kidd.* 12b, ms. Oxford Opp. 248). Even Hebrew verbs made their way into Aramaic, such as the verb אֶתְחַל, derived from the root *thl*,

<sup>67</sup> Dalman, *Grammatik des jüdisch-palästinischen Aramäisch*, 58–9.

<sup>68</sup> E. Y. Kutscher concludes that the guttural consonants in Galilean Aramaic did not weaken to any great extent; see Kutscher, *Studies in Galilean Aramaic*, 67–96.

<sup>69</sup> J. A. Fitzmyer, *The Genesis Apocryphon of Qumran Cave 1*, 2nd ed. (Rome, 1971), 26.

<sup>70</sup> For additional comments on the influence of Hebrew on the Aramaic of the Dead Sea Documents, see S. E. Fassberg, "Hebraisms in the Aramaic Documents from Qumran," in T. Muraoka (ed.), *Abr-Nabrain: Studies in Qumran Aramaic* (Louvain, 1992), 48–69.

<sup>71</sup> For Hebrew influence on the language of *Targum Jonathan*, see Tal, *The Language of the Former Prophets and Its Position within the Aramaic Dialects*, 159–75.



which originates from *farmān*, “an order,”<sup>77</sup> and פּרִיטָקָא, which derives from *frēstag*, “a messenger.”<sup>78</sup>

## VII THE RELATIONSHIP OF LATE ARAMAIC TO EARLY ARAMAIC

As described above, there are many features which clearly indicate the development of Late Aramaic from Early Aramaic. Nevertheless, there are also features that do not seem to fit into the recognized patterns of development, and these features appear to demonstrate that Late Aramaic did not develop directly from the Early Aramaic with which we are familiar. I shall adduce two examples of this, one from Galilean Aramaic and the other from Babylonian Aramaic, both of which are related to a single principle.

It is well known that in both Hebrew and Aramaic the diphthong *ay* tends to contract and turn into *e*; for example, the original diphthong in the word בַּיִת (originally \**bayt*) changes in certain cases to *e*: בַּיִת מַלְכָּא, “the king’s house” (Ezra 6.4). The reverse phenomenon is non-existent, and the vowel *e* never becomes *ay*. The assumed original form of the plural demonstrative particle is \**’ilay*.<sup>79</sup> In Biblical Aramaic the original diphthong has contracted, and the form of the particle is *’illen*, as in סַרְכִיָּא אֱלֵן, “these presidents and satraps” (Dan. 6.7).<sup>80</sup> In the form appearing in Galilean Aramaic, the diphthong reappears: (*ba* + *’illayn* > *ba’ellayin*: נַבְרִיָּא הָאֱלֵיָן, “These men” (*FPT Gen.* 3.4.21 [ed. Klein, 71]); דְּבִירֵיהּ הָאֱלֵיָן, “these words” (*FPT Deut.* 5.19 [ed. Klein, 335]).<sup>81</sup> Since it is not feasible to assume a development *’illen* > *’illayin*, Galilean Aramaic seems to have developed from a dialect in which the diphthong did not contract.<sup>82</sup>

<sup>77</sup> D. Geiger, in S. Krauss (ed.), *Additamenta ad Librum Aruch Completum Alexandri Kobut*, 163 (Hebrew); H. L. Fleischer, in J. Levy (ed.), *Wörterbuch über die Talmudim und Midraschim*, 1 559.

<sup>78</sup> D. Geiger, in S. Krauss (ed.), *Additamenta ad Librum Aruch Completum Alexandri Kobut*, 343 (Hebrew); H. L. Fleischer in J. Levy (ed.), *Chaldäisches Wörterbuch über die Targumim*, 3rd ed., 11 573.

<sup>79</sup> Bauer and Leander, *Grammatik des Biblisch-Aramäischen*, 83.

<sup>80</sup> In the Bible the spelling of the word is sometimes plene: אֱלֵיָן (as in Dan. 2.44), and in these cases the contraction of the diphthong is shown only by the vocalization, but in the case adduced here it is shown by the defectiva spelling as well. Such spelling is also found in the epigraphic material, and this, too, indicates that the diphthong has indeed contracted, as in קֶשְׁתָּא וְחֵצֵיָא אֱלֵן, “(this) bow and these arrows” (the Sefire Inscription, SSI 7.A38 [ed. Gibson, 32]).

<sup>81</sup> See Fassberg, *A Grammar of the Palestinian Targum Fragments from the Cairo Genizah*, 58.

<sup>82</sup> This is the view of Prof. Moshe Bar-Asher in a seminar on Galilean Aramaic held at the Hebrew University in 1984.



Babylonian Aramaic has a similar feature. In the Bible, the form of the possessive third person plural suffix attached to certain nouns is *-ebon*, as in עֲלֵיהֶוּ, “on them” (Ezra 5.1); בְּנֵיהֶוּ, “their sons” (Dan. 6.25), as a result of the contraction of the original diphthong (originally *\*-aybun*<sup>83</sup>). In Babylonian Aramaic its form is *-aybu* (with the elision of the final *n*), as in עֲלֵיהֶוּ, “on them” (BT *Ber.* 36a); בְּנֵיהֶוּ, “their sons” (BT *Ber.* 17a).<sup>84</sup> Here it is the original diphthong that has been preserved, and so we may conclude that Babylonian Aramaic developed from a dialect in which the diphthong had not contracted.

### VIII THE VOCALIZATION TRADITIONS OF ARAMAIC

The difficulty in describing Early Aramaic is that the spelling facilitates the drawing of conclusions regarding the consonants and some of the vowels, but not about the overall structure of the language. A full description of the language requires vocalized texts, but these are few and far between. The following are the main sources upon which we can base a description of Aramaic in the period under review:

1. Regarding *Targum Onkelos* and *Targum Jonathan*, manuscripts and fragments vocalized with Babylonian vowel signs have reached us.<sup>85</sup>
2. Regarding Galilean Aramaic, we have the *Fragments of the Palestinian Targum*, some of which are vocalized with Tiberian vowel signs while others display Palestinian vowel signs.<sup>86</sup>
3. As for Babylonian Aramaic, the main sources are two partially vocalized manuscripts from the writings of the Geonim: *Halachot Pesuqot* ms. Sassoon<sup>87</sup> and *Halachot Gedolot* ms. Paris,<sup>88</sup> to which must be added the Yemenite pronunciation tradition of the Babylonian Talmud, of which several features have been described comprehensively.<sup>89</sup>

<sup>83</sup> Bauer and Leander, *Grammatik des Biblisch-Aramäischen*, 80.

<sup>84</sup> The reading *-aybu* is proved by the spelling with a double *yod*, which is very widespread both in the printed versions and in the manuscripts, and is confirmed according to the vocalization in *Halachot Pesuqot* ms. Sassoon and according to the tradition of the Yemenite Jews in reading the Talmud; see, e.g., S. Morag, “On the Vocalization of the Babylonian Talmud in the Geonic Period,” *Fourth World Congress of Jewish Studies* (Jerusalem, 1969), 11 91; idem, *Babylonian Aramaic: The Yemenite Tradition*, 114.

<sup>85</sup> See the editions adduced in nn. 12, 17 above.

<sup>86</sup> See the edition adduced in n. 15 above.

<sup>87</sup> *Sefer Halachot Pesuqot by Rav Jehudai Gaon: Codex Sassoon 263*, facsimile ed. (Jerusalem, 1971).

<sup>88</sup> *Sefer Halachot Gedolot: Codex Paris 1402*, facsimile ed. (Jerusalem, 1971).

<sup>89</sup> The verb has been fully described according to this tradition in Morag, *Babylonian Aramaic: The Yemenite Tradition* (Hebrew). Other features have been described in other articles by S. Morag, e.g., “The Babylonian Aramaic Tradition of the Yemenite Jews,” *Tarbiz* 30 (1961), 120–9 (Hebrew).

4. We also possess vocalized words scattered through talmudic manuscripts, and in Cairo Geniza fragments.<sup>90</sup>
5. Lastly, we have transcriptions of Aramaic words in foreign languages, such as Greek and Latin.

These diverse sources are extremely important, for only upon them can we base a full linguistic description. As an example, I shall treat a certain detail that can be learned only from the vocalized sources, the pronunciation of the past tense feminine form. The original reconstructed form is *\*qatalat*.<sup>91</sup> In Biblical Aramaic the corresponding form is generally *qitlat*, as סִלְקַת, “came up” (Dan. 7.20). According to the spelling of the form, there is no way of knowing just how this form was pronounced in Late Aramaic. According to the vowel signs, we see that in Galilean Aramaic the form is *qatlat*, as in וְלָקְשַׁת לְבוּשׁ אַרְמְלוּתָהּ . . . וְקָמַת וְאַזְלָתָהּ, “and she started up and went . . . and put on her widow’s garb” (*FPT Gen.* 38.19 [ed. Klein, 87]).<sup>92</sup> In this form the *a* vowel in the first syllable has been preserved, and so the form is closer to the original form *\*qatalat* than the biblical form is.<sup>93</sup> Another form appears in *Targum Onkelos*: according to the vocalization, this form is *q̄atalat*, as in וְאָכְלָתָהּ וְיָהֳבָתָהּ, “she ate, and she also gave [to her husband]” (*Tg. Onk. Gen.* 3.6).<sup>94</sup>

As already noted, this vocalization survives in manuscripts vocalized with the vowel signs of the Babylonian system, and so it follows that this form was used in Babylon. This form, too, is extremely interesting, and this for three reasons. First, this form preserves the *a* vowel in the second syllable, hence this form is closer to the original form *\*qatalat* than the biblical form is.<sup>95</sup> Second, this form seems to indicate that the stress in Babylon was on the penultimate syllable: according to the rules of Aramaic, an (originally short) vowel cannot exist in an unstressed open syllable, and thus the form *q̄atalat*, with the vowel of the second syllable surviving, is comprehensible only if the assumption is made that the stress in Babylon was on the penultimate syllable.<sup>96</sup> Third, this form is confirmed by an

<sup>90</sup> For an anthology of vocalized words in Geniza Talmud fragments, see Morag *Vocalized Talmudic Manuscripts in the Cambridge Geniza Collections*. In this book only the list of words appears, without any linguistic analysis.

<sup>91</sup> Bauer and Leander, *Grammatik des Biblisch-Aramäischen*, 102.

<sup>92</sup> Fassberg, *A Grammar of the Palestinian Targum Fragments from the Cairo Genizah*, 173.

<sup>93</sup> Kutscher, “Aramaic,” 272.

<sup>94</sup> Dalman, *Grammatik des jüdisch-palästinischen Aramäisch*, 78, 256, 259.

<sup>95</sup> Whether our conclusion is based on the Galilean form *qatlat* or on the Babylonian form *q̄atalat*, we have further evidence that Late Aramaic does not derive directly from the Early Aramaic we are familiar with (see above, 484–5).

<sup>96</sup> This is the way Dalman, *Grammatik des jüdisch-palästinischen Aramäisch*, 78, explained this phenomenon. Kutscher (“Research in the Grammar of the Aramaic of the Babylonian Talmud,” 165; “Aramaic,” 286), appears to have thought that this form

analysis of the Aramaic of the Babylonian Talmud: the third person feminine singular form in י"ל verbs in Babylonian Aramaic is *q̄tay*, as in אַתְּמָא הִדְיָא אִתְרַמָּא, “a woman came” (BT *Shabb.* 55a); and in the phrase וְסַפִּינְתָא סָפִינְתָא, “and the ship went” (BT *Bava B.* 73b). This form is explicable only in the following manner: \**q̄tayāt* > *q̄taya* (with the elision of the final consonant) > *q̄tay* (with the elision of the final vowel),<sup>97</sup> and if so, the feminine form is of necessity *q̄talat*. We thus find the Babylonian vocalization of *Targum Onkelos* co-ordinated with the Aramaic of the Babylonian Talmud. It should perhaps be stressed that although this form occurs in *Targum Onkelos*, which was written in the tannaitic period, from the tradition of this *Targum* we can learn only what the pronunciation was at the time that it was transmitted in Babylon.

It is also possible to learn of the pronunciation of words from the Aramaic words appearing in Greek and Latin sources. I shall adduce two examples of this from the New Testament.<sup>98</sup> In all Semitic languages the א of the word אב is always fricative, as in אבִי (Gen. 19.34). Thus, for example, in Syriac the determinate form of the word is אָבָא (*ava*). In the New Testament the word appears in Greek transcription as ἄββα ὁ πατήρ, “Abba, Father” (Mark 14.36); from the transcription we see that the *b* is doubled. This doubling of the *b* is attested in later sources as well, such as the Cairo Geniza fragments and in manuscripts of Mishnaic Hebrew,<sup>99</sup> and it seems to have come about in analogy to the doubling of the *m* in the word אָמֵן.<sup>100</sup> There is nothing revolutionary in this doubling, for it is known from other sources as well, but the New Testament seems to provide the earliest evidence of it. On occasion other forms occur that are unknown from other sources. For example, the name of the festival פֶּסַח appears in the New Testament in its Aramaic form πᾶσχα (*pascha*, Matt. 26.2). In all known Aramaic sources the form of the word is *pishā*,<sup>101</sup> the New Testament providing the only evidence for *a* in the first syllable.

was constructed according to the singular form, though in that case the form contradicts the basic rules of Aramaic. It thus seems to me that the form indeed indicates a penultimate stress, as Dalman states. Kutscher himself assumes that in Babylonian Aramaic the stress was on the penultimate syllable; see Kutscher, “Aramaic,” 280.

<sup>97</sup> Kutscher, “Research in the Grammar of the Aramaic of the Babylonian Talmud,” 165, 169.

<sup>98</sup> For a list of the Aramaic words appearing in the New Testament, see Kautzsch, *Grammatik des biblisch-aramäischen* (Leipzig, 1884), 7–12.

<sup>99</sup> For example: לֵנוּ אָבָא, “my father said to us” (M. Er. 6.2, ms. Kaufmann A 50).

<sup>100</sup> Kutscher, *Words and Their History* (Jerusalem, 1961), 1–2.

<sup>101</sup> As in פֶּסַחָא הוּא קָרָם דִּי (Tg. *Onk. Exod.* 12.11), and similarly in Syriac: פִּשְׁחָא. This form is confirmed also from the plene spelling common in talmudic literature, as in אִמְרַ פִּסְחָא, “the Passover lamb” (PT *Meg.* 7.2.2).

## IX CONCLUSION

This chapter has presented a broad review of the types of Jewish Aramaic common in the Talmudic era. In this period Aramaic was a spoken language, and many literary works were written in it. Afterwards, Aramaic ceased to be a vernacular, and only in a very few places has it survived in speech to the present day. Nevertheless, by virtue of its central position in talmudic literature, every scholar of this literature was familiar with Aramaic, and so the language continued to be known even after people no longer spoke it. In the medieval era it was a passive language known only from the ancient texts, yet to a limited extent it was also an active tongue, for the writers of Hebrew often integrated Aramaic into their writings. It remains important in Modern Hebrew, too, for the latter is replete with Aramaic words and expressions that have been borrowed from talmudic sources and serve in everyday life.<sup>102</sup> Jews have spoken many languages over the generations, but, other than Hebrew, Aramaic is undoubtedly the most important language in the history of Jewish culture.

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<sup>102</sup> For the status of Aramaic in Modern Hebrew see M. Bar-Asher, “The Place of Aramaic in Modern Hebrew,” in *Evolution and Renewal: Trends in the Development of the Hebrew Language* (Jerusalem, 1996), 14–76.

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CHAPTER 19

THE DIASPORA, c. 235–638

LEONARD V. RUTGERS AND SCOTT BRADBURY

I THE JEWS OF ITALY, c. 235–638

LEONARD V. RUTGERS

A INTRODUCTION

In late antiquity, Jewish communities were a common occurrence throughout Italy. While some of these communities were old and well established, others appeared to emerge only after the third and fourth century CE. Jewish communities were not confined to the larger towns, such as Naples, Milan, Ravenna, or Rome. Smaller centers and villages in the remoter parts of the Italian countryside became home to well-organized Jewish communities or to groups of Jewish families. Various islands off the Italian mainland likewise participated in this trend. In late antique Sicily and Sardinia as well as in Malta and Lipari, evidence abounds for a strong Jewish presence not only in the major urban areas but also in the countryside.

The profusion of primary sources currently available helps to correct earlier views according to which the Italian Diaspora ceased to be a factor of importance after 70 CE. Archaeological and epigraphic materials discovered throughout Italy since the 1850s suggest a different scenario: it was precisely during the late antique period that the Jewish community of Italy began to flourish in an unprecedented way, causing it to become the single most visible and tangible Jewish community of the entire western Diaspora in antiquity.

Although one can now understand and evaluate the vicissitudes that befell the Italian Jewish community during one of the most crucial periods in its existence – the one that saw the emergence of Christianity – this view should not be taken to mean that scholars can now interpret the evidence at their disposal. Therefore, as a result of an unabated stream of archaeological discoveries, current views concerning the *extent* of the Jewish Diaspora in Italy during the late antique period are continually undergoing revision. An excellent example of the way such new archaeological discoveries help to transform current understanding concerning the nature of Jewish settlement in Italy is provided by the recent discoveries at Bova Marina, on the southernmost tip, not far from Reggio di Calabria. For most of its history,



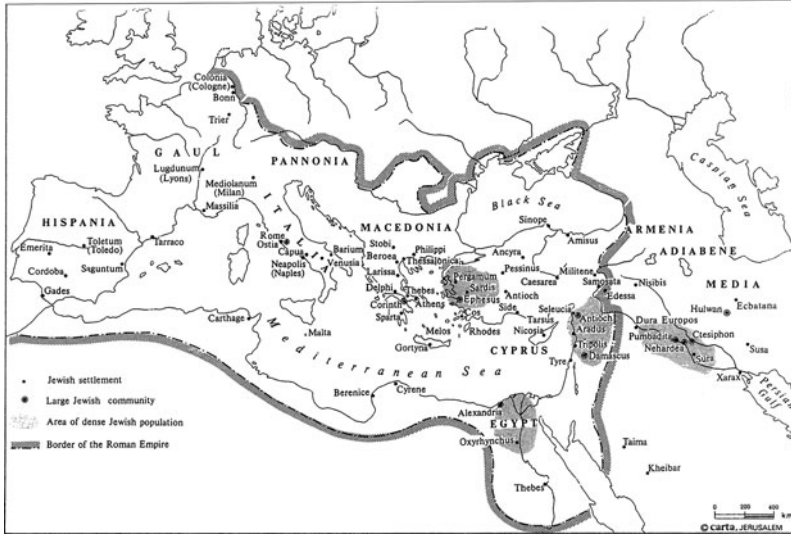


Figure 19.1 The Jewish Diaspora in the Roman Empire

Bova had been an inconspicuous little town. In late antiquity, however, it began to prosper, and Jews apparently shared in the settlement's sudden rise to prominence. In the course of the fourth century, the Jewish community of Bova erected a synagogue, of which some walls and an elegant mosaic floor remain. Although remodeled several times, the building seemed to fulfill its original function for at least two centuries, well into the sixth century CE. When precisely or why the building fell into disuse is unknown. Whatever the reason might have been, this much is clear: here, as in other parts of rural and small-town Italy, Jews were both able and willing to settle in areas where, prior to late antiquity, Jews had never previously gone.<sup>1</sup>

Current scholarly debates concerning the extent of the Jewish Diaspora in late antique Italy are important not just because of the information they yield about demographic and settlement issues. They also form a significant element in discussions of a broader and more fundamental nature, namely, those that seek to define the *nature* of this Diaspora. Therefore, some scholars see the abundance of Jewish archaeological and epigraphic evidence in various parts of late antique Italy not only as an indication of Italian Jewish population increase but also as proof for the hypothesis that such an increase resulted primarily from the success of Jewish missionary activity.<sup>2</sup>

<sup>1</sup> L. Costamagna, "La sinagoga di Bova Marina nel quadro degli insediamenti tardoantichi della costa Ionica meridionale della Calabria," *MEFR* 103 (1991), 611–30.

<sup>2</sup> L. H. Feldman, *Jew and Gentile in the Ancient World* (Princeton, 1993).

It hardly needs stressing that discussions such as these raise fundamental issues not merely in terms of substance but also in terms of methodology. Precisely because archaeological discoveries seem to give access to the past in ways that literary sources do not, scholars have often been tempted to take the archaeological evidence at face value. In this view, they are heirs to a long tradition that dates to the seventeenth century or earlier. It is important to recall, however, that an understanding of archaeological materials does not automatically provide reliable information; like all “evidence,” it is colored by perceptions and interpretation of the data.

This notion becomes evident when one turns briefly to the discussion concerning the alleged population increase among Italian Jews. From the evidence presently at one’s disposal, it does not necessarily or inevitably follow – as some have suggested – that an increase in the total number of Jews occurred, let alone that this number resulted essentially from an increase in the number of converts to Judaism. The increase in archaeological remains may be due to the fact that Jews were more visible during the late antique period than previously; only then did they begin to mark their graves with typically Jewish symbols and with funerary inscriptions that are recognizably Jewish. The profusion of evidence could also mean that a simple change in settlement pattern occurred, rather than a change in demographic constitution: that is to say, while conversions to Judaism played the same subordinate role as before and Jewish fertility rates remained the same, Italian Jews simply began to move from the larger cities to smaller towns and into the countryside. New evidence on the demography of the Jewish community of Rome strongly suggests that such a pattern – movement of population rather than population growth – may provide the correct explanation of the relevant data.<sup>3</sup>

That archaeological and epigraphic materials should play such a crucial role in discussions regarding the history of Italian Jewish communities during the late antique period should not surprise anyone. Practically all the evidence bearing on these communities is archaeological or epigraphic in character. With the exception of the Ostia and Bova Marina synagogues, the available evidence is of a funerary nature.<sup>4</sup> In contrast, literary sources

<sup>3</sup> L. V. Rutgers, *The Hidden Heritage of Diaspora Judaism* (Leuven, 1998), 199–234; idem, “Nuovi dati sulla demografia della comunità ebraica di Roma,” in G. Laceranza (ed.), *Hebraica bereditas: Studi sulla storia e la cultura ebraica dell’Italia meridionale in onore di Cesare Colafemmina* (in press); idem, *The Jews in Late Ancient Rome Reconsidered* (Leuven, forthcoming).

<sup>4</sup> Most scholars now believe that a building in Aquileia, once identified as a synagogue, is a basilica; see Solin, “Juden und Syrer” (see next note), 739. For a dissenting view, see L. Cracco Ruggini, “Il vescovo Cromazio e gli ebrei di Aquileia,” *Antichità Altoadriatiche* 12 (1977), 366. On Ostia, see L. M. White, “Synagogue and Society in Imperial Ostia:

are few. Only one treatise has survived – the *Collatio* – that may have been written by a Jew from Rome. All of the other available literary sources are passing references in the works of classical writers or in the writings of patristic authors – and many of these references are too superficial to be of much evidential value.

Any discussion of the Jews in Italy in late antiquity should begin with a brief survey of Jewish evidence from Rome. There the evidence is more plentiful than in all of Italy – and sufficiently plentiful to provide a framework through which to assess Jewish evidence from other sites in late antique Italy.

#### B THE JEWISH COMMUNITY OF ROME IN LATE ANTIQUITY<sup>5</sup>

The Jewish community of ancient Rome was among the oldest Jewish communities in Italy. Throughout antiquity and well into the Middle Ages, it was also the most numerous one. Practically all that is known about it during the late antique period derives from a number of Jewish catacombs and hypogaea that were located outside the city in the same general areas in which pagan funerary monuments and early Christian catacombs were found. The location of the various Jewish catacombs outside Rome's third-century city walls probably reflects the location of Jewish communities inside those same walls; Roman Jews were likely to patronize those catacombs closest to the centers of their communal and private lives.

The Jewish catacombs of Rome include the following: on the south-western side of the city, the so-called Monteverde catacomb (off the Via

Archaeological and Epigraphic Evidence," in K. P. Donfried and P. Richardson (eds.), *Judaism and Christianity in First-Century Rome* (Grand Rapids, 1998), 30–68; A. Runesson, "The Oldest Original Synagogue Building in the Diaspora: A Response to L. Michael White," *HTR* 92 (1999), 409–34; idem, "The Synagogue at Ancient Ostia: The Building and Its History from the First to Fifth Century" and "Water and Worship: Ostia and the Ritual Bath in the Diaspora Synagogue," in B. Olsson, D. Mitternacht, and O. Brandt (eds.), *The Synagogue of Ancient Ostia and the Jews of Rome*, Acta Instituti Romani Regni Sueciae, series in 40, LVII (Stockholm, 2001), 29–99 and 115–29.

<sup>5</sup> The most significant publications include the following: H. J. Leon, *The Jews of Ancient Rome*, updated ed. (Peabody, 1995); U. M. Fasola, "Le due catacombe ebraiche di Villa Torlonia," *RivAC* 52 (1976), 7–62; H. Solin, "Juden und Syrer im westlichen Teil der römischen Welt: Eine ethnisch-demographische Studie mit besonderer Berücksichtigung der sprachlichen Zustände," *ANRW* II 29.2 (1983), 587–789; D. Noy, *Jewish Inscriptions of Western Europe*, II *The City of Rome* (Cambridge, 1995); L. V. Rutgers, *The Jews in Late Ancient Rome: Evidence of Cultural Interaction in the Roman Diaspora* (Leiden, 1995). For illustrations, see V. B. Mann (ed.), *Gardens and Ghetos* (Berkeley, 1989); J. Goodnick Westenholz (ed.), *The Jewish Presence in Ancient Rome* (Jerusalem, 1995); A. Donati (ed.), *Pietro e Paolo: La storia, il culto, la memoria nei primi secoli* (Milan, 2000); L. V. Rutgers, *Subterranean Rome* (Leuven, 2000).

Portuensis; now destroyed); on the southeastern side of the city, the Vigna Randanini catacomb (off the Via Appia, near the Christian catacombs of Calixtus and Sebastian); and on the northeastern side of the city, the Villa Torlonia Catacomb Complex (off the via Nomentana; this catacomb consists of two separate Jewish catacombs that were connected to each other at an unknown time). Smaller Jewish underground burial sites were the hypogaea that were once found on the eastern side of the city on the Via Casilina and to the southeast in the Vigna Cimarra (both were destroyed as a result of collapse).

The Jewish catacombs and hypogaea of Rome provide a wealth of information on the Jewish community in the period from the late second to early fifth centuries CE.<sup>6</sup> Among the most informative pieces of evidence are the 600 Jewish funerary inscriptions, a number of which have been preserved *in situ*. These inscriptions inform one not only about the community at large but also about its individual members, and permit one to draw conclusions regarding the social history of Roman Jews and the ways in which they interacted with contemporary non-Jewish society.

The most striking features of the inscriptions are the languages in which they have been composed; while Hebrew and Aramaic are virtually absent, Greek and Latin dominate the epigraphic record. That Jews who chose to bury their loved ones in catacombs in which only Jews were laid to rest should have chosen Greek and Latin on their epitaphs at all is a significant indicator of their integration on a linguistic level into contemporary society. That this is so becomes particularly evident when one investigates these stones closely. The Greek and Latin that has been preserved is not just any Greek or Latin. Rather it is precisely the type of *koine* Greek and vulgar Latin that one encounters in non-Jewish inscriptions and writings dating to the same general period.<sup>7</sup>

Something similar is also true for the names that have survived on these stones. Although names of near-eastern derivation do occur, Greek and Latin names predominate. Again, the classical names that have survived are not just any names. They include the names most frequently encountered in contemporary non-Jewish Roman society. This observation is particularly evident in the case of the Latin names. Here one finds a reflection of the typically Roman *tria nomina* system and, in particular, of the final stage in the development of this naming system: a strong preference for *duo nomina* and single names. Although one does not really know the specific considerations that determined the name-giving practices of Roman Jews, it

<sup>6</sup> On the dating of these catacombs, see Rutgers, *Heritage*, 45–71; and idem, *The Jews Reconsidered* (forthcoming).

<sup>7</sup> Rutgers, *Jews*, 176–209.

becomes evident that names of Greek and Latin origin were not the exclusive domain of the more liberal members in the community. Quite the contrary, many of the Roman Jews who played an active role within the community are known to have borne such un-Jewish names. That they did so in daily life is one thing. That they also wished to be remembered by these names after they had passed away and were buried among their coreligionists in the Jewish catacombs is quite another. It is powerful evidence that indicates the way socially integrated Roman Jews viewed themselves to be within late Roman society.<sup>8</sup>

At first sight, the use of Roman, Greek, and Latin naming practices in Jewish funerary inscriptions from Rome seems to suggest, then, that this community was well on its way to assimilation, yet nothing could be further from the truth. In spite of all the classical features they display, these inscriptions frequently contain evidence of a strong allegiance to Judaism. Such evidence could be graphic in nature. Many inscriptions carry renderings of Jewish symbols, and in particular of the menorah, but such an allegiance could also be expressed in words. Not only do a significant portion of the inscriptions refer to someone's position or role within the Jewish community, but they also display neologisms – new words invented specifically by Jews for Jews in order to stress their love for the community and for (Jewish) learning. In that sense, many Jewish funerary inscriptions from Rome are most definitely and unmistakably Jewish.

While the emphasis on Jewish communal matters is quite conspicuous in these funerary inscriptions, it is remarkable to note the little attention paid to the afterlife. Most inscriptions are concise. They state the deceased person's name, age, family relations, and, when available, his or her function in the community. They rarely elaborate, however, on whether or not the deceased person believed in an afterlife, and, if so, its postmortem description. Only one Jewish inscription from Rome – the famous Regina inscription – mentions these issues at length, yet the lack of precise information about the place where this inscription was found makes it impossible today to determine whether this is a Jewish inscription at all.<sup>9</sup> Therefore, one is left with Jewish funerary inscriptions that are decidedly current-world in orientation – inscriptions that proudly address those who remained behind instead of suggesting some kind of consolation for those who had departed. This phenomenon is not confined to Rome. Elsewhere in Italy, indicating one's function within the community seemed to be so important that references to the afterlife never succeeded in gaining any prominence.<sup>10</sup>

<sup>8</sup> *Ibid.*, 139–75. <sup>9</sup> Noy, *Jewish Inscriptions*, 11, n. 103.

<sup>10</sup> Rutgers, *Heritage*, 157–68.

Noting the emphasis placed on the community in the Jewish epitaphs from Rome, it may come as a surprise to note how little is known about the internal organization of this community. No fewer than eleven such communities are mentioned by name in Jewish funerary inscriptions. Some of them occur more than once.<sup>11</sup> Scholars have long debated whether these communities coexisted under a central authority, but to date no evidence has been discovered to suggest that they did. In addition to providing the names of individual communities, the inscriptions also include references to the various offices within these communities. Again, one does not know exactly what such offices involved, even if the titles that occur – such as *archisynagogos* or *archon* – are terminologically identical with titles occurring in Jewish contexts in other parts of Italy and beyond. (In all such cases one has only vague notions of the meaning of fulfilling such functions; and no one knows whether or not the presence of identical titles in different places implies that the actual responsibilities were the same in the different locations.)

Other approaches that focused on analyzing the inner structure of the Roman Jewish community have similarly failed to produce tangible results. For example, scholars have tried to divide the Roman Jewish community of late antiquity into various subgroups, including a more romanized, a more hellenized, and a more traditional one.<sup>12</sup> A new analysis of the pertinent evidence, including the artwork from the catacombs, however, reveals that such a division can no longer be maintained. If any distinction can be made, then only a linguistic one proves to be defensible; as time passed, Roman Jews seemed to prefer inscriptions in Latin over inscriptions in Greek.<sup>13</sup>

The Jewish archaeological and epigraphic evidence from Rome thus indicates that Roman Jews during the third and fourth centuries CE freely and actively interacted with contemporary society. This interaction is particularly evident on a material level; Roman Jews frequented the same kind of workshops, used the same kind of artifacts, and constructed the same types of graves for burial as did their non-Jewish contemporaries.<sup>14</sup>

<sup>11</sup> Leon, *Jews*, 135–94; M. Williams, “The Structure of Roman Jewry Reconsidered: Were the Synagogues of Ancient Rome Entirely Homogeneous?” *ZPE* 104 (1994), 129–41; and idem., “Exarchon: An Unsuspected Jewish Liturgical Title from Ancient Rome,” *JJS* 51 (2000), 77–87.

<sup>12</sup> Leon, *Jews*, 77, 110.

<sup>13</sup> Rutgers, *Jews*, 139–43, 176–9. For a different view, see D. Noy, “Writing in Tongues: The Use of Greek, Latin, and Hebrew in Jewish Inscriptions from Italy,” *JJS* 48 (1997), 300–11.

<sup>14</sup> Rutgers, *Jews*, 50–99. On Jewish sarcophagi, see also G. Koch, “Jüdische Sarkophage der Kaiserzeit und der Spätantike,” in L. V. Rutgers (ed.), *What Athens Has to Do with Jerusalem* (Leuven, 2002), 189–210.

Linguistically and onomastically, few distinctions could be drawn between Jews and non-Jews. When it came to Jewish identity, however, Roman Jews distinguished themselves from their pagan and Christian neighbors; they buried their dead in catacombs reserved exclusively for Jews. In addition, they sealed the graves in these catacombs with inscriptions whose most outstanding feature is the celebration of someone's involvement in the community, and they decorated their tombs with wall paintings and sculptural reliefs that are Jewish in iconography in the most unequivocal ways.

C THE JEWISH COMMUNITY OF VENOSA  
IN LATE ANTIQUITY<sup>15</sup>

Turning to the second-largest Jewish community in late antique Italy, the one in Venosa (Basilicata), was a Jewish community whose relationship with contemporary non-Jewish society was slightly different from the one evidenced by the Jewish archaeological and epigraphic materials from Rome. The reason for this difference lies not only in the fact that Rome was a metropolis and Venosa merely a provincial town. Equally, if not more important, the Venosa materials date from a later period and derive from a community that was beginning to undergo a process of significant cultural transformation.

Like the Jewish evidence from Rome, the Jewish evidence from Venosa is funerary in nature and derives from one or possibly two Jewish catacombs.<sup>16</sup> When the Jewish community of Venosa was first established is not apparent. What is certain, though, is that once this community had been created, Jews continued to live in Venosa for several centuries. The evidence indicates that even after the Jewish catacomb(s) had gone out of use, Jews continued to bury their dead on top of the hill inside which their ancestors had previously entombed their dead. Thus one finds many medieval Jewish gravestones

<sup>15</sup> The main publications, with references to earlier literature, include the following: H. J. Leon, "The Jews of Venusia," *JQR* 44 (1954), 267–84; C. Colafemmina, "Insediamenti e condizione degli ebrei nell'Italia meridionale," in *Gli ebrei nell'alto medioevo: Settimane di studio del centro italiano di studi sull'alto medioevo* 26 (1980), 197–227; D. Noy, *Jewish Inscriptions of Western Europe, 1 Italy (excluding the City of Rome), Spain and Gaul* (Cambridge, 1993), nn. 42–116; M. Williams, "The Jews of Early Byzantine Venusia: The Family of Faustinus I, the Father," *JJS* 50 (1999), 38–52; D. Noy, "Peace upon Israel," in W. Horbury (ed.), *Hebrew Study from Ezra to Ben-Yehuda* (Edinburgh, 1999), 135–46; and G. Lacerenza, "Le antichità giudaiche di Venosa: Storia e documenti," *Archivio storico per le province Napoletane* 116 (1998) [2000], 293–418.

<sup>16</sup> C. Colafemmina, "Saggio di scavo in località Colline della Maddalena a Venosa," *Vetera Christianorum* 18 (1981), 443–51; E. M. Meyers, "Report on the Excavations at the Venosa Catacomb, 1981," *Vetera Christianorum* 20 (1983), 445–60.

that are datable to the years 808–48 CE and are incorporated into the walls of the nearby abbey church of the Holy Trinity.

At first glance, the Jewish catacomb(s) of Venosa and the epigraphic materials they contain seem to share much in common with their Roman-Jewish counterparts. The inscriptions retrieved at Venosa are mostly written in Greek and Latin, that is, in *koine* Greek and vulgar Latin. The names occurring in the Venosan inscriptions are, again, mostly of Latin and Greek derivation, with only a minor percentage of names of Hebrew origin. The Latin names occurring at Venosa reveal that the previously mentioned tendency towards the petrification of the Roman *tria nomina* system is now complete: only single names occur.

Because most inscriptions have been preserved *in situ* (they are painted on the walls near the tombs to which they belong), it is possible to reconstruct the chronological relationship between inscriptions in these two languages with a fair amount of precision. Inscriptions written in Greek are mostly (although not exclusively) found near the entrance or earliest part of the catacomb (fourth to fifth century CE), while inscriptions carved in Latin have been preserved deeper inside the catacomb, in areas datable from the fifth to sixth centuries CE. Such linguistic evidence suggests that the cultural interaction of Venosan Jews with their non-Jewish environment may not have been affected too adversely by the rise of Christianity. In fact, some indications suggest that in southern Italy cultural and political interaction was more intense than in Rome. For example, among the many inscriptions that have survived, one refers to *maiores civitatis*, that is, to Jews as public officials who served not only their own community but the entire town in which they were living.<sup>17</sup>

Participation in contemporary society did not mean that the Jews of Venosa lacked a clear sense of identity. Like their Roman coreligionists, they too were buried in catacombs in which only Jews were laid to rest. Similarly, references to specific functions within the community are the ones most frequently included in the inscriptions at Venosa. Last, the artwork ordered by Venosan Jews to decorate their graves is marked by the same clear preference for Jewish iconographical themes in general, and for the menorah, in particular.<sup>18</sup> Nevertheless, in one particular respect the inscriptions preserved at Venosa display a departure from previous practice: the use of Hebrew. While Hebrew is absent in the Jewish inscriptions from Rome – and when it does occur, it is found only in isolated words, such as

<sup>17</sup> Noy, *Jewish Inscriptions*, I, nn. 86, 119. On the title *Pater Patrum*, see *ibid.*, nn. 68, 114, and 115, with commentary.

<sup>18</sup> C. Colafemmina, “Nuove scoperte nella catacomba ebraica di Venosa,” *Vetera Christianorum* 15 (1978), 369–81, especially plate vi.



*shalom* – the epigraphic materials from Venosa mark the beginning of a new era in the history of Jewish epigraphic practice in Italy, namely, one characterized by the exclusive use of Hebrew as the language employed for Jewish funerary inscriptions.

It is important to stress that the evidence from Venosa reflects an early stage in the development towards a hebraization of the language and formulas in Jewish funerary inscriptions from Italy. While Hebrew inscriptions from medieval Italy are dated by references either to the destruction of the Temple or to the creation of the world, the inscriptions from Venosa still adhere to the classical dating system consisting of consular dates.<sup>19</sup> Similarly, in the Venosan materials, Greek and Latin names nevertheless predominate. In this, too, they differ from later medieval Jewish inscriptions in which Hebrew and biblical names came almost entirely to replace the traditional onomastic repertoire derived from classical (non-Jewish) sources.<sup>20</sup> However, although the Jewish inscriptions from Venosa are clearly and manifestly rooted in the world of late antiquity, the emergence of a culture oriented by specifically Jewish modes of thought and expression is nevertheless unmistakable. In some inscriptions, Hebrew is confined to the letters in which the inscription is written; the language is still Greek.<sup>21</sup> In others, however, the phraseology as a whole is Hebrew and the influence of the Hebrew Bible is unmistakable.<sup>22</sup> While bilingual inscriptions (in Latin and Hebrew) are still fairly common during this developmental stage of Jewish epigraphic practice, the difference between the Jewish inscriptions from Rome and those from Venosa is nonetheless clear enough. In Venosa, Hebrew is no longer a casual addition; instead, it begins to determine the very substance of the inscriptions made for the Jews who buried their loved ones here.<sup>23</sup>

Interesting in their own right, the Jewish inscriptions from Venosa gain special importance when placed within a larger historical framework. In Rome, during the third and fourth centuries CE, one encounters a Jewish community entirely at ease and in constant linguistic interaction with contemporary non-Jewish society. In Venosa, during a period from the fourth to the sixth centuries, one views a Jewish community that is quite different – one for whom interaction with their non-Jewish neighbors was

<sup>19</sup> Noy, *Jewish Inscriptions*, 1, n. 107.

<sup>20</sup> C. Colafemmina, "Hebrew Inscriptions of the Early Medieval Period in Southern Italy," in B. Garvin and B. Cooperman (eds.), *The Jews of Italy: Memory and Identity* (Bethesda, 2000), 65–81.

<sup>21</sup> Noy, *Jewish Inscriptions*, 1, n. 75.

<sup>22</sup> See, e.g., Noy, *Jewish Inscriptions*, 1, nn. 82, 109–10.

<sup>23</sup> See also Williams, "Jews," 50–1; and Noy, "Peace," *passim*. In general, see N. de Lange, "The Revival of the Hebrew Language in the Third Century," *JSQ* 3 (1996), 342–58.

still common, but one that was simultaneously keen on expressing its allegiance to the Jewish heritage in ways that seem to link this community to the Jewish communities of medieval Italy rather than to the Jewish community of late antique Rome. Whether this phenomenon implies the emergence or influence of a rabbinic type of Judaism is a question that will be investigated below.

D JEWISH COMMUNITIES IN OTHER PARTS OF ITALY  
IN LATE ANTIQUITY<sup>24</sup>

As observed previously, the Jews in late antiquity lived not only in larger urban areas but also in smaller towns and in the countryside. In many cases, one can no longer estimate when these communities were first established, nor can one determine the size of individual communities. The available evidence is fragmentary in nature: a few inscriptions, some Jewish tombs, and a few passing references in the literary sources, such as the letters of Pope Gregory the Great.

Taken altogether, however, the sparse evidence nevertheless enables one to gain some insight into the extent and nature of Jewish settlement in late antique Italy. Epitaphs clearly suggest the mobility of Jews during this

<sup>24</sup> For recent literature, with references to an earlier bibliography, see: *General*: C. Colafemmina, "Archeologia e epigrafia ebraica nell'Italia meridionale," *Italia judaica: Atti del I convegno internazionale, Bari 18–22.V. 1981* (Rome, 1983), 199–210; G. Lacerenza, "Le iscrizioni giudaiche in Italia dal I al VI secolo: tipologie, origine, distribuzione," in M. Perani (ed.), *I beni culturali ebraici in Italia* (Ravenna, 2003), 71–92. *Northern Italy*: L. Cracco Ruggini, "Ebrei e orientali nell'Italia settentrionale tra IV e VI secolo," *Studia et documenta historiae iuris* 25 (1959), 186–308; idem, "Note sugli ebrei in Italia dal IV al XVI secolo," *Rivista Storica Italiana* 6 (1964), 926–56. *Aquileia*: L. Cracco Ruggini, "Il vescovo Cromazio," 353–81. *Naples and Surroundings*: E. Serrao, "Nuove iscrizioni da un sepolcro giudaico di Napoli," *Puteoli* 12–13 (1988–9), 103–17; D. Korol, "Il primo oggetto sicuramente giudaico a Cimitile," *Boreas* 13 (1990), 94–102; *SEG* 1994, n. 818; G. Lacerenza, "Frustula iudaica neapolitana," *Annali dell'istituto universitario orientale* 58 (1998), 334–46; idem, "Per un riesame della presenza ebraica a Pompei," *Materia Giudaica* 5/1 (2001), 99–103. *Bova*: Costamagna, "Sinagoga." *Sicily*: C. Colafemmina, "Ipogei ebraici in Sicilia," in *Italia giudaica: Gli ebrei in Sicilia sino all'espulsione del 1492: Atti del V convegno internazionale, Palermo 15–19 giugno 1992* (Rome, 1995), 304–29; N. Bucaria, "Antichi anelli e sigilli giudaici in Sicilia," *Sicilia Archeologica* 28 (1995), 129–34; C. Gebbia, *Presenze giudaiche nella Sicilia antica e tardoantica* (Rome, 1996); Rutgers, *Heritage*, 139–56; N. Bucaria (ed.), *Gli ebrei in Sicilia dal tardoantico al medioevo* (Palermo, 1998), 259–310; N. Bucaria, M. Luzzati, and A. Tarantino (eds.), *Ebrei e Sicilia* (Palermo, 2002); *Sardinia*, M. Perani, "Gli ebrei in Sardegna fino al secolo VI: Testimonianze storiche e archeologiche," *Rassegna mensile di Israel* 57 (1991), 305–44; A. M. Corda, "Considerazioni sulle epigrafi giudaiche latine della Sardegna romana," *Studi e materiali di storia delle religioni* 60 (1994), 281–301. *Malta*: M. Buhagiar, *Late Roman and Byzantine Catacombs and Related Burial Places in the Maltese Islands* (Oxford, 1986).

period – not only within Italy but also within the Mediterranean world as a whole. During this period, the city of Rome naturally continued to exercise considerable attraction, which is evidenced by the funerary inscriptions found in the Jewish catacombs of Rome and commissioned by Jews who originated in Sicily and northern Italy as well as in various cities in the eastern Mediterranean, including Roman Palestine.<sup>25</sup> However, other towns in Italy were successful in attracting new Jewish immigrants: Jews from Rome and Venafrum (Molise) moved to Naples, as did Jews from Caesarea (presumably the one in Palestine) and Mauretania. Jews originating in Lecce (Salento) and Albania were buried in Venosa. Jews from Alexandria settled in Milan. In addition, Syracuse (Sicily) appeared to appeal to Jews of Egyptian origin.<sup>26</sup>

In terms of their interaction with contemporary society, Italian Jews generally seemed to share much in common with the Jews of Rome. Both inscriptions and archaeological evidence point towards a dynamic relationship that has already been described in the previous discussion of the Jewish materials from Rome. That is to say, outside Rome, Italian Jews also wrote their inscriptions in *koine* Greek and vulgar Latin and preferred Greek and Latin names over Hebrew ones. References to community-related titles and the use of typically Jewish iconographic motifs once again are a common feature that characterizes many of these inscriptions. Evidence from Jewish hypogaea on Malta and from the so-called “Grotta del Carciofo” outside Noto in Sicily makes this clear.<sup>27</sup> Jews used the same kind of grave types as did non-Jews, but, once they had dug or acquired tombs, they reserved them exclusively for the burial of Jews. Even in those isolated cases in which Jews were buried in open-air necropoleis that were also used by other groups, they still preferred to be buried on the outskirts of such cemeteries and as close together as possible.<sup>28</sup>

The archaeological and epigraphic evidence suggests rather uniformly that throughout Italy, during the period that stretched from the early third century to the early fifth century CE, Jews were an integral part of late Roman society and, on a variety of levels, freely interacted with their non-Jewish contemporaries. That such interaction finds ample documentation in various sources and continued well into the fifth and sixth centuries – as

<sup>25</sup> Noy, *Jewish Inscriptions*, II, nn. 60, 112, 183, 238, 503, 508, 515, 561.

<sup>26</sup> Noy, *Jewish Inscriptions*, I, nn. 27, 28, 29, 31 (Naples); n. 107 (Venosa), n. 2. (Milan); Rutgers, *Heritage*, 147–8, and 141 (Syracuse).

<sup>27</sup> On Malta, see Buhagiar, *Catacombs*, passim. For notes, see the illustrations and latest evidence in Colafemmina, “Ipogei,” 322–8. On the evidence at Syracuse, see the discussion in Rutgers, *Heritage*, 151–3.

<sup>28</sup> G. di Stefano, “Alcune tombe giudaiche in una necropoli romana nella Sicilia orientale,” in Bucaria (ed.), *Ebrei*, 271–84.

indicated by the evidence from Venosa – is significant. It suggests that throughout antiquity, and long after Christianity had begun to sink its roots into late Roman society, the Jews of Italy were not being reduced to a fringe position. Instead, they continued to prosper or live their lives as usual. In short, the otherwise consequential transition from pagan antiquity to the Christian Middle Ages must have been a gradual one for the Jews of Italy. Its gradual nature can be determined only by analyzing various literary sources – a topic to be discussed in the following section.

#### E LITERARY SOURCES: THE *COLLATIO* AND OTHER SOURCES<sup>29</sup>

The *Collatio Legum Mosaicarum et Romanarum* or “Comparison of Mosaic and Roman law” is one of the most remarkable texts produced in antiquity. It was composed during the fourth century CE. Its author was probably Jewish, conceivably someone who either lived or spent a considerable amount of time in Rome. The *Collatio* consists of sixteen “titles.” Each one or each chapter is characterized by a juxtaposition of injunctions taken from Jewish and Roman law respectively. The Jewish legal materials derive from the Pentateuch, the Roman ones from various juristic writings and constitutions. The emphasis throughout centers on criminal law. The primary purpose of this treatise, however, was apologetic, not legal. Its goal centered on showing that the Mosaic laws of old did not conflict with more recent Roman laws. The work is likely to have been occasioned by late antique discussions on the validity of Mosaic law. Such discussions arose as a result of an intense exegetical preoccupation with the letters of Paul – a preoccupation that is characteristic of Latin Christianity in the second half of the fourth century CE.

Within the framework of the present chapter, the *Collatio* is particularly interesting because of its implications for the history of the Jews in late antique Italy. The anonymous author of the *Collatio* was someone not merely familiar with Jewish law; he (or she) was also acquainted with and had access to Roman legal traditions. The expertise of this unknown writer enabled this person to compose a work in Latin and in such a fashion that a selection of Jewish legal traditions now became easily accessible to people with no prior knowledge of biblical law. In addition, the author must have been familiar with the early Christian attacks on Mosaic law – so familiar, indeed, that this writer realized that these discussions could have a profoundly negative effect on the legal position of Jewish communities in the entire later Roman Empire.

<sup>29</sup> Discussion and references to earlier literature in Rutgers, *Jews*, 210–59. These pages also include a discussion of the *Letter of Annas to Seneca*.

The importance of the *Collatio* as a historical document, therefore, lies in two areas. On the one hand, the *Collatio* suggests that by the end of the fourth century CE, Jews living in Italy held positions in society that gave them free access to contemporary non-Jewish culture. On the other hand, the *Collatio* indicates that the societal position of the Jewish community as a whole was becoming – slowly but certainly – a matter of dispute. Late Roman laws provide further evidence to suggest that the Italian Jewish communities of this era came under increasing pressure from the 380s to 420s. While imperial officials were instructed as late as 398 that the Jews of Apulia and Calabria were not exempted from serving on city councils, a series of laws promulgated in the first two decades of the fifth century CE resulted in the systematic exclusion of Jews from all major positions in the Empire's civil service.<sup>30</sup> Along similar lines, Jewish synagogues were no longer safe from mob violence, as the destruction of synagogues in Rome and Aquileia in 388 and Rome in 395 makes clear. The repeated promulgation of laws that sought to prevent and outlaw the spoliation and destruction of synagogues suggests the widespread nature of this phenomenon not only in Italy but also in other parts of the late Roman Empire in the last decade of the fourth century and the first two decades of the fifth century CE.<sup>31</sup>

A lack of evidence makes it difficult to determine precisely the extent to which these developments affected the societal position of Jews in late Roman Italy. Late Roman law as well as the sermons from the late fourth and early fifth centuries of Italian church leaders, including Ambrose of Milan, Maximus of Turin, Chromatius of Aquileia, Zeno of Verona, Gaudentius of Brescia, and Petrus Chrysologus, Bishop of Ravenna, did little to help ease the tension between Jewish and Christian groups. Nevertheless, despite concerted efforts to christianize the later Roman Empire through the exclusion of non-orthodox groups including the Jews, Italian Jews did not find themselves reduced to a marginal position overnight. Instead, well into the sixth and early seventh centuries CE, one finds evidence for Jewish positions within non-Jewish society which seemed to change very little. Thus, for example, in an inscription presumed to date to the early sixth century and referred to earlier, one encounters Jews who seemed to serve as patrons of the entire town of Venosa (as opposed to the Jewish community alone).<sup>32</sup> In other places, such as Naples, Jews may likewise have served in such positions.<sup>33</sup> By the late fifth century, Jews of

<sup>30</sup> A. Linder, *The Jews in Roman Imperial Legislation* (Detroit, 1987), 75–7, with references to the laws in question.

<sup>31</sup> Linder, *Jews*, 64–5, 73–4, with references to the pertinent laws.

<sup>32</sup> Noy, *Inscriptions*, 1: n. 86 with commentary on 119, and nn. 68, 114, 115.

<sup>33</sup> Gregory, *Ep.* 3.15.

senatorial rank had still not disappeared entirely, nor had Jews with a thorough understanding of Roman law.<sup>34</sup> Furthermore, during the same general period, one still encounters Italian Jews who owned tracts of land or slaves (or both). Still others lived as tenant farmers on lands owned by the Church.<sup>35</sup> Jewish communities, such as the one at Terracina (Lazio), continued to gather in synagogues.<sup>36</sup> Although the presence of the Terracina synagogue seemed to bother some of its Christian neighbors – as synagogues did in a number of places in Italy – it is significant that such a conflict could arise at this late date. It indicates that in sixth-century Italy, centrally located synagogues and the Jewish communities that worshiped in them were still a common sight.<sup>37</sup> This conclusion is also confirmed in the archaeological remains at Bova, where Jews kept embellishing their synagogue well into the sixth century CE. As late as 603, Judaism still exercised a fascination for Christians in Rome, as did Jewish magic on Christians in Sicily.<sup>38</sup> Alternatively, whether or not early Christian reports of the mass conversion of Jews to Christianity faithfully reflect actual events, or whether they should be seen as mere literary constructs, remains unclear. In any case, a well-known fifth-century funerary inscription from Grado (northern Italy) describes the person commemorated in it as someone of Jewish parentage who is “the only of his people deserving to reach Christ.”<sup>39</sup>

Such evidence suggests that for the Jews of Italy, the transition from pagan antiquity to the Christian Middle Ages must have been much more gradual than one would perhaps expect. Italian Jews seemed to recover from earlier acts of aggression, especially during the reign of the Ostrogoths (490 to 554 CE) who practiced an Arian form of Christianity and who reconfirmed some Jewish rights and reinstated others through the *Edictum Theodorici*.<sup>40</sup> Under his rule, Christians who burned down synagogues in Rome and Ravenna were punished by paying for the damage they had caused. Therefore, in 536, the Jews of Naples rallied to the support of their city when it was under attack from the armies of Justinian – a man known to be much less favorably inclined towards Jews and Judaism.<sup>41</sup>

<sup>34</sup> This follows from a letter of Pope Gelasius in *PL* LIX 146, and from *PG* IX 328.

<sup>35</sup> Gregory, *Ep.* 2.38; 3.37; 4.21; 5.7; 6.29; 9.104. <sup>36</sup> Gregory, *Ep.* 1.34; 2.6.

<sup>37</sup> For example, at Genoa: Cassiodorus (*Variae* 2.27) and Palermo (Gregory, *Ep.* 8.25).

<sup>38</sup> Gregory, *Ep.* 13.3; 7.41. On material evidence for magic on Sicily, see G. Lacerenza, “Magia giudaica nella Sicilia tardoantica,” in Bucaria (ed.), *Ebrei*, 293–310.

<sup>39</sup> Noy, *Inscriptions*, 1, n. 8. L. Cracco Ruggini, “Pietro di Grado: Giudaismo e conversione nel mondo antico,” *Antichità Altoadriatiche* 15 (1980), 139–60.

<sup>40</sup> Zeumer (ed.), *Monumenta, Leges* 5, 145–79.

<sup>41</sup> Procop. *Goth.* 5.8.41. In general, see L. V. Rutgers, “Justinian’s Novella 146 Between Jews and Christians,” in R. Kalmin and S. Schwartz (eds.), *Jewish Culture and Society under the Christian Roman Empire* (Leuven, 2002), 385–408.

Although the defeat of the last Ostrogothic king in 554 inevitably led to the introduction of Justinian's *Corpus Iuris Civilis* into Italy, the legal restrictions imposed by Justinianic law seemed to have little direct influence on daily Jewish life there. Subsequent invasions of other belligerent groups, including the Lombards, who invaded Italy in 568, were instrumental in helping to limit the negative side effects of Justinianic legislation. Taken together, various sources justify the general conclusion that the history of the Italian Jews during late antique and early medieval times is not solely one of strife and religious tension. Instead, Jews continued to participate actively in the cultural, social, and political life of their contemporary society.<sup>42</sup>

#### F CONCLUDING REMARKS

It is evident that the rise of Christianity affected the Jewish communities of late antique Italy in a variety of ways. It is much less apparent, however, whether or not the Jewish communities of Italy were in any way affected by the gradual rise to prominence of a rabbinic type of Judaism. While an abundance of evidence is available from medieval southern Italy to suggest that Jewish communities there were cognizant of both Palestinian and Babylonian rabbinical traditions, evidence of this awareness from late antiquity is more uncertain. That regular contacts must have existed between the Jewish communities of Italy on the one hand and those of Palestine on the other seems beyond doubt. Not only the inscriptions but also late Roman law points in that direction.<sup>43</sup> It is quite conceivable, therefore, that reports might be true about visits to Rome by rabbis originating in the eastern Mediterranean. The particular literary nature of the sources in question, however, makes it virtually impossible to be more specific. In any event, few scholars today are willing to subscribe to the old view that the Roman Jewish community had always been primarily oriented toward Palestine and essentially rabbinic in character.<sup>44</sup> Instead, they accept it as given fact that one can no longer disentangle the historical reality behind traditions such as those connected with Todos of Rome or Matiah ben Heresh.<sup>45</sup>

Although little can be said about the possible influence of a rabbinic type of Judaism in Italy during the late antique period, it is clear that a process of reorientation was beginning to occur among Italian Jews, starting in the

<sup>42</sup> Cracco Ruggini, "Note," 947–8. <sup>43</sup> *CTb* 16.8.14; 16.8.17.

<sup>44</sup> This view surfaces in Solin, "Juden und Syrer," 716.

<sup>45</sup> A. Toaff, "Matia ben Cheres e la sua accademia rabbinica di Roma," *Annuario di studi ebraici* 2 (1964), 69–80; B. Bokser, "Todos and Rabbinic Authority in Rome," in J. Neusner et al. (eds.), *New Perspectives on Ancient Judaism* (Lanham, 1987), 1117–30; and L. A. Segal, "R. Matiah ben Heresh of Rome on Religious Duties and Redemption," *PAAJR* 58 (1992), 221–41.

fourth and fifth centuries CE. No one fully understands the reasons that lie behind the emergence of the Hebrew language in the Jewish epitaphs at Venosa. Likewise, one is still unable to explain why in late antiquity the word “rabbi” begins to be used in inscriptions found in various places in Italy.<sup>46</sup> One cannot satisfactorily explain the references to the Jewish calendar and to the Patriarchs in a Jewish inscription from Catania that was erected in 383.<sup>47</sup> As such, the introduction of these innovative elements – which represent a departure from earlier epigraphic practice – certainly did not happen by accident. Instead, they should be seen as the first indications of a totally new era in the history of Italian Jews.

## II THE JEWS OF SPAIN, c. 235–638

SCOTT BRADBURY

### A THE FIRST SETTLEMENT

A number of medieval legends traced the arrival of Jews in Spain to deep antiquity. The biblical Tarshish, for example, was often identified as Tartessus, and it was accepted that Jewish traders had traveled to Spain already under the Phoenicians and Carthaginians. In Murviedro, in the sixteenth century, there still existed a funeral inscription of Adoniram, a commander of Solomon, who had died in Spain while on a mission to collect tribute. Equally spurious was a letter allegedly sent in 30 CE by the Jews of Toledo to Jews in Palestine to plead against the crucifixion of Jesus. The primary motive for such legends centered on establishing that Jews had settled in Spain long before the Roman period and that Spanish Jews were in no sense responsible for the killing of Christ, a charge routinely leveled at them in the Late Roman period.<sup>48</sup> When Jews actually established themselves on the Iberian peninsula is unclear. St. Paul’s intention of traveling to Spain (Rom. 15.28) suggests a Jewish presence already in the mid-first century CE, and a first-century (?) amphora from Ibiza containing two Hebrew letters stamped in relief (*JIVE* 1 178) may suggest the existence of trade between Judaea and the Balearics, but the archaeological record does not confirm Jewish settlement before the third century.<sup>49</sup> Noteworthy

<sup>46</sup> On “rabbi,” see Noy, *Inscriptions*, 1, nn. 22, 36, 86.

<sup>47</sup> Noy, *Inscriptions*, 1, n. 145. See also A. Wasserstein, “Calendaric Implications of a Fourth-Century Jewish Inscription from Sicily,” *Scripta Classica Israelica* 11 (1991–2), 162–5; M. Jakobs, *Die Institution des Jüdischen* (Tübingen, 1995), 235–6.

<sup>48</sup> S. W. Baron, *A Social and Religious History of the Jews*, III (New York, 1957), 34–5, 244–5 nn. 41–2.

<sup>49</sup> W. P. Bowers, “Jewish Communities in Spain in the Time of Paul the Apostle,” *JTS* n.s. 26 (1975), 395–402.



are a dozen scattered inscriptions dating from the third to the sixth centuries (apart from the one amphora), of which eight are monolingual in Hebrew, Greek, or Latin, two are bilingual, and two are trilingual (*JWE* I 177–88). Moreover, occasional passing references are made in rabbinic sources to Spain, usually mentioned as a far-distant province.<sup>50</sup> Apart from these meager remains, no evidence from Jewish sources has survived about the life of Jewish communities in Spain prior to the Arab occupation in 711. The historian is almost totally reliant on secular lawcodes and Christian sources for evidence of Jewish life. Taken together, the evidence points to Jewish settlement in the south and east, the most romanized areas of the country. Toledo, Mérida, Seville, and Tarragona in southern Gaul appear to have been the principal communities, although the inscriptions also indicate a Jewish presence in Elche, Tortosa, Adra, and the Balearics.<sup>51</sup>

#### B SOCIAL INTERACTION

Normal day-to-day interaction between Jews and Christians is first confirmed by the Council of Elvira (c. 300/13) at which the assembled bishops forbade Jewish–Christian intermarriage (canon 16), the blessing of fields by Jews (canon 49), dining with Jews (canon 50), and adultery with Jewish women (canon 78). These and similar injunctions, repeated over many

<sup>50</sup> The spelling of the name of Spain (Isepameia) varies and can be confused with Apamea (Apameia), the name for several different cities, of which the most significant were in Syria, Bithynia, and Mesopotamia. Rabbinic references: *M. Bava B.* 3.2 and *BT Bava B.* 39a (Rabbi Judah bar Ilai, second century): “The period in which occupation confers ownership was fixed at three years only in order that it might be possible when a man is in Spain for another to occupy his field one year, and for information to be brought to him [which will also take] a year, and for him to return himself, [which will take] a third year” *BT Yev.* 63a (Rabbi Eleazer, second century): “All the nations of the earth [Gen. 18.18], even the ships that go from Gaul to Spain, are blessed only for Israel’s sake”; *BT Av. Zar.* 39a (Rabbi Abbahu, fourth century: Fish-entrails and fish-roe [are kosher and] may be purchased from anybody since the presumption is that they come only from Pelusium [in Egypt] and Spain); *BT Nid* 30b (Rabbi Simlai, third century: “A person sleeping here [in Babylonia] might see a dream in Spain”; *BT Bez.* 16b (anonymous: Spanish colias [a kind of fish] [can be used] when one has poured hot water over it on the eve of the Festival); *BT Ber.* 62a (Ben Azzai, second century): “Go forth [to consult nature] before dawn and after dark, so that you should not have to go far. Feel yourself before sitting, but do not sit and then feel yourself, for if one sits and then feels himself, should witchcraft be used against him even as far away as Spain [Aspamia], he will not be immune from it”; *Lev. R.* 29.2; *Pes. de-R.K.* 151a–b; *Tanb Vayeze* 2 (Rabbi Berekiah [fourth century], Rabbi Simeon ben Yohai [second century], in the name of Rabbi Meir [second century]: “Do not fear, O Israel, for I help you from remote lands, and your seed from the land of their captivity, from Gaul, from Spain, and from their neighbors.”

<sup>51</sup> L. García Iglesias, *Los judíos en la España antigua* (Madrid, 1978).

generations in church councils, indicate that average Christians often had normal social relations with Jews and admired and occasionally adopted Jewish religious practice. The clergy, by contrast, routinely sought to place firmer, higher boundaries between the two groups, precisely to curb Jewish influence on Christians and the judaizing that might result. Fear of judaizing was a fundamental motive for the ongoing attempt of Christian authorities eventually to marginalize and eliminate Jewish communities.

From the entire period under survey, only one narrative source allows a glimpse into the social life of a Spanish Jewish community, Severus of Minorca's *Letter on the Conversion of the Jews*, which purports to describe a "miraculous" conversion of the Jews of Minorca in 418, after the arrival on the island of the relics of St. Stephen the Protomartyr.<sup>52</sup> Although spasms of Jewish-Christian violence are occasionally confirmed in the Roman Empire of the fourth to fifth centuries,<sup>53</sup> Severus' *Letter* is the only surviving narrative to describe such an incident. It offers an important case study in religious coercion and is surprisingly informative about the local Jewish community.

All 540 Jews on Minorca lived in Magona on the eastern end of the island, whereas the bishop's seat was in Jamona on the western end (*Ep. Sev.* 3.1–6; 29.2). Magona's Jews enjoyed cordial relations with their Christian neighbors and derived particular benefit from the fact that the local nobles who dominated the social life of the town were Jewish.<sup>54</sup> The town's *patronus*, Theodorus, was head of the most important family on the island and head of the local synagogue. His formal title in the synagogue was "Father of Fathers" (*pater pateron* in Severus' transliterated Greek), but he and others were also referred to as "teachers of the Law" (*doctores legis*) (6.2). He had occupied all civic offices in Magona as well as the post of *defensor civitatis*, and he was considered "pre-eminent in both wealth and worldly honor" by Jews and Christians alike (6.1, 3). The *defensor civitatis* at the time of the alleged conversion in 418 was a Caecilianus, who ranked second in the synagogue (19.6, 9). Theodorus and his younger brother, Meletius, had both married women from Majorca and both families appeared to own properties there. Meletius' wife was the daughter of the *comes* Litorius, recently governor of the Balearics (24.2) and subsequently in the 430s a prominent general in Gaul.<sup>55</sup> Through him, Magona's leading Jewish

<sup>52</sup> S. Bradbury (ed.), *Severus of Minorca: Letter on the Conversion of the Jews* (Oxford, 1996). See also E. D. Hunt, "St. Stephen in Minorca: An Episode in Jewish-Christian Relations in the Early 5th Century AD," *JTS* n.s. 33 (1982), 106–23; and C. Ginzburg, "La conversione degli ebrei di Minorca (417–418)," *Quaderni storici* 79 (1992), 277–89.

<sup>53</sup> For a dossier of such incidents, see Hunt, "St. Stephen in Minorca," 116–17.

<sup>54</sup> On Minorca's gentry, see Bradbury, *Severus of Minorca*, 30–4, 38.

<sup>55</sup> *PLRE* 11 s.v. "Litorius."

families could claim a connection extending all the way to the imperial court.

The social and political domination of Magona by Jews was intolerable in the view of Severus, and the arrival of St. Stephen's relics in 416 provided a catalyst for a campaign to bring the Jewish gentry to heel. Their "old habit of easy acquaintance" and the "sinful appearance of long-standing affection" gave way to months of religious wrangling between Jews and Christians (5.1–2). Fearing violence and recalling the example of the Maccabees, Magona's Jews allegedly began to stockpile weapons in their synagogue, vowing to fight to the death in defense of their religion (8.4). In February 418, Severus united the Christians of the island's two towns in a show of force and summoned the synagogue leaders to a public debate. They declined. He accused them of plotting violence in the town. They rejected the charge and, after much argument, agreed to a weapons inspection in the synagogue (12.8–13). However, as the religious rivals made their way through the streets, each side chanting the identical psalm against the other ("Their memory has perished with a crash, but the Lord endures forever") [Ps. 9.7–8], (13.1–2), stones were thrown and all order collapsed. In the ensuing riot, the Christian mob seized the synagogue and, after removing the Torah scrolls and silver, burned the building to the ground (13.12–13). For a full week after the street riot, the Christians occupied Magona *en masse*, until they had allegedly converted all 540 Jews. The last half of the text narrates at length the conversions of several important members of the Jewish gentry, both men and women (18–31). The *Letter* closes with an exhortation to bishops around the Mediterranean to continue the conversion of the Jews in their own communities (31.2–4). Severus' conduct was flagrantly illegal. It illustrates the goal an unscrupulous bishop might accomplish after the collapse of Roman authority in the turbulent 410s or perhaps in the climate of intolerance that would prevail in the later Visigothic period. Among the range of "hard" and "soft" options in the treatment of religious outsiders, particularly Jews, Severus clearly favored the "hard" option.

#### C INVASION, POLITICAL CHANGE, AND RELIGIOUS INTOLERANCE

With the invasions of the early fifth century, Spain entered a long period in which central authority was chronically weak as successive waves of invaders – Vandals, Sueves, Visigoths, Ostrogoths, and Franks – vied for control of portions of the peninsula. Political rebellion and royal assassination were endemic to the fifth and sixth centuries. The Visigothic monarchs, who first established themselves after the invasion of 456 and who eventually dominated the country, were initially Arian Christians and, as

heretics, disinclined to persecute other religious outsiders. That is not to say that they favored Jews. In general, however, Jews were not, for Arian kings, a focus of attention, as they became for Catholic kings after Reccared's conversion to Catholicism in 587. From that date until the Arab occupation of 711, kings and bishops manifested a fierce desire to establish political and religious consensus in an ideal Catholic realm.<sup>56</sup> Unity and consensus required religious orthodoxy and justified intolerance and coercion of those who failed to conform.<sup>57</sup> Pagans and heretics, however, were only rarely targeted by coercive laws, at least in comparison with Jews, who became the targets of legal sanctions of remarkable ferocity, designed initially to marginalize Jews through social and legal disabilities and later to eradicate Jews completely from Spanish soil.

In their capital at Toledo, the new Catholic kings, recast in the mold of theocratic eastern emperors, presided over some eighteen Councils of Toledo between 589 and 702. Secular laws and ecclesiastical canons mirror one another so closely as to be indistinguishable. Royal laws were often confirmed by the bishops in council, while kings, presiding over the councils, routinely confirmed the canons. In no other early medieval kingdom did Church and state work in such close union. Until the 650s, nearly all the anti-Jewish laws issued in Spain derived from the fourth- to fifth-century Roman laws preserved in the *Theodosian Code*, whose primary goal was to ensure that Jews should have neither private nor public authority over Christians and that their social and religious influence should be negligible. In the *Code*, Jews were legally forbidden to intermarry with Christians,<sup>58</sup> to purchase and own Christian slaves,<sup>59</sup> to undertake imperial service,<sup>60</sup> to build new synagogues,<sup>61</sup> and to proselytize.<sup>62</sup> Alaric II's *Roman Law of the Visigoths* or *Breviary*, published in 506, condensed from fifty-three to ten the *Code's* laws concerning Jews and remained the principal lawcode of the realm for the next 150 years. At Toledo III in 589, the bishops marked the beginning of Visigothic Catholicism by confirming the *Breviary's* prohibitions on Jews marrying Christians (concubinage was now also banned), owning Christian slaves, and holding public office (canon 14).

<sup>56</sup> Good recent studies (with bibliography) are R. Collins, *Early Medieval Spain*, 2nd ed. (New York, 1995), 128–41; R. González-Salineró, "Catholic Anti-Judaism in Visigothic Spain," in A. Ferreiro (ed.), *The Visigoths: Studies in Culture and Society* (Leiden, 1999), 123–50; R. L. Stocking, *Bishops, Councils, and Consensus in the Visigothic Kingdom*, 589–633 (Ann Arbor, 2000), passim.

<sup>57</sup> González-Salineró, "Catholic Anti-Judaism," 126–7, stressing the apparent absence of political or socio-economic motives for hostility toward Jews.

<sup>58</sup> *CTb* 3.7.2 (388 CE). <sup>59</sup> *CTb* 16.9.1 (336), 2 (339), 4 (417), 5 (423).

<sup>60</sup> *CTb* 16.8.16 (404), 24 (418). <sup>61</sup> *CTb* 16.8.25 (423), 27 (423).

<sup>62</sup> *CTb* 16.8.1 (339); *Nov. Tb.* 3.4 (438).

Half-hearted enforcement of the laws found in the *Breviary* may be regarded as the “soft” option in confronting the problem of Jewish influence.<sup>63</sup>

The reign of King Sisebut (612–21) marked a dramatic change. Pious and domineering, undoubtedly incited by clerics, and perhaps angered by rumors of Jewish political treachery in assisting the Arab capture of Jerusalem in 614,<sup>64</sup> Sisebut issued a decree (not extant) in 416, commanding all Jews to accept the Christian faith. This decree was the first instance of a European monarch ordering the mass conversion of all Jews residing in his kingdom. Many Jews fled abroad, while others submitted to baptism.<sup>65</sup> As Isidore of Seville would later state, he “acted with zeal, but not according to knowledge” (Rom. 10.2).<sup>66</sup> The canons of Toledo IV in 633 reveal that Sisebut’s zeal had created a sizable group of forced converts, referred to in the canons as “baptized Jews” (*baptizati Iudaei*) or simply “Jews” (*Iudaei*), but never “Christians” (*Christiani*), many of whom had reverted to Jewish practices in the intervening years. The bishops repudiated forced conversions in the future, but ruled nonetheless that Jews baptized under Sisebut must remain Christian because they had partaken of the holy sacraments (canon 57), and bishops were enjoined to compel apostates to return to Christianity (canon 59). Apostates’ sons who had been circumcised were removed from their parents, whereas slaves who had been circumcised were liberated (canon 59). Baptized children of apostates were removed from their parents and were raised in monasteries or by God-fearing Christians (canon 60).<sup>67</sup> Baptized Jews were forbidden to have relations with unbaptized Jews (canon 62). Apostates were forbidden to testify in court, since their oaths were unreliable (canon 64). Finally, the prohibitions on Jews occupying public office and owning Christian slaves were renewed (canons 65–6).

Political loyalty was a recurring theme in the Visigothic period, partly because of the threat of internal rebellion and partly because of the stunning successes of Arab armies abroad. Jews had long been regarded as politically

<sup>63</sup> *Brev.* 3.1.5; 16.4.2 (Jewish ownership of Christian slaves); *Brev.* 3.7.2 (Jewish–Christian marriage).

<sup>64</sup> On rumors about Jewish political treachery, see A. Sharf, *Byzantine Jewry* (New York, 1971), 42–60, especially 48–50.

<sup>65</sup> Isidore of Seville, *Auctarium*, c. 416 (MGH AA x1 490).

<sup>66</sup> Isidore of Seville, *History of the Goths* 60 (MGH AA x1 291): “qui [Sisebutus] in initio regni Iudaeos ad fidem Christianam permovens aemulationem habuit, sed non secundum scientiam”; cf. Isidore, *Chronicle* a. 416 (MGH AA x1 480): “Iudaeos sui regni subditos ad Christi fidem convertit.”

<sup>67</sup> Vives, *Concilios visigoticos*, 212, reads *Iudaeorum filios vel filias* without *baptizatos*, which is found in only some of the mss, but it is unlikely that the council meant to order that all Jewish children were to be removed from their parents.

untrustworthy, because the crime of killing Christ had become a political crime under Christian Roman emperors, as Theodosius II argued when he debarred Jews from public office: "It is wrong that persons hostile to the Supernal Majesty and to the Roman Laws should be considered defenders of those laws" (*Nov. Tb.* 3.2). Jewish faithlessness (*perfidia*) had long been staple fare in anti-Jewish propaganda and could always be used to impugn Jewish political loyalties.<sup>68</sup> Pope Honorius I, interested in the situation in Spain in the 630s, chided the church for its softness in dealing with false converts (*perfidi*).<sup>69</sup> Papal pressure may account in part for King Chintila's (636–9) decree (not extant) ordering the eradication of Jewish superstition and proclaiming that no non-Catholic was allowed to dwell in his kingdom. At Toledo VI in 638, the bishops thanked Chintila for his recent proclamation and approved the vow of king and nobles that all subsequent kings should swear not to tolerate Jewish impiety and to preserve forcefully current measures against the Jews. Any king who should falter in this regard was anathematized and consigned to eternal hell fire (canon 3). The bishops confirmed the anti-Jewish canons of Toledo IV and six canons (13–18) concerning political loyalty to the king and proper treatment of his heirs. Attached to the council's *acta* was a declaration of faith or *placitum*, probably composed by Braulio of Zaragoza and signed by delegates of converted Jews, who solemnly forswore their ancestral religion and pledged to punish with fire or stoning those who failed to observe devotion to Christ.<sup>70</sup>

This climate of intolerance intensified in the last half-century of the Visigothic period as authorities sought not merely to marginalize Jews but to eliminate them by outlawing the observance of Jewish customs. In 654, King Recceswinth (649–72) issued a new lawcode entitled the *Book of Judges* or *Laws of the Visigoths*, in which, after reaffirming all existing laws about Jews (*LV* 12.2.3), he added a series of new laws to eradicate Jewish customs and to intensify legal disabilities. Jews were prohibited from celebrating Passover (12.2.5), from marrying a relation up to the sixth degree or observing any non-Christian marriage custom (12.2.6), from practicing the rite of circumcision (12.2.7), from observing traditional dietary regulations (12.2.8), and from indicting or testifying against Christians, whether free persons or slaves (12.2.9–10). Chintila's declaration

<sup>68</sup> González-Salineró, "Catholic Anti-Judaism," 131–7 for this theme in the dominant Spanish churchmen of the seventh century.

<sup>69</sup> Honorius' letter is not extant, but the reply of Braulio, Bishop of Zaragoza, is available (*PL* LXXX 667ff.), sent to Honorius along with the text of Toledo VI.

<sup>70</sup> For the Latin text of the *placitum*, see F. Fita y Colomé, *Suplementos al Concilio Nacional Toledano VI* (Madrid, 1881), 43–9, especially 48 (punishments).

of faith (*placitum*) was adapted and inserted in the text of the lawcode as 12.2.17, and Recceswinth decreed that transgression of any law or *placitum* concerning Jews was punishable by stoning or burning (12.2.11). Any baptized or unbaptized lay person or cleric who assisted Jews in circumventing the law was excommunicated and fined one quarter of his property (12.2.15). At Toledo IX in 654, the council ordered that baptized Jews must spend both Christian and Jewish holidays in the presence of their bishop so that he might corroborate their faith (canon 17).

When King Ervig (680–7) republished Recceswinth's lawcode of 654, he affirmed existing legislation and expanded the range of coercive measures directed at Jews with threats of more savage penalties (*LV* 12.3.1–28). Observance of Passover was punishable by one hundred lashes, head-shaving (*decalvatio*), and expropriation of property; circumcision was punishable by the castration of any male involved and lopping the nose of any woman; Jewish proselytism was punishable by "similar penalties" (12.3.4). Rest from work was required on Sunday and all Christian holidays (12.3.6). Jews were forbidden to read books of Scripture unacceptable to Christians and were forbidden to defend Judaism by argument (12.3.11). Moreover, every Jew was required to deposit with the local bishop a signed confession of Christian faith and repudiation of Judaism. The text of the pledge (*professio*) was inserted at 12.3.14. Jewish travelers were required to report to the local priest or bishop in towns they visited so that their activities could be monitored (12.3.20). Finally, bishops and priests were ordered to supply every Jew in their congregation with a copy of Book 12 of the new lawcode, which was to be read aloud in church and which Jews were to have always on their persons as proof that they had been properly instructed and therefore could not plead ignorance of the law (12.3.28). These new laws were restated in abbreviated form and approved by the bishops assembled at Toledo XII in 681 (canon 9).

The theme of Jewish political treachery became critical under King Egica (687–702). Egica applied unprecedented economic pressures on the Jews in his realm. On the one hand, he freed "true" converts to Christianity from special taxes normally levied on Jews, while forbidding unconverted Jews to engage in commerce with Christians, either within the kingdom or through foreign trade; moreover, they were required to sell their slaves, buildings, lands, vineyards, olive groves, and any real property to the royal fisc at prices determined by the Crown (12.2.18). This law, designed to reduce unconverted Jews to penury, was approved by Toledo XVI in 693. In the following year, acting on information that Jews were conspiring with overseas Jews to bring harm on the realm, Egica convened the bishops who approved his order that the property of all Jews was forfeit to the fisc and that all Jews were henceforth reduced to permanent slavery to whomever

the king awarded them (Toledo XVII, canon 8). This order was the last pronouncement on Jews by the unified Church and state in Visigothic Spain prior to the Arab conquest in 711.

#### D LAW AND PRACTICE

It is difficult for a historian to measure these legal codes and conciliar *acta*. They are overwhelmingly prescriptive, not descriptive, and no Spanish Bede or Gregory of Tours has written an account that might serve as a check on the fierce moralizing of kings and bishops. Were Visigothic laws and canons against Jews actually enforced, and, if not, what effect did they have on society? In the absence of a state bureaucracy, enforcement devolved on the local nobility and on the bishops, themselves often drawn from the nobility. Fractious and powerful, the nobles may frequently have chosen to protect Jewish clients, as did Count Froga, who was excommunicated and anathematized by the Bishop of Toledo between 603 and 614 for sheltering Jews from a local bishop.<sup>71</sup> One must assume that bishops too often chose not to enforce the canons they had themselves ratified in council. They had to be warned repeatedly not to accept Jewish “presents” (Toledo IV, canon 58) or to shield Jews from the law (for example, *LV* 12.2.15). Only widespread non-compliance with royal and ecclesiastical rulings can explain the survival of Spanish Jewish communities in the face of the draconian measures directed against them. To survive in this climate of intimidation is one obstacle, but to flourish is quite another one. Nonetheless, Spanish Jews of the Visigothic era managed to overcome the demoralizing effect of royal and ecclesiastical hostility and achieved a more favorable status after the Arab conquest.

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<sup>71</sup> Ildephonsus, *On Famous Men* 5 (*PL* xcvi 201). On the limited powers of Visigothic monarchs, see P. C. Díaz and M. R. Valverde, “The Theoretical Strength and Practical Weakness of the Visigothic Monarchy of Toledo,” in F. Theuvs and J. L. Nelson (eds.), *Rituals of Power: From Late Antiquity to the Early Middle Ages* (Leiden, 2000), 59–93.



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# JEWISH ARCHAEOLOGY IN LATE ANTIQUITY: ART, ARCHITECTURE, AND INSCRIPTIONS

LEE I. LEVINE

## I INTRODUCTION

The appearance of Jewish art, architecture, and inscriptions increased enormously in the course of antiquity. Their use and variety were peripheral in Israelite-Jewish society of the first millennium BCE and were restricted to a very small number of items and sites for much of the First and Second Temple periods. It was only in late antiquity that uniquely Jewish edifices, artifacts, symbols, and inscriptions multiplied geometrically in Jewish communities throughout the world. Was this because only then did Jews begin to develop artistic and architectural forms of their own? And if this was indeed the case, why did it not happen beforehand? Moreover, if, indeed, the widespread appearance of Jewish art and architecture was a development of the late Roman and Byzantine eras, what were the reasons for these changes in this particular historical context?

Our goal in this chapter is twofold. We shall first describe the most significant remains of Jewish art and architecture from late antiquity, and then present some of the major issues that have emerged in the wake of these discoveries, not the least of which will be an attempt to answer the questions raised above.

## II DEFINING JEWISH ART AND ARCHITECTURE

In order to clarify the parameters of our discussion, we should first determine what we mean by “Jewish” art and architecture. Needless to say, any such definition must take into account that the Jews were not particularly inventive in their material cultures; what they produced was in no way comparable to that of their surrounding societies (e.g. Greece and Rome) or to what they themselves produced in the religious, theological, and literary realms. Creativity in their material realm was often expressed in the way borrowed forms and patterns were adapted for use within a Jewish context. As noted, only in late antiquity did a uniquely Jewish art and architecture emerge.

A number of possible definitions might be invoked for understanding Jewish art and architecture. A maximalist approach, on the one hand,

would advocate that anything made or used by Jews should be defined as such. This would include anything a Jew produces, be it for other Jews or for non-Jews, or anything a Jew uses, be it the product of another Jew or of a non-Jew. In this sense, Jewish art and architecture would be similar to the definition of Etruscan, Greek, or Roman art. A minimalist position, on the other hand, would posit that only that which is uniquely Jewish, that is, an object or element of specifically Jewish connotation or meaning that is unlike anything existing in the surrounding society, ought to be considered Jewish. By this definition, the representation of a menorah or a biblical scene would be considered Jewish, but not the zodiac or floral and geometric designs that have their parallels elsewhere. The definition of Jewish art in this vein would be closer to that of Christian and Islamic art, the major difference being that these are quantitatively far richer in remains.

However, just as the former definition appears to be too inclusive, so the latter seems too restrictive. A third approach seeks a middle ground, whereby Jewish art and architecture are intended for use in a distinctly Jewish setting, either a public building or some other context that serves the wider Jewish community. Thus, for instance, the art used in synagogues would be considered Jewish art, as would that found in Jerusalem's necropolis, the Jewish catacombs in Rome, and the Bet Shearim cemetery in the Galilee. Like all compromises, this definition also leaves something to be desired; one may ask, for example, if the Doric capitals of the Jerusalem Temple were "Jewish" by virtue of their context, or if the floral designs on a synagogue mosaic floor should be regarded as such. Despite these difficulties, most scholars have opted for the latter alternative, which also has the advantage of affording a relatively large amount of material to work with when trying to understand Jewish art, architecture, and inscriptions and their significance in antiquity.

Given our preferred definition, what, then, are the most important remains from late antiquity?

### III THE REMAINS

Our evidence finds expression primarily in two public frameworks – cemeteries and synagogues.

#### A CEMETERIES

##### 1 *Bet Shearim*

Although funerary remains have been found at a number of sites in late Roman and Byzantine Palestine, the most significant and best-preserved



Figure 20.1 Bet Shearim Cemetery. *Left*: Catacomb 20; *right*: Catacomb 14

are from the necropolis of Bet Shearim (Fig. 20.1).<sup>1</sup> Excavated in the thirties and fifties of the twentieth century, this site produced some thirty different catacombs containing well over 1,000 burial places, including those belonging to members of the patriarchal family who stood at the head of the Palestinian and Diaspora Jewish communities (Babylonia excluded) from the third through early fifth centuries.

These catacombs differ greatly in size, shape, number, and type of burial arrangement, as well as in the accompanying art and inscriptions. The largest catacomb found thus far, catacomb no. 1, contains over 400 burial sites, at times with accompanying courtyards, halls, and different forms of burial: sarcophagi (stone, lead, or marble coffins); shelves cut along the walls (*arcosolia*); pit graves cut into the floor; cavities cut perpendicularly into the wall (*loculi* or *kokhim*); and, finally, graves in the form of troughs. The artwork appearing in reliefs, carvings, or pictures, either painted or incised, is simple and clearly reflects popular tastes. For the first time in the

<sup>1</sup> B. Mazar, M. Schwabe, B. Lifshitz, and N. Avigad, *Beth She'arim*, 3 vols. (New Brunswick, 1973–6). Other important burial sites in late Roman-Byzantine Palestine include Jaffa, where some sixty-three inscriptions were found, almost all in Greek; mausolea in Gush Halav, Kefar Giladi, and Sepphoris; and cemeteries in Meiron, Khirbet Shema, Bet Guvrin, and Khirbet Midras; as well as the not yet fully published remains of burial inscriptions from Zoar (at the southern tip of the Dead Sea), where over thirty Jewish inscriptions have reportedly been identified (out of more than 300 Christian inscriptions; see J. Naveh, “The Zoar Tombstones,” *Tarbiz* 64 (1995), 477–97 (Hebrew); J. Naveh, “Seven New Tombstones from Zoar,” *Tarbiz* 69 (2001), 619–35 (Hebrew); S. Stern, “New Tombstones from Zoar,” *Tarbiz* 68 (1999), 177–85 (Hebrew).

Land of Israel, we find many depictions of Jewish symbols, particularly the menorah and less frequently the Torah ark. Hundreds of inscriptions were also found in these catacombs, almost 80 percent in Greek and the remainder in Hebrew with a smattering of Aramaic and Palmyrene.

The excavations at Bet Shearim were destined to have an enormous impact on the study of Jewish society in Roman Palestine of late antiquity. First, they reveal a wide range of burial habits and tastes of Jews, some hailing from disparate locales throughout the Near East, who wished to be buried there. Second, the extent of Hellenistic influence is considerable and at first proved baffling to the excavators. From the use of burial caves and sarcophagi (the latter quite rare in the earlier Second Temple period) to the use of Greek and certain art forms, particularly figural images, it became clear that those buried there between the third and fifth centuries were both intensely exposed and generally sympathetic to such outside influences (Fig. 20.2).<sup>2</sup> Finally, the remains of Bet Shearim indicate the centrality and prominence of the Patriarchate from the third to the fifth centuries (Fig. 20.3). This necropolis was widely used since the time of Rabbi Judah I (the Prince); the monumental catacombs 14 and 20 in particular are clearly associated with the patriarchal family.<sup>3</sup>

## 2 *The catacombs of Rome*

Although burial sites have been found in Italy (Venosa), Malta, Sicily, Egypt (Alexandria and Leontopolis), and North Africa (Carthage), those from Rome are by far the most extensive and, owing to their rich artistic and epigraphical remains, the most important historically. Three large catacombs located in different parts of the city – Monteverde, Vigna Randanini, and Villa Torlonia – contain the vast bulk of these remains, to which several smaller catacombs may be added.<sup>4</sup> Whereas these finds had once been dated to the first centuries CE, today it is generally agreed that

<sup>2</sup> S. Lieberman, *Greek in Jewish Palestine* (New York, 1942); idem, *Hellenism in Jewish Palestine* (New York, 1950); L. I. Levine, "The Finds from Beth-She'arim and Their Importance for the Study of the Talmudic Period," *Eretz Israel* 18 (1985), 277–81 (Hebrew); idem, *Judaism and Hellenism in Antiquity* (Seattle, 1998).

<sup>3</sup> Interestingly, the presence of talmudic rabbis in this cemetery is negligible, undoubtedly reflecting the ever-widening gap between them and the Patriarch in the course of the third and fourth centuries. On this issue and, more generally, the historical context of the Bet Shearim finds, see my forthcoming *Visual Judaism: History, Art, and Identity in Late Antiquity* (New Haven).

<sup>4</sup> H. J. Leon, *The Jews of Ancient Rome* (Philadelphia, 1960); L. Rutgers, *The Jews in Late Ancient Rome: Evidence of Cultural Interaction in the Roman Diaspora* (Leiden, 1995); idem, *The Hidden Heritage of Diaspora Judaism* (Leuven, 1998), 45–71.



Figure 20.2 Sarcophagus fragment depicting Leda and the Swan (Bet Shearim)



Figure 20.3 Inscriptions from Catacomb 14, where members of the patriarchal family or circle were buried

they stem from the third to fifth centuries. Each of these catacombs comprises a series of underground passageways whose walls are lined with rows of hollowed-out cavities for interment, in the form of *loculi*, niches, or *arcosolia* (Fig. 20.4). Small rooms (*cubicula*) with painted walls and ceilings were built by some of the wealthier families. In addition, some forty sarcophagi

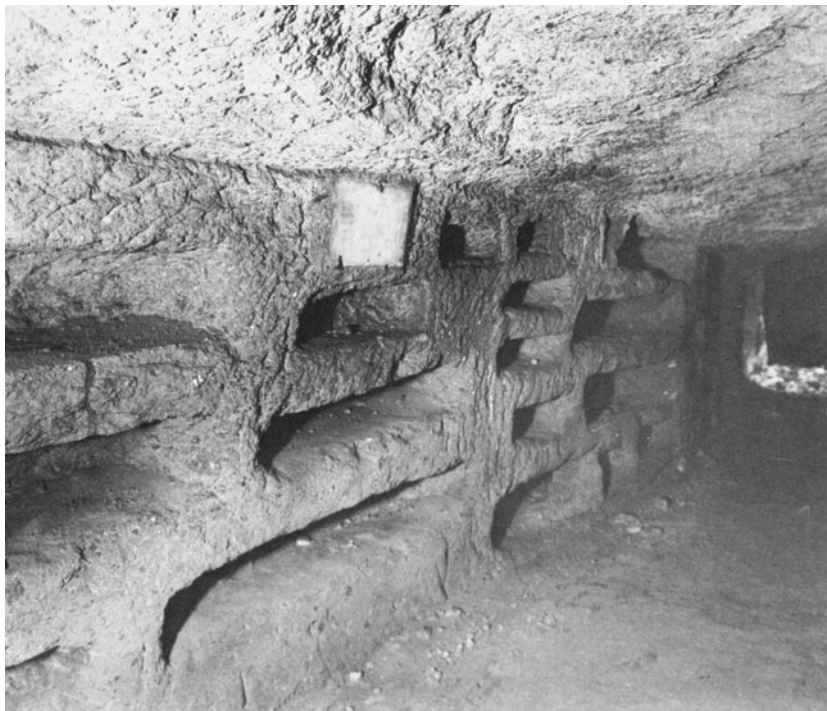


Figure 20.4 Jewish catacomb in Rome

(made mostly of marble) were found there. Compared to nearby Christian catacombs, the Jewish wall paintings are rather plain, depicting for the most part geometric and floral patterns such as amphora, leaves, flowers, garlands, wreaths, and vines. One can also find birds, peacocks, and fish, and even depictions of Victory or Fortuna on the ceilings of several *cubicula*; however, in contrast to the Christian catacombs, no biblical scenes have been discovered.

Of particular prominence in these catacombs are Jewish symbols usually incised or painted on plaster bricks or marble slabs that covered the place of interment. The menorah is by far the most ubiquitous symbol, followed by the *shofar*, *lulav*, *ethrog*, and Torah shrine. These symbols also appear on fragments (usually bases) of gold glass vessels found in the catacombs.

Of singular interest are the 600 inscriptions found here, comprising almost one third of all Jewish inscriptions known from antiquity. Although these are all epitaphs, and thus limited in length and content, they nevertheless constitute a rich trove of information on a wide variety of subjects.



While each catacomb reflects certain unique traits with regard to the social and cultural makeup of its deceased, when taken together, the overwhelming majority of these inscriptions are in Greek (78 percent), followed by Latin (21 percent), with just a few in Hebrew or other Semitic languages (1 percent). A number of inscriptions are bilingual. Of the personal names, however, those of Latin derivation seem to prevail, followed closely by Greek and then Hebrew. These epitaphs are also invaluable in that they often record the ages of the deceased, the various communal offices they held (e.g. archon, archisynagogue, *grammateus*, etc.), some professions, several instances of conversion, and the names of over a dozen local synagogues.

The finds from these catacombs demonstrate the delicate balance between their particularistic needs and accommodation to the surroundings of the Roman Jewish community. On the one hand, they reflect the Jews' desire to be buried separately from their pagan and Christian neighbors. The Jewish identity of those buried in these catacombs is evident everywhere in the Diaspora proclivity to minimize the use of figural art and to display Jewish symbols frequently and prominently. On the other hand, these remains attest to the fact that the community adopted the practices of the surrounding cultures, from language and names to types of burial practices (catacombs, sarcophagi) and the use of gold glass.

#### B DIASPORA SYNAGOGUES

The evidence for the Diaspora synagogue in late antiquity lies in the material remains of some thirteen buildings (not including Delos, which is earlier) as well as hundreds of inscriptions relating to the synagogue or its officials. Although literary sources note scores of synagogues throughout the Roman-Byzantine and Sasanian worlds, in almost all cases nothing substantive is known about these institutions.

Archaeological remains of synagogue buildings derive from all parts of the Empire, from Dura Europos (Syria) in the east to Elche (Spain) in the west (Fig. 20.5). Between these geographical extremities, synagogue remains have been found at Gerasa in Provincia Arabia, Apamea in Syria, Sardis and Priene in Asia Minor, Aegina in Greece, Stobi in Macedonia, Plovdiv (ancient Philippopolis) in Bulgaria, Ostia and Bova Marina in Italy, and Hammam Lif (Naro) in North Africa. Inscriptions from these synagogues alone number about 150, with the overriding majority coming from Sardis and Dura Europos. Taken together with inscriptions found elsewhere (e.g. in Asia Minor), and especially those discovered in the catacombs of Rome and Venosa that mention the titles of synagogue officials, the total of

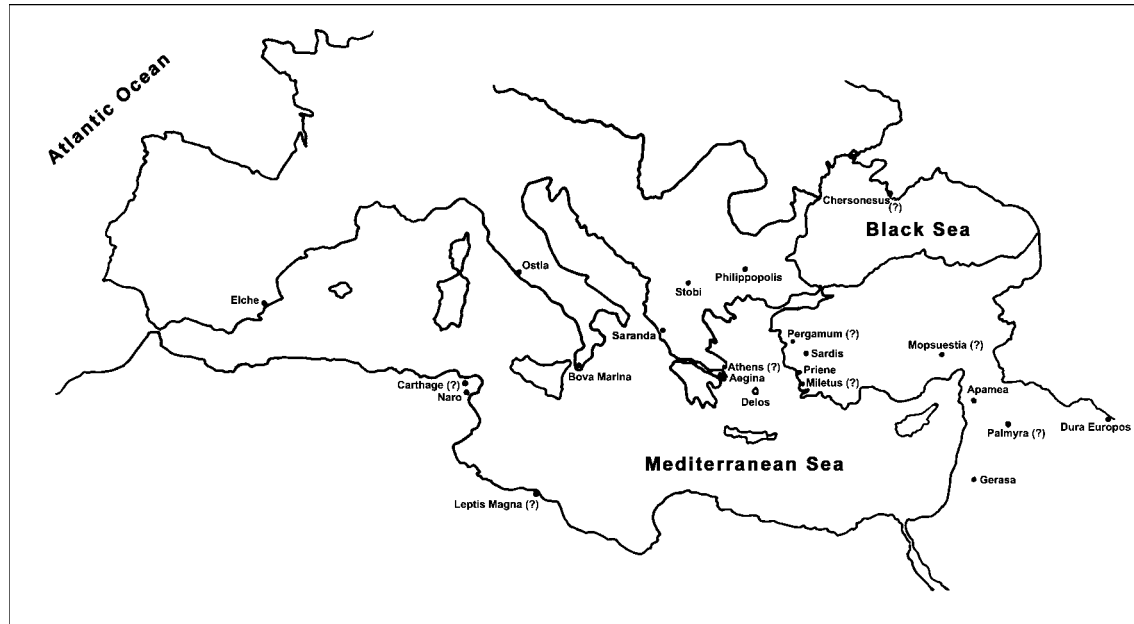


Figure 20.5 Synagogue sites in the Roman-Byzantine period

synagogue-related inscriptions from the Diaspora numbers well over 300. Let us turn to the most monumental of the Diaspora synagogues discovered to date, that of Sardis in western Asia Minor.

### 1 *The Dura Europos synagogue*

Among ancient synagogues, the most sensational find, and the richest in its implications and ramifications, is that of Dura Europos, located on the Euphrates River at the eastern extremity of the Roman Empire in what is today Syria.<sup>5</sup> First discovered in 1932, the Dura synagogue was externally quite modest. It was located in a residential area and was originally a private home. Some time around the turn of the third century CE, the Jewish community turned this building into a synagogue that existed for some fifty years until the destruction of the city in 256. During that period, the Jews renovated the structure on two occasions. In its later stage, the building was significantly enlarged and became much more ornate than the earlier one; it was then that the local community undertook an ambitious program of decoration. From floor to ceiling and on each of its four walls, depictions of episodes from the Bible were displayed and to date are unmatched in any other synagogue from antiquity.

The following are the narrative scenes appearing in the Dura synagogue, and their location:

#### West wall (Fig. 20.6)

##### Upper register

Exodus

Solomon and the Queen of Sheba

Extreme left-hand panel is unidentifiable

##### Middle register

The return of the ark from the land of the Philistines

Jerusalem and the Temple of Solomon

Dedication of the Tabernacle with Aaron and his sons

Israelite desert camp and the miracle of the well

<sup>5</sup> For a fuller description of the Dura Europos synagogue, see L.I. Levine, "The Hellenistic–Roman Diaspora CE 70–CE 235: The Archaeological Evidence," *CHJ* 111 1014–24; C. Kraeling, *The Excavations at Dura-Europos*, VIII/1: *The Synagogue* (New Haven, 1956; repr. New York, 1979).

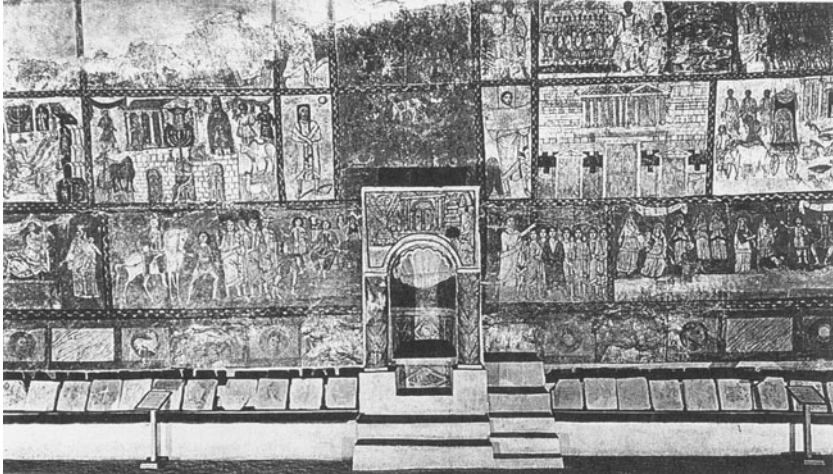


Figure 20.6 Western wall of the Dura Europos synagogue

Lower register

- Pharaoh and the infancy of Moses
- Samuel anointing David
- Mordecai and Esther
- Elijah resuscitates the widow's child

South wall

- Upper register    Obliterated
- Middle register    Consecration of the Tabernacle  
Left-hand side obliterated
- Lower register    The prophets of Baal on Mount Carmel  
Elijah and the widow of Sarepta  
Extreme left-hand panel unidentifiable

North wall

- Upper register    Right-hand side obliterated  
Jacob at Bethel
- Middle register    Hannah and Samuel at Shiloh (partially destroyed)  
The battle at Even-ezer
- Lower register    Death of an important personage at the altar (identification problematic)  
Ezekiel's vision of the dry bones

East wall

- Upper and middle registers    Obliterated
- Lower register  
David and Saul in the Wilderness of Zin  
Belshazzar's feast (?)

Most of the scholarly literature on Dura has been devoted to the meaning of these scenes. All agree that they represent high points of the biblical narrative, when the hand of God was evident in guiding the destiny of the Jewish people. Opinion is divided, however, on a number of issues. Is there, for example, one dominant theme, or a series of themes, which influenced the selection of the various scenes? Were they selected at random, or is there a fundamental organizing principle underlying the choice?

The area above the shrine is unique. Whereas the remainder of the synagogue contains scenes from the biblical narrative, this section features symbols. Immediately above the Torah shrine are representations of the Temple menorah, the Temple facade, and the *Akedah* (Binding of Isaac, Gen. 22) (Fig. 20.7). Above is a series of scenes: Jacob blessing his grandsons, Ephraim and Menasseh; Jacob blessing his sons; and David playing the lyre. Above these is a seated messianic figure surrounded by his court or by the tribes of Israel. Surrounding these scenes are four figures (Fig. 20.8). That on the top right-hand side is Moses, as indicated by an inscription. The identity of the other figures has been the subject of scholarly dispute. Goodenough identifies them all as Moses, Sukenik sees the two on the right as Moses and the two on the left as Joshua, while Kraeling associates each figure with a different biblical personality (Moses, Joshua, Ezra, and Abraham).

In depicting these various scenes, were the Dura artists influenced by any particular external sources or debates? Is there a clear-cut connection between rabbinic midrashic material and the Dura paintings? If so, what does it tell us about the Judaism of this local community? Or is the artwork at Dura incompatible with known rabbinic attitudes? If so, what implications does this have for our understanding of the Judaism at Dura? Finally, there are sharply differing approaches regarding the iconographic tradition reflected in these paintings. Do they stem from Roman Imperial, local Oriental, or Sasanian models? And if a combination of influences is postulated, what were the various elements, and which predominated?

Whatever the answers to the above might be, it is clear that the implications of the Dura synagogue representations regarding ancient Jewish art are enormous. Studies abound, and not only with regard to the paintings themselves; the latter have also sparked renewed interest in the field of ancient Jewish art generally. The synagogue constitutes the most impressive example we have of Jewish art and presumably of "midrashic" traditions of the Bible; whether or not they originated there is a disputed issue.

The uniqueness of the Dura synagogue also rests on the fact that its immediate urban context has also been extensively excavated and

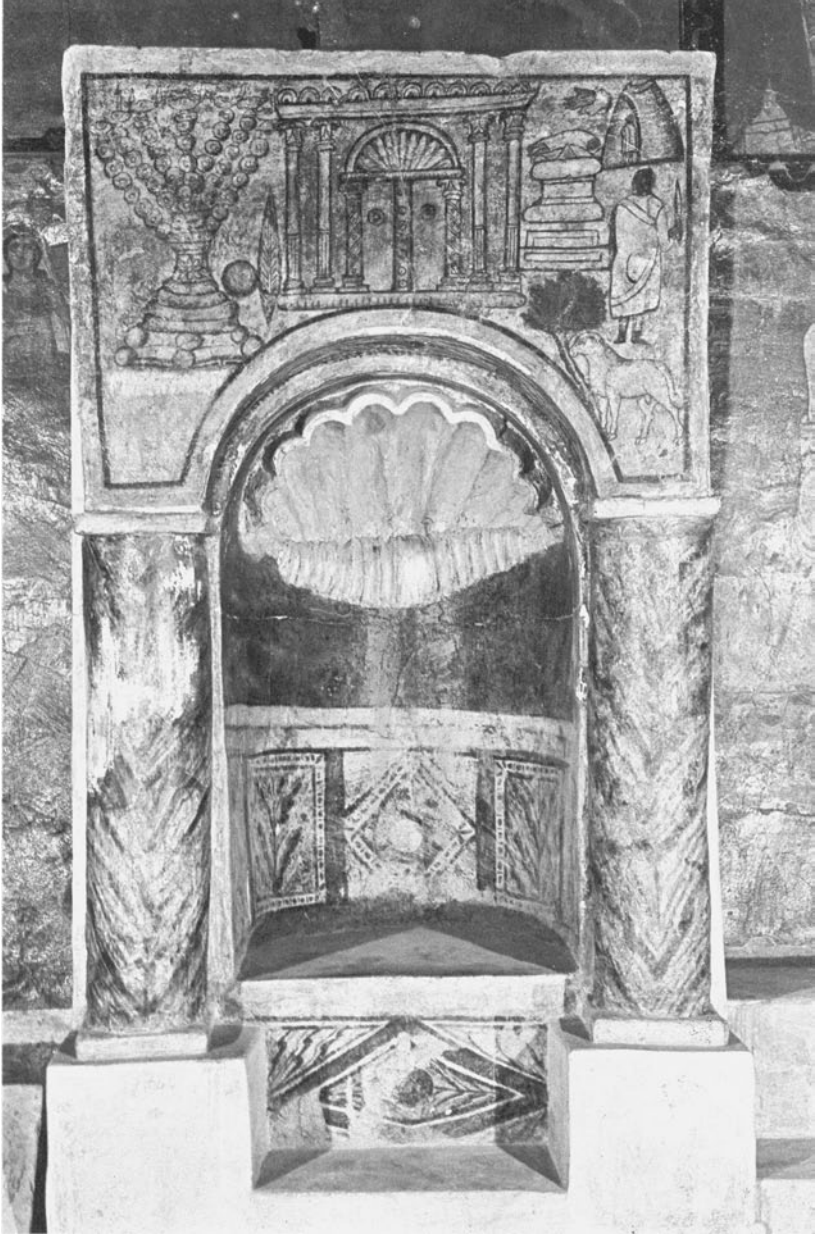


Figure 20.7 Torah shrine in the western wall of the Dura Europos synagogue

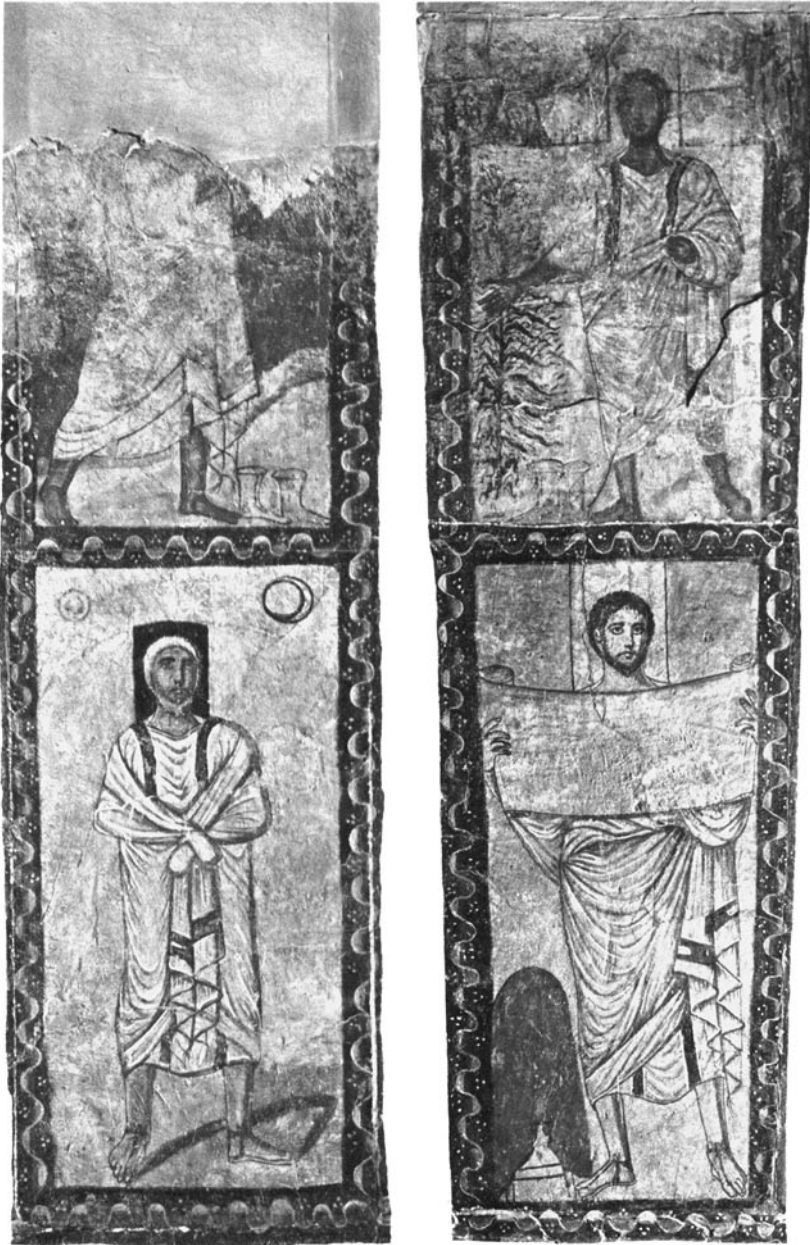


Figure 20.8 Four biblical figures in the western wall of the Dura Europos synagogue

explored.<sup>6</sup> What has become evident is that this synagogue building adapted local architectural and artistic models, thus fitting neatly into patterns found throughout the city. The Torah shrine, for instance, was a close approximation of the *aediculae* found in local pagan temples, with the distinction that, in the Jewish context, it was intended to house a scroll (or scrolls), and not an idol.

If there were any doubts beforehand as to whether Jewish art existed in antiquity, then Dura put them to rest. To date, however, nothing even remotely comparable has been recovered elsewhere. Thus, while hopes for further evidence have dimmed somewhat in the seventy-five years that have passed since the original discovery, these finds suggest that a wider Jewish artistic tradition may have existed, one which will inevitably come to light, sooner or later.

## 2 *The Sardis synagogue*

The impressiveness of the Sardis structure stems from its prominent location, large dimensions, and rich remains.<sup>7</sup> Located on the city's main street, the synagogue was housed in what once was a wing of the municipal *palaestra* or gymnasium. The building itself was about 80 m long; in its last stage it was divided into two parts, a 60-m-long sanctuary and a 20-m-long atrium. To appreciate these dimensions, one has but to compare the Sardis synagogue to the largest Palestinian synagogues known to date – Capernaum (24 m), Meiron (27 m), and Gaza (c. 30 m)!

The earliest building on the site was completed some time in the second century CE and was part of the city's immense gymnasium and bath complex. It was then converted into a civil basilica, and subsequently, in the last half of the third century, was occupied by the local Jewish community. The synagogue uncovered in the excavations and partially reconstructed was built in the course of the fourth century. People entering the building first encountered a large and attractive atrium with porticoes surrounding an open courtyard. The atrium was lavishly decorated with a mosaic pavement of multicolored geometric patterns and a

<sup>6</sup> A. L. Perkins, *The Art of Dura Europos* (Oxford, 1973), 33–69.

<sup>7</sup> A. T. Kraabel, "Impact of the Discovery of the Sardis Synagogue," in G. M. A. Hanfmann (ed.), *Sardis from Prehistoric to Roman Times* (Cambridge, MA, 1983), 178–90; A. R. Seager, "The Building History of the Sardis Synagogue," *AJA* 76 (1972), 425–35; A. R. Seager and A. T. Kraabel, "The Synagogue and the Jewish Community," in Hanfmann (ed.), *Sardis from Prehistoric to Roman Times* 168–78; M. P. Bonz, "The Jewish Community of Ancient Sardis: A Reassessment of Its Rise to Prominence," *HSCP* 93 (1990), 343–59; M. P. Bonz, "Differing Approaches to Religious Benefaction: The Late Third-Century Acquisition of the Sardis Synagogue," *HTR* 86 (1993), 139–54.



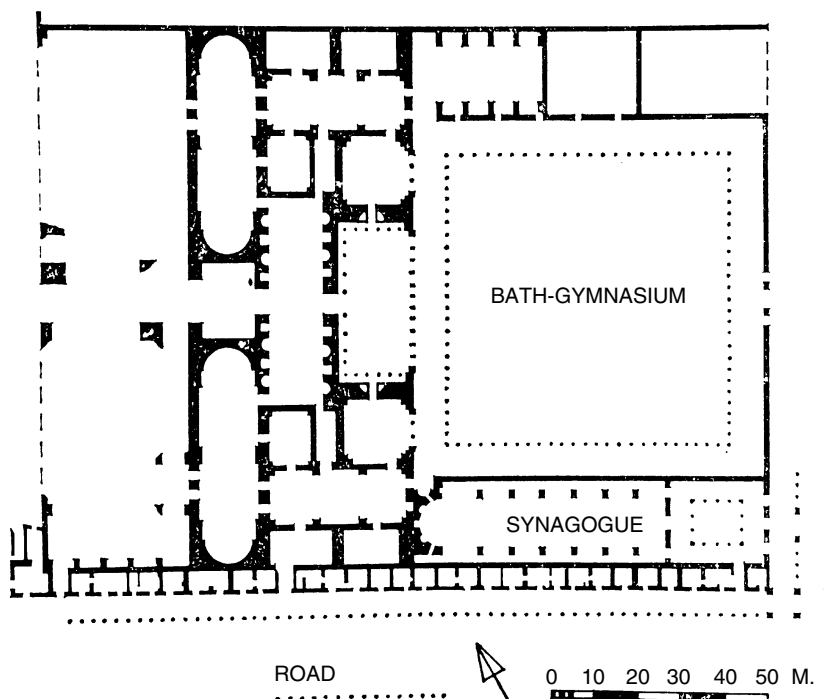


Figure 20.9 Plan of the Sardis synagogue and adjacent bath-gymnasium complex

chancel screen, or balustrade, between the columns supporting its roof. An impressive marble basin for washing and perhaps drinking stood in the center of the atrium. A reference to the “fountain of the Jews” in a municipal inscription may refer to this basin.

Three portals – a large central door flanked by two smaller ones – led from the courtyard into the main sanctuary, immediately inside of which stood two *aediculae* on masonry platforms flanking either side of the main entrance. At least one of the *aediculae* – probably the southern one, which was of a better quality – was intended to house the Torah scrolls. The function of the second *aedicula* remains unknown; additional scrolls or possibly a menorah might have been placed there, or it may have served as a seat for a community official. As was the case elsewhere in the synagogue, the stones used for these *aediculae* were taken from pagan buildings in the city.

A massive stone table, coined the “eagle table” because of the two large Roman eagles engraved in relief on each of its two supporting stones, stood at the western end of the sanctuary (Fig. 20.10). It was flanked by two pairs

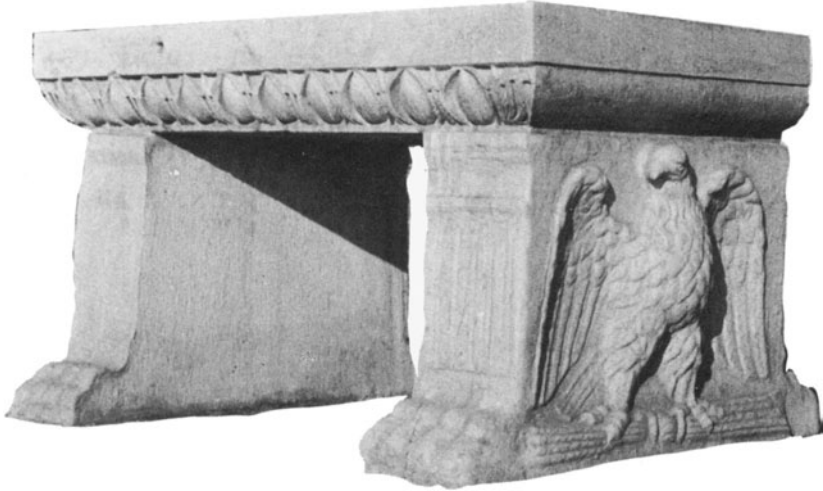


Figure 20.10 “Eagle” table from the main hall of the Sardis synagogue

of lions sitting back to back. Both the eagles and lions are in secondary use, the latter perhaps dating back to the city’s Lydian period, that is, the sixth to fifth centuries BCE.

By the excavators’ estimates, the semicircular benches at the western end of the sanctuary could have accommodated as many as seventy people. Directly in front of the apse is a delicately executed mosaic floor featuring vine tendrils extending from a vase or basin, similar, perhaps, to the one located in the atrium. The names of donors were incorporated into this mosaic. A stone parapet, perhaps a chancel screen, separated the mosaic and the apse from the main hall.

Pillars divided the central nave and two side aisles of the main hall. As there were no traces of a balcony or stone benches, the congregation – which by some estimates may have numbered up to a thousand people – probably sat on mats or wooden benches, and some may have stood. The floor was lavishly decorated with geometric patterns and was divided into seven bays, while the lower parts of the walls were decorated with marble wall panels, or revetments (*skoutlosis*), the upper parts of which exhibited panels of brightly colored marble inlay.

Remains of twelve *menorot* were found in or adjacent to the synagogue, some incised in stone, brick, metal, or pottery. The most impressive one is an ornate stone menorah that bears the name of its donor, Socrates.

Eighty-five inscriptions, of which seventy-nine are in Greek (of the thirty names, only two are in Hebrew) and mostly in a very fragmentary

state, were found on the mosaic floor or, more frequently, on plaques that were once part of the marble wall revetment.<sup>8</sup> These inscriptions are almost always dedicatory in nature, naming the donor and the fact that he was fulfilling a vow. Sometimes they preserve additional information such as one's profession, a public office held, something about the donation itself, or the fact that a donor was a Godfearer (*theosebēs*). Of particular interest to the religious functioning of the synagogue is an inscription found in the very center of the mosaic floor mentioning "Samoe, *biereus* (priest) and *sophodidaskalos*," the latter title referring to a wise teacher or a teacher of wisdom. These synagogue inscriptions tell us something about the nature of the Judaism as understood and practiced in Sardis. One refers to the Torah shrine as a *nomophylakion* (i.e. that which protects the Law); another bears the cryptic sentence: "Having found, having broken [in the sense perhaps of breaking open], read! Observe!" They were carefully executed and may once have been prominently displayed in the synagogue hall near the Torah shrines. Eleven inscriptions mention the Greek term *pronoia* (divine providence), and the appropriation of this Greek philosophical-religious concept, which also appears in earlier Jewish literature, apparently reflects a significant degree of acculturation among the Sardis Jews.

The Sardis synagogue finds throw into question many of the once prevalent negative assumptions concerning Jewish life in the Diaspora of late antiquity. They demonstrate that at least some communities had achieved a high degree of recognition and status within their individual cities; in the case of Sardis, this continued for three centuries after the christianization of the Empire, right up to the Persian destruction of the city in 616.

### 3 *Synagogues in Late Roman-Byzantine Palestine*

Late antiquity, that is, the late third to seventh centuries, witnessed a proliferation of synagogue building (Fig. 20.11). From the Galilee and Golan in the north to the southern hills of Judaea, a variety of structures was erected by Jewish communities, each according to its means and cultural-religious proclivities. Recognition of this heterogeneity has had an enormous impact on our understanding of Palestinian synagogues. A neat division of synagogue buildings into distinct architectural types, each with a more or less fixed chronological boundary, was once the accepted theory.

<sup>8</sup> See J. H. Kroll, "The Greek Inscriptions of the Sardis Synagogue," *HTR* 94 (2001), 1–127; F. M. Cross, "The Hebrew Inscriptions from Sardis," *HTR* 95 (2002), 3–19.

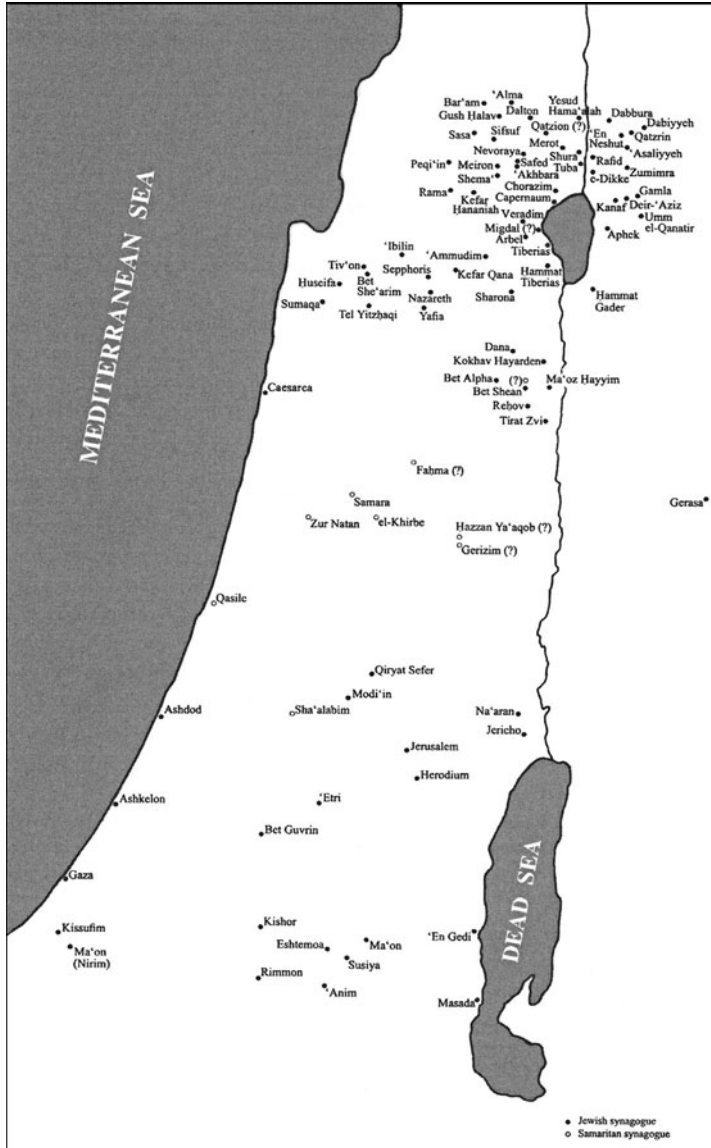


Figure 20.11 Synagogue sites in Roman-Byzantine Palestine

Three main categories were posited: an “early” Galilean type dating to the second to third centuries CE; a broadhouse or intermediate type, dating to the fourth and fifth centuries; and a “late” basilica type dating to the fifth to seventh centuries. This theory, which crystallized slowly over decades,



Figure 20.12 Facade of Baram synagogue

was seriously undermined by the excavations of the last third of the twentieth century.<sup>9</sup>

1. A number of Galilean-type synagogues have been dated from the fourth to sixth centuries. While the most important and best publicized of these is Capernaum, the group also includes Baram, Merot, and Nabratein (Fig. 20.12). In fact, the lintel of the Nabratein building bears an inscription that the synagogue was built in 564 CE (494 years after the destruction of the Temple), a date that has been confirmed by recent excavations.

<sup>9</sup> E. M. Meyers, "The Current State of Galilean Synagogue Studies," in L. I. Levine (ed.), *The Synagogue in Late Antiquity* (Philadelphia, 1987), 127–37; D. E. Groh, "The Stratigraphic Chronology of the Galilean Synagogue from the Early Roman Period through the Early Byzantine Period (ca. 420 CE)," in D. Urman and P. V. M. Flesher (eds.), *Ancient Synagogues: Historical Analysis and Archaeological Discovery*, 1 (Leiden, 1995), 51–69; L. I. Levine, "Ancient Synagogues," in E. Stern (ed.), *New Encyclopedia of Archaeological Excavations in the Holy Land*, 4 vols. (Jerusalem, 1993), IV 1421–4; L. I. Levine, *The Ancient Synagogue: The First Thousand Years*, rev. ed. (New Haven, 2005), 296–302, 319–26.

2. The synagogues at Khirbet Shema and probably also Ḥammāt Tiberias are to be categorized as typical broadhouse buildings, but, in fact, they were built in the later third century, precisely at the same time as a number of Galilean-type structures, such as Meiron.

3. All the excavated synagogues from the Golan date to the Byzantine period (fifth to seventh centuries). While these synagogues have a number of unique characteristics, they are also clearly related to the Galilean type. In a survey recently carried out by Ḥayyim Ben David and David Adan-Bayewitz of Bar-Ilan University, it has been concluded that only Byzantine settlements had such structures; Roman sites in that region that did not survive the second and third centuries had no such buildings.

As a result of these excavations, the link between typology and chronology, which lay at the very heart of the older theory, was severed; different types of buildings existed simultaneously. Thus, the earliest-excavated sites of Galilean-type structures, such as Gush Ḥalav and Ḥorvat Ammudim, could now be set in the latter half of the third century, almost 100 years later than was formerly maintained.

An even further revolution in the dating of Galilean synagogues may be currently in the making as a result of a series of articles by Jodi Magness, who dates a number of these synagogues (Capernaum, Gush Ḥalav, Khirbet Shema) to the fifth and even sixth centuries on the basis of ceramic evidence. If she is correct, many of these buildings would have to be dated some 100–300 years later than previous estimates. Needless to say, the historical implications would be enormous. However, Magness's analyses and conclusions have been disputed by American and Israeli archaeologists alike, who claim that her reading of the excavation reports is faulty and that her dating of a building solely on the basis of the latest pottery sherds is inadequate when trying to determine the founding date of a building rather than its latest usage. Stray sherds, it is claimed, will always find their way under a floor, most often as a result of repairs. Reliance only on the ceramic evidence becomes even more problematic when it contravenes other evidence, either architectural and stylistic (as per several Israeli archaeologists) or stratigraphic (following several American excavators).<sup>10</sup>

<sup>10</sup> This debate is conveniently assembled in one volume (A. J. Avery-Peck and J. Neusner [eds.], *Judaism in Late Antiquity*, Part 3: *Where We Stand: Issues and Debates in Ancient Judaism*, 1v: *The Special Problem of the Synagogue* [Leiden, 2001]). This volume contains articles of J. Magness ("The Question of the Synagogue: The Problem of Typology," 1–48), E. M. Meyers ("The Dating of the Gush Halav Synagogue: A Response to Jodi Magness," 49–70), J. F. Strange ("Synagogue Typology and Khirbet Shema: A Response to Jodi Magness," 71–78), and finally, J. Magness again ("A Response to Eric M. Meyers and James F. Strange," 79–92).

The dating of the synagogues in ancient Palestine, especially those of the Galilean type, has raised much controversy. In the past, three considerations have been brought to bear on the issue: the archaeological, artistic, and historical data. Those who have opted for a later dating lean heavily on the archaeological data, dating a building by its latest stratigraphically relevant remains; in our case, this has led, as noted above, to a fifth–sixth century date. Those who have based themselves on art-historical considerations find a second- or third- (and at the latest, an early fourth-) century date far more compelling. The historical dimension has become less crucial, with the growing awareness that the region did not suffer a serious economic decline in the third century and later, but enjoyed a long period of stability and prosperity throughout most of late antiquity.<sup>11</sup> Such buildings could well have been constructed any time from the third to the seventh centuries. Consequently, scholars are divided over which of the first two considerations should be considered pivotal, the archaeological or the artistic factor, both of which have been defended fervently. Recently, an interesting attempt has been put forth in the hope of mediating between these conflicting claims. A number of scholars have suggested that later Byzantine synagogues used remains (*spolia*) from earlier buildings.<sup>12</sup> This theory gains indirect confirmation from rabbinic sources that discuss the third-century question regarding the reuse of stones from old synagogue buildings to build new ones (PT *Meg.* 3.1.73d). This approach would explain why late archaeological data exist alongside earlier artistic forms and styles. Much more work, however, remains to be done before this issue can be put to rest.

These current issues aside, with the demise of the traditional tripartite chronological division of Palestinian synagogues, we are left with the realization that many different types of synagogues coexisted throughout this period. A most instructive instance of this diversity can be seen in the Bet Shean area, where at least five synagogues date from the fifth to sixth centuries: Bet Shean A just north of the city wall; Bet Shean B at the

<sup>11</sup> D. Bar, “Was There a 3rd-C. Economic Crisis in Palestine?” in J. H. Humphrey (ed.), *The Roman and Byzantine Near East*, 111, *Journal of Roman Archaeology* Supplement 49 (2002), 43–54; idem, “Settlement and Economy in Eretz-Israel During the Late Roman and the Byzantine Periods (70–640 CE),” *Cathedra* 107 (2003), 27–46 (Hebrew).

<sup>12</sup> Z. Ma’oz, “The Synagogue at Capernaum: A Radical Solution,” in J. H. Humphrey (ed.), *The Roman and Byzantine Near East*, 11: *Some Recent Archaeological Research*, *Journal of Roman Archaeology* Supplement 31 (1999), 137–48; M. Avi’am, “The Ancient Synagogues of Baram,” *Qadmoniot* 35/124 (2002), 122–5 (Hebrew); G. Foerster, “Has There Indeed Been a Revolution in the Dating of Galilean Synagogues?” in L. I. Levine (ed.), *Continuity and Renewal: Jews and Judaism in Byzantine-Christian Palestine* (Jerusalem, 2004), 526–9 (Hebrew).

northwestern end of the city; Bet Alpha to the west; Maoz Hayyim to the east; and Rehov to the south. Each of these synagogues differs from the next; they use different languages or combinations of languages (Aramaic, Greek, or Hebrew), they have different plans and architectural remains, and they have quite distinct approaches to the use of art, figural and otherwise.

Yet, with all this diversity, there are certain characteristics, often regionally inspired, that played a significant role in the art and architecture of synagogue buildings. The best-known is the Galilean-type building,<sup>13</sup> boasting a monumental facade that faced Jerusalem, and often three entrances (in small buildings, only one) and a flagstone floor. The buildings usually had three rows of columns placed on pedestals, and two or three rows of stone benches along the walls. At a number of sites, remains were found of a *bema*, on which a Torah shrine probably stood. Decorations were generally made on stone moldings, but very few Jewish symbols were used.

The Golan synagogues form another regional group. They were built of basalt (a relatively hard stone, indigenous to the region), had a monumental facade usually with one entrance, and were oriented either to the south or to the west, itself an enigmatic phenomenon, since neither direction exactly faces Jerusalem. The interior was usually divided by two rows of columns without pedestals, and the floor was paved with either stone slabs or plaster. Benches often lined the four walls of the room, but few remains of a Torah shrine were found.

Four synagogues from the southern Judean hills – Eshtemoa, Susiya, Anim, and Maon – form yet another distinctive regional group (Fig. 20.13).<sup>14</sup> These synagogues faced northward, toward Jerusalem, and featured elaborate *bemot* in one form or another; sometimes two separate foci were placed in the hall or the *bema* might stretch across its entire width. None of these buildings had columns supporting the roof. The most striking element in this group, however, is that the entrances in all of these buildings faced east, as did the Tabernacle and the two Jerusalem Temples. This was the recommended practice noted in rabbinic literature (Tos. Meg. 3.22 [ed. Lieberman, p. 360]).

The basilica type is the least regionally defined building and is to be found in almost every part of the country. It features three entrances on the

<sup>13</sup> G. Foerster, "The Ancient Synagogues of the Galilee," in L. I. Levine (ed.), *The Galilee in Late Antiquity* (New York and Jerusalem, 1992), 289–319.

<sup>14</sup> D. Amit, "Architectural Plans of Synagogues in the Southern Judean Hills and the 'Halakah,'" in Urman and Flesher (eds.), *Ancient Synagogues*, 1, 129–56; and, most recently, idem, *The Synagogues of Hurbat Ma'on and Hurbat 'Anim and the Jewish Settlement in Southern Judea* 2 vols. (PhD dissertation, Jerusalem, Hebrew University, 2003) (Hebrew).



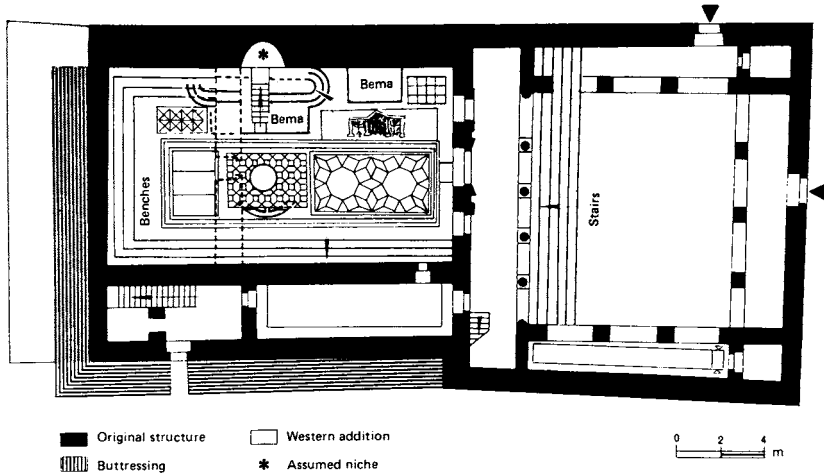


Figure 20.13 Susiya synagogue

wall opposite Jerusalem, preceded by a narthex and an outer atrium, or courtyard. The main hall is divided by two rows of columns into a nave and side aisles, and an apse (or niche) was built at the Jerusalem-oriented end of the building. Mosaic floors usually decorated these buildings.

Each of the above types reflects significant Graeco-Roman or Byzantine influence in their physical appearance. The architecture and decoration of the Galilean-type building drew heavily from Roman public buildings that flourished in the East in the early centuries CE, and later reappeared in a somewhat modified form in the Byzantine churches of Syria. These buildings were so similar to pagan edifices, including temples, that one rabbinic source (BT *Shabb.* 72b) reports that someone walking along the street and bowing before a building thought it was actually a synagogue. Only afterwards did he realize that the building was, in fact, a pagan temple. Similarly, the basilica-type building often strikingly resembles contemporary churches in terms of plan, architecture, and art. The borrowing was so extensive that even certain details of church architecture that were inappropriate for a synagogue were copied. This pertains particularly to the chancel screen, which, in a church setting, served to separate the clergy from the congregation. Although such a hierarchal division is unknown in the ancient synagogue, this architectural element was nevertheless included in this type of synagogue.

Despite the outside influence that contributed greatly to the overall appearance of the synagogue, uniquely Jewish components were always in evidence. This was invariably expressed in late antiquity by the building's orientation toward Jerusalem (whereas churches followed pagan models and

almost always faced east). Not only did the Galilean-type synagogue emphasize this direction by orienting its ornamental facade to the south, but its internal plan was also arranged with this purpose in mind: three rows of columns lined the interior, and the fourth side, facing Jerusalem, remained open, thereby giving this direction a definite focus. The Jerusalem orientation was further emphasized by placing a *bema* in this direction. Moreover, the artwork in synagogues (with the exception of most Galilean-type buildings) emphasized the buildings' Jewish identity by featuring sometimes biblical scenes or figures and at other times Jewish symbols such as the Torah shrine, *lulav*, *ethrog*, incense shovel, and most frequently the menorah.

#### IV JEWISH ART IN BYZANTINE PALESTINE

Artistic remains are in evidence in dozens of synagogues from this era. With but few exceptions, however, they are limited in extent, usually displaying only geometric or floral designs and one or more Jewish symbols. However, there are three notable exceptions to this rule: Ḥammāt Tiberias (fourth century), Sepphoris (fifth century), and Bet Alpha (sixth century) have preserved fairly complete mosaic floors that afford some idea about the use of artistic forms throughout this period, two of which were found in the most important centers of Jewish life at the time.

##### A ḤAMMAT TIBERIAS

Excavated by Moshe Dothan in 1961, the building contained a series of stages ranging from the third to eighth centuries, the most impressive one dating from the mid-fourth century.<sup>15</sup> Level IIA will be the focus of our discussion. The sanctuary was oriented southward, toward Jerusalem, and featured a nave with one aisle on the west and two on the east. The room was thus asymmetrical, resembling a broadhouse such as the one at Khirbet Shema or Khirbet Susiya. While the mosaic floor in the eastern aisles bore geometric designs and three inscriptions, the central nave boasted three striking panels. These included, in the order of one's progression through the hall from the north toward the *bema* in the south: (1) eight dedicatory inscriptions filling nine squares flanked by two lions in a heraldic posture; (2) a striking zodiac with the four seasons in the outer corners and a representation of the sun god Helios in the center; (3) Jewish symbols, including a Torah shrine and a pair each of *menorot*, *shofarot*, *lulavim*, *ethrogim*, and incense shovels – a cluster that would reappear frequently in synagogue art.

<sup>15</sup> M. Dothan, *Ḥammāt Tiberias*, 1: *Early Synagogues and the Hellenistic and Roman Remains* (Jerusalem, 1983).

The benefactors of this building, among the wealthy and acculturated residents of Tiberias, are readily identifiable by the Greek inscriptions containing their Greek and Latin names (e.g. Iouillos, Zoilos, Maximos). These benefactors were presumably responsible for financing the synagogue's construction, and several apparently held official positions in the synagogue or community. The dominant role of Greek in this synagogue floor, together with its striking mosaic, clearly indicates the cosmopolitan cultural orientation of its donors, and probably of many, if not most, of its members.

The panel depicting the zodiac and Helios is the centerpiece of this mosaic floor. While this particular design would reappear in other Palestinian synagogues in subsequent centuries, the Tiberias depiction remains the earliest such representation, and far and away the most impressive one artistically. It closely approximates the quality of the richly decorated mosaic floors from fourth-century Antioch.<sup>16</sup> The figure of Helios, depicted here in the form of Sol Invictus with his full array of attributes, had become a universal symbol not only in pagan but also in Christian circles by the fourth century. Not only were such depictions unknown in Jewish contexts prior to this time, but Josephus even reports that depicting the zodiac was categorically prohibited in the Jerusalem Temple centuries earlier (*War* 5.5, 4, 213). Even the Mishnah looks askance at the display of several of the symbols appearing here (*M. Av. Zar.* 3.1). Thus, the first appearance of such a blatantly pagan motif in the center of an important Tiberian synagogue is as enigmatic as it is fascinating. No dearth of scholarly ink has been spilt in trying to explain this phenomenon.<sup>17</sup>

#### B SEPPHORIS

In 1993, E. Netzer and Z. Weiss of the Hebrew University of Jerusalem discovered a synagogue on the northern slopes of the city.<sup>18</sup> The building itself is exceptional in that it is unusually narrow and has only one side aisle, and is

<sup>16</sup> D. Levi, *Antioch Mosaic Pavements* (Princeton, 1947).

<sup>17</sup> See, e.g., E. Goodenough, *Jewish Symbols in the Greco-Roman Period*, 13 vols. (New York, 1953–68), VIII 167–218; R. Hachlili, "The Zodiac in Ancient Jewish Art: Representation and Significance," *BASOR* 228 (1977), 61–77; Dothan, *Hamath Tiberias*, 39–49; L. Roussin, "The Zodiac in Synagogue Decoration," in D. Edwards and C. T. McCollough (eds.), *Archaeology and the Galilee: Texts and Contexts in the Graeco-Roman and Byzantine Periods* (Atlanta, 1997), 83–96; as well as L. I. Levine, "Contextualizing Jewish Art: The Synagogues of Hammat Tiberias and Sepphoris," in R. Kalmin and S. Schwartz (eds.), *Jewish Culture and Society in the Christian Roman Empire* (Leuven, 2003), 91–131.

<sup>18</sup> Z. Weiss and E. Netzer, *Promise and Redemption: A Synagogue Mosaic from Sepphoris* (Jerusalem, 1996).

thus atypically asymmetrical. No less striking is the synagogue's orientation; one entered the building from the southeast, while its *bema* faced northwest.

However, the most interesting feature of this synagogue is its mosaic floor (Fig. 20.14). In contrast to other decorated synagogue floors that were normally divided into three bands, or registers, this one was divided into seven, and some were then subdivided into smaller panels. Greek dedicatory inscriptions (and one, later two, in Aramaic) were integrated into most of the central panels, a practice unknown in other synagogues. The synagogue's remaining Aramaic inscriptions were located in the side aisle among more modest geometric designs – an interesting, though not surprising, socio-cultural and economic distinction.<sup>19</sup>

When entering the hall from the southeast, one would have encountered the following motifs in a southeast–northwest sequence. The first two, and most poorly preserved, registers depict scenes from the life of Abraham – the visit of the angels when Abraham is promised a son (Gen. 18), and the *Akedab*, the binding of Isaac (Gen. 22). In the former panel, only the top of a woman's head is visible in a doorway, but, on the basis of a similar depiction in the sixth-century church of San Vitale in Ravenna, this panel was identified as the visit of the three angels, with Sarah standing at the entrance to her tent. The next band, showing the *Akedab*, is divided into two: the left side is well preserved and shows the two servants and an ass; the right panel, however, is almost totally obliterated, with only the head of a ram tied to a tree and two pairs of shoes preserved.

Beyond these two registers is the largest one, featuring the zodiac signs, the four seasons, and the sun in a chariot (Fig. 20.15). Here, the figure of Helios is not depicted, but only the sun's rays extending in every direction, with one pointing downward into the chariot to give the impression that the sun is riding in it. The zodiac signs are accompanied mostly by young men, either naked or in simple cloaks covering only part of their bodies; all the figures but one are barefoot, and the Hebrew name of the month together with a star appears in each zodiac sign.

The next two registers revolve around the theme of the Wilderness Tabernacle, and feature Aaron officiating at the altar surrounded by a number of cultic objects. In the upper one, a water basin stands next to a partially preserved altar (with a horn-shaped corner) together with the almost totally obliterated depiction of Aaron, who is identified by means of an inscription bearing his name as well as by the bells on the fringes of his garment (Exod. 28.33–5). Two animals, a bull and a lamb, also appear in one

<sup>19</sup> It is also noteworthy that almost all the mosaics in the synagogue's nave are figural, while those in the aisle, between the columns, and presumably in the destroyed narthex, are geometric in design.

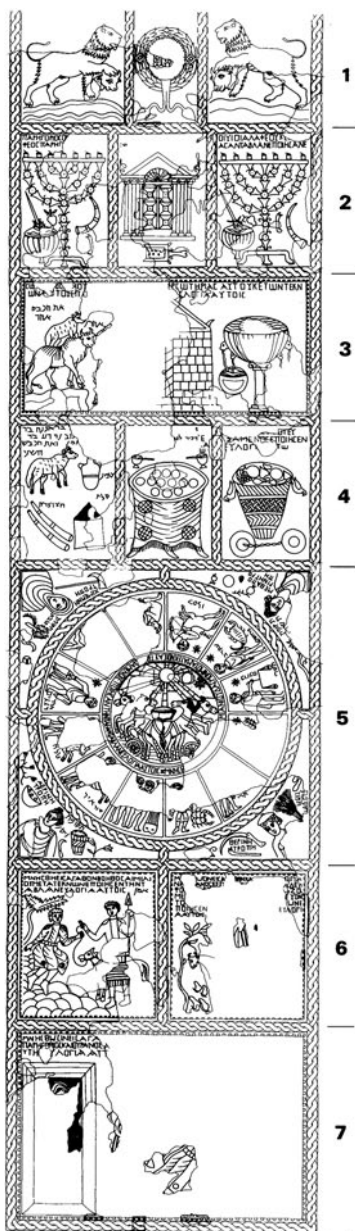


Figure 20.14 Reconstruction of the mosaic floor from the Sepphoris synagogue

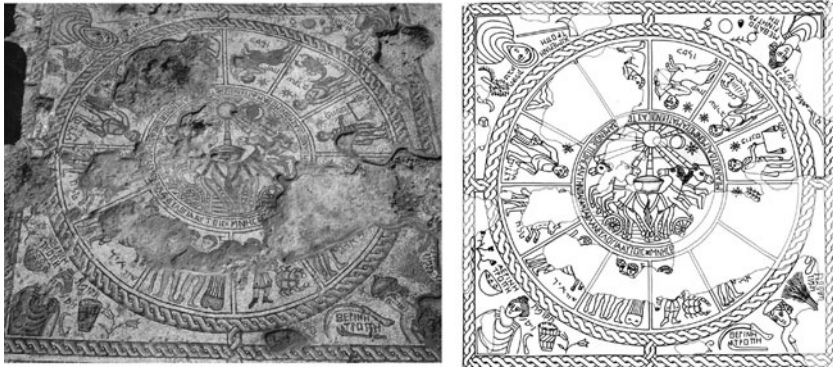


Figure 20.15 Zodiac panel from the mosaic floor in the Sepphoris synagogue: original left, reconstruction right

of the registers, the latter accompanied by the biblical phrase “one lamb” (Exod. 29.39; Num. 28.4). Directly below these depictions are four objects that were also part of the Tabernacle (and later Temple) ritual: a second lamb (*ibid.*), a black jug, or amphora, with the word “oil”; a container with the word “flour”; and two trumpets identified as such. In addition, the shewbread table with twelve loaves of bread is depicted along with a wicker basket containing fruit, apparently the “firstfruits” (*bikkurim*) offering.

The next register is divided into three panels. The two outer ones feature a menorah flanked by a large *shofar* (and perhaps tongs) to the right, and a *lulav* and *etrog* in a large bowl to the left. The central panel depicts the Temple facade, one with a gabled roof and six columns, three on either side, and a double door in the middle. Beneath the facade is an incense shovel, a symbol originating in the Temple setting. The final register, nearest the *bima*, appears, ironically, to be the least fraught with religious significance. It, too, is divided into three panels; the central one depicts a stylized wreath enclosing a Greek inscription, while the two flanking panels display lions facing the central wreath, each clutching the head of a bull or ox in its paw.

The elaborate programmatic composition of the Sepphoris mosaic is *sui generis* in synagogue art. Questions have been raised as to whether there is any one overall message to these registers (eschatological? polemical versus Christian?), and whether there is any connection between the representations and the liturgy that may have been conducted in this setting.<sup>20</sup> It has also

<sup>20</sup> See the following articles in L. I. Levine and Z. Weiss (eds.), *From Dura to Sepphoris: Studies in Jewish Art and Society in Late Antiquity* (*Journal of Roman Archaeology* Supplement 40; Portsmouth, RI, 2000): B. Kühnel, “The Synagogue Floor Mosaic in Sepphoris: Between Paganism and Christianity,” 31–43; H. Kessler, “The Sepphoris Mosaic and Christian Art,” 64–72, as well as S. Fine, “Art and the Liturgical Context of the Sepphoris Synagogue

been suggested that many of the details in this mosaic reflect a priestly agenda, possibly indicating a significant priestly influence on the shaping of this artistic program and its details.<sup>21</sup>

#### C BET ALPHA

The third synagogue with a well-preserved mosaic floor is that of Bet Alpha, discovered in 1929 and excavated by E. L. Sukenik (Fig. 20.16).<sup>22</sup> The floor is divided into three panels; the one nearest the *bema* in the southern wall of the building contains the cluster of Jewish symbols (Torah shrine, two *menorot*, etc.) also appearing at Ḥammāt Tiberias, the central panel depicts the zodiac signs and Helios in his chariot, while the third panel displays the *Akedah* scene. Two inscriptions greet the visitor just inside the northern entrance. The Greek one notes the artisans responsible for the mosaic, while the Aramaic inscription records the date of construction and the villagers' contributions.

The Bet Alpha mosaic is far simpler and less sophisticated than the other two. Whether this is due to its sixth-century setting or to the fact that it is a rural as against an urban community (or both) is difficult to tell. The religious symbols and biblical figures depicted are schematic and at times distorted, ostensibly far from being a "natural" representation; such is the case with the zodiac signs and Helios as well.

### V THE FLOWERING OF JEWISH ART

The answer to the question posed at the outset of this chapter – why did Jewish art, architecture, and inscriptions, which were so negligible in the First and Second Temple periods, clearly flourish in late antiquity? – may indeed explain many of the phenomena noted above.

The post-70 development of the synagogue, a Jewish institution *par excellence* (notwithstanding the many and profound external influences), provided opportunities for creating unique Jewish architectural models. Previously, only one building, the Jerusalem Temple, offered a comparable opportunity. The penetration of decorative mosaic floors into the Roman East in the second to fourth centuries also made available an artistic medium that the Jews could exploit. However, these factors are basically externalities; at best, they provide a setting and means for such expression, but not the will, the desire, or the need to do so.

Mosaic," in E. M. Meyers (ed.), *Galilee Throughout the Centuries: Confluence of Cultures* (Winona Lake, 1999), 227–37.

<sup>21</sup> Levine, "Contextualizing."

<sup>22</sup> E. L. Sukenik, *The Ancient Synagogue of Beth Alpha* (Jerusalem, 1932).



Figure 20.16 Mosaic floor from the Bet Alpha synagogue



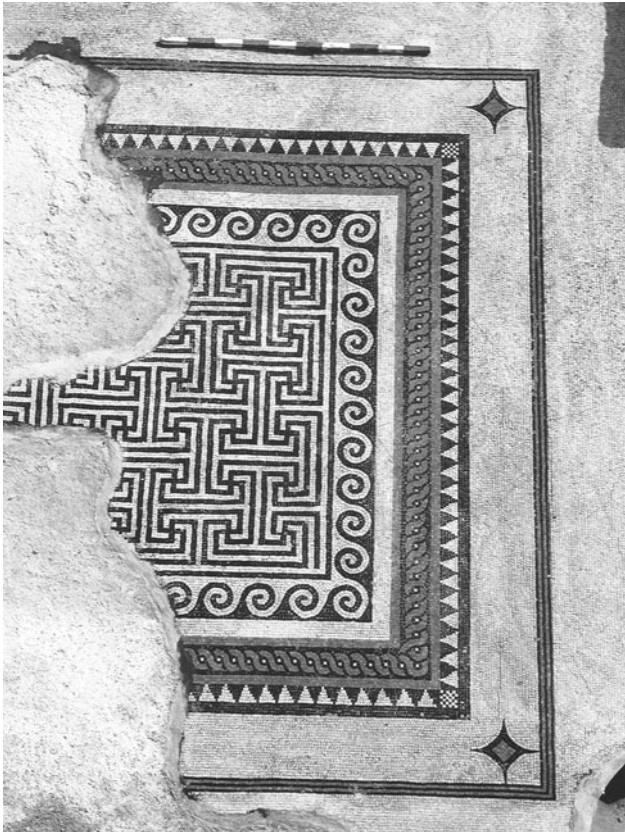


Figure 20.17 Aniconic mosaic floor from Jerusalem in the Second Temple period

The explanation of the increased use of art by the Jews, in synagogues, cemeteries, and domestic settings, is rooted in a number of internal and external developments. To the former category belongs the Jews' profound change in attitude and behavior toward figural art. Following a thousand years of openness to such representation, throughout the First Temple and most of the Second Temple periods Jewish society adopted a severe and restrictive posture toward figural art under Hasmonean rule, beginning in the late second century BCE (Fig 20.17). The main impetus behind this change was most probably the Hasmonean-inspired policy based on their adaptation of Deuteronomic religious ideology.<sup>23</sup> This stringency was

<sup>23</sup> See L. I. Levine, *Jerusalem: Portrait of the City in the Second Temple Period (538 BCE–70 CE)* (Philadelphia, 2002), 95–6, 142–3; idem, "Figural Art in Ancient Judaism," *Ars Judaica* 1 (2005), 11–6.

almost universally heeded and, in this respect at least, created a dramatic rift between the Jewish community and the rest of the Graeco-Roman world. However, beginning in the later second century CE, and with increasing frequency in the third and fourth centuries, we witness a return to figural representation in many communities of ancient Palestine and the Diaspora. While it is difficult to pinpoint the reasons for this shift, it seems to express a greater openness to Graeco-Roman culture, particularly within patriarchal circles and among the urban aristocracies in the Galilean cities.<sup>24</sup> This more tolerant approach to figural art was undoubtedly an important factor that set the stage for the revolution that would take place in late antiquity.

Two other factors, rooted in external stimuli, were crucial to this transformation. One was the changing attitude to art generally in the ancient world, from a representative depiction to one of symbolic meaning. Art was becoming an expression of religious and philosophical ideas and values, and if this was true of paganism in late antiquity, it was especially the case with regard to Christianity. This process of detaching a depiction from a particular historical context to evoke an idea or historical memory that was imbued with religious meaning evolved most noticeably in Byzantine Christianity. Biblical scenes were widely used to transmit Christian truths, often for their typological meaning, and viewing an image had thus become a means rather than an end. Form was now subordinate to content, and doctrinal and didactic purposes were the order of the day. Iconography had become the handmaiden of theology or, as stated by André Grabar, "Iconography rises here to the level of theological commentary."<sup>25</sup>

The second external factor to be considered is the emergence and representation of specific religious symbols. If Christian art was inherently symbolic early on, then Jewish art of late antiquity did not lag far behind. Probably the most blatant example of Christian influence on its Jewish counterpart is the emergence of the cross and menorah as pre-eminent symbols in this period. It would seem that the appearance of the menorah as a widespread Jewish symbol was part and parcel of the larger Byzantine-Christian context. The use of symbols was now more ubiquitous than ever before, and, while Christianity spearheaded this development with all the imperial and ecclesiastical means at its disposal, the Jews soon followed suit. The use of symbols as a means to reinforce group identity seems to have been a hallmark of this period for both Christians and Jews.

We are only beginning to realize the extensive degree of Jewish-Christian interaction in all walks of life during this period, whether hostile or supportive, destructive or fructifying. Within the synagogue context,

<sup>24</sup> Levine, *Jerusalem*, 16–23.

<sup>25</sup> A. Grabar, *Christian Iconography: A Study in Its Origins* (Princeton, 1968), 144.

Byzantine architectural and artistic patterns and motifs were frequently adopted. Even in the case of such a uniquely Jewish symbol as the menorah, the synchronic dimension was clearly a crucial factor in accounting for its widespread appearance as the Jewish symbol *par excellence*.<sup>26</sup>

The material culture, as noted above, presents a clear idea of the location and parameters of Jewish settlement at the time. At times these remains confirm what we already know from literary sources, namely, that the Jews were concentrated in the central and eastern Galilee and were also to be found in all the major coastal cities. Jews did not live in Samaria, which confirms our impression from other, non-archaeological, sources as well. Archaeological remains also provide evidence for what was known, but only partially, namely, that Jewish presence in the southern parts of the country was far more extensive than had been previously imagined. Finally, material remains have added an entirely new dimension to our knowledge of Jewish geography of the Golan in late antiquity. Our literary sources are virtually silent on any Jewish presence in the area, yet no fewer than twenty-five synagogues from the Byzantine period were found there.

The archaeological finds provide precious information, not only with regard to the geography, but also when re-evaluating Palestine in late antiquity generally. The very existence of Byzantine synagogue remains at well over 100 sites has been a major catalyst in reassessing this entire historical period which, since the beginning of Jewish historiography in the nineteenth century, was considered the beginning of the “Dark Ages” for the Jews of Palestine. Jewish life there had been viewed as being in steady decline since the destruction of the Temple in the first century, and a series of crises in subsequent centuries served only to exacerbate this trend: the failure of the Bar Kochba Revolt and the Hadrianic persecutions in the second century; the supposed anarchy and instability of the third century; the rise of Christianity and the beginning of anti-Jewish legislation in the fourth century; and, finally, the disappearance of the Patriarchate in the fifth century. Even the partially and perhaps hastily edited form of the Palestinian Talmud, especially when compared to its more polished Babylonian counterpart, was often interpreted as an indication of the sudden closure of this enterprise in the face of impending disaster. Therefore, to find that Jews throughout the Byzantine era were building synagogues everywhere, often on a grand and imposing scale, requires a major re-evaluation of this period.

There is probably no more striking example of the new perception of this period as one of relative stability and, at times, remarkable prosperity for the Jews than the synagogue at Capernaum (Fig. 20.18). This building,

<sup>26</sup> This approach has been taken to an extreme by S. Schwartz in his stimulating and provocative volume, *Imperialism and Jewish Society, 200 BCE to 640 CE* (Princeton, 2001), 179–289.



Figure 20.18 Main hall of the Capernaum synagogue

monumental in size and ornate in decoration, was completed – according to the emerging consensus – only in the latter part of the fifth or perhaps early sixth century, that is, well into the Byzantine era. The building's prominence was enhanced by the artificially raised podium on which it stood, thereby dwarfing the nearby Church of St. Peter, also built in the fifth century.<sup>27</sup>

<sup>27</sup> This picture of a dynamic and expansive Jewish community in Byzantine Palestine has received confirmation over the last century from an entirely unexpected source. Documents from the Cairo Genizah have established that many works formerly dated to the early Middle Ages were actually written in the Byzantine era, and certain literary genres – once thought to have been the products of later centuries – in reality made their first appearance at that time.

Generally speaking, the Byzantine period is now accorded a far different appraisal than that which was normative earlier; it was not a post-classical era of decline, but rather an evolving civilization that spawned some dramatically new forms and institutions, as well as a new cultural and spiritual focus.

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# JEWISH FESTIVALS IN LATE ANTIQUITY

JOSEPH TABORY

## I DEFINITIONS OF TERMS AND METHODOLOGICAL PROBLEMS

The period to which this volume is devoted, the late Roman rabbinic period, begins some years before the destruction of the Second Temple. However, the sources on which our discussion is to be based rarely permit a clear distinction between developments in the late Second Temple period and those of the early Temple period. Therefore, the period that is the subject of this article begins, approximately, with the return of the Jews to the land of Israel from their exile in Babylon. It concludes with the final redaction of the Babylonian Talmud, some time between the beginning of the sixth century CE and the end of the seventh. At times it will be necessary to refer to some material which is actually later than the end of the late Roman rabbinic period, when there is reason to think that the traditions found in the later literature actually reflect practices of the Late Roman-Rabbinic period – which have not been documented in the earlier sources.

Although most Jewish festivals are based on the Torah, a product of the biblical period, the Late Roman-Rabbinic period may be considered the formative period of these festivals, for we have little knowledge about details of their observance during the biblical period. The sages who lived in the Late Rabbinic period attempted to show that most of the details of the festival rituals were based on study of the biblical text, although some of these details were definitely presented as innovations of later periods.

The history of the festivals in this period is derived, mainly, from talmudic literature. In order to understand the nature of the conclusions derived from this literature it is necessary to point out that talmudic literature consists of two major blocks: (1) the material composed by Tannaim, those sages who lived between the end of the Second Temple period and the beginning of the third century CE; and (2) the material composed by Amoraim, those sages who lived between the beginning of the third century and the final redaction of the tannaitic and amoraic material in the sixth and seventh centuries. The main body of tannaitic material



consists of the Mishnah and its companion work, the Tosefta. The tractates of the Mishnah are organized into six sections of orders, and one of these orders, known as *Moed* ("Appointed Times") is devoted solely to the festivals. Of secondary importance are some exegetical works on the Pentateuch. Most of the tannaitic material was composed in the Land of Israel.<sup>1</sup>

The amoraic literature is mostly organized as exegesis of the Mishnah. It splits up into two branches: the work known as the Palestinian Talmud or the Jerusalem Talmud (= PT), composed in the Land of Israel; and the Babylonian Talmud (= BT) which was composed in Babylon. All these works contain material that may be earlier, and even much earlier, than its final redaction. Some of the material is referred to sages who lived in the beginning of the Second Temple period. Some scholars reject the authenticity of these attributions, some of them or all of them, while other scholars argue that analysis of the material shows that some or much of it is much earlier than the date of its final redaction.

The other written sources for portraying the early history of the festivals are the Apocrypha and Pseudepigrapha, the writings of Philo at the beginning of the first century, and the writings of Josephus towards the end of that century. Documents from Qumran also contribute to our knowledge of the festivals in this period and to our knowledge of the disputes between the sects in this period – as the calendar and festivals were one of the focal points for these disputes. In addition, physical remains of the period – documents, architectural evidence, numismatic evidence and such – contribute to our understanding of how the festivals were celebrated during this period.

## II THE CALENDAR AND ITS DEVELOPMENT

The Jewish calendar today is a totally fixed calendar whose dates may be calculated for centuries into the future. Its basis is astronomical, starting from a month whose beginning is determined by the conjunction of the Moon and the Sun. In antiquity, the day on which the crescent first became visible after the conjunction of Sun and Moon was considered the beginning

<sup>1</sup> For a general introduction to talmudic literature see H. L. Strack and G. Stemberger, *Introduction to the Talmud and Midrash* (Edinburgh, 1991). For more specific information on the Talmuds see B. Bokser, "An Annotated Guide to the Study of the Palestinian Talmud," in J. Neusner (ed.), *The Study of Ancient Judaism*, 11: *The Palestinian and Babylonian Talmuds* (Hoboken, 1981), 1–119; D. Goodblatt, "The Babylonian Talmud," in Neusner (ed.), *The Study of Ancient Judaism*, 11 120–99; and ch. 33 in the present volume.

of the month. The Torah ordained that the first month of the spring (Nisan), determined either by the equinox or by climatic considerations, should be considered the first month of the year. However, there were other traditions which considered the beginning of the fall season, the month of Tishri, as the beginning of the year. Both traditions have left their mark on the Jewish calendar.

Although most of the knowledge for creating the fixed calendar in use today was already available well before the Common Era (for example to the Athenian astronomer Meton, fl. 432 BCE), the Jewish calendar is presented in rabbinic literature as an unfixed calendar that was declared *ad hoc*, month by month and year by year. The beginning of the month was declared by a special rabbinic court that would declare the day to be accepted as the beginning of the month only after examining witnesses who had testified that they had seen the new moon. This method permitted a limited amount of leeway in declaring the day which would be the first of the month, as the court could reject the testimony of the witnesses, forcing the month to begin only on the next day. The beginning of the month could not be postponed more than one day after the new moon shone in the sky. The main use of this leeway was to prevent festivals from falling on a day of the week which would conflict with the weekly Sabbath.<sup>2</sup>

Since twelve lunar months are approximately 354 days, while the solar year is approximately 365.25 days, it was necessary to find a way to synchronize these two cycles. This was done by intercalation, inserting an extra month once every two or three years, thus creating a luni-solar calendar. The extra month was added between Adar and Nisan and it was called "second Adar" (Tos. *Sanh.* 2.7). The significance of this intercalation was that the month of Nisan, which was required to be in the spring, was postponed for thirty days.

The intercalation of the year was also decided by a court which based its decision on a number of factors. The prime factor was the spring equinox, March 21, which should fall in the month of Nisan, the month of the spring festival.<sup>3</sup> There were other factors, many of them relating to the climatic conditions of the particular year (Tos. *Sanh.* 2.2). When the Rabbis deemed it necessary, they could postpone the month of the spring festival by adding an intercalary month just before it.

<sup>2</sup> M. D. Herr, "The Calendar," in M. Stern and S. Safrai (eds.), *The Jewish People in the First Century* (Philadelphia, 1976), 11 834–64; and S. Stern, *Calendar and Community: A History of the Jewish Calendar 2nd Century BCE–10th Century CE* (Oxford, 2001).

<sup>3</sup> For various reasons, the Rabbis ruled that the equinox must fall in the first half of the month of Nisan (for details on this see s. v. "Aviv," *Encyclopedia Talmudit*, CD-rom edition, and the Responsa Project 10.0+ of Bar Ilan University (Ramat-Gan, 2003), 52.

Since the calendar was based on month-to-month decisions, it was necessary to have a regular system to notify Jews all over the populated world when the month had begun. A signaling system by bonfires was abandoned when bonfires lit by others brought about confusion. A system of emissaries was developed, which was beneficial only to those who lived within a reasonable distance from the court (*M. Rosb. H. 2.2*). According to rabbinic tradition, those who lived far away from the courts observed the festivals for an extra day, as they could not be sure which day had been proclaimed as the first of the month. This day was known as the Second Festival Day of the Exiles.<sup>4</sup> Evidence for the practice of this custom is found only in reference to Jews living in Babylon, and it may be that the origin of the custom is connected with the fact that the new moon may have first become visible in Babylon only a day after its appearance in Israel.

Steps toward the regulation of the calendar into a fixed system were taken in the third or fourth century. The earliest stage seems to have been a regulation of when the month should begin. Technically, there was no longer any reason for Diaspora Jews to observe a Second Festival Day – as they now knew for sure on what day of the week the month would begin. However, they were ordered to continue this practice as a traditional custom which could not be abandoned (*BT Bez. 4b*). More and more details of the calendar became fixed until the modern-day calendar was accepted – apparently some time in the tenth century.

The rabbinic calendar was not the only one in use by Jews. There were sects in Second Temple Judaism that used a fixed calendar based solely on the solar cycle. The solar year was divided into twelve months, but there is no correlation between these months and the cycle of the Moon – just as there is none in the modern civil calendar.<sup>5</sup> The calendar was the subject of bitter polemics during the Second Temple period and it caused severe friction when different groups celebrated the same holiday on different days.

The first day of the month was an important day in the Jewish calendar and the Torah prescribed special sacrifices on that day. However, the precise nature of the day seems to have fluctuated. On the one hand, there is some evidence that people refrained from work – considering this day almost as a festival on which work was forbidden. On the other hand, most evidence shows that this day was considered an ordinary day, although a special

<sup>4</sup> For a fuller discussion see J. Tabory, *Jewish Festivals in the Era of the Mishnah and Talmud* (Jerusalem, 1995), 78–83 (Hebrew).

<sup>5</sup> For a survey of these calendars see U. Glessmer, “Calendars in the Qumran Scrolls,” in P. W. Flint and J. C. Vanderkam (eds.), *The Dead Sea Scrolls After Fifty Years: A Comprehensive Assessment* (Boston, 1999), 213–78.

liturgy for this day became common in this period. The day was marked in the liturgy by the reading of the Torah and by an additional *amidab* (the statutory, silent, standing prayer), which referred to the day. In Babylon, in the amoraic period, we first find the custom of reading selected passages of Psalms, selections from the liturgical unit known as *hallel*, in celebration of the day.<sup>6</sup>

### III THE SABBATH

The Sabbath is *sui generis* in the Jewish calendar. The seven-day week, culminating in a special day, has no direct connection with the regular calendar or any astronomical basis, although scholars have suggested either that it was meant to be a quarter of a month or that it was affiliated with the seven observable objects in the solar system. The Torah gives as its basis the unit of time in which the world was created. It is unique among Jewish appointed times in that its origin is not connected with a command of God to the Jewish people but is based on the universal idea of creation. It was established at the time of the creation of the world, before the existence of the Jewish people. Nevertheless, the Sabbath served as the basis for the other special days, as its fundamental ideas – restraint from work and a special liturgy – were transferred to the other days.

The biblical injunction against work on the Sabbath was general. Certain types of labor, such as lighting fires, were mentioned specifically, but there is no general definition of the term “work.” The Tannaim defined thirty-nine main categories of work which were forbidden on the Sabbath. These categories may be broken down into two major sub-categories and several miscellaneous types. The first major sub-category consists of twelve types of labor connected with the production of bread: plowing, planting . . . kneading and baking. The second consists of thirteen types of labor connected with writing – starting with hunting an animal for its skin and ending with writing itself. One of the major “works” included in the category of forbidden labors was carrying things from home to street or, in rabbinical terms, from a private property to public property. The Amoraim further refined this system by listing numerous sub-categories of these major categories, and their work determined the nature of the Jewish Sabbath.<sup>7</sup>

Besides the aspect of resting and refraining from work on the Sabbath, there developed a liturgical ritual for the day. The earliest evidence of

<sup>6</sup> For a fuller discussion of this issue see Tabory, *Jewish Festivals*, 27–33.

<sup>7</sup> Y. D. Gilat, *Studies in the Development of the Halakha* (Ramat-Gan, 1992), 85–122, 301–62 (Hebrew).

people gathering together on the Sabbath, found in the Synoptic Gospels, Josephus, and apocryphal sources, is from the time when the Temple still existed. These sources speak of the reading of the Torah and its exposition as the main item of the gathering. This developed into a regular pattern of reading the text consecutively, beginning each Sabbath from the place where they had left off on the prior Sabbath. Eventually they developed a triennial cycle in which the reading of the Torah was completed within three to four years, and an annual cycle in which the reading was completed every year. In amoraic times, the triennial cycle was the accepted one in the Land of Israel, while the annual cycle was the one followed in Babylonia. However, it has been argued that the annual cycle was the earlier custom among all Jews and that the triennial cycle was an adaptation of the annual cycle. This theory maintains that the development of synagogal poetry and sermons lengthened the service, which was then shortened by reading a smaller section of the Torah.<sup>8</sup>

Later sources speak of a liturgy for Sabbath and holidays based on a series of seven blessings. The pattern of the prayer was similar on the Sabbath and on holidays. The first three blessings were praises of God; the fourth referred to the particular day, whether Sabbath or holiday; the fifth referred to the Temple ritual; the sixth was a final blessing which expressed thanks to God; and the seventh was an appendix which included the priestly blessing of Israel. The Houses of Hillel and Shammai debated about the pattern of this blessing when the Sabbath coincided with a holiday. The House of Shammai argued that each day should have its own blessing, so that the total on that day would be eight blessings; while the House of Hillel argued that mention of both days should be incorporated into the fourth blessing, thus retaining the general pattern of this prayer (*Tos. Ber.*). The importance of this discussion is that the Houses of Hillel and Shammai already knew of this liturgy, and it thus must have existed during the Second Temple period. This argument, however, is not entirely conclusive, since a few arguments between these Houses took place after the destruction of the Second Temple.<sup>9</sup>

The Sabbath was a day not only of rest but also of enjoyment. Although there is evidence that some people felt that the holiness of the Sabbath should be best observed by fasting, most rabbinic sources show that the Sabbath was a day for physical pleasure, mainly expressed by eating good

<sup>8</sup> T. C. Eskenazi, D. J. Harrington, W. H. Shea (eds.), *The Sabbath in Jewish and Christian Traditions* (New York, 1991).

<sup>9</sup> For a survey of the most recent developments in this field see R. Langer, "Revisiting Early Rabbinic Literature: The Recent Contributions of Ezra Fleischer," *Prooftexts* 19 (1999), 179–204.

food. The Mishnah implies that the norm was to eat three meals on the Sabbath: one on Friday night and two during the day of the Sabbath. On weekdays, the norm was to eat two meals a day, and the Friday meal was postponed so that it could be eaten after the onset of the Shabbat. The Amoraim encouraged people to eat three meals on the Sabbath, and one amora actually required four meals during the Sabbath. The use of wine was prescribed for rituals marking the onset of the Shabbat and its conclusion. The onset of the Shabbat was celebrated during the first meal, with a liturgy for declaring the sanctity of the day, known as *kiddush*, recited over a cup of wine. The ending of the Sabbath was also marked by a liturgy, known as *havdalah*, which dwelled on the distinction between the holy and the profane, with special emphasis on the difference between the sacred time just ended and the secular time that was about to begin. The *havdalah* was apparently incorporated into the grace recited after the meal eaten at the close of the Sabbath. These ceremonies seemed to have developed during the Second Temple period as the Houses of Shammai and Hillel disagreed about some of the details. At this time, it was not yet customary to pray in the evenings. Once the evening prayer became an established institution, the significance of these ceremonies changed. The introduction of the Sabbath was accomplished by the evening prayer, but the *kiddush* over wine was retained as a table ceremony to be conducted at the beginning of the meal. The ending of the Sabbath was also marked by a text incorporated into the evening prayer, but, here again, the *havdalah* over wine was retained as a home ceremony.

The ritual of lighting candles at the onset of the Sabbath, later to become a hallmark of the day, was not mentioned as an obligation, but the Mishnah assumed that people lit candles before the onset of the Sabbath (*M. Shabb. 2*) so that they would not sit in the dark on Friday night.<sup>10</sup>

#### IV THE FESTIVALS OF THE TORAH

##### A INTRODUCTION

The calendar of special dates in the Torah<sup>11</sup> includes a variety of days, most of them connected to the agricultural cycle of the Land of Israel. Special significance is given to those days on which the Torah limited the types of

<sup>10</sup> The classic study of the early history of this ritual is that of B. M. Lewin, "The History of the Sabbath Candles," in I. Davidson (ed.), *Essays and Studies in Memory of Linda A. Miller* (New York, 1938), 55–68. For later developments see I. Ta-Shma, *Minbag Ashkenaz Hakadmon* (Jerusalem, 1992), 125–41.

<sup>11</sup> There are five lists of these dates: Exod. 23; 34; Lev. 23; Num. 29; Deut. 15. The first two mention only the pilgrimage festivals.

work which could be done on them. The Torah lists them in chronological order, starting with the spring, which was considered the beginning of the year for this purpose. There are five festivals of this type: Passover, or *Pesach*, which fell at the beginning of the spring; Pentecost, or *Shavuot*, which fell fifty days after *Pesach*; the day of Sounding the Horn, which fell at the beginning of the seventh month; the Day of Atonement (Yom Kippur) on the tenth of that month, and the festival of Booths (Tabernacles or *Sukkot*), which fell in the middle of that same month. *Pesach* was a seven-day festival; *Sukkot* was an eight-day one. (The eighth day of *Sukkot* was considered, to some extent, as a separate festival, although, for most of our purposes, we shall consider it the closing day of the festival.) The others were all one-day festivals. Typologically, we may distinguish between *Pesach*, *Shavuot* and *Sukkot* on the one hand, and the two festivals which fell in the first half of the seventh month on the other. The first three were specifically related to the solar, agricultural cycle, and they were known as Pilgrimage Festivals because of the obligation to go to Jerusalem and offer special sacrifices on those days. The two other special times have no obvious common feature. Later sources refer to them as the Days of Awe or the High Holidays, and they will be discussed below.

The definition of work forbidden on these days was basically identical with the definition of work forbidden on the Sabbath.<sup>12</sup> However, the Torah specifically permitted work necessary for the preparation of food on the Passover (Exod. 12.16) and the Rabbis understood that this permission was effective for all the holidays – with the exception of the Day of Atonement, on which it was forbidden to eat. The permission to prepare food on festivals was mostly understood by the Rabbis as action-oriented rather than goal-oriented. Types of labor necessary for preparing food were permitted even when not performed in connection with food preparation, while some types of labor were forbidden even if one wished to undertake them in the course of preparing a meal.

On the festivals which lasted more than one day, *Pesach* and *Sukkot*, the Torah forbade work only on the first and last days. Nevertheless, the intermediate days, known as *hol hamoed* (the weekdays of the holidays), were also considered by the Rabbis as days on which there were restrictions on labor. Most of these restrictions were presented casuistically and it is difficult to find a principle behind these rulings (Cf. BT *Moed K.* 12b). Some principles were developed which gave guidelines on when it would be permitted to work on these days. Among these guidelines we may mention

<sup>12</sup> The history of the development of the list of forbidden types of work on the Sabbath has been discussed by I. D. Gilat, *Studies in the Development of the Halacha* (Ramat-Gan, 1992), 32–62 (Hebrew).

that it was permitted to do certain types of work if it was necessary for the enjoyment of the holiday or if not doing them would cause an excessive loss.

#### B THE PILGRIMAGE FESTIVALS

The three main festivals of the Jewish year were Passover, or *Pesach*, Pentecost, or *Shavuot*, and Booths (Tabernacles), or *Sukkot*. There were two features common to these three festivals. The first is their agricultural significance. *Pesach* was the spring festival, the beginning of the grain harvest. On the second day of the festival the first sheaves of barley were to be brought to the Temple. *Shavuot* was a continuation of the celebration of the beginning of the harvest. On that day, the first bread baked from the new wheat was to be brought to the Temple. *Sukkot* was the festival of ingathering, the celebration of the completion of the harvest and the ingathering of the summer's fruits. The second feature of these festivals is that they were pilgrimage festivals. As long as the Temple existed, people were expected to leave their homes in order to celebrate the festival in Jerusalem, offering there special sacrifices connected to the festivals.

Each of the three festivals had its own specific ritual. *Pesach* actually had two rituals connected with it: the sacrifice of the Paschal lamb and the obligation to eat unleavened bread – *mazzah*. The sacrifice of the paschal lamb took place on the fourteenth of the month of Nisan, which was, to a certain extent, a separate festival. The paschal lamb was eaten on the eve of the fifteenth, which was also the beginning of the *mazzah* festival.

The *mazzah* festival was a seven-day celebration. The only ritual prescribed by the Torah for these seven days was the eating of *mazzah*. However, most of the Sages understood this to mean, not that it was actually necessary to eat *mazzah* on those days, but that it was forbidden to eat any leavened grain (*hamez*). According to their interpretation, there was no obligation to eat *mazzah* except at the first meal of the festival. The Torah required one's home to be free of leaven throughout the festival, and the Rabbis ordained that the home should be thoroughly searched before the Passover to ensure that no leaven was to be found there. A large part of tractate *Pesachim* of the Mishnah is devoted to the definition of leaven and to the requirements of the search.

The first meal of the *mazzah* festival was also the one in which the paschal lamb was eaten together with *mazzah* and bitter herbs. This meal became known as the *seder*, meaning "order," and implying that there was a strict order for the ritual. The ritual also included a liturgy, which became known as the *aggadah*, which described the Exodus from Egypt. The cessation of the sacrifice after the destruction of the Temple caused some major changes in this ritual. The exact nature of these changes has been the subject of



much scholarly discussion. Some have suggested that the *aggadah* was first introduced after the destruction of the Temple, while others have argued that it did exist before the Destruction but then it came after the meal rather than before it.<sup>13</sup>

Another ritual conducted on *Pesach* was the *omer*. This ritual consists of the offering on the Temple altar of grain made from the first sheaves of the new barley crop. The Torah prescribed that this ritual was to take place on the “first day after the Sabbath.” The Sages understood that the “Sabbath” referred to here is the first day of *Pesach*, called “Sabbath” because it was forbidden to work on that day. The Boethusians maintained that the term “Sabbath” was used in its usual meaning of the seventh day of the week. According to them, this ritual was only indirectly connected with *Pesach*. Until the *omer* had been offered, it was forbidden to eat of the new crop, or even to harvest it. After the destruction of the Temple and the cessation of this offering, it was decided that the new crop could be eaten once the day of the *omer* had passed – even though no offering had been made.

The unique ritual of the festival of *Shavuot* (Pentecost) was the offering of bread baked from the new wheat which was brought to the Temple. It was this ritual which gave the festival its name as the day of firstfruits. This also served as a symbol of the connection between *Shavuot* and the bringing of the *omer*, which took place fifty days before this. The *omer* was the first of the barley crop, signifying the beginning of the harvest, and wheat brought on *Shavuot* symbolized the beginning of the wheat harvest.<sup>14</sup> The book of Jubilees considered this day as an annual celebration of the covenant between God and the Jewish people, mentioning that the covenant of the rainbow with Noah had been enacted on that day. The earliest evidence that the Rabbis considered this festival as the day of the covenant, specifically recognizing it as the anniversary of the giving of the Torah, appears in the Babylonian Talmud. This idea became the major feature of the festival.

The term *Sukkot* (tabernacles or booths) refers to the booths in which Jews were required to dwell during this holiday. A great part of the tractate *Sukkah* deals with the making of the booths, what materials may be used and how big they should be. Another ritual associated with this festival was taking four species of plants, a citron fruit, and the branches of three

<sup>13</sup> For a full discussion of the history of the ritual for this evening see J. Tabory, *The Passover Ritual Throughout the Generations* (Tel-Aviv, 1996) (Hebrew); idem, “Towards a History of the Paschal Meal,” in P. F. Bradshaw and L. A. Hoffman (eds.), *Passover and Easter: Origin and History to Modern Times* (Notre Dame, 1999), 11 62–80.

<sup>14</sup> The Temple Scroll prescribes additional firstfruit celebrations: the first wine was celebrated fifty days after *Shavuot* and the first oil fifty days after that. See for further details J. Milgrom, “New Temple Festivals in the Temple Scroll,” in T. G. Madsen (ed.), *The Temple in Antiquity: Ancient Records and Modern Perspectives* (Provo, 1984), 125–34.

trees – the palm tree, the willow, and the myrtle (which grows as a bush). The three branches, bound into a group and held together with the citron fruit, were waved in several directions during the recitation of the group of psalms known as *hallel*. The ritual was performed both in the Temple and in the synagogue. There is evidence that this ceremony was primarily connected with the Temple, and it was only in later times, after the destruction of the Temple, that it was wholly transferred to the synagogue. The onset of the rainy season was stressed during this festival and one of the prime rituals was the pouring of water on the altar during the sacrificial ritual. This ceremony, not mentioned in the Torah, was one of the points of disagreement between rabbinic Jewry and separatist sects. A night-long celebration was held in the Temple courts, known as *Simḥat Bet hashoevah*, which served as a preliminary to the ceremonial drawing of water in the morning for the water-pouring ceremony. These unique rituals did not take place on the final day of *Sukkot*, the eighth day, which was considered a separate holiday, known as *Shemini Azeret*.<sup>15</sup>

#### C THE NEW YEAR AND THE DAY OF ATONEMENT

The two festivals known today as the High Holidays, the New Year (Rosh Hashanah) and the Day of Atonement (Yom Kippur) were not recognized in biblical times, or in the rabbinic period, as a unique unit. Their separateness was perceived only in the fact that, of the five festivals prescribed in the Torah, these two were the only ones which were not pilgrimage festivals. The first of these two fell on the first day of the seventh month of the year, and its only biblical ritual is the sounding of the ram's horn (Lev. 23.24; Num. 29.1). This day became known as the first of the year and its ritual was connected with the idea of the world being judged by its Creator on its birthday (M. *Rosh H.* 1.1–2). The second festival, falling on the tenth of Tishri and known in the Bible as the Day of Atonement (Lev. 23.27), was marked only by the requirement to afflict one's soul on that day (Lev. 23.27; Num. 29.7). Another biblical passage orders a ritual of purification of the Temple to be conducted annually on this day (Lev. 16.29). This rite was considered of major importance by the Rabbis, as shown by the fact that seven of the eight chapters of the mishnaic tractate about this day, *Yoma*, deal with the precise details of this ritual. After the destruction of the Temple, no attempt was made to provide an alternate ritual for this day. An extra prayer was added at the close of the day (*neilah*), but this was done on

<sup>15</sup> For a more complete discussion of this festival see J. L. Rubenstein, *The History of Sukkot in the Second Temple and Rabbinic Periods* (Atlanta, 1995); and Tabory, *Jewish Festivals*, 156–211.

all fast days. A major feature of the second prayer of this day was the recitation of the ritual, and many poets composed poetic renditions of the Temple rite.

Only in the final chapter of the Mishnah is there a discussion of the other aspects of the day. The biblical injunction that one should inflict oneself on this day was understood as including five types of infliction: (1) refraining from eating and drinking; (2) refraining from washing one's body; (3) refraining from anointing one's body; (4) not wearing shoes; and (5) sexual abstinence (M. *Yoma* 1.1).

The Day of Atonement was considered as a continuation of the judgment process that had begun on the New Year. The ten-day period beginning with the New Year and ending on the Day of Atonement became recognized as a unique period of time, although its later accepted name, Days of Awe, appears only in medieval sources.<sup>16</sup>

## V SECOND-TEMPLE FESTIVALS

### A THE FAST SCROLL

During the Second Temple period, many days in the year were marked as festive days in commemoration of events which occurred during this period. Most of the special dates established in this period were connected to the Maccabees and their victories over their enemies. The only festive significance of these days is that it was forbidden to fast on them and – on the more important of these days – it was also forbidden to hold eulogies. A list of these festivals is found in the work known as the *The Scroll of Fasts*, which contains a list of days on which fasting was forbidden. This scroll is written tersely in Aramaic, being mostly a list of the dates on which fasting is forbidden, with a very rudimentary explanation, usually of a few words, of why that day was considered special. These explanations are often ambiguous, and a scholion to the list was compiled, in Hebrew, with expanded explanations.<sup>17</sup> After the destruction of the Temple, there was a tendency to ignore the celebration of happy events and eventually the Fast Scroll was considered to have been abolished, with the possible exception of Purim and Ḥannukkah.

<sup>16</sup> For a fuller discussion of these festivals see Tabory, *Jewish Festivals*, 215–303.

<sup>17</sup> The various traditions of the scholion were examined by Vered Noam in her MA thesis and in her doctoral dissertation, both in Hebrew. See now V. Noam, "Lenusahav shel hascholion limgillat ta'anit," *Tarbiz* 62 (1993), 55–99. The standard scholarly edition of the scroll is that of H. Lichtenstein, "Die Fastenrolle: Eine Untersuchung zur jüdisch-hellenistischen Geschichte," *HUCA* 8–9 (1931–2), 257–317.

## B PURIM

Purim, celebrated in the month of Adar, about a month before the Passover, commemorated the salvation of the Jews from destruction by Haman some time after Xerxes had permitted the Jews to return to the land of Israel. This may be considered, to some extent, a biblical holiday, as the biblical book of Esther is devoted to this story and this story is the foundation of the holiday. However, the festival became widespread only in the late Second Temple period. The main feature of the festival was the reading of the Esther scroll (the Megillah). Tannaitic literature mentions only one other obligation – to give gifts to poor people on that day. Amoraic literature mentions additional obligations: celebrating the day by a festive meal, and sending gifts to friends and, especially, to poor people. These customs are hinted at in the Esther Scroll, but there is no evidence for their observance before the end of the second century CE.

Other aspects of the festive nature of this day are mentioned in anecdotes about second-century figures. It was forbidden to fast on *Purim* and some people refrained from working on that day. However, various anecdotes tend to show that important rabbis considered Purim as a day on which it was permitted both to fast and to work.<sup>18</sup>

## C ḤANUKKAH

The most important date in the *Scroll of Fasts* was the twenty-fifth of Kislev. On this day the Maccabees had rededicated the Temple after they had redeemed it from Syrian occupation. In honor of the dedication, they celebrated an eight-day holiday known as Ḥanukkah. Unique among the days mentioned in the *Scroll of Fasts*, it had a home ritual connected with it: the lighting of candles. Josephus knew of the custom of lighting candles in honor of the festival, but he was not aware of the reason for this. It has been suggested that this ritual was introduced only in the time of Herod.<sup>19</sup> Rabbinic tradition stated that the custom was in honor of a miracle connected with the lighting of the candelabra in the Temple. When the Maccabees rekindled the candelabra, they found but one small flask of oil which could be used. Although it was sufficient only for one day, it miraculously burned for eight days until they could produce more oil. In commemoration of this, the tradition was to light a different number of candles each night: either beginning with eight and decreasing the number each day, or beginning with one and increasing the number each day until

<sup>18</sup> See Tabory, *Jewish Festivals*, 323–67.

<sup>19</sup> M. Benovitz, “Herod and Ḥanukkah,” *Zion* 68 (2003), 5–40 (Hebrew).

eight were lit on the final day. This festival, alone among the other Maccabean festivals, survived the destruction of the Temple, and its ritual is still observed. The festival is mentioned only a few times in the Mishnah, and one oblique reference (M. *Baba K.* 6.6) shows that it was observed by the lighting of candles. The main discussion of the ritual of this festival is found only in the Babylonian Talmud (BT *Shabb.* 21a–24a).

## VI POST-BIBLICAL FAST DAYS

### A THE MEANING OF FASTING

The only day on which fasting is prescribed in the Torah is the Day of Atonement. Public fasting was declared in times of special trouble, and the fasting was part of an extensive ritual to avert the trouble, as is well documented in the biblical books of Jonah and Esther. This tradition continued in rabbinic Judaism,<sup>20</sup> and a tractate of the Mishnah (*Taanit*) is devoted to the ritual of these fasts. The prevalence of these fasts was due to the particular climate of the land of Israel, dependent on a rainy winter for the year's water supply. A drought could mean an actual shortage of water for drinking. The Mishnah (*Taan.* 1–2) includes a calendar for the winter and its expected rains. If it did not rain by a certain date, individuals began fasting and, if the drought continued, severe fasts were proclaimed for the whole population. The ritual of these fasts included, besides the actual fasting, public gathering for prayer and repentance in an attempt to end the drought (M. *Taan.* 4).

### B MEMORIAL FASTS

In a much more limited fashion, fasting was also used as an expression of memorial for past troubles. After the destruction of the First Temple, four fast days were observed in memory of the various stages of the fall of Jerusalem and the destruction of the Temple (Zech. 8.19). The seventeenth of Tammuz commemorated the breach in the walls of Jerusalem, which began a battle lasting three weeks, until the ninth of Av. That day (known as *Tisha b'Av*) became a fast day, commemorating the destruction of the Temple and the fall of Jerusalem. The third of Tishri commemorated the murder of Gedaliah, the Babylonian regent over Israel. His murder triggered the cancellation of Jewish autonomy by the Babylonian ruler. The

<sup>20</sup> H. A. Brongers, "Fasting in Israel in Biblical and Post-Biblical Times," *OTS* 20 (1977), 1–21; M. D. Herr, "Fasting and Fast Days," *EncJud* VI 1189–96; S. Lowy, "The Motivation of Fasting in Talmudic Literature," *JJS* 9 (1958), 19–38.

fourth fast, held on the tenth of Tevet, was the subject of an argument. One opinion maintained that it commemorated the beginning of the siege of Jerusalem, while another held that it commemorated the day on which the news of the destruction reached Babylon. The Jews were perplexed over whether they should continue to observe these days after the Temple had been rebuilt (Zech. 8.19) and it seems that these fasts fell into desuetude during the period of the Second Temple. A possible exception to this statement is the fast of the ninth of Av; there is some evidence that people continued to observe it in the Second Temple period (Cf. *M. Rosb H.* 1:3). After the destruction of the Second Temple, all these fasts were revived and became generally observed, although there were some reservations about this (BT *Rosb H.* 18b).

#### C OTHER FASTS

Two other fast days are known from the late talmudic period. One was observed in connection with Purim in memory of the days on which Esther and her people fasted. It is first mentioned in the post-talmudic work, *Sofrim*, where it is reported that it was a three-day fast observed in the month of Iyyar, a month later than the fasts held by Esther. In later tradition, a one-day fast was observed on the day before Purim.<sup>21</sup> Unlike the fasts mentioned above, which were meant to ward off impending disaster or to commemorate and bewail past events, this one, apparently, was merely aimed at identifying with Esther and her people in their fasts.

Another fast day, first mentioned in the Talmud, is the fast of the fourteenth of Nisan, the day on which the Paschal lamb had been sacrificed and the day before the *mazzab* festival (PT *Pes.* 10.1). It is implied that the firstborn were accustomed to fast on this day, perhaps in commemoration of the plague of the firstborn which had taken place on the night that followed that day. It seems that some people also fasted so that they would have a good appetite for the paschal meal.

#### VII CONCLUSION

Our review of the history of Jewish festivals and fasts in the late Roman rabbinic period is now concluded. This era may be considered the formative period of Jewish festivals. In the early part of this period some festivals were added to those of the Bible, while in the latter part only fast days were added to the calendar. After this era, no new festivals were added to the

<sup>21</sup> For a fuller discussion of these fasts and their early history see Tabory, *Jewish Festivals*, 307–415.

Jewish calendar, although some communities celebrated days of redemption from local persecutions, on the style of the Purim celebration. Fast days continued to proliferate in the post-talmudic era, because of frequent troubles and persecutions which were memorialized by fasting and prayer. A list of these fasts was composed, and it became known as the *Later Scroll of Fasts*. This led to its being confused with the earlier list of fasts, which was actually a list of happy days on which one should not fast. It was only with the establishment of the State of Israel and its Independence Day that the history of Jewish festivals was once again extended.

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# RABBINIC PRAYER IN LATE ANTIQUITY

REUVEN KIMELMAN

## I THE CHARACTER OF RABBINICAL PRAYER

Worship of God in the rabbinic period differs from that of the biblical period in its conceptualization of the synagogue and prayer. Practically, this shift is most noticeable in the role of the synagogue, the content and the modalities of the rabbinic liturgy, the role of the precentor, and that of the priests. Theologically, the shift is most noticeable in its central liturgical affirmation that the God of Israel is the King of the world.<sup>1</sup>

## II THE SYNAGOGUE AND PRAYER

With the destruction of the Temple in 70 CE the center of Jewish worship shifted to the synagogue. There is disagreement among modern scholars and ancient practitioners on the extent of this shift. Nonetheless, all agree to some extent that from tannaitic (70 CE–220 CE) to amoraic times (220 CE–500 CE) there occurred a “templization of the synagogue” and “a sacrificization of prayer.”<sup>2</sup> Since this tendency grew as time went on, it cannot be explained as a way of making up for the just-destroyed Temple. More significant was the awareness over time that the Temple would not soon be rebuilt. The hope in the imminent rebuilding of the Temple initially staved off the sanctification of alternative space.<sup>3</sup> But as memory

<sup>1</sup> *CHJ* 111 contains two studies on prayer and the synagogue: S. J. D. Cohen, “The Temple and the Synagogue,” 298–325; and S. Reif, “The Early Liturgy of the Synagogue,” 326–57. For the distinguishing gestalt of rabbinic theology in the Graeco-Roman world see ch. 37 in the present volume.

<sup>2</sup> See S. Fine, *This Holy Place: On the Sanctity of the Synagogue During the Greco-Roman Period* (Notre Dame, 1977); idem, “From Meeting House to Sacred Realm: Holiness and the Ancient Synagogue,” in S. Fine (ed.), *Sacred Realm: The Emergence of the Synagogue in the Ancient World* (New York, 1996), 21–47; Cohen, “The Temple and the Synagogue”; and L. I. Levine, *The Ancient Synagogue: The First Thousand Years* (New Haven, 2000).

<sup>3</sup> Philo (*De Spec. Leg.* 1.67); Josephus (*Contra Ap.* 1.93; *Ant.* 4.200); and the Rabbis (*Tanh.*, *Qorah* 5; *Num. R.* 18, 8) held, to use the words of Philo, that “Since God is one there should also be only one Temple.” The displacing of the Temple by another holy place such as the

of the Temple, or at least the apprehension of creating something like the inimitable Temple outside of Jerusalem, receded, the synagogue assumed increasingly a Temple-like aura. The growing sacralization of the Church in the Byzantine period is a parallel, if not contributing, phenomenon.<sup>4</sup>

In tannaitic times, the synagogue already assumed many of the activities associated with the Temple, such as the priestly benediction (by barefoot priests), blowing the ram's horn on a New Year which coincides with the Sabbath, shaking the palm branch and citron during all of *Sukkot* along with the reciting of the Hoshannas, reciting the Levitical *hallel* psalms and the psalm for the day, saying the priestly benediction, blowing the shofar to announce the onset of the Sabbath, and consoling mourners in public.<sup>5</sup> This assured Jews that the synagogue would continue the role of the Temple as the locus of communal worship. Nonetheless, in the early sources neither the synagogue nor communal prayer is described in terms redolent of the Temple. Even in later sources, the sacrifices, the cherubim, and the sacred vessels remained reserved for the Temple. Thus the synagogue never obviated totally the need for the Temple.<sup>6</sup>

In amoraic times, the synagogue acquired also a physical orientation to the Temple. Synagogues began to face Jerusalem, as the *bema*, niche, to which people turned in prayer was on the Jerusalem-oriented wall. The seven-branched Temple menorah and the eternal light also appear with increasing frequency.<sup>7</sup> Calling the holy ark *arana*, chest, and the synagogue *bet am*, house of *boi polloi*, was discouraged.<sup>8</sup> Indeed, synagogue inscriptions refer to it as "holy," "place," and "house of God."<sup>9</sup> Still, the synagogue remained a non-sacred place. It could be bought and sold or even converted into something less.<sup>10</sup> In sum, the synagogue assumed a semblance of the

synagogue was later viewed as verging on the idolatrous; see M. Zucker, *Rav Saadya Gaon's Translation of the Torah* (New York, 1959), 174–75 (Hebrew).

<sup>4</sup> See Levine, *The Ancient Synagogue*, 225–31.

<sup>5</sup> See Cohen, "The Temple and the Synagogue," 322; and Fine, *This Holy Place*, 56–7.

<sup>6</sup> See S. Safrai, "The Temple and the Synagogue [Hebrew]," in A. Kasher, A. Oppenheimer, and U. Rappaport (eds.), *Synagogues in Antiquity* (Jerusalem, 1987), 31–51 (Hebrew); Z. Safrai, "The Synagogue to 'Little Temple,'" *Proceedings of the Tenth World Congress of Jewish Studies* B/11, (Jerusalem, 1990), 149–58; Levine, *The Ancient Synagogue*, 183; Fine, *This Holy Place*, 50–1.

<sup>7</sup> See Levine, *The Ancient Synagogue*, 181–2, 223–4, 332–6; and R. Hachlili, *The Menorah, the Ancient Seven-armed Candelabrum: Origin, Form and Significance*, JSJSup 68 (Leiden, 2001), 41–120. There was also a not-so-successful effort to have the synagogue at the height of the city; see Levine, *The Ancient Synagogue*, 183.

<sup>8</sup> Levine, *The Ancient Synagogue*, 183, following Rashi, BT *Shabb.* 32a. Apparently, when not associated with the word holy, *arana* could denote "coffin."

<sup>9</sup> See Cohen, "The Temple and the Synagogue," 320; and Fine, *This Holy Place*, 99.

<sup>10</sup> See Cohen, "The Temple and the Synagogue," 321; and Levine, *The Ancient Synagogue*, 222.

Temple without becoming its surrogate. Its linkage to the Temple was liturgical-functional, not ontological or structural.

The problem was how to appropriate Temple terminology to create a religious continuum without creating a religious equivalency. The following material wrestles with the problem of creating a place that partakes of the sacred without threatening the sacrality of the Temple. A late Byzantine work states:<sup>11</sup>

And thus said the sages: One must not enter the Temple Mount with his staff and shoes. And if, owing to our sins, the Temple Mount is no longer available to us, a lesser Temple (*mikdash me'at*) is and we must behave in [it] in a spirit of holiness and veneration, as is written: "You must venerate My sanctuary" [Lev. 19.30]. Therefore, our ancestors have determined that in all synagogue courtyards there should be a large fresh water vessel for sanctifying [i.e., washing] hands and feet.<sup>12</sup>

This source reflects exquisitely the balancing act between the desire to upgrade the religious significance of the synagogue and the fear of encroaching on the uniqueness of the Temple. From the beginning it appears that the synagogue will come across as something verging on the Temple, but by the end the only consequence is washing. Even this linkage with the Temple is minimized by not making it explicit, saying only that the Temple also had a laver for the priests to wash their hands and feet "when they entered the Tent of Meeting and when they approached the altar" (Exod. 40.33).

Rabbi Saadya Gaon (882–942) extended the Temple analogy to the priests. For him, the verses "Make a laver . . . for washing; and let Aaron and his sons wash their hands and feet [in water drawn] from it . . . when they approach the altar to serve" (Exod. 30.17–21) demand "the purification of hands and feet before each prayer service. Just as the priests were obligated before their entry to the Temple so should we not say the *Amidah* (daily statutory standing silent prayer) until we wash our hands and feet."<sup>13</sup> Commenting on the same verse, Rabbi Avraham the son of Rambam (1186–1237) extended the analogy to the sacrifice: "The washing of hands and feet is required . . . for every service, since the *Amidab*s were instituted to correspond to the daily offerings; and since the *Amidah* takes

<sup>11</sup> See Levine, *The Ancient Synagogue*, 223.

<sup>12</sup> M. Margulies, *Hilkbot Erets Yisrael Min Ha-Genizab* (Jerusalem, 1973), 131–2. A laver for ablutions already appears at the entrance to the mid-third-century synagogue of Dura Europos; see Fine, *This Holy Place*, 141.

<sup>13</sup> Cited from Naftali Wieder, *The Formation of Jewish Liturgy in the East and West: A Collection of Essays*, 2 vols. (Jerusalem, 1998), II 667 with n. 160 (Hebrew).

the place of the sacrifice.”<sup>14</sup> From the late Byzantine period to the early medieval, washing was endowed with cultic significance, whether that of Temple, priest, or sacrifice.

The result was that in much of the Islamic world, Jews washed hands and feet upon rising or before prayer. In Europe only the hands were washed, but also on the grounds “that the high priest would sanctify his hands before the Temple service.”<sup>15</sup> While this emphasis on washing may be medieval, it is not too dissimilar from a passage in the Babylonian Talmud. There Rabbi Yoḥanan states: “He who relieves himself, washes his hands, lays *tefillin*, recites the *Shema*, and says the *Amidah*, Scripture accounts it to him as if he had built an altar and offered a sacrifice on it, as it is written: “I will wash my hands in cleanliness, and walk around Your altar, O Lord” (Ps. 26.6).”<sup>16</sup> Again, washing of the hands prior to prayer is justified by reference to the altar.

Other sources, however, understand the washing without reference to the Temple, but as preparatory to prayer. Book 3 of the *Sibylline Oracles*, c. first century BCE, praises ancient Jews as “a sacred race of pious men who . . . at dawn lift up holy arms toward heaven, from their beds, always sanctifying their hands with water,”<sup>17</sup> a practice that the somewhat contemporaneous *Letter of Aristaeus* relates to “their prayer to God” (305). A ninth-century CE work, *One Hundred Blessings* by Natronai Gaon, justifies washing before prayer by the verse “Prepare to greet your God, O Israel” (Amos 4.12).<sup>18</sup> Whatever the justification for pre-prayer washing, it explains the one-time practice of locating synagogues adjacent to bodies of water.<sup>19</sup>

The requirement for washing before prayer or synagogue entrance is similar to that of pre-prandial washing. The idea is that all Israel is partially subject to the priestly demands of holiness. The practice of washing before meals was thus derived from verses that speak of the sanctity of the whole people:

So they taught: “Sanctify yourself” refers to pre-prandial washing. “And be ye holy” (Lev. 11.44) refers to post-prandial washing. And what if they are not washed? “Just as soiled hands render one unfit for the Temple service, so do they render one unfit for meal-related blessings.”<sup>20</sup>

<sup>14</sup> *Sefer Ha-Maspik Le'Ovdey Hasbem*, ed. D. Nissim (Ramat-Gan, 1989), 69. Also see Wieder, *The Formation of Jewish Liturgy*, 11 675–6.

<sup>15</sup> *Abudarham*, ed. M. Baron, *Tebillah Le-David* (Jerusalem, 2001), 97 with n. 160.

<sup>16</sup> BT Ber. 15a.

<sup>17</sup> *Sibylline Oracle* 3, 573, 591–3, in J. Charlesworth (ed.), *The Old Testament Pseudepigrapha*, 2 vols. (Garden City, NY, 1983–5), 1 375, l. 592 with n. t.3.

<sup>18</sup> L. Ginzberg, *Geonica*, 2 vols. (New York, 1968), 11 114, l. 9.

<sup>19</sup> See Levine, *The Ancient Synagogue*, 106. <sup>20</sup> BT Ber. 51b.

And what if they are not wiped? “Whoever eats bread without first wiping his hands is as though he eats impure food.”<sup>21</sup> “Raise your hands and bless the Lord” (Ps. 134.2) was also interpreted to mean that the blessing over bread should immediately succeed the washing of the hands.<sup>22</sup> Another source uses both “Go to the people and sanctify them” (Exod. 19.10) and “Sanctify yourselves and be holy” (Lev. 11.44) to spell out the idea that priestly holiness should be extended to the whole people by comparing pre-prandial washing to the washing of the priests before approaching the altar.<sup>23</sup>

When Israel were in the wilderness, wandering around in it, the Holy One, blessed be He, said to Moses: *Go to the people and sanctify them today and tomorrow* (Exod. 19.10). And the Sages taught: “sanctify them” by immersion [in the ritual bath]. Likewise we infer the precept of washing the hands from the Torah, from [what was said to] Moses, Aaron and to his sons, *You shall make a laver of brass* (Exod. 30.18), which Moses, Aaron and his sons were to use for washing, as it is said *when they go into the Tent of Meeting . . .* (Exod. 30.20). But with regard to the Israelites, where does Scripture command washing the hands? In the verse *Sanctify yourselves and be holy* (Lev. 20.7). On the basis of this verse Rabban Gamaliel observed Levitical precautions of self-purification when he ate everyday [unhallowed] food. They (he) said: Sanctity was not mandated for priests alone (at Sinai), rather for priests, Levites, and all Israelites, as Scripture states: *The Lord spoke to Moses, saying: Speak to the congregation of Israel, and say to them: Ye shall be holy* (Lev. 19.1–2). Hence they say: anyone who trivializes the washing of hands, it is for him an ill omen.<sup>24</sup>

Similarly, two late third-century amoraim said: “As long as the Temple stood, the altar atoned for Israel; and now, a man’s table atones for him.”<sup>25</sup>

Whatever the hortatory value in the cultic comparisons, they were not to be taken literally. Israelites are no more priests in a cultic sense than tables are altars. Laxity with regard to handwashing may bring about an ill omen, but it does not lead to encroachment on the sacred or commit sacrilege. The synagogue, the daily liturgy, and washing before prayer and meals, all shared in the rabbinic program of extending some of the holiness of the

<sup>21</sup> BT *Sot.* 4b. On the rabbinic limitation of impurity to the hands, see M. Haran, *The Biblical Collection: Its Consolidation to the End of the Second Temple Times and Changes of Form to the End of the Middle Ages* (Jerusalem, 1996), 207, 212 n. 14 (Hebrew).

<sup>22</sup> PT *Ber.* 1.1.2d; *Midr. Pss.* 134.4. (ed. Buber, 518 and parallels; subsequent citations refer to this edition).

<sup>23</sup> According to Josephus (*Bell.* 2.8.5), the Essenes underwent immersion as a pre-prandial purification rite. In the Talmud (BT *Ber.* 15a, with Rashi, s.v. *dikbtiv*), the washing of the hands was deemed a miniature immersion.

<sup>24</sup> *SER* 16 (ed. Friedmann, 72). The parenthetical parts follow *Yal. Shim.* 1.386 (end).

<sup>25</sup> BT *Ber.* 55a (R. Yohanan and R. Eleazar) = BT *Hag.* 27a (R. Yohanan and Resh Laqish).

Temple/sacrifice/priests to the whole people, but the holiness was metaphorical, not cultic.<sup>26</sup>

Thus, none of this should be understood as vitiating the Temple cult or obviating the need for its restoration, as is made clear in the next source:

As long as the Temple existed, the daily offering and sacrifices would atone for the sins of Israel. Nowadays, the synagogues of Israel replace the Temple, and as long as Israel prays in them, they, in effect, replace the daily offerings and sacrifices; and when prayers are recited [therein] at the proper times and [the Jews] direct their hearts [to God through their prayers] they get to see the rebuilding of the Temple and the sacrificing of the daily offering and [other] sacrifices, as it is written: "And I will bring them to My holy mountain, and I shall rejoice in My house of prayer; your sacrifices and offering are welcome on My altar, for My house will be called a house of prayer for all peoples" (Isa. 56.7).<sup>27</sup>

The tension between the synagogue and the Temple, or, better, the ambivalence at accepting the synagogue as a Temple replacement, is evident. Thus what is exalted is not the actual synagogue, but the prayers recited therein at the proper time, the reward for which is the offering of real sacrifices in the real house of prayer. Virtual reality leads to reality.

In this scenario, synagogue prayer does not replace Temple sacrifice or prayer, but serves only as the next-best thing, an interim accommodation, until its replacement by the original. As Rabbi Isaac said:

At this time we have neither prophet nor priest, neither sacrifice nor Temple nor altar. What is that which can make atonement for us, even though the Temple has been destroyed? The only thing that we have left is *tefillah* (i. e., the *Amidah*).<sup>28</sup>

In the absence of the Temple and its accoutrements for atonement we have no recourse save prayer.<sup>29</sup>

<sup>26</sup> See B. Bokser, "Ma'al and Blessings Over Food: Rabbinic Transformation of Cultic Terminology and Alternative Modes of Piety," *JBL* 100 (1981), 557–74. On the Pharisaic extension of holiness to the lay Israelites without thinking of themselves as priests see H. K. Harrington, "Did the Pharisees Eat Ordinary Food in a State of Purity?," *JSJ* 36 (1995), 42–54.

<sup>27</sup> L. Ginzberg, *Genizah Studies*, 2 vols. (New York, 1969), 1 152–3. Thus R. Pinhas compared prayer in the synagogue to a pure meal offering at the Temple, *PT Ber.* 5.1.8d.

<sup>28</sup> *Tanb.*, *Vayisblah* 9; see *Tanb.*, *Korah* 12; *Num. R.* 18, 21 (ed. Halevy, 772); *Midr. Ps.* 141.2, 531; see also *Exod. R.* 31.4. Here *tefillah* is minimally the *Amidah* and maximally prayer in general.

<sup>29</sup> The exigency of the issue was expressed by Rabbi Isaac's older contemporary, Origen, a Church Father who was likewise a third-century Palestinian: "The Jews say that they do not have altars, a temple, or a priesthood, and because of this, not offering any sacrifices, our sins, they say, remain with us and for that reason no pardon comes" (*Homilies on Numbers* 10.2). On Rabbi Isaac as a respondent to the charges of Origen, see

Nonetheless, there are sources that consider the synagogue and academy on a par with the Temple. By taking the verse of Ezekiel (11.16) to mean “I will be for them a small Temple,” they justified placing a Temple-like eternal light in synagogues and academies on the grounds of their being Temple equivalents.<sup>30</sup> Similarly, the plural of sanctuary in “I will make your sanctuaries desolate” (Lev. 26.31) was taken “to include synagogues and academies.”<sup>31</sup>

In the early fourteenth century, Rabbi Jacob ben Asher gave this position its classical expression when he incorporated into his code of Jewish law the following:

That the *Amidah* is instead of the sacrifice . . . and thus one should be careful that it match the sacrifice in attentiveness . . . standing . . . placing the feet as the priests at the time of the sacrifice, and in fixing a place . . . and not to have anything interfere between him and the wall . . . and it is fitting that he wear nice clothes special for prayer such as the garments of the priesthood.<sup>32</sup>

In the same vein, he introduced in the morning liturgy a prefatory prayer that considers the morning service so compensatory of the cult that its restoration is not requested:

Master of the worlds, You commanded us to bring the daily offering at its appointed time; and have the priests perform their service and the Levites [sing and play music] on their platform and the Israelites be at their station. And now because of our sins, the Temple is destroyed and the daily offering discontinued; we have neither priest at his service, nor levite on his platform, nor Israelite at his station. But You said: “*Let the offering of our lips replace bullocks*” (Hos. 3.14). Therefore let it be Your will, O Lord our God, and God of our fathers, that the prayer of our lips be considered acceptable and pleasing to You as if we had offered the daily offering at its appointed time and stood at its station.<sup>33</sup>

R. Kimelman, “Rabbi Yohanan and Origen on the Song of Songs: A Third Century Jewish–Christian Disputation,” *HTR* 73 (1980), 567–95, 593.

<sup>30</sup> See Ginzberg, *Genizah Studies*, 177, 153; *Midrash Ha-Gadol Num.*, 119; *Sefer Pitron Torah*, ed. E. Urbach (Jerusalem, 1978), 18; and Zucker, *Rav Saadya Gaon's Translation of the Torah*, 170–1.

<sup>31</sup> *Sifra Lev.*, *Beḥuqotai*, 6 (ed. Weiss, 112a); see *M. Meg.* 3.3.

<sup>32</sup> *Arba'ab Turim, Oraḥ Ḥayyim*, 98. Rabbi Joel Sirkes in his commentary (*Bayyit Hadash*), ad loc., points out how many of these exceed talmudic requirements, which is exactly my point when I argue that the sacrifice–prayer equivalency is more medieval than rabbinic.

<sup>33</sup> *Arba'ab Turim, Oraḥ Ḥayyim*, 48. For a comprehensive expression of the equivalency between the rites of the Temple and those of the synagogue, see the penitential prayer of the eleventh-century German, Rabbi Meir Bar Isaac (Sheliaḥ Tsibbur), *Tefillah tiqah* (*The Complete Art Scroll Selichos*), ed. A. Gold, Sefarad [Minhag Polin] (Brooklyn, 1993), 374–83; and J. Woolf, “The Synagogue in Medieval France–Germany: Between Perception and Law,” in J. Tabory (ed.), *Kenishta: Studies in the Synagogue World*, 11 (Ramat-Gan, 2003), 9–30 (Hebrew).

As we have seen and shall see below, this cultic understanding of prayer as a surrogate for the sacrifice is more a result of the late Byzantine period than of the classical Roman period.

### III THE RABBINIC LITURGY

#### A THE MODEL OF THE SACRIFICIAL CULT

The daily synagogue morning service consisted of the *Shema* liturgy and the eighteen/nineteen-blessing *Amidah*. The *Shema* liturgy derives its name from the first word of its opening verse – “*Shema* [= Hear] O Israel, the Lord our God, the Lord is one” (Deut. 6.4). This verse heads a constellation in the liturgy and the Mishnah of three biblical sections, the first two from the book of Deuteronomy (6.4–9; 11.13–21) and the third from the book of Numbers (15.37–41). The biblical sections are preceded by two blessings and succeeded by an acknowledgment of the terms of the covenant and a blessing.<sup>34</sup> The evening version added a second blessing. The *Shema* is not part of the afternoon service. The *Amidah*, however, appears in every statutory service. As the first such service to emerge after the destruction of the Second Temple, it was designated *Ha-Tefillah*, that is, “the prayer” for the communal statutory liturgy.<sup>35</sup> There are different variations of the *Amidah* for special days. The Sabbath and Festival versions each contain seven blessings, the High Holiday Additional Service comprises nine, and fast days twenty-four. The weekday version now consists of nineteen blessings. While still consisting of eighteen,<sup>36</sup> it became known as *Shemoneh Esreh*, the Hebrew for “eighteen,” a term still in use. Since the *Amidah* now comprises nineteen blessings and is recited standing, the name *Amidah*, “standing,” has rightfully gained in usage.

The *Amidah* is composed of various elements, some of which hark back to the Second Temple period, indeed the Temple service itself. It crystallizes an extended process of liturgical composition. According to the Talmud,

<sup>34</sup> For an exposition, see R. Kimelman, “The *Shema*’ Liturgy: From Covenant Ceremony to Coronation,” in J. Tabory (ed.), *Kenishta: Studies in Synagogue Life* (Ramat-Gan, 2001), 9–105.

<sup>35</sup> For an exposition, see R. Kimelman, “The Literary Structure of the *Amidah* and the Rhetoric of Redemption,” in W. G. Dever and E. J. Wright (eds.), *Echoes of Many Texts: Essays Honoring Lou H. Silberman on His Eightieth Birthday*, BJS 313 (Atlanta, 1997), 171–218. For an abbreviated exposition of both the *Shema* and *Amidah*, see R. Kimelman, “Prayers in the Mishnah and Talmud,” in Mark Kiley (ed.), *Prayer from Alexander to Constantine* (London, 1997), 108–20.

<sup>36</sup> On the change, see R. Kimelman, “Birkat Ha-Minim and the Lack of Evidence for an Anti-Christian Jewish Prayer in Late Antiquity,” in E. P. Sanders et al. (eds.), *Jewish and Christian Self-Definition* (Philadelphia, 1981), 11 226–44, 391–403.



the number of blessings, the topics, and the order were fixed in Yavneh under the auspices of Rabban Gamaliel (c. 90 CE). It was also Rabban Gamaliel who promoted the daily recitation of the *Amidah* for the individual. Fixing the order and number of topics facilitated the recitation of the *Amidah* by the individual. Apparently, a set liturgy had been only a communal obligation comparable to the public readings of the Torah, and limited to holidays and Sabbaths as it apparently was at Qumran.<sup>37</sup> A fixed sequence of topics formalized the *Amidah* as liturgy as it formalized other liturgical units such as the *hallel*, the liturgical reading of the Scroll of Esther, the *Shema*, and the blessings for fast days as well as those for the New Year<sup>38</sup> and the liturgical structure of the Day of Atonement.<sup>39</sup>

Since the daily statutory liturgy, consisting of the *Shema* liturgy and the *Amidah*, was not originally conceived of as a substitute sacrifice, it makes scant reference to the cult. The *Shema* liturgy lacks any mention of the cult or its restoration. With regard to the *Amidah*, there are telling differences between the Palestinian and Babylonian recension.<sup>40</sup> Such differences move toward a “sacrificization of prayer.” The first generation of rabbis after the destruction of the Temple did not seek to explain the liturgy in terms of the cult. But by the mid-second century, according to Justin Martyr, Jews were asserting “that He is pleased with the prayers of the individuals of that nation dispersed, and calls their prayers sacrifices.”<sup>41</sup> Daily statutory prayer is also conceived of as equivalent to sacrifice in an anonymous comment in *Sifre Deuteronomy*, which asserts that the term for the sacrificial cult, *avodah*,<sup>42</sup> is applicable to *tefillah* (i.e., statutory prayer, read: *Amidah*), for “Just as the worship (*avodah*) of the altar is called worship, so *tefillah* is called worship.”<sup>43</sup> Similarly, the verse “You shall perform *avodah* to the Lord your God” (Exod. 23.25) was taken to indicate the *Shema* and the *Amidah*.<sup>44</sup>

<sup>37</sup> See Falk, *Daily, Sabbath, and Festival Prayers in the Dead Sea Scrolls*, 247–51.

<sup>38</sup> See Tos. Ber. 2.3–4; Tos. Meg. 2.1–3; M. Taan. 2.2–4; and M. Rosh H. 4.5.

<sup>39</sup> M. Yoma 5.7; Tos. Kippurim 3.3 (ed. Lieberman, 241).

<sup>40</sup> For both, see J. Petuchowski, “Jewish Prayer Texts of the Rabbinic Period,” in J. Petuchowski and M. Brocke (eds.), *The Lord's Prayer and Jewish Liturgy* (New York, 1978), 27–35.

<sup>41</sup> *Dialogue with Trypho* 117.

<sup>42</sup> See J. Milgrom, *Studies in Levitical Terminology* (Berkeley, 1970), 37, 87.

<sup>43</sup> *Sifre Deut.* 41 (ed. Finkelstein, 88, and parallels in n. 2; subsequent citations refer to this edition). The designation of *ba-tefillah* as *Amidah* (standing) attests to its position after the sitting *Shema*. Since such a juxtaposition is a post-tannaïtic phenomenon, its designation as “*Amidah*” (first appearing in *Massekhet Sofrim* 16.6) must also be so.

<sup>44</sup> BT *Bava K.* 92b; BT *Bava M.* 107b.

Referring to prayer as *avodab* grants it a cultic valence. Such a valence explains the formulation of the fifth and seventeenth blessings in the Babylonian version of the *Amidah*. Blessing 5 of the Palestinian only says: “Turn us back to You, O Lord, and we shall return; renew our days as of old. Blessed are You, O Lord who delights in repentance,” whereas the Babylonian states:

- |    |   |                        |                  |
|----|---|------------------------|------------------|
|    | a   | b                      | c                |
| 1. | Bring us back                                       | our Father             | to Your Torah.   |
|    | a   | b                      | c                |
| 2. | Draw us near  | our King               | to Your service. |
|    | a   | c                      | b                |
| 3. | Lead us back  | in complete repentance | before You.      |
| 4. | Blessed are You, O Lord who delights in repentance. |                        |                  |

The Palestinian version consists simply of a verse (Lam. 4.21) with the peroration on repentance. The Babylonian, however, presents a full rhetoric of return. The first strophe is based on the parallel drawn by Nehemiah between “returning . . . to You” (Neh. 9.26) and “returning . . . to Your Torah” (Neh. 9.29). The point is that the return to God is through the Torah. Associating the two elements of Torah and return with the addressee “our Father” drives the point home. Through both – “bring us back,” and “our Father” – the case is made that to repent one needs only to recommit, not to start over. The idea that repentance involves the recovery of lost ground smooths the path for such a return. The argument for such an about-face is strengthened through the use of the same root (*shuv*) for both return and repentance.

The second strophe, with its use of the multivalent term “service” (*avodab*), is so rich with associations that it defies any single construction. Biblically, it could mean “grant us access to the Temple/cult service,” since “to draw near” (*karev*) is the technical term for access to the Temple, whereas “service” (*avodab*) is the technical term for the cult. The meaning of drawing near is retained in its Qumran and rabbinic use in the sense of gaining admission. In the pilgrimage holiday liturgy, however, it refers to the Sinaitic revelation. There, as here, God is addressed as “our king.” A similar expression appears at the end of the second blessing before the *Shema*. As a post-Temple formulation, however, the connotation of “service” points more to the general service of God, as it appears in the Passover *Haggadah*,<sup>45</sup> or to prayer as the service of the heart, as already mentioned.

<sup>45</sup> See E. D. Goldschmidt, *The Passover Haggadah: Its Sources and History* (Jerusalem, 1960), 13–14 (Hebrew).

There is also the association with Mishnah *Avot* 1.2, where “the world/age stands on three things: Torah, *avodab*, and acts of piety.” This tripartite statement parallels significantly the three in our blessing: Torah, *avodab*, and repentance.<sup>46</sup> In both cases, the term *avodab* bears a similar range of associations.

Even if the rabbinic meanings are foregrounded here, the appropriation of biblical cultic terminology for communal prayer keeps the cultic connotation close to consciousness. Indeed, the choice of the term is dictated by the desire to suggest both meanings simultaneously to the reader. One serves as the primary or dominant meaning; the other as the secondary concept, thereby enriching the thought and emotion of the reader. Such a double-serving term makes the point that God is now as accessible through communal prayer as He had been through the cult.

The third strophe of blessing 5 reverses the order of the previous strophes. Whereas strophes 1 and 2 are parallel, both adhering to a pattern of *abc*, strophe 3 reverses the order of *b* and *c*, making the pattern *acb*. Thus the blessing concludes with “before You.” The result is that the return to Torah and the drawing near to the service of God become the means for the complete repentance that is epitomized by being brought “before You.”<sup>47</sup> This climactic conclusion is accentuated by replacing the normal biblical preposition for the verb “return,” namely, “to [You]” by “before [You].” In any case, all three strophes end with a term whose first letter is *lamed*.

While all these points are important for understanding the rabbinic reading of Judaism, it is the equating of the value of prayer with *avodab* that needs to be highlighted as we turn our attention to blessing 17. Blessing 17 is entitled *avodab*, a title that originally referred to the Temple service. Such a topic for a blessing appears often in tannaitic literature, as, for instance, in the New Year Additional Service, the holiday *yaaleb ve-yavo*, the daily Temple service, and as the second among eight blessings of the High Priest on the Day of Atonement.<sup>48</sup> The Palestinian version, its blessing 16, reads: “Be pleased, O Lord our God, to dwell in Zion; and may Your

<sup>46</sup> It also parallels the three requests of Rabbi Yoḥanan ben Zakkai with regard to Torah study, set prayer, and performance of *mitsvot* (ARN a 4 [ed. Schecheter, 12]), the last of which recalls the triadic formulation of *avodab*, *Torah*, and *mitzvah* (2 Chron. 31.21), except that the rabbinic formulation, here as elsewhere, emphasizes the primacy of *Torah* by placing it first through reversing the order of the first two.

<sup>47</sup> The reversal of the order of the final strophe not only marks completion but also privileges the final word as climax. For a similar instance, see M. *Avot* 3.13 (R. Akiva).

<sup>48</sup> M. *Rosh H.* 4.5; Tos. *Ber.* 3.10; M. *Tam.* 5.1; M. *Yoma* 7.1.

servants worship You in Jerusalem. Blessed are You, O Lord, whom we worship in reverence.” This version, as others,<sup>49</sup> does not mention prayer. In the Babylonian version, however, the word for “prayer” (*tefillab*) is interpolated into an ancient blessing on the Temple service (*avodab*) twice. The resultant *abab* structure alternates between “prayer” and “service”:

1. Be pleased, Lord our God, with Your people Israel and with their *tefillab*.
2. Return the *avodab* to the Temple precincts.
3. Accept willingly and with love the offerings of Israel and their *tefillab*.
4. May the *avodab* of Your people Israel, be acceptable to You.
5. May our eyes see Your return to Zion in mercy.
6. Blessed are You, who restores His Presence to Zion.

By alternating *tefillab* and *avodab*, as if they were interchangeable, the blessing creates an equivalency between them. It also intersperses forms of the technical term for the acceptance of a sacrifice (*le-ratson*) three times.<sup>50</sup> They are rendered above as “be pleased,” “accept willingly,” and “be acceptable.”<sup>51</sup> The location of this blessing at the head of the last triad of the *Amidah* guarantees that the term *tefillab* refers to the *Amidah*.

In both cases, the Babylonian version reformulated the theme of the blessing to incorporate recent developments. The Palestinian version of blessing five hews to the biblical view of repentance, indeed the substance of the blessing is a verse whose content is that repentance consists in return to God. The Babylonian version incorporates the rabbinic understanding of repentance which adds return to Torah and *Avodab*.<sup>52</sup> Similarly, with regard to blessing 17, the Palestinian version assumes that God is dwelling in Zion and that His worship takes place in Jerusalem. In contrast, the Babylonian version, faced with the absence of the Temple, beseeches the restoration of

<sup>49</sup> See U. Ehrlich, “The Earliest Versions of the *Amidah* – The Blessing about Temple Worship,” in J. Tabory (ed.), *From Qumran to Cairo: Studies in the History of Prayer* (Jerusalem, 1999), 17–38, 24.

<sup>50</sup> Lev. 1.4; 19.7; Isa. 57.7.

<sup>51</sup> Following L. Hoffman, *Beyond the Text: A Holistic Approach to Liturgy* (Bloomington, 1987), 109.

<sup>52</sup> The lateness of the Babylonian version is also reflected in the reference to God as both Father and King, a combination that amoraic literature attributed to Rabbi Akiba (BT *Taan.* 25b); Philo used it still earlier; see below, 607, and R. Kimelman, “Blessing Formulae and Divine Sovereignty,” in R. Langer and S. Fine (eds.), *Liturgy in the Life of the Synagogue: Studies in the History of Jewish Prayer* (Winona Lake, IN, 2005), 22–3, n. 102.

the Divine Presence to Zion. Its understanding of worship thus adds prayer to sacrifice.<sup>53</sup>

What is implicit in the Babylonian version corresponds to the thinking of later amoraic times. The idea that statutory prayer can take the place of sacrifice was deduced from Hosea 14.3: "Forgive all guilt and accept what is good; instead of bulls we will replace with [the offering of] our lips." The early fourth-century Palestinian amora Rabbi Abahu said: "What shall replace the bulls we offered to You? "Our lips," i.e., with the *tefillah* we pray to You."<sup>54</sup> Similarly, on the same verse the following is appended: "Israel said: Master of the world, when the Temple was around we would offer a sacrifice and be atoned for, now we have no recourse except *tefillah*."<sup>55</sup> There was also an effort to synchronize the times of prayer with daily offerings.<sup>56</sup> Based on the verse "Let my prayer be as an offering of incense, my upraised hands as a twilight meal-offering" (*Minḥa*) (Ps. 141.2), others sought to co-ordinate the afternoon (*Minḥa*) service with the offering of incense.<sup>57</sup> One was invited to lead in prayer by saying: "Come and draw near [to the ark], perform our sacrifices, petition for our need, fight our battles, seek reconciliation for us."<sup>58</sup> Apparently, around this time the Additional *Amidah* (*Musaf*) for Sabbath and holidays incorporated the recitation of the sacrifices that used to be offered in the Temple.<sup>59</sup>

Rabbi Yoḥanan encased the *Amidah* in verses that may underscore the *Amidah* as the replacement for the sacrifice. As an epilogue, he appended, "May the words of my mouth and the meditations of my heart be acceptable

<sup>53</sup> See U. Ehrlich, "The Location of the *Shekhina* in the Early Versions of the Shemone Esre," *Sidra* 13 (1997), 5–23. The formulation of the Babylonian peroration is probably geonic, but it reflects an earlier position; see Ehrlich, "The Earliest Versions of the *Amidah*," 17–38.

<sup>54</sup> *Pes. de-R. K.*, 24, 19 (ed. Mandelbaum, 377 and parallels; subsequent citations refer to this edition).

<sup>55</sup> *Tanb.*, *Korah* 12 (p. 74a); *Num. R.* 18, 21. *Tanb.*, *Kee Tavo* 1 (p. 118b) even states that God prefers prayer to sacrifice.

<sup>56</sup> *BT Ber.* 26b; *PT Ber.* 4.1.7b; see below.

<sup>57</sup> Rabbi Yosi (*PT Ber.* 4.1.7b) and Rabbi Samuel ben Nahman (*Tanb.*, ed. Buber, *aharei* 14, 68–9). In Second Temple times, there may have been a practice of co-ordinating prayer with the incense offering; see Judith 9.11 and Luke 1.10, along with N. M. Sarna, "The Psalm Superscriptions and the Guilds," in S. Stein and R. Loewe (eds.), *Studies in Jewish Religious and Intellectual History Presented to Alexander Altmann on the Occasion of His Seventieth Birthday* (University of Alabama, 1979), 281–300, 293–4.

<sup>58</sup> *PT Ber.* 4.4.8b; see R. Langer, *To Worship God Properly: Tensions Between Liturgical Custom and Halakha in Judaism* (Cincinnati, 1998), 6 n. 16; M. B. Lerner, "On the Beginnings of Liturgical Poetry: Midrashic and Talmudic Clarifications," *Sidra* 9 (1993), 13–34, 22–3 nn. 50, 54 (Hebrew); and G. Blidstein, "The Sheliach Zibbur," in J. Tabory (ed.), *From Qumran to Cairo: Studies in the History of Prayer* (Jerusalem, 1999), 39–73, 56 n. 33 (Hebrew).

<sup>59</sup> See Levine, *The Ancient Synagogue*, 184.

to You, my Rock and my Redeemer" (Ps. 19.15).<sup>60</sup> For the prologue, he appended, "O Lord, open my lips, and my mouth will proclaim Your praise" (Ps. 51.17).<sup>61</sup> Others considered Psalm 19.15 as the prologue. In any case, Psalm 51.17 serves as an apt lead-in to the *Amidah* by virtue of its intrinsic pertinence to prayer and its original location before the verses: "You do not want me to bring sacrifices, You do not desire burnt offerings. True sacrifice to God is a contrite spirit" (Ps. 51.18–19). In saying, "O Lord open my lips," the informed reader will think of the next verse – "You do not want me to bring sacrifices . . . True sacrifice to God is a contrite spirit" – as he begins the *Amidah*.<sup>62</sup> Psalm 19.15, for its part, contains the words "be acceptable," which is the technical term for the acceptance of sacrifices, except that what is deemed acceptable here is "the words of my mouth and the meditations of my heart," implying that prayerful words when accompanied by the appropriate thoughtfulness are equivalent to the sacrifice.<sup>63</sup> The *Shema* recitation, evening and morning, was also seen as corresponding to the morning and evening sacrifice.<sup>64</sup> Indeed, analogies were made between the daily prayer service and the sacrificial cult. In order to grasp the inadequacy of reciting the *Shema* without *tefillin*, Rabbi Yoḥanan compared it to offering "a burnt [or, thanksgiving] offering without a meal offering and a sacrifice without libations."<sup>65</sup> Just as sacrificial offerings without meal offerings or libations fail to meet all the requirements of Numbers 28, so reciting Deuteronomy 6.4–9 without laying *tefillin* (mandated in 6.8) fails to meet all its requirements. Here again the requirements of the *Shema* are understood in terms of the requirements of a sacrifice. Rabbi Yoḥanan also states: "He who relieves himself, washes his hands, lays *tefillin*, recites the *Shema*, and says the *Amidah*, Scripture accounts it to him as if he had built an altar and offered a sacrifice on it, as it is written: 'I will wash my hands in cleanliness, and walk around Your altar, O Lord' (Ps. 26.6)."<sup>66</sup>

<sup>60</sup> BT *Ber.* 4b, 9b; PT *Ber.* 4.3.8a. <sup>61</sup> BT *Ber.* 9b.

<sup>62</sup> See *Abudarbam* (M. Baron, ed., *Tefillah Le-David*), 215 with n. 77.

<sup>63</sup> Israel Ibn Al-Nakawa, *Menorat Ha-Ma'or*, ed. H. G. Enelow, 4 vols. (New York, 1930), II 136, cites an otherwise unknown text from *Gen. R.* as saying: "'Ve-zeh (And this) you should do on the altar' (Exod. 29.38), *Ve-zeh* is the numerical equivalent of eighteen, corresponding to the eighteen benedictions, that is to say, when the Temple no longer exists the *Amidabs* take the place of the sacrifices."

<sup>64</sup> See *Deut. R.* (ed. Lieberman, 63); Z. M. Rabinovitz, *The Liturgical Poems of Rabbi Yannai According to the the Triennial Cycle of the Pentateuch and the Holidays*, 2 vols. (Jerusalem, 1985–7), II 138 n. 5, 144 l. 66; (Hebrew); and *Yal. Shim., Deut.* 835 (ed. Heyman-Shiloni, 109 ll. 14–15).

<sup>65</sup> BT *Ber.* 14b, for the "thanksgiving" reading, see *Abudarbam, Tefillah Le-David* 182 n. 146. The "burnt" version matches Lev. 23.37.

<sup>66</sup> BT *Ber.* 15a.

## B ALTERNATIVES TO THE CULTIC MODEL

The inadequacy of the cultic model for liturgy is reflected in the Talmud's difficulty in correlating the daily offerings with thrice-daily prayer as the evening service lacks a cultic correlate.<sup>67</sup> The Talmud thus concludes that the Rabbis correlated the times of prayer with those of the sacrifice, but not that the prayers were instituted because of the sacrifice.<sup>68</sup> Even so, some objected to limiting prayer to set times, citing, "What great nation is there that has a god so close at hand as is the Lord Our God whenever we call upon Him?" (Deut. 4.7).<sup>69</sup> Similarly, there were objections to conceptualizing prayer as sacrifice, since prayer is so rooted in the request for mercy.<sup>70</sup>

The ambivalence of viewing the *Amidah* as a replacement for the sacrifice corresponds to the ambivalence of viewing the synagogue as a replacement for the Temple. Opposition to such equivalences is captured in the proclamation that "There is no 'avodah' more dear to God than the 'avodah' of the Temple."<sup>71</sup>

Much of the rabbinic balancing act between prayer and sacrifice has antecedents in that of Qumran. The *Damascus Document* states:

Let no one send to the altar a whole offering, or grain offering or incense or wood by the hand of one defiled by any of the impurities, thus allowing him to pollute the altar. For it is written: "The sacrifice of the wicked is an abomination, but the prayer of the righteous is like a pleasing offering" (Prov. 15:8).<sup>72</sup>

This appropriation of Proverbs 15.8 seems to support the thesis that prayer served as a substitute for the sacrifice. According to Falk, "The context, however, negates this possibility because the quote is used to guard the sanctity of the Temple cult, not to question it . . . What is asserted is that care must be taken to follow all propriety in sacrifice since impure sacrifice

<sup>67</sup> This lack is one of the explanations for prefacing the evening service with Ps. 78:38: "He, the merciful one, atones iniquity"; see Abraham b. Nathan of Lunel, *Sefer Ha-Manbig*, ed. Y. Raphael, 2 vols. (Jerusalem, 1978), I 119; and *Abudarbam, Tefillah Le-David*, 304–5, with *Pes. de-R. K.* I.257 and parallels.

<sup>68</sup> *BT Ber.* 26b; *PT Ber.* 4.1.7b.

<sup>69</sup> See *Agadat Breishit* 77 (ed. Buber, I.48 ll. 1–2; *Pes. de-R. K.*, 2.349 l. 7; and *Midr. Ps.* 4.3, where the verse is cited.

<sup>70</sup> *BT Ber.* 26a, *Tosafot*, ad loc., makes the point that even if the holiday Additional Service corresponds to the additional holiday sacrifice, the other *Amidahs* reflect the principle of beseeching mercy. With regard to whether the *Amidah* is primarily a cultic act or a request for compassion, Rabbi Avraham the son of Rambam argues that the incorporation of the verse, "He, the merciful one, atones iniquity" (Ps. 78:38), is not because prayer corresponds to sacrifice, but "because prayer/*Amidah* is rooted in mercy" (*BT Ber.* 26a) (*Sefer Ha-Maspik Le'Ovdey Hasbem*, 190).

<sup>71</sup> *ARN* a 20. <sup>72</sup> *CD* II.18–21.

is abominable to God. In fact, God would rather receive prayer alone than to have impure sacrifice. The value of prayer as a parallel to sacrifice is indeed noted, but not to the exclusion of sacrifices, as is evident by the preceding rule (CD 11.17–18).<sup>73</sup> He further argues: “Replacement for the Temple cult . . . is not intrinsically the *raison d’être* of liturgical prayer.”<sup>74</sup> Indeed, there are Qumran texts that anticipate the restoration of Temple worship in Jerusalem.<sup>75</sup> “Thus,” Schuller concludes, “it seems that the recitation of prayers is not to replace, indeed cannot replace, ultimately the sacrificial system ordained by God for all eternity in the Torah; only in the present ‘time of Belial’ did it need to take of that role.”<sup>76</sup> This statement also matches one of the rabbinic positions which sees all the so-called Temple replacements as something that “will do” in the interim, *be-zman ha-zeh*.

If Temple correspondence cannot account for thrice-daily prayer, then what does? The following source notes the discrepancy without offering an explanation:

When the Temple existed twice a day they would prostrate themselves with the *tamid* offering, as it says, “When the burnt offering began, the song of the Lord and the trumpets began” (2 Chron. 29.27b) and it is written “that they may offer pleasing sacrifices to the God of Heaven and pray . . .” (Ezra 6.10). This teaches that at the time of the offering of the sacrifice they prayed. And when the Temple was destroyed the sages of the generation and the prophets instituted three prayers a day, as it says, “and three times a day” (Dan. 6.11).<sup>77</sup>

Biblically, thrice-daily prayer is first mentioned<sup>78</sup> as a practice of Daniel (Dan. 6.10).<sup>79</sup> Rabbinic literature added also the patriarchs,<sup>80</sup>

<sup>73</sup> See D. Falk, *Daily, Sabbath, and Festival Prayers in the Dead Sea Scrolls* (Leiden, 1998), 243.

<sup>74</sup> *Ibid.*, 89; see *ibid.*, 124.

<sup>75</sup> See IQM2.106.

<sup>76</sup> E. Schuller, “Worship, Temple, and Prayer in the Dead Sea Scrolls,” in A. Avery Peck, J. Neusner, and B. Chilton (eds.), *Judaism in Late Antiquity*, Part Five: *The Judaism of Qumran: A Systemic Reading of the Dead Sea Scrolls* (Leiden, 2001), 1123–43, 132. She also notes that at Qumran “it is not a particular prayer or liturgical ritual nor a particular component of communal life that substitutes for, or replaces, specific sacrifices, but rather it is an entire way of life, of which prayer is an intrinsic part” (*ibid.*, 131).

<sup>77</sup> *Sefer Pirron Torah* (ed. Urbach, 238); see *Tos. Ber.* 3.6; and *ARN.* a 4 (p. 21).

<sup>78</sup> In 2 *Enoch* 51.4 it is only an ideal. The mention of thrice-daily moaning in Ps. 5.18 may indicate no more than “constantly,” as does “seven times a day do I praise You” (Ps. 119.164), or “My mouth shall tell of Your righteousness, and of Your salvation all the day” (Ps. 71.15, see 24), or “I will bless the Lord at all times; His praise shall continually be in my mouth” (Ps. 34.2); see Pss. 57.9; 88.14; 119.164; and B. Nitzan, *Qumran Prayer and Religious Poetry* (Leiden, 1994), 40.

<sup>79</sup> See *PT Ber.* 4.1.7a with *Tos. Ber.* 3.6 (ed. Lieberman, 12 n. 18), for parallels.

<sup>80</sup> *Gen. R.* 68.9 (ed. Theodor and Albeck, 778–9) with parallels; see L. Ginzberg, *Legends of the Jews*, 7 vols. (Philadelphia, 1968), VI 449 n. 58. According to *PT Ber.* 4.1.7a, the



Moses,<sup>81</sup> the elders and the prophets,<sup>82</sup> the early prophets [or sages and prophets];<sup>83</sup> and early pietists (or sages).<sup>84</sup> Even Ahitofel was said to pray three new prayers daily.<sup>85</sup> By anchoring thrice-daily prayer in biblical role models, it assumed an aura of legitimation independent of the cult.

Thrice-daily prayer was also correlated with the religious experience of the daily cycle. Two such efforts are attributed to rabbis who flourished at the turn of the fourth century. (See table 22.1.) According to one (I), “The three times that the word *sing* is used in Psalm 96.1–2 correspond to the three prayers during which Israel sings praises every day to the Holy One, blessed be He.” The other (II) correlates daily prayer with the three transformations that humanity undergoes daily. The similarity is striking. Still, source I praises God for the past and is grateful for the onset of evening, whereas source II makes two requests for the future, the second of which is apprehensive about the onset of evening.<sup>86</sup> This idea of correlating statutory prayer with those moments of the day that are most religiously pregnant is epitomized in the position of Rabbi Yosi ben Ḥannina, who would pray right before sunrise and right after sunset while the redness still lingered, so that the awe of God would remain with him throughout the day.<sup>87</sup>

Despite these efforts to ground the *Amidah* in extracultic phenomena, the *Amidah* remains the most cultic-like of any other prayer, be it of biblical, of Second Temple, or of rabbinic provenance. Unlike much of biblical, Second Temple, and other rabbinic prayer which is individual, optional, occasional, and improvisatory,<sup>88</sup> the *Amidah* is primarily communal, statutory, with a fixed content and order of themes, set times, and – relative to location – a fairly fixed wording for normal occasions. Biblical prayer was said

practice was derived (*lamdu*) from the Patriarchs. According to BT *Ber.* 26b and *Gen R.* 68.9, the Patriarchs instituted (*tiknu*) it; according to *Num. R.* 2.1, they fixed (*kavu*) it.

<sup>81</sup> *Tanb.*, *Kee Tavo* 1. Alternatively (*Num. R.* 2.1), the Patriarchs instituted the practice of thrice-daily prayer, whereas from Moses and Aaron we derive its content of eighteen blessings.

<sup>82</sup> See source cited in S. Lieberman, *Tosefta Ki-Fshutab*, 10 vols. (New York, 1955–88), 1 30 l. 20.

<sup>83</sup> *Sifre Deut.* 393.

<sup>84</sup> *Midr. Pss.* 17, 4. For the variant reading here and in the previous note, see L. Finkelstein, *New Light from the Prophets* (New York, 1969), 125 n. 14. In any case, they are probably to be identified with the aforementioned elders and the prophets; see Lieberman, *Tosefta Ki-Fshutab*, 1 30 l. 20.

<sup>85</sup> *PT Ber.* 4.3.8a; cf. L. Ginzberg, *A Commentary on the Palestinian Talmud*, 4 vols. (New York, 1941–61), 1 338–9 (Hebrew).

<sup>86</sup> For the theological significance, see Kimelman, “The Shema Liturgy,” 35–6 n. 90.

<sup>87</sup> *PT Ber.* 4.1.7b.

<sup>88</sup> See Nitzan, *Qumran Prayer and Religious Poetry*, 39–40. For rabbinic examples, see BT *Ber.* 16b–17a; *PT Ber.* 4.2.7d.

Table 22.1 *Daily experience and thrice-daily prayer*

I	II
Thus <i>Sing unto the Lord a new song</i> corresponds to the morning prayer during which Israel sings praises to the Holy One, Blessed be He, because He renews daily the work of creation;	At dawn one should say: "I thank you, O Lord my God, and God of my fathers, that You have brought me forth from darkness to light."
<i>Sing in Sing unto the Lord, all earth</i> corresponds to the afternoon prayer, because during the day all the inhabitants of the earth enjoy the sun and its beams;	In the afternoon one should say: "May it be pleasing to you, O Lord my God, and God of my fathers, that just as I got to see the sun rising, so may I get to see its setting."
And <i>sing in Sing unto the Lord, praise His Name</i> corresponds to the evening prayer when the Holy One, blessed be He, is praised because He brings on the evening twilight. <sup>a</sup>	In the evening one should say: "May it please You, O Lord my God, and God of my fathers, just as I was in darkness and you brought me to light to bring me forth from darkness into light." <sup>b</sup>

<sup>a</sup> Rabbi Abahu, *Midr. Pss.* 96.1.

<sup>b</sup> Rabbi Samuel ben Nahman, *PT Ber.* 4.1.7; see *Gen. R.* 68.9 (779), with parallels and notes along with I. Ta-shma, *Early Franco-German Ritual and Custom* (Jerusalem, 1992), 190 n. 5 (Hebrew).

aloud<sup>89</sup> while prostrate, as was Temple prayer.<sup>90</sup> Possibly taking its cue from the Temple cultic service,<sup>91</sup> the *Amidah* was said standing<sup>92</sup> and quietly.

The *Amidah* is a highly regulated liturgical act. It has more requirements than any other aspect of the liturgy.<sup>93</sup> These include a specified number of blessings, recited at specified times, performed with a specified orientation of eyes, face, and feet while standing. There are also rules with regard to mode of recitation, volume, room, dress, footwear, number of bows, and entering and exiting steps with prescribed body gestures. There is,

<sup>89</sup> Moses alone calls out multiple times (Exod. 8.8; 14.15; 17.4; Num. 12.13). Also, prayer during the Second Temple period was said aloud: "And they called out in a great voice to God" (1 Macc. 3.50). Indeed, ancient prayer was regularly said aloud; see P. W. van der Horst, "Silent Prayer in Antiquity," *Hellenism–Judaism–Christianity: Essays on Their Interaction* (Kampen, 1994), 252–81. The Targumim, however, are sensitive to the distinction between biblical crying out in prayer and the *Amidah*; see M. Maher, "The Meturgamanim and Prayer," *JJS* 51 (1990), 226–45, 230, 239.

<sup>90</sup> See Ehrlich, *The Non-Verbal Language of Jewish Prayer*, 39–41 (ET 38–9).

<sup>91</sup> See *Letter of Aristaeas* 95; and I. Knohl, "Between Voice and Silence: The Relationship Between Prayer and Temple Cult," *JBL* 115 (1996), 17–30, 26–8.

<sup>92</sup> Ehrlich, *The Non-Verbal Language of Jewish Prayer*, 24–9 (ET 19–26).

<sup>93</sup> For the rules of liturgy in general and of blessings in particular, see Langer, *To Worship God Properly*, 20–36.

however, no fixed place, hand motion,<sup>94</sup> or prescribed clothing. Precedent for much of this was found in the prayers of Hannah and Daniel. From the case of Hannah (1 Sam 1.26),<sup>95</sup> they justified the requirements of standing, attentiveness, verbalizing of words albeit in an undertone, and sobriety.<sup>96</sup> From Daniel's practice (6.11), they found precedent for daily prayer, whether in or out of Israel, at three distinct times, all facing Jerusalem,<sup>97</sup> and, if inside, the need for windows.<sup>98</sup> The one element of Daniel's prayer that is not emulated is his genuflection on his knees, though much of Second Temple prayer was said while bowing or prostrating oneself.<sup>99</sup> The requirement of standing, the distinguishing characteristic of the *Amidah*, deserves special comment, since Hannah just happened to be standing, whereas Daniel specifically knelt, a posture which typifies much of biblical prayer.<sup>100</sup>

Why the change in the posture of prayer from genuflection or prostration to standing? The simplest answer is that standing is an act of veneration evincing respect for God.<sup>101</sup> More to the point is that the *Amidah* is thought of as praying in the presence of God, an activity that mandates standing.<sup>102</sup> There were two ways of conceiving oneself as being in the presence of God: as a priest serving in the Temple, and as an angel serving on high. Standing with legs straight for the *Amidah* was justified by both, since angels serve God standing straight<sup>103</sup> and priests served standing. Indeed, the verse that says that the priest was chosen "to stand and serve in the name of the Lord" (Deut. 18.5) "teaches that there is no proper service except standing."<sup>104</sup> All who entered the inner precincts of the Temple, called the arena of the Presence,<sup>105</sup> were required to stand.

<sup>94</sup> As opposed to the typical biblical position of outstretched hands, a practice that perdured through Second Temple times; see 2 Macc. 3.30; 14.34; 15.12, 21, 34; 3 Macc. 2.1; 5.25; Tobit 3.11; Philo, *Contra Flacc.* 121; Josephus, *Contra Ap.* 1.209.

<sup>95</sup> BT *Ber.* 31a (R. Joshua b. Levi). <sup>96</sup> PT *Ber.* 4.1.7a; see Tos. *Ber.* 3.6; BT *Ber.* 31a.

<sup>97</sup> See Tos. *Ber.* 3.15 (ed. Lieberman, 156, with parallels in n. 65).

<sup>98</sup> BT *Ber.* 34a in order to face Jerusalem (Rambam, "Laws of Prayer," v 6) or the heavens (Rashi, BT *Ber.* 34a, s.v. *halonot*).

<sup>99</sup> See, e.g., Judith 9.1; 10.9; and 3 Macc. 2.1; Tos. *Sheqalim* 2.17, with Lieberman, *Tosefta Ki-Fshutab*, 1v 695–6.

<sup>100</sup> See M. Gruber, *Aspects of Nonverbal Communication in the Ancient Near East* (Rome, 1980), 96.

<sup>101</sup> So BT *Kidd.* 33b; see U. Ehrlich, "'When You Pray Know Before Whom You Are Standing' (bBer. 28b)," *JJS* 49 (1998), 38–50.

<sup>102</sup> BT *Sanh.* 42a (Abaye on blessing the new moon).

<sup>103</sup> Ezek. 1.7; see *Gen. R.* 65.21 (738); and BT *Ber.* 10b.

<sup>104</sup> *Sifrei Deut.* 167; see Num. 16.9.

<sup>105</sup> Tos. *Kel. Bava K.* 1.12 (ed. Zuckerman, 570); *Sifre Num.* 1 (ed. Horowitz), 4.

## C PRAYER AS STANDING BEFORE GOD

How was the *Amidah* conceived as service in the presence of God? Unlike angelic or priestly prayer, it lacks biblical precedent. It is possible that the synagogue, as the Temple's alternative, became the new locus for the presence of God,<sup>106</sup> or that the *Amidah* itself creates a space for the Divine Presence so that "the pray-er of the *Amidah* should see himself as if he is in the presence of God."<sup>107</sup> Thus there is some overlap of the rules that govern the space of the synagogue with those that govern the four ells surrounding the reciter of the *Amidah*.<sup>108</sup> Since the four ells of a person praying is inviolate space,<sup>109</sup> one concludes by stepping out of such space with three steps backwards.<sup>110</sup>

Despite similar requirements for praying the *Amidah* and serving in the Temple, there are significant differences. For example, sitting while performing the Temple service would disqualify it,<sup>111</sup> whereas, while praying the *Amidah*, standing is desirable, it is not mandatory. It may even be said while riding on an animal were one unable to dismount. Still, one should try to face the Temple and, barring that, at least be mindful of it.<sup>112</sup> What is mandatory for Temple service is optimal for the *Amidah*. Thus "a blind person or one who lacks a sense of direction can direct their hearts to their Father in Heaven and pray the *Amidah*,"<sup>113</sup> but not serve in the Temple. This last expression, "direct their hearts to their Father in Heaven," raises an alternative way of understanding the focus of the *Amidah*. This comes to expression in the debate on whether the posture of standing on two straight feet is in imitation of priests or of angels.<sup>114</sup> This issue is whether the focus should be on the celestial or the terrestrial Temple.<sup>115</sup> In either case, the *Amidah* takes its cues from a Temple service, whether by priests below or angels above. The model of the earthly Temple also comes to the fore in the

<sup>106</sup> PT *Ber.* 5.1.8d–9a (R. Abahu); BT *Meg.* 29a (Abayei).

<sup>107</sup> BT *Sanh.* 22b. For the Maimonidean extension of this position, see I. Twersky, "And One Should Regard Oneself as if Facing the Lord: Intention in Prayer according to Maimonides," in S. Elizur et al. (eds.), *Knesset Ezra: Literature and Life in the Synagogue: Studies Presented to Ezra Fleischer* (Jerusalem, 1994), 47–67 (Hebrew).

<sup>108</sup> Tos. *Ber.* 2.19; PT *Ber.* 3.5.6d; PT *Meg.* 3.1.73d; BT *Meg.* 27b; BT *Ber.* 24b.

<sup>109</sup> Tos. *Ber.* 2.19; BT *Ber.* 3.1b (R. Joshua b. Levi). Thus "It is prohibited to pass in front of those reciting the *Amidah*" (BT *Ber.* 27a).

<sup>110</sup> See the geonic comment cited by Zidkeiah ben Rabbi Abraham Harofe, *Shibolei Haleket Completum*, ed. S. Mirsky (New York, 1966), 191. For the gestures and words said while exiting, see Y. Gartner, "Shalosh Pesi'ot Ve-Netinat Shalom Be-Sof Tefillat Ha-Amidah," *Asufot* 14 (2002), 83–98.

<sup>111</sup> *Sifre Deut.* 167. <sup>112</sup> M. *Ber.* 4.5. <sup>113</sup> Tos. *Ber.* 3.14. <sup>114</sup> PT *Ber.* 1.1.2c.

<sup>115</sup> PT *Ber.* 4.5.8c. For the Temple focus, see, e.g., 1 Kgs. 8.29–30.

assertion that the times for saying the *Amidah* correspond to the times of the daily sacrifice.<sup>116</sup>

On the one hand, many aspects of the *Amidah* evoke the Temple, including facing it, standing, exiting on the model of the priest, the Palestinian practices of praying barefoot, prohibiting expectoration,<sup>117</sup> and maybe the bowing at the start of the penultimate blessing, *Modim*. On the other hand, much of the behavior of the *Amidah* contrasts with the Temple service. This includes the limitations on bowing, and the two Babylonian practices of allowing for shoes and expectoration in the synagogue.<sup>118</sup> The limitations on the extent of bowing and the wearing of shoes are noteworthy for preventing physical contact with the floor of the synagogue, as opposed to Temple practice, where the main posture for prayer was bowing, if not total prostration, and the service was conducted barefoot. This difference underscored that the synagogue was not the holy ground of the Temple. Such a sensibility predominated in Babylonia, which limited the synagogue to a “semblance of the Temple” (*mikdash me’at*).<sup>119</sup>

The challenge consisted in producing a semblance of the Temple without creating a surrogate. The point was to make the synagogue, albeit not the Temple, a place where God can be found.<sup>120</sup> This tension between imitation and differentiation is evident in the rules for bowing. Unlike in the Temple, bowing is limited in frequency and extent. There are four bows, two encasing the first blessing and two encasing the eighteenth. Not only was exceeding that limit discouraged,<sup>121</sup> but so was overextending the bow;<sup>122</sup> indeed, even a nod of the head was deemed adequate,<sup>123</sup> despite individual voices to the contrary, who aptly cited the verse, “All my bodily parts shall declare: ‘O Lord, who is like You?’ (Ps. 35.10).”<sup>124</sup> The bowing was limited not only in frequency and extent, but also in duration. Thus one bowed at the opening word, “Blessed,” but stood erect by the third word, “God.”<sup>125</sup> Even the one bow, at the *Modim*, that may have been rooted in the prostration after the sacrifice, was only a bow and not a prostration. The result is that little of the choreography of the *Amidah* is modeled after that of the priest who stands in the Temple before the divine Presence. In sum, Temple associations were appropriated to create a religious continuum without creating a religious equivalency.

<sup>116</sup> BT *Ber.* 26b.

<sup>117</sup> See Ehrlich, *The Non-Verbal Language of Jewish Prayer*, 150–7 (ET 160–7).

<sup>118</sup> See *ibid.* <sup>119</sup> BT *Meg.* 29a. <sup>120</sup> See PT *Ber.* 5.1.8d–9a.

<sup>121</sup> Tos. *Ber.* 1.8 (ed. Lieberman, 3 and parallels). <sup>122</sup> PT *Ber.* 1.8, 3d.

<sup>123</sup> BT *Ber.* 28b (R. Hanina); see PT *Ber.* 2.4.5a (R. Matneh).

<sup>124</sup> PT *Taan.* 2.2.65c; BT *Ber.* 28b (R. Joshua b. Levi).

<sup>125</sup> BT *Ber.* 12a; PT *Ber.* 1.8.3d (Rav).

An alternative to the cultic model for prayer was the angelic. Some prayer virtuosi and precentors took their cue from the angels in having special garments for prayer. Still, the fact that angelic prayer is performed without any specific direction, and aloud, indicates the secondary nature of the angelic model.

In actuality, neither the cultic nor the angelic model accounts sufficiently for the distinctiveness of the *Amidah*. The choreography of the *Amidah* reflects a posture of reverence before God, more than submission. This distinction between veneration and servility as the primary stance of prayer accounts for much of the deportment of the *Amidah*. The posture is described as that of a disciple before his master or as a son before his father. In both cases a modicum of dignity is retained so that lavish praise,<sup>126</sup> clasping of hands,<sup>127</sup> raising of eyes<sup>128</sup> and voices,<sup>129</sup> constant and extensive bowing, partial dress, standing barefoot, and shouting were discouraged.<sup>130</sup> The removal of garments, the clasping of hands “as a slave before his master,” and the raising of the voice – as did the biblical priests in time

<sup>126</sup> BT *Meg.* 18a; BT *Ber.* 33b; PT *Ber.* 9.1, 9d; *Midr. Ps.* 19.2, 163. Such lavish compounding of divine epithets did characterize oaths; see *Sefer Ha-Razim*, ed. M. Margalioth (Jerusalem, 1966), 98, lines 35–6. Alternatively, the consideration is theological, namely, “if a man thinks that he knows the magnitude of God, he diminishes it” (Octavius, *Of Marcus Minucius Felix*, ed. G. W. Clarke, ACW XXXIX [New York, 1974], 18.8, 81).

<sup>127</sup> Still, some rabbis prepared for prayer by donning a garment and “clasping the hands as a servant before his master” (BT *Shabb.* 10a).

<sup>128</sup> BT *Yeb.* 105b; see Ehrlich, *The Non-Verbal Language of Jewish Prayer*, 98–9 (ET 101–2).

<sup>129</sup> BT *Ber.* 24b. Quiet prayer was also evidence of God’s closeness. According to BT *Ber.* 24b, loud prayer reflects a lack of faith or the rantings of a false prophet (see 1 Kgs. 18.27–8), whereas quiet prayer reflects such a confidence in God’s closeness that “one can address Him as one speaks into the ear of another” (PT *Ber.* 9.1.13a; *Mid. Ps.* 4.3 [p. 43]; *Deut. R.* 2.10). In contrast to the prayer of the angels who “raise their voice because they are far from God and do not know His location . . . Israel knows that when they stand in prayer God is nigh” (*Yal. Shim. Deut.* 1.825 [ed. Heyman-Shiloni, 85–6]). These strictures apply only to the *Amidah*; other rabbinic prayers were said aloud (BT *Ber.* 15a–b).

<sup>130</sup> See Ehrlich, *The Non-Verbal Language of Jewish Prayer*, 190–2 (ET 204–6). In the medieval period, there appeared the practices of shutting the eyes, shaking the body, rising on tiptoes, clasping of hands, and enrobing in special garments. Most of these were the result of a more mystical grasp of prayer that focused on ecstasy, concentration, or contemplation; see Y. (E.) Zimmer, *Society and Its Customs: Studies in the History and Metamorphosis of Jewish Customs* (Jerusalem, 1996), 72–113 (Hebrew). Noteworthy is the prohibition among Kabbalists against “swaying during the *Amidah* since one is as standing before a king”; see *ibid.*, 102. On special garments for the Sabbath, see R. Kimelman, *The Mystical Meaning of Lekhab Dodi and Kabbalat Shabbat* (Jerusalem, 2003), 149–67 (Hebrew).

of need<sup>131</sup> – are in order at moments of tribulation,<sup>132</sup> but not at normal times. Normal times demanded quiet dignity in the presence of the Divine. Indeed, the verse cited for proper dress for the *Amidah* was “Prepare to greet your God, O Israel” (Amos 4.12).<sup>133</sup> This distinction is epitomized in the pronunciation of the divine name. During the daily *Amidah* it is pronounced while standing erect, whereas during the Day of Atonement liturgy all prostrated themselves on the floor of the Temple upon hearing it.

Asserting that the body language of the *Amidah* underscores the dignity of the worshiper<sup>134</sup> does not gainsay the supplicatory nature of much of the *Amidah*, but only indicates that the supplications do not reflect primarily pressing needs, but ongoing ones, be they spiritual (4–7) physical (8–9), or national redemptive (10–16). The prime requirement is attentiveness. Indeed, even the requirement for standing, praying quietly, and facing Jerusalem can be waived were these practices to interfere with concentration or be undoable.<sup>135</sup> The rules of prayer, dealing as they do ultimately with the inner life, are more subject to the vagaries of human subjectivity than the service of the Temple, where the absence of the proper comportment and deportment can disqualify the act.<sup>136</sup> Even when the *Amidah* seems to take its cue from the cult, it does not become locked in its constraints. Indeed, if one cannot attend properly to the act of prayer, one should wait until one can, or not recite the *Amidah* at all.<sup>137</sup> Medieval opinion deemed such attentiveness only optimal, holding that it was sufficient to meet the requirement of the sacrifice of no alternative intentionality.<sup>138</sup>

This emphasis on the dignity of the worshiper in the *Amidah* correlates well with the absence of images of the worshiper as slave. The contrast is reflected in the prayers for the restoration of Jerusalem in Daniel and in the *Amidah*. Referring to himself as a servant Daniel says:

<sup>131</sup> See Joel 2.17.

<sup>132</sup> See *M. Ber.* 9.3–4 for praying aloud about the past or future, and *M. Taan.* 2.4–5 for praying aloud during the additional prayers of an emergency fast.

<sup>133</sup> *BT Shabb.* 10a.

<sup>134</sup> See Ehrlich, *The Non-Verbal Language of Jewish Prayer*, 224–8 (ET 231–6). Cf. J. Soloveitchik, *Worship of the Heart: Essays on Jewish Prayer* (New York City, 2003), 175.

<sup>135</sup> *Tos. Ber.* 3.18–19; *PT Ber.* 4.5.8b; *BT Ber.* 30a; see Maimonides, *Mishneh Torah*, “Laws of prayer” 5.1.

<sup>136</sup> *M. Zev.* 2.1. <sup>137</sup> *BT Ber.* 30b; *BT Er.* 65a.

<sup>138</sup> See Z. b. R. Abraham Harofe, *Shibolei Haleket Completum*, 182–3. Thus it is surprising to find the opinion that colors the reciting of the laws of the sacrifices in the daily service with liturgical hue by requiring it to be done devotionally (*be-kavvanat ha-lev*) in order to count as a sacrifice; see *Abudarham*, *Tefillah Le-David*, 124.

O our God, hear now the prayer of Your servant and his plea, and show Your favor to Your desolate sanctuary, for the Lord's sake. Incline Your ear, O my God, and hear; open Your eyes and see our desolation and the city to which Your name is attached. Not because of any merit of ours do we lay our plea before You but because of Your abundant mercies. (Dan. 9.17–18)

The *Amidah*, which lacks any self-reference as a servant, simply states:

Have compassion, O Lord, in Your abundant mercies, upon Israel – Your people, upon Jerusalem – Your city, upon Zion – Your glorious dwelling-place, upon Your Temple, and upon Your abode. (Palestinian version)

Just as the worshiper in the *Amidah* is not called servant, God was not originally addressed as King.<sup>139</sup> “King” is totally absent from Palestinian-based Genizah versions, from the *Havinnenu* abridgment of the daily *Amidah*, and from the *Magen avot* abridgment of the Sabbath *Amidah*. The Babylonian evidence appears different, but is actually quite similar. “King” is not only absent from the blessing perorations (which are the oldest parts) of the standard Babylonian-based *Amidah*, including some versions of blessing 11; it is also absent from some versions in the body of blessings 1, 2, 3, 5 and 8, where it so often appears in contemporary versions. Indeed, the absence of kingship as opposed to the mention of God's name was deemed the distinguishing mark of the blessing formulas of the *Amidah*.<sup>140</sup>

The Palestinian version of the *Amidah* even resisted the Babylonian practice of changing the peroration of the third blessing from “the holy God” to “the holy King” to mark the High Holidays. The absence of any mention of sovereignty in the original *Amidah* may also explain the need for the interpolation of the *Kedushah*, with its ceremony for emulating the angelic acceptance of divine sovereignty. Through the interpolation of the *Kedushah* the *Amidah* was updated to the rabbinic understanding of communal liturgy as the occasion for declaring divine sovereignty.

Since God was not originally addressed as King in the *Amidah*, the metaphors for the posture and choreography of the worshiper lack royal images such as that of a servant before a king. The rabbinic material focuses on the models of a servant taking leave of his master, of a disciple taking leave of his teacher, and of a worshiper taking leave of the divine presence, as opposed to models of royal entrance and exit etiquette, which are used for

<sup>139</sup> See the *Talmudic Encyclopedia*, ed. S. Zevin, 24 vols. (Jerusalem, 1974–2003), IV 293. This discussion of divine kingship in the *Amidah* is excerpted from Kimelman, “Blessing Formulae and Divine Sovereignty,” 9–10.

<sup>140</sup> *Midr. Pss.* 16.8 (p. 123); and BT *Ber.* 21a; see *Abudarham*, *Tefillah Le-David*, 126 n. 174; and *Sefer Kolbo*, ed. D. Avraham, 2 vols. (Jerusalem, 1990), *siman* 11.



the Holy of Holies. However implicit the royal metaphor for the *Amidah* is in the Talmud, it does not become explicit until the medieval period.

Precisely because of the rabbinic claim that the various *Amidahs* correspond to the sacrifices or reflect the prayerful experiences of the Patriarchs, the difference between its mode of prayer and that of biblical or Temple prayer is so glaring. Symptomatic of this is the use of Hannah as a model instead of the prayers of the Patriarchs or of the Temple. Hannah is the woman whose mode of prayer was so strange to the High Priest Eli that he deemed her drunk. Similarly, the *Amidah* is so different from biblical prayer that it would not be recognized by biblical authorities. This is all the more surprising in view of the *Amidah's* appropriation of biblical phraseology. The Palestinian version, as noted, cites verses outright, while the Babylonian, in blessings 10–16, weaves threads of verses from Isaiah, Micah, Zephaniah, Jeremiah, Ezekiel, Joel, Malachi, and Psalms. Although the resultant liturgical tapestry is new, there is hardly a word not pronounced by the prophets.<sup>141</sup>

The *Amidot* also stands in contrast to the other rabbinic contributions to the liturgy, such as the *Shema* liturgy and the manifold blessings for sensual, aesthetic, and ritual experiences. In comparison with the *Shema*, the *Amidah* is more stringent on matters of posture, concentration, cleanliness, and modesty. With regard to the posture of the *Shema*, the position of the House of Hillel, which requires no specific bodily position, prevailed.<sup>142</sup> With regard to concentration, the *Shema* does require removal of distractions, but no special requirement for concentration or facing Jerusalem. The *Amidah* requires an integration of mind, face, and body, whereas the *Shema* requires only the focus of the mind, and even that to a lesser degree than the *Amidah*.<sup>143</sup> With regard to cleanliness, the requirement of handwashing for the *Amidah* is more stringent than for the *Shema*.<sup>144</sup> Finally, with regard to modesty and covering of the body, the demands of the *Amidah* exceed the *Shema*.<sup>145</sup> These stringencies with regard to the *Amidah* prevailed though the *Shema* is a biblically mandated text and requirement, whereas the *Amidah* is only rabbinic.

The contrast between the *Amidah* and the *Shema* liturgy is most noticeable during the morning and evening service when the *Amidah* follows on the heels of the *Shema*. In moving from the *Shema* to the *Amidah*, the worshiper

<sup>141</sup> On the scripturalization of prayer, see J. H. Newman, *Praying by the Book: The Scripturalization of Prayer in Second Temple Judaism* (Atlanta, 1999).

<sup>142</sup> M. Ber. 1.3; BT Ber. 11a.

<sup>143</sup> Tos. Ber. 3.15–20. The *Amidah* is also more stringent with regard to interruptions than the *Shema*; see M. Ber. 2.1; 5.1.

<sup>144</sup> BT Ber 15a. <sup>145</sup> BT Ber. 24b–25a.

moves from a vocal performance to a quiet one, from a sitting position to a standing one, from facing anywhere (or the center of the synagogue), to facing Jerusalem, from imaging God as King to imaging God as Master (primarily in a pedagogic sense, but also in a servile one). The requirements for other prayers are even less than for the *Shema*. Among them, most are for the prayer of travelers, for the blessing upon seeing the new moon, and for blessings after meals, which require (at most) standing or (at least) the cessation of any activity that interferes with focusing on the blessing itself.<sup>146</sup>

#### IV THE PRECENTOR

The role of the prayer leader also shares in the balancing act of the synagogue and the *Amidah*, between the old and the new, the sacred and the everyday.<sup>147</sup> The prayer leader or precentor was designated a *shaliah tsibbur*, an emissary or representative of the congregation. Although such a designation could imply other functions, its use is limited to prayer. As representative of the congregation, the precentor has something in common with the priests and the prophets of old, while constituting a new phenomenon. Like the prophets, the precentor represents the congregation in prayer,<sup>148</sup> but unlike them he does not, under normal conditions, intercede for them.<sup>149</sup> On the one hand, the precentor is viewed in priestly terms as one who offers the sacrifice of the congregation.<sup>150</sup> On the other hand, he is viewed as representing the community in prayer as opposed to praying for it.<sup>151</sup>

Precisely because the *Amidah* is only compensatory of sacrifice, it does not require priestly leadership. To guarantee that the precentor be seen as a lay position, the Mishnah prohibited him from assuming priestly deportment, such as leading the services in white clothes or barefoot.<sup>152</sup> By promoting lay leadership, the danger of misconceiving the liturgy as a sacrifice was minimized. This deheirarchization of communal liturgy

<sup>146</sup> BT *Ber.* 30a; BT *Sanh.* 42a; PT *Ber.* 7.5.11d; see Ehrlich, *The Non-Verbal Language of Jewish Prayer*, 211–2 (ET 225–6).

<sup>147</sup> See Blidstein, “The Sheliach Zibbur,” 39–73. <sup>148</sup> See Jer. 42.6; 1 Sam. 7.5.

<sup>149</sup> As did Moses and Samuel (see Jer. 15.1; Ps. 99.6), whom God could ask to desist (see Jer. 7.16).

<sup>150</sup> PT *Ber.* 4.4, 8b; *Gen. R.* 49.23.

<sup>151</sup> There is a case (*Sifre Deut.* 343) in which the structure of the *Amidah* (praise of God followed by specifying the needs of Israel) is compared to the way a Greek *rhotor* makes his case for his client before a king. The analogy, however, stops short of comparing the precentor with the *rhotor*, albeit comparing the mode of prayer of Moses and David with a *rhotor*.

<sup>152</sup> M. *Meg.* 4.8. On the Day of Atonement, however, both were practiced; see *Yal. Shim. Deut.* 1.825 (ed. Hyman-Shiloni, 86).

limited the overlap between the synagogue and the Temple, a by-product of which was the democratization of synagogue leadership. It is precisely the normality of the precentor's role which explains the lack of sacerdotal or inspirational prerequisites. His qualifications are functional. Such was not the case for those specifically chosen to lead in moments of crisis, whose role verged more on the intercessory. Even then, the standards are those of character, erudition, and being like those he represents.<sup>153</sup> Intercessory prayer for rain may demand the services of a holy man,<sup>154</sup> but not the everyday function of the precentor for the *Amidah*.

## V PRIESTS

This balancing act between Temple exclusives and synagogue prerogatives also influenced the role of the priests in synagogue ritual.<sup>155</sup> Priests got priority in the public reading of the Torah as well as in leading congregational prayer. Their distinctive role, of course, was in reciting the priestly benediction. The appending of the priestly benediction to the *Amidah* was intended to enhance the correlation between the synagogue and the Temple service, both ending with the same priestly benediction.<sup>156</sup> Still, care was taken to prevent the priestly benediction of the synagogue from appearing like its Temple counterpart. True, the priests would wash their hands, ascend a special platform, remove their shoes, spread their fingers, and, at least in Babylonia, face the congregation. In Palestine, however, they would face the locus of the Torah, that is, the Ark, a change that could indicate their subordination to the Torah and, by implication, to its interpreters, the Rabbis. Unlike the Temple, where it was recited without breaks or response,<sup>157</sup> each part of the blessing was recited separately, followed by the congregational amen. In the Temple, the priests held their hands over their heads, but only up to their shoulders in the synagogue. The Tetragrammaton was pronounced in the Temple, but not in the synagogue.<sup>158</sup> In the absence of a priest, Palestinian practice eliminated the priestly blessing, whereas the Babylonian had the precentor recite it. As in other cases, the Babylonian practice tended to sever the umbilical cord between Temple and synagogue, whereas the Palestinian practice tended to attenuate it. In both cases, there was an effort at maintaining continuity with the Temple without replicating it.

<sup>153</sup> See *M. Taan* 2.2; *PT Taan*. 2.2.65b–c; *BT Taan*. 16a.

<sup>154</sup> Rabbi Yosi Ha-Galilee (*PT Taan* 1.1.63d).

<sup>155</sup> See Levine, *The Ancient Synagogue*, 496–500.

<sup>156</sup> See *Tos. Sot.* 7.8 (ed. Lieberman, 193 ll. 63–4). <sup>157</sup> See *M. Sot.* 7.6, *M. Tam.* 7.2.

<sup>158</sup> See *Sifre. Z., Naso* 2 (ed. Horovitz, 250, with parallels); and Philo, 2 *Mos.* 114.

## VI DIVINE SOVEREIGNTY IN RABBINIC LITURGY

The single most important innovation of rabbinic liturgy is the focus on divine sovereignty. This is based on conceiving of the relationship to God primarily through the acceptance of divine sovereignty. Elsewhere, I have discussed the absence of any address to God as King in biblical prayer in general and in blessings in particular, as well as its rarity in Second Temple prayer and blessings, its virtual absence from Josephus, from the earliest forms of the *Amidah*, from tannaitic blessings, and from the prayers of Jesus.<sup>159</sup>

With regard to the liturgy,<sup>160</sup> the first stage in the incorporation of the theme of divine sovereignty was the introduction of a separate *malkuyot* blessing into the New Year liturgy, probably in Rabbi Akiva's time,<sup>161</sup> in the early part of the second century.

The second stage was the explanation of Akiva's student, Rabbi Shimon bar Yoḥai, for the structure of the Decalogue. According to Simeon, the sequence of the first two sayings of the Decalogue adheres to the theory that the acceptance of God's sovereignty precedes the acceptance of his commandments.<sup>162</sup> He understood the words "I am the Lord your God" (of the Decalogue as well as of Lev. 18.2) to mean, "'Am I not He whose sovereignty you have accepted at Sinai?' When the Israelites replied, 'Yes,' (God continued): 'As you accepted My sovereignty accept My decrees: You shall have no other gods besides Me.'"<sup>163</sup>

The third stage was the application of this two-part sequence to the first two biblical sections of the *Shema* by his younger contemporary, Rabbi Joshua ben Korḥa. According to Joshua, the first section of the *Shema* (Deut. 6.4–9), because it constitutes "the authority of God's kingship," logically precedes the second (Deut. 11.13–21), which constitutes "the authority of the commandments."<sup>164</sup> Accordingly, the first section of the *Shema* functions as an equivalent to the first statement of the Decalogue, both constituting "the authority of God's kingship"; whereas the second section functions as the second statement (and probably the rest) of the Decalogue, both constituting "the authority the commandments." In stages three and four, the acceptance of divine sovereignty has replaced the biblical terminology of covenant. In the Torah,<sup>165</sup> the Decalogue

<sup>159</sup> See Kimelman, "Blessing Formulae and Divine Sovereignty", 1–12. The exception in Josephus is his citation of the prayer of Onias, "O God, King [*basileus*] of the Universe" (*Ant.* 14.22).

<sup>160</sup> For fuller documentation, see *ibid.*, 22–5.

<sup>161</sup> See Tos. *Rosh H.* 2.13 (ed. Lieberman, II 318 ll. 71–3, with parallels).

<sup>162</sup> Mekh. *Massekhta Ba-Hodesh* 6 (ed. Lauterbach II 238).

<sup>163</sup> Following the version cited in Naḥmanides to Deut. 22.6. <sup>164</sup> *M. Ber.* 2.2.

<sup>165</sup> Exod. 34.28; Deut. 4.13; 5.19; 9.11.

constitutes the covenant; whereas here, it and its equivalent constitute the acceptance of divine sovereignty.

The fourth stage was the insertion of “Blessed be the name of His glorious kingship for ever and ever” after the *Shema* verse. This probably took place at this time, since its recitation out loud was associated with Usha,<sup>166</sup> which was the rabbinic center of the mid-second century. This late development helps account for its absence in the traditions of the prior death of Rabbi Akiba, all of which deal with the *Shema*.<sup>167</sup> The fifth stage involved the insertion of the kingship motif into the *Emet ve-yatsiv* in the next generation by Rabbi Judah the Prince (c. 200 CE)<sup>168</sup> and subsequently into the first and third blessing of the *Shema* liturgy.<sup>169</sup> The sixth stage was the adding of the kingship motif to the blessing formula in the next generation by Judah’s students, Rav or Rabbi Yohanan.<sup>170</sup> The requirement of mentioning kingship in the third and eleventh blessing of the *Amidah* during the High Holiday period is also attributed to Rav.<sup>171</sup>

The result of adding “king” to the blessing formula is that the function of the *Shema* verse, the expansion of Psalm 72.14 (“Blessed be the name of His glory for ever”) to produce the expression “Blessed be the name of His glorious kingship for ever and ever,” and the inclusion of kingship into the blessing formula all reflect the same liturgical goal of highlighting God as sovereign. Originally, neither the *Shema* verse, Psalm 72.14, nor tannaitic blessing formulas were associated with divine sovereignty. When the *Shema* verse became the verse for the acceptance of divine sovereignty, it was linked to the sovereignized form of Psalm 72.19. In any case, the adding of kingship to produce “Blessed be the name of His glorious kingship for ever and ever” parallels the adding of kingship to the blessing formulas of 1 Chronicles 16.36 and 29.10 to produce the rabbinic blessing formula.

<sup>166</sup> See E. Urbach, *The Sages: Their Concepts and Beliefs* (Jerusalem, 1969), 349 n. 9. (Hebrew) (ET *The Sages: The World and Wisdom of the Rabbis of the Talmud* (Cambridge, MA, 1987), 859 n. 9.

<sup>167</sup> See PT *Ber.* 9.7.14b = PT *Sot.* 5.7.20c; *Tanb.*, *Kee Tavo* 4 (ed. Buber, 47); *Midr. Mishlei* 9 (ed. Visotzky, 67 l. 19f.) BT *Ber.* 61b; and D. Boyarin, *Dying for God: Martyrdom and the Making of Christianity and Judaism* (Stanford, 1990), 105–8, 120–3.

<sup>168</sup> *Tos. Ber.* 2.1; PT *Ber.* 1.9.3d. The other positions all advocate inserting an element of the Exodus story.

<sup>169</sup> See Kimelman, “The *Shema*’ Liturgy,” 58–63.

<sup>170</sup> PT *Ber.* 9.1.12d; BT *Ber.* 40b; *Midr. Ps.* 16.8 (122f. with nn. 32f.). The innovative aspect of the kingship requirement is underscored by the fact that the Talmud (BT *Ber.* 40b) can find tannaitic support (see *Sifre Deut.* 303 for mentioning the divine name, but not for mentioning kingship. The focus on kingship may have been a factor in the selection of Ps. 145 for daily recitation; see BT *Ber.* 46b.

<sup>171</sup> BT *Ber.* 12b.

From the early second century CE to the mid-third century, the rabbinic liturgy became centered around the idea of acknowledging God as sovereign. This drive toward the “sovereignization of the liturgy” may account for the later interpolation of the *Kedushah* into the Palestinian *Amidah* and the many interpolations of “king” in the Babylonian *Amidah*, as noted above.<sup>172</sup>

### VII WHY WAS THERE A SOVEREIGNIZATION OF THE LITURGY?<sup>173</sup>

Some explain the sovereignization of the liturgy as a response to the claims of human rulers. Those who date the response to the Second Temple period prefer a Jewish ruler. Those who date it later prefer a Roman one. The infrequency of the sovereignty motif in Second Temple blessings argues against a polemical thesis being applicable then.

The thesis that the sovereignty motif was introduced to counter the cult of the emperor is also difficult to maintain. As the former thesis, it relies on the questionable assumption that political events spur liturgical innovation and that political claims can be countered by liturgical ones.<sup>174</sup> Moreover, it suffers from a lack of correlation among the Roman, rabbinic, and Christian data.

The various cults of the emperor would have been as threatening to Christianity as they were to Judaism, yet Christian liturgy was not characterized by the sovereignty motif. In fact, Christian literature of the time rarely mentions the imperial cult at all. On the contrary, there is a slew of both patristic and rabbinic sources that expatiate on the positive value of the Roman Empire and of having a single emperor. Indeed, Christians prayed for its welfare, as may have rabbis. Of course, anti-Roman invective is also noted in rabbinic literature. What is rare, however, is material contrasting the kingdom of Rome with the kingdom of God as opposed to just contrasting the King of kings with a king of flesh and blood. Were

<sup>172</sup> It even accounts for the “sovereignization” of the *Bavli*’s presentation of Rabbi Akiva’s death. All the sources that mention Rabbi Akiva’s death (above, n. 167) record that it was the time for the recitation of the *Shema* and that the issue was the fulfillment of the requirement to love God with all your soul (Deut. 6.5). Only the *Bavli* (BT *Ber.* 61b; see *Diqduqei Sofrim*, *Berakhot*, 356 n. 8) adds that Akiva was involved in the act of acceptance of divine sovereignty.

<sup>173</sup> For further documentation, see Kimelman, “Blessing Formulae and Divine Sovereignty,” 25–39.

<sup>174</sup> See R. Kimelman, “Liturgical Studies in the 90’s,” *Jewish Book Annual* 52 (1994–5/5755), 59–72.

rabbinic liturgy about the kingship of God aimed primarily at the imperial cult, material contrasting the heavenly King and His authority with that of the earthly king would abound.<sup>175</sup> What does abound in both patristic and rabbinic literature is anti-iconic material, which, *inter alia*, includes the image of the emperor but without special focus on the imperial cult as such.

Attempts to explain the kingship motif in the liturgy with the anti-emperor thesis also ignore how emperors, desiring to maintain the facade of the republican tradition, were circumspect in appropriating the title “king” (*basileus/rex*). In the context of the imperial cults, emperors were more likely to be dubbed *theos* (god), in accordance with their function as visual gods. There are rabbinic traditions that protest against and satirize the deification of kings/emperors,<sup>176</sup> and even one that specifies Emperor Hadrian.<sup>177</sup> In such a context, however, instead of proclaiming God “King of the world,” the Rabbis should have acclaimed God as “God of gods” as does the Bible,<sup>178</sup> or “King of gods” as does Qumran<sup>179</sup> or Hellenistic Jewish literature.<sup>180</sup> Alternatively, they could have stressed that God was the Savior of the world, matching the claim of various emperors.

Near the end of the second century, imperial claims became more divine and monarchical. Emperor Commodus, who reigned from 180 to 192, made *invictus* (= invincible) a component of the imperial title and had the sun god portrayed on his coins. Emperor Caracalla (d. 218) came to be regarded as world ruler (*cosmocrator*), through whom shone the divinity of *Sol Invictus* (the Invincible Sun). And Emperor Aurelian, in 274, sought to found a state cult of *Sol Invictus* at Rome in order to enhance the cult of the emperor by associating it with that of the sun.

This development may have contributed to the expansion of the motif of divine sovereignty in the liturgy. Rabbi Judah Hanasi, who lived under Emperor Caracalla, introduced the motif into the *Emet ve-yatsiv* and incorporated into the Mishnah the position of Rabbi Joshua ben Korḥa, which maintained that the first two paragraphs of the *Shema* reflect, respectively, the acceptance of the authority of divine sovereignty and the acceptance of the authority of the commandments. The authors of the requirement of kingship in the blessing were also students of Rabbi Judah Hanasi.

<sup>175</sup> As for example in 2 Macc. 15.4–5. For rabbinic attitudes toward Rome see G. Cohen, *Studies in the Variety of Rabbinic Cultures* (Philadelphia, 1991), 262 n. 17; and L. Feldman, “Remember Amalek!” *Vengeance, Zealotry, and Group Destruction in the Bible According to Philo, Pseudo-Philo, and Josephus* (Cincinnati, 2004), 63–83.

<sup>176</sup> See *Mekh*, *Shirata* 8 (ed. Lauterbach 11 61); *Gen. R.* 9.5 (p. 70); *Tanb.*, *Bereisbit* 7.

<sup>177</sup> *Tanb*, *Bereisbit* 7; *Sboftim* 12. <sup>178</sup> Deut. 10.17; Dan. 2.47.

<sup>179</sup> See 4Q403. 1.34.

<sup>180</sup> See Philo, *Contra Flacc.* 170; Pss. Sol. 17.3; and Wis. Sol. 10.10. This tactic is adopted in 1 *Enoch* 9.4.

In its Roman context, the blessing would be understood as “Blessed are You, the Lord our God, who is [the real] king of the world.” The emphasis on the God of Israel as the king of the world also appears in a passage of the New Year *Amidah* which awaits the day when all humanity will proclaim: “The Lord, God of Israel, is king and His kingship rules over everything.” This point that what makes God truly King is that he rules over all is made explicit in the following talmudic statement cited in the name of the late-third-century amora, Rabbi Eleazar:

What is the relationship between (the first part of Ps. 146.5), “Happy is he that has the God of Jacob for his help” (and the second part) “who made heaven and earth?” It is like this: a king of flesh and blood having a patron (above him) rules in one province but not another province. And even if you say he is a cosmocrator and rules the earth, does he rule the sea? But the Holy One, blessed be He, is not so. He rules the sea and the land.<sup>181</sup>

In this statement, the extent of divine rule is contrasted with rule of the greatest of human rulers, the so-called cosmocrator. The irony is clear. Whereas a human king, such as an emperor, can be called a cosmocrator, only the God of Jacob is actually so. Similarly, the blessing formulary affirms that the God of Israel is the real cosmocrator of the world. It is worth noting, thus, that the attestations of the term “cosmocrator” for God as well as for the emperor in rabbinic literature are, like the statements regarding the content of the blessing formulary, post-Caracalla amoraic statements.

It would be most helpful were we able to correlate the sovereignty motif in rabbinic liturgy with that of the Church Fathers. Lamentably, it is close to impossible. For example, Rabbi Akiva’s contemporary, Clement of Rome, around the turn of the first century, addresses God as *despota epouranie basileu ton aionon* (heavenly Master, King of the ages),<sup>182</sup> but this is just standard Second Temple parlance. It is claimed that the self-defined Samaritan,<sup>183</sup> Justin Martyr – of the mid-second century, when Rabbi Akiva’s students flourished – wrote a work on the monarchy of God, but the only evidence for it comes from a century later.<sup>184</sup> A generation or so later, during the time of Rabbi Joshua ben Korḥa, Theophilus (c. 180 CE), Bishop of Antioch, comments upon the names of God, saying: “He is called God because He founded all things . . . but He is Lord (*kyrios*) because He rules the universe.”<sup>185</sup> He further argued that the unique sovereignty of

<sup>181</sup> PT *Ber.* 9.1.13b = PT *Av. Zar.* 3.1.42c.      <sup>182</sup> 1 *Clement* 61.2.

<sup>183</sup> Justin, *Dialogue* 120.6.

<sup>184</sup> See Eusebius, *HE* 4.18.4. The extant work on the subject collates references from classical writers on the sole rulership of God.

<sup>185</sup> Theophilus, *Ad Autolyicum* 1.4; see also *Barnabas* 21.5.



God (*monarchia theou*) could not be demonstrated were the world uncreated.<sup>186</sup> Theophilus' use of the monarchy of God, however, is atypical. Moreover, he is hardly representative of Christianity *vis-à-vis* Judaism in view of his affinity with the Judaism or the Jewish Christianity of his day.<sup>187</sup> At the end of the third century, Arnobius may have referred to God as *rex mundi* ("King of the universe"), but the reading might just as well be *rerum dominus* ("Lord of things").<sup>188</sup> Instructively, the Christian text that does address God as King, as "the King of the gods" (7.33.2), "King of the ages" (or, world) (7.34.1), and as "King and Lord" (8.12.7; see 8.37.1) is the *Constitutiones Apostolorum*, which is based on a Jewish text.

Apparently, God's sovereignty was not a significant motif of Roman Christianity in the second and third centuries. That imperial developments left so few traces on formulations of second- and third-century Christianity challenges any assumption that it left more traces on rabbinic formulations.<sup>189</sup>

In sum, the correlation among Jewish, Christian, and Roman data for the imperial cult is weak. None of the data are concentrated in any generation. A century or two is too long a period to explain a politically motivated liturgical innovation. If any specific cult of the emperor (and there were many earlier) had triggered rabbinic counter-claims, there should be a concentration of such claims during the reign of a single emperor. Since the subject of this discussion is the progressive sovereignization of the liturgy, a process lasting over a century and not associated with any single individual or generation, it is unlikely that it was caused by a single political factor.

Apparently, the centrality of divine sovereignty in rabbinic liturgy is more the fruit of internal theological developments than the result of external political events. As noted, the image of God as sovereign becomes increasingly prominent in the Second Temple period, where about a half a dozen Second Temple blessing formulas address God as King. Such references do point to a growing tendency of the liturgy to image God as King. This tendency flourishes in later rabbinic, targumic, and Hekhalot literature.

<sup>186</sup> *Ad Autolyicum* 2.4–8.

<sup>187</sup> On the problem of crossovers from Christianity to Judaism, see R. Kimelman, "Identifying Jews and Christians in Roman Syria-Palestine," in E. M. Meyers (ed.), *Galilee Through the Centuries: Confluence of Cultures* (Winona Lake, 1999), 301–31. Interestingly, Theophilus, the first Christian theologian (notwithstanding Justin, 1 *Apol.* 10 and 59) to argue explicitly for *creatio ex nihilo*, or, in his words, *ex ouk onton* (*Ad Autolyicum* 2.4), makes the argument in the context of a polemic with Greek thought, just as does Rabban Gamaliel (*Gen. R.* 1.1).

<sup>188</sup> See Arnobius, *The Case Against the Pagans* 2.39 (ed. McCracken, 151, 328 n. 246).

<sup>189</sup> Similarly, Philo's confrontation with the imperial cult failed to elicit a liturgical response on divine sovereignty.

Under rabbinic auspices, biblical covenant imagery was translated into monarchical imagery. I have argued elsewhere that the original covenantal ceremony of the *Shema* liturgy consisted of the three biblical sections that constitute the *Shema* lectionary and the Decalogue, preceded by a blessing on Torah and succeeded by the *Emet ve-yatsiv*, none of which makes mention of divine monarchy. Under rabbinic auspices, *Emet ve-yatsiv* absorbed the kingship motif, the Decalogue was removed, and the remaining part was flanked by two blessings which incorporate the events of creation and redemption along with their heavenly and historical coronation ceremonies. The result was the transformation of an ancient pact form into a comprehensive rite for the realization of divine sovereignty. Accordingly, the biblical understanding of covenant was updated terminologically and conceptually to the rabbinic understanding of the acceptance of divine sovereignty.<sup>190</sup> This shift from a focus on covenant to one on sovereignty is reflected in the terminological distinction between Qumran and rabbinic Judaism. The Qumran *Rule of the Community* alludes to the *Shema* by saying: “With the coming of the day and night I shall enter the covenant of God” (IQS I O. IO), whereas the rabbinic Mishnah designates the recitation of the *Shema* as an acceptance of divine sovereignty.<sup>191</sup> Thus an expression for a convert entering the covenant is, “he surrendered himself to the Holy, blessed-be-He, and [or, that is] accepted divine sovereignty.”<sup>192</sup>

Understanding the *Shema* as an expression of divine sovereignty paved the way for the incorporation of the kingship motif into the blessing formulary. Such a development was undoubtedly enhanced by living in an empire that sought the convergence of political and theological imagery and terminology. But that is quite different from understanding the expression “King of the world” as a protest against Roman emperor worship.

It is more precise to say that, by the late third century, paganism, Christianity, and Judaism were claiming that their God was the world ruler. Centuries earlier, *The Epistle of Aristeeas* quoted a Hellenistic Egyptian to the effect that

They (the Jews) worship the same God – The Lord and Creator of all the universe, as all other men, as we ourselves, O king, though we call him by different names, such as Zeus or Dis. This name was very appropriately bestowed upon Him by our first ancestors, in order to signify that He through whom all things are endowed with life and come into being is necessarily the ruler and lord of all. (15–16)

<sup>190</sup> See Kimelman, “The *Shema*’ Liturgy,” 80–90. <sup>191</sup> *M. Ber.* 2.2.

<sup>192</sup> *Tanh., Lekh Lekha* 6 (ed. Buber, 63). Note that this is attributed to a mid-third-century Palestinian amora, Resh Laqish, for the acceptance of divine kingship is not mentioned with regard to conversion in tannaitic or Second Temple literature.

At the end of the first century CE, this statement is cited by Josephus in *Antiquities* 12.22. Josephus, in his own voice, cited the idea that “the wisest of the Greeks learnt to adopt these conceptions of God from principles with which Moses supplied them” (*Contra Ap.* 2.168). Not much later, the pagan Dio Chrysostom designated Zeus as the “God who governs the universe” and who is “the common father and savior and guardian of mankind.” According to him, Zeus “alone of the gods is entitled Father (*Pater*) and King (*Basileus*)” . . . “He is addressed as King because of his dominion and power; as Father . . . on account of his solicitude for us and his kindness.”<sup>193</sup> A century earlier, Philo stated: “He exists whom all Greeks and barbarians unanimously acknowledge; the supreme father of the gods and men and the Maker of the whole universe (*De Spec. Leg.* 2.165). Philo often referred to God as Father or King. In *On the Creation* alone, he calls God “Father of the universe” (72, see 74), “Father and Ruler of all” (135), “Maker and Father” (7, 10, 21, 77 [like Plato, *Timaieus* 28c]), and “Father and King” (144). The famous statement of Plato – “All things center in the King of all, and are for his sake, and he is the cause of all that is good”<sup>194</sup> – was cited approvingly by Christian and pagan alike in the latter half of the second century.<sup>195</sup> In the same period, the philosopher Numenius of Apamea writes that “the first God abstains from every work and is the king.”<sup>196</sup> Maximus of Tyre writes, in about 180, of a truth universally accepted by Greeks and barbarians alike, namely, “There is only one God, King and Father of all.”<sup>197</sup>

This general religious reality also stands behind Tertullian’s question, posed at the end of the second century: “Do you not grant, from general acceptance, that there is some being higher and more powerful, like an emperor of the world, of infinite power and majesty?”<sup>198</sup> Jews were quite aware of the philosophical proclivity to expatiate about God in terms of divine sovereignty. Trypho, a reputed Jewish refugee from the Bar Kochba war in Palestine and student of philosophy, when asked by Justin whether he expects to derive the kind of enlightenment from philosophy that one gets from Moses and the prophets, answered, “Do not the philosophers talk all the time about God and do not their inquiries always concern divine monarchy and providence?”<sup>199</sup>

<sup>193</sup> *The Twelfth, or Olympic, Discourse*, 55, 74–5. For similar sentiments see his contemporary, Plutarch, *Moralia*, 601B.

<sup>194</sup> Plato, *Second Epistle* 312E.

<sup>195</sup> By Clement of Alexandria (*The Exhortation to the Greeks* 6 [60], *Stromateis* 5.103.1); by Celsus (Origen, *Contra Cels.* 6.18), and by Numenius (Eusebius, *Prep. Ev.* 11.18.3).

<sup>196</sup> Fragment 12 (Numenius, *Fragments*, 54).

<sup>197</sup> Ed. H. Hobein, 17:5; see 39:5. He also refers to “the God who is the father and creator of all.” See the similar view of his contemporary, Celsus, as cited by Origen, *Contra Cels.* 8, 68.

<sup>198</sup> Tertullian, *Apol.* 24.3. <sup>199</sup> Justin, *Dialogue with Trypho* 1.

In the early third century, a Christian philosopher, Marcus Minucius Felix, concedes that “those who would have Jupiter to be sovereign are misled in name but are in agreement about his unique power.”<sup>200</sup> After summarizing various philosophical conceptions of God, he concludes: “These opinions are pretty well identical with ours: we recognize God, and we also call Him Father of all.” About a quarter of a century later, the pagan philosopher, Porphyry, describes the God of the Jews as “one truly God, the creator and the king prior to all things.”<sup>201</sup> In a third-century funerary inscription from Thessaly, the deity is designated “the King, the greatest God, creator of everything.”<sup>202</sup> In the same century, the *Orphic Hymns* refer to God as “begetter of all and great King,” or as “great king of eternal earth.”<sup>203</sup> There is even a hymn which, as the rabbinic blessing formulary, addresses the Deity as both ruler of one group and King of all – “O blessed ruler of Phrygia and supreme king of all.”<sup>204</sup>

In the next century, Emperor Julian also notes that “the creator is the common Father and King (*Basilea*) of all things.”<sup>205</sup> He also says, “These Jews . . . revere a God who is truly most powerful and most good and governs this world of sense, and, as I well know, is worshiped by us also under other names.”<sup>206</sup> He himself, however, in *The Hymn to King Helios*, calls Helios *ton panton basilea* (king of the whole world),<sup>207</sup> a title that harks back to the king ruling over all that the Septuagint (Esther 4) calls God.

The affirmation of God as king of the world in the blessing formulary corresponds to this growing consensual monarchical theology of the late antique Roman Empire. The point of the blessing, that “it is our God who

<sup>200</sup> *Octavius of Marcus Minucius Felix* 18.11.82. Zeus is also called “king (*basileus*) of all the gods” (H. Musurillo, *The Acts of the Christian Martyrs* [Oxford, 1972], 163), as Jupiter is called *regem omnium deorum* (Varro, *apud* Augustine, *De Civ.* 4.31).

<sup>201</sup> *On the Philosophy to be Derived from Oracles*, cited by Augustine, *De Civ.* 19.23.

<sup>202</sup> *IG* 9.2.1201, as cited by Henrichs, “Despoina Kybele,” 277 n. 64. This source is cited by H. W. Pleket, “Religious History as the History of Mentality: The ‘Believer’ as Servant of the Deity in the Greek World,” in H. S. Versnel (ed.), *Faith, Hope and Worship: Aspects of Religious Mentality in the Ancient World* (Leiden, 1981), 152–92, 173, who also lists other references wherein the Deity is referred to as *Basileus* and even as *Basileus ho Theos* (*ibid.*, 174 n. 100).

<sup>203</sup> A. Athanassakis, *The Orphic Hymns: Text, Translation and Notes* (Missoula, 1977), #20 l. 5, p. 33; #39 l. 1, p. 55.

<sup>204</sup> *Ibid.*, #48 l. 5, p. 65.

<sup>205</sup> *Against the Galilaeans* 115D (Julian, *The Works of the Emperor Julian*, ed. W. Wright, 3 vols. [Cambridge, MA, 1923], III 345).

<sup>206</sup> *Letter to the High-Priest Theodorus*, 20.454a (*The Works of the Emperor Julian*, III 61).

<sup>207</sup> 132c (*The Works of the Emperor Julian*, I 358).

is king of the world,”<sup>208</sup> also counters the contention that “the God of the Hebrews was not the begetter of the whole universe with Lordship over the whole but rather . . . that he is confined within limits.”<sup>209</sup> In any case, the blessing highlighted divine sovereignty in a period in which the chief deity was presented more and more in terms of rulership of the world.<sup>210</sup> In this theological universe, the particularistic covenantal theology of the Bible and Qumran yielded to the universalistic coronation theology of the Rabbis.<sup>211</sup> What covenant was to biblical theology, the acceptance of divine sovereignty became for rabbinic theology.

<sup>208</sup> This explains the requirement of saying “our God king of the world” and not just “king of the world”; see Y. Perla, *Sefer Ha-Mitzvot Le-Rabbenu Sa’adyah*, 3 vols. (Jerusalem, 1973), 189. Accordingly, the midrash underscores that it is “The Holy One, Blessed be He, Who is King of the World” (1 *Sam. R.* 1.50; *Yal Shim, Deut.* 1.938 [ed. Heyman and Shiloni], *Deut.* 572, 1.82 and parallels. The *Sbema* verse was also understood as “It is our God who is God of the world/humanity” (*Sifre Deut.* 31.54 1. 5) as *Exod.* 15.10 was understood as “It is the Lord who will reign for ever and ever”; see J. Goldin, *The Song at the Sea* (New Haven, 1971), 47 n. 58. In a similar vein, note that the only time the Bible combines “King” with “the Lord of the Hosts” (*Zech.* 14.17) is when God is designated as that to Whom all the nations, upon coming to Jerusalem, were expected to bow.

<sup>209</sup> *Against the Galilaeans*, 100C; see 148C (*The Works of the Emperor Julian*, 111 345, 359). In contrast, the Midrash says: “God said: ‘The owner of a ship is not called *naukleros* (shipowner) unless he has a ship, so I am not called God unless I created Myself a world’” (*Seridei Tanhuma Yelamdenu*, ed. E. Urbach, *Kovets Al Yad* 6[16].1 (1966), 12).

<sup>210</sup> There was also a corresponding use of the Greek *kalos* to praise or acclaim the Deity in pagan, Christian, and Jewish prayers, a practice borrowed from the acclamations of the emperors – “*kalos bo basileus*.”

<sup>211</sup> The rabbinic goal of universalizing coronation theology is already intimated in *Zech.* 14.9: “And the Lord will become King over all the earth; on that day the Lord will be one and His name one.” Of the ten kingship verses that are appended to the *Al Kain* paragraph of the Rosh Hashannah *Aleynu* prayer (see *Seder Rav Amram Gaon* 142), this verse was retained in the later daily version. There it culminates the hope that all humanity will accept divine sovereignty. No comment is made about their inclusion into Israel. In contrast, to universalize biblical covenantal theology, non-Jews have to be ingathered as in *Isa.* 56.6–8. On the biblical understanding of covenant (*brit*), see J. Tigay, *Deuteronomy*, The JPS Torah Commentary (Philadelphia, 1996), xiv–xv, 63. Josephus also avoids using covenantal language, but instead of recasting it in terms of divine sovereignty – a model which was yet to be formulated – he employs a patron–client relationship; see P. Spilsbury, “God and Israel in Josephus: A Patron–Client Relationship,” in S. Mason (ed.), *Understanding Josephus: Seven Perspectives* (Sheffield, 1998), 172–91. Tannaitic Midrash continues to use *brit* to refer to the Sinaitic covenant, whereas the Mishnah and Tosefta use it to refer to circumcision unless they are citing a verse dealing with the Sinaitic covenant; see Lawrence Schiffman, “The Rabbinic Understanding of Covenant,” *Review and Expositor* 84 (1987), 289–98. In the Mishnah, the terminology of covenant is displaced by that of kingship. Indeed, the subject of divine kingship virtually opens the Mishnah (at *M. Ber.* 2.2). Thus the contentions that the covenant is unimportant for the mishnaic system or that the system takes covenant legal theory for granted are misleading.

## VIII CONCLUSION

Worship of God in the rabbinic period differs from that of the biblical period in its shift from the Temple to the synagogue, and in the change of focus from sacrifice-centered or occasional prayer – standardized or improvisatory – to fixed communal liturgy. The gap between the two modalities of worship was partially bridged by the twin phenomena of the templization of the synagogue and the sacrificization of prayer. Nonetheless, the fear of the Temple's being superseded limited the first, whereas conceiving of prayer as a more heartfelt act of standing before the divine presence than as a cultic substitute restrained the second. Rabbinic prayer also promoted the idea that the primary way of relating to God was through the acceptance of divine sovereignty, and thus the primary metaphor for the God of Israel is "King of the world." This sovereinization of the liturgy was consonant with the emerging theological thinking of the late Roman Empire.

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## RABBINIC VIEWS ON MARRIAGE, SEXUALITY, AND THE FAMILY

MICHAEL L. SATLOW

### I SEXUAL PRACTICES AND JEWISH IDENTITY

Hecataeus of Abdera, a Greek ethnographer living in the time of Alexander the Great, wrote the following, “As to marriage and the burial of the dead, [Moses] saw to it that their customs should differ widely from those of other men. But later, when they became subject to foreign rule, as a result of their mingling with men of other nations . . . many of their traditional practices were disturbed.”<sup>1</sup> Already, 400 years prior to the rabbinic period, Jewish communities had apparently lost the remains of their distinctive marital practices.

Complicated questions of identity attend to any discussion of Jewish sexuality, marriage, and the family in antiquity. Would a non-Jew stumbling upon a wedding between Jews or peering into the bedroom of a Jewish home have observed practices that he or she would have labeled as Jewish? Did Jews themselves understand their sexual and marital practices and assumptions as loci of identity, as distinctively Jewish? Would Jews of one community (for example, Palestine) who observed the practices of Jews in another (for example, Babylonia) have recognized their sexual mores and marital practices as Jewish?

This chapter will argue that Jews in the rabbinic period, by and large, did not understand their sexual and marital assumptions and practice as strong sites for a distinctive identity. In other words, it is anachronistic to term the marriages or, to a lesser degree, sexual ethics of Jews during the rabbinic period as “Jewish.” Jews more or less shared their understanding and practices of marriage and sex with their non-Jewish neighbors. Even when the Rabbis polemicized against the sexual practices of non-Jews, they nevertheless shared with these non-Jews a fundamental understanding of sexuality.

At the same time, however, some groups of Jews – primarily the Rabbis late in the rabbinic period – began to move toward a more distinctively

<sup>1</sup> Quoted in Diodorus Siculus, *Bib. Hist.* 40.3.8 = *GLAJJ* 1 27–9.



“Jewish” understanding of marriage. These Jewish groups sought to fit their received textual traditions and rituals into the *a priori* assumptions drawn from their surrounding cultures. The result of this reading of tradition through a contemporary lens was a distinctive ethnic and religious marking of sexuality, marriage, and the family.

From the outset, it is necessary to emphasize that this argument, and indeed much of the reconstruction throughout this chapter, is guarded. When describing (rather than prescribing) the personal and family lives of Jews in late antiquity, the sources are recalcitrant. Rabbinic sources rarely provide a clear picture of social reality; no Jewish literary texts written in Greek after the first or second century CE are extant; after the second century CE, almost no Jewish papyri of relevance are available; non-Jewish writings are highly polemical and often ignorant of true Jewish practice, and little published Jewish erotic or marital art survives. About demographic norms (for example, the average age of first marriage or the rate of divorce), one can assert almost nothing with confidence, and about actual sexual practices of individual Jews, ignorance is absolute. Nevertheless, sufficient fragmentary evidence survives to sketch a picture, however crude, of the ways in which Palestinian and Babylonian Jews (or perhaps only rabbis) constructed sexuality and marriage, practiced the latter, and organized their families.

## II SEXUALITY IN PALESTINIAN SOURCES

Palestinian rabbis thought that the body, like all creation, was ultimately good. Unlike one influential Platonic strain of thought, most Palestinian rabbis believed that no fundamental dichotomy existed between the body and the soul; because God created human beings as single, monistic entities (and God is good), so too, human beings with all of their riotous urges must be good.<sup>2</sup> God gave sex itself, according to several Palestinian readings of Genesis 1—2, as a blessing or even a commandment.<sup>3</sup> Rabbinic law obligates a man to provide his wife with sex, food, and clothes.<sup>4</sup>

It is mistaken, however, to read these sentiments as an unabashed endorsement of human sexuality. In fact, Palestinian rabbis were deeply ambivalent about sexuality.<sup>5</sup> They term the urge for sex as the “evil desire”

<sup>2</sup> *Gen. R.* 9.7 (eds. Theodor and Albeck, 73); D. Boyarin, *Carnal Israel: Reading Sex in Talmudic Culture* (Berkeley, 1993), 61–73; E. E. Urbach, *The Sages: Their Concepts and Beliefs*, trans. I. Abrahams (Cambridge, MA, 1987), 471–83.

<sup>3</sup> See the sources cited by J. Cohen, “Be Fertile and Increase, Fill the Earth and Master It”: *The Ancient and Medieval Career of a Biblical Text* (Ithaca, 1989), 124–65.

<sup>4</sup> *Mekb. Mish.* 3 (eds. Horowitz and Rabin), 258–9.

<sup>5</sup> D. Biale, *Eros and the Jews* (New York, 1992), 33–59.

(*yezer hara*).<sup>6</sup> One rabbinic text advises men to avoid talking with women in order to avoid “inheriting Gehenna”; another interprets an unexplained expiation offering (Num. 31.50) as necessary to atone for lusting eyes.<sup>7</sup> A “pious man among pious men,” a rabbinic tradition in the Palestinian Talmud advises, should avoid being appointed as guardian over a female relative, presumably because of the fear that he will be sexually attracted to her.<sup>8</sup> These rabbis saw male and female sexual desire as threatening. Always crouching at the door, sexual desire was seen as waiting for the opportunity to enter and unsettle the cultivated control of the rabbinic man.<sup>9</sup>

Palestinian rabbinic constructions of sexuality cannot be disengaged from their understanding of gender. For Palestinian rabbis, as for their Greek and Roman neighbors, the primary characteristic of masculinity was self-control. “Men,” as opposed to boys, women, and Gentiles (who were feminized in this regard), carefully cultivated their bodies and dispositions, demonstrating their supreme power by exercising self-restraint. “Who is a warrior?” Ben Zoma asks, and answers, “One who conquers his evil desire.”<sup>10</sup> The Rabbis here transform the biblical warrior (*gibor*) into a self-restrained man. A man’s sexual behavior was a sign of his masculinity. One Palestinian rabbi explicitly understands control of the evil desire as a male activity: “‘Happy is the man who fears the Lord’ (Ps. 112.1). Happy is the man and not happy is the woman . . . Rabbi Yehoshua ben Levi said, ‘Happy is the one who overpowers his *yezer* like a man.’”<sup>11</sup> The man in the face of temptation and easy sexual access who resisted his desires demonstrated the self-control needed for the disciplined life of Torah and *halachah*. However, the man who yielded to his sexual desire was seen as sliding down a slope that led him to all manner of dissoluteness. Such a man would ultimately worship idols, which for Palestinian rabbis was as far from their understanding of Judaism as man was from woman.<sup>12</sup>

<sup>6</sup> On the *yezer hara* see also F. C. Porter, “The Yezer Hara: A Study in the Doctrine of Sin,” in *Biblical and Semitic Studies: Yale Historical and Critical Contributions to Biblical Science* (New York, 1901), 93–156; Boyarin, *Carnal Israel*, 61–76.

<sup>7</sup> *M. Avot* 1.5; *Sifre Num.* 139 (ed. Horowitz, 185).

<sup>8</sup> *PT Ket.* 1.8.25d; see also *PT Ket.* 1.9.25a.

<sup>9</sup> See *Gen. R.* 22.6 (eds. Theodor and Albeck, 210–13). Here the Rabbis understand God’s exhortation to Cain as a reference to the “evil impulse.”

<sup>10</sup> *M. Avot* 4.1 (ed. Albeck, 1v 368–9). <sup>11</sup> *BT Av. Zar.* 19a.

<sup>12</sup> For a nice example of a source that reflects this logic, see *PT Sanh.* 10.2.28c–d. This legend ascribes to Balaam the stratagem of enticing Israelite men, first with women, then wine, and then idolatry. For a development of the argument of this paragraph, see M. L. Satlow, “‘Try To Be a Man’: The Rabbinic Construction of Masculinity,” *HTR* 89 (1996), 19–40. For an opposed interpretation, see J. Hauptman, *Rereading the Rabbis: A Woman’s Voice* (Boulder, 1998), 30–59.

Women stood on the opposite end of this spectrum. Like men, women were seen as possessing a strong sexual desire. Unlike men, though, they were seen as lacking the ability to control their desire. "A woman prefers one *qav* [of material substance] and sex (*tiplut*) to nine *qavs* [of material substance] and abstinence," reads one mishnah.<sup>13</sup> According to an allegedly Palestinian source in the Babylonian Talmud, the more wine a woman drinks, the more sexually solicitous she becomes; after drinking four cups of wine, she will solicit even an ass.<sup>14</sup> This gendered understanding of self-control existed generally among the most common markers of the "feminine" in antiquity.<sup>15</sup> Men have strong sexual desires and frequently fear yielding to them, but Palestinian rabbinic sources tend to portray men, unlike women, as possessing the ability to control themselves. Whether Palestinian rabbis actually thought this way about their own sisters and mothers, one cannot know.

The issue of self-control largely determined the Palestinian rabbinic approach toward specific sexual activities and partners. Palestinian rabbis did not condemn any particular sexual activities in and of themselves. For example, unlike their Babylonian counterparts, Palestinian rabbis appeared to have little problem with the idea that semen would be emitted for non-procreative purposes.<sup>16</sup> Therefore, little Palestinian moral or legal condemnation of birth control, male masturbation, male extramarital sex, or non-procreative sexual activities is extant.<sup>17</sup> When Palestinian rabbis objected to some of these activities, they did so because these activities demonstrated a certain softness or loss of control. One Palestinian midrash, for example, condemned the biblical Lamech for keeping a concubine for his sexual pleasure, not because such an activity was seen as bad in itself, but because it demonstrated hedonism.<sup>18</sup>

Today, one dominant construction of sexual identity rotates around the axis homosexual/heterosexual. This identity was not the case in antiquity among Jews, Greeks, Romans, or Christians. At that time, the predominant sexual category was active/passive or sexual penetrator/one who was sexually penetrated.<sup>19</sup> Men (although not necessarily boys) were expected to be sexual penetrators, and women to be sexually penetrated. This basic

<sup>13</sup> *M. Sot.* 3.4 (ed. Albeck, III 240–1). <sup>14</sup> *BT Ket.* 65a.

<sup>15</sup> J. Beaucamp, "Women," in G. W. Bowersock, P. Brown, and O. Grabar (eds.), *Late Antiquity: A Guide to the Postclassical World* (Cambridge, MA, 1999), 749–51.

<sup>16</sup> M. L. Satlow, "'Wasted Seed': The History of a Rabbinic Idea," *HUCA* 65 (1994), 137–75.

<sup>17</sup> Cf. D. M. Feldman, *Birth Control in Jewish Law: Marital Relations, Contraception, and Abortion* (New York, 1968).

<sup>18</sup> *PT Yev.* 6.5.7c.

<sup>19</sup> Cf. D. M. Halperin, J. J. Winkler, and F. I. Zeitlin (eds.), *Before Sexuality: The Construction of Erotic Experience in the Ancient Greek World* (Princeton, 1990).

assumption permeates the Palestinian rabbinic discussion of homoerotic activities. Despite the clear biblical prohibition on some unclear male homoerotic activities, Palestinian rabbis were much more concerned with men who allowed themselves to be sexually penetrated, a transgression of gender boundaries. For example, one interpretation of 2 Samuel 3.29, which curses the house of Yoab with a “male who handles the spindle,” applies the curse to Yoash (2 Chron. 24.24): “They appointed over him cruel guards who never knew a woman and they would abuse him the way one abuses a woman.”<sup>20</sup> Yoash here is feminized by means of sexual penetration. Following their understanding of the Bible, Palestinian rabbis also made culpable the man who sexually penetrated other men, but they demonstrated less anxiety about and interest in these men. Lesbian sexual activities that did not involve sexual penetration were of little interest to the Rabbis; without penetration, the rabbinic mind could hardly imagine it qualifying as “sex.”<sup>21</sup> Only when women took the “active” roles reserved for men did the Rabbis condemn them; again, because of the blurring of gender boundaries.<sup>22</sup>

The parallels between these Palestinian rabbinic assumptions about sexuality and those of their non-Jewish neighbors suggest, although they do not prove, that these rabbis were echoing assumptions shared by the non-rabbinic Jewish community in Palestine (or at least in the Galilee). If this assumption is true, little evidence exists for a distinctively Jewish sexual ethic or praxis in Palestine. When thinking about sex, Jews might have understood the nexus between gender boundaries, self-control, and sexuality as inextricably linked to the God of Israel and Torah, but their attitudes were essentially part of their wider cultural milieu. Aside from a

<sup>20</sup> PT Kidd. 1.7.61a. Cf. M. L. Satlow, “‘They Abused Him Like a Woman’: Homoeroticism, Gender Blurring, and the Rabbis in Late Antiquity,” *Journal of the History of Sexuality* 5 (1994), 1–25, especially 14–15.

<sup>21</sup> Rabbinic sources consistently define “sex” in a legal context as intercourse. See, for examples, Tos. *Sot.* 1.2; PT *Sot.* 1.2.16c; PT *Ket.* 1.8.25c.

<sup>22</sup> So few references mention female homoeroticism in all rabbinic sources that this assertion must remain speculative. According to the Tosefta, a controversy exists between the Schools of Shammai and of Hillel concerning whether a woman who “rubbed” with her son, who then penetrated her, can marry a priest (*Tos. Sot.* 5.7). The tradition is cited at PT *Gitt.* 8.10.49c, but this version omits the reference to penetration and adds the following: “If two women rub with each other the School of Shammai forbids her [from marrying a priest]. The School of Hillel allows [her to marry a priest].” It seems that the question of two women “rubbing” follows as a consequence of the omission of a reference to penetration in this version of the tradition: the Rabbis envision “rubbing” without penetration as an act that women do with each other. See also *Sifra, Aḥare* 9.8 (ed. Weiss, 85c–d), in which women are condemned for marrying other women, a condemnation most likely based on the gender blurring that ensued with a female “husband.”

stronger communal condemnation of the male who sexually penetrated other males, Palestinian Jews in all likelihood had no distinctive sexual practices.

### III THE IDEA OF MARRIAGE IN PALESTINIAN SOURCES

The Palestinian rabbinic understanding of marriage similarly resembled that of Greeks and Romans. For these rabbis, as for the Jews from the first and second centuries CE whose marriage contracts were found in the caves of the Judean desert, marriage was a civil rather than “religious” or sacramental bond.<sup>23</sup> Palestinian rabbis, probably reflecting wider Jewish sentiment, saw the purpose of marriage as the formation of a household (*oikos*; *domus*).<sup>24</sup> Landowning Greeks, Romans, and Palestinian Jews all understood the basic unit of society to be the household, a social unit of consumption, production, and reproduction. The formation of a household was deemed a requisite for a male to enter full “manhood.”<sup>25</sup> It is important to emphasize that Palestinian rabbis did not, like St. Paul or Babylonian rabbis, understand the primary goal of marriage as channeling sexuality. Marriage was seen as an institution through which a man fulfilled his duty to society. Palestinian rabbis assumed that women were passive and willing partners in a marriage, and, other than widowhood, no culturally sanctioned means was available by which a Jewish woman in late antiquity could remain unmarried. As one text bluntly states: “a woman wants to marry more than a man, and furthermore, the shame of [an unmarried] woman is greater than that of a man.”<sup>26</sup>

Whether among the Jewish papyri of Roman Egypt or those of the Judean desert, little evidence remains outside of rabbinic sources of any distinctive Jewish matrimonial law.<sup>27</sup> It is possible that Jews practiced a binding form of betrothal known from the Bible (*erusin*, called *qiddushin*

<sup>23</sup> I. M. Gafni, “The Institution of Marriage in Rabbinic Times,” in D. Kraemer (ed.), *The Jewish Family: Metaphor and Memory* (New York, 1989), 13–17; H. M. Cotton, “The Rabbis and the Documents,” in M. Goodman (ed.), *Jews in a Graeco-Roman World* (Oxford, 1998), 167–79; H. M. Cotton and A. Yardeni (eds.), *Aramaic, Hebrew and Greek Documentary Texts from Nabal Hever and Other Sites (The Seiyal Collection 11)*, DJD (Oxford, 1997), 265–74.

<sup>24</sup> M. L. Satlow, *Jewish Marriage in Antiquity* (Princeton, 2001), 3–41.

<sup>25</sup> See *Tos. Ket.* 6.8; *Gen. R.* 60.16 (eds. Theodor and Albeck, 656–7); *Lev. R.* 22.1 (ed. Margoliot, 494–8).

<sup>26</sup> *Tos. Ket.* 12.3. A Palestinian rabbi is credited with the statement that for a woman “it is better to dwell [with] grief than [in] widowhood” (BT *Kidd.* 7a). Cf. D. Boyarin, *Dying for God: Martyrdom and the Making of Christianity and Judaism* (Stanford, 1999), 67–92.

<sup>27</sup> See the sources above in n. 23, and *CPJ* 11 4–5.

by the Rabbis); Matthew 2.18–25 attests at least to the knowledge of such a practice by Jews in the first century CE. It is, however, unlikely that most Jews practiced this kind of binding betrothal, which was not used by surrounding Greeks, Romans, and Christians.<sup>28</sup> Given the ability of Jews to use local courts, especially Roman courts after CE 212, it is likely that even if a distinctively “Jewish” matrimonial law existed, it was used only when both parties found it advantageous to do so.<sup>29</sup> Early Jewish marriage contracts strongly resembled, in their content and form, non-Jewish contracts; the distinctive Jewish *ketubba* would emerge only in the geonic period.<sup>30</sup>

Rabbinic sources suggest that the common marriagable age of Palestinian men was approximately thirty years old, probably to women in their (late?) teens.<sup>31</sup> Comparative studies and theoretical models add plausibility, although not proof, to this claim.<sup>32</sup> Palestinian Jewish society appeared to be polygamous, although most families were probably monogamous.<sup>33</sup> Many polygamous marriages may have involved second and levirate marriages; the family papers of a Jewish widow from the second century CE revealed that she had a bigamous marriage.<sup>34</sup> While the Rabbis clearly preferred that marriages were arranged between the fathers of the spouses, some sources suggest that marital arrangements were more complex, involving delicate diplomacy between families and family members. A woman, for example, might advocate one match for her son, whereas the son, who has seen a young woman at the market,

<sup>28</sup> Again, the evidence provides little explicit data on common practice. Perhaps the rabbinic legal instrument of “conditional betrothal,” which in effect makes betrothal not binding (much as the modern practice of “engagement”), is a response to popular reluctance. Cf. PT *Kidd.* 3.2.63d; Satlow, *Jewish Marriage in Antiquity*, 68–82.

<sup>29</sup> For arguments that a distinctively Jewish matrimonial law existed, at least in the first and second centuries CE, see R. Katzoff, “Papyrus Yadin 18 Again: A Rejoinder,” *JQR* 82 (1991), 171–6, and idem, “Greek and Jewish Marriage Formulas,” in R. Katzoff (ed.), *Classical Studies in Honor of David Soblberg* (Ramat-Gan, 1996), 223–34.

<sup>30</sup> M. A. Friedman, *Jewish Marriage in Palestine: A Cairo Geniza Study*, 2 vols. (New York and Tel-Aviv, 1980), 1:1–48; Cotton, “The Rabbis and the Documents,” 167–79; M. J. Geller, “New Sources for the Origins of the Rabbinic Ketubah,” *HUCA* 49 (1978), 227–45.

<sup>31</sup> A. Schremer, “Men’s Age at Marriage in Jewish Palestine of the Hellenistic and Roman Periods” (Hebrew), *Zion* 61 (1996), 45–66.

<sup>32</sup> Cf. R. P. Saller, “Men’s Age at Marriage and Its Consequences in the Roman Family,” *CPh* 82 (1987), 21–34.

<sup>33</sup> Cf. A. Schremer, “How Much Jewish Polygyny in Roman Palestine?” *PAAJR* 63 (1997), 181–223.

<sup>34</sup> N. Lewis (ed.), *The Documents from the Bar Kokhba Period in the Cave of Letters: The Greek papyri* (Jerusalem, 1989), 24; idem, “Judah’s Bigamy,” *ZPE* 116 (1997), 152.

might have ideas of his own.<sup>35</sup> No monolithic model existed in antiquity for forming marriages.

Jewish marriages were probably no more stable than non-Jewish marriages. Death affected all equally and created a booming second-marriage market. In addition, there is no indication that the Jewish divorce rate was lower than that of others. Jewish epitaphs throughout the Mediterranean basin commemorate the same spousal values as those of non-Jews, again indicating that Jews and non-Jews shared spousal ideals.<sup>36</sup> These epitaphs reinforce the impression given in Palestinian rabbinic literature that the primary kinship bond existed between child and parent rather than between husband and wife.

Despite the essential similarity of marital assumptions and customs of Palestinian Jews to those of Greeks and (to a lesser degree) Romans, Jews did in limited ways understand their marriages as “Jewish.” Palestinian Jews had a long history of interpreting the marriage of Adam and Eve as the first marriage.<sup>37</sup> On the one hand, such a view accords well with the Stoic position that marriage was “natural”: it was a way to give a biblical flavor to a Stoic doctrine. On the other hand, though, it also probably results from a sincere struggle with traditional texts through a contemporary lens. Palestinian Jews may have seen in their marriages a genuine and direct link to the natural order, as they understood that their God created it.<sup>38</sup>

Another way in which Palestinian Jews made their marriages “Jewish” involved their use of marriage as a metaphor for the relationship between God and his people, Israel. Whereas biblical writers occasionally used this metaphor, Jewish writers from the Hellenistic period virtually ignored it, as did the earlier Rabbis. Only late in the rabbinic period does a renewed interest in this metaphor on the part of rabbis and liturgical poets suddenly occur.<sup>39</sup> No matter what the cause of this interest (a response to Christian appropriation of the metaphor for Christ and the Church?), it would have caused those Jews who were familiar with it to understand their marriages as sanctified, a mirror of the cosmic relationship.

<sup>35</sup> Whatever its historical veracity, a rabbinic tradition about women dancing in front of prospective mates on Av 15 and Yom Kippur (M. *Taan* 4.8) testifies to a society comfortable with individual initiative.

<sup>36</sup> Cf. Satlow, *Jewish Marriage in Antiquity*, 249–57.

<sup>37</sup> *Gen. R.* 8.12–13 (eds. Theodor and Albeck, 66–7); 18.1 (eds. Theodor and Albeck, 161); *BT Ket.* 7b–8a. For some of the antecedents of these traditions, see Tobit 8.5–8; 4QMMT B 40.

<sup>38</sup> For this argument, see Satlow, *Jewish Marriage in Antiquity*, 57–67.

<sup>39</sup> *Song R.*, 1.2; 4.10; 5.16; *Maḥzor Piyyute Rabbi Yannai* 27 (ed. Rabinowitz, 171–5).

## IV JEWISH FAMILIES IN PALESTINE

Most Palestinian Jewish families in the Galilee appeared to live in “nuclear” household formations, although they may well have had relatives living nearby.<sup>40</sup> A wealthier family would have seen itself as an *oikos*, a basic societal and political unit. Jewish households in Palestine were certainly patriarchal in the sense that the legal systems to which they had access assumed that the male head spoke for the entire household. This fact alone, however, does not help one to understand the genuine roles of men and women within the family and their spheres of power. Even the issue of Jewish status at this time is elusive. Rabbinic law dictates that a Jewish mother confers the status of “Jew” on a child; recent scholarly controversy has arisen concerning whether this is a new, rabbinic formulation or a continuation of older practices,<sup>41</sup> nor is the number of children in a “typical” family known. It seems likely that landowning Jews in the West owned slaves, although a paucity of evidence is available about the role of slaves in these households.<sup>42</sup> Jews had a reputation for not abandoning their newborn, but knowledge of life as a child in any Jewish household in antiquity is opaque.<sup>43</sup>

## V SEXUALITY IN BABYLONIAN SOURCES

It is relatively easy to exaggerate the similarities or differences between Palestinian and Babylonian rabbis. One should be cautious about generalizing “the Rabbis” or “rabbinic culture.” Babylonian and Palestinian rabbis were in contact with each other, sharing traditions as well as their thoughts and arguments about these traditions. Both groups lived in environments suffused with Hellenism. Nevertheless, at the same time, Babylonia under the Parthians and the Sasanians was a different political and cultural entity from Roman Palestine. Moreover, it appears that Babylonian sources reflect

<sup>40</sup> S. Safrai, “Home and family,” in S. Safrai and M. Stern (eds.), *The Jewish People in the First Century: Historical Geography, Political History, Social, Cultural and Religious Life and Institutions* (Assen, 1976).

<sup>41</sup> S. J. D. Cohen, *The Beginnings of Jewishness: Boundaries, Varieties, Uncertainties*, Hellenistic Culture and Society (Berkeley, 1999), 263–307. For opposition to the matrilineal principle, see PT *Kidd.* 3.14.64d (with parallels). Cf. L. Schiffman, *Who Was a Jew?* (Hoboken, 1985).

<sup>42</sup> Cf. E. E. Urbach, “The Laws Regarding Slavery as a Source for Social History of the Period of the Second Temple, the Mishnah, and Talmud,” repr. in R. Brody and M. D. Herr (eds.), *Collected Writings in Jewish Studies*, (Jerusalem, 1999), 56–95; P. V. McC. Flesher, *Oxen, Women, or Citizens? Slaves in the System of the Mishnah*, BJS (Atlanta, 1988).

<sup>43</sup> E.g., Tacitus, *Hist.* 5.3.



a more academic and legal culture. This rabbinic insularity frustrates the reconstruction of Babylonian social history because rabbinic literature is virtually the only source for the history of Babylonian Jewry at this time, and the information that can be gleaned from contemporary Zoroastrian sources is limited.

Babylonian rabbis shared with their Palestinian counterparts an understanding of the human body as having two competing desires, one of which – the sexual – they termed “evil.” They differed, however, in their evaluation of the human ability to control that desire. Palestinian rabbis were pessimistic about the ability of men to resist sexual temptation: men may have had the ability in theory to maintain control, but sometimes it took a miracle for them actually to do it.<sup>44</sup> Babylonian rabbis, on the other hand, were more optimistic of a man’s ability to control his sexual desire.<sup>45</sup> Several Babylonian stories are told of rabbis who triumphed against overwhelming odds to control their sexual desires.<sup>46</sup>

For Babylonian rabbis, sexuality was a distinct domain of discourse. Palestinian rabbis viewed sexuality as a sub-species or consequence of gender; their understanding of sexuality was to a large degree shaped by and a consequence of gender issues. Babylonian rabbis, however, were anxious about sexuality *per se*. Sexuality was cut loose from its moorings of gender and a societal obligation to reproduce.<sup>47</sup> For Babylonian rabbis, unlike their Palestinian counterparts, a function of marriage involved providing a legal channel for male sexual desire.<sup>48</sup>

Homeropticism provides an example of the way this difference between Palestinian and Babylonian rabbinic assumptions about sexuality was revealed. While the two rabbinic groups share the same normative evaluation of such acts for men, Babylonian rabbis were not particularly vexed by the idea of a male being sexually penetrated by another male. In other words, although Babylonian rabbis forbade male anal intercourse, in contrast to Palestinian rabbis, they did not deploy a variety of rhetorical attacks on the male who allowed himself to be penetrated.<sup>49</sup> Living in a society in which sexual activity was not as tightly linked to anxieties about gender, Babylonian rabbis focused their discourse on sexuality and its God-given

<sup>44</sup> See, e.g., *Sifre Num.* 115 (ed. Horowitz, 128–9).

<sup>45</sup> M. L. Satlow, *Tasting the Dish: Rabbinic Rhetorics of Sexuality* (Atlanta, 1995) 163–7.

<sup>46</sup> See, for examples, *BT Ber.* 20a; *BT Pes.* 113b. <sup>47</sup> Cf. Satlow, *Tasting the Dish*, 317–20.

<sup>48</sup> *BT Kidd.* 29b–30a.

<sup>49</sup> See, e.g., *BT Nazir* 59a, in which the redactor of the Babylonian Talmud appears to misread a Palestinian tradition forbidding a man to pluck his hairs because of the prohibition on cross-dressing (*Deut.* 22.5). The Palestinian tradition applies this prohibition to the “feminized” or pathic male, whereas the Babylonian Talmud’s redactor is afraid that cross-dressing will lead to men slipping undetected among women.

limits. Babylonian sources, for example, implicitly equate male homoeroticism with bestiality; both exceed the divine limits of sexuality.<sup>50</sup>

A consequence of the Babylonian rabbinic severing of sexuality from the obligation to reproduction was the ability to discuss sexual pleasure. A long tradition existed in the West (Jewish and non-Jewish) of seeing procreation as the sole legitimate goal of sex; any non-procreative sexual acts demonstrated laxity, and thus was seen as a “feminine” attribute.<sup>51</sup> Lacking the Palestinian conceptual framework, Babylonian rabbis more freely discussed the joys of sex.<sup>52</sup>

This discussion does not mean, however, that Babylonian rabbis had a more “positive” view of sexuality than Palestinians. A normative evaluation of sexual attitudes obscures far more than it enlightens. Two issues in particular informed Babylonian rabbinic attitudes toward sex. First, Babylonian rabbis shared with contemporary Zoroastrians an abhorrence of semen. “Wasting” semen, that is, emitting semen in non-procreative sexual activity or outside a woman (the sources are unclear), was seen as “worthy of death.” While this attitude might also be confirmed in Palestinian sources, the redactor of the Babylonian Talmud goes to great lengths to harmonize this view with an otherwise lenient Babylonian view towards non-procreative sexual acts.<sup>53</sup>

A second factor that complicates a normative evaluation of Babylonian rabbinic sexuality is their fear of a powerful sexual desire. Their answer to the problem of sexual desire centered on advocating early marriage. For Babylonian rabbis, the primary goal of marriage meant channeling and controlling male sexuality.<sup>54</sup> One Babylonian rabbi remarks that had he married at fourteen, he would have triumphantly declared to Satan, “An arrow in your eye.”<sup>55</sup>

## VI THE IDEA OF MARRIAGE IN BABYLONIAN SOURCES

It is worth emphasizing the difference between Babylonian and Palestinian rabbinic views of the goal of marriage. For Palestinians, the goal of marriage was to create an *oikos*, thus fulfilling one’s obligations to society

<sup>50</sup> See BT *Yev.* 25a; BT *Sanh.* 9b.

<sup>51</sup> Cf. Josephus, *Contra Ap.* 2.199; *Bell.* 2.161; J.M. Baumgarten, “The Qumran-Essene Restraints on Marriage,” in L.H. Schiffman (ed.), *Archaeology and History in the Dead Sea Scrolls: The New York University Conference in Memory of Yigael Yadin* (Sheffield, 1990), 13–24.

<sup>52</sup> Cf. BT *Pes.* 72b. <sup>53</sup> See BT *Yev.* 34a–b.

<sup>54</sup> See BT *Kidd.* 29b–30a; BT *Yoma* 72b. In this latter source, the redactor glosses a Palestinian statement declaring that Torah should be studied in purity to mean that one must marry before studying Torah.

<sup>55</sup> BT *Kidd.* 30a.

and God. Men who did not marry shirked their duty. For Babylonian rabbis, marriage for men was an antidote to sexual desire, not primarily a social or religious obligation.

Babylonian rabbis, therefore, envisioned a world of “couples,” rather than “households,” in which marriage satisfied personal rather than societal needs. Here again, one must resist anachronism. Those individual “needs” were not emotional but physical. Babylonian rabbis saw the ideal marriage as one in which a man could legally satisfy his sexual desires and reproduce. The ideal wife was subservient to her husband’s will, and modest.<sup>56</sup> From marriage, she gained the personal prestige of having a husband and children, not an available emotional companion.<sup>57</sup>

Comparing Palestinian and Babylonian attitudes toward the levirate marriage illustrates this difference. According to the Hebrew Bible, the widow of a man who died childless must marry her deceased husband’s brother in a levirate marriage, the goal of which was to produce a child to continue the deceased man’s “house” (Deut. 25.9). Tannaim basically supported this institution but understood it in terms of a Greek institution, the *epiklarate*, which emphasized the issue of retaining family property.<sup>58</sup> For them, the primary goal was not to provide a child but to preserve the integrity of familial landholdings. Palestinian amoraim tend to oppose levirate marriage. At a time of increasing urbanization within Palestine, levirate marriage and its goal of perpetuating a single lineage or preserving family landholdings made little sense to them.<sup>59</sup> Babylonian amoraim, however, were supportive of levirate marriage.<sup>60</sup> Ancient Persians had an institution parallel to levirate marriage, called *sturib* marriage, the goal of which involved producing a son that enabled the deceased father to enter the afterlife.<sup>61</sup> If Babylonian amoraim understood the levirate marriage in a similar fashion, they would have transformed levirate marriage from an institution that assures continuity of lineage and household to one that confers individual benefit. This notion would dovetail effectively with the general Babylonian rabbinic understanding of marriage.

The extent to which actual marriages of Babylonian Jewish couples accorded with the rabbinic vision is unknown. Babylonian Jews might have married at a younger age than Palestinians, perhaps by as much as a

<sup>56</sup> On female subservience, see BT *Ket.* 61a; 62b–63a; BT *Bez.* 32b. On a wife’s modesty, see *M. Ket.* 7.6 (ed. Albeck, 111 112); *Tos. Sot.* 5.9; BT *Ket.* 72a.

<sup>57</sup> Cf. Satlow, *Jewish Marriage in Antiquity*, 228–42.

<sup>58</sup> See *M. Yev.* 1.1; 2.1–2, 5; *Sifrei Deut.* 288–9 (ed. Finkelstein, 305–7).

<sup>59</sup> PT *Yev.* 12.7, 12d–13a. <sup>60</sup> BT *Yev.* 39b.

<sup>61</sup> See M. Shaki, “The Sassanian Matrimonial Relations,” *Archiv Orientalni* 39 (1971), 326.

decade.<sup>62</sup> There are hints in the rabbinic sources – buttressed by the slim knowledge of non-Jewish Babylonian practice in late antiquity – that Babylonian Jews practiced a binding form of betrothal (*qiddushin*), which could precede their actual wedding by some time.<sup>63</sup> In accord with their understanding of the goal of marriage, their wedding celebrations might have been ribald.<sup>64</sup>

Like Palestinians, Babylonian rabbis assumed a polygamous society. Several Babylonian rabbinic reports mention polygamous unions, which might indicate that it was more common than in Palestine, at least among rabbis. Babylonian rabbinic sources also attest to the institution of “temporary marriage,” through which a man who was traveling could enjoy the legal companionship of another woman without the economic obligations of marriage.<sup>65</sup>

By the end of the rabbinic period, however, Babylonian rabbis moved toward an idea of the “sanctity” of marriage. A fourth-century Babylonian Christian source attests (accurately?) to a Jewish man claiming that procreation makes one “holy and excellent.”<sup>66</sup> The redactor of the Babylonian Talmud suggests that betrothal is called *qiddushin* because it distinguishes a woman as “dedicated” (or sanctified, *beqdesb*) for her husband.<sup>67</sup> While the term is pervasive in earlier rabbinic literature, little hint is found in this earlier literature that marriage was considered “sacred.” Although many of the ideas found in the rabbinic wedding blessings (“blessing of the grooms”) are originally Palestinian, and Palestinians had a short wedding blessing, a standardized version is found only in the Babylonian Talmud.<sup>68</sup> Relatively late Babylonian stories suggest that a couple should invite rabbis to attend their wedding because rabbis are the best witnesses concerning the validity of their marriage. Rabbinic texts did not yet advance the notion of marriage as a holy sacrament, but the Babylonian Talmud contains much of the material from which such a view can be constructed.<sup>69</sup>

<sup>62</sup> A. Schremer, “Jewish Marriage in Talmudic Babylonia” (Hebrew) (unpublished PhD thesis, Hebrew University, 1996), 63–72.

<sup>63</sup> See BT *Kidd.* 9a; 12a–b; 52b; 79b.

<sup>64</sup> See BT *Meg.* 27b. Note also that the betrothal blessing, which deals almost exclusively with sexuality, is found only in the Babylonian Talmud (BT *Ket.* 7b).

<sup>65</sup> Gafni, “The Institution of Marriage,” 23–5. <sup>66</sup> Aphrahat, *Demonstrations* 18.12.

<sup>67</sup> BT *Kidd.* 2b. <sup>68</sup> BT *Ket.* 7b–8a. Cf. Satlow, *Jewish Marriage in Antiquity*, 178–80.

<sup>69</sup> Cf. E. Cohen and E. Horowitz, “In Search of the Sacred: Jews, Christians, and Rituals of Marriage in the Later Middle Ages,” *Journal of Medieval and Renaissance Studies* 20 (1990), 225–49.

## VII JEWISH FAMILIES IN BABYLONIA

Virtually nothing is known about Babylonian Jewish families during the rabbinic period. It is unclear, for example, if the multiple wives of a Jewish man lived in the same domestic compound, in separate dwellings, or if families tended to live in nuclear configurations. Wealthy Babylonian Jews almost certainly owned slaves (probably Jewish and non-Jewish), but the role of slaves in the family, and their treatment, are obscure. Aside from their expected emphasis on a wife's subordination to her husband and the children's obedience to their father, rabbinic sources are silent about the ideal relationships within a family, not to mention the actual relationships.

Babylonian families, like Palestinian, would most likely have seen their "Jewishness" as obvious: the family was part of a legal and social *ethnos* and followed ancestral customs that they and others in their community thought were "Jewish." However, it is probably a mistake to think that Jewish families in antiquity behaved according to some normative code that distinguished their formations, life cycles, and relationships from those of their non-Jewish neighbors.

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## WOMEN IN JEWISH LIFE AND LAW

TAL ILAN

## I SOURCES AND METHODOLOGY

The first three volumes of *The Cambridge History of Judaism* cover the period between 537 BCE to 70 CE and, aside from a chapter devoted to the limited topic of their roles in the ancient synagogue,<sup>1</sup> women as a separate topic have not been discussed. Is one, therefore, to assume that only after 70 CE did Jewish women develop a separate historical existence from other Jews? Not necessarily. More likely, the awareness of women and gender as a separate, important, and neglected aspect of Jewish history is the result of the *Zeitgeist* that pervaded the last three decades of the twentieth century. Scholars studying this period have become acutely aware that what has passed for the history of the Jewish people is a history of its male members.<sup>2</sup> In order to present the history of the entire people, a new approach is required, a different reading is necessary, and new questions must be raised. This premise informs the agenda of this chapter.

The sources for pursuing new questions about Jewish women's lives between 70 and 235 CE are the same sources employed in the discussion of all Jews – rabbinic literature, as well as papyrological and epigraphic material. The general difficulties inherent in employing these sources when used as historical sources to write history also pertain to the writing of women's history. Inscriptions and papyri are short, sketchy, fragmentary, and plagued with meaningless formulas, and were never intended as tools for describing the past. Most inscriptions are monuments for people – they commemorate the beneficial contributions to the community of rich

<sup>1</sup> W. Horbury, "Women in the Synagogue," in *CHJ* III 358–401; see also M. Williams, "The Contribution of Jewish Inscriptions to the Study of Judaism," in *ibid.*, 79–80; and S. J. D. Cohen, "The Rabbi in Second-Century Jewish Society," in *ibid.*, 946–8. Note that all these essays are found only in the third volume. On Queen Shelamzion Alexandra, see J. A. Goldstein, "The Hasmonean Revolt and the Hasmonean Dynasty," in *CHJ* II 343–6.

<sup>2</sup> See, e.g., M. Schlüter, "Vom Objekt zum Subjekt der Geschichte? Wie verändert 'Frauenforschung' den Blick auf die jüdische Geschichte?" in A. Oppenheimer (ed.), *Jüdische Geschichte in hellenistisch-römischer Zeit: Wege der Forschung: Vom alten zum neuen Schürer* (Munich, 1999), 148–63.

people, the unique status of communal leaders, or simply death in funerary inscriptions. Women are similarly commemorated, but much less frequently. Women were usually poorer than men, and often not free to use their money at will, since their husbands controlled it. Thus, they are represented less frequently in contributors' lists. Furthermore, they seldom served in leadership roles. Even funerary inscriptions mention them less often.<sup>3</sup>

Most of the papyri from the Judaean Desert relevant to Jewish history date from 70 to 135 (between the two revolts). Fortuitously for women's history, these documents contain two archives which belonged to women.<sup>4</sup> Here, too, however, the purpose of the documents cannot be overlooked – at most they illustrate the sort of legal documents written for women, but they say nothing about important political events. In contrast, the Bar Kochba rebellion that led to the depositing of the documents in the caves where they were eventually found by archaeologists is always mentioned in documents that record communications between men and for men.<sup>5</sup>

Rabbinic literature is a no less frustrating source for women's studies. It consists of a series of codices (the Mishnah, Tosefta, Palestinian Talmud, Babylonian Talmud, and different sorts of midrashim) that, although primarily concerned with legal materials, also include non-legal commentaries and views of various sorts. Legal codices are by definition prescriptive rather than descriptive. They posit an ideal society, and many of their rulings may hint more at behavior they wish to encourage or to combat than at standards currently practiced. At the same time, these works are not directly concerned with history or historical inquiry.

The study of women's history in so far as it can be derived from rabbinic literature is further hampered by the lack of interest shown by the Rabbis in the lives of women as human subjects rather than as appendixes to their husband's household and property. Aside from their legal program, which aimed at bringing Jewish women under their direct judicial control,<sup>6</sup> the rabbinic Sages were disinclined to discuss matters relating to women.

In consequence, not only is it difficult to study Jewish women's lives but it is also clear why previous generations of historians failed to study them.

<sup>3</sup> R. S. Kraemer, "Hellenistic Jewish Women: The Epigraphical Evidence," *SBL Seminar Papers* 122 (1986), 183–200; "Non-Literary Evidence for Jewish Women in Rome and Egypt," *Helios* 13 (1987), 85–101.

<sup>4</sup> T. Ilan, "Women's Archives in the Judaean Desert," in H. Schiffman, E. Tov, and J. VanderKam (eds.), *The Dead Sea Scrolls: Fifty Years After Their Discovery* (Jerusalem, 2000), 755–60.

<sup>5</sup> T. Ilan, "Notes on the Distribution of Women's Names in Palestine in the Second Temple and Mishnaic Period," *JJS* 40 (1989), 189–90.

<sup>6</sup> J. Neusner, *A History of the Mishnaic Law of Women*, v (Leiden, 1980).



Scholars are, after all, directed and constrained by the sources available to them. Nevertheless, at the same time, each of the rabbis who sat in the study house was surrounded by women – mothers, wives, daughters, and probably many others. Furthermore, if men controlled the Bar Kochba revolt – and the public history of the nation in general – their actions and decisions influenced not only their own lives and the lives of the soldiers who fought with them but also the lives of the women who remained at home and became refugees and slaves in the wake of the revolt's failure. New questions, however, may highlight their voices.

## II WOMEN ACCORDING TO JEWISH LAW

### A THE DEAD SEA DOCUMENTS

The Dead Sea documents – several groups of personal documents owned by refugees of the Bar Kochba Revolt and deposited in the caves to which they fled – are a major source of information regarding Jewish women's legal position. They include two archives that belonged to women – the Babatha archive<sup>7</sup> and that of Salome Komaise<sup>8</sup> – as well as numerous other documents that belonged to Jewish women. The documents include no fewer than eight marriage contracts written by a husband for his wife;<sup>9</sup> two divorce bills (one written by a wife to her husband);<sup>10</sup> three deeds of gift for women written by various family members (husband, father, mother); and three renunciations of claims written by various family members regarding property legally belonging to women.<sup>11</sup> Babatha's archive, which includes complex legal transactions and lawsuits, illuminates other legal issues that involve women. Babatha was the mother of an orphaned son, and her battles with the Roman court at Petra reveals that, as a woman, she could not be considered a legal guardian to her son.<sup>12</sup> Her consistent appearances before the court accompanied by a male guardian indicates that

<sup>7</sup> N. Lewis, *The Documents from the Bar Kokhba Period in the Cave of the Letters: Greek Papyri* (Jerusalem, 1989).

<sup>8</sup> H. M. Cotton, "The Archive of Salome Daughter of Levi: Another Archive from the Cave of Letters," *ZPE* 105 (1995), 171–208.

<sup>9</sup> H. M. Cotton, "The Rabbis and the Documents," in M. Goodman (ed.), *Jews in a Graeco-Roman World* (Oxford, 1998), 173.

<sup>10</sup> T. Ilan, "Notes and Observation on a Newly Published Divorce Bill from the Judaean Desert," *HTR* 89 (1996), 195–202.

<sup>11</sup> Ilan, "Women's Archives." See also R. Yaron, "Acts of Last Will in Jewish Law," *Transactions of the Jean Bodin Society for Comparative Institutional History*, LIX: *Acts of Last Will*, First Part: *Antiquity* (Brussels, 1992), 29–45.

<sup>12</sup> H. M. Cotton, "The Guardianship of Jesus son of Babatha: Roman and Local Law in the Province of Arabia," *JRS* 83 (1993), 393–420.

women were considered *de jure* minors by this institution.<sup>13</sup> Many documents attest to Babatha's ownership and *de facto* management of a considerable amount of landed property, raising issues of women's legal inheritance rights.<sup>14</sup> Her battles regarding her late husband's property, contested by her co-widow, incidentally attest to the polygamous society in which Babatha lived and the legal complications that polygamy entailed.<sup>15</sup>

Scholars have attempted to harmonize the legal injunctions of the Dead Sea documents with rabbinic rulings found in the Mishnah. Therefore, for example, Greek formulas were translated into Aramaic in an attempt to identify parallels,<sup>16</sup> and documents have been reread and amended in order to comply with rabbinic requirements.<sup>17</sup> Nevertheless, as a matter of method, one should adopt the opposite approach when dealing with the legal issues that these documents reveal because they pre-date the earliest rabbinic codex – the Mishnah – by several decades. As a result, they should serve as witnesses to Jewish women's legal positions prior to rabbinic intervention. They demonstrate that Jews could choose to compose their legal documents in one of two languages – Greek or Aramaic – and thus comply with one of two legal traditions. For practical purposes, as time passed, more and more Jews chose to follow the Greek legal system and to write their marriage contracts in Greek, as this would assure that, as circumstances required, the document would be quickly executed by a functioning court of law. These Greek documents, as Cotton has repeatedly emphasized,<sup>18</sup> were not Greek translations of Aramaic documents, but are original versions of the documents composed in a style consistent with the Hellenistic legal tradition.

<sup>13</sup> H. M. Cotton, "The Guardian of a Woman in the Documents from the Judaean Desert," *ZPE* 118 (1996), 267–73.

<sup>14</sup> H. M. Cotton and J. C. Greenfield, "Babatha's Property and the Law of Succession in the Babatha Archive," *ZPE* 104 (1994), 211–21; H. M. Cotton, "Deeds of Gift and the Law of Succession in the Archives from the Judaean Desert," *Erls* 25 (1996), 383–403 (Hebrew); "The Law of Succession in the Documents from the Judaean Desert Again," *SCI* 17 (1998), 115–23.

<sup>15</sup> R. Katzoff, "Polygamy in P. Yadin?" *ZPE* 109 (1995), 128–32.

<sup>16</sup> R. Katzoff, "Papyrus Yadin 18: Legal Commentary," *IEJ* 37 (1987), 239–42.

<sup>17</sup> A. Schremer, "Divorce in Papyrus Se'elim 13 Once Again: A Reply to Tal Ilan," *HTR* 91 (1998), 193–202; R. Brody, "Evidence for Divorce by Jewish Women?" *JJS* 50 (1999), 230–4; J. A. Fitzmyer, "The So-called Divorce Text from Wadi Seiyal," *Erls* 26 (1999), 16–22; see also H. M. Cotton and E. Qimron, "XHev/Se ar 13 of 134 or 135 CE: A Wife's Renunciation of Claims," *JJS* 49 (1998), 108–18; and D. Instone Brewer, "Jewish Women Divorcing their Husbands in Early Judaism: The Background to Papyrus Seelim 13," *HTR* 92 (1999), 349–57.

<sup>18</sup> Cotton, "Rabbis and Documents," 177.

The Aramaic marriage (and other) documents are occasionally closer to rabbinic formulations and demands, but this closeness only indicates that the rabbinic tradition based its understanding of a women's legal status on an earlier Aramaic tradition. Thus, many of the *ketubah* (rabbinic marriage contract) clauses in the Mishnah are formulated in Aramaic, although the codex in general is composed in Hebrew. However, rabbinic literature did not always follow in the footsteps of the Aramaic documents found by the Dead Sea. So, for example, one of these documents suggests that women could divorce their husbands,<sup>19</sup> an idea flatly rejected by the Rabbis.

#### B RABBINIC LITERATURE

As Jacob Neusner notes, the Rabbis were the first Jews to produce a complete legal system that dealt with the issue of women.<sup>20</sup> Yet the mishnaic Order of Women, known as *Nashim*, is not interested in women *per se*. Thus, for example, tractate *Niddah*, which is devoted to menstruation regulations, is found in the Order of Purities (*Toharot*) rather than the Order of Women. The latter is actually devoted to the wife's legal relationship to her husband. It defines the way the husband acquires, owns, and dissolves ownership of his wife. As interpreted by Neusner, the Mishnah allows Jewish men to control potential chaos in their lives by sanctifying times, objects, and dependants. He identifies women as one of the areas in a Jewish man's life that had to be controlled and sanctified, since, by their very nature, women were potentially unruly and therefore dangerous. For Judith Wegner, the entire Mishnah is a neatly edited document with a full agenda concerning women. Men, as a general rule, owned women's reproductive capacities. The transactions they conducted concerned the acquisition of these capacities by the husband from the father. Women were thus treated as chattels. However, a woman could gain control of her own reproductive capacities and thus become an independent legal entity by divorce or widowhood. Independent women (that is, widows and divorcees) were treated as their own legal agents by the rabbis as far as private transactions were concerned. Nevertheless, Wegner argues, even independent women were perceived as a threat to the public order, and thus the Mishnah attempted to confine all women to the private spaces of the home and to bar them from participating in public activities of cult and Torah study.<sup>21</sup>

<sup>19</sup> See the sources cited in nn. 10 and 17. <sup>20</sup> Neusner, *Mishnaic History*, 13–42, 239–72.

<sup>21</sup> J. R. Wegner, *Chattel or Person: The Status of Women in the Mishnah* (Oxford, 1988). The terms “public” and “private” are those used by Wegner herself. For a recent critique of these concepts together with a fresh outlook, see C. M. Baker, *Rebuilding the House of Israel: Architectures of Gender in Jewish Antiquity* (Stanford, 2002).

Whether the interpretive positions of Neusner and Wegner are strictly correct on all counts is beyond the scope of this chapter. They do, however, provide useful perspectives from which to view the Order of Women in particular and its place within the Mishnah as a whole.

Rabbinic literature seldom fosters unity and agreement. The principle of dispute is at its heart, and even the carefully edited Mishnah is rife with disagreement. It is, therefore, not surprising to find differences of opinion and shades of meaning in the different rabbinic corpora. For example, Judith Hauptman has illustrated that many of the rulings on the issue of women found in the Mishnah are more restrictive than those found in the loose compilation of traditions found in the Tosefta.<sup>22</sup> As evidence of this more restrictive tendency, one might note that women in the Mishnah participate less than in the Tosefta in the Passover celebration, and again that the Tosefta sees women as rightful heirs to their fathers whereas the Mishnah does not. Nevertheless, more generally, women are excluded and edited out of many mishnaic texts. Moreover, in the mishnaic texts, women fare better in the *halachah* of Bet Shammai than in that of Bet Hillel. Unfortunately, the *halachah* is usually decided according to the position of Bet Hillel.<sup>23</sup> It should also be noted, relative to the issue of diverse views, that at times the Tosefta fails to comply with the Mishnah's strictures

<sup>22</sup> J. Hauptman, "Mishnah *Gittin* as a Pietist Document," *Proceedings of the Tenth World Congress of Jewish Studies*, C/1 (Jerusalem, 1990), 23–30 (Hebrew); "Maternal Dissent: Women and Procreation in the Mishnah," *Tikkun* 6/6 (1991), 80–1, 94–5; "Women's Voluntary Performance of Commandments From Which They Are Exempt," *Proceedings of the Eleventh World Congress of Jewish Studies*, C/1 (Jerusalem, 1994), 161–8 (Hebrew); "Women and Inheritance in Rabbinic Texts: Identifying Elements of a Critical Feminist Impulse," in H. Fox and T. Meacham (eds.), *Introducing Tosefta: Textual, Intratextual and Intertextual Studies* (New York, 1999), 221–40; "Women in Tractate Pesahim," in D. Boyarin, S. Friedman, M. Hirshman, M. Schmelzer, and I. M. Tashma (eds.), *Atara L'Haim: Studies in the Talmud and Medieval Rabbinic Literature in Honor of Professor Haim Zalman Dimitrovsky* (Jerusalem, 2000), 63–78 (Hebrew); "Women in Tractate Erubin: From Social Dependence to Legal Independence," *Jewish Studies* 40 (2000), 145–58 (Hebrew). See also G. Labovitz, "These are the Labors': Constructions of the Woman Nursing her Child in the Mishnah and Tosefta," *Nashim: Journal of Jewish Women's Studies and Gender Issues* 3 (2000), 15–42; T. Ilan, "Patriarchy, the Land of Israel and the Legal Position of Jewish Women," *Nashim: Journal of Jewish Women's Studies and Gender Issues* 1 (1998), 42–50; and idem., *Mine and Yours Are Hers: Retrieving Women's History from Rabbinic Literature* (Leiden, 1997), 55–63. For more information on the Tosefta itself, see ch. 13 in the present volume.

<sup>23</sup> T. Ilan, *Integrating Women into Second-Temple History* (Tübingen, 1999), 43–81. See also idem., "Daughters of Israel Weep for Rabbi Ishmael' (*mNedarim* 9:11): The Schools of Rabbi Aqiva and Rabbi Ishmael on Women," *Nashim: Journal of Jewish Women's Studies and Gender Issues* 4 (2001), 15–34.

regarding women, and the Gemara sometimes rejects mishnaic norms and rulings, usually covertly<sup>24</sup> but sometimes overtly.<sup>25</sup>

In formulating the Mishnah, the Rabbis sought to control women, partly by regulating every aspect of their legal existence. Thus, rabbinic literature made women silent partners in their marriages and systematically barred them from all public functions connected with the cult and Torah study. In addition, they were excluded from participating in most of the time-bound commandments.<sup>26</sup> At the same time, three special commandments (*hallab* separation, Shabbath candle lighting and rules of purity connected with menstruation) were specifically assigned to women.<sup>27</sup> This systemization was extremely innovative. In some cases, it formulated in law what must have been common practice for generations, and in others it introduced significant innovations. For example, the exemption of women from participation in the *Sukkoth* festivities, and particularly the exemption of women from the injunction to reside in a *sukkah*, was completely new<sup>28</sup> and was probably instituted over opposition by those sages (and others) who viewed the matter differently.

### III WOMEN IN JEWISH LIFE

#### A WOMEN AT HOME

The idea that a woman's place is in the home is clearly espoused in rabbinic literature.<sup>29</sup> Aside from an entire range of activities that are halachically incumbent on women and are performed in the home, such as cooking, baking, laundering, sweeping, and bed making,<sup>30</sup> rabbinic literature contains many stories and incidents that describe women as engaging in homebound activities. Thus, for example, the Mishnah, when discussing the uncleanness of the *am ha-aretz* (the uneducated person who works on the land), incidentally describes two women grinding wheat within the confines of the house.<sup>31</sup> Likewise, when debating how close to the Sabbath one may begin a new labor, the Tosefta describes a woman placing a bowl of lupine on the fire,<sup>32</sup> and in a discussion of consecrated fruits the Palestinian Talmud describes a woman who laid vegetables on her roof to dry.<sup>33</sup> Again,

<sup>24</sup> S. Valler, *Women and Womanhood in the Stories of the Babylonian Talmud* (Atlanta, 1999).

<sup>25</sup> This view is the general drift of J. Hauptman, *Rereading the Rabbis: A Woman's Voice* (Boulder, 1970).

<sup>26</sup> M. Kidd. 1.7–8. <sup>27</sup> M. Shabb. 2.6. <sup>28</sup> Tos. Suk. 1.1.

<sup>29</sup> E.g., Gen. R. 8.12; Tos. Sot. 5.9; M. Ket. 7.6; Tos. Ket. 7.6.

<sup>30</sup> M. Ket. 5.5. See also *Mekh. de-R. Sh. b. y.* (ed. Melamed), 38.

<sup>31</sup> M. Tob. 7.4. <sup>32</sup> Tos. Shabb. 3.1. <sup>33</sup> PT Meas. 5.7 (52a).

in the course of a discussion of smoke pollution and fire hazards, the same corpus mentions a woman lighting a fire in her back yard.<sup>34</sup>

A major duty envisioned by the Rabbis for the woman at home was the raising of children, particularly when they were very young and dependent on her for sustenance. The mishnah cited above (*M. Ket.* 5.5), which makes house chores halachically binding for women, includes a woman's obligation to nurse her children.<sup>35</sup> The raising of children is also mentioned incidentally in rabbinic sources as a woman's chore. Thus, for example, when the Mishnah discusses the appropriate actions on the Sabbath, that is, within the bounds of the *halachab*, it allows a woman to assist her toddling baby.<sup>36</sup> In addition, women's emotional ties to their children are emphasized. So, for example, in an episode illustrating the law of donations to the Temple, a mother is described as first vowing to donate to the Temple her sick daughter's weight in gold if she lives, and then fulfilling her vow.<sup>37</sup> Similarly, when discussing the situation of a person who took a Nazirite vow and then became polluted, the point at issue is illustrated with a story about a woman Nazirite, Miriam of Palmyra, who polluted herself in order to be at her dying daughter's side.<sup>38</sup> Finally, *Lamentations Rabbah* describes a woman mourning her dead son to excess.<sup>39</sup> Moreover, these sources, rather than rabbinic injunctions encouraging women to stay home and keep house, reveal the sort of nuanced activities in which women were engaged within the confines of their houses.

Beyond question, the lives of Jewish women in the rabbinic period moved primarily within the confines of the house as homemakers and mothers. Nevertheless, a simple, static picture such as this fails to consider the complex mechanisms of a stratified society. In other words, not all women were housewives. The very rich were exempt from engaging in household chores by the same *halachab* that confined women to them. A woman who owned domestic female slaves could halachically exempt herself from such duties<sup>40</sup> and may not, in consequence, have been confined to her home. The same circumstance may also be true of women who needed to leave their houses in order to work for a living, since their husbands' incomes were insufficient to run a household, and also of female slaves, who, even halachically, were not expected to act in the same way as free Jewish women. As all of these women were as much a part of Jewish society as the "normative" women of rabbinic *halachab*, describing women's domestic activities does not reveal everything one would like to know about women's lives.

<sup>34</sup> *PT Bava B.* 2.2 (13b). <sup>35</sup> *M. Ket.* 5.5. <sup>36</sup> *M. Shabb.* 18.2. <sup>37</sup> *M. Arakb.* 5.1.

<sup>38</sup> *M. Naz.* 6.11. <sup>39</sup> *Lam. R.* 1.24B. <sup>40</sup> *M. Ket.* 5.5.

## B WOMEN AT WORK

That Jewish women worked and that their labor was worth money is acknowledged by the Rabbis when they describe the businesslike relationship between husband and wife – he is required to feed her and clothe her, and in return the work of her hands belongs to him.<sup>41</sup> One source states that if a husband does not maintain his wife, she may retain the fruit of her handwork.<sup>42</sup> That a husband could actually demand a certain quota of work from his wife is suggested by a mishnaic ruling, stating that a nursing mother's work quota should be reduced, while her supply of food should be increased. In this connection, it is apposite to note that nursing was considered paid labor. Thus, for example, the Rabbis discuss the actions when a divorced woman refuses to nurse her husband's child and he is compelled to hire a wet-nurse.<sup>43</sup> Also relevant to this issue are two (much earlier) papyri from Egypt that refer to a contract in which Jewish women are hired to nurse the children of Roman-Egyptian mothers.<sup>44</sup>

The rabbinic imagination (recognizing the limits of such a generalization) envisioned the working woman primarily at her spindle or loom.<sup>45</sup> In the mishnaic tradition that enumerates the chores a wife performs for her husband, spinning holds pride of place. In the opinion of Rabbi Eliezer, even a rich woman with a hundred slaves is expected to work in wool, because idleness promotes fornication<sup>46</sup> and a woman's only wisdom lies in the distaff.<sup>47</sup> Textile work was viewed, although perhaps not exclusively, as a woman's domain, and women's surplus textile may have been an important source of income in the Jewish household. The Rabbis casually mention women who sell their linens in Galilee and woollens in Judaea.<sup>48</sup> So close was the association of women and spinning that many women were buried with their spindle whorls.<sup>49</sup>

The Rabbis envisioned the female woolworker laboring piously over her loom in the confines of her household. In a ruling describing rites of mourning, work in general is precluded. Nevertheless, one source specifically exempts labor within the confines of the house. A woman, this source continues, is allowed to spin and weave indoors during the period of mourning.<sup>50</sup> Textiles could be manufactured in the fashion of a cottage

<sup>41</sup> *M. Ket.* 4.4. A *baraita* in the Babylonian Talmud explains the reciprocal relationship between maintenance and handwork, *BT Ket.* 47b.

<sup>42</sup> *M. Ket.* 5.9. <sup>43</sup> *Tos. Ket.* 5.5; *PT Ket.* 5.6 (30a). <sup>44</sup> *CPJ* 11 nn. 146–7, 19–20.

<sup>45</sup> On this construction of gender in its immediate literary as well as in geographical historical context, see M. Peskowitz, *Spinning Fantasies: Rabbinic, Gender, and History* (Berkeley, 1997).

<sup>46</sup> *M. Ket.* 5.5. <sup>47</sup> *PT Sot.* 3.4 (19a). <sup>48</sup> *M. Bava K.* 10.9.

<sup>49</sup> Peskowitz, *Spinning*, 163. <sup>50</sup> A *baraita* in *BT Moed K.* 21b.

industry – the wife produced and her husband sold her product. This vision of household harmony and sanctity made wool work suitable for Jewish women in the eyes of the Rabbis. Nevertheless, they themselves were aware that this vision did not mirror the complete reality. A loom was evidently expensive and a household owning one was relatively well off. It is therefore likely that textile was also produced on a commercial scale and that women went out to work in various workshops. In fact, this reality may be hinted at in the *halachah* and requires a husband to divorce his wife if she is seen spinning in the marketplace.<sup>51</sup> Indeed, the Rabbis often stress that a woman should never be found in the market.<sup>52</sup>

For all the concern of the Sages, nevertheless, the sources reveal that women engaged in various occupations in the marketplace. For example, women produced leaven which they sold to bakers,<sup>53</sup> and women pickled vegetables and sold them at their doorstep.<sup>54</sup> Women also served as shopkeepers,<sup>55</sup> and sources often refer to them as innkeepers.<sup>56</sup> The trades here referred to, and many others in which women were engaged, belie the prescriptive texts that sought to narrow the space in which women's economic activity occurred.

Some professions seemed to be reserved exclusively for women. The wet-nurse has already been mentioned. By definition, only (specifically endowed) women could be wet-nurses. For different reasons, only women acted as midwives. The intimate female experience of giving birth was considered unfit for a male stranger's eyes. Therefore, the various words used to describe the midwife are all feminine,<sup>57</sup> all the episodes involving midwives are told about females,<sup>58</sup> and the *halachah* associated with midwifery is transmitted in female language.<sup>59</sup> In addition, professional keeners are always described in female nouns.<sup>60</sup>

Rabbinic literature supplies meager evidence about women engaging in non-skilled labor. In a mostly agricultural society, laborers were much in demand during the harvesting season. According to the Rabbis, the wife of a man who was hired as an agricultural laborer could assist him in

<sup>51</sup> *M. Ket.* 7.6.

<sup>52</sup> This view is most emphatically stated in *Gen. R.* 8.12 (ed. Theodor and Albeck, 66). See also, Baker, *Rebuilding the House of Israel*, 77–112, who again suggests a nuanced view of reality regarding this and the sources cited below.

<sup>53</sup> *M. Hal.* 2.7; *Tos. Hal.* 1.8. <sup>54</sup> *Tos. Bava K.* 11.7. <sup>55</sup> *M. Ket.* 9.4; *Tos. Ket.* 9.3.

<sup>56</sup> *M. Dem.* 3.5; *Tos. Dem.* 4.32; *M. Yev.* 16.7.

<sup>57</sup> See, e.g., *M. Shabb.* 18.3; *M. Rosh H.* 2.5. <sup>58</sup> See, e.g., *PT Shabb.* 18.3 (16c).

<sup>59</sup> See, e.g., *M. Av. Zar.* 2.1.

<sup>60</sup> See, e.g., *M. Moed K.* 3.9; *M. Ket.* 4.4. On a rabbinic explanation for the connection between women and death, see *Gen. R.* 17.8 (ed. Theodor and Albeck), 159–60.



harvesting.<sup>61</sup> Presumably a quota was set for the laborer, and his family could help him meet it. In one mishnah, a woman is described as returning to town from the harvest on her own and testifying to her husband's death in the field. The rabbis there suggest that she may also have come from the olive grove where olive-picking was under way.<sup>62</sup>

### C WOMEN IN RELIGION

After the destruction of the Jerusalem Temple in 70, the foremost religious institution was the synagogue. The synagogue continued to serve as a community centre for the Jews<sup>63</sup> and assumed many cultic features heretofore only associated with the Temple.<sup>64</sup> Interestingly, much of the evidence for the ancient synagogue derives from epigraphic documents from Palestine and the Diaspora and indicates that women were significant donors in the financing of the construction of synagogues. In an appendix to her study of women in the ancient synagogue, Bernadette Brooten collected evidence for such donations. In all, she collected thirty-eight inscriptions.<sup>65</sup> B. Lifschitz collected 102 commemorating men and women.<sup>66</sup> Taken in its entirety, this evidence indicates that women contributed a total of one-third of all the funds that financed the synagogues for which evidence exists. The synagogue at Apamea Syria, for example, includes nineteen well-preserved donation inscriptions. Of these, nine (that is, half) refer to women donors, and another six mark joint donations of husband and wife.

That women regularly attended the synagogue is well established. Both the New Testament<sup>67</sup> and rabbinic literature<sup>68</sup> make reference to this fact. One tradition about a town composed of priests alone indicates that when they blessed the congregation in the house of prayer, the women and children answered "Amen."<sup>69</sup> Even outsiders noticed the presence of women in the synagogue, if not always benevolently.<sup>70</sup> An intense scholarly debate is under way about whether women were segregated from men in the

<sup>61</sup> *M. Yev.* 15.2; cf. *M. Ed.* 1.12. <sup>62</sup> *M. Yev.* 15.2; cf. *M. Ed.* 1.12.

<sup>63</sup> This was also true for the period before 70. See H. Bloedhorn and G. Hüttenmeister, "The Synagogue," in *CHJ* 111 267–97.

<sup>64</sup> This transformation is discussed in detail by R. Kimelman in ch. 22 of this volume.

<sup>65</sup> B. J. Brooten, *Women Leaders in the Ancient Synagogue: Inscriptional Evidence and Background Issues* (Chico, 1982), 157–65.

<sup>66</sup> B. Lifschitz, *Donateurs et fondateurs dans les synagogues Juives: Répertoire des dédicaces grecques relatives à la construction et à la réfection des synagogues* (Paris, 1967).

<sup>67</sup> Horbury, "Women in the Synagogue," 367–75; Brooten, *Women Leaders*, 139–40.

<sup>68</sup> See, e.g., the *baraitot* in *BT Av. Zar.* 38a–b; *BT Sot.* 22a; *PT Sot.* 1.4 (16d).

<sup>69</sup> See *PT Ber.* 5.4 (9d). <sup>70</sup> John Chrysostom, *Against Judaizing* 1.2.

synagogue. Concrete evidence for the existence of a distinct women's section in the synagogue would end the debate;<sup>71</sup> however, none exists.

The office-holders in the synagogue were usually civil leaders. They had titles, such as head of the synagogue, father of the synagogue, elder, council member, and scribe. Brooten has demonstrated that most of these titles, or their equivalent, were also borne by women. Female heads of synagogues are mentioned on inscriptions from Smyrna, Crete, and Caria. Women elders were present in Crete, Thrace, Venosa (Italy), Rome, and Tripolitana (Lybia).<sup>72</sup> Since women were also significant donors, it is probable that their generosity was reflected in the acquisition of powerful and influential positions.

Significantly missing from the lists of synagogue officials are the names of women from Palestine and Babylonia. This discrepancy might point to the existence of a more open Diaspora Judaism in which women played a greater role. Alternatively, this absence may be no more than a reflection of the state of knowledge or of a different epigraphic tradition.

Rabbinic literature indicates that after the destruction of the Temple, women's cultic activities were limited. This limitation can be inferred, as already noted, from the rabbinic exemption of women from most time-bound commandments. However, indicative of the actual complexity of the *halachah* (and Jewish life as lived), it should be noted that the decree exempting women from all time-bound commandments is a generalization and the Rabbis themselves insisted that one does not learn about specific rulings from generalizations.<sup>73</sup> The significance of this principle becomes particularly clear when one surveys specific laws that do include women in time-bound commandments. Therefore, for example, one is informed that women are expected to participate in prayer and the blessing on food.<sup>74</sup> They are expected to drink four glasses of wine on Passover.<sup>75</sup> They are commanded to light candles on Hanukkah,<sup>76</sup> and so on. Therefore, the more extreme interpretation of the exclusion/exemption of women from the practice of the *mitzvot* needs to be tempered by these instances of women's inclusion. Women as a matter of practice were obligated to fulfill many of the *mitzvot*, even those involving the element of time.

At the same time, it is correct to assert that the time-bound commandments from which women are often exempted, as the Rabbis themselves

<sup>71</sup> On the debate and its development, see I. Löw, *Gesammelte Schriften*, 1v (Szegedin, 1898), 55–71; Safrai, "Women's Gallery"; Brooten, *Women Leaders*, 103–38, and recently Horbury, "Women in the Synagogue."

<sup>72</sup> Brooten, *Women Leaders*, 5–14, 41–6, and for leaders see 35–6; for mothers of the synagogue see 57–63.

<sup>73</sup> BT *Eruv*. 27a. <sup>74</sup> M. *Ber.* 3.3. <sup>75</sup> BT *Pes.* 108a–b. <sup>76</sup> BT *Shabb.* 23a.

make clear, are most often cultic commandments. They include, for example, according to at least one list, “residing in the *sukkah*, taking the *lulav* and donning phylacteries.”<sup>77</sup> In comparison, examples of commandments that are not time-bound and therefore from which women are not exempt, include the following: “(the return of ) lost property and the sending away of the (mother bird from the) nest (when taking the young for consumption) and (building) a railing (around one’s roof).”<sup>78</sup> These commandments are all clearly non-cultic. Many have speculated on the reason for this specific exemption. A sympathetic interpretation claims that exemption is not exclusion and that, by allowing woman to abstain from time-bound commandments, the Sages understood the special circumstances connected with childbearing and child-rearing that left them little time for participation in the cult. However, the lists quoted above, in themselves, suggest that the issue at hand was the participation of women in the cult.

This fact is made clear in a variety of anecdotes associated with these commandments. The following are some examples.

First, the Rabbis retroactively exempted women from undertaking pilgrimages to the Temple, and all this even though all relevant sources from Second Temple times and from rabbinic literature itself reveal that women did undertake pilgrimage. Thus, in the Gospel of Luke one is told that Jesus’ mother went on a pilgrimage to the Temple in Jerusalem.<sup>79</sup> Likewise, a talmudic story relates that in the distant past, sons and daughters competing for their father’s favor, ran on a pilgrimage to Jerusalem, and the daughters outran the sons.<sup>80</sup> For obvious chronological reasons, the Rabbis did not control the way that pilgrimages to the Temple were conducted. Nevertheless, in their reconstruction of the past, when one rabbi, in order to dispute the new ruling against women making the pilgrimage, mentions the wife of Jonah, who used to go to Jerusalem on pilgrimages, he is told that the rabbis of her generation forced Jonah’s wife back from her intended journey.<sup>81</sup> Exemption thus appears to be intended as exclusion, although it is now solely within a theoretical context.

Second, the list mentioned above from the Tosefta notes the exemption of women from residing in a *sukkah*, yet elsewhere in the Tosefta, the sage Rabbi Judah mentions the ancient precedent of the proselyte, Queen Helene, who resided in an enormous *sukkah* in Jerusalem.<sup>82</sup> This source also indicates that at the time when the wife of Jonah went on a pilgrimage to Jerusalem women built and resided in *sukkot*. Another minor episode may hint at a similar conclusion. A mishnah in tractate *Sukkot* states: “Women, slaves and minors are exempt from [residing in the] *sukkah*.”

<sup>77</sup> Tos. Kidd. 1.10.    <sup>78</sup> Ibid.    <sup>79</sup> Luke 2.41–50.    <sup>80</sup> BT Ned. 36a.

<sup>81</sup> PT Ber. 2.3 (4c).    <sup>82</sup> Tos. Suk. 1.1.

A minor who does not need his mother is obligated [to reside in the] *sukkah*.” However, one is also told, “Once Shammai the Elder’s daughter-in-law gave birth, and he removed the ceiling [over her] and covered it with branches.” The current mishnaic text states that he performed this act “for the sake of the minor,”<sup>83</sup> but these words are clearly a gloss.<sup>84</sup> It would appear, based on this account, that in exempting women from the necessity to reside in a *sukkah*, the Rabbis were modifying previous practice.

Third, although women were exempt from putting on phylacteries (*tefillin*), one reads that a certain Mikhal, daughter of Kushi, used to don phylacteries contrary to the proposed injunction.<sup>85</sup> The text in the *Mekhilta de Rabbi Ishmael* that records this event negates the opinion that women should not don phylacteries and may indicate that in the school that produced this text the rabbinic injunction regarding women and time-bound commandments had not yet become authoritative. The text in question does not indicate that the donning of phylacteries by women was universal before the Rabbis forbade it, but rather that, since the commandment was not proscribed, some women fulfilled it. Later rabbinic compositions were not so lenient. Therefore, in the Palestinian Talmud, this episode is reported as follows: “But Mikhal bat Saul would don phylacteries . . . and the rabbis made no complaint. Rabbi Hezekiah in the name of Rabbi Abbahu . . . the rabbis did complain about Mikhal bat Saul.”<sup>86</sup> The early, tannaitic text of the *Mekhilta* here undergoes two alterations. The first one involves the transformation of the contemporary woman, Mikhal, into the biblical Mikhal, daughter of King Saul. This change represents an attempt by the sages of the Palestinian Talmud to project this woman into the mythical past, thus making her actions unique and inimitable. If a certain Mikhal, who lived a century or two ago, donned phylacteries, so can other women. If it was done by a biblical heroine, however, then no contemporary woman could equal her stature and therefore no one could act in a similar fashion. This notion solves the problem. The second revision is a subtle addition to the episode, the claim that the Rabbis of the prior era did object to the practice of Mikhal. Thus, the present exemption is not an innovation.

Fourth, the Rabbis themselves were initially of two minds about whether the biblical commandment to wear “fringes” (*tzitzit*) on one’s

<sup>83</sup> *M. Suk.* 2.8.

<sup>84</sup> I. Sonne, “The Schools of Shammai and Hillel Seen from Within,” in S. Lieberman, S. Zeitlin, S. Spiegel, and A. Marx (eds.), *Louis Ginzberg Jubilee Volume* (ET, New York, 1945), 280–1 n. 13.

<sup>85</sup> *Mekb., Piska* 17 (ed. Horovitz and Rabin, 68).

<sup>86</sup> *PT Er.* 10.1 (26a); cf. *PT Ber.* 2.3 (4c).

garments was included in their exemption of women from time-bound commandments. In the Tosefta list, previously cited, of commandments that are not time-bound and that are therefore incumbent on women, the commandment of *tzitzit* is added cautiously at the end. It is clearly different in kind from the commandments to return lost property or to build a fence around the roof of one's house in that it is cultic and characteristically Jewish. Therefore, right after the list is given, the following qualification is added: "Rabbi Simeon exempts women from *tzitzit* on account of (its being) a positive commandment contingent upon time."<sup>87</sup> Rabbi Simeon's argument is further elaborated and given a feasible explanation in the Palestinian Talmud: "Said Rabbi Simeon to them: Do you not concede to me that *tzitzit* is a positive commandment contingent upon time? Behold, a night gown is exempt from *tzitzit*."<sup>88</sup> These words prove that the obligation is time-bound, since *tzitzit* are donned during the day but not at night. The Babylonian Talmud, which was redacted later than the Palestinian Talmud, also resolves the debate in Rabbi Simeon's direction: "Our rabbis taught: Which is a positive time-bound commandment (from which women are exempt)? *Sukkah*, *lulav*, *shofar*, and *tzitzit*."<sup>89</sup> This sentence suggests that the rhetoric used to describe commandments as time-bound or non-time-bound may be intended to mask the real issue at hand, namely, the exclusion of women from the developing post-Temple cult. Non-participation in the obligations encompassed by the exemption from time-bound commandments would limit considerably the time spent by women in synagogues.

The extent of rabbinic influence within post-70 Jewish society, at present, is a hotly debated scholarly topic.<sup>90</sup> At least regarding the issue of the public role of women in Jewish society, there appears to be an interesting correlation between the absence of women leaders in the synagogues of Palestine and Babylonia and the authority of the rabbis in these geographical loci. The Rabbis would certainly have discouraged placing women in positions of influence in the synagogue.

The Rabbis were ideologically inclined toward the exclusion of women from Jewish religious life. Other Jewish groups from antiquity have left no comparable record but, as the evidence from Christianity illustrates,<sup>91</sup> the Rabbis were not the only ones who sought such an exclusion. Thus, women

<sup>87</sup> Tos. Kidd. 1.10.   <sup>88</sup> PT Kidd. 1.7 (61c).

<sup>89</sup> BT Kidd. 33b; and see also Ilan, "Daughters of Israel," 25–6.

<sup>90</sup> On this issue, see Cohen, "The Rabbi." Also see chs. 1 and 8 in the present volume.

<sup>91</sup> See, e.g., F. Cardin, "Women, Ministry, and Church Order in Early Christianity," in R. S. Kraemer and M. R. D'Angelo (eds.), *Women and Christian Origins* (Oxford, 1999), 300–29.

probably found outlets and channels for their religious expression elsewhere. For example, women used amulets.<sup>92</sup> Of the forty-two Jewish amulets I recently collected, twenty-six (that is, more than 60 percent) were written for women. Furthermore, all amulets tend to name the customer after his or her mother. This practice suggests an important maternal role.<sup>93</sup> Amulets represent an alternative religious tradition from which women did not seem to be excluded. No evidence is available that women wrote them, and so they were perhaps only customers for this sort of religious artifact. Nevertheless, one tradition in the Babylonian Talmud may be interpreted differently. In BT *Yoma*, one reads of an amulet written on the skin of a hyena in order to avert rabies. Abbaye explains that it should be addressed to So and so, son of a certain woman. This description is followed by a story of a certain sage, Abba bar Manyumi, who is also called Abba bar Martha, because his mother made him a certain golden tube that was probably an amulet.<sup>94</sup> Whether this story suggests that women were involved in the actual preparation of amulets or that the woman merely commissioned the amulet mentioned is difficult to say. The incident confirms, however, the claim that women were involved in the cult of amulets.

It is appropriate to discuss women's knowledge of cures, incantations, and practices designed to heal and protect the well-being of those near and dear to them in conjunction with the issue of amulets. Among the sources that connect women with medical practice, the Palestinian Talmud mentions a certain Timinis, who was Rabbi Yohanan's doctor.<sup>95</sup> Likewise, the Babylonian Talmud mentions a woman named Em who was reputed to possess great practical knowledge of various medicinal and therapeutic charms and recipes.<sup>96</sup> Another source, absent from the printed editions of the Talmud but present in the Munich manuscript of tractate *Berakhot*,

<sup>92</sup> See *CIJ* 1, nn. 518, 674; 11, nn. 802, 819, 874, 1167; *JWE* 1, n. 156; J. Naveh and S. Shaked, *Amulets and Magic Bowls* (Jerusalem, 1985), 44 n. 2, 68 n. 7, 78 n. 8, 82 n. 9, 90 n. 11, 94 n. 12, 98 n. 13, 106 n. 15; idem, *Magic Spells and Formulae: Aramaic Incantations of Late Antiquity* (Jerusalem, 1993), 50–2 n. 17, 57 n. 18, 77 n. 23, 85 n. 25, 91 n. 27, 95 n. 28, 101 n. 30; M. Schwabe and A. Reiffenberg, "A Judaeo-Greek Amulet," *Bulletin of the Israel Exploration Society* 12 (1945–6), 68–9 (Hebrew); and see R. Kotansky, "Two Inscribed Jewish Aramaic Amulets from Syria," *IEJ* 41 (1991), 270, 275.

<sup>93</sup> This phenomenon has not been researched thoroughly. See L. H. Schiffman and M. D. Swartz, *Hebrew and Aramaic Incantation Texts from the Cairo Genizah* (Sheffield, 1992), 33.

<sup>94</sup> BT *Yom* 84a. <sup>95</sup> PT *Av. Zar.* 2.2 (40d).

<sup>96</sup> See the detailed discussion in C. E. Fonrobert, *Menstrual Purity: Rabbinic and Christian Reconstructions of Biblical Gender* (Stanford, 2000), 151–9; Valler, *Women in Jewish Society*, 161–72.

reports that Rami bar Hamma's mother advised him on a practice that would assure his escape untouched from a visit to a demon-ridden privy.<sup>97</sup>

The accusation the Rabbis leveled against women that they regularly practiced sorcery also needs to be noted.<sup>98</sup> The Rabbis consistently designate women's activities among themselves as magic (*kishuf*), and they report that most of the daughters of Israel are prone to practice magic.<sup>99</sup> Elsewhere in the Babylonian Talmud we are told that the witches of Israel had an official leader, with whom the Rabbis negotiated.<sup>100</sup> Likewise, all women, when they grow old, are suspected of practicing magic.<sup>101</sup> In addition, the Babylonian Talmud reports that any two women sitting on two sides of the road are practicing magic,<sup>102</sup> and that the daughters of Rav Nahman can mix a boiling cauldron with their bare hands by practicing magic.<sup>103</sup> It is also apposite to note that over 50 percent of the occurrences of the root (*kishuf*) in rabbinic literature refer to women.

The Rabbis repeatedly associated the activities of women with magic as part of their campaign against all cults other than their own. They perceived women's religious practices, of which they were not a part, as dangerous and therefore as magic. This general condemnation of women's religious activities could reap devastating consequences, as can be seen from the legend found in the Palestinian Talmud about eighty witches whom Shimon ben Shetaḥ executed in Ashkelon.<sup>104</sup>

#### D WOMEN IN THE STUDY HOUSE

After the destruction of the Temple in 70, the Jews of Palestine lost most of their independent political institutions. For the Rabbis, the public domain became the space of the study house, and the most significant non-cultic public activity was Torah study. The Rabbis themselves declared that although Torah study was not a time-bound (that is, cultic) commandment, women were nevertheless exempt from it.<sup>105</sup> Exemption, however, did not

<sup>97</sup> BT *Ber.* 62a, recorded in R. Rabbinovicz, *Variae Lectiones in Mischnam et Talmud Babylonicum*, I (Munich, 1867), 359 (Hebrew).

<sup>98</sup> The problem of defining magic is well illustrated by Philip Alexander's opening remark in his article on Jewish magic: "Although magic in most of its forms is roundly condemned in the Torah, there is incontrovertible evidence that Jews practiced magic in the Mishnaic era." P. Alexander, "Jewish Elements in Gnosticism and Magic c. CE 70–c. CE 270," in *CHJ* III 1067.

<sup>99</sup> BT *Er.* 64b. <sup>100</sup> BT *Pes.* 110a. <sup>101</sup> BT *Sanh.* 100b. <sup>102</sup> BT *Pes.* 111a.

<sup>103</sup> BT *Gitt.* 45a.

<sup>104</sup> See T. Ilan, "A Witch-Hunt in Ashkelon," in A. Sasson, Z. Safrai, and N. Sagiv (eds.), *Ashkelon: A City on the Seashore* (Tel Aviv, 2001), 135–46 (Hebrew).

<sup>105</sup> BT *Er.* 27a.

always mean exclusion. Whether a man is permitted to teach his daughter the Torah is discussed in a number of different rabbinic sources,<sup>106</sup> although private instruction within the confines of the home must be distinguished from the presence of Torah-learned women in the rabbinic study house. The sort of evidence adduced in the process of ascertaining whether or not women were altogether absent from the latter institution is even more circumstantial than the sort of evidence adduced for other topics discussed thus far. The enigmatic mention in the Tosefta<sup>107</sup> of a woman by the name of Bruriah making a halachic decision provides only minimal information. The text in question does not state who she was or why she came to be present in the study house. Her presence engenders no comment other than that of Rabbi Joshua, who commends her knowledge of the *halachah*. Later, however, rabbis found this allusion and this woman disconcerting. The Mishnah edited her out. The halachic ruling she gave is still mentioned in the Mishnah, but it is assigned to the sage who commended her – Rabbi Joshua.<sup>108</sup> The Babylonian Talmud dealt with this gender interference very differently. It inflated Bruriah's Torah competence but simultaneously made her unique and inimitable.<sup>109</sup> Both these reactions indicate that even if Bruriah and learned women like her were to be found in the very early tannaitic study houses (Rabbi Joshua, Bruriah's contemporary and benefactor in the Tosefta, was already a grown man when the Temple was destroyed in 70), by the time the Mishnah was edited in around 200, they had become a complete anomaly. The study house had developed into an all-male environment.

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<sup>106</sup> E.g., *Sifre Deut.* 46 (ed. Finkelstein, 104); *M. Sot.* 3.4. In this conjunction, the question is also raised whether a man could teach his daughter Greek wisdom; see *PT Sot.* 9.16 (24c).

<sup>107</sup> *Tos. Kel. Bava M.* 1.6.      <sup>108</sup> *M. Kel.* 11.4.

<sup>109</sup> *BT Pes.* 62b, and see Ilan, *Integrating Women*, 175–94, for a detailed discussion of Bruriah and additional bibliography.



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## GENTILES IN RABBINIC THOUGHT

DAVID NOVAK

## I GENTILES IN THE BIBLE

Since the Rabbis saw themselves as continuing and developing biblical religion, one cannot simply introduce their thought on any topic without seeing how it continued and developed biblical notions pertaining to that topic. This is especially so when looking at rabbinic thought concerning Gentiles. With the probable exception of some of the so-called “Wisdom Literature” (most notably Proverbs, Job, and Ecclesiastes), the Bible can be seen as one long discussion of what differentiates Israel from all the other peoples of the world. That difference is based on the unique covenant into which Israel has been elected by the Lord God, creator of the universe, something no other people can claim for itself.

Were this the whole biblical view of Israel and the peoples of the world, then one would find a totally monolithic biblical conception of the Gentiles: Israel has a perpetual (even if always problematic) relationship with the one true God; the Gentiles have none at all. Although one could draw this conclusion from certain biblical texts, it is not the total biblical view, however. From the position of those biblical scholars who argue that the idea of the universal God is present in biblical religion from beginning to end, it would seem to follow that what confirms the universality of the God of Israel is that all peoples, indeed all human beings, are related to this God in one way or another. Israel’s relationship with this God is privileged, being more direct and more comprehensive. But Israel cannot assume a symbiosis with this God without this God in fact becoming nothing more than another local, tribal deity. Indeed, when Israel is tempted to think of herself as totally different from the other peoples to the point of assuming a monopoly on God’s concern, a prophet comes along to remind them, “Are you not like the Ethiopians are to me, you Israelites; did I not bring Israel up out of the land of Egypt, and the Philistines from Caphtor, and Aram from Kir?!” (Amos 9.7). Yet, this same prophet also reminds Israel, “Only you have I intimately known out of all the families of the earth” (Amos 3.2). Whereas one biblical text states that “all the gods of the Gentiles are no gods” (Ps. 96.5), the next verse

calls upon these same Gentiles to “ascribe to the Lord (YHWH) glory and strength” (see Exod. 5.2).

Just as Israel’s relationship with God is different from that of the Gentiles, so the Gentiles themselves are related to God in different ways. For this reason, the Bible views different Gentiles in different ways. In one way or another, all these biblical differences are taken up in rabbinic thought and developed there, both in terms of better clarifying biblical teaching and in terms of applying these biblical categories to new Jewish encounters with Gentile societies and cultures. As was the case in the Bible, rabbinic rulings directing Jews how to deal with any specific group of Gentiles were largely determined by what the Rabbis judged the religio-ethical character of any specific Gentile community to be. Ultimately, though, the rabbinic interest in Gentiles was how a Jewish relationship with any specific group of Gentiles affects the Jewish relationship with God, either positively or negatively. So, with some rare exceptions, the interest of both the Bible and the Rabbis in Gentiles was confined to Gentiles who were or had been in real relationships with the Jews. Relations among the Gentiles themselves, where Jews or Judaism are absent, seem to have been of no interest to the Rabbis, as was the case in the Bible, except where some comparisons or contrasts could be made to the Jews and Jewish practices.<sup>1</sup>

As was the case in the Bible, the rabbinic constitution of Jewish–Gentile relations admitted a definite range of plurality. The biblical categories of Gentiles, beginning with those farthest removed from a relationship with Israel and moving up to those closest to a relationship with Israel, seem to be: (1) the Amalekites; (2) the seven Canaanite nations; (3) the nations of the world; (4) the Samaritans; (5) slaves; (6) resident aliens; (7) proselytes. Looking at how the Rabbis understood these classes of Gentiles, and practically applied this understanding, will enable us to see the wide range of rabbinic thought about Gentiles, but a range having within it a normatively significant order with inherent criteria of judgment. Not all Gentiles are alike. It seems that any rabbinic opinion about Gentiles, no matter how generally stated, is in fact about one or another of these biblically based classes. Most of the sources cited or mentioned here are legal. That is because, as Louis Ginzberg, one of the greatest modern rabbinics scholars, wisely noted, “It is only in the Halakah that we find the mind and character of the Jewish people adequately expressed.”<sup>2</sup> In late antiquity, the formulation of that national mind and character was the great achievement of the Rabbis.

<sup>1</sup> See e.g. *PT Kidd. I.I.58c*.

<sup>2</sup> L. Ginzberg, *Students, Scholars and Saints* (Philadelphia, 1928), 117.

## II AMALEKITES

As soon as the Israelites had left Egypt, they were attacked by a marauding tribe known as the Amalekites, with whom, interestingly enough, the Israelites shared kinship (Gen. 36.12). What distinguished the Amalekites from other political enemies of Israel is that they were unusually cruel, attacking noncombatants indiscriminately. This was seen to be an extreme departure from the most basic laws of divinely mandated decency: "they did not fear God" (Deut. 25.18), "fear of God" (*yirat elohim*) being the law considered to be known by and binding on all humankind (see Gen. 20.11; Exod. 1.21). Israel is considered to be their chief, but perhaps not only, victim. Because of this it is Israel's task to eliminate them. King Saul is faulted for having compromised with the Amalekites, and this is the reason for the ultimate loss of his royal dynasty (1 Sam. 15). And Haman, who almost succeeded in destroying the whole Jewish people, is seen to be a descendant of Amalek (Esth. 3.1; 1 Sam. 15.8). The revenge taken by the Jews on Haman, his sons, and his anti-Jewish followers (Esth. 9.5) is very much part of this biblical view of the need to totally eliminate the Amalekites. Amalek is considered to be perennially waiting to destroy the Jewish people, so much so that God's throne, the symbol of his kingship, is not seen to be complete until Amalek's presence and influence are permanently removed from the world.<sup>3</sup>

Nevertheless, the question whether Amalek will be destroyed by the Jewish people or by God is of great importance in determining how the rabbinic view of the Amalekites was to be translated into action. Thus, even though the commandment to eliminate the Amalekites was seen to be activated as soon as the Israelites under Joshua entered the Promised Land,<sup>4</sup> the question is whether there were any recognizable Amalekites left to be actively eliminated by the Jews, even if the Jews had such power during the rabbinic period. Very much like the commandment to eliminate the Canaanite nations, the commandment actually to eliminate the Amalekites might well have been considered antiquarian by the time of the Rabbis, primarily because none of the peoples of the pre-exilic period, with the sole exception of the Jews, was considered to be still geographically and politically intact.<sup>5</sup> Even though it was believed that there were still Amalekites in this world, their actual identity was mysterious. Hence the most the Jews could do about them was to remember (both mentally and verbally) what they did in the past.<sup>6</sup> This remembrance, both by individual Jews in the privacy of their minds and by the Jewish community in its

<sup>3</sup> See on this Exod. 17.16; *Pes. R.* 12. <sup>4</sup> *Tos. Sanh.* 4.5.

<sup>5</sup> See *M. Yad.* 4.4; cf. *Mekb., d'Amalek* 2. <sup>6</sup> *BT Meg.* 18a.

public liturgical practices, enabled Jews to be aware that those who, like the Amalekites, plotted the extermination of the Jewish people, were still dangerously present in the world. And it also enabled Jews to hope that God would finally and totally eliminate all their murderous enemies, epitomized by the Amalekites, at the end of history.<sup>7</sup> This might well explain a rabbinic view that the festival of Purim, which celebrates the defeat of the Amalekite Haman, will still be celebrated during the messianic age.<sup>8</sup> That is, the final messianic destruction of the Amalekites will conclude their defeat that began at Purim. It would seem that after the destruction of the Temple by the Romans in 70 CE, and the brutal anti-Jewish persecutions following the failed revolution of Bar Kochba and his rabbinic followers early in the second century CE, Jews saw powerful analogues to the Amalekites in their Roman persecutors, thus explaining the great popularity of Purim.

### III THE SEVEN CANAANITE NATIONS

The conquest of the Promised Land by the Israelites is taken by the Bible to require the total elimination of the seven Canaanite nations living there (Deut. 20.16–17). Nevertheless, according to one rabbinic view, this unconditionally mandated war was confined to the time of the conquest of the land by Joshua and his army.<sup>9</sup> Furthermore, not only were the Israelites never able to accomplish this task, but it seems from a number of passages in the pre-exilic historical books of the Bible that various members of these nations lived in peace, even harmony, with the Israelite conquerors (e.g. Josh. 2; 2 Sam. 11.6–7). This biblical fact, plus the very troubling moral question of the commandment to exterminate a whole people on ostensibly racial grounds, no doubt bothered the Rabbis, who were frequently concerned that Judaism itself should not appear to have norms that seem to be generally immoral.<sup>10</sup> Thus one influential rabbinic text<sup>11</sup> asserted that Joshua offered the Canaanite nations peace terms just as he was to offer peace terms to non-Canaanite peoples with whom the people of Israel were to come into conflict (Deut. 20.10–11). Only if any of these peoples refused these terms was relentless war to be waged against them. This is consistent with the biblical teaching that sees the very reason God allowed the Israelites to drive the Canaanite nations out of the land to be their violation of what is considered to be universally mandated morality (Gen. 15.16; Lev. 18.2, 27–9; Deut. 9.5). Thus, the implication is that if

<sup>7</sup> *Sifre Deut.* 296; *Pes. de-R.K., Zakhov.*    <sup>8</sup> *PT Meg.* 1.5.70d.    <sup>9</sup> *BT Sot.* 44b.

<sup>10</sup> See e.g. *BT Baba K.* 113a–b; *BT San.* 59a; *PT Baba M.* 2.5.8c.    <sup>11</sup> *PT Shev.* 6.1.36c.

the Canaanite nations had turned from their evil ways, then the Israelites could have incorporated them into their society, at least politically.<sup>12</sup>

Understanding the judgment against the Canaanites to be contingent upon their moral choice made the commandment to destroy them conditional as well. In effect, even more so than was the case with their moral judgment of the Amalekites, the Rabbis eliminated any real difference between the seven Canaanite nations and the other nations of the world. All peoples were to be judged by moral, not racial, criteria. This was to be the case not only when the Jews had little or no political power over Gentiles, but even at a time when it was anticipated that Jews would have such power, although there are some exceptions to this trend in rabbinic thought.<sup>13</sup> Also, because there was no real difference any more between the seven Canaanite nations and any other non-Jewish people, the biblical proscription of intermarriage, which explicitly applies to intermarriage only with Canaanite women or men (Deut. 7.1–4), was now extended by the Rabbis to include any non-Jews, all of whom would lead the Jewish partner away from Judaism, even if not to idolatry *per se*.<sup>14</sup> This seems to show that, for the Rabbis, the prohibition of intermarriage was to preserve Jewish religious distinctiveness from all the Gentile nations, but not because of the inherent immorality of some of the Gentile nations. Here, too, there were no longer any Canaanites.

#### IV THE NATIONS OF THE WORLD

In the Bible, aside from certain marriage restrictions (Deut. 23.4–9; Ezek. 9), there seems to be an open policy of relations with all non-Israelite peoples who were not Canaanites or Amalekites. Numerous alliances between the Israelites and other peoples are noted either for good or for ill. As long as these nations did not blaspheme the God of Israel (see 1 Sam. 17.44–5) or influence Israelites to worship their gods (see Num. 25.1–4), their worship of their own gods seems to have been of no concern to the prophets. It is clear from most of the biblical texts that deal with idolatry *per se* that it is proscribed to Israel only because of her unique covenantal relationship with the one God. Not being parties to the covenant of Sinai and its corollaries, the Gentile nations are not required to become monotheists. It is only certain individual Gentiles who recognize the one God, and even these unusual Gentiles are not required actually to renounce their ancestral forms of worship (see 2 Kgs. 5.17–19). The most that need be considered about any of them is whether they respected or disrespected

<sup>12</sup> *Sifre Deut.* 202.   <sup>13</sup> E.g. BT *Baba K.* 38a.   <sup>14</sup> BT *Kidd.* 68b.

Israel's covenant with God. Interest in their relationship with the one God seemed to be confined to how they treated his people Israel, especially if they attempted to entice Israel away from sole service of the one God (see 1 Kgs. 11.1–2).

The great innovation of rabbinic Judaism in this area, one that had precedents in the growing cosmopolitanism of Hellenistic Judaism, was the new insistence that the prohibition of idolatry is universal. As such, every nation, every human being, is required to acknowledge the one universal God somehow or other. So, not only are the Gentiles held to a general moral law, as is the case in the Bible, but the Rabbis insist that they are also commanded to acknowledge the same universal God whom the Jews are commanded to acknowledge, even if that acknowledgment only means that the Gentiles are no longer to believe in their ancestral deities. Thus, many social and even economic contacts with Gentiles who were still considered to be authentic idolators were proscribed by the Rabbis, not only because they might tempt Jews to partake of their idolatrous practices, but also because Jewish contact with them might be seen as putting a Jewish stamp of approval on what the Gentiles themselves should not be doing even among themselves.<sup>15</sup> It seems that the Rabbis were making a far wider-ranging demand on the Gentiles to renounce the idolatry ubiquitous in their world than the biblical demand that merely specific blasphemy against the God of Israel be proscribed and punished (mostly by God). One could say that whereas, in the Bible, Gentile animosity against the God of Israel is because of Gentile animosity against the people of Israel, for the Rabbis, Gentile animosity against the Jews is because of their animosity against the universal God whom Israel worships. This might explain why it is emphasized that the renunciation of idolatry (*avodah zarah*, literally, “strange worship”) is what truly makes one a Jew.<sup>16</sup>

Once idolatry was seen to be proscribed for the Gentiles, the question remained whether or not they had to become Jews in order to enjoy a proper relationship with God. While some Rabbis saw all Gentiles as inevitably idolatrous,<sup>17</sup> others seemed to see a possibility of a Gentile relationship with God that was not idolatrous, even if not as intense as that of Judaism.<sup>18</sup> Out of this recognition of the possibility of non-idolatrous Gentile piety, there seems to have arisen in the later second century CE the decisive rabbinic doctrine of the *seven Noahide commandments*. This doctrine determined seven general norms which all human beings are required to accept as morally binding, and which all human societies are required to enforce legally. On individual Gentiles devolve the prohibitions

<sup>15</sup> Exod. 23.13; M. Av. Zar. 1.1; BT Sanh. 63b; BT Av. Zar. 6b. <sup>16</sup> BT Meg. 13a.

<sup>17</sup> See e.g. BT Av. Zar. 32b; BT Yev. 103a–b. <sup>18</sup> Tos. Sanh. 13.2.



of (1) idolatry, (2) blasphemy, (3) murder, (4) sexual immorality (specifically, incest, homosexuality, bestiality, and adultery), (5) robbery, and (6) tearing a limb off a living animal for food (see Gen. 9.4). On Gentile societies devolves the positive requirement (7) to set up courts of law (*dinim*) to adjudicate violations of the six Noahide prohibitions. There were debates about the actual number of commandments the Gentiles are required to observe,<sup>19</sup> but the number seven was finally agreed upon. One effect of limiting the number of commandments was to eliminate any gradual conversion to Judaism. Gentiles could either practice their own commandments with impunity, or they would have to fully adopt Judaism *in toto* in order to become full members of the Jewish people.<sup>20</sup>

Retrospectively, this doctrine of the Noahide commandments (*mitzvot*, better translated as “laws,” since each one of them contains more than one specific commandment) was used to explain exactly why God had not given the Torah to any of the Gentile nations rather than to Israel alone. These other nations had not truly accepted the minimal Noahide laws; if so, how could they possibly accept the much fuller Mosaic Torah?<sup>21</sup> Nevertheless, the Rabbis did believe that the Gentiles were capable of keeping the Noahide laws and could be held morally responsible for them.<sup>22</sup> For Jews, this meant that they now had a criterion for judging the extent of a Jewish relationship, economic or political, with any other people.

There is a debate in the Talmud<sup>23</sup> as to whether the first of the Noahide laws is the prohibition of idolatry or the mandate to establish courts of law (i.e., to engage in what is now called the due process of law). Although the debate is ostensibly about the meaning of the first word of the biblical verse seen as alluding to the Noahide laws, namely, “and he commanded” (*vayitsav*, Gen. 2.16), the debate can also be seen as a more philosophical dispute over what is to be the first criterion of Jewish judgment of any Gentile society and culture. Are Jews to be primarily concerned with the ethics of their Gentile neighbors or with their religion? And, it must be remembered that rabbinic attitudes towards Gentiles (with the exception of slaves) are attitudes towards those who had political power over the Jews: Romans and romanized Gentiles in Palestine; Parthians in Babylonia. Thus the real question was largely concerned with the Jewishly conceived universal criteria that enables Jews to judge the non-Jewish society in which Jews either have to live or want to live. On this question, especially whether Gentile piety or Gentile justice was to be the prime emphasis, we see that

<sup>19</sup> PT *Av. Zar.* 2.1.40c; BT *Sanh.* 57a; BT *Hull.* 92a–b. <sup>20</sup> See BT *San.* 58b–59a.

<sup>21</sup> *Sifre Deut.* 343; BT *Av. Zar.* 2b; also *Tos. Sot.* 6.9; 8.6. <sup>22</sup> See BT *Av. Zar.* 3a.

<sup>23</sup> BT *Sanh.* 56b.

rabbinic attitudes towards Gentiles in Babylonia were significantly different from their attitudes towards Gentiles in Palestine.

Although some Rabbis thought the Roman rule of Palestine had some important political value,<sup>24</sup> more of them thought their Roman rulers were nothing but glorified bandits.<sup>25</sup> They were largely perceived as people who were mired, who even rejoiced, in cruelty and bloodshed.<sup>26</sup> This was seen as being part and parcel of their idolatry and blasphemy.<sup>27</sup> However, with few exceptions, the Rabbis were impressed with the morality of the Parthians under whose rule they lived in Babylonia.<sup>28</sup> Even more important than their personal moral traits was the fact that the Parthians seem to have been respectful of Jewish religious practices.<sup>29</sup> And, most importantly, the Rabbis respected the Babylonian system of civil and criminal jurisprudence. Thus Mar Samuel of Nehardea, one of the two most important Jewish jurists in late second- and early third-century Babylonia, formulated one of the most far-reaching principles in the history of Jewish law, namely, “the law of the kingdom is the law.”<sup>30</sup> This principle goes far beyond the earlier ruling of the Mishnah<sup>31</sup> that validity of certain secular documents of Jews could be ascertained by non-Jewish courts.<sup>32</sup> What it did was to enable Jews to live in good faith under a non-Jewish regime, not having its legal system forced on them but being able to accept it with positive Jewish justification. It is most unlikely that, considering the Rabbis’ contempt for the Roman imperial rule of Palestine, they would have ever formulated such a generous principle there. This undoubtedly was not only because of Jewish respect for Parthian public policies and jurisprudence, but also was because of Jewish involvement in that system and official Parthian interest in questions of Jewish law<sup>33</sup> and Jewish social welfare.<sup>34</sup> In Palestine the Jews lived under Roman military rule that was not required to deal with the Jews according to the due processes of Roman law. In Babylonia, on the other hand, Jews were living under a regime that did deal with all the inhabitants of the regime, including Jews, according to the due processes of its system of law.

The rabbinic respect for the Parthian society and especially for its government is reflected in the suggestion, perhaps even actual ruling, of Rav Judah, one of the most important disciples of Mar Samuel, that “whoever leaves Babylonia to ascend to the land of Israel violates a positive commandment.”<sup>35</sup> In the same talmudic section, this radical statement is contrasted with an earlier (and seemingly more authoritative), Palestinian, statement, “whoever dwells outside the land of Israel is likened to one who

<sup>24</sup> *M. Av.* 3.2. <sup>25</sup> *BT Shabb.* 33b. <sup>26</sup> See e.g. *BT Gitt.* 28b. <sup>27</sup> See *BT Gitt.* 56b.

<sup>28</sup> E.g. *BT Ber.* 8b. <sup>29</sup> See *BT Av. Zar.* 30a. <sup>30</sup> *BT Baba B.* 54b. <sup>31</sup> *M. Gitt.* 1.5.

<sup>32</sup> See *BT Gitt.* 10b. <sup>33</sup> *BT Baba M.* 119a. <sup>34</sup> *Ibid.*, 70b. <sup>35</sup> *BT Ket.* 110b–111a.

has no God.”<sup>36</sup> What this reflects is that the concern of the Babylonian Rabbis was more with the humanly practiced justice of their Parthian hosts than with their theology. Also, it was assumed that the Parthians themselves were not such committed polytheists as were the Romans and romanized Gentiles in Palestine. This was even recognized by the leading Palestinian contemporary of Mar Samuel, Rabbi Yoḥanan bar Nappaha, who said that “the Gentiles outside the land of Israel are not idolators but are only practicing ancestral custom.”<sup>37</sup> Thus it seems that the Babylonian Rabbis, and even some Palestinian Rabbis, were convinced that Jewish institutions, especially higher Jewish education and research, were in a safer environment in Babylonia than they were in the Land of Israel, and that this was because of the better moral and political environment in Babylonia. For this reason, it seems that many of the Rabbis were also willing more or less to overlook Babylonian idolatry, regarding it as a mere cultural vestige because their Babylonian contemporaries no longer really believed in it.

## V THE SAMARITANS

The Samaritans were a people who lived among the Jews in Palestine during the rabbinic period and long before that, going back to even pre-exilic times. The Bible sees them as being made up of several eastern Semitic nations whom the king of Babylonia brought into the Land of Israel to replace the large numbers of Israelites who were deported to Assyria after the fall of Samaria in the sixth century BCE. According to the Bible, these new arrivals adopted the Israelite religion, but not as the worship of the one true God. Instead, they adopted that worship out of fear of “the god of the land” (2 Kgs. 17.26), because of their belief that their ignorance of Israelite religion had led to their being punished by an attack of lions. Thus some of the Rabbis called them, and indeed all insincere converts, “lion converts” (*gerei arayot*), although others were convinced that at least the original Samaritans were true converts.<sup>38</sup>

At the time of the return of the Judaeans (Jews) from Babylonian exile in the late sixth century BCE, the Samaritan attempt to merge with the returning Judaeans was rebuffed (Ezek. 4.1–6). Whether they were rebuffed because of their questionable origins, their questionable motives, or their questionable religious beliefs and practices is difficult to ascertain. Nevertheless, the Rabbis were continuing a long-time Jewish attitude in steering clear of the Samaritans, regarding them as either questionable Jews or not Jews at all. Rather than even calling them “Samaritans” after the old

<sup>36</sup> See Tos. Av. 4.3. <sup>37</sup> BT Hull. 13b. <sup>38</sup> BT Kidd. 75b.

capital of the kingdom of Northern Israel, the Rabbis preferred to call them *Kutiim*, that is, from *Kutab*, which is one of the places outside of Israel from which the Samaritans are said to have originated.

To be sure, there was at times rabbinic respect for the meticulous piety of the Samaritans, which surpassed Jewish piety concerning the same commandments. Thus there is a debate about whether or not Samaritan unleavened bread (*matzah*) may be used by Jews for the Passover rites.<sup>39</sup> Rabban Simon ben Gamliel, the most prominent rabbinic authority in the late second century CE, is reported to have said that “commandments that the Samaritans keep, they do so more strictly than the Jews,”<sup>40</sup> which is a principle later taken to have broad implications. Yet, despite grudging rabbinic respect for Samaritan piety,<sup>41</sup> the Samaritans were presumed to delight in misleading Jews, thus causing Jews who relied on them to commit various ritual infractions.<sup>42</sup> The Samaritans were also condemned for the careless use of the Tetragrammaton,<sup>43</sup> something akin to “taking the Lord’s name in vain” (Exod. 20.7).<sup>44</sup> Finally, there is the later rabbinic consensus that a statue of a dove was found in the Samaritans’ sanctuary on Mount Gerizim,<sup>45</sup> thus concluding that the present-day Samaritans had really been idolators all along. Nevertheless, it would seem that, by the time of the rabbinic period, the Samaritans were such an insignificant Gentile presence in Palestine that the Rabbis largely looked upon them in antiquarian terms. Perhaps their interest in the phenomenon of the Samaritans was that it served as a precedent for the phenomenon of non-Jews undertaking many Jewish practices and the problems of status that this raises for the Jewish community.<sup>46</sup>

## VI SLAVES

By far the most significant Gentile presence among the Jewish people during the rabbinic period were non-Jewish slaves, who were called, interestingly enough, “Canaanite slaves” (*eved canaani*),<sup>47</sup> which perhaps reflects the fact that the Canaanite nations were not eliminated by the Israelites after all. The Torah itself had clearly differentiated between an Israelite bondman or bondwoman whose servitude was a period of indenture (Exod. 21.2–11) and a non-Israelite whose servitude seems to have been indefinite (Lev. 25.46). The Rabbis, no doubt codifying a situation that long predated them, declared any kind of servitude of one Jew to another to have

<sup>39</sup> Tos. *Pes.* 2.15. <sup>40</sup> BT *Hull.* 4a. <sup>41</sup> See e.g. M. *Nidd.* 7.5. <sup>42</sup> BT *Nidd.* 57a.

<sup>43</sup> PT *Sanh.* 10.1.28b. <sup>44</sup> See PT *Ber.* 6.1.10a.

<sup>45</sup> PT *Av. Zar.* 3.2.42d; BT *Sanh.* 63b; BT *Hull.* 6a. <sup>46</sup> See BT *Sanh.* 58b–59a.

<sup>47</sup> See e.g. M. *Kidd.* 1.3.

ceased at least by the time of the destruction of the First Temple in 586 BCE, since it required the active function of the Jubilee, which itself required that all twelve tribes of Israel be intact and living in their ancestral territories.<sup>48</sup> Moreover, Jews were expected to go to extraordinary lengths to redeem Jews who had been sold into captivity to Gentiles<sup>49</sup> because, if unredeemed, they would no doubt be lost to the Jewish people.

The most important rabbinic innovation regarding Gentile slavery was the requirement that Gentile slaves be converted to what was, in effect, a form of quasi-Judaism,<sup>50</sup> that is, they had to keep the same prohibitions that the Jews had to keep, but not most of the positive Jewish practices. This meant that, like a convert, a Gentile slave purchased by a Jew had to undergo immersion (*tevilah*), and circumcision if a male.<sup>51</sup> Another rabbinic source indicates that Gentile slaves were to be given twelve months in which to decide freely whether or not they wanted to become quasi-Jews. If they decided not to accept conversion to this quasi-Judaism, then the Jewish masters were required to sell them back to the Gentiles.<sup>52</sup> Moreover, Jews were to be heavily fined for selling their Gentile slaves to Gentiles,<sup>53</sup> the reason being that the slaves had been elevated to a higher level than that of ordinary Gentiles and, in effect, required redemption from the Gentiles as would any Jew sold into slavery to the Gentiles. Nevertheless, despite their quasi-Jewish status, slaves on the whole were regarded as lazy and promiscuous.<sup>54</sup> Thus, Tabi, the Gentile slave of Rabban Gamliel II, renowned for his piety and knowledge, was clearly an exception,<sup>55</sup> although his case does indicate that slaves could be easily integrated into a full Jewish identity, since manumission conferred full Jewish status upon them.<sup>56</sup>

The somewhat ambiguous Jewish status of slaves enabled the first-century CE authority, Rabbi Tarfon, to solve a vexing ethical problem raised by the Torah's prohibition of the certified offspring (*mamzer*) of an adulterous or incestuous union from marrying another Jew or non-Jew (Deut. 23.3).<sup>57</sup> He suggests that this unfortunate person marry a female slave of Jews (*shifhab*). By so doing, which is a legal fiction allowing him to marry someone neither fully Jewish nor fully non-Jewish, he will be able to free his offspring from slavery, thereby making them full Jews.<sup>58</sup> His offspring are now also taken to be free of his own, undeserved, legal taint (he being unable himself to marry a fully Jewish woman). This ingenious suggestion might well reflect an attitude that slavery should serve a higher purpose

<sup>48</sup> BT *Arakh.* 29a. <sup>49</sup> M. *Gitt.* 4.6; PT *Moed K.* 1.2.8ob. <sup>50</sup> BT *Hag.* 4a.

<sup>51</sup> BT *Yev.* 46a. <sup>52</sup> BT *Yev.* 48b. <sup>53</sup> BT *Gitt.* 44a. <sup>54</sup> BT *Kidd.* 49b; BT *Gitt.* 13a.

<sup>55</sup> M. *Ber.* 2.7. <sup>56</sup> See BT *Ber.* 47b. <sup>57</sup> BT *Kidd.* 68b. <sup>58</sup> M. *Kidd.* 3.13.

than mere domination. It is also analogous to the rabbinic attempt to enable a slave to marry and have a family as a natural right.<sup>59</sup>

While the Rabbis, like the Bible itself, accepted the institution of slavery as a necessary fact of their socio-economic world, they showed little if any enthusiasm for it, and also structured it so that it lost most of the arbitrary brutality that it entailed in other ancient societies.

## VII RESIDENT ALIENS

The Bible made provisions for Gentiles who wanted permanent domicile in the Land of Israel. The general term for such persons (more often family units) is *gerim* or “sojourners.” This institution was not unique to ancient Israel, but was prevalent in much of the Mediterranean world. In historical retrospect, we refer to such persons as *metics* (from the Greek *metoikos*, which, like the Hebrew *ger*, means “sojourner” or “resident alien”). They seem to have had equal rights and duties in civil and criminal law (e.g. Lev. 24.22) as well as some limited cultic rights and duties (e.g. Exod. 12.19).

By the time of the Rabbis, the biblical institution of the *ger* was no longer extant. It was assumed that, being basically the right of domicile in the Land of Israel, it could not operate unless the whole People of Israel were living on their own land in their ancestral territories,<sup>60</sup> but that provision had ceased to be by the time of the destruction of the Northern Kingdom of Israel and before the Babylonian exile of the Judaeans in 586 BCE. By the time of the Rabbis, what might be seen as the quasi-Judaism of the *gerim* had long been gone from the religious and political life of the Jews. Yet there are some rabbinic discussions about them inasmuch as it was assumed that, in the days of the First Temple, resident aliens had to accept explicitly the same norms that the Rabbis assumed had been accepted by all Gentiles as Noahides after the Flood. Thus these discussions are part of rabbinic speculation about the time when Jews actually had the power to enforce laws among the Gentiles who lived under Jewish rule.<sup>61</sup> They seem to be part of the overall rabbinic hope for the return of Jewish political sovereignty in the Land of Israel.

This can best be seen when looking at how the Rabbis changed the meaning of one main biblical term for “resident alien”: *ger ve-toshav* (Lev. 25.47), which literally means “sojourner and resident,” but which is more likely a pair of nouns in apposition, namely, “sojourner and resident.” What the Rabbis did, however, was to drop the conjunction “and,” thus having “resident” modify “sojourner,” hence *ger toshav*, meaning “a foreigner who is

<sup>59</sup> M. *Gitt.* 4.5.    <sup>60</sup> BT *Arakh.* 29a.    <sup>61</sup> See e.g. BT *Kidd.* 16a.

resident”<sup>62</sup> as distinct from a foreigner *per se* (*nokbri* or *goy*). A *ger toshav* is immediately contrasted with a *ger tsedeq*, that is, a full convert to Judaism. In fact, in rabbinic literature, the term *ger* without modification always means a convert to Judaism, whereas in the Bible the term *ger* always means a resident alien with or without the term *toshav* being added to it. *Ger* means a convert to Judaism only in post-biblical literature.

Assuming either what the *ger toshav* was in the days of full Jewish sovereignty, or what it will be when full Jewish sovereignty will be regained, the Rabbis thereby answered a lingering question from the biblical sources, namely, how does one become a *ger toshav*? At what exact point in time does one pass from the distinct status of an ordinary Gentile to that of a resident alien *per se*? Now having, at least in theory, two types of *gerim*, the Rabbis could draw an analogy from the type of *ger* present in their world, that is, a full convert to Judaism, to the type of *ger* who was, at least for the time being, no longer present in their world, that is, a resident alien. Just as there is a formal ceremony whereby a Gentile becomes a Jew, so they imagined what this ceremony would be if or when a *ger toshav* actually became a religious and legal reality again. They imagined that a Gentile desiring to become a *ger toshav*, which in effect means becoming a second-class citizen in a full Jewish polity in the Land of Israel, would have to appear before a rabbinical tribunal and take upon himself or herself certain specific obligations.<sup>63</sup> There was debate about the scope of these obligations, but the view of the majority of the Rabbis is that the candidate must explicitly accept the seven Noahide laws. This meant that what the Jews saw to be the moral obligations of all non-Jews, which they could only suggest but not enforce, would certainly be the political obligations they should enforce in the case of any Gentile who would petition for citizenship in their restored sovereign polity in the Land of Israel. Also, rabbinic interest in the *ger toshav* might reflect continuing Jewish interest in the Gentiles on their way to full conversion to Judaism, who were prominent in Hellenistic Judaism, and who were called “fearers of the Lord” or *sebomenoi* by Greek-speaking Jews.<sup>64</sup>

The important thing to note here is that this implied that Jews were not to require full conversion to Judaism from anyone living under their control. Thus rabbinic speculation about the institution of the *ger toshav* was quite similar to rabbinic speculation about the Jerusalem Temple, that is, it was part of an overall program of messianic hope.<sup>65</sup>

<sup>62</sup> *Sifra*, *Behar* on Exod. 25.47; BT *Kidd.* 20a. <sup>63</sup> BT *Av. Zar.* 64b.

<sup>64</sup> See *Mekh. Nez.* 18; BT *Av. Zar.* 65a. <sup>65</sup> See BT *Zev.* 44b–45a; BT *Men.* 45a.

## VIII PROSELYTES

Converts to Judaism, or “proselytes” (from Greek *proselthein*, “to come forward”), were a fully established institution among the Jewish people by the time of the Rabbis. However, in the Bible, aside from certain Gentile women who were married or hoping to be married to Jewish men in the Land of Israel (see Ruth 1.16; 2.2), there seem to be only occasional references to non-Jews attaching themselves to the Jewish people (see Isa. 56.3) but not gaining landed status in Israel (see 2 Kgs. 5.17–19).<sup>66</sup> According to many biblical scholars, full conversion to Judaism as an act of volition, not involving any change in political status, arose only during the Babylonian exile, when the Jews themselves had to be convinced religiously to retrieve their Jewish identity voluntarily (see Ezek. 20.32–8).<sup>67</sup> The motive for authentic conversion to Judaism was to be religious elevation, not political advantage.<sup>68</sup> This is when conversion to Judaism and membership in the Jewish people began to be contingent on an actual event rather than being a long, mostly inter-generational, process.

By the early rabbinic period, no doubt influenced by the rising competition with the new Christian community in the area of proselytization, the precise criteria for the event of conversion were established: (1) full identification with the Jewish people; (2) full acceptance of the binding character of the Torah, both Written and Oral; (3) circumcision for men; and (4) immersion for both men and women.<sup>69</sup> Once the rites of conversion had been performed, usually in rapid succession, the convert’s full Jewish identity was now considered permanent and irrevocable.<sup>70</sup> Nevertheless, it was recognized that even the full convert had some residual connections to his or her Gentile past.<sup>71</sup> Thus there is an early rabbinic debate about whether or not a convert to Judaism can say, either in private or when leading public worship, the common liturgical phrase, “our God and God of our ancestors.”<sup>72</sup> Even though a later rabbinic authority ruled that the convert may indeed recite this formula anywhere,<sup>73</sup> the rejected negative opinion still reflects the fact that it takes more than one generation, and usually requiring intermarriage with native-born Jews, for a convert and his or her family to become fully integrated into the Jewish people *de facto*. Nevertheless, on the whole the Rabbis were supportive of conversion and

<sup>66</sup> *Sifre, Bemidbar* 78. <sup>67</sup> Also *BT Shabb.* 88a. <sup>68</sup> See *BT Yev.* 22a, 24b.

<sup>69</sup> *BT Yev.* 47a–b. <sup>70</sup> *Ibid.*, 47b.

<sup>71</sup> See e.g. *M. Baba M.* 4.10; *M. Neg.* 7.1; *M. Zav.* 2.3; *BT Kidd.* 17b; *BT Sanh.* 94a.

<sup>72</sup> *M. Bikk.* 1.4. <sup>73</sup> *PT Bikk.* 1.4.64a.



converts,<sup>74</sup> but with a few notable exceptions that seem largely to reflect disappointment with the actual commitment of converts.<sup>75</sup>

Finally, the rabbinic decision that conversion to Judaism is permanent and irrevocable also implies that whatever pertains to converts to Judaism pertains all the more to native-born Jews.<sup>76</sup> For that reason, the talmudic principle, “a Jew who sins is still a Jew,”<sup>77</sup> which originally reiterated the old biblical teaching that the Jewish people, as Israel, is never fully removed from the covenant with God no matter what they do (see Isa. 54.7–10; Hos. 2.21–2),<sup>78</sup> was interpreted by post-talmudic Judaism to mean that no individual Jew could ever fully convert out of Judaism to another religion. And for this interpretation there is rabbinic precedent. The covenant is indelible, whether with Israel collectively as the Jewish people or individually with every single Jew.<sup>79</sup> Nevertheless, there were communities and individuals so far removed from the Jewish community for so long that the Rabbis had at times to decide whether or not there was enough of a presumption of Jewish identity to judge these people to be Jews any longer.<sup>80</sup>

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<sup>74</sup> See e.g. BT *Shabb.* 31a. <sup>75</sup> Most notably, BT *Yev.* 48b; BT *Kidd.* 70b.

<sup>76</sup> See BT *Baba K.* 42a. <sup>77</sup> BT *Sanh.* 44a. <sup>78</sup> See also BT *Ber.* 32a.

<sup>79</sup> See BT *Yev.* 47b; also, *Sifre Deut.* 96. <sup>80</sup> See e.g. BT *Yev.* 16b–17a.

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# THE FORMATION AND CHARACTER OF THE JERUSALEM TALMUD

LEIB MOSCOVITZ

## I CONTENTS AND LANGUAGE

The Jerusalem Talmud (Talmud *Yerushalmi*), which is more accurately known as the Palestinian Talmud (henceforth, the PT), since this work was not produced in Jerusalem, is the Mishnah commentary produced in the Palestinian rabbinical academies during the third and fourth centuries CE. However, the PT contains much more than Mishnah commentary: it cites and discusses other tannaitic sources (*baraitot* and halachic midrashim) and includes legal decisions and discussions which are unrelated to the Mishnah, as well as a substantial amount of non-legal material.

The PT is written in a combination of Hebrew and Galilean Aramaic. The criteria determining when each of these languages is used are not fully clear, although Aramaic is often used in non-legal contexts and in technical terminology. The PT also contains a fair number of Greek loan-words, and a smaller number of Latin loan-words. Babylonian Aramaic is not found in reliable texts of the PT, such as Genizah fragments, although vulgate texts of the work (e.g., printed editions) are often contaminated with Babylonian Aramaic vocabulary and morphology.

## II SCOPE

The *Yerushalmi* covers a total of thirty-nine tractates of the Mishnah (or thirty-six, according to the Palestinian Mishnah division)<sup>1</sup> from four orders of that work, namely, *Zeraim*, *Moed*, *Nashim*, and *Nezikin*. In addition, part of tractate *Niddab*, from order *Toborot*, is extant. However, two mishnaic tractates from order *Nezikin* – *Avot* and *Eduyot* – are not discussed in the PT. Thus, the PT includes some tractates not discussed in the Babylonian Talmud (henceforth, the BT) – order *Zeraim* and tractate *Shekalim* – while the BT includes order *Kodashim*, which is not found in the PT.

<sup>1</sup> Cf. Y. Sussmann, "Pirkei Yerushalmi," *Mehkerei Talmud* 2 (1993), 223 n. 10.

Even though orders *Kodashim* and *Toborot* are not included in the PT, it is clear that the Palestinian Amoraim studied these parts of the Mishnah and commented on them.<sup>2</sup> Remarks of these scholars pertaining to these mishnayot have been preserved in both Talmudim, especially in the BT in order *Kodashim*. However, we lack conclusive evidence that a Palestinian Talmud was redacted on orders *Kodashim* and *Toborot*, although it is possible that these missing orders were redacted along with the rest of the PT and subsequently lost. (Of course, if this possibility is correct, there is no way to determine when, how, and why this material was lost.) In any case, if the PT once contained these orders, they were apparently lost before the early medieval period, as no remnants of such material have been preserved in Genizah fragments or medieval testimonia to the PT. Moreover, Pirkoi ben Bavoi (eighth–ninth century CE) explicitly denies the existence of the PT beyond the four extant orders of this Talmud,<sup>3</sup> although his remarks were clearly motivated by polemical considerations, and hence might not be fully accurate.

Certain chapters of the PT are also missing<sup>4</sup> – chapters 21–24 of tractate *Shabbat*, chapter 3 of *Makkot*, and chapters 4–7 of *Niddab* (with the seeming exception of the beginning of chapter 4 of this tractate, although the authenticity of this material is suspect). No citations of these chapters are preserved in reliable medieval testimonia, or in Genizah or other manuscript fragments, with the seeming exception of a fragment of *Makkot* chapter 3, which, however, is apparently a mélange of material related to the Mishnah, rather than a fragment of the original Talmud on this Mishnah. Some amoraic statements found in other parts of the PT might have originated in these missing chapters, although it is generally impossible to determine with certainty whether these dicta originated in the missing chapters or in their current contexts. Nevertheless, it seems almost certain that the PT originally included these missing chapters, as there is no reason to assume that the authors and redactors of this Talmud refrained from commenting on the mishnayot from these chapters. Presumably, these parts of the PT were lost at a fairly early stage of transmission, some time during the early medieval period – most likely, because they appear at the end of fairly large units of text (viz., tractates *Shabbat*, *Sanhedrin-Makkot*, and, in the case of *Niddab*, the end of all of the PT), and hence were particularly prone to physical loss or damage.

<sup>2</sup> See J. N. Epstein, *Mevot le-sifrut ba-amora'im*, ed. E. Z. Melamed (Jerusalem and Tel-Aviv, 1963), 332–4; and Y. Sussmann, *Sugyot bavliyyot li-sedarim zera'im ve-toborot* (unpublished PhD thesis, Hebrew University of Jerusalem, 1969), 3–13.

<sup>3</sup> See L. Ginzberg, *Ginzei Schechter* (New York, 1929), II 560.

<sup>4</sup> See on this whole issue Sussmann, “Pirkei Yerushalmi,” 220–83.

And while such damage presumably affected only isolated exemplars of the work, it seems that most later exemplars of the PT were ultimately descended from a single copy (or a very few copies) of the work,<sup>5</sup> and hence damage to an early exemplar might have affected all subsequent copies of the work.

Some citations from the PT adduced by medieval scholars are not found in our text of this work, suggesting that the PT originally contained more material than is presently found in that work. Scrutiny of the style and contents of these citations, however, indicates that they are usually not authentic PT citations, but derive from other works, whether rabbinic texts, such as Palestinian aggadic midrashim, or non-rabbinic writings (e.g., medieval mystical texts), which were incorrectly identified as citations from the PT.<sup>6</sup> Still other citations of the PT not found in our texts of this work apparently derive from a thoroughly reworked and edited text of the PT of medieval provenance, the so-called *Sefer Yerushalmi*, which contains numerous interpolations of non-Palestinian origin, including material from the BT.<sup>7</sup>

### III GEOGRAPHICAL PROVENANCE

Internal evidence suggests that the PT was redacted in Tiberias, as the work occasionally mentions events which transpired “here,” and the context of these passages indicates that these events did indeed take place in this locale.<sup>8</sup> However, the PT also cites the teachings of scholars from other rabbinical academies, such as those in Caesarea, “the South” (Lydda), other parts of the Galilee, and even Babylonia.

### IV *TERMINUS AD QUEM*

Explicit information about the *terminus ad quem* of the PT is not found either in rabbinic literature or in secondary sources (medieval chronographers). Accordingly, determination of the work’s chronological provenance must rely on various types of indirect evidence. Nevertheless, all of this

<sup>5</sup> See e.g. Sussmann, “Pirkei Yerushalmi,” 273–4 n. 294, and the literature cited there.

<sup>6</sup> See *pro tempore* L. Ginzberg, *Perushim ve-hiddushim bi-Yerushalmi* (New York, 1941), 1 xxviii–xxxii (Hebrew section).

<sup>7</sup> See *pro tempore* Y. Sussmann, “Seridei yerushalmi – ketav-yad Ashkenazi,” *Kovez al yad* 12 (1994), 15 n. 67, and the literature cited there; idem, “Yerushalmi ketav-yad Ashkenazi ve-sefer Yerushalmi,” *Tarbiz* 65 (1996), 37–63; and V. Noam, “Shtey eduyyot al netiv ha-mesirah shel Megillat Ta’anit ve-al moza’o shel nosaḥ ha-beinayim le-ve’urah,” *Tarbiz* 65 (1996), 409–15.

<sup>8</sup> See Z. W. Rabinovitz, “Al devar ḥibburo shel ha-Talmud ha-Yerushalmi,” *Yerushalayim* 8 (1909), 331–4, and the sources cited there.

evidence points to approximately the same date, c. 360–70 CE,<sup>9</sup> although none of this evidence, whether alone or in combination, allows for a fully exact or conclusive dating.

First, the historical evidence: the latest known historical events mentioned in the PT are the arrival of the Roman commander Ursicinus in Palestine (PT *Shev.* 4.2.35a and parallels), which took place c. 352–3 CE – and according to the aforementioned PT passage, this happened during the fourth generation of the PT amoraim (as amoraim from this generation are claimed to have participated in these events) – and Julian’s invasion of Persia (PT *Ned.* 3.2.37d), in 363 CE.<sup>10</sup> By contrast, significant later events and individuals which we might have expected to have been mentioned in the PT – such as Julian’s attempt to rebuild the Temple, intensified Christian persecutions, and later patriarchs – are not mentioned in the Talmud, suggesting that the PT had been concluded earlier. Nevertheless, this argument is not conclusive, as it is an *argumentum ex silentio*.

A second consideration which may help date the PT is the number of amoraic generations mentioned therein. Only five generations of amoraim are mentioned in the PT, and while the Talmud refers to a few later scholars – the son and son-in-law of the fifth-generation sage Rabbi Jose ben Rabbi Bun and some other disciples of this scholar – these sages are mentioned very rarely, and invariably in conjunction with their father(-in-law)/teacher, with whose departure the PT seems to come to an abrupt end. Thus, there is really no evidence for the existence of an independent sixth generation of Palestinian amoraim. Unfortunately, we lack explicit information about the precise floruits of the PT scholars, although Rabbi Jose ben Rabbi Bun (see above) cites the fourth-generation Babylonian amora Rava in one passage (PT *Bez.* I.I.60a), the only passage in the PT in which Rava is mentioned. And since Rava died c. 351 CE,<sup>11</sup> adding another twenty to twenty-five years for R. Jose’s generation brings us to c. 360–70 CE.

Finally, archaeological evidence points to the sudden decline of the Galilean settlement c. 360–70 CE,<sup>12</sup> further supporting the *terminus ad quem* suggested above.

<sup>9</sup> For the argumentation which follows (except for the archaeological evidence), see Y. Sussmann, “Ve-shuv li-Yerushalmi Nezikin,” *Mehqerei Talmud* 1 (1990), 132–3 n. 187.

<sup>10</sup> The parallel (PT *Shev.* 3.9.34d) attributes this to Diocletian (d. 284 CE), but the reading “Julian” is preferable on both textual and historical grounds. See most recently L. Moscovitz, “Sugyot makbilot u-masoret nosah ha-Yerushalmi,” *Tarbiz* 60 (1991), 546 n. 5, and the literature cited there.

<sup>11</sup> See B. M. Lewin (ed.), *Iggeret Rav Sherira Ga’on* (Frankfurt and Berlin, 1921), 89.

<sup>12</sup> See Z. Safrai, *The Missing Century* (Louvain, 1998), 64 (and cf. 84–6 and elsewhere). Safrai himself, however (61), assumes the existence of a post-authorial redactional stratum, and dates the redaction of the PT to the end of the fourth century.

Admittedly, most scholars reject the dating proposed here, and maintain that the PT was concluded towards the end of the fourth century or the beginning of the fifth century.<sup>13</sup> However, scrutiny of their arguments reveals them to be unconvincing. For example, it has been argued that the cessation of the Patriarchate some time between 415 and 429 CE indicates that the PT was redacted at this time; however, there is no evidence of any connection between these events. Equally groundless is the assumption that the amoraic periods in Babylonia and Palestine concluded at approximately the same time (c. 425 CE, with the death of the Babylonian amora Rav Ashi), as Babylonian amoraim continued to flourish until approximately 500 CE. Finally, the assumption that the PT must have been redacted at least a generation after the latest amoraim mentioned therein, since this redaction was presumably performed by post-authorial scholars, lacks clear-cut textual support and is indeed unlikely; see section VII below, “Development and Redaction of the PT.”

## V REDACTIONS OF THE PALESTINIAN TALMUD

The vast majority of the PT seems to stem from a single, uniform redaction. Thus, similar terminology and modes of reasoning are used throughout the work, the same sages appear in all parts of the PT, and parallel pericopae in different parts of the PT are generally identical, except for mechanical and usually trivial scribal errors. Nevertheless, there is evidence that other versions of the PT once existed, some of which have survived in fragmentary form. (Obviously, it is impossible to determine on the basis of this material how many such redactions of the PT existed, and what their exact scope and character were.) Specifically, evidence for other redactions of the PT is found in three sources:

1. *Yerushalmi Nezikin*. Various scholars have noted that tractate *Nezikin* in the PT (consisting of the three “Gates,” *Bava Kamma*, *Bava Mezia*, and *Bava Batra*; these constitute a single tractate in the PT) stems from a different redaction of the PT from the rest of the *Yerushalmi*.<sup>14</sup> This tractate differs in various ways from other parts of the PT: the dominant amoraim in *Nezikin* differ from those mentioned in the rest of the PT; this tractate often uses unique terminology which is not found elsewhere in the PT; pericopae in *Nezikin* frequently differ from their parallels elsewhere in the PT, stylistically and/or substantively; this tractate is much shorter and more laconic than the rest of the PT and contains much less dialectic. However, these differences are neither absolute nor ubiquitous; thus, many amoraim

<sup>13</sup> See e.g. Ginzberg, *Perushim ve-ḥiddushim*, lxxxiii (Hebrew section); Epstein, *Amora'im*, 274.

<sup>14</sup> See the literature cited below, nn. 15–16; and Sussmann, “Ve-shuv.”

mentioned elsewhere in the PT are also cited in *Nezikin*, while certain terminology is common to *Nezikin* and the rest of the PT. Accordingly, it is possible that some of the differences between *Nezikin* and the rest of the PT stem from different transmission of common material, rather than from totally distinct and independent redactions. Moreover, some passages in *Nezikin* are identical to their parallels elsewhere in the PT, suggesting that our text of *Nezikin* is not redactionally uniform; thus, parts of our text of this tractate might stem from the rest of the PT, whence they were transferred to *Nezikin* (and similarly *vice versa* with regard to the rest of the PT).

The provenance of *Nezikin*, and, consequently, the reasons for the aforementioned differences between it and the rest of the PT, are not fully clear. Lieberman suggested that *Nezikin* was redacted in Caesarea before the rest of the PT,<sup>15</sup> although other scholars rejected Lieberman's arguments for a Caesarean provenance as inconclusive.<sup>16</sup> Lieberman's proposed chronology, too, is unacceptable, as the latest amoraim mentioned in *Yerushalmi Nezikin* are identical to those cited elsewhere in the PT. Accordingly, the chronological and geographical provenance of this tractate remain uncertain.

2. *Yerushalmi of the Midrashim*. Numerous parallels to the PT are found in the classical aggadic midrashim (*Genesis Rabba*, *Leviticus Rabba*, etc.). These midrashic passages, which include both halachic and aggadic material, often differ from their PT parallels in wording, content, structure, and identity of the sages cited. Now, many of these midrashic passages seem to have originated in talmudic contexts (i.e., in the framework of Mishnah commentary or halachic discussion) rather than in midrashic contexts. Accordingly, it would appear that these passages stem from redactions of the PT which differ from the rest of the PT,<sup>17</sup> although the chronological and geographic provenance of these assumed redactions is uncertain.

3. *Conflicting internal Yerushalmi parallels (sugyot muhlafoṭ)*. The vast majority of internal *Yerushalmi* parallels are identical to one another, with the exception of various minor differences, which are apparently of scribal origin. However, some internal parallels differ from one another, and the differences between these passages cannot be attributed to textual corruption or to adaptation, intentional or subconscious, to the local context. Thus, such conflicting parallels presumably stem from different redactions of the PT.<sup>18</sup>

<sup>15</sup> S. Lieberman, *Talmudab shel Keisarin* (Jerusalem, 1931), 1–20.

<sup>16</sup> See Epstein, *Amora'im*, 279–87; M. Assis, "Le-ve'ayat arikhatah shel massekhet Nezikin Yerushalmi," *Tarbiz* 56 (1987), 147–70.

<sup>17</sup> Evidence of *Yerushalmi* from a different redaction is also provided by the Rehov inscription; see Y. Sussmann, "Baraita de-tehumei Erez Israel," *Tarbiz* 45 (1976), 222–7.

<sup>18</sup> See Lieberman, *Talmudab shel Keisarin*, 23–5; Epstein, *Amora'im*, 276–79; L. Moscovitz, "Sugyot muhlafoṭ bi-Yerushalmi," *Tarbiz* 60 (1991), 19–66.



Finally, the BT often preserves versions of Palestinian teachings which differ from those found in the PT. However, such passages do not necessarily stem from a different version of the PT which might have circulated in Babylonia during the amoraic period. Thus, most of these differences are found in isolated statements, rather than complete pericopae. Moreover, many of these differences seem to be due to the alteration by Babylonian scholars of the original Palestinian source material, rather than to the circulation within Babylonia of Palestinian traditions or talmudic redactions which differed from those attested by our version of the PT.<sup>19</sup>

## VI LITERARY SOURCES OF THE PALESTINIAN TALMUD

Most prominent among the PT's literary sources is the Mishnah, although the version of the Mishnah used by the Palestinian amoraim sometimes differs from that used by the Babylonian amoraim and attested by the BT. This Palestinian Mishnah text is frequently preserved by manuscripts Kaufmann, Parma, and Cambridge (ed. Lowe) of the Mishnah (in contrast to the Mishnah text found in manuscripts of the BT), as evidenced by analysis of the relevant pericopae in the PT.<sup>20</sup>

A second major literary source used by the PT is halachic *baraitot* which closely parallel the Mishnah. Such *baraitot* are often quite similar to those in the Tosefta, although the PT's *baraitot* are rarely identical to their toseftan parallels.<sup>21</sup> Indeed, there is no clear-cut evidence that the PT used or was familiar with our Tosefta, although this Talmud might have been familiar with particular *baraitot* in the Tosefta, or with a collection of *baraitot* which was extremely similar to the Tosefta. Such *baraitot* are cited and discussed very frequently in the PT, and some PT discussions even seem to take these *baraitot*, rather than the Mishnah, as their point of departure. Likewise, tannaitic halachic midrashim are frequently cited in the PT, although the

<sup>19</sup> See generally D. Rosenthal, "Masorot Erez-Yisra'eliyyot ve-darkan le-Bavel," *Cathedra* 92 (1999), 7–48.

<sup>20</sup> See generally J. N. Epstein, *Mavo le-nosah ha-Mishnah*, 2nd ed. (Jerusalem and Tel-Aviv, 1964), 706–26; D. Rosenthal, *Mishnah Avodah Zarah: mabadurah bikkortit be-zeruf mavo* (unpublished PhD thesis, Jerusalem, 1981), 17–20; A. Rosenthal, "Le-masoret girsat ha-Mishnah," in *Sefer ha-zikkaron le-rabbi Sha'ul Lieberman*, ed. S. Friedman (New York and Jerusalem, 1993), 29–47.

<sup>21</sup> See generally L. Moscovitz, "Od al ha-baraitot ha-ḥaserot bi-Yerushalmi," *PAAJR* 61 (1996), 1–4, and the literature cited there; and S. Friedman, "Ha-barayetot she-ba-talmud ha-bavli ve-yahasan la-tosefta," in D. Boyarin et al., *Atarab le-Hayyim: Mebkarim be-sifrut ha-talmudit ve-ha-rabbanit li-kevod Professor Haim Zalman Dimitrovsky* (Jerusalem, 2000), 196–7.

relationship between these midrashim and those preserved in the extant collections of tannaitic halachic midrash requires further investigation.<sup>22</sup>

The most important component of the PT is the halachic comments and discussions of the amoraim. These amoraic teachings include explanations of the Mishnah and *baraitot*; analyses of and comparisons between different, and often seemingly contradictory, tannaitic or amoraic sources; and halachic rulings. A large portion of this material is formulated dialectically, as “give and take,” and is introduced by special terminology which demarcates the different stages of the discussion and indicates the functions of the various parts of the talmudic discussion (e.g., supporting other views, raising objections).

A fair amount of aggadic material of various sorts – tales about the Sages, biblical exegesis, stories about biblical figures, etc. – is also found in the PT.<sup>23</sup> At times this aggadic material blends smoothly and naturally into its current context, but elsewhere the connection between the aggadic material and its present context seems tenuous, suggesting that this material might have originated in other contexts and been included in the PT at a later stage of the Talmud’s development.<sup>24</sup> As a rule, however, there is no basis for assuming that aggadic material was included in the PT by post-amoraic editors or by post-talmudic scribes.<sup>25</sup> Some of the aggadic material in the PT was apparently taken *en bloc* from redacted units of aggadah (e.g., midrashim on biblical pericopae), although the exact nature of the PT’s aggadic sources and its use of these sources, as well as the character of its aggadah, requires further investigation.

## VII DEVELOPMENT AND REDACTION OF THE PALESTINIAN TALMUD

Scholars have devoted relatively little attention to investigation of the development and redaction of the PT. This is quite understandable, as scholars were generally more concerned with solving the severe textual and exegetical problems associated with the PT than with questions of redaction. In addition, clear-cut, explicit internal or external evidence about the

<sup>22</sup> See *pro tempore* J. N. Epstein, *Mevot le-sifrut ha-tanna'im*, ed. E. Z. Melamed (Jerusalem and Tel-Aviv, 1957), 677–80; and E. Z. Melamed, *Pirkei mavo le-sifrut ha-Talmud* (Jerusalem, 1973), 275–94.

<sup>23</sup> On the PT’s use of aggadic material, see generally L. Moscovitz, “Le-darkhei shilluvan shel ha-aggadot bi-Yerushalmi – berurim rishoniyyim,” *Asuppot* 11 (1998), 197–209.

<sup>24</sup> See generally L. Moscovitz, “Le-heker ha-gufim ha-zarim ha-aggadiyyim bi-Yerushalmi,” *Tarbiz* 64 (1995), 237–58.

<sup>25</sup> As asserted by M. Margalio, *Mavo, nispaḥim u-maftehot le-midrash Vayyikera Rabbah* (Jerusalem, 1960), xix; cf. Moscovitz, “Le-darkhei shilluvan,” especially 208–9 and n. 64.

formation of the work is generally lacking. Indeed, almost everything we know about the development and redaction of the PT is based on literary analysis of PT *sugyot*. Accordingly, many questions pertaining to the development and redaction of the PT have not yet been adequately resolved, and hence many of the conclusions suggested below are tentative.

These caveats notwithstanding, the general impression conveyed by the study of the PT is that this work developed through the essentially mechanical aggregation of additional layers of discourse with the passage of time: the teachings of each generation of sages were passed on to the next generation, apparently with little or no redactional intervention. Possible evidence for the existence of earlier Talmudim or redacted units of talmudic discourse which preceded the final redaction of the PT is provided by the rare but significant phenomenon of “nested *sugyot*” – fixed units of talmudic discussion which were adduced without alteration, apparently by the Talmud’s editors, in secondary contexts, without adapting these nested pericopae to their new contexts.<sup>26</sup> Of course, even if we assume that such pericopae existed before the final redaction of the PT, it is impossible to determine precisely who redacted them, or when, or what the scope of this material was.

Many scholars assume that the PT underwent only a minimal, hasty final redaction, since the external difficulties which beset the Palestinian Jewish community in the fourth and fifth centuries CE – religious persecution, economic problems, and the like – made proper redaction impossible.<sup>27</sup> Isaac Halevy went even further, denying that the PT was redacted at all, and claiming that the raw material of the PT was preserved unedited.<sup>28</sup> Nevertheless, in light of the general character of the redaction of the PT as described above, it is not unreasonable to assume that the PT’s final redaction took essentially the same form as the earlier redactions: the latest chronological stratum of the PT was added to the earlier strata without significant editorial intervention in the transmission or formulation of the earlier teachings.<sup>29</sup> Thus, the final redaction of the PT need not be attributed to external difficulties: this redaction might simply have been the last stage of the layer-by-layer aggregation of the PT discussions which resulted in the formation of the work as we know it.

A good deal of material in the PT is anonymous, and the provenance of this material is accordingly uncertain. Nevertheless, this material, in contrast

<sup>26</sup> See L. Moscovitz, “Sugyot mezutatot bi-Yerushalmi,” *Te’udab* 10 (1996), 31–43.

<sup>27</sup> See especially Z. Frankel, *Mevo ha-Yerushalmi* (Breslau, 1870), 48a; also Ginzberg, *Perushim ve-hiddushim*, lxxxix (Hebrew section); and Epstein, *Amora'im*, 334.

<sup>28</sup> See I. Halevy, *Dorat ha-rishonim*, 11 (Berlin and Vienna, 1923), 526–36.

<sup>29</sup> Cf. Sussmann, *Sugyot bavliyyot*, 9.

to much of the anonymous material in the BT, seems to be of a piece, both substantively and stylistically, with the attributed material in the PT. Accordingly, there is no reason to assume that this unattributed material is later than ordinary amoraic material in the PT,<sup>30</sup> and there is no justification for attributing this material to post-amoraic, aggressively interventionist redactors, or for assuming that such redactors played any significant role in the formation of the PT.

These observations about the development and redaction of the PT have important ramifications regarding the transmission and preservation of amoraic dicta in this Talmud. (Obviously, the transmission of such dicta was also influenced by the PT's frequently problematic post-redactional history; however, to the extent that such post-redactional hurdles can be overcome – and this is frequently not the case – questions still remain about how the redactors transmitted the amoraic teachings.) In light of the general absence of aggressive editorial intervention in the formulation and transmission of amoraic teachings, it may reasonably be assumed that the PT preserves the content of these teachings, if not their original wording, fairly accurately. (Obviously, there is no basis for assuming that the PT or other rabbinic writings necessarily preserved the *ipsissima verba* of the rabbinic sages.) This conclusion is generally supported, too, by comparison of parallel statements and pericopae in the PT and the BT. Thus, the PT seems to bring us as close as we can possibly get to the original contents, if not the original wording, of amoraic teachings. Indeed, as a rule of thumb we may reasonably assume, in the absence of contradictory evidence, that the PT versions of material shared by both Talmudim are more authentic than their Babylonian parallels.<sup>31</sup>

Two final questions about the formulation and transmission of the PT should be considered here. (1) Did the work have a fixed text at the time of its formation and redaction? (2) Was the text of the PT, fixed or not, initially transmitted orally or in writing? Unfortunately, we lack explicit evidence which might shed light on these questions. (The PT's generally uniform manuscript tradition is of extremely limited value for determining how the PT was transmitted during the talmudic period, because of the huge chronological gap between the date of the earliest MSS and the redaction of the PT. Moreover, all of these manuscripts seem to stem from a common ancestor, rendering it difficult to reconstruct earlier

<sup>30</sup> See *pro tempore* L. Moscovitz, "Sugyot mezutatot," 32 n. 6, and the literature cited there.

<sup>31</sup> See S. Friedman, "La-aggadah ha-historit ba-talmud ha-bavli," in idem (ed.), *Sefer ha-zikaron le-rabbi Sha'ul Lieberman* (New York and Jerusalem, 1993), 121, and the literature cited in n. 6 there (and cf. Rosenthal, "Masorot Erez-Yisra'eliiyot").

stages of the textual transmission of the PT reliably.<sup>32</sup>) Nevertheless, possible evidence for the moderately free textual transmission of the PT at a fairly early stage of its history may be provided by the existence of synonymous but graphically dissimilar textual variants between different manuscripts of the PT, as well as by some of the more trivial variants between different redactions of this Talmud. It is extremely difficult to explain such variants as mere mechanical scribal errors, and thus these variants might stem from the fluid transmission of the PT's text, possibly as far back as the talmudic period.<sup>33</sup> This conclusion accords well with the assumption that the PT's text, like that of many other works of rabbinic literature (though not all of them), was transmitted orally during the talmudic period.<sup>34</sup>

#### VIII PARALLEL *SUGYOT* AND "FOREIGN BODIES"

Numerous passages in the PT appear in different places in this Talmud. These duplicated passages, or parallel *sugyot*, as they are generally termed, may range in scope from individual sentences to lengthy discussions extending over several pages. The hallmark of these passages is their identity or near-identity, except for minor scribal errors, transposition of particular components of the talmudic discussion, or interchanges between brief and usually synonymous expressions, which are usually limited to isolated parts of a particular pericope. Indeed, parallel *sugyot* are sometimes formulated identically even though the different contexts call for different wording; for example, references to "here" and "there" in such passages which should have been reversed in order to make these pericopae conform to their present contexts were not always changed.<sup>35</sup>

Who duplicated these passages, when, and why? The answers to these questions apparently vary from passage to passage, depending upon the nature of the association between each duplicated pericope and its current context. Thus, in some cases the duplication seems natural and unexceptional – for example, where identical topics are discussed in the different contexts, as when the same ruling appears in different mishnayot, each of which is discussed by the Talmud. Elsewhere, however, the

<sup>32</sup> Cf. above, n. 5.

<sup>33</sup> Cf. Moscovitz, "Sugyot makbilot," 541 (another possibility is suggested there as well).

<sup>34</sup> See most recently S. Na'eh, "Mivnehu va-ḥalukkato shel midrash Torat Kohanim, 1: Megillot (le-kodikologiyyah ha-talmudit ha-kedumah)," *Tarbiz* 66 (1997), 505–12, and the literature cited there; and Y. Sussmann, "Torah she-be'al peh' peshutah kemashma'ah – kohō shel kozo shel yod," *Mehkerei Talmud* 3 (2005), 209–384.

<sup>35</sup> Cf., e.g., Epstein, *Amora'im*, 322–4.

association between a duplicated pericope and its current context may be tenuous. Such associations might accordingly reflect an associative mode of thinking and composition which was apparently characteristic of rabbinic thought and writing in general,<sup>36</sup> and thus the duplication of such pericopae might be of amoraic origin. Alternatively, such duplication might have been performed by the PT's editors, other post-amoraic scholars, or even scribes. Likewise, it is possible that brief references to the relevant parallel passages were provided by editors or other post-amoraic scholars, and subsequently these passages were copied out in full by scribes (see below).<sup>37</sup> Unfortunately, it is impossible to determine which of these possibilities is correct. Indeed, it is possible that different pericopae were duplicated by different scholars, and that the process of duplication took place over an extended period of time.

Some parallel pericopae seem totally irrelevant in their present contexts ("foreign bodies"), and their presence is apparently attributable to various types of scribal errors: scribes copied passages which they were not supposed to have copied, or they copied passages in the wrong place, or they copied too much or too little of the relevant passage.<sup>38</sup> Needless to say, the presence of such pericopae in their current form and contexts clearly reflects post-amoraic scribal activity.

Sometimes duplicated passages were not copied out in full in the MSS, but were abbreviated or alluded to by terms such as *geresh* ("continuation," "transfer").<sup>39</sup> Indeed, parallel *sugyot* are sometimes transmitted differently by different text-witnesses: some witnesses might include a cross-reference of the type described above, while others will copy out the relevant pericope in full. The question accordingly arises: did the Talmud initially contain the entire text of these duplicated pericopae, which later scribes subsequently abbreviated, or were these duplicated pericopae initially abbreviated by *geresh*-type allusions, after which these passages were copied out in

<sup>36</sup> Cf. Sussmann, "Ve-shuv," 90–1, especially n. 156. On the frequent use of duplication and transfer in rabbinic literature, especially in Palestinian sources, see D. Rosenthal, "Lo itparesh lan mai ba'ey hakha," *Bar-Ilan* 18–19 (1981), 155–6, and the literature cited there.

<sup>37</sup> For a summary and analysis of the different possibilities, see C. Albeck, *Mavo la-talmudim* (Tel-Aviv, 1969), 504; M. Assis, *Sugyot makbilot bi-Yerushalmi* (unpublished PhD thesis, Hebrew University of Jerusalem, 1976), 1–13, and the literature surveyed there; and Sussmann, "Ve-shuv," 90–2; Moscovitz, "Sugyot mezutator," especially 43.

<sup>38</sup> Cf. S. Lieberman, *Al ha-Yerushalmi* (Jerusalem, 1929), 12–23; and Moscovitz, "Le-ḥeqer," 237–58.

<sup>39</sup> See generally E. S. Rosenthal, "Leshonot soferim," in B. Kurzweil (ed.), *Yuval shai* (Ramat-Gan: Bar-Ilan University Press, 1958), 293–320, especially 316–20; and Epstein, *Amora'im*, 324–8.

full by later scribes? According to the second possibility, a further question arises: who supplied these cross-references – were they initially integral parts of the PT, or were they supplied by later scholars? Unfortunately, we cannot provide conclusive answers to these questions at present. Nevertheless, it is significant that *geresh* terminology and similar expressions are formulated in authentic Galilean Aramaic, suggesting that these expressions were used by scholars for whom Galilean Aramaic was a living language. Thus, these terms were apparently not introduced into the text all that long after it was redacted.<sup>40</sup>

#### IX BABYLONIAN MATERIAL IN THE PALESTINIAN TALMUD

The PT contains a fair amount of Babylonian material. Such material generally derives from the first three amoraic generations, when contact between the Babylonian and Palestinian centers occurred fairly regularly. Most of the Babylonian teachings in the PT are individual statements (*memrot*) attributed to named amoraim, or transmitted semi-anonymously and introduced by expressions such as *tamman amerin* (“they say there,” i.e., in Babylonia). Entire *sugyot* of Babylonian provenance, however, are found rarely in the PT. The Babylonian material in the PT constitutes but a small fraction of the Babylonian material found in the BT; even material from the first three generations of Babylonian scholars is frequently not found in the PT.

Babylonian teachings cited in the PT frequently differ from their parallels in the BT in wording, attribution, and content. In addition, semi-attributed material of ostensibly Babylonian origin (see above) often does not appear in the BT, or it appears there in a form different from that in the PT. Such differences between Babylonian dicta in the two Talmudim may stem from different traditions about these teachings, possibly deriving from different academies, or from transmissional mishaps of various sorts.

#### X THE LITERARY, EXEGETICAL, AND CONCEPTUAL CHARACTER OF THE PALESTINIAN TALMUD

The PT is generally rather laconic and lacks stylistic polish. Thus, allusions in the work are frequently left unexplained, and terminology and other indicators demarcating the various stages of the discussion are often (though not always) missing in the PT. The *Yerushalmi*'s terse, allusive

<sup>40</sup> See Rosenthal, “Leshonot soferim,” 293–4 (and cf. 316–20).

style accordingly contrasts sharply with the BT's much more expansive and explicit style; the latter apparently reflects the redactional activity of (post-amoraic?) scholars who put the finishing touches to the BT but not to the PT. The PT's relative brevity, too, is apparently attributable in large measure to the much shorter period of amoraic activity represented therein, as the later amoraic generations and post-amoraic scholars in Babylonia, who significantly influenced the development of the BT, had no parallel in Palestine. Indeed, comparative analysis suggests that the units of talmudic discourse which existed in Babylonia during the earlier amoraic generations might have resembled their Palestinian counterparts fairly closely.<sup>41</sup>

The PT generally interprets tannaitic texts in accordance with their plain meaning, in contrast to the BT, which frequently does not. The PT is accordingly of great importance for the exegesis of tannaitic sources, although not all interpretations of tannaitic passages in the PT reflect the plain meaning of these texts. Nevertheless, the PT, like the BT, often engages in harmonistic exegesis and conjecturally emends the mishnaic text in order to resolve contradictions and logical difficulties.

Explicit abstract concepts and legal principles of broad scope are generally not found in the PT (in contrast to the BT). Accordingly, the PT seems more primitive than the BT, conceptually speaking. Nevertheless, other forms of conceptualization, such as associations and various types of analogical reasoning (implicit conceptualization), are found in the PT. The more sophisticated conceptual character of the BT is apparently attributable, once again, to the contribution of later Babylonian amoraim and post-amoraic scholars whose teachings are found in the BT but not in the PT.<sup>42</sup>

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<sup>41</sup> See e.g. S. Friedman, "Perek ha-ishah rabbah ba-Bavli," in H. Z. Dimitrovsky (ed.), *Mehqarim u-megorot* (New York, 1978), 1300, and the literature cited there.

<sup>42</sup> L. Moscovitz, *Talmudic Reasoning: From Casuistics to Conceptualization* (Tübingen, 2002).



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# THE LATE MIDRASHIC, PAYTANIC, AND TARGUMIC LITERATURE

AVIGDOR SHINAN

## I INTRODUCTION

This chapter describes an important segment of the spiritual-literary activity of the Sages in the Land of Israel in the period beginning with the completion of the Mishnah in c. 200 CE and ending with the conquest of the Middle East by the Muslims.

The literary activity and compositions of this era under discussion should be viewed as an expansion and continuation of the spiritual activity of the tannaitic period, that is, the period before 200 CE, in which the Mishnah, the Tosefta, and the early midrashic literature (the tannaitic midrashim on the biblical books Exodus to Deuteronomy) came into existence. During this post-tannaitic period there also appeared two extensive works that require and justify a separate treatment: the Palestinian Talmud (whose development ended abruptly in the first quarter of the fifth century) and the Babylonian Talmud (which was edited at the end of the same century).<sup>1</sup> Needless to say, the type of literature that will be discussed here, with the exception of the Targums (the Aramaic translations of Scripture), continued to be composed after 640 – indeed until after at least the thirteenth century – although this later history requires a separate analysis.

## II THE PLACE OF ORIGIN AND *SITZ IM LEBEN*

The question of where the aggadic (that is, non-legal) literature, the *targum* and the *piyyut*, were created involves two separate issues: geographical and social-institutional.

The hundreds, probably even thousands, of rabbis who created this literature lived in two main centers, the Land of Israel and Babylonia, while an insignificant minority resided in other places, such as Asia Minor or Italy. During the period in question, that is, after 200 CE, the center of gravity of the Jewish people shifted slowly but steadily from the Land of

<sup>1</sup> On the Palestinian Talmud, see ch. 26; and on the Babylonian Talmud see chs. 2 (section IV), 31, 33, and 34, all in this volume.

Israel to Babylonia. This shift can be explained by various historical circumstances, such as the failure of the Bar Kochba Revolt, the christianization of the Roman Empire, and the strengthening of Babylonian Judaism and its institutions. A major expression of the outcome of this historical process was the central place accorded to the Babylonian Talmud throughout the Jewish world, and the preference shown for Babylonian *halachah* and customs over those crystallized in the Land of Israel. Nevertheless, in the area of *aggadah*, *piyyut*, and *targum*, the Land of Israel remained predominant throughout the later Roman era. Almost all the compositions to be mentioned in this chapter were conceived or molded in the Land of Israel, particularly in the Galilee. The contribution of the Babylonian rabbis to the aggadic literature was relatively small, and even the lion's share of the *aggadah* found in the Babylonian Talmud is to be credited to the rabbis of the Land of Israel, whose teachings reached Babylonia in various ways.<sup>2</sup>

Consensus does not exist on the reason why the aggadic, poetic, and targumic creativity is the heritage almost solely of the Land of Israel, but several important factors need to be considered. First, the *aggadah* played a central role in debates and polemics, and especially in those conducted between Judaism and the cultures that surrounded it. (In the period, it meant polemical interactions with the pagan Graeco-Roman world, with the Samaritans, with the emerging Christian community, and later on, with Islam). The contentious disputations between Jews and members of other religions or cultures were much fiercer in the Land of Israel than in Babylonia, where there were no Samaritans and where the Christian presence was relatively minor and sparse. Since the Samaritans viewed the Pentateuch as the sole basis for their belief, and since the Christians saw the entire Hebrew Bible as one of the central bases for their religion, the issues of biblical interpretation and homiletics became impassioned battlegrounds between the competing groups.

A second possible reason may be found in a statement from a rabbi in the Land of Israel who confirms that the difficult economic-political situation of his time (the third century) prompted an escape to the *aggadah* and its chastening effects: "Formerly, when there was enough money around, people committed to studying a topic in Mishnah or a topic in Talmud; but now that there is not enough money, and we are made to suffer ill from

<sup>2</sup> See W. Bacher, *Die Agada der palaestinischnen Amoraer*, 3 vols. (Frankfurt, 1913); *Die Agada der babylonischen Amoraer* (Frankfurt, 1913). The former book contains more than 1,700 pages, the latter approximately 160. On the various explanations offered for the relatively small contribution of the Babylonian rabbis to the *aggadah*, see A. Shinan, *The World of the Aggadab* (Tel-Aviv, 1990), 11–22.

the kingdom, every man yearns to be consoled by hearing a passage in Scripture or a theme in Aggadab" (*Pes. de-R.K.* 12.3).<sup>3</sup> By comparison, the economic and political situation of the Jews of Babylonia, or at least that of the Sages, was superior to that which existed in the Land of Israel at this time. It may also be that the *aggadab* is similar in its artistic and colorful contents to poetry and therefore should be created primarily in one's homeland rather than in exile. As the Jews of Babylonia said to their captors: "How can we sing the song of the Lord on an alien soil?" (*Ps.* 137.4).<sup>4</sup> In any event, the quantitative superiority of the Land of Israel in the fields of *aggadab*, *targum*, and *piyyut* cannot be disputed.

Two principal institutions, the synagogue and the house of study, influenced the *Sitz im Leben* of the aggadic, targumic, and poetic creativity in the Land of Israel. In the synagogue, Jews gathered in order to study Scripture, to pray, and to listen to sermons.<sup>5</sup> All sectors of the society gathered, young and old, scholars and laymen, men and women, and the spiritual creativity found within this context, especially on the Sabbath and holidays, was suited to the diverse, communal character of those present. Alternatively, in the "house of study" (the *bet midrash*), scholars gathered, probably on a permanent basis, primarily in order to discuss scholarly and more narrowly halachic issues. The possibility that the "synagogue" and the "house of study" might be located in the same building or in the same room does not preclude the clear distinction between the two institutions. The *piyyut* and the *targum* were created and flourished first of all in the synagogue, while *aggadab* existed both there and in the house of study. *Aggadab* and *targum* also flourished in the open markets or in schools that were designated for the young and – together with *piyyut* – in various communal events, such as funerals, consolation of the bereaved, and weddings.

In the creation of *aggadab* and *targum*, a central place was afforded the oral component: they were created by heart, performed orally, and memorized from generation to generation.<sup>6</sup> As a result, many changes, additions, and adaptations occurred, and a great deal of time passed – sometimes even centuries – between the creation of a specific aggadic or targumic tradition

<sup>3</sup> *Pesikta de-Rab Kahana*, trans. W. G. Braude and I. J. Kapstein (Philadelphia, 1975), 229.

<sup>4</sup> The Bible version cited in this chapter is *The Holy Scriptures according to the Traditional Hebrew Text*, 3 vols. (Philadelphia, 1962–82).

<sup>5</sup> See, e.g., L. I. Levine, *The Ancient Synagogue: The First Thousand Years* (New Haven, 1999), especially 124–59, 357–86, and 501–60.

<sup>6</sup> On the oral nature of rabbinic literature, see B. Gerhardsson, *Memory and Manuscript: Oral Tradition and Written Transmission in Rabbinic Judaism and Early Christianity* (Uppsala, 1961); S. Safrai, "Oral Tora," in idem (ed.), *The Literature of the Sages*, First Part: "Oral Torah," *Halachab, Mishna, Tosefta, Talmud, External Tractates* (Assen, 1987), 35–120; and G. Stemmerger, *Introduction to the Talmud and Midrash*, 2nd ed. (Edinburgh, 1996), 31–44.

and its redaction. The dating of aggadic-targumic traditions, therefore, is one of the most complex questions in modern research. (A distinction, however, should be made between this question and the question of the dating of the written compositions that are available. For this material, scholars have proposed some more or less acceptable criteria.)

It should also be noted, before beginning a substantive analysis of the aggadic materials, that in Babylon the Pentateuch was read in an established annual cycle, while in the Land of Israel it was read in several flexible cycles that lasted about three years.<sup>7</sup> All synagogue activities – *Targum*, *Piyyut*, and sermons – were connected by their very nature to the public reading cycle of Scripture.

### III THE VARIOUS COMPONENTS OF THE AGGADAH

Any review of the components of the *aggadah*<sup>8</sup> will necessarily be long and incomplete and will require “et cetera” at its end, because the field of *aggadah* includes all the non-halachic teachings of the Rabbis. Therefore, the *aggadah* contains everything that a human being may create (besides *halachah*): interpretations of the Bible and homilies on its texts; stories about the Rabbis; parables and fables; proverbs; discussions of medicine and astrology; biology and geography; oaths and magic; messianic promises and words of comfort; historical documents and historiosophical reflections; folk tales and mystical traditions; the interpretation of dreams; discussions on theology and ethics; humor, and all else that may flow from the imagination.

Among all these subjects, however, one predominates in aggadic literature: the explanation and interpretation of Scripture. This subject is not surprising, given the nature of Jewish society and the central role that the Bible played in all forms of Jewish culture. In the opinion of the Rabbis, the Bible is entirely the word of God and nothing in it cannot be read and reread in “seventy ways” (that is, in an endless number of ways). The belief in the divine source of Scripture and the recognition that no human being can completely understand the words of God leads to the understanding that the scriptural text can have many meanings and supports the great philosophical-theological effort known as “midrash.”<sup>9</sup> This enterprise

<sup>7</sup> J. Mann, *The Bible as Read and Preached in the Old Synagogue*, 2 vols. (Cincinnati, 1940–66); and C. Perrot, “The Reading of the Bible in the Ancient Synagogue,” in M. J. Mulder (ed.), *Mikra: Text, Translation, Reading and Interpretation of the Hebrew Bible in Ancient Judaism and Early Christianity* (Assen, 1988), 137–59.

<sup>8</sup> The sources central to *piyyut* and *targum* will be discussed separately at the end of this chapter.

<sup>9</sup> For various definitions and descriptions of the midrashic phenomenon, see I. L. Seeligmann, “The Beginning of Midrash in the Books of Chronicles,” *Tarbiz* 49 (1979–80), 103–18

involves a combination of different and variegated ways of reading a single text, maintaining all of its details (such as its spelling or word order), completing its gaps, solving real or imagined contradictions found within it, and explaining and interpreting it in every possible way, sometimes with absolute disregard for its literary or linguistic context. The great freedom exhibited by the Rabbis in their midrashic activity produced countless aggadic (and halachic) traditions resembling a giant upside-down pyramid with a small apex, the Bible.

The Sages also believed that the entire Bible preceded, at least from a metaphysical point of view, the history that it describes: "Thus the Holy One, Blessed be He, was looking at the Torah and created the world" (*Gen. R.* 1.1). From this perspective, all human history, past, present, and even future, appears in this book which is actually a blueprint of the world. The Bible explicitly tells of the events from the creation of the world to the return to Zion and the rebuilding of the Second Temple in the sixth century BCE (and perhaps hints in the book of Daniel to what befell Israel in the Hellenistic period). Moreover, in complementary fashion, by way of midrashic reading, it also tells of later events: the destruction of the Second Temple in 70, the Bar Kochba Revolt of 132–5, the rise of Christianity, the emergence of Islam, and so on. The interpreter who knows the manner in which to decipher the texts properly will find in them, although always *post factum*, all that has occurred until his time. This principle of midrash is summarized by the Rabbis in a famous statement in the Mishnah: "Turn it and turn it [that is, the Torah] for everything is in it" (*M. Avot* 5.25).<sup>10</sup> "Turn it and turn it" is the command to grant each detail in the Bible as many meanings as possible, while "for everything is in it" asserts that it is possible to find in the "Book of Books" testimony for all that has been and will be. It is therefore not surprising that every biblical verse has prompted innumerable interpretations that are astonishing in their variety, content, and form.<sup>11</sup>

(Hebrew); G.C. Porton, *Understanding Rabbinic Midrash* (Hoboken, 1985), 1–51; D. Weiss Halivni, *Pesbat and Derash: Plain and Applied Meaning in Rabbinic Exegesis* (New York, 1991); A. Shinan and Y. Zakovitch, "Midrash on Scripture and Midrash within Scripture," *ScriHie* 31 (1986), 257–77; J. Neusner, *What is Midrash?* (Philadelphia, 1987); R. Kasher, "The Interpretation of Scripture in Rabbinic Literature," in *Mikra*, 547–93; I. Jacobs, "What is Midrash?" in *The Midrashic Process* (Cambridge, 1995); and Stemmerger, *Introduction*, 234–9. See also the twelve papers by various scholars collected in M. Fishbane (ed.), *The Midrashic Imagination: Jewish Exegesis, Thought, and History* (Albany, 1993); and ch. 14 in the present volume, which focuses on the so-called halachic midrashim.

<sup>10</sup> *The Mishnah*, trans. H. Danby (London, 1933).

<sup>11</sup> The most complete (although adapted) collection of rabbinic traditions organized according to the order of the biblical text is still L. Ginzberg, *The Legends of the Jews*,

Alongside the midrashic treatment of Scripture are several other types of aggadic texts. These include the following: (1) Sayings and proverbs that are not directly linked to the Bible (such as “Go two or three seats lower and take your seat, until they say to you ‘come up,’ rather than go up and have them say to you ‘go down.’ Better that people say to you ‘come up, come up’ and not say to you ‘go down, go down’” (*Lev. R.* 1.5<sup>12</sup>) whose purpose centers on indicating the way to live correctly, to praise that which is worthy of praise, and to denounce that which is undesirable and disgraceful.<sup>13</sup> (2) Stories about the lives of the Rabbis, that is, events from their births to their deaths; their ties with members of their families and their teachers, with the ignorant and with Gentiles; and descriptions of their conduct in both difficult and happy times. (3) Fables and especially parables.<sup>14</sup> (4) A large number of public sermons that, because of their importance to the compositions discussed below, are worthy of a short separate discussion.<sup>15</sup>

As mentioned previously, in the Land of Israel the Pentateuch was read in different flexible cycles, with each synagogue choosing its own pace without a uniform calendar date for beginning a new reading cycle, which took

7 vols. (Philadelphia, 1909–38). For midrashim organized according to the verses of the first four books of the Pentateuch, see M. M. Kasher (ed.), *Torah Shelemah (The Complete Torah): A Talmudic-Midrashic Encyclopedia of the Five Books of Moses*, 45 vols. (Jerusalem, 1925–95) (Hebrew).

<sup>12</sup> All quotations from *Lev. R.* are from *Leviticus Rabba*, trans. J. Israelstam (London, 1983).

<sup>13</sup> On proverbs and sayings in rabbinic literature, see Y. Fraenkel, *The Methods of the Aggadab and the Midrash*, 2 vols. (Givatayim, 1991), 1 395–434 (Hebrew); D. Stein, *Folklore Elements in a Late Midrash: A Folkloristic Perspective on Pirke de Rabbi Eliezer* (unpublished PhD thesis, Hebrew University of Jerusalem, 1998), 18–50 (Hebrew).

<sup>14</sup> Many of the literary studies of rabbinic literature in the last three centuries were devoted to the analysis and discussion of stories in the Talmud and elsewhere. I would note, for example, just the following books published since 1991: C. Licht, *Ten Legends of the Sages* (Hoboken, 1991); D. Boyarin, *Carnal Israel: Reading Sex in Talmudic Culture* (Berkeley, 1993); Fraenkel, *Methods*, 1 235–86; idem, *The Aggadic Narrative: Harmony of Form and Content* (Tel-Aviv, 2001) (Hebrew); O. Meir, *The Poetics of Rabbinic Stories* (Tel-Aviv, 1993) (Hebrew); S. Valler, *Women and Womanhood in the Stories of the Babylonian Talmud* (Tel-Aviv, 1993) (Hebrew); J. L. Rubenstein, *Talmudic Stories: Narrative Art, Composition and Culture* (Baltimore, 1999); and idem, *Rabbinic Stories* (Mahwah, NJ, 2002). For a discussion of folk stories in rabbinic literature, consult E. Yassif, *The Hebrew Folktales* (Jerusalem, 1994), 83–270 (Hebrew); and ch. 29, by Yassif, in the present volume. For more on this issue, see the sources listed in the partial bibliography edited by J. M. Davis, “Literary Studies of Aggadic Narrative: A Bibliography,” in J. Neusner and E. S. Frerichs (eds.), *Judaic and Christian Interpretation of Texts: Contents and Contexts* (Lanham, 1987), 185–218.

<sup>15</sup> For more on this issue, readers should consult D. Stern, *Parables in Midrash: Narrative and Exegesis in Rabbinic Literature* (Cambridge, MA, 1991), who primarily discusses the parables of *Lam. R.*; and J. Fraenkel, *Methods*, 1 323–94.

approximately three years, that is, between 141 and 175 weeks. Within this framework, the first verse of the reading unit on a holiday or Sabbath naturally called for concentrated attention. During the period under discussion, a sermon customarily preceded the reading itself and aimed at its opening verse. The structure that was established for this type of sermon, known as *peticha* (that is, proem), was inflexible and based mainly on surprise.<sup>16</sup> The congregation was supposed to know the opening verse of the reading while the preacher began his sermon by quoting a verse from elsewhere in the Bible and then tried to connect the two verses in various ways. The further apart the themes of the two verses were, the greater was the enjoyment and attention of the congregation. For example, the possible connection (*Lev. R.* 1.2) between “They who sit in His shade shall be revived, they shall bring to life new grain, they shall blossom like the vine; His scent shall be like the wine of Lebanon” (*Hos.* 14.8) and “The Lord called to Moses and spoke to him from the Tent of Meeting, saying . . .” (*Lev.* 1.1), certainly aroused curiosity, which was the main goal of the preacher. Proems of this type appear approximately 2,000 times in the aggadic literature, and they are present hundreds of times in the specific compositions that will be mentioned hereafter. Their rhetorical features testify to their origin in an oral setting, a context that the process of transcribing them could not totally erase.

This extensive body of material – midrashim on biblical texts, proems, stories, sayings, proverbs, parables, and so on – was transmitted from generation to generation, orally or in writing, in ways that cannot be exactly reconstructed today and in contexts that can no longer be marked with certainty. Participating in this transmission were many parents and teachers, rabbis and preachers, as well as scribes and storytellers. At certain points in history, these traditions were redacted anonymously into literary compositions. The redactors’ identities, their authority in doing this work, their sources, and the amount of time they spent doing the work is not known.

#### IV AGGADIC LITERATURE

Six main compositions of aggadic literature were created during the period under review. They are all connected to the Bible and have been known since the Middle Ages by the designation “midrash.”

<sup>16</sup> On various sermons in the rabbinic period, see J. Heinemann, *Public Sermons in the Talmudic Era* (Jerusalem, 1974) (Hebrew); J. Heinemann and J. Petuchowski, *Literature of the Synagogue* (New York, 1975), 105–99; and G. Stemmerger, *Introduction*, 243–6.



It is conventional to divide the midrashim that are linked to the Bible into two distinguishable groups,<sup>17</sup> namely, those that follow the biblical text verse by verse, and those that deal with individual verses only, constructing around such specific verses long and complex units.

The first type is known as “exegetical midrash” and is found as early as the tannaitic literature (such as the *Mekbilta de-Rabbi Yishmael* and the *Mekbilta de-Rabbi Shimon ben Yohai* for the book of Exodus, the *Sifra* for Leviticus, and the *Sifre* for Numbers and Deuteronomy). Its editor-compiler gathered indiscriminately many traditions from various sources and organized them according to the order of the Bible without seeking to put them into any clear logical arrangement and without being concerned with the proportion between the materials that were collected. He was also unconcerned with the natural contradictions between the sources he gathered. The compilation of the material became the main goal, and the completed collection was evidently intended for those who wished to find various aggadic and halachic traditions quickly and efficiently, according to the order in which the books of the Bible were arranged. The editor probably did not interfere with the materials that he found, but he did present the material in a new order, often severing a tradition from its original context, thus making it difficult to determine its total meaning.

The other type of midrash, known as “homiletical midrash,” is completely different. Here the editor-compiler selectively gathered traditions that he wished to connect to a limited number of verses. He also became involved in the material by shortening and lengthening it, and by combining and separating the various units of commentary. In this way he built literary units that deal with defined subjects that connect in one way or another with chosen biblical verses. For example, a long chapter that deals with the praise of Moses is linked to the opening verse of Leviticus, “The Lord called to Moses and spoke to him from the Tent of Meeting, saying . . .” (*Lev. R.* 1). More generally, the editor drew the individual verses on which he wanted to comment from the living tradition of the synagogue, for these were the verses with which the public reading of scriptures in the synagogues in the Land of Israel opened. Around these verses the editor built complex units, with an inflexible structure and a beginning and ending. These units seek to convey a message and were not intended solely as reference books for finding aggadic traditions. For the most part, these collections were intended as reading material that engaged the major issues confronted in religious life, namely, reward and punishment, the reasons for

<sup>17</sup> On the proem, see J. Heinemann, “The Proem in Aggadic Midrashim: A Form-Critical Study,” *ScriHie* 22 (1971), 100–22. For a short summary of the scholarly treatment of the proem, see Stemberger, *Introduction*, 244–5.

the commandments, the importance of repentance, the possibility of religious life without the Temple, and the like.

The editor-compiler of the exegetical midrash and the editor-composer of the homiletical midrash played different roles in relation to the material they collected. The editor of the exegetical midrash was probably non-selective, brought all that he knew to his composition, saw no difficulty in setting contradictory traditions alongside one another, and did not see disproportion between different materials as a matter with which to contend. The editor of the homiletical midrashim, on the other hand, chose only the material that matched his goals, juxtaposed contradictory traditions only when doing so helped to make a statement that he wanted to endorse, and was conscious of the fact that the proportion between the various materials in his composition affected the statement that he was making. In other words, in the exegetical midrash one finds sayings of rabbis, named and anonymous, that were uprooted from their original contexts and placed side by side in a new order. In contrast, the anonymous editor-redactor of the homiletical midrash carefully reworked his material to suit his artistic-theological intention.

The six midrashim, some exegetical and some homiletical, that will be discussed here in detail have a number of common characteristics, namely, they cite many Tannaim sages before 235 CE and Amoraim sages after 235 CE of the Land of Israel; they are all written in a combination of rabbinic Hebrew and Galilean Aramaic; and they all include Greek and Latin loanwords. All of them contain both hints and explicit mention of historical figures who lived, and events that occurred, between the third and the sixth centuries (such as the mention of Emperor Diocletian, 284–305 CE; *Gen. R.* 63.8). At the same time, none goes beyond the Byzantine period, with Rome-Byzantium perceived as the last enemy that the People of Israel need to face (in *Lev. R.* 13.5). In all six midrashim a number of proems are given, as described above, and their discussion centers around aggadic subjects with only insignificant halachic materials scattered throughout. (The *balachab* of their time is to be found mostly in the Palestinian Talmud.) In these six compositions, no recognizable traces exist of the Babylonian Talmud that reached the Land of Israel and began to influence its spiritual creativity only in the seventh or eighth centuries. Hence, these compositions do not contain the Aramaic language of the Babylonian Talmud, the names of Babylonian rabbis, or Babylonian thought patterns.

The aggadic traditions in the midrashim under discussion antedate their editor, but one cannot accurately date most of them. The only tool for dating these traditions is their reflection in “external” literature which is dated with some certainty, such as the scrolls of the Dead Sea sect (destroyed around 70), the writings of Flavius Josephus (who died around 100) or the

synoptic evangelists, and the poetic creations of the Samaritan poet Marqa (third or fourth century), and even then only the *terminus ad quem* can be dated accurately.<sup>18</sup> However, the time when the editor of a particular midrashic collection lived can be determined with greater certainty by reference to his language, historical background, the names of the rabbis whose dates are known, and especially by the sources available to the editor and the compositions that subsequently made use of his work. This sort of “relative chronology” has helped scholars determine the dates mentioned below.

All the tannaitic midrashim – mostly redacted at the beginning of the amoraic period (mid-third century) – are exegetical. At the end of the tannaitic period (approximately 235), the people of Israel possessed midrashim only for the last four books of the Pentateuch (Exodus to Deuteronomy). The massive halachic material in these four books prompted the composition of the midrashim on Exodus, Leviticus, Numbers, and Deuteronomy. The halachic material that can be connected to the book of Genesis is quite limited (for example, material has been connected to the circumcision [Gen. 17], or the prohibition of eating the sinew of the femoral vein [Gen. 32.33]), and therefore did not encourage the production of a separate halachic midrash on this first book of the Bible.<sup>19</sup> When the amoraic period began, Genesis was the first book to receive a new midrashic composition: *Genesis Rabbah*.<sup>20</sup> This midrash, which was edited around 425 and is very broad in its scope, completed the shelf of exegetical midrashim on the Pentateuch. Except for some verses, such as those that deal with genealogy (Gen. 5.4–20 and others), it connects varied aggadic traditions to every verse, at times at great length. These traditions may be long or short, serious or simple, stories or midrashim, folkloristic elements, or sayings that clearly originated with the scholarly elite of the house of study. Between different traditions connected to the same verse, the editor sometimes inserted the

<sup>18</sup> Stemberger, *Introduction*, 239–41.

<sup>19</sup> Scholarly works that employ this “comparative” method abound. For a few examples combined with studies of the history of various traditions, see G. Vermes, *Scripture and Tradition in Judaism* (Leiden, 1973); J. Heinemann, *Aggadab and its Development* (Jerusalem, 1974) (Hebrew); R. Bloch, “Methodological Note for the Study of Rabbinic Literature,” in W. S. Green (ed.), *Approaches to Ancient Judaism*, 1: *Theory and Practice* (Missoula, 1978), 51–76; E. M. Menn, *Judab and Tamar (Genesis 38) in Ancient Jewish Exegesis: Studies in Literary Form and Hermeneutics* (Leiden, 1997); S. D. Fraade, *Enosh and His Generation: Pro-Israelite Hero and History in Postbiblical Interpretation* (Chico, 1984); and J. L. Kugel, *In Potiphar's House: The Interpretive Life of Biblical Text* (Cambridge, MA, 1994).

<sup>20</sup> For more information on the tannaitic material on Genesis, see the valuable collection of sources compiled by A. Mirsky, *A Tannaitic Midrash on Genesis* (Jerusalem, 2000) (Hebrew). On the four halachic midrashim – Exodus to Deuteronomy – see ch. 14 in the present volume.

phrase “another interpretation,” which clearly testifies that he knew he was collecting. Beyond their link to the verses in Genesis, the diversity of the material does not allow a general statement concerning the contents and subjects of *Genesis Rabbah*.

From the moment that the exegetical midrashim existed for all five books of the Pentateuch, it was felt that one of them was clearly exceptional, namely, the *Sifra*, the midrash for Leviticus. This book of the Pentateuch deals mainly with the tabernacles, sacrifices, and matters of ritual impurity and cleanliness. As a consequence, only a few passages (such as Lev. 9.22—10.5, the story of the dedication of the Tabernacle) easily allow or require aggadic treatment. Essentially, the *Sifra* is a collection of halachic material. For this reason, the next major midrashic work, composed in the period of the Amoraim, approximately 450, was an aggadic midrash for Leviticus: *Leviticus Rabbah*.<sup>21</sup> Only the technique of the homiletical midrash, as described previously, enabled the editor to create an aggadic midrash on Leviticus. Thus, for example, the editor deals with the opening verse of the biblical discussion of the cleansing of a leper and his sacrifices, “This shall be the law of the leper” (Hebrew: *ha-metzora*) (Lev. 14.2), by interpreting the word *metzora* as two words, *motzi ra* (“slander, evil gossip”). On the basis of this exegesis of the verse, a lengthy chapter is then built (ch. 16) that contains short sermons, parables, stories, and interpretations of verses that are devoted entirely to the improper uses of language, including gossip, excessive pride, quarrels between brothers, love of strife, and the failure to keep a vow. The chapter is constructed from a series of proems followed by a discussion of their subjects, a discussion that comes to a festive conclusion when God promises the complete recovery of a sick person who has mended his ways. This chapter and the other thirty-six chapters in this Midrash are all built in an identical way, that is, they present theological and moral principles that are connected in only a secondary and formal way to Leviticus.

With the completion of *Leviticus Rabbah*, literary compositions for the entire Pentateuch now existed. Of these, the contents of *Genesis Rabbah* and *Leviticus Rabbah* were almost totally aggadic, while the tannaitic midrashim to Exodus, Numbers, and Deuteronomy were composed of approximately 50 percent aggadic material. The creative power of the Rabbis then turned in another direction, to composing a midrash which is devoted to a great extent to the *Haftarot*. (The *Haftara* is a specifically selected unit drawn from the

<sup>21</sup> For a critical edition of this midrash, see Y. Theodor and C. Albeck, *Midrash Bereshit Rabba*, 3 vols., 2nd ed. (Jerusalem, 1965). For an updated description, a list of translations into various modern languages, and a useful annotated bibliography, see Stemberger, *Introduction*, 276–83.

books of the Prophets, which is read in the synagogue after the obligatory reading from the Pentateuch.) Although, as mentioned previously, the cycles of Pentateuch reading in the Land of Israel were not uniform, and although the choice of the *Haftarot* was also random and not uniform, there are, nonetheless, established dates on the annual calendar that require a specific *Haftara* or a special reading from the Pentateuch. These dates include holidays (such as Passover), memorial days (such as Hanukkah), and special Sabbaths (such as the Sabbath before Purim, when “Remember what Amalek did to you . . .” [Deut. 25.17–19] is read), and the seven Sabbaths between the fast of Av 9 and the New Year, when the *Haftarot*, containing words of consolation and comfort, are specially selected from the book of Isaiah. The midrashic analyses of these special readings were compiled and edited, in approximately 450, in a homiletical work entitled *Pesikta de-Rav Kabana*.<sup>22</sup> One of its more notable characteristics is its similarity in form, language, and content to *Leviticus Rabbah*. Indeed, these similarities have led a number of scholars to suggest that both works are the product of one editor.

Midrashim also exist on the five scrolls read annually in the synagogue. These scrolls reached the synagogue in different stages and in different periods. Before the Islamic conquest, the scroll of Esther was customarily read on Purim (as documented in the tractate *Megillah* in the Mishnah), the scroll of Lamentations was read on Av 9 (see, for example, Proem 17 at the beginning of *Lamentation Rabbah*), and apparently the *Song of Songs* was read on Passover. This practice led to the creation of three additional midrashic collections: *Lamentation Rabbah*,<sup>23</sup> *Song of Songs Rabbah*,<sup>24</sup> and the first part of *Esther Rabbah*<sup>25</sup> – all three of which were created in the sixth century and are “exegetical” in nature. In general, the subject of each scroll – the story of

<sup>22</sup> For a critical edition of this midrash, see M. Margulies, *Midrash Wayyikra Rabbah*, 5 vols. (Jerusalem, 1956–8). For an updated description and bibliography, see Stemberger, *Introduction*, 288–91. Readers should also consult the work of B. L. Visotzky, *Fathers of the World* (Tübingen, 1995), 93–105 and the index; and C. Milikowsky and M. Schlueter, “Vayyikra Rabba through History – A Project to Study Its Textual Transmission,” in *Jewish Studies at the Turn of the Twentieth Century* (Leiden, 1999), 311–12.

<sup>23</sup> For a critical edition of this midrash, see Mandelbaum, *Pesikta*. Additional details can be found in Stemberger, *Introduction*, 291–6.

<sup>24</sup> Scholars still await a full critical edition of this midrash. For the time being, see P. D. Mandel, *Midrash Lamentation Rabbati: Prolegomenon, and a Critical Edition to the Third Parasba*, 2 vols. (unpublished PhD thesis, Hebrew University of Jerusalem, 1997) (Hebrew); and Stemberger, *Introduction*, 283–4. For a detailed analysis of many aspects of this midrash, see also G. Hasan-Rokem, *Web of Life: Folklore and Midrash in Rabbinic Literature* (Stanford, 2000).

<sup>25</sup> *Midrash Song of Songs Rabbah* still lacks a critical edition. For more on this work, see Stemberger, *Introduction*, 315–16; and H. E. Steller, “Preliminary Remarks to a New Edition of Shir Hashirim Rabbah,” in G. Sed Rajna (ed.), *Rashi 1040–1990*

Haman's defeat by Mordecai and Esther, the dirges on the destruction of the Temple, and the song of nature and love – left its imprint on its midrash. Therefore, *Esther Rabbah* discusses mainly the relationship between the People of Israel and non-Jews; *Lamentations Rabbah* includes descriptions of ruin and destruction throughout the ages, softened with words of consolation; and the *Song of Songs Rabbah* is devoted to an allegorical interpretation of the work that understands the scroll as a narrative of the history of the People of Israel as well as a song of love between them and their God.<sup>26</sup>

Much midrashic material created in the period under discussion survived the Muslim conquest of the Near East. Many traditions that originated between 235 and 640 were transmitted – in ways that cannot be fully traced – to later generations and were eventually edited into finished compositions, such as the *Pirke de Rabbi Eliezer*, which, in its final form, dates to the Muslim period. Despite the relatively late date of this composition, many of its traditions – retelling the history of the world and Israel from the time of creation to the period of the wandering in the desert after the Exodus from Egypt – most probably originated in the tannaitic and amoraic eras.<sup>27</sup>

Towards the end of the period under discussion, changes within the aggadic literature that originated in the second half of the sixth century can be discerned, although its final compilation and editing occurred only during the Muslim period or later. These texts belong to the extensive world of midrashim defined by scholars as being of the “*Tanḥuma-Yelammedenu* type.” The most important work of this sort is the *Midrash Tanḥuma* for the entire Pentateuch and parts of *Deuteronomy Rabbah*,

(Paris, 1993), 301–11. According to Stemberger, a critical edition is being prepared by L. F. Giron Blanc.

<sup>26</sup> *Midrash Esther Rabbah* is composed of two different midrashic works. The first one (sections 1–6) is the oldest. The second one (sections 7–10) is much later (eleventh century). For more details, see Stemberger, *Introduction*, 318–19; and J. Tabory, “Some Problems in Preparing a Scientific Edition of Esther Rabbah,” *Sidra* 1 (1985), 145–52 (Hebrew). A critical edition of this midrash is currently being prepared.

<sup>27</sup> I should mention several other midrashim that were created (mainly) during the sixth and seventh centuries but whose final redaction appeared to occur only in the Islamic period: (1) *Avot de Rabbi Nathan*, a unique midrash that deals in various ways with tractate *Avot* of the Mishnah. For more details, see Lerner, *The Literature of the Sages*, 369–79; Stemberger, *Introduction*, 225–7; and *Avot de-Rabbi Nathan: Solomon Schechter Edition with References to Parallels in the Two Versions and to the Addenda in the Schechter Edition (with a) Prolegomenon by M. Kister* (New York, 1997) (Hebrew). (2) For the first part of *Midrash to Psalms*, see Stemberger, *Introduction*, 322–3; and for (3) *Midrash Ruth Rabbah*, consult M. B. Lerner, *The Book of Ruth in Aggadic Literature and Midrash Ruth Rabba*, 2 vols. (unpublished PhD thesis, Hebrew University of Jerusalem, 1971); and Stemberger, *Introduction*, 316–17. This list of midrashim is by no means exhaustive.

*Numbers Rabbah*, *Exodus Rabbah*, and more.<sup>28</sup> The *Tanḥuma-Yelammedenu* world is characterized by a number of linguistic-literary attributes that clearly distinguish it from the stratum of midrashim discussed previously. Among the more important of these attributes are the use of a later Hebrew with very little Aramaic, Greek, or Latin; a much more cumbersome and repetitive style; the tendency not to name the individual rabbis but instead to prefer general expressions, such as “our Rabbis said,” or “thus the Sages taught”; and the employment of a special pattern of proems not found anywhere else. The preacher begins these unique proems with a simple question on a halachic issue (such as “Let our Rabbi teach us [in Hebrew: *Yelammedenu Rabbenu*]: how old must an infant be for circumcision?” [*Tanb.*, *Tetzave* 1]). The answer to such a question serves as the starting point for directing the proem towards the verse that is found at its conclusion. The possibility that the halachic question was asked by someone present at the sermon without the preacher knowing ahead of time the question to be asked adds a special charm to these proems.

The name *Tanḥuma-Yelammedenu*, found in citations of this aggadic material in the Middle Ages, is easily explained by the fact that quite a few proems in this literary form are attributed to Rabbi Tanḥuma, who lived in the Land of Israel in the second half of the fourth century, and by the previously mentioned fact that its unique proems open with the word *Yelammedenu*. Scholars have succeeded in describing the characteristics of this midrashic stratum but have not yet offered a sufficient explanation for the significant change that occurred within the aggadic world between the fifth–sixth and the sixth–seventh centuries.

## V TARGUM AND PIYYUT

Around the two Talmuds and within the world that produced the aggadic literature previously described, additional groups of texts were created. Two of them are the *piyyut* (religious poems; plural, *piyyutim*) and the Aramaic *targums* (Aramaic translations of Scripture; the Hebrew plural is *targumim*). Both of these texts should be seen as integral parts of the literary world of the Rabbis, although each possessed a special and semi-separate status.

The creation of the *piyyutim* and the *targumim* reflects the distinctive activity that occurred first and foremost during the synagogue service. The *piyyutim* were composed as part of the communal prayer service, and the *targumim* are related to the reading of the Scriptures in public (that is,

<sup>28</sup> This text is discussed by Stemberger, *Introduction*, 328–30; and Stein, *Pirke de Rabbi Eliezer*. A complete, reliable edition of this basic text remains a scholarly desideratum.

the reading of the Pentateuch and the *Haftara*, as well as particular individual scrolls read on specific occasions). The use of the *targumim* outside the synagogue, in the schools, or in the houses of learning, and the composition of *piyyutim* to be used mainly outside the walls of the synagogue, are relevant to the period under discussion though they are clearly a secondary phenomenon. The *piyyutim* and the *targumim* generally reflect ideas and concepts known from rabbinic literature, although the way in which they convey these fundamental, shared concepts depended largely on the literary form employed, the specific audiences to which they were addressed, and the roles they assumed in the synagogue. The poets and the translators, many of whom are anonymous, held an established position in rabbinic circles as the conveyers of the Rabbis' teachings to the public attending the synagogue.

The need for a public translation of the Scriptures into other languages flowed not only from a decline in the knowledge of the Hebrew language but also from the desire to present the biblical text as it was explained and broadened in accordance with the halachic, theological, and moral perceptions central to the world of the Sages. This was completed by introducing thousands of changes and additions into the biblical text that was to be translated, changes and additions for which parallels can be found in the talmudic sources and related to the midrashic compositions.

The Aramaic *targumim*,<sup>29</sup> whose roots can be found in the Second Temple Period, are outstanding works of oral literature that were transcribed only at a relatively later stage – from the third to the fourth centuries onward. The targumic world granted a place of honor to the translations of the Pentateuch, and first and foremost to the translation attributed to Onkelos, who lived, according to some traditions, in the Land of Israel at the end of the first and the beginning of the second century. This translation migrated

<sup>29</sup> Stemberger, *Introduction*, 302–11. On the various compositions that belong to the *Tanbuma-Yelammedenu* world, see also S. Lieberman, *Midrash Devarim Rabbah*, 2nd ed. (Jerusalem, 1964) (Hebrew); A. Shinan, *Midrash Shemot Rabbah, Chapters 1–14* (Tel-Aviv, 1984) (Hebrew); A. D. Kensky, *Midrash Tanbuma Shmot: A Critical Edition of Midrash Tanbuma Shmot (Standard Edition) through "Besballab,"* 2 vols. (unpublished PhD thesis, Jewish Theological Seminary of America, 1990); H. Mack, *Prolegomena and Example to an Edition of Midrash Bemidbar Rabba Part 1* (unpublished PhD thesis, Hebrew University of Jerusalem, 1991) (Hebrew); M. Bregman, *The Tanbuma-Yelammedenu Literature*, 2 vols. (unpublished PhD thesis, Hebrew University of Jerusalem, 1991) (Hebrew); Z. Keller-Neuberger, *The Printed Edition of Midrash Devarim Rabba – Its Character and Place in the Tanbuma-Yelammedenu Literature* (unpublished PhD thesis, Hebrew University of Jerusalem, 1999) (Hebrew); and B. Elitzur, *Pesikta Rabbati: Introductory Chapters* (unpublished PhD thesis, Hebrew University of Jerusalem, 2000) (Hebrew).



to Babylonia, where it gained an exalted status during the third and fourth centuries. As a rule, *Targum Onkelos* attempts to present a literal translation of the Pentateuch, but in its poetic sections (such as *Exod.* 15 or *Deut.* 32—3), the translator paraphrases the text. His main aggadic goals are the avoidance of any anthropomorphic expressions and a preservation of the honor of the fathers of the nation even at the expense of distancing himself from the literal meaning of the text.

Some other *targumim* were in use in the Land of Israel in the fifth to seventh centuries. They are the *targum* which is found in manuscript 1 of the Neophyte Library in the Vatican and different versions of a *targum* known as the *Yerushalmi* (or, as scholars name it, “The Fragment Targum,” because it translates only selected verses). These translations are less strictly connected to the language of the Bible and contain many aggadic (and halachic) additions, most of which are known from the related literature of the Rabbis. In contrast to *Targum Onkelos*, which the congregations in the synagogues in Babylonia heard Sabbath after Sabbath and year after year in an established version, the *targumim* of the Land of Israel were interchangeable and flexible. They mirror the pressure of life in the Land of Israel and show how rabbinic teachings were disseminated to the broad public. In their additions to the translated biblical text, the *targumim* clarify the *halachah* as it was crystallized by the Rabbis and emphasize the educational and the ethical meanings of the biblical material. In particular, they stress the power of prayer; the importance of Torah study; the religious significance of reward and punishment; the praise of the fathers of the nation and its great men; the belief in the world of the angels; and the centrality of messianism and faith in the coming messianic era.

For the books of the Prophets, there is a translation known by the name of “Yonatan ben Uziel.” It, too, originated in the Land of Israel and was adapted in Babylonia, where it became the official translation of the Prophets. In date, character, and history it basically parallels *Targum Onkelos*. From the Land of Israel itself only fragments of *targumim* for the Prophets have been preserved, mainly for those chapters that were read as *Haftarot* in the synagogues. The rest of the Aramaic translations – the translation of the Pentateuch attributed to Yonatan ben Uziel, and the translations of the biblical books known as the *Ketuvim* (Writings) – gained their present form only in the seventh century or later, although they incorporate traditions that are much older.

From time to time, the translator broadened his work and introduced a long *piyyut* into the *targum*. For example, one of the *targumim* includes a *piyyut* that describes the objection of the Red Sea to being split before Moses (*Exod.* 14.16), while another presents a conversation between Abraham

and his son shortly before the binding of Isaac (Gen. 22.10).<sup>30</sup> These *piyyutim* increase the dramatic effect of the biblical text and focus attention on central points in the narrative. The popular character of these *piyyutim*, which to some extent marks all the *targums*, is clear.

Alternatively, such popular appeal should not generally be ascribed to the works of the poets, that is, to the lyrical creations that were intended to be recited mainly in the synagogue as possible substitutes for certain prose prayers (and also, if to a lesser extent, used on special occasions, such as weddings).<sup>31</sup> Poetic activity always accompanied various types of creation in prose, but from the fourth to the fifth centuries onward, it assumed a special significance in connection with the synagogue service. Parallel to the crystallization of the prayer book – for holidays, Sabbaths, and weekdays – a new custom arose, namely, calling on poets to produce material that could occasionally replace prose sections of the prayer service. In all probability, however, the congregation was most likely exposed to *piyyutim* only on occasions that deviated from the ordinary, and in particular synagogues; and in many such cases, the *piyyut* probably then also served as a substitute for a public sermon, for the *piyyutim* touch upon many subjects central to the rabbinic *Weltanschauung*.

Although many *piyyutim* composed between the fifth century and the time when Islam reached the Land of Israel are of unknown authorship, some authors are known by name,<sup>32</sup> such as Yosse ben Yosse (fifth century), Yanai (sixth century), Simon bar Megas, Ḥadutahu, Yosef biRabbi Nisan, and Elazar biRabbi Kalir (sixth–seventh centuries). All of them probably lived in the Land of Israel, all wrote in fine Hebrew, and each one composed poems of various types. These compositions include descriptions

<sup>30</sup> On the targumic *piyyutim*, see J. Heinemann, “The Poetic Creations of the Translators,” *Hassifrut* 4 (1973), 362–75 (Hebrew); M. L. Klein, *Genizab Manuscripts of Palestinian Targum to the Pentateuch*, 2 vols. (Cincinnati, 1986), I xviii–xix; and M. Sokoloff and Y. Yahalom, *Jewish Palestinian Aramaic Poetry from Late Antiquity* (Jerusalem, 1999) (Hebrew).

<sup>31</sup> For general discussion of the history and nature of *piyyut*, see E. Fleischer, *Hebrew Liturgical Poetry in the Middle Ages* (Jerusalem, 1975) (Hebrew); J. Heinemann and J. Petuchowski, *Synagogue*, 201–46; and I. Elbogen, *Jewish Liturgy: A Comprehensive History* (Philadelphia, 1993), 219–61.

<sup>32</sup> On the six poets mentioned below (all in Hebrew), see A. Mirsky (ed.), *Yosse ben Yosse: Poems* (Jerusalem, 1977); Z. M. Rabinovitz (ed.), *The Liturgical Poems of Rabbi Yannai*, 2 vols. (Jerusalem, 1985–7); J. Yahalom (ed.), *Liturgical Poems of Simon bar Megas* (Jerusalem, 1984); E. Fleischer, “Ḥaduta – Ḥadutahu – Chedweta: Solving an Old Riddle,” *Tarbiz* 53 (1983), 71–96; E. HaKohen, “Yosef birabbi Nisan from Shawe Kiryataim,” *Al Atar* 4–5 (1999), 229–39; and S. Elizur (ed.), *Rabbi El'azar birabbi Kiliri Hymni Pentecostales* (Jerusalem, 2000). A complete edition of the work of the last-mentioned poet is still a desideratum.

of the service of the High Priest in the Temple on Yom Kippur (as part of the prayers for the day), penitential poems for fast days, dirges for memorial days, and poetical substitutes for the central parts of the prayer book (the *Amidah*, the silent prayer said while standing, and the blessings before and after the Shema). Inflexible literary structures were established for the various *piyyutim* according to their functions, while the poems themselves were saturated with references to aggadic and halachic traditions known from rabbinic literature, together with some local traditions that emanated from the poets' home regions. Deciphering the *piyyutim* generally requires an extensive knowledge of the sources of the period, for the poets were often content to allude, often quite enigmatically, to subjects tied to the reading of the Pentateuch or to other aggadic traditions.

*Piyyut* and *targum* reflect two ways in which the *aggadah* and the *halachah* were presented in the synagogues in the Land of Israel. When one adds to the *targumim* and *piyyutim* the public sermons mentioned previously (mainly the proems), we can begin to understand the myriad ways in which Torah was spread among the People of Israel in the Land of Israel in the late Roman era.<sup>33</sup>

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<sup>33</sup> The situation in Babylonia varied from the one in the Land of Israel. In Israel, the *targumim* and *piyyutim* were subject to change and variation. In Babylonia, in contrast, the *targumim* were inflexible and no *piyyutim* appeared to exist. Thus, the dissemination of aggadic and halachic understanding among the Babylonian Jewish community occurred in different ways.

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## JEWISH MAGIC IN LATE ANTIQUITY

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## I JEWISH MAGIC AND JEWISH HISTORY

No description of Judaism in late antiquity can be complete without an account of the diverse practices, texts, and traditions called “magic.” In Jewish magic, one has insight into the interactions between Jewish and non-Jewish cultures in the Mediterranean, the beliefs and practices not always confirmed in the rabbinic canon, the complexity of social structure in Jewish communities, and the nature of rabbinic Judaism itself. Moreover, the study of Jewish magic has important historical value outside the light it sheds on the religious nature of ancient Jewish society. The largest corpus of extant literary texts in Hebrew and Aramaic actually transcribed between the third and ninth centuries CE are magical incantations written on amulets and incantation bowls.

Of all forms of discourse among the wide variety of peoples under Roman rule in the Mediterranean basin, magic was perhaps the most cosmopolitan. From the libraries of ritual instructions, prayers, incantations, and recipes known as the Greek Magical Papyri, one can detect an astonishing variety of influences. Archaic Egyptian deities and rituals, Olympian gods, Mithraic mysteries, and such biblical heroes as Moses and Solomon rub elbows in these cryptic documents. At the same time, Jewish magical texts from the same period invoke Helios and contain whole sentences in Greek transcribed into Hebrew.<sup>1</sup> Magical names are used to lend power to incantations derived from Hebrew and Greek. Thus, the Greek Magical Papyri contain names like Iao, Raphael, and Sabaoth, as well as Jewish magical texts that often derive their names from such Greek figures as Dionysus.

Jews seemed to cultivate a reputation as experts in magic in the ancient world. Although Josephus, like his contemporaries, took great pains to distinguish witchcraft and deceptive magic (*goiteia* and *mageia*) from the

<sup>1</sup> See n. 72. For a survey of the mutual influences between Jewish and Hellenistic magic as well as an account of earlier magical traditions, see P. S. Alexander, “Jewish Elements in Gnosticism and Magic, c. CE 70–c. CE 270,” *CHJ* III 1070–8.

workings of divine providence (*pronoia*), he omitted the biblical laws against sorcery, made much of Solomon's skills in the esoteric arts, and proudly presented a case in which a wonder-worker named Eleazar uses Solomon's wisdom to perform an exorcism.<sup>2</sup> The magical Solomon legends find their most complete development in a Greek magical novella called *The Testament of Solomon*, written in the first few centuries CE, perhaps by a Greek-speaking Christian familiar with Jewish magical lore. The text is a narrative in which Solomon traps the demons for the purpose of building the Jerusalem Temple and revealing magical secrets. This narrative serves as the framework for a collection of demonological lore and ritual practices. The text seems to have had considerable influence on esoteric traditions in the Mediterranean and Europe well into the Middle Ages and Renaissance.<sup>3</sup> John G. Gager argues that Moses' status as a magician inspired respect and veneration among Jews and non-Jews in the ancient Mediterranean.<sup>4</sup> An incantation in the Greek Magical Papyri replete with biblical references and pious Jewish phrases concludes with instructions to abstain from pork and keep oneself pure, "for the charm is Hebraic and preserved among pure men."<sup>5</sup> In few other cases does one have such direct evidence of the influence of Judaism on polytheistic religions in late antiquity.

Understanding Jewish magic additionally allows one to understand a major component of the lives and ideas of the rabbinic class. Demonology, angelology, folk medicine, and divination techniques are woven into the Talmuds and midrashim as valid topics of conversation and teaching. Moreover, the rabbi's charisma derived partially from his reputation as a wonder-worker. This characterization of the Rabbis was not always the accepted one. From Ludwig Blau to Ephraim Urbach, scholars have tried to minimize or deny the fact that magic and the esoteric arts were an integral

<sup>2</sup> See D. C. Duling, "The Eleazar Miracle and Solomon's Magical Wisdom in Flavius Josephus's *Antiquitates Judaicae* 8.42–49," *HTR* 78 (1985), 1–25.

<sup>3</sup> The standard edition of *The Testament of Solomon* is C. C. McCown, *The Testament of Solomon* (Leipzig, 1922). For a translation and annotation, see D. C. Duling, "The Testament of Solomon," in J. H. Charlesworth (ed.), *The Old Testament Pseudepigrapha*, 1 935–87. See also F. C. Conybeare, "The Testament of Solomon," *JQR* n.s. 11 (1899), 145; H. M. Jackson, "Notes on the Testament of Solomon," *JSJ* 19 (1988), 19–60; and S. I. Johnston, "The Testament of Solomon from Late Antiquity to the Renaissance," in J. Bremmer and J. Veenstra (eds.), *The Metamorphosis of Magic* (Leuven, 2003), 35–50.

<sup>4</sup> J. G. Gager, "Moses the Magician: Hero of an Ancient Counter-Culture?" *Helios* 21 (1994), 179–88.

<sup>5</sup> K. Presendanz (ed.), *Papyri Graecae Magicae: Die griechischen Zauberpapyri*, 2 vols., 2nd ed., ed. A. Henrichs (Stuttgart, 1973), 1v 3080–5; the translation is the work of W. C. Grese, in H. D. Betz, *The Greek Magical Papyri in Translation Including the Demotic Spells*, 1 (Chicago, 1986), 97.



part of rabbinic civilization.<sup>6</sup> This picture has been revised in the last half-century, as scholars such as Gershom Scholem and Jacob Neusner sought to demonstrate the thoroughness of magic in rabbinic culture.<sup>7</sup>

Jewish magical texts, along with the Hekhalot corpus and other genres outside the rabbinic canon, provide crucial evidence for sectors of society and ways of thinking that do not speak through rabbinic literature. Gager argues that view: “It is no exaggeration to claim that the recovery of magical Judaism ranks in its significance alongside the Dead Sea Scrolls and the wall-paintings from the synagogue at Dura Europos for what they add to our understanding of Judaism in late antiquity.”<sup>8</sup>

The study of magic also yields data for social history. In magical texts, one can see the way women facing childbirth, would-be lovers, shop owners, and household residents sought to receive the divine powers to obtain concrete benefits. Women play a significant role in magical traditions as clients and perhaps as ritual experts, on the one hand, and as objects of suspicion on the other.

## II DEFINING MAGIC

What does it mean to use the term “magic”? Magic entered the social sciences through its role in the folklore of James Frazer and the anthropological scheme of E. B. Tylor. For these nineteenth-century scholars, magic was an expression of primitive humanity, whose emotional immaturity and lack of scientific reasoning led to mistaken ways of thinking. This theory resulted in a long-standing dichotomy between religion and magic – the idea that while religious rites entreat or praise the deity, magic compels. A subsequent century of research has revealed that these are artificial distinctions and that the term “magic” is often a way of marking the rituals of another class or group as alien and forbidden.<sup>9</sup> Therefore, anthropologists and historians of religion have come to question whether the mere use of the term “magic” prejudices the reader to accept the phenomenon under study as more primitive or inferior to official religious expression. In light of this debate, some discussions of ancient magic propose to circumvent the term or

<sup>6</sup> L. Blau, *Das Altjüdische Zauberwesen* (Budapest, 1897–8; Berlin, 1914); and E. Urbach, *The Sages: Their Concepts and Beliefs* (Jerusalem, 1975), 97–123.

<sup>7</sup> G. Scholem, *Jewish Gnosticism, Merkavah Mysticism, and Talmudic Tradition*, 2nd ed. (New York, 1965); and J. Neusner, *A History of the Jews in Babylonia* (Leiden, 1965–70), especially vols. iv and v.

<sup>8</sup> Gager, “Moses the Magician,” 185.

<sup>9</sup> For a review of the debate, see S. J. Tambiah, *Magic, Science, and the Scope of Rationality* (Cambridge, 1990).

dispense with it entirely.<sup>10</sup> Others, such as Hendrik S. Versnel and Yuval Harari, propose to use the term as long as it is understood to be a phenomenon in consonance with religion rather than distinct from it.<sup>11</sup>

If one begins from the perspective of the literary sources themselves, one finds that certain genres, such as incantations and handbooks for gaining power and practical goals through rituals, coalesce in distinct literary corpora. Based on the study of the rhetoric of Jewish incantation texts, it is possible to generalize about their main themes.<sup>12</sup> They usually emphasize the following three elements: (1) the process of adjuration of intermediaries, such as angels or demons; (2) the use of powerful and arcane names of God as the source of the magician's authority; and (3) the use of these techniques for the personal needs of the individual. In this discussion, the term "magic" will be used to refer to these corpora and the rituals and worldview that they presuppose.<sup>13</sup>

### III JEWISH MAGIC AND ITS SOURCES

This chapter begins with a brief account of the evidence in talmudic literature of magic and rabbinic discourse concerning this phenomenon. Since magical texts themselves are the best witnesses to the nature of magic, the chapter follows with a survey of the worldviews, rhetoric, and ritual practices embedded in amulet texts from Palestine, Babylonian magical bowls, *beikhalot* literature, and other esoteric sources from the rabbinic period and shortly thereafter.<sup>14</sup>

#### A RABBINIC LITERATURE

Using rabbinic literature to determine the place and nature of magic in Jewish society of late antiquity is a complex enterprise. First, it is notoriously

<sup>10</sup> See especially J. Z. Smith, "Trading Places," in M. W. Meyer and P. A. Mirecki, (eds.), *Ancient Magic and Ritual Power*, 1 (Leiden, 1995), 13–27.

<sup>11</sup> H. S. Versnel, "Some Reflections on the Relationship Magic–Religion," *Numen* 38 (1991), 177–97; and Y. Harari, "What is a Magical Text? Methodological Reflections Aimed at Redefining Early Jewish Magic," in S. Shaked (ed.), *Officina Magica: Essays on the Practice of Magic in Antiquity* (Leiden, 2005), 91–124.

<sup>12</sup> See M. D. Swartz, "Scribal Magic and its Rhetoric: Formal Patterns in Hebrew and Aramaic Incantation Texts from the Cairo Genizah," *HTR* 83 (1990), 163–80.

<sup>13</sup> See Harari, "Magical Text," in which he lists the eight characteristics of adjuration texts.

<sup>14</sup> An excellent survey of sources on magic is written by P. S. Alexander, "Incantations and Books of Magic," in *HJPAJC* 111/1 342–79. A comprehensive and sophisticated study of Jewish magic in late antiquity is provided by Y. Harari, *Ha-magiah ba-yebudit ba-qedumah: 'iyyunim metodologiyim u-fenomenologiyim* (unpublished PhD dissertation, Hebrew University, 1998); also very useful is J. Seidel, *Studies in Ancient Jewish Magic* (unpublished PhD dissertation, University of California at Berkeley, 1996).

difficult to recover historical events from rabbinic texts replete with legends and redactions several centuries after the events they depict. In the case of magic, one faces the added problems of taxonomy – that of both the Rabbis and the scholars. Since the Rabbis had no one word for “magic,” one must first decide whether they did indeed distinguish between magic and other expressions of ritual and belief. In addition, the Rabbis, as religious authorities, would not have depicted competing sources of religious authority with objectivity. At the same time, however, the Rabbis themselves transmit traditions that clearly fall within modern definitions of magic.

The vast sea of talmudic discourse encompasses such subjects as the way to remove a fishbone from someone’s throat<sup>15</sup> and the proper time of the day to eat dates.<sup>16</sup> Such discussions naturally include information about the nature of demons and other malevolent creatures. In particular, the Babylonian Talmud includes several collections of traditions regarding angels, demons, and using or avoiding them.<sup>17</sup> The following example, from an extensive discussion in BT *Berachot* 6a, provides an effective illustration of demons and their place in the Mediterranean world in late antiquity:

Abba Benjamin taught: If the eye were given permission to see them, no creature would be able to stand because of the demons. Abbaye said: They are more numerous than we, and they stand around us like piles of dirt around a furrow. Rab Huna said: Every one of us has a thousand at his left, and ten thousand at his right.

Rava said that crowding at a lecture is caused by them, that weakening of the knees is caused by them, that the wearing out of garments worn by scholars [who do no physical work] is caused because of their rubbing.

This passage depicts a world teeming with invisible creatures so numerous that they constitute a force of nature. Here the demons do not have individual personalities and wills; instead, they conduct their mischief naturally. Lacking a concept of entropy, the Rabbis are able to account for the minute dissolution of the physical world by means of demons. Elsewhere, especially in stories of encounters between demons and sages, they have names and act as dramatic characters.

Talmudic discussions on demonology and topics on popular healing practices sometimes include incantations and incantatory phrases. One such incantation occurs in a series of similar passages in BT *Shabbat* 67a<sup>18</sup> in the following passage:

Baz, Baziah, Mas, Masyah, Kas, Kasiah, Sharlai and Amarlai, those angels who were sent from the land of Sodom to heal pains and boils: Bazakh Bazikh Bazavikh

<sup>15</sup> BT *Shabb.* 67a (cf. Tos. *Shabb.* 7.21); see below. <sup>16</sup> See BT *Ket.* 10b.

<sup>17</sup> See, e.g., BT *Pes.* 111b–112a. <sup>18</sup> See also BT *Ber.* 60b, 62a; BT *Pes.* 110a.

Masmasikh, Kamon Kamikh, your colour<sup>19</sup> be within you (alone) and your place be within you (alone),<sup>20</sup> your seed be like a hybrid<sup>21</sup> and like a mule that is not fruitful and does not multiply. So shall you not be fruitful and multiply in the body of N. son of N.

This passage incorporates several ingredients found in incantations from handbooks and amulets. It specifies the names of angels; it includes a *historiola* (a brief story used to augment the authority of the magic)<sup>22</sup>; it commands the demons and likens them to monstrous or barren animals in a magical analogy; and leaves a “blank space” for the client’s name, as is the custom in magical handbooks.

Another incantation in Aramaic appears in a discussion of proper deportment in the privy, a place particularly vulnerable to witchcraft. The following incantation is recited if one needs additional protection:

Not against me, not against me,  
 No *taḥim* and no *taḥtim*,<sup>23</sup>  
 Not of these and no part of these,  
 No sorcery of sorcerers and no sorcery of sorceresses!<sup>24</sup>

*la li ve-la li,*  
*la taḥim ve-la taḥtim*  
*la hane ve-la mahane*  
*la ḥarshe ve-la ḥarshe de-ḥarashta*

As one can see from this transliteration, this passage contains all the hallmarks of an orally composed incantation. The rhythm and assonance, the inclusive listing of the malevolent forces, and the specification of male and female witches all recall written incantations from the same time and place, namely, Mesopotamia and the Mediterranean in late antiquity.<sup>25</sup>

Another example of oral magic tradition is exemplified in a remarkable collection of aphorisms attributed in BT *Shabbat* 66b to the mother of Abaye, a third–fourth-century Babylonian rabbi.<sup>26</sup> This attribution is one

<sup>19</sup> So Soncino. <sup>20</sup> That is, confined to you and your place.

<sup>21</sup> That is, a monstrous or infertile animal; see Jastrow, *Dictionary*, s.v. *ql*.

<sup>22</sup> On the *historiola* in ancient magic, see M. D. Swartz, “Book and Tradition in *Heikbalot* Literature,” *Journal of Jewish Thought and Philosophy* 3 (1994), 189–229; and D. Frankfurter, “Narrating Power: The Theory and Practice of the Magical *Historiola* in Ritual Spells,” in Meyer and Mirecki (eds.), *Ritual Power*.

<sup>23</sup> These two terms may denote types of demons or illness willed by witchcraft.

<sup>24</sup> BT *Ber.* 62a; cf. BT *Ber.* 60b.

<sup>25</sup> On the aesthetic and conceptual dimensions of lists in magical texts, see R. Gordon, “‘What’s in a List?’ Listing in Greek and Graeco-Roman Malign Magical Texts,” in D. R. Jordan, H. Montgomery, and E. Thomassen (eds.), *The World of Ancient Magic* (Bergen, 1999), 239–82.

<sup>26</sup> In BT *Shabb.* 66b, he calls her his mother; in BT *Kidd.* 31a, a tradition is cited that his mother died in childbirth; she is then identified as his foster mother.

of the few places in the Talmud in which a woman's voice is detectable. The aphorisms concern personal health and therefore naturally transmit herbal cures alongside incantation formulas. Regarding a certain plant, Abaye relates the incantation: "Mother said: three stop (illness), five cure it, and seven are effective even against sorcery," and additionally: "all incantations are in the name of the mother."

This case has led scholars to ask whether or not women were the special custodians of the magic arts in ancient Jewish communities.<sup>27</sup> The question becomes more complex when one realizes that the Rabbis characterized women as particularly prone to witchcraft. In interpreting Exodus 22.17, "You shall not permit a sorceress to live," the Talmud (on noting that the prohibition applies to men and women) asks why Scripture specifies the female. The answer is given that most women deal in sorcery.<sup>28</sup> This remark suggests that in associating women with witchcraft and alien practices, the editors of the Talmuds are perpetuating a stereotype about women common in the ancient world; the stories analyzed below, in which rabbis engage in battle with witches, reinforce this impression. However, Rebecca Lesses' study of women in the Babylonian magical bowls has led her to conclude that although women may have written some of them, they do not figure disproportionately as clients or practitioners.<sup>29</sup> In any case, men are much more prominent in talmudic literature as masters of esoteric wisdom.

Knowledge of methods to prevent witchcraft and of ways to cure by means of incantations was therefore no less a function of a rabbi's wisdom than was legal or ethical insight. On the other hand, ritual experts who were not members of the community risked being branded as sorcerers.<sup>30</sup> Magic in rabbinic texts, as in many Graeco-Roman cultures of the same period, serves to define the authoritative culture against the other.<sup>31</sup> This magic is expressed in two ways, namely, in legal discussions of biblical verses prohibiting witchcraft and idolatrous practices, and in stories in which heroes, usually rabbis, defend themselves against aggressive witches and demonic figures. The Mishnah, commenting on the biblical prohibition of sorcery (Exod. 22.17), rules that one who creates an illusion is not guilty, while one who performs an effective act of sorcery is blameworthy.

<sup>27</sup> See R. Lesses, "Exe(o)rcising Power: Women as Sorceresses, Exorcists, and Demoneses in Babylonian Jewish Society of Late Antiquity," *JAAR* 69 (2001), 343–75.

<sup>28</sup> *BT Sanh.* 67a; see also *PT Sanh.* 7.19.25d. <sup>29</sup> Lesses, "Exe(o)rcising Power."

<sup>30</sup> See Lesses, "Exe(o)rcising Power," 343–4, citing the story in *BT Pes.* of Amemar's conversation with "the chief of women who do sorcery" in comparison with the case of Abaye's mother.

<sup>31</sup> On this point, see especially Seidel, "Studies."

The *locus classicus* for forbidden practices is the “ways of the Amorites” in chapters 6 and 7 of the tractate *Shabbat* in the Tosefta and Talmuds.<sup>32</sup> This passage is a list of everyday actions, such as the saying “(to your) health!” (*marpe*) after a sneeze, or placing a piece of iron among a brood of chicks to ward off thunder. The list, and the discussion that it elicits in the Talmud, serve as good examples of how difficult essentialist definitions of magic can be. Many of these practices are confirmed in sources from the Graeco-Roman world, especially in Pliny’s *Natural History*.<sup>33</sup> However, the differences between forbidden and permitted actions are subtle indeed. Occasionally, the distinctions have to do with actions performed for “practical purposes” (washing, courtesy) and actions used to ward off bad luck. The best explanation may be, as Jonathan Seidel argues, that the classification serves “to describe ‘in-group’ practices that needed to be pushed outside the boundaries of society.”<sup>34</sup> The Talmud also states that such actions are allowed if used for healing, thus allowing some accommodation to popular practices.<sup>35</sup>

Stories of rabbinic heroes battling with demons and sorcerers can provide insight into the way the Rabbis saw themselves, and the way they wished to be perceived by the general populace. In many of these stories, the sage is portrayed as a powerful expert in esoteric lore who uses his power for good.<sup>36</sup> Many such stories are extant, especially in the Talmuds, but only a few will be analyzed here. One of the most interesting examples is a story in PT *Hagiga* 2.2 (77d–78a) and *Sanhedrin* 6.9 (23c) in which the first-century Pharisaic leader Shimon ben Shetaḥ and his students outsmart eighty witches and capture them for execution. This story is inspired by a brief statement in the Mishnah (PT *Sanh.* 6.4) that Shimon “hanged eighty women.” In the talmudic story, Shimon is told that eighty witches are living in a cave in Ashkelon. He then proceeds to capture them. The more extensive version in PT *Hagiga* 2.2 is translated in the following excerpt:

Shimon arose on a stormy day and took eighty choice young men and put eighty clean garments in their hands, put each in a jar, and inverted (the jars) over their

<sup>32</sup> Tos. *Shabb.* chs. 6 and 7, S. Lieberman (ed.), *Tosefta Mo'ed* (New York, 1962), 22–9; PT *Shabb.* 6.9.8c–d; and BT *Shabb.* 67a–b.

<sup>33</sup> See S. Lieberman, *Tosefta Ki-Fshutab*, 111 (New York, 1962), 79–105; and the detailed analysis of G. Veltri, *Magie und Halachab* (Tübingen, 1997), 212–20.

<sup>34</sup> J. Seidel, “Charming Criminals: Classification of Magic in the Babylonian Talmud,” in Meyer and Mirecki (eds.), *Ancient Magic*, 1 161; see also Veltri, *Magie und Halachab*; and idem, “The Rabbis and Pliny the Elder: Jewish and Greco-Roman Attitudes Toward Magic and Empirical Knowledge,” *Poetics Today* 19/1 (1998), 63–89.

<sup>35</sup> PT *Shabb.* 6.10.8c; BT *Shabb.* 67a.

<sup>36</sup> For a useful discussion of tales of magic and demonology in rabbinic literature, see E. Yassif, *The Hebrew Folktales: History, Genre, Meaning* (Bloomington, 1999), 144–66.

heads. He said to them, "When I whistle once, put on your garments. When I whistle twice, all go in together, and when you go in, each one of you embrace one (of the witches) and lift her off the ground. For it is the nature of these sorcerers that if lifted above the ground they can do nothing."

He went and stood at the mouth of the cave. He said to them, "Hello, Hello! Open up for me, for I am one of you." They said, "How did you get here (in dry clothes) on a day like this?" He said, "I walked between the raindrops." They said, "What have you come to do?" He said, "To learn and to teach. Let all come and show what they can do." One of them said something<sup>37</sup> and produced a loaf of bread. Another one said something and produced meat. Another one said something and produced cooked dishes. Another one said something and produced wine. They said, "What can you do?" He said, "I can whistle twice and bring you eighty choice young men who will be happy with you and make you happy."<sup>38</sup> They said, "Yes, we want this."

He whistled once and they put on their garments. He whistled a second time and they came in together. He said, "Everyone who has come in, take a partner."<sup>39</sup> They lifted them up and they went to hang them. And that is what is taught: "It is told of Shimon ben Shetaḥ that he hanged women in Ashkelon."<sup>40</sup>

This story assumes all the characteristics of a ribald trickster tale, one in which a clever mortal defeats a supernaturally endowed creature. Shimon is portrayed as knowledgeable in the ways of witches and, without using magic himself, he manages to outwit them and emerges triumphant. Elsewhere, rabbis defeat witches, sorcerers, and demons by using superior magic.<sup>41</sup> Note as well the sexual element in the story. By promising the witches "men who will make you happy," he manages to appeal to their lust, which becomes their undoing.

However, not all such tales conclude so neatly. A brief but colorful story of the perils of dealing with sorcerers appears in BT *Sanhedrin* 67b, in a series of fantastic folktales on witchcraft, its dangers, and ways to avoid them:<sup>42</sup>

Zeira went to Alexandria, Egypt. He bought a donkey. When he went to give it water to drink, the spell was broken and he found himself standing on a landing plank.

They said to him: if you were not Zeira, we would not have given back your money. For is there anybody here who buys anything without testing it with water?

<sup>37</sup> That is, recited an incantation.

<sup>38</sup> On the sexual connotation of terms for happiness and rejoicing, see G. A. Anderson, *A Time to Mourn, a Time to Dance* (University Park, PA, 1991).

<sup>39</sup> This phrase may have a sexual connotation as well; see Sokoloff, *Dictionary*, s.v. *km*.

<sup>40</sup> See also M. *Sanh.* 6.4.

<sup>41</sup> For an interesting contrast to this story, see the tale of Yannai and the innkeeper in BT *Sanh.* 67b.

<sup>42</sup> On this story, see E. Levinas, *Nine Talmudic Readings*, trans. Annette Aranowicz (Bloomington, 1990), 152; and Seidel, "Studies," 185–6.

The moral of this story is apparently *caveat emptor*, but interesting nuances are noticeable. The story occurs in Egypt, which is known in rabbinic literature as the place that received nine out of ten portions of sorcery given to the world.<sup>43</sup> Zeira would therefore have good reason to be wary of any purchase. Testing by water could mean, as Emmanuel Levinas suggests, that “water disenchants.”<sup>44</sup> It is also possible that any ostensibly living being who cannot eat and drink is not a genuinely live animal at all. Such is the implication of amulet texts that expose demons by inviting them to come and eat and drink. At any rate, the text does not refrain from portraying Zeira as a bumpkin who finds himself fooled in the big city.<sup>45</sup> Note that the opposition to magic presented by the talmudic storytellers is not a “rationalistic” one, that is, none of these sources claims that magic does not work or even that it cannot be useful. Rather, Shimon’s superior magical knowledge provides superiority over his enemy, and Zeira’s lack of the same proves to be the source of his disgrace.

In both halachic discussions and magical tales, discourse about magic serves to discredit other forms of cultural action and authority. At the same time, such stories can serve to reinforce the magical power of the rabbi. Therefore, rabbis engage in miraculous acts through apparently magical means and according to a series of tales in BT *Sanhedrin*, Rabbi Eliezer could raise a field of cucumbers with an incantation and harvest them with another,<sup>46</sup> Rava created an artificial man and sent him to Rabbi Zeira,<sup>47</sup> and Rabbi Ḥanina and Rabbi Oshaya made a three-day-old calf by means of the “Book of Formation” and then consumed the meat.<sup>48</sup>

#### B PALESTINIAN AMULETS

While rabbinic literature attests to the pervasiveness of beliefs and practices that one would call magical, an abundance of magical texts from Palestine and Babylonia in late antiquity provide more direct evidence for Jewish magic. An important source for understanding magic in talmudic Palestine, and the Graeco-Roman world in general, is the corpus of Jewish amulets and magical bowls written in Aramaic and Hebrew on sheets of metal (and one on a potsherd) found in the eastern Mediterranean, in areas ranging from Egypt to Turkey. For most of the twentieth century, these amulets were published only occasionally until Joseph Naveh and Shaul Shaked published twenty-two new amulets and new editions of ten

<sup>43</sup> See BT *Kidd.* 49b. <sup>44</sup> Levinas, *Talmudic Readings*, 152. <sup>45</sup> See *ibid.*

<sup>46</sup> BT *Sanh.* 68a. <sup>47</sup> BT *Sanh.* 65b. <sup>48</sup> *Ibid.*



others in two volumes.<sup>49</sup> Jewish amulets in Aramaic and Greek have also been published by Roy Kotansky, Naveh, and Shaked.<sup>50</sup> Because only some of these amulets were identified *in situ*, one cannot know how all of them functioned. However, some were found in synagogues buried under the Torah ark or elsewhere in synagogue buildings.<sup>51</sup> Others were reportedly found in tombs.<sup>52</sup>

The vast majority of the extant amulets were used for the expulsion of demons. These amulets are usually linked explicitly with diseases, which are often specified, sometimes with medical terminology.<sup>53</sup> Other amulets are prophylactic, written to protect their clients from disease, miscarriage, or “encounters with a male or female, Gentile or Israelite,” and evil spirits, “whether flying or resting.”<sup>54</sup> An amulet from Ḥorvat Rimmon in the Negev is a love charm written on a potsherd that was burned and broken.<sup>55</sup> According to the editors, “it seems that the potter deliberately cut deep incisions on the surface of the jar before firing it, and that he broke the jar along the same incisions.”<sup>56</sup> The practice of burning a love amulet is common in the ancient Mediterranean and is mentioned in the text of the incantation itself: “just as [this sherd burns, so shall] burn the heart of R. (son or daughter) of Marian after me.”

<sup>49</sup> J. Naveh and S. Shaked, *Amulets and Magical Bowls: Aramaic Incantations of Late Antiquity*, 2nd ed. (Jerusalem, 1987), for amulets see 1–15; and idem, *Magic Spells and Formulae: Aramaic Incantations of Late Antiquity* (Jerusalem, 1993), for amulets see 16–32. For this chapter, these amulets will be cited by their numbers in these two editions. See also G. J. Hamilton, “A New Hebrew-Aramaic Incantation Text from Galilee: ‘Rebuking the Sea,’” *JSS* 41 (1996), 215–49; and C. T. McCollough and B. Glazier-McDonald, “Magic and Medicine in Byzantine Galilee: A Bronze Amulet from Sepphoris,” in D. R. Edwards and C. T. McCollough (eds.), *Archaeology and the Galilee: Texts and Contexts in the Graeco-Roman and Byzantine Periods* (Atlanta, 1997), 143–9; and M. J. Geller, “More Magic Spells and Formulae,” *Bulletin of the School of Oriental and African Studies* 60 (1997), 327–35.

<sup>50</sup> R. Kotansky, *Greek Magical Amulets: The Inscribed Gold, Silver, Copper, and Bronze Lamellae*, Part 1: *Published Texts of Known Provenance* (Düsseldorf, 1993), Text 56, a Palestinian amulet in Aramaic and Greek; texts 32 and 33, in Greek, from Sicily; and R. Kotansky, J. Naveh, and S. Shaked, “A Greek-Aramaic Silver Amulet from Egypt in the Ashmolean Museum,” *Le Muséon* 105 (1992), 5–25.

<sup>51</sup> Naveh and Shaked, *Amulets and Magic Bowls*, amulets nos. 3, 50–4, and 10–13, 86–101. On their placement in the synagogue, see S. Fine, *This Holy Place: On the Sanctity of the Synagogue During the Greco-Roman Period* (Notre Dame, 1997), 73–5.

<sup>52</sup> For example, Naveh and Shaked, *Magic Spells and Formulae*, amulet no. 17, 50–7, from Tiberius; and *Amulets and Magic Bowls*, amulet no. 9, 82–5, reportedly from a graveyard in Oxyrhynchus.

<sup>53</sup> See, e.g., Naveh and Shaked, *Magic Spells and Formulae*, amulet no. 19, 60–6.

<sup>54</sup> Naveh and Shaked, *ibid.*, amulet no. 26, 87–90.

<sup>55</sup> Naveh and Shaked, *Amulets and Magic Bowls*, amulet no. 10, 84–9.

<sup>56</sup> Naveh and Shaked, *ibid.*, 88.

The texts of these amulets follow accepted patterns of composition known especially from Genizah incantations.<sup>57</sup> Because the most potent ingredient in the amulets is the divine name in its many permutations, names often constitute the largest portion of the amulets. At the same time, the powers, demons, angels, and intermediaries to be importuned are also specified in detail. The following incantation, from a silver amulet found in Tiberias and quoted here in Naveh and Shaked's translation, will provide an impression of these texts:<sup>58</sup>

[An amulet proper for saving and healing Ina  
[daughter of Ze]irti from all hectic fever  
[and il]ness and sickness. In the name of HW' YZWT YH YH  
[Y]H], that was written on his front plate which was  
[unrol]led on the wreath of Aaron the High Priest  
who was serving with it, and he descended in order to fu[lfil]  
[. . .] his name, who carries those on high  
[and] those below <and all> tremble before him [?] This is it.  
YRP' SWMR'K  
MRKBY'T ZZ the living go  
'LYZ SM'RYH  
(here the name YH is repeated seventy times)  
Eradicate from the body of Ina daughter of Zeiri a[l]l  
hectic fever and illness and sickness in the name of YHWH  
who is enthroned among the cherubim, Amen, Amen, Selah.

This passage is followed by a quotation from Psalms 46:8 (= v. 12), a few pious phrases, and a repetition of the healing adjuration. This amulet follows several conventional formulas. The editors suggest that the amulet may have begun, as others do, with the phrase *qamea tav*, "a good (or proper) amulet," that often introduces an amulet in magical handbooks. The text immediately designates the client, Ina daughter of Zeirti, following the custom cited by Abaye's mother of using the mother's name for identification in incantation formulas. The adjuration proper begins with the formula *be-shem*, "in the name of," that introduces the most potent ingredient of the amulet, the divine name. The name itself is a largely indecipherable combination of letters that also includes the biblical divine name "Yah." The historiola that follows validates the name by associating it with one of the most powerful symbols of the lost Temple cult: the diadem of Aaron, described in Exodus 28.36 and 39.30, which was inscribed with the divine

<sup>57</sup> On these patterns, see Swartz, "Scribal Magic."

<sup>58</sup> Naveh and Shaked, *Magic Spells and Formulae*, 50–7 (amulet no. 17). The words in brackets are reconstructions suggested by the editors.

name and contained the power to atone for Israel's sins.<sup>59</sup> After another magical name, the text grants the command to unspecified powers to drive out all illness from the client. This command is followed by divine epithets and biblical verses, all of which serve to confirm the divine origin of the magician's authority. The latter element is an important part of the worldview of Palestinian Jewish magic; the magician does not operate by his own power but by virtue of divine authorization, embodied in the magical names handed down to him.<sup>60</sup>

### C THE MAGICAL BOWLS

In 1888, J. P. Peters, excavating the ancient town of Nippur in southern Iraq for the University of Pennsylvania, discovered in a "Jewish settlement," food bowls that had been buried upside down under the thresholds of houses. These bowls were inscribed on the inside in spirals with incantation texts in Babylonian Jewish Aramaic, Syriac, and Mandaic. The texts were then brought to the attention of scholars by J. A. Montgomery, who published forty bowl texts.<sup>61</sup> To date, several hundred bowls of this type from the region have been identified, many of which remain to be published. They were written approximately at the time when the Babylonian Talmud was taking shape, yet differ in many ways from the Judaism represented by it.

Precisely the reason why these incantations were written on ordinary food bowls and buried under houses is unclear. Several theories, however, have been proposed.<sup>62</sup> The most plausible suggestion advanced the notion that the bowls were used to trap the demons so that they would not work their mischief in the house. Most likely, the magician wrote the incantation, recited it in some ceremony, and buried it in specific places in the house to protect the family.

<sup>59</sup> The amulet uses the term *kelil* and not the biblical term *sis*. On Temple imagery and ritual in Jewish magic, see M. D. Swartz, "Sacrificial Themes in Jewish Magic," in M. W. Meyer and P. A. Mirecki, (eds.), *Ancient Magic and Ritual Power*, 11 (in press), and "*Pul an ba-Miqdash be-Sifrut ha-Magiab ha-Yebudit*," *Pe'amim* 85 (2000), 62–75; look there for use of the term *sis* for a lamella worn around the neck.

<sup>60</sup> On this form of "magical piety," see Swartz, "Scribal Magic"; and idem, "Magical Piety in Ancient and Medieval Judaism," in Meyer and Mirecki (eds.), *Ancient Magic*, 1 167–83.

<sup>61</sup> J. A. Montgomery, *Aramaic Incantation Texts from Nippur* (Philadelphia, 1913); he also included one text written on a skull. A few bowls had been circulating since the mid-nineteenth century; for the history of publication of the bowls, see C. Isbell, *Corpus of the Aramaic Incantation Bowls* (Missoula, 1975), 1–15; see also Naveh and Shaked, *Amulets and Magic Bowls*, 19–21; see the bibliography for this chapter for some of the major editions of bowl texts.

<sup>62</sup> For surveys of theoretic functions of the bowls, see Naveh and Shaked, *Amulets and Magic Bowls*, 15–16; C. Isbell, *Corpus*, 10–15.

The texts are written in a dialect of Jewish Aramaic different from the one used by the Babylonian Talmud.<sup>63</sup> Occasional phrases are found in Hebrew aside from biblical verses, but the Aramaic is consistent. Persian, Syriac, and Mandaic words enter the scribes' vocabulary, but Greek is less frequent, in contrast to the Palestinian amulets and early magical handbooks. Some bowls were inscribed with scribbles resembling writing. The practitioners seemed to write fake "incantations" for illiterate clients who could not distinguish between writing and scribbling.

The bowls were most often written to protect the house and its household residents, male and female, from demons and diseases. Occasionally a curse text or love charm buried under a house will be discovered, suggesting that the bowl was buried under the intended victim's house to afflict him or her with pain, passion, or both.<sup>64</sup> The incantation texts themselves differ in several ways from the Palestinian tradition and the Genizah tradition that inherited it. In contrast to the Palestinian formulas, the bowls often begin with a passive construction describing the action being performed on the demons, such as "sealed and bound is the house of [the client]" or with the formula "healing (*asuta*) from heaven" for (the client). Another important difference lies in self-presentation. At times, the magician announces his presence and power – that he is armed with supernatural strength or military equipment – as in the following example from one of Montgomery's bowls:

Again I come with my own might. On my body are arms of iron, a body of pure fire. My might is from Him who created heaven and earth. I have come to strike out against the evil enemies.<sup>65</sup>

Another notable feature of these bowls is the use of crude drawings, usually in the center of the bowls, of figures representing demons, angels, and the magicians themselves.<sup>66</sup> Most common is a depiction of the demon, bound and shackled in accordance with the incantation itself. Often a female demon, usually named in the texts as Lilith, is depicted with her hair let loose and prominent sexual organs. Others represent powerful figures in Persian military garb.

<sup>63</sup> For this point and the exception, see C. Müller-Kessler and T. Kwasman, "A Unique Talmudic Aramaic Incantation Bowl," *JAOS* 120 (2000), 159–65; see also the Aramaic incantations in the Talmud cited above.

<sup>64</sup> See, e.g., Montgomery, *Incantation Texts*, texts 13 and 28.

<sup>65</sup> Montgomery, *Incantation Texts*, text 3. The translation is the work of B. A. Levine, "The Language of the Magical Bowls," in Neusner, *History*, 362.

<sup>66</sup> See E. C. Hunter, "Who Are the Demons? The Iconography of Incantation Bowls," *Studi Epigrafici e Linguistici sul Vicino Oriente antico* 15 (1998), 95–115.

At the same time, many of the important features of the Palestinian tradition are also found in the bowls, such as the preponderance of magical names, the detailed specification of the demons and diseases to be adjured, and the historiola form. The bowls also draw from an interesting variety of sources, and confirm the fluid relationships among Jews, Christians, and Mandaeans as well as between the rabbinic estate and other classes. Also, probably, many of the bowls were written by Jews for non-Jewish clients.<sup>67</sup> At the same time, the texts draw on biblical verses, pious phrases, and, according to recent reports, rabbinic literature. Several bowls name a first-century rabbi, Joshua ben Peraḥia, who according to one legend had been the teacher of Jesus.<sup>68</sup> In these texts, the practitioner composes a writ of divorce, in which the client “divorces” himself or herself from the demons by the rabbi’s authority.

#### D HANDBOOKS

The proliferation of amulets and other incantation texts attests to a well-developed craft performed by ritual practitioners. These practitioners no doubt learned their craft not only from individual teachers but also from texts. The Greek magical papyri, a Coptic “wizard’s hoard,”<sup>69</sup> and other fragments are examples of magical handbooks (or *grimoires*) found in manuscripts from late antiquity. No such manuscripts of Jewish magic from the period under study have been found, but they existed. They survived in manuscripts from the Cairo Genizah and other collections and in manuals handed down, sometimes after much editing and accretion, to middle-eastern and European Jewish communities. The antiquity of some of these texts is confirmed by parallels in the ancient amulets.<sup>70</sup> A Babylonian Aramaic magical manual known as the *Havdalah de-Rabbi Akiva* preserves an incantation that is obviously based on one of the magical bowl texts, complete with the peculiar rhetoric and Aramaic dialect.<sup>71</sup> In addition, fragments of magical handbooks are written in a Hebrew datable to the rabbinic period, complete with an admixture of Greek words that could only have entered the text before the rise of Islam.

The most prominent of these is the “Book of Mysteries” or *Sefer ha-Razim*. This text exists not in one manuscript, or even in a clearly definable text

<sup>67</sup> See J. N. Epstein, “Glosses babylo-araméenes,” *REJ* 74 (1922), 41–3; see also Naveh and Shaked, *Amulets and Magic Bowls*, 17–18.

<sup>68</sup> *BT Sanh.* 109b; *BT Sot.* 47a. See Neusner, *History*, v 235–41.

<sup>69</sup> For this and other Coptic handbooks, see M. Meyer and R. Smith, *Ancient Christian Magic: Coptic Texts of Ritual Power* (New York, 1994).

<sup>70</sup> See, e.g., Naveh and Shaked, *Amulets and Magic Bowls*, 88–9.

<sup>71</sup> G. Scholem, “Havdalah de-Rabbi ‘Akivah: maqor le-mesoret ha-magiah ha-Yehudit biteqfat ha-ge’onim,” *Tarbiz* 50 (1980–81), 243–81.

tradition, but in a highly fluid combination of textual units spread throughout many manuscripts. It was first identified as an ancient magical manual by Mordechai Margaliot, who pieced it together from dozens of fragments.<sup>72</sup> A remarkable feature is its organizational principle; after a conventional introduction in which the book is presented as a repository of mysteries inherited from Noah through a list of tradents, it is organized around arrays of angels or angelic guards that stand at each “firmament” of the heavens. Following the description of each firmament, the text inserts formulas and praxes for magical action. Another important feature of the handbook is the number of unusual purposes, rituals, and deities used in the formulas. For example, in one formula the practitioner recites a prayer to Helios in Greek.<sup>73</sup> Other handbooks, such as *Harba de-Mosbe* and *Havdalab de-Rabbi Akiva*, are clearly datable on linguistic grounds to post-talmudic Babylonia. Others found in the Genizah remain to be analyzed for their provenance.<sup>74</sup>

Magical handbooks in general include rituals for a great variety of purposes, including healing, love, enmity, and more exotic purposes, like invisibility. Occasionally, rituals are used for cultivating an apparition, especially a numinous figure who will endow the practitioner with knowledge, fortune, or extraordinary powers of perception. They usually consist of verbal formulas, often written on amulets, as well as more complete ritual procedures involving the preparation of materials and their manipulation. Often incense and other plants are used, but some formulas require the blood of fowl or other animals. For example, one Genizah fragment prescribes a daily offering of incense composed of blossoms from a cedar tree, grapes, garlic, and the gall of a female ox. At that point, a mixture of roots, gall, and the blood of a white chicken is placed over a woman for an unspecified purpose.<sup>75</sup> One ritual in *Sefer ha-Razim*, for swaying the opinion of an important person in one’s favor, requires the slaughter of a lion cub; the blood is then used to write the names of angels between the lion’s eyes.<sup>76</sup> Such unusual details raise the question whether or not these bizarre rituals were ever practiced. The answer is not always clear. On the one hand, exotic substances, such as rhinoceros horn – or vials of powder purporting

<sup>72</sup> M. Margaliot, *Sefer ha-razim: hu sefer keshafim mi-tequfat ha-Talmud* (Jerusalem, 1966). On the textual state of *Sefer ha-Razim*, see H. Niggemeyer, *Beschwörungsformeln aus dem “Buch der Geheimnisse”* (Hildesheim and New York, 1975).

<sup>73</sup> *Sefer ha-Razim*, ch. 4, lines 61–4.

<sup>74</sup> Fragments of several such handbooks appear in Naveh and Shaked, *Amulets and Magic Bowls and Magic Spells*; and P. Schäfer and S. Shaked, *Magische Texte aus der Kairoer Geniza*, 3 vols. (Tübingen, 1994–7).

<sup>75</sup> Naveh and Shaked, *Magic Spells*, 189–201, MS TS K1.143 (Genizah 18) fol. 19, lines 4–10.

<sup>76</sup> *Sefer ha-Razim*, ch. 1, lines 119–21.

to be those substances – can be found to this day in major cities of the world. On the other hand, no doubt, the more extravagant formulas served to lend an atmosphere of mystery and power to the book as a whole, and by extension to those rituals that were more likely to be practiced.

#### E HEIKHALOT LITERATURE

One of the most complex and intriguing sources for Jewish magical traditions is the corpus of early Jewish mystical texts known as *heikhalot* literature. These texts, reflecting *Merkavah* mysticism, are preserved in manuscripts mostly written in early medieval Germany and in scattered Genizah fragments.<sup>77</sup> The texts concern two main subjects. One category consists mostly of ascent stories to heaven undertaken by first- and second-century rabbis, such as Rabbi Akiva and Rabbi Ishmael, and their visions of the chamber of the divine throne (*merkavah*) and the palaces or temples (*heikhalot*) surrounding it. A second category consists of stories and recipes for acquiring a prodigious memory and the resulting scholarly prestige by conjuring an angel known as *Sar ha-Torah*, the “Prince of the Torah.”<sup>78</sup> The manuscripts also contain more general and practical incantations and formulas for gaining power.<sup>79</sup> The texts cover a wide range of times and places, but they were probably shaped in Palestine and Babylonia between the third and eighth centuries CE.

The magical tradition is a profound influence on this literature.<sup>80</sup> Magical names figure prominently in the ascent texts. The angelic hierarchy described in the *heikhalot* literature closely resembles that of magical texts, and evidence is available that authors of magical texts borrowed from

<sup>77</sup> The texts are published in P. Schäfer, *Synopse zur Hekhalot-Literatur* (Tübingen, 1981); and idem, *Genizah-Fragmente zur Hekhalot-Literatur* (Tübingen, 1984). On *Merkavah* mysticism, see G. Scholem, *Major Trends in Jewish Mysticism*, 2nd ed. (New York, 1954), 40–79; idem, *Jewish Gnosticism*; P. Schäfer, *The Hidden and Manifest God: Some Major Themes in Early Jewish Mysticism* (Albany, 1992); D. J. Halperin, *Faces of the Chariot: Early Jewish Responses to Ezekiel’s Vision* (Tübingen, 1988); and ch. 30 in this volume.

<sup>78</sup> On the relationship of these two genres, see M. D. Swartz, *Scholastic Magic: Ritual and Revelation in Early Jewish Mysticism* (Princeton, 1996); P. Schäfer, *The Hidden and Manifest God*; see also Halperin, *Faces of the Chariot*.

<sup>79</sup> See, e.g., the “Book of the Great Name,” in Schäfer, *Synopse* §§489–95; and the adjuration of the Prince of the presence in §§623–39.

<sup>80</sup> The most systematic consideration of magic in *heikhalot* literature is written by R. Lesses, *Ritual Practices to Gain Power: Angels, Incantations, and Revelation in Early Jewish Mysticism* (Harrisburg, 1998); see also Swartz, *Scholastic Magic*; and P. Schäfer, “Merkavah Mysticism and Magic,” in P. Schäfer and J. Dan, *Gershom Scholem’s Major Trends in Jewish Mysticism 50 Years After: Proceedings of the Sixth International Conference on the History of Jewish Mysticism* (Tübingen, 1993), 59–78; see also P. S. Alexander’s response, 79–83.

the *heikhalot* tradition with its intricate enumeration of angels and description of the celestial topography.<sup>81</sup>

One of the most important ascent texts, *Heikhalot Rabbati*, describes an arduous ascent (sometimes called a “descent”) to the throne-room of God through seven successive layers of heaven, called *heikhalot* or palaces. At the gate of each palace stands an array of fierce angelic guards. The only way the human traveler can be admitted to the next palace is to show the guards a password or “seal.” These seals are divine names drawn from the magical tradition.<sup>82</sup> Therefore, for example, in *Heikhalot Rabbati*, Rabbi Ishmael gives the following instruction:

When you approach and stand before the first Heikhal, take the two seals in your two hands, one of TWTRWSY'Y YWY and one of SWWRY'; the Prince of the Presence. Show (the seal) of TWTRWSY'Y YWY to the (angelic guard) standing to the right and (the seal) of SWWRY' to the guard standing to the left.

In other strata of *Heikhalot Rabbati*, it is direct adjuration of the angels that causes ascent. Thus in §204 of the text the practitioner is instructed to do the following:

Call upon Suriyah, the Prince of the Presence, and adjure him one hundred twelve times by [the name] TWTRWSY'Y YWY, who is called TWTRWSY'Y SWRTQ TWTRBY'L . . . YWY, God of Israel. He should not add to the one hundred twelve times, or his blood will be on his head. Rather, the names should come out of his mouth and his fingers should count one hundred twelve times. Immediately he will descend and have command of the *Merkavah*.<sup>83</sup>

*Maaseh Merkavah* is a text composed largely of liturgical compositions used to produce visions of the heavens or to cultivate an angel who will impart wisdom. Into these compositions have been inserted extensive divine names that are said to effect the vision or protect the visionary once he has arrived.

The other major sector of the *heikhalot* corpus, and the one most influenced by magic, is the *Sar-Torah* literature. In these texts, an angel, the “Prince of the Torah” (*Sar-Torah*) or the “Prince of Wisdom” (*Sar-ba-Hokhmah*), imparts to the rabbinic hero wisdom, power, and, most significantly, a prodigious memory. The texts usually take the form of narratives in which a rabbi, usually Rabbi Ishmael, is instructed in a ritual procedure

<sup>81</sup> See, e.g., S. Shaked, “‘Peace Be Upon You, Exalted Angels’: on *Heikhalot*, Liturgy and Incantation Bowls,” *JSQ* 2 (1995), 197–219.

<sup>82</sup> On magical names in *heikhalot* literature, see Scholem, *Jewish Gnosticism*, 75–83.

<sup>83</sup> Schäfer, *Synopse*, §204, according to the MS Oxford 1531. Schäfer, “*Merkavah* Mysticism and Magic,” 65, suggests that this passage is a later addition meant to transform a description of the heavenly palaces into a “real” ascent account.



or taught a series of magical prayers. The narrative then testifies to the efficacy of the procedure that resulted in a dramatic improvement in the rabbi's memory and made him a great sage. The rituals and verbal formulas are usually designed to conjure the angel to come to earth. Thus, the *Sar-Torah* section of *Maaseh Merkavah* contains the following prayer, which expresses the worldview behind the *Sar-Torah* phenomenon:

You have formed Magnificent Ones of wisdom  
 who have permission to bring down the secrets of wisdom  
 by the authority of Your name,  
 For You are the king of the universe.  
 Therefore I pronounce before You  
 the name of SQDHWZYH Your servant:  
 [a long magical name follows here]  
 whose name is exalted because of the name of his Creator.  
 I have pronounced the name of SQDHWZYH Your servant  
 so there may be miracles, wonders, many marvels,  
 signs and many great and wondrous portents for me,  
 in the chambers of wisdom and the orders of understanding.<sup>84</sup>

The theology of this literature is spelled out effectively in this passage. The practitioner adjures the angel, who obeys him, not because of his inherent power, but because he has used the divine name, which acts as an authorizing agent. This name allows him to tap into the divine secrets stored in the "chambers of wisdom."

Another striking feature of these instructions is the elaborate ritual procedures for preparing oneself for encountering the angel. Such ritual preparations are found frequently in magical texts from the ancient Mediterranean, especially for writing divine names or receiving apparitions. They usually involve periods of fasting or dietary restrictions, seclusion, ritual ablution, and avoidance of any ritual impurity. Thus, Rabbi Ishmael is instructed by the angel Yofiel to do the following:

Whoever wants it to be revealed to him must sit in fasting for forty days, perform twenty-four immersions every day, and not eat anything defiling. He must not look at a woman, and must sit in a totally dark house.<sup>85</sup>

Other similar texts require avoidance of such foods as onions, garlic, and garden vegetables<sup>86</sup> or "bread of his own hands."<sup>87</sup> The purpose of these

<sup>84</sup> Schäfer, *Synopse*, §562. On this text, see Swartz, *Mystical Prayer*, 235–40; idem, *Scholastic Magic*, 74–81; and Lesses, *Ritual Practices*, 110, 418–19.

<sup>85</sup> Schäfer, *Synopse*, §314.

<sup>86</sup> See, e.g., the incantation for the Great Name, Schäfer, *Synopse*, §489.

<sup>87</sup> Schäfer, *Synopse*, §§299, 684, and 489.

rigorous prohibitions is apparently the avoidance of ritual impurity to a degree well beyond that required by Rabbinic *halachah*. The idea behind this prohibition seemed to be that angels, whether in heaven or on earth, were intolerant of any impurity that could be caused by contact with menstruating women and other contaminated persons and things as well as human odors that can be caused by eating certain vegetables. Thus, by resembling the angels in his purity, the practitioner makes himself receptive to the encounter with a revelatory being. The enterprise of conjuring an informing angel is confirmed in other Jewish magical texts.<sup>88</sup> Recipes for improving memory are also confirmed in Jewish and non-Jewish Mediterranean magic.<sup>89</sup>

#### IV JEWISH MAGIC AND JEWISH SOCIETY

Who were the Jewish magicians of late antiquity? What place did they occupy in Jewish society? The answer is not a simple one, as this survey describes a large variety of practitioners, clients, and theorists from many regions, classes, and walks of life. Surveys of amulets in the Genizah suggest that the authors and scribes of magical texts in the medieval Mediterranean ranged in education and profession from the barely literate to the skilled scribe and established shopkeeper.<sup>90</sup> In the case of Jewish magic in late antiquity, it is even more difficult to determine. For example, the *beikhalot* texts have been ascribed by modern scholars to the rabbinic elite,<sup>91</sup> the lower classes or what the Rabbis called *am ha-arets*,<sup>92</sup> and a group of non-elite intellectuals.<sup>93</sup> When one examines Jewish magical texts in late antiquity, one finds a diverse collection of individuals. Professionals dispensed well-wrought amulet texts, bowls, potions, and remedies to customers willing to pay the fee. There were intellectuals – what Jacob Neusner has called “the lawyer-magicians of Sasanian Babylonia”<sup>94</sup> – whose knowledge of the arcana of Torah encompassed expertise in medicine and demonology. In addition, ordinary men and women had learned the secrets of avoiding everyday dangers.

The contrast between magical traditions and the presumed mainstream is sometimes presented as a contrast between the folk and the elite, but the reality was doubtless more complicated. The authors of many magical texts

<sup>88</sup> See, e.g., S. Daiches, *Babylonian Oil Magic in the Talmud and in the Later Jewish Literature* (London, 1913).

<sup>89</sup> See Swartz, *Scholastic Magic*, 43–50; and I. G. Marcus, *Rituals of Childhood: Jewish Acculturation in Medieval Europe* (New Haven, 1996); P. Schäfer, “Jewish Magic Literature in Late Antiquity and the Early Middle Ages,” *JSJ* 41 (1990), 75–91.

<sup>90</sup> See L. H. Schiffman and M. D. Swartz, *Hebrew and Aramaic Incantation Texts from the Cairo Genizah: Selected Texts from Taylor-Schechter Box K1* (Sheffield, 1992).

<sup>91</sup> Scholem, *Major Trends*; idem, *Jewish Gnosticism*. <sup>92</sup> Halperin, *Faces of the Chariot*.

<sup>93</sup> Swartz, *Scholastic Magic*; see also n. 94 below. <sup>94</sup> Neusner, *History*, 1V 353.

and esoteric narratives were the products of a particular kind of education and training; they employed the Bible, motifs from Jewish and Hellenistic lore, and consistent orthography. Moreover, ritual practitioners sought authority in their communities by their efforts to present themselves as the inheritors of biblical and rabbinic traditions. That they achieved some success is confirmed by the popularity of their amulets and incantation bowls. It may, therefore, be worthwhile to see them as members of a “secondary elite,”<sup>95</sup> practicing as individuals but playing a role in the community. As scholars begin to integrate the study of Jewish magic into the study of ancient Judaism, it becomes clear that magic was an inseparable part of ancient Jewish lives.

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<sup>95</sup> The phrase is Moshe Idel’s, “On Judaism, Jewish Mysticism, and Magic,” in P. Schäfer and H. G. Kippenberg (eds.), *Envisioning Magic: A Princeton Seminar and Symposium* (Leiden and New York, 1997), 195–214.

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# JEWISH FOLK LITERATURE IN LATE ANTIQUITY

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## I FOLKLORE IN RABBINIC REALITY AND LITERATURE

The main cultural activity during the rabbinic period took place in the academy (*bet ha-midrash*) and in the synagogue. Learned activity took place in the former, a kind of academy and legislature in one, wherein the principal compositions of the period were produced – the Talmud and the Midrash. The synagogue served as a spiritual center for the various strata of society, including women and children, and was by its very nature more “popular.”<sup>1</sup> The Babylonian Talmud has preserved evidence of this: “R. Ishmael b. Eleazar said: On account of two sins *amme ha-arez* [“the simple, unlearned”] die: because they call the holy ark a chest, and because they call a synagogue *bet am*” (BT *Shabb.* 32a).<sup>2</sup> That is, the synagogue was regarded, by the people if not by the Sages, as more than a house of ritual; it filled a clear social function as well, as the “house of the folk” (*bet am*); in addition to prayer and Torah reading, sermons were delivered there by community rabbis or itinerant preachers, and also in the framework of oral

<sup>1</sup> On the synagogue and the academy in the rabbinic period see D. Urman, “The Synagogue and the Academy: Are They One and the Same?” in A. Oppenheimer, E. Kasher, and U. Rapaport (eds.), *Ancient Synagogues: Collected Studies* (Jerusalem, 1988), 53–75 (Hebrew), and the literature cited therein; Z. Safrai, “The Communal Roles in Synagogues in Palestine in the Time of the Mishnah and the Talmud,” in S. Schmidt (ed.), *Memorial Volume for Mordechai Weizer* (Jerusalem, 1981), 230–48 (Hebrew); S. Safrai, *Palestine and Its Sages in the Period of the Mishnah and the Talmud* (Jerusalem, 1984) (Hebrew); idem, “The Uniqueness and Importance of the Phenomenon of Synagogues in the Period of the Mishnah and the Talmud,” in Z. Safrai (ed.), *Synagogues in the Period of the Mishnah and the Talmud* (Jerusalem, 1986), 15–42 (Hebrew), and the important discussion and vast bibliography in E. Schürer, *The History of the Jewish People in the Age of Jesus Christ (175 BC–AD 135)*, a new English version, rev. and ed. G. Vermes, F. Millar, and M. Goodman (Edinburgh, 1986), II 415–54 (“School and Synagogue”).

<sup>2</sup> The translations from the main rabbinical sources are from the following editions: *Babylonian Talmud* (by name of tractate): *The Babylonian Talmud*, trans. I. Epstein (London, 1938–52); Midrash (by the name of each midrash): *Midrash Rabbah*, trans. H. Freedman and M. Simon (London and New York, 1983).

homily,<sup>3</sup> translators rendered the Torah portion into Aramaic, the *lingua franca* of the time, almost verbatim, interspersed with exegesis, aggadic elaborations and homiletic interpretation.<sup>4</sup>

Another sphere of social activity was the marketplace, or street, where the routine activities of daily life were carried out: trade, travel, work, and private and public events of various kinds. While we have no direct evidence of these kinds of social activity, they are alluded to in the discussions of the academy and in the sermons delivered to the public, and, as such, the literary material of the rabbinic period seems to paint a clear picture of day-to-day life. Before reaching our eyes, however, this picture must pass through the dual lens of how the Sages viewed and understood daily life, and how they put their remarks in writing in a later period. Hence it can be assumed that the image of the folk tale as reflected by this lens is sometimes true to life, and at other times completely distorted.

We should avoid the prevalent, if erroneous view which regards the spiritual activity of the academy, and the daily life of the marketplace, as oppositional, attributing folk literature creations only to the latter.<sup>5</sup> Participants in the spiritual life of the academy were a social group just like any other. The stories, parables, and proverbs created there, not in the marketplace, retold and refashioned in various formulas and contexts, should be considered folk creations as well.

Almost all of this period's folk prose (as well as its other cultural and spiritual expressions) has come down to us in the literary sources born of the academy. However, these literary contexts were not their "natural" habitat. Folk tales are communicative acts, which are created and presented mainly in public and private performances.<sup>6</sup> It is possible to try to reconstruct the

<sup>3</sup> On the public sermon, see J. Haineman, *Public Sermons in the Talmudic Period* (Jerusalem, 1971) (Hebrew); idem, *Aggadab and Its Development: Studies in the Evolution of Traditions* (Jerusalem, 1974), 17–48 (Hebrew); O. Meir, *Darshanic Story in Genesis Rabbab* (Tel-Aviv, 1987), 11–42 (Hebrew). On the oral aspects of rabbinic creativity see M. S. Jaffee, *Torah in the Mouth: Writing and Oral Tradition in Palestinian Judaism* (New York and Oxford, 2001).

<sup>4</sup> On the Targum (translations) and the translators' role in the transfer and creation of folk traditions see A. Shinan, *The Targumic Aggadab* (Jerusalem, 1979) (Hebrew); idem, *The Embroidered Targum: The Aggadab in Targum Pseudo-Jonathan of the Pentateuch* (Jerusalem, 1992), 120–67 (Hebrew).

<sup>5</sup> As was proved convincingly by G. Hasan-Rokem, *Web of Life: Folklore and Midrash in Rabbinic Literature* (Stanford, 2000).

<sup>6</sup> On these concepts in the theory of folklore see D. Ben-Amos and K. Goldstein (eds.), *Folklore: Performance and Communication* (The Hague, 1974); D. Ben-Amos, "Toward a Definition of Folklore in Context," *Journal of American Folklore* 84 (1971), 3–15; R. Bauman, "Folklore," in idem (ed.), *Folklore, Cultural Performances, and Popular Entertainments* (New York and Oxford, 1992), 29–40.

variety of performance events in which folk tales were told before an audience during this period only on the basis of chance remarks, as surviving evidence of them in the aggadic literature is limited and incidental.

Once when R. Manyumi b. Ḥelkiah and R. Ḥelkiah b. Tobiah and R. Huna b. Ḥiyya were sitting together they said: If anyone knows anything about Kefar Sekania of Egypt, let him say. *One of them thereupon said:* Once a betrothed couple [from there] were carried off by heathens who married them to one another . . . *The next then began and said:* On one occasion forty bushels [of corn] were selling for a *denar* and the number went down one, and they investigated and found that a man . . . *The third then began and said:* There was a man who wanted to divorce his wife, but hesitated because she had a big marriage settlement . . . (BT *Gitt.* 57a)

This cycle of stories is an example of a type of “story chain” in which, first, a subject is introduced, and then those present each recite a tale in turn, dealing with the subject. While the exposition of the occasion and the transition from one storyteller to another are provided by the text, no details regarding the site of the event are related – we do not know if it took place at the academy or at a meal or festive occasion of some kind – nor is there any description of an audience or its response. An example of another, similar performance event has survived in the Babylonian Talmud:

Raba said to Rafram b. Papa: Tell [us] some of the good deeds which R. Huna had done. He replied: Of his childhood I do not recollect anything, but of his old age I do. On cloudy [stormy] days they used to drive him about in a golden carriage . . . (BT *Taan.* 20b)

Here Rafram Bar Papa tells Raba some stories about the deeds of Rav Huna. It can be assumed that other people were present beside the two whose names are mentioned (Raba asks, “Tell [us],” on behalf of an audience of multiple listeners). The narrator claims to have personally witnessed the deeds. This is another typical performance event, in which someone who was associated in some way with a public figure of note – as a servant or student perhaps – is asked to tell a story about him. During the gap between the actual events and their retelling (usually after the hero’s demise), the stories undergo a process of crystallization. As such, it is clear that they do not constitute a reliable account of the hero’s life, but rather of the manner in which his image was fashioned by later generations.<sup>7</sup>

<sup>7</sup> The first to describe “le loi de crystallisation” was A. Van Gennep, *La Formation des légendes* (Paris, 1917), and cf. L. Dégh, “Process of Legend Formation,” *IVth International Congress for Folk-Narrative Research in Athens* (Athens, 1965), 77–87; S. K. D. Stahl, “The Oral Personal Narrative in its Generic Context,” *Fabula* 18 (1978), 21–34. See now the comprehensive work, L. Dégh, *Legend and Belief: Dialectics of a Folklore Genre* (Bloomington and Indianapolis, 2001).

Another kind of performance event within whose framework folkloric material is brought forth in rabbinic literature is the description by the Sages of the folk informants from whom they drew their folkloric material. A typical example is Abaye's account of folk beliefs and cures: "Mother told me . . ." (BT *Shabb.* 66b–67a). It has been speculated that "Mother" was Abaye's nursemaid, but for our purposes the actual connection between the sage and his informant matters little. What is important is that the sage has reported, almost certainly in the academy, things told to him by a prime example of folk culture – a woman expert in folk medicine and the folkloric traditions then current in Jewish society. In Roman culture too, there is ample evidence of nursemaids and governesses of the lower classes from whom pundits and men of letters learned of folk customs and traditions. Such lore was ridiculed in Latin as "grandmother tales."<sup>8</sup> These women were among the most important disseminators of folklore in ancient Rome, and were instrumental as well in the passing of folkloric customs to the elite culture.

Additional evidence has survived concerning the prohibition against the preachers (*darshanim*) "who raise their voices in sing-song style to make the people hear" (*Eccles. R.* 7.5), who turned the sermon into something of an entertainment. The Sages' opposition to this practice is clear proof that the preachers and professional storytellers used homiletic interpretation and Aramaic translations of the Torah in dramatic presentations of folktales. An unambiguous instance of this comes down to us in the story of the rivalry between Rabbi Judah the Patriarch and Yose ha-Maoni. The latter preached, in the synagogue of Maon, against the avarice and pride of the Patriarch's dynasty. Rabbi Judah was enraged upon hearing of it, and Yose fled for his life. Resh Lakish, in trying to assuage the Patriarch's anger, equated Jose of Maon's function to that of "clowns in theaters and circuses [of heathens who] amuse themselves with them."<sup>9</sup> Whereas Yose committed this indiscretion while engaging in words of Torah, it is clear that Resh Lakish drew a parallel between the preacher and the comedians or actors of the Gentiles. Further proof is that Resh Lakish's words of explanation were well received by Rabbi Judah, who calmed down after hearing them.

On this subject it is worth noting another type of public performance or street theater, in which various stories were dramatized. Regrettably, the only such phenomena described in the talmudic and midrashic literature, and hence the only surviving evidence of such, were anti-Semitic entertainments. There is the address of Rabbi Abbahu in Caesarea, concerning the anti-Jewish satires in which the actors mocked Jewish poverty. They would bring a camel into the

<sup>8</sup> A. Scobie, "Story-tellers, Storytelling and the Novel in Graeco-Roman Antiquity," *Rheinische Museum für Philologie* 122 (1979), 232.

<sup>9</sup> *Gen. R.* 80.1; *PT Sanh.* 2.6.



theater, draped in robes as a sign of mourning. When the actor asked what the camel was mourning, a second actor would reply that the Jews, then in their sabbatical year (i.e., *Shemittah*, a rest of the soil), had eaten all the camel's thistles and he was left with nothing to eat. Or a bald actor would come on stage and, when asked why he had shaved his head, answered that no oil was to be had in the market, and he could not anoint his head. When questioned further, he explained that the Jews had bought up all the oil to anoint their flesh in honor of their Sabbath.<sup>10</sup> Various types of street performances, including skits, storytelling, songs, and magic practices, were undoubtedly one of the contact points between general folk culture and Jewish culture, and the main place where the Sages encountered the various types of folk culture, which they used later in their sermons and halachic arguments.

In the following sections I shall present four major types of folk narratives in rabbinic culture: the legend, the magic tale, the fable, and the humoristic tale:

#### A THE LEGEND

The biographical legend is one of the most popular narrative genres in rabbinic literature. It centers on the persona of a sage, leader, or folk saint around whose various stages of life the people wove legends. Natural human admiration for a charismatic figure, and widespread belief in such an individual's supernatural abilities to ease the daily travails of the faithful, explain the preponderance of the biographical legend in talmudic literature. Certainly this was the case with the general public; yet, even among the learned, biographical legends played an important role. They provided a sterling example of ethical behavior and decision-making according to the desired norms, and thus served as the principal guidelines of a religious way of life.<sup>11</sup>

<sup>10</sup> *Lam. R.* introduction 17; and another version, *BT Av. Zar.* 11b. On these see M. B. Lerner, "Anti-Semitic Theater in the Roman Empire," *Mahanayyim* 76 (1963): 128–9 (Hebrew); M. D. Herr, "Hatred of Jews in the Roman Empire in Light of Rabbinic Literature," *Volume in Memory of Benjamin de-Vries* (Jerusalem, 1969), 149–59 (Hebrew); and D. Gilula, "Jokes about Jews in Roman Literature," *Jerusalem Studies in Jewish Folklore* 9 (1986), 7–37 (Hebrew).

<sup>11</sup> The main historical and religious questions of this theme were described in D. L. Tiede, *The Charismatic Figure as Miracle Worker* (Missoula, 1972); W. S. Green, "What's in a Name? – The Problem of Rabbinic 'Biography,'" in W. S. Green (ed.), *Approaches to Ancient Judaism: Theory and Practice* (Missoula, 1978), 1 77–96; P. S. Alexander, "Rabbinic Biography and the Biography of Jesus: A Survey of Evidence," in C. M. Tuckett (ed.), *Synoptic Studies: The Ampleforth Conference of 1982–1983* (Sheffield, 1984), 19–50; and R. L. Cohn, "Sainthood on the Periphery: The Case of Judaism," in R. Kieckhefer and G. D. Bond (eds.), *Sainthood: Its Manifestations in World Religions* (Berkeley, 1988), 43–68.

Rabbinic literature contains hundreds of biographical legends;<sup>12</sup> their fabula spans the full range from a short sentence reporting on a sage's exceptional behavior to a long and elaborate biographical tale. The biographical legends in the Talmud and Midrash fall naturally into one or the other of the two acknowledged categories, according to their source and function: there are those biographical legends that originated in the folk admiration for the figure of a pious individual, and those that serve to strengthen social, ethical, and religious principles. A significant number of these highlight the conflict and rivalry between folk miracle-workers (such as Honi the Circle-Drawer, Hanina Ben-Dosa, and Pinhas Ben-Yair) and the Sages.<sup>13</sup> It appears that rabbinic literature came by these legends via folk traditions. Other biographical legends, offered as a basis for a legal ruling (*halachah*) or hagiographical-homiletic interpretation (as in the story of Hillel the Elder and the Sons of Bathyra, for example),<sup>14</sup> emerged from the circles of scholars in the academy, and only later became folk legends.

The tales of Hillel studying Torah, of Rabbi Eliezer ben Hyrcanus and of Rabbi Akiva are among the most famous in *aggadah*.<sup>15</sup> The tales have various formulas in rabbinic and post-talmudic literature, which proves, for

<sup>12</sup> For a concentration of biographical legends in rabbinic literature see B. Z. Bacher, *Aggadot ha-Tannaim* (Legends of the Tannaim) (Berlin, 1922) (Hebrew); H. N. Bialik and Y. H. Ravnitzky (eds.), *The Book of Legends: Sefer Ha-Aggadah*, trans. W. G. Braude (New York, 1992), 201–332 (“The Deeds of the Sages”); E. E. Halevy, *The Historical-Biographical Aggadah in Light of Greek and Latin Sources* (Tel-Aviv, 1975) (Hebrew).

<sup>13</sup> G. B. Tzarfati, “Pious Men and Men of Deeds and the First Prophets,” *Tarbiz* 26 (1957), 126–53 (Hebrew); E. E. Urbach, *The Sages: Their Concepts and Beliefs*, trans. I. Abrahams (Jerusalem, 1979), 506–11; G. Vermes, “Hanina Ben Dosa,” *JJS* 23 (1972), 28–50; 24 (1973), 51–64; Tiede, *The Charismatic Figure as Miracle Worker*; B. M. Bokser, “Wonder Working and the Rabbinic Tradition: The Case of Hanina ben Dosa,” *JSJ* 16 (1985), 42–92; W. S. Green, “Palestinian Holy Men: Charismatic Leadership and Rabbinic Tradition,” *ANRW* XI/2 (1979), 619–47.

<sup>14</sup> On the tale of Hillel and the Sons of Bathyra see S. Lieberman, *Tosefta Ki-Fshutab, Pesahim*, ch. 4 (New York, 1962), 566–7 (Hebrew); *PT Pes.* 33.1; *BT Pes.* 66a; Bacher, *Aggadot*, I, Part 1, 2–3; Urbach, *Sages*, 576–93.

<sup>15</sup> On the legends created around Hillel see N. Glotzer, *Hillel the Elder* (New York, 1957); S. Safrai, “Sayings and Legends in the Hillel Tradition,” in J. H. Charlesworth and L. L. Johns (eds.), *Hillel and Jesus: Comparative Studies of Two Major Religious Leaders* (Minneapolis, 1997), 306–20. On Rabbi Eliezer ben Hyrcanus see Z. Kagan, “Divergent Tendencies and their Moulding in the Aggadah,” *ScrHie* 22 (1971), 151–70; R. D. Aus, “Luke 15.11–32 and R. Eliezer ben Hyrcanus's Rise to Fame,” *JBL* 104 (1985), 443–469. For the traditions on Rabbi Akiva see L. Finkelstein, *Akiba: Scholar and Martyr* (New York, 1936); J. Goldin, “Toward a Profile of the Tanna Akiba ben-Joseph,” *JAOS* 96 (1976), 38–56; C. Kolitz, *Rabbi Akiva: Sage of All Sages* (Woodmore, 1989); and S. Safrai (ed.), *R. Akiva ben Yosef: His Life and Thought* (Jerusalem, 1971) (Hebrew).

our purposes, that the tale “passed” the societal barrier, and should be seen as a folk tale in every sense. The common denominator of the stories of the emergence of these and other sages is their ignorance until a relatively advanced age (forty, twenty-seven), and the commencement of Torah study despite the obstacles society placed before the hero. The social and didactic significance of this narrative pattern is obvious. The tales serve the function of birth tales of the heroes in folk literature outside of the talmudic literature. From the perspective of this literature, the significant births of Hillel the Elder, Rabbi Eliezer ben Hyrcanus or Rabbi Akiva were not the biological events, but their spiritual rebirths. Stories that so overtly replace biological processes (which figure in general folklore) with spiritual ones, and value Torah study above all else, seem to have originated in the learned culture of the academy. I consider this a typical example of the transformation of tales originating in the academy into folk tales. They were created to serve the interests of the learned, but became folk tales nonetheless, owing either to the fame of their heroes, or to the narrative framework and its particular message: The lowly hero, whose origins and personality as initially revealed are hardly promising, succeeds by sheer willpower in reaching the social ideal. In this fashion, the Sages mobilize the very widespread narrative model (the unpromising youngest son rises to greatness) to illustrate the ethical and ideological goals whose dissemination they seek.

Another type of legend, as popular in the rabbinic period as the biographical, is the historical legend. It concentrates on a single, central event in society’s collective memory, and tells it in a narrative, artistic form. The starting point in any discussion of the historical legend must be its claim to credibility. Legend mobilizes all the artistic means at its disposal (recognizable and identifiable time and place, authentic background and heroes, intensive use of conventional folk beliefs and the collective social memory) to attain the main goal: belief that the events related therein “really happened.” Nevertheless, analysis by historians and folklorists alike has shown the kernel of historical truth in most of the legends to be very small indeed, and quite difficult to identify and define.<sup>16</sup> The difficulty stems primarily from the fact that most historical legends concern events for which we have no evidence from any other source, and it is very hard, therefore, to verify the information presented. The pertinent fact is that

<sup>16</sup> W. D. Hand (ed.), *American Folk Legend: A Symposium* (Berkeley, 1971); L. Petzoldt (ed.), *Vergleichende Sagenforschung* (Darmstadt, 1969); L. Röhrich (ed.), *Probleme der Sagenforschung* (Freiburg im Breisgau, 1973); and now the book which covers most aspects of the genre: H. P. Ecker, *Die Legende: Kulturanthropologische Annäherung und eine literarische Gattung* (Stuttgart, 1993).

historical legend is the principal component of the historical consciousness of society. It is a product of that historical consciousness, and preserves the manner in which that consciousness grasps the past; it furthermore mobilizes this past in order to better understand the present and shape hopes for the future.

The Sages were not historians, and they never considered themselves as such.<sup>17</sup> However, the dozens of historical legends spread all over rabbinic literature confront the historian and the folklorist with a special set of scholarly problems. The main events of this period – the Herodian controversy, the great revolt, the destruction of the temple; the Bar Kochba Revolt; the exile; the confrontation with Greek culture and the rise of Christianity – are preserved here in the form of historical legends. Legends they are, as they exist in multiple variants, their narrative structure is that of the legend genre, they are built around folkloric motifs, and they have parallels in international folklore. However, the legends' main function is not historiographic. Their narrative structure, their context, and their meaning are directed toward moral and religious goals.

The legend of Bar Kochba depicts this process very clearly. It is told how Bar Kochba selected his soldiers – by their having a finger severed and uprooting a cedar tree – and how Hadrian's troops could not overpower them. "And when they went forth to battle they cried: O God, neither help us nor discourage us! that is what is written: 'Hast Thou not rejected us, O God? so that Thou goest not forth, O God, with our hosts' (Ps. 60.12)."<sup>18</sup> Bar Kochba is depicted as a mythological hero who could wield catapult stones with one hand and kill hordes of enemy soldiers. Hadrian besieged the city of Bethar for three and a half years, and was considering giving it up when a Samaritan realized that the city would hold out only so long as Rabbi Eleazar of Modiin remained within and continued to entreat the Almighty to protect them. That same Samaritan penetrated the city and whispered a few words in Rabbi Eleazar's ear, so that Bar Kochba would suspect him of treason. Bar Kochba kicked the sage, killing him, thus sealing Bethar's fate of destruction and his own death warrant. When Bar

<sup>17</sup> I. Sonne, "The Use of Rabbinic Literature as Historical Sources," *JQR* 36 (1945), 147–69; M. D. Herr (ed.), *The History of Palestine: The Roman-Byzantine Period* (Jerusalem, 1985), 377–9 (Hebrew); and idem, "The Concept of History among the Sages," *Proceedings of the Sixth World Congress of Jewish Studies* (Jerusalem, 1977), 111–29–42 (Hebrew). The most comprehensive study of the cultural and literary aspects of the Sages' historiographical outlook is still the pioneering work of I. Heinemann, *Pathways of Legend* (Jerusalem, 1954) (Hebrew), wherein he develops the notion of the "creative historiography."

<sup>18</sup> It reached us in the Palestinian sources: PT *Taan* 1.8; *Lam. R.* 2.4.

Kochba's corpse was brought out, a snake was found wrapped around his neck, and Hadrian himself announced that Heaven alone could harm him.<sup>19</sup>

Which foundations of the tale can withstand the test of historical veracity? One detail of note concerns the forceful and cruel personality of Bar Kochba himself. We know from other sources (such as Bar Kochba's letters, found in "The Cave of the Letters" in the Judean Desert) that he inspired dread in his subjects and threatened anyone who did not obey his orders with harsh punishments.<sup>20</sup> It is interesting to see how folk consciousness preserved this memory. But Bar Kochba's characterization is built essentially as a typical mythological figure: no mere mortal he, rather the "son of a star" (his name's Hebrew meaning). No less a personage than Rabbi Akiva alludes to his divine origin. He puts his men through inhuman tests of cruelty and endurance (motifs taken from international folklore as well). He himself is credited with supernatural strength, and his death can be brought about only by divine might (another allusion to his divine origin). Such a description is a proof that Bar Kochba and his men had the potential to triumph in their revolt, but the sin of pride led them to rebel not only against Hadrian, but against the Almighty himself. The episode concerning Rabbi Eleazar of Modiin is of special significance: the secret of Bar Kochba's strength had nothing to do with his physical attributes, as he and his soldiers believed; rather, it was Rabbi Eleazar's presence within the besieged city of Bethar that preserved them. The sage's spiritual fortitude endowed the revolt with its real strength; the moment he was brutally killed, Bar Kochba lost his ability to withstand the Romans. The import is that it was the spiritual support of the Jewish sages in the revolt that was the secret of Bar Kochba's might. Once mere brute force was left to defend against brute force, it was defeated forthwith.

The legend of Bar Kochba in its different versions organizes the known events of the revolt according to a narrative structure with ostensible meaning. This is the familiar structure of the sin and its punishment, where the sin is pride, and downfall its wages. This is the pride that

<sup>19</sup> On the Bar Kochba legend among the Sages see S. Krauss, "The Regiments of Bar-Kokhba," *Jubilee Volume for Alexander Marks* (New York, 1950), 391–9 (Hebrew). R. G. Marks, *The Image of Bar-Kokhba in Traditional Jewish Literature* (University Park, PA, 1994), compares versions of the legend in the Palestinian Talmud and Midrash *Lamentations Rabbah*.

<sup>20</sup> On various aspects of the historical figure of Bar Kochba and the rebellion he led see two collections of articles: A. Oppenheimer (ed.), *The Bar-Kokhba Revolt: Collected Articles* (Jerusalem, 1980) (Hebrew); A. Oppenheimer and E. Rappaport (eds.), *The Bar-Kokhba Revolt: New Studies* (Jerusalem, 1984) (Hebrew), and the exhaustive bibliography in the latter, 243–51. See also ch. 4 in this volume.

characterizes mythological figures who sinned against heaven (the Greek *hybris*), for which the god reduced them to dust.<sup>21</sup> The legend of Bar Kochba was not told by a historian, but created in the folk imagination over many years, and crystallized in a literary format which gives it meaning. The true balance of powers between the rebels and the Roman forces, and the political and economic conditions of the time, were meaningless to Jewish society when this legend was told. As far as this society was concerned, the revolt might have succeeded had it not been for Bar Kochba's arrogance against the Lord and his sages. It is not possible today to estimate how much was truly known about the Bar Kochba Revolt in the amoraic period. Folk consciousness chose certain details from the collective memories of the revolt, and they were arranged in a meaningful literary structure. This process certainly did not happen all at once; rather, it stretched over the 200–300 years between the events themselves and their crystallization as oral and written legend.

It is almost impossible to discern today what were the form and function of these historical legends as oral tales, before they were put into writing in rabbinic literature. From what we know about legends in general, the main goal of the narrating of catastrophic events (like most of the historical events mentioned here) was to furnish them with meaning, and thus to strengthen the spirit of the community, and point at new goals and hopes which will enable it to survive as a cultural unit.

#### B MAGIC AND THE SUPERNATURAL

Magic tales in rabbinic *aggadah* are unique in form and content. Their profusion and diversity constitute some of the earliest, most important evidence of this theme in general folklore. These tales significantly enhance our understanding of how Jews of the period perceived magic. The Sages define the many magic beliefs scattered in the rabbinic literature as pagan rites; their attitude towards them is almost always critical and disapproving. Here again we have the familiar dichotomy between “the people,” who, believing in the *world of magic* and demonology, act accordingly, and the Sages who report, rationally analyze, and criticize them. In the *tales*,

<sup>21</sup> On mythological motifs that parallel the Bar Kochba legend, and especially in Graeco-Roman culture, see E. E. Halevy, *The World of the Aggadab: The Aggadab in Light of Greek Sources* (Tel-Aviv, 1972), 112–14 (Hebrew); idem, *The Historical-Biographical Aggadab*, 440–5. The international typology of the revolt against heaven and “pride punished” is AT 836 [in A. Aarne and S. Thompson, *The Types of the Folktale, A Classification and Bibliography* (Helsinki, 1961, FFC no. 184)] and its various offshoots.

however, magic exploits feature the Sages themselves as heroes, who profess unqualified belief in the power of magic.<sup>22</sup>

In these tales the Sages share the fundamental notions of magic and demons evinced by folk beliefs and tales of magic:

It has been taught: Abba Benjamin says, If the eye had the power to see them, no creature could endure the demons. Abaye says: They are more numerous than we are and they surround us like the ridge round a field. R. Huna says: Every one among us has a thousand on his left hand and ten thousand on his right hand. Rava says: The crushing in the Kallah [the assemblies of Babylonian students] lectures comes from them. Fatigue in the knees comes from them. The wearing out of the clothes of the scholars is due to their rubbing against them. The bruising of the feet comes from them. (BT *Ber.* 6a)

This was how reality was perceived at the time: beyond the visible lies the occult – teeming with threatening demonical creatures. They swarm about mere mortals, just waiting for one to stumble so that they can attack. As we can well see from the rabbis' statements above, the demonological tale, in one respect, serves the etiological function of the mythic tale – a kind of “pseudo-science.” The solution to all those familiar little mysteries, such as what causes cramp, fatigue in the knees, or frayed clothing, is in the “world full of demons” which surrounds us. Abaye, Rav Huna, and Rabbah, some of the most quoted personalities in rabbinic literature, delivered these statements concerning these hordes of menacing demons. If they were not made in a humorous vein, mocking fools who believe anything, they testify to the depth of penetration of such beliefs even among the educated elite. Similarly, Greek and Roman sources attest to members of the educated class espousing magic beliefs. They may ridicule the “fools” who believe in them, yet their statements betray a deep belief in the existence of and danger presented by demons, spirits, and sorcerers.<sup>23</sup> Such an ambivalent attitude

<sup>22</sup> The most complete, detailed, and reliable survey is still H. L. Strack and P. Billerbeck, “Zur altjüdischen Dämonologie,” in *Kommentar zum Neuen Testament aus Talmud und Midrasch* (Munich, 1922), IV/1 501–35. Some of the latest studies of the attitude of rabbinic culture to magic (which include also references to the earlier studies) are P. S. Alexander, “Incantations and Books of Magic,” in Schürer, *History*, 11/1, 342–79; P. Schäfer, “Jewish Magic Literature in Late Antiquity and Early Middle Ages,” *JJS* 41 (1990), 75–91. An updated survey of most themes connected with magic in the Talmud is G. Veltri, *Magie und Halakha* (Tübingen, 1997). See also ch. 28 in this volume.

<sup>23</sup> J. C. Baroja, *The World of the Witches* (Chicago and London, 1965), 17–40, and the literature cited there. Baroja points to the writings of Plato, Ovid, Petronius, Lucian, Apuleius, and others, in which testimony survived regarding the demonic beliefs of their time, and on the complex attitude towards these manifestations. See *ibid.*, 19, 31, 38–9. On the social status of the magician in ancient Rome see F. Graf, *Magic in the Ancient World*, trans. F. Philip (Cambridge, MA, and London, 1997).

of the educated toward the world of magic is hence the legacy of all the ancient world.

In most of the period's magic tales, demons constitute a menace to the human world, and only by defined magical means and actions can they be countered. Proof of the currency of this notion can be found in the impressive array of such measures (incantations, amulets, and spells) whose descriptions are scattered throughout and outside the rabbinic literature.<sup>24</sup> The fuller expression of demonic beliefs of the period survived in them, and not necessarily in the magic tales, whose number is relatively small. However, the importance of the tales is that they reflect in a masterful and unbiased manner the beliefs, practices, and modes of thought that could not have been openly expressed in any other format.

Encounters between humans and demons and harmful spirits take place in the street, or on a journey. Thus Rabbi Ḥanina ben Dosa and Abaye, walking at night, chance to meet a she-demon named Agrat bat Maḥlath, who is accompanied by her retinue of destructive angels. The sages command her to keep out of populated areas, and she submits, except for Wednesday and Sabbath nights, when she is permitted (BT *Peṣ.* 112b). Essentially, it describes a demonic phenomenon and prescribes how to protect oneself from it. On the other hand, the tale emphasizes that Ḥanina ben Dosa and Abaye were not harmed by the demons: "On one occasion she met R. Ḥanina b. Dosa [and] said to him, 'Had they not made an announcement concerning you in Heaven, "Take heed of Ḥanina and his learning," I would have put you in danger . . .' On another occasion she met Abaye. Said she to him: 'Had they not made an announcement about you in Heaven, "Take heed of Naḥmani and his learning," I would have put you in danger.'" In other words, the Torah is the true shield against injury by demons. Knowing the habits of the demons, the times when one must be wary of them and the like are limited, "technical" means of grappling with them. To be a Torah scholar, however, is to guarantee one's safety in this

<sup>24</sup> A cluster of magic traditions from the tannaic period appears in chs. 6–7 of Tos. *Shabb.*, and see the important interpretation of S. Lieberman, *Tosefta Kifshutab* (New York, 1962), 111 79–105 (Hebrew), and the literature cited there. On the texts from BT *Av. Zar.* see E. E. Urbach, "The Laws of *Av. Zar.* in Light of the Archeological and Historical Reality of the Third and Fourth Centuries," *Eretz Yisrael* 5 (Benjamin Mazar Volume, 1959), 189–209 (Hebrew); idem, *Sages*, 97–123; S. Lieberman, *Greek and Hellenism in Palestine* (Jerusalem, 1963) 245–52, (Hebrew). Folk medicine has always been the main arena for dabbling in magic, and see the classic study of J. Preuss, *Biblisoh-Talmudische Medizin* (Berlin, 1911) (= *Biblical and Talmudic Medicine*, trans. F. Rosner [New York, 1978]). On the use of symbols and magic objects in this period see the monumental compendium of E. R. Goodenough, *Jewish Symbols of the Greco-Roman Period*, 13 vols. (New York, 1953–68).



demon-infested world. Thus, among the Sages, the demonological tale became an *exemplum* whose objective was to reinforce the practical value of Torah study.

Another demon who endangers walkers is Ketev Meriri. The several depictions of this demon in rabbinic literature include an interesting assortment of demonological attributes. The descriptions of the demon are not unique; rather, they were borrowed from general folklore's treasury of motifs: his head typifies the familiar motif of the unicorn, which is a horse or a bull (or even a calf) from whose forehead protrudes a single horn. The demon's body, overlaid with "scales, hairy all over, and full of eyes," is the motif of the many-eyed dragon whose body is covered with impenetrable scales, making it invincible against weapons. The tradition recounted by Resh Lakish, about the single eye fixed in his heart, is another motif, that of the Cyclops, grafted on to the folk belief in the so-called "evil eye" possessed by some individuals and creatures. A mere glance is enough to kill. All these show the firm bond between the Jewish demonological world and general folklore of the period.<sup>25</sup>

One might expect to be invulnerable to demons in the synagogue or academy, at whose doors one was supposed to leave behind the material concerns of daily life. Once inside, one was presumably closer to the Almighty than anywhere else. The academy was by definition a shield against the demons. Nonetheless, at least one important text has survived among the tales of the period featuring demons in the academy:

R. Jacob, son of R. Aha b. Jacob, was once sent by his father [to study] under Abaye. On his return he [his father] saw that his learning was dull. "I am better than you," said he to him; "do you [now] remain here, so that I can go." Abaye heard that he was coming. Now, a certain demon haunted Abaye's schoolhouse, so that when [only] two entered, even by day, they were injured. He [Abaye] ordered, "Let no man afford

<sup>25</sup> On the unicorn see O. Shepard, *The Lore of the Unicorn* (London, 1929); J. Einhorn, *Spiritualis Unicornis: Das Einhorn als Bedeutungsträger in Literatur und Kunst des Mittelalters* (Munich, 1976). The body of the demon (or dragon) is covered with a protective, impenetrable layer; see D. Neuman (Noy), *Motif Index to the Talmudic-Midrashic Literature* (PhD thesis, Indiana University, Bloomington, 1954), motifs G302.4 and ff. On the demon Ketev Meriri and his place in the development of Jewish folklore see A. Löwinger, "Der Windgeist Keteb," *Jahrbuch für Jüdische Volkskunde* 2 (1924–5), 157–70; Noy, *Motif Index*, motif G302.2; and, in the international classification of S. Thompson, *Motif Index of Folk-Literature*, 6 vols. (Copenhagen and Bloomington, 1955–9), G369.7, Demon with one eye; D1402.2, Magic eye kills all who see it. On folk beliefs in the "evil eye" and ways of combating its peril in Greece and Rome of the first century BCE and on, see Baroja, *World of the Witches*, 38, and the full survey in: E. S. McCartney, "Praise and Dispraise in Folklore," in A. Dundes (ed.), *The Evil Eye: A Casebook* (Madison, 1981), 9–38; and in Jewish sources: R. Ulmer, *The Evil Eye in the Bible and Rabbinic Literature* (Hoboken, 1994).

him hospitality; perhaps a miracle will happen [in his merit]." So he [R. Aha] entered and spent the night in that schoolhouse, during which it [the demon] appeared to him in the guise of a seven-headed dragon. Every time he [R. Aha] fell on his knees [in prayer], one head fell off. The next day he reproached them: "Had not a miracle occurred, you would have endangered my life." (BT *Kidd.* 29b)

This is one of the fiercest demon tales extant in rabbinic literature. It belongs to the category of rescue tales in which a dragon takes over a place and harms its inhabitants. A mythic hero (or Christian saint) who happens to come on the scene, or who is summoned, fights it, cuts off all seven heads and saves the people.<sup>26</sup>

The story of R. Aha ben Jacob is replete with motifs connected to the study of the Torah. Hence it is clear that before us lies a demon tale which underwent an extreme process of judaization regarding location, the heroes and their motives, and the magic practice itself. This density of motifs of the realm of Torah study and divine worship indicates both the process of the story's transformation from a distinctly demonological text to an ethical tale, and its intended function – an example of the power of the Torah over the demonical world and its beliefs.

#### C THE MASHAL (FABLE)

Talmudic literature abounds in fables and parables, generically called *masbal*. They generally serve a rhetorical function, exemplifying or elucidating the topic of discussion. Most fall formally and thematically into the sub-genre of "parable," a literary-rhetorical form used to analogize the idea put forward by the text.<sup>27</sup> This type of *masbal* presents a familiar, perceptible representation or picture as an aid to understanding or fleshing out a complex idea. These "pictures" generally lack a literary plot, and they are not designed to exist as independent tales; they are literary units

<sup>26</sup> Thompson, *Motif Index*, B11.23.1: Seven-headed dragon; Noy, *Motif Index*, motif G302.16, and the tale type AT 300: The dragon-slayer. On Christian saints who do battle with dragons (especially the legend of St. George and the dragon) see J. B. Aufhauser, *Das Drachenvunder des Heiligen George in der griechischen und lateinischen Überlieferung* (Leipzig, 1911); J. Fonterose, "Saint George and the Dragon," in idem, *Python: A Study of Delphic Myth and Its Origin* (New York, 1974), appendix 4.

<sup>27</sup> The distinction between *fabula* – the narrative fable – and *parable* as exemplary tale originated with Aristotle's theory of rhetoric. Cf. Aristotle, *The "Art" of Rhetoric*, ed. and trans. J. H. Freese (Cambridge, MA, 1926), II 20, 1393a–b, and the studies dealing with the distinction between this pair of terms: E. Leibfried, *Fabel* (Stuttgart, 1967); D. Stern, "Rhetoric and Midrash: The Case of the Mashal," *Prooftexts* 1 (1981), 263–5, and especially idem, *Parables in Midrash: Narrative and Exegesis in Rabbinic Literature* (Cambridge, MA, and London, 1991); and J. D. Lyons, *Exemplum: The Rhetoric of Example in Early Modern France and Italy* (Princeton, 1989), 6–11.

contextually dependent upon the preacher's analogy to the idea he is developing. They were generally devised for one-time use, and were not told beyond the confines of homiletic interpretation or legal discussion. Therefore they in no way meet the criteria of folk tale.<sup>28</sup>

The fable is one of the most ancient literary forms known. Many fables and remnants of animal tales have been found in the writings of ancient Sumer, Babylonia, and Egypt, indicative of intensive activity in these areas, as regards both elite literary creativity and folklore. Some would attribute this creativity to the anthropomorphic worldview of the ancient cultures, according to which animals were graced with human thoughts and attributes, and lived in kingdoms analogous to those of humanity, in which they interacted with each other in human ways. The anthropomorphic perspective, paired with the will to comprehend animals' ways of life on account of their proximity to and interdependence with humans, was responsible for the many myths and tales on the origins of animal traits and the complex relationship between the animal kingdom and the human world.<sup>29</sup>

The ancient Babylonian myth of Etana is a typical example to describe the connection between an animal tale and a fable. The tale opens with a pact between the serpent and the eagle: they agree not to harm each other, with the

<sup>28</sup> The classic study of king parables (which constitute the majority of exemplary *masbal* in rabbinic literature) is I. Ziegler, *Die Königsleichnisse des Midrasch, beleuchtet durch die römische Kaiserzeit* (Breslau, 1903); see also on this theme A. A. Feldman, *The Parables and Similes of the Rabbis: Agricultural and Pastoral* (Cambridge, 1924); R. Pautrel, "Les Canons du *masbal* rabbinique," *RSR* 26 (1936), 1–45; R. M. Johnston, "The Study of Rabbinic Parables: Some Preliminary Observations," *SBLASP* 10 (1976), 337–57; and the insightful analysis of Stern, *Parables in Midrash*. Modern scholarship on the parable is sustained chiefly by the intensive treatment of the parables of Jesus in the New Testament. This scholarship is discussed in W. S. Kissinger, *The Parables of Jesus: A History of Interpretation and Bibliography* (Metuchen, 1979). For a comparison of these with those of the Sages see P. Fiebig, *Der Erzählungsstil der Evangelien im Lichte des rabbinischen Erzählungsstils* (Leipzig, 1925); and D. Flusser, *Die rabbinischen Gleichnisse und der Gleichniserzähler Jesus* (Bern, 1981).

<sup>29</sup> The influential theory on the emergence and evolution of the fable from the ancient Near East was formulated by B. E. Perry, "Fable," *Studium Generale* 12 (1959), 17–37; idem, "Introduction," *Babrius and Phaedrus* (Cambridge, MA, 1965), xix–xxxiv; as well as the exhaustive bibliography in P. Hasubek (ed.), *Die Fabel: Theorie, Geschichte und Rezeption einer Gattung* (Berlin 1982); P. Carnes, *Fable Scholarship: An Annotated Bibliography* (New York and London, 1985). On the narrative *masbal* among the Sages see M. Steinschneider, *Jewish Literature From the Eighth to the Eighteenth Century* (London, 1857), 35–42; S. Back, "Die Fabel im Talmud und Midrasch," *Monatsschrift für Geschichte und Wissenschaft des Judentums* 24 (1876), 540–55; 25 (1877), 27–38, 126–38, 195–204, 276–85, 493–504; 29 (1880), 24–34, 68–78, 102–14, 225–30, 267–74, 374–8, 417–21; 30 (1881), 124–30, 260–7, 406–12, 453–8; 32 (1883), 317–30, 521–7, 563–7; 33 (1884), 23–33; and D. Daube, *Ancient Hebrew Fables* (Oxford, 1973).

sun as witness. The eagle breaks the pact: he swoops down and devours the serpent's offspring. When the serpent returns and discovers his loss, he demands vengeance. The sun instructs the serpent to lie in ambush for the eagle, who is then captured. After pulling off his wings, the serpent hurls his foe into a pit to die of hunger. The extant versions of this ancient myth are few, fragmented, and incomplete.<sup>30</sup> The continuation of the myth of the shepherd Etana, who rescued the eagle and became king, is of less interest to us than the revisions wrought by Aesop (sixth–fifth centuries BCE), who turned this ancient animal myth, dating from 1800–1500 BCE, into a full fable:

An eagle and a fox who had struck up a friendship decided to live close to one another and made their living together a pledge of the friendship. The eagle flew up to a very tall tree and had its brood there, while the fox went into the thicket below and bore her young. Once when the fox went out to hunt, the eagle, having no food, flew down to the thicket, snatched up the young foxes, and helped its nestlings to devour them. When the fox returned and realized what had been done, she was not so much troubled at the death of her young as she was concerned with revenge. As an earthbound creature she could not pursue her winged neighbor and therefore stood and cursed her enemy from a distance, which is the only resort of those who are weak and impotent. But it turned out before long that the eagle paid the penalty for her violation of the friendship. Some men were making a sacrifice in the country, and the eagle flew down and carried off a piece of burning entrail from the altar. When she brought this to the nest, which was made of old dry sticks, a strong wind caught it and started a bright fire. The nestlings, who were still unfledged, were caught in the fire and fell to the ground. The fox ran up and ate them all before the eagle's very eyes.<sup>31</sup>

The connection between Aesop's fables and the literature of the ancient east is a familiar and, as yet, unresolved question, but more pertinent to our discussion is the allusion to this tale in rabbinic literature:

And he [Jacob said to Isaac his father]: Because the Lord thy God sent me good speed (Gen. 27.20). R. Yohanan said: He was like a raven bringing fire to his nest. (Gen. R. 65.19)

While it is conceivable that the image of a raven bringing fire to its own nest was reality based, it is hardly likely. Far more feasible is the deduction

<sup>30</sup> On "The Tale of Etana," compare the texts in J. B. Pritchard (ed.), *Ancient Near Eastern Texts Relating to the Old Testament* (Princeton 1969), 114–18; I. Levin, "Etana," *Fabula* 8 (1966), 1–63; J. V. Kinnier Wilson, "Some Contributions to the Legend of Etana," *Iraq* 31 (1969), 8–17; H. Freydank, "Die Tierfabel im Etana-Mythus," *Mitteilungen des Instituts für Orientforschung* 17 (1971–2), 1–13; and J. V. Kinnier Wilson, *The Legend of Etana: A New Edition* (Warminster, 1985).

<sup>31</sup> The translation from the Greek is that of L. W. Daly in *Aesop without Morals* (New York and London, 1961), 93.

that Rabbi Yohanan was referring to the story of Etana, especially because he is interpreting here the classical story of betrayal – Jacob betrayed his brother Esau – equivalent to the betrayal of the eagle and the fox. Perhaps he reasoned that the tale was so well known that he did not have to tell it in full, that a hint by way of a familiar adage would suffice. This happens often in rabbinic literature. What path did the ancient myth travel in its migration to the rabbinic period? Perhaps it seeped in much earlier by way of the ancient eastern stock of narrative types and motifs, and perhaps Rabbi Yohanan had in mind Aesop's famous fable. The second possibility is the more likely, as the two tales are similar, and in view of the vast evidence that Aesop's fables were well known in the Palestine of the rabbinic age.<sup>32</sup>

The concise, pithy form of the *mashal* is also significant. Study of the ancient parable has indicated that one typical form was epigrammatic, condensing the tale's plot into a single utterance, and summing up the tale's didactic significance: "The smith's dog could not turn on the heavy sledge, so he turned on the pot of water." This proverb encapsulates an entire narrative plot. The narrator in this instance was interested, not in conveying the tale (already well known), but in its ethical lesson. This ancient Babylonian parable has a close parallel in the aggadic literature as well: "the nations of the world . . . want to incite The Holy Blessed Be He but cannot, so they come and incite Israel . . . It is similar to one who cannot beat the ass, so he beats the saddle" (*Tanh.*, *Pekude*, 4).

The ideological orientation of this epigrammatic parable is plain, for in the rabbinic literature, as opposed to that of the ancient East and Aesop, all parables are quoted in their literary context, and their function is easily defined. Clearly, this literary context reflects not the actual situations in which the parables were told, but the manner in which the Sages chose to include them in their literary work. Nonetheless, it does offer clues to how

<sup>32</sup> Other tales common to Aesop and the Sages include those of the man whose young wife plucks out his white hairs while his not-so-young wife plucks the black ones, leaving him entirely bald (Aesop #231; and, in the Talmud, *Bava K.* 60a); the creation of iron (Aesop #247; *Gen. R.* 5.10); the camel asks for horns (Aesop, #31; *Sanh.* 106b); the reed and the cedar (Aesop, #338; *Sanh.* 105b); the fox and the vineyard (Aesop, #204; *Eccles. R.* 5.14); and the fable of the lion and the Egyptian partridge, on which see the discussion below. On the link between these two treasuries of fables in the ancient world see H. Schwarzbaum, "Aesop's Fables and Rabbinic Mashal," *Mahanayim* 112 (1967), 112–17 (Hebrew); and idem, "Talmudic-Midrashic Affinities of Some Aesopic Fables," in E. Yassif (ed.), *Jewish Folklore Between East and West* (Beer-Sheva, 1989), 197–214; A. Shenhar, *From Folktale to Children's Literature* (Haifa, 1982), 101–20 (Hebrew); and J. Jacobs, *History of the Aesopic Fable* (London, 1889). On the link between other fables of Graeco-Roman literature and the rabbinic *mashal* see S. Lieberman, *Greek and Hellenism in Palestine* (Jerusalem, 1963), 110–23 (Hebrew).

people of the period perceived such parables. Another pair of examples might intensify the argument:

Mar Zutra b. Tobiah remarked in Rab's name: This is what men say, "When the camel went to demand horns, they cut off the ears he had." (BT *Sanh.* 106a)

According to Aesop, the parable is as follows:

The camel saw a bull with a fine set of horns. She was envious of them and decided to try to get a pair just like them. So she went to Zeus and asked him to give her horns. Zeus lost his temper with her for not being satisfied with her size and strength, but wanting something more, and not only didn't give her horns but even reduced the size of her ears.<sup>33</sup>

In these texts the connection between Aesopian fable and rabbinic proverb cannot be attributed to coincidence. The proverb is the essence of the tale. It may omit the ox, the camel's envy, the appeal, and the dialogue with the god, but it retains the essential narrative elements, which convey the tale's significance. The Sages used this *masbal* to analogize Bilam the son of Beor, who sought reward for harming the Israelites, and was instead himself punished and killed. The interpreter in this instance chose not to recount the tale in full; he laid out only the essential elements. In so doing, he focused the listeners' attention on the message of the animal tale, offered not for entertainment but for edification. Here we find important proof that the transformation from parable to aphorism was not rabbinically steered, but the result of the folkloric process in action: Mar Zutra quotes Rav, evidence that the proverb was already in circulation, and in the vernacular – Aramaic. In other words, the compression of the tale into an epigrammatic formula was a folkloric process, not a deliberate action in the service of homiletics. Whether in ordinary conversation or during a performance event, speakers prefer allusion to circumlocution. Another, similar example is Aesop's celebrated fable of the shepherd boy who cried wolf. The Sages reduced this fable as well to a proverb: "It is the penalty of a liar, that should he even tell the truth, he is not listened to" (BT *Sanh.* 89b).

The *masbal* serves a twofold hermeneutical function: it exposes the inherent difficulty of the biblical verse and, in solving it, sheds new light on its meaning. The biblical story is shown to have another aspect, its significance made clearer and sharper with the aid of the *masbal*. Rabbinical literature has many varied examples of folk fables in hermeneutical service. A representative example follows:

"After these things did king Ahasuerus promote Haman the son of Hammedatha etc." (Esth. 3.1). This account bears out what Scripture says: "For the wicked shall perish, and the enemies of the Lord shall be as the fat of lambs" (Ps. 37.20), which are

<sup>33</sup> Daly (trans.), *Aesop without Morals*, 143.

fattened not for their own benefit but for slaughter. So the wicked Haman was raised to greatness only to make his fall greater. It was like the case of a man who had a sow, a she-ass, and a filly, and he let the sow eat as much as it wanted, but strictly rationed the ass and the filly. Said the filly to the ass: "What is this lunatic doing? To us who do the work of the master he gives food by measure, but to the sow which does nothing he gives as much as she wants." The ass answered: "The hour will come when you will see her downfall, for they are feeding her up not out of respect for her but to her own hurt." When the Calends [the first day of the Roman month, observed as a feast day] came round, they took the sow and slaughtered it. When afterwards they set barley before the filly, it began sniffing at it instead of eating. The mother then said to it: "My daughter, it is not the eating which leads to slaughter but the idleness." So, because it says, "And set his seat above all the princes that were with him," therefore later, "They hanged Haman." (*Esth. R.* 7.1)

The text leads to a new angle on the biblical text. In a simple reading of the events as told in the Scroll of Esther, Haman's rise to greatness at court is perceived as part of a historical chain of events. The same text read in light of the *marshal*, however, exposes a previously unnoticed irritant. As the foal questioned her master's motives, so will the reader wonder why the Almighty raised Haman up so high. This is one version of the eternal theodicean question: why are the wicked crowned with success? The problem now exposed, the *marshal* proceeds to propose another way of understanding the text. Haman's rise, like his fall, was part of the divine plan, just as the sow's extravagant rations were part of the farmer's. The solution to the theodicean puzzle is that injustice is merely a misconception stemming from a limited view; justice does prevail, but is apparent only if one can obtain a full picture of reality as a unified whole originating in the divine plan. This is a characteristic example of a *marshal* expertly wielded to analyze the scriptural text, laying bare the loose ends for scrutiny and then neatly tying them up.

The two most famous fables in rabbinic literature are included in the tales of Rabbi Joshua ben Hananiah and Rabbi Akiva. Rabbi Joshua told the fable of the lion and the Egyptian partridge to calm the rebellion brewing in the Bet Rimon valley after the Romans reneged on their commitment to rebuild the Temple (*Gen. R.* 64.10); the fable of the fox and the fishes appears in Rabbi Akiva's tale of the death of the martyrs (*BT Ber.* 61b). These two stories lay out public-performance situations in which the fabulists (in these instances, two of the foremost Tannaim) seek to influence the politics of their audiences. In the first tale, Rabbi Joshua ben Hananiah uses the famous Aesopian fable ("The Wolf and the Heron")<sup>34</sup> to

<sup>34</sup> This fable is tale type AT 76; and see also H. Schwarzbaum, *The Mishle Shu'alim (Fox Fables) of Rabbi Berechia Ha-Nakdan* (Kiron, 1979), 51–6, and the abundant literature offered there.

persuade the raging Jewish crowd to accept the Sages' dictum not to revolt against the Romans. It is difficult to ascertain definitively whether or not the story truly reflects an actual historical event. It does, however, indicate the Sages' view of the fable's function.

The fabulist made no essential changes to the tale to make it fit the situation he sought to reflect. The parallel between Rome's refusal to live up to its commitment to rebuild the Temple and the bone caught in the lion's throat is neither simple nor obvious. Perhaps the fabulist was under pressure, as the story implies, and he retrieved the fable from memory without the luxury of time to rework or match it to the situation at hand. In this case it can be stated that the fable worked (and worked well, if we are to take the tale at face value), not only because of its logical match to the epimythium, but primarily on account of its humor: the audience laughed at the naive Egyptian partridge who believed the lion's promise, and in so doing recognized its own naivete in trusting Rome's assurances. Furthermore, the audience grasped the futility of the Egyptian Partridge's desire to take revenge on the lion, analogous to a revolt against Rome. The fable's success hinges on the use of rhetorical means verging on demagoguery – that is, playing to the audience's emotions, as opposed to an attempt to persuade it by logic, on an intellectual level. The story argues that Rabbi Joshua and the sages who dispatched him to the task never intended to sway the crowd with an analogy – the primary mechanism of the *mashal*; rather they set out to move them with humor and emotion.

Rabbi Akiva was known for “publicly bringing gatherings together and occupying himself with the Torah.” He replied to Pappus ben Judah's entreaty not to disobey the royal decree with his fable of the fox and the fishes. This performance event, too, was public, and Rabbi Akiva, in answering Pappus, was in fact addressing his many students who, according to the story, were present. Researchers' attempts to unearth parallels to this fable in Aesop's writings and beyond have turned up nothing.<sup>35</sup> The fable's character, style, and structure notwithstanding, it was not taken from Aesopian literature, but apparently created originally as a Jewish fable. One proof of this is that, in response to the fox's suggestion to the fishes that they come and live with him on dry land, where they would be safe from the fishermen, the fishes answer: “Art thou the one that they call the cleverest of

<sup>35</sup> On the fable of the fox and the fishes see Schwarzbaum, *Berechia*, 25–47, who includes all the relevant literature. His attempts to prove that this fable has variants that pre-date the talmudic version are not convincing. See also A. Singer, “An Analysis of Fox Fables in Rabbinic Literature,” *Jerusalem Studies in Jewish Folklore* 4 (1983), 80–3 (Hebrew); and T. Gutmann, *Ha-Mashal be-Tekufat ha-Tannaim* (The *Mashal* in the Time of the Tannaim) (Jerusalem, 1949), 53–4 (Hebrew).



animals? Thou art not clever but foolish." This statement indicates that the fabulist was quite familiar with the Aesopian stock of fables in which the fox is the archetype of wiliness and cleverness, an archetype he sought to belie. In other words, the fabulist functions here within the literary conventions of the Aesopian fable (hence the striking similarity to them), yet attempts to create a fable of antithetical content and message. As a result, the creatures do not behave predictably: the fox, so admired by the Greeks for his cunning, turns out not to be the truly clever character, whereas the meek and silent fishes are the archetype of the Jewish people. Here the process of Hebrew fable creation seems to peak with regard to the Greek parable: no more retooling of readily available fables, but invention of new ones which fully reflect the Sages' religious and social perceptions, with a clear connection to the form and character of the Aesopian fable.

#### D THE HUMORISTIC TALE

The study of humor suggests that the joke, and the comic tale, are more than mere entertainment or vulgarity. These folkloric forms fill an important social function in shaping the structure of relations between society's different components. Their role is to offer release to the individual or social group from the anxieties and pressures born of traumatic events. The joke enables the observer to understand the tensions and the structure of relations between the various components of a given culture at a given time. While the surviving humor of the rabbinic period does not paint a complete picture of humor's context and function in this period,<sup>36</sup> it does offer flashes of insight into different aspects of life of the time. The comic tales illuminate what people of the day found objectionable and ridiculous, as well as their fears and rivalries.

Social protest against the misuse and exploitation of power are apparent in comic texts harking back to the biblical period, about Korah and his family;<sup>37</sup> and the fascinating cycle of tales, preserved in the tractate

<sup>36</sup> Studies of humoristic aspects of rabbinic literature are very scarce. Compare E. Simon, *Zum Problem des Jüdischen Witzes* (Berlin, 1929); and I. C. Bermant, *What's the Joke? A Study of Jewish Humor Through the Ages* (London, 1986).

<sup>37</sup> *The Midrash on Psalms* 1.15, trans. W. G. Braude (New Haven 1959), 20–1; L. Ginzberg, *The Legends of the Jews*, 7 vols. (Philadelphia, 1909–38), IV 332–3, nn. 566–7; E. E. Halevy, *Portions of Aggadab in Light of Greek Sources* (Tel-Aviv, 1973) (Hebrew), 243–50; B. Barnea, *Legends of Korah Through the Rabbinic Looking Glass* (Tel-Aviv, 1984), 123–7 (Hebrew); M. Bar, "The Riches of Moses in Rabbinic Aggadab," *Tarbiz* 43 (1974), 70–87 (Hebrew); and idem, "Korah's Quarrel in Rabbinic Aggadab," *Mebkarim le-Zekker Yosef Heinemann* (Jerusalem, 1981), 9–33 (especially 25ff.) (Hebrew).

*Sanbedrin* (109a–b), comprises some ten stories of the iniquity of the inhabitants of Sodom. Their humor is based on the polarization between social classes:

They ruled: He who has [only] one ox must tend [all the oxen of the town] for one day; but he who has none must tend [them] two days [poorer should be most oppressed]. Now a certain orphan, the son of a widow, was given oxen to tend. He went and killed them and [then] said to them [the Sodomites]: “He who has an ox, let him take one hide; he who has none, let him take two hides.” “What is the meaning of this?” they exclaimed. Said he: “The final usage [i.e., the disposal of the ox when dead] must be as the initial one; just as the initial usage is that he who possesses one ox must tend for one day, and he who has none must tend two days; so should be the final usage: he who has one ox should take one hide, and he who has none should take two.”

The tale opens with a statement formulated as a “city ordinance,” legal in every respect: whosoever owns one bull grazes his flocks one day, and so on. It is deliberately structured and styled in the manner of actual ordinances. Their imitation is at the heart of the parodic effect, which is bolstered by the orphan’s explanation of his subsequent “ordinance”: it, too, is structured and based on the original city bylaw; as the original was “just,” so must his be. His reasoning resembles legal argument in style: “The final usage must be as the initial one.” The parodic effect is quite pronounced. The bearer of social protest, in this as in the stories about Korah, is a representative of the weakest members of society: widows and orphans. In the tale of Sodom, as in that of Korah, those rules intended to strengthen the interests and profits of the wealthy and aggressive at the expense of the town’s poor are cloaked in “legalistic” garb designed to hide their true purpose. The orphan’s deed is intended to unveil their villainy.

Another type of comic tale of the period revolves around the polarization of the sexes. These stories should not be presented, as is usually the case, solely as misogynist humor. A closer reading shows them to be much more complex than a mere torrent of satirical barbs against women. In tractate *Nedarim* (66b) appears the well-known tale of the Jew who swore not to approach his wife until she proved some part of herself attractive to Rabbi Ishmael. When Rabbi Ishmael bar Yose endeavors to find in her even one appealing feature, the husband enumerates her numerous physical flaws:

“Perhaps her head is beautiful?” – It is round, they replied. “Perhaps her hair is beautiful?” – “It is like stalks of flax.” “Perhaps her eyes are beautiful?” – “They are bleared.” “Perhaps her nose is beautiful?” – “It is swollen.” “Perhaps her lips are beautiful?” – “They are thick.” “Perhaps her neck is beautiful?” – “It is squat.” “Perhaps her abdomen is beautiful?” – “It protrudes.” “Perhaps her feet are beautiful?” – “They are as broad as those of a duck.” “Perhaps her name is beautiful?” – “It is

*likblukbit* [which means: the dirty one, repulsive].” Said he to them: “She is fittingly called *likblukbit*, since she is repulsive through her defects.” (BT *Ned.* 66b)

The tale is styled with all the virtuosity of an impressive richness of language in the various descriptions of ugliness. The primary similes – hair like bundles of flax stalks, legs as broad as a goose’s, and so on, are unmistakably folk expressions for homely women, which exist in the folklore of all nations. Particular attention should be paid to the wife’s name, “the ugly one” (literally, “the dirty one”), which creates a kind of folk “etymology” for the identification of an individual’s characteristics with his or her name. The same is true of the names of the judges of Sodom: “There were four judges in Sodom [named] Shakrai, Shakurai, Zayyafi, and Maztley Dina [Liar, Awful Liar, Forger and Perverter of Justice] (BT *Sanh.* 109b).

The unique historical and social circumstances of the Jewish people gave rise to a wealth of tales of confrontation between the Jews and other nations in their folk literature. Indeed, as regards the comic tale as well, folk narrative of the period is replete with tales praising Jewish cleverness and ridiculing members of other religious and social groups. Such humor generally serves two functions: it sharpens the rivalry with other societal groups, and intensifies the sense of identity and social belonging of the members of the narrating society. The largest group of these tales is known as the tales of “Wisdom of the Jerusalemites,” preserved in *Midrash Lamentations Rabbah* (1.4–19). Tales of confrontation with Athenians are concentrated in the first part of the cycle; the second part features stories of confrontation with the *minim* (Jewish Christians) who interpreted dreams.<sup>38</sup> The tales in both groupings pit Jew against non-Jew, the former exposing the latter by wit and cunning as an utter fool:

A Jerusalemite went to see a merchant in Athens. On his arrival there he put up at an inn, where he found several persons sitting and drinking wine. After he had eaten and drunk he wished to sleep there. They said to him: “We have agreed among ourselves not to accept a guest until he has made three jumps.” He replied to them: “I do not know how you jump. You do it before me and I will copy you.” One of them stood up and jumped, and found himself in the middle of the inn; a second jumped [from where the first finished] and found himself by the door at the entrance of the inn; the third jumped and found himself outside. He got up and bolted the door in their faces and said to them: “By your lives, what you intended to do to me I have done to you.” (*Lam. R.* 1.1.5)

<sup>38</sup> On the structure and meaning of this cycle of stories see G. Hasan-Rokem, “‘Unspinning Threads of Sand’: Riddles as Images of Loss in the Midrash on Lamentations,” in G. Hasan-Rokem and D. Shulman (eds.), *Untying the Knot: On Riddles and Other Enigmatic Modes* (New York, 1996), 109–24; and E. Yassif, “The Story Cycle in Rabbinic Aggadah,” *Mehkarei Yerushalayim be-Sifrut Ivrit* 12 (1990), 103–46 (Hebrew).

The comic structure of the tales in this cycle is similar: the Athenian who habitually ridiculed Jews, until they tricked him into standing in the Jerusalem marketplace with a shaven head and soot-blackened face, hawking sandals at such exorbitant prices that passing shoppers laughed and scorned him. These stories build active comic situations on continuous plot action, leading step by step to a situation completely opposite to the tale's opening: the Jew who was the underdog or object of ridicule at the outset trades places with the non-Jew by the story's end.

All the tales of this grouping match Athenians – representatives of the period's dominant Hellenistic culture – against merchants, shopkeepers, cobblers, and tailors, and especially children. Passing children reveal to the Athenian, their "better," the source of the meat and wine he offered them, and that he was illegitimately conceived; they pose him a riddle that he cannot solve, gain possession of his property, and so on.<sup>39</sup> In addition to the cultural polarization between Jew and Greek, these tales also juxtapose children with elders, and simple folk with representatives of Hellenism. These additional polarizations add depth to the narrative confrontation, and so strengthen the tales as a tool of social, nationalistic struggle.

The anecdotes and witticisms herein collected present another interesting facet of the confrontation between the Jews and Hellenism in the rabbinic period. The better-known disputes are political, cultural, and philosophical, whereas the comic tales reflect how the confrontation played out on the popular level. The broad strata of society did not bother with the theological or philosophical aspects of the clash of the two cultures, and the political and social tension was manifested among them, naturally, on the popular level. The protagonists of these tales (many of which must have been lost over time) are simple laborers and schoolchildren, and the locale is the marketplace, tavern, shop, or schoolhouse. Once again we are witnesses to the phenomenon wherein folk tales illuminate important social and psychological aspects of society, yet they are almost completely ignored by the educated culture of the period.

Of all the types of comic tales in rabbinic literature, one in particular stands apart: the tall tale. This comic genre is widespread in almost all the cultures known to us, yet despite its wide distribution it is always marked as a strange and unique phenomenon. Moreover, its categorization as humor is not always self-evident. As opposed to other types of humor, the comic effect of tall tales does not always take – the audience does not always laugh –

<sup>39</sup> These comic motifs are known to have existed in ancient near-eastern culture, as evidenced by *The Book of Abikar*. See the analysis on this work in E. Yassif, "Traces of Folk Traditions of the Second Temple Period in Rabbinic Literature," *JJS* 39 (1988), 212–33.

and neither is it clear to us that they were always designed to provoke laughter. Folklorists have classified such stories in international indexes of motifs and tale types as “tales of lying” or as “comic legends,” indicating the confusion in the categorization of tales of this type as a clear-cut genre.<sup>40</sup>

A quantitative comparison of the tall tale to other types of humor appearing in the rabbinic literature shows it to be almost predominant. This indicates either a great affection for this literary type during the rabbinic period (and the multitude of tales reflects their frequency in the social reality of the time), or that the Sages themselves had a preference for this genre, as evidenced by the many examples that have survived in writing. In either case, it can be concluded that while, for every other period in the history of Jewish folk literature, only solitary clues remain to indicate the existence of the genre (except for the *chizbats* [Arabic, “tales of lies”]) of the Palmah period,<sup>41</sup> in the rabbinic period it was widespread and accepted even by sages, thanks to whom we have much surviving written evidence.

This popularity of the genre in the Jewish world matches its appeal for the Graeco-Roman culture. The Roman authors, particularly Lucian, cite examples of sailors’ tales, space travel, encounters with mythological monsters and other tall tales, prevalent among the folk culture of their time.<sup>42</sup> It seems that in this realm as well, Jewish folk culture developed along parallel lines and under the influence of the period’s general culture. Similarly parallel are the learned classes: the Sages’ interest in these tales resembles in large part that of the Graeco-Roman.

The largest, but by no means the only, concentration of tall tales in rabbinic literature appears in the fifth chapter of tractate *Bava Batra* in the Babylonian Talmud (73a–74b) – the cycle attributed to Rabbah bar Bar Hana.<sup>43</sup> Many other tales of this ethnopoetic genre appear in the Babylonian Talmud, the Palestinian Talmud, and in the Midrash. The wide distribution in the talmudic literature indicates that interest in the

<sup>40</sup> Aarne and Thompson, in *The Types of the Folktale*, classify tall tales as narrative types 1875–1999. See also S. Thompson, *The Folktale* (Berkeley, 1977), 214–17.

<sup>41</sup> E. Oring, *Israeli Humor: The Content and Structure of the Chizbat of the Palmah* (Albany, 1981).

<sup>42</sup> C. P. Jones, *Culture and Society in Lucian* (Cambridge, MA, 1986), 46–58.

<sup>43</sup> This was the only collection of tall tales in rabbinic literature that has been studied; see D. Ben-Amos, “Talmudic Tall-Tales,” *Folklore Today: A Festschrift for R. M. Dorson* (Bloomington, 1976), 25–43; S. Klein, “The ‘Nehutei’ and Rabbah bar Bar Ḥannah,” *Zion* 5 (1933), 1–13 (Hebrew); A. Karlin, “Tales of Wonders of Rabbah bar Bar Ḥannah,” *Sinai* 20 (1947), 56–61 (Hebrew); and N. Shalem, “Rabbah bar Bar Ḥannah and Tales of Wonders,” *Sinai* 24 (1949), 108–11 (Hebrew).

tall tale was not incidental or given to considerations of taste of a single narrator or editor alone, but was prevalent in different places and periods.

Anecdotes, and the tall tale in particular, generally seem like nonsense tales whose power lies in the immediate laughter they provoke. As with any folk tale, they would not have had such currency, they would not have appeared in so many versions and survived for so long, had they not fulfilled a deep need of the narrating society. Substantiating sacred Jewish myths, the secret hope of economic success to ease the hardship of daily life, and, in general, the release of the imagination to soar above the gray, all-too-familiar reality, were basic human needs, manifested in the wide circulation of the tall tale during this period.

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## EARLY FORMS OF JEWISH MYSTICISM

RACHEL ELIOR

## I INTRODUCTION

The mystical-poetical Hebrew works of the first five centuries of the Common Era, known collectively as *heikhalot* (heavenly sanctuaries) and *merkavah* (throne-chariot) literature remain on the whole a closed book to readers and students, although the first scholarly studies were published more than a century ago.<sup>1</sup> It is not known precisely when this literature was composed, and the identity of the authors and editors of the *heikhalot* tradition is anonymous, pseudepigraphic, or disputed, although these works were written in the first person as if by eyewitnesses to the supernal worlds and attributed by the authors to the High Priest Rabbi Ishmael ben Elisha (BT *Ber.* 7a) and Rabbi Akiva, who entered the *pardes* (that is, engaged in esoteric speculation pertaining to the heavenly sanctuaries; see BT *Hag.* 14b). Anonymous or pseudepigraphic as they are, these works, which carry such enigmatic names as *Heikhalot Zutarti*, *Heikhalot Rabbati*, *Seven Holy Sanctuaries*, *Maase Merkavah*, *Shiur Qomah*, *Masekhet Heikhalot*, and *Merkavah Rabba*, display a distinct affinity with mystical traditions that envisioned humans and angels moving freely between the terrestrial and celestial realms. The bulk of this literature is preoccupied with supernal worlds whose hidden essence, measured in cosmic numbers and figures amounting to thousands of myriads of parasangs between the different parts of the *merkavah*, became known to humanity via angelic and human testimony, the latter conveyed by the “descenders to the *merkavah*.”

Despite the broad research of recent decades, commencing with Gershom Scholem’s *Major Trends in Jewish Mysticism* (1941), and his later study, *Jewish*

<sup>1</sup> The pioneering studies of *heikhalot* literature in the nineteenth century were as follows: H. Graetz, *Gnosticismus und Judenthum* (Krotoschin, 1846); idem, “Die mystische Literatur in der gaonaischen Epoche,” *MGWJ* 8 (1859), 67–78, 103–18, 140–53; P. Bloch, “Die *Yordei Merkawa*, die Mystiker der Gaonenzeit und ihr Einfluss auf die Liturgie,” *MGWJ* 37 (1893), 18–25, 69–74, 257–66, 305–11; M. Friedlander, *Der vorchristliche jüdische Gnosticismus* (Göttingen, 1898); and L. Zunz, *Die gottesdienstlichen Vorträge der Juden* (Berlin, 1832).

*Gnosticism, Merkabah Mysticism and Talmudic Tradition* (1960), and the important and varied research of his students and followers in the last forty years, many puzzles regarding this material remain. Questions such as the origins of *Heikhalot* literature, the time and milieu of its composition, the identity of its authors, and the motivation that inspired them to write it are still subjects of scholarly disagreement.<sup>2</sup> Since the earliest efforts of modern scholars in this area, such basic questions as the definition of *beikhalot* literature, the significance of its unique stylistic features, and its connection to contemporary rabbinic traditions have been disputed. Some authorities have dated its composition to a late phase of the geonic period, while others have considered it to be remnants of mystical lore from the end of the Second Temple period or an integral part of rabbinic literature.<sup>3</sup> Each school has found its proponents and opponents; some scholars, although admitting certain points of contact between *beikhalot* literature and tannaitic and amoraic literature, prefer to underline the considerable disparities<sup>4</sup> and to support earlier claims of a late date.<sup>5</sup> Other scholars have pointed to links with Qumran, apocalyptic literature, ancient liturgy, and the rabbinic world in general, and therefore argued for a relatively early origin.<sup>6</sup> The chronological gap between the different schools may be ascribed to the fact that *beikhalot* literature departs so radically

<sup>2</sup> Modern *beikhalot* research dates from the work of G. Scholem, *Major Trends in Jewish Mysticism* (New York, 1941), 40–79; and idem, *Jewish Gnosticism, Merkabah Mysticism and Talmudic Tradition* (New York, 1960). For research of the last few decades, see nn. 9 and 12 and the bibliography for this chapter.

<sup>3</sup> See Scholem, *Trends*, 45, 72–3; idem, *Merkabah*; 9–13, 24. For a historical survey on research into *Heikhalot* literature, see J. Dan, *Ha-Mistikah ha-Ivrit ha-Kedumah* (Tel-Aviv, 1989), 7–14. For a partial bibliography on the subject, updated to the mid-1980s, see D. J. Halperin, *The Faces of the Chariot* (Tübingen, 1988), 567–73.

<sup>4</sup> See M. Meg. 4.10; M. Hag. 2.7; Tos. Hag. 2.1–7; PT Hag. 77a–d; BT Hag. 11b–16a. See also E. E. Urbach, “Ha-Masorot ‘al Torat ha-Sod be-Tekufat ha-Tannaim,” in *Mekkarim be-Kabbalah ube-Toledot ha-Datot Muggashim le-G. Scholem* (Jerusalem, 1965), 1–28; D. J. Halperin, *The Merkabah in Rabbinic Literature* (New Haven, 1980), 3ff., 183ff.; and idem, *Chariot*, ch. 1.

<sup>5</sup> M. S. Cohen, *The Shi’ur Qomah: Liturgy and Theurgy in Pre-Kabbalistic Jewish Mysticism* (Lanham, 1983).

<sup>6</sup> On *Merkabah* in Qumran works (Dead Sea Scrolls), see the following: G. Vermes, *The Dead Sea Scrolls in English* (London, 1987), section 12; F. García Martínez, *The Dead Sea Scrolls Translated* (Leiden, 1994), 419–31; M. Wise, M. Abegg, and E. Cook, *The Dead Sea Scrolls: A New Translation* (San Francisco, 1996), 365–77 (includes the “Masada Fragment”); C. A. Newsom, “Merkabah Exegesis in the Qumran Sabbath Shirot,” *JJS* 38/1 (1987); idem, *4Q Serek Shirot ‘Olat Hassabbat (The Qumran Angelic Liturgy: Edition, Translation, and Commentary)* (PhD thesis, Cambridge, MA, 1982), see especially ch. 8, “4QSir and the Tradition of the Hekhalot Hymns”; L. Schiffman, “Merkabah Speculation at Qumran,” in J. Reinharz and D. Swetschinski (eds.), *Mystics, Philosophers, and Politicians* (Durham, 1982); L. Schiffman, *Reclaiming the Dead Sea Scrolls* (Philadelphia, 1994), ch. 22, “Mysticism and Magic.” See the additional bibliography in nn. 21–2

from other literary traditions of late Second Temple times and the mishnaic and talmudic periods. It represents, by virtue of its language, style, and editorial structure, as well as by its new spiritual freedom and the new mystical, mythical, and magical message it conveys, something quite distinctive and apart.<sup>7</sup> The historical allusions contained in the *heikhalot* tracts, purporting to refer to the tannaitic period, conflict with accepted views of the people and events involved; they are therefore believed to be pseudepigraphic, transcending borders of historical reality and representing a meta-historical outlook.<sup>8</sup>

Basic questions of textual identity, the literary nature of the works involved, and the mutual relationships among them are also disputed,<sup>9</sup> and so too is the relationship of *heikhalot* literature to post-biblical and rabbinic literature.<sup>10</sup> The scholarly world, preoccupied with the historical difficulties concerning the definition of *heikhalot* literature, its textual obscurity, and its doubtful editorial identity, as well as its departure from the more familiar patterns of traditional writing, has devoted little attention to the circumstances of its composition or to its internal and external motivation. Neither have any attempts been made to suggest an overall contextual explanation for its unique spiritual qualities. Its peculiar stylistic features have gone virtually unnoticed, and little thought has been given to the nature of the mystical impulse that inspired its creation.<sup>11</sup> This chapter centers on suggesting a

below; and R. Elijor, *The Three Temples: On the Emergence of Jewish Mysticism* (Oxford, 2004). For the links with apocalyptic literature, see I. Gruenwald, *Apocalyptic and Merkabab Mysticism* (Leiden, 1980); on the relationship with rabbinic literature, see Scholem, *Merkabab*, 9–13, 24; Urbach, “Ha-Masorot”; Halperin, *Rabbinic Literature*; and I. Chernus, *Mysticism in Rabbinic Judaism* (Berlin, 1982). For the connection to ancient liturgy, see below.

<sup>7</sup> See R. Elijor, “Yihudah shel ha-Tofa’ali ha-Datit be-Sifrut ha-Heikhalot: Demut ha-El ve-Harhavat Gevulot ha-Hassagah,” in J. Dan (ed.), *Ha-Mistikah ha-Jebudit ha-Kedumah: Proceedings of the First International Congress on the History of Jewish Mysticism = Mehekerei Yerushalayim be-Mahshevet Yisra’el*, v1/1–2 (1987), 13–64; and the English translation, R. Elijor, “The Concept of God in Merkabab Mysticism,” in J. Dan (ed.), *Binah: Studies in Jewish History, Thought, and Culture*, 11: *Studies in Jewish Thought* (New York, 1989), 97–129. On the mystical, mythical, and magical characteristics of *Heikhalot* literature, see nn. 11 and 12 below.

<sup>8</sup> See J. Dan, “Tefisat ha-Historiah be-Sifrut ha-Heikhalot ve-ha-Merkabab,” in *Be-Orab Mada’: Mehkarim be-Tarbut Isra’el muggashim 1e-A*. Mirsky (Lod, 1986), 117–29.

<sup>9</sup> See the synoptic edition of the various works comprising *heikhalot* literature by P. Schäfer in co-operation with M. Schluter and H. G. von Mutius, *Synopse zur Heikhalot Literatur* (Tübingen, 1981); see *ibid.*, x–xvii, for a detailed list of previous editions to the end of the 1970s, indicating the correspondence between the paragraphs of the new edition and the chapter divisions of earlier editions. See also P. Schäfer (ed.), *Geniza Fragmente zur Heikhalot-Literatur* (Tübingen, 1984).

<sup>10</sup> For conflicting arguments, see n. 13 below.

<sup>11</sup> The mystical section of *heikhalot* literature includes *Heikhalot Rabbati* (also known as *Sefer Sheva Hekbalei Kodesh*, *Heikhalot de-R. Yishmael* (cf. Schäfer, *Synopse*, para. 81–276);

possible explanation for some of the most prominent characteristics of the mystical section of *heikhalot* literature, taking into consideration its pseud-epigraphic features, its undefined chronological-historical setting, and the dearth of independent external evidence of any relevance, on one side, and its distinctive mystical message on the other side. Relying on linguistic and cultural indications, this chapter will attempt to sketch a spiritual portrait of the authors of this material and outline the background of their work.

Much of *heikhalot* literature is written as a description of a mystical ascent to the heavenly sanctuaries. The description is focused on the angelic splendor and is offered in the sublime language of poems, hymns, and the sacred prayers of angels serving in the supernal sanctuaries where the angels minister. The authors of this literature describe the heavenly sanctuaries in visionary language, elaborating biblical prophecies as well as new mythical and mystical ideas concerning the heavenly *merkavah* with its four sides, myriads of parangs, seven *heikhalot*, twelve gates, and twenty-four regiments of angels, all combining time and place in cosmic proportions; they make these hidden cosmic structures the direct object of mystical experience, of active speculation. Hence, they use such active verbs as “observe,” “gaze,” “descend,” “ascend,” “enter,” and “exit” in relation to prayer, song, and blessing.

The reality described in the various texts of *heikhalot* literature is a numinous, mystical, visionary reality, that refers both to a seemingly pseud-epigraphic tannaitic world on the terrestrial plane and to the angelic world in the heavenly sanctuaries on the supernal plane.<sup>12</sup> This mystical

*Heikhalot Zutarti* (Synopsis, paras. 335–74, 407–26); *Maaseh Merkavah* (Synopsis, paras. 544–96); *Sefer Heikhalot* (3 *Enoch*; Synopsis, paras. 1–80); *Sbiur Qomah* (Synopsis, paras. 376–7, 468–84) and various untitled fragments relating to Metatron (*Shivhei Metatron*, Synopsis, paras. 384–406, 484–8). For the characteristic features of these works, see J. Dan, “Gilluy Sodo shel 'Olam: Reshitah shel ha-Mistikah ha-Ivrit ha-Kedumah,” in *Da'at* 29 (1992), 12–16. The works are not always named in the manuscripts; some of the titles were arbitrarily added by late editors. Quotations cited below from *heikhalot* literature refer to paragraph numbers in Schäfer, *Synopse*.

<sup>12</sup> For a characterization of the mystical reality in *heikhalot* literature, see Scholem, *Trends*, 40–79; A. Altmann, “Shirei Kedushah be-Sifrut ha-Heikhalot ha-Kedumah,” in E. Robertson and M. Wallenstein (eds.), *Melilah* 11 (Manchester, 1946), 1–24; M. Smith, “Observations on Heikhalot Rabati,” in A. Altmann (ed.), *Biblical and Other Studies* (Cambridge, 1963), 149–56; Scholem, *Merkabah*, 20–64; and see S. Lieberman, “Mishnat Shir ha-Shirim,” in Scholem, *Merkabah*, 118–26; Gruenwald, *Apocalyptic*, 98–126; idem, “Shirat ha-Mal’akhim, ha-Kedushah u-Ve’yat Hibburah shel Sifrut ha-Heikhalot,” in A. Oppenheimer, U. Rappaport, and M. Stern, (eds.), *Perakim be-Toledot Yerushalayim bi-Yimei Bayit Shenii: Sefer Zikaron le-Avraham Schalit* (Jerusalem, 1981), 459–81; Elior, “Mysticism”; Halperin, *Chariot*, 11–37, 359–447; J. Dan, “Three Types of Ancient Jewish Mysticism,” in *The Seventh R. L. Feinberg Memorial Lecture in Judaic Studies* (Cincinnati, 1984); J. Dan, “The Religious Experience of the Merkavah,” in A. Green (ed.), *Jewish Spirituality from the Bible to the Middle Ages* (New York, 1986), 289–307; J. Dan, *Ha-Mistikah*, 154–62; and P. Schäfer, *The Hidden and Manifest God* (Albany, 1992).

reality can furnish no direct information regarding actual, historical circumstance, nor can it provide anything definite about the identity of the writers. Nevertheless, it testifies most strikingly to the supernal world that the religious imagination created and points to the disparity between that ideal reality and the empirical reality of their time and place.<sup>13</sup> The visionary, supernal existence is intertwined in *heikhalot* literature with the beauty and majesty of nature and with wondrous phenomena and cosmic upheavals; at its core are the eternal entities of *Sbiur Qomah* (the magnanimous divine posture, described with cosmic measures, referring to the divine person), the Throne of Glory, the numinous essence of the Ineffable Names, and the mysterious *heikhalot* with their innumerable angelic beings.<sup>14</sup> This existence, drawing on the priestly-prophetic vision of Ezekiel and the priestly-mystical tradition of the *merkavah* (the Divine Chariot), is composed of firmaments and angels, shrines and chariots, heavenly legions and such angelic hosts as *cherubim* and *seraphim*, *ofannim*, and *galgalim*, creatures of flame and holy living beings – all amazing sights of eternal wondrous beauty, brilliance, and magnificence.<sup>15</sup> All the numerous creatures of the *merkavah*, described in this literature in a degree of detail unparalleled in any other Jewish source, officiate in the celestial shrines and participate in the heavenly ritual. They praise and exalt, extol, glorify and magnify, intone prayers, and utter benedictions. They sing and play musical instruments, officiate before the Throne of Glory, and tie crowns to one another's heads; they are awesome in their beauty, unparalleled in their majesty, and terrifying in their magnitude. They are described in a transcendental human-like fashion that paradoxically distances them from the human world.<sup>16</sup>

<sup>13</sup> For a summary of the different views of the time reflected in *heikhalot* literature and its realistic historical background, see Scholem, *Trends*, 40–1; idem, *Merkavah*, 1–5, 9–13; Dan, *Ha-Mistikah*, 9–19; and Halperin, *Chariot*, 360–3. For a view that *heikhalot* literature reflects a class struggle against a background of social revolution, consult Halperin, *Chariot*, 377–87, 427–39; and for critiques of this view, see R. Elior, “Merkabah Mysticism: A Critical Review,” *Numen* 37 (1990), fasc. 2, 233–49; and M. Mach, “Das Rätsel der Hekhalot im Rahmen der jüdischen Geistesgeschichte,” in *JSJ* 21/2 (1990), 236–52.

<sup>14</sup> See *Sefer Heikhalot*, in Schäfer, *Synopse*, paras. 1–80; *Heikhalot Rabbati*, in Schäfer, *Synopse*, paras. 94–106, 152–62.

<sup>15</sup> For an explanation of the terms used here, see the sources and studies cited in the previous notes. For typical examples of the celestial retinue, see Alexander, *Enoch*; Elior, *Heikhalot Zutarti*, 24–35 and nn. 59–78; Cohen, *Sbi'ur Qomah*; Schäfer, *Hidden God*, 21–36, 62–5, 129–35; and Elior, “Mysticism,” 27–43.

<sup>16</sup> On the celestial beings' sacred service, see Elior, “Mysticism,” 45–51.

The poetic impact, liturgical inspiration, and visionary language of *beikhalot* literature represent a mystical worldview that transcends biblical tradition, raising serious questions regarding the background and meaning of this literature and its connection to earlier tradition. The spiritual boldness required to create this arcane, visionary, heavenly world with its unprecedented angelology, the mystical freedom reflected in a new perception of the Divine Person subjected to the human gaze of the mystic, the highly detailed accounts of the esoteric tradition of Divine Names and angelic liturgy – none of these could have emerged *ex nihilo*.<sup>17</sup> Such preoccupation with supernal worlds, such speculation concerning the secrets of the Godhead and study of Divine Names, extends beyond the limits of biblical tradition and breaches the bounds of rabbinic esoteric tradition, as proscribed in the Mishnah (*Hag. 2*), which asserts that the mysteries of the divine world, described as the deeds of the chariot, should not be discussed and taught publicly. The sheer volume of *beikhalot* literature, with its myriad descriptions of the world of the chariot represented in heavenly shrines, thousands of verses purporting to represent the song of the heavenly beings, and the praises uttered by the “descenders to the *merkavah*,” is astonishing. Reading these tracts, one wonders about the circumstances that could have inspired such unprecedented mystical creativity on this grand scale. How could its creators have contemplated so freely the hidden secrets of the supernal worlds? Given the extent and variety of *beikhalot* literature, it could not possibly have been written by a single individual. On the contrary, it was certainly the work of some group or groups of people responding to an extraordinary experience that inspired them to violate conventions regarding human apprehensions and limitations.

The most plausible explanation for the emergence of this new approach to hitherto forbidden realms is apparently a visionary eruption that, drawing on a sanctified ancient ritual tradition, refused to accept a cruel, arbitrary reality in which the cultic center of a thousand years, the focus of centuries of religious worship from the days of David’s and Solomon’s First Temple (tenth to sixth centuries BCE) followed by the Second Temple (end of the sixth century BCE) no longer existed after the year 70. Denying

<sup>17</sup> On the visionary world of the heavens and the new angelology, see Dan, *Ha-Mistikah*, 93–102; Elior, “Mysticism,” 22–43; and Schäfer, *Hidden God*, 21–37, 62–5. On the new perception of the divine image, see G. Scholem, “Shi’ur Qomah,” in *Pirkei Yesod be-Havanat ha-Kabbalah U-SeMaleha* (Jerusalem, 1975); Elior, “Demut ha-El,” 15–31; and A. Farber-Ginat, “Iyyunim be-Sefer Shi’ur Qomah,” in M. Oron and A. Goldreich (eds.), *Massuot: mekharim be-Sifrut ha-Kabbalah Ube-Mabasbevet Isra’el Mukdashim le-Zikbron shel E. Gottlieb* (Jerusalem, 1994), 361–94. For the importance and implications of the tradition of Divine Names, see below.

the historical fact of the destruction of the Temple and the annihilation of the priestly service, this eruption created a new spiritual world that rested on a mystical-ritual fulcrum, a surrogate for the no longer extant Temple. This spiritual world, on the one hand, was associated with heavenly shrines and the vision of the *Merkavah*, the Divine Chariot that was represented in the Temple, in the Holy of Holies (1 Chron. 28.18); and on the other hand, it involved a transference and elevation of the priestly and levitical traditions of Temple worship to the supernal regions. Upon careful examination of *heikhalot* literature, one is led to suggest that the eternity and solemn beauty ascribed to the heavenly shrines, and the continuation of Temple worship in the firmament by the angels and the beings of the *merkavah*, constituted a foil to the finality of destruction and to the abolition of the priestly and levitical cult in the earthly Temple. These phenomena answered an urgent need: namely, to perpetuate in heaven and in mystical language the destroyed Temple, the focus of holiness and eternal contact between heaven and earth for many centuries during the biblical and post-biblical periods. It likewise responded to the profound desire to commemorate the priestly and levitical rites in the heavenly shrines and in the mystical liturgy, and to describe the hidden sanctuaries and their angelic service.<sup>18</sup>

Although it is clear from prophetic tradition, post-biblical literature, and Qumran writings that visions of a celestial Temple and angelic rites do not necessarily depend on destruction or loss, such visions not infrequently reflect, directly or indirectly, a negative attitude to the earthly sanctuary and represent criticism of the Temple service and priestly conduct. Indeed, at times such representations even indicate an open rejection of the earthly Temple and those who served in it; for the relationship between the earthly Temple and its priests, on the one hand, and the heavenly shrine and its angels, on the other, is one of analogy, drawing various parallel lines of identification and rejection between the two.<sup>19</sup>

<sup>18</sup> Johann Maier has compared the emergence of Ezekiel's *Merkavah* vision not long after the destruction of the First Temple to the appearance of the *merkavah* tradition after the destruction of the Second Temple, but his view has not been discussed seriously and no follow-up has been forthcoming. See J. Maier, *Vom Kultus zur Gnosis: Gnosis, Bundeslade, Gottesthron und Mer-kabah* (Salzburg, 1964), 95–148. Consult also A. Neher, "Le Voyage mystique des quatre," *RHR* 140 (1951), 59–82; and I. Gruenwald, "Mekoman shel Masorot Kohaniyot bi-Yziratah shel ha-Mistikah shel ha-Merkavah ve-shel Shi'ur Qomah," in J. Dan (ed.), *Ha-Mistikah ha-Jehudit ha-Kedumah*, 6–120, especially 87.

<sup>19</sup> See Isa. 6:1–3; 1 Kgs. 23.19; 2 Chron. 18.18; 1 Enoch 14; 2 Enoch; *Songs of the Sabbath Sacrifice*, and the sources cited below, nn. 21–2. Compare Mal. 2.7, which links priests with angels: "For the lips of a priest guard knowledge, and men seek rulings from his mouth; for he is an angel (*malakh*) of YHWH of hosts"; and cf. the comparison of the Priest of the Congregation and the Angel of the Countenance as far back as Qumran – see

However, as proposed below, it was as a reaction to the destruction of the earthly Temple that the creators of the tradition of the “descent to the *merkavah*” and the “ascent to the *beikhalot*” conceived the heavenly shrines as depicted in the *Heikhalot* literature in a degree of detail and variety unparalleled in any Jewish literary work of late antiquity. These constructs of the religious imagination arose as a spiritual response to the sense of loss, desolation, and deprivation caused by the catastrophic events of contemporary history.<sup>20</sup>

This response could have occurred during the generations immediately following the Destruction, when the impact of the events themselves was still fresh and developments in the practical world demanded compensation in the spiritual realm. The previous suggestion does not claim, however, to set unambiguous chronological/historical limits, but rather to trace the relationship of a certain reality to the spiritual-mythical and mystical world described in *beikhalot* literature and to determine the meaning of the continued identification with the heritage of the Temple priesthood and the earthly Temple. The liturgical sections of the *beikhalot* texts bear the clear imprint of the priestly and levitical service; and their language is strongly influenced by various aspects of the sacred service and by literary traditions connected with the Temple rites. Therefore, although one may dispute the actual relationship between the historical circumstances (the destruction and abolition of the Temple service in 70) and their indirect literary expression (the tradition of the *beikhalot* and the *merkavah* in the following centuries), one cannot ignore the focal position of the ritual and liturgical heritage of the Temple in *beikhalot* literature.

The mystical literature that emerged after the Destruction did not materialize in a vacuum, but neither did it emerge completely formed as an immediate or delayed reaction to the historical crisis of the loss of the Temple cult alone. It also reflects crucial developments in religious

D. Diamant, “Benei Shamayim: Torat ha-Mal’akhim be-Sefer ha-Yovelim le-’Or Kitvei ’Adat Qumran,” in M. Idel, D. Diamant, and S. Rosenberg (eds.), *Minḥab le-Sarab: Mehkarim be-Filosofia Yehudit ube-Kabbalah Muggashim le-Sarab Heller-Vilensky* (Jerusalem, 1994), 97–118, especially 111–12. For various contacts between the earthly Temple and the heavenly shrine, see A. Aptowitz, “Bet ha-Mikdash shel Ma’lah ’al pi ha-Aggadah,” *Tarbiz* 2 (1931), 137–53, 257–77; and Maier, *Vom Kultus zur Gnosis*, who noted that priestly traditions about heavenly counterparts of the terrestrial Temple are the source of the apocalyptic literature dealing with the divine throne and chariot.

<sup>20</sup> For the significance of the destruction of the Temple – the focus of national life and the people’s spiritual and ritual center – see S. Safrai, *Ha-’Aliyah la-Regel be-Yemei ha-Bayit ha-Sbeni* (Jerusalem, 1965), 8, 146–8, 178; M. D. Herr, “Yerushalayim, ha-Mikdash ve-ha-’Avodah ba-Mezi’ut uva-Toda’ah bi-Yemei Bayit Sheni,” in Oppenheimer et al. (eds.), *Perakim*, 166–78; and ch. 7 in the present volume.



consciousness that occurred in the post-biblical period, in particular, and in the religious creativity in certain priestly circles that were unable to participate in the priestly service since the Hasmonean period.<sup>21</sup> The varied religious currents that left their stamp on the outlook of the creators of the *heikhalot* and *merkavah* literature may be associated both with apocryphal literature, Qumran writings, the tradition of the books of *Enoch*, the book of *Jubilees*, and the *Testaments of the Twelve Tribes*, as well as conceptions of the heavenly liturgy and visionary images of the heavenly Temple and angelic priesthood.<sup>22</sup>

## II HEIKHAL AND HEIKHALOT

The two names, *heikhalot* and *merkavah*, used to describe this literature are directly related to certain major elements in the real, terrestrial Temple. The term *heikhalot* recalls the *heikhal*, the central part of the Temple (generally translated as “sanctuary” or “shrine”) accessible exclusively, according to the biblical tradition’s ascending order, to the priests, that is, to the sons of Aaron, son of Amram, son of Kehat, son of Levi, who were consecrated (Lev. 28.1; 29.44; Num. 3.38; *Jubilees* 30.18), and to the Levites, the various families of the tribe of Levi who performed various functions of the sacred

<sup>21</sup> On changes that occurred in the religious consciousness in the post-biblical period, particularly in the increased role attributed to angels and the self-awareness of the priests, see M. Hengel, *Judaism and Hellenism: Studies in their Encounter in Palestine during the Early Hellenistic Age*, 1 (Philadelphia, 1974), 233ff. Major portions of Qumran literature bears an unmistakable priestly imprint: *Songs of the Sabbath Sacrifice*, *The Damascus Covenant*, the books of 1 and 2 *Enoch*, the *Testament of Levi*, *Jubilees*, and so on. For the link between priests and angels at Qumran and the perception of the heavenly temple, see C. Newsom, *Songs of the Sabbath Sacrifice: A Critical Edition* (Atlanta, 1985), 1–81; and Diamant, “Benei Shamayim,” 97–118. For the central role of priests and Levites in the hierarchical structure of the Qumran sect, which considered itself a substitute for the Temple, see Y. Schiffman, *Halakbab: Halikbab u-Mesibibut be-Kat Midbar Yebudah* (Jerusalem, 1993), 316. For angels at Qumran, see M. J. Davidson, *Angels at Qumran* (Sheffield, 1992); and S. R. Noll, “Angelology in the Qumran Texts” (PhD dissertation, Manchester, 1979). For the significance of the identification of the heavens as a Temple and the role of the angelic priesthood as the personnel of the heavenly Temple in apocalyptic literature, see M. Himmelfarb, *Ascent to Heaven in Jewish and Christian Apocalypses* (New York and Oxford, 1993).

<sup>22</sup> On the links between *heikhalot* literature and Qumran literature, see Scholem, *Trends*, 43–6, 54; J. Strugnell, “The Angelic Liturgy at Qumran-4Q Serekh Shirot ‘Olat Ha-Shabbat,” *VTSup* 7 (1960), 318–45; and see Scholem, *Merkavah*, 29, 128; Newsom, *Songs*, 39–58; C. Newsom, “Merkavah Exegesis in the Qumran Sabbath Shirot,” in *JJS* 38/1 (1987), 11–30; L. H. Schiffman, “Merkavah Speculation at Qumran: The 4Q Serekh Shirot ‘Olat ha-Shabbat,” in J. Reinharz et al. (eds.), *Mystics, Philosophers and Politicians: Essays in Jewish Intellectual History in Honor of Alexander Altmann* (Durham, 1982), 15–47; and Elior, *The Three Temples*, 232–65.

service. *Merkavah*, “chariot,” or “the chariot of the cherubim,” alludes to the *devir* or Holy of Holies, the inner sanctum of the Temple where the holy ark of the covenant stood under the outspread wings of the cherubim as described in Scripture: “The weight of refined gold for the incense altar and the gold for the *pattern of the chariot – the cherubim* – those with outspread wings screening the Ark of the Covenant of the Lord” (1 Chron. 28.18).<sup>23</sup> The word *heikhal* is in fact used most commonly in the Bible to refer to the Temple, while the plural, *heikhalot*, reflects a priestly mystical worldview originating in post-biblical and Qumran literature, according to which the heavens are essentially a Temple containing a varying number of *heikhalot*, that is, shrines, *merkavot* or chariots, and *devirim* or Holies of Holies.<sup>24</sup> The chariot of the cherubim is the upper part of the ark of the covenant, called the *merkavah*, chariot, or *kapporet*, cover, seen as the throne of God, that is, the place where God reveals himself in the Temple to priests, prophets, and Levites. The same word, *merkavah*, is used to refer to the priestly prophetic vision of Ezekiel,<sup>25</sup> which is intimately connected with the First Temple and its destruction early in the sixth century BCE.

The two mystical protagonists of *heikhalot* literature, Rabbi Ishmael son of Elisha, and Metatron, the “Prince of the Countenance,” are also portrayed in an unmistakably priestly context. Rabbi Ishmael, the terrestrial protagonist, is the *tanna* described in the Babylonian Talmud (*Ber.* 7a) as the High Priest who entered the Holy of Holies on the Day of Atonement to burn incense.<sup>26</sup> In *Heikhalot Rabbati* (section 151 of Peter Schäfer’s *Synopse to heikhalot* literature), he is described in terms similar to those

<sup>23</sup> *Merkavah* (chariot or cosmic combined assemblage) mysticism developed from speculation on and expansion of the visions of Ezek. 1, 8, and 10, Exod. 25.9, 17–22, Isa. 6 and Dan. 2. In post-biblical literature, chariot visions are mentioned in Qumran literature in *Shirot Olat HaShabbat* (Newsome, *Songs*); and in 1 *Enoch* 14 and *The Life of Adam and Eve* (including the *Apocalypse of Moses*); and see also the *Apocalypse of Abraham*. For the English translations of these traditions, see J. H. Charlesworth (ed.), *The Old Testament Pseudepigrapha*, 1 (Garden City, 1983).

<sup>24</sup> See *Encyclopedia Talmudit* (Jerusalem, 1959), 1x 40–61, s.v. *Heikhal*; and see Newsome, *Songs*, Concordance, s.v. *Heikhal*, *Heikhal YHWH*. For the perception of the heavens as a Temple and references to discussions of the terms *heikhalot*, *merkavot*, *devirim*, see Newsome, *Songs*, Concordance, 402–4, 408, 430; and also Himmelfarb, *Ascent*, 4–6.

<sup>25</sup> For the term “He who sits on the cherubim,” see *Midrash Tanh. Va-Yakbel* 7; and Josephus, *Antiquities of the Jews* (London and New York, 1930) 3.6.5 [137] (381). See also N. H. Tur-Sinai, “Merkavah ve-Aron,” “Kapporet ve-Keruvim,” in his *Ha-Lashon ve-ha-Sefer . . . Kerekh ha-Emunot ve-ha-Deot* (Jerusalem, 1956), 4–5, 20–8; M. Haran, “Ha-Aron ve-ha-Keruvim,” in *Erez-Yisra’el* 5 (1959), 83–90; and cf. I. Weinstock (ed.), *Re’uyot Yehezkel*, in *Temirin*, 1 (Jerusalem, 1972), 134.

<sup>26</sup> The Hebrew term used in the Mishnah to denote the Holy of Holies is *lifnai ve-lifnim*, literally, “in the innermost part” (see BT *Yoma* 61a).

used in the Talmud, that is, as a priest burning an offering on the altar. Moreover, as depicted here, he frequents the Temple, entering at the third entrance to the House of the Lord, and convenes the Sanhedrin in the Chamber of Hewn Stone (*Lishkat ha-Gazit*). However, the historic Rabbi Ishmael son of Elisha (according to the Mishnah and the Talmud), who died around the middle of the second century, could not have officiated as a High Priest in the Temple that was destroyed in the year 70. In the introduction to *Sefer Heikhalot*, he is described as being permitted, by dint of his Aaronide ancestry, to enter the heavenly shrines. It seems that he is understood as representing the link between the historical high priesthood that served in the earthly sanctuary before the destruction and the mystical high priesthood of the “descenders of the chariot” serving in the heavenly sanctuaries after the Destruction. Other passages of *heikhalot* literature refer to his priestly origins and to the duties and privileges thus bestowed upon him.<sup>27</sup>

<sup>27</sup> Rabbi Ishmael ben Elisha, who lived in the first half of the second century, was one of the sages of Yavneh, a colleague and disputant of Rabbi Akiva. He was a priest (BT *Ket.* 105b) and a pupil of Nehunyah ben Hakanah. *Heikhalot* literature also portrays Rabbi Ishmael as a priest, a disciple of Nehunyah ben Hakanah, and a colleague of Rabbi Akiva. A *baraita* in BT *Ber.* 7a describes him as High Priest. For his priestly attributes in *heikhalot* literature, see *Heikhalot Rabbati*, in Schäfer, *Synopse*, para. 151, “R. Ishmael said: Once I was offering a burnt-offering upon the altar, and I saw Akhatriel YH YHWH of Hosts seated on a high and lofty Throne . . .” This should be compared with the aforementioned *baraita* (BT *Ber.* 7a). Ishmael ben Elisha may have been perceived in mystical tradition as the last High Priest to serve in the Temple before the Destruction and as the first High Priest to ascend in the *Merkavah*. Judah Halevi (*Sefer ha-Kuzari* 1.65) already identifies Rabbi Ishmael ben Elisha the High Priest with the Rabbi Ishmael of the *Heikhalot* and the *Merkavah*. For additional information, see Scholem, *Trends*, 356. On the third entrance to the Temple, see Jer. 38.14, and *Heikhalot Rabbati*, in Schäfer, *Synopse*, para. 202. For Rabbi Ishmael’s priestly origins, see *Synopse*, paras. 3, 586, 681. On his service in the Chamber of Hewn Stone in the Temple, see *Synopse*, para. 678. Rabbi Ishmael figures in a great majority of *heikhalot* works. His colleague Rabbi Akiva, who does not appear in all of the traditions, is not a priest, but his entry into the “grove,” as described in tractate *Hagiga* of the Babylonian Talmud and his ascent to the heavenly shrines, described in terms similar to those of Moses’ ascent to the heavens and associated with the tradition of Divine Names, entitle him to minister at the sacred service in general and make him privy to the tradition of mystical Names in particular. On Rabbi Akiva’s entry into the “grove” and ascent to the heavens “by means of a Name,” see BT *Hag.* 146 and Rashi ad loc. Cf. C. R. A. Morray-Jones, “Paradise Revisited (2 Cor. 12.1): The Jewish Mystical Background of Paul’s Apostolate, Part I: The Jewish Sources,” in *HTR* 86/2 (1993), 177–217. For his similarity to Moses, see Elior, *Heikhalot Zutarti*, 61. Rabbi Ishmael forms a link between the traditions associated with the song of the descenders to the *merkavah* who assemble in the terrestrial Temple and those concerning song in the heavenly shrine (see *Heikhalot Rabbati*, in Schäfer, *Synopse*, paras. 94, 202).

Metatron, the heavenly protagonist of *beikhalot* literature,<sup>28</sup> known previously as Enoch son of Jared, who was taken to heaven (Gen. 5.21–4), also appears in previous apocryphal priestly literature, in Qumran, in the Pseudepigrapha, and in the Midrash and Genizah documents as a High Priest who offers sacrifices on the heavenly altar.<sup>29</sup> In *beikhalot* literature, Metatron is also the High Priest who enunciates the Ineffable Name at the climax of the heavenly rites; his audience responds aloud, with exactly the same benediction that was once uttered in the earthly Temple when the High Priest pronounced the Ineffable Name on the Day of Atonement.<sup>30</sup>

Both Rabbi Ishmael (earthly High Priest and ascending mystical High Priest) and Metatron (the angelic High Priest and Prince of the Countenance) perform the sacred service – one in the earthly Temple and the other in the heavenly shrines. Both represent transitions and

<sup>28</sup> For the many-faceted figure of Metatron, see H. Odeberg, *3 Enoch or the Hebrew Book of Enoch*, 2nd ed. (New York, 1973), 79–146 (the new edition includes an introduction by J. C. Greenfield); Scholem, *Trends*, 67–70, 366; and idem, *Merkavah*, 43–55. On Metatron in *beikhalot* literature, see Y. Liebes, *He t'o shel Elisba': Arba'ah sbe-Nikbnesu la-Pardeš ve-Tiv'ah shel ha-Mistikah ha-Talmudit*, 2nd ed. (Jerusalem, 1990), 18ff.; Schäfer, *Hidden God*, 29–32; and, for an up-to-date bibliography for Metatron, see Mach, *Entwicklungsstudien* (21), 394–6.

<sup>29</sup> Concerning Enoch as High Priest and founder of the priestly dynasty, see 2 (*Slavonic Apocalypse of Enoch* 71.32, in Charlesworth (ed.), *The Old Testament Pseudepigrapha*, 1 208 (On the Jewish origin of this work, see Scholem, *Merkavah*, 17); and also *Jubilees* 4.25, in J. H. Charlesworth (ed.), *The Old Testament Pseudepigrapha*, 11 (Garden City, 1985) 30: “And he offered the incense which is acceptable before the Lord in the evening (at) the holy place on Mount Qater.” Enoch is also described as a priest in the Ethiopian book of *Enoch* and in the Aramaic book of *Levi*; see Himmelfarb, *Ascent*, 25. Metatron took Michael's place as High Priest of the heavenly Temple and is known as the “youth (or lad, Heb. *naar*) who serves in the sanctuary.” See *Bemidbar Rabba*, *Naso* 12: “R. Simon said: When the Holy one, blessed be He, told Israel to build the Tabernacle, he motioned to the ministering angels that they, too, should make a Tabernacle. So when it was built below, it was built on high, and that is the Tabernacle of the youth whose name is Metatron, in which he offers up the souls of the righteous to atone for Israel during their exile.”

<sup>30</sup> Scholem noted that the figure of Metatron in *beikhalot* literature includes elements previously identified with the angel Yahoel, “whose name is like that of his Master,” and the angel Michael, who was considered priest in the upper regions and prince of the universe. In Scholem's view, the book known as *Re'uyot Yehezkel* is the earliest and most important source for the identification of Michael and Metatron, as it describes Metatron taking Michael's place. See Scholem, *Merkavah*, 44–6; and see also the argument that the figure of Metatron is a composite of Michael, Enoch, and “the lesser YHWH,” advanced by P. S. Alexander, “The Historical Setting of the Hebrew Book of Enoch,” *JJS* 28 (1977), 162; and Odeberg, *Enoch*, 79–96. In *beikhalot* literature, Metatron is a composite of features ascribed in different traditions to different angels.

transformations between the terrestrial and supernal worlds, ongoing links between the divine and the human realms. For Metatron, as already indicated, is none other than Enoch son of Jared, a human being transformed into an angel (see Gen. 5.24; Ben Sirah 54; 3 *Enoch* 1–20), the founder of the priestly tradition, an earthly righteous man who was converted into a heavenly, angelic priest (1 *Enoch* 72–82; 2 *Enoch* 71.32; *Jubilees* 4.25) who serves in the supernal shrines according to 1 and 2 *Enoch* and the book of *Jubilees*, and who dwells in Paradise according to *Genesis Apocryphon*. Furthermore, Metatron brings mysteries of the calendar from heaven to earth, according to 1 and 2 *Enoch* and *Jubilees*, a work written before the Common Era; according to 3 *Enoch* and other traditions of *heikhalot* literature written after the destruction of the Temple, he instructs the “descenders to the *merkavah*” in the secrets of the heavenly Temple and the angelic service. Rabbi Ishmael is the last earthly High Priest who ascends as mystical High Priest from the earthly Temple to the heavenly shrines, descends to the *Merkavah* and observes the sacred service in heaven, participates in the angelic chant, and returns to instruct the “descenders to the *merkavah*” in the details of the eternal divine service.

The *heikhalot* tradition lists in detail the esoteric knowledge without which no human being may approach the sanctuary or learn the secrets of the *merkavah*, and reveals the secrets of the heavenly Temple that Metatron, the heavenly-mythical High Priest born in the seventh generation of the world (Gen. 5.21–4), reveals to Ishmael, the earthly-mystical High Priest. It attributes to both the knowledge of the order of the heavenly world; the Names of God; the secrets of *Sbiur Qomah*; the tradition of the *merkavah*; the order of the sacred service, and the texts of the angelic liturgy.

### III PRAYER AND SACRED SONG IN HEIKHALOT LITERATURE

The writers of the *heikhalot* literature, who call themselves “descenders to the *merkavah*,” built complex ritual bridges between the earthly community now deprived of its ritual center and the celestial beings who perpetuated the cult in the heavens. They created liturgical prototypes drawn directly from the ceremonial priestly tradition and the numinous Temple service. They were not concerned, however, with preserving the sacrificial rite itself or the priestly laws, perhaps because these had already been committed to writing in considerable detail in the Torah and the Mishnah; perhaps because the sacrificial rites had been abolished while the accompanying liturgy could be continued; or perhaps because the writers of *heikhalot* literature belonged to circles that had frowned on the sacrificial cult as observed in the last three centuries of the Temple period

and were therefore reluctant to perpetuate it.<sup>31</sup> Alternatively, they considered it necessary to preserve all the vocally and orally expressed ceremonial and numinous elements that had been denied written documentation because of their esoteric nature. Among these elements were the musical and vocal liturgical tradition of the Temple; the tradition of Names and benedictions accompanying the Temple rites; and the hidden nature of the calendar issues that were connected to the eternal cycles of the priestly courses and their angelic counterparts. The ritual and liturgical prototypes described in detail in the different traditions recorded in *heikhalot* literature maintained a mystical-poetic link with the sacred ritual, or, perhaps more accurately, with a mystical, mythical, and visionary abstraction of the destroyed Temple and those who served in it. The main thrust of this visionary abstraction centered on transferring the relevant components of the priestly ritual – liturgy, song, music, the blowing of trumpets, reference to angels, and recitation of the *kedushah* prayer (*Sanctus*, a prayer that originated in the Temple and was uttered by the angels) – from the terrestrial to the supernal plane and to perpetuate in heaven various ceremonies associated with the priestly blessing, the pronouncement of the Ineffable Name, and the use of Divine Names of God and the angels, all of which were activities practiced in the Temple.<sup>32</sup> The liturgical and ritual prototypes associated with this visionary abstraction of the Temple service are represented in *Heikhalot* literature by three interrelated modes of prayer: mystical prayer, shared prayer, and heavenly prayer.

#### A MYSTICAL PRAYER

Mystical prayer is the type of liturgical recitation uttered during the descent to the *merkavah* or the ascent to the *Heikhalot*, thus expressing the transition from earthly to heavenly existence. Recited by the descenders to the *merkavah*, who learn it from the heavenly beings, it describes the magnificence and beauty of the heavenly shrines and the rites performed

<sup>31</sup> It is not without interest that the sacred service in the Temple as described in 2 Chronicles involves only song and music without sacrifices; see S. Japhet, *Emunot ve-De'ot be-Sefer Divrei ha-Iamim u-Mekoman be-'Olam ha-Mahashavah ha-Mikrait* (Jerusalem, 1977), 197. The Qumran *Songs of the Sabbath Sacrifice* also picture a heavenly Temple without sacrificial rites; see Newsome, *Songs*, 39–58.

<sup>32</sup> Associations with the priests and the Temple in *heikhalot* literature were mentioned from differing standpoints by Maier, *Vom Kultus zur Gnosis*, and Gruenwald, “Mekomen shel Masorot.” See also Chernus’s proposal to compare a pilgrimage to the Temple to an ascent to the *merkavah* (the Hebrew verb used for pilgrimage is *alyah*, lit. “ascent”); see I. Chernus, “The Pilgrimage to the *Merkavah*: An Interpretation of Early Jewish Mysticism,” *Jerusalem Studies in Jewish Thought* 6a–b (1987), 1–35 (English section).

there. In this prayer, the descenders to the *merkavah* try to imitate the rites of the heavenly beings, which, as described, are clearly inspired by the service of the priests and Levites in the Temple.<sup>33</sup> These rites are associated with the language of the liturgical song that accompanied the Temple ritual and the special, awesome, language of the esoteric Names used at the climax of the sacred service. Descent to the *merkavah* was conditional upon the recitation of mystical prayer, which involved a knowledge of the Divine Names and of the heavenly order of song, music, exaltation, *kedushah*, benediction, and praise. In addition, it also required initiates to purify themselves and to acquire esoteric knowledge of the celestial hierarchy, which was based on a scale of relative proximity to the Holy of Holies in the supernal shrines. Mystical prayer was reserved for exceptional individuals who constantly purified and sanctified themselves, emulating the models of heavenly ritual that, in turn, had been inspired by the earthly Temple service. In particular, the *heikhalot* material centers on material revealed to Rabbi Ishmael and Rabbi Akiva that enabled them to engage in the mystical passage or to “descend to the Merkavah.”

Rabbi Akiva is associated in *Heikhalot Zutarti* with the figure of Moses, who ascended to the heavens. He, too, is mentioned in the context of a mystical ascent to the supernal worlds or of entry into the *pardes* (the mystical realm). In addition, in *merkavah* traditions he is associated with heavenly song, the Song of Songs, and *Shiur Qomah*. Furthermore, he is associated with the Qumranic concept of “wondrous mystery/mysteries” (Heb. *raz/raze pele*) in the prologue to *Heikhalot Zutarti*, which is attributed to him: “If you wish to become One with the world, to discover for yourself eternal mysteries and secrets of the *merkavah* . . .” He thus continues the prophetic-mystical archetype of ascent to heaven, listening to the angels and returning to earth with the celestial knowledge of the secrets of the universe.

*Heikhalot* tradition views Rabbi Akiva and Rabbi Ishmael as the mystical counterparts of Moses and Aaron. Akiva plays the role of the prophet, the man of God transcending the limits of time and space, who “descends to the *merkavah*,” achieves direct contact with God and the angels, learns the secrets of the *merkavah* (its dimensions and cosmic order), and hears and sees heavenly mysteries and celestial song. Upon returning to earth he transforms the invisible knowledge into an audible, verbal, and therefore communicable sacred textual tradition. Ishmael is the priest who “ascends” to the heavenly Holy of Holies and perpetuates the dynasty of Enoch, and of Levi, as well as of Aaron and his sons the priests. The divine revelation and

<sup>33</sup> See Elijior, “Mysticism,” 43–51.

mystical exultation associated with the theophany are associated with the figures of Moses, Ezekiel, and Akiva (and with Sinai, the *merkavah* vision, Ps. 68.18, and the *pardes*), whereas the priestly sacred service is associated with the priests Enoch, Aaron, and Ishmael (and with the Sanctuary and Temple; the Holy of Holies; the *devir*/inner sanctum; and the chariot-throne of the cherubim).

All the prayers in *beikhalot* literature recited in a state of mystical elation were learned; the authors of that literature asserted that they derived from the liturgy of the angels ministering before the Throne of Glory. Indeed, the bulk of mystical prayer as represented in *beikhalot* literature, like the *kedushah* prayer, consists of descriptions of the angelic rites and songs performed by the denizens of the *merkavah* in the heavenly shrines. As previously shown, the angelic rites were based on the pattern of the priestly and levitical service in the Temple, except that they are clothed in a ritual and poetic abstraction of the sacred tradition of Divine Names and of liturgical hymnology; thus, the service, prayer, and rites performed by the descenders to the *merkavah* form a bridge linking the memories of the priestly service to its angelic sequel.

In *beikhalot* literature, the descenders to the *merkavah* experience mystical ecstasy when they repeat the angelic prayers, learn the songs and hymns of the celestial beings, and recite the heavenly *kedushah* and the various prayers involved in offering praise to the Divine Name and pronouncing it. The descenders to the *merkavah*, rendering in their prayer a detailed description of the prayer of the *merkavah* creatures, engage in the celestial ceremony by dint of their mystical prayer, and participate in the heavenly service and song, for “descent to the *merkavah*” is equivalent to the “ascent to the celestial shrine,” or the observation of the angelic rites and participation in the heavenly service occurring in the seven supernal shrines. Descent to the *merkavah* is indeed a mystical metamorphosis of a ritual heritage that sought to close the gap between the earth and the heavens. The use of Divine Names, the singing of hymns, knowledge of celestial secrets and secrets of the *merkavah*, as well as the maintenance of a hierarchical order of divine ministry and rites of purification – all these were common to the angels and the descenders to the *merkavah* and stemmed from a visionary abstraction of the order of the earthly Temple service. The priests maintained the bond between heaven and earth via sacrificial rituals and other numinous and liturgical ceremonies, thus serving as the people’s ritual messengers until the destruction of the Temple. Likewise, the descenders to the *merkavah* viewed themselves as the people’s mystical messengers, maintaining the link between the terrestrial and celestial worlds after the Destruction.

The mystical priestly essence of *beikhalot* literature is clearly related to Qumran *merkavah* tradition. This connection was aptly stated by Gershom



Scholem in 1965, when he noted, in the second edition of his *Jewish Gnosticism, Merkavah Mysticism*, the affinity between the *Songs of the Sabbath Sacrifice*, fragments of which had just been published for the first time, and *Heikhalot* poetry: "These fragments [of *Songs of the Sabbath Sacrifice*] leave no doubt that there is a connection between the oldest Hebrew Merkavah texts preserved in Qumran and subsequent development of Merkavah mysticism as preserved in the *Heikhalot* texts." The connection is clearly evident in many of the shared motifs of the two traditions: the centrality of the vision of the chariot; seven heavenly sanctuaries and seven-based patterns of angelic service; preoccupation with Temple traditions and an angelic priesthood, featuring the ministering angels in *heikhalot* literature and the priests of the inner sanctum in Qumran literature; the tradition of groups of seven angels associated with Ezekiel's *merkavah*; the joint participation of angels and human beings in the sacred service; and the angelic songs of praise and glorification in the heavens seen as a Temple with seven sanctuaries or *heikhalot*. They clearly share an affinity with the tradition of Enoch, the "seventh," the ceremonial recitation of the *kedushah* prayer and its exaltation of the Ineffable Name in an angelic ritual of song and benediction, the concept of the Sacred Name by which the world is adjured and bound, as well as the ceremonial oaths and the centrality of the priesthood. Both corpora are concerned with *merkavah* tradition and *cherubim*, with the fourfold and sevenfold relationships of cosmic order, with traditions alluding to the mystical *pardes* and the sacred plantation, and with the Holy of Holies and the Song of Songs.<sup>34</sup> The authors of *heikhalot* literature adopted these concepts, which originated in the tradition of Ezekiel's vision of sacred place and sacred service, in the Enoch traditions of the sevenfold configuration of sacred, cyclical time and the link between priests and angels; all these materials were reworked in *heikhalot* and *merkavah* literature.

Among the many traditions of poetry and song in the supernal worlds, as recounted in *heikhalot* literature, the opening poem of *Heikhalot Rabbati*, concerned with God's seat or chariot-throne and with his servants' song, is particularly interesting:

Said R. Ishmael: What are the songs that a person sings and descends to  
the *Merkavah*?

He begins and recites the beginnings of the songs:

Beginning of praise and genesis of song

Beginning of rejoicing and genesis of music

Sung by the singers who daily minister

To YHWH, God of Israel, and His Throne of Glory.

They raise up the wheel of the Throne of Glory,

<sup>34</sup> See R. Elior, *The Three Temples: On the Emergence of Jewish Mysticism* (Oxford, 2004).

Sing, O sing, Supreme Seat,  
 Shout, O shout, delightful object,  
 made in the most wondrous way.  
 You surely delight the King Who is upon you  
 as a bridegroom delights in his nuptial chamber.  
 All the seed of Jacob delights and rejoices . . .  
 As Scripture says, Holy, Holy, Holy,  
 YHWH of Hosts, His Glory fills all the earth.  
 Of praise and song of each and every day,  
 Of rejoicing and music of each and every season,  
 And of *bigayon* [melody? recitation?] issuing from the mouths of holy ones  
 And of *nigayon* [singing?] gushing from the mouths of servants,  
 Mountains of fire and hills of flame, heaped up and concealed,  
 Paths each and every day, as Scripture says,  
 Holy, Holy, Holy, YHWH of Hosts.<sup>35</sup>

This glorification of the Throne of Glory uses a variety of biblical sources, among them “The Lord of Hosts enthroned on the cherubim” (1 Sam. 4.4; Isa. 37.16); “He mounted a cherub and flew” (Ps. 18.11); “God is seated on His holy Throne” (Ps. 47.9); Ezekiel’s *merkavah* vision, which ends with the scene featuring “the semblance of a throne, in appearance like sapphire; and on top, upon this semblance of a throne, there was the semblance of a human form” (Ezek. 1.26); Isaiah’s vision of “YHWH seated on a high and lofty Throne” (Isa. 6.1); and his allusion to the cosmic nature of the divine seat: “The heaven is My throne and the earth is My footstool” (Isa. 66.1). Similar images may be found in the corpus of Enoch literature as well (see also 1 *Enoch* 9.4; 14.21; 2 *Enoch* 20.3; 25.4).

It is clear from this passage that the throne, that is, God’s seat and the *merkavah*, are one and the same. The expression “delightful object” (Hebrew, *keli bemdah*) (2 Chron. 32.27; 36.10) is associated with the Throne of Glory in other *Merkavah* traditions, and the terms *bigayon* and *nigayon* create a link with the book of Psalms and the Temple singers, praising the magnificence of the unseen God.

#### B SHARED PRAYER

Shared prayer is the form of prayer used by two corresponding communities – the company of the angels on high and the congregation of human worshipers on earth, who together recite the *kedushah* and extol the Creator. The *kedushah* of *heikhalot* literature, like that of the conventional Jewish prayer book, is based on the proclamation of the seraphim in the

<sup>35</sup> *Heikhalot Rabbati*, paras. 94–5; and see Scholem, *Jewish Gnosticism*, 20–6.

heavenly shrine as heard by Isaiah in his vision; it describes the song of the angels as they praise the Creator with verses from the books of Ezekiel and Psalms. However, unlike the unchangeable *kedusbot* familiar from the prayer book, the *kedusbot* of *heikhalot* literature feature varying formulas and unfamiliar elements. The *kedushab* prayer interlinks the lower and upper worlds, merging the heavenly panegyrics with the praises of Jews on earth. Solemnized daily at the morning and afternoon services, in the heavenly shrines and in terrestrial prayer assemblies, the *kedushab* expresses the sanctification of God by His servants singing His praises, the celebration of His kingship by angels and humans glorifying Him in concert. The *kedushab* occurring in the *yozer* benediction – thought by some scholars to be of ancient origin and initially associated with the Temple<sup>36</sup> – is seen in

<sup>36</sup> The daily prayer book contains several *kedusbot* that differ from one another in their function and wording: the *kedushab* of *Amidah*; the *kedushab* of *Yozer*; the *kedushab de-Sidra*; and the *kedushab* of the Additional Service (*Musaf*). The *kedushab* of *Amidah* occurs in the third of the Eighteen Benedictions – the benediction proclaiming God’s holiness – and is recited during the cantor’s repetition of the prayer in the morning, afternoon, and additional services. The *kedushab* of *Yozer* is part of the benediction *Yozer Or* before the reading of *Shema*. Another *kedushab*, known as *Kedushab de-Sidra*, is recited in the prayer entitled “A redeemer shall come to Zion.” The *kedushab* opens with the formula, “We will sanctify Your name in the world, just as they sanctify it in the highest heavens,” or “We will reverence and sanctify You according to the beautiful prayer of the holy seraphim who sanctify Your name in the Sanctuary.” The perception of the *kedushab* prayer as a liturgical partnership between the upper and lower worlds dates to the second century BCE and is found in Qumran writings and apocryphal literature. On the liturgical partnership between members of the terrestrial congregation and the celestial host, see Y. Licht (ed.), *Megillat ha-Hodayot* (Jerusalem, 1957), III 19–23. On the angels (known in Aramaic as *i’rin*, messengers) who recite the *Kedushab*, see *Ethiopian Enoch* 39.12–13. On various versions of the *kedushab* at Qumran, see M. Weinfeld, “Ikkevet shel Kedushat Yozer u-Pesukei de-Zimrah bi-Megillat Qumran uve-Sefer Ben Sira,” *Tarbiz* 45 (1976), 15–26; M. D. Flusser, “Jewish Roots of the Liturgical Trishagion,” in *Immanuel* 3 (1973–4), 37–43; D. Spinks, “The Jewish Sources for the Sanctus,” in *Heythrop Journal* 21 (1980), 168–79; A. Libreich, “Ha-Shabat be-Siddur ha-Tefillah,” in M. Ribolow (ed.), *Sefer ha-Yovel shel ha-Doar bi-Melot lo Sheloshim Shanab* (New York, 1952), 255–62; and M. Weinfeld, “Nekaddesh et Shimkha ba-’Olam,” *Sinai* 108/54 (1991), 69–76. Scholars differ regarding the time of composition of the *kedushab* and its origin, which they have defined as “most obscure,” failing to discern its ancient origin and the mystical parallels in *Heikhalot* literature; this failure was the result of ascribing *Heikhalot* literature to a late period – the end of the geonic period. On the problems involved in researching the *kedushab*, see I. M. Elbogen, *Ha-Tefillah be-Yisra’el be-Hitpatehutab ha-Historit*, trans. Y. Amir, ed. Y. Heinemann (Tel-Aviv, 1972), 47–54; A. Altmann, “Shirei Kedushah be-Sifrut ha-Heikhalot ha-Kedumah,” in *Panim shel Yabadut*, 44–67, 264–8; Y. Heinemann, *Ha-Tefillah bi-Tekufat ha-Tana’im ve-ha-Amora’im* (Jerusalem, 1964), 23, 145–7; and idem, “Kedushah u-Malkhut shel Keri’at Shema’ u-Kedushah de-’Amidah,” in Y. Heinemann, *Iyyunei Tefillah*, ed. A. Shinan (Jerusalem, 1981), 12–21.

*beikhalot* literature as a liturgical partnership between the lower and upper worlds, which exult in God and magnify His praises by proclaiming His sanctity and uniqueness and as a mystical abstraction of a rite once performed in the Temple and associated with the sanctification and praise of God's name. This mystical abstraction, a detailed representation of the *kedushah* recited in the supernal worlds by the beings of the *merkavah*, stands at the center of heavenly prayer.

Repeated accounts occur in this literature from the different perspectives of the celestial choirs. The descriptions are sometimes merely brief enumerations of different voices reciting familiar verses,<sup>37</sup> whereas, on other occasions, one reads complex formulas, rendering in minute detail the celestial polyphony and its distribution among the seven *beikhalot* with their fiery chariots and tongues of flame responding to one another with the various verses of the *kedushah* and other formulas unique to *beikhalot* literature. This antiphonal song is couched in certain formulas, some enunciated by the chariots in each *beikhal*, representing a visionary abstraction of ritual expression, while others are articulated by flames rising from one shrine to the next in ascending order, representing a mystical abstraction of the Divine Names. The sublime tone of the liturgy and its ceremonies expresses the remoteness of the heavens as well as a surrender to the supremacy and kingship of God. The numinous proceedings culminate in the Sanctification of the Name, that is, the ceremonial pronunciation of the Ineffable Name and the benediction, "Blessed be His Name, Whose glorious Kingdom is for ever and ever" – all rites once performed in the Temple.

Different versions of the Sanctification of the Name or the raising of the Divine Name from *beikhal* to *beikhal* exist in the various traditions. The ceremony generally consists of four ritual elements, all associated with the visionary abstraction of the earthly Temple and its sacred service. (1) There exists a permanent cosmic structure, hierarchically ordered – the seven *beikhalot* – containing a permanent ritual element, namely, the *merkavot* or celestial figures that minister to God. (2) A dynamic element, embodying the Divine Names, sometimes called flames (Hebrew, *shalhavivot*) and sometimes crowns, is borne aloft through blessing and prayer. (3) Permanent benedictory formulas are recited by bearers and the borne. (4) At the climax of the celestial ceremony the Ineffable Name is pronounced

<sup>37</sup> "R. Ishmael said, 'Three groups of ministering angels utter song each day; one says, Holy, and one says, Holy Holy, and one says, Holy Holy Holy is YHWH The Lord of Hosts, the Earth is full of His glory. And the *Ophanim* and holy *Hayyot* reciting after them: Blessed be the Glory of YHWH from His place.'" *Heikhalot Rabbati*, in Schäfer, *Synopse*, para. 197.

with the usual response of “Blessed be His Name, Whose glorious Kingdom is for ever and ever.” Occasionally the ceremony describes the great commotion and agitation that seize the heavens upon the utterance of the *kedushah* – almost a symbolic realization of cosmic destruction and renewed creation.<sup>38</sup>

Occasionally the ceremony is reduced to a mystical vision of crowns and Ineffable Names and of flames or Divine Names of unfathomable meaning that hover in the heavenly shrines; at other times, the focus of events is the unspeakable splendor of the celestial choir reciting the verses of the *kedushah* or the visionary abstraction of ritual and liturgical elements. However, it is clear from the diverse descriptions that the crucial moment in the *kedushah* is the pronunciation of the Divine Name whose incomprehensible letters and secret vocalization encompass the eternal divine essence. The name is pronounced in an exalted, poetic context, culminating in the praise and sanctification of God’s Name by the celestial beings as expressed in the words of the vision of the seraphim in the Temple and the vision of the chariot, and in the liturgical formulas once used in the earthly Temple. In some of the formulations of the *kedushah* cited below, the ceremony of the Sanctification of the Name is seen as the mystical elevation of flames from *beikhal* to *beikhal* through the recitation of the verses of the *kedushah* by the fiery chariots standing in each of the seven *beikhalot*. The recitation of the verses of the *kedushah* generates the rising movement of the flames, scattering and reassembling from *beikhal* to *beikhal*. The elevation of the flames is simply the mystical abstraction of the Divine Names as stated explicitly at the beginning of the hymn: “And Your Name is wrapped in the fire of flames of fire and hail,” and possibly an allusion to the daily burnt offerings in the Temple that ends with the pronunciation of the Ineffable Name and the standard response once heard in the Temple.

The heavenly ceremony in *beikhalot* literature involves sanctification of the Divine Name through its elevation, pronunciation, and benediction by the denizens of the heavens. The essence of God in this literature is identified with His Name as stated by Rabbi Nehunyah ben Hakanah, Rabbi Ishmael’s mentor: “And His name is sanctified for His servants, He is His Name and His Name is He, He is in Him and His Name is in His Name.”<sup>39</sup> Hence, the immense ritual significance ascribed to the recitation of the *kedushah* prayer by the supernal beings is similar to the significance attributed to the pronunciation of the Ineffable Name in the Temple.<sup>40</sup>

<sup>38</sup> See *Sefer Heikhalot*, in Schäfer, *Synopse*, para. 56.

<sup>39</sup> *Maaseh Merkavah*, in Schäfer, *Synopse*, para. 588. <sup>40</sup> See n. 60 below.

Other *kedusbot* in *heikhalot* literature elaborate the mythopoetical details of the celestial ceremony again in a manner recalling the climax of the earthly Temple service. As opposed to the High Priest's pronunciation of the Ineffable Name in the Temple during his confession, in the celestial rite it is the Ineffable Names that hover and ascend upon hearing the *kedushab*. Like its terrestrial counterpart, the following celestial rite concludes with the listeners – the heavenly hosts – prostrating themselves upon hearing the Ineffable Name, and pronouncing: “Blessed be His Name, whose glorious kingdom is for ever and ever.”<sup>41</sup> A clear association exists between the last lines of this *kedushab* and the mishnaic passage that reports: “And when the priests and the people who stood in the Temple Court heard the Ineffable Name come forth from the mouth of the High Priest, they used to kneel and bow themselves and fall on their faces and say, Blessed be His name, whose glorious kingdom is for ever and ever” (*Yoma* 6.2). Thus, the apex of the heavenly ceremony is a mystical metamorphosis of the earthly rite to the world of the *merkavah*, a mythopoetic abstraction of the liturgical ritual performed in the Temple. The ceremony is perpetuated on high by a solemn chant, by the ecstatic recitation of the *kedushab* and the pronunciation of the Ineffable Name in awe, as well as trembling by the visionary denizens of the *merkavah*. The figures of the latter are inspired both by Ezekiel's vision and the phraseology of the Psalms, and by the costume and ministry of the priests and Levites on earth. The denizens of the *merkavah* praise and extol, sing, bless, sanctify, and glorify God's Name, following the pattern of the terrestrial Temple rites and celebrating the eternity of the Divine Name in the celestial shrine while lauding the splendor of God's throne and the beauty of His chariot in the supernal *heikhalot*. In fact, the beings of the *merkavah*, chanting their paeans of praise in the ongoing ceremony and perpetuating the sanctity and majesty of God by their repeated enunciations of the Ineffable Name in the heavens, seem to be defying the terrestrial reality that arbitrarily wiped out the sacred hymns, obliterated the obeisances to the Divine Name, and destroyed the earthly Temple.

The Temple was the earthly abode of God's Name as the Bible proclaims it, “For building a House where My Name might abide . . . toward this House, toward the place of which You have said, My Name shall abide there” (1 Kgs. 8.16, 29; see also Jer. 7.12). It was also the only place where the priests were permitted to pronounce the Name as written and to bless the people with the Ineffable Name. After the Destruction, so the authors of the *heikhalot* hymns believed, God made His Name an abode in the

<sup>41</sup> *Sefer-Heikhalot*, in Schäfer, *Synopse*, para. 57, 71. See also Odeberg, *Enoch*, 53; Gruenwald, “Shirat ha-Mal'akhim,” 463.

supernal *beikhalot*, in the heavenly shrines, and appointed the creatures of the *merkavah* that continually praise His Name and enunciate the Ineffable Name as written to serve it and guard it. The tradition of Divine Names associated with the Temple and the sacred service, originally entrusted to the priests who employed it in the ritual accompanying the climax of the earthly ceremonies, became an angelic tradition, preserved in the heavenly shrines, where it was again used ritually at the peak of the celestial rites. Similarly, the poetic and musical traditions of the Levites and priests as practiced in the liturgical proceedings in the earthly Temple were transformed into the tradition of songs of praise and glorification chanted by the creatures of the *merkavah* in the *beikhalot*.

### C HEAVENLY PRAYER

Finally, heavenly prayer is associated with the vision of the *merkavah* and the tradition of the Temple service. Its complex liturgical polyphony represents the sanctification of the Deity and the divine enthronement in the upper worlds by the living creatures of the *Merkavah*. Similar in structure to the *kedushah*, recited by the seraphim, *ofannim*, and holy *hayyot*, it comprises song, music, praise, the *kedushah*, enunciation of Names and pronunciation of the Ineffable Name, as well as the elevation and crowning of the Name. Heavenly prayer is based on the priestly tradition of Names and the Levitical Temple song that also involved praising, singing, playing musical instruments, and uttering holy Names. Revolving around the pronunciation, sanctification, and elevation of God's Name, it is recited daily in the upper worlds with imposing ceremony and solemnity; it provides a backdrop for the entire worldview that pervades *Heikhalot* literature.<sup>42</sup>

The liturgical polyphony reverberating through the heavenly worlds receives considerably more attention than the other modes of prayer in the different *beikhalot* traditions.<sup>43</sup> *Heikhalot* literature devotes detailed accounts to the beauty and splendor of the heavenly choirs and the unceasing worship of the celestial beings, and in no less detail it describes the inhabitants of the upper worlds praying and intoning the *kedushah*, singing

<sup>42</sup> See Scholem, *Merkabah*, 20–30, 101–2; Altmann, “Shirei Kedushah”; and see below.

<sup>43</sup> For examples of the liturgical polyphony of the prayer of the celestial beings, see *Sefer Heikhalot*, *Synopse*, paras. 30, 31, 34, 42, 71; *Heikhalot Rabhati*, in Schäfer, *Synopse*, paras. 94, 95, 99, 101, 103, 126, 152–62, 168–71, 175, 181–89, 197, 268–70, 273–4, 306, 405–6, 418, 469–70, 475, 486–8, 498, 526, 530–40; and *Maaseh Merkavah*, in *Synopse*, paras. 546, 552–3, 555–6, 564–5, 582, 588–92, 714, 745, 773, 795–8, 816–17, 819–20, 850, 966, 972, 974. On the hymns in *beikhalot* literature, see Altmann, “Shirei Kedushah,” 1–24; and Scholem, *Trends*, 57–63.

and exulting, playing music and “tying crowns” to one another’s heads, as well as expressing enthusiasm and praise. Their names, their positions, their hierarchies, the texts of their benedictions, and their functions in the heavenly choirs are all recounted with a poetic power and eloquence, and in a degree of detail, that surpass those of all earlier liturgical and angelological traditions. The attentive reader of these accounts of the heavenly liturgical polyphony will realize that they were created by juxtaposing and interweaving elements taken from the three main sources: Ezekiel’s vision of the *merkavah*; Isaiah’s vision of the seraphim singing their threefold *Sanctus* in the celestial Temple; and the levitical and priestly musical traditions of the earthly Temple as embodied in various passages of the biblical books of Psalms, Nehemiah, and Chronicles, as well as described in the mishnaic tractates of *Arakhin*, *Sukkah*, and *Tamid*.<sup>44</sup>

In the various traditions of *beikhalot* literature, all the components of the heavenly chariot proclaim God’s holiness in the threefold formula of the seraphim of Isaiah 6.3, in the rushing and tumult of the wings of the *bayyot* and the *ofannim* found in Ezekiel’s vision (Ezek. 1.24; 3.12–13; 10.8), and in the chanting and music-making of the priests and Levites in the Temple (2 Chron. 5.12–13; Pss. 98.4–6; 149.3; Neh. 12.27–47). They participate in the heavenly ceremony in the supernal shrines, intoning the two languages reserved for the sacred service: the levitical songs and music that once accompanied the Temple worship and sacrificial rites; and the enigmatic Divine Names enunciated by the priests delivering their benediction at the close of the ritual and by the High Priest on the Day of Atonement.<sup>45</sup>

The writers of *beikhalot* literature interpreted Ezekiel’s inaugural vision as a visionary abstraction of terms originally denoting the cultic objects of Solomon’s Temple described in detail in 1 Kings (7.23–37; 8.6–9) and 2 Chronicles (3.7–14; 4.3–5, 14–15).<sup>46</sup> Ezekiel, the priest and prophet exiled to Babylon with King Jehoiachin in 597 BCE, may have witnessed the Babylonian king transporting from Jerusalem “all the treasures of the House of the Lord,” stripping off “all the golden decorations in the

<sup>44</sup> Ezek. 1.10; Isa. 6.114; Neh. 12.27–47; 1 Chron. 15.16, 19–24, 28; 16.5–11; Pss. 149.3; 150.3–5; 81.3; and 2 Chron. 5.12–13. See also *M. Ar.* 2.6; *M. Suk.* 5.4. On the relationship between levitical song in the Temple and the Psalms, see *M. Tam.* 7.4: and note also Safrai, *Ha-'Aliyah la-Regel*, 17–18.

<sup>45</sup> For the cultic aspects of the Temple service in the Second Temple period, see Safrai, *Ha-'Aliyah la-Regel*; A. Buchler, *Ha-Kohanim va-Avodatam be-Mikdash Yerushalayim ba-Asor ha-Shanim ha-Aharon she-Lifnei Hurban Bayit Sheni* (Jerusalem, 1966); see also Y. Kaufmann, *Toledot ha-Emunah ha-Yisraelit*, 11 (Jerusalem and Tel-Aviv, 1960), 474, 476; Maier, *Vom Kultus zur Gnosis*, 27–33, 61–93; and M. Haran, *Temples and Temple Service in Ancient Israel* (Oxford, 1978).

<sup>46</sup> Eilior, “Mysticism,” 23–6.



Temple of the Lord" (2 Kgs. 24.13), and experienced his vision in the fifth year of the exile of Jehoiachin. In that vision, he saw a mystical transfiguration of the golden "pattern of the chariot – the cherubim" (1 Chron. 28.18) that had stood in the Holy of Holies; and a visionary abstraction of the decorated bronze structures that were used for preparation of the sacrificial rites in the Court of the Temple. He describes the lions, oxen, cherubim, and *ofannim* – all inanimate cultic vessels forged from burnished bronze in the shape of animals and winged creatures, set on wheels (Hebrew, *ofannim*), spokes, and hubs, which once stood in the Sanctuary, their faces turned toward the four points of the compass. These vessels, all associated in the Temple cult with various phases of the sacred service, were metamorphosed in Ezekiel's vision into four winged creatures, sparkling with the luster of burnished bronze, with the face of a lion, an ox, an eagle, and a human being. In addition, these creatures stood on four *ofannim*/wheels, with the appearance of "two *ofannim*/wheels within one another," facing all four cardinal directions (Ezek. 1.4–11, 15–21). A similar metamorphosis transformed the golden "pattern of the chariot – the cherubim" in the Holy of Holies (1 Chron. 28.18) and the winged *cherubim* overlaid with gold that stood in the *devir*, their wings touching one another (1 Kgs. 6.23–8; 2 Chron. 3.1–13), "standing up on their legs" (2 Chron. 3.13), which became sacred creatures, winged and radiant, "each one's wings [touching] those of the other" (Ezek. 1.4–11), each having "a single rigid leg" (Ezek. 1.6). In the second version of the vision, they became four-faced, winged cherubim standing on four *ofannim*/wheels, all recalling appurtenances of the Temple that the prophet saw in his "visions of God" (Ezek. 10; 8.3).<sup>47</sup> Ezekiel's vision also endows this complex cultic structure with multidirectional motion, an appearance of splendor, additional rushing winds and beating wings, clouds and flashing fire, radiance and torches – and the whole structure is maintained in the visionary portrayal of the heavenly *Merkavah*. The authors of *beikhalot* literature, however, take these same holy creatures, cherubim and *ofannim* – which now, by virtue of Ezekiel's prophetic vision, possess motion and emit sounds and flames – and subject them to a mystical transformation and ritual personification, picturing them as heavenly priests and Levites officiating in the ceremonial rites of the heavenly shrines at which they perform the heavenly service, blow trumpet blasts and fanfares, sing and chant, and play musical instruments before the Throne of Glory.

<sup>47</sup> The following components of Ezekiel's vision (Ezek. 1; 10) also figure in the description of the Temple: *ofan*/wheel, *ofannim*/wheels, cherubim, *bayvot*/oxen, wings, lion(s), bronze; and see also 1 Kgs. 7.25–37 and the sources cited in the text here.

The mishnaic tractate *Tamid* – one of the oldest sections of the Mishnah, probably first compiled not long after the destruction of the Second Temple and based on the testimony of eyewitnesses to the Temple rites<sup>48</sup> – describes the priests sounding their trumpets in the Temple at the climax of the High Priest's service, as noted in the following passage:

When the High Priest was minded to burn the offering, he used to ascend the Ramp . . . Then he walked around the Altar . . . And two priests stood at the table of the fat pieces, with two silver trumpets in their hands. They blew a blast, a fanfare and a blast.<sup>49</sup> (7.3)

*Heikhalot* literature describes the service in the heavenly shrines in similar language; there, however, the *ofannim* replace the priests and it is they who blow their trumpets at the climax of the rite:

And in the seventh shrine *ofannim* of light sprinkle pure *foliatum* and balsam / and a twofold *ofan* blows a blast, a fanfare and a blast.<sup>50</sup>

At the end of the rite, after the trumpet blasts, the priests blessed the congregants in the Temple (M. *Tamid* 7.2). In the supernal shrines, too, the same order is followed:

And horns emerge from beneath His Throne of Glory  
Retinue after retinue, and blow a blast and a fanfare and bless.<sup>51</sup>

While, in the Temple, it was the task of the Levites and the singers (Neh. 7.1, 44; 1 Chron. 9.33; 2 Chron. 5.12) “to praise and extol the Lord”

<sup>48</sup> Tractate *Tamid* of the Mishnah is phrased in archaic Hebrew, involving expressions rarely encountered elsewhere in the Mishnah; it concludes with the words: “This was the rite of the daily burnt offering, in the service of the House of our God.” For more on this issue consult Y. N. Epstein, *Mevo'ot le-Sifrut ha-Tana'im* (Jerusalem, 1957), 27–31; and see also H. Albeck, *Sbisha Sidrei Mishnah Meforarhim, Seder Kodashim*, an introduction to Tos. *Tam*, 291–2; and *Seder Moed*, an introduction to Tos. *Yoma*, 216.

<sup>49</sup> The English versions of passages from the Mishnah, both here and following, mainly follow H. Danby's translation (London, 1933). In the present passage, however, I depart from his version (588–9), translating the phrase *take'u ve-beri'u ve-take'u* as “They blew a blast, a fanfare and a blast,” which I believe conveys the solemn, ceremonial spirit of the original Hebrew more accurately.

<sup>50</sup> *Heikhalot Zutarti*, in Schäfer, *Synopse*, para. 411. For the priests blowing trumpets, see Num. 10.8, 10; Josh. 6.4, 8, 9, 13, 16; on trumpets in the Temple, see 2 Chron. 5.13: “And as the sound of the trumpets, cymbals, and other musical instruments, and the praise of YHWH, ‘For He is good, for His steadfast love is eternal,’ grew louder, the House, the House of YHWH, was filled with a cloud.” See also Neh. 12.35 and 2 Chron. 29.26–8, “When the Levites were in place with the instruments of David, and the priests with their trumpets . . . All the congregation prostrated themselves, the song was sung, and the trumpets were blown – all this until the end of the burnt offering.”

<sup>51</sup> *Heikhalot Rabbati*, in Schäfer, *Synopse*, para. 192.

(1 Chron. 23.30), to sing, play their instruments, and raise their voices in exultant hymns of praise during the sacrificial rites, in the supernal shrines it was all the denizens of the *Merkavah* who gave thanks and praise and participated in a ceremony of song that presumably replaced the sacrifices. The *middot* of the bearers of the throne, the *ofannim* of the chariot, the cherubim and the holy *hayyot* were the ones who sang, chanted, and trilled.

The heavenly choirs, like those of the Levite singers, not only sing and chant but also play instruments. The lyres, timbrels, cymbals, and trumpets and horns on which the psalmists played music for the glory of God, and which accompanied the priestly and levitical service in the Temple, are transformed in *Heikhalot* tradition, becoming the instruments of the celestial protagonists of Ezekiel's vision. Playing on these instruments, the *hayyot*, *ofannim*, and cherubim sing and chant, praise and extol, blow trumpet blasts and fanfares, and utter their blessings in the supernal shrines. Biblical traditions describe the music of the Temple and the labor of the Levites who played their lyres, harps, and percussion instruments. Then too, one reads of the priests blowing their trumpets in honor of the ark of the Lord or in the Temple: "All the Levite singers . . . dressed in fine linen, holding cymbals, harps, and lyres, were standing to the east of the altar, and with them were one hundred and twenty priests who blew trumpets" (2 Chron. 5.12–13); and again of "The Levites . . . the singers, with musical instruments, harps, lyres, and cymbals, joyfully making their voices heard . . . Also the singers . . . to sound the bronze cymbals . . . with harps on *alamot* . . . with lyres on the *sheminit* . . . the priests sounded the trumpets" (1 Chron. 15.16, 19–24; see also Neh. 12.27, 35).<sup>52</sup> The Mishnah, too, speaks of the music in the sacred service: "and the Levites with lyres, harps, cymbals, trumpets and musical instruments . . . and they utter song" (*Sot.* 5.4). These scenes are transferred to the heavenly shrines, now referring to the holy *hayyot* playing lyres, the cherubim accompanying their song with cymbals, and around them the *ofannim* beating timbrels and blowing their trumpets:

From the sound of His Holy Creatures playing their lyres,  
 From the sound of His Ofannim joyfully beating their timbrels,  
 And from the sound of His Cherubim songfully clashing their cymbals.<sup>53</sup>

<sup>52</sup> See Pss. 81.3; 149.3; 150.3–5; Neh. 12.27. For the hymns and songs accompanying the sacrifices, see 2 Chron. 29.27; Ben Sirah 50.14–16; and note also Newsome, *Songs*, 18. For the song sung by the Levites in the Temple, see M. Tam. 3.8; 7.3–4. For vocal and instrumental music in the Temple, see Werner, *Bridge*, 11 1–25; on the prayers accompanying the sacrifices, see Aptowitz "Bet ha-Mikdash," 261–2; M. Greenberg, "Al ha-Mikra ve-'al ha-Yahadut, Kovez Ketavim" (Tel-Aviv, 1985), 180; and idem, "Tefillah," in T. K. Cheyne and J. S. Black (eds.), *Encyclopaedia Biblica*, VIII (1982), cols. 910–17.

<sup>53</sup> *Heikhalot Rabbati*, *Synopse*, para. 161.

And a double wheel ch[eers] like a fowl, the horn held in two branches,  
And blows a blast, a fanfare and a blast.<sup>54</sup>

The heavenly choruses also accompany their song with harps and *shofarot* (rams' horns), in addition to other instruments mentioned in these passages. These instruments, once used in the sacred service in the earthly Temple, are taken over by the celestial beings officiating in the heavenly shrines as they discharge their priestly duties.<sup>55</sup>

The vision of the chariot, the *merkavah*, revealed to the exiled priest Ezekiel shortly after the destruction of the First Temple, is seen by the authors of *heikhalot* literature as a framework of their mystical worldview after the destruction of the Second Temple. Ezekiel, torn from the proper venue of his priestly duties and as one who "saw visions of God" (Ezek. 1), transformed the cultic Temple vessels into visionary entities in the celestial shrine and the golden "pattern of the chariot – the cherubim" from the Holy of Holies (1 Chron. 28.18) into the sublime heavenly chariot/*merkavah* of the cherubim and the holy *hayyot*. The writers of *heikhalot* literature, for their part, grappling with the chaotic reality of loss and desolation after the destruction of the Second Temple, also endeavored to re-create the ruined Temple in their minds' eye and to perpetuate in their vision the transcendental and mysterious aspects of the levitical and priestly service. Like Ezekiel, who preserved essence of divine majesty through the metamorphosis of cultic elements, the "descenders to the *merkavah*" tried to preserve the memory of their bygone world in their vision, to order the chaos through a magnificent liturgical-mystical metamorphosis, and to perpetuate the now discontinued ritual tradition in heavenly shrines through mystical poetic abstraction. With Ezekiel's vision as a conceptual prototype to inspire them, they replaced the ruined earthly Temple with eternal, supernal shrines. In their minds, moreover, the visionary entities originally associated with the cult of the terrestrial Temple became the functionaries of the cult in the heavenly shrine. Thus, the inanimate *ofannim*/wheels of some cultic appurtenances of Solomon's Temple (1 Kgs. 7.32) metamorphosed in Ezekiel's vision into the *ofannim*/wheels of the chariot/*merkavah* (Ezek. 1.15–16; 10.9–13), and are mystically personified in the *heikhalot* tradition by the animate *ofannim* who blow their blasts and fanfares, in the sacred service on high, emulating the ministry of the priests on earth. Likewise, the winged cherubim, described in detail in some of the

<sup>54</sup> Schäfer, *Geniza Fragmente*, 105, lines 10–11, with my amendment.

<sup>55</sup> *Heikhalot Rabbati*, *Synopse*, paras. 184–5. See also *Sefer Heikhalot*, in Schäfer, *Synopse*, para. 54.

cultic objects of the First Temple (1 Kgs. 8.6–8; 2 Chron. 3.10–14) and figuring in the vision of the chariot as visionary entities (Ezek. 10.8–22)<sup>56</sup> become the cherubim who sing, play cymbals, and officiate in the heavenly shrines, imitating the Levites' labors.

The *merkavah* beings are described in terms deriving from Temple worship in general, but, in particular, from the various rituals prescribed to protect one against the dangers attendant upon approaching the Sanctuary. Self-sanctification and self-purification, wearing sacred vestments, donning a crown engraved with God's name, standing in purity, and singing in unison, all of these are explicitly mentioned in various contexts of the priestly and levitical service in the Temple. The ceremonial chant in unison and the approach to the Sanctuary are conditional upon meticulous and intricate preparations, as described in the Bible: "When the priests came out of the Sanctuary – all the priests present had sanctified themselves . . . all the Levite singers . . . dressed in fine linen, holding cymbals, harps, and lyres, were standing to the east of the altar, and with them were one hundred and twenty priests who blew trumpets. The trumpeters and the singers joined in unison to praise and extol the Lord; and as the sound of the trumpets, cymbals, and other musical instruments, and the praise of the Lord . . . grew stronger . . ." (2 Chron. 5.11–13). Not surprisingly, one finds (as noted above) a similar account of the heavenly liturgical ceremony in *heikhalot* literature:

And they all stand in terror and fear, in purity and holiness,  
And utter song, praise, hymn, rejoicing and extolling in unison,  
In one utterance, in one mind and one melody.<sup>57</sup>

After their self-sanctification and self-purification, after properly clothing themselves, the heavenly creatures stand in order of ascending sanctity and present themselves for their sacred labors. They participate as one in the heavens where they sing together, and utter songs of praise and hymns of thanksgiving, in language reminiscent of Ezekiel's visions and the Temple ritual. The utterance of songs in unison is significant, leading as it does to the climax of the heavenly ceremony.<sup>58</sup>

The liturgical song, sung in sublime unison by the *ofannim* and holy *bayyot*, seraphim, and *galgalim*/wheels "in one mystery, of one mind," is but

<sup>56</sup> See Ezek. 1.5–15, 16, 22–3; 3.12–13; 10.2–17; and M. *Yoma* 6.2.

<sup>57</sup> *Heikhalot Rabbati*, in Schäfer, *Synopse*, para. 185. For other traditions in *heikhalot* literature concerning unison chants in the upper worlds, see *Sefer Heikhalot*, in *Synopse*, paras. 57, 58, 67; *Heikhalot Rabbati*, in *Synopse*, para. 187; *Maaseh Merkavah*, in *Synopse*, para. 553. And see also the sources cited in n. 57.

<sup>58</sup> *Maaseh Merkavah*, in Schäfer, *Synopse*, para. 553. For the instrumental and vocal unison of the priests and Levites, see 2 Chron. 5.1.

a prelude to the central part of the celestial ceremony, that is, the explicit pronunciation of the Ineffable Name, its enunciation, benediction, elevation, and enthronement. This heavenly ceremonial parallels the High Priest's pronunciation of the Ineffable Name at the climax of the service in the earthly Temple on the Day of Atonement, while the benedictory response of the heavenly worshipers, which mimics that of their human counterparts, is to fall to their knees and prostrate themselves upon hearing the Name. The benediction recited by the beings of the *merkavah* at the close of the ceremonial refers to the Tetragrammaton, in wording similar to the liturgical formula that was recited in the earthly Temple upon hearing the Ineffable Name pronounced by the High Priest.

The Mishnah describes the Day of Atonement service in detail, counting ten occasions on which the Ineffable Name was pronounced at the climax of the ceremony:

[The High Priest] then came to the Scapegoat [lit.: the he-goat to be sent away] . . . And thus he used to say: O the Name [Hebrew, *Ana ba-Shem*], Thy people, the House of Israel, have committed iniquity, transgressed and sinned before Thee. O by the Name, atone, I pray you, for the iniquities and transgressions and sins . . . And when the priests and the people who stood in the Temple Court heard the Ineffable Name come forth from the mouth of the High Priest, they used to kneel and bow themselves and fall on their faces and say, Blessed be His name, whose glorious kingdom is for ever and ever. (*Yoma* 6.2)

The Babylonian Talmud provides additional details:

Our Rabbis taught: Ten times did the High Priest pronounce the Name on that day [the Day of Atonement]: three times at the first confession, thrice at the second confession, thrice in connection with the Scapegoat, and once in connection with the lots. And it already happened that when he pronounced the Name, his voice was heard as far as Jericho. (*Yoma* 39b; cf. *Tos. Yoma* 2.2)

The Ineffable Name was enunciated during the confession in the formula "O the Name," and when the High Priest prayed for atonement, the Name was said in the formula of an oath or invocation: "O by the Name [Hebrew, *ba-Shem*], atone, I pray You . . ." The Talmud associates the first occasion with seemingly historical developments in the esoteric tradition of Names and the care that was exercised in pronouncing Sacred Names:

Our Rabbis taught: At first, the twelve-lettered Name used to be entrusted to all people. When unruly persons increased, it was confided to the pious of the priesthood, and the pious of the priesthood would pronounce it indistinctly [lit. "swallowed it"] during the chanting of their brother priests . . . Rav Judah said in the name of Rav: The forty-two lettered Name is entrusted only to him who is pious and meek . . . And he who knows it, is heedful thereof, and observes it in

purity, is beloved above and popular below, feared by men, and inherits two worlds, this world and the World to Come. (BT *Kidd.* 71a)

The historical picture described above is probably wrong because the Divine Names were a priestly prerogative in antiquity; the Sages, however, had their own version of the Temple tradition in which a greater role was ascribed to the people. According to a geonic tradition, the Name enunciated by the High Priest on the Day of Atonement was that of forty-two letters: “And Rav Hai said: The High Priest did not say the words ‘O the Name,’ but he said the forty-two lettered Name.”<sup>59</sup>

The passages just quoted from the Mishnah and the Talmud do not specify which Names were enunciated; neither do they provide any indication of their nature or their pronunciation. Nevertheless, although the Names are only alluded to – in contradistinction to the *heikhalot* tradition, which treats the subject in great detail – the text clearly testifies that the pronunciation of the Ineffable Name was one of the climaxes of the Sacred Service: it was entrusted exclusively to the High Priest once a year on the Day of Atonement in the Holy of Holies. Moreover, it hints at the existence of an esoteric tradition of enunciating the Sacred Names and is related to the ritual tradition of the Temple to which the priests were privy. It was forbidden to all but the priests in the Temple to pronounce the Ineffable Name. This prohibition and the well-known admonition to refrain from the use of Sacred Names – “He that makes worldly use of the Crown shall perish” (M. *Avot* 1.13) – interpreted in *Avot de-R. Natan* as referring to the profane use of the Ineffable Name – allude to the esoteric nature of the Name of God and the traditions of its pronunciation and indicate the special importance ascribed to it in the priestly service. In addition, evidence is available that the letters (consonants) of the Name, and their vocalization, which determined its pronunciation, were thought to possess supreme metaphysical significance.<sup>60</sup>

The writers and editors of such works as *Heikhalot Rabbati*, *Heikhalot Zutarti*, *Maaseh Merkavah*, *Shiur Qomah*, and *Shivbei Metatron* disregarded the prohibition of pronouncing and using the Sacred Names. Indeed, they

<sup>59</sup> For the forty-two-lettered name, see *ibid.*, 132–3; and see also J. Trachtenberg, *Jewish Magic and Superstition* (New York, 1987), 94–5; and L. H. Schiffman, “A Forty-Two Letter Divine Name in the Aramaic Magic Bowls,” *Bulletin of the Institute of Jewish Studies* 1 (1973), 97–102. On the tenfold pronunciation of the Ineffable Name on the Day of Atonement, see also Tos. *Yoma* 2.

<sup>60</sup> For the Ineffable Name and the significance of its revelation in biblical priestly tradition, see Knohl, *Mikdash ha-Demamah*, 139. On the numinous element in the Ineffable Name, see R. Otto, *The Idea of the Holy* (Oxford, 1958), 74–5. For the mystery and awe surrounding the Ineffable Name and its pronunciation as well as the Names in general in talmudic tradition, see BT *Ned.* 8b; 7b; BT *Sanh.* 56–56a.

wrote lengthy discourses about the tradition of the Names and their divine nature, specifying the ceremonials that accompanied the pronunciation of the Ineffable Name. The tradition of the Names in *beikhalot* literature is based on two premises: first, that the essence of God is embodied in His Ineffable Name; second, that the divine creative force is embodied in unintelligible letter combinations that come to be identified with a mysterious divine utterance. Heavenly and terrestrial existence come into being through the unfolding and revelation of this mysterious divine utterance; the divine words with which the world was created are perceived as Names with creative power, that is, as letters linking heaven and earth. The Name encompasses the arcane divine essence, the creative force hidden in the letters, and the vocal element that binds the terrestrial and celestial worlds.<sup>61</sup> This tradition, ritually associated with the High Priest's service in the Temple, listed the various Sacred Names; it described a visionary abstraction of the rites attendant upon the pronunciation of the Names; and it put various "Explicit Names" in the mouth of Metatron, the celestial High Priest, at the climax of the heavenly ceremony:

And that youth whose name is Metatron brings deafening fire and places it in the ears of the *Hayyot*, so that they should not hear the voice of the Holy One, blessed be He, speaking, and the Ineffable Name that the youth whose name is Metatron pronounces at that time in seven voices in the name of the Living and Pure and Venerated and Awesome . . . YHWH, I am that I am, the Living, YHWH, YWAY, HKH HH WH HWH WHW HH HY HH HH YHY HYH YHY YHWH . . . This shall be my Name for ever, this is my appellation for all eternity<sup>62</sup>

A dialogue occurs in the upper *beikhal* between "the voice of the Holy One, blessed be He, speaking," which is inaudible to all but Metatron, "who serves before fire devouring fire," and the seven voices of Metatron that pronounce the Ineffable Name, inaudible to all but God. The Names uttered by Metatron are combinations of letters or sound units, devoid of any intelligible semantic significance, undifferentiated in meaning; they are in the nature of inscrutable vocal patterns and incomprehensible formal entities. The divine voice heard by Metatron is probably similar.

The Ineffable Name (Heb. *ba-shem ba-meforash*), which itself is merely a euphemistic substitute for the most secret Name, can be heard only by the High Priest and by God Himself as "deafening fire," and deafens the denizens of the Merkavah. In the ceremony in the earthly Temple, too, the Ineffable Name was known only to the High Priest and concealed from his auditors, as one learns from a *baraita* in the Palestinian Talmud, which

<sup>61</sup> See Elior, "Mysticism," 11–12, and the references cited there.

<sup>62</sup> *Shivbei Metatron*, in Schäfer, *Synopse*, paras. 384, 390.



notes that the word *le-olam*, “for ever,” in the verse “This shall be my Name for ever,” is derived from the same root as the Hebrew verb “to conceal” or “to disappear”; hence, the Ineffable Name, having been pronounced in the Temple by the High Priest, immediately “disappeared” from the hearers’ memories:

Ten times did the High Priest pronounce the Name on the Day of Atonement . . . Those close by used to fall on their faces, while those farther away used to say, “Blessed be His Name, Whose glorious Kingdom is for ever and ever.” None of them departed the place until it [the Ineffable Name] had disappeared from their memories. “This shall be my Name *le-olam*” [read instead:] “This shall be my name *le’alem*” [to disappear]. (PT *Yoma* 3.7)

At the end of the ceremony, as described in the Mishnah, the entire congregation prostrated themselves upon hearing the Ineffable Name. This liturgical formula, which replaced the standard “Amen” in the Temple, reappears in *heikhalot* literature as the supernal creatures’ response to the pronunciation of the Ineffable Name. They too would prostrate themselves, “and say after him, ‘Blessed be His name, whose glorious kingdom is for ever and ever.’”<sup>63</sup>

*Heikhalot* literature conceives of the Divinity as a system of Holy Names woven about the Ineffable Name, the Ineffable Name itself being seen as inexplicable units of sound, embodying a supreme concentration of the divine power that created the Universe. In other words, the Ineffable Name transcends any linguistically defined meaning; it is the source of the essence, vitality, and unity of creation, the pivot of the mystical-theurgical knowledge associated with the being and oneness of creation.<sup>64</sup> The enunciation of the Ineffable Name in unison, at the climax of the song of praise to God, possesses paramount theurgical significance. This significance is not only implied but also explicitly stated in *heikhalot* literature in unmistakably priestly contexts, recalling the association with liturgical traditions of praise that prescribed the psalms sung in accompaniment with the daily Temple service (M. *Tam.* 7.4; M. *Suk.* 5.4). An intimate bond also existed with the priestly benediction that was recited upon termination of the daily sacrificial offering (M. *Tam.* chs. 5–6). The glorification of God’s name in song and music, accompanying the sacrificial rites and the benediction with

<sup>63</sup> Schäfer, *Synopse*, para. 384.

<sup>64</sup> On the role of the Ineffable Name in *heikhalot* literature and the significance of the tradition of the Divine Names, see K. Grozinger, “The Names of God and the Celestial Powers: Their Function and Meaning in the Heikhalot Literature,” in *Mebkerei Yerushalayim be-Mahasbevet Yisra’el*, VI (1987), English section, 53–86; and Elior, *Demut Ha-El*, 17–24.

the Ineffable Name recited as a closing ceremony, were an integral part of the priestly and levitical service in the Temple.

While the Talmud speaks of the connection between the priestly benediction and the angelic blessings in general terms,<sup>65</sup> the *heikhalot* tradition traces a detailed relationship between the pronunciation of the Ineffable Name at the peak of the priestly benediction in the Temple and its enigmatic pronunciation at the climax of the rites performed in the heavenly shrines by the angels and the denizens of the *merkavah*:

Mighty is Your Name throughout the Earth  
 In the heavens You established Your throne  
 You set Your seat in the upper heights  
 You placed Your chariot in the supreme regions  
 Your sanctuary in the mists of purity  
 Legions of fire glorify Your renown  
 Seraphim of fire utter Your praise  
*Ofannim* and Holy *Hayyot* stand before You  
 With *Ofannim* of glory and *Seraphim* of flame and the wheels of the *Merkavah*  
 With a great tumult and thunder  
 They pronounce the Name TTRWSY YY one hundred and eleven times  
 And say, TTRSY TTRSYF TTRSY' TTRGY' . . .  
 TTRSYH YHWH, holy is your Name in the highest heavens  
 Lofty and supreme above all *Cherubim*  
 May Your Name be sanctified in Your holiness  
 May it be magnified in magnitude, wax strong in strength  
 May Your domination extend to the end of generations  
 For your strength is for all eternity  
 Blessed are You, YHWH, mighty in power, great in strength.<sup>66</sup>

Through an esoteric process, therefore, the pronunciation of God's name and the singing of His praises, both central to the priestly rites in the Temple as well as to the recitation of the priestly benediction, which involved enunciation of the Ineffable Name, became the focus of the angelic service in the heavenly shrines.

Concluding this tripartite analysis of mystical prayer, it can fairly be said that heavenly prayer – the pivot of *heikhalot* literature – is generally known

<sup>65</sup> See PT *Sot.* 7, 39b; *Tanb.*, *Kedoshim* 6; *Ber. R.*, 65.21 (Theodor and Albeck, ed., 739); and see Weinfeld, *Nekaddesh* 75. See also Heinemann, 'Iyunei Tefillah, 13.

<sup>66</sup> *Maaseh Merkavah*, *Synopse*, para. 590. For "TTRWSY YHWH, God of Israel," also called "TTRWSY H" or "TWTRWSAY" in variant readings, and His central position in *heikhalot* literature, see *Heikhalot Rabbati*, in Schäfer, *Synopse*, paras. 195, 206, 219; *Heikhalot Zutarti*, in *Synopse*, paras. 414, 416; and *Maaseh Merkavah*, in *Synopse*, paras. 539, 540, 590, 977.

to human beings only through its descriptions in the mystical prayer of the descenders to the *merkavah*. Likewise, references to shared prayer are relatively infrequent, since the bulk of *heikhalot* literature does not treat this dual ceremonial as a whole but concerns itself primarily with the prayer of the descenders to the *merkavah*, that is, of a small number of initiates, representatives of the community at large, whose prayer is modeled on angelic prayer. At the same time, *kedushah* itself, the central element of heavenly prayer, is also a characteristic element of shared prayer. Nevertheless, although these different modes of prayer are indeed intertwined and all three modes of prayer have strong ties to the traditions of the Temple service, good grounds prevail for distinguishing between them and considering each separately as they represent different facets of the world of the *merkavah* and its ties to the cultic heritage.

#### IV SHIUR QOMAH

*Shiur Qomah* (the dimensions of the divine entity) is one of the most original contributions of *Heikhalot* literature to the new mystical perception of the Deity. This text, entitled a *mishnah* or *raz* (recitation or mystery), is a mystical testimony of Rabbi Akiva or Rabbi Ishmael that discusses the theophany revealed to the descender of the chariot upon his ascent to heaven. Furthermore, *Shiur Qomah* is not only a mystical testimony but also a ritual text that should be recited as a daily religious duty in the mystical circles, as well as a magical formula that affects the destiny of those who recite it. The theophany of *Shiur Qomah*, or the vision of the Deity in the heavenly Sanctuary, as revealed to the angels and the mystics, is one that transcends in content and detail any parallel prophetic biblical description. The description of the Deity provided in this text is based on angelic testimony rendered to the mystic by Metatron, the angel of the countenance. It is comprised of three components: namely, an anthropomorphic dimension, a cosmic-numerical dimension, and an onomatologic-linguistic dimension. In effect, the asserted structure of the divine body, its limbs, and their measures – as well as the respective names of each bodily element – are set out at length in this tradition. This detailed description was meant to serve as a method of instruction towards the unexpected mystical experience, preconditioned by the previous preparation and knowledge that the mystical adept brought to this experience. *Shiur Qomah* is part of the mystical effort to represent the entire cosmic heavenly sanctuary in relation to *Maaseh Bereshit* and *Maaseh Merkavah*, that is, the divine mystery of the chariot.

The anthropomorphic perception of the Deity corresponds to the image of the lover appearing in the Song of Songs. The quantitative dimensions

depicted in incomprehensible cosmic measures referring to the process of creation, and the aesthetic dimension reflected in the overwhelming beauty viewed by the mystics, correspond to the priestly-prophetic tradition of the divine revelation. While these three aspects reflect a new perception of the divine world depicted in concepts that have but small foundation in the biblical language, the mysterious, meaningless, powerful divine names engraved on the limbs of the divine body, which are learned by the mystics as mystical vehicles for ascension and magical formulae for powerful knowledge and corporeal benefits, have no precedence in any other text. The elusive mystical tradition of *Shiur Qomah* is apparently concerned with the seemingly intelligible anthropomorphic image that is perceived by the mystic. In fact, this image is described in incomprehensible cosmic dimensions and mysterious Divine Names (*razim*) that create an immeasurable, wholly transcendent image of the Deity.

The immeasurable cosmic dimensions and the incomprehensible divine names are not reserved for the divine stature alone, but are ascribed to the divine throne and to the difficult descriptions of the celestial chariot and the angels as well. Therefore, one will find *Shiur Qomah shel haMerkavah* or *shiur qomah* in the different components of the heavenly sanctuaries and the cosmic dimensions of creation. The transformation of anthropomorphic divine limbs into incomprehensible divine names, and the combination of human limbs like fingers that suggest perceivable final measures with metaphysical endless measures like cosmic parasangs, create a mystical reality in which distinctions are blurred and borders are non-existent. The origins, significance, and purpose of the mystical, speculative tradition of *Shiur Qomah* and its paradoxical perception, which combines impossible metaphysical visual descriptions with alleged mystical perception, are not known, and are debated among scholars. For example, confronted by descriptions such as: "Metatron's measure is the length and the width of the cosmos and each one of his wings is the size of the world," or "each one of the fingers of the holy creatures of the divine chariot is 8,766,000 parasangs,"<sup>67</sup> it is difficult to comprehend what these passages are meant to indicate or convey. Scholem, for example, thought the purpose of the text, contrary to its appearance, centered on emphasizing the absolute transcendence and the incomprehensibility of the divine. That is, the anthropomorphic descriptions given, because of their vast magnitude, ultimately become unimaginable. Other scholars, in contrast, have argued for a more literal interpretation of the text and its meaning, though with

<sup>67</sup> Schafer, *Synopse*, sections 12 and 50.

only marginal success. The issue remains undecided, and the full decipherment of this difficult text remains to be provided.<sup>68</sup>

## VII SEFER YETZIRA

*Sefer Yetzira* or *The Book of Creation* has been associated with *beikhalot* literature by scholars since the nineteenth century. Since about 1970, however, this connection has been rejected by most scholars because the work lacks all the characteristics of *beikhalot* literature, that is, it is not concerned with mystical ascent or with the heavenly chariot and divine sanctuaries; it does not express any interest in angels serving in the heavenly realm or as transmitting heavenly knowledge to the adept or descender of the chariot; and it lacks any mystical liturgical reference to angelic prayer that characterizes the style and content of the *beikhalot* hymns. True, the *beikhalot* traditions are multifaceted in content and style, and they reflect broad perspectives on the hidden world known as the world of the chariot, but, in spite of their diversity, all the *beikhalot* traditions share clear common denominators. They are all interested in the hidden, heavenly world of the angels and in the mystical interaction that enables the adept to ascend and gaze upon the heavenly chariot and to perceive the angelic worship.

In contrast, *Sefer Yetzira* is concerned with the process of creation and with cosmogony and cosmology. The book introduced the interesting idea that creation is an ongoing, creative, linguistic process, whereby language and divine creativity are shared by humans and God. The anonymous author argued that the letters of the Hebrew alphabet, numbers, and the divine cosmology are described as three books or spheres, and are, in essence, grammatical constructs that express the divine spirit in an unprecedented way. In particular, he points to the creative quality of letters and numbers, which, in spite of their limited quantity (twenty-two letters and ten numbers), are capable of generating an almost infinite number of words and sums. *Sefer Yetzira* introduced a new perception of lingual creativity

<sup>68</sup> For studies concerning *Shiur Qomah*, see G. Scholem, "Shiur Qomah, The Mystical Shape of the Godhead," in idem, *Pirkei Yesod beHavanat Hakabalab uSemaleab* (Jerusalem, 1976); J. Dan, "The Concept of Knowledge in the Shiur Qomah," in S. Stein and R. Loewe (eds.), *Studies in Jewish Religious and Intellectual History Presented to A. Altmann* (Alabama, 1979), 67–73; M. S. Cohen, *The Shiur Qomah-Liturgy and Theurgy in Pre-Kabbalistic Jewish Mysticism* (New York, 1983); idem, *The Shiur Qomah: Texts and Recensions* (Tübingen, 1985); R. Elior, "The Concept of God"; and A. F. Ginat, "Studies in Shiur Qomah," in M. Oron and A. Goldreich (eds.), *Massuot in Memory of Ephraim Gottlieb* (Jerusalem, 1994), 361–94.

that connects matter and spirit, and a dialectical classification of the component of creation that served as a backbone to kabbalistic literature in the second millennium.

*Sefer Yetzira* does not demonstrate any interest in the vision of God, in the mystical ascent, or in the heavenly throne, nor does it concern itself in any way with the mystical dialogue taking place in the world of the chariot and with angelic liturgy and mystical prayer, and thus it can not be considered as a segment of the *heikhalot* literature. Rather, it is a unique, anonymous tradition concerned with the dialectics of divine and human spiritual creativity, which has come down from antiquity, presumably originating in the first to second centuries of the Common Era, and which served as a major source of inspiration to Jewish mysticism.<sup>69</sup>

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<sup>69</sup> H. Graetz, *Gnosticismus und Judentum* (Krotoschin, 1846) (who ascribes it to R. Akiva); G. Scholem, *Ursprung und Anfänge der Kabbala* (Berlin 1962), 20–9, who points to the influence of Greek sources integrated with talmudic perceptions of *Maaseh Merkavah* and *Maaseh Bereshit*; I. Gruenwald, *Apocalyptic and Merkavah Mysticism* (Leiden, 1980), 46 (who points to *Maaseh Merkavah* as the background of *Sefer Yetzira*); A. P. Hayman, “Sefer Yesira and the Hekhalot literature,” *Early Jewish Mysticism: Jerusalem Studies in Jewish Thought*, vi/1–2 (1987), 71–85 (who argues that *Sefer Yetzira* shares none of the essential traits of religious thought and experience revealed in the *heikhalot* texts); and Y. Liebes, *Ars Poetica in Sefer Yetzira* (Jerusalem and Tel-Aviv, 2000) (who discusses the poetical nature and spiritual creativity reflected in the book and suggests that it belongs to the first half of the first century CE). Many scholars have seen *Sefer Yetzira* as a text reflecting a scientific perception of the cosmos that introduced mathematical insight and grammatical rules associated with the Pythagorean school. A review and refutation of this view is presented by Liebes, *Ars Poetica*, 9–11.

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# THE POLITICAL, SOCIAL, AND ECONOMIC HISTORY OF BABYLONIAN JEWRY, 224–638 CE

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## I INTRODUCTION

The fall of the Parthian monarchy (224 CE) and the succession of the Sasanian dynasty mark a major turning point in the political and religious history of Iran.<sup>1</sup> Jewish historical reckoning designates precisely that same time as the dawn of the talmudic era in rabbinic Babylonia, an age that was destined to produce undoubtedly the second most important literary corpus in Jewish tradition: the Babylonian Talmud. Whether or not these two developments merely dovetail in time or are actually linked in a cause-and-effect relationship is open to debate, but one fact is certain: ignorance of the earlier history of Babylonian Jewry is a direct result of the paucity of Jewish literary evidence produced in Babylonia prior to the third century CE, and, were it not for the Babylonian Talmud, this ignorance would extend for hundreds of years until the Muslim conquests and the subsequent appearance of geonic literature.

Non-Jewish sources on the Jews of Babylonia, whether under the Parthians or the Sasanians, are minimal, and material evidence from that community hardly approaches the mass of archaeological remains that have contributed so much to the knowledge of Palestinian Jews and Judaism in the Late Roman and Byzantine periods. The importance of those remains (most significantly from ancient synagogues and a few burial sites) lies not

<sup>1</sup> For the classic study of Iran under Parthian rule, see N. Debevoise, *A Political History of Parthia* (Chicago, 1938); for more recent works, see K. Schippmann, *Grundzüge der parthischen Geschichte* (Darmstadt, 1980); J. Wolski, *L'Empire des Arsacides*, *Acta Iranica* 32 (Leuven, 1993); for the Sasanian period, the basis for all subsequent research remains A. Christensen, *L'Iran sous les Sassanides* (Copenhagen, 1944); for more recent work, see K. Schippmann, *Grundzüge der Geschichte des sasanidischen Reiches* (Darmstadt, 1990); some recent overviews include R. N. Frye, *The History of Ancient Iran* (Munich, 1984), 205–47 (on the Parthian period) and 287–339 (the Sasanians; Frye's chapters contain useful introductions on the sources for each period); J. Wiesehofer, *Ancient Persia: From 550 BC to 650 AD* (London and New York, 1996), 151–221 (153–64 offer a succinct review of the sources for the Sasanian period; 282–300 contain useful bibliographical essays); and Z. Rubin, "The Sasanid Monarchy," in *CAH* XIV (Cambridge, 2000), 638–61.

only in the unique nature of the information they supply but also in their function as a control for, or as a means of evaluating, the information provided by Palestinian rabbinic sources. This control is additionally enhanced in the West by ongoing references to Jews in the writings of Church Fathers as well as in the legislation of the Roman Empire. Unchecked by a similar process of comparison, the Babylonian Talmud often serves, not merely as the major source of information for talmudic Babylonia, but at times also as the only resource providing more than fleeting references to Jews between the Tigris and Euphrates rivers from the third to the seventh centuries CE.<sup>2</sup> Consequently, historians of Babylonian Jewry must grapple, not only with the ahistorical nature of talmudic narrative passages, but also with the fact that the entire Babylonian Talmud corpus represents the ideas and thoughts of a rabbinic elite, clearly a small segment within the broader Jewish population.<sup>3</sup> Any attempt at producing a concise history of the Jews of talmudic Babylonia must constantly keep this crucial limitation in mind.<sup>4</sup>

<sup>2</sup> Certainly Judaism figures in certain Zoroastrian texts, frequently as the object of religious polemics. However, as noted by S. Shaked, these materials rarely reflect actual confrontation and formal debates between the two groups, but instead serve as context for a Zoroastrian self-definition, with Judaism fulfilling the role of the adversarial “other,” informing readers on what Shaked calls “the nuisance value of the existence of the other religion”; see S. Shaked, “Zoroastrian Polemics against Jews in the Sasanian and early Islamic Period,” in S. Shaked and A. Netzer (eds.), *Irano-Judaica*, 11 (Jerusalem, 1990), 85–104. For earlier collections and discussions on Jews in Pahlavi literature, see *ibid.*, 87 nn. 1 and 4. Conversely, the extent to which talmudic literature relates to Zoroastrian beliefs frequently depends on speculative interpretation of the texts, and, even when it appears that the Talmud was alluding to such beliefs, one might again ask whether or not such cases reflect actual confrontation or a Jewish awareness of the state religion. On this matter, see E. Ahdut, “Jewish–Zoroastrian Polemics in the Babylonian Talmud,” in S. Shaked and A. Netzer (eds.), *Irano-Judaica*, 1v (Jerusalem, 1999), 17–40 (Hebrew).

<sup>3</sup> Questions surrounding the use of rabbinic sources for historiographical purposes are particularly acute when dealing with Babylonia; for a collection of studies on this critical issue see J. Neusner and A. J. Avery-Peck (eds.), *Judaism in Late Antiquity*, Part 3, 1 (Leiden, 1999), 23–230. For Babylonian talmudic stories, see also J. L. Rubenstein, *Talmudic Stories: Narrative Art, Composition and Culture* (Baltimore, 1999). Processes of transmission and redaction pose yet another obstacle inhibiting the use of the Babylonian Talmud as a historical source; for a summary of all these questions, see I. M. Gafni, “A Generation of Scholarship on Eretz Israel in the Talmudic Era: Achievement and Reconsideration,” *Cathedra* 100 (2001), 216–22 (Hebrew).

<sup>4</sup> For general surveys of Jewish Babylonian history, see J. Neusner, *A History of the Jews in Babylonia*, 5 vols. (Leiden, 1965–70); I. M. Gafni, *The Jews of Babylonia in the Talmudic Era: A Social and Cultural History* (Jerusalem, 1990). For a brief overview, see J. Neusner, “Jews in Iran,” in E. Yarshater (ed.), *The Cambridge History of Iran*, 111/2 (Cambridge, 1983), 909–23. The most comprehensive geographical survey of Babylonian Jewry is A. Oppenheimer, *Babylonia Judaica in the Talmudic Period* (Weisbaden, 1983).

## II JEWS UNDER SASANIAN RULE: STATE AND CHURCH

While the direct role played by the Sasanians in this new stage of Babylonian Jewish history is problematic, it is evident that the rabbis involved in producing talmudic literature were abundantly aware of the implications of a new regime in their midst. For centuries, the Jewish community of Babylonia seemed to thrive, thanks to a policy of non-interference with their internal structures and lifestyle, the result of what is commonly perceived as a feudalistic framework under the Parthians that allowed substantial communal autonomy.<sup>5</sup> The fear that this autonomy would likely be challenged under the Sasanians, and possibly a retrospective cognizance that this interference indeed transpired, are clearly expressed in one talmudic tale. After taking extreme pre-emptory action against a potential informer who was planning to expose Jewish property to the government, a third-century rabbinic sage (Rav Kahana) is advised by his mentor Rav to flee the boundaries of the Iranian Empire and escape to Roman Palestine: "Until now the Greeks<sup>6</sup> who were not strict about bloodshed [ruled]; now there are the Persians who are strict" (BT *Bava K.* 117a).<sup>7</sup>

Two developments under the new Sasanian monarchy probably aroused the greatest fear among Babylonian Jews as well as among all other ethnic and religious groups in the region. The ascension of the new dynasty brought an enhanced and prolonged military confrontation with the Roman Empire, one that continued well into the fourth century. Under the rule of Shapur I (239–70 CE), a series of major battles with Roman legions occurred, one resulting in the capture of the Emperor Valerian (259–60 CE).<sup>8</sup> These wars brought major devastation to areas such as

<sup>5</sup> On the nature of Parthian rule and its "feudalistic" character, see Frye, *Ancient Iran*, 216–33.

<sup>6</sup> This sequence – first Greeks and then Persians – is found in numerous manuscripts (the printed editions of the Talmud have a reverse order), and it correctly recognizes the Greek influences evident in Parthian Iran (see Frye, *Ancient Iran*, 230), as opposed to the enhanced Persian self-image of the Sasanians.

<sup>7</sup> For the process of centralization under the Sasanians, see V. G. Lukonin, "Political, Social and Administrative Institutions: Taxes and Trade," in Yarshater (ed.), *Cambridge History of Iran* 111/2 729–32.

<sup>8</sup> For a brief summary, see R. N. Frye, "The Political History of Iran under the Sasanians," in Yarshater, (ed.), *The Cambridge History of Iran* 111/1 (Cambridge, 1983), 124–9. Valerian's capture was commemorated in Shapur I's famous inscription on the Kaabah of Zoroaster (KZ) as well as in a series of massive rock reliefs at Bishapur and Naqsh-e Rostam; for a translation of the inscription, see Frye, *Ancient Iran*, 371–3; for the carvings, see E. F. Schmidt, *Persopolis*, 111: *The Royal Tombs and Other Monuments* (Chicago, 1970), 127–9; it is even possible that this event is vaguely referred to in talmudic literature; see, S. Lieberman, "Palestine in the Third and Fourth Centuries," *JQR* 37 (1946–7), 35 n. 324.

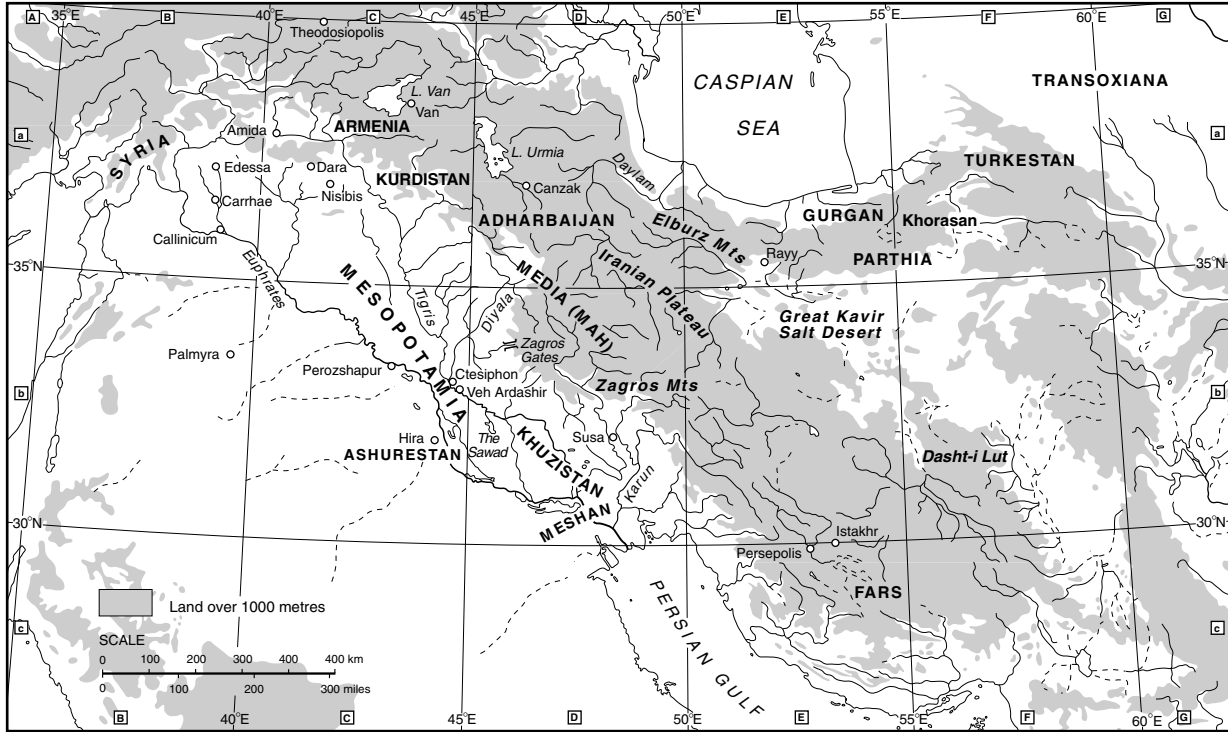


Figure 31.1 Sasanid Iran

Mesopotamia, Syria, and Asia Minor, all containing large concentrations of Jews. Significantly, one of the prominent rabbinic sages of the third century, Samuel, is described as having refrained from evincing any public manifestation of mourning upon hearing that 12,000 Jews were slain in Mazaca, the capital of Cappadocia, during one of these battles.<sup>9</sup> Moreover, the same talmudic anecdote quotes Shapur swearing to Samuel that “I have never slain a Jew.” As with all such talmudic anecdotes, the historicity of the story is not only beyond proof, but, in practical terms, is not the issue. When placed in the context of a variety of stories that portray amicable relations between Samuel and the Persian king, the message emerges that one of the rabbinic sages has reconciled himself to the new regime and wishes to achieve a *modus vivendi* with it.<sup>10</sup> More than likely, this reconciliation was also the rationale for Samuel’s declaration, alongside that of the Jewish Exilarch Ukban bar Nehemiah, that “the law of the kingdom is law.”<sup>11</sup> While this principle appears in the Talmud in a narrow context, recognizing the government’s legitimate right to demand taxes and determine the legal frameworks for possessing land, its political implications are obvious: in contradistinction to Rome, the “evil kingdom” that forcibly conquered the Land of Israel and destroyed the Jewish Temple, the Persian rulers are the legal and recognized sovereigns of their land.

The few talmudic anecdotes that allude to Persian kings, at least until the early fifth century, all suggest that a rather cordial relationship existed between them and their Jewish subjects.<sup>12</sup> Indeed, if Rome was perceived by the Rabbis as the common enemy of both Persia and the Jews,<sup>13</sup> this shared political position would only have been enhanced with the embracing of Christianity by Rome in the fourth century. The attempt by the Emperor Julian (the Apostate) to lure Babylonian Jews from their loyalty to the Sasanians seems to have fallen on deaf ears, and no solid evidence

<sup>9</sup> BT *Moed K.* 26a; for problems relating to the chronology of these events, see Gafni, *Babylonia*, 258–63.

<sup>10</sup> Samuel’s contemporary, Rav, seemed to embrace a more cautious position and is quoted as foreseeing an ultimate Roman victory over Persia (BT *Yoma* 10a) – possibly the result of his years spent as a student in Roman Palestine before returning to Babylonia in 219 CE prior to the rise of the Sasanians.

<sup>11</sup> BT *Bava B.* 55a and parallels; see Neusner, *Babylonia*, 11 69. This principle was destined to have major ramifications for the Jewish community’s self-understanding of its legal status in a Diaspora context; see S. Shiloh, *Dina de-Malkhuta Dina* (Jerusalem, 1975) (Hebrew); D. Biale, *Power and Powerlessness in Jewish History* (New York, 1986), 54–7.

<sup>12</sup> BT *Taan.* 24b; BT *Ket.* 61a–b; see Neusner, *Babylonia*, 1v 35–9; I. M. Gafni, “Babylonian Rabbinic Culture,” in D. Biale (ed.), *Cultures of the Jews* (New York, 2002), 235.

<sup>13</sup> One talmudic source actually claims that “Rome is destined to fall to Persia” precisely because it was the Persians under Cyrus who facilitated the building of the Second Temple, the very temple destroyed by the Romans; BT *Yoma* 10a.



exists to suggest that Babylonian Jews were swayed by the Emperor's promises of Temple restoration and a return of Jerusalem to the Jews.<sup>14</sup> War between Persia and Rome, however, was not the only military factor that endangered historical centers of Jewish life. In the early 60s of the third century, the town of Nehardea was destroyed by the invading Palmyrene forces, part of their short-lived conquest of large segments of middle-eastern territory at the expense of both major empires. Large numbers of Jews had lived in Nehardea since the first century CE, and medieval Jewish chronographers, such as Rav Sherira Gaon, considered the destruction of the town a major stage in the history of the earliest rabbinic centers of learning.<sup>15</sup>

Along with a more assertive military position and the creation of a more centralized state, the Sasanians also raised Zoroastrianism (or, as it is referred to in ancient texts and inscriptions, the Mazdayasnian, that is, Mazda-worshipping, religion) to the status of a state religion. This status is hardly surprising, inasmuch as Papak, the father of the first Sasanian king, was a priest of the fire temple of Anahita at Stakhr near Persepolis, and his successors went out of their way, on coins and in inscriptions, to stress the links between monarchy and religion. Therefore, with the founding of the new dynasty by Ardashir, "religion ascends the throne in Iran."<sup>16</sup> However, any similarity between this marriage of state and religion and the events in the Byzantine Empire is limited. Not only have we noted evidence of amicable relations between Shapur I and the Rabbis, but that same monarch appears to have enabled Manichaeism to flourish throughout the Empire as well.<sup>17</sup> Certainly, specific periods of Sasanian rule witnessed an enhanced activity on the part of the priesthood, with the most prominent of these being the consolidation and strengthening of the Church under the third-century priest Kirdir. While already prominent during the reign of Shapur I, Kirdir appears to have assumed real power during the reign of Shapur's sons, Ohrmazd-Ardashir (273–4 CE) and Bahram I (274–6) and the latter's son Bahram II (276–93). His attempts at strengthening the Church are known, thanks to the detailed descriptions he provides in a number of inscriptions. Here for the first time, one encounters an explicit allusion to

<sup>14</sup> See G. Widengren, "The Status of the Jews in the Sassanian Empire," *Iranica Antiqua* 1 (1961), 132–9, and especially 132 n. 2.

<sup>15</sup> See Neusner, *Babylonia*, II 48–52; Gafni, *Babylonia*, 263–4.

<sup>16</sup> J. Duchesne-Guillemin, in Yarshater (ed.), *Cambridge History of Iran*, III/2 874.

<sup>17</sup> Frye, *Ancient Iran*, 300; for a comprehensive overview of Sasanian attitudes towards the various religious groups under their rule, see J. Duchesne-Guillemin, in Yarshater (ed.), *Cambridge History of Iran*, III/2 874–97; see also Wiesehofer, *Ancient Persia*, 199–216.

attempts at persecuting Jews together with “Buddhists, Brahmins, Nasoreans, Christians, Maktaks (Manichaeans?) and Zandiks.”<sup>18</sup>

The nature of these persecutions, however, is unclear, and, in all likelihood, the real thrust of Kirdir’s activity was aimed at maintaining proper religious behavior among Iranians while preventing other groups from behaving in a manner that might be perceived as demeaning to Zoroastrian sensitivities. Therefore, while the Talmud nowhere suggests a concerted effort on the part of the Zoroastrian clergy either to attract Jews or physically to coerce them to embrace the revitalized state religion, it does allude frequently to the fire-priests (*ḥabarim*) who hovered around the community, interfering in those areas in which Jewish behavior might clash with Zoroastrian concepts of sanctity. The most common pretext for intervention in the lives of Jews was, in all likelihood, their use of fire for common everyday needs as well as the lighting of candles for religious purposes, such as the celebration of Hanukkah.<sup>19</sup> Stories are told of rabbis sitting around a flame only to have the Persian priest remove the candle from their midst, thereby leading into a general comparison of the advantages and pressures of life under the Persian and Roman governments.<sup>20</sup>

The use of candles was not the only benign activity that might have aroused the Zoroastrian clergy. Burial in the ground was deemed to pollute the sacred earth, and this act led to the Zoroastrian custom of exposure.<sup>21</sup> Judaism, however, required the burial of the dead, and the Babylonian Talmud describes Persian magi exhuming corpses, including those of noted rabbis.<sup>22</sup> Yet another element requiring protection from all manner of impurity was water, and here again the immersion of Jewish menstruant women

<sup>18</sup> For literature on these inscriptions and the various groups mentioned, see Neusner, *Babylonia*, II 17–26.

<sup>19</sup> See, e.g., the question posed in BT *Shabb.* 45a, “They asked Rav: Is it permissible to move a Hanukkah candle from before the *ḥabarim* on the Sabbath?” Later, geonic sources seemed to know something of the practices that led to such dilemmas: “In the Persian Kingdom their *ḥabarim* would go round Jewish houses, extinguish candles and remove the embers, taking them to their fire-houses, forbidding either flame or embers from remaining overnight outside their houses of idolatry”; S. Assaf, *Geonic Responsa* (Jerusalem, 1928), 171.

<sup>20</sup> BT *Gitt.* 16b–17a. For an extremely detailed study of this text and of the historical background for Zoroastrian preservation of the sanctity of fire and its removal from non-religious contexts, see E. S. Rosenthal, “For the Talmudic Dictionary – Talmudica Iranica,” in S. Shaked (ed.), *Irano-Judaica*, I (Jerusalem, 1982), 38–134, especially 38–42, 58–64, and the notes on 75–84 and 128–31 (Hebrew).

<sup>21</sup> See M. Boyce, *Zoroastrians: Their Religious Beliefs and Practices* (London, 1979), 14–15, 44–5, 120–1; idem, *Zoroastrianism: Its Antiquity and Constant Vigor* (Cosa Mesa, CA, and New York, 1992), 95.

<sup>22</sup> BT Bava B. 58a; see also BT Yev. 63b.

in water was antithetical to basic Zoroastrian tenets. The intervention of the clergy in these Jewish rituals is noted in at least one talmudic source (BT *Yev.* 63b) as a “decree” (*gazru* is the common talmudic term for religious persecution), and historians have labored to identify these actions with Kirdir’s late third-century zealous imposition of Zoroastrian behavior.<sup>23</sup> Nevertheless, guarding the sanctity of Zoroastrian purities does not constitute an overt persecution of other faiths, Judaism included, and, lacking any evidence of the Zoroastrians actively seeking to increase their numbers through conversion, one should avoid equating those talmudic allusions to interference in Jewish daily life on the part of the local clergy with outright persecution, notwithstanding Kirdir’s aggressive pronouncements.<sup>24</sup>

Sasanian tolerance towards the Jews extended into the early fifth century CE, and this attitude was consistent with a general tolerance of minority groups on the part of Yazdgird I (399–420 CE). Indeed, this policy, of which the main benefactors were the Christian communities of Iran, may reflect that monarch’s attempt to limit the enhanced power of the clergy and aristocracy.<sup>25</sup> Therefore, just as Christian historians praised Yazdgird I (while he was reviled in Arabic-Persian sources), the Babylonian Talmud also referred to amicable contacts between the king and Jewish leaders.<sup>26</sup> A most interesting – albeit unverifiable – Pahlavi source actually claims that Yazdgird’s wife “was the daughter of the resh-galutak (exilarch), King of the Jews, and the mother of Bahram Gor (420–38 CE).”<sup>27</sup> Talmudic sources also reflect positively on the Persian kingdom in a legal sense, whereas earlier *halachah* forbids the sale of weapons to Gentiles, the later strata of the Babylonian Talmud permit this sale “to Persians, for they protect us.”<sup>28</sup>

<sup>23</sup> See in particular the following articles by M. Beer: “Notes on Three Edicts Against the Jews of Babylonia in the Third Century,” in Shaked (ed.), *Irano-Judaica*, 1 25–37; “The Decrees of Kartir against the Jews of Babylonia,” *Tarbiz* 55 (1986), 525–39 (both articles in Hebrew).

<sup>24</sup> I follow R. Brody, “Judaism in the Sasanian Empire: A Case Study in Religious Coexistence,” in S. Shaked and A. Netzer, (eds.), *Irano-Judaica*, 11 (Jerusalem, 1990), 52–61.

<sup>25</sup> See T. Noeldeke, *Aufsätze zur persischen Geschichte* (Leipzig, 1887), 104; Neusner, *Babylonia*, v 5.

<sup>26</sup> BT Ket. 61a–b; BT Zev. 19a. See M. Beer, *The Babylonian Exilarchate in the Arsacid and Sassanian Periods* (Tel-Aviv, 1970), 45–7.

<sup>27</sup> J. Markwart, *A Catalogue of the Provincial Capitals of Eranshahr*, *Analecta Orientalia* 111 (Rome, 1931), 19; the chronicle cites the woman by name – Shoshan-dukht – and claims that she was instrumental in establishing a Jewish colony in Gay, the capital of Ispahan. See Widengren, “Status,” 139–42; Beer, *Exilarchate*, 47–8; Neusner, *Babylonia*, v 9–14.

<sup>28</sup> BT *Av. Zar.* 16a; printed editions of the Talmud attribute this to Rav Ashi, a contemporary of Yazdgird I, but manuscripts omit his name, and the statement may be a later gloss.

If Jews in Babylonia suffered persecution at the hands of Zoroastrian extremists, this persecution probably erupted only towards the second half of the fifth century under Yazdgird II (538–457 CE) and his son Peroz (459–84). While some historians attribute this persecution to the fanaticism of the former, others note the gradual weakening of the monarchy under the pressure of ongoing invasions of the Empire, thereby creating a power vacuum that the Zoroastrian church aggressively filled.<sup>29</sup>

Descriptions of any fifth-century persecution of the Jews are not found in the Babylonian Talmud itself, but rather in the chronological works produced in later medieval times, primarily in the ninth-century chronology known as *Seder Tanaim ve-Amoraim*, and the *Epistle of Rav Sherira Gaon*, written in the late tenth century. These works describe Yazdgird II's decree prohibiting observation of the Sabbath as well as the subsequent execution of rabbis and Exilarchs, the forced closure of synagogues and houses of study, and the subjection of Jewish children to forced conversion by the magi.<sup>30</sup> Interestingly, these clashes appear to dovetail with the description provided by a tenth-century Persian Muslim author, Hamza Isfahani. The latter claims that in 468 CE, that is, during the rule of Peroz, the Jews of Isfahan flayed two magi. Peroz punished them by slaughtering one half of Isfahan's Jewish population while forcibly removing their children to the fire-temple of Sros Aduran in the village of Harvan.<sup>31</sup> Whether or not the events actually occurred or were merely a pretext for persecution is unclear, but the allusion to children being handed to the fire-priests in both the Jewish and Persian chronicles may suggest vague shared memories of the same event.

By the end of the fifth century – commonly regarded as a major stage in the redaction of the Babylonian Talmud – the Sasanian kingdom suffered additional turmoil, this time the result of an internal uprising aroused by the preaching of Mazdak, a Persian priest influenced by Manichaeism who demanded the correction of social ills, especially inequality in the distribution of material wealth. The Mazdakite movement seemed to enjoy the support of the masses, and the king, Kavad (488–531 CE) lent his support as well, to the dismay of the established Church and

<sup>29</sup> See Gafni, *Babylonia*, 49 nn. 134, 135; Neusner, *Babylonia*, v 66–72, who sees the pressure on the Jews as the government's response to a heightened messianic arousal at the time.

<sup>30</sup> K. Kahan (ed.), *Seder Tannaim veAmoraim* (Frankfurt, 1935), 6; B. M. Lewin (ed.), *Iggeret Rav Sherira Gaon* (Haifa, 1921), 94–7.

<sup>31</sup> See T. Noeldeke, *Geschichte der Perser und Araber zur Zeit der Sasaniden: Aus der arabischen Chronik des Tabari* (1897; 2nd ed., Leiden, 1973), 118; Widengren, "Status," 143.

aristocracy.<sup>32</sup> The latter succeeded in temporarily deposing the king around the years 496 to 498, and it is precisely at this time that one ninth-century Jewish chronicle describes a Jewish attempt at establishing an autonomous state headed by the Exilarch Mar Zutra, who “did battle with the Persians, inherited the kingship, and gathered taxes for seven years.” Ultimately the Jews were subdued, and the Exilarch and the Head of the Academy were hanged in the city of Mahoza. Verification of these events is virtually impossible, but this depiction of late fifth-century Jewish Babylonia serves to temper the idyllic image of Babylonian Jewry that the later Geonim would so strenuously support as part of their overall claim that the Babylonian community – and its Torah – thrived precisely because they were never subject to the constant religious persecution that was the lot of their Palestinian brethren.<sup>33</sup>

### III JEWISH SELF-GOVERNMENT: THE EXILARCHATE<sup>34</sup>

As noted elsewhere in this volume, no hard evidence is available for the existence of the Babylonian Exilarchate before the third century CE, but this lack of information may simply be the result of a paucity of sources for the earlier period. Indeed, the nature of the Parthian monarchy certainly encouraged a degree of Jewish self-rule, and geonic sources speak in general terms of the existence of the office during the Second Temple period.<sup>35</sup> One ninth-century author seems to have fabricated a genealogy of Exilarchs, stretching from the days of the First Temple and King Jehoiachin (Yekhoniah) to

<sup>32</sup> While a relatively obscure event in itself, the image of a late-antique “communist” movement has attracted the attention of numerous scholars; see A. Christensen, *Le regne du roi Kawadh I et le Communisme Mazdakite* (Copenhagen, 1925); idem, *Iran*, 316–62; O. Klima, *Mazdak: Geschichte einer sozialen Bewegung im sasanidischen Persien* (Prague, 1957); P. Crone, “Kavad’s Heresy and Mazdak’s Revolt,” *Iran* 29 (1991), 21–42; on the role of the Jews in this uprising, see Klima, “Mazdak und die Juden,” *Archiv Orientalni* 24 (1956), 420–31; Widengren, “Status,” 143–5; Y. A. Solodukho, “The Mazdak Movement and Rebellion of the Hebrew Population,” in J. Neusner (ed.), *Soviet Views of Talmudic Judaism* (Leiden, 1973), 67–85.

<sup>33</sup> The most aggressive proponent of this pro-Babylonian offensive and reimagining of Jewish history was Pirkoi ben Baboi, an early ninth-century Babylonian disciple connected to the geonic academy at Sura; see the literature in I. Gafni, *Land Center and Diaspora: Jewish Constructs in Late Antiquity* (Sheffield, 1997), 96–7 and n. 1; R. Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture* (New Haven, 1998), 113–17.

<sup>34</sup> See M. Beer, *The Babylonian Exilarchate in the Arsacid and Sassanian Periods* (Tel-Aviv, 1970); D. Goodblatt, *The Monarchic Principle: Studies in Jewish Self-Government in Antiquity* (Tübingen, 1994), 277–311. A major new study on the Babylonian Exilarchate is currently being prepared by Geoffrey Herman, to be submitted as a dissertation at the Hebrew University.

<sup>35</sup> See *Iggeret Rav Sherira*, 73–4, and the appendix in Lewin’s edition, xx.

his own day.<sup>36</sup> In truth, however, only in talmudic literature does a more complete picture of this office emerge, one that draws much from a comparison of the Exilarchate with the Patriarchate of Roman Palestine. The similarities are striking: both claim Davidic lineage, and thereby represent a type of monarchic remnant from the past as well as potential for the future; both officials appear before the kings (or emperors) of their respective empires and possibly served as representatives of the Jewish community. Both seemed to enjoy (to varying degrees at different times) the support of the government, which enabled them to maintain a court that included a retinue of armed servants, thereby affording them a means for enforcing their rulings,<sup>37</sup> and both apparently enjoyed substantial wealth.<sup>38</sup> The sources also attribute to both officials a role in the appointment of Jewish judges, although here a major difference occurs: the Palestinian Patriarchs were connected to the appointment of judges and the conferring of ordination upon worthy rabbis, while alternatively, the exilarchs defined their role by guaranteeing the support of their office to judges who might otherwise be held liable for faulty adjudication.<sup>39</sup> While knowledge of a regulated and independent Jewish court system in Babylonia is limited, it appears that some sort of judicial body existed close to the court of the Exilarch, and, thanks to the status of that office in both Iranian and Jewish eyes, it enjoyed a preferential status if only because it had the executive authority that rendered its decisions binding and subject to forced implementation.<sup>40</sup> However, no clear proof justifies the claim that the Exilarchs held the power of capital punishment.<sup>41</sup>

Both Talmuds describe a major economic role enjoyed by the Exilarch, namely, the right to appoint an *agoranomos*. This office, for which abundant documentation is available in the Graeco-Roman world,<sup>42</sup> was responsible

<sup>36</sup> See A. Neubauer, *Medieval Jewish Chronicles*, 11 (Oxford, 1895), 73–5; Gafni, *Babylonia*, 96; the latter part of the list may indeed be based on authentic records from the talmudic and geonic periods, but the first part was simply lifted from the biblical list in 1 Chron. 3.17–24.

<sup>37</sup> The servants of the Exilarch are frequently portrayed as rather heavy-handed in their contacts with the Rabbis; see BT *Gitt.* 67b; BT *Bava K.* 59a–b; one story even suggests their responsibility for the death of a rabbi, see BT *Av. Zar.* 38b, and compare BT *Gitt.* 31b. Needless to say, these portrayals were produced and transmitted in rabbinic circles, and therefore may be providing one-sided representations of the power struggle between Exilarch and Rabbis in Jewish Babylonia.

<sup>38</sup> Gafni, *Babylonia*, 98–104; Goodblatt, *Monarchic Principle*, 279–83.

<sup>39</sup> BT *Sanh.* 5a; Beer, *Exilarchate*, 106–17.

<sup>40</sup> See BT *Shabb.* 55a; BT *Bava B.* 65a (this source alludes to “the gate of the Exilarch where judges are found”); BT *Ket.* 94b; BT *Kidd.* 70a–b; Beer, *Exilarchate*, 57–93.

<sup>41</sup> Beer, *Exilarchate*, 58–65.

<sup>42</sup> See A. H. M. Jones, *The Greek City: From Alexander to Justinian* (Oxford, 1940), 349, n. 10.

for overseeing the marketplace, and the third-century rabbinic sage Rav was appointed *agoranomos* by the Exilarch. The two, however, disputed the position's terms of reference: the Exilarch assumed that the *agoranomos* was responsible for regulating prices as well as examining weights and measures, whereas the Rabbis claimed that only the latter fell under the appointee's jurisdiction.<sup>43</sup> This anecdote sheds some light on the centralized authority structure of the Babylonian Jewish community. In contrast, the *agoranomoi* in the Roman world were usually appointed by the local city officials rather than by an outside central authority.<sup>44</sup> Control of the marketplace may have served as a major sphere of co-operation between the Exilarchs and a fiercely independent rabbinic class in Babylonia. According to a number of talmudic traditions, the Exilarch had the authority to grant certain rabbis exclusive privileges in the sale of their produce at the marketplace prior to all the competition.<sup>45</sup> The "taking of the market" (*nekitat ha-shuk*), if not wishful thinking on the part of the Rabbis, is one of the few examples of exilarchic intervention in support of the rabbinic class. No proof exists that any such comparable exilarchic intervention extended to the inner relationships among the Sages, most specifically to attempts at regulating the leadership within the various learning circles that would ultimately emerge as the academies.<sup>46</sup> This blurring of boundaries between Exilarchate and Rabbinat was destined to become much more pronounced in the geonic period.<sup>47</sup>

Although one talmudic source lists the Exilarch together with a number of officials that comprised the highest levels of the Sasanian hierarchy,<sup>48</sup> no genuine evidence is available for attributing such a lofty position to the office. Indeed, even the suggestion that the Exilarch was responsible to the Sasanian government for the collection of taxes among the Jews has not been substantiated.<sup>49</sup> It is evident, however, that the royal status ascribed by the Jewish community to the Exilarch as a descendant of the House of David played a major role in the self-image of Babylonian Jewry. The office reinforced a sense of antiquity and continuity with the Judaeans exiled to Babylon in the early sixth century BCE, prior to the destruction of the First Temple.

<sup>43</sup> PT *Bava B.* 5.15a–b; Beer, *Exilarchate*, 123–5.

<sup>44</sup> See Jones, *Greek City*, 181, 188; H. Galsterer, "Local and Provincial Institutions of Government," *CAH*, xiii (Cambridge, 2000), 352–3.

<sup>45</sup> BT *Bava B.* 22a; see M. Beer, *The Babylonian Amoraim: Aspects of Economic Life*, 2nd ed. (Ramat-Gan, 1982), 222–3.

<sup>46</sup> Neusner, *Babylonia*, iv 91–100; Beer, *Exilarchate*, 94–106; Gafni, *Babylonia*, 232–5.

<sup>47</sup> See R. Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture* (New Haven, 1998), 75–9.

<sup>48</sup> BT *Shevu.* 6a; see also PT *Shevu.* 1.32d; and see Beer, *Exilarchate*, 25–7.

<sup>49</sup> See D. M. Goodblatt, "The Poll Tax in Sasanian Babylonia," *JESHO* 22 (1979), 270, 293.

Moreover, it was a major component in the growing self-esteem that Babylonian Jews began to cultivate as their ultimate response to the post-Temple realities of Jewish life. In their eyes, their pedigree was the “purest” of all Jews,<sup>50</sup> avoiding the ethnic “pollution” that was the fate of other Jewish centers, particularly those of the assimilationist Graeco-Roman world. Their synagogues are the successors to the destroyed Temple, and the *shekbinab* – the Divine Presence – has resided in them from the earliest stages of the first Exile.<sup>51</sup> Their knowledge of Torah is equivalent to that of the Palestinian sages, and as they claim: “We have rendered ourselves the equivalent of the Land of Israel from the time that Rav came to Babylonia” (that is, 219 CE).<sup>52</sup> It appears, then, that the exalted image of the Exilarch when compared to the Palestinian Patriarch fit perfectly into the slowly emerging self-image of Babylonian supersession *vis-à-vis* the Land of Israel, a process that ultimately found the Babylonians referring to their homeland as “Zion.”<sup>53</sup>

#### IV DAILY LIFE: GEOGRAPHY, DEMOGRAPHY, AND ECONOMIC ACTIVITY

As noted elsewhere in this volume,<sup>54</sup> the earlier periods of Babylonian Jewish history find Jews situated in two major territorial clusters. The first of these clusters included most of northern Mesopotamia,<sup>55</sup> as well as those areas east of the Tigris to which Jews had been exiled or had emigrated in the late First Temple period: Assyria and Adiabene, Media, and southeast towards Elam. The most important city in this northern area of Mesopotamia was Nisibis,<sup>56</sup> mentioned by Josephus as a town in which monies destined for Jerusalem were gathered,<sup>57</sup> and apparently one of the earliest centers of rabbinic teaching prior to the third century CE. However, the Mesopotamian concentration of Jews slowly receded into the background, ultimately losing its position of prominence in Jewish sources. The precarious location of this area, a frequent battleground between Roman

<sup>50</sup> BT *Kidd.* 69b; 71a–b; BT *Ket.* 111a.

<sup>51</sup> BT *Meg.* 29a; see A. Oppenheimer, “Babylonian Synagogues with Historical Associations,” in D. Urman and P. V. M. Flesher (eds.), *Ancient Synagogues: Historical Analysis and Archaeological Discovery*, 1 (Leiden, 1995), 40–8.

<sup>52</sup> BT *Gitt.* 6a; BT *Bava K.* 80a; see Gafni, *Rabbinic Culture*, 231–2.

<sup>53</sup> BT *Ket.* 111a; see Gafni, *Land*, 115–16.

<sup>54</sup> See ch. 2 in this volume, section IV, “The Jews in Babylonia, 70–c. 235.”

<sup>55</sup> See J. B. Segal, “The Jews of North Mesopotamia,” in J. M. Grintz and J. Liver, (eds.), *Studies in the Bible Presented to Professor M. H. Segal* (Jerusalem, 1964), 32–63.

<sup>56</sup> Now Nusaybin in Turkey, north of the Syrian border; see Oppenheimer, *Babylonia Judaica*, 319–34.

<sup>57</sup> Josephus, *Ant.* 18.312, 379.



and Persian armies, contributed to this regression, and the Babylonian Talmud knew that the territory was constantly changing hands.<sup>58</sup> In addition, by the third century an intense Christianization of this territory also contributed to the diminishing number of Jews.<sup>59</sup>

The second concentration of Jews, in southern Mesopotamia (from 32° north to approximately 33.5° north), was situated primarily from just north to just south of the confluence of the Euphrates and Tigris rivers.<sup>60</sup> The major Jewish centers mentioned throughout talmudic literature were situated on or near the rivers, primarily the Euphrates, or along the various canals connecting the two rivers, and these include (from north to south) the following: Pumbedita and Nehardea on the Euphrates, Sura to the south on Nahar Sura, and the Maḥoza district, just west of the Tigris and near the major cities of Seleucia and Ctesiphon in the general area of Baghdad. When referring to talmudic Babylonia, most writers – beginning with the Babylonian Talmud itself – have this area in mind, and the Babylonian Talmud designates it as the one “healthy” concentration of Jews with a proper pedigree: “Babylonia is healthy, Mesene [the district from the Persian Gulf and north to Kut al-Imara in southern Iraq] is dead, Media is sick, Elam is dying.”<sup>61</sup>

Any attempt to estimate the Jewish population is an exercise in futility. Josephus chose the more prudent course for conveying the demographic situation by simply saying that “not a few tens of thousands of Jews . . . had been transported beyond the Euphrates.”<sup>62</sup> Moreover, the period under discussion in this chapter covers at least four centuries, and any system that relies on names of Jewish towns found in the Babylonian Talmud as the crucial factor in calculating population figures ignores the fact that the list is a composite of sources and information spanning many generations rather than an accurate picture of a specific time. Nevertheless, various “educated guesses” have usually hovered at the one million mark, which if correct, renders the Babylonian Jewish community of the third to seventh centuries as the largest concentration of Jews in the Diaspora (certainly after the devastation of Alexandrian Jewry during the years 114–17 CE) and possibly exceeding the number of Jews in Roman-Byzantine Palestine.<sup>63</sup> Population growth among Babylonian Jewry, together with all the other

<sup>58</sup> BT Kidd. 72a. <sup>59</sup> See Segal, *The Jews*, 41–8.

<sup>60</sup> See the two fold-out maps at the end of Oppenheimer, *Babylonian Judaica*.

<sup>61</sup> BT Kidd. 71b.

<sup>62</sup> Josephus, *Ant.* 15.39; elsewhere Josephus also refers to “ten tribes beyond the Euphrates – countless myriads whose number cannot be ascertained” (*Ant.* 11.133; see also *Ant.* 15.14).

<sup>63</sup> For one example of population estimates for Jewish Babylonia, see Neusner, *Babylonia*, 11 246–50; Beer, *Amoraim*, 22–3 n. 14.

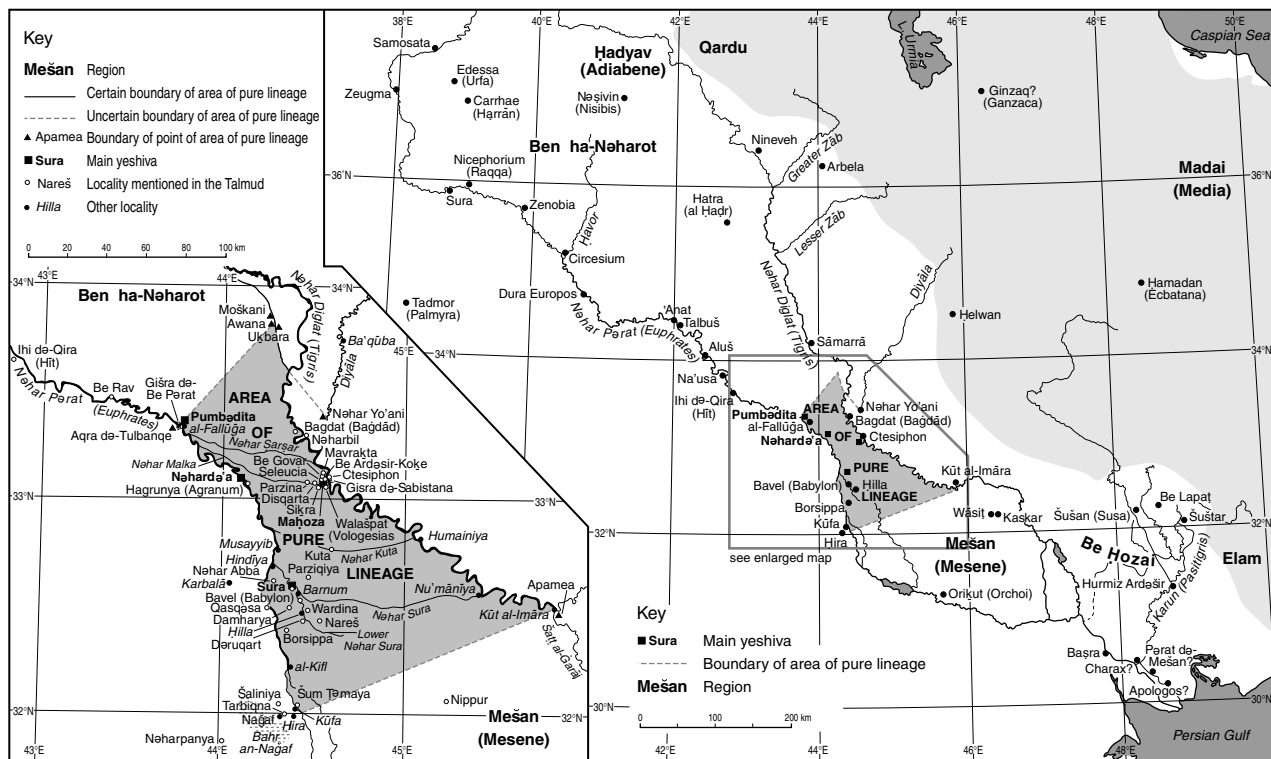


Figure 31.2 Babylonia and its environs and talmudic Babylonia

residents of the Sasanian Empire, received an additional boost thanks to the Zoroastrian religious incentive to increase the cultivation of agricultural land, and the period under discussion may have witnessed the most intensive agricultural activity in all of Persian history.<sup>64</sup>

In Iranian and Jewish eyes, Jews were identified not only as part of a widespread religious community but also as residents of their particular towns. Of the two major taxes mentioned in talmudic and other sources,<sup>65</sup> the land tax (referred to in the Talmud as the *tasqa*) and the poll tax (*kraga*),<sup>66</sup> the latter appeared to require administrative registration of subjects, and this registration was handled according to town residence. Consequently, in dealing with the rights of local residency as specified in rabbinic law, one sage proclaims that a town resident cannot prevent an outsider from establishing himself as a business competitor in that town if the latter “belongs to the poll tax of here.”<sup>67</sup> Registration for tax purposes in a particular town might also determine one’s pedigree in Jewish eyes, and, after a certain sage was offended because his origins were considered to be from a town of doubtful Jewish lineage, he was subsequently placated by the fact that he pays his poll tax in a different town whose residents were of proper Jewish ancestry.<sup>68</sup> Nevertheless, if residency in a particular town might be advantageous in that respect, it also served as a means for exacting the poll tax, which by all accounts was a considerable sum,<sup>69</sup> and clearly represented a disadvantage. The legitimacy of rabbinic attempts to avoid the poll tax, whether by claiming equal status with (the possible exemptions of) Zoroastrian clerics or by sages misrepresenting themselves as “servants of the fire”<sup>70</sup> – is considered in the Talmud, and is a definite sign

<sup>64</sup> See R. N. Frye, “The Political History of Iran under the Sasanians,” in Yarshater (ed.), *Cambridge History of Iran*, 111/1 131–2.

<sup>65</sup> The most important source for Sasanian taxation relates to the latter stages of the Empire, specifically the reforms planned by Kavad I (488–531) and completed by his son Khusro I Anoshirvan (521–79). These are described by Tabari; see T. Noeldeke, *Geschichte der Perser*, 242–7; for an English translation, see C. E. Bosworth, *The History of al-Tabari*, v: *The Sasanids, the Byzantines, the Lakhmids and Yemen* (Albany, 1999), 255–62. The Talmud is clearly one of the more important sources for knowledge of the *kraga* prior to that period; see the full discussion in Goodblatt, “Poll Tax,” 232–95.

<sup>66</sup> On the different names of the taxes in Jewish, Christian, and Arabic texts and on the taxation of Jews under the Sasanians, see Widengren, “Status,” 149–54; Beer, *Amoraim*, 227–41.

<sup>67</sup> BT *Bava B.* 21b; see Goodblatt’s discussion of this text, “Poll Tax,” 260–1.

<sup>68</sup> BT *Kidd.* 71a. <sup>69</sup> See Goodblatt, “Poll Tax,” 239–47.

<sup>70</sup> BT *Ned.* 62a–b; the text raises a long list of, as yet, unresolved questions regarding the supposed exemption of Zoroastrians from the poll tax, as well as the practicality of a rabbi’s actually passing himself off as a Zoroastrian priest; see the detailed analysis in Goodblatt, “Poll Tax,” 277–92.

of the burden that this tax represented. Those delinquent in payment might be enslaved by others who paid the tax on their behalf,<sup>71</sup> and the phenomenon of flight to avoid the payment of taxes – *anachoresis* in Graeco-Roman sources and well attested in Palestinian rabbinic literature<sup>72</sup> – was not unknown among the Jews of talmudic Babylonia.<sup>73</sup>

In general, however, a sense of local pride prevailed among Jews of Sasanian Babylonia. Not only did the Babylonian rabbis cultivate a self-image of parity (and ultimately superiority) with their Palestinian counterparts, but on the local level Babylonian Jews frequently make a point of their belonging to one town, with its favorable attributes, rather than to another one known for its moral or familial blemishes.<sup>74</sup> Aspersions are cast on certain Jewish towns because the residents “all are Ammonites . . . all are bastards . . . two brothers engage in wife-swapping” and the like.<sup>75</sup> A propensity for theft or greed is a common characteristic used to denigrate the good name of a town: “If a Nareshen (a resident of Naresh) kisses you – count your teeth; If a Nehar Pekodan accompanies you – it is because of the fine cloth he saw on you; If a Pumbedithan accompanies you – change your accommodations.”<sup>76</sup>

Regionalism had other expressions among Babylonian Jews, and not the least important was the rabbinic legal spheres of influence. Laws and practices established by certain rabbinic authorities or study circles affected their immediate geographical environs, and the Babylonian Talmud addresses cases of different spheres of influence required to arrive at some sort of accommodation, such as when “a woman of Maḥoza married a man of Nehardea.”<sup>77</sup> What is striking, though, in all aspects of this Babylonian sense of local patriotism, is that the adversarial relationships expressed are primarily among Jews of different localities. Certainly, Gentiles and Zoroastrian priests can be troublesome at times, but the overriding sense of the threatening Greek or Roman pagan, so familiar from Palestinian sources, does not seem to find its match in the Babylonian Talmud, and “the other” might as frequently be a Jew from another town. The ongoing threat

<sup>71</sup> BT *Yev.* 46a; BT *Bava M.* 73b; similarly, land belonging to those delinquent in the payment of land tax might be sold, with usufruct transferred to those who paid in their stead; BT *Bava B.* 54b; BT *Bava M.* 73b.

<sup>72</sup> See D. Sperber, “*Anachoresis* and *Usucapio*,” *Bar-Ilan* 9 (Ramat-Gan, 1972), 229–96 (Hebrew).

<sup>73</sup> BT *Sanh.* 25b–26a, and quite probably BT *Bava M.* 86a, following Goodblatt, “Poll Tax,” 271–6.

<sup>74</sup> See: I. M. Gafni, “Expressions and Types of ‘Local-Patriotism’ among the Jews of Sasanian Babylonia,” *Irano-Judaica*, 11 (Jerusalem, 1990), 63–71.

<sup>75</sup> BT *Kidd.* 72a <sup>76</sup> BT *Hull.* 127a; see also BT *Hor.* 12a; BT *Taan.* 26a; BT *Ket.* 65a.

<sup>77</sup> BT *Ket.* 54a.

of an outside world is not one of the common themes of Babylonian talmudic literature.

The economic realities of Babylonian Jewry must be understood within the broader Iranian context; nevertheless, generalizations have frequently been based on broad intuitive assumptions, often the result of an overly innocent use of talmudic materials and not without a trace of apologetic concerns. One common theory tends to compare a “more prosperous Babylonia” with “inflation- and tax-ridden Palestine,” considering this comparison as the economic basis for all kinds of variant traditions between the two Jewish centers, such as the Babylonian Talmud’s preference for earlier marriage prior to the study of Torah.<sup>78</sup> On the other hand, another generalization maintains that “the civil law of Palestine in talmudic times mirrors an exclusively agricultural society, while that of Babylonia reflects a life greatly modified by commerce.”<sup>79</sup> Others accept at face value various rabbinic statements on the relative merits of agriculture and commerce and conclude that the Sages in general evinced a preference for agriculture, “knowing well the pitfalls” that commerce places in the path of an honest man.<sup>80</sup>

Overwhelming evidence suggests that the majority of Jews in Sasanian Iran were involved in some type of agricultural activity and, as such, were not much different from the vast majority of the local population.<sup>81</sup> Tabari’s discussion of the tax reforms under Kavād I and Khusrō I informs readers that only the seven major crops, “the products that maintained alive men and beasts,” were to be taxed. These products included wheat, barley, and rice, among the cereals, as well as grapes, trefoil, date palms and olive trees.<sup>82</sup> Talmudic literature portrays Jews as being involved in the cultivation of these crops.<sup>83</sup> For many, farming was aimed primarily at producing

<sup>78</sup> S. W. Baron, *A Social and Religious History of the Jews*, 11 (New York, 1952), 221; see also L. Jacobs, “The Economic Conditions of the Jews in Babylon in Talmudic Times Compared with Palestine,” *JSS* 2 (1957), 349–59 (for the different approaches to marrying or studying Torah first, see 351).

<sup>79</sup> L. Ginzberg, *A Commentary on the Palestinian Talmud*, 1 (New York, 1971), xxix; see N. Getzow, *Al Naharot Bavel* (Warsaw, 1878), 58–9 (Hebrew), who goes even further, claiming that the masses of Babylonian Jews had entered the world of commerce.

<sup>80</sup> L. Jacobs, “The Economic Situation of the Jews in Babylon,” *Melilah*, v (Manchester, 1955), 85 (Hebrew); Jacobs also posits a Sasanian disdain for commerce based on the Zoroastrian stress on agriculture, thereby leaving the commercial world open to minority groups, such as Jews and Armenians (84); idem, “Economic Conditions,” 352.

<sup>81</sup> Wiesehofer, *Ancient Persia*, 191; for the wealth of rabbinic evidence, see J. Newman, *The Agricultural Life of the Jews in Babylonia: Between the Years 200 CE and 500 CE* (London, 1932); Beer, *Amoraim*, 15–82.

<sup>82</sup> See Bosworth, *Tabari*, 257–8; Wiesehofer, *Ancient Persia*, 192.

<sup>83</sup> Newman, *Agricultural Life*, 111; Beer, *Amoraim*, passim.

food for personal consumption, and the Talmud alludes to the fact that business rather than agriculture is a more certain path to wealth.<sup>84</sup> As for the Rabbis, a significant number appeared to be rich landowners whose fields were attended by a range of laborers, tenant farmers, and contractors.<sup>85</sup> Slaves are also mentioned in talmudic literature, but it is doubtful whether agricultural life was dependent or significantly based on slavery.<sup>86</sup>

Commercial activity among Babylonian Jews seems to have been directly connected to the production and sale of agricultural by-products. Individual rabbis proclaim that they became wealthy by their trade in beer made from dates, while others were wine merchants.<sup>87</sup> From the earliest stages of the talmudic period, and in all likelihood before that time, Babylonian Jews were involved in all phases of production and trade in linen and flax clothing, and a number of rabbis are described as dealers in silk.<sup>88</sup> Less evidence is available for the involvement of rabbis in handicrafts, but here one wonders whether this observation is not a reflection of the unique social self-image of the Babylonian rabbis, who might have considered this sort of livelihood demeaning<sup>89</sup> – in contrast to the self-image of the early Palestinian rabbis.<sup>90</sup> Indeed, in this area, it is fair to assume a distinction between rabbinic attitudes and those of Babylonian commoners; in any case, one reads, *en passant*, about tailors, blood-letters, launderers, tanners, weavers, cobblers, and a host of other craftsmen and artisans throughout the Babylonian Talmud.<sup>91</sup> In fact, guilds may have been organized among certain craftsmen, as suggested in one story about

<sup>84</sup> BT *Yev.* 63a.

<sup>85</sup> Newman, *Agricultural Life*, 49–73; Beer, *Amoraim*, passim; however, the phenomenon of an indentured tenant farmer, well documented in the Roman world, is not confirmed in the extensive BT treatment of relations between landowners and farmers. See Gafni, *Babylonia*, 131–2.

<sup>86</sup> The question of slavery among Jews in talmudic Babylonia has received considerable scholarly attention; see Gafni, *Babylonia*, 133–6, and the bibliography in Beer, *Amoraim*, 327 n. 1.

<sup>87</sup> Beer, *Amoraim*, 159–80; sesame oil appears to be another popular commodity for trade among Babylonian rabbis; see Beer, *Amoraim*, 191–6.

<sup>88</sup> Beer, *Amoraim*, 180–91; for silk, see also Neusner, *Babylonia*, 188–93.

<sup>89</sup> Beer, *Amoraim*, 284–8; see, e.g., an apparently across-the-board rabbinic discomfort with weavers, whose trade was already considered in tannaitic Palestine as an “inferior craft” (Tos. *Ed.* 1.3); this attitude was conveyed in the Babylonian Talmud as well; see BT *Kidd.* 82a; BT *Sot.* 48a; and see M. Eyali, *Laborers and Artisans: Their Work and Status in Rabbinic Literature* (Givatayim, 1987), 10 (Hebrew).

<sup>90</sup> For a list of rabbinic statements – mostly Palestinian – extolling the virtues of labor, see Eyali, *Laborers and Artisans*, 87–95; Eyali also quotes those rabbis who appear much less enthusiastic (95–7), possibly a result of the professionalization of the rabbinic world, which tended to see the devotion to learning as a calling requiring all of one’s time.

<sup>91</sup> See M. Eyali, *Laborers and Artisans*, 21 and passim.

slaughterers who established bylaws regulating when each member might ply his trade.<sup>92</sup>

The economic life of Babylonian Jewry was not segregated from the surrounding population, and the Babylonian Talmud suggests not only the proximity of Jews and Gentiles but also a large measure of daily interaction and co-operation. Jews and non-Jews not only sold fields to one another,<sup>93</sup> but might also be found working in the same field, with each taking the other's place on the respective festivals of the two groups.<sup>94</sup> Jews and Gentiles are found pressing grapes together in Nehardea,<sup>95</sup> and one encounters a Jew renting out his ship for the transportation of wine belonging to Gentiles.<sup>96</sup> In general, there appears to be a Babylonian rabbinic relaxation of the restrictions deriving from Palestine that tended to erect barriers between Jews and Gentiles in matters of commerce for fear that such activity might be considered tacit support of an aspect of idolatry. While such moderating tendencies may have been supported in the Talmud by legal distinctions,<sup>97</sup> they suggest a more pronounced social interaction between the various communities nonetheless.<sup>98</sup>

## V SOCIAL CONTEXTS: JEWS AND GENTILES, RABBIS AND LAYMEN

Social interaction between Jews and other groups assumes a common language of discourse, and, in the case of Babylonia, that language was Babylonian Aramaic. For Jews, two other "official" languages also existed, namely, their own Hebrew and the Parthian and Pahlavi dialects of "Middle Persian," but neither one was the common vernacular used by the masses for daily communication. Late into the Geonic period, readers are informed by Rav Hai Gaon that "from long ago Babylonia was the locus for the Aramaic and Chaldean language, and until our time all [local] towns speak in the Aramaic and Chaldean tongue, both Jews and Gentiles."<sup>99</sup> For Babylonian

<sup>92</sup> BT *Bava B.* 9a. <sup>93</sup> BT *Bava M.* 108b. <sup>94</sup> BT *Av. Zar.* 22a. <sup>95</sup> BT *Av. Zar.* 56b.

<sup>96</sup> BT *Av. Zar.* 62b; Rav Hisda clearly disapproved of this behavior and demanded that the ship's owner burn the proceeds of the transaction; the anecdote thereby informs readers not only about daily relations between the communities but also about the degree to which laymen adhered to or ignored more stringent rabbinic demands.

<sup>97</sup> See BT *Ned.* 62b; Rav Ashi saw nothing wrong in selling his forest to a fire-temple, since "most wood is used for heating" rather than for idolatrous fire worship.

<sup>98</sup> Baron, *Social and Religious History*, 11 190–1, exaggerates the degree of "mutual segregation" in Babylonia, which, he claims, "was far more complete" than that of the Roman world because of the feudalization of the Persian Empire.

<sup>99</sup> Quoted from a responsa of Rav Hai, published by A. E. Harkavy, "Ḥadashim gam Yeshanim," *Ha-Kedem*, 11 (St. Petersburg, 1908), 82.

Jews, Aramaic was “our language,” the means of discourse “even in the mouths of women and youngsters.”<sup>100</sup> For Jews and Gentiles alike, Middle Persian was perceived primarily as the language of the Iranian church and government, and consequently many of the Iranian loan-words found in talmudic literature relate precisely to those spheres of public activity in which Jews and Persian officials most likely interacted. These interactions include matters of public administration, official titles and military terms, and the dispensation of justice and of punishment.<sup>101</sup> It is striking, however, that the number of Iranian loan-words in the Babylonian Talmud is fewer than the thousands of Greek and Latin loan-words that found their way into Palestinian rabbinic literature. Moreover, in no place does the study of “Persian” assume the ideological significance that attends questions in Palestine regarding the attributes as well as the concomitant dangers of Greek.<sup>102</sup>

Familiarity with the Iranian environment was not limited to language, however; it is clear from a number of talmudic texts that Babylonian Jews were cognizant of the annual cycle of Iranian festivals.<sup>103</sup> Certainly, the names of these festivals were corrupted by subsequent copyists of the Babylonian and the Palestinian Talmuds, which is hardly surprising given their removal by hundreds of years and thousands of miles from the settings in which these holidays were originally celebrated. Nevertheless, two of these festivals have been identified; they are “Noruz” (“Musardi” in manuscript versions of the Babylonian Talmud and “Noroz” in the Palestinian) and “Mihragan” (“Muharnekei” in the Babylonian Talmud). The former festival celebrated the coming of spring or summer,<sup>104</sup> while the latter signified the onset of the rainy season. The halachic context for taking note of these holidays was the rabbinic stipulation – deriving from the Palestinian Mishnah – to desist from commerce with Gentiles prior to their holidays, and it is possible that some of the intervention of

<sup>100</sup> See J. N. Epstein, *A Grammar of Babylonian Aramaic* (Jerusalem and Tel-Aviv, 1960), 17 (Hebrew); Epstein also notes that the Aramaic script used by Jews (“our Aramaic script”) was the same as was employed by pagans and Manichaeans, as opposed to the Syriac-Nestorian script preferred by Christians.

<sup>101</sup> S. Shaked, “Iranian loanwords in Middle Aramaic,” *Encyclopaedia Iranica*, 11 (London and New York, 1987), 260–1.

<sup>102</sup> See Gafni, “Babylonian Rabbinic Culture,” 241–2, and 259 nn. 65–70.

<sup>103</sup> *BT Av. Zar.* 11b refers to a series of four “Persian” holidays alongside four “Babylonian” ones; *PT Av. Zar.* 1.1.39c, quoting the Babylonian sage Rav, alludes to three holidays in Babylonia and three in Media. Neither distinction has been convincingly interpreted by scholars, nor have the names of these holidays been adequately explained.

<sup>104</sup> See M. Boyce, *Zoroastrians: Their Religious Beliefs and Practices* (London, 1979), 72, 105–6, 124, 128–30.



Zoroastrian fire-priests in the daily lives of Jews may have occurred on these days.<sup>105</sup> As noted by David Goodblatt, however, certain taxes in Sasanian Babylonia might also have been collected in connection with the festivals of the Iranian calendar, thereby enhancing an awareness of their imminent approach and possibly setting the stage for large-scale flight to avoid payment.<sup>106</sup> As in the case of language, Iranian culture in this instance effected an influence on Jews, not so much as part of an assimilatory process, as was the case in the Graeco-Roman world, but specifically in those areas in which the two communities experienced contact of a more prosaic nature.

This is not to say that at least the Rabbis, if not the masses of Jews, were unaware of certain basic tenets of the Zoroastrian faith, most specifically the dualistic manifestations of that religion. At least one allusion to the divisions between Ahura Mazda and Ahriman, who are cited by their (corrupted) names, appears in a polemical passage in the Talmud, although this passage is not necessarily the result of an actual confrontation.<sup>107</sup> More significant, however, was the cultural impact that proximity appeared to have on Jewish beliefs and behavior. For example, the proclivity for early marriage among Babylonian Jews, which has frequently been attributed to their robust economic state,<sup>108</sup> is far more likely the result of Iranian cultural influence. The heightened value that it seemed to place on procreation and marriage fostered an atmosphere that encouraged not only early marriage but also polygamous relations.<sup>109</sup>

Iranian beliefs also seem to have infiltrated Jewish society in other, more “spiritual,” ways as well. For example, while a belief in spirits and demons was present in Jewish communities throughout the world, including Palestine, their pervasiveness in Pahlavi literature<sup>110</sup> undeniably reverberates in the Babylonian Talmud. Thus, one talmudic text notes that “If the eye had the power to see them, no creature could endure the demons . . . they are more numerous than we are and they surround us like the ridge around a field . . . every one among us has a thousand on his left hand and ten thousand on his right.”<sup>111</sup> Halachic discussions alongside references to a world replete with demons merge seamlessly in the Talmud. For example, the pretext for a lengthy discourse on demons and magic in the Babylonian Talmud (*Pes.* 109b–112b) is the Mishnah’s requirement that one drink

<sup>105</sup> See Rosenthal, “For the Talmudic Dictionary,” 39–42.

<sup>106</sup> Goodblatt, “Poll Tax,” 275–6, and nn. 111–14.

<sup>107</sup> See *BT Sanh.* 39a; Neusner, *Babylonia*, v 23. <sup>108</sup> See n. 78 above.

<sup>109</sup> See I. Gafni, “The Institution of Marriage in Rabbinic Times,” in D. Kraemer, (ed.), *The Jewish Family: Metaphor and Memory* (Oxford, 1989), 13–30; A. Shremer, *Jewish Marriage in Talmudic Babylonia* (PhD thesis; Jerusalem, Hebrew University, 1996), 302–5.

<sup>110</sup> See M. Boyce, *A History of Zoroastrianism*, 1 (Leiden, 1989), 85. <sup>111</sup> *BT Ber.* 6a.

four cups of wine at the Passover *seder*, notwithstanding the fact that the Rabbis elsewhere caution against eating or drinking “in pairs” (that is, even numbers) because “Ashmedai, the king of the demons, is appointed over all pairs.”<sup>112</sup> Significantly, the Babylonian rabbis know that this apprehension was not shared by their Palestinian contemporaries.<sup>113</sup> It is also relevant to note that Babylonian Jews not only shared in such local beliefs regarding a wide array of supernatural forces, but also assumed a major role in the neutralization of the threat that these forces represented. The removal of demons or their pacification through the means of “magic bowls” commissioned by persons possessed, or their families, has been subjected to detailed studies in the last century, thanks to the discovery of hundreds of such bowls in Iraq that date precisely to the period under discussion.<sup>114</sup> The language and content of these bowls, frequently emulating the process of issuing a decree of “divorce” to the guilty demon, clearly points to their production by Jews. The beneficiaries of the bowls, however, often went by Persian names, and it emerges that Jews were apparently considered by their non-Jewish neighbors to be privy to all sorts of magical skills that could be harnessed in the ongoing battle against demons. If correct, this implies a close business interaction between Jews and others while simultaneously suggesting a perception of Jews as outsiders operating on the fringes of society and providing a service to the indigenous population.<sup>115</sup>

If Jews were deeply involved in such magical undertakings, one might ask about the influence wielded by the Rabbis over the general Jewish population of Babylonia. The natural assumption might be that the Sages frowned on any recourse to forces that circumvented the proper and accepted channels of prayer, and in numerous rabbinic statements this pronouncement was clearly the case;<sup>116</sup> and yet these same rabbinic circles

<sup>112</sup> BT *Pes.* 110a; on Ashmedai as a uniquely Babylonian-Jewish figure (as opposed to “an angel” in PT *Sanh.* 2.20c), see Gafni, “Babylonian Rabbinic Culture,” 261 n. 92; the Iranian fear of even numbers was noted by J. Scheftelowitz, *Die altpersische Religion und das Judentum* (Giessen, 1920), 88–91.

<sup>113</sup> BT *Pes.* 110b.

<sup>114</sup> For a recent bibliography of some major studies, see Gafni, “Babylonian Rabbinic Culture,” 262 n. 105.

<sup>115</sup> See S. Shaked, “On Jewish Magical Literature in Muslim Countries: Notes and Examples,” *Pe’anim* 15 (1983), 16–17 (Hebrew); J. Naveh and S. Shaked, *Amulets and Magic Bowls: Aramaic Incantations of Late Antiquity*, 3rd ed. (Jerusalem, 1998), 18; Naveh and Shaked note that the amount of Zoroastrian religious influence in the bowls is limited.

<sup>116</sup> See E. E. Urbach, *The Sages: Their Concepts and Beliefs* (Jerusalem, 1975), 97–101; G. Veltri, *Magie und Halacha* (Tübingen, 1997), 295–326; idem, “Defining Forbidden Foreign Customs: Some Remarks on the Rabbinic Halachah of Magic,” *Proceedings of the Eleventh World Congress of Jewish Studies*, Div. C/1 (Jerusalem, 1994), 25–32.



Figure 31.3 Magic bowl

recommend the use of certain incantations.<sup>117</sup> The members of these circles approach astrologers and receive advice from them (advice, it should be noted, that invariably proves accurate), and on occasion offer their own instructions, which apparently recognize the potency of stars, planets, and a host of other forces that seemingly function outside the “official” heavenly entourage.<sup>118</sup> Consequently, recourse to magic on the part of the broader segments of the Jewish community might not be the best criterion for appraising the influence wielded by the Rabbis on the general Jewish population.

With the major source for Babylonian Jewish society being the Babylonian Talmud, and given the paucity of external information with which to compare that material and thereby to enhance, clarify, or criticize the picture that emerges therefrom, a discussion of the extent of Iranian cultural and religious influence on Judaism is admittedly lacking. We

<sup>117</sup> See, e.g., BT *Peš.* 112a. <sup>118</sup> See Gafni, “Babylonian Rabbinic Culture,” 263 n. 114.



Figure 31.4 Magic bowl

know that which the editors of the Babylonian Talmud wish us to know, and are captive not only to their formulations but also to their attitudes. At the same time, assuming that the Rabbis of Babylonia and Palestine shared some basic ideas about the nature of an ideal Jewish society, the discrepancies one finds between the literature of these two rabbinic centers may be indicative of certain disparities between the two social environments. Moreover, much of the Babylonian Talmud's discussion of local communal frameworks hinges on Palestinian traditions – frequently pre-talmudic – that found their way into Babylonian rabbinic circles. Their

infrequent application of many of these traditions may be informative about the alternative authority structures in the two centers.<sup>119</sup> Whereas Palestinian rabbinic literature and subsequent letters discovered in the Cairo Genizah evince a communal terminology, replete with a variety of frequently anonymous local Jewish officials who fulfill such functions as the collection of communal taxes and charity, responsibility for the construction of synagogues, and representation of the community in the sale or purchase of town property – much of this bureaucratic material is lacking or decidedly different in the Babylonian Talmud. Here one frequently encounters named rabbis stressing that they – and sometimes they alone – are responsible for collecting and distributing charity;<sup>120</sup> similarly, while it is the community's responsibility to build a synagogue, and the rabbinic role in such endeavors is hardly mentioned in Palestinian sources (or inscriptions),<sup>121</sup> numerous stories in the Babylonian Talmud describe rabbis who are responsible for the construction or repair of a synagogue.<sup>122</sup> To what extent this responsibility reflects a different social reality, one more closely controlled by the dual worlds of the Exilarchate and Rabbinat than that of their Palestinian brethren, is certainly a question that is unresolved,<sup>123</sup> as is the question whether or not the heightened rabbinic influence found in the Babylonian Talmud is a consequence of a later and more sophisticated literary redaction that tends to concentrate on rabbinic concerns and interests. Nevertheless, the Babylonian Talmud clearly projects an assertive rabbinic class, and the nature of its relations with the broader Jewish community suggests a different social stratification from the parallel one in Roman-Byzantine Palestine.

Babylonian rabbis clearly maintained formal contexts for cultivating regular links with the community. These links appeared to be situated in two settings. In the synagogue, a unique form of rabbinic homily, known as the *pirqa*, was regularly delivered and carefully crafted to meet the needs of non-rabbinic circles, and this framework can be documented from the

<sup>119</sup> See I. F. Baer in his noted article on “The Origins of the Organisation of the Jewish Community of the Middle Ages,” *Zion* 15 (1950), 1–41. He draws a line from Roman Palestine to the framework of the medieval local Jewish community and clearly passes over Babylonia as a major stage in the development of the *kehillah*, clearly suggesting a major structural discrepancy; see Gafni, *Babylonia*, 92–3.

<sup>120</sup> BT *Meg.* 27b (Rav Huna); BT *Bava B.* 8b (Rav Ashi); see Gafni, *Babylonia*, 106.

<sup>121</sup> See S. J. D. Cohen, “Epigraphical Rabbis,” *JQR* 72 (1981–2), 1–17.

<sup>122</sup> BT *Bava B.* (Maremar and his son Mar Zutra); *ibid.* (Rav Ashi); BT *Meg.* 26b (Rami b. Abba); BT *Ar.* 6b (a donation to “the synagogue of Rav Judah”).

<sup>123</sup> See Levine, *Ancient Synagogue*, 269; Levine recognizes that Babylonian synagogues sometimes operated under the patronage of a rabbi, see 358.

middle of the talmudic period until the late geonic era.<sup>124</sup> The other point of contact is the student circle wherein a rabbi and his disciples might also serve as an *ad hoc* court to which commoners could turn in their quest for adjudication or justice.<sup>125</sup> These two functions, however, may not necessarily have contributed to the image of the rabbi as a popular and accessible leader, and scholars have indeed noticed a certain aloofness in the image of the Babylonian sage when contrasted with the many and variegated contacts between rabbi and commoner in contemporaneous Palestine.<sup>126</sup> In fact, some of the more notorious statements suggesting a mutual hatred between rabbis and laymen (*amei ha-arez*),<sup>127</sup> while employing the names of Palestinian rabbis, may actually be the literary creations of later Babylonian redactors and possibly more indicative of social divisions in Babylonia than in Palestine.<sup>128</sup> This distancing of the Babylonian sages from broader segments of the population ran the risk of alienation, and the Rabbis were acutely aware of the fine line between the need to maintain the dignity of their rank and the risk of evincing condescension and contempt. In a revealing examination of the reasons why the Babylonian sages were not commonly blessed with offspring who inherited their stature, the following explanations are proffered: “R. Joseph said: Lest they maintain that Torah is their patrimony. R. Shisha son of R. Idi said: That they should not be arrogant towards the community. Mar Zutra said: Because they act high-handedly against the community. Rav Ashi said: Because they call the people asses.”<sup>129</sup> This example is one of several rabbinic self-criticisms in the Babylonian Talmud and may help to explain the success of this very same group in the ultimate shaping of Babylonian Jewish society.

<sup>124</sup> I. Gafni, “Public Sermons in Talmudic Babylonia: The Pirqa,” in S. Elizur, M. D. Herr, G. Shaked, and A. Shinan (eds.), *Knesset Ezra: Literature and Life in the Synagogue: Studies presented to Ezra Fleischer* (Jerusalem, 1994), 121–9 (Hebrew); D. M. Goodblatt, *Rabbinic Instruction in Sasanian Babylonia*, SJLA 1x (Leiden, 1975), 171–96; Brody, *The Geonim*, 56.

<sup>125</sup> I. Gafni, “Court Cases in the Babylonian Talmud: Literary Forms and Historical Implications,” *PAAJR* 49 (1982), 23–40 (Hebrew); idem, *Babylonia*, 226–32. The numerous talmudic traditions that project the Rabbis and their disciples as performing administrative and judicial functions have been collected by J. Neusner, *School, Court, Public Administration: Judaism and Its Institutions in Talmudic Babylonia* (Atlanta, 1987); see also Goodblatt, *Rabbinic Instruction*, 272–80.

<sup>126</sup> See R. Kalmin, *The Sage in Jewish Society of Late Antiquity* (London and New York, 1999), 1–79.

<sup>127</sup> BT *Pes.* 49b; the definitive study of this phenomenon is still A. Oppenheimer, *The ‘Am ha-Aretz: A Study in the Social History of the Jewish People in the Hellenistic-Roman Period* (Leiden, 1977).

<sup>128</sup> See S. G. Wald, *Babylonian Talmud Pesahim*, III: *Critical Edition with Comprehensive Commentary* (New York, 2000), 211–39 (Hebrew).

<sup>129</sup> BT *Ned.* 81a.

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THE HISTORY OF THE BABYLONIAN  
ACADEMIES

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## I INTRODUCTION

The word “academies” in the title translates the Hebrew term *yeshivot* (singular, *yeshivah*) and its Aramaic cognate *metivata* (singular: *metivta*). These terms are still used today to designate advanced schools of rabbinic learning. More relevant is the fact that medieval Baghdad was home to academies for the study of talmudic tradition called *yeshivot/metivata*.<sup>1</sup> This fact is relevant because the historiography that has dominated modern scholarship on the subject originated in Baghdad in the ninth through the eleventh centuries.<sup>2</sup> That historiography asserted that the *yeshivot* of Sasanian Babylonia were similar to the talmudic academies of Islamic Iraq. This view is still the most common one, but it is also the subject of some recent debate. It may be that a new, revised consensus is emerging from this debate. The discussion begins, however, with the traditional view.

The only contemporary evidence available on Jewish education in Sasanian Babylonia appears in talmudic literature. It consists of statements attributed to, and anecdotes about, named individuals who flourished during the third through the fifth centuries. These masters of rabbinic tradition are known as Amoraim and give their name to the amoraic period. In addition, the anonymous, editorial stratum of the Babylonian Talmud may shed light on the immediate post-amoraic era, corresponding to the final century plus of Sasanian rule. Unfortunately, the Amoraim do not appear to have been especially interested in recording the history of their own time. Their main focus was law and religion. Therefore, the historian of their academic institutions must rely on occasional allusions scattered throughout the Talmud. The earliest, connected accounts of the academies date to the medieval period, and these will now be examined.

<sup>1</sup> See R. Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture* (New Haven and London, 1998), 35–53.

<sup>2</sup> See G. Cohen, *The Book of Tradition of Abraham in Daud* (Philadelphia, 1967), liv, 186–8; and R. Michael, *Jewish Historiography from the Renaissance to the Modern Time* (Jerusalem, 1993), 12–23.

By the ninth century, Baghdad was the seat of formally organized institutions of higher rabbinic learning. The best-known of these had previously been located elsewhere and continued to be called by the names of the towns whence they came to Baghdad. Thus one was known as the academy of Pumbedita and another as the academy of Sura/Mata Mehāsyā. The latter two names refer to neighboring towns near the site of ancient Babylon. Pumbedita was located further north on the Euphrates, near or at al-Anbar.<sup>3</sup> These academies were commonly known as “the two *yeshivot/metivata*.”<sup>4</sup> A tradition dating to the ninth century (at the latest) asserts that the two schools had been established at the very beginning of Jewish settlement in Babylonia by exiles who accompanied King Jehoiachin of Judah in 597 BCE. This claim served two apologetic goals. It provided a “historical” explanation for the assertion that Babylonian rabbinic tradition was superior to that of the Palestinians. It also gave the schools a pedigree as ancient as that of the Exilarchs, who traced their personal and institutional lineage to the same Jehoiachin.<sup>5</sup> Less extreme claims appear in other medieval sources that trace the two academies to the third century CE.

The most detailed history of the pre-Islamic academies appears in the *Iggeret* (Epistle) of Rav Sherira Gaon. This history of rabbinic tradition was composed by Sherira, the Principal of the Pumbedita academy in 986/87.<sup>6</sup> Sherira is quite explicit that *yeshivot/metivata* did not exist in Babylonia before the first half of the third century CE. He is equally explicit that Torah and tannaitic traditions were studied and taught in Babylonia before that time. Clearly, the latter institutions were more than merely schools. Sherira indicates that the “more” was the legislative-judicial prerogatives and organizational structure attributed by rabbinic tradition to the great ancient Great Sanhedrin. The *yeshivot* of medieval Baghdad had this structure and claimed those prerogatives. According to tradition, the Great Sanhedrin could exist only in the Land of Israel, but Sherira apparently believed that the death of the Palestinian Patriarch Judah I in the early third century changed matters and opened the way for a *yeshivab/metivta* to be established in Babylonia. In fact, he relates that two were established

<sup>3</sup> For the location of all the sites mentioned in this chapter, see A. Oppenheimer, *Babylonia Judaica in the Talmudic Period* (Weisbaden, 1983).

<sup>4</sup> Brody, *Geonim of Babylonia*, 41–2, presents the (unpublished) view of S. Abramson that the phrase refers not to Sura and Pumbedita but to Sura and an additional academy sponsored by the Exilarch. However, Brody admits that Sura and Pumbedita were the two dominant schools.

<sup>5</sup> See D. Goodblatt, *Rabbinic Instruction in Sasanian Babylonia* (Leiden, 1975), 13–16.

<sup>6</sup> The standard edition remains B. M. Lewin, *Iggeret Rav Sherira Gaon* (Haifa, 1921; rpt. Jerusalem, 1972). For discussion, see Brody, *Geonim*, 20–5.

because of the presence in the country of two great scholars, Rav and Samuel. Samuel was located in Nehardea on the Euphrates, south of Pumbedita. Rav, who returned to Babylonia in 219 after studying with Judah I, decided to settle in Sura, further south. At this point, Sherira notes that “Rav and Samuel had two *metivata*.” By this remark he means that each master presided over a *metivta*, and so there were now two.<sup>7</sup>

Based on the data Sherira provides, such as the death of Rav in 247, it can be said that in his view the two Babylonian academies were established in the second quarter of the third century. Sherira then traces the history of the two academies, noting that sometimes one of them ceased to function. This history includes a dated roster of the heads of the *yeshivot*.<sup>8</sup> On the other hand, it states very little about their inner life. Indeed, only one relevant comment appears. The context was the long tenure of Ashi as Principal of the Suran academy in the late fourth and early fifth centuries. BT *Baba Batra* 157b alludes to a first and a second “cycle” (*mabadura*) of Rav Ashi. Sherira explains that the cycle refers to a review of the entire Talmud, and he adds: “For thus did the masters ordain: to teach in each semester (*kallab*) twelve textual units (*metivata*), whether short or long. Thus he reviews his entire *talmud* in thirty years.” Sherira is certainly reflecting the procedures of the *yeshivah* of his own day. Whether or not he also had accurate information on academic practice five centuries before his time is difficult to establish.<sup>9</sup>

Two other medieval documents contain information on the history of the Babylonian academies in Sasanian times. Unfortunately, they cannot be precisely dated. Both are composite works for which one can establish only a *terminus a quo*. One is *Seder Tannaim VeAmoraim*, which in its present form cannot pre-date the middle of the ninth century. The other work is an account of the *yeshivot* of Baghdad by Nathan son of Isaac the Babylonian. Prefaced to the Hebrew version of this originally Arabic document are two historical summaries. Since Nathan is commonly dated to the middle of the tenth century, the translation and additions to his account must have been added later. If late enough, their author could have seen Sherira’s *Iggeret*.<sup>10</sup> *Seder Tannaim VeAmoraim* contains a list of names and dates. It does not specify the positions held by these people. The names and dates overlap to a

<sup>7</sup> Lewin, *Iggeret*, 40, 72–4, 78–81. For discussion, see Goodblatt, *Rabbinic Instruction*, 21, 27–9.

<sup>8</sup> Lewin, *Iggeret*, 81–97, for the amoraic period; Goodblatt, *Rabbinic Instruction*, 27–31, for discussion.

<sup>9</sup> Lewin, *Iggeret*, 93–4; Goodblatt, *Rabbinic Instruction*, 77–9, 162–5, for discussion.

<sup>10</sup> The standard editions are K. Kahan, *Seder Tannaim ve Amoraim* (Frankfurt, 1935); and A. Neubauer, *Medieval Jewish Chronicles*, 2 vols. (Oxford, 1887–95), II 77–88. For discussion, see Brody, *Geonim*, 274–7 and 26–30, respectively.

great extent with the list in Sherira of those who “presided,” that is, served as heads of the academies.<sup>11</sup> In any case, the only explicit reference to “academies” in *Seder Tannaim VeAmoraim* is the following excerpt. It follows the mention of the destruction of Nehardea in 259 and the death of two prominent Palestinian masters in 278–9.

Afterwards [were] Rav Huna and Rav Hisda, and they made two *yeshivot*. Rav Hisda went to Meḥasya, and they made him head of the *yeshivah* . . . The *metivta* of Rav Huna was in Nehardea. Rav Huna died in 297 and Rav Hisda in 309.<sup>12</sup>

Thus the author dates the foundation of the two academies to the last quarter of the third century, half a century later than Sherira did.

The final source is the historical preface to the aforementioned account by Nathan of the medieval academies in Baghdad. The author of the preface states that until the death of Rav no *yeshivah* existed in Babylonia. He continues by stating:

And after Rav died they made a *yeshivah* in Babylonia in the manner of the Land of Israel, and it is the *yeshivah* of Sura. Rav Huna presided over it for forty years, and he was the first of all who were the heads of a *yeshivah* in Babylonia. Afterwards Rav Hisda presided after him, and his presidency lasted ten years. And at the end of the days of Rav Hisda, Rabbah son of Nahmani went and made a *yeshivah* in Pumbedita, and it was the *yeshivah* of the Exile . . . And when Rabbana Yosi died [the beginning of the sixth century according to Sherira], the two *yeshivot* remained without a *gaon* [the title given to the principal] until the saboraic masters – those who followed the sages of the Talmud – came to an agreement that they make two *yeshivot* as there were in the days of Rav Huna.<sup>13</sup>

The author agrees with *Seder Tannaim VeAmoraim* against Sherira that the *yeshivah* institution came to Babylonia only after the death of Rav. Regarding the time when the two-academies framework began, the author appears to contradict himself. The beginning of this passage clearly implies that a second *yeshivah* did not exist until Rabbah founded the Pumbedita academy in the early fourth century. However, at the end of the passage, he also asserts that two *yeshivot* had existed during the life of Huna. The latter section agrees with *Seder Tannaim VeAmoraim*, whereas the former dissents from it. Also unclear is the time when the two-academies framework ended.

<sup>11</sup> R. Brody, “On the Sources for the Chronology of the Talmudic Period,” *Tarbiz* 70 (2000–1), 75–107, suggests they share a common source.

<sup>12</sup> Kahan, *Seder Tannaim*, 4–5. The reading “309” is based on manuscripts and agrees with the date Sherira provides. Sherira had located the school of Huna near Mata Meḥasya, but also has Huna “presiding” after Samuel. A tradition of this type could have misled the author into placing Huna in Samuel’s town.

<sup>13</sup> Neubauer, *Chronicles*, 11 77.

The concluding sentence asserts that the *savoraim* renewed something that had been in abeyance. In this context, the preceding sentence could mean that the two-academies framework ceased with the death of Yosi, but since the saboraic era immediately followed his career, the absence of the framework would have been so brief as to matter hardly at all. Earlier the author asserted that Rava (who died in 352) presided over both Pumbedita and Sura. Perhaps he assumed that only a single academy existed thereafter. Whatever the details, on this point the author seems to agree with Sherira: sometimes two academies were open and sometimes only one.

The medieval sources surveyed previously agree that the *yeshivab/metivta* institution in Babylonia was founded in the early amoraic period. In addition, the dominance of the two academies of medieval Baghdad – Sura and Pumbedita – also dates to this era. Disagreement concerns the details. Sherira and *Seder Tannaim VeAmoraim* agree that the two-academies framework originates with the very foundation of the *yeshivab* institution in Babylonia. The preface to Nathan's account, in one section at least, has the founding of a second academy occur half a century after the founding of the original one, but it agrees with Sherira that the two-academies framework sometimes failed. *Seder Tannaim VeAmoraim* is silent on this issue. The three sources agree, however, that the *yeshivab* institution in Babylonia was established in the third century, although they disagree on the exact time. Sherira dates this development to the second quarter, the preface to Nathan to the middle, and *Seder Tannaim VeAmoraim* to the last quarter of the century. Sherira implies, and *Seder Tannaim VeAmoraim* states explicitly, that the Babylonian *yeshivab* was based on a Palestinian model. Only Sherira provides any information on the inner life of the academies, and that material is quite limited. Aside from the dates of origins, most of the information consists of the names and dates of masters who are assumed to be the Principals of the academies.

## II MODERN ACCOUNTS OF THE ACADEMIES

The great influence that these accounts brought to bear on subsequent medieval and early modern Jewish historiography did not abate with the rise of modern Jewish studies in the early nineteenth century. Through the late twentieth century (and in some cases until the present), historians assumed that the two academies of medieval Baghdad and their institutional form originated in the third century. Scholars collected the stray pieces of information in the Talmud and arranged them in the framework of the two-academies structure. They also interpreted the sources in the light of medieval *yeshivot* practices. The academies were then invoked to explain such developments as the creation, transmission, and editing of the

Babylonian Talmud. A brief survey of scholarship on the amoraic *yeshivot* published through the third quarter of the twentieth century will illustrate the widespread reliance on medieval accounts.

The highly influential presentation of Heinrich Graetz in volume IV of his *Geschichte der Juden* was first published in 1853.<sup>14</sup> According to Graetz, Rav declined the opportunity to head the school at Nehardea so that “native son” Samuel could assume this position. Eventually, however, Rav founded an academy in Sura. This academy, like the one already existing in Nehardea, was called a *sidra*. Despite the different name, Rav’s school already exhibited features associated with the medieval *yeshivot*, such as the month-long *kallab* assemblies at the end of winter and the end of summer, and the *shabbeta derigla*, explained as a week of public lectures before the spring and fall (biblical) pilgrimage holidays. Graetz does not mention these institutions when he discusses the career of Samuel as head of “the *sidra* of Nehardea,” so apparently the innovations were unique to Rav. In any case, by the end of the first quarter of the third century, Babylonia could boast two talmudic academies, an established one in Nehardea and a new one in Sura. This information agrees with Sherira. In the continuation, however, Graetz follows the other geonic sources.

Remember that *Seder Tannaim VeAmoraim* mentioned the two *yeshivot* for the first time with Huna and his contemporary Hisda, and the preface to Nathan explicitly asserts that the first *yeshivah* was established at Sura only after the death of Rav, with Huna the first to bear the title “head of the *yeshivah*.” These claims clearly inspired Graetz to write:

It was during the time of Huna that public life in Babylonia, which was in most intimate connection with the schools, became organized in a manner that was unchanged for almost eight centuries. Gradually and involuntarily there was formed a hierarchy of the principal and subordinate dignitaries. The school, which met . . . during certain months of the year, was called the Metibta (session), and the principal member of this assembly was known as the Resh-Metibta (Director).<sup>15</sup>

He also mentions the “heads of the *kallab*” and the “judges of the gate” as offices now attested under Huna. Although he uses the Aramaic *metivta* rather than the Hebrew *yeshivah*, Graetz’s dependence on those other two geonic sources is obvious. Only with Huna did the talmudic academy completely achieve the features it would retain for the next 800 years. At the same time, much of the structure went back to Rav. In part, the

<sup>14</sup> I cite from the 1908 Leipzig edition. For the English translation, see H. Graetz, *History of the Jews*, 11 (Philadelphia, 1893; repr. Philadelphia, 1967).

<sup>15</sup> Graetz, *History of the Jews*, 11 547.

development was merely a matter of names, as *yeshivab/metivta* eventually designated the academy. Therefore, Sherira was not wrong. Further on, Graetz relates that after the fall of Nehardea, the town of Pumbedita became the site of a distinguished academy that remained important for almost eight centuries. In summary, the institutional form of the medieval *yeshivot* originated in the early amoraic era.<sup>16</sup>

Many subsequent scholars followed Graetz's proposal. On this view, the academies as known from Islamic Baghdad essentially began with Rav and Samuel in the early third century. Some additional developments occurred over the next generation, but these were largely external in nature. Among those scholars was I. H. Weiss, the author of an influential history of rabbinic tradition that appeared between 1871 and 1891. For Weiss, the development in the time of Huna was simply the change in title of the academy principal from "head of the *sidra*" to "head of the *yeshivab*." The important institutional innovations in Babylonian rabbinic institutions, which he does not specify, had already been introduced in the "great *yeshivot*" founded by Rav and Samuel.<sup>17</sup> In the twentieth century, S. K. Mirsky asserted that Rav introduced new subject matter into the Babylonian schools, namely, the Mishnah of Judah the Patriarch, new methods of study, and new institutions, such as the *kallah* and *pirqa* lectures. These innovations became the defining characteristics of the *yeshivab*, but the latter name would be adopted only later.<sup>18</sup>

Other scholars attempted to explain why the names changed. Their explanations, however, concern the way people perceived the academies, not differences in institutional structures. Thus, S. Funk, who at the beginning of the twentieth century published a history of the Jews in Babylonia, agreed that Rav introduced such characteristic features of the *yeshivab* as the *kallah*, *rigle*, and daily lectures. The change in name under Huna, from *sidra* to *beit hamidrash*, indicated that the Babylonian *Hochschulen* had achieved complete equality with the Palestinian schools.<sup>19</sup> Jacob Lauterbach presented a similar view a quarter of a century later. He asserted that Rav and Samuel refrained from using the name *yeshivab* for their schools because they believed that this name should designate only schools staffed by ordained scholars like the ones in Palestine. In Babylonia,

<sup>16</sup> See Graetz, *Geschichte der Juden*, IV 255–9, 290–3. For Graetz using "Metibta" synonymously with *Hochschule* and *Lehrbaus*, see 293, 336.

<sup>17</sup> I. H. Weiss, *Dor Dor Vedorshav* (rpr. Jerusalem and Tel-Aviv, n.d.), III 130–1. Graetz's position was also followed by A. Schwarz, "Die Hochschulen in Palästina und Babylon," *Jahrbuch für Jüdische Geschichte und Literatur*, II (1899), 100–4.

<sup>18</sup> S. K. Mirsky, "Lesidre Hayyeshivot Bebabel Betequfat Ha'amora'im," *Horeb* 3 (1936), 109–12.

<sup>19</sup> See S. Funk, *Der Juden in Babylonien*, I (Berlin, 1902), 47–8, 95–6.

ordination did not exist. After a few decades, however, the Babylonians felt that their schools were worthy of the name, and the change occurred under Huna.<sup>20</sup> Other scholars are silent about developments after Rav and Samuel, apparently ignoring the accounts in *Seder Tannaim VeAmoraim* and the preface to Nathan. Y. I. Halevy devoted considerable attention to the nature of the Babylonian schools *before* Rav and Samuel, for which he reserved the name *yeshivab*. The schools founded by those two amoraim, which included consistories of scholars possessing legislative and administrative powers, were designated as a *metivta*. These complications aside, Halevy agrees with Sherira that the talmudic academies as one knows them from later sources originated at the beginning of the amoraic period. As Halevy writes, in the time of Rav and Samuel that the *metivtas* “received the form they had from then until the end of the days of the *amoraim*, for from then on there was no innovation at all.”<sup>21</sup>

The view that the essential institutional structures of the academies originated with Rav and Samuel, which Graetz and his followers shared, appears in much of the scholarly literature on the subject through the early 1970s. In a discussion of the medieval academies, S. Assaf observed: “In general, the institutions characteristic of the Babylonian *yeshivot* until the end of the geonic period had their origin at the beginning of the Amoraic era, and the changes which occurred in the course of this long period were qualitatively few.” Similarly, S. Baron asserted that the “two *yeshivot*” of Islamic Baghdad originated in the schools founded by Rav and Samuel.<sup>22</sup> A final example is found in the *Encyclopedia Judaica* article published in 1972 by Moshe Beer, who writes: “The beginnings of the central academies in Babylonia are associated with Rav at Sura and Samuel at Nehardea. Each headed a famous school which possessed central religious authority in the Babylonian Diaspora. The academy at Sura flourished almost 800 years; that at Nehardea was . . . succeeded by . . . Pumbedita, where it survived . . . until about the middle of the 11th century CE.” Elsewhere Beer has asserted that, after a gradual development, the Sura school assumed the organizational structure typical of a *metivta* by the death of Rav or early in the

<sup>20</sup> J. Lauterbach, “The Names of the Rabbinical Schools and Assemblies in Babylonia,” *HUCA Jubilee Volume* (Cincinnati, 1925), 214–19.

<sup>21</sup> The quotation is taken from Y. I. Halevy, *Dorot Harishonim*, 11a (Frankfurt, 1901 [= vol. v in the edition of Jerusalem, 1966]), 408. For the other points, see 165–7, 211, 224, 404–8, 496. Halevy wielded much influence among traditionalist scholars. Compare S. Bialoblocki, “Akademien, Talmudische – in Babylonien,” *Encyclopedia Judaica*, 1 (Berlin, 1928), 1194–7; and Z. Yavetz, *Sefer Toldot Yisra'el*, 111 (Tel-Aviv, 1963), 31–3.

<sup>22</sup> S. Assaf, *Tequmat Hagge'onim Vesifrutab* (Jerusalem, 1955), 44, and compare 46, in which he alludes to Rav as the founder of the Sura *yeshivab*. S. Baron, *A Social and Religious History of the Jews*, 11 (Philadelphia, 1952), 207, 425–6; VI (Philadelphia, 1958), 24–5.



leadership of Huna.<sup>23</sup> This complication, an accommodation of the other two geonic sources analogous to that of Graetz, does not significantly alter the broad consensus that found expression in his encyclopedia article.<sup>24</sup>

Probably the most sophisticated example of the consensus approach appeared in an annotated collection of sources on the Jews of Babylonia in the talmudic period published in 1975.<sup>25</sup> While the book is directed at a general readership, the annotations and the introductory surveys reflect the most advanced scholarship of the day. The author writes:

We may note already in the days of Rav the signs of the classical Babylonian *yeshivab* . . . With the death of Rav Shila there remained two candidates to inherit the headship of the *yeshivab*, Rav and Samuel . . . In the end, Samuel was appointed as head of the *yeshivab* of Nehardea while Rav “went away to a place lacking in Torah, viz., Sura which is Mata Mehasya . . .” [quoting Sherira] . . . From here until the end of the geonic era there are two central *yeshivot*. The one: the ancient *yeshivab* of Nehardea, which moves after . . . 259 to Pumbedita, and the other: the *yeshivab* of Sura.<sup>26</sup>

The periphrastic nature of the first sentence seeks to accommodate the alternative dating of *Seder Tannaim VeAmoraim*. For the rest, the author relies on Sherira.<sup>27</sup>

Regarding the internal structure of the academies, the author again relies on medieval sources. He follows Sherira in noting that the *yeshivab* was not merely an academic institution but was modeled on the Sanhedrin of the

<sup>23</sup> The quotations are taken from M. Beer, “Academies in Babylonia and Erez Israel,” *EncJud*, 11 (Jerusalem, 1972), 204. The other opinion appears in idem, “*Miba'ayot Hitbavutab Shel Hametivta Bebabel*,” *Fourth World Congress of Jewish Studies: Papers*, 1 (Jerusalem, 1967), 101.

<sup>24</sup> Additional literature on the Babylonian academies appears in Goodblatt, *Rabbinic Instruction*, 45–58. The case of Jacob Neusner is an interesting one. In his five-volume *History of the Jews of Babylonia*, almost nothing appears on the institutional structures of the Babylonian academies. A section deals with “The Life of the Schools” in vol. 1V (Leiden, 1969), 278–402, and one on “The Schools” appears in vol. V (Leiden, 1970), 133–216. However, these chapters deal with the careers and ideas of the Babylonian masters, not with the forms of their academic institutions. Similarly, his comparison of the Jewish schools and the contemporary Mesopotamian Christian monasteries in vol. 111 (Leiden, 1968), 195–200, treats such issues as asceticism and community involvement but not the structure of the rabbinic academies. Rather than neglect, this abstention from dealing with academic institutions reflects the dearth of relevant evidence in the amoraic sources. However, Neusner never discusses the lack of evidence, only the lack of scholarship. See his *History*, 111 213 n. 1; 1V 286 n. 2; 433–4.

<sup>25</sup> I. M. Gafni, *Babylonian Jewry and Its Institutions in the Period of the Talmud* (Jerusalem, 1975).

<sup>26</sup> *Ibid.*, 80. The term “central *yeshivot*” refers to the two dominant ones. Gafni, *ibid.*, 112, n. 10, notes the short-lived existence of “small *yeshivot*” during times of transition.

<sup>27</sup> *Ibid.*, 80–2.

Land of Israel with its judicial and quasi-legislative powers. In terms of additional details, one encounters a problem. The author states: “We possess a tremendous amount of material that comes *from* the *yeshivot*, but very little about the *yeshivot*,” that is, the sources come from insiders who felt no need to describe the institutions in which they functioned. In view of this difficulty, it is understandable that one should look to medieval accounts, and this view is legitimate, for “the *yeshivot* of Babylonia survived for centuries after the conclusion of the Talmud, and considering the conservative nature of this community one should not assume that far-reaching changes occurred in the basic form of the *yeshivah*.” Thus, one can turn, for example, to Nathan’s account of the academies in the tenth century and use it to explain and interpret information in the Talmud.<sup>28</sup>

### III A NEW HISTORICAL PARADIGM

By the time this book appeared, its approach to the issues was already being challenged. That challenge consisted of a call for at least hermeneutical skepticism regarding the medieval sources.<sup>29</sup> The consensus approach assumed that these materials were historically accurate and therefore allowed them to provide the framework within which the amoraic evidence is understood. However, this assumption needs to be demonstrated. After all, it is possible that medieval authors possessed only limited knowledge of the preceding centuries. As a result, they may have projected the institutions and practices of their own day back into talmudic times. The more critical approach involves beginning with evidence from the period under study, namely, the amoraic sources. Only then should one turn to the medieval sources. In this way one can control the possibility of anachronism. The difficulty with this alternative approach is that the amoraic sources appear to have so little to say about the academies, as already noted. One way around the difficulty lies in engaging a philological approach which involves collecting and analyzing the various terms and phrases used by the amoraic sources for academic institutions and learning situations. The frequency with which these locutions appear and their distribution, both chronological and geographical, may relate information

<sup>28</sup> *Ibid.*, 83–6. The quotation, including the emphasis, is taken from 83. Gafni changed his position in publications that appeared after 1975, beginning with his article in *Zion* in 5738 (1977–8). See below, nn. 46, 48.

<sup>29</sup> The challenge appears in Goodblatt, *Rabbinic Instruction*, which was published at approximately the same time as Gafni’s *Babylonian Jewry*. Indeed, the “Acknowledgments” in Goodblatt, *Rabbinic Instruction*, xi, bear the date of Elul 5734, while the “Preface” in Gafni, *Babylonian Jewry*, 8, is dated to Tishre 5735.

not explicitly stated in the sources, and careful attention to context may clarify their exact connotations.

The obvious first step, given the subject of this inquiry, centers on collecting all the occurrences of the terms *yeshivah* and *metivta* in the Babylonian Talmud. As obvious as this method may be, it is not a simple task, because of the many variants to the talmudic text. In any given passage, one of the latter two terms may appear in some witnesses while they are absent from or replaced by different terms in other witnesses to the text,<sup>30</sup> nor is it always possible to decide which is the more original reading. The same problems arise with any term one investigates. However, when dealing with dozens of passages, it is likely that the evidence will balance out overall. The number of additional occurrences of a term one can add by following the manuscript evidence will more or less equal the cases in which the manuscripts lack the term.<sup>31</sup> Moreover, limited adjustment of the data is unlikely to change the overall picture. Adding a few occurrences will not turn a rarely appearing term into a common one, nor will it radically affect the ratio between the appearances of different terms. This method does not mean that one should ignore textual criticism. Rather, it suggests that the occasional additional variant is unlikely to refute the argument.

With these caveats in place, one can examine the evidence. The first step is noting an older use of the term *yeshivah*. In tannaitic sources, the latter always denotes a court rather than a school, and sometimes is the equivalent of the Greek loan-word “Sanhedrin.” This meaning occurs a few times in the Babylonian Talmud, although in which circumstances and with what frequency are debated. Also disputed is whether or not any occurrences of the Aramaic cognate *metivta* have the meaning “court.”<sup>32</sup> In contrast, agreement prevails that in a few passages the Aramaic term denotes a unit of text to be studied.<sup>33</sup> If one leaves aside the latter instances as well

<sup>30</sup> See, e.g., the story about Issi son of Judah and Yosi at BT *Ned.* 81a. The standard printed editions and MS Vatican 110 contain the words *metivta* and *be midrasha* parallel to each other. However, *Sheiltot Reeb* 147 reads *pirqa* in place of both latter terms. See also *Ber.* 27b, in which the title “head of the *metivta*” appears in most witnesses but is lacking in the MS Munich.

<sup>31</sup> See the case of *kallab* discussed by I. Gafni, *The Jews of Babylonia in the Talmudic Era: A Social and Cultural History* (Jerusalem, 1990), 213. To the thirteen pericopae containing the term by his count, the manuscript evidence adds two more but casts doubt on two.

<sup>32</sup> Some earlier scholars had noted this meaning, but not its exclusivity. For the data, see Goodblatt, *Rabbinic Instruction*, 64–6, confirmed by I. Gafni, “*Yeshivah* and *Metivta*,” *Zion* 43 (1978), 16–21. On the debate about the extent of this usage in the Babylonian Talmud, see D. Goodblatt, “New Developments in the Study of the Babylonian *Yeshivot*,” *Zion* 46 (1981), 17–18, 21, 27–9.

<sup>33</sup> See Goodblatt, “New Developments,” 22, and the literature cited.

as those in which the meaning “court” is probable, one is left with just over a dozen pericopae containing *yeshivab* and twenty-four with *metivta*. In other words, there are fewer than forty passages in the Babylonian Talmud occur in which *yeshivab/metivta* refers to an academic institution.<sup>34</sup> The significance of these numbers will be addressed below. First one must ask what kind of institution the terms *yeshivab* and *metivta* denote.

That the terms most commonly refer to academic activity is clear, but learning and instruction can occur in a variety of settings and in different types of institutions. Admittedly, it is natural to assume that when the Babylonian Talmud mentions a *yeshivab* or *metivta*, it refers to the same type of institution that bore those names in medieval Baghdad. The latter were schools with a corporate identity that transcended those who taught and studied there at any one time. That identity could survive changes of location. As observed, both the Suran and Pumbeditan academies retained their identity even when they relocated in Baghdad. In medieval times, these schools consisted of a hierarchic structure of faculty and students, a developed fundraising apparatus complete with honorary degrees, and a defined curriculum. However, at least some of the data collected in the Babylonian Talmud suggest that the amoraic passages may refer to a different kind of institution. For example, three passages use the expression *leboshiv yeshivab*, literally “to seat a *yeshivab*.” The phrase clearly means to convene an academic assembly. In one case, the session convenes at the gravesite of a departed hero as a memorial event, and in another it meets at the door of a sick person as a means to aid his recovery. Obviously, the intention cannot be the founding of an academy in a cemetery or in the doorway of an ill master. Instead, *yeshivab* here means a study session. This meaning fits the etymology of the word, which derives from the verbal root “sit.”<sup>35</sup>

None of the other occurrences of the terms *yeshivab/metivta* display the meaning “session” as clearly as the three just noted. However, this meaning fits most of them. In addition, the use of *metivta* for a unit of text to be studied could be explained as a development of the notion of “session,” that is, the unit normally covered at a study session. In addition, the meaning “session” for *metivta* is confirmed in the Aramaic of the Geonim, alongside the more frequent medieval use of the term to denote the academies.<sup>36</sup>

<sup>34</sup> These numbers are according to the count of Gafni, “*Yeshivab and Metivta*,” 22–3, 28 n. 76. They include those passages mentioning the title “head of the *yeshivab/metivta*” and those mentioning “the *yeshivab* on high/the *metivta* of heaven.” For detailed references, including comparisons of the counts and interpretations of Goodblatt and Gafni, see Goodblatt, “New Developments,” 17–30.

<sup>35</sup> Goodblatt, “New Developments,” 18–19, and the literature cited.

<sup>36</sup> Goodblatt, “New Developments,” 20–7, and the literature cited.

On the other hand, the meaning “academies” cannot be excluded in most occurrences of the terms in the Talmud. A recent study argues that in most instances, the term does denote academies. However, those instances occur exclusively in the post-amoraic stratum of the Babylonian Talmud. Consequently, one still lacks evidence for academies called *yeshivab/metivta* in the amoraic era.<sup>37</sup> Other factors reinforce this negative conclusion. As seen above, all medieval sources claimed that the two-academies framework existed in the amoraic period. Nevertheless, not a single occurrence appears in the entire Babylonian Talmud of the phrase, familiar in geonic literature, “the two *yeshivot/metivata*.” Similarly, the medieval sources agreed that the academies of Sura and Pumbedita existed in the amoraic era. Nevertheless, the phrase “*yeshivab/metivta* of place X” never occurs in the entire Babylonian Talmud.<sup>38</sup> The absence of these two locutions in the Talmud requires an explanation if one assumes that the two famous academies already existed in amoraic times.

At this point, it will be helpful to examine some other terms in the Babylonian Talmud that denote academic institutions. *Beit hamidrash* and its Aramaic cognate *be midrasha* both mean “house of study.” The Hebrew term appears in tannaitic literature and presumably originated in Israel. Original with the Babylonians, so it appears, are two related Aramaic terms: *be rav* and *be rav X*, “the house of the master/the house of Master X.” The latter two locutions can mean the actual dwelling or home of the master, but in many instances they refer to a setting in which the master in question taught disciples, that is, it denotes an academic institution. It is significant that these two pairs of terms occur in the Babylonian Talmud

<sup>37</sup> See J. L. Rubinstein, “The Rise of the Babylonian Rabbinic Academy: A Reexamination of the Talmudic Evidence,” *Jewish Studies: An Internet Journal* 1 (2001), <<http://www.biu.ac.il/JS/JSIJ/jsij1.html>>.

<sup>38</sup> Actually a single passage appears, in BT *Ber.* 56a, in which half the witnesses read “*metivta* of Pumbedita.” This is the reading in MSS Florence and Paris, Yad Natan and the Guadalajara edition. However, the MS Munich, the Venice edition, En Yaaqov, and Sherira – the oldest witness – lack the last two words. Compare Goodblatt, “New Developments,” 34 n. 76. This partial exception is certainly the kind that proves the rule. This is especially true, given the tendency of post-amoraic tradents and medieval copyists to insert current realia into the text of the Talmud. In addition to Rubenstein as cited in the previous note, see I. Gafni, “The Babylonian *Yeshiva* as reflected in Bava Qamma 117a,” *Tarbiz* 49 (1980), 292–301 [Hebrew], summarized in his *Jews of Babylonia*, 194–7. That the common medieval phrase “*yeshivab/metivta* of town X” did not find its way into the text of the Babylonian Talmud more often is striking. Several passages do associate masters or groups of masters with a certain town, but they do not mention *yeshivot/metivata*. See D. Goodblatt, “Local Traditions in the Babylonian Talmud,” *HUCA* 48 (1979), 233–95.

much more frequently than do *yeshivah* and *metivta*. The following are the approximate numbers of pericopae in which these terms occur:<sup>39</sup>

<i>beit midrash</i>	108
<i>be midrashta</i>	85
<i>be rav</i>	69
<i>be rav X</i>	157 (in which X denotes a Babylonian master)

Thus there are 193 passages mentioning the “house of study” and 226 mentioning “the house of the master/Master X.” By contrast, fewer than 40 passages mention the (academic) *yeshivah/metivta*.

The data summarized above allow several conclusions. First, it is now clear that the number of passages mentioning the latter two terms is relatively small. Each of the other pairs of terms occurs approximately five times more often.<sup>40</sup> These ratios require explanation. In addition, the relatively frequent mention of the other terms for “academic institution” makes it difficult to accept an argument that attempts to explain the infrequent mention of the *yeshivah/metivta*. The argument states that the Amoraim saw no need to mention the academic institutions in which they functioned. In response, were they not equally at home in “the house of study” and “the house of the master”? Were not the latter institutions equally taken for granted by them? Why were they more reticent about the first-named institution than about the other two? It is difficult to avoid the most obvious explanation: the other institutions were mentioned more often because they played a greater role among the Babylonian Amoraim.

One nevertheless needs to clarify the exact nature of the institutions designated by the various terms. As already noted, instruction can occur in various frameworks. Therefore, the fact that a term denotes a setting in which instruction occurred does not in and of itself prove that the term refers to an academy like the ones of medieval Baghdad, nineteenth-century Lithuania, or twentieth-century Jerusalem. Unfortunately, the sources usually do not explain much about the nature of the setting. For example, only when the phrase “to seat a *yeshivah*” appeared is it clear that the Hebrew noun meant an academic assembly or study session. In other cases one could translate “academy.” Perhaps the latter is also the meaning of the other two terms. If so, then their greater frequency in the amoraic sources could simply mean that “the house of study” and “the house of the master/Master X” were the common terms for “academy” in the

<sup>39</sup> For a discussion of these four terms, see Goodblatt, *Rabbinic Instruction*, 93–154.

<sup>40</sup> The data need to be refined further to account for the distinction between amoraic and post-amoraic strata in accordance with Rubinstein, “Rise,” but this distinction will not affect the main point about the dearth of amoraic attestations of the *yeshivah/metivta*.

Sasanian era. These terms, however, never appear in connection with the name of a town (like Sura or Pumbedita), nor are they paired together like “the two *yeshivot/metivta*” of the geonic sources. In fact, the terms “the house of the master/Master X” may denote a kind of educational institution different from an academy.

One clue is provided by etymology. While “the house of study” is constructed on the abstract concept of study, “the house of the master/Master X” focuses on the teacher. This focus suggests that the term refers to a type of educational institution that can be called a disciple circle. By the latter is meant a group of disciples who frequent a certain master. Unlike an academy, the disciple circle does not have a corporate identity that transcends its participants. When the master retires or dies, his circle of disciples disbands. Some attach themselves to new masters, whereas others consider themselves no longer in need of a master. The disciple-circle type of academic institution is well documented in the history of education. Many institutions that historians loosely call “schools” or “universities” were in fact no more than disciple circles, with each professor or teacher an institution unto himself.<sup>41</sup> That “the house of the master/Master X” denotes a disciple circle is supported by more than etymology. In a number of narratives about teachers and students, academies are conspicuously absent in places where one would expect them to be mentioned. One example, at BT *Taanit* 9a, relates that Huna son of Manoah, Samuel son of Idi, and Hiyya of Astunya “used to be found before Rava. When Rava died, they came before Rav Papa.” The story does *not* say that the three attended the academy of Mehoza (the one headed by Rava) and then transferred to the academy of Naresh (headed by Papa), nor does it explain why they would leave the academy of Mehoza, which continued under the headship of Nahman son of Isaac (according to Sherira). One could probably explain these facts, but if one deals with disciple circles rather than academies, then nothing needs to be explained (away).<sup>42</sup>

What about the *yeshivab/metivta*? Clearly, not every *yeshivab* was a memorial assembly at a gravesite or a quasi-magical health prophylactic, nor need the term refer only to meetings of a disciple circle. Instead, the sessions in question could mean something quite different. They could be instances of the institutions mentioned in the Babylonian Talmud by the names

<sup>41</sup> See Cameron on the universities of Graeco-Roman antiquity, and Goitein on the Jewish elementary schools of medieval Egypt, as quoted in Goodblatt, *Rabbinic Instruction*, 271. In addition, see P. Nautin, *Origène: sa vie et son oeuvre* (Paris, 1977), 335–47, cited by S. J. D. Cohen, “The Rabbi in Second-Century Jewish Society,” in *CHJ* 111 956 n. 154, on the Alexandrian catechetical school.

<sup>42</sup> See Goodblatt, *Rabbinic Instruction*, 268–71; idem, “New Developments,” 36–8.

*kallah* and *pirqa*.<sup>43</sup> The latter, appearing in some thirty-six pericopae, was an assembly at which a lecture was presented. Much of the evidence suggests that these lectures were directed at a general audience and were given on days when the public was free from work. Advanced students were still expected to attend, in deference to the speaker. The *kallah*, mentioned in about ten pericopae, denotes an academic assembly that met periodically and lasted for several days. It seemed not to have been open to the public. Instead, it placed unusually heavy demands on the time of the participating masters and students. It apparently required a quorum of ten and had a presiding officer. The evidence suggests that the amoraic *kallah* and *pirqa* were similar to, although not identical with, the institutions of the same name connected with the academies of medieval Baghdad.

In the Islamic period, the academy teachers conducted the *kallah* and both current and former students attended. It was held semiannually during the months of Elul and Adar. The *pirqa* also seems to have been part of the academy. Sources mention “heads of *pirqe*” (the plural of *pirqa*) as part of the academy staff, and “fixing *pirqe*” as one of the academy activities. In light of the data, does the existence of these institutions in the amoraic period imply the existence of the academies at that time? Not necessarily, for there appear to be differences between the earlier and later evidence. In the Babylonian Talmud, the *pirqa* is frequently connected with the name of a master, suggesting a teacher-centered institution like the disciple circle. Certainly the practice of having a well-known master lecture to the masses on a Sabbath or holiday does not require the existence of academies. The amoraic sources mentioning the *kallah* never allude to month-long sessions or to Adar and Elul. Therefore, one cannot assume that the amoraic and geonic versions of this institution were identical. While the more ancient version of the *kallah* already indicates an institutionalization of instruction beyond the disciple circle, the absence of other evidence cautions against taking the existence of the *kallah* as proof of the existence of academies. Since the Babylonian Talmud mentions neither “the two academies” nor “the academy of such-and-such a town” (like Sura or Pumbedita), it is difficult to assume that the latter were the institutional home of the *kallah* as they were in medieval Baghdad.<sup>44</sup>

<sup>43</sup> Gafni, *Jews of Babylonia*, 190, seems to assume that “sessions” must mean meetings of a disciple circle, for he takes it to describe “sporadic assemblies of a few students with their master.” However, Goodblatt, “New Developments,” 30 with n. 67, already emphasized that this assumption conflates two distinct concepts. A *kallah* “session” could be formal, meet at regular intervals, and have many participants. Moreover, a disciple circle could become more institutionalized, as noted by Goodblatt, *Rabbinic Instruction*, 272.

<sup>44</sup> On these terms, see Goodblatt, *Rabbinic Instruction*, 155–96, 280–2, with additional data in “New Developments,” 22–3, 25–6; Gafni, *Jews of Babylonia*, 204–26.



## IV CONCLUSION

At this point, one can summarize the contemporary evidence about the organization of advanced instruction among the Babylonian Amoraim. It seems that the most common institutional setting for such instruction was the disciple circle (*be rav/be rav X*), which might also be conceptualized as a group apprenticeship. Less frequently mentioned are “sessions” (*yeshivot/metivata*), the *pirqa*, and the *kallah*. The *kallah* suggests a greater degree of organizational complexity than that possessed by the disciple circles. They also appear in sources at a later period. Documentation of the term *be rav/be rav X* goes back to the early third century. By contrast, the terms *pirqa* and *kallah* begin to appear only at the turn of the third to the fourth centuries. Similarly, the title “head of the *yeshivah/metivta*” also cannot be retraced before the fourth century.<sup>45</sup> Therefore, one can probably date this increased institutional complexity to approximately the beginning of the fourth century. The organization of these periodic meetings, in all likelihood, was a significant step in the process that led to the eventual development of the fully fledged academy.<sup>46</sup> The time when that development occurred remains unclear. The amoraic sources do not unequivocally attest the academy, while the geonic sources know it as an ancient institution. Logic dictates that one look for its origins between those two periods.<sup>47</sup>

The attempt to base the history of the academies on contemporary evidence and thereby to minimize the possibility of anachronism has resulted in an account quite different from the one presented in traditional historiography. It challenges the older view that the academies of Sura and Pumbedita, as known in medieval Baghdad, existed in the early Sasanian era. It argues that different, less complex institutions organized advanced learning among the Babylonian Amoraim although certain developments in the talmudic period were steps in the eventual emergence of the academies. This revisionist position has not convinced everyone. However, those who earlier minimized the institutional changes between the amoraic and geonic periods now emphasize the gradual development of the Babylonian academies.<sup>48</sup> Even the unconvinced concede that

<sup>45</sup> Goodblatt, *Rabbinic Instruction*, 196, 168, 88; confirmed by Gafni, “Yeshivah and Metivta,” 37; idem, *Jews of Babylonia*, 190, 212, 226.

<sup>46</sup> See Goodblatt, *Rabbinic Instruction*, 272, 282. Compare Gafni, “Yeshivah and Metivta,” 37; *Jews of Babylonia*, 212, 226. For additional arguments for a turning point in the development of academies at this time, see Brody, “Sources for the Chronology,” Appendix 3.

<sup>47</sup> Goodblatt, 282, in 1974 suggested an origin in the saboraic period. Rubinstein, “Rise of the Babylonian Rabbinic Academy,” now suggests “the stammaitic or saboraic period.”

<sup>48</sup> Gafni, *Jews*, 180, 212, 226. Contrast with n. 28.

“whatever academies existed in Amoraic Babylonia had few of the institutional features of the later geonic academies.”<sup>49</sup> To this extent, it is possible to speak of a new emerging consensus that revises the older understanding of these institutions.<sup>50</sup>

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<sup>49</sup> Brody, *Geonim*, 80; compare 38–9, 337.

<sup>50</sup> To the works of Brody, Gafni, Goodblatt, and Rubinstein, as cited above, add R. Kalmin, *Sages, Stories, Authors and Editors in Rabbinic Babylonia* (Atlanta, 1994), 193–4. On the absence of rabbinic academies in contemporary Palestine, see C. Hezser, *The Social Structures of the Rabbinic Movement in Roman Palestine* (Tübingen, 1997), 195–214.

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## THE FORMATION AND CHARACTER OF THE BABYLONIAN TALMUD

RICHARD KALMIN

### I THE COMPOSITION OF THE BABYLONIAN TALMUD

The Babylonian Talmud, or *Bavli*, was composed by rabbis who flourished from the third to the sixth or seventh centuries CE. Babylonian rabbis lived under Sasanian Persian domination between the Tigris and Euphrates rivers, in what corresponds to part of modern-day Iraq. The *Bavli* consists primarily of tannaitic, amoraic, and unattributed statements (*stam*), although many post-talmudic comments were added to the text during the lengthy course of its transmission from late antiquity to the present.

Tannaitic statements, or *baraitot*, comprise the *Bavli's* earliest layer, dating from the first century CE until the early third century CE. Virtually all tannaitic statements derive from Palestine, although a small number of Tannaim lived in Babylonia.<sup>1</sup> Amoraic statements derive from rabbis who lived between the early third and the early sixth centuries CE in Babylonia, and between the early third and the late fourth centuries CE in Palestine. Unattributed materials in the *Bavli* tend to be later, to post-date the amoraic layer, although some of this material may derive from the amoraic period,<sup>2</sup> particularly from the mid-fourth century CE and later. Identification of the unattributed materials is facilitated by their unique stylistic characteristics, most notably their character as lengthy, Aramaic argumentation. Tannaitic and amoraic materials, in contrast, are often in Hebrew and tend to be prescriptive and interpretive. In addition, tannaitic and amoraic argumentation tends to be relatively brief.<sup>3</sup>

<sup>1</sup> I. M. Gafni, *The Jews of Babylonia in the Talmudic Era: A Social and Cultural History* (Jerusalem, 1990), 68–91 (Hebrew).

<sup>2</sup> S. Friedman, *Talmud Arukh: BT Bava Mezi'a VI* (New York, 1996), 11 22–3 (Hebrew).

<sup>3</sup> D. Weiss Halivni, *Sources and Traditions: A Source-Critical Commentary on the Talmud. Seder Moed: From Yoma to Hagiga* (Jerusalem, 1975), 1–12 (Hebrew); S. Friedman, *A Critical Study of Yevamot x with a Methodological Introduction* (Jerusalem, 1978), 7–13, 17–25 (Hebrew); and D. Goodblatt, “The Babylonian Talmud,” *ANRW* 11 9/2 (1979), repr. in J. Neusner (ed.), *The Study of Ancient Judaism: The Palestinian and Babylonian Talmuds* (New York, 1981), 11 154–64, 177–81.

Some talmudic material pre-dates the destruction of the Second Temple in 70 CE, but this material derives from groups other than rabbis, since the earliest rabbis appeared after the destruction of the Temple. Study of Second Temple literature, for example, reveals that the Talmud contains a significant amount of pre-70 CE literature, but the Talmud does not explicitly distinguish this material from tannaitic statements *per se*. In addition, much of this material has been rabbinized, that is, made to conform to rabbinic standards, such that it often tells more about the rabbis who transmitted it than the pre-rabbinic figures who are its purported authors and protagonists.<sup>4</sup>

Much of the *Bavli* is a commentary on the Mishnah, a tannaitic work of Palestinian origin consisting primarily of legal statements by rabbis who lived between the first and early third centuries CE. It would be a gross oversimplification, however, to characterize the Talmud as a mere commentary on the Mishnah, since frequently the *Bavli*'s discussions are based on *baraitot* or amoraic statements, or consist entirely of sources whose connection to the Mishnah is fragile or artificial.<sup>5</sup>

The *Bavli* contains legal pronouncements on civil, criminal, and ritual matters, sententious sayings, advice, dream interpretations, magical incantations, medical cures, polemics, folk tales, fables, legends, scriptural interpretations (midrash), legal case reports, and numerous other literary genres. Much more so than Palestinian rabbinic compilations, the *Bavli* is encyclopedic in character, meaning that it contains more varieties of rabbinic literature than do roughly contemporary Palestinian compilations.<sup>6</sup> The *Bavli*, for example, is much richer in non-legal scriptural commentary (aggadic midrash) than is the *Yerushalmi*, which is more narrowly focused on law and Mishnah commentary. Apparently, the relatively narrow focus of the *Yerushalmi* is due in part to the fact that compilations of aggadic midrash circulated in Palestine, in contrast to the situation in Babylonia. In Babylonia, aggadic midrash survived in the context of a compilation only if it was incorporated into the *Bavli*. In Palestine, in contrast, there was more specialization, with midrashic compilations the primary repositories of aggadic scriptural commentary, and the *Yerushalmi* the primary repository of law and Mishnah commentary.<sup>7</sup>

<sup>4</sup> W. S. Green, "Palestinian Holy Men: Charismatic Leadership and Rabbinic Tradition," *ANRW* II 19/2 (1979), 619–47.

<sup>5</sup> D. Rosenthal, "Ancient Redactions in the Babylonian Talmud," in Y. Sussmann and D. Rosenthal (eds.), *Talmudic Studies* (Jerusalem, 1990), I 155–204 (Hebrew).

<sup>6</sup> J. Neusner, *Judaism: The Classical Statement: The Evidence of the Bavli* (Chicago, 1986), 94–114, 211–40.

<sup>7</sup> A. Goldberg, "The Babylonian Talmud," in S. Safrai (ed.), *The Literature of the Sages* (Assen, 1987), Part I, Section 2, III, 336; R. Kalmin, *The Sage in Jewish Society of Late Antiquity* (London, 1999), 112–13 and *passim*.

Midrash, especially the aggadic variety, is to a large extent a Palestinian phenomenon. All of our extant midrashic compilations were edited in Palestine, and there are fewer aggadic scriptural comments attributed to Babylonian rabbis. The majority of midrashic statements in the *Bavli*, and even more so in Palestinian compilations, are attributed to Palestinian rabbis.

The reason for this distinction is not entirely clear. One factor that has been suggested to account for this disparity is the absence of a significant scripturally based challenge to Babylonian rabbis in Persia. This difference between Babylonian and Palestinian rabbis is dramatized in a story which depicts Rabbi Abahu, a Palestinian rabbi, explaining to a group of *minim* (heretics) why he is well-versed in Scripture, but Rav Safra, a Babylonian rabbi, is not: "We [Palestinian rabbis] who are frequent among you [heretics] take it upon ourselves to examine [Scripture]. They [Babylonian rabbis] do not examine [Scripture]."<sup>8</sup> The relative paucity of Bible-reading heretics in Persia, in other words, may have contributed to the relative neglect of scriptural exegesis, particularly the aggadic variety, in rabbinic Babylonia. The relative abundance of such heretics (for example, Christians and Gnostics) in Roman Palestine, in contrast, may have helped stimulate the production of scriptural exegesis by Palestinian rabbis.

As noted above, much of the Babylonian Talmud is composed of anonymous discussions. Their unattributed character makes them difficult to analyze, and many basic questions about them have yet to be answered. It is not known, for example, when the unattributed materials were by and large complete, with scholarly guesses ranging from the mid-sixth century CE until the Muslim conquest of Persia in 657 CE. Scholars also debate whether or not rabbis known as *savoraim* composed the anonymous materials. Some deny the existence of the *savoraim* altogether, claiming that the term was invented by post-talmudic commentators. Rav Sherira Gaon, who flourished in the tenth century CE, centuries after the Talmud's final redaction, was the first to use the term to denote a group of Babylonian rabbis who contributed to the Talmud.<sup>9</sup> Some modern scholars accept Sherira's testimony, claiming that the *savoraim* contributed to the *Bavli's* editorial polishing, adding technical terminology and arranging and ordering talmudic discussions. At present there appears to be no way of deciding this issue; this chapter therefore avoids the term and the accompanying controversy altogether.<sup>10</sup>

<sup>8</sup> BT *Av. Zar.* 4a. See I. M. Gafni, "The World of the Talmud: From the Mishnah to the Arab Conquest," in H. Shanks (ed.), *Christianity and Rabbinic Judaism* (Washington, DC, 1992), 232–3.

<sup>9</sup> B. Lewin (ed.), *Iggeret Rav Sherira Gaon* (1921; repr. Jerusalem, 1972), 69–70.

<sup>10</sup> See also B. Lewin, *The Savoraim and Their Talmud* (Jerusalem, 1937) (Hebrew); A. Weiss, *The Literary Activities of the Savoraim* (Jerusalem, 1953) (Hebrew); and *The Literary*

Some modern scholars question whether or not it is appropriate to speak of a final redaction of the Talmud. According to a theory whose most eloquent spokesman is Peter Schäfer, the Talmud was an open book until the advent of printing between the end of the fifteenth and the beginning of the sixteenth century. Schäfer cites as evidence the fact that additions were made to the *Bavli* for centuries after (1) the death of the last named talmudic figures, and even after (2) the date of the latest medieval manuscripts. According to Schäfer, there was no final redaction of the *Bavli*, no fixed point dividing the Talmud's editing from the history of its transmission.<sup>11</sup>

Most scholars, however, maintain that while additions to the Talmud were made throughout the Middle Ages, the book's basic contours were recognizable at a relatively early date. The literature of the Geonim (late sixth to mid-eleventh centuries CE) and Rishonim (eleventh to fifteenth centuries CE) was a literature of commentary, and while some of this commentary made its way into the Talmud, these later additions did not fundamentally alter the basic character of the core text.<sup>12</sup>

## II THE EDITORS AND THE EDITING OF THE TEXT

Another important modern scholarly debate concerns the extent to which the Talmud is either (1) a thickly layered compilation, or (2) the creation of its final editors. According to the first alternative, it is possible to use the Talmud as a historical source for the period prior to its final redaction. According to the second alternative, the Talmud's early sources have been altered, edited, and homogenized beyond recognition, such that they attest to little more than the period of the Talmud's final redaction.

*Development of the Babylonian Talmud* (New York, 1955), 11–17 (Hebrew); J. E. Ephraïm, *The Savoraic Period and Its Literature in Babylonia and in Eretz Israel (500–689)* (Petah-Tikvah, 1973) (Hebrew); Goodblatt, "The Babylonian Talmud," 157–60, 170–81; Goldberg, "The Babylonian Talmud," 327, 338–9; R. Kalmin, *The Redaction of the Babylonian Talmud: Amoraic or Saboraic?* (Cincinnati, 1989), xv–xviii, 1–11, 66–94.

<sup>11</sup> P. Schäfer, "Research into Rabbinic Literature: An Attempt to Define the Status Quaestionis," *JJS* 37/2 (1986), 139–52; and "Once Again the Status Quaestionis of Research in Rabbinic Literature: An Answer to Chaim Milikowsky," *JJS* 40/1 (1989), 89–94. See also Y. Sussmann, "Once Again on Yerushalmi Nezikin," in Sussmann and Rosenthal (eds.), *Talmudic Studies*, 1 108–13 (Hebrew).

<sup>12</sup> S. Friedman, "On the Development of Variant Readings in the Babylonian Talmud," *Sidra* 7 (1991), 67–102 (Hebrew); E. S. Rosenthal, "The History of the Text and Problems of Redaction in the Babylonian Talmud," *Tarbiz* 57/1 (1987), 1–36 (Hebrew); and "The Renderings of TB Tractate *Temura*," *Tarbiz* 58/3–4 (1989), 317–56 (Hebrew); C. Milikowsky, "The Status Quaestionis of Research in Rabbinic Literature," *JJS* 39/2 (1988), 201–11; Y. Brody, "The Literature of the Gaonim and the Talmudic Text," in Sussmann and Rosenthal (eds.), *Talmudic Studies* 1 237–303 (Hebrew).

The most prolific proponent of the latter position is Jacob Neusner.<sup>13</sup> Neusner acknowledges that the Talmud contains pre-redactional traditions, but claims that for the most part these earlier traditions cannot be identified. Little purpose is served, according to Neusner, in identifying the *Bavli's* component sources, since such source criticism usually yields trivialities. Generally speaking, argues Neusner, the Talmud is the statement of its final editors, since it contains primarily (1) material authored or molded beyond recognition by these editors; or (2) pre-redactional material which the final editors saw fit to transmit to future generations because it corresponded to their worldview and intended message.

Neusner's theory has been convincingly refuted, however, since it is frequently possible to divide the Talmud into its constituent layers and reach significant conclusions about the literature, personalities, and institutions of the rabbis who flourished prior to the Talmud's final redaction.<sup>14</sup> Material attributed to early rabbis often differs from that attributed to later rabbis; early material is at times even antithetical to the standards and norms of later generations. It is not true, in other words, that the Talmud's later editors retained only sources which conform to their own sentiments. Later tradents and editors often retained earlier material for the simple reason that it was traditional. As such, it could no longer be excised from the text.

I am not arguing, it is important to emphasize, that later generations slavishly transmitted everything they received from earlier generations. Countless examples prove that later generations often had great freedom to emend sources in response to real or perceived difficulties.<sup>15</sup> I am simply

<sup>13</sup> See, e.g., J. Neusner, *Making the Classics in Judaism* (Atlanta, 1989), 1–13, 19–44.

<sup>14</sup> J. N. Epstein, *Introduction to the Text of the Mishnah*, 2nd ed. (Jerusalem, 1964), 353–493 (Hebrew); Y. Sussmann, *Babylonian Sugyot on the Orders Zera'im and Tohorot* (PhD dissertation, Hebrew University, 1969), 20–8, 30–30e, 110–1, 128–39, 161–2, 177–226, and 245–90; D. Goodblatt, *Rabbinic Instruction in Sasanian Babylonia* (Leiden, 1975), 4–5, 63–196; E. S. Rosenthal, "Introduction to the History of the Text to Tractate Pesahim," in *The Pesahim Codex: Babylonian Talmud* [Sassoon 594] (London, 1985), 5–59 (Hebrew); D. C. Kraemer, "On the Reliability of Attributions in the Babylonian Talmud," *HUCA* 60 (1989), 175–90; Y. Breuer, "On the Transformations of Rabbinic Language in the Babylonian Talmud," in M. Bar Asher and D. Rosenthal (eds.), *Talmudic Studies* (Jerusalem, 1990), 11 91–126 (Hebrew); Gafni, *The Jews of Babylonia*, 11–16, 137–48, 187–90, 210–2, 224–6 (Hebrew); R. Kalmin, *Sages, Stories, Authors, and Editors in Rabbinic Babylonia* (Atlanta, 1994), 2–3, 10–13; C. Hayes, *Between the Babylonian and Palestinian Talmuds: Accounting for Halakhic Difference in Selected Sugyot from Tractate Avodah Zarah* (New York, 1997), 10–16 and passim; S. J. D. Cohen (ed.), *The Synoptic Problem in Rabbinic Literature* (Providence, 2000).

<sup>15</sup> See section VII of this chapter; D. Weiss Halivni, *Sources and Traditions: A Source-Critical Commentary on the Talmud: Tractate Shabbath* (Jerusalem, 1982), 5–16 (Hebrew); and *Midrash, Mishnah, and Gemara: The Jewish Predilection for Justified Law* (Cambridge, MA,



claiming that we encounter the opposite phenomenon as well – cases in which later generations acted with great restraint toward received traditions, preserving them intact despite the obstacles they posed.

It will be helpful to give an example illustrating this claim. As noted above, most modern scholars agree that at least the bulk of the anonymous sections of the Talmud represent a relatively late layer of the talmudic corpus. Even scholars who claim that composition of this anonymous material began during the amoraic period generally acknowledge that most of it is post-amoraic. In addition, these anonymous sections are considered by most scholars to be an important locus of editorial activity, where attributed materials are compared, emended, and completed.<sup>16</sup> Accordingly, it is possible to test Neusner's theory of the activity of the Talmud's final editors by examining this anonymous material and its relationship to earlier, attributed materials. The ensuing discussion attempts to examine one aspect of this relationship.<sup>17</sup>

Many talmudic stories are extremely uncomplimentary toward their rabbinic protagonists. These stories serve a variety of purposes. For example, they (1) teach moral lessons; (2) dramatize ethical dilemmas and theological truths; and/or (3) polemicize against individual rabbis or groups of rabbis. Often it is impossible to determine a story's precise motive, but for our present purposes the fact of the negative portrayal is more important than its motive. Such negative portrayals are almost totally absent from the Talmud's anonymous sections,<sup>18</sup> and, as noted above, most scholars consider these sections to derive from the later if not the latest layers of the Talmud.

The Talmud, therefore, contains numerous narratives which portray rabbis negatively, despite the fact that the latest editors, the authors of the unattributed sections, are unwilling to compose such material

1986), 76–84; Goldberg, "The Babylonian Talmud," 333–4; Sussmann, "Once More on Yerushalmi Nezikin," 106–14 (Hebrew); S. Friedman, "On the Historical Aggadah in the Babylonian Talmud," in S. Friedman (ed.), *Saul Lieberman Memorial Volume* (Jerusalem, 1993), 119–64 (Hebrew); *Talmud Arukh: BT Bava Mezi'a vi* (New York, 1996), 11 7–23 (Hebrew); and "The *Baraitot* in the Babylonian Talmud and Their Relationship to Their Parallels in the Tosefta," in D. Boyarin et al. (eds.), *Atara L'Haim: Studies in the Talmud and Medieval Rabbinic Literature in Honor of Professor Haim Zalman Dimitrovsky* (Jerusalem, 2000), 163–201 (Hebrew).

<sup>16</sup> Kalmin, *The Redaction of the Babylonian Talmud*, 3 and the sources cited in 154 n. 22; B. M. Bokser, "Talmudic Studies," in S. J. D. Cohen and E. L. Greenstein (eds.), *The State of Jewish Studies* (Detroit, 1990), 92 and the sources cited in 108 n. 75; D. Weiss Halivni, *Sources and Traditions: A Source-Critical Commentary on the Talmud: Tractate Baba Kama* (Jerusalem, 1993), 7–21 (Hebrew).

<sup>17</sup> See also the discussion below and section vii of this chapter.

<sup>18</sup> Kalmin, *Sages, Stories, Authors, and Editors*, 143–67.

themselves. In addition, the anonymous editors sometimes attempt (1) to rehabilitate the reputations of rabbis who are the subjects of negative talmudic portrayals, and (2) to smooth over conflicts between rabbis who exchange picturesquely nasty insults in the course of routine talmudic debates. The anonymous editors accomplish this by “reinterpreting” the actions of the protagonists and the exchanges between interlocutors, such that what appears to be objectionable conduct or unpleasant vitriol is actually appropriate and even praiseworthy. The anonymous editors, in other words, allow much material with which they are demonstrably uncomfortable to remain in the document they transmit to posterity, although they sometimes attempt to remove its sting by interpreting it in a positive light. The activity of the anonymous editors, therefore, illustrates our claim that later generations were often constrained by the editorial decisions of earlier generations to preserve and transmit traditional material, despite its lack of conformity to their own standards. Without question, later generations handle some sources with great restraint and other sources with great flexibility, although at present we lack the tools to explain precisely why they sometimes do the former and other times the latter.

The above discussion of anonymous editorial treatment of unflattering portrayals in rabbinic narratives, it bears mentioning, contains a counter argument to the theory recently advanced by Jeffrey Rubenstein, according to which the *Bavli*'s anonymous commentators authored the Talmud's lengthiest, most complex stories.<sup>19</sup> As noted above, the anonymous commentators sometimes interpret obnoxious rabbinic behavior in a positive light, and most frequently focus on morally neutral, halachic aspects of narratives. Rubenstein's theory raises an exceedingly difficult question: if the anonymous editors authored the Talmud's greatest stories, why do the overwhelmingly prosaic, legal preoccupations of these commentators throughout the Talmud reveal them to be the very antithesis of deft storytellers and imaginative artists?<sup>20</sup> The anonymous editors of the Talmud are very unlikely candidates for authorship of the Talmud's brilliantly artistic, dramatically gripping, and ethically and theologically ambiguous narratives.

Returning to the issue of the Talmud's character as a “thick” document, composed of diverse sources from a variety of times and places, is Neusner correct to say that source criticism of the Talmud yields trivialities? The

<sup>19</sup> J. Rubenstein, *Talmudic Stories: Narrative Art, Composition, and Culture* (Baltimore, 1999), 15–22 and passim.

<sup>20</sup> See section VII, below, for typical examples of their contribution to the Talmud. Additional examples can be found on virtually every page of the Talmud.

answer is an unqualified “No,” since division of the *Bavli* into its component sources is often a necessary first step toward answering fundamental questions about the historicity of these sources and about the nature of rabbinic culture and society in late antiquity. It will be helpful to substantiate this claim.

Talmudic narratives about dreams and dream interpreters favorably depict early Palestinian rabbis as professional interpreters of the dreams of non-rabbis. Narratives about later Babylonian rabbis, in contrast, never depict them favorably as professional dream interpreters but only as non-professionals interpreting the dreams of other rabbis. In this and in numerous other instances the Talmuds preserve differing portrayals of early and later, and/or Palestinian and Babylonian rabbis, powerful evidence of the Talmud’s composite character.<sup>21</sup>

### III THE SIGNIFICANCE OF THE TEXTUAL DIVERSITY

The division of the *Bavli* into diverse sources raises several significant modern scholarly questions. First, are the differing portrayals accurate historically, or do they reflect the desires or fantasies of rabbinic storytellers or editors from diverse times and places? Second, are the differing patterns attributable to (1) geographical factors (Babylonia versus Palestine), or (2) chronological factors (early versus later); or (3) do both geography and chronology play a role? Third, what is the significance of these differences? Do they tell us anything about society in two of the most important Jewish centers of late antiquity?

Turning to the second question first, the ensuing discussion argues that both chronological and geographical factors play a role. Still on the subject of dream interpretation, we turn first to chronology. According to accounts preserved in both Talmuds, later rabbis take pains to equip non-specialists with tools for coping with frightening dreams. Later rabbis recommend fasting, for example, as a way to neutralize disturbing dreams. They also claim that when one “sees” a depressing, frightening, or “difficult” dream, one should describe the dream before three “who love him,” who in turn should recite a formula which “dissolves” the dream, that is, renders it harmless. Later rabbis also recommend the recitation of particular biblical verses when one awakens from a disturbing dream, lest unfavorable verses (for instance, verses containing a curse) come to mind.

According to these and other sources, therefore, later rabbis equip non-specialists to handle disturbing dreams on their own, eliminating the need

<sup>21</sup> For documentation and further discussion see Kalmin, *Sages, Stories, Authors, and Editors*, 61–80.

to consult professionals. In contrast, it will be recalled, talmudic narratives portray early Palestinian rabbis as professional interpreters of the dreams of non-rabbis. The sources thus attest to changing Palestinian rabbinic attitudes, with early Palestinians favorably disposed toward, and later Palestinians opposed to, professional dream interpreters. The absence of stories depicting later Palestinian rabbis as professional dream interpreters, therefore, is most likely not a mere lacuna in our sources. This absence is precisely what we would expect, given the efforts of later Palestinian rabbis to eliminate the need to consult professional dream interpreters, thereby limiting the influence of these professionals on rabbinic and/or general Jewish society.<sup>22</sup>

Turning for the moment to the first question posed above, that concerning the historicity of our sources, it would be premature to conclude based on the above evidence that the talmudic portrayals are historical in this instance.<sup>23</sup> In other words, it would be premature to conclude that later Palestinian rabbis did not serve as professional dream interpreters, and that the absence of talmudic stories depicting them as such accurately reflects historical reality. The evidence above attests to changing rabbinic attitudes (which is itself a historical datum), but not necessarily to changing rabbinic functions in society. For, just as plausibly, the opposition of some later Palestinian rabbis to professional dream interpreters discouraged the depiction of rabbis in that role. That is, the later Palestinian rabbis who contributed to the Talmuds were hostile to professional dream interpreters, and they therefore avoided portraying rabbis in that role. This hostility need not imply, however, that Palestinian rabbis refrained from engaging in this activity to the degree that the Talmuds suggest. Along these same lines, the fact that the Catholic Church officially condemned dream interpretation in 314 CE<sup>24</sup> means only that it was opposed by the highest echelons of the Catholic hierarchy. It does not mean that dream interpretation by Catholic clergymen ceased after this date.<sup>25</sup>

<sup>22</sup> See Kalmin, *Sages, Stories, Authors, and Editors*, 61–80.

<sup>23</sup> It goes without saying that we can draw no general conclusions about the historical reliability of our sources (or the lack thereof) based on examination of a single topic.

<sup>24</sup> S. M. Oberhelman, *The Oneirocriticon of Achmet: A Medieval Greek and Arabic Treatise on the Interpretation of Dreams* (Lubbock, 1991), 51.

<sup>25</sup> This is not to suggest that there is an exact parallel between the Catholic and the rabbinic hierarchies. There most assuredly is not. It is simply to suggest that just as a law prohibiting a certain activity tells us nothing about the extent to which the prohibition was observed among the Catholic clergy, so too the opposition of talmudic sources to a particular activity does not necessarily indicate the extent to which all rabbis refrained from this activity.

The differences described above are almost certainly not the work of a unified team of talmudic editors. The differing portrayals are found in both Talmuds (the *Bavli* and *Yerushalmi*), and it is the consensus of virtually all modern scholars that the two Talmuds were edited independently.<sup>26</sup> Those who would claim that the differing portrayals are the work of a unified editorship are unable to explain how the same editorial fiction imposed itself on both Talmuds. They are unable to explain how the editors of the *Yerushalmi* and *Bavli* independently decided that early and later Palestinian rabbis should be depicted differently from one another on the subject of professional dream interpretation.

We argued above, it will be recalled, that the Talmud's editors often preserved sources they found objectionable. The phenomenon presently under discussion supports this claim, since (1) statements by later rabbis oppose professional dream interpretation, while (2) several stories favorably depict early Palestinian rabbis engaging in this very activity. In this case as well, therefore, later rabbis did not change earlier sources beyond recognition, even sources they found objectionable. Later rabbis were unwilling or unable to tamper with some sources which earlier generations had stamped with the authority of tradition.

As noted above, in all likelihood geographical factors also played a role in the creation of the diverse rabbinic portrayals under discussion. In contrast to stories purporting to take place in Palestine, as we have seen, none of the stories purporting to take place in Babylonia depict rabbis interpreting the dreams of non-rabbis. This geographical distinction is one aspect of a more general distinction, which, the ensuing discussion argues, is an accurate reflection of historical reality.

What is this general distinction? Talmudic sources depict Babylonian rabbis interacting with non-rabbis primarily in formal contexts. According to these sources, interaction between Babylonian rabbis and non-rabbis was governed by strict rules of behavior and elaborate hierarchical conventions, with rabbis tending to interact with non-rabbis as judges in the presence of litigants, lecturers in the presence of an audience, or teachers in the presence of students in formal academic settings. Palestinian rabbis, in contrast, interacted with non-rabbis in more informal contexts, greeting each other

<sup>26</sup> B. M. Bokser, "An Annotated Bibliographical Guide to the Study of the Palestinian Talmud", in Neusner (ed.), *The Study of Ancient Judaism*, 11 187–91; Goodblatt, "The Babylonian Talmud," 288. Compare M. Jaffee, "The Babylonian Appropriation of the Talmud Yerushalmi: Redactional Studies in the Horayot Tractates," in A. J. Avery-Peck (ed.), *The Literature of Early Rabbinic Judaism: Issues in Talmudic Redaction and Interpretation* (Lanham, 1989), 3–27; and A. M. Gray, *A Talmud in Exile: The Influence of PT Avodah Zarah on the Formation of BT Avodah Zarah* (PhD dissertation, Jewish Theological Seminary, 2000), passim.

in chance encounters on the street or conversing at parties in each other's homes. According to sources preserved in both Talmuds, the social and physical boundaries separating Palestinian rabbis from the rest of Jewish society are substantially less imposing than those separating Babylonian rabbis from non-rabbis. Talmudic sources portray Palestinian rabbis (1) referring to non-rabbis as "my son" and "my daughter," fostering or presupposing a sense of intimacy between them; (2) entering the homes of non-rabbis to teach them Torah; and (3) permitting non-rabbis to "invade" their personal and institutional space by conversing with them, touching them, or inviting them to dinner. Babylonian rabbis, in contrast, (1) keep non-rabbis at arm's length by discouraging emotional ties between them; and (2) tend to be intolerant of violations of their personal and institutional space.<sup>27</sup> When Palestinian rabbis interpret the dreams of non-rabbis, therefore, they conform to their general tendency to interact informally with non-rabbinic Jews. When Babylonian rabbis interpret only the dreams of other rabbis, they conform to their general tendency to limit their interaction with non-rabbinic Jews to highly formal contexts.

As noted above, I am convinced of the historical accuracy of these portrayals. This is not to minimize, of course, the problems involved in using late antique rabbinic sources as historical evidence. While these problems exist for any literary source, particularly one deriving from late antiquity given the tremendous cultural and linguistic barriers separating us from the ancients, they are particularly acute in the case of talmudic sources. For these sources are prescriptive, didactic, polemical, interpretive, and totally unconcerned with, even hostile to, the disinterested reporting of history. How can we transcend these problems and derive significant historical information from talmudic texts?

First, the *Bavli's* portrayals in this instance are corroborated by many rabbinic sources preserved in several rabbinic compilations, Palestinian and Babylonian, analyzed from a wide variety of perspectives and yielding conclusions which confirm one another in unexpected ways. Second, talmudic portrayals in this instance are corroborated by sources external to the Talmud, which reveal a distinction between the Persian and Roman Empires comparable to the distinction between Babylonian (Persian) and Palestinian (Roman) rabbis described above.

With regard to the first point, we find, for example, that many talmudic sources portray Babylonian rabbis preoccupied, even obsessed, with genealogical purity. Palestinian rabbis, on the other hand, are portrayed as far more relaxed about this issue. Babylonian rabbis go to great lengths to

<sup>27</sup> Hayes, *Between the Babylonian and Palestinian Talmuds*, 154–69; Kalmin, *The Sage in Jewish Society*, 27–50 and passim.

determine the exact borders of Babylonia, claiming that Jews within the borders are genealogically pure, while those outside the borders are genealogically “sick,” “on the verge of death,” or “dead.” In addition, Babylonian rabbis claim that genealogical blemishes should be made public so that people interested in preserving their purity of lineage can avoid marriage ties with unfit families. Babylonia stands at the apex of a genealogical pyramid, claim Babylonian rabbis, with Palestine superior genealogically to other lands but decidedly inferior to Babylonia.

Palestinian rabbis, in contrast, claim that genealogical blemishes should remain hidden, and that proper lineage is to be inferred from proper conduct rather than derived from published lists of the genealogically unfit. Every sixty or seventy years, claims another Palestinian source, God brings pestilence into the world, destroying *mamzerim*<sup>28</sup> together with people of sound lineage. God goes to extreme lengths, therefore, to avoid revealing the identities of the genealogically unfit. Most likely, claims this source, we would be wise to follow God’s example and also refrain from publicizing the identity of those of tainted lineage. Several Palestinian sources urge this policy explicitly and depict Palestinian rabbis practicing what they preach. One source, for example, reports that a certain family in the Transjordan was “distanced by force,” that is, falsely declared genealogically unfit, while another family there was “brought near by force,” that is, falsely declared genealogically fit. This Palestinian source supplies the name of the former but not of the latter, since “once a genealogical blemish becomes hidden, it should remain hidden.”<sup>29</sup>

The distinction between Palestinian and Babylonian attitudes toward genealogy conforms to and helps to explain the distinction between Palestinian and Babylonian rabbinic interaction with non-rabbis. Babylonian rabbis, concerned to protect their highly prized genealogical purity, tend to avoid contact with non-rabbinic Jews. Palestinian rabbis, less obsessed with genealogical purity, erect fewer social barriers between themselves and the rest of the Jewish world.

Palestinian rabbis, in fact, seek out social involvement with non-rabbis, since such involvement strengthens their relatively precarious position in Palestinian Jewish society. Palestinian rabbis are not above appealing to wealthy, aristocratic non-rabbis for monetary support and social advancement. Babylonian rabbis, in contrast, are stronger socially than their Palestinian counterparts; they therefore have less reason to seek the help

<sup>28</sup> This word is difficult to translate. It is conventionally, although incorrectly, rendered as “bastards.” The actual meaning is “the offspring of a prohibited sexual union.”

<sup>29</sup> For documentation and further discussion see Kalmin, *The Sage in Jewish Society*, 51–60, 133–35.

of other Jews in attaining positions of leadership in Jewish society.<sup>30</sup> Once again the evidence of the Talmud fits together surprisingly well, and unless we wish to attribute these correspondences to an astoundingly industrious, imaginative, and thorough editor, no precedent for whom exists elsewhere in the ancient world, the most likely conclusion is that the picture supplied by the literary sources has some basis in historical reality. In addition, as noted above, it is extremely unlikely that the same editorial fiction imposed itself on stories and statements preserved in geographically and chronologically diverse rabbinic compilations.

#### IV THE NATURE OF THE INTERNAL TEXTUAL DIALOGUE

A theory which contests the historicity of the portrayals described above conceives of the Talmud as “internal rabbinic discourse.”<sup>31</sup> According to this theory, the Talmud teaches us nothing about relations between rabbis and non-rabbis; ostensible dialogues and interactions between the two groups are actually rabbinic monologues, occasions for rabbis to work out their anxieties, aggressions, or fantasies, or to imagine how such interactions might take place in a perfect world. According to this theory, the *Bavli*’s obsession with genealogical purity is no proof that Babylonian rabbis were any less involved in non-rabbinic society than were their Palestinian counterparts. People routinely say or think one thing and do another; why assume that Babylonian rabbis were any different?

This theory is problematic, however, for it does not account for the correspondence between Babylonian rabbinic stories purporting to depict rabbinic behavior, and statements expressing rabbinic attitudes. Seth Schwartz has shown the discrepancy between rabbinic condemnations of idolatry on the one hand, and rabbinic stories which portray rabbis accommodating themselves to the reality of idolatry on the other.<sup>32</sup> With regard to the phenomena presently under consideration, however, we find no such discrepancy. Babylonian rabbis do not tell stories containing incidental details which contradict their programmatic statements about the importance of genealogical purity. They do not tell stories which portray

<sup>30</sup> Gafni, *The Jews of Babylonia*, 104–9 (Hebrew); and Kalmin, *The Sage in Jewish Society*, 27–33 and passim.

<sup>31</sup> H. Lapin, “Review of *The Sage in Jewish Society in Late Antiquity*,” paper presented at the AAR/SBL conference in Nashville, November 19, 2000.

<sup>32</sup> S. Schwartz, “Gamliel in Aphrodite’s Bath: Palestinian Judaism and Urban Culture in the Third and Fourth Centuries,” in P. Schäfer (ed.), *The Talmud Yerushalmi and Graeco-Roman Culture* (Tübingen, 1998), 203–17.



Babylonian rabbis marrying the daughters of wealthy non-rabbis, and the like, that is to say, we do not find the sorts of stories that we would expect to find were there the conflict between theory and practice posited by the theory of the *Bavli* as “internal rabbinic discourse.”

In addition, this theory does not explain why a single compilation, the *Bavli*, portrays Babylonian and Palestinian rabbis so differently. If the *Bavli* presents us with nothing but internal rabbinic discourse, why does it distinguish between rabbis from different localities? Why do we find geographical patterns rather than randomness and inconsistency? Why does the *Bavli*, at least occasionally, not attribute to Palestinian rabbis an obsessive concern for genealogical purity? If the *Bavli* is simply a forum for Babylonian rabbis to exorcise their demons and give expression to their anxieties, why does it depict rabbis differently depending on their geographical provenance?

Finally, the theory of the *Bavli* as internal discourse needs to explain why Babylonian Jewish society is structured differently from other societies within the Persian Empire. Why is Babylonian Jewish society less hierarchical, why are boundaries between classes less rigid, in Babylonian Jewish society than in Persian society in general, including the societies of non-Jewish minorities within that empire? The structure of Persian society, in contrast, conforms well to the theory that talmudic sources in this one instance accurately reflect historical reality. Late antique Persian society was rigidly hierarchical, with movement between and even within social classes extremely difficult. The Persian intellectual and judicial elites had relatively little to do with other groups in Persian society, corresponding to the rabbis' character as an intellectual and judicial elite in Babylonian Jewish society.<sup>33</sup> Rabbis, like Persian priests, scribes, and sages, had little involvement with their social inferiors. Rabbis minimized their contact with people other than (1) the Exilarch and his officials; and (2) officials of the Persian government, powerful people who were in a position to further the rabbis' ambitions to control Babylonian Jewish society.

Society in the Roman Empire, in contrast, tended to be less rigidly hierarchical, with boundaries between classes more flexible than in contemporary Persia.<sup>34</sup> Late antique Roman society was more upwardly (and

<sup>33</sup> R. N. Frye, *The History of Ancient Iran* (Munich, 1984), 218–21, 315–16, 329, 334.

<sup>34</sup> A. H. M. Jones, “The Social Background of the Struggle between Paganism and Christianity,” in A. Momigliano (ed.), *The Conflict between Paganism and Christianity in the Fourth Century* (Oxford, 1963), 34–7; R. Macmullen, “Social Mobility and the Theodosian Code,” *JRS* 54 (1964), 49–53; P. Brown, “The Rise and Function of the Holy Man in Late Antiquity,” *JRS* 61 (1971), 99; Gafni, *The Jews of Babylonia*, 126–9 (Hebrew).

downwardly) mobile than that of contemporary Persia, and Jewish society in Palestine resembled that of the Roman Empire as a whole.<sup>35</sup> In an effort to strengthen their position in society, Palestinian rabbis attempted to forge closer relationships with wealthy aristocratic non-rabbis. Babylonian rabbis, in contrast, zealously guarded their genealogical purity, in keeping with tendencies throughout the Persian Empire.

Persian society was not monolithic, of course, and it is important to bear in mind that Babylonian rabbis flourished in Mesopotamia, a border province subject to considerable Roman influence.<sup>36</sup> My claim, however, is not that Palestine and Babylonia are diametrically opposed, but rather that they exhibit differing tendencies. In late antiquity the rudiments of a partly shared elite culture were emerging in Syria and Mesopotamia, perhaps a refinement of a rudimentary shared non-elite culture which had existed earlier, but about which little is known. Nevertheless, the Babylonian and Palestinian rabbinic communities flourished in markedly differing contexts which were identifiably Persian and identifiably Roman. The two empires were very different entities; both unquestionably and profoundly shaped the cultures of the people within their borders.

Other considerations support the claim that the Talmud contains rabbinic responses to stimuli from the non-rabbinic world, that the *Bavli* contains more than internal rabbinic discourse. First, the Talmud is a historical artifact, and as such it should not be viewed as hermetically sealed. It is the nature of historical artifacts to be embedded in a historical context, to serve the purposes of individuals and groups within a society situated within a larger culture. To view the Talmuds as *primarily* a record of rabbinic discourse, by rabbis for rabbis, seems to me eminently reasonable. To say that the boundary separating rabbinic literature from the community at large is totally impermeable is counter-intuitive, not to mention counter to the explicit claims of the literature itself. In addition, it is one thing to claim that it is extremely difficult to derive reliable information about non-rabbinic society based on rabbinic texts, which refract everything through the spectacles of the rabbis. It is another thing to claim that we can say nothing whatsoever about non-rabbis, that it is completely impossible to correct for the distortions caused by the rabbinic lenses through which we look when we read rabbinic texts. I find extremely improbable the notion that rabbinic encounters with non-rabbis are not

<sup>35</sup> Y. Elman, "The Suffering of the Righteous in Palestinian and Babylonian Sources," *JQR* 80/3-4 (1990), 315-39, especially 338; and "How Should a Talmudic Intellectual History be Written? A Response to David Kraemer's *Responses*," *JQR* 89/3-4 (1999), 370; E. Segal, *The Babylonian Esther Midrash* (Atlanta, 1994), I 2-12; III 220-34.

<sup>36</sup> P. Brown, *The World of Late Antiquity, AD 150-750* (New York, 1971), 20, 164-5.

occasionally documented, in however distorted a manner, in rabbinic texts, and that we can never draw reliable conclusions about these encounters.

It is at times indisputable, in fact, that rabbinic corpora preserve non-rabbinic traditions. Several stories in rabbinic corpora, for example, have parallels in Josephus, a pre- and non-rabbinic author.<sup>37</sup> As noted above, rabbinic storytellers and editors tend to rabbinize such stories, for example by transforming the protagonist from a king or a priest into a rabbi. Often, however, the process of rabbinization is incomplete; the priest or king is dominant and the rabbi only secondary or absent altogether.<sup>38</sup> Sometimes, in other words, non-rabbinic voices find a place, albeit muted, within rabbinic documents. Sometimes a source's non-rabbinic features survive the process of editorial homogenization.

Further indication that the *Bavli* contains more than internal rabbinic discourse is provided by the many statements by and stories about Palestinian rabbis, found in Palestinian and Babylonian rabbinic compilations, which unambiguously deliver the message that it is crucially important to give money and hospitality to rabbis. Statements by and stories about Palestinian rabbis describe in picturesque terms the great rewards, both this- and next-worldly, which await wealthy non-rabbis who give their daughters in marriage to rabbis. One source, for example, records a series of stories in which wealthy non-rabbis support rabbis. In one story, Abba Yudan is described as a man who gives generously but has fallen on hard times. When he sees Rabbi Eliezer, Rabbi Yehoshua, and Rabbi Akiva coming to collect charity for the rabbis, he is crestfallen because he has little left to give them. His wife advises him to sell half of his one remaining field and give the proceeds to the rabbis. He does so and is rewarded by God when he discovers treasure on his property. According to another source, Rabbi Yirmiyya says in the name of Rabbi Ḥiyya, “[If a person] has not learned [Torah], and has neither performed, observed, nor taught it to others, but, [although] he was not able to maintain [scholars], maintained [them] . . . behold, he is included in the term ‘blessed.’”<sup>39</sup> Such traditions are rendered incoherent if we claim that they are anything other than rabbinic propaganda originally addressed to non-rabbinic Jews. Such sources were not changed beyond recognition, nor were all traces of their

<sup>37</sup> See S. J. D. Cohen, “Parallel Traditions in Josephus and Rabbinic Literature,” in *Proceedings of the Ninth World Congress of Jewish Studies* (Jerusalem, 1986), Div. B, 17–14.

<sup>38</sup> See R. Kalmin, “Jewish Sources of the Second Temple Period in Rabbinic Compilations of Late Antiquity,” in P. Schäfer (ed.), *The Talmud Yerushalmi in Graeco-Roman Culture* (Tübingen, 2003), 111–36–44; idem, “Kings, Priests, and Sages in Rabbinic Literature of Late Antiquity,” in E. Halivni (ed.), *David Halivni Jubilee Volume* (Jerusalem, 2004), 68–92.

<sup>39</sup> For a fuller discussion, see Kalmin, *The Sage in Jewish Society*, 29–33.

original function obliterated, when they were incorporated into rabbinic compilations intended for rabbinic consumption.

Why was such material included in compilations intended exclusively for rabbis? Often because it serves the primary goals of the compilations: interpretation of and commentary upon biblical and/or rabbinic statements and stories. As noted above, however, it is often clear that a particular story is hooked on to a source artificially. In such cases, commentary is not the reason for the source's preservation; rather, the editors of the rabbinic compilation, generally the *Bavli*, wished to include the story, and they found a pretext, sometimes quite flimsy, for quoting it in a particular context based on a particular source. As stated above, I accept Jacob Neusner's characterization of the *Bavli* as encyclopedic in character. The *Bavli*, in short, finds a place for more types of statements by, and stories involving, rabbis than any other compilation of late antiquity.

Further proof that rabbinic corpora contain accurate information about relationships between rabbis and non-rabbis is provided by stories which portray Jews not explicitly identified as rabbis appearing before rabbis for judgment. Modern scholarship has shown that these stories do not yield a picture of disciples appearing before their masters, but of non-rabbis appearing before rabbis. These stories do not portray rabbis adjudicating in every aspect of life; instead, there are important emphases and omissions which we would not expect were the Talmud simply comprised of rabbinic monologues. Contrasts between these portrayals and portrayals of conversations between individuals explicitly labelled "rabbi" lead Shaye Cohen to observe that in the former texts "the rabbis are not . . . discussing abstruse points of law, deciphering (and encoding) biblical passages." Cohen concludes that pre-third-century rabbis were "actively involved in the private lives of ordinary Jews." They "were . . . able to cancel oaths and vows," but they played no role whatsoever "in matters of personal piety, e.g. shabbat, holidays, kosher food, prayer, and synagogue rituals, and in civil matters."<sup>40</sup> Most likely, disciples would turn to their masters with questions regarding shabbat, holidays, kosher food, and the like, not just with questions about purities and vows. Most likely, the stories portray contact between rabbis and non-rabbis, although the precise extent to which these portrayals are historically accurate remains an open question.

Jacob Neusner conducted a similar survey of sources in the *Bavli* and came to the same conclusions. The *Bavli*, Neusner found, routinely depicts Babylonian rabbis litigating cases "involving exchanges of property, torts and damages," and "court-enforced documents," but only rarely cases

<sup>40</sup> S. J. D. Cohen, "The Rabbi in Second-Century Jewish Society," in *CHJ* 111 962, 969.

involving “points of religious observance.”<sup>41</sup> If the Talmud depicts rabbis judging cases involving non-rabbis, one can understand this lacuna in the sources: non-rabbis did not need or want rabbis to determine their religious observances. They apparently preferred to decide such questions on their own or to consult non-rabbinic authorities. According to the claim that the Talmud contains nothing but internal rabbinic discourse, in contrast, this lacuna is incomprehensible.

## V THE TEXT AND ITS AUDIENCE

It could perhaps be argued that the evidence surveyed above is attributable to the differing audiences to which Palestinian and Babylonian rabbinic literature is directed.<sup>42</sup> What was characterized above as the insular nature of Babylonian rabbis, in other words, is perhaps a function of the inner-directed character of the Babylonian Talmud. What was characterized above as the greater openness of Palestinian rabbis to non-rabbinic Jewish society is perhaps a function of the more outer-directed nature of Palestinian rabbinic compilations. In the ensuing discussion I refer to this theory as the “theory of audience.”

The *Bavli*, according to this theory, is intended almost exclusively for a rabbinic audience, which explains the inner-directed character of the rabbis it depicts. This theory also explains another phenomenon heretofore unmentioned: the fact that statements by and stories involving Babylonian rabbis tend to emphasize Torah study to the exclusion of all else, that is, to emphasize the importance of values and preoccupations unique to the rabbinic elite. More of the *Yerushalmi*, according to this theory, is intended for a non-rabbinic audience, which explains why this Talmud depicts a more outer-directed Palestinian rabbinate, and why statements by and stories involving Palestinian rabbis emphasize values and preoccupations shared by rabbis and non-rabbis alike: the importance of charity to the poor, hospitality to the wayfarer, observance of the Sabbath, and the like.<sup>43</sup>

I will argue below that, while the theory of audience explains some phenomena, it leaves other phenomena unexplained. It supplements and accompanies, but does not replace, the theory that the literary portrayals in the Talmuds in this one instance accurately reflect historical reality. The theory of audience, for example, fails to explain the distinction between

<sup>41</sup> J. Neusner, *A History of the Jews of Babylonia* (Leiden, 1968–9), III, 317; IV, 254–5.

<sup>42</sup> Rubenstein, *Talmudic Stories*, 281–2, 405–6.

<sup>43</sup> R. Kalmin, “Holy Men, Rabbis, and Demonic Sages in Late Antiquity,” in *Jewish Culture and Society under the Christian Roman Empire* (Leuven, 2003), 241–5.

Palestinian and Babylonian rabbis on the issue of genealogy. According to this theory we are dealing with two unrelated issues: (1) audience, and (2) attitudes toward genealogy; in contrast, according to the theory of historical reality we are dealing with one phenomenon (genealogy) which provides the rationale for another (attitudes toward non-rabbis). In general, it is preferable to account for diverse phenomena by means of a single explanation rather than to account separately for each one.

Even more importantly, the theory of audience fails to explain why statements attributed to Palestinian rabbis in the *Bavli* exhibit the same outer-directed character as do statements attributed to Palestinian rabbis in Palestinian compilations. Were the inner-directed portrayals of Babylonian rabbis attributable solely to the inner-directed nature of the *Bavli*, we would expect Palestinian and Babylonian rabbis to be depicted by this Talmud in exactly the same fashion. Why is this not the case? Why are Palestinian rabbis depicted as outer-directed in the *Bavli* as well as the *Yerushalmi*? Most likely because the differing portrayals are evidence of differing rabbinic roles in society and not merely of differences between Palestinian and Babylonian rabbinic literature.

Finally, the theory of audience ignores the above-mentioned differences between the Persian and Roman Empires, differences which, we noted above, conform well to the theory of historical reality. While it is likely, therefore, that Palestinian rabbinic literature is less exclusively directed to a rabbinic audience (see below), this fact does not satisfactorily explain much of the evidence. Even the inner-directed nature of Babylonian rabbinic literature, in fact, versus the more outer-directed nature of Palestinian rabbinic literature, is easily explicable according to the theory of historical reality. If I am correct in arguing that Babylonian rabbis tend to be more aloof from non-rabbis than are their Palestinian counterparts, it is easy to understand (1) why Babylonian rabbis would produce a literature intended almost exclusively for rabbinic consumption; and (2) why Palestinian rabbis would produce a literature intended more for a non-rabbinic Jewish audience.

As noted above, however, some evidence does support the claim that some Palestinian and Babylonian statements were addressed to different audiences. It will be recalled, for example, that Palestinian statements and stories urge wealthy non-rabbis (1) to marry their daughters to sages and to marry the daughters of sages; (2) to seek out the company of rabbis, to invite them to dinner, and to host and attend their study sessions; (3) to be generous in giving charity to rabbis; (4) to provide rabbis with funds to start their own businesses; and (5) to show them respect. Such themes are by and large missing from Babylonian rabbinic statements and stories. Such statements are most likely excerpts from sermons and fundraising appeals

addressed to non-rabbis; they make little sense if we insist that rabbis and rabbis alone were their original intended audience.

In addition, Babylonian amoraim frequently portray biblical figures as sinful sages, but Palestinian amoraim tend not to do so. Palestinian rabbis avoid portraying biblical figures as sinners on the one hand and Torah scholars and teachers on the other, but Babylonian rabbis do not.<sup>44</sup> Perhaps this distinction is in part the result of differing levels of concern for the impression rabbinic statements will make on non-rabbinic Jews. Babylonian rabbinic statements about scriptural figures, in other words, were evidently composed by scholars with other scholars in mind, while comparable Palestinian rabbinic comments may have been composed by rabbis more preoccupied with the effect these comments might have on non-rabbis. Babylonian rabbis evidently had little concern for the negative effects of portraying one of their own, a biblical “rabbi” like themselves, as a sinner. Palestinian amoraim, on the other hand, may have avoided portrayals of sinful sages due to the negative effects these portrayals might have on non-rabbinic attitudes toward biblical “rabbis,” and by extension about Palestinian rabbis themselves. Palestinian rabbis tend to be outward-looking, preoccupied with non-rabbis in part because of their relatively insecure social position, while Babylonian rabbis tend to be inward-looking, aloof from non-rabbis in part because of their stronger position in society.

It bears emphasizing that my claim is not that non-rabbis read through the developing Talmuds in search of the few statements and stories intended specifically for them. Rather, some statements by Palestinian rabbis originated in a popular setting and were addressed by rabbis to a non-rabbinic audience. This aspect of the statements’ character was not lost when they were incorporated into their present contexts in the two Talmuds.

The present discussion, incidentally, confirms the claim above that the Talmud’s diverse sources were not homogenized beyond recognition by later transmitters and editors. Palestinian statements originally addressed to non-rabbis, and Babylonian statements originally addressed to rabbis, “rubbed shoulders,” as it were, in the Palestinian and Babylonian Talmuds, both of which are overwhelmingly compilations by scholars for scholars. On numerous occasions, sources which run counter to or contradict the dominant tendency of these compilations are at least partially recoverable,

<sup>44</sup> Kalmin, *The Sage in Jewish Society*, 101–9, 150–1; R. Kalmin, “Doeg the Edomite: From Biblical Sinner to Rabbinic Sage,” in C. A. Evans (ed.), *The Interpretation of Scripture in Early Judaism and Christianity: Studies in Language and Tradition* (Sheffield, 2000), 390–405; and Kalmin, “Holy Men, Rabbis, and Demonic Sages in Late Antiquity,” 241–5.

enabling the modern scholar to do source criticism and to write history, even if it is often only the history of changing rabbinic attitudes.

## VI THE PROBLEM OF ATTRIBUTION

It could perhaps be objected that rabbinic compilations of late antiquity have come down to us in such a chaotic state that it is extremely difficult, if not impossible, to make far-reaching generalizations about the history, culture, or society of the Jews of late antiquity. We are so often uncertain, for example, that a statement attributed to the Babylonian amora, Abaye, was actually said by Abaye, that it is impossible to draw historical conclusions based on statements he ostensibly made.

It should be noted, however, that our claim is not that it is possible to write biographies of rabbinic figures such as Abaye.<sup>45</sup> Our claim, rather, is that it is possible to draw some general distinctions between Palestinian and Babylonian rabbis, and early and later periods of Jewish history. For this purpose, it is necessary only to have confidence that significant numbers of traditions which purport to be Palestinian or Babylonian are what they claim to be, and that markers of tannaitic, amoraic, or anonymous editorial provenance are often (but by no means always) reliable. For our purposes it is enough to be reasonably confident that significant numbers of statements preserved in independently edited rabbinic compilations (for example, the *Yerushalmi* and *Bavli*) yield substantially the same picture of Palestinian rabbinic attitudes, social roles, or institutions. Our tools, in other words, are blunt, but they are effective tools nonetheless.

It is also important to emphasize that my claim is not that all sources attributed to Palestinian rabbis in the Talmud (1) were authored by the rabbis to whom they are attributed, or (2) necessarily reflect a Palestinian point of view.<sup>46</sup> Some statements attributed to Palestinian rabbis in the *Bavli* are more Babylonian than Palestinian, and other sources attributed in the *Bavli* to early rabbis were invented or tampered with by later editors.<sup>47</sup>

<sup>45</sup> This should not be construed as a denial on my part that it is possible to know anything at all about individual rabbis. The final word on this important issue has yet to be written. For two very different perspectives, see W. S. Green, "What's in a Name? The Problematic of Rabbinic 'Biography,'" in idem (ed.), *Approaches to Ancient Judaism: Theory and Practice* (Missoula, 1978), 77–96; and Y. Elman, "Righteousness As Its Own Reward: An Inquiry into the Theologies of the Stam," *PAAJR* 57 (1991), 35–67.

<sup>46</sup> For precisely this misunderstanding of my position, see A. Schremer, "Review of *The Sage in Jewish Society of Late Antiquity*," *Zion* 60/2 (2000), 229–35 (Hebrew).

<sup>47</sup> This point has been emphasized by countless modern scholars. See, e.g. the literature cited in n. 15, above; Goodblatt, "The Babylonian Talmud," 148–51; D. Boyarin, *Carnal Israel: Reading Sex in Talmudic Culture* (Berkeley, 1990), 134–66.



It is advisable to look for general patterns characterizing Palestinian and Babylonian and early and later rabbis, all the while remaining alert to the possibility that the transmitters and editors of these traditions altered them in subtle or not so subtle ways. Information about Palestinian rabbis preserved only in the *Bavli* is of course suspect and can be used as historical evidence only with due caution. *Prima facie*, it can neither be rejected nor accepted as evidence about conditions in Palestine; each individual case must be examined on its own terms. The same is true, *mutatis mutandis*, of early rabbis whose statements and actions are recorded only in compilations edited centuries after the fact.

As noted above, often we can use other rabbinic compilations of late antiquity as controls for the picture supplied by the *Bavli*. Granted, the textual problems impeding our use of Palestinian midrashic compilations are even more serious than those impeding our use of the *Bavli*, since manuscript versions of the former often preserve a veritable chaos of variants, particularly where names of rabbis are concerned. In many cases it is at present impossible to decide which manuscript version is correct. Nevertheless, Palestinian midrashic compilations almost exclusively contain statements by Palestinian rabbis. Often we cannot be sure who authored a particular statement, but generally we can be sure that it reflects a Palestinian point of view.<sup>48</sup> And we can compare that Palestinian view to the view attributed to Palestinian rabbis in the *Bavli*. If these views correspond, the various compilations independently confirm one another. If they differ, we must attempt to explain why. Has the *Bavli* fabricated an attitude and falsely attributed it to Palestinian rabbis? If so, why? Is the difference a function of differences in genre, since Palestinian midrashic compilations consist almost exclusively of rabbinic Bible commentary and the *Bavli* contains numerous other genres as well? That is, a rabbi interpreting Scripture might behave or speak very differently from a rabbi offering his own opinion, and the “contradiction” might be no contradiction at all. Does the *Bavli* preserve an authentically Palestinian attitude, deriving from circles other than those which predominate in extant Palestinian compilations? Markers of geographical and chronological provenance supplied by rabbinic compilations, therefore, raise significant questions and yield potentially significant conclusions, questions we would not have posed and conclusions we would not have reached had we assumed without further inquiry that these markers are historically useless.

<sup>48</sup> With the possible exception of statements by Rav, who spent time in both Palestine and Babylonia and whose statements reflect sometimes Palestinian, sometimes Babylonian, points of view. See A. Hyman, *The History of the Tannaim and Amoraim* (1910; repr. Jerusalem, 1987), 15–42 (Hebrew).

VII THE TALMUDIC *SUGYA*

One of the major achievements of recent generations of talmudic scholars has been the refinement of techniques to identify and describe the activity of the anonymous editors, enabling modern scholars to appreciate better their methodologies and thought processes.<sup>49</sup> The remainder of this chapter, which consists of detailed scrutiny of two *sugyot* (self-contained talmudic discussions of a particular topic), will illustrate this point, and will also help to concretize several of the terms, concepts, and methodological issues introduced in section 1. Close reading of texts from the *Bavli* will (1) further illustrate the claim that the Talmud is composed of distinct sources (tannaitic, amoraic, and unattributed) from diverse places and time periods, and (2) show some of the characteristic ways in which talmudic editors tamper with their sources in certain respects while remaining extremely faithful to them in other important respects. Close reading of these texts will illustrate the claim that anonymous editorial activity hampers but does not preclude historical study based on talmudic sources, even regarding generations prior to the *Bavli*'s final redaction.

A TB *BAVA BATRA* 168B–169A

The first *sugya* is found on TB *Bava B.* 168b–169a, a section of the Talmud which deals with property rights. The *sugya* begins with a legal case report, according to which Arabs who came to the Babylonian city of Pumbedita were forcing people to surrender their land. Landowners who feared that they too would be victimized came to Abaye, and the following dialogue ensues:

[The landowners] said to [Abaye], "Please, sir, examine our deed of ownership and write us another deed, so that if we are forced to surrender one deed, we will have possession of the other."

[Abaye] said to them, "What can I do for you? For Rav Safra said, 'We do not write two deeds of ownership for one piece of land, lest he seize and then seize again.'"

<sup>49</sup> See M. S. Feldblum, "Prof. Abraham Weiss: His Approach and Contribution to Talmudic Scholarship," in *The Abraham Weiss Jubilee Volume* (New York, 1964), 7–80; M. S. Feldblum, *Talmudic Law and Literature: Tractate Gittin* (New York, 1969), passim (Hebrew); Weiss Halivni, *Sources and Traditions: Baba Kama*, passim (Hebrew); A. Reisner, "The Character and Construction of a Contrived *Sugya*: Shevuot 3a–4a," in Avery-Peck (ed.), *The Literature of Early Rabbinic Judaism* 47–71; S. Friedman, *Talmud Arukh: BT Bava Mezi'a VI* (Jerusalem, 1990), 1 passim (Hebrew); J. Rovner, "Pseudepigraphic Invention and Diachronic Stratification in the Stammaitic Component of the *Bavli*: The Case of Sukkah 28," *HUCA* 68 (1997), 11–62.

Rav Safra, quoted above by Abaye, has the following scenario in mind: A landowner (A), who owes money to a creditor (C) by virtue of a debt incurred on January 1, sells land to a buyer (B) on June 1 of the same year. After the June 1 sale, (A) sold other land to other buyers ([D] and [E]) on August 1. On December 1 of the same year, the creditor (C) comes to collect his debt, but the landowner (A) is unable to pay. (C) has the right to seize from (B) the land which (A) sold to (B), since (C)'s lien on the land pre-dates (B)'s acquisition. (B) then has the right to seize from ([D] or [E]), since his acquisition precedes theirs.

Why does Rav Safra forbid the writing of a second deed? He worries that if the first buyer (B) has two deeds in his possession, he will use one to seize from (D) and the other to seize from (E) and end up with more property than he is entitled to. According to Abaye, the worry that the landowner will profit illegally outweighs the worry that the Arabs will unlawfully seize his land and its original deed of sale and he will be unable to seize it back.

After the case report the Talmud quotes a *baraita*, and on *Bava B. 169a* Rav Safra (the same Rav Safra quoted by Abaye on 168b) explains the *baraita* as follows:

We do not write two deeds of ownership for one piece of land, lest a creditor (C) seize the field [from a buyer (B)], and [the buyer (B)] produce one [of the documents] and seize from a [later] buyer (D). [The earlier] buyer (B) might then say to the creditor (C), "Be quiet and let me possess [the land for a while], and then [you can] seize it again." [And when the creditor (C) has done so], the buyer (B) can produce another document and seize again from another buyer (E).

In other words, when Rav Safra interprets the *baraita*, he envisions the same scenario described above in Abaye's quotation of Safra's independent statement. Safra's concern for possible foul play, however, is slightly different. No longer is he simply worried that the first buyer (B) will seize twice. Now he is worried that (B) and the creditor (C) will conspire to cheat later buyers ([D] and [E]) and subsequently split the profits.

The *sugya* continues with the following dialogue:

Rav Aḥa Midifti said to Ravina, "Why should [Rav Safra be concerned lest the first buyer (B)] say to the creditor (C), 'Be quiet and let me possess [the land for a while]?' Let [Rav Safra] be concerned that since [the buyer (B)] has two documents, he can seize and then seize again." [Ravina said to Rav Aḥa Midifti], "[Were the buyer (B) to do as you suggest], he would be beset by legal opponents."

That is, Rav Aḥa Midifti objects as follows: Why did Rav Safra devise such a complicated scenario to interpret the *baraita* when a simpler scenario was available to him? Ravina answers that the simpler scenario

has a fundamental flaw, which the more complicated scenario avoids. According to the simpler scenario, there is no co-operative creditor (C) agreeing to seize from the first buyer (B) a second time after a substantial amount of time has passed. Rather, the first buyer (B) will have to seize from later buyers ([D] and [E]) in rapid succession, following the creditor's one and only seizure of his land. The first buyer will be opposed by two litigants ([D] and [E]) at approximately the same time, and they will probably discover (B)'s attempt to defraud them. (B)'s scheme will probably not work if he acts alone, argues Ravina, so without the collusion suggested on *Bava B.* 169a Rav Safra would have allowed two deeds of sale for a single piece of land.

The above discussion accepts at face value the talmudic sources as they are currently formulated. There are clear traces, however, of earlier versions of statements in this *sugya* which have been subjected to later editing. In this and in many cases throughout the Talmud it is possible to peel away the editorial layers and uncover earlier versions of some of the *sugya*'s constituent parts. Even when we reconstruct the earlier form of this and other *sugyot*, however, what we achieve is at best a secondary or tertiary development. We must content ourselves with the earliest form of the *sugya* which the sources permit us to reconstruct, aware of our inability to arrive at the *sugya*'s *Ur*-form or the rabbis' original unedited words.

What enables us in this case to delve beneath the surface and reconstruct part of the *sugya*'s prehistory? It will be noticed that Abaye's quotation of Rav Safra's prescriptive statement on *Bava B.* 168b ("We do not write two deeds of ownership for one piece of land, lest he seize and then seize again") differs from and is much shorter than Rav Safra's interpretation of the *baraita* on 169a:

We do not write two deeds of ownership for a single piece of land, lest a creditor (C) seize the field [from a buyer (B)] and [the buyer (B)] produce one [of the documents] and seize from a [later] buyer (D). [The earlier] buyer (B) might then say to the creditor (C), "Be quiet and let me possess [the land for a while], and then [you can] seize it again." [And when the creditor (C) has done so], the buyer (B) can produce another document and seize again from another buyer (E).

According to Abaye's quotation on 168b, Rav Safra specifies only that a buyer might seize twice with two deeds of sale. As Abaye quotes him, Rav Safra mentions nothing about collusion between the buyer and creditor, while in his interpretation of the *baraita* on 169a he does worry about collusion. In other words, Abaye's quotation of Rav Safra on 168b differs from Rav Safra's interpretation of the *baraita* on 169a. Abaye's quotation of Rav Safra, however, reads exactly as Rav Aḥa Midifti would like Rav Safra's interpretation to read on 169a.

It is true, as noted above, that Abaye quotes Rav Safra making a prescriptive statement, while on 169a Rav Safra interprets a *baraita*. We are apparently dealing, in other words, with two independent statements. Nevertheless, we would expect Rav Safra to interpret the *baraita* in accordance with his own opinion as expressed on 168b, and we would also expect his own view to accord with his interpretation of the *baraita*. What accounts for the discrepancy between them?

It should also be noted that both of Rav Safra's statements consist of a Hebrew core and an Aramaic elaboration. The Hebrew core of both statements is identical ("We do not write two deeds of ownership for one piece of land"), and only the Aramaic elaborations differ. Most likely, therefore, Rav Safra's original statement (or, rather, the closest to the original version that we are capable of reconstructing) consisted of the Hebrew core. The Aramaic elaborations are later, unattributed additions to his statement.

It is possible, furthermore, to reconstruct the "history" of these later explanatory additions. Rav Aḥa Midifti and Ravina must have had the later addition to Rav Safra's interpretation (169a) before them, since it is clearly the basis for their discussion. It is unlikely, furthermore, that whoever added the explanation to Rav Safra's prescriptive statement (168b) had the dialogue between Rav Aḥa Midifti and Ravina before them, since the conclusion of their dialogue is that the explanatory addition on 169a is preferable to that on 168b. Most likely, therefore, both explanatory additions were made to Rav Safra's statement prior to the dialogue between Rav Aḥa Midifti and Ravina.

In all likelihood, the explanatory addition on 168b ("lest he seize and then seize again") is the earlier of the two, and the explanatory addition on 169a is an expansion of the earlier. According to the earlier, briefer explanation, the buyer uses both documents to seize two pieces of land. According to the later, more expansive version, the buyer seizes once, and only later, in collusion with the creditor, does he seize a second piece of land. The later, more expansive interpretation, like the first, eventually became incorporated into Rav Safra's statement.

This relationship between the two explanations of Rav Safra's statement is especially clear according to two manuscript versions of 169a. One manuscript<sup>50</sup> reads: "Said Rav Safra, 'Because we do not write two documents of ownership for one piece of land.' What is the reason? Sometimes he collects and then collects again. Sometimes the creditor comes and seizes ..." According to this reading, the question "What is the reason?" firmly divides the initial Hebrew phrase from the Aramaic elaboration. In addition,

<sup>50</sup> R. Rabinovicz (ed.), *Dikdukei Soferim: Variae Lectiones in Mischnam et in Talmud Babylonicum* (1868–97; repr. New York, 1976), n. *ayin* (Hebrew).

according to this manuscript the Aramaic interpretation begins with a brief clause: “Sometimes he collects and then collects again,” which is further elaborated in the continuation. The same is true according to a second manuscript:<sup>51</sup> “Said Rav Safra, ‘Because we do not write two documents of ownership for one piece of land.’ What is the reason? Sometimes the creditor collects and then collects again. And he continues on to seize it . . .”

Most likely, therefore, Rav Aḥa Midifti and Ravina, two of the latest amoraim mentioned in the Talmud, had both the earlier and later explanatory additions before them, since, as noted above, (1) their dialogue presupposes the later of the two additions (that on 169a); and (2) the explanatory addition on 168b was most likely made prior to their dialogue. In all likelihood, Rav Aḥa Midifti asks whether the expanded explanation, that found on 169a, is necessary. Why, he asks, can we not maintain the simpler explanation, that found on 168b, and understand it according to its plain meaning? Ravina justifies the expanded version of Rav Safra’s statement, and perhaps implies that this version correctly interprets the simpler version.

We see, therefore, that anonymous commentators sometimes added explanatory glosses to amoraic statements within amoraic times, and that these commentators sometimes distinguished the “original” statement from the interpretive gloss by changing languages (from Hebrew to Aramaic). The present *sugya*, therefore, exhibits one of the fourteen criteria suggested by Shamma Friedman for distinguishing the anonymous commentary from the attributed core.<sup>52</sup> This fact strengthens our conclusions regarding the *sugya*’s composite nature, conclusions reached on the basis of criteria other than those described by Friedman.

In addition, analysis of manuscripts reveals different versions of the earlier of the two explanatory glosses. According to all versions on 168b, the reason is “lest he seize and then seize again,” while according to two versions of 169a the reason is “lest he collect and then collect again.”<sup>53</sup> The content of the statements is the same; all that differs is the phraseology. This difference is significant, since the existence of variant versions is another of Friedman’s fourteen criteria. The anonymous commentary, claims Friedman, was transmitted with much greater freedom than were the attributed statements.<sup>54</sup> We see his thesis borne out in the present instance since there are no variants of Rav Safra’s “original” statement. Predictably, there are multiple versions of the later explanatory gloss as well,<sup>55</sup> which, we claimed above, is also an addition by the anonymous commentators.

<sup>51</sup> Ibid. <sup>52</sup> Friedman, *A Critical Study*, 25–32, especially 25–7.

<sup>53</sup> Rabinovicz (ed.), *Dikdukei Soferim*, n. *ayin*. <sup>54</sup> Friedman, *A Critical Study*, 30.

<sup>55</sup> Rabinovicz (ed.), *Dikdukei Soferim*, nn. *ayin*, *pei*, and *zadi*.

In this case, in other words, we have a cluster of criteria by which to distinguish amoraic from anonymous editorial statements. A larger concentration of such criteria in one *sugya* increases the likelihood that they reliably indicate anonymous editorial activity. Interestingly, as noted above, we are dealing with additions which were known to amoraim, albeit two of the latest amoraim mentioned in the Talmud. This *sugya*, therefore, provides small but impressive proof that portions of the Talmud's anonymous commentary were added during the amoraic period.

## BT GITTIN 41A–42A

The above analysis illustrates our claims regarding the composition of the Talmud and the relationship between its component parts. The ensuing discussion continues and broadens this analysis by examining a more complex *sugya*, one which contains tannaitic as well as amoraic and anonymous components.<sup>56</sup> This examination will help us to appreciate better the development of the talmudic *sugya*, in particular the editorial role played by the anonymous commentators.

The *sugya* is based on M. *Gitt.* 4.5, which reads as follows:<sup>57</sup>

1. “One who is half slave and half free works for his master one day and for himself the next.” [These are] the words of the House of Hillel.

The House of Shammai say, “You have helped his master but not him. He cannot marry a female slave because he is half free, and he cannot marry a free woman because he is half slave. Shall he remain unmarried? Wasn't the world created only for [the sake of the command to] ‘Be fruitful and multiply’ (Gen. 1.22), as it is said, ‘He did not create [the world] to be void. He formed it to be inhabited’ (Isa. 45.18)? Rather, for the betterment of the world we force his master to free him, and [the slave] writes a document for half of his purchase price.”

And the House of Hillel retracted and taught in accordance with the words of the House of Shammai.

The *Bavli*'s discussion begins with the following closely related *baraita*:

2. Our rabbis taught, “If one frees half of his slave, Rabbi<sup>58</sup> [Judah] says, ‘[The slave] acquires [half of his freedom].’ The Sages say, ‘[The slave] acquires nothing.’”

<sup>56</sup> BT *Gitt.* 41a–42a.

<sup>57</sup> In translating this passage I consulted M. Simon (trans.) *The Babylonian Talmud: Gittin* (London, 1936), 175–8; and J. Neusner (trans.) *The Talmud of Babylonia: An American Translation: Gittin* (Atlanta, 1992), xviii Part 2 40–2.

<sup>58</sup> This sage is designated simply as “Rabbi,” a reference to Rabbi Yehudah Hanasi, otherwise known as Rabbi Judah the Patriarch, who flourished during the late second and early third centuries C.E. He is considered by many of his colleagues and students to

Two amoraic interpretations of the *baraita* follow:

3. Said Rabbah, “The dispute [between Rabbi (Judah) and the Sages] concerns [manumission] with a document,<sup>59</sup> but with money, both [Rabbi Judah and the Sages] agree that [the slave] acquires [half of his freedom].”

Rav Yosef said, “The dispute [between Rabbi [Judah] and the Sages] concerns [manumission] with money,<sup>60</sup> but with a document, both [Rabbi Judah and the Sages] agree that [the slave] acquires nothing.”

The following *baraita* is cited as an objection against Rav Yosef’s interpretation:

4. One who frees half of his slave with a document, Rabbi [Judah] says, “[The slave] acquires [half of his freedom].” The Sages say, “[The slave] acquires nothing.”

The latter *baraita*, the second *baraita* quoted in the *sugya*, explicitly contradicts Rav Yosef’s claim that, in the case of manumission with a document, “both [Rabbi Judah and the Sages] agree that [the slave] acquires nothing.” Based on this second *baraita*, an authoritative source, the Talmud concludes that “the refutation of Rav Yosef is a [valid] refutation.”

The anonymous editors continue:

5. Shall we say that [Rabbi Judah and the Sages] disagree [about manumission] with a document, but [about manumission] with money they do not disagree? Shall we say [therefore] that [the *baraita*] is a refutation of Rav Yosef in two [respects; i.e., that the *baraita* also contradicts Rav Yosef’s opinion regarding manumission with money]?

Rav Yosef could say to you [Rav Yosef is not speaking, but the anonymous editors are speaking on his behalf], “[Rabbi Judah and the Sages] disagree about a document and they also disagree about money.”<sup>61</sup>

According to section 5, in which the anonymous editors speak on behalf of Rav Yosef, the second *baraita* (section 4) does not necessarily contradict Rav Yosef’s claim regarding the existence of a tannaitic dispute regarding manumission with money. It is possible that Rabbi Judah thinks that the slave acquires half of his freedom via manumission with money, and that the Sages think he acquires nothing. It is possible, in other words, that Rav

have been so outstanding that he can be considered the “rabbi” *par excellence*. To simplify our discussion, I refer to him throughout as Rabbi Judah.

<sup>59</sup> My translation does not include what is most likely an interpolation by the anonymous editors. This interpolation is unnecessary for understanding the main point of the discussion.

<sup>60</sup> See the previous note.

<sup>61</sup> I have also abbreviated the discussion here for purposes of clarity. Again, my main point is not affected.



Yosef is refuted with respect to one matter (manumission with a document) but not with respect to manumission with money.

The Talmud now cites a third *baraita* as an objection against Rabbah's opinion, quoted above in section 3:

6. . . . Just as [with] money [a slave acquires] . . . half [of his freedom], so too [with] a document [a slave acquires] . . . half [of his freedom].

The anonymous editors explain the *baraita*'s relevance to the dispute between Rav Yosef and Rabbah, as follows:

7. [This *baraita*] presents no problem for Rav Yosef after he was refuted. Whose opinion is it [according to Rav Yosef after he was refuted]? [That of] Rabbi [Judah]. But for Rabbah, the first clause is the [opinion of] both Rabbi [Judah] and the Sages, and the second clause is the [opinion of] Rabbi [Judah] alone?

In other words, Rav Yosef's "new" position, after he was refuted about manumission with a document, is that Rabbi Judah and the Sages disagree about money and a document. According to Rav Yosef's "new" position, Rabbi Judah rules that a slave acquires half of his freedom with either money or a document, and the Sages rule that a slave acquires half of his freedom with neither. Rav Yosef's "fallback position," it needs to be borne in mind, that is, Rav Yosef's view "after he was refuted," is entirely an invention by the anonymous editors. Rav Yosef himself did not respond to the *baraita* cited as an objection against him (in section 4, above), but rather the anonymous editors responded on his behalf (in section 5).

In section 7, the anonymous editors assert that the third *baraita* (cited in section 6, above), presents no difficulty for Rav Yosef's "fallback position," since he could explain it as representing the opinion of Rabbi Judah. According to Rabbah, however, the *baraita* is problematic, since the first clause reflects the view of both disputants and the second clause reflects the view of Rabbi Judah alone. The *baraita* according to Rabbah, it would appear, is asymmetrical, since the first part reflects the view of two tannaim (Rabbi Judah and the Sages) and the second part reflects the view of only one tanna. Rabbah, it will be recalled, claims that the disagreement is about a document, but that both disputants agree that the slave acquires half of his freedom with money.

The *sugya* continues with a pair of responses to the anonymous objection, the first by the anonymous editors and the second by an amora, Rav Ashi:

8. Rabbah could say to you, "Yes, the first clause reflects the opinion of Rabbi Judah and the Sages, and the second clause reflects the opinion of Rabbi Judah [alone]."

Rav Ashi said, "It is [the opinion of] Rabbi Judah [i.e., the *baraita* is a unified whole, expressing the opinion of Rabbi Judah from start to finish]."

The *sugya* concludes with an anonymous objection and a response by an amora, Ravina:

9. Our Mishnah, which speaks of “One who is half slave and half free,” [presents] no problem for Rabbah. He can explain [the Mishnah as referring to manumission] with money and [therefore as reflecting the opinion of] both Rabbi [Judah] and the Sages. But [as] for Rav Yosef, shall we say [the Mishnah reflects the view of] Rabbi [Judah] but not [the view] of the Sages? Said Ravina, “[The Mishnah deals with the case of] a slave owned by two partners and [it therefore reflects] the opinion of both Rabbi [Judah] and the Sages.”

According to Rav Yosef’s “fallback position” (section 5) Rabbi Judah is of the opinion that a slave owned by a single owner acquires half of his freedom either with money or with a document of manumission; the Sages, however, think that neither method works. According to Rav Yosef’s “fallback position,” therefore, the Mishnah, which presupposes the halachic category of a person who is half slave and half free, apparently represents the view of Rabbi Judah. The anonymous editors object that the Mishnah appears to tip the balance against Rav Yosef, since it is preferable for the Mishnah, the official collection of tannaitic teaching, to reflect the view of all tannaim.

Ravina answers that it is possible to interpret the Mishnah in accordance with both tannaitic positions. It is possible, claims Ravina, to interpret the Mishnah as referring to an entirely new situation, a situation which is not a subject of dispute between Rabbi Judah and the Sages. It is possible, claims Ravina, that the Mishnah refers to a slave owned by two masters, whereas Rabbi Judah and the Sages in the *baraitot* dispute about a slave owned by one master. Even the Sages would agree that a slave owned by two masters can acquire one partner’s share (the subject of the Mishnah), even though such a slave cannot acquire half a share from an owner who owns him fully (the subject of the *baraitot*).

The *sugya* before us, therefore, contains all of the basic building blocks of Babylonian talmudic argumentation: the Mishnah, *baraitot*, amoraic statements, and anonymous commentary. The ensuing discussion argues that the anonymous commentators determine our mode of access to the sources by (1) fabricating the questions to which the Amoraim are supposedly responding; and (2) asserting that amoraic comments are based on tannaitic source X, when in fact they were “originally” based on tannaitic source Y.

It will be recalled that in section 9 of the *sugya* the anonymous editors object against Rabbah’s opinion on the basis of a *baraita* which teaches that a slave acquires half of his freedom by means of either money or a document of manumission. This objection is quite artificial, however, depending on understanding the first half of the *baraita* as in conformity with the

opinions of both Rabbi Judah and the Sages, and the second half as in conformity with Rabbi Judah's opinion alone, as if the two parts of the *baraita* therefore contradict. However, to say that the first part of the *baraita* reflects the opinion of both disputants, and the second part reflects the opinion of Rabbi Judah alone, is to say in effect that the entire *baraita* is a unified whole, reflecting the view of Rabbi Judah. This is, in fact, Rav Ashi's response to the objection, but the objection as it presently stands should never have been raised in the first place.

In addition, Ravina's statement as the *sugya* is currently formulated is an interpretation of the Mishnah according to Rav Yosef "after he was refuted." This is also curious, for elsewhere in the Talmud, amoraim do not respond to anonymous reconstructions of an amora's "fallback position." Elsewhere in the Talmud, amoraim do not respond to anonymous objections against anonymous reconstructions of what is left of an amora's position "after he was refuted."

Very likely, a brief parallel to the above *sugya* preserved in the Palestinian Talmud gives us a clue as to the original context of Rav Ashi's and Ravina's statements.<sup>62</sup> The *Yerushalmi*'s discussion, based on the Mishnah quoted above (section 1), reads as follows:

- a. How is it possible for a person to be half slave and half free?
- b. Explain it either as [the opinion of] Rabbi [Judah], for Rabbi [Judah] says, "A man can free half of his slave"; or as the opinion of both [tannaim], in [the case of] a slave belonging to two partners, one of whom freed his portion.

Rav Ashi's position corresponds exactly to the first interpretation offered by the anonymous *Yerushalmi* ("Explain it . . . as the opinion of Rabbi [Judah]"), and Ravina's interpretation corresponds exactly to the second. Very likely, the Babylonian amoraim, two of the latest amoraim mentioned in the *Bavli*, were "originally" responding to the Mishnah independent of the disagreement between Rabbah and Rav Yosef. The statements of Rav Ashi and Ravina, in other words, correspond exactly to the *Yerushalmi*'s anonymous commentary. This conclusion works well chronologically, since the final editing of the *Yerushalmi* and the death of Rav Ashi appear to have been roughly contemporaneous.<sup>63</sup>

<sup>62</sup> PT *Gitt.* 4.5. See also PT *Kidd.* 1.3.

<sup>63</sup> Regarding the approximate date of the *Yerushalmi*'s redaction, see H. L. Strack and G. Stemberger, *Introduction to the Talmud and Midrash* (1991; repr. Minneapolis, 1992), 188–9. Regarding the date of Rav Ashi's death, see K. Kahan (ed.), *Seder Tannaim Weamoraim* (Frankfurt, 1935), 5; and Lewin (ed.), *Iggeret Rav Sherira Gaon*, 94. On the reliability of dates found in geonic literature, see I. M. Gafni, "On the Talmudic

The “Ravina” mentioned in this *sugya* is apparently the last amora mentioned in the Talmud, who according to conventional accounts died at the beginning of the sixth century CE.<sup>64</sup> The present *sugya*, therefore, is one of several in which the *Bavli*’s anonymous editors tamper with the statements of even the latest amoraim.<sup>65</sup> They glossed the first *sugya* (*Bava B.* 168b–169a), it will be recalled, by adding explanatory comments, carefully distinguishing between their comments and the basic text of the amora’s statement. In the second *sugya* (*Gitt.* 41a–42a), they transformed or attempted to reconstruct (1) the objections to which the amoraim respond; and (2) the texts upon which one amora’s comment is based.

What prompted the editors to subject the amoraic statements to such peculiar treatment? Why did they take a simple *sugya* and make it complex? Why did they transform convincing arguments into strained ones? Very likely, they were aware that the interpretations of Rav Ashi and Ravina work exceedingly well as comments based directly on the Mishnah, and very likely part of their motivation was love of dialectic for its own sake.<sup>66</sup> Babylonian rabbis were apparently trained to devise ingenious arguments “proving” the impossible, “proving,” for example, that a reptile, a quint-essentially impure animal, is in fact ritually pure. In revealing, although perhaps hyperbolic, statements, Babylonian amoraim declare that one cannot be seated in the Sanhedrin, and cannot become a prominent judge, if one is unable to devise 150 arguments in favor of this manifestly absurd proposition.<sup>67</sup>

What else do the anonymous editors accomplish by rereading the *sugya* in this fashion? They transform a series of loosely connected traditions, traditions linked together by no more than their focus on a common theme, into a multilayered, tightly woven discourse composed of carefully interconnected parts.<sup>68</sup> As the anonymous editors present this *sugya*, all of the tannaitic material quoted here, including the Mishnah, impinges on the dispute between Rabbah and Rav Yosef, and all of the amoraic statements are pieces of an intricate puzzle. Unlike Rav Ashi and Ravina, the anonymous editors are not content merely to say that the Mishnah reflects the view of Rabbi Judah alone or of the Sages as well. Once the anonymous editors introduce earlier amoraic and tannaitic statements into the mix, the

Chronology in Igeret Rav Sherira Gaon’, *Zion* 52 (1987), 1–24 (Hebrew); and *The Jews of Babylonia*, 239–65 (Hebrew).

<sup>64</sup> Kahan (ed.), *Seder Tannaim WeAmoraim*, 6; and Lewin (ed.), *Iggeret Rav Sherira Gaon*, 95.

<sup>65</sup> Kalmin, *The Redaction of the Babylonian Talmud*, 66–94, 182–99.

<sup>66</sup> Weiss Halivni, *Midrash, Mishnah, and Gemara*, 76–7, 87–92.

<sup>67</sup> BT *Sanh.* 17a. See also BT *Er.* 13b and BT *Sanh.* 17b.

<sup>68</sup> Goldberg, “The Babylonian Talmud,” 339; Sussmann, “Once More on Yerushalmi Nezikin,” 111.

interpretations of Rav Ashi and Ravina must be qualified in a variety of interesting ways if we are to make sense of the tannaitic and amoraic material at their disposal. We moderns may prefer the simplicity and straightforwardness of the *Yerushalmi*, but for the editors of the *Bavli* this would be the mark of an individual not seriously engaged in the study of Torah, the most important commandment and therefore the *summum bonum* of human existence.

### C CONCLUSION

To summarize briefly, the detailed discussions of the above *sugyot* (1) helped to concretize our claims regarding the editorial character of many of the *Bavli's* anonymous discussions; and (2) supported the fundamental premise upon which sections I–VI of this chapter depended: Despite the extensive editing to which later generations of anonymous commentators subjected tannaitic and amoraic sources, the basic integrity of these sources is often preserved and their earlier form is often recoverable. This is by no means a consistent policy on the part of the editors. Often they emend their sources quite radically,<sup>69</sup> and each *sugya* needs to be evaluated on its own terms. In the two *sugyot* analyzed in detail in section VII, however, the anonymous editors tampered with, but did not change beyond recognition, the tannaitic and amoraic sources they inherited from the past.

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<sup>69</sup> See above, n. 15.

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TALMUDIC LAW: A JURISPRUDENTIAL  
PERSPECTIVE

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## I PRELIMINARY REMARKS

Talmudic discourse contains almost no general statements of a philosophical nature, and specifically, almost no self-reflective remarks by the Sages on the nature of their enterprise. In other words, the Sages never expound a jurisprudential program or articulate the directions in which they seek to develop the law. Therefore, any attempt to portray the legal thinking of the Talmud can only be carried out by posing questions to the talmudic text and seeking to answer them in terms of the Talmud's own concepts. It goes without saying that the questions will be formulated, and the issues selected, from the perspective of the conceptual framework of the contemporary jurist. One can identify many conflicting tendencies within talmudic thinking, which does generate a certain amount of internal tension; nevertheless, the picture that emerges possesses overall coherence and cohesiveness.

Talmudic law is not identical with the legal reality at the time of the Talmud. In practice, in the land of Israel and later in Babylonia, different legal systems coexisted simultaneously.<sup>1</sup> The expression "talmudic law," in this context, refers to the legal framework accepted and developed by the Sages of the Mishnah and the Talmud, as it is reflected in these works. The question of the extent to which this framework was more generally accepted, and that of its relation to other legal systems of the period will not be addressed in this work.

Talmudic law was formulated over a period of several hundred years, and undoubtedly considerable evolution occurred in its treatment of the issues to be discussed in this chapter. Yet the Talmud itself rarely expresses awareness of the existence of this dynamism. In general, the Talmud manifests a conception of halachic history as stable. The analysis in this chapter respects this attitude and does not challenge the ahistorical

<sup>1</sup> For Israel, see G. Alon, "Those Appointed for Money: On the History of the Various Juridical Authorities in Eretz-Israel in the Talmudic Period," in idem, *Jews, Judaism and the Classical World* (Jerusalem, 1977), 374–435.

character of talmudic self-presentation. This is not to say that the Sages expounding the law do not take into account political events, memorable incidents, emerging social trends, and changing circumstances of their times. On the contrary, the pages of the Talmud are replete with details of historical contingencies. The point, however, is that although the Sages most certainly perceive the law as applying to a constantly changing world, they construe the law itself as based on principles that, while subject to ongoing interpretation and amenable to amplification where needed, are universal and eternal.

## II IS TALMUDIC LAW A RELIGIOUS LEGAL SYSTEM?

To elucidate the ways in which talmudic law came to diverge from biblical law, it is helpful to consider whether or not talmudic law is a religious legal system; the received opinion being that it is. Keeping in mind that religiosity is a matter of degree rather than an either/or determination, which characteristics warrant regarding a legal system as religious? Let me suggest three elements: first, the putative source of the system; second, the areas covered by the system's rules; and third, the system's mode of operation. The last element will be considered first. What features in the functioning of a legal system might indicate that it is religious in nature?

1. Reliance on miracles in either legislative or judicial decision-making. Biblical examples include the Urim and the Thummim (Num. 27.21) and the water of bitterness (Num. 5.11–31). Whereas recourse to the intervention of supernatural forces is indicative of religious law, decision-making based on human understanding is indicative of secular law.
2. Selection of officials on the basis of descent rather than acquired skills. An example is the elevated status of the priests (*kohanim*), reflected in their central role in the biblical legal system.
3. Ascription of infallibility to lawmakers and judges. The notion that judges never err is rooted in the view that divine providence shields them from error. This approach, which regards these officials' decisions as inherently true, differs markedly from the secular approach, which regards them as valid but possibly erroneous.
4. Judicial decisions are non-transparent; they are not necessarily reasoned, based on a pre-existing set of rules, predictable, or subject to appeal.
5. Knowledge of sanctified texts is restricted to a limited circle.
6. The system is fixed and unchanging regarding demands made of its addressees, as exemplified in the verse: "All this word which I command you, that shall ye observe to do; thou shalt not add thereto, nor diminish from it" (Deut. 13.1).
7. Punishments are imperceptible or depend on divine intervention; an example is the punishment of divine extirpation (*karet*). Such punishment is referred to in

the dictum, “Liable before the heavenly court and exempt in human courts” (BT *Bava K.* 22b). Religious law emphasizes atonement, and non-religious law deterrence.

A system’s functioning is the best indicator of religiosity, as it provides empirical criteria for religiosity. While their satisfaction is a matter of degree, a system displaying all the said features can safely be categorized as religious.

Moving on to the second element, one can identify three spheres that legal systems may seek to regulate. In interpersonal relations, the system may attempt to ensure that goals set by individuals will not be pursued at the cost of hurting others. The system may also seek to regulate behavior pertaining to the relationship between the individual and society; such regulation is reflected in tax law and laws governing military service and loyalty to the state. The third sphere includes laws intended to prevent individuals from self-harm, such as laws against certain kinds of sexual relations among consenting adults, even in private. Such laws are often referred to as paternalistic laws. Many of the laws intended to secure the individual’s place in the hereafter belong to this sphere. It can be argued that a system that does not content itself with regulating the first two spheres, but expands into the third, is a religious legal system. In this context, it must be borne in mind that human legislators cannot regulate imperceptible acts. The criterion can therefore be refined to say that a system that addresses the individual’s mental and emotional world is religious. For example, the last of the Ten Commandments – “Thou shalt not covet” (Exod. 20.14) – refers entirely, it seems, to the individual’s mental state.

While using the content of a legal system to distinguish religious from non-religious legal systems makes sense in theory, in practice it is less successful, for two reasons. The prevailing view today is that most paternalistic laws can be justified by citing considerations that belong to the first two spheres. Even if this reductive argument is rejected, it is almost impossible to envision a legal system that regulates only the first two spheres. Hence, this criterion may be of little use in distinguishing religious from non-religious systems.

The first element – the putative source of the system – presents a fairly straightforward criterion for ascribing religiosity to a system of law; a system claiming to be of divine origin can be regarded as religious. The claim that a legal system is of divine origin is often made to justify another claim, namely, that the system in question is superior to all competing normative systems, a claim made by all legal systems, secular as well as religious, as this is of the very nature of a legal system.<sup>2</sup>

<sup>2</sup> For additional discussion of this issue, see Joseph Raz, *Practical Reason and Norms* (Princeton, 1990), 15.

Having sketched a paradigmatic religious system of law, the talmudic context must now be considered. Any attempt to decide whether talmudic law is a religious legal system will reveal tensions in the Sages' thinking. While it cannot be stated categorically that talmudic law is not religious law, it can be demonstrated that in talmudic law, in contrast to biblical law, there is some inclination to take steps in the secular direction.

With regard to the first element, there is no doubt that throughout the Talmud, the notion of the divine origin of the Torah is a constant. On this criterion, talmudic law is, indeed, religious law. However, at one and the same time, it is important to note that in attempts to ground the obligation to obey the law, the divine-origin thesis is rarely adduced, and the obligation is instead grounded in a moral argument with an empirical premise: the nation of Israel accepted the Torah, and this acceptance is binding. This idea is expressed in various ways. The most compelling expression is the aggadic remark: “[The Holy One, blessed be He] overturned the mountain on them like a cask, and said to them, If you accept the Torah, that is best; if not, it will be your burial . . . this provides a strong protest against the Torah,” and the Talmud's comment: “Said Rava, yet even so they reaccepted it in the days of Ahasuerus” (BT *Shabb.* 88a). In other words, to counter the allegation that Israel, under the duress of God's presence, did not freely accept the law at Sinai, the book of Esther, in which divine intervention is not manifest, is invoked. The idea appears in other places as well. It is significant that *Onkelos* systematically translates the verb “listen” (*sb“ma“a*), in sentences such as, “if ye shall hearken diligently unto My commandments (*vehaya im shamoa tishmeu*)” (Deut. 11.13) as “accept,” in this case, “if ye shall accept diligently” (*kabala tekablun*). On this reasoning, the verse most expressive of Jewish faith, “*Shma Yisrael*, the Lord our God, the Lord is one” (Deut. 6.4) would not be translated “Hear, O Israel,” but rather, “Accept, O Israel.”<sup>3</sup> According to the Sages, there must be a mental act of acceptance for the Torah to be binding. The notion of acceptance gains centrality in Jewish thinking; it will be discussed below.

With respect to the second element, the spheres covered by the system, on this criterion, talmudic law is definitely a religious legal system. Talmudic law governs all personal and interpersonal aspects of human life, specifying, with regard to any given behavior, a code of acceptable conduct. Even here, though, one finds instances where the Talmud subtly transforms prohibitions addressing the mental sphere into prohibitions addressing behavior. “Thou shalt not covet” is explained as referring to coveting that

<sup>3</sup> Indeed, in an accurate manuscript of *Onkelos*, the verse is thus rendered. See Rabbi Nathan Adler (1741–1800), *Netina Lager*, on Deut. 6.4; and see also N. Lamm, *The Shema* (Philadelphia, 1998), 16.

involves an element of theft.<sup>4</sup> Nevertheless, the mental realm does remain relevant, especially in matters of ritual; an example is the notion of *kavana*, that is, the disposition needed to discharge the obligation to observe a precept.

The Talmud's inclination to downplay the religious aspects of the system in favor of the human/secular is most pronounced in the third element, the functioning of the system. The water of bitterness is repudiated, as are the Urim and Thummim, and the performance of miracles is not accepted as a means of persuasion in halachic discourse, as the story of the oven of Akhnai (BT *Bava M.* 59a–b) vividly illustrates. The priests lose their status as spiritual leaders, and in M. *Avot* 1.1, are not even mentioned in the masoretic chain that identifies those who transmitted the law, beginning with Moses.

Regarding mistakes committed by judges, the Talmud's attitude is that judges certainly can and do err. An entire tractate of the Talmud, tractate *Horayot*, is devoted to the subject. (In fact, the idea that judges do not err is never suggested even in the Bible, which discusses the actions to be taken should the communal leaders err [Lev. 4]). From this perspective, Jewish law was never a religious legal system.

Regarding the accessibility of sacred texts, one finds that in the talmudic era, study of the Torah becomes more accessible to the public, and anyone interested is welcome to pursue it, as is evident from the description of the radical changes in the function of the study hall in BT *Berachot* 27b–28a.<sup>5</sup> Although this tendency is the dominant one overall, there are some minor exceptions. Some laws are not made public (BT *Shabb.* 153b); some passages of the Bible are not read publicly, others are not translated into the vernacular (BT *Meg.* 25a–b; BT *Hag.* 13a); and the reasons for new legislation (*gezeirot*) are kept hidden from the public for one year, lest they be criticized (BT *Av. Zar.* 35a). In the main, however, the secularizing tendency prevails.

The prohibition against adding to and subtracting from the laws of the Torah is accorded minimal significance and is not applied to the Sages' legislative activity. The Sages show no fear of uprooting Torah commands<sup>6</sup> and introducing new ones. Indeed, the intense human creativity in the ongoing exposition of the law generates the crucial distinction between that which is biblical (*deoraita*) and that which is rabbinic (*derabanan*). While the idea of precepts originating in divine revelation is vigorously

<sup>4</sup> *Mekb.* (ed. Horowitz), 235.

<sup>5</sup> See A. Funkensteen and A. Steinsaltz, *The Sociology of Ignorance* (Tel-Aviv, 1987) (Hebrew).

<sup>6</sup> Y. D. Gilat, "A Rabbinical Court May Decree the Abrogation of a Law of the Torah," in *Studies in the Development of the Halakha* (Jerusalem, 1992), 191–204 (Hebrew).

upheld, the corpus of laws perceived as the product of human reasoning grows.

The punishments meted out by the Sages continue to include those that can be effected by divine intervention alone, but only for minor infractions. For more serious offenses, those for which biblical law mandated divine extirpation, the Mishnah institutes lashings (M. *Makk.* 3.15; BT *Makk.* 13b). The explanation offered is that this punishment cancels out that of divine extirpation because the offender repents while being lashed. Be that as it may, the tendency is clearly to convert divine punishments imperceptible to mortals into concrete human punishments.

Below (section XI, "Governed by men, not by rules"), I return to the question of transparency, and specifically, the nature of judicial decision-making. What is the relationship between the system and the rulings of its judges? As we shall see, it is largely by virtue of this aspect of talmudic law that we must ascribe to it some degree of religious orientation.

### III TALMUDIC LAW AND NATURAL LAW

The question whether talmudic law bears any affinity to natural-law doctrines is much discussed. *Prima facie*, such an affinity is not implausible. However, the talmudic sources that have been cited in support of this thesis are few and extremely laconic. Nothing in the rabbinic literature is in any way comparable to the clearly articulated position voiced by Cicero, a contemporary of the early Tannaim, in *De Re Publica* 3.22.

Natural-law theory is not meant to provide an answer to the question of the way one comes to hold views and values, although it is sometimes couched in these terms. The question of how people come to hold their beliefs must be referred to psychologists and anthropologists. Natural law is not an empirical theory about causal links, but rather an attempt to justify the authority of the law. The fact that the Rabbis are committed to values ordinarily associated with natural law is by no means an indication of a commitment on their part to natural-law theory. As a justificatory theory, those to whom it is ascribed must be conscious of it. Hence, if no explicit reference is made to natural-law theory in talmudic jurisprudence, as is indeed the case, it is of little significance whether or not natural-law theory was part of the Rabbis' thinking. (Someone committed to natural-law theory might attempt to read talmudic jurisprudence from the perspective of natural-law theory, but that is an entirely different endeavor.)

The name "natural law" has been used to designate a number of distinct and not necessarily connected theories. Even to begin to assess the plausibility of the alleged affinity between talmudic thinking and natural law,

some clarification of the latter is necessary. I will start by looking at three unrelated theses of natural law.

The first one postulates the existence of natural law as an ideal system that serves as the yardstick against which a given legal system is measured. Any norm incompatible with the ideal system is null and void; the system in question must mirror the ideal system. If talmudic law purports to be of divine origin, postulation of a superior system is difficult to conceive, although perhaps logically possible. In any event, no such ideal system is ever postulated by the Sages. On the other hand, postulation of an evil system that mandates conduct diametrically opposed to the way in which one ought to conduct oneself does not create this theological and epistemic difficulty. Any norm compatible with this anti-system is null and void; the legal system as a whole must remain antithetical to it. Talmudic jurisprudence indeed implicitly postulates this sort of negative archetype. Departing from the Torah's description of Sodom as a town characterized by sexual immorality and lack of hospitality, it depicts the administration of justice in Sodom as perverted, characterizing it, in line with Ezekiel 16.46–50, as generally evil, and in addition, illogical (BT *Sanh.* 109b).

A second thesis of natural law is the proposition that some norms are binding in and of themselves without ever having been commanded or accepted. This thesis is definitely not part of the Sages' explicit worldview, in which God is the sole source of law. The rhetoric of natural law, understood in this sense, is foreign to the Talmud, while that of divine origin is, as we saw above, emphatic. Having said that, it should be pointed out that the concept of natural law in this sense nevertheless does play an implicit role in talmudic jurisprudence. As explained above, the obligation to obey the law is grounded in the people's acceptance of the Torah. Hence, the binding nature of acceptance cannot be derived from the Torah, as this would be circular. Therefore, in attempting to answer the fundamental question of the source of the obligation to obey the law, the Talmud assumes an ethical principle external to the Torah: the acceptance of an obligation is binding.

A third thesis is the claim that that which ought to have been commanded is amenable to discovery by human reason. Some talmudic dicta appear to allude to this claim.<sup>7</sup> Those who are anxious to discern traces of natural law in the rabbinic mind make much of talmudic recourse to the concept of *svara*, human reasoning. However, the Talmud's use of *svara* is meager: it is invoked on no more than two or three occasions in the Babylonian Talmud and even fewer in the Jerusalem Talmud. Be that as it may, once one has grasped the distinction between the normative

<sup>7</sup> See, e.g., M. *Kidd.* 4.14 (at the end); *Sifra*, *Aḥarei Mot* 13.10; *Sifra*, *Kedoshim* 11.22; BT *Yoma* 67b; BT *Er.* 100b.

dimension of natural law and the epistemic, one can see that reliance on *svava*, while indicative of the Talmud's acknowledgment that human reason alone can discover that which ought to be done, by no means establishes its normative standing as a source of law.<sup>8</sup>

Another talmudic discussion adduced in this context addresses the seven Noahide laws.<sup>9</sup> The notion of the Noahide commandments is indeed relevant to the idea of natural law, but not to any of the theses of natural law distinguished above. It is relevant to a fourth thesis, the proposition that "natural" laws mirror human nature. The seven Noahide laws (to establish courts of justice; to refrain from blasphemy, idolatry, sexual transgressions, bloodshed, robbery, and eating flesh cut from a living animal) are universally applicable, and as such, point to a universal human nature with which they are in harmony.

#### IV HALACHAH AND HISTORY

It has already been suggested (in section I above) that the Sages conceived of the law (*halachah*) as atemporal. On this question, as is the case regarding most areas of talmudic thinking, categorical generalizations are impossible. The Sages' attitude to history, generally speaking, merits its own discussion, and will not be addressed in this chapter.<sup>10</sup> A few modest comments on the role of history in the Sages' halachic thinking, however, are necessary. While this question has been much discussed regarding the post-talmudic rabbinical authorities,<sup>11</sup> little has been written about the historical consciousness of the talmudic Sages. Their consciousness of the law's historical dimension is manifested in three different contexts.

First, occasionally the Sages explicitly identify the historical locus of a law, that is, the moment when it came into being. Such acknowledgment of a law's origin is reflected in the following locutions: "It was in the days of Rabbi [Judah the Prince] that this tradition was enunciated" (*bimeï rabi nishneit mishna zo*, BT *Bava K.* 94b); "in the days of Rabbi Dosa ben Hyrkenos, a teaching allowing the rival wife of a woman [who had been married to her uncle, who died] to marry a brother [of the deceased] was handed down" (BT *Yev.* 16a); and the list of laws in *M. Yadayim* prefaced by the phrase "on that very day" (*bo bayyom*).

The second context in which a historical consciousness is apparent is that of providing historical background for new laws. Much rabbinic legislation

<sup>8</sup> See E. Urbach, *The Sages* (Jerusalem, 1979), ch. 13, "The Commandments," 315–99.

<sup>9</sup> *Tos. Av. Zar.* 8.4 (ed. Zuckerman); BT *Sanh.* 56a.

<sup>10</sup> See Y. H. Yerushalmi, *Zakhor* (Seattle, 1982).

<sup>11</sup> See the works of J. Katz, especially *Tradition and Crisis* (Syracuse, 2000), and *Exclusiveness and Tolerance* (New York, 1961).



consists of amendments to the law enacted by the Sages, either in response to contingent changes in the circumstances of the time, or to reflect new policies they wished to institute. Although this is not always acknowledged, there are numerous instances in which the Talmud explicitly distinguishes between the earlier articulation of a law and its later rabbinic modification: for example, “according to biblical law . . . but the Sages ordained . . .” (*dvar tora . . . aval amru hakhamim*, BT *Bava M.* 46b). To this extent, some evolution of the law is recognized. However, in assessing the nature of the Sages’ historical consciousness, what is significant is not the explanations proffered together with legislation in the process of being enacted, where some sort of rationalization is obviously required, but rather the *post-factum* explanations of given laws as resulting from historical changes. While an established law that modifies an earlier practice might call for some explanation as well, it does not necessarily call for an explanation in terms of history. Nevertheless, one finds in the Talmud a few cases in which the Sages account for laws by way of historical reconstruction. “When there multiplied students of Shammai and Hillel who did not attend their teachers sufficiently, controversy multiplied in Israel, and the Torah became like two sets of laws [lit., two Torahs]” (BT *Sot.* 47b); “when murderers multiplied, [the ceremony of] breaking a heifer’s neck was discontinued” (BT *Sot.* 47a); “when adulterers multiplied, [the ceremony of] the water of bitterness was discontinued, and it was R. Yoḥanan b. Zakai who discontinued it” (BT *Sot.* 47a). Such retrospective historical explanations are significant because generally the Talmud explains laws arising from historical changes as derived from internal developments within the system. For example, when the death penalty ceased to be imposed, as a result of its prohibition by the Gentile authorities, the internal explanation expounded is that in order for the death penalty to be imposed, the Sanhedrin must be convened in the Hall of Hewn Stone (BT *Sanh.* 37b). Another example is found in BT *Bava Metsia* 44a: “Rabbi [Judah the Prince] taught his son Rabbi Shimon: Gold acquires silver. Said he to him, Master, in your youth, you taught us, silver acquires gold. Now, advanced in age, you reverse it, and teach, gold acquires silver.” The change in Rabbi’s opinion resulted, apparently, from inflation in currency values, but the Talmud explains it in terms of an independent change in Rabbi’s opinion.

The third and least common context in which the Sages’ historical consciousness is revealed is their occasional assumption that changing historical contingencies generate changes in the law *ipso facto*, without any legislative intervention required on their part. This is the most intimate connection conceivable between history and the law. A striking example is the famous mishnah that states that the biblical prohibition against intermarriage

between Israelites and Ammonites is no longer valid due to the historical contingency that Sennacherib “mixed up” the nations (Isa. 10.13), and consequently no Ammonite is a true Ammonite (*M. Yad.* 4.4).

These manifestations of awareness on the Sages’ part of the dynamic dimension of halachic history, are, however, almost completely overshadowed by the pervasive conception of historical stability mentioned at the beginning of this chapter. The general thinking of the Sages, regarding the historical dimension of the law, is best captured by a talmudic dictum expressed *apropos* a different matter, but very apt here: “What was, was” (*mai debave have*) (*BT Ket.* 3a), which expresses indifference to historical contingencies and construes the law as trans-temporal.

#### V TALMUDIC AMBIVALENCE ON LAW AS AN ABSTRACT ENTITY

The talmudic period is, from the historical point of view, the formative period of Jewish law, a fact of which the Sages of the Talmud are themselves aware. Here one finds an interesting ambivalence: on the one hand, the Sages are conscious that they are creating the law, but on the other, there is a recognition that the law exists “out there” as an independent entity that must be discovered and revealed. This idea is expressed in the following midrashic exegesis:

The Torah states: I was the utensil of the craftsmanship of the Holy One, Blessed be He. According to the way of the world, when a mortal king builds a palace, he does not build it in line with his own understanding, but on the advice of a craftsman; and the craftsman does not build it in line with his own understanding, but has writing tablets and notebooks that indicate where he should construct rooms and where he should construct small gates. So the Holy One, Blessed be He, looks at the Torah and creates the world. (*Gen. R.* 1.1)

The notion of the law as an independent entity is so powerful that the Sages perceived God, the giver of the law, as Himself subject to it. A clear expression of this idea is found in the following passage:

Rabbi Lazar said: The law is not binding on the king. A human king issues a decree. He may choose to obey it; he may choose to have it obeyed only by others. Not so the Holy One, blessed be He. When He issues a decree, He is the first to obey it, as it is stated: “And they shall observe My observances, I am the Lord” (*Lev.* 22.9). I am He who was the first to observe the commandments of the Torah. (*PT Rosh H.* 1.3.57a–b)<sup>12</sup>

<sup>12</sup> For more on this idea, see M. Silberg, *Talmudic Law and the Modern State* (New York, 1973), ch. 1.

Nevertheless, alongside this attitude, the Sages saw themselves as interpreting and even creating the law. The tension between the static and dynamic dimensions of the law is illustrated in the following passage:

“The words of the wise are as goads, and as nails well planted are those of masters of assemblies; they were given from one shepherd” (Eccles. 12.11). Why are the words of the Torah likened to a goad? To teach that just as a goad directs the cow along the furrow in order to bring life to the world, so the words of the Torah direct those who study them from the paths of death to the paths of life. But [should you think] that just as a goad is movable, so the words of the Torah are movable, therefore Scripture says: “nails.” But [should you think] that just as a nail diminishes by being driven in, and does not increase, so too the words of the Torah diminish, and do not increase, therefore Scripture says: “well planted”; just as a plant grows and increases, so the words of the Torah grow and increase.

(BT *Hag.* 3b)

## VI THE PERSONAL AND THE A-PERSONAL

This ambivalence in the Sages' perception of themselves, namely, as both discovering and creating the law, also finds expression in two different models of the role of the Sage that are present in talmudic thinking, the personal model and the apersonal model. On the former, the Sage is a personality whose halachic rulings, erudition, and private as well as public life constitute an integrated and indivisible whole. Studying with a Sage thus calls for the cultivation of a relationship sufficiently intimate to allow for the internalization and acquisition by the student of the Sage's entire being, so to speak. The boundaries of the Sage's authority cannot be demarcated. He does not merely transmit knowledge, but mainly, and most importantly, creates knowledge, both by his conduct and by the manner of his ongoing interpretation of the tradition.

On the impersonal model, the Sage is no more than a medium for the transmission and interpretation of the tradition, using the prescribed exegetical rules. His teachings are subject to critique, and his standing is assessed in terms of the degree of his mastery of the system. He himself, on the other hand, remains totally opaque and no mark of his personality is left on his contribution to the system. The law, on this model, is perceived as a system independent of the Sage's lifestyle and conduct, although his conduct may indicate what the law is, since it can be assumed that he acts in accordance with the law. The law itself, however, is understood as an autonomous coherent body of compatible norms.

Both of these models can be found in talmudic thought, but the personal model clearly takes precedence. Adoption of the personal model may also serve to indicate that a legal system can be characterized as religious, providing

yet another dimension that should be considered in assessing whether or not talmudic law is best regarded as a system of religious law.

Of the personal model's different ramifications, I will discuss those that have bearing on the Sages' conception of the law. When there is a dispute over a legal point among the Sages (see below, section VII, "Controversy in the Talmud"), individuals can choose for themselves which authority they prefer to follow, as long as they follow their authority of choice consistently. The demand for consistency is made of the individual, not the system (BT *Er.* 6b). Thus, the unmediated, self-imposed intimacy between the Sage and the individual is viewed as more important than the individual's submission to the law as an abstract entity. The individual's choice and acceptance of an authority are not based on rational assessment of the authority's halachic positions, but rather result from the influence, direct or indirect, of his personality, character, and conduct. Here again, one encounters the concept of acceptance discussed previously. Whereas acceptance of the Torah is constitutive of the normative status of the halachic system as a whole, acceptance of a rabbi plays a role within the system, being a means of assigning authority to designated individuals. In this context, the binding nature of acceptance is an internal norm for which no external ground need be presupposed.

The phenomenon of accepting a Sage's authority is not limited to the realm of the individual but applies equally to communities, hence the special status accorded the *mara deatra*, the local authority. In discussing issues pertaining to daily life, which, given that communities were guided by different halachic authorities, was characterized by considerable pluralism, the Talmud cites local customs frequently (BT *Yev.* 14b). It is important to reiterate that the submission of a given community to the authority of its choice does not ensue from an official appointment of any kind, but is motivated by acceptance on the part of the community, acceptance rooted in acknowledgment of the authority's virtues and personality. The halachic establishment validates this acceptance, recognizing the decisions of the local authority as binding upon the residents of the locality in question, even though the position taken by the authority may not be the most common stand on the issue at hand.

## VII CONTROVERSY IN THE TALMUD

One salient feature of the talmudic period is the phenomenon of controversy. Talmudic discourse is characterized by dialogue and debate, and virtually no issue is free of controversy. It appears that this phenomenon attests to the fact that the talmudic period is the formative period of Jewish law. Nevertheless, the system adjusted itself so neatly to the

phenomenon of controversy, absorbing it so profoundly, that controversy became not only an enduring feature of halachic discourse but the dominant characteristic of halachic discourse through the ages. The phenomenon of controversy is also one of the few with regard to which the Talmud engages in self-reflection, explicitly acknowledging controversy and discussing its advantages and disadvantages.

The Talmud evinces two main attitudes to controversy. One, which is certainly voiced in the Talmud, but by no means prevails, regards it as an unfortunate historical accident, a reality that was visited upon Torah study as a result of forgetfulness, competitiveness, and improper conduct on the part of the community.<sup>13</sup> Underlying this attitude, which meshes well with the apersonal model described previously, is a conception of the law as coherent. Since law, on this conception, is a system of rational arguments yielding universally accepted propositions, instances of multiple opinions and controversy are seen as aberrant, as regrettable contingencies.

However, the more common approach to controversy regards it as an integral part of the *halachah*. Underlying this approach is the idea that every expression of a Sage is a reflection of the truth. It is valuable not because it advances discovery of the truth but rather because it constitutes a fragment of the truth in and of itself. The seminal expression of this attitude is the talmudic dictum “both [sides to a controversy] are the words of the living God”:

Rabbi Abba stated in the name of Samuel: For three years there was a controversy between the house of Shammai and the house of Hillel, the former asserting, The law is in accordance with our views, and the latter asserting, The law is in accordance with our views. A heavenly voice (*bat kol*) went forth and said, Both [lit., these and those] are the words of the living God, but the law is in accordance with the view of the house of Hillel. (BT *Er.* 13b)

The personal model, which sees the Sage’s unique individual contribution as constitutive of the law, by its very definition entails a positive attitude to controversy, since it is impossible to suppose that the comportment of different individuals will be identical. Therefore, if the law is not exclusively a product of rational analysis, a positive attitude to controversy is virtually inevitable.

While controversy is welcomed, the practical need for conclusive determination of the law mandates procedures for resolving controversy. Four main modes of resolving halachic debate are used in the Talmud. First, determination on the merits of the conflicting opinions, that is, on the basis of substantive considerations. This is, relatively speaking, the least-invoked

<sup>13</sup> Tos. *Sanh.* 7.1; PT *Hag.* 2.2 (74.4); BT *Sot.* 47b.

method. Second, regarding controversies between named individuals, certain formal rules of precedence, whereby the law is decided by virtue of the identity of its proponent, have been adopted. Third, disputes specific to certain branches of the law are decided on the basis of special rules. Fourth, the “follow the majority” rule is the most frequently used mode of resolution. Although not universally applied, it is never challenged and can be applied to past and future controversies.

#### VIII EXPOSITION AND APPLICATION OF THE LAW

In talmudic jurisprudence, three levels of binding halachic statements can be distinguished, namely, law (*halachab*), law to be applied (*halachab lemaase*), and concrete judicial rulings. I will begin by considering the distinction between law and the law to be applied. Alongside the dialogue and debate that characterize study of the Talmud, there is also the normative determination of what constitutes the law (*halachab*). This determination is not necessarily meant to be implemented unless it is explicitly described as such (*halachab lemaase*). In other words, there are two distinct levels of general normative halachic statements, which may overlap.<sup>14</sup>

A number of talmudic phrases signal the likelihood of a gap between the law and its application: *halachab veein morin ken*: “This is the law, but it should not be applied in ruling on actual cases” (BT *Bava K.* 30b); *haha limalekh ein morin lo*: “If the zealot comes to take counsel,<sup>15</sup> we do not instruct him to do so” (BT *Sanh.* 82a); *kvod elohim haster davar*: “It is the glory of God to conceal a matter” (Prov. 25.2, cited in BT *Shabb.* 153b); “The Tanna has deliberately obscured the law” (BT *Ned.* 23b). These locutions indicate that the law as expounded and established is not always taught in public or even represented as the law in counseling individuals. However, such instances are limited in scope and specific in nature, referring to particular laws, a review of which makes clear that they do not reflect a systematic dichotomy. In each instance, there are specific reasons why the case was considered exceptional, calling for a circumscribed departure from the law as formulated.

The distinction between *halachab* and *halachab lemaase*, law and the law to be applied, is different. It suggests a conscious dichotomy within the legal thinking of the talmudic Sages; alongside their exposition of the law to be applied, the Sages are articulating a system of laws that are not necessarily

<sup>14</sup> See Rabbi Zvi Hirsch Chajes (1805–55), *Darbei Haboraa*, in his *Collected Works* (Jerusalem, 1958) (Hebrew).

<sup>15</sup> Regarding the question of whether to punish the transgressors enumerated in the Mishnah.

meant to be applied. They undertake this enterprise because they value the idea of a theoretical system free of real-world constraints. This system will, in turn, shape and inform the law intended for implementation, but a caveat should be noted here. No such justification is ever put forward explicitly by the Sages. Nevertheless, one finds that the “law”/“law to be applied” distinction is frequently invoked in both the Babylonian and the Palestinian Talmuds (with a slightly greater frequency in the Palestinian) in a wide range of contexts, and is never challenged, suggesting that it is universally recognized and systematically used, and by no means merely an *ad hoc* device employed here and there to solve a local problem.

In what contexts is it found? The distinction is used in places where a tannaitic rule is challenged by an Amora who claims that an established tannaitic rule is intended as law but not law to be applied, as well as in places where a contradiction is reported between two rulings handed down by a particular Sage. The fact that introduction of the distinction resolves such questions and is accepted as a satisfactory explanation indicates that the distinction is an established one. Most significantly, the distinction is found in a talmudic passage admonishing that even when the law has been decided, one should not assume that it is to be acted upon unless that has been stated explicitly: “Rabbi Asi said to Rabbi Yoḥanan: May we, when our master tells us, The law is thus-and-so, hand down rulings accordingly in actual cases? He said: Do not hand down rulings accordingly unless I declare it law to be applied” (BT *Bava B.* 130b).

A vivid account of the confusion to which this distinction may give rise, namely, confusion as to which of the two – theoretical law, or law to be applied – is intended in a given situation, is presented in the following passage:

Rabbi Yoḥanan expounded the law to the people of Tiberias in accordance with the view of R. Shimon b. Eleazar. He intended to expound the [theoretical] law, but they understood him as teaching the law to be applied. Some say he meant to expound the law to be applied, but when they [the Tiberians] approached him and inquired about his teaching, he expounded the theoretical law. When he repeated his exposition, they did not know whether he meant it to be taken theoretically, or as law to be applied. (PT *Bez.* 2.1.61b)

A good example of the distinction can be found in the halachic sphere corresponding to what is now called criminal law. The Sages devoted much time and energy to composing, elaborating, and articulating a theory of criminal law, which, although complex and sophisticated, was not put into practice. This system, features of which include the forewarning requirement, the inadmissibility of circumstantial evidence, and highly detailed specifications for the imposition of capital punishment, was superseded, in practice, by a system of punishment that varied from place to place.

Nevertheless, the practical irrelevance of the former system did not prevent the Sages from occupying themselves with its study and elaboration.<sup>16</sup>

## IX THE JUDICIAL PROCESS

The considerable use of exact measurements and precise formulations (*midot veshiurim*), the meticulous phrasing of laws at the level of law intended for implementation, the avoidance of such abstract formulations as “reasonable behavior,” “*bona fide* conduct,” and so on, may give the impression that talmudic law, even at the level of execution, is a dry legalistic system, within which rights and obligations are decided pedantically. Indeed, focusing exclusively on the exposition of the law without paying any regard to concrete rulings is precisely what led to Paul’s unjustified criticism of the alleged “legalism” of the Talmud. However, this impression is fundamentally incorrect, as will become clear in the next section, after examination of the third level of normative legal determinations: judicial rulings.

In speaking of rulings, one is no longer speaking of the exposition of the law, but rather of the judicial process, a subject that occupies a central place in talmudic jurisprudence. Among the various matters pertaining to the judicial process that are discussed in the Talmud, one finds the following: alternative methods of dispute resolution, such as arbitration and compromise, and how these methods relate to the standard method, namely, resort to the courts; appointment of judges; qualifications for judgeship; payment for judging; composition of the court; self-representation and representation by an agent; due process and equal treatment of all sides; the prohibition against personal or financial interest in the case or its outcome on the part of the judge; fitness of witnesses and their examination; precedent; providing reasons for rulings; issuing rulings in writing; publication of rulings; implementing rulings; finality of rulings.

Again, one of the main questions posed by these talmudic discussions is the extent to which they reflect lived reality. Some of them may instead set an ideal standard for the judicial process, a standard to be aspired to, if not attained. Others, it appears, do indeed present instructions to the courts, instructions to be applied in actual cases. Approximately a century ago, Y. Weiszburg noted that the most reliable sources for describing the judicial process are the reports of court cases interwoven into the various talmudic discussions.<sup>17</sup> However, the task of compiling

<sup>16</sup> A. Kirschenbaum, “The Role of Punishment in Jewish Criminal Law: A Chapter in Rabbinic Penological Thought,” *Jewish Law Annual* 9 (1991), 123–43.

<sup>17</sup> “On Courts of Law in the Talmudic Period,” in *Jubilee Volume presented to Moses Bloch* (Budapest, 1905) (Hebrew).



a list of the actual court cases recorded in the Talmud is not easy. Given its penchant for casuistic formulation, the Talmud often presents normative statements as hypothetical cases. It is therefore necessary to formulate criteria that allow actual cases to be distinguished from such hypothetical discussions.<sup>18</sup>

Legal decisions in the Talmud take two main literary forms. They appear either as references to unspecified rulings in the course of a talmudic discussion or as self-contained units adduced in the discussion. In the former case, it is impossible to extract the ruling from the text. Paralleling these two literary forms are two modes of identifying court decisions: an external criterion of identification, based on the use of specific locutions (the most common are *maase* and *uvda*); and an internal criterion based on the structure and terminology of the court's decision itself as reported in the Talmud.<sup>19</sup> This endeavor produces, from the entire Talmud, the disappointing – given that one can learn about the actual implementation of the law only from documented legal rulings – yield of just a few hundred precedents. Relative to the vast scope of the Talmud and the lengthy period it covers, this meager yield is telling. The small number of cases indicates that the crystallization of talmudic law proceeded mainly by means of hypothetical analysis in the study hall rather than through case law in the courtroom.<sup>20</sup> However, these cases suffice to paint a clear picture of the judicial process as portrayed in the Talmud.

## X JUDICIAL DEVIATION

This section will focus on what may seem to be a peculiar feature of talmudic law, namely, its sanctioning of judicial deviation from the law. The contemporary reader is accustomed to the conception that the judge's ruling must accord with the law, which is set in stone, and must be presented as grounded in a well-defined body of norms supplied by the system, known in advance, and applied to the case at hand. It is true that the jurisprudential approach

<sup>18</sup> An attempt to list all of the hypothetical cases was undertaken by Y. M. Guttman in his "Academic Problems in the Talmud," in I. M. Elbogen, J. N. Epstein, and H. N. Torczyner (eds.), *Dvir*, 1 (Berlin, 1923), 38; and 11 (Berlin, 1924), 101. The complementary challenge of extracting the actual court rulings was undertaken by J. Neusner in *The History of the Jews in Babylonia*, 1–v (Leiden, 1965–70). His list, however, covers only the cases from courts in Babylonia and does not articulate the criteria used.

<sup>19</sup> For a detailed discussion of the process of identifying court cases in the Talmud, see H. Ben-Menahem, *Judicial Deviation in Talmudic Law*, ch. 2; and I. Gafni, "Court Cases in the Babylonian Talmud," *PAAJR* 49 (1982), 32 (Hebrew).

<sup>20</sup> Of course, this is not to suggest that these were two separate locations; cases were heard in the study hall.

that emerges from reports of actual cases in the Palestinian Talmud is compatible with this picture. The Palestinian Talmud generally opposes judicial deviation from the law, and, perplexed by the instances of early tannaïtic deviation, agonizes over how they are to be understood. It strives to minimize the scope of rules allowing judges to deviate from the accepted norm. Not so the Babylonian Talmud, however, which is not perturbed by such traditions of deviation from the law and does not attempt to minimize the scope of rules permitting it. In fact, it generates additional instances of deviation. This sort of judicial policy can hardly be said to reflect a pedantic legalistic philosophy. The approach of the Babylonian Talmud ultimately prevailed and can be considered characteristic of Jewish law.<sup>21</sup>

In most cases, there is no discrepancy between the general law and the ruling in an actual case. What is significant, though, is not the frequency of deviation but the fact that it is an option. In the tradition of the Babylonian Talmud, the judge does not see himself as constrained by the legal rules, and if, in his eyes, the circumstances of the case justify deviating from them, he does not hesitate to do so. This does not refer, of course, to arbitrary, unreasoned deviation. When a judge deviates from the law, he does so in order to impose the spirit of the Torah as he perceives it, for he maintains – and this point is critical – that the spirit of the Torah cannot be reduced to a set of precedents.

This aspect of the judicial process, the practice of deviating from the law where necessary, is documented in a series of precedents and anchored in a seminal legal tradition, reported in the name of Rabbi Eliezer ben Jacob: “I heard that the court (*beit din*) metes out lashes and punishments not in accordance with the Torah” (BT *Sanh.* 46a). A good illustration of the phenomenon is the prohibition against partiality. The prohibition against taking into consideration the impoverished economic status of a litigant is explicit in the Torah: “Neither shalt thou favor a poor man in his cause” (Exod. 23.3); “Thou shalt not respect the person of the poor [nor favor the person of the mighty]” (Lev. 19.15). This idea is interpreted and developed in several halachic exegeses.<sup>22</sup> However, it is highly significant that in the classic talmudic discussions of judicial obligation, generally speaking, and in particular in the Babylonian Talmud’s discussions of actual cases involving judicial deviation, these verses are not mentioned. Moreover, precedents exist in which a litigant’s lesser economic status is considered despite the normative prohibition; a well-known example is the oft-cited case of the porters in BT *Bava Metsia* 83a; another example is found in BT *Ketubbot* 50b.

<sup>21</sup> See Ben-Menahem, *Judicial Deviation in Talmudic Law*.

<sup>22</sup> *Mekb.* (ed. Horowitz), 323, 326; *Mekb de-R.Sh.b.Y.* (ed. Melamed), 214; *Sifra, Kedoshim* (ed. Weiss), 89a.

## XI GOVERNED BY MEN, NOT BY RULES

There is, therefore, a salient difference between the approach of talmudic law and that of contemporary western law regarding the judicial process. The dictum, "Governed by rules, not by men," which reflects the western ideal, does not express the (Babylonian) Talmud's orientation. The dichotomy can be formulated in the language of more recent jurisprudence. The western approach is based on the idea that a litigant in court has the status of one who claims his due and not that of one who seeks succor. The litigant claims that a ruling in his favor is his right. Such a claim is necessarily premised on the court's submission to a well-defined and publicly known body of norms and on a legal rule that, in the eyes of the litigant, entitles him to a favorable ruling. A litigant appearing before a talmudic court, on the other hand, has no such right, even if a legal rule exists that, in his eyes, entitles him to a ruling in his favor. Because the judge is permitted to deviate from the law and rule as he sees fit, the litigant's status is that of one who seeks the aid of the court but has no entitlement to a favorable ruling. The converse adage, "Governed by men, not by rules," therefore expresses more accurately the talmudic conception of law.

To clarify the theoretical underpinnings of the "governed by men, not by rules" conception, it is useful to return to the personal model outlined previously. On this model, the sage constitutes a personification of the law; he does not merely mediate between the law and the individual but actually instantiates the law. In accepting his authority, the individual or community *ipso facto* yields to the authority of the law. The ruling handed down by the sage, even if it deviates from the law as formulated, is inherently part of the system as a whole.

From the judge's perspective, the freedom to deviate from the law is anchored in the notion that judging is a religious precept and the fulfillment of a divine calling. This notion can generate a dilemma for the judge. On the one hand, the weightiness of his charge may induce a paralyzing fear that the law will be distorted and justice miscarried should he misrule (BT *Sanh.* 6b), but on the other hand, it can liberate the judge from the sense that he is bound by the legal rule in question, which is necessarily formulated in human language and therefore subject to human limitations. The judge's mission transcends the simple application of a rule to a given case. He becomes, as it were, God's partner in administering the law: "Judges should know whom it is that they are judging, before whom they are judging, and who will call them to account [if they pervert justice], as it is written, 'God stands in the congregation of God [in the midst of judges he judgeth]' (Ps. 82.1) and so it is said, concerning Jehoshaphat,

'he said to the judges, Consider what ye do, for ye judge not for men, but for the Lord' (2 Chron. 19.6)" (BT *Sanh.* 6b).

The answer to the question considered at the outset is now clear. On the conception of the judicial process as governed not by rules but by men, talmudic law – by dint of failure to be transparent – manifests tendencies indicative of religious law, as explained previously. This might seem paradoxical: in what way is subjection to human judges more indicative of a religious bent, in the sense defined in this chapter, than subjection to a rulebook? The western notion of rule-governed law expresses an outlook on which the judge is subordinate to the collective will of society, whereas judge-governed law (provided it is not tyrannical) is based on the assumption that the judge must satisfy ideals that transcend human language.

Examination of various aspects of talmudic law – for instance, the doctrine of error and the absence of the doctrine of binding precedent and the institution of appellate courts – strengthens this reading of talmudic law as embodying the ideal of "governed by men, not by rules."

At first glance, such institutions as the High Court in Jerusalem, whose authority is final, universal, and definitive, and the laws regarding the rebellious elder – a judge who does not fulfill his obligation to obey the rulings of the High Court in Jerusalem<sup>23</sup> – might be thought to undermine the conception of the judicial process as non-transparent and granting judges far-reaching autonomy. However, the High Court ceased to exist prior to the destruction of the Second Temple, and both tannaitic and amoraic law developed in the absence of any institution with centralized authority. Moreover, the fact that no replacement was created for the High Court is most instructive. The phenomenon of controversy, which flourished during the talmudic period, could not have come into being had such an institution been in existence, and Maimonides (d. 1204) explicitly links the proliferation of controversy to the demise of the High Court (*Mishneh Torah*, Laws concerning Rebels 1.4). In other words, the High Court in Jerusalem and the obligation to obey its rulings were essentially an ideal that never reflected the legal reality of the Sages.

In addition, the absence of two legal institutions found in many other legal systems, namely, the doctrine of binding precedent and appellate courts, is highly significant. These institutions, which are, in a certain sense, complementary, are based on the premise that judicial rulings should follow a pre-existing set of norms as well as on the premise that this action can be done both correctly and incorrectly. Since talmudic law does not

<sup>23</sup> See M. *Sanh.* 11.2 and BT *Sanh.* 86b.

recognize these premises, the alleged institutions never became firmly rooted.

It was suggested above that one of the criteria for a legal system's being religious is its endorsement of judicial infallibility. This doctrine is certainly not upheld in talmudic jurisprudence. However, the doctrine of judicial error that the Talmud does uphold merits attention on its own account. Essential to the "governed by men, not by rules" worldview is the notion that it is impossible to call into question the validity of a judicial ruling on the grounds that it is incompatible with one rule or another. Indeed, the judicial error recognized by the Talmud arises from the flawed method by which a ruling was reached and not the ruling itself. A litigant, from the talmudic perspective, has the right to expect that the judge adjudicating the case will be familiar with the entire body of canonical legal literature, and this is perhaps the basic right that a litigant does have, *vis-à-vis* the courts, on the talmudic model. Should the judge prove unfamiliar with some source or other, his ruling is tainted by error.<sup>24</sup> The consequences of error are determined by the nature of the unfamiliar source (BT *Sanh.* 33a). However, if the source is known to the judge, yet he does not use it, the ruling is nonetheless valid and not deemed erroneous. Certainly, instances can be found in which one Sage critiques another's ruling, deeming it to be substantively incorrect; but, for error to have legal consequences, it must be an error of ignorance. This can be summarized by saying that judges are obligated to be familiar with the legal sources, though not to rule in accordance with them. This position reinforces the "governed by men, not by rules" thesis, but at the same time sets it clear limits. The talmudic picture of the judicial process is therefore very different from the image of the *qadi* under the palm tree, ruling without any constraints.

The description of talmudic jurisprudence in this chapter would be incomplete without mentioning that the society that made talmudic jurisprudence possible is very different from contemporary western society. The functioning of the law is premised on the notion that the judiciary, those responsible for the administration of the law, are spiritual leaders and not just experts in the law. The contemporary view, on the other hand, is that judges are no more than technocrats who specialize in applying the law to given circumstances and hold no unique position as far as morality is concerned. In fact, judges are often called upon to distance themselves from expressing moral convictions, let alone ruling in accordance with them, in performing their professional duties. This

<sup>24</sup> For Maimonides' reading of the Talmud's doctrine of error, with which the present account is in accord, see Maimonides, *Commentary on the Mishnah, Bechorot* 4.4.

position is understandable given the pluralistic nature of our society and the diversity of moral values held by its members. Talmudic jurisprudence is the product of a much more homogeneous community, the values and sentiments of which are shared by all. In such a community, it is plausible that certain individuals will be universally esteemed and revered, and their authority submitted to voluntarily.

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# TORAH IN RABBINIC THOUGHT: THE THEOLOGY OF LEARNING

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## I INTRODUCTION

Rabbinic literature is a complex anthology of more than half a millennium of Jewish thought, stretching from the sparse statements of the last two centuries BCE to the ample *oeuvre* of the first five centuries of the Common Era. All of the collections of rabbinic literature underwent a process of editing, some more refined, as that of the Mishnah and the Babylonian Talmud, some less so, as in the case of the Jerusalem Talmud. An attempt to pursue a developmental, historical view of rabbinic thought is still beyond our grasp, as the complexities of the predominantly oral transmission and later written preservation still baffle and stymie scholarship. We will select the most powerful expressions of various rabbinic positions on the meaning and significance of the Torah and Torah study, culled from the classical period of rabbinic literature (tannaitic, until 250 CE; amoraic, from 250 to 500 CE). These sources will be amplified by selections from contemporaneous Graeco-Roman and Christian literature on the one hand and by modern critical scholarship on the other.

It is fair to say that among the rabbinic Sages, Torah study was accorded the highest status as a commandment, first among equals, both as a vehicle for religious knowledge and for religious self-fulfillment. The primacy of Torah in rabbinic thought is a widely recognized and well-documented phenomenon, which is epitomized in the famous exegesis of Jeremiah 16.11: “and they forsook Me and did not keep My law (*torati*).” The amoraic rendering of this verse has God saying: “Would that they would leave Me but keep My law, for its leaven would bring them back to Me” (*Pes. d-R.K. Eicha* [ed. Mandelbaum, 254]).

## II TORAH IN RABBINIC THOUGHT

### A ORAL TORAH

There is an uncharacteristic unanimity of opinion in rabbinic literature concerning the existence and antiquity of the oral law. All hold that

revelation at Sinai included a significant oral teaching, which accompanied the written law. The extent of that oral revelation is, however, debated.<sup>1</sup> The following positions, two maximalist (1 and 2) and two minimalist (3 and 5), signal the extent of the debate:

1. "These are the laws, rules and directions (Torot)" – it teaches that two *torot* were given to Israel, one written and one oral, "that the Lord established, through Moses on Mount Sinai, between Himself and the Israelite people" – it teaches that the Torah was given, its laws, deductions, and explanations, by Moses at Sinai (*Sifra Beḥukotai* 2).<sup>2</sup>
2. "Scripture, Mishnah, Talmud, Tosefot, Aggada and even that which a venerable student will say before his master, all was said to Moses at Sinai" (*Lev. R.* 22: attributed to Rabbi Joshua ben Levi.).
3. "Since we have not learned that the intermediate days (of the festivals) are prohibited from labor . . . indeed scripture turned it over to the sages to say which labor is prohibited and which labor is permitted" (*Sifrei Deut.* 135, attributed to Rabbi Yishmael).
4. "R. Yishmael says: the principles were said at Sinai and the details in the tent of meeting. R. Akiva says: the principles and the details were given at Sinai" (*BT Hag.* 6b).<sup>3</sup>
5. "I said to him: My son, were these things given at Sinai? Are they not but the teaching of the Sages? Rather when the Holy One, blessed be He, gave the Torah to Israel he only gave it as wheat to extract flour from it and as flax to make into a garment" (*SEZ*, ch. 2).<sup>4</sup>

Rabbinic literature abounds in references to the antique oral law that is the bedrock of its own existence. An unbroken chain (*M. Avot* 1.1; *Tos. Er.* 8.23) of transmission from Moses to the rabbinic Sages is presumed, such that even apparently new or innovative laws might well harken to Mosaic times. A dark or difficult law is not to be discarded or reinterpreted

<sup>1</sup> See S. Safrai, "Oral Torah," in idem (ed.), *The Literature of the Sages*, 1 (Assen, 1987), 39–45; D. Weiss Halivni, *Revelation Restored* (Boulder, 1997), 54–74; and A. J. Heschel, *Torah Min Hashamayim*, 11 230–3. The most detailed and compelling review of the sources is A. Rosenthal, "Torah shebeal peh veTorah miSinai," in M. Bar-Asher and D. Rosenthal (eds.), *Mehkerei Talmud 11: Talmudic Studies Dedicated to the Memory of Professor Eliezer Shimson Rosenthal* (Jerusalem, 1993), 448–87, though I do not agree with the historical reconstruction concerning *aggada*, 462–7.

<sup>2</sup> Compare also *PT Sot.* 8.3, where revelation is compared to the sea: "As this sea – between the great waves are smaller ones, so between every commandment (*deber*) its details and letters."

<sup>3</sup> Compare also *Sifra Tzav* 18.

<sup>4</sup> The provenance of *SEZ* has been debated over the past generations among scholars and, even though a very good case has been made to show the antiquity of many of its statements, one cannot disregard clear signs of later editing, beyond the classical period of rabbinic literature.



“because many laws were given to Moses at Sinai and all were incorporated (embedded) in the Mishnah” (PT *Peab* 2.4). D. Weiss Halivni opines that the references to the chain of transmission of oral law increase in the amoraic literature, as opposed to their relative scarcity in tannaitic literature. It is clear, though, that even the Sages of the tannaitic period held that the oral law was at least as authoritative as the written law. Thus when the Mishnah, in a quite self-conscious manner, lists the topics it covers, it categorizes them according to the degree of their attachment to or dependence on Scripture. The source reads as follows:

The annulment of vows flies in the air and has nothing on which to be supported. The laws of the Sabbath, Festival offerings, and infringements of Holy things – these are like mountains suspended by a hair, for they are scant Scripture but vast laws. Civil law, sacrifices, purities and impurities and incest, these are well supported. These are the essentials (Hebrew, *gufei*, possibly “main bodies”) of the Torah. (M. *Hag.* 1.8)

This central and well-known source revels in a sure self-confidence, which is mirrored also in the more expanded parallel in the Tosefta. The Tosefta glosses the first statement, that annulment has no source in the Torah, with the statement, “but the sage annuls according to his sagacity” (Tos. *Hag.* 1.9). The end of the source, though, remains opaque. To what does the term *gufei* Torah – essentials or main bodies – refer, and what does it mean? This crux has received the attention both of the Sages of the Talmud themselves, who applied it to all the above-mentioned categories, and of modern commentators, but has yet to yield a fully satisfactory solution.<sup>5</sup> Be that as it may, it seems clear that the Sages felt themselves fully empowered, heirs to an oral tradition that had its roots in Sinai.

#### B WRITTEN TORAH

The book of Deuteronomy places great emphasis on instruction of the Law and its transmission, orally and in written form. The verb “to learn” (*lamed*) appears first in this book of the Torah, and there are several commandments regarding the teaching of the Torah (4.9; 6.7, 20–5; 11.19). Moreover, the king had to make a “personal copy of the Torah.”<sup>6</sup> Moses writes the Torah and commands that the people be instructed once every seven years from the written text in a public ceremony (31.9–13). Moses also writes a poem that was to be memorized by the people as a testimony (31.22). One

<sup>5</sup> See S. Lieberman, *Tosefta Ki-Fshutab*, 111, order *Moed* (New York, 1962), 470.

<sup>6</sup> J. Tigay, “Introduction” to the JPS Torah Commentary: *Deuteronomy* (Philadelphia, 1996), xvii.

early source interprets Deut. 31.9 as teaching that Moses wrote down the entire Torah (*Sifre Deut.* 1), rather than simply a digest or selection of the Torah. At least one source understands the verse “Because he has spurned the word of God . . . that person shall be cut off” (Num. 15.31) as referring to one who says “that the whole Torah is from the mouth of the Holy One but this word was from his own mouth.” That is to say that some of the early rabbinic sources are insistent on the fact that the entire Torah was written by Moses and was dictated by God. The obvious problem of Moses’ recording his own death was finessed poetically – “Until here the Holy One says to Moses and Moses writes, from here on the Holy One says to Moses and Moses writes with tears” (BT *Bava B.* 15a).<sup>7</sup> This view is opposed by another, who holds the last eight verses of the Torah to have been written by Joshua<sup>8</sup> – “is it possible that the Torah lack even one letter?”

Deuteronomy itself commanded a writing of the Torah on stones for all to see (Deut. 27.5). The Sages debated whether the entire Torah was written there, or simply a selection. Another debate was whether the Torah was etched into the stones of the altar or whether these other stones were stelae, inscribed monuments. Furthermore, at least one early sage held that not only was the entire Torah written on the stones, but that it was rendered in seventy languages, so that all the nations could read it (*Mekh. Devarim*).<sup>9</sup> This position was adopted by the editor of the Mishnah and presented anonymously with no dissent (M. *Sot.* 7.5).

We can summarize the view of the Sages with the famous *baraita* (that is, a tannaitic non-mishnaic source) at BT *Bava B.* 14b: “Moses wrote his book, the book of Job and the section on Balaam.”<sup>10</sup>

#### C THE DEBATE OVER REVELATION: CONTENT AND RECIPIENTS

In order to understand the Sages’ view of the relationship of the written and oral Torahs we need to clarify their divergent views on the nature of revelation at Sinai. Their debate encompasses every aspect of revelation, including the nature and scope of revelation and the intended audience. Above (section II A), we sketched minimalist and maximalist views of revelation. Now we will turn to the nature of the language used in revelation.

One of the richest sources on the Sages’ view of revelation is the tannaitic midrashic commentary on Exodus, *Mekhilta de-Rabbi Yishmael*. I will cite a

<sup>7</sup> The text translated is the pristine Hamburg 165 manuscript of BT *Bava B.*

<sup>8</sup> This view eventually led to a legal distinction between those eight verses and the rest of the Torah; see Maimonides, *Mishneh Torah*, Laws of Prayer, 13.6.

<sup>9</sup> See Lieberman, *Tosefta Ki-Fshutab*, v111, order *Nashim* (New York, 1973), 700–1.

<sup>10</sup> Some interpret this as a section other than that included in the Torah itself.

number of relevant passages, beginning with the debate over the nature of the language employed in revelation.

“And all the people saw the thunders” (Exod. 20.15, lit. “sounds” or even “voices”). They saw what was visible and heard what was audible – these are the words of R. Yishmael. R. Akiva says: they saw and heard that which was visible. They saw a fiery word coming out from the mouth of the Almighty as it was engraved (*nechzav*) upon the tablets, as it is said: “the voice of the Lord hewed (*chozev*) out flames of fire” (Ps. 29.7).<sup>11</sup>

This rabbinic portrayal of God’s word as fire recapitulates the dominant depiction of God as fire in the biblical account of revelation (Deut. 4). It has been suggested in recent research that the Sages are pointing to an identity of God’s word with God’s very substance.<sup>12</sup> This would imply an infinite aspect to God’s word in the same way as the depiction of God’s self.<sup>13</sup>

To whom was revelation addressed? Was it, as the book of Exodus and the Ten Commandments themselves seem to indicate, a local event directed to the people whom “God had delivered from Egypt”? Or was it a cosmic appeal of the God of creation to one people, with the entire world attending? The Sages prefer the view that revelation was an event of cosmic proportions, as the *Mekhilta* states:

When the Holy One, blessed be He, stood up and said: I am the Lord thy God, the earth trembled . . . And their houses filled with the splendor of the Shekinah. At that time all the kings of the nations of the world assembled and came to Balaam the son of Beor. They said to him: Perhaps God is about to destroy His world by a flood. He said to them: Fools that you are . . . It is simply that the Holy One, blessed be He, is going to give the Torah to His people.

(*Mekh.*, *Bahodesh*, ch. 5 [ed. Lauterbach, II 233–4])

This source attempts to retain the particular nature of the revelation to the Jews while maintaining a cosmic revelation. The “radiation” was universal and the entire world was in some way witness to that revelation (through the Gentile prophet Balaam’s mediation). Once they heard that God was revealing the Torah to Israel, “they all turned back and went each to his

<sup>11</sup> The translation is based on J. Z. Lauterbach, *Mekilta de-Rabbi Ishmael* (Philadelphia, 1977), II 266.

<sup>12</sup> D. Hoshen, “Torat Hazimzum,” *Daat*, 34, 33–60 (Heb.).

<sup>13</sup> Another compelling image of revelation, is that of a divine “kiss.” See A. Kosman, “Breath, Kiss, and Speech as the Source of the Animation of Life: Ancient Foundations of Rabbinic Homilies on the Giving of the Torah as the Kiss of God,” in A. Baumgarten, J. Assmann, and G. G. Stroumsa (eds.), *Self, Soul, and Body in Religious Experience* (Leiden, 1998), 97–124. For another use of the same image see M. Fishbane, *The Kiss of God* (Seattle, 1994).

place" (234). Though the Gentile world was aware of revelation, they were equally aware that it was intended for Israel alone.

The *Mekhilta*, then, held the position that the Torah was revealed in public. As opposed to what we saw above, there is another stream of interpretation that regards this phenomenon as an indication that revelation was actually intended for all peoples, not just for Jews.<sup>14</sup> This startling account runs as follows:

They encamped in the Wilderness. The Torah was given in public (*demos*) openly (*parrhesia*) in a free place. For had the Torah been given in the land of Israel, the Israelites could have said to the nations of the world: you have no share in it. But now that it was given in the wilderness publicly and openly in a place that is free for all, everyone wishing to accept it could come and accept it.

(*Mekh. Bahodesh*, ch. 1 [ed. Lauterbach, 198])

It is instructive that this selection uses two prominent Greek loan-words to drive home the point that the Torah was intended for all peoples.

Whether intended for the Jewish people alone or not, one can discern a definite and possibly dominant atavistic approach. This view that the Torah was the exclusive possession of the Jewish people is usually associated with Rabbi Akiva. In a famous passage at *M. Avot* 3. 12, Rabbi Akiva calls Israel the children of God who have been given God's own instrument of creation, the Torah. The Torah styles itself the inheritance of the House of Jacob (Deut. 33.4) and the word "inheritance" (*morasha*) is repointed by the Rabbis to yield *meorasa*, the betrothed (*Sifre Deut.*, *piska* 402). Torah is Israel's bride and is off-limits to the nations of the world. A century and a half later the amora Rabbi Yoḥanan drew the legal consequence that "a Gentile who studies Torah is liable to death" (*BT Sanh.* 59a), though one needs to resolve the question whether this is hyperbole or jurisprudence.

#### D THE RELATIONSHIP OF THE ORAL AND THE WRITTEN TORAHS

Divergent views on the relationship of the oral Torah to the written one are as prevalent as the debate over the content and extent of the original revelation. One section of the Palestinian Talmud captures the debate (*PT Ber.* 1.7, 3b):

*Hevraiya* (the group?) In the name of R. Yoḥanan: The words of the scribes are *dodim* (= "beloved?" "related?") to the words of Torah and are beloved (*bavivim*) as Torah, "your palate is as wine" (*Song* 7.10). Shimon bar Va in the name of

<sup>14</sup> See M. Hirshman, "Rabbinic Universalism in the Second and Third Centuries," *HTR*, 92 (2000), 101–15.

R. Yoḥanan, The words of the Scribes are *dodim* to the words of Torah and are more beloved than the words of Torah, “your love is better than wine” (Song 1.2)

R. Ba bar Kohen in the name of R. Yuda ben Pazi: A proof (lit. Know you) that the words of the Scribes are more beloved than the words of Torah: For had R. Tarfon not recited the Shema at all he would have transgressed nothing but a positive commandment, but since he transgressed the words of Beit Hillel (and recited the Shema according to the way of Beit Shammai – *M. Ber.* 1.3) he was liable for death, since “he who breaks the fence will be bitten by a snake” (Eccles. 10.8)

It was taught, R. Yishmael (says): The words of Torah have in them prohibitions and restrictions, leniencies and severities, but the words of the Scribes are entirely severities.

Two opposing opinions are quoted in the name of Rabbi Yoḥanan, the one equating rabbinic (scribes’) law and Torah law and the other privileging rabbinic law. Both opinions are supported by a midrashic interpretation of verses in the Song of Songs, reading the words “palate” (7.10) and “mouth” (1.2) as allusions to the oral law. If Rabbi Yoḥanan, the pre-eminent amora of the third century, shared the assumption that the oral law was also given at Sinai, on what grounds would he have given pride of place to the oral law?

Two answers immediately present themselves, the first internal, the other external. A tannaitic tradition held that “the words of the scribes need bolstering” (*Tos. Yev.* 2.4; *Tos. Taan.* 2.6). This means that, in general, rabbinic authority was perceived to be less authoritative and a special effort had to be made to shore it up. So, too, Rabbi Yoḥanan in a homiletic vein exaggerates the belovedness of the oral law *vis-à-vis* the written.

The second possibility is related to the intellectual dynamic that developed between the Rabbis and the Church Fathers. Much has been written over the last 150 years of the dialogue that existed, direct and indirect, between the leaders of the church in Palestine and the Tannaim and Amoraim of the period. More specifically, many scholars have shown how Origen’s (c. 185–255 CE) commentary and homilies on the Song of Songs, composed in Caesarea and Athens, interface neatly with the rabbinic comments on the Song.<sup>15</sup> So, for example, on those same verses cited in the name of Rabbi Yohanan, who flourished in Tiberias while Origen was in Caesarea, Origen says:

<sup>15</sup> See E. E. Urbach, “The Homiletical Interpretations of the Sages and the Expositions of Origen on Canticles, and the Jewish–Christian Disputation,” *ScrHie* 22 (1971), 247–75; R. Kimelman, “Rabbi Yohanan and Origen on the Song of Songs,” *HTR* 73 (1980), 567–95; and M. Hirshman, *Rivalry of Genius* (Albany, 1996), 83–94.

“For thy breasts are better than wine” (Cant. 1.2)<sup>16</sup> . . . By wine is meant the ordinances and teachings which the Bride had been wont to receive through the Law and the Prophets before the Bridegroom came . . . realizing now that the instructions and the knowledge that are to be found in the Bridegroom are of high eminence, and that a much more perfect teaching than that of the ancients issues from His breasts, she says: “Thy breasts are better than wine.”<sup>17</sup>

Origen’s frontal assault on the ancient law is so pronounced, in his entire work on the Song of Songs, that one scholar has concluded that the polemic with the synagogue is the main aim of the work.<sup>18</sup> One can imagine that the struggle with the Church over the correct interpretation of Scripture led the Rabbis to emphasize the status of the oral law. Another midrash even raises the oral law, in this case the Mishnah, to the position of the secret sign that binds the true Israel to God.

R. Judah b. Shalom said: When the Holy One told Moses, “write down” (Exod. 34.27), the latter wanted the Mishnah also to be in writing. However, the Holy One blessed is He foresaw that a time would come when the nations of the world would translate the Torah and read it in Greek and then say: “We are Israel,” and now the scales are balanced. The Holy One blessed is He will then say to the nations: you contend that you are my children. That may be, but only those who possess my mysteries are my children, i.e. [those that have] the Mishnah which is given orally. (*Tanh., Ki Tisa* 34)<sup>19</sup>

Lieberman views this use of mystery as a “technical term” with its full “religious connotation.”<sup>20</sup> It is quite evident that the Sages viewed the oral law as the distinctive and authentic interpretation of Scripture. Every other interpretive strategy, be it Gnostic, Christian, or, much later, Karaite, was rebuffed by the same appeal to a chain of tradition that held the authentic alternatives of interpretation.

The most striking result of the Sages’ stance on the oral law is that internally it was extremely elastic, allowing for wide debate and dissension, while at the same time thwarting rival exegetical strategies from without.

<sup>16</sup> Origen read *dodekha* as *dadekha*, “your breasts,” along with the Septuagint. See A. Geiger, *Hamikra Vetargumav* (Jerusalem, 1949), 257, Hebrew translation of *Urschrift und Übersetzungen der Bibel* (Breslau, 1928).

<sup>17</sup> Origen, *The Song of Songs, Commentary and Homilies*, ed. and trans. R. P. Lawson (New York, 1957), 68–9.

<sup>18</sup> E. Clark, “The Uses of the Song of Songs: Origen and the Later Fathers,” in idem, *Ascetic Piety and Women’s Faith* (New York, 1986), 398.

<sup>19</sup> The translation is taken from S. Lieberman, *Hellenism in Jewish Palestine* (New York, 1962), 207; see his discussion there and on 119. Also see Hirshman, Rivalry, 15–19.

<sup>20</sup> Lieberman, *Hellenism*, 119 and n. 19. But compare J. Smith, *Drudgery Divine* (Chicago, 1990), 54–84.

When questioned by the outsider regarding the nature of Jewish law, Rabban Gamliel replies with great ease that there are two Torahs, one oral, one written:

“And Your instruction (*torateka*) to Israel” (Deut. 33.10): This teaches (*melamed*) that two Torahs were given to Israel, one orally and one in writing. Agnetos hegemon<sup>21</sup> asked Rabban Gamliel. He said to him, “How many Torahs were given to Israel?” He said to him, “two, one orally and one in writing.”

(*Sifre Deut.*, *piska* 351 (ed. Finkelstein, 408)).<sup>22</sup>

This source is deceptively simple. It indicates that there are two apparently equal teachings that were given to Israel.<sup>23</sup> Given Agnetos’ combativeness elsewhere, one can only wonder what his follow-up question was. Were there political overtones to his question, or was this intellectual repartee between political leaders?

From the material we have reviewed in this section, we can posit that the oral Torah functioned in three different ways. First of all, the oral transmission insured a degree of control over the audience. A sage could choose carefully the lessons that were for public consumption and those that were only for the inner circle. Second, the sage’s authority was enhanced as the necessary bridge or entrée into the material. Finally, even the most mundane or pedestrian laws might assume a secret mysterious quality, open only to the true devotee. These three implications of orality certainly helped the rabbinic system to remain dynamic from within while closing itself off to external challenges.<sup>24</sup>

#### E CURRICULA, SCOPE, AND AIMS OF TORAH STUDY

By the end of the fourth century CE, even Judaism’s rivals bore grudging testimony to the extent of learning among the Jews. In a famous remark,

<sup>21</sup> This same person addresses a provocative question to Rabban Yoḥanan ben Zakkai at PT *Sanh.* 1(end). 19d. On his identification see W. Bacher, *Die Agada der Tannaiten*, 1 (Strasbourg, 1884), 36 n. 4.

<sup>22</sup> For a slightly different translation and a brief commentary on this passage, see S. Fraade, *From Tradition to Commentary: Torah and Its Interpretation in the Midrash Sifre to Deuteronomy* (Albany, 1991), 88–9, 239, who cites M. D. Herr, “The Historical Significance of the Dialogues between Jewish Sages and Roman Dignitaries,” *ScrHie* 22(1971), 128–32. The latter attempted to identify Agnetos.

<sup>23</sup> The exegetical basis of this statement is not at all clear. Though some see the word *toratka* (singular!) as possibly to be reprinted as a plural (*torateka*), it might be better to see the midrash as responding to the parallelism in the scripture itself (*toratekha* and *mishpatekha*). Lev. 26. 46 speaks of those two categories in addition to *huqot* that were given by God to Israel at Sinai.

<sup>24</sup> Now see M. Jaffee, *Torah in the Mouth: Writing and Oral Tradition in Palestinian Jewry: 200 BCE–400 CE* (Oxford, 2001).

cited in S. Krauss's wonderful survey, "The Jews in the Works of the Church Fathers,"<sup>25</sup> St. Jerome says, "In childhood they acquire the complete vocabulary of their language, and learn to recite all the generations from Adam to Zerubbabel with such accuracy and facility as if they were simply giving their names."<sup>26</sup> In another comment, he praises the Jews' memorization of the books of Moses and the Prophets.<sup>27</sup> Modern historians of this period debate whether this widespread knowledge of Scripture characterized also the early centuries of rabbinic Judaism, with the more recent studies being more incredulous.<sup>28</sup>

In the beginning and end of the first century, however, Jewish authors writing in Greek describe the Sabbath as an intensive day of study for both Alexandrian and Palestinian Jewry.<sup>29</sup> Tannaitic literature, though difficult to date precisely, also points to a demand for intense widespread study in the *beit midrash* on the Sabbath. So the Mishnah in *Shabbat* 16.1 prohibits reading *ketuvim* on the Sabbath, lest people refrain from coming to the *beit midrash*.

Before we outline curricula for Torah study, it is important to sketch the different ways in which Torah study was regarded. The study of Torah is of course one of many commandments (*mitzvot*), which, by the third century, at least according to one view, constituted a corpus of 613 commandments. Yet some sources insisted that Torah study was first among equals – "the study of Torah is equal (*kineged*) to them all" (M. *Peah* 1.1). This view is elucidated in the opening chapter of Tosefta *Peah*, where the negative counterpart, the worst of all sins,<sup>30</sup> is speaking ill of another person (*lashon hara*). The approach of these sources is summarized beautifully by the Tosefta in *Arachin* 2.10: "The Torah was stricter with words than with action." The Tosefta in *Peah* includes three levels of human activity – thought, speech, and deed – and gives the most value to speech. Studying Torah is, according to this view, the consummate use of human speech.

<sup>25</sup> *JQR* o.s. 5–6 (1893–4). <sup>26</sup> *JQR* o.s. 6 231–2, (1894), *Ep. Ad Titum* 3.9.

<sup>27</sup> *Ibid.* Jerome's commentary to Isa. 58.2, *CCSL* LX XIII 660. See H. Newman's illuminating treatment of *Jerome and the Jews* (PhD thesis, Hebrew University, 1997) (Hebrew), 45, with some important corrections of Krauss and others who followed his lead.

<sup>28</sup> See most recently C. Hezser's comprehensive work, *Jewish Literacy in Roman Palestine* (Tübingen, 2001), 40–90. My intuition inclines toward the older position that, at least from late Second Temple times, if not earlier, there was a widespread emphasis on Jewish literacy.

<sup>29</sup> Philo, *On the Creation* 128 (Loeb ed., 101), *The Embassy to Gaius*, 156 (Loeb ed., 79); Josephus, *Ant.* 16.43 (Loeb ed., VIII 225); *Against Apion* 2.175 (Loeb ed., 363). See also S. Safrai's fine survey, "Education and the Study of the Torah," in S. Safrai and M. Stern (eds.), *The Jewish People in the First Century* (Assen, 1976), 967.

<sup>30</sup> The list of sins includes the three heinous crimes of idolatry, incest, and murder, and yet speech is considered the gravest of sins.



Though it might very well be that this view is the prevalent one in rabbinic literature, it is noteworthy that the closing chapter of that same Tosefta *Peab* records the following remark: “Charity (*zedaka*) and acts of loving-kindness (*gemilut hasadim*) are equivalent to all the commandments of the Torah” (Tos. *Peab* 4.19).

Indeed, some sages accepted the pre-eminence of Torah study to the exclusion of the other commandments. The chief exponent of this view was Rabbi Shimon bar Yochai, who was quoted as saying that he did not even interrupt his study to recite the Shema (PT *Ber.* 1.3.3c). He also railed against agriculture, asking, if one were to do all the labor necessary, when would one then have time to study (*Sifrei Deut.*, *piska* 42)? It is telling that Rabbi Shimon even mused that when the Torah was given at Sinai, people should have received two mouths, so that one would constantly be free to study Torah. He immediately recanted, noting, in the spirit of the Tosefta *Peab* cited above, that slander was rife even when people have only one mouth.

As the last chapter of Tosefta *Peab* indicated, there were sages who emphasized righteous deeds as paramount. The tension between what, in other cultures, is called the *vita activa* and the *vita contemplativa* is expressed in rabbinic culture as the choice between study (*talmud*) and deed (*maaseh*). The earliest classical source for this debate is in the *Sifre* to Deuteronomy, *piska* 41:

And it happened that R. Tarfon, R. Akiva, and R. Yosi the Galilean were reclining (dining) at the house of Aris in Lydda. The question was raised before them: Which is greater, study or deed? R. Tarfon said, great is deed. R. Akiva said, great is study. They all answered and said, great is study for it effects deed. R. Yosi the Galilean said, great is study that preceded the giving of dough by forty years, the tithes by fifty-four, and the sabbatical years by sixty, and Jubilee years by one hundred and three.

This source is embedded in a section of the *Sifre* that extols study, and is crafted here also to tip the scales in favor of study. But a closer look at the source discloses a preference for deeds. If we look carefully we notice that the opinions of the three sages are not brought in continuous order. Rather, Rabbi Tarfon opens with deed (R. Tarfon a scion of the priestly line), and Rabbi Akiva counters with study. Then, rather than continuing with Rabbi Yosi Haglili, who seconds Rabbi Akiva, we are treated to the paradoxical resolution of the debate, cast as the unanimous opinion of “everyone,” evidently the others gathered around, who also authored the question. The resolution turns study into the maidservant of action, and in effect tilts the scales toward deed. Study is only the necessary precondition. The editor of the *Sifre* deftly sandwiches this resolution between Rabbi Akiva and Rabbi Yosi, allowing the two exponents of the primacy of study to

bracket the resolution and thus give the last word to the excellence of study. I have tried to highlight the original tannaitic debate that, at least in second-century Lydda, seems to have been resolved in favor of deed, though the editor of the *Sifre* tips the scale back to Rabbi Akiva's position of the primacy of learning.

Beyond the natural tension between action and study there was, I believe, a third trend in rabbinic thought, though far less publicized. This trend was seen in those whose aim was to attain the holy spirit, a direct communication from God. This group, identified in rabbinic literature and by modern scholars as *hasidim* and men of deeds,<sup>31</sup> was composed of a handful of prominent sages, though we have precious little of their legal legacy. These men, such as Rabbi Ḥanina ben Dosa and Rabbi Pinchas ben Yair, are the subjects of pious tales and aretologies. In a *baraita*, appended to the Mishnah of *Sota*, Rabbi Pinchas states, in the form of a sorite, the curricula for the *hasid*.

R. Pinchas b. Yair says: alacrity brings to cleanliness, cleanliness to abstinence, abstinence to purity, purity to holiness, holiness to humility, humility to sin-fearing, sin-fearing to piety (*ḥasidut*), piety to the holy spirit, the holy spirit to the resurrection of the dead, the resurrection of the dead comes (to?) at the hands of Elijah of blessed memory.

This agenda omits study, though I imagine that study would have figured somehow in preparing oneself to climb this ladder of spirituality, whose goal was achieving the Lord's spirit (*ruach ḥakodesh* – *ḥakodesh* is a metonymical name of God).

I have tried to outline briefly three different trends in rabbinic thought, each track emphasizing either study, action, or finally a spiritual askesis. The predominant track in rabbinic literature is that of study, though the trend of actively fulfilling the commandments is also discussed often. Certainly the least-publicized trend was that of the *hasidim*.

We have seen the curricula of the *hasidim*. It is time to turn to the other track, the curricula of study of the Torah. It might be helpful to start from the top and work our way down. When a rabbi was praised for his comprehensive knowledge, what did it include? Certainly the most expansive list is that of BT *Sukkot* 28, in praise of Rabban Yoḥanan ben Zakkai, whose comprehensive learning encompassed

Scripture, Mishnah, Gemara, laws, legends, inferences from Torah, inferences from scribes, reasoning from *a minori ad majus* and analogy, reckoning calendrical cycles,

<sup>31</sup> See S. Safrai, "Teachings of Pietists in Mishnahic Literature," *JJS* 16 (1965), 15–33. A revised and expanded treatment appeared in Hebrew, "Ḥasidim veAnshei Ma'aseh," *Zion* 50 (1985), 133–54.

gematria (the computation of numerical value of letters), the conversations of angels, of demons, and of palm trees, fuller's proverbs and fox fables, a great thing and a small thing.

The anonymous Talmud interprets "a great thing" to be mystical-chariot speculation and "a small thing" to be the debates of the later amoraim Abaye and Rava. What is clear at the very least is that the Talmud has painted the hero of talmudic learning in its own image. Rabban Yoḥanan ben Zakkai is said to have mastered the constituent parts of the Talmud itself, and maybe more, even anticipating later debates. It is instructive to contrast this list with the praise of a late tanna in a classic midrash from the Land of Israel, *Leviticus Rabba* 30.1:

When R. Elazar b. R. Shimon passed away his generation recited over him the verse "who is she who comes up from the desert, as columns of smoke, clouded in myrrh and frankincense, with all the powders of the merchants?" (Song 3.6). What is "all the powders of the merchants"? He was teacher (or reciter) of Scripture, Mishnah (*tannai*), a prayer-leader (*karov*), and a poet.<sup>32</sup>

The list in this homiletic Palestinian midrash emphasizes both study (Scripture and Mishnah) and prayer (prayer-leader and religious poetry) and probably echoes the concerns or agenda of this particular "homiletic" corpus.

Both of these passages indicate a wide variety of curricula, and it is clear that not every sage could control these diverse fields. We hear of sages who chose specializations such as aggada (*Gen. R.* 12.10),<sup>33</sup> and, conversely, of sages who were unable to engage in debate over Scripture (BT *Av. Zar.* 4a)<sup>34</sup> or to act as prayer-leaders (*Lev. R.* 23.4):

<sup>32</sup> See M. Sokoloff, *A Dictionary of Jewish Palestinian Aramaic* (Ramat-Gan, 1990), 503, who translates *ḥazzan* as "prayer leader who composes liturgical poems." My own inclination is to the first role, but M. Margulies, the learned editor of the classic critical edition, *Vayyikrah Rabbah* (Jerusalem, 1972), 590, derives *karov* from one who composes liturgical poetry, called *kerovot*. See also his reference to J. N. Epstein's understanding of Tannai.

<sup>33</sup> "R. Yudan the Patriarch asked R. Shmuel bar Nahman. He said to him, Since I have heard that you are a *baal aggada* (master of aggadah) . . . On another possible meaning of *baal aggada* see my essay on "The Place of the Aggada and Who Were the Baalei Aggada," in D. Rosenthal and Y. Sussmann (eds.), *Ephraim E. Urbach Memorial Volume* (Jerusalem, 2005), (Hebrew)

<sup>34</sup> Rav Safrā, a Babylonian, remains silent in the face of heretics' questions in Scripture. The fine J TSA manuscript (facsimile ed., New York, 1957) reads: "he was silent and was at a loss" (*lo hava b'yadeh*, lit., "did not have it in his hand"). Rabbi Abahu comes to his defense, asserting that only Palestinian rabbis made sure they became expert in Scripture, since the heretics were in their vicinity. The story in its present form is a literary gem replete with irony – Rabbi Scripture (literally, *Safra* means the "Book") does not know Scripture – and other literary flourishes. Yet the story quite possibly reflects the talmudic scholar's relative neglect of Scripture, something that is found also in later historical eras.

R. Elazar Hisma went to a synagogue.<sup>35</sup>  
 They said to him, does the Rabbi (Master) know how to recite the Shema?  
 He said to them, no.  
 They said to him, does the Rabbi (Master) know how to pray (*l'mikrav*)?  
 He said to them, no.  
 They said to him, For naught they call you Rabbi.

Rabbi Elazar returns to Rabbi Akiva, who goes on to teach him those prayer skills he was so sorely lacking. The section concludes with Rabbi Yona, who taught his students “even the blessings of grooms and the blessings of mourners, saying: be men in every respect.”

What do we know about the curricula of the various academies and disciple circles<sup>36</sup> of Palestine and Babylonia? M. Friedman (Ish-Shalom), in the introduction to his edition of the *Mekbilta*,<sup>37</sup> focused on a medieval citation of a late rabbinic midrash, the *Tanḥuma*, as the starting point for his discussion of curricula. The source reads as follows:

This stupid person, while still in the entrance, runs away. He says, what are you giving me to learn<sup>38</sup> . . . ? They say to him, a wooden tablet. And after the wooden tablet what are you giving? A scroll. And after the scroll, what? Genesis. And after Genesis what? The entire Scripture. And after that, what? The six orders (of Mishnah). And after that, the Torah of the Priests (*Sifra* – the rabbinic midrash on Leviticus). And after that, what? *Mekbilta*. And after that? Tosefta. And after that, what? Talmud. And after that, what? *Aggada*. And he says, who has that much strength?

This is a unique source that traces the curricula from the most primary education through the highest levels. The first two stages appear elsewhere in rabbinic sources. The wooden tablet, usually coated with wax, was used for learning the alphabet. The next stage was reading from parchment

<sup>35</sup> Lit., a place, *atar*, but often used in Western Aramaic as a synonym for a synagogue, a holy place.

<sup>36</sup> A vast amount of excellent research has been invested in studying the academies and disciple circles, especially in Babylonia. See D. Goodblatt, *Rabbinic Instruction in Sassanian Babylonia* (Leiden, 1975); I. Gafni, *The Jews of Babylonia in the Talmudic Period* (Jerusalem, 1990) (Hebrew). More recently, attention has turned to the academies and disciple circles of Palestine; see H. Lapin, “Jewish and Christian Academies in Roman Palestine: Some Preliminary Observations,” in A. Raban and K. G. Holum (eds.), *Caesarea Maritima* (Leiden, 1996), 496–512; and C. Hezser’s comprehensive and impressive work, *Jewish Literacy in Roman Palestine*.

<sup>37</sup> *Mekbilta de-rabbi Yishmael*, with the commentary M. Ayin (Vienna, 1870; repr. Jerusalem, 1978), xxxiv–xl.

<sup>38</sup> The source continues with the difficult construction “to learn *kodmoi*,” “before him” or “before Him.”

scrolls.<sup>39</sup> This source has the student begin with Genesis, though we do know of an alternative tradition in which studies began with Leviticus.<sup>40</sup> Completion of Scripture took some five years, from age five until age ten, at least according to Mishnah *Avot* (5.21).<sup>41</sup> Thereafter, the student proceeds to Mishnah, and again five years later, to Talmud. A famous passage in the midrash (*Lev. R.* 2.1), however, makes clear that in amoraic times only the select few advanced to talmudic studies:

As is the custom in the world, a thousand people enter into Scripture, and one hundred of them come out. One hundred to Mishnah, ten of them come out. Ten to Talmud, only one comes out.

Here the midrash represents the curriculum as Scripture, Mishnah, and Talmud, in the same order as in the Mishnah *Avot*. Though it would seem to be clear now what the order of study is, one has to remember that the term “Mishnah” meant different things to different sages. Thus, the *baraita* at BT *Kiddushin* 49a records the following debate: “What is Mishnah? R. Meir says, laws (*halachot*). R. Yehuda says, midrash.”<sup>42</sup> In fact, Lieberman identified four different orders of study in one passage of the Tosefta *Sotah* 7.20. They are: (1) Scripture, Mishnah, Midrash; (2) Mishnah, Midrash, Laws; (3) Midrash, Laws, Legends; (4) Laws, Legends, Talmud.<sup>43</sup> One may compare these tannaitic options with the midrash cited above. We can summarize its order of higher study as (1) Mishnah (2) Midrash (*Torat Kohanim*, *Mekbilta*) (3) Tosefta (4) Talmud (5) *aggada*. It is patent that we have diverse approaches that might well reflect the educational priorities of different locales, periods, scholars, or academies.

#### F ELIGIBILITY FOR TORAH STUDY: AGE, CHARACTER, GENDER, RELIGION

A diligent student might well have gained mastery of the Talmud well before he reached the age of twenty. Rav Kahana is quoted as saying, “When

<sup>39</sup> Presumably brief reading selections. On these first stages of study, see J. Goldin, “Several Sidelights of a Torah Education,” repr. in J. Goldin, *Studies in Midrash and Related Literature*, ed. B. Eichler and J. Tigay (Philadelphia, 1988), 205–9. Goldin presumes that the *pinax* was used for writing exercises (205–8). Cf. C. Hezser, *Jewish Literacy*, 140–2.

<sup>40</sup> *Lev. R.* 7.3: “Said R. Issi, why do children (*tinokot*) begin with the Priestly Torah (= Leviticus)? Let them begin with Genesis! The Holy One Blessed be He said, since the sacrifices are pure and the children are pure, let the pure occupy themselves with the pure.” I think that it is no coincidence that this statement is found in a midrash on Leviticus.

<sup>41</sup> At BT *Ket.* 50a, Rav suggests that a child should not start studying before the age of six, “and after six, stuff him like an ox”!

<sup>42</sup> See D. Rosenthal, *Mebkerei Talmud*, 11 466.

<sup>43</sup> S. Lieberman, *Tosefta Ki-Fshutah*, v III 692.

I was eighteen years old and I had studied the entire Talmud, and I didn't know that Scripture is not to be removed from its literal sense until now" (BT *Shabb.* 63a).<sup>44</sup> The anonymous Talmud is willing to assume that Rabbi Elazar ben Azariah was only eighteen when he was appointed to succeed Rabban Gamliel (BT *Ber.* 28a).<sup>45</sup> Yet it is clear that there were subjects that were denied to students until they had matured. The Palestinian Talmud (*Av. Zar.* 2.7 41d) records: "When your students are young (*ketanim*), hide from them the words of Torah; when they have become rams, reveal before them the secrets of Torah." This amoraic tradition, attributed to a rabbi of the late third century, might well come to interpret the preceding Mishnah. In that Mishnah, Rabbi Yishmael's legal query is evaded, and is countered by a question from his senior, Rabbi Yehoshua, about the proper reading of a verse in the Song of Songs. The Palestinian Talmud asserts that the reason Rabbi Yehoshua did not answer the question was that Rabbi Yishmael "was young" (*katan*). It is remarkable that he evades the legal question and turns to the reading of the Song of Songs instead. There is a famous tradition that Origen attributes to the Jews, which held that the Song of Songs itself, along with the first chapters of Genesis and Ezekiel's first few and last few chapters, were the last subjects to be taught.<sup>46</sup>

Was there an age limit, beyond which a person really should no longer study? The Mishnah claims that the sage's mind becomes ever more settled as he ages, as opposed to the ignorant elderly, whose minds are disturbed (M. *Kin.* 3.6). One sage is quoted as privileging the teaching of elders (M. *Avot* 4.20), though he is immediately rebutted by R. Meir (ms. Kaufman M. *Avot* 4.20) who advances that the contents are determinative and not the container.

It is the same R. Meir who is said to have continued to learn from his teacher, Elisha b. Abuyah, even after the latter's apostasy (BT *Hag.* 15a–b). The story essentially tells the tale of R. Meir's unrelenting effort to return

<sup>44</sup> A similar reminiscence of having completed Talmud by age eighteen is attributed to Rabbi Haga at BT *Moed K.* 25a.

<sup>45</sup> The parallel at PT *Ber.* 4.2 reads "sixteen" years old.

<sup>46</sup> "And there is another practice too that we have received from them, namely, that all the Scriptures should be delivered to boys by teachers and wise men, while at the same time the four they call deuteroseis, that is to say, the beginning of Genesis, in which the creation of the world is described; the first chapters of Ezechiel, which tell about the cherubim; the end of that same, which contains the building of the Temple; and this book of Song of Songs should be reserved for study till last," Origen, *The Song of Songs*, 23. See G. Scholem, *Jewish Gnosticism, Merkabah Mysticism, and Talmudic Tradition* (New York, 1965), 38 and n. 9, about the age requirement for receiving the name of God. See S. Lieberman's remarks on the passage in appendix D (118–26) and especially the last page, where he adduces the source about Rabbi Yishmael.

his teacher to the fold, and the fact that he carries on learned dialogue could certainly be viewed as part of that effort. Yet, the Baylonian Talmud alone is troubled by the fact that R. Meir continued to learn from his former teacher.

But how did R. Meir learn Torah at the mouth of Aḥer? Behold Rabba bar bar Hana said that R. Yoḥanan said: "What is the meaning of the verse 'For the priest's lips should keep knowledge, and they should seek the Torah at his mouth, for he is an angel of the Lord of hosts?' (Mal. 2.7). If the teacher is like an angel of the Lord of hosts, they should seek Torah at his mouth, but if not, they should not seek the Torah at his mouth." Resh Lakish answered: "R. Meir found a verse and expounded it: 'Incline thine ear, and hear the words of the wise, and apply thy heart unto my knowledge' (Prov. 22.17). It does not say 'unto their knowledge' but 'unto my knowledge.'"

R. Hanina said from here: "Hearken, O daughter, and consider, and incline thine ear; forget also thine own people, and thy father's house etc." (Ps. 45.10).

The verses contradict one another! There is no contradiction: In the one case an adult, in the other a child.

When R. Dimi came he said: "In the West (the Land of Israel) they say: Eat the date and throw the kernel away."

Rava expounded: "What is the meaning of the verse: 'I went down to the garden of nuts to look at the green plants of the valley?' (Song 6.11). Why are the words of Torah likened to the nut? To tell you that just as the nut, though it be filthy with mud and dung, yet are its contents not spoiled, so a scholar, although he may have gone bad, yet his Torah is not spoiled."<sup>47</sup>

Rabba bar Rav Shilah met Elijah. He said to him: "What is the Holy One, blessed be He, doing? He answered: "He utters traditions in the name of all the Rabbis, but not in the name of R. Meir. "Why?" "Because he learned traditions at the mouth of Aḥer." He said to him: "Of what difference is it to Him? R. Meir found a pomegranate; he ate its insides and threw away the peel." "Now that you said that He says it" (R. Meir's name).

This deliberation is prompted by the unrelenting demand that a teacher be beyond reproach, and only then is one allowed to study with him or her. This demand, based on the exegesis of Malachi 2.7, is attributed here to the Israeli amora Rabbi Yoḥanan, but in fact first appears in the tannaitic collection *Sifre Numbers*. It would seem, if we can trust these attributions, that the debate between Rabbi Yoḥanan and his partner Resh Lakish is over whether they still saw themselves as bound by this early requirement. Resh Lakish is of the opinion that there is only God's Torah, and the source of the knowledge is irrelevant. This innovative position is seconded not

<sup>47</sup> I have for the most part followed A. Goshen-Gottstein's translation in his fine study, *The Sinner and the Annesiac: The Rabbinic Invention of Elisba ben Abuya and Elazar ben Arach* (Stanford, 2000), 150–1, with a critical collation of manuscripts in the Appendix, 282–3.

only by individual rabbis, but is presented as the common wisdom of “the West,” the Land of Israel, which lies to the west of Babylonia. The Talmud firmly puts the matter to rest by having God sign up to the new accommodation. We will return to God as a student of Torah later on. For now, this section has eliminated what until then seemed to be a reasonable, albeit difficult, requirement – that a teacher both “preach well and practice (uphold) well” (Tos. *Yev.* 8.7).<sup>48</sup>

Understandably, the same debate took place with regard to entrance requirements for disciples. The classic source on this dispute is the midrash on *Avot*, called *Avot de-Rabbi Natan*, a book that has enjoyed the attention of many scholars.<sup>49</sup> There we read:

For the School of Shammai says: One ought to teach only him who is talented, meek and of distinguished ancestry and rich. But the School of Hillel says: One ought to teach every man, for there were many in Israel who had been sinners and were drawn to the study of Torah, and from them descended righteous (*zaddikim*), pious (*hasidim*), and worthy folk.<sup>50</sup>

It has been pointed out that the parallel version B deletes the word “rich.” Be that as it may, this represents a stark debate over admission procedures. One recent historian has attempted to locate the debate historically in the third century, despite the attributions to the first-century Schools of Shammai and Hillel.<sup>51</sup> This issue, “echoed” in Hellenistic schools of the time,<sup>52</sup> seems to me to be endemic to the learning of antiquity and I remain unconvinced by the well-argued attempt to locate the dispute in the third century.

Did women study Torah? Were they encouraged to study? There were ample factors that might have supported a movement to encourage women to study. First of all, the overall atmosphere of late antiquity allowed for higher-class Roman women to be educated, and such was the case with women attracted to Christianity. Thus, by way of example, we are told that

<sup>48</sup> Ben Azzai is castigated there for not practicing what he preached.

<sup>49</sup> Preserved in two main versions, a and b, as presented in S. Schechter’s critical edition, now reprinted with M. Kister’s valuable update and introduction (New York, 1999). Dating the work has proved to be an intractable problem, though Kister’s thorough and penetrating studies have illuminated many aspects of the problem: M. Kister, *Studies in Avot de-Rabbi Natan: Text, Redaction and Introduction* (Jerusalem, 1998) (Hebrew).

<sup>50</sup> I have used J. Goldin’s translation in his essay, “The Third Chapter of ‘Avot de-Rabbi Natan,” in idem, *Studies in Midrash*, 101.

<sup>51</sup> I. Ben-Shalom, “Torah Study for All or for the Elite Alone?” (Hebrew) in A. Kasher, A. Oppenheimer, and U. Rappaport (eds.), *Synagogues in Antiquity* (Jerusalem, 1987), 97–115, English summary, v–vi.

<sup>52</sup> Goldin, “Third Chapter,” 101 n. 5, on the basis of H. Marrou, *History of Education in Antiquity* (New York, 1956), 39f.; and W. Jaeger, *Paideia*, trans. G. Highet (Oxford, 1965), 1 368.



Rabbi Abbahu, a late third-century sage of Caesarea, quoted his teacher, the great Rabbi Yoḥanan, as permitting the teaching of Greek to one's daughter, "for it was an ornament for her" (PT *Peab* 1.16c). It is instructive that not only was this tradition disputed, but Rabbi Abbahu was accused of invoking Rabbi Yoḥanan's name in order to achieve his, Rabbi Abbahu's, goal of teaching his own daughter Greek! Moreover, and more important, is the fact that the Torah itself had legislated for at least one ceremony where both women and children were convened, along with the males, to hear the recitation of the Torah, albeit once every seven years (Deut. 31.12). This might have served as a precedent for allowing or encouraging women to learn Torah. But, in fact, this very source was interpreted as being against women's learning. Since the verse includes two verbs – "to learn" and "to hear" – the one was made to apply to the men ("to learn") and the other to women ("to hear"). The *Sifre to Deuteronomy*, which beautifully develops Deuteronomy's theme of teaching, brings the following exegesis: "you shall teach them to your children' (Deut. 11.19), your sons and not your daughters, the words of R. Yose b. Akiva" (*Sifre Deut.* 46).<sup>53</sup> The Mishnah does record a position that advocates teaching women Torah. "From here Ben Azzai says: A person is obligated to teach his daughter Torah, for if she drinks, she will know that her merits suspend for her" (M. *Sot.* 3.3). The context is of course the ordeal that a woman suspected of adultery undergoes, and Ben Azzai asserts that she should be taught Torah so that she would know that her merits can defer the effects of the ordeal – hardly a ringing endorsement of Torah studies for women! It is immediately countered by Rabbi Eliezer, who caustically replies: "He who teaches his daughter Torah teaches her lasciviousness." But one can make the claim that this source is focused on the specific problem of whether a woman should have access to all the information regarding the ordeal of the *sotah*, the suspected woman. This patronizing discussion, though, accentuates the foreignness of the concept of women studying Torah.

We do have exceptional cases of scholarly women in talmudic times. The most famous is, of course, the daughter of Rabbi Ḥananiah ben Teradion. The uniqueness of her position is that she is quoted in a distinctively legal discussion regarding the purity of a certain oven, and her tradition in the name of her father prevails over her brother's (Tos. *Kel.*, *Bava K.* 4.17). In another similar discussion of the purity of keys, a very similar debate takes place between Beruriah and her brother, this time independent of the father, and again Rabbi Joshua<sup>54</sup> prefers Beruriah's view. In the

<sup>53</sup> One might make the claim that this is the opinion only of the tanna to whom it is attributed.

<sup>54</sup> See S. Lieberman, *Tosefet Rishonim* (Jerusalem, 1939), III 35.

Babylonian Talmud, Beruriah<sup>55</sup> is identified as the daughter of Rabbi Ḥananiah ben Teradion and the wife of Rabbi Meir. In an extraordinary tradition in BT *Pesahim* 62b, Rabbi Yohanan relates a tradition that Beruriah had studied the Book of Genealogies for many years from many different rabbis. Certainly there were extraordinary women, especially those who were raised in scholars' homes, who may have been trained in Jewish law. But beyond the daughter of Rabbi Ḥananiah and some other sages' daughters, the evidence seems to indicate a bias against women studying the oral law.

Were non-Jews allowed to study Torah? Rabbinic literature records numerous discussions between Jewish sages and non-Jews. Among the latter, there are inquiries and discussion with "philosophers," with Roman politicians from the lower ranks to the Emperor himself, and with Roman women of high society, and also courtesans.<sup>56</sup> Certainly, public teaching had a pivotal role in the Jewish conversion movement,<sup>57</sup> though the extent of such a movement in rabbinic times is a matter of scholarly debate.

Tannaitic literature records rabbinic debate over whether one is allowed to teach Torah to a non-Jew. This debate is reflected in two tannaitic midrashim. The *Sifre to Deuteronomy* 33.4 states the following:

"The heritage of the congregation of Jacob." Read not "heritage" (*morasa*) but "betrothed" (*meorasa*): the Torah is betrothed to Israel and is like a married woman with respect to the nations of the world. Can a man rake embers into his bosom without burning his clothes? Can a man walk on live coals without scorching his feet? It is the same with one who sleeps with his fellow's wife; none who touches her will go unpunished" (Prov. 6.27–9).<sup>58</sup>

This view is in accord with Rabbi Akiva's position in Mishnah *Avot* 3.14, that the Torah is the instrument through which God created the world and was given to God's children, the People of Israel. Although Rabbi Akiva held that all people were created in God's image, he emphasized Israel's

<sup>55</sup> On the Beruriah traditions see D. Goodblatt, "The Beruria Tradition," *JJS* 26 (1975), 68–85. On women's study in general, see W. Horbury, "Women in the Synagogue," *CHJ* 111, 358–401.

<sup>56</sup> See M. D. Herr, "The Historical Significance of the Dialogues between Jewish Sages and Roman Dignitaries," *SchHie* 22 (1971), 123–50. L. Feldman, *Jew and Gentile in the Ancient World* (Princeton, 1993), and M. Hirshman, *Torah for the Entire World* (Tel-Aviv, 1999), ch. 10.

<sup>57</sup> Most recently, J. Levinson, "Bodies and Bo(a)rders: Emerging Fictions of Identity in Late Antiquity," *HTR* 93/4 (2000), 343–72; M. Goodman minimizes the conversion movement in his *Mission and Conversion: Proselytizing in the Roman Empire* (Oxford, 1994). A classic and, to my mind, balanced account is given by G. F. Moore in *Judaism: In the First Centuries of the Christian Era* (Cambridge, MA, 1927), I 321–53.

<sup>58</sup> I have followed Fraade's translation in *From Tradition*, 57.

privileged status as God's "children" and, therefore, sole heirs to God's legacy, the Torah.

In stark contrast, we have a famous source attributed to Rabbi Yirmiya in the *Mekhilta de-Arayot*. This is a section of the *Sifra* that treats the laws of incestuous relationships, in Leviticus 18–20, and is considered by scholars to have its origins in the school of Rabbi Yishmael. There we read:

"You should keep my laws and my statutes, which by doing a person (*ba-adam*) shall live" (Lev. 18.5). R. Yirmiya was wont to say, whence do you say that even a Gentile who "did" Torah, behold he is like the high priest? Scripture teaches (*talmud lo'mar*) "by doing this a person [shall live]." Priest, Levites, and the Israelites are not specified (rather Scripture says a person) . . .<sup>59</sup>

It is possible to limit this source to the observance of Torah rather than its study. But we have another source, the *Sifre to Numbers* 18.20, again from the School of Yishmael, that states explicitly:

You may say that there are three crowns: the crown of priesthood, and the crown of royalty, and the crown of Torah. The crown of priesthood, Aaron won it and took it. The crown of royalty, David won it and took it. The crown of Torah rests in place in order not to give those who come into the world an opportunity to argue, "Had the crowns of royalty and priesthood been in place I could have won them and taken them." The crown of Torah is a reproof for all those who come into the world [and would so argue], for whoever wins it I reckon it as if all three crowns had [remained] in their place and he had won them all.<sup>60</sup>

The position arguing that Gentiles are prohibited from studying Torah extends into amoraic times and is preserved in the terse but strident formulation of Rabbi Yoḥanan: "A Gentile who occupies himself with Torah is liable for death, as it says, 'The Torah Moses commanded us, an inheritance for the people of Israel' (Deut. 33.4), for us an inheritance, not for them" (BT *Sanh.* 59b).

It would appear that, as time went on, the view that seems to be associated with the School of Akiva prevailed. Gentiles were not allowed to study Torah, unless of course for purposes of conversion.

#### G GOD AND TORAH

As we intimated at the outset, Torah was given pride of place in what seems to be the dominant trend of rabbinic thought. We have seen *en passant* above

<sup>59</sup> See M. Hirshman, "Rabbinic Universalism in the Second and Third Centuries," *HTR* 93/2 (2000), 107.

<sup>60</sup> The translation is from *ibid.*, 106–7, where I have summarized the argument of the Hebrew monograph, Hirshman, *Torah for the Entire World*.

that it was the premier commandment according to some (M. *Peab* 1.1) and various *aggadot* presented God as pressing allegiance to Torah over and above allegiance to God's own self. S. Rawidowicz, in a powerful essay that traces the development of Jewish thought,<sup>61</sup> concentrated on what he considered to be the unique contribution of rabbinic thought to theology. The Rabbis insisted on portraying God as studying Torah and, even more specifically, as a student of the oral law of the Rabbis. Thus God's day is divided into four parts, according to BT *Avoda Zara* 3b. The first three hours are spent studying Torah; the next three in judgment; the next three in providing for the world; and the final three in play. God is depicted as quoting Torah in the name of all of the Sages, and eventually also in the name of Rabbi Meir, whose loyalty to his apostate teacher had nettled the Holy One. A debate over a law of purity in the heavenly *yeshiva* leaves God in opposition to the entire *yeshiva*. A call goes out to Rabba bar Nachmani, a Babylonian amora expert in matters of purity, who is to be consulted. One of the most well known rabbinic legends has God attaching crowns to the letters of the Torah in anticipation of Rabbi Akiva's ability to interpret what lies beyond the letters (BT *Men.* 29b). Rawidowicz claims that it was this theme of God studying Torah that lifted study to a new plane, and inspired generations of students and scholars to persevere in their extraordinary devotion to study.

Rawidowicz's insightful thesis is an important contribution to understanding rabbinic thought, most specifically the legends of the Babylonian Talmud. It is striking that little of his material, if any, derives from the Talmud and the midrashim of the Land of Israel. More research needs to be done to test whether the thesis holds also for those sources. Be that as it may, this Babylonian trend reflects the general view of most of the Sages in Israel and Babylonia, who believed that the main access to God in this period is through study. Thus, the Mishnah, in *Avot* 3.2, already contains the seeds of Rawidowicz's thesis and probably even the seminal verse from Scripture that influenced the development of those legends. There we read: "but two who sit and words of Torah are between them, God's presence (*shekhina*) is between them, as it says 'Then those who feared the Lord talked together, and the Lord paid heed and listened'" (Mal. 3.16).

This religious dimension of the study of Torah is beautifully presented in the *Sifre to Deuteronomy*, *piska* 49. There we read:

<sup>61</sup> S. Rawidowicz, *Studies in Jewish Thought* (Philadelphia, 1974). See also A. Marmorstein, "Essays in Anthropomorphism," in idem, *The Old Rabbinic Doctrine of God* (1937; repr. New York, 1968), 133–57; L. Finkelstein's preface to the reprint of S. Schechter, *Some Aspects of Rabbinic Theology* (New York, 1961), xix.

“[If, then, you faithfully keep all that I command you, loving the Lord your God, walking in all His ways,] and holding fast to Him” (Deut. 11.22): But is it possible for a person to ascend to heaven and hold fast to fire? For has it not been said, “For the Lord your God is a consuming fire” (Deut. 4.24), and it says, “His throne was fiery flames” (Dan. 7.9)? Rather hold fast to the sages and their disciples and I will account it to you as though you had ascended to heaven to receive it . . .

The expounders of *aggadot* say: If you desire to come to know Him who spoke and the world came into being, study *aggada*, for thereby you will come to know the one who spoke and the world came into being and hold fast to His ways.<sup>62</sup>

Torah was perceived to be the only avenue of access to God. It was God’s word.

Moreover, Torah was, according to Rabbi Akiva, the instrument through which the world was created (M. *Avot* 3.14) and was handed over to Israel. In a slightly later source, *Genesis Rabbah* 1.1,<sup>63</sup> the Torah is compared to the work tools of the master craftsman. God is portrayed here, albeit in metaphoric language, as handing over the tools of creation to God’s children, Israel. This ceding of creative power is echoed also in a similar construction in which God also relinquishes the powers of legislation. In the famous legend at *Bava Metsia* 59b, a voice from heaven favors the view of Rabbi Eliezer, but is peremptorily dismissed by Rabbi Yehoshua on the grounds that Scripture already stated that the Torah is “not in heaven” (Deut. 30.12). This is immediately followed by Elijah’s report that at that very moment God had grinned and said, “My children have vanquished Me” (*nitzchuni banai*).

I do not think that this approach conceived of an attenuated God. Rather, God had, according to this view, empowered Israel and entrusted into Israel’s hands the ultimate implement of creation.

Thus the study of Torah assumed different aspects. It is a form of piety but also an intellectually rigorous exercise. It can also serve as a mode of uniting with God, and finally, as a powerful instrument of creation.

#### H THE POWER OF TORAH

Numerous sources attribute enormous power to the study of Torah. If we recall again the story of Elisha ben Abuyah, Rabbi Meir makes the case that Elisha is to be saved or redeemed by God because of the merit of his Torah, regardless of the many and even heinous crimes attributed to him. The metaphor used there, and borrowed from the Sabbath laws, is that Elisha is

<sup>62</sup> I have followed Fraade’s translation in *From Tradition*, 92, with some changes to emphasize the root *dbk*, “hold fast.”

<sup>63</sup> Though a close parallel to this idea appears already in Philo.

viewed as a receptacle of Torah, and is to be saved from the fire of punishment just as the receptacle of Torah is saved from a fire on the Sabbath.<sup>64</sup>

This legend is seconded by a more theoretical discussion in the Babylonian Talmud, which gives a strong sense of the belief in the power of Torah. BT *Sotah* 21a records a debate over the relative reward of doing the commandments as opposed to the reward of Torah study. The source reads as follows:

Was it not taught (in a *baraita*)? This was expounded by R. Menachem b. Yosi: For the Torah is light and a candle the commandment (Prov. 6.23). The verse assigned (*talab*) the commandment to a candle and Torah to light – To say to you: Just as a candle only lights temporarily so a mitzva only protects temporarily; the Torah (is compared) to light to say to you that just as light protects forever so too Torah protects forever.

Another saying: Transgression extinguishes commandment. Transgression does not extinguish Torah, as it says, “mighty waters cannot extinguish the love” (Song 8.7).

Rav Yosef says, Commandments, at the time when one is engaged in them, they protect and save; when not engaged in them, they protect but do not save. Torah, whether at the time one is engaged in it or not, protects and saves.<sup>65</sup>

The salvific effects of Torah, along with its innate power, generated a series of statements from the early first-century sage Hillel to the later sages, warning the student to be extremely cautious with the Torah and to be mindful not to exploit its power for their own gain. It was this perceived power that prompted one sage to expound the very verse about the giving of Torah in the following way:

R. Yehoshua b. Levi said, “What is that which is written, ‘This is the Torah that Moses set (*sam*) before the children of Israel’? If one is worthy, a life-giving drug (*sam chaim*); if unworthy, a deadly drug (*sam mavet*).”

The Torah was powerful, and that demanded prudent use of its powers.

### III CONCLUSION

Though the Sages well knew that one day the “word of God,” prophecy, would cease and no longer be found (Tos. *Ed.*, 1.1) they believed no less that God’s revealed word remained in all its glory and potency. They imagined

<sup>64</sup> The very phrase “power of Torah” appears in this story as Elisha’s father confronts the powerful spectacle of the fire that surrounds sages who were studying Torah in a corner during Elisha’s circumcision.

<sup>65</sup> See E. E. Urbach, *The Sages*, trans. I. Abrams (Cambridge, 1987), ch. 16 n. 82.

God as actively “listening,” attending to their interpretations (M. *Avot* 3.2). If God was no longer speaking, God was listening to the interpretation of God’s written and oral words. The Torah, oral and written, was God’s word (*logos*), and closeness to God could be measured not simply by obedience to God’s word but by constant recitation and study of the word. As Yohanan Muffs has so incisively pointed out, the early psalmist yearned to sit in God’s house (Ps. 27.4) while the later psalmist (119) dreams of attachment to the law and the word. Torah became not only the national home of the Jewish people, as Leopold Zunz noted, but it was for them also God’s home. There were clearly sages with a more mystical inclination and those who were less mystically inclined, but most saw Torah study as the center of their religious world. Learning was relating to God.

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# MAN, SIN, AND REDEMPTION IN RABBINIC JUDAISM

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## I INTRODUCTION

The religious anthropology of the Sages of the rabbinic era, that is, their conception(s) of man, sin, and redemption, is one of the absolute foundations of Judaism both as a theological *Weltanschauung* and as a lived religious practice. In the present chapter an attempt will be made to offer a reasonable summary and exploration of these views.<sup>1</sup>

## II THE CONCEPT OF MAN

### A HUMAN BEINGS AS SERVANTS

The Rabbis began their reflections on the human condition with what they took to be the primal fact of human existence: human beings, like all else in the universe, were created by God and therefore are subordinate to Him. Thus, in explaining the reason for the Psalms selected to be read on specific days, Rabbi Akiva tells us:

On the first day they sang Psalm 24.1, “The earth is the Lord’s, and the fulness thereof,” because He had created and assigned it and was the Ruler in His Universe; on the second day they sang Psalm 48. 2, “Great is the Lord, and highly to be praised,” because He had then divided His works and was King over them; on the sixth day they sang Psalm 93.1, “The Lord reigneth; He is clothed in majesty,” because He had then finished His works and became King over them.

(BT *Rosh H.* 31a)

God’s creative, omnipotent and sustaining power over against humankind’s dependency and finitude necessarily, and rightly, places men and women in

<sup>1</sup> A few of the texts cited in this chapter received their final edited form after the end of the rabbinic era. For example, the *Tanbuma*, the *Avot de Rabbi Nathan*, and some of the midrashic collections such as *Midrash Psalms* and *Midrash Exodus Rabbab*, all most likely achieved their final form in the early medieval era. These texts, however, certainly contain material from the rabbinic era and are, by common usage, utilized in the decipherment of theological notions related to the rabbinic era.

a position of subordination. As the *Mekbilta* reports Moses to have declared: “[I will serve] Him by whose word the world came into being” (*Mekb. Amalek*, Exod. 18. 3 [ed. Lauterbach, 168 line 96]). God, not man, is the absolute Master and Maker of things, and all human beings are defined by this asymmetrical metaphysical circumstance.

Jews, the Jewish People, in addition, occupy a position of still further indebtedness. As a consequence of God’s covenant with the Patriarchs, and Israel’s redemption from Egypt as a result of this covenant (Exod. 23–2.5), the Torah openly and unambiguously declares that “unto Me the children of Israel are servants; they are My servants whom I brought forth out of the land of Egypt: I am the Lord your God” (Lev. 25.55). Furthermore, according to the Sages, by accepting the Torah at Sinai, Israel and individual Israelites accepted the “yoke of the kingship of God” (See *Sifra Lev.* 18.2.85d; *Mekb.* 20.3.67a; and *Sifre Deut.* 32.29.323).

Why were the Ten Commandments not said at the beginning of the Torah? They give a parable. To what may this be compared? To the following: A king who entered a province said to the people: May I be your king? But the people said to him: Have you done anything good for us that you should rule over us? What did he do then? He built the city wall for them, he brought in the water supply for them, and he fought their battles. Then when he said to them: May I be your king? They said to him: Yes, yes. Likewise, God. He brought the Israelites out of Egypt, divided the sea for them, sent down the manna for them, brought up the well for them, brought the quails for them. He fought for them the battle with Amalek. Then He said to them: I am to be your king. And they said to Him: Yes, yes.

(*Mekb.*, *Bahodesh*, Exod. 20.2 [ed. Lauterbach, 229 lines iff].)<sup>2</sup>

Thus, in rabbinic sources Jews are repeatedly referred to as God’s servants (see, e.g., BT *Bava K.* 7b; PT *Kidd.* 1.59d.31; BT *Kidd.* 22b; et al.).<sup>3</sup>

Though men and women, even as servants, always possess a free will – freedom of the will being an elemental feature of the rabbinic universe – their freedom should be exercised consistently with their ontological status as God’s creatures. They are of course free to ignore the divine will and the implications of the nature of their creaturely existence, but this is not a use of human freedom that the Rabbis see as appropriate, and is certainly not ideal. Rather, non-Jews, through the seven laws of Noah,<sup>4</sup> and

<sup>2</sup> See also *Sifrei Num.* 15.41.115.35; *Sifra Lev.* 11.45.47. For more on the idea of God’s sovereignty and its implications see ch. 22 in the present volume.

<sup>3</sup> In employing this image the rabbinic tradition obviously draws on the earlier biblical theme of Israel and humankind as God’s servants. See, e.g., Lev. 25.42; Isa. 41.8–9; 43.10; 44.1; Jer. 30.10; 46.27; and Ezek. 28.25.

<sup>4</sup> The “seven laws of Noah” derive from a rabbinic interpretation of a series of sources in Genesis, including Gen. 2.16; 3.5; 4.10–11; 6.2; 6.13; 9.4; 9.6; 21.25; 27.35–6 and

Israel, through the commandments of the Torah, are meant to bind their will to God's will such that a parallelism of interest and action comes to exist. "Make His wishes yours," the Sages encourage, "so that He will make your wishes His" (M. *Avot* 2.4). Ultimately, human freedom should be exercised in relation to an awareness that life is a gift for which men and women must take responsibility as a *trustee* rather than as an absolute, autonomous, owner. So, for example, consistent with this understanding of the human condition, the *halachah* proscribes suicide, for in an ultimate sense we do not own our own bodies. To repeat: human beings are free but, according to the Sages, this freedom – and its application – are limited by the sorts of beings we are and by the inescapable nature of our metaphysical dependence on the One who created us.

#### B HUMAN BEINGS AS MAJESTIC

Complementarily, rabbinic Judaism also takes the account of man given in Genesis (1.21–8) with the utmost seriousness: "So God created man in His own image [*b'Zelim Elohim*], in the image of God created He him, male and female He created them. And God blessed them and God said unto them, be fruitful and multiply, and fill the earth and subdue it, and have dominion over the fish of the sea, and over the fowl of the heaven, and over the beasts, and over all the earth." Accordingly, human beings are not only creatures brought into existence by the Almighty from "a putrefying drop" (M. *Avot* 3.1), but are also endowed, like their Creator, with intelligence, emotional sensitivity, freedom of will and action, and constructive and dynamic power.

Human beings, sharing in God's likeness, occupy a high and majestic rung in the created order. Indeed, God has given humankind extensive, though not unlimited, mastery over the terrestrial world that it shares with other beings (Gen. 1.26–8) and has made humans His copartners (*shuttafim*) in history (see BT *Sanh* 37a), assigning them the elevated task of completing the work of creation.<sup>5</sup> In consequence, Rabbi Simeon taught: "This is the book of the generations of man: in the day that God created man, in the likeness of God made He him – in this sentence is contained the essence of the Torah" (PT *Ned.* 41c; cf. also *Sifra Lev.* 19.18). Likewise, R. Akiva felt himself free to observe: "Dear [to God] is man, in that he

37.26–7. See Tos. *Av. Zar.* 8.4 and BT *Sanh.* 56b. They set out seven basic rules that all humankind is intended to observe. For more on this tradition see D. Novak, *The Image of the Non-Jew in Judaism: An Historical Constructive Study of the Noahide Laws* (New York, 1983).

<sup>5</sup> According to the Sages this process begins with Adam's naming of the animals in Gen. 2.19–20.

was created in the [divine] image; still more dear in that it is known to him that he was created in the image, as it is said, (Gen. 5.1) ‘in the image of God He made man’” (M. *Avot* 3.14).

Out of this awareness of humankind’s likeness to the Creator – as moral personality, as free agent, as rational being, as loving Other – come necessary obligations and opportunities for service, and the possibility of creating that human goodness that such service engenders. That is, being “like” God requires that human actors imitate His justice, His humility, His ways of mercy, His patience, His concern with suffering, and His love for others. Though men and women are “formed from the dust of the ground” (Gen. 2.7), this worthless dust, according to the Sages, has been shaped through God’s own workmanship into an *imago Dei* of high value.

Even choosing not to be “like God” reflects humankind’s likeness to the Creator. As autonomous beings, men and women are free to disregard the divine imperatives, are free to act either for good or for evil. Each person decides, in a real and material sense, what he or she will become.

As the famous teaching in M. *Avot* puts it: “Everything is foreseen, yet freedom of choice is given; and the world is judged by grace, yet all is according to the amount of the work” (3.19). Such freedom – even to oppose and to choose to do evil – is a necessary corollary of sharing in God’s image, of being moral creatures possessed with an original and real dignity.<sup>6</sup>

#### C ZECHUT: THE POSSIBILITY OF HUMAN MERIT

The positive biblical-rabbinic evaluation of human beings, of what human agents are capable of, engendered the rabbinic doctrine of *zechut* (merit), that is, the notion that men and women can do things worthy of God’s respect and for which God will reward them. The special capacities of human beings, who share by right in the enormity and dignity of God’s work, permit the possibility of their acquiring “merit” in God’s sight.

<sup>6</sup> An interesting indication of the deep rabbinic commitment to human autonomy comes, ironically, from the Sadducean–Pharisean controversy over the legal responsibility of a slave owner for the activity of his slave. The Sadducees held that a slave holder was legally liable for the actions of his slave, and this certainly appears a logical and juridically correct view. But the Pharisees opposed it on the grounds that slaves were human beings and therefore responsible for their actions. The Mishnah gives the opinion: “No, you may rightly make a master responsible for the damage done by his ox or his mule since these animals have no mind. But how can you make the master responsible for damage done by the manservant or the maidservant who have minds of their own?” (M. *Yad*. 4.6).

The doctrine of “merit” is a doctrine of reward. Individuals, as well as the Jewish people as a whole,<sup>7</sup> earn their reward and punishment as a consequence of their actions (or inactions). As the Tosefta teaches: “Happy is he who performs a commandment for he inclines (himself) towards the scale of merits, if he transgressed one thing, woe unto him, for he inclines towards the scale of guilt” (Tos. *Kidd.* 1.24 [ed. Zuckerman, 336]). The Rabbis, of course, knew that a simplistic reading of such a dogma of reward and punishment was “unbelievable” and that it was falsified by human experience. They therefore introduced other ideas and doctrines to account for the actualities of the human (and Jewish) situation, but in an absolute sense they always maintained the belief that in the totality of existence, including the governance of “the world to come,” there was a balance between one’s actions and one’s ultimate destiny. God, in some ultimate and just way, did respond to and reward the righteous and did punish the evildoer.

Consistent with this understanding, the Sages call the “righteous man” “men of works” (BT *Sot.* 49a; BT *Suk.* 51a, 53a; BT *Taan.* 24a), and throughout rabbinic literature the Sages use “deeds” interchangeably with “merit” (see *Exod. R.* 44.7; *Mekh.* 48a; and *Eccles. R.* 11.1). So important was “merit” that Rabbi Ḥanina ben Akashia tells us that God gave Israel the Torah and Commandments specifically so that Israel could gain “merit” (M. *Makk.* 3.16; and see also *Tanb.* 8.4.76; and *Num. R.* 15.2). As Rabbi Meir taught: “The study of Torah brings a man to merits and removes him from sin” (M. *Avot* 6.1; and see also M. *Ned.* 31a). Similarly, commenting on Numbers 8.2, the Sages teach: “God says to Moses: ‘Tell Israel, it is not for my need of light that I command you to kindle a light before me but in order that you may have merits’” (*Tanb.* 8.4.76; cf. Midrash *Tanb.* [ed. Townsend, 72]; repeated by Rabbi Acha in *Lev. R.* 31.7).

It is also relevant to note that the Sages did not narrowly define or circumscribe the realm of “merit.” In their universe, the Gentile nations and Gentile individuals are also capable of achieving *zechut*, and in fact do so. This understanding, for example, supplies the rabbinic rationale for the worldly power that various Gentile nations acquired. Thus *Genesis Rabbah* 66.7 ascribes the power of Rome to the merit of Esau gained for respecting his mother Rebecca.

Even the continued existence of the cosmos is not unrelated to human effort. In the *Midrash Haḡadol Genesis* 3a, Rabbi Ishmael asks: “For whose merit does the world exist?” And he answers: “For the merit of the righteous” (see also *Mekh.* 8a, *Mekh.* 27a, *Mekh.* 34a; *Tanb.* 81b; BT *Pes.* 5a;

<sup>7</sup> Thus, for example, the Sages explain the destruction both of the First and Second Temples and the nation’s exile from the Land of Israel as being the consequence of sin. See for example BT *Yoma* 9b. For a fuller discussion of this issue see ch. 7 in the present volume.

BT *Bava M.* 86b; *Gen. R.* 55.12; BT *Hull.* 88b). Likewise, as regards the history of Israel, Rabbi Akiva credits the division of the Red Sea by Moses to the merit of Jacob (*Mekh.* 29b; and *Exod. R.* 21.8), and argues, reflecting a common view of the Sages,<sup>8</sup> that God spoke to Moses and redeemed the Jewish people from slavery as a consequence of the merit of the People of Israel (*Mekh.* 2a). As to the question of what specific merit this Jewish People had, the Sages gave different answers.

Some suggested that they had only the inherited “merit of the Patriarchs,” invoking the doctrine of *zechut avot*, the “merit of the Fathers.” Rabbi Akiva, however, taught that the Exodus was due to the “merit” of the pious women of Israel in Egypt who, despite their enslavement, had maintained their faith and, in consequence, continued to have Jewish children even in the face of Pharaoh’s cruel decrees (BT *Sot.* 11b; *Lev. R.* 1.16). Complementarily, others argued, in a very interesting midrash, that: “in order to allow Israel to acquire [merit] before God so that God would have reason to redeem them, God provided them with two Commandments that would provide ‘merit’: (1) the Paschal sacrifice; and (2) circumcision” (see *Mekh.* 5a; this midrash is, in effect, invoking the principle: “without work there is no reward”; *Exod. R.* 19.6; *Song R.* 1.35; 1.57; 3.14; 5.3; 7.5). Rabbi Eliezer goes even further and teaches: “God said for the merit of the blood of circumcision and of the Paschal offerings have I delivered you from Egypt, and for these merits am I going to deliver you at the end of the fourth kingdom” (*Pirke de R. El.* 29.210).

It must be emphasized that this doctrine of “merit,” though a doctrine of reward and punishment, is not to be understood simply as a doctrine of necessary cause and effect. And this because the Sages did not want to deny or limit God’s freedom any more than they wanted to limit man’s. They certainly did not want to make it impossible to believe that God acts independently of human actions. Thus they paired the doctrine of “merit” with the repercussive theological notion of God acting “for His Name’s sake,” that is, God acting for reasons other than as a response to human behavior, and for His own reasons. (This possibility also allowed room for the inscrutable and inexplicable in human experience, that is, it made room in the universe for those acts and events that seem to mock rational explanation and that appear to contradict claims regarding the just ordering of the universe. See, for example, BT *Moed K.* 28a). So, for instance, every day during the *Amidah* (the standing prayer), the Jew prays: “and He brings the Redeemer unto their children’s children for His name’s sake

<sup>8</sup> The one dissenter to this view was Rabbi Huna Hakohen (*Midr. Pss.* 461). He does not, however, deny the doctrine of merit, as such; indeed, he invokes it in explanation of other events, excepting himself only with regard to the Exodus from Egypt.

in love” (see also *Mekh.* 29b; *Gen. R.* 60.2). Again, and still more broadly, the Sages taught:

“I will be gracious to whom I will be gracious” (Exod. 23.19). In that hour God showed Moses all the treasuries of the rewards which are prepared for the righteous. Moses said, “For whom is *this* treasury?” And God said, “For him who fulfils the commandments.” “And for whom is *that* treasury?” “For him who brings up orphans.” And so God told him about each treasury. Finally, Moses spied a big treasury and said, “For whom is that?” And God said, “To him who has nothing I give from *this* treasury”; as it is said, “I will be gracious to whom I will be gracious and I will show mercy on whom I will show mercy” (Exod. 23.19). (*Pes. de-R. K.* 99a)

For reasons of His choosing, not the least important of which is His unwavering concern for humankind and His unbounded love for Israel, the Divine acts, according to His own calculus, in human history. So we read in the *Tanhuma* that God says: “Even though a person is not worth answering, I shall show him loving-kindness since all my ways are loving-kindness” (*Tanh. Vayera* 4.1, on Gen. 18.1ff.; trans. cited from J. Townsend, *Midr. Tanh.*, 87).

Here we encounter another of the central dialectical tensions that define rabbinic Judaism: men and women must act in order for history to unfold, and yet God, too, must act because human initiatives by themselves are insufficient. But, and this is the essential error to be avoided, there is no disjunction, no either/or, between God’s activity – which we call grace – and the imperative of human action. It is not a matter of God’s grace *or* human action but rather of God’s grace *and* human action.

The Sages were neither moral philosophers nor metaphysicians as we today understand these designations, but in the doctrine of “merit” they were trying to reconcile a variety of grand metaphysical and ethical issues. On the one hand, the Sages knew, and taught, that God could act without human effort, striving, or merit, “for His Name’s sake.” God’s freedom of action was, of necessity, absolute and inviolable. However, at one and the same time, they argued that God would not proceed without reference to human behavior, because to do so would not be just, and “God is just.” Thus the Sages here draw together three central theological concerns: their conception of God’s nature, with all of its ethical and metaphysical attributes; their commitment to the significance of human deeds; and their unwavering belief in God’s *just* governance of our world.

### III THE NOTIONS OF SIN AND SINNING

We are now in a position to understand the rabbinic estimation of the concept of “sin” and, in section v that follows, the rabbinic doctrine of

“repentance.” The Sages’ views on these cardinal issues follow naturally and necessarily from their teachings on man’s free will and his majestic potential. Accordingly, they held that sin can arise only from a concrete situation in which human beings are able to make their own existential decisions. The volitional, that is, free, voluntary, activity of the sinner is the defining condition of sin. Sin is an act, not a state of being. It is something human beings *do*, not something they *are*. As such, sin, in its broadest sense, is understood in rabbinic tradition as the arrogant over-extending of the human will in contradistinction to the divine will, either in the form of omission (the willed refusal to fulfill one’s obligations), or commission (a willed act of defiance against the Almighty). For this reason the traditional understanding of sin conceives it, whether in the moral or religious sphere,<sup>9</sup> as rebellion against God, as exemplified in the sin of Adam and Eve. Thus the gravest sins are appropriately called by the Rabbis *meradim*, “acts of rebellion” (cf. BT *Yoma* 36b; *Sifra*, *Aḥarei Mot* 1.80d and 4.82a).

A brief analysis of the many biblical terms for “sinning” and their different uses reinforces this interpretation. In the Torah there are twenty words (depending how one counts) for “sin,” the most common being *ḥet*, *pesha*, and *avon*. The word *ḥet* alone appears 459 times in the Bible and generally carries the connotation of “missing” or “failing,” that is, failing to do one’s duty or keep one’s obligations in a relationship. The term *pesha* occurs 136 times in the Torah. Its most usual sense is of a “breach” in a contract or covenant. *Avon* appears 17 times and generally means “crookedness,” that is, wronging someone intentionally. In all three cases the basic sense relates to freely keeping or failing to keep covenant-Torah obligations. Whether in Adam and Eve or in their descendants, sin is sin precisely because it violates obligations entailed by the ideal of relationship between God and Israel, or God and humankind. In particular, it needs to be emphasized that the key fact involved in all of these conceptions of sin is that they are all rooted in the abuse of human freedom.<sup>10</sup>

The tragic consequence of sin is that it separates a human being from God. Sin corrupts and attenuates the human–divine relation. “But your iniquities have separated you and your God” (Isa. 59.2). (See here also Hag. 2.12; Ezek. 20.30; 23.37; 36.17). Reflecting on this condition of separation from the Divine caused by sin, the Rabbis concluded that all sin is, in a fundamental and overriding sense, the equivalent of idolatry because

<sup>9</sup> For the Sages, both morality and religious observance were rooted in the same transcendental source: God’s will.

<sup>10</sup> I note that many biblical sources locate sin in the heart, i.e., they present it as a willful decision by man to act against God. See, e.g., Isa. 6.10; 29.13; 63.10; Jer. 7.24; 11.8; 11.9–10; 16.12; 17.9; 18.12; 23.17.



sinful acts, in their disregard for the divine will, suggest a denial of the Creator. Thus the heretic is defined as a *kofer be-ikkār*, a person who “cuts (or denies) the root (principle),” meaning that he denies the existence of God and/or God’s concern with humankind.<sup>11</sup>

Sin – being a sinner – is a state that is caused by an action. Each person is responsible for himself and herself and is judged on the basis of his or her own actions. The biblical record emphasizes again and again the individual and volitional aspect of sin. Adam is punished for his sin (Gen. 63.17ff.), and Cain for his sin (Gen. 4.11–12), and so the pattern unfolds. We also see the same pattern in reverse when Noah is rewarded for his righteousness (Gen. 6.11; 6.22; 7.1), though everyone else of his generation is “evil continually” (Gen. 6.5; and see also on this issue Exod. 32.30; 18.20; Num. 32.23; Deut. 9.16). Each person’s fate<sup>12</sup> is in his or her own hands. Human beings are what they do. In this connection it should be noted, as the Rabbis already recognized, that it is imperative to take cognizance of the fact that nowhere in the Hebrew Bible is sin attributed to (a) sexuality, (b) creatureliness, or (c) the flesh *per se*. Sin is not a given but a consequence. Moreover, and consistent with this understanding of the cause and character of sin, this “stain” or “defilement” is not seen to corrupt the essential nature of men and women. Rather, like a spot on the menstrual garment, or filth on the body, it can be cleansed away,<sup>13</sup> because it does not belong to the essence of the thing, in this case the being of the human person. Individuals are judged pure or impure, good or evil, according to what they do, not what they are.

This understanding of sin and its consequences had two important corollaries for the Sages that should be mentioned here. First, the Rabbis firmly believed in the principle of *middab keneged middab*, “measure for measure.” Applying this to the fate of Israel collectively the *Sifre* instructs us:

One verse of Scripture says, “. . . the Lord lift up his countenance upon you,”  
and another verse of Scripture says, “. . . who will not lift up a face [and show favoritism]” (Deut. 10.17).

How can both of these verses of Scripture be carried out?

<sup>11</sup> This last position, that God is unconcerned with human beings and does not involve Himself in human affairs, is the view traditionally associated with the person known as an *apikoros* in rabbinic literature. The term derives from what the Rabbis took to be the position of the Greek philosopher Epicurus.

<sup>12</sup> Here I refer, of course, to a person’s individual relationship to God. Their historic experience as part of a community is a separate matter.

<sup>13</sup> This conception of sin seen figuratively as “filth” generates the symbolic act of washing, references to which abound in the Torah and rabbinic literature (see, e.g., Isa. 1.16; 4.4; Jer. 2.22; 4.14; Ps. 73.13; Lev. 14.8; 15.11; Num. 19.19; Job 9:28ff.; Zech. 13.1; Ezek. 18.15; 36:17–18; and *Tanb.* 9B17; *Song R.* 4.15; and *BT Sot.* 12b).

When the Israelites carry out the will of the Omnipresent, then, “. . . the Lord lift up his countenance upon you.”

But when the Israelites do not carry out the will of the Omnipresent, then, “. . . who will not lift up a face [and show favoritism]” (Deut. 10.17). [So Israel’s deeds make the difference.]

(*Sifre Num.* 42.2; ET J. Neusner, *Sifre to Numbers*, Numbers 6.22–7, I 195)

As to what determines the fate of the individual, the Mishnah in *Sotah* explains the matter very simply: “What measure a man metes it shall be measured unto him.” (See also *Sifre Num.* 106; BT *Sanh.* 100a; *Mekh.*, *Beshallah* 6; and Tos. *Ber.* 40a). Of course, the issue of reward and punishment, of *middah keneged middah*, is enormously complex, even deeply puzzling, not least because in our everyday experience we regularly see that “the righteous suffer and the wicked prosper.” To reconcile or overcome this grave theological dilemma, the Sages, who knew that experience appeared to contradict faith (see on this issue, e.g., BT *Ber.* 7a; M. *Avot* 4.15), usually argued that God does ultimately balance actions and rewards, but only in the hereafter. Thus M. *Avot* instructs the faithful: “Do not let your evil nature promise you that the grave will be your refuge: for despite yourself you were fashioned . . . and despite yourself you shall give account and reckoning before the King of kings, the Holy One, blessed is he . . . know that the grant of reward unto the righteous will be in the time to come” (2.16). (See also, e.g., BT *Kidd.* 39bff.; *Exod. R.*, *Pekude* 52.3; *Lev. R.*, *Emor* 28.1; and *Eccles. R.* 1.3). Now, however problematic this otherworldly “defense” of the doctrine that there is a tight relationship between deeds and rewards, it needs to be understood that the rabbinic appeal to it is indicative of the Rabbis’ commitment to the doctrine that God, as the perfect and righteous judge, punishes sin and rewards goodness. (See on this, e.g., *Sifrei Deut.* 307).

Second, rabbinic Judaism rejected the notion of “original sin.” The Sages were emphatic on this point. Thus they taught: “As the spirit was given to you pure, so return it pure” (BT *Shabb.* 152B). And again, “God says to man, ‘Behold, I am pure, and my dwelling-place is pure, and my ministers are pure, and the soul which I have given you is pure’” (*Lev. R.*, *Mezora*, 18.1; and see BT *Ber.* 10a). In effect, each man and each woman is a new Adam and a new Eve. Each person sins or does not sin by himself or herself and for himself or herself.

Evidence that the Rabbis spurned the doctrine of “original sin” is provided by the rabbinic claim that there had been a series of “sinless” individuals over the ages, the first of these being Abraham, whom most Sages considered to have been “perfect” and “righteous.”<sup>14</sup> There is a striking midrash on Adam’s sin and Abraham’s subsequent righteousness that is

<sup>14</sup> Though this is the view of the majority of rabbinic sources, there is some disagreement among the Rabbis as to whether or not Abraham was “without sin.”

particularly apposite in this context. In *Genesis Rabba* 14.6 (and see also 15.5) the Sages commented: “Why was Abraham not created before Adam? God said: ‘Perchance he (Adam) will sin, and there will be none to make amends (if Abraham existed before Adam). Behold I will create Adam first, and in case he sins, then let Abraham come and do good instead of Adam.’”

Nor was Abraham alone in “being without sin.” The rabbinic sources refer in a number of places to several “perfect” righteous men – the exact number and names of whom vary somewhat from source to source. Among the usual candidates are the Patriarchs, Elijah, and Enoch (see *Mekh.* 16.10.48a; *BT Ar.* 17a; *BT Sanh.* 101a). In particular, a general consensus existed regarding Elijah, concerning whom the midrash teaches: “Should anyone ask you whether Adam really would have lived for ever if he had not eaten from the forbidden tree, tell him that, as Elijah who did not sin lives for ever, so it would have been with Adam before him” (*Lev. R.* 27.4; see also *Pes. de-R. K., piska* 9.4). In addition, the names of other candidates for this distinction are found in a *baraita* in *BT Shabbat* 55b (and *BT Bava B.* 17a). Here the names of Jacob’s son Benjamin, Moses’ father Amram, David’s father Jesse, and David’s son Chileav are cited as having lived and died without sin. According to the majority view of the Sages, all of these individuals died because God had decreed this as the fate of all mortal beings, not because they had sinned and therefore forfeited their lives. As *Tanhuma, Vayeshev* 4 reports: “the angel of death was already created on the first day [of creation],” that is, prior to and independent of the creation of Adam and Adam’s sin. Likewise, the following dialogue is presented in *Sifre Deut.* 339:

“The Ministering Angels said to the Holy One, blessed be He: Sovereign of the universe, why did Adam die? He replied: Because he did not fulfill My commandment. They said to Him: But Moses did fulfill your commandments! He answered them: It is My decree, the same for all men, as Scripture states, ‘This is the law: when a man dieth’ (Num. 19.14).”

#### IV THE GOOD AND EVIL INCLINATIONS

In connection with this analysis of sin and sinning it is relevant to consider briefly the notions of the *yezer ha-ra* (the evil inclination) and the *yezer ha-tov* (the good inclination)<sup>15</sup> as these concepts were developed in rabbinic thought. For the Sages, recourse to these ideas was primarily an attempt to

<sup>15</sup> These terms derive from the use of the term *yezer* (“inclination” or “impulse”) in Gen. 6.5 and 8.21. The related term *yezer ha-ra* is common in rabbinic sources, while the term *yezer ha-tov* is found infrequently.

explain the origin of evil in human beings and the presence of evil in a world that God had pronounced “good.”<sup>16</sup>

In rabbinic literature there is, in the main, a clear association of the “evil inclination” with human passions and appetites. The consensus among the Rabbis locates the source of evil in the inability of human beings to control their sensuous natures.<sup>17</sup> At the same time, however, they did not view the sensuous nature of men and women as evil in itself.<sup>18</sup> Indeed, the Sages go so far as to comment on Genesis 1.31 – “And God saw everything that He made and behold it was very good” – that the words “very good” refer to the *yezer ha-ra*, the evil inclination. By doing so they wanted to call attention to the fact that the *yezer ha-ra* plays an absolutely essential role in human life.

“It was very good” (Gen. 1.31). R. Nahman b. Samuel said: That is the evil inclination. But is the evil inclination very good? Yes, for if it were not for the evil inclination, man would not build a house, or take a wife, or beget a child, or engage in business, as it says, “All labor and skillful work comes of a man’s rivalry with his neighbor.” (Gen. R., *Beresbit* 9.7)

Again, in the *Sifre*, the command, “Thou shalt love the Lord thy God, with all thy heart,” is interpreted, “with both thine impulses, the good impulse and the evil impulse” (*Sifre Deut.* 32, on Deut. 6.5; and see also *M. Ber.* 9.5 and *Tos. Ber.* 7.7).

The *yezer ha-ra* is the source of that ambition, aggression, and egotism that the world, as human habitat, requires. In *BT Yoma* 69b, the Sages give evidence regarding this truth. They report a curious incident in which the men of the Great Assembly (most commonly identified as living in the fifth century BCE, connected to Ezra) are said to have sought to kill the *yezer ha-ra*. Accordingly, they captured it and put it in prison prior to its execution, only to discover to their dismay that no egg was laid in the land for three days. Thus they came to understand that the *yezer ha-ra*, for all its explosive power and potential danger, is necessary for the maintenance and continuity of human existence. In itself the *yezer ha-ra*, as the source of passion, particularly sexual passion, can be the source of good. It becomes evil

<sup>16</sup> In a few places the Sages have God declare that creating the *yezer ha-ra* was an error. See, e.g., *Tanb. b.*, *Noah*, 15b; *BT Sukk.* 52b; *Gen. R.* 27.4; 34.10). This suggestion, of course, raises many fundamental theological problems that cannot be entered into here.

<sup>17</sup> More narrowly, following the lead in Gen. 6.5 and 8.21 – “for the inclination [yezer] of the human heart is evil from youth” – the Rabbis associate the *yezer* with the heart (*lev*). See here *Sifre Deut.* 32; *M. Ber.* 9.5; and *BT Ber.* 61b.

<sup>18</sup> There is, however, a rabbinic tradition that associates the “evil inclination” with birth and the “good inclination” with age thirteen, that is, with puberty and religious maturity: “They said, the bad *yezer* is thirteen years older than the good *yezer*” (*ARN* 116.62–3).

only when such passion breaks free of the mediating control of reason and conscience – phenomena intimately connected by the Rabbis with Torah and *mitzvot*. (See here ARNb 16.36; *Eccles. R.* 4.13–14; and *Midr. Ps.* to Ps. 9.2.)

The Sages, despite their realistic appreciation of the power of desire and the seductions of the flesh, nevertheless held that the “evil inclination” can be kept in check (see BT *Sanh.* 107b; BT *Sotah* 47a). With the requisite moral effort – and particularly when acting in consonance with the demands of the Torah – human beings can master and redirect their passions: “Raba said: Though God created the *yezer ha-ra*, He created the Law as an antidote against it” (BT *Bava B.* 16a; and see also BT *Kidd.* 30b; BT *Av. Zar.* 17a). Through self-control, human beings can come to subordinate, subjugate and redirect the “evil inclination.”<sup>19</sup> Thus in BT *Sanhedrin* we find the Rabbis putting the following words into the mouth of King David: “I could have controlled my evil desire if I had but earnestly willed it” (107a). And again, in Mishnah *Avot* we read: “Ben Zoma said ‘Who is mighty? He who subdues his *yezer* [inclination], as it is said, ‘He that is slow to anger is better than the mighty, and he that ruleth over his spirit than he that taketh a city’ (Prov. 16.32)” (M. *Avot* 4.1).<sup>20</sup>

<sup>19</sup> In BT *Er.* 13b there is the famous debate between the School of Hillel and the School of Shammai over the question whether it would have “been better for man not to have been created.” According to this source the discussion went on for two and a half years, at the end of which the Sages voted that it would have been better for man not to have been created. This teaching, however, is highly idiosyncratic, indeed exceptional; and, as Ephraim Urbach has correctly judged, “there is not the slightest indication of its influence on Tannaitic doctrine” (*The Sages*, trans. I. Abrahams [Cambridge, MA, 1987], 252). For further details readers should review Urbach’s entire argument, 252–4.

<sup>20</sup> For a full understanding of rabbinic thought it is also to be noted that, just as *zechut* had consequences not only for the individual but also collectively for the People of Israel so, too, sin affects the whole nation. This is most clearly articulated by the Sages in connection with the destruction of the First and Second Temples and the national exile that followed the defeat of 70.

Said Ulla, “Jerusalem was ruined only because they were not ashamed on account of one another: ‘Were they ashamed when they committed abomination? No, they were not at all ashamed, therefore they shall fall!’” (Jer. 6.15).

Said R. Isaac, “Jerusalem was ruined only because they treated equally the small and the great: ‘And it shall be, like people like priest’ and then, ‘the earth shall be utterly emptied!’” (Isa. 24.2–3).

Said R. Amram b. R. Simeon bar Abba, “Jerusalem was ruined only because they did not correct one another: ‘Her princes are become like harts that find no pasture’ (Lam. 1.6) – just as the hart’s head is at the side of the other’s tail, so Israel of that generation hid their faces in the earth and didn’t correct one another.”

Said R. Judah, “Jerusalem was ruined only because they humiliated disciples of sages therein: ‘But they mocked the messengers of God and despised his words and scoffed at

## V TESHUVAH: REPENTANCE

The rabbinic sources teach that sin, being a human volitional act, can be overcome or cancelled out only by another human volitional act called *teshuvah* (repentance). The term is derived from the Hebrew root *shuv*, which means “to turn”; thus *teshuvah* is understood to mean re-turning to God. Such an act, when sincere, indicates a true change of character, the willingness of the sinner to keep away from sin in the future, and a desire to enter into a renewed and close relationship with God (see Deut. 4.29–31). In consequence, the freedom at the core of the human personality can be seen to be a two-edged sword: it can rebel and it can repent. God’s exhortation, “choose the good so that you may live” (Deut. 30.19), is forever an open invitation to human beings to exercise their own power. Men and women do not have to look elsewhere, neither above nor below, for the power to turn either to or from God. Rabbinic Judaism believes in human possibility: an individual can return to a right relation with God through *teshuvah*.

The Sages valued *teshuvah* so highly, and conceived its place in the cosmic order as so essential, that they claimed that it was one of the seven things created even before the world.<sup>21</sup> God wanted to assure that a means of reconciliation between Himself and humankind was built into the very fabric of reality. For this reason, the Sages identify *teshuvah* as having been present in the very earliest moments in human history. So, for example, the Rabbis, commenting on the verse, “And Cain went out from the presence of the Lord” (Gen. 4.16), assert that at his trial Cain did *teshuvah* and was forgiven (*Lev. R.* 10.5). The Midrash then goes on to have Cain say to Adam: “I did *teshuvah* and a compromise was made on my behalf.’ When Adam heard this he gave himself a slap on the face and said, ‘So great is the power of *teshuvah* and I did not know it.’ And at that time Adam wrote Ps. 92.”

his prophets, until the wrath of the Lord arose against this people till there was no remedy” (2 Chron. 36.6).

And said Raba, “Jerusalem was destroyed only once faithful people had disappeared from among them, as it is said, ‘Run you to and fro through the streets of Jerusalem and see now and know and look in the spacious piazzas there, see if you can find a man, if there be any who does justly, who seeks truth, and I will pardon him” (Jer. 5.1). (BT *Shabb.* 119b–120a. I here use J. Neusner’s translation of this passage given in his *The Theology of the Oral Torah*, 493–4.)

In consequence of these wrongs, according to the Rabbis, Israel is alienated from its covenantal partner, and God banishes the Jewish people from the Land of Israel in order to force them to repent of their ways. At the same time the Divine Presence “ascended and dwelled in its place – as it is said (Hos. 5.15): ‘I will return again to my place [until they acknowledge their guilt and seek my face]” (BT *Rosh H.* 31a–b).

<sup>21</sup> The others being Torah, Gan Eden (Paradise), Gehinnon (Hell), the Throne of Glory, the Temple, and the name of the Messiah (BT *Pes.* 54A).

Accordingly, Rabbi Ishmael, summarizing the biblical teachings that became the rabbinic doctrine of *teshuvah*, taught:

(1) If a man has committed a sin against any one of the commandments of the Torah, even if only a positive one, no atonement and forgiveness will be granted to him by God unless he has repented, (2) and even chastisements inflicted by God do not purge away the sin without repentance. (BT *Yoma* 86a)

For the Rabbis, *teshuvah* was a foundational element in the created order of things.

The metaphysical notion inherent in the concept of *teshuvah* should here be clearly identified: *teshuvah* means that both the past and the future are open to change. Through *teshuvah* one opens a dialogue with Heaven going forward, and also, in some spiritual sense, “restores” the damage done in the past. In the words of the Rabbis:

See how lovely repentance is! The Holy One said (in Mal. 3.7): RETURN UNTO ME AND I WILL RETURN UNTO YOU. For, if there are some sins on one’s hand and that person returns to the Holy One, he credits him as if he had not sinned. Thus it is stated (in Ezek. 18.22): <NOT> ANY OF HIS SINS WHICH HE COMMITTED <SHALL BE REMEMBERED AGAINST HIM.>

(*Tanh.*, *Wayyera* 4.16, on Gen. 19.24ff., [trans. J. Townsend, 103])

Similarly, according to PT *Rosh Ha-Shanah* 59c, God promises that those who repent on Rosh Hashanah will become “new creations,” that is, their past misdeeds will be annulled, while the *Pesikta Rabbati* (ed. Friedman) 168a transmits the same promise to those who repent during the “ten days of repentance” that begin on Rosh Hashanah and climax on Yom Kippur.

For the Rabbis, at least four elements were involved in the process of *teshuvah*. First and most basically, an individual had to be aware of his or her sin. Therefore the first step was recognition, with all the personal humiliation this involved, of one’s misdeeds. All false pride and egotism had to be abandoned while a person truly confronted his or her past actions. Second, having recognized one’s sins, one must engage in a *sincere* inner “turning” towards God. Third, confession of one’s sin, first suggested in Leviticus 5.5; 16.21 and Numbers 5.6–7, was generally – though not necessarily – expected (see, e.g., Tos. *Sanh.* 9.5; BT *Sot.* 7b; PT *Yoma*). This act of confession was known as *viddui*. Fourth, where possible, the wrong that had been committed needed to be redressed and an appropriate penalty or fine paid to the individual who was wronged. (See on the biblical legislation concerning the acts of confession and restitution Lev. 5.20–4 and Num. 5.5–8.)

It is also relevant to note that in order to facilitate *teshuvah* the Rabbis extended the plain sense of the biblical teaching in Leviticus 5.23–4

regarding the restitution of stolen property. This is seen clearly in *M. Gittin* 5.5 and again in a *baraita* in *BT Gittin* (55a) where the issue is discussed. In both contexts the Sages adopted as *halachah* the position of the School of Hillel that monetary compensation was permitted as a form of redress in the case of theft, and rejected the view of the School of Shammai that the stolen article itself needed to be returned. And they ruled this way because they believed that this more lenient interpretation would encourage sinners to make restitution and repent.

## VI TESHUVAH, SACRIFICE, AND ATONEMENT

Let us now consider the important question of how the Sages understood the relation between the practice of sacrifice, the act of *teshuvah*, and the making of atonement. According to the *Tosefta*, “Sin offering and guilt offering and death and the Day of Atonement, all of them together do not expiate sin without repentance” (*Tos. Yoma* 5:9). This text reminds us that for the Rabbis sacrifice was not expiatory in the sense of *ex opere operato*. Instead, the Sages set out strict and detailed regulations governing the practice of sacrifice. They required that a person who brought a sin offering, in order for the offering to be effective, needed not only to supply the sacrifice but also to (1) repent; (2) make a public confession of his or her wrongdoing; and (3) return, if necessary, the items stolen or make amends through monetary payment for harm caused. On this last point, commenting on Leviticus 5.23–4, an ancient *baraita* (*Tos. Pes.* 3.1) recorded: “If he [the guilty party] brought [to the Temple] his guilt offerings and brought not the goods [and the priest slaughtered the ram and received its blood in the vessel], he stirs not the blood of the sacrifice until the sinner has brought the goods robbed; and the priest lets the sacrifice lie till its appearance indicates decay, when it is removed to the place of burning.”

The Sages, in effect, taught that even where it appears that the “sin offering” plays the essential expiatory role, the expiation produced by the sacrifice is, in fact, efficacious only because it involves the willing act of the sinner, understood as comparable or equivalent to *teshuvah*, in bringing the sin offering. Therefore a sin offering brought, for example, by someone anonymously for another is not expiatory. The sinner can gain expiation only as a result of his or her own offering, and this because it is in the act of offering that the repentance and hence the expiation lie (cf. *M. Yoma* 8). To hold that the act of sacrifice *necessarily* atones even if devoid of the penitential element is, for the Sages, to view biblical sacrifice as a magical category whereby God can be manipulated by formulaic patterns of behavior. (For more on this issue see *Deut.* 4.25–40; *Lev.* 26; *Amos* 4.46; 5:21ff.; *Hos.* 4.8f. 5.6; 8.11–12; 14.3f.; *Isa.* 1.11–12; 22.12–13; 28.7–8; *Jer.*



6.20; 7.21f; and the discussion among the Sages in *ARN* a4.5; *Sifre Deut.* 43 and 11.15).

In *BT Berachot* 23a the Rabbis build on this theme, interpreting the verse in Ecclesiastes 15.1 which refers to “the sacrifices of fools” as the sacrifice that is offered without repentance. They teach: “If you sin, bring an offering before Me. ‘And be ready to hearken’ (Eccles. 4.17). Raba said, Be ready to hearken to the words of the wise who, if they sin, bring an offering and repent. ‘It is better than when the fools give’ (Eccles. 4.17)! Do not be like the fools who sin and bring an offering but do not repent.”

The Sages also held that in the absence of the Temple (after 70 CE), and the elimination of the possibility of offering sacrifices, *teshuvah* was now the equivalent of, and the relevant substitute for, sacrifices.<sup>22</sup> Just as sacrifices had facilitated atonement because the act of offering them in an appropriate manner had reconciled the human and divine will (see *Sifre Num.* 143), so, too, *teshuvah* has the power to restore the relationship between the penitent individual and God. “You might think,” the Rabbis admonished their contemporaries,

that the Day of Atonement does not atone without the sacrifices and the goat: it does, because it says, “It is the Day of Atonement, to make an atonement for you” (Lev. 23.28); or you might think that the Day of Atonement atones for the penitent and impenitent alike, since both sacrifices and the Day of Atonement are efficacious in obtaining atonement. But just as sin offerings and trespass offerings atone only for those who repent, so, too, the Day of Atonement atones . . . for those who repent.  
(*Sifra* 102a)

Sincere repentance brings about both *kapparah* (acquittal) and *tabarah* (purity), and allows men and women once again to come close to God – the essential meaning of at-one-ment – even in the absence of the Temple cult.

R. Jose ben Tartos said: Whence can it be proved that he who repents is regarded as if he had gone up to Jerusalem, built the Temple and the altar, and offered upon it all the sacrifices mentioned in the Law? From the verse, “The sacrifices of God are a broken spirit” (Ps. 51.17) (*Tos. Zav.* 7.2).<sup>23</sup>

<sup>22</sup> Other acts were also said to stand in the place of sacrifice. Among them were prayer, charity, and Torah study. Death was also understood as making atonement; see, e.g., *Sifre Num.* 4; *Sifre Num.* 112; and *Sifre Zuta* to Num. 5.5–6. In addition, in *ARN* 4.11a, Rabbi Yoḥanan ben Zakkai, on seeing the ruined Temple, said to Rabbi Joshua: “My son, grieve not, we have a means of atonement that is like it, as it says in Hosea 6.6: ‘For I desire mercy, and not sacrifice.’”

<sup>23</sup> *Teshuvah* is also the trigger for national redemption just as it is for personal reconciliation with God, for the covenant between God and Israel has not been broken. “R. Aḥa in the name of R. Tanḥum b. R. Ḥiyya [taught]: ‘If Israel repents for one day, forthwith the son

## VII THE EFFECT OF REPENTANCE: REDEMPTION

Repentance brings human beings back to God. It reconciles the two parties and makes redemption possible. Repentance is something men and women can do, and is something that God, in His infinite love, wants human beings to undertake. God, as the Rabbis understand Him, did not create men and women in order to send them to eternal damnation. In consequence, consistent with this theological perspective, the Rabbis taught that the *Shechinah*, the “divine presence,” carried on the Mount of Olives across from the Temple Mount for thirteen and a half years after the destruction of the Second Temple in 70, proclaiming three times a day the words of Jeremiah, “Return, ye backsliding children, and I will heal your backsliding” (Jer. 3.22, recounted in *Pes. de-R. K., piska* 13.11 and *Lam. R.* 15b). For the Rabbis, Isaiah’s report of God’s plea to Israel, “Turn unto Me and I will turn unto you,” meant that God, being merciful, hears and responds to the longing of human beings to return to His love.

Redemption, however, unlike repentance, is understood to be an act of God.<sup>24</sup> But what kind of divine act is it? In rabbinic Judaism redemption is conceived of as an “earned response” – human beings *merit* redemption through their good deeds and through their “repentance.” This means that God responds to men and women after they have responded appropriately to Him. Human beings must take the first step – they must begin to “turn” to the Almighty and then He carries them, in love, the rest of the way. Of course God, in His graciousness, acts on behalf of humankind for the benefit of men and women, to a degree greater than required according to a strict measure because of His affection for His creatures. In this way, God’s mercy and loving-kindness transform the situation from one of “strict justice” to one in which divine compassion gives new, transcendental, value to human deeds and human destiny.<sup>25</sup>

of David will come” (PT *Taan.* 1.1). The full exploration of this basic theological issue, however, is outside the boundaries of the present chapter.

<sup>24</sup> In this context I refer to the redemption of the individual rather than national redemption, though in the latter case the same logic applies. “God said, ‘All depends on you. As the lily blooms and looks upward, so when you repent before me . . . then I will bring the Redeemer [and redemption]’” (*Mid. Pss.* on Ps. 45.1).

<sup>25</sup> The Rabbis, despite their commitment to the value of human deeds, were also certain that God’s mercy was nearly unlimited. Hence they taught that “all Israelites have a share in the world to come” (BT *Sanh* 10.1). Even sinners among the Jewish People are ultimately redeemed as a result of God’s love. This most divine response may also be understood as one of the consequences of the doctrine of *zechut avot* (the merit of the Fathers [Patriarchs]), which teaches that this patriarchal merit helpfully operates to the benefit of their descendants. Thus, even sinners within the Jewish People are not wholly devoid of

The dialectic of the covenantal bond, of God as a member of the community in relation, is nowhere more evident than in the repentance–redemption sequence. In Isaiah we read: “Let the wicked man forsake his way and the bad man his plans and let him return unto the Lord,” with the effect of his repentance being that “He [God] will have mercy upon him” (Isa. 55.7). For the Sages, this mutual activity involving both God and man perfectly characterized the process of redemption. In a striking midrash they taught: “It (man’s and God’s activity) is compared to the son of a King who was removed from his father’s house for a distance of a hundred days’ journey. His friends said to him, ‘Return to your father,’ whereupon he replied, ‘I cannot.’ Then his father sent a message to him, ‘Travel as much as is in your power and I will come the rest of the way to you.’ And so the Holy One, blessed be He, said, ‘Return unto me and I will return unto you’ (Mal. 3.7)” (*Pes. de-R. K.* 163b).

The *Midrash on Psalms* (85.3 [ed. Buber, 186b]) sums up this asymmetrical yet reciprocal situation as the Sages understood it: “When the Children of Israel said to God, ‘You return first,’ as it is said (Ps. 90.13) ‘Return, O Lord, how long?’ God replied: ‘No, but let Israel return first.’ Since you will not return alone, let us both return together, as it is said (Ps. 85.6) ‘Return (both of you), O God of our salvation.’”

The repentance of men and women may seem, in the larger order of things, an insignificant matter compared to God’s mighty act of redemption. Yet, despite the disproportion between the human deed and the divine response, the initiative from below is, for the Rabbis, a necessary part of the process. Man’s repentance is, to use a chemical analogy, the small catalyst without which the desired reaction cannot occur. Men and women must play their distinctive and necessary roles in their own redemption. As we read in *Song of Songs Rabbah*, “God says to Israel, ‘Open unto Me the door of repentance, be it even as narrow as the sharp point of a needle, and I will open it so wide that whole wagons and chariots can pass through it’” (5.2 and 5.5, and *Pes. de-R. K.* 163B).

## VIII CONCLUSION

The relationship between human beings and God, rather than the being of God alone, is the main subject of rabbinic concern. Thus, while religion, in general, and Judaism in particular, are regularly thought of as religious–metaphysical systems primarily concerned with the transcendent, the

some “merit.” Three classes of sinners were, however, excluded by the Sages from “the world to come.” They were: (1) those who deny the resurrection of the dead; (2) those who deny that the Torah is “from Heaven”; and (3) those who are “Epicureans,” by which is probably meant those who deny God’s providential ordering of creation (BT *Sanh.* 102b).

inescapable fact is that religion, and most assuredly rabbinic Judaism, is mainly concerned to understand – and prescribe – who men and women are and what they might become.

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# THE RABBINIC THEOLOGY OF THE PHYSICAL: BLESSINGS, BODY AND SOUL, RESURRECTION, AND COVENANT AND ELECTION

REUVEN KIMELMAN

## I THE RABBINIC THEOLOGY OF THE PHYSICAL

Rabbinic theology differs from contemporaneous Graeco-Roman theologies, Jewish or otherwise, in its emphasis on the physical as complement, not as contrast, to the spirit. It views the areas of corporeality, concreteness, and sensation as aspects of the religious realm. The rabbinic worldview focuses on the significance of the physical, whether it be the created world, the body, or the People of Israel. It affirms the physical as a medium of the spiritual. The physical is not overcome, superseded, or consumed in the spiritual. Rather the physical, the bodily, the carnal partake of the spiritual.

This appreciation of the religious significance of physicality is the hallmark of rabbinic Judaism and helps explain its approach to physical pleasure, the physical world, the physical body, the physical resurrection, and the election of the body of Israel. Indeed, it explains more about the distinctive theological positions of rabbinic Judaism than any other factor, for “rabbinic Judaism invested significance in the body which in the other formations were invested in the soul.”<sup>1</sup>

This appreciation of the religious significance of the physical focuses on the distinctive elements within rabbinic Judaism. It contrasts with those passages in rabbinic texts that overlap with the dominant Hellenistic view in the Graeco-Roman world,<sup>2</sup> or the dominant Zoroastrian view in the Babylonian world.<sup>3</sup> The concern here is with those dimensions that

<sup>1</sup> D. Boyarin, *Carnal Israel: Reading Sex in Talmudic Culture* (Berkeley, 1993), 5.

<sup>2</sup> See Boyarin, *Carnal Israel*, 1–10, 77–80; S. Shimoff, “Hellenization Among the Rabbis: Some Evidence from Early Aggadot Concerning David and Solomon,” *JSJ* 18 (1987), 168–73; and especially L. Levine, *Judaism and Hellenism in Antiquity: Conflict or Confluence?* (Seattle, 1998), 3–32.

<sup>3</sup> On the impact of Zoroastrian sexual views on Babylonian rabbis, see Y. Elman, “‘He in his cloak and She in her Cloak’: Conflicting Images of Sexuality in Sassanian Mesopotamia,” in R. Ulmer (ed.), *Discussing Cultural Influences: Text, Context and Non-Text in Rabbinic Judaism* (Lanham, MD, forthcoming).

managed to resist the hegemony of the dominant culture. Much of the authenticating material is cited from liturgical sources on the assumption that rabbinic liturgical theology embodies its consensual theology.

## II THE SAYING OF BLESSINGS

The rabbinic appreciation of the religious significance of the physical world comes through in their theology of blessings. The Torah declared that the world was “very good” (Gen. 1.31). In concretizing the biblical affirmation of the world, the Rabbis mandated blessings for just about everything in the sensual, aesthetic, and religious realms of life. Such blessings evoke in us the awareness of living in God’s world. Even more important from the rabbinic perspective, they awaken our consciousness to see the world as God’s temple. According to the Bible (see, e.g., Lev. 5.15), it is sacrilegious (*ma’al*) to misappropriate objects dedicated to the Temple for personal use. Such objects, however, may be used or consumed in the precincts of the Temple. Since the whole world can also be conceived of as God’s domain or temple, we could be charged with trespassing on the sacred were we to partake of it without proper authorization. The solution consists in the recitation of blessings.<sup>4</sup>

The blessing, according to rabbinic theory, can accomplish three things: (1) redeem the object for personal use, (2) acknowledge divine ownership and lordship, and (3) expand the precincts of the Temple to include one’s location. True, says the Talmud, “the earth and all its fullness are the Lord’s” (Ps. 24.1), but by acknowledging God’s ownership through the blessing formula “the earth is given over to humanity” (Ps. 115.16).<sup>5</sup> This solves the issue of ownership and access, precluding unauthorized use. It also solves the problem by conceiving the world as God’s temple (“the earth and all its fullness are the Lord’s”), which, through the blessing, has been made accessible to humanity (“the earth is given over to humanity”). Similarly, the Bible states: “The Presence (*kavod*) of God filled the tabernacle” (Exod. 40.34), whereas elsewhere it states: “His Presence fills the whole world” (Ps. 72.19). It is the transformation of the former biblical perspective into the latter that explains the third part of the tripartite formulation of the blessing: “Blessed are You, Lord our God, Sovereign of the world.”<sup>6</sup>

<sup>4</sup> See Tos. *Ber.* 4.1; PT 6.1.9d–10a; and BT *Ber.* 35a–b with B. Bokser, “Ma’al and Blessings Over Food,” *JBL* 100 (1981), 557–74; and idem, *Post-Mishnaic Judaism in Transition* (Chico, 1980), 49–52.

<sup>5</sup> BT *Ber.* 35a–b.

<sup>6</sup> On the formulization of the blessing, see R. Kimelman, “Blessing Formulae and Divine Sovereignty in Rabbinic Liturgy,” in R. Langer and S. Fine (eds.), *Liturgy in the Life of the Synagogue: Studies in the History of Jewish Prayer* (Winona Lake, IN, 2005), 17–22.

According to this blessing formulary, one's sense of self in prayer expands according to three co-ordinates, namely, God, community, and humanity.<sup>7</sup> This expansion of self can be charted as follows:

"Blessed are You"	= self	– God
"O Lord our God"	= community	– God
"King of the world"	= humanity	– God

In reciting the opening words of the blessing formulary ("Blessed are You"), I become aware of myself before God.<sup>8</sup> Since rabbinic Judaism stresses praying in the plural,<sup>9</sup> the "I" emerges into a "we" so that one immediately becomes aware of addressing God as part of a community ("O Lord our God"). The God we address, however, is not just our God, but ruler of the world ("King of the world"). Through these three stages of "I," "we," and "they," God serves as the catalytic agent that transforms self-consciousness into universal consciousness through the avenue of communal consciousness. By saying "King of the world," one makes God's providence coextensive with the world, allowing one to envision the world as God's temple. In doing so, one gains access to the precincts of the Temple, allowing one to partake of everything. All one has to do to gain access to the temple-world is mentally conceive of the world as God's temple and verbally make His presence palpable.<sup>10</sup>

The Babylonian Talmud mandates 100 blessings a day.<sup>11</sup> According to later speculation, the number corresponds to the 100 sockets that held together the structure of the ancient tabernacle.<sup>12</sup> Through recitation of blessings, the spiritual structure of creation becomes transparent.

The sensual and aesthetic blessings cover all five senses.<sup>13</sup> Some take note of good smell and taste. Others celebrate the spectacle of lightning, falling

<sup>7</sup> For the move from the individual to the community to humanity that is common in the liturgy, see R. Kimelman, "Psalm 145: Theme, Structure, and Impact," *JBL* 113 (1994), 37–58, especially 58.

<sup>8</sup> Based on the verse, "I keep the Lord always before me" (Ps. 16.8); see *Midr. Ps.* 16.8 (ed. Buber, 122 with n. 32); and S. Lieberman, *Tosefta Ki-Fshutab*, 10 vols. (New York, 1955–88), 1 60 n. 10.

<sup>9</sup> *BT Ber.* 29b–30a (Abayei); see Maimonides, *Mishneh Torah*, "Laws of Prayer," VIII 1. The principle goes back to Josephus, *Contra Ap.* 2.196.

<sup>10</sup> For conceptualizing the world as God's temple, see Philo, *De Leg. Spec.* 1.66; *Baruch* 3.24; *Mekh. Bo* 16 [ed. Horovitz and Rabin, 58, which cites Jer. 23.24; ed. Lauterbach 1 131, which cites Isa. 66.1]; and A. J. Heschel, *Theology of Ancient Judaism*, 3 vols. (1–11, London, 1962–5; 111, New York, 1995), 1 228–9 (Hebrew) (ET 268–9).

<sup>11</sup> *BT Men.* 43b; see *Tos. Ber.* 6.24 and *PT Ber.* 9.5.14d.

<sup>12</sup> Exod. 31.27, following J. Gikatilla, *Sha'are Orab*, 2 vols. (Jerusalem, 1970), 1 60.

<sup>13</sup> And were subsequently so categorized; see S. Abramson, *Inyyanot Be-Sifrut Ha-Gaonim* (Jerusalem, 1974), 142–3. On the frontpiece of a compendium of 100 blessings,



stars, majestic mountains and stretches of wilderness. The roar of thunder has its praise, the sight of sea and rainbow its response. Beautiful animals, indeed beautiful people, elicit blessings, as do trees in blossom, the new moon, new clothing, new houses (some even say the first taste of legitimate sexual delight), and on and on.<sup>14</sup> These blessings appear under various rubrics, the most common of which is the blessings for pleasure (*birkbot nebenin*). In the absence of sensual pleasure there is no blessing.<sup>15</sup> In fact, it is the experience of pleasure that mandates the mention of “King of the world” in the blessing.<sup>16</sup> Since we will be held accountable for forgoing those pleasures that God would have us relish,<sup>17</sup> it can be argued that “just as one who denies himself of wine is deemed a sinner, so one who denies himself of any (permitted) pleasure is a sinner.”<sup>18</sup> Indeed, one was castigated for seeking to add to the restrictions of the Torah.<sup>19</sup> Even those who allowed for such arrogation limited it to the circle of the Sages.<sup>20</sup> Thus the warning against self-mortification states: “One should always regard himself as if the Holy dwells in his inward parts.”<sup>21</sup> Any self-affliction that diverts one from doing God’s work is hence condemned.<sup>22</sup>

This idea that pleasure and religious virtuosity can be complementary is best illustrated in the rabbinic understanding of the Sabbath. The two most holy days of the calendar are the Day of Atonement and the Sabbath. Leviticus 23 designates both a Sabbath of Sabbaths, implying a total cessation of work, and a sacred occasion. This, however, ends their commonality.

*Meah Berakbot* (Amsterdam, 1687), there are pictures of one reciting blessings over each of the five senses: sight, hearing, taste, touch, and smell.

<sup>14</sup> See, e.g., PT *Ber.* 9.2.13b–c. According to Rabbi Judah: “In the spring when a man goes forth and sees trees swaying in the air, he says: ‘Blessed is He for having not deprived the world of anything and for having created in it beautiful creatures and lovely trees for the enjoyment of man’” (BT *Ber.* 43b; BT *Rosh H.* 11a). Similarly, the *Didache* contrasts Jewish and Christian practice by noting that Jews say: “You, almighty Lord, created all things for the sake of Your name, and You gave food and drink to human beings for enjoyment so that they would thank You” (10.3a).

<sup>15</sup> See *Tosafot*, BT *Pes.* 53b, s.v. *ein*; and D. Abudarham, *Tebillah Le-David*, ed. M. Baron (Jerusalem, 2001), 37.

<sup>16</sup> See Eleazar ben Judah of Worms, *Perushei Siddur Ha-Tefillah La-Roqeah*, eds. M. and Y. Hershler, 2 vols. (Jerusalem, 1992), 1:315 with n. 18.

<sup>17</sup> PT *Kidd.* 2.65d (end). For a contrasting position, see ARN a28, ed. Schechter, 43a, with n. 14.

<sup>18</sup> *Sifrei Naso* 30 [ed. Horovitz, 36]; BT *Taan.* 11a and parallels.

<sup>19</sup> PT *Ned.* 9.1.41b (R. Dimi in the name of R. Issac).

<sup>20</sup> See BT *Taan.* 10b with S. Lieberman, *Hilkoth Ha-Yerushalmi* (New York, 1947), 26 n. 30.

<sup>21</sup> BT *Taan.* 11a–b; see Rashi and *Tosafot* ad loc.

<sup>22</sup> BT *Taan.* 11a–b. According to *Seder Eliahu Rabbah* 15 (ed. Friedmann, 69), spurning the good life is an expression of ingratitude for divine bounty. For the sources and their contrasting positions, see Heschel, *Theology of Ancient Judaism*, 1:127–30 (ET 160–5).

Whereas the former, based on Leviticus 23.27 and Numbers 29.7, is characterized by a series of physical deprivations,<sup>23</sup> the latter, based on Isaiah 58.13–14 (“Call the Sabbath a delight and the holy day of the Lord”), is characterized by a series of physical indulgences. The former abstains from food and drink, while the latter promotes a threefold feasting accompanied by a blessing of sanctification over wine.<sup>24</sup> The former desists from conjugal relations, whereas the latter indulges.<sup>25</sup> In fact, the liturgy of the Sabbath states that those who taste the pleasure of the Sabbath will merit [eternal] life.<sup>26</sup> The liturgy also states that God “grants rest in holiness to the people sated with pleasure.”<sup>27</sup> The Day of Atonement exemplifies an understanding of the sacred that excludes physical pleasure, whereas the Sabbath represents a view of the sacred that engages and incorporates physical pleasure. This understanding of the Sabbath is a contribution of rabbinic Judaism.<sup>28</sup> In general, “Sanctification through ordered and directed

<sup>23</sup> BT *Yoma* 73a and 76b list five. The fact that rabbinic Judaism rarely advocates an asceticism based on the negating of the body or the forgoing of physical gratification for the attainment of a spiritual state does not imply that it opposes self-restraint or the disciplining of the appetites to achieve spiritual excellence. What is noteworthy is how little the asceticism of spiritual excellence produced an anti-body ideology.

<sup>24</sup> Indeed, pleasuring the Sabbath prohibited fasting (BT *Ber.* 31b), while mandating light (*Tanb.* [Buber] 1.27 [with n. 6], Tosafot, BT *Shabb.* 25a, s.v., *hadlaqat ner*), bathing, changing clothes, setting aside delicacies and quality food, partaking of three meals (something deemed salvific: BT *Shabb.* 118a–119a), imbibing wine (BT *Pes.* 101a), and ingesting a double portion of bread for at least one meal (BT *Ber.* 39b; *Shabb.* 117b). Indeed, the timing of supper should be altered to make it more delectable (BT *Shabb.* 119a). See Y. Tabory, *The Passover Ritual Throughout the Generations* (Israel, 1996), 149–51, 270–4 (Hebrew). In fact, Rabbis disagreed whether the Sabbath is primarily for pleasure (such as eating and drinking) or for the study of Torah; see PT *Shabb.* 15.3.15a; *Pes. R.* 13 (121a).

<sup>25</sup> See PT *Ket.* 5.13, 30b; and BT *Ket.* 62b, with M. Satlow, *Tasting the Dish: Rabbinic Rhetorics of Sexuality* (Atlanta, 1995), 278–80. Interestingly, the term the Bible uses for the deprivations of the Day of Atonement and the afflictions of Israel in Egypt – ‘*nb* – is applied by the Talmud (BT *Yoma* 74b) to sexual abstinence.

<sup>26</sup> *To ‘ameba hayyim zakbu*, the Sabbath Additional Service, *Seder Rav Amram Gaon*, ed. D. Goldschmidt (Jerusalem, 1971), 78, line 3, variant. Later commentators applied this to Sabbath food; *Mabzor Vitry*: R. *Simḥah me-Vitry*, ed. A. Goldschmidt [Jerusalem, 5764], 1 289, no. 10, or to conjugal relations (*Siddur Ha-Mequbal R. Hertz Shatz* [Eleazar Hertz Treves] 1560, repr. Israel, 1971, ad loc.).

<sup>27</sup> *Am medushnei oneg* (based on Isa. 55.2), Sabbath-night liturgy; see *Seder Rav Amram Gaon*, 64, line 8. See BT *Shabb.* 118b: “Anyone who enhances the pleasure of the Sabbath is granted an unlimited legacy.”

<sup>28</sup> Neither Philo, Qumran, nor early Christianity mention the pleasure factor in the Sabbath observance. Nor is it a factor in other Second Temple literature. For a comparison of the rabbinic, Qumranic, and early Christian understanding of the Sabbath, see L. Schiffman, *Reclaiming the Dead Sea Scrolls: The History of Judaism, the Background of Christianity, the Lost Library of Qumran* (Philadelphia, 1994), 275–82.

indulgence in pleasure (though not for pleasure's sake) is . . . a distinctive Rabbinic contribution to the history of Judaism."<sup>29</sup>

The assumption of all these blessings is that no aspect of the world is devoid of spiritual resonance. Through blessings, creation in all its variety is linked to the divine, a point made explicit in the first blessing of the daily *Shema* liturgy:

1. Blessed are You, Lord our God, Sovereign of the world,
2. (Who) forms light and creates darkness,
3. (Who) makes peace and creates all.
4. Who illumines the earth and its residents with mercy.
5. And with His goodness renews every day continually the work of creation.
6. "How numerous/great are Your works, O Lord, all of them You fashioned in wisdom, the earth is full of Your masterpieces."
7. O Sovereign (who) alone was exalted from then,
8. Praised, glorified, and elevated from days of old . . .
9. Blessed are You, Creator of the luminaries.

The agendum of the blessing is to persuade the worshiper of God's sovereignty by virtue of the order in creation. Accordingly, the blessing attunes the worshiper to the diurnal renewal of the wonders of the universe.<sup>30</sup> It works at sparking astonishment at the intricate, ingeniously formed creation while attributing the light and warmth of the daily sunrise to divine compassion. The argument revolves around solidifying the linkage between the experience of light and the idea of creation. Thus the expression, "Who illumines the earth" (line 4), evokes its parallel in Genesis 1.17: "To illumine the earth," depicting the function of the luminaries at creation. The result is that the individual experience of the daily transition from darkness to light parallels that of creation.<sup>31</sup> It is thus optimally said at sunrise.<sup>32</sup> Having just experienced the dark and the cold, the worshiper is predisposed to grasp the sun's rays as expressions of divine mercy, which

<sup>29</sup> S. Fraade, "Ascetical Aspects of Ancient Judaism," in A. Green (ed.), *Jewish Spirituality: From the Bible Through the Middle Ages* (New York, 1986), 276.

<sup>30</sup> The link between the Bible's mention of renewal – "You renew the face of the earth" (Ps. 104.30) – and the mention in the liturgy is that of Qumran in 4QBerakhot<sup>a</sup> (4Q286 3.4), which mentions the renewal of seasons and the renewal of the world that occurred after the Flood; see Nitzan, "The Textual, Literary and Religious Character of 4QBerakhot (4Q286–290)," 248.

<sup>31</sup> See Gen 1.2–3.

<sup>32</sup> Tos. Ber. 1.2; PT Ber 1.2.3c; *Midr. Ha-Gad.*, Num., 119 lines 2–3; and Rabbi Yohanan and Rabbi Zera at BT Ber. 9b, and 29b with Rashi, on the blessing, along with *Tur Orab Hayyim* 58 and *Bet Yosef*, ad loc. Note that Rabbi Judah disqualifies one who has never seen the luminaries from leading the recitation of the *Shema* (*M. Meg.* 4.6; *Tos. Meg.* [ed. Lieberman] 3.28), for having never enjoyed a sunrise (so *Tosafot, Rosh H.* 33a, s.v. *ha*) as

in turn bring to mind His goodness at renewing the works of creation (lines 4–5). Similarly, in a strophe of the paytanic (poetic) preface to this blessing on the Sabbath, it states, “Who illumines the whole world and its inhabitants which He created with mercy.”<sup>33</sup> It is precisely this perspective on sunrise that renders it a signifier of creation and makes creation present and available by experiencing it as renewed daily.

### III THE BODY AND SOUL

Rabbinic Judaism’s position on the body–soul relationship stands in contrast to that of Hellenistic Judaism as illustrated by its foremost thinker, Philo. Philo’s valorization of the soul over the body feeds into a religiosity that exalts the soul as the divine within and deprecates the body as nothing more than a garment at best and a prison at worst.<sup>34</sup> As Philo says:

For the essence or substance of that other soul is divine spirit, a truth vouched for by Moses especially, who in his story of the creation says that God breathed a breath of life upon the first man, the founder of our race, into the lordliest part of the body, the face, where the senses are stationed like bodyguards to the great king, the mind. And clearly what was then thus breathed was ethereal spirit, even an effulgence of the blessed, thrice blessed nature of the Godhead.<sup>35</sup>

This position that the soul partakes of divinity is revived in medieval kabbalistic thought.<sup>36</sup> The link from Philo to Kabbalah forms a Jewish neo-Platonic continuum that circumvents rabbinic Judaism.<sup>37</sup> Thus Philo promotes the immortality of the soul, whereas rabbinic Judaism promotes

opposed to the forensic consideration of falsely testifying to an event unseen (so *Tanh., Toledot* 7).

<sup>33</sup> *Seder Rav Amram Gaon* 71, line 4.

<sup>34</sup> Philo held, as did much of Graeco-Roman religion, the Platonic notion that the soul was entombed or imprisoned in the body. For more on this, see S. Mason, *Flavius Josephus on the Pharisees* (Boston, 2001), 162–5. For Philo’s asceticism, see Fraade, “Ascetical Aspects of Ancient Judaism,” 263–6, and literature cited on 282 n. 43. For a recent study on the body and soul in rabbinic Judaism with extensive bibliography, see B. Visotzky, “Anthropology I: Body and Soul,” 90–8, in his *Golden Bells and Pomegranates: Studies in Midrash Leviticus Rabbah* (Tübingen, 2003), 90–8.

<sup>35</sup> Philo, *De Spec. Leg.* 4.24 (LCL VIII 85); see idem, *On the Creation* (LCL I 107). For Philo’s views on the soul, see H. A. Wolfson, *Philo: Foundations of Religious Philosophy in Judaism, Christianity, and Islam*, 2 vols. (Cambridge, MA, 1968), I 389–95.

<sup>36</sup> See Nahmanides and Bahya b. Asher, *Commentary to Gen. 2.7*; Moshe Cordovero, *Pardes Rimmonim* (Jerusalem, 5722), XXXII/1 78a, with M. Halamish, “On the Origin of a Proverb in Kabbalistic Literature,” *Bar-Ilan* 13 (Ramat-Gan, 1976), 211–23 (Hebrew).

<sup>37</sup> See A. Altmann, “God and the Self In Jewish Mysticism,” *Judaism* 3 (1954), 142–6. The immortality of the soul was the pervasive belief of non-Pharisaic Second Temple Judaism. See Schürer, *HJPAJC* II 540, n. 93.

the resurrection of the dead. Indeed, it is not clear that immortality of the soul is part of early rabbinic Judaism at all. In any case, by the Byzantine period the *Gan Eden* (Garden of Eden) indicated a post-messianic reality with overtones of a divine treasury of souls.<sup>38</sup>

Rather than valorizing the soul as part of God, rabbinic Judaism valorizes the soul as analogous to God. Indeed, the soul is particularly worthy of praising God because it relates to the body in the same eight ways in which God relates to the world. Just as the soul permeates the body, bears the body up, survives the body, is unique, pure, seeing yet unseen, while neither eating nor sleeping, so God permeates the world, bears it up, survives it, is unique, pure, seeing yet unseen, while neither eating nor sleeping.<sup>39</sup> In sum, it is analogy, not ontology, that captures the relationship of the soul to God.

Not only is the soul in rabbinic Judaism less than divine, the body is more than a receptacle for the soul. While others of dualistic tendencies exalted the soul and denigrated the body, the Rabbis de-divinized the soul and de-demonized the body. The result enhanced the body–soul linkage. The tighter the link between body and soul, the greater the possibility of refining the body into a medium of the spiritual life. The rabbinic understanding of the image of God as including the body is evident in the following source:

“A man who is kind takes care of himself” (Prov. 11.17) refers to Hillel the Elder. Once when Hillel the Elder took leave of his disciples, his disciples said to him, “Master, where are you going?”

He responded, “To do a mitzvah (a religious duty).”

They said to him, “And what is that mitzvah?”

He said to them, “To take a bath in the bathhouse.”

They said to him, “And is this a mitzvah?”

He said to them, “Yes. Now with regard to the king’s statues, which are set up in the theaters and circuses, someone is appointed to scour and wash [the icons], and people pay him a wage on that account, moreover he is ranked with the great men of the realm, we, who are created in the image, in the likeness, as it is written, ‘For in the image of God he made man’ [Gen. 9.6], all the more so [should we bathe ourselves]!”<sup>40</sup>

Similarly, the Talmud promotes “the daily washing of one’s face, hands, and feet in honor of one’s Maker, as it says, ‘for in the image of God He made

<sup>38</sup> See S. Raphael, *Jewish Views of the Afterlife* (Northvale, NJ, 1994), 149–56; and S. Lieberman, “Some Aspects of Afterlife in Early Rabbinic Literature,” in *Harry Austryn Wolfson Jubilee Volume* (Jerusalem, 1965), 495–32.

<sup>39</sup> *Lev. R.* 4.8 (ed. Margulies, 96–8). <sup>40</sup> *Lev. R.* 34.3 (777).

man.’<sup>41</sup> Indeed, “A procession of angels pass before man wherever he goes, proclaiming: ‘Make way for the icon (*eikonion*) of God.’”<sup>42</sup>

Blessings are also used by the Rabbis to promote their understanding of the body and soul. The following blessing is recited after each bodily elimination of waste:

Blessed are You, Lord our God, Sovereign of the world, who with wisdom has fashioned the human, creating within him openings and closures, channels and cavities. It is well known to You that were one opening to close down or one closure to open up one could not exist in Your presence a single moment. Blessed are You, Lord, healer of all flesh, who sustains our bodies in wondrous ways.

The regular recitation of this blessing spurs awareness of ourselves as bodies. It instructs us to experience our body as a marvelous assembly of divine wonders. The intricate assembly of portable plumbing manifests an ingenious design attributable only to the great Designer. The recitation of the blessing after urination and defecation makes us aware of the delicate balance between well-being and illness as a function of a well-operating body. Precisely at the moment of the body’s vulnerability we become aware of its vitality and viability. Each moment of life, it asserts, depends upon the co-ordination of the contraction and the dilation of the ducts and tubes of our multifaceted channel system. So fragile is it that, were but one to clog up or be perforated, the system would shut down. All the more surprising is how rarely it breaks down. The thesis of the blessing is that the marvelous workings of the body evidence a body fashioned by the wisdom of God.<sup>43</sup>

The blessing on the soul, recited upon awakening, goes as follows:

My God, the soul You gave me is pure. You created, You formed it, You breathed it into me; You keep body and soul intact. And You will in the future take it from me and restore it to me in the hereafter. So long as the soul is within me I thank you, Lord my God, God of my ancestors, Master of all creation, Lord of all souls. Blessed are You Who restores souls to lifeless exhausted bodies.<sup>44</sup>

<sup>41</sup> BT *Shabb.* 3b following Rashi; see BT *Shabb.* 50b with Rashi, s.v., *bishvil kono*.

<sup>42</sup> *Deut. R.* 4.4.

<sup>43</sup> See BT *Ber.* 60b; PT *Ber.* 9.14b, with M. Bar-Ilan, “The Occurrences and the Significance of the *Yoser Ha’adam* Benediction,” *HUCA* 56 (1985), Hebrew section, 13–17. Similarly, the works of creation, as noted above in the first blessing of the daily Shema liturgy, are fashioned by the wisdom of God. The human body also reflects God’s consummate artistry; see *Sifrei Deut.* 307 (ed. Finkelstein, 344). Also, the Stoics when describing “the divine art and skill are always pointing to the human body, how everything about it is not only designed for use, but also for beauty” (Cicero, *The Nature of the Gods* 1.47). On the body as a functional masterpiece, see Bahya ben Joseph ibn Paquda, *Duties of the Heart*, second gate, ch. 5, ed. Moses Hyamson, 2 vols. (Jerusalem, 1970), 1:150–8.

<sup>44</sup> BT *Ber.* 60b; see 2 Kgs. 19.35; Isa. 37.36.

This blessing underscores that the soul God implanted in us<sup>45</sup> is in mint condition and thus should be returned as received.<sup>46</sup> Any marks or blemishes on it are ours. From this awareness wells up a sense of life-long gratitude, if not longer, for the micro-reunion of body and soul upon awakening adumbrates the macro-reunion that awaits the great awakening of the future. In the morning liturgy the blessings of body and soul are juxtaposed. The two together present a sense of self structured around two co-ordinates.<sup>47</sup> This composite sense of self explains the Midrash that when God came to create man on the sixth day He was in a quandary whether to create the last creation from the upper or lower realms, lest he upset the delicate balance between the number of creations from each realm.

So what did He do? He created him out of materials of both the upper and lower realms to maintain harmony, as it says, “Then the Lord God formed Adam of the dust of the ground” (Gen. 2.7) as one of the creatures of the lower realm. “And He blew into his nostrils the breath of life” (Gen. 2.7) as one of the creatures of the upper realm.”<sup>48</sup>

Since rabbinic Judaism characterizes the relationship between matter and spirit as one of polarity or complementarity, rather than as conflict or hostility, each has its own blessings. The result is the experience of the self as the juncture between body and soul, not the battlefield. Whether we are an ensouled body or an embodied soul, we are trustees of two gifts, care-takers of both. As water results from the combination of hydrogen and oxygen, so our personhood evolves out of the interaction of body and soul. Were we just souls we should be ghosts; were we just bodies we should be corpses. In actuality, the soul is the battery of the body.<sup>49</sup> Together, and only together, are we humans so endowed by our Creator. By reciting both blessings, one realizes that one’s self exceeds the body just as it exceeds the soul. This interplay of matter and spirit is what locates the human being on

<sup>45</sup> The verbs “created,” “formed,” and “breathed into” allude to their usage in the creation of Man in Gen. 1—2. Note that “formed” is based on Gen. 2.7, which in context relates to the body, and that is how *Gen. R.* 14.5 (eds. Theodor and Albeck, 128–9) understood it when it cites the various theories on the formation of the body. *Gen. R.* 14.4 (128, line 8) also applies it to the good and evil inclination.

<sup>46</sup> “The spirit will return to God Who gave it’ (Eccles. 12.7) – Give to Him as He gave it to you in purity, so you [return it] in purity” (BT *Shabb.* 152b); see *Lev. R.* 18.1 (400); and BT *Nid.* 30b.

<sup>47</sup> Compare Plato: “What constitutes our self in each of us is nothing other than the soul” (*Laws* 12:959a).

<sup>48</sup> *Lev. R.* 9.9 (174) and parallels.

<sup>49</sup> See A. Goshen-Gottstein, “The Body as Image of God in Rabbinic Literature,” *HTR* 87 (1994), 171–95.

the borderline of the divine. Indeed, it is the role of the body in constituting the self that enables it to play such a crucial role in prayer. Thus there are daily blessings for many of its operations, such as seeing, hearing, standing upright, stretching, dressing, and walking.<sup>50</sup> Indeed, major attention is given to the care and posture of the body in prayer.<sup>51</sup> In fact, the same verse, "Prepare to greet your God, O Israel" (Amos 4.12), was cited to mandate proper dress, clean hands, and the relieving of oneself before prayer.<sup>52</sup>

In so far as rabbinic Judaism diverged from the competing religious conceptions of the day, it resisted the divinization of the soul and the demonization of the body. It also resisted correlating the soul and body with good and evil. Instead it attributed human good and evil to the inclination for good and evil, without correlating them with the soul and body. It even held that the evil inclination can be pressed into the service of God.<sup>53</sup> Its positive attitude to the body has as its corollary an affirmative attitude to conjugal sex.<sup>54</sup> Apparently, affirmative positions with regard to the world, body, and sexuality<sup>55</sup> cluster together, as do their opposites.<sup>56</sup> There is thus no need for one to avoid sexuality, or for the soul to escape the body, to achieve salvation.

#### IV RESURRECTION

An anthropology that understands the person as a composite of the two poles of body and soul, neither of which is to be absolutely valorized over the other, lends itself more to the belief in resurrection than to that in

<sup>50</sup> BT *Ber.* 60b; see R. Kimelman, "The Blessings of Prayerobics," *The B'nai Brith International Jewish Monthly* (February 1986), 12–17.

<sup>51</sup> See ch. 22, 590–8, in the present volume.

<sup>52</sup> See BT *Shabb.* 10a; BT *Ber.* 23a; and L. Ginzberg, *Geonica*, 2 vols. (New York, 1968), II 114 line 9.

<sup>53</sup> See BT *Ber.* 60b; and *Sifre Deut.* 32.55 with n. 1. For the potential benefits of the evil inclination, such as building a house, taking a wife, and begetting children, see *Gen. R.* 9.7.4 (54).

<sup>54</sup> See Boyarin, *Carnal Israel*, 43–6.

<sup>55</sup> This is not to deny that rabbinic Judaism is androcentric. Still, rabbinic Judaism managed to avoid the extremes of misogyny and its attendant demonization of the female that characterized so much of Graeco-Roman religion, including other forms of Judaism. It has been argued that in androcentric cultures, attitudes to the body correspond to attitudes to the female. Thus, as rabbinic Judaism views the body and soul constituting the person, so it views the male and female as constituting the image of God in *Gen.* 1.28; see Boyarin, *Carnal Israel*, 42–6; and R. Kimelman, "The Seduction of Eve and the Exegetical Politics of Gender," *Biblical Interpretation: A Journal of Contemporary Approaches* 4 (1996), 1–39, 11–16; <[www.utoronto.ca/wjudaism](http://www.utoronto.ca/wjudaism)> (Summer 1998).

<sup>56</sup> This is the thrust of the thesis of E. R. Dodds, *Pagan and Christian in an Age of Anxiety: Some Aspects of Religious Experience from Marcus Aurelius to Constantine* (Cambridge, 1965).



immortality of the soul. This anthropology and vision of the future life contrasts with most of Second Temple Judaism, which, in valorizing the soul over the body, promoted the immortality of the soul.<sup>57</sup> (An exception is Josephus, who describes the soul as a loan from God and declares that those souls that remain spotless will, when the wheel of time has turned full circle, be returned to unsullied bodies.<sup>58</sup>) For rabbinic Judaism, the body

<sup>57</sup> Belief in resurrection seems to be the distinguishing belief of the pre-70 CE Pharisees (See Acts 23:8; Josephus, *Bell.* 2.8.14 [162]; *Ant.* 18.3 [14]) and that of the Rabbis afterwards, not to mention Christianity; see *ABD* v 688–91. Otherwise, allusions to resurrection of the body are rare and in most Second Temple literature nonexistent. This obtains also for Qumran. As Craig Evans writes: “Apart from [Messianic Apocalypse] 4Q521 and possibly 4QPseudo-Ezekiel<sup>b</sup> (4Q386), there is little evidence for belief in resurrection, especially resurrection of the body, in the Dead Sea Scrolls. According to 4Q521, God will ‘heal the wounded, give life to the dead, and proclaim good news to the poor.’ Here we hear echoes of Isaiah 26:19 (‘Thy dead shall live, their bodies shall rise. O dwellers in the dust, awake and sing for joy!’) and 61:1–2 (‘the LORD has anointed me to proclaim good news to the poor’). 4QPseudo-Ezekiel<sup>b</sup> quotes and paraphrases portions of Ezekiel’s dry bones vision (Ezek. 37:3–14), but it is not clear that Qumran’s version of this vision actually goes beyond canonical Ezekiel’s vision of national restoration to that of individual resurrection. 4Q246 may also refer to resurrection . . . After the warfare described in 2:1–3 the author writes: ‘Until the people of God arise and they all have rest from the sword’ (2:4). The text goes on to speak of an ‘eternal kingdom; peace, justice and God’s eternal rule’ (2:5–10). It is not clear, however, that ‘arise’ refers to resurrection. It may, but it may also refer to the ascendancy of the people of God over their enemies.” (“Qumran’s Messiah: How Important Is He?” in J. Collins and R. Kugler [eds.], *Religion in the Dead Sea Scrolls* [Grand Rapids, 2000], 135–49, quotation at 139.) Indeed, Qumran’s concern with angelification would exclude bodily resurrection. (See the discussion of “Angelomorphism at Qumran” in A. Segal, *Life after Death: A History of the Afterlife in Western Religion* [New York, 2004], 303–8.) 1 *Enoch* 90.10 and *Jubilees* 23 reflect resurrections of the spirit, not bodily resurrections with a return to life on earth. Even the phrase “to rise from sleep” from 1 *Enoch* 92.3 indicates “an awakening to wisdom and the righteous life that flows from it” (G. Nickelsburg, *1 Enoch* [Minneapolis, 2001], 432; see also J. Collins, *Apocalypticism in the Dead Sea Scrolls* [London, 1997], 110–29). Since 1 *Enoch* 22.13 denies that sinners will rise, it is inferred that the righteous will rise. Still, the text is unclear and corrupt; see Nickelsburg, 1 *Enoch*, 300–1. 1 *Enoch* 51.1–2; 4 *Ezra* 7.32; 2 *Baruch* 42.8; 50.2–3; and *Sib. Or.* 2.221–5; 4.181–4, do refer to bodily resurrection, but they are post-70 CE. Even the *Similitudes of Enoch* (31–71) may be that late. *The Life of Adam and Eve (Vita)* also mentions resurrection (10.2; 28.4; 41.3; 43.3), but the dating could be any time in the first four centuries. Admittedly, 2 *Maccabees* (7.9, 13; 12.43–5; 14.46) affirms the belief of the Maccabees in resurrection, but since this is not confirmed by 1 *Maccabees* – indeed, it is apparently denied (see 2.62–4) – it appears to be a retrojection of later Pharisaic belief; see J. Goldstein, *1 Maccabees*, AB XLII (Garden City, 1976), 12.4 *Maccabees* so advocates the immortality of the soul that the references to the resurrection in 2 *Macc.* 7 are omitted in the parallel material of 4 *Macc.* 8–14.

<sup>58</sup> Josephus, *Bell.* 3.8.5 (374); see Mason, *Flavius Josephus on the Pharisees*, 166–70. About a century earlier, Pseudo-Phocylides, who also refers (105) to the spirit (*pneuma*) as a loan from God (*Theou chrasis*) – also hopes for resurrection (103–4); see J. J. Collins, “Life after

and soul are both partners in crime as well as in virtue, and thus together constitute the responsible self. This idea comes across in the following rabbinic adaptation of a folklore motif:

R. Ishmael taught: [The matter of the soul's and body's guilt for sin may be] compared to the case of a king, who had an orchard, in which were excellent early fruits. He set two guards therein, one lame and one blind, to guard it. He told them, "Keep watch over the early fruits." He left them there and went his way.

The lame guard said to the blind one, "I see fine early fruits." The other said, "Come on, let's eat."

The lame one said, "Can I get about?" The blind one said, "And can I see?"

What did they do? The lame one rode on the blind one and they picked the fruit and ate them. Then they went back and each one took his original place. After a while the king came back and said to them, "Where are the fine fruit?" Said the blind man to him, "Am I able to see?" Said the lame man, "Am I capable of getting about?" What did the smart king do? He had the lame man mount the blind man, and sentenced them together. He said to them, "So you did when you ate the fruit." At judgment, the Holy One blessed be He will say to the soul, "Why did you sin?" And the soul will respond, "Lord of both worlds, was it I who sinned against You? It was the body's doing, for have I not been pure before You since I quit the body? (or: From the moment that I left it, have I committed a single sin?)"

So God will ask the body, "Why did you sin?" And it will respond, "Lord of both worlds, it is the soul that committed the sin, for from the day it left me, I've been as immobile as stone." What will the Holy One, blessed be He, do? He will put the soul back into the body and judge them as one.<sup>59</sup>

Here body and soul are both culpable; indeed, separately they are inculpable. Despite this alleged equipoise between the soul and the body with regard to accountability, the following source maintains the primacy of the soul as the responsible entity:

An analogy may be made to a priest who had two wives, one the daughter of a priest, the other the daughter of an Israelite. He gave them a measure of dough which was Terumah and they rendered it unfit. He took the daughter of the priest to task and left the daughter of the Israelite alone.

She [the daughter of the priest] complained, Mr. Priest, sir, you gave it to us together; why do you rebuke me and leave her alone?!

Death in Pseudo-Phocylides," in F. Martinez and G. Luttikhuisen (eds.), *Jerusalem, Alexandria, Rome: Studies in Ancient Cultural Interaction in Honour of A. Hilborst* (Leiden, 2003), 75–86. The Rabbis also associated the idea of the soul as a transcendent loan with resurrection; see *Midr. Pss.* 7.8; 25.2 (ed. Buber, 68, 210).

<sup>59</sup> *Mekb. de-R. Sh. b. Y.* (eds. Epstein and Melamed), 76–7, and *Lev. R.* 4.5 (87–9). For a comparison of the versions, see J. Moss, *Midrash and Legend: Historical Anecdotes in the Tannaitic Midrashim* (Piscataway, 2003), 183–4. For literature and discussion, see Visotzky, *Golden Bells and Pomegranates*, 91–4.

He explained to her, You are the daughter of a priest and were schooled [in handling Terumah] since childhood. She is the daughter of an Israelite and was not schooled since childhood. That is why I hold you accountable.

So in the future the Blessed Holy One will say to the soul, Why did you sin against Me? She will respond, Master of the Universe, the body and I sinned together; why do You take me to task and leave that one alone? God will tell her, You are from Above, a place where they do not sin; while the body is from Below, a place where they do sin. That is why I hold you accountable.<sup>60</sup>

Even here, where the soul is the primary culprit, the body remains an accomplice; after all, they did sin together.<sup>61</sup> It is instructive that even a text that argues for the primary accountability of the soul does not disparage the body. She remains the daughter of an Israelite.

Since the body and the soul comprise the self, without either exhausting it, their reunion is required for future judgment. Their reunion is so significant for rabbinic Judaism that the subject of resurrection constitutes the second blessing of the daily liturgical *Amidah*. The blessing makes the case for resurrection with a sixfold elaboration of the theme of God as reviver:

1. You are mighty forever, O Lord,
2. *Reviver of the dead* are You, of great saving power.
3. (causing the wind to blow and the rain to fall).
4. You sustain the living with kindness, *reviving the dead* with manifold mercies.
5. [You] support the fallen, heal the sick, free the fettered.
6. *And maintains His faithfulness with those asleep in the dust.*
7. Who is like You, O Powerful One, who can compare with You?
8. A king who slays and *revives*.
9. and causes salvation to sprout.
10. Faithful are You *to revive the dead*.
11. Blessed are You, O Lord, *reviver of the dead*.

The argument rests on culling the intimations of resurrection which punctuate the course of life. By methodically amplifying the wonders which daily attend us, the blessing enables the worshiper to perceive the divine workings behind the natural course of events.

Strophes 1–2 make the point that even death cannot forestall a divine power that is for ever and salvific.<sup>62</sup>

<sup>60</sup> *Lev. R.* 4.5 (90–91). <sup>61</sup> See Visotzky, *Golden Bells and Pomegranates*, 95.

<sup>62</sup> For its possible biblical allusions, see L. Ginzberg, *A Commentary on the Palestinian Talmud*, 4 vols. (New York, 1941–61), IV 191 (Hebrew). The argument for resurrection from the omnipotence of God is frequently appealed to by Church Fathers; see Henry Chadwick, "Origen, Celsus and the Resurrection of the Body," *HTR* 41 (1948), 83–9.

Strophe 3, like strophe 9 with its symbolic use of the agricultural metaphor “sprout,”<sup>63</sup> associates resurrection with rain and seasonal change. If the “Bringer of rain” can wondrously awaken to life the seed that slumbers in the soil, so can He awaken the dead to new life.<sup>64</sup> It is possible that behind this image lies the comparison of human life with a seed. Such a comparison would allow death, burial, and decomposition to be seen as preparatory stages in the process of rebirth, and germination. Together they constitute a paradigm for resurrection.

An alternative version of strophe 3, recited during the summer, reads: “Who brings dew.”<sup>65</sup> Similarly, here or in blessing 9, the phrase “King who revives all with rain” was changed in the summer to “King who revives all with dew.”<sup>66</sup> Its location here reinforces the motif of resurrection as it evokes Isaiah’s association of dew with resurrection: “Your dead shall live, their corpses shall rise. O dwellers in the dust, awake and sing for joy! For your dew is a radiant dew and the earth will give birth to those long dead” (Isa. 26.19, NRSV).<sup>67</sup>

Strophe 4 draws the connection between the miracle of sustaining life in the present and reviving it in the future. The choice of liturgical terminology creates a continuum between the miracle of the future and that of the present. True, rebirth does require “manifold mercies,” but life itself requires the sustaining kindness of divine grace.<sup>68</sup> Viewing resurrection as but an extra dose of divine mercy enhances its plausibility. The other assumption is that rebirth is not that much more miraculous than birth.<sup>69</sup> As the Talmud argues: “If what was not can be, all the more so what was

<sup>63</sup> The expression “causes to sprout” is, as would be expected, also associated with blessings for food from the ground; see *Tos. Ber.* 4.4.

<sup>64</sup> The probatory nature of the argument for the seasonal agricultural revival is emphasized by Rabbi Yom Tov ben Abraham Ishbili, *Hiddushei Ha-RITBA, Massekhet Ta’anit*, ed. E. Lichtenstein; and *BT Taan.* 2a. Amoraic literature explains the tannaic mandate of associating rain with resurrection (*M. Ber.* 5.2, *Tos. Ber.* 3.9) by their comparability (*BT Ber.* 33a), for both bring life to the world (*PT Ber.* 5.2.9a; see Ginzberg, *Commentary*, IV 148–51).

<sup>65</sup> *Seder Rav Amram Gaon* 24 n. 9 (MS M).

<sup>66</sup> *Siddur R. Sa’adya Gaon*, eds. I. Davidson, S. Asaf, and B. Joel (Jerusalem, 1970), 22.

<sup>67</sup> See *BT Sanh.* 90b. For the various connections between dew and resurrection in rabbinic literature, see B. (R.) Kern-Ulmer, “Consistency and Change in Rabbinic Literature as Reflected in the Terms *Rain* and *Dew*,” *JSJ* 26 (1995), 55–75, especially 71–4.

<sup>68</sup> As J. Albo, *Sefer Ha-Iqqarim* IV 35, notes, the first blessing of the Grace after meals also underscores the idea that providing food for all entails special divine grace and kindness, an idea attested in *Job* 10.11, and in *BT Pes.* 118a, which cites *Ps.* 136.25. The probatory nature of the argument is underscored by Judah ben Yaqar, *Perush Ha-Tefillot Ve-Ha-Berakhot*, 2 vols. (Jerusalem, 1968), II 81.

<sup>69</sup> See Rashi, *BT Pes.* 68a, s.v. *keiv*. The homology between birth and rebirth is already noted by Seneca, *Epistulae Morales*, 102.23.

can be."<sup>70</sup> Or: "Just as the womb receives and returns, so the grave receives and returns."<sup>71</sup> In this sense resurrection is a re-nascence of the body. The link behind strophes 3 and 4 is reflected in the rabbinic insistence that the keys to life-giving rain, to birth, and to resurrection are exclusively in the hands of God. Only divine power can unlock the heavens, the womb, and the tomb.<sup>72</sup> By harking back to an Isaianic image of viewing the quickening of nature as life-producing, the strophe is able to compare the awakening of a dormant nature with the process of rebirth.<sup>73</sup>

Strophe 5 consists of adaptations of expressions from the book of Psalms,<sup>74</sup> the first two of which have been slightly altered to conform to the liturgically apt third. They appear together only here.<sup>75</sup> They deal with the fallen, the sick, and the imprisoned. If left to languish, all have in common a proximity to death. They may be in a descending order toward death, reflecting in reverse an ascending order toward resurrection. The

<sup>70</sup> BT *Sanh.* 91a. The argument is already enunciated by the mother of the seven sons in 2 Macc. 2.22–3, on which Jonathan Goldstein comments: "Surely it is more conceivable that existence can be restored to what previously existed than that existence should be conferred on what did not exist! Therefore resurrection is *more conceivable* than the creation and than human reproduction!" *II Maccabees* (Garden City, 1983), 311. See BT *Sanh.* 90b–91a. The Church Fathers also advanced such arguments. In the second century, Justin argued: "But as in the beginning you would not have believed it possible that from a little sperm such persons could be produced, and yet you actually see that they are, so now realize that it is not impossible that human bodies, after they are dead and disseminated in the earth like seeds, should at the appointed time, at God's command, arise and assume immortality" (*Apology* 1.19). The third-century Minucius Felix says: "It is, therefore equally possible for him to be restored from nothing as it was for him to be born from nothing. Besides, it is a much more difficult task to begin something that does not exist than to repeat something that once existed." *Octavius* 34.9 (ed. G. W. Clarke, 116). Similarly, the fourth-century Cyril of Jerusalem states: "Cannot He, who brought what was not into being, raise up again that already in existence which has decayed?" *Catechetical Lectures*, 4.30 (*The Works of Saint Cyril of Jerusalem* 1 134).

<sup>71</sup> BT *Sanh.* 92a.

<sup>72</sup> BT *Taan.* 2a and *Gen. R.* 73.4, (848) with parallels. See Kern-Ulmer, "Consistency and Change in Rabbinic Literature," 68–71.

<sup>73</sup> See Isa. 26.17–19; 66.7–9. The argument must have been pervasive, as Job (14.7–14) argues against it.

<sup>74</sup> Pss. 145.14; 103.3; 146.7.

<sup>75</sup> The order of the triad is constant across most of the versions. For partial parallels, see the Qumran *Messianic Apocalypse* (4Q521, fragment 2 ii+4) whose line 8 reads: "He frees the captives, opens the blind, raises up the bent," and whose line 12 reads: "He will heal the sick, revive the dead, and give good news to the poor"; and Matt. 11.5 = Luke 7.22: "The blind will see, the lame walk, the lepers cleansed, the deaf hear, the dead raised, and the poor receive good news"; see D. Flusser, "The Second Benediction of the Amida and a Text from Qumran," *Tarbiz* 64 (1995), 331–4; and L. Schiffman, *Reclaiming the Dead Sea Scrolls*, 347–8.

Bible also compares the taking of life and its restoration with wounding and healing on the one hand, and with bringing down and raising up on the other.<sup>76</sup> In any case, their own reversals, when they occur, represent miniature, if not preliminary, resurrections. Since a dead person so often was one who had previously fallen prostrate, overcome by terminal disease, or abandoned in prison, these occasions of reversal point to God's capacity to change the natural course of events.<sup>77</sup>

Moves toward death anticipate death as moves toward life anticipate resurrection. The assumption is that God's capacity to cure prefigures His capacity to resurrect, recoveries and revivals being on the same rescue continuum.<sup>78</sup> Establishing a continuum of wonder between rescue from sickness and rescue from death<sup>79</sup> smoothes the way to affirming that God can engineer that greatest of all rescue operations – release from death.

National restoration cannot exhaust the meaning of this strophe. Were national restoration then available as evidence of a reversal of fortunes, an allusion to Ezekiel 37 would have been in order. In actuality, national restoration is, as blessings 10–15 of the *Amidah* demonstrates,<sup>80</sup> as much in

<sup>76</sup> Deut. 32.39 and 1 Sam. 2.6; see L. Greenspoon, "The Origin of the Idea of Resurrection," in B. Halpern and J. Levenson (eds.), *Traditions in Transformation: Turning Points in Biblical Faith* (Winona Lake, 1981), 247–321, especially 310, 315, along with the discussion at BT *Pes.* 68a.

<sup>77</sup> Asher ben Saul, *Sefer Ha-Minbagot, Sifran Shel Risbonim*, ed. S. Assaf (Jerusalem, 1935), 135, apparently following his older contemporary Rabbi Meir of Rothenburg (*She'elot U-Teshuvot MaHaRaM b. R. Barukh*, #1018, 150b), who noted that the triad is composed of diminutives of resurrection. Recuperation and release from prison are also linked by a blessing of gratitude in BT *Ber.* 54b and *Midr. Pss.* 107.5, whereas God is praised for resurrecting the dead, raising the fallen, and releasing the imprisoned in a *heikalot* blessing (cited in M. Bar-Ilan, *The Mysteries of Jewish Prayer and Hekhalot* [Ramat-Gan, 1987], 88 n. 11 [Hebrew]). Also the second-century Roman novelist, Apuleius (*Metamorphoses* 10.12; cf. 2.28) compares the restoration of the dead to life with the liberation from captivity and the restoration of full citizen rights; see G. W. Bowersock, *Fiction as History: Nero to Julian* (Berkeley, 1994), 109. On the other hand, *Pirkei de-R. El.* 31 associates the loosening of the bonds of Isaac with the blessing for resurrection; see RaDaL, ad loc., 71b n. 56.

<sup>78</sup> A similar association of recovery with redemption is created by the juxtaposition of the two in the second unit of the first blessing of the morning *Shema* liturgy; see *Seder Rav Amram Gaon* 13, line 18. The argument for resurrection from recovery was also made by the late second-century Church Father Theophilus of Antioch (*Ad Autolyicum* 1.13); see R. Grant, "Theophilus of Antioch to Autolyucus," *HTR* 40 (1947), 227–56, 229–30.

<sup>79</sup> See BT *Ned.* 41a.

<sup>80</sup> See R. Kimelman, "The Literary Structure of the *Amidah* and the Rhetoric of Redemption," in W. G. Dever and E. J. Wright (eds.), *Echoes of Many Texts: Essays Honoring Lou H. Silberman on His Eightieth Birthday*, Brown Judaic Studies 313 (Atlanta, 1997), 171–218, especially 193–5.

need of reinforcement as resurrection. Only the individual condition accounts for the resurrection-like character of the whole triad.

Strophes 3–4 cluster a variety of ideas and images that rework the uses of the causative of the biblical *hyb* (“live”) with all its associations pressed into liturgical service. The *piel* form can mean “allow to live,” that is, to continue living, as in Exodus 1.7. The *hiphil* form can mean “restore to health,” as in 2 Kings 5.7. With regard to vegetation, the verb can mean “cause to grow,” or “produce,” as in Hosea 14.8. It can also mean “revive the heart and spirit,” as in Isaiah 57.15, and, of course, “restore to life,” as in 2 Kings 8.1 and maybe in 1 Samuel 2.6 and Deuteronomy 32.39.<sup>81</sup>

Strophe 6 is modeled after Daniel 12.2: “those that sleep in the dust of the earth will awake.” The sleep metaphor allows resurrection to be described as a great awakening, and death to be imagined as an intensification of sleep.<sup>82</sup> If God can be trusted to return the spirit after sleep, why not after death? Indeed, the afore-cited prayer upon awakening thanks God for returning the soul to “dead tired” bodies. The more waking is experienced as an expression of divine renewal, the more a great future renewal becomes believable.<sup>83</sup> It is not surprising, then, to find that upon awakening one is urged to praise God for restoring life to the dead.<sup>84</sup> Such is the liturgical response to the intimations of immortality, or presentiments of rebirth.

Finally, note that the resurrection is unqualified, and not just limited to the righteous.<sup>85</sup> It thus does not borrow from those verses that consign the wicked to eternal sleep, never to rise again (such as Jer. 51.37b, 57b;

<sup>81</sup> See J. Barr, *The Garden of Eden and the Hope of Immortality* (Minneapolis, 1992), 34–5.

<sup>82</sup> A form of this argument appears in the work of the late second-century Church Father Athenagoras, *The Resurrection of the Dead*, 16, which refers to the Homeric idea of death as “the brother of sleep” (*Iliad* 16.672). The Rabbis describe sleep either as a miniature death or as one sixtieth thereof (*Gen. R.* 17.5; *BT Ber.* 57b).

<sup>83</sup> *So Gen. R.* 78.1 (915) and parallels, especially *Midr. Pss.* 25.2. Judah ben Yaqar, *Perush Ha-Tefillot Ve-Ha-Berakhot*, 1.38–9, makes the nature of the argument explicit. According to Abudarham, *Tebilla Le-David*, 309, resurrection is implied in the formulation of the fourth blessing of the evening service, *hasbkivenu*: “Cause us, O Lord our God, to lie down in peace; and cause us, our king, to rise to life in peace” (*Seder Rav Amram Gaon* 52).

<sup>84</sup> See *PT Ber.* 4.2.7d; *Pes. R.* 40 (ed. Friedmann, 168) with parallel; *Sefer Halakhot Gedolot* (ed. Hildesheimer), 1.151; and J. Mann, “Genizah Fragments of the Palestinian Order of Service,” *HUCA* 2 (1925), 269–338, especially 278. For plays on the rhetoric of associating resurrection with awakening, see Y. Luger, *The Weekday Amidah in the Cairo Genizah* [Hebrew] (Jerusalem, 2001), 56, 59; and Lieberman, *Tosefta Ki-Fshutab*, 1 51.

<sup>85</sup> As do 1 *Enoch* (51.2; 91.10), Josephus (*Bell.* 3.374; see *Contra Ap.* 2.218), the Pharisees (Josephus, *Ant.* 18.14; *Bell.* 2.163); *Pss. Sol.* 2.31; 3.12; 2 *Baruch* 30.1–5; *Rev.* 20.4; *T. Judab* 25.1–4; *T. Zebulun* 10.2; *T. Benjamin* 11.6–7; R. Abahu (*BT Taan.* 7a). Dan. 12.2 has been read both ways, but is likely limited to the righteous; see J. Collins, *Daniel: A Commentary on the Book of Daniel* (Minneapolis, 1993), 392b–393a. For debate on the fate of the wicked, see *M. Sanh.* 10.3 and *ARN*, a36. It turns out that most

Isa. 26.14). Rather, it is formulated in the categorical language of 1 Sam. 2.6: “The LORD slays and revives; He brings down to Sheol and raises up.” It takes its cue from the nature metaphor of Isaiah: “Oh, let your dead revive! Let corpses arise! Awake and shout for joy, you who dwell in the dust, for your dew is like the dew on fresh growth and the earth will give birth to those long dead” (26.19, see NRSV). Predicating the argument for resurrection on the revival of nature precludes exceptions on moral or doctrinal grounds. This may imply that resurrection is preliminary to judgment<sup>86</sup> as opposed to the reward of redemption. In any case, there is no allusion to the final judgment. The absence of such an allusion reinforces the point that the liturgical preference for resurrection over the Hellenistic pervasive belief in the immortality of the soul<sup>87</sup> is more a factor of anthropology than of theodicy.<sup>88</sup> Were theodicy the decisive issue, resurrection would have been adopted by other forms of Judaism then, for whom theodicy figured as significantly as it did for rabbinic Judaism.

Strophe 8 refers to God as “King,” as does blessing 1. There only the Sovereign over history could assure redemption; here only the Sovereign over death can assure resurrection. Neither the future nor the grave is a barrier to God’s providential care. Resurrection is the event that testifies to unlimited power. Thus Tobit (13.2) adduces the healing from sickness and the revival from death as evidence that nothing eludes divine power. Indeed, God is first designated “King of the world” (2 Macc. 7.9) in the context of resurrection.

Strophe 10 refers to God as “faithful,” as do some versions of blessing 8 on recuperation.<sup>89</sup> Both allude to its biblical usage, where God is called “faithful” when maintaining the covenant and when effectuating redemption.<sup>90</sup> Past faithfulness is adduced as evidence for future faithfulness.

In all, the blessing succeeds remarkably in condensing into about fifty words the preponderance of rabbinic arguments for resurrection. As a précis exclusively of rabbinic reflection on resurrection, there are no references to extra-rabbinic arguments for resurrection such as those of the Church Fathers, based on the change of the daily cycle (“night sleeps, day rises”)

understandings of resurrection limit it to the righteous, whereas that of the Amidah and Acts 24.15 are unlimited.

<sup>86</sup> As in *M. Avot* 4.29; *Tos. Ber.* 6.6 (ed. Lieberman, 1 34) and parallels. See also *Sib. Or.* 2.221–35; 4.181–4; 4 *Ezra* 7.32–7; and 2 *Baruch* 50.2–4, all of which are post-70 CE.

<sup>87</sup> The immortality of the soul was also widely accepted in Second Temple Judaism; see Schürer, *HJPAJC* II 540, n. 93.

<sup>88</sup> The significance of the anthropological factor is supported by the fact that 4 *Ezra* affirms, as do the Rabbis, both resurrection and a positive attitude to the body, indeed its wondrous workings (4 *Ezra* 8.8–10); see Stone, *Fourth Ezra*, 220a.

<sup>89</sup> See Luger, *The Weekday Amidah in the Cairo Genizah*, 98.

<sup>90</sup> Deut. 7.9; Isa. 49.7.



mentioned by Clement or Tertullian;<sup>91</sup> or the argument based on “resurrection” of the moon after its monthly waning, by Theophilus;<sup>92</sup> or the Stoic argument from cosmic renewal; or the argument based on the restorability of glassware as opposed to earthenware, of the *Gospel of Philip*.<sup>93</sup> There is not even a reference to the argument of 2 Maccabees based on creation.<sup>94</sup>

The rhetoric of the blessing aims at increasing the plausibility of the not yet available resurrection by grounding it in experiences that are available, such as seasonal revival, birth, sustaining life, raising the fallen, healing the sick. Still, as strophe 7 notes, resurrection remains an incomparable event performable only by an incomparably powerful God.<sup>95</sup> Whatever the original formulation of the blessing, the emphasis on God’s wonders and salvations have become totally integrated into the resurrection motif.<sup>96</sup>

## V THE COVENANT AND ELECTION OF ISRAEL

Rabbinic Judaism is rich in metaphors for the biblical covenantal relationship between God and Israel. These metaphors underscore the reciprocal nature of the relationship. For example, the romantic metaphor of Song 2.16, “I am my beloved’s and my beloved is mine,” was extended to include theological, familial, pastoral, and agriculture images:

He is God to me and I am a people to Him.  
 He is a father to me and I am a child to Him.  
 He is a shepherd to me and I am a sheep to Him.  
 He is a watchman to me and I am a vineyard to Him.<sup>97</sup>

<sup>91</sup> Clement of Rome, *Epistle to the Corinthians* 1.24; Tertullian, *On Resurrection* 12; *Apology* 48.7.

<sup>92</sup> *Ad Autolyicum* 1.13.

<sup>93</sup> *Gospel of Philip* 63. See *Gen. R.* 14.7 (131); *BT Sanh.* 90b; *Midr. Pss.* 2.111.

<sup>94</sup> 2 Macc. 7.23, 28–9. See 2 *Baruch* 48.2, 8; and Goldstein, *II Maccabees*, 308.

<sup>95</sup> As the liturgical midrash of the first blessing of the *Sbema* liturgy in the Sabbath morning prayers states: “And there is no one comparable to You, our Savior, with regard to the resurrection of the dead” (*Seder Rav Amram Gaon* 71 lines 9–10). The wondrous nature of the content of the blessing is indicated by the term *gevurot*, which, as Ginzberg (*Commentary* IV 155, 196) and Bar-Ilan (*Mysteries of Jewish Prayer*, 128–35) have shown, is synonymous with miracles. Divine power is the one constant in the focus on resurrection from antiquity to modernity; see Bynum, *The Resurrection of the Body in Western Christianity*, 200–1336, 2 n. 2, and 23.

<sup>96</sup> Cf. Ginzberg, *Commentary*, IV 167, 189; and Bar-Ilan, *Mysteries of Jewish Prayer*, 131. For a comprehensive discussion of the relationship in the liturgy of rain and resurrection with divine power, see Ginzberg, *Commentary* IV 148–96; and Kern-Ulmer, “Consistency and Change in Rabbinic Literature,” 64–8.

<sup>97</sup> *Song R.* 2.34.

While these expressions and images are biblically based, there is no explicit reference to the biblical covenant.<sup>98</sup> In rabbinic literature, tannaitic midrash continues to use *brit* to refer to the Sinaitic covenant, but not the Mishnah and Tosefta, which use the term to refer to circumcision, namely, a covenant of the flesh marked in one's physical being.

The biblical covenant as it is presented in Deuteronomy, "the book of the Covenant,"<sup>99</sup> implies a promise or oath of God, a compact between God and Israel specifying Israel's obligations, and an acknowledgment of God's rulership.<sup>100</sup> Although rabbinic Judaism lacks the language of covenant in this sense, the two new rabbinic metaphors which reflect these aspects of the biblical covenant are the idea of partnership and the idea of "the acceptance of the sovereignty of God." With regard to the former, one can become a "partner with God in the act of creation" by reciting Genesis 2.1–3, about the completion of creation, at the onset of the Sabbath, or by adjudicating a case truthfully and by spreading the name of God in the world.<sup>101</sup> Through the observance of the Sabbath and the pursuit of justice man becomes a partner with God.<sup>102</sup> With regard to the latter, one accepts divine sovereignty by acknowledging God as King and complying with His commands, or one realizes it by extending it as a soldier's compliance with the commands of the general extends the general's authority,<sup>103</sup> thereby becoming a factor in the establishment of God's kingdom.<sup>104</sup>

The change in terminology from the biblical covenant to the rabbinic acceptance of the sovereignty of God is reflected in the shift from the Decalogue to the *Shema* as the primary liturgical text for the

<sup>98</sup> Josephus also avoids using covenantal language, but instead of recasting it in terms of divine sovereignty – a model which was yet to be formulated – he employs a patron–client relationship; see P. Spilsbury, "God and Israel in Josephus: A Patron–Client Relationship," in S. Mason (ed.), *Understanding Josephus: Seven Perspectives* (Sheffield, 172–91; and idem, "Josephus," in C. Arson, O'Brien, and M. Seifrid (eds.), *Justification and Variegated Nomism: The Complexities of Second Temple Judaism*, 1 (Grand Rapids, 2001), 241–60.

<sup>99</sup> 2 Kgs. 23.2.

<sup>100</sup> See J. Tigay, *Deuteronomy*, JPS Torah Commentary (Philadelphia, 1996), xiv–xv, 63.

<sup>101</sup> *BT Shabb.* 119b, 10a; *Mekb.* (ed. Lauterbach, 11 179; eds. Horovitz and Rabin, 196) with parallels; and *Gen R.* 43.7 (421) with parallels.

<sup>102</sup> As in Isa. 56.1–4. See also *Gen. R.* 3.9 (24) with parallels. Indeed, one of man's roles is perfecting the divine creation, on which see *Tanb.* (ed. Buber, 25), *Tazrina* 7 (R. Akiva).

<sup>103</sup> "(God said to Israel): You did me a favor by accepting my Torah, for had you not accepted where would my kingdom be?" *Midr. Pss.* 20.3 (ed. Buber, 175); see Heschel, *Theology of Ancient Judaism*, 1 65–82 (ET 105–17).

<sup>104</sup> See *Exod. R.* 23.1.

covenant-renewal ceremony.<sup>105</sup> Thus the *Shema* is central to both rabbinic liturgy and *tefillin*,<sup>106</sup> whereas the Decalogue is absent from both, albeit once central to both. The result is that the *Shema* alone is debated by the Houses of Hillel and Shammai.<sup>107</sup> It alone is mentioned in the Gospel of Mark,<sup>108</sup> though never explicitly in the Pauline corpus.<sup>109</sup> It alone appears in the *tefillin* of the caves of Murabbaat.<sup>110</sup> And it alone is alluded to in *The Rule of the Community*<sup>111</sup> and in *Pseudo-Aristeas*.<sup>112</sup> By the time of *Mishnah Berachot* and the formalization of the liturgy, the *Shema* reigns supreme.

The *Shema* replaced the Decalogue by assuming its theological role. According to Rabbi Shimon ben Yoḥai, the sequence of the first two sayings of the Decalogue adheres to the position that the acceptance of God's sovereignty precedes the acceptance of His commandments.<sup>113</sup> He understood the words "I am the Lord your God" (of the Decalogue as well as those of Lev. 18.2) to mean, "Am I not He whose *sovereignty you have accepted* at Sinai?" When the Israelites replied, "Yes" (God continued), "As you accepted My sovereignty accept My decrees – You shall have no other gods besides Me."<sup>114</sup>

The thesis which argues for the logical priority of the acceptance of God's sovereignty over that of the commandments was applied by Rabbi Simeon's younger contemporary, Rabbi Joshua ben Korḥa, to the order of the *Shema*.<sup>115</sup> By including in the *Mishnah* Rabbi Joshua's theological account for the sequence of the *Shema* sections, as opposed to Rabbi Simeon's functional explanation,<sup>116</sup> Rabbi Judah Hanasi confirmed the *Shema* as

<sup>105</sup> For fuller discussion, see R. Kimelman, "The Shema' Liturgy: From Covenant Ceremony to Coronation," in Tabory (ed.), *Kenishta: Studies in Synagogue Life*, 9–105, especially 68–80.

<sup>106</sup> See *Sifre Deut.* 34–5. <sup>107</sup> *M. Ber.* 1.3. <sup>108</sup> Mark 12.29–30.

<sup>109</sup> Paul's statement that God is one (Rom. 3.30) no more qualifies as a reference to the *Shema* than Plutarch's statement that God is "one and one alone" (*Moralia* 393C, LCL v 247) or that of the Pythagoreans, who say that "God is one" (Clement of Alexandria, *The Exhortation to the Greeks*, 6 [62], LCL, 163).

<sup>110</sup> On the other hand, there are Qumran *tefillin* containing the Decalogue without the *Shema*.

<sup>111</sup> "With the coming of day and night I enter the covenant of God / And when evening and morning depart I shall recite His laws" (1QS 10.10).

<sup>112</sup> *Letter of Aristeas* (160): He (God) commands that "on going to bed and rising" men should meditate on the ordinances of God.

<sup>113</sup> *Mekb., Masekhta Ba-Hodesh, Parsva* 6 (222–3). Rabbi Eleazar Ha-Qallir integrated the two in a *piyyut* saying: "When my servants accepted the yoke of My kingdom, I commanded: You shall have no other gods besides Me."

<sup>114</sup> This reading follows that of Nahmanides to Deut. 22.6 (ed. Chavel, 11 451), which reads: "The Holy One, blessed be He, said: 'You accepted My sovereignty – I am the Lord your God, accept My decrees – You shall have no other Gods besides Me.'"

<sup>115</sup> *M. Ber.* 2.2.

<sup>116</sup> *Sifre Num.* 115 (ed. Horovitz, 126); *B. Ber.* 14b.

the Decalogue's replacement. Indeed, he adopted Rabbi Simeon's understanding of the Sinaitic revelation as an acceptance of divine sovereignty by saying: "When they all stood before Mount Sinai to receive the Torah they all made up their mind as one *to accept divine sovereignty*."<sup>117</sup>

The common terminology for the *Shema* verse and the opening line of the Decalogue identifies them as functional equivalents. Both were taken to affirm that the God of Israel is the God of all humanity.<sup>118</sup> Indeed, the *Shema* verse was unique in its combining of the acceptance of divine sovereignty with the exclusion of idolatry on the model of the first two sayings of the Decalogue.<sup>119</sup> In order to guarantee the understanding of the *Shema* verse as an expression of the realization of divine sovereignty, the Rabbis mandated that it be followed by the recitation of "Blessed be the name of His glorious sovereignty for ever and ever." This formula resulted from interpolating the term "sovereignty" into the verse, "Blessed be His glorious name for ever" (Ps. 72.19).<sup>120</sup>

The significance of this replacement of the Decalogue by the *Shema* lies in the fact that the Decalogue is a biblical unit whereas the *Shema* is a liturgical-ritual construct. The mishnaic understanding of the contiguity of the sections of the *Shema* in terms of a two-tiered realization of divine sovereignty is the culmination of the process of vitiating the liturgical function of the Decalogue. Bereft of a distinctive covenantal role, the Decalogue fell out of the covenantal ceremony of the *Shema*. It was later reintroduced before or after the *Shema* liturgy, never within it.

There are several considerations for preferring the *Shema* over the Decalogue as the text for proclaiming the authority of divine sovereignty and that of the commandments. The *Shema* verse cannot be limited to those who experienced the Exodus.<sup>121</sup> It was understood to affirm that the God of Israel, who is the one and only, is to become the God of all. It establishes the relationship with God on love.<sup>122</sup> The commitment embraces all of the commandments, not just those of the Decalogue.

<sup>117</sup> *Mekh., Massekhta Ba-Hodesh, Parsha 5*, 219. See *Lev. R.* 5.4; and *Songs R.* 6.5.

<sup>118</sup> See *Sifre Deut.* 31 (54, line 5); and *Mekh. De-R. Sh. b. Y.* (ed. Epstein-Melamed, 146), line 12.

<sup>119</sup> *Sifre Num.* 115.126 line 7. According to Rabbi Ishmael (*Sifrei Num.* 112 (121, line 9f.) the first saying of the Decalogue is comprised of both themes; cf. *B. T. Hor.* 8a, and *B. T. Mak.* 24a.

<sup>120</sup> See Kimelman, "Blessing Formulae and Divine Sovereignty," 13–17.

<sup>121</sup> As noted by *Mekh., Massekhta De-Ba-Hodesh 6* (eds. Horovitz and Rabin, 9–11) with M. Kasher, *Torah Sheleimah*, 42 vols. (Jerusalem, 1949–91), xvi 31 n. 121; and L. Tov, *Yitro 20* (ed. Buber, 71a).

<sup>122</sup> See below.

The *Shema* also has the liturgical advantage of being recited antiphonally, requiring a quorum for its public recitation.<sup>123</sup> The precentor would say to the congregation, “Hear O Israel,” and they would respond by saying the whole verse or just “The Lord our God, the Lord is one.”<sup>124</sup> The antiphonal recitation of the *Shema* verse was seen as evoking the Sinaitic experience. After concluding that “The Lord our God, the Lord is One” constitutes the formula for the realization of divine sovereignty, the midrash asks:

How did Israel get to recite the Shema? R. Pinḥas b. Ḥama said: Israel got to recite the *Shema* from the Revelation of Sinai. How is this so? You find that it was with this word [*Shema*] that God opened at Sinai. He said to them: “Hear O Israel, I am the Lord your God.” They responded saying, “The Lord our God, the Lord is One.”<sup>125</sup>

R. Pinḥas accounts for the practice of the synagogue response, “The Lord our God, the Lord is One,” by explaining its origins as a response to the opening of the Decalogue, “I am the Lord your God.”

Reciting the *Shema* verse antiphonally also reinforces the understanding of the Sinaitic covenant as one of mutual obligation. Such mutuality, which is the hallmark of the biblical understanding of covenant, is reflected also in the rabbinic comment: “Anyone who keeps the Torah his soul will be kept/preserved, and anyone who does not keep the Torah his soul will not be kept/preserved.”<sup>126</sup> Similarly:

The soul and the Torah are like a lamp. About the soul, it is written: “The lamp of God is the soul of man” (Prov. 20.27). About the Torah, it is written: “For the *mitzvah* is a lamp, the Torah is a light” (Prov. 6.23). God said to man: “My lamp is in your hand – refers to the Torah, and your lamp is in My hand – refers to the soul. If you preserve My lamp I will preserve your lamp, but if you extinguish My lamp, I will extinguish your lamp.”<sup>127</sup>

The assumption of mutual dependence was extended to the time of redemption. Commenting on “If I forget you, O Jerusalem, may my right hand be forgotten” (Ps. 137.5), Rabbi Eleazar ha-Kappar said:

(God said:) My Torah is in your hands, and the time of redemption is in My hands. Each of us has need of the other. If you need Me to bring the redemption, I need you to keep My Torah and bring about sooner the rebuilding of My House and of

<sup>123</sup> See *M. Meg.* 4.3; and *Massekhet Sofrim* 10.6 (ed. Higger, 212–14 with n. 26). Rabbi Nehemiah (*Tos. Sor.* 6.3 [ed. Lieberman, 183–4 lines 31–2]) refers to the division of the *Shema* as a synagogue practice.

<sup>124</sup> See Kimelman, “The Shema Liturgy,” 92–7.

<sup>125</sup> *Deut. R.* 1.31. Note that the section immediately preceding the Decalogue begins, “Moses called to all of Israel and said to them, ‘Hear O Israel . . .’” (*Deut.* 5.1).

<sup>126</sup> *BT Men.* 99b. <sup>127</sup> *Deut. R.* 4.4.

Jerusalem. [We are inseparable.] As I cannot bring Myself to forget the time of redemption, for that would mean that My right hand would be forgotten, so you are not at liberty to forget the Torah.<sup>128</sup>

The fact that the *emet ve-yatsiv* (“true and firm”) prayer is recited right after the *Shema* sections also bespeaks of the liturgy grasping the *Shema*, sans Decalogue, as a covenantal ceremony. This prayer, which constitutes a pledge to take upon oneself the “yoke of the kingdom of God,” is formulated like the loyalty oaths sworn to the sovereign and emperor in the ancient world.<sup>129</sup> This link with the *Shema* is even more obvious in the evening version. That version constitutes an oath to accept the *Shema*, saying: “He is the Lord our God, and there is none other, and we are Israel His people,”<sup>130</sup> which reformulates the *Shema* verse in reverse order. The *Shema*–Decalogue connection may also have spawned the *Shema*–redemption connection. As the covenant at Sinai was grounded in the Exodus – “I am the Lord your God who brought you out of the land of Egypt” – so the covenantal ceremony of the *Shema* came to invoke the Exodus by concluding with “I am the Lord your God who brought you out of the land of Egypt to be your God.”<sup>131</sup> Future redemption also became part of the understanding of the *Shema*. The words “the Lord is one” (Deut. 6.5) were taken to mean the Lord is one for all, as it says: “The Lord shall be king over all the earth. In that day shall the Lord be one and His name one.”<sup>132</sup> The recitation of the *Shema* verse affirms the belief that all humanity will follow Israel’s lead in recognizing the God of Israel as the sole God.<sup>133</sup> Israel’s role as the theological *avant garde* of humanity is thus at the center of the rabbinic conception of the election of Israel.<sup>134</sup>

The rabbinic goal of universalizing coronation theology led to the appending of this last verse to the *Aleynu* prayer in the “kingship” section of the High Holiday Additional Service. The second part of the *Aleynu* expresses the hope that all humanity will accept divine sovereignty. The

<sup>128</sup> *Pes. R.* 31.5 (ed. Friedmann, 144b).

<sup>129</sup> See M. Weinfeld, *Deuteronomy 1–11*, AB 5 (New York, 1991), 353–4.

<sup>130</sup> *Seder Rav Amram Gaon* 52 line 16.

<sup>131</sup> Num. 15.41. The three biblical lectionaries in the *Shema* liturgy are Deut. 6.4–9; 11.13–21; Num. 15.37–41.

<sup>132</sup> The Midrash resolves the apparent redundancy between “the Lord is one” and “the Lord is our God” of the *Shema* verse (Deut. 6.5) saying: “‘the Lord our God’ applies to us; ‘the Lord is one’ applies to all humanity, as it says, ‘And the Lord will be King over all the earth, on that day the Lord will be one and His name one’” (*Zech.* 14.9 – *Sifre Deut.* 31).

<sup>133</sup> See E. Urbach, *The Sages: Their Concepts and Beliefs* (Jerusalem, 1969), 16 (Hebrew) (ET p. 21).

<sup>134</sup> See M. Bar-Ilan, “The Idea of Election in Jewish Prayer,” in *The Idea of Election in Israel and Among the Nations* (Jerusalem, 1991), 121–45 (Hebrew).

goal is not the incorporation of humanity into Israel, but the extending of divine sovereignty to all humanity. In contrast, in order to universalize biblical covenantal theology, non-Jews have to be incorporated and gathered into Israel.<sup>135</sup> In this theological universe, the particularistic covenantal theology of the Bible and Qumran yielded to the universalistic coronation theology of the Rabbis. What covenant was to biblical theology, the acceptance of divine sovereignty became for Rabbinic theology.

The election of Israel is that of the whole physical People of Israel. Its *leitmotif* is the mishnaic statement that “All of Israel has a portion in the world to come.”<sup>136</sup> Since the body is not devalORIZED, the body of Israel remains the elect group as opposed to some ideological group in or outside Israel.<sup>137</sup> Were the soul of only religious significance, then the true Israel could be a spiritualized Israel. Apparently, belief in the salvation of all of Israel goes with the belief in the salvation of all of the person, namely, physical resurrection.

There are different theories of the source of Israel’s election. Some see it as a metaphysical doctrine and root it in the cosmos, asserting that the world was created for the sake of Israel.<sup>138</sup> Others see it as a factor of Israel’s choice and root it in history.<sup>139</sup> Still others see it as a response to some characteristic of Israel.<sup>140</sup> In any case, it is an election of love. Indeed, “Beloved are Israel in that they are called children of the Omnipresent. Still greater is the love in that it was made known to them that they were called children of the Omnipresent, for it is said, ‘You are children of the Lord your God.’”<sup>141</sup> Rabbi Akiva explained the nature of such a love when he said: “Beloved are Israel in that He gave them the instrument with which the world was created. Still greater is the love in that it was made known to them that He gave them the instrument with which the world was created, as it says: ‘For I give you good teaching; forsake you not My Law’ (Prov. 4.2).”<sup>142</sup> For him,

<sup>135</sup> See Second Isaiah (56.6–8) as opposed to First Isaiah (19.23).

<sup>136</sup> M. *Sanh.* 10.1. This does not imply that there are no exclusions, only that one has to read oneself out, not in.

<sup>137</sup> As the Qumranites who believed in the immortality of the soul (Josephus, *Ant.* 18.18; *Bell.* 2.154), and in themselves as “the chosen ones of the holy nation” (*War Scroll* 12.1). Similarly, the redemptive restoration of the Land of Israel in the *Damascus Document* is of the sectarians alone, not of the entire People of Israel; see *CD* 2.7–12. On Qumran and resurrection see the sources cited in n. 57 above.

<sup>138</sup> See M. E. Stone, *Fourth Ezra* (Minneapolis, 1990), 188–9.

<sup>139</sup> See E. Urbach, *The Sages*, 468–9 (ET 528–9).

<sup>140</sup> See S. Schechter, *Aspects of Rabbinic Theology* (New York, 1961), 60–1. On this tension, see P. Alexander, “Torah and Salvation in Tannaitic Literature,” in *Justification and Variegated Nomism*, 261–301, especially 289–90.

<sup>141</sup> Deut. 14.1. For God’s love of Israel see Deut. 4.37; 7.7–8; 10.15; 23.6; Isa. 41.8; 43.4; 63.9; Jer. 31.3.

<sup>142</sup> M. *Avot* 3.14, according to MS Kaufman.

Israel were chosen to be children of the Almighty, to whom He gave the instrument of creation, namely the Torah, with which He created the world. The love is even greater, as evidenced by the fact that the Lord made known to them that they are His children and that He has given them a good teaching.<sup>143</sup>

Complementary to the idea of Israel as the chosen people is the idea that Israel is the choosing people.<sup>144</sup> Based on the passage “You have affirmed this day that the Lord is your God, that you will walk in His ways, that you will observe His laws and commandments and rules, and that you will obey Him. And the Lord has affirmed this day that you are as He promised you, His treasured people who shall observe all His commandments” (Deut. 26.17–18), the following source argues for the priority of Israel as chooser, as if to say: “You chose me, so I choose You”:<sup>145</sup>

The Holy One, blessed be He, said to Israel: You have made Me a unique object of your love in the world, and I shall make you a unique object of My love in the world. You have made Me a unique object of your love in this world, as it is written “Hear, O Israel, our God, the Lord, is one/unique” (Deut. 6.4); so I shall make you a unique object of My love in the next world, as it is said, “Who is like Your people Israel, one/unique nation in the earth?” (1 Chron. 17.21).<sup>146</sup>

Much of the rabbinic understanding of election is encapsulated in its liturgy. The second blessing of the daily *Shema* liturgy promotes Israel’s election as an expression of God’s love, evidenced by the fact that God gave them the Torah, which Israel is to study and obey in order to reciprocate divine love.<sup>147</sup> The fact that it is positioned before the biblical *Shema*’s demand to love God (Deut. 6.5) constitutes an argument for the priority of divine love. The whole argument is contained in the first half and last part of the blessing. It goes as follows:

1. With everlasting love have You loved us, O Lord our God.
2. With great and exceeding compassion have You cared for us.
3. Our Father, our King, for the sake of our ancestors who trusted in You,
4. As You taught them the statutes of life,
5. So grace us by teaching us.

<sup>143</sup> Josephus also designated Israel “beloved of God” (*Theophileis* – *Bell.* 5.9.4–381) and argued that the Law was the greatest of all God’s benefactions (*Ant.* 4.213), which Israel should obey out of gratitude.

<sup>144</sup> Based on *Sifre Deut.* 312 (353–4); see Urbach, *The Sages*, 470 (ET 925–6).

<sup>145</sup> *Deut. R.* (ed. Lieberman), 65.

<sup>146</sup> See Tos. *Sot.* 7.10 (ed. Lieberman, 194) with Lieberman, *Tosefta Ki-Fshutab*, viii 680; and J. Goldin, *The Song at the Sea* (New Haven, 1971), 109–11.

<sup>147</sup> For documentation of this section, see Kimelman, “The Shema’ Liturgy,” 40–51.



6. Our Father, merciful Father, have mercy upon us
7. by making our hearts understand, discern, listen, learn, teach, appreciate, do, and fulfill all the words of Your Torah in love.
8. Enlighten our eyes in Your Torah and make our hearts cleave to Your commandments.
9. Unite our heart to love and to revere Your name . . .
10. You have chosen us from among all peoples and tongues.
11. You have granted us access to Your great name
12. [To praise/acknowledge You and declare Your unity] out of love.
13. Blessed are You, God, who chooses His People Israel out of love.

The blessing opens with the declaration of the beloved, “With everlasting love have You loved us, O Lord our God.” This inversion of God’s profession of love in Jeremiah 31.3 – “With everlasting love have I loved you” – becomes Israel’s acknowledgment of divine love. The liturgy, following Jeremiah, grasps revelation as God falling forever in love with Israel. In the morning version, such love is attested to by the gift of the Torah, pointedly called “the statutes of life.” God is entreated to teach Israel these statutes as graciously as He taught their forebears. Based on the reception of the Torah and the imbibing of its teaching, the blessing concludes that God “chooses His people Israel in love.”

The parallel blessing of the evening service replicates the link between love and teaching. Adhering to the syntax of the Hebrew, it translates as follows:

1. With everlasting love the House of Israel, Your people, have You loved.
2. Torah and commandments, statutes and laws, us have You taught.
3. Therefore, Lord our God, when we lie down and when we rise up,
4. we shall speak of Your statutes and rejoice in the words of Your Torah and in Your commandments for ever,
5. for they are our life and the length of our days,
6. and we will recite them day and night.
7. May Your love never depart from us.
8. Blessed are You, O Lord, who loves His people Israel.

The parallel syntax and Hebrew rhyme scheme of lines 1 and 2 converge to make the point that God’s election love is expressed through teaching Torah and commandments. The idea is reinforced by lines 3 and 4, where God’s everlasting love, as expressed through such teaching, is reciprocated by a commitment on Israel’s part to rejoice and study the teaching and commandments for ever. As the morning version, so the evening version presents the loving God as a teaching God.

Since God’s love entails teaching Torah, line 2 consists of four curricular subjects: Torah, commandments, statutes, and laws. The order of the four points to the practice of linking Torah with commandments, and statutes

with laws. The inclusion of all four terms reinforces the Sinaitic setting of the blessing, wherein the giving of Torah was first grasped as an expression of love, as well as the position of Deuteronomy (4.14) that other statutes and laws were promulgated along with the Decalogue.

The other innovation of the blessing consists in orientating line 5 – “for they are our life and the length of our days” – to the study of Torah as well as to the commandments. In Deuteronomy 6 and 30, this phrase refers to observance of the commandments alone without any mention of the study of Torah. Moreover, Deuteronomy 30.20 predicates residence on the land upon the keeping of the commandments, saying: “By loving the Lord your God, heeding His commands, and holding fast to Him, you shall have life and length of days upon the land.” In contrast, the blessing omits any reference to the land while underscoring the significance of Torah study by affirming that “we will recite them day and night.” The idea of reciting the Torah day and night alludes to Joshua’s admonition to keep the Torah constantly in mind: “Let not this book of Torah cease from your lips, recite it day and night” (1.8), and the description of Psalm 1.2, of the man who delights in the Torah by reciting it day and night.

Both morning and evening versions of the blessing advocate the study of Torah and the heeding of its commandments as the means of disclosing divine love. The morning version juxtaposes the request for enlightenment in the Torah and for help in cleaving to the commandments with the request for the unification of the heart in the love of God. By so linking the two, it promotes both study and observance of the Torah as paths leading to the love of God. The Torah and the commandments serve the dual function of expressing divine love and of providing the means for its reciprocation. Indeed, it is through sensing divine love that its human counterpart is sparked. God gave us Torah and commandments out of love. By complying with them we can come to requite that love. The sevenfold (or so) repetition of “love” in the morning blessing, fairly evenly distributed among beginning, middle, and end, weaves its way through the whole passage. Indeed, the first and last word is “love.” These ubiquitous glimmerings of love are also refracted in what appears in some versions as a nuancing of Psalm 86.6, “Unite our heart to revere Your name”, to “Unite our heart to love and to revere Your name” (line 9). The interpolation of love here underscores the love *of* God in contrast to the oft-mentioned love *by* God elsewhere in the blessing.

The blessing holds that experiencing the grace of guidance provided by the commandments leads to the conclusion that they were given in love. In contrast to the position that compliance with the commandments expresses love for God, the blessing maintains that compliance with the commandments engenders such love. Nonetheless, the blessing goes

beyond the pervasive notion that God's love is a response to Israel's by highlighting the priority of God's unconditional love.

By positioning this blessing about God's love before the *Shema's* demand to love God, the point is made that we are to love the God who loved us first. As love is best aroused by the awareness of being loved, the commandment to love God becomes liturgically an act of reciprocity – “the love of the loved.” Indeed, it is God's love of Israel that produces a God-loving Israel. Thus the blessing goes on to entreat God to render one capable of returning the love. The experience of being loved nourishes the capacity to love. In fact, “God's love bestows the power to unify man's heart so that one can cleave to the commandments and offer back to God the love one has perceived.”

## VI CONCLUSION

This discussion of the religious significance of the worldview of rabbinic Judaism constitutes a theology of the physical. Clustering together the affirmations of the physical world, the physical body, the physical resurrection, and the election of physical Israel makes clear their interrelationship. Together they create a constellation of ideas. While each is rooted in the Hebrew Bible, they flourished under rabbinic auspices. The coherence of these affirmations along with their anchorage in the Bible contributed to the resiliency of rabbinic Judaism and its capacity to partially withstand the otherwise engulfing sea of Hellenism.

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# CHRISTIAN ANTI-JUDAISM: POLEMICS AND POLICIES

PAULA FREDRIKSEN AND ODED IRSHAI

## I INTRODUCTION

The Church endorsed by Constantine in the early fourth century represented a form of Christianity that drew most directly upon the traditions and Scriptures of Israel. Its Bible rested on the foundation of the Septuagint; its cosmology affirmed the positive relation of the highest deity, God the Father, to material creation; its soteriology anticipated the resurrection of the dead; its Christology asserted the lineal descent of Jesus Christ from the House of David. These common religious points of principle notwithstanding, however, this Church eventually came to persecute Jewish communities with a deliberation that pagan Rome never had. To understand imperial Christianity's policies toward Jews and Judaism requires an appreciation of its foundational history in the second century, when the younger community fought doctrinal diversity within and persecution without. During this earlier period, the seeds of orthodoxy's anti-Judaism, which flourished especially from the late fourth century onward, developed and became established.

## II THE SECOND-CENTURY SEEDBED: THEOLOGY, IDENTITY, AND ANTI-JUDAISM

The core writings of the eventual New Testament canon – the four Gospels and Paul's letters – were all composed in the second half of the first century. They witness that stage of the movement when Christianity was a type of Hellenistic Judaism, and much of the vituperation they display targets fellow Jews, whether Christian or other.<sup>1</sup> As the movement continued, its diversity increased until, by the early second century, the literary evidence

<sup>1</sup> Internal Christian targets: the false prophets (Matt. 7.15–23); false insiders (2 Cor. 11.4–5; Gal. 2.4 and passim; Phil. 3.2). The polemic against scribes, Pharisees, Sadducees, and (especially in the Passion narrative) the Jerusalem priests lies scattered throughout the Gospels. L. T. Johnson, "The New Testament's Anti-Jewish Slander and the Convention of Ancient Polemic," *JBL* 108 (1989), 419–41.

bespeaks not only different sorts of Jewish Christianities and Judaizing Gentile Christianities<sup>2</sup> but also purely Gentile forms of Christianity. The spokesmen for these latter communities were well-educated, formerly pagan intellectuals. In articulating their respective commitments to Christian revelation, these men necessarily had to make sense of the literary medium of that revelation – the Septuagint and the burgeoning body of specifically Christian writings (gospels, apocalypses, pseudepigraphic epistles) – in light of their shared rhetorical and philosophical culture, *paideia*. The momentous interpretive struggle between these Gentile contestants over the construction of Christianity created the context within which the rhetoric and ideology of classical Christian anti-Judaism took shape.

A major theological principle of *paideia* concerned the nature of the highest god. He – or It – was by definition perfect. This divine perfection entailed several interrelated metaphysical predicates: God was good, unchanging, non-material, impassible, radically transcendent. “All god is good, free from body, free from change.”<sup>3</sup> Although ultimately the source of everything else, the high god of *paideia* was not a creator, a role that would have implicated him too immediately in the imperfections and changefulness of the world of time and matter. (Such engagement was left to a lower deity, the demiurge or “craftsman.”) *Paideia*’s high god thus fit poorly with the active, personified divinities of traditional religious narratives, whether pagan or Jewish; and ancient thinkers with intellectual commitments to high philosophical culture and religious commitments to traditional narratives resolved the resulting tensions by developing allegorical understandings of their myths. Educated Gentiles converting to Christianity only intensified their difficulties by introducing the particular – and relatively recent – appearance of Jesus and the revelations attributed to him into the larger problem of interpreting the God of Jewish Scripture, and the more general problem of making philosophical sense of religion.<sup>4</sup>

Valentinus (fl. 130) and Christian gnostics generally turned to the Septuagint for spiritual guidance but read it *à l’inverse*, renouncing its god as an ignorant, indeed malevolent deity whose function as creator of the material cosmos proclaimed his inferior metaphysical status. The laws that

<sup>2</sup> J. Carleton Paget, “Jewish Christianity,” *CHJ*, 111 731–75; B. L. Visotzki, “Prolegomenon to the Study of Jewish Christianity in the Rabbinic Literature,” *AJS Review* 14 (1989), 47–50.

<sup>3</sup> Sallustius, *On the Gods and the World*, 1: *Pagan Monotheism*, ed. P. Athanassiadi and M. Frede (Oxford, 1999).

<sup>4</sup> R. Lamberton, “Language, Text, and Truth in Ancient Polytheist Exegesis,” in J. Whitman (ed.), *Interpretation and Allegory* (Brill, 2000), 73–88; D. Dawson, “Plato’s Soul and the Body of the Text in Philo and Origen,” in Whitman (ed.), *Interpretation and Allegory*, 89–107; F. Young, *Biblical Exegesis and the Formation of Christian Culture* (Cambridge, 1997).

Scripture contained had to be considered carefully to determine their source and, thus, their application. Only some laws originated with Jesus and therefore pertained to the Christian; others related exclusively to the lower god or to the traditions of the Jews.<sup>5</sup> Marcion (fl. 140) and his community seem to have arrived at their views through a different approach. They read the contrasting pairs of Pauline rhetoric – law and gospel, works and grace, flesh and spirit – as absolute opposites (hence, the title of Marcion’s lost theological work, the *Antitheses*). Accordingly, they repudiated as fleshly and thus intrinsically un-Christian both traditional Jewish religious praxis (the “works of the Law”) and the Scriptures that enjoined them.<sup>6</sup>

Both Gnostics and Marcionites derived from their respective approaches a similar theological structure of mitigated or hierarchical dualism. God the Father of Jesus, a version of the high god of *paideia*, stood above and apart from matter’s fray. His son, assuming a “human likeness” (Phil. 2.7) but not an actual human body, came to redeem those caught in the world of flesh and sin. Those saved in Christ, having shed their fleshly bodies, would ultimately pass through this physical cosmos, the realm of the lower god (whom they identified as the Jewish *kosmokrator* of Genesis), to reach the realm of spirit and light, the kingdom of the Father. Their similar theologies, however, led to distinctly different textual practices. Gnostics, eclectic and inclusive, read broadly within the Septuagint (although Genesis itself was clearly a premier text) and within the expanding and esoteric body of Christian literature, content to retrieve gnosis from a wide range of writings, pagan, Jewish, and Christian. By contrast, the Marcionites, creative in a different way, assembled a new body of religiously authoritative texts and delimited it sharply. On the one hand, they disparaged the biblical god and dismissed the Septuagint, while on the other, they restricted their new canon to a single Gospel and a collection of Paul’s letters. Furthermore, following through on the logic of their construction of Christianity as Judaism’s opposite, and reading the historical Paul’s arguments against halachic observance by Gentiles-in-Christ as the Christian Paul’s condemnation of Jewish law and practice *tout court*, they concluded that all positive reference to Torah in the epistles must have been the work of later judaizing interpolators. Accordingly, they edited these from Paul’s letters, thereby producing an apostle and a Christian message that were consistently de-judaized.

<sup>5</sup> Prolemy, *Epistula ad Floram*, apud Epiphanius, *Panarion* 33.3–7.

<sup>6</sup> Marcion’s positions can be gleaned, cautiously, from Tertullian, *Adversus Marcionem*; for Marcionite anti-Judaism and the patristic response to it, see D. P. Efroymson, “The Patristic Connection,” in A. T. Davies (ed.), *Anti-Semitism and the Foundations of Christianity* (New York, 1979), 98–117; J. Lieu, *Image and Reality: The Jews in the World of the Christians in the Second Century* (Edinburgh, 1996), 261–70.

Against these genres of dualist theologies, a range of other Gentile Christian thinkers stood. They insisted on a positive relationship between material creation and the high god, and thus between the God of Genesis and the revelation of Christ. Against docetic Christologies, they urged that Christ, the Son of the high God, had truly come in the flesh, by physical lineage descending from the House of David. Accordingly, and against a purely spiritual salvation, they also contended that the fleshly body would be raised and thus redeemed. Unlike their opponents, then, this group asserted that the Jewish Scriptures spoke directly and positively to Christian revelation and that a unitary divine will stood behind both the giving of the Law and the coming of Christ.

Together with their opponents, however, these Christians, also Gentiles, repudiated most of the observances of Jewish law. This repudiation inevitably complicated their positive reading of the Septuagint, since they rejected precisely those practices established by the biblical God. They therefore found themselves waging a hermeneutical battle on multiple fronts. They contended for the “true reading” of Scripture against other Gentile Christians, whether Gnostics or Marcionites, who held that the God of the Septuagint was essentially incompatible with the revelation in Christ. They had to respond to Gentile judaizers, whether Christian or pagan, who, themselves observing some aspects of the Law, criticized this group’s claim to the Scriptures when they did not keep the laws that Scripture enjoined.<sup>7</sup> Finally, they disputed with Jewish contemporaries, whether native-born or converts,<sup>8</sup> while they encountered ancient Torah-observant characters every time they turned to the texts that they now claimed as their own.

As with earlier pagan and Jewish efforts to construe religious texts philosophically, so now with the efforts of this third group of Christians, allegory proved a valuable tool. An interpretive style of thinking which aimed to discern what a text truly meant as opposed to what it merely said, allegory provided early Christians with a means of altering the frame of reference for the ancient Jewish Scriptures. Events, objects, or personages in the Septuagint, understood “correctly” or, in the language of these later works, *kata pneuma*, “spiritually,” were revealed to be *typoi*, figurations or

<sup>7</sup> G. N. Stanton, “Justin Martyr’s *Dialogue with Trypho*: Group Boundaries, ‘Proselytes,’ and ‘God-fearers,’” in G. N. Stanton and G. G. Stroumsa (eds.), *Tolerance and Intolerance in Early Judaism and Christianity* (Cambridge, 1998), 263–78.

<sup>8</sup> Thus, in *Adversus Iudaeos*, Tertullian has the Jewish side of the debate represented by a convert to Judaism; and he acknowledges a large number of Jewish proselytes in *Adv. Marc.* 3.21.3; cf. the earlier remarks of Justin, *Dial.* 23.3; 122.1—123.2, who observes that proselytes, making strenuous efforts to be like the born Jews, “twofold more than yourselves blaspheme [Christ’s] name,” 122.2. See also Stanton, “Justin,” 273–4.



“types” pointing beyond the narrative frame of the biblical story to some metaphysical truth about Christ or his Church. In the later writings in the New Testament canon, for example, the flood story becomes an inferior type of baptism (2 Pet. 3.18–22) and the Jerusalem priesthood an inferior anticipation of the eternal priesthood of Christ (Heb. 9.11–28). The *Epistle of Barnabas* held that the entirety of Jewish Scripture had been misunderstood by the Jews: its intended audience had always been the (Gentile) Church, which understood spiritually, and therefore correctly, that instructions on circumcision, fasting, food laws, sacrifices, Sabbaths, and so on did not prescribe behavior but described moral and Christological truths (chs. 2–17). Melito, in his Easter homily, read in Exodus a prefiguration of Jesus’ passion and resurrection: the narrative details of the former thus referred to, and, when understood correctly, revealed the theological significance of the latter.<sup>9</sup>

The mid-second-century treatise of Justin Martyr, the *Dialogue with Trypho*, offers a comprehensive if unsystematic application of such typology to the text of the Septuagint. Justin opens his work by invoking the high god of *paideia*. God is “that which always maintains the same nature in the same manner and is the cause of all other things,” discernible not to the physical eye but to the spiritual eye of the soul, which is to say, to “the mind alone” (*Dial.* 3) – in other words, without body of any sort. He then moves rapidly from these assertions (which raise no objection from Trypho, his philosophically educated Jewish interlocutor) to criticism of the Jewish mode of interpreting Scripture. Citing Isaiah on the redemption of the nations (51.4–5, LXX) and Jeremiah on the “new covenant” (31.31–2), Justin criticizes Trypho both for not understanding that a “new law” has been given and for poorly understanding the Mosaic “old law” (*Dial.* 11–12). “You have understood all things in a carnal sense” (*kata sarka*, 14), observing the law of Moses in a fleshly, literal way because failing to understand that what seem to be commandments in the Pentateuch are actually disguised allusions to Christ. Thus, purification rituals really speak of baptism into Christ (14); the Passover sacrifice, of the Crucifixion (40); the meal offerings, of the eucharist (41); the twelve bells on the robes of the high priest, of Christ’s apostles (43); and so on (and on). Biblical legislation that does not oblige allegory must be understood as punitive, given on account of the proverbially stony Jewish heart (18, 21, 22, 27, and frequently).

<sup>9</sup> In general: Young, *Biblical Exegesis*, 119–39; 195ff. Melito’s *Peri Pascha* (c. 160) offers a glimpse of competitive Christian–Jewish exegesis: see Lieu, *Image and Reality*, 209–35; I. Yuval, *Two Nations in Your Womb* (Tel-Aviv, 2000), 83–105 (Hebrew) suggests that such exegesis affected the evolution of the Haggadah as a midrashic response.

According to Justin, two problems impede the Jews' understanding Scripture *kata pneuma*. The first is their philosophical inadequacy, which leads them to misapprehend biblical theophanies as appearances of the high god. The busy, embodied deity visiting Abraham at Mamre or talking with Moses on Sinai cannot have been the One, the transcendent and radically changeless Father. Rather, another god (*heteros theos*) must have put in these appearances (56). Thus far, Justin's argument recapitulates the broad lines of Valentinus' and Marcion's teaching: they, too, held that only a lower god could have functioned as described in the narratives of Scripture. Whereas their lower god stood in moral and metaphysical contradistinction to the high god, his son, and his gospel, however, Justin's lower god is the Father's son, the source of both law and gospel; he is the pre-incarnate Christ (56–62; cf. Trypho's earlier response to imputed Septuagintal Christophanies in 38). Ignorant of this key datum – the true identity of the god who acts in Scripture – the Jews inevitably misread their own books (126ff.).

The more fundamental explanation for the Jews' deafness or blindness to Christian claims, however, says Justin, is their enduring national character. As the Scriptures themselves display and as the prophets especially proclaimed, Jews are intransigently hard-hearted, carnal, stubborn, sinful, and idolatrous (20). It was because of Jewish transgression and obduracy that the law was given in the first place (18); because of the Jewish tendency to worship idols, that God had tolerated the Temple service (32). Despite all God's efforts and the warnings of the prophets, however, the people always and invariably erred, their trail of crimes leading from the murders of the prophets (39) to the murder of him who spoke through them, that is, Christ (17). For this reason, the Jews, wasted by war and destruction (Justin has in mind both the war in 66–70 and the Bar Kochba Revolt), have been deprived of homeland and Temple. Nevertheless, with amazing obduracy, they continue to reject Christ and *kata sarka* to observe the Law (especially regarding circumcision), thereby facilitating their own continuing isolation and exile (for if they were not circumcised, they could not be singled out as Jews, 16).

Justin asserts that his positions are purely biblical: they were sung by David, preached by Isaiah, proclaimed by Zechariah, and written by Moses: "They are contained in your Scriptures, or rather, not yours, but ours" (29). He adduces Isaiah 42.1–4 – "Jacob is My servant . . . and Israel is My elect . . . In His name shall the Gentiles trust" – to identify the true Israel. "Is it Jacob the patriarch in whom the Gentiles and yourselves shall trust? Is it not Christ? As, therefore, Christ is the Israel and the Jacob, so even we, who have been quarried out from the bowels of Christ, are the true Israelite race" (135; cf. 123). Jews past and present, displaying the enduring moral turpitude lamented by the prophets, continue to cling to the old covenant.

However, the Gentiles, God's true Israel, embracing the new covenant, have superseded the Jews and inherited God's promises. Jews as Jews are past redemption, excluded from salvation utterly, unless they repent the persecution of Christ and join the true (that is, Justin's) Church (26).

Justin's *Dialogue* assembles arguments *adversus Iudaeos* that appear in various earlier writings and bequeaths its polemical template to the centuries of Christian authors to follow.<sup>10</sup> But the range of the mid-second-century Gentile Christian debate was so broad, and the struggle for self-definition so fraught, that this theology of Judaism articulated by Justin and others had a range of application much wider than the *adversus* tradition alone. The non-Gnostic, non-Marcionite, non-judaizing Gentile Christianity that nonetheless claimed the Septuagint as its own, that wanted the Bible but not the Jews, needed to find a way to pry the text free of its native communities and their practices while retaining or retrieving its positive value for the Church.<sup>11</sup>

The tool of choice was an anti-Jewish biblical hermeneutic no less antithetical than Marcion's, a hermeneutic that required God, Christ, the Prophets, even the Law itself (construed as a punitive restraint) to be anti-Jewish as well. Once this interpretive context was established as a way to orient the believer in the Septuagint, the documents eventually comprising the core of orthodoxy's specifically Christian canon – the four Gospels and Paul's letters – could be read the same way: the missions of Jesus and Paul became anti-Jewish as well. In addition, the vicissitudes of Jewish history in this same period, marked by unsuccessful revolts against Rome, the destruction of the Temple, the construction of Aelia with its ban on Jews, and the erasure of Jewish Jerusalem, were exploited to support orthodoxy's claim. The Jews, in rejecting Christ, had sealed their rejection of God; God, in turn, had conclusively rejected them.

As this particular Church matured and consolidated itself intellectually and institutionally in the third century and beyond, growing both in numbers and in self-confidence, its spokesmen could occasionally modulate

<sup>10</sup> S. Krauss and W. Horbury, *The Jewish-Christian Controversy from the Earliest Times to 1789*, 1 (Tübingen, 1995), 27–43; H. Schreckenberg, *Die christlichen Adversus-Iudaeos-Texte und ihr literarisches und historisches Umfeld (1.–11. Jb.)* (Frankfurt, 1982); W. Horbury, *Jews and Christians in Contact and Controversy* (Edinburgh, 1998), 127–61; more broadly, R. Ruether, *Faith and Fratricide: The Theological Roots of Anti-Semitism* (New York, 1975), 117–82; Efromson, "Patristic Connection"; W. Nicholls, *Christian Antisemitism: A History of Hate* (Northvale, 1993), 169–87; M. Simon, *Verus Israel* (1948; London, 1996), 215ff.

<sup>11</sup> Hence, Origen characterized the purpose of Jesus' mission as "introducing to mankind a doctrine which did away with the customs of the Jews while reverencing their prophets," *Contra Cels.* 1.29.

its constitutive anti-Judaism for strategic reasons. Especially when dealing with pagan critics (who often repeated earlier pagan attacks on the Hellenistic synagogue), later Christian apologists mobilized traditional Jewish apologies against pagan culture, and indeed identified with Jewish Israel for their own defense.<sup>12</sup> More often, however, “Jew” functioned as a negative code-word within purely Christian internal debate. Tertullian identified Marcion’s prime hermeneutical errors when reading Scripture to be similar in kind to those of “the Jews”; Origen characterized Christian milenarians as interpreting in a peculiarly fleshly, that is, Jewish manner. So too, Athanasius on his ecclesiastical opposition, Ambrose on his, Jerome on his.<sup>13</sup> In these erudite intra-Christian battles over right thinking, to call an opponent a “Jew” was to call him in the most profound and definitive way possible an un-Christian, indeed, an anti-Christian.

That the word “Jew” could convey such opprobrium within purely internal Christian disputes reveals the degree to which its meaning had become intrinsically, emphatically negative. This polemical construction of “Jew,” initially generated within the early second-century matrix of these theological debates, subsequently metastasized throughout all genres of surviving ancient Christian literature. It reappears in apologies and martyr stories, in sermons, in hermeneutical handbooks and books of testimonies, in scriptural commentaries and ecclesiastical histories. As a theological abstraction, it contained great power, serving by means of absolute contrast to focus and define the desiderata of orthodox identity.

What about real Jews, as opposed to Christian theological ideas about them? How did social reality affect the intellectual construct? How did common Gentiles, whether pagan or Christian, relate to their Jewish neighbors, and the Jews to them, in the cities of the Mediterranean? How did these social factors in turn inform and affect the growth and development of Christian anti-Judaism?

<sup>12</sup> G. G. Stroumsa, *Savoir et Salut* (Paris, 1992), 101. Origen, *Contra Cels.* 4.31, excellence of aniconic Jewish worship; 4.36, Moses and Jewish tradition of superior antiquity to Greeks; 5.8, a defense of Jewish monotheism; 5.42–3, superiority of Jewish society and ethics to pagan, and of Jewish worship to pagan philosophy; 5.50, “the supreme god is called the God of the Hebrews even by people alien to our faith”; 6.19, Prophets prior to Plato.

<sup>13</sup> Tertullian, *Adv. Marc.* 3 passim; Origen, *De Princ.* 2.11.2; Ambrose, *Ep. Extra* coll. 5 [11].3; D. Brakke, “Jewish Flesh and Christian Spirit in Athanasius of Alexandria,” *J ECS* 9 (2001), 453–81; H. Newman, “Jerome’s Judaizers,” *J ECS* 9 (2001), 421–52; G. Stemberger, “Hieronymus und die Juden seiner Zeit,” in D. A. Koch and H. Lichtenberger (eds.), *Begegnungen zwischen Christentum und Judentum in Antike und Mittelalter: Festschrift für H. Schreckenberg* (Göttingen, 1993), 347–64.

### III THE SOCIAL MATRIX: JEWS AND GENTILES IN THE MEDITERRANEAN CITY

Social life in the ancient city was organized around cult. Seemingly non-religious activities – theatre, rhetorical or athletic competitions, the convening of city council or a court of law – invariably involved some sort of acknowledgment of and offering to traditional deities and, eventually, to the *numen* (“divine power”) of the Emperor. For Jewish populations in the Mediterranean Diaspora concerned about guarding their traditional practices, therefore, enfranchisement into the life of their cities of residence invariably involved negotiating various accommodations and exceptions.<sup>14</sup> Conversely, for the pagan populations native to these cities, whose traditional worship was public and communal, whose festival calendar and meals at civic celebrations enacted and embodied important forms of social solidarity, and whose own religious traditions and temperament were inclusive and pluralistic, perceived Jewish aloofness could trigger resentment or offense.<sup>15</sup>

What of the legal status of the resident Jewish communities, the civic status of their members, the civil as well as religious authority of their courts? No generalization can suffice to describe accurately all these aspects of life in the Diaspora because each case would vary across different cities in the same period, across the same city in different periods, and across economic groups within ostensibly the same community. Neither can one know in any detail the ways that these Diaspora Jews lived their allegiance to their religious traditions. The laws drafted to protect them and the comments (whether hostile or admiring) of Gentile writers (whether pagan or Christian) provide a brief index of those Jewish practices most evident to outsiders: sources mention most frequently Sabbath observance, food laws, festivals, circumcision, and aniconic worship.<sup>16</sup> Generally true for all locales in all periods beginning with the Hellenistic cities and continuing through the late Empire is that ruling authorities were inclined to acknowledge and to protect Jewish religious difference and the Jews’ right to live according to *ta patria ethe*, their “ancestral customs.”<sup>17</sup> By the third century,

<sup>14</sup> Josephus, *Ant.* 12–14 passim; J. Juster, *Les Juifs dans l’empire romain*, 2 vols. (Paris 1914); S. Applebaum, “The Legal Status of the Jewish Communities in the Diaspora,” in S. Safrai and M. Stern (eds.), *The Jewish People in the First Century* (Philadelphia, 1974), 420–63; J. Barclay, *Jews in the Western Mediterranean Diaspora, from Alexander to Trajan (323 BCE–117 CE)* (Berkeley, 1996); E. Gruen, *Diaspora: Jews amidst Greeks and Romans* (Cambridge, MA, 2002), 15–132; *HJPAJC* III 1–178; early imperial legislation in A. Linder, *The Jews in Roman Imperial Legislation* (Detroit, 1987), 99–120.

<sup>15</sup> P. Schäfer, *Judeophobia* (Cambridge, MA, 1997); and *GLAJJ*.

<sup>16</sup> Comprehensively canvassed in *GLAJJ*; analysis in Schäfer, *Judeophobia*, 15–103.

<sup>17</sup> M. Pucci ben Zeev, *Jewish Rights in the Roman World* (Tübingen, 1998).

this principle of Jewish exemption from public cult was so well established that emperors, attempting to recruit Jews into onerous service in the civic curiae, stipulated that nothing religiously offensive to them could be requisite to executing the office; and they explicitly excused Jews from emperor-worship.<sup>18</sup>

The general Jewish distance from public cult was offset by the genuine social and religious permeability of the Diaspora community. This was partly due to the visibility of ancient religious celebration; as with contemporary Mediterranean paganism, much of ancient Jewish religious festival (dancing, singing, communal eating, processing) occurred out of doors, inviting and accommodating the participation of interested outsiders.<sup>19</sup> Partly, too, this permeability was an effect of that singular Jewish institution, the synagogue. A designation for “community gathering” more than a reference to a particular building (although it could mean that, too), the Diaspora synagogue or *proseuche*, “prayer house,” was the community institution *par excellence* that focused, articulated, and even disseminated Jewish identity.<sup>20</sup> A prime function of these weekly gatherings centered on providing Jews with instruction, on the Sabbath, in the law. These readings from

<sup>18</sup> Septimius Severus (193–211) encouraged Jews to participate in city councils, which under ordinary circumstances would have involved them in public paganism. “The divine Severus and Antoninus [Caracalla] permitted those that follow the Jewish religion to enter offices [*honores*], but also imposed upon them liturgies such as should not transgress their religion,” *Digesta Iustiniani* 50.2.3.3; translation with discussion, Linder, *Roman Legislation*, 103–7; *HJPAJC* 111/1 126–37; F. Millar, “Empire and City, Augustus to Julian: Obligations, Excuses, and Status,” *JRS* 73 (1993), 76–91. On exemption from emperor-worship, *PT Av. Zar.* 5.4 (44d); S. Lieberman, “The Martyrs of Caesarea,” *Annuaire de l’Institut de Philologie et d’Histoire Orientales et Slaves*, VII (1939–1944), 405–8.

<sup>19</sup> Philo mentions the celebration on the beach at Pharos, “where not only Jews but also multitudes of others cross the water, to do honor to the place [the site of the seventy-two translators’ labors] . . . and also to thank God” (*De Vita Moysis* 2.41–2); Tertullian, *De Ieiunio* 16, Jews gather on fast days to worship out of doors, by the sea. Chrysostom in his notorious sermons *Against the Judaizers* complains of Christians’ cocelebrating Jewish rituals, fasts, and feasts (“When have they ever celebrated the Pasch with us? When have they shared the day of Epiphany with us?” [4.376]; “Many who belong to us . . . attend their festivals and even share in their celebrations and join their fasts” [1.844]). Jews dancing on Shabbat: Augustine, *Sermones de Vetere Test.* 9.3; *In Iob. Tr.* 3.19; *Enarr. in Ps.* 32.2; 91.2; D. Sperber, “On Sabbath Dancing,” *Sinai* 57 (1965), 122–6 (Hebrew). On the public nature of the Purim festival, *CTb.* 16.8.18.

<sup>20</sup> L. I. Levine, *The Ancient Synagogue: The First Thousand Years* (New Haven, 2000); Gruen, *Diaspora*, 105–32; Young, *Biblical Exegesis*, 13; F. Millar points out that, at least in the fourth century in Rome, a synagogue could function as a sort of lending library (Jerome, *Ep.* 36.1), “Jews of the Graeco-Roman Diaspora,” in J. Lieu, J. North and T. Rajak (eds.), *The Jews among Pagans and Christians* (London 1992), 97–123, at 115; additional examples in Levine, *Ancient Synagogue*, 380–1.

the law, interpretations, and instruction were given in the vernacular – in Greek, for most of this period; eventually, later and in the West, in Latin.<sup>21</sup> Among the synagogue's auditors, Gentiles could also be found.

The spectrum of this pagan affiliation was broad. Epigraphical evidence provides glimpses of significant pagan benefactions to Jewish institutions, and some of these benefactors chose to involve themselves in the specifically religious activities of these communities.<sup>22</sup> Spells and incantations found in the Greek books of magical recipes for professionals occasionally relate garbled but recognizable biblical episodes and images; this knowledge of biblical stories could have been easily picked up by hearing Scripture in synagogue.<sup>23</sup> Other Gentiles, vaguely designated as "God-fearers," went further, voluntarily assuming certain Jewish practices; ancient data speak most often of dietary restrictions, the Sabbath, and festivals.<sup>24</sup> Those pagans who did convert fully to Judaism (and, particularly during its first generation, to the Christian movement) most likely emerged from among these voluntary judaizers collected within the penumbra of Diaspora synagogues.<sup>25</sup>

<sup>21</sup> Greek was by far the best-attested language of Diaspora Jewish communities, although by the fourth and fifth centuries evidence begins to accumulate for a shift to Latin in communities in the West (North Africa, Italy, Spain, Gaul). Millar, "Graeco-Roman Diaspora," on the Latin tomb inscription of Aurelius Samohil (*CJ* 1 no. 650); on the uncertainty of the Latin Jewish evidence, 97–9. Knowledge of Hebrew in the West persisted, hence Jews could be consulted to verify translations: Augustine, *Ep.* 71.5, although cf. Jerome, *Ep.* 112.20.4. Commodian's jibe about the *medius iudaicus* – the pagan who runs between traditional altars and synagogue – certainly implies Latin usage, *Instructiones* 1.24.1 iff.

<sup>22</sup> Levine, *Ancient Synagogue*, 121, 479–83; J. Reynolds and R. Tannenbaum, *Jews and Godfearers at Aphrodisias* (Cambridge, 1987); S. Fine (ed.), *Jews, Christians and Polytheists in the Ancient Synagogue* (London, 1999).

<sup>23</sup> E.g., *Paris Magical Papyrus* lines 3,007–85; Origen, *Contra Cels.* 4.33, the Jewish God invoked not only by Jews "but also by almost all of those who deal in magic and spells"; cf. 5.50. P. S. Alexander, "Jewish Elements in Gnosticism and Magic, c. CE 70–c. CE 270," *CHJ* 111 1052–78.

<sup>24</sup> B. Wander, *Gottesfürchtige und Sympathisanten*, WUNT 104 (Tübingen 1998); L. Feldman, *Jew and Gentile in the Ancient World* (Princeton, 1993), 483–501; J. Lieu, "The Race of the God-fearers," *JTS* 46 (1995), 483–501; S. J. D. Cohen, *The Beginnings of Jewishness* (Berkeley, 1999), 175–97.

<sup>25</sup> Also, famously, Juvenal: "Quidam sortiti metuentem sabbata patrem . . . mox et praepudia ponunt . . . Iudaicum ediscunt et servant ac metuunt ius": the God-fearing father had not only kept the Sabbath but also avoided pork, *Satires* 14.96–101; *GLAJJ* 11 102–7. Acts routinely presents Paul encountering Gentiles in Diaspora synagogues: 13.16; 14.1; 16.14; 17.1–4, and so on. Paul himself nowhere mentions a synagogue context for his mission, but his reliance on arguments drawn from Scripture certainly supports the inference: in the mid-first century, the synagogue would have been the only means for Gentiles to have the familiarity with Scripture that Paul presupposes.

For pagan Gentiles, multiple religious allegiances were entirely normal; indeed, traditional polytheism easily accommodated this sort of openness.<sup>26</sup> These Gentiles freely assumed as much or as little of Jewish practice as they wished, while continuing unimpeded in their own cults. For the Jews' part, welcoming the material support and encouraging interest and even admiration among those of the host Gentile majority simply made good sense, politically and socially. Furthermore, since Jewish tradition regarded Torah, with its demand for exclusive allegiance to the Jewish God, as the defining privilege of Israel, the synagogue would have had little reason theologically or ideologically to impose its own standards of monotheism on these neighbors.<sup>27</sup> Exclusive for insiders (Jews should not worship foreign gods), the synagogue was inclusive for outsiders (interested Gentiles were welcomed). As a result, pagans as pagans could be found together with Jews in the Diaspora synagogue, just as, until 70, they could be found in Jerusalem, in the largest court of the Temple compound. No formal constraint, whether from the pagan or from the Jewish side, abridged this *ad hoc*, improvised, and evidently comfortable arrangement.

In light of this commodious social context, one must consider three often adduced explanations for the origins and growth of Christian anti-Judaism: (1) that Christian anti-Judaism was essentially a continuation of earlier pagan anti-Judaism; (2) that Jews, like Christians, conducted missions to convert pagans, so that Christian anti-Judaism resulted from this heated religious competition; and (3) that Jews took an active role in the pagan anti-Christian persecutions of the early centuries, so that Christian anti-Judaism was the theological residuum of and response to the Jews' own murderous anti-Christian hostility.

To the first point first. Alongside remarks attesting to an admiration of Jewish cult and culture also exist pagan condemnations of Jewish *amixia* ("separateness") and *deisidaimonia* ("superstition"). Pagans accused Jews of having a *misoxenos bios* ("foreigner-hating lifestyle") and of practicing impiety or atheism, evinced by their refusal to respect the gods of other nations.<sup>28</sup> Roman writers in particular could comment with distaste on the

<sup>26</sup> In his recent essay on the pagan cult of *theos hypsistos* ("God most high"), S. Mitchell argues that forms of pagan monotheism also index synagogue influence, "The Cult of Theos Hypsistos between Pagans, Jews, and Christians," *Pagan Monotheism*, 81–48, esp. maps, 81–5.

<sup>27</sup> This issue is relevant to the question of Jewish missions to Gentiles; see the following section.

<sup>28</sup> P. Fredriksen, "What 'Parting of the Ways'? Jews, Gentiles, and the Ancient Mediterranean City," in A. H. Becker and A. Yoshiko Reed (eds.), *The Ways that Never Parted: Jews and Christians in Late Antiquity and the Early Middle Ages* (Tübingen, 2003), 1–28.



Jews' customs, their historical traditions, and their religious practices, but such dislike conferred little distinction; they commented with similar scorn on Egyptians, Greeks, Scythians, Gauls, Britons, and Germans. From a distance, what might look like pagan anti-Semitism is frequently, in context, an equal-opportunity dislike of foreigners, all of whom had their own ethnic customs which were, by definition, un-Roman.<sup>29</sup>

Not Judaism itself, but rather the appeal of Judaism to non-Jews as evinced specifically by the phenomenon of conversion, stimulated pagan critics' most hostile remarks. Again, adherence to various religious customs was compatible with the sensibility of Mediterranean paganism; and the idiosyncrasy of any religious culture marked it as specific to a particular people. Seen in this light, the phenomenon of voluntary judaizing was unremarkable. However, exclusively committing to a foreign god to the point of forsaking the gods of one's own people – a condition of conversion unique to Judaism in the pre-Christian period – was perceived as an act of alarming disloyalty. The prime pagan objection to "God-fearing" was therefore not the particular practices themselves but the possibility that they could lead to conversion. In addition, the problem with converts, more so than with "native" Jews, was their principled renunciation of all other cults, including in the converts' case that which had previously been their own.<sup>30</sup>

What, then, is the relation of preventient pagan anti-Judaism to the later Christian versions? Superficial similarities (such as insulting characterizations of Jews and Jewish customs) should not obscure their basic differences.<sup>31</sup> For pagans, Jewish exclusivism, in particular, offended them; for Christians, such exclusivism, which they shared, could only be admired.<sup>32</sup>

<sup>29</sup> On the xenophobia of the Roman literati, see J. Gager, *The Origins of Antisemitism* (New York, 1983), 39–112; and Schäfer, *Judeophobia*, 184 (Juvenal), 187 (Tacitus).

<sup>30</sup> Schäfer, *Judeophobia*, 98, 180–95. Juvenal accuses Roman converts of "Romanas . . . contemnere leges/Iudaicum ediscunt et servant ac metuunt ius," (*Satires* 14.100–1); Tacitus, of having renounced the *religionibus patriis*, disowning their own gods, country and family, *Hist.* 5.1–2.

<sup>31</sup> M. Taylor, *Anti-Judaism and Early Christian Identity* (Leiden, 1995), 115–21.

<sup>32</sup> The insistence, in Christian anti-Jewish writings, that Jews were perennially inclined toward idolatry means that the principle of exclusive worship was itself admired. Origen, *Contra Cels.* 4.31, Jews never made images, nor worshiped heaven (the prohibition against which Origen deems "impressive and magnificent"); by hearing the law on the Sabbath in the synagogue, the entire nation "studied philosophy"; 5.7–9, praising Jewish aniconic worship, not to be confused with the worship of heavenly entities; 5.43, "The philosophers in spite of their impressive philosophical teachings fall down to idols and daemons, while even the lowest Jew looks only to the supreme God." Augustine, *Contra Faust.* 12.13, "It is a most notable fact that all the nations subjugated by Rome adopted the heathenish ceremonies of Roman worship; while the Jewish nation . . . has never lost the sign of their law."

Furthermore, pagans, no matter how repugnant Judaism might seem to them, maintained that it was all right for Jews;<sup>33</sup> whereas most orthodox Christian thinkers (Augustine being a notable exception) held that Judaism, in general, and Jewish practice, in particular, were religiously wrong, period. Pagan anti-Judaism, in sum, seems largely the occasional expression of upper-class Graeco-Roman cultural snobbism, and the obverse (particularly in its hostility toward converts) of patriotic pride. In comparison, while Christian writers might avail themselves of themes first sounded by pagan counterparts, their negative critique was minutely developed and sweepingly comprehensive, their condemnation broader and more profound, and their hostile characterization essential to their own view of themselves.

What united earlier pagan and later Christian ideologues was not their dislike of Jewish difference as such, but rather their hostility, despite their insistence on this difference, to the appeal that Jewish communities evidently exercised on Gentile neighbors. Pagans disliked the cultural betrayal implicit in one of their own rejecting his native traditions and embracing the offensive religious exclusivism of the Jews. The orthodox Christian objection was more fundamental: if Christ himself had preached against Judaism, if God himself had repudiated the Jews, if even for Jews Judaism was wrong, then as a religious choice, whether relatively (through judaizing) or absolutely (through conversion), Judaism should be condemned. The stridency of orthodox rhetoric on this point attests to the divergence between the ideological ideal and quotidian reality: Gentiles, whether within the church or without, continued to be drawn to the synagogue.

The next question that arises is "Why?" Was Judaism's appeal to Gentiles the result of a deliberate effort? In other words, did Jews in antiquity not only accept converts – that much is indisputable – but actually seek them out? Did Jews mount missions to Gentiles in order to convert them?

On this question, current scholarly opinion seems polarized.<sup>34</sup> Those who believe that such missions existed see their success as a fundamental cause of pagan and Christian anti-Judaism as well as a reason for Jewish hostility to early Christianity; the newer community offered superior competition for the same scripturally oriented Gentile market.<sup>35</sup> Those

<sup>33</sup> Celsus *apud* Origen, *Contra Cels.* 5.25–6.

<sup>34</sup> J. Carleton Paget, "Jewish Proselytism at the Time of Christian Origins: Chimera or Reality?" *JSN* 62 (1996), 65–103.

<sup>35</sup> Two classic statements of this position: Simon, *Verus Israel*; B. Blumenkranz, *Die Judenpredigt Augustins* (Basel, 1946). For brief histories of this position, see also Taylor, *Anti-Judaism*, 7–45; J. Carleton Paget, "Anti-Judaism and Early Christian Identity," *Zeitschrift für Antikes Christentum* 1 (1997), 195–225.

who challenge this view allege that it misconstrues the ancient evidence (wherein “conversion” need not entail “mission”) and that it projects on to Judaism a specifically Christian model of behavior and development.<sup>36</sup>

The ancient data are themselves contested. Scholars who think that ancient Jews mounted missions point to a “dramatic increase in Jewish population” from approximately 150,000 people at the time of the destruction of the First Temple to a number between four and eight million a half-millennium later in the mid-first century CE. Since birthrate alone cannot account for such an extreme rise (or so the argument states), these figures “demand further explanation.” Missions provide the answer: Jewish numbers rose so spectacularly thanks to aggressive proselytism.<sup>37</sup> Opposing scholars observe that these numbers – as indeed any estimates of ancient demography – are extremely speculative. As such, they can hardly serve to establish any such dramatic population increase among Jews, much less to support a hypothesis presupposing huge numbers of conversions, and still less a theory of energetic missionary activity to explain these.<sup>38</sup>

Interpretation of more secure evidence is no less fraught. What of the broad range of Jewish writings that exist in Greek? Is this the measure of Jewish efforts to convert Gentiles (hence, evidence of missionary effort and intent), (merely) to impress Gentiles, or rather to edify and amuse other Hellenistic Jews?<sup>39</sup> What about episodes like the expulsions of Jews from Rome in 139 BCE and again, under Tiberius, in 19 CE: were these angry pagan responses to aggressive Jewish proselytizing, or something else?<sup>40</sup>

<sup>36</sup> P. Fredriksen, “Judaism, the Circumcision of Gentiles, and Apocalyptic Hope: Another Look at Galatians 1 and 2,” *JTS* 42 (1991), 532–64; S. McKnight, *A Light Among the Gentiles* (Minneapolis, 1991); M. Goodman, *Mission and Conversion* (Oxford, 1994); and E. Will and C. Orrieux, *Prosélytisme Juif? Histoire d'une erreur* (Paris, 1992), 11–170.

<sup>37</sup> L. Feldman, *Jew and Gentile*, 293. Feldman has been a leading proponent of the existence of such missions, although he seems to begin to modulate his position, 412.

<sup>38</sup> Fredriksen, “Circumcision of Gentiles,” 538 nn. 16 and 17; Carleton Paget, “Jewish Proselytism,” 70, who notes that Baron – the authority frequently cited for these figures – based his statistics on “a statement by the thirteenth-century chronographer Bar-Hebraeus about the number of Jews at the time of Claudius’ census, a comment in Philo [*Flacc.* 43] about the Jewish population of Egypt being a million, and comments in Josephus about the population in Palestine”; L. V. Rutgers, “Attitudes to Judaism in the Graeco-Roman Period: Reflections on L. Feldman’s *Jew and Gentile in the Ancient World*,” *JQR* 85 (1995) 361–95, repr. in Rutgers, *The Hidden Heritage of Diaspora Judaism* (Leuven, 1998), 199–234.

<sup>39</sup> Feldman, *Jews and Gentiles*, 305–24, sees this literature as attesting to missionary effort, hence intending a pagan audience; Goodman, *Mission and Conversion*, 78ff., does not. See also E. Gruen, *Heritage and Hellenism* (Berkeley, 1998); *Diaspora*, 135–231.

<sup>40</sup> M. Stern, “The Expulsions of the Jews from Rome in Antiquity,” *Zion* 44 (1979), 1–27 (Hebrew); L. V. Rutgers, “Roman Policy toward the Jews: Expulsions from the City of Rome during the First Century CE,” *Classical Antiquity* 13 (1994), 56–74;

Do not Jesus' statement in Matthew 23.15 ("You Pharisees cross sea and land to make a single *proselutos*"), and Paul's in Galatians 5.11 ("If I still preach circumcision [sc. as a Jewish missionary], why am I still persecuted?") require as explanation the existence of such missions?<sup>41</sup>

As all the interpretive conflict attests, appeals to the data cannot settle the argument. Some scholars, in an attempt to move the discussion from its impasse, have suggested a theory of "mitigated missions": not all Jews in all places sought converts, but only some Jews in some places and periods did.<sup>42</sup> Whatever this more modest proposal might gain in plausibility, however, it loses in explanatory value for the question at hand. Jewish missions that were only sporadic and occasional cannot have provided the white-hot competition that supposedly accounts for the ubiquity and hostility of the Christian *adversus Iudaeos* tradition.

Two last considerations, one more theoretical, and one more practical, might provide more purchase on this question of Jews, Gentiles, and missions. The first one relates to speculations concerning the ultimate fate of Gentiles, a theme arising within apocalyptic or messianic Jewish traditions. These traditions, and this theme, appear variously in literature ranging broadly in period, provenance, and genre: the classical Prophets, apocrypha and pseudepigrapha, Philo and Paul, rabbinic disputes in the *Bavli*.<sup>43</sup> Nonetheless, this textual attestation cannot provide any information on whether, and to what degree, such speculations had any impact or influence on the day-to-day life of ancient Jews and their various Gentile associates. One cannot, for example, extrapolate Jewish missions from prophetic statements about Israel as a light to the nations, or about Israel's God as the God of the whole universe. Furthermore, while speculations about the Gentiles' ultimate fate appear throughout this literature, they diverge: some texts speak of the ultimate subordination of Gentiles to Israel (or of their destruction, dejection, defeat); others, of their participation with Israel at the End (such as worshiping at the Temple Mount or observing

H. Botermann, *Das Judenedikt des Kaisers Claudius* (Stuttgart, 1996); cf. Carleton Paget, "Jewish Proselytism," 73–4 and nn. 44–50; and Gruen, *Diaspora*, 15–53.

<sup>41</sup> W. D. Davies, "Paul: From the Jewish Point of View," *CHJ* III 678–730, at 683, 691; J. Gager, *The Reinvention of Paul* (New York, 2000), passim.

<sup>42</sup> Carleton Paget, "Jewish Proselytism," 102.

<sup>43</sup> The nations included in Israel's redemption, Isa. 2.2–4; feasting together at the Temple, 25.6; coming with Israel to Jerusalem, Zech. 8.23; conveying Israel back to Zion, *Ps. Sol.* 7.31–41; burying their idols, 1 *Enoch* 91.14; Gentiles universally acknowledge Israel's God, Sirach 36.2–17, while burying their idols, Tobit 14.6. *Pianissimo*, Philo, *Vita Mos.* 2.44; *fortissimo*, Paul passim (eschewing idol worship but not converting to Judaism in light of the coming end of days/return of Christ). BT *Yev.* 24b holds that in the messianic age, Israel will not receive converts, thereby attesting to the Rabbis' assumption that Gentiles (the only possible candidates for conversion) will be present; BT *Av. Zar.* 3b.

some *mitzvot*). These traditions – as one would expect – are not univocal, and single documents can express many, sometimes opposing, views.<sup>44</sup>

Those texts, finally, which evince a positive orientation toward “eschatological Gentiles” speak only of Gentile inclusion, not conversion. The “righteous Gentile” of rabbinic discussion abandons his idols in this life; the proselyte, a former Gentile, “counts” eschatologically as a Jew.<sup>45</sup> By contrast, however, the Gentiles of these apocalyptic scenarios cling to their idols literally right to the End, repudiating them only once the Lord of Israel has revealed Himself in glory. Even at that point, these Gentiles do not convert to Judaism; instead, they turn from their own (false) gods and acknowledge, as Gentiles, Israel’s God.<sup>46</sup> Far from serving as a likely inspiration for Gentile missions, then, this inclusive tradition may speak rather about what Jews thought it would take to persuade most Gentiles to abandon their traditional worship: nothing less than a definitive and final self-revelation of God.<sup>47</sup> Taking this view in conjunction with the virtually universal Jewish opinion that the Law was the defining privilege of Israel (so too Paul, Rom. 9.4), a theological impetus for mounting missions to Gentiles becomes difficult to reconstruct.

This theoretical consideration – that ancient Jews had little ideological or theological reason to feel that they should endeavor to convince Gentiles to become Jews – leads to a second, practical one: the balance within the religious ecosystem of the ancient city. Jews won exemptions from civic and imperial cults through persistence and negotiation. Majority culture tolerated their exclusivism out of general respect for ancestral traditions. To have pursued actively a policy of alienating Gentile neighbors from their family gods and native civic and imperial cults would only have put the minority Jewish community at risk. Pagan communities and civic authorities were for the most part willing to adjust to and respect Jewish religious difference, even to the point – remarkably – of tolerating former pagans who, as converts to Judaism, sought the same rights and exemptions as “native” Jews. However, as the early Gentile churches discovered, when Christians began conspicuously to insist on exercising Jewish religious prerogatives without themselves becoming Jews, this tolerance expired.

This point moves to the final question on the social sources of Christian anti-Judaism. What role, if any, did Jews play in the (pagan) persecutions

<sup>44</sup> E. P. Sanders, *Jesus and Judaism* (Philadelphia, 1985), 212–21.

<sup>45</sup> Rabbinic righteous Gentiles: Tos. *Sanh.* 13.2; Noahide prescriptions, Tos. *Av. Zar.* 8.4–7; BT *Sanh.* 56b; D. Novak. *The Image of the Non-Jew in Judaism* (Toronto, 1983). See also ch. 25 in the present volume.

<sup>46</sup> E.g. Tobit 14.5–6; *Sib. Or.* 3.715–24; Justin, *Dial.* 122–3; cf. BT *Av. Zar.* 3b.

<sup>47</sup> Precisely Paul’s point: that Gentiles-in-Christ now abandon idols and *porneia* is a sign that the End (identified with Christ’s return) is at hand.

of (Gentile) Christians?<sup>48</sup> How did this role, perceived or actual, contribute to Christian anti-Judaism?

Historians conventionally divide the Empire's anti-Christian persecutions into two phases: the first, approximately from the late first to the mid-third century; the second, from Decius in 249 to Diocletian in 303. In the later period, emperors mandated uniform participation in acts of public cult. Jews (and, thus, Jewish Christians) were explicitly exempted;<sup>49</sup> Gentile Christians who refused were targeted for harassment, imprisonment, and possibly death. The persecutions of the first phase, however, were random and sporadic. They arose at a local rather than an imperial initiative, and their actual legal grounds remain obscure.<sup>50</sup>

Popular rumors of the Christians' debauchery and cannibalism, and their self-exemption from imperial cult, doubtless contributed to the churches' local visibility. Visible, too, was their non-participation in the civic cults of those gods who were theirs by birth and blood. Such behavior threatened to rupture the *pax deorum*, the pact or peace between heaven and the human community. Deprived of cult, the gods grew angry; and when gods were angry, humans suffered. Therefore, "when the Tiber overflows or the Nile doesn't," when plague or earthquake struck, Christians might find themselves sitting targets for local anxieties.<sup>51</sup> Once before the magistrate (frequently the Roman governor on his assize rounds), Christians were ordered to sacrifice. Refusal could mean death.<sup>52</sup> The pagan context of these persecutions dominates the accounts. Nevertheless, some historians claim that the Jews, "either in the background or in the foreground," also played an important role, spreading malicious rumors, stirring up trouble, participating actively and enthusiastically in local outbreaks of anti-Christian violence.<sup>53</sup>

<sup>48</sup> The floggings that Paul both initiated (Gal 1.13) and endured (2 Cor. 11.24) are not relevant to this discussion, since the principals in both instances were Diaspora Jews.

<sup>49</sup> J. B. Rives, "The Decree of Decius and the Religion of Empire," *JRS* 89 (1999), 135–54; Jewish exemption, PT *Av. Zar.* 5.4 (44d); Eusebius, *HE* 6.12.1. A. M. Rabello, "On the Relations between Diocletian and the Jews," *JJS* 35 (1984), 147–67.

<sup>50</sup> H. Musurillo, *Acts of the Christian Martyrs* (Oxford, 1972), 57–62; the now classic exchange of G. E. M. de Ste. Croix and A. N. Sherwin-White, "Why were the Early Christians Persecuted?" *Past and Present* 26 (1963) and 27 (1964).

<sup>51</sup> Tertullian, *Apology* 40.2; on Christian withdrawal from cult and the anxieties it occasioned, see S. Price, *Rituals and Power: The Roman Imperial Cult in Asia Minor* (Cambridge, 1984), 123–6.

<sup>52</sup> See, e.g., the martyrdoms of *Polycarp* 9; *Perpetua* 6; *Scillitan Martyrs* (where the proconsul complains of their forsaking the *mos Romanorum*) (Musurillo, *Acts of the Christian Martyrs*, 11, 113–5, 87–9); also the procedure sketched in Pliny, *Ep.* 10.

<sup>53</sup> A. Harnack, *Expansion of Christianity in the First Three Centuries* (New York 1904), 64–7; W. H. C. Frend, *Martyrdom and Persecution in the Early Church* (New York, 1967), e.g. 178 (malice), 194 (troublemaking), 215 (active part in persecutions). Taylor notes that Frend

Evidence cited in support of this claim includes some statements found in patristic writings and some episodes given in *acta martyrum*. In his *Dialogue*, Justin accused the Jews of murderous harassment of Christians, extending to the crucifixion itself: "Your hand was lifted high to do evil, for even when you had killed the Christ you did not repent, but you also hate and murder us" (133.6). Likewise, Tertullian characterized synagogues as *fontes persecutorum* (*Scorpiace* 10), and Origen suggested that Jews stood at the source of popular anti-Christian calumnies about ritual murder, cannibalism, and promiscuity (*Contra Cels.* 6.27, though cf. 6.40). Jews also figure prominently in the martyr stories of Polycarp and of Pionius. "The entire mob of pagans and Jews from Smyrna" roar, enraged, demanding Polycarp's death in the arena (*Poly.* 12); later, when "the mob" collects wood for his pyre, "the Jews (as is their custom) zealously helped them" (13). Later, the Jews together with their pagan neighbors frustrate the Christian community's efforts to retrieve Polycarp's body (17–18). A century later, again in Smyrna, Pionius and his companions are watched on their way to the tribunal by a great crowd of Greeks, women, and also Jews ("on holiday because it was a great Sabbath," *Pionius* 2–3), who importune Christians in the crowd to enter their synagogues (13).<sup>54</sup>

This is a slim dossier; indeed, its very slimness prompts some historians to trust the accounts, since the theme of Jewish hostility to martyrs is otherwise so exiguous in Christian literature.<sup>55</sup> Nevertheless, the indictments themselves seem rhetorical and retrospective. These sources present contemporary Jews as standing in the long line of persecutors of the righteous extending to the first generation of the Church, to Jesus himself, and before him to the Prophets. The Jewish presence described in these documents, in other words, can be read as a narrative restatement of the

"so takes the hostility and malice of the Jews for granted, that they occasionally overshadow the pagan officials in his descriptions of the persecutions," *Anti-Judaism*, 84. More recently R. Lane Fox, *Pagan and Christian* (New York, 1986), 487; and G. Bowersock, *Martyrdom and Rome* (Cambridge, 1995), 56, continue this historiographical tradition. Cf. F. Millar's review of Frensdorff, in *JRS* 56 (1966), 231–6; and Taylor, *Anti-Judaism*, 78–114.

<sup>54</sup> J. Parkes argues that the Smyrnan Jews attempted to offer these Christians refuge, *Conflict of Church and Synagogue* (Cleveland, 1961), 144–5; if so, this refuge would cohere with Eusebius' report of Jewish sympathy toward persecuted Christians, *Martyrs of Palestine* 8.1. Others see evidence of hostile intent, e.g., Lane Fox, *Pagans and Christians*, who paints a lurid picture of Jews and pagans together "gloating at the Christians from their city's colonnades," 487; for a full discussion, 479–87.

<sup>55</sup> L. Robert, *Le Martyre de Pionios*, ed. G. W. Bowersock and C. P. Jones (Washington DC, 1994), argues that Jews did indeed actively participate in these anti-Christian persecutions.

“trail of crimes” motif in orthodox anti-Jewish hermeneutic,<sup>56</sup> wherein allegations of such persecutions serve to reaffirm orthodox Christian identity and the orthodox understanding of contested biblical texts. The rhetoric of these texts, “the literary and theological nature and function of such accusations,” demands investigation. “Thus the initial question must not be about the Jews – ‘Did they persecute Christians?’ – but about the Christians – ‘Why did they perceive Jews as persecutors?’”<sup>57</sup>

Does this literary framing mean that real Jews were most likely not involved in these persecutions? No historical evidence can prove a negative, but consideration of other factors can help assess relative plausibility or implausibility. First, these charges of Jewish anti-Christian aggression arise specifically within orthodox Christian documents, which are the showcases of the erudite *adversus Iudaeos* tradition. It must be recalled, however, that more than the orthodox perished in these outbreaks of violence. “Heresies” – rival Gentile Christian churches with quite different orientations toward the Septuagint and with identities independent of Jewish constructions of “Israel” – also produced martyrs.<sup>58</sup> It is difficult to frame a Jewish resentment sufficiently broad to account for both anti-orthodox and anti-Marcionite aggression. Second, as attested by the cry awkwardly attributed to the Smyranean Jews in *Polycarp*,<sup>59</sup> such anti-Christian actions focused

<sup>56</sup> Thus, for example, Tertullian’s famous remark on the synagogues continues, “before which the apostles endured the scourge,” a clear reference to episodes described or predicted in various New Testament texts. Parkes comments, “The statement of Jewish hostility in general terms is based on theological exegesis [of Old and New Testament texts] and not on historical memory,” *Church and Synagogue* 148; general discussion and analysis of this literature, 121–50; M. Taylor, *Anti-Judaism*, 91–114, cf. Paget, “Anti-Judaism,” 215–16; J. Lieu, “Accusations of Jewish Persecution in Early Christian Sources, with Particular Reference to Justin Martyr and the *Martyrdom of Polycarp*,” in Stanton and Stroumsa (eds.), *Tolerance and Intolerance*, 279–95. And see also ch. 11 in the present volume. On the literary nature of these (re-worked) martyr stories more generally, see J. W. van Henten and F. Avemarie, *Martyrdom and Noble Death: Selected Texts from Graeco-Roman, Jewish and Christian Antiquity* (London, 2002), especially 3–4, 94–6 (Polycarp).

<sup>57</sup> Lieu, “Accusations,” 280; idem, *Image and Reality*. E. L. Gibson proposes an internal target for this rhetoric, i.e., synagogue-going Christians, “Jewish Antagonism or Christian Polemic: The Case of the *Martyrdom of Pionius*,” *J ECS* 9 (2001), 339–58.

<sup>58</sup> Pionius was burned next to a member of Marcion’s church, 21.5; “Anonymous” in Book 5 of Eusebius’ history, derogating Montanist martyrs, mentions that “it is a fact that some of the other heresies have immense numbers of martyrs . . . [such as] those called Marcionites, from the heresy of Marcion,” *HE* 5.16.20–1. See R. MacMullen, *Christianizing the Roman Empire, AD 100–400* (New Haven, 1984), 29–30 and n. 13.

<sup>59</sup> “The whole crowd of Gentiles and Jews dwelling in Smyrna cried out in uncontrollable anger and with a great shout, ‘This is the teacher of Asia, the father of the Christians, the destroyer of our gods, the one who teaches many neither to sacrifice nor to worship!’” *Pionius* 12.2.



precisely on the issue of public cult. Were Jews on these volatile occasions to have made themselves so conspicuous, they would have risked emphasizing, on precisely the same issue, their own degree of religious difference from majority culture.

Finally, to either side of these persecutions chronologically, one consistently finds complaints of excessive intimacy between Gentile Christians and their Jewish neighbors threading through orthodox writings of many genres – sermons, letters, commentaries, conciliar canons. These sources speak regularly of Christians’ frequenting synagogues, keeping Sabbath or feast days with Jewish friends, soliciting Jewish blessings, betrothing their children to Jews, or indeed, marrying Jews themselves.<sup>60</sup> This is not to say that relations were always sunny; and Jewish anti-Christian polemic dates from this period, too.<sup>61</sup> But polemic is not persecution. If Jews had actually played – or even been commonly thought to have played – a vigorous role in the persecution of Gentile Christians, then this abundant and continuous evidence of intimate social interaction becomes extremely difficult to account for.

When focusing on ancient Jewish–Christian relations, the lived social context of these relations too often falls outside the locus of consideration. These two minority communities lived within cities that were both structured and celebrated by the majority religious culture. An abiding aspect of that culture was its deep respect for the *mos maiorum*, inherited religious tradition, the cornerstone of both law and piety.<sup>62</sup> This deep respect alone accounts for the extraordinary privileges and exemptions granted uniquely to Jewish communities in virtue of the ethnicity and antiquity of their own ancestral way of life. In addition, these exemptions in turn allowed Hellenistic Jews, without compromising those things fundamental to

<sup>60</sup> Christians going to synagogue, e.g., Origen, *In Lev. Hom.* 5.8; *Sel. in Exod.* 12.46; notoriously, Chrysostom’s sermons against Judaizers. Christians keeping the Sabbath; Augustine, *Ep.* 54.2,3; going to a Jew for a cure, *De Civ. Dei* 22.8.21. Church councils continuously legislate against Christian interest in Judaism and interactions with Jews, e.g., Elvira (303 CE) condemns intermarriage (canon 16), soliciting Jewish blessings for fields (canon 49), accepting Jewish hospitality (canon 50), and sexual relations (canon 78). Legislation collected in A. Linder, *The Jews in the Legal Sources of the Early Middle Ages* (Detroit, 1997).

<sup>61</sup> W. Horbury, *Controversy*; on the *birkat ha-minim*, besides Horbury, see S. Wilson, *Related Strangers* (Minneapolis, 1995), 183–93; Carleton Paget, “Anti-Judaism,” 217 n. 98 221; J. Z. Pastis, “Jewish Arguments against Christianity in the *Dialogue of Timothy and Aquila*,” in B. G. Wright (ed.), *A Multifarious Heritage: Essays in Honor of Robert Kraft* (Atlanta, 1999), 184 n. 4; for the earlier period, see C. Selzer, *Jewish Responses to Early Christians: History and Polemics, 30–150* (Minneapolis, 1994). See also ch. 11 in the present volume.

<sup>62</sup> T. D. Barnes, “Legislation against the Christians,” *JRS* 58 (1968), 32–50.

their own religious identity, to attain their remarkable degree of social and cultural integration in the ancient city.

The value that majority culture attached to inherited custom, furthermore, unites both phases of the anti-Christian persecutions, when the traditionally pious, whether at the civic or later the imperial level, feared heaven's hostile response to any diminution of customary piety. In addition, it accounts, in the second century in particular, for the temporal coincidence of law banning conversions to Judaism (or indeed the circumcision of any non-Jew) together with outbreaks of aggression against Gentile Christians; only those born into Judaism could be permitted the Jews' religious prerogative of exemption from public cult.<sup>63</sup> The self-identity of the New or True Israel notwithstanding, then, Israel *secundum carnem* was the sole community whose right of religious difference Roman law and custom acknowledged. And this remained the case even after 312, when Constantine began Christianity's conversion to a form of imperial Roman religion.

#### IV PAX ROMANA CHRISTIANA: THE CONVERSION OF CHRISTIANITY

His momentous decision to patronize one branch of the church enabled Constantine to avail himself of the benefits of two movements, – one pagan, one Christian; each one ancient – whose universalist tendencies had intensified particularly in the half-century preceding his reign. To the pagan side lay the (new) emphasis on cult acts and the worship of the emperor that had sprung into focus with the Decian persecution of 249.<sup>64</sup> To the Christian side lay the social realization of orthodoxy's rhetoric of universalism, especially in the consolidation of episcopal authority and power during the period of growth that had marked the fifty-odd years between Decius and Diocletian. Isolating blood sacrifices as the sign *par excellence* of traditional polytheism (as Decius before him, for different reasons, had done), Constantine repudiated those practices while retaining and even emphasizing adoration of the emperor's image. Imperial cult thus continued to serve as a powerful force for Empire-wide religious and political

<sup>63</sup> Linder, *Roman Legislation*, 99–102, on the laws against circumcision from Hadrian to Antoninus Pius (late 120s to c. 155). Antoninus' rescript seems to have a wider application than only to the non-Jewish slaves of Jewish masters: "Circumcidere Iudaeis filios suos tantum rescripto divi Pii permittitur: in non eiusdem religionis qui hoc fecerit, castrantis poena irrogatur," *Dig.* 48.8.11.

<sup>64</sup> Rives, "The Decree of Decius;" G. W. Bowersock, "Polytheism and Monotheism in Arabia and the Three Palestines," *Dumbarton Oaks Papers* 51 (1997), 1–10.

coherence.<sup>65</sup> Extending his considerable support to the orthodox Church, Constantine thereby acquired a far-flung cadre of talented, educated men, the bishops, whose network of urban churches was well ensconced throughout both halves of the Empire. From this point onward, ecclesiastical and imperial politics grew increasingly intertwined.<sup>66</sup>

The groups who most immediately felt the negative effects of these changes were, first of all, other Christians, whom Constantine ordered to disband, outlawing their assemblies, exiling their leaders, and impounding their holy books.<sup>67</sup> Traditional polytheist practice suffered, too. In banning blood offerings, Constantine drove a wedge between public, civic religious celebration and the sacrifices that had been one of its prime expressions since time immemorial.<sup>68</sup> Neither set of directives accomplished its aim; well after this period, heretical communities still gathered and pagans made their traditional offerings. Nor is it clear that Constantine himself and the Christian emperors after him truly expected these directives to be enforced; much of this genre of legislation is closer to moral exhortation (and, perhaps, to political posturing) than to legal prescription.<sup>69</sup> However, the increasing Christianization of Roman law established a tone and ultimately facilitated the erosion of religious pluralism, an unhappy hallmark of the later Empire.<sup>70</sup>

<sup>65</sup> J. H. W. G. Liebeschuetz, *Continuity and Change in Roman Religion* (Oxford, 1979) 232–52, on the politico-theological continuities between Aurelian, Diocletian, and Constantine. The emperor cult should have been as problematic for Christians after 312 as before (although sacrifice had been removed, the imperial images remained), but it was not: see R. MacMullen, *Christianity and Paganism in the Fourth to Eighth Centuries* (New Haven, 1997), 34–5; Bowersock, “Polytheism and Monotheism,” 7, who notes that because of the imperial cult, the rabbis classified imperial statues as idols, *M. Av. Zar.* 3.1; *PT Av. Zar.* 3.1 (42b).

<sup>66</sup> H. A. Drake, *Constantine and the Bishops* (Baltimore, 2000); T. D. Barnes, *Constantine and Eusebius* (Cambridge, 1981); D. Hunt, “The Successors of Constantine,” *CAH* XIII 1–43, at 7ff.; MacMullen, *Christianity and Paganism*, 29–30.

<sup>67</sup> Eusebius, *HE* 10.5.16, 6.4, 7.2; *Vita Const.* 3.64–6; *CTb* 16.5.1, from the year 326: “haereticos atque schismaticos non solum ab his privilegiis alienos esse volumus, sed etiam diversis muneribus constringi et subici.” Barnes, *Constantine*, 224, points out that this law “was clearly not enforced, since Valentinian, Marcionite, and Montanist conventicles long continued to exist.”

<sup>68</sup> The first general condemnation of pagan cult (“superstitio . . . sacrificiorum insania”) appears in 341, *CTb* 16.10.2, whereby Constans refers to an earlier law of his father’s. S. Bradbury, “Constantine and the Problem of Anti-pagan Legislation in the Fourth Century,” *Classical Philology* 89 (1994), 120–39. Drake sees Constantine’s all-bark-no-bite pronouncements against various pagan and Christian groups as part of a larger policy promoting a non-specific monotheism to unify the Empire, *Constantine*, 194–272.

<sup>69</sup> Bradbury, “Constantine,” 134–5.

<sup>70</sup> C. Pharr, *The Theodosian Code and Novels and the Sirmondian Constitutions* (Princeton, 1952); laws relating specifically to Jews, Linder, *Imperial Legislation*; M. Saltzman, “The

The concern of Constantine and his successors that worship be “correct,” no matter the particular contribution of a Christian sectarian mentality, was also a continuation of the ancient Roman solicitude for the *pax deorum*. Heaven (whether traditionally polytheist or, now, Christian) superintended the commonweal.<sup>71</sup> Impiety – increasingly defined as deviance from Catholic orthodoxy – accordingly put the state at risk. With hostile legal rhetoric in the early decades of the fourth century, with imperially sponsored campaigns against temples, cult statues, and religious minorities by the century’s end,<sup>72</sup> emperors increasingly sought to impose some sort of universal standard of religious behavior outside the Church and doctrinal harmony within it. The challenge was to lessen effectively the gap between the ideology of orthodoxy and the reality of a religiously diverse society.

In Roman law before 312, Jews had had a special status.<sup>73</sup> Now, in the decades after Constantine, they, like other non-Catholics, might be classed as pariah outsiders. Imperial legal rhetoric routinely grouped them together with pagans and with deviant Christians (“heretics”),<sup>74</sup> characterizing them and their religious culture as a *feralis* and *nefaria secta* (*CTb* 16.8.1; 8.2; 8.8; 8.9), *sacriligis coetus* (8.7; cf. *CJ* 1.7.2), and *contagia polluerens* (7.3). Preventive laws against the circumcision of non-Jews – focused now especially on the issue of Jewish masters owning Christian slaves – were frequently and shrilly reiterated, and conversion from Christianity to Judaism particularly denounced (for example, *CTb* 16.8.1; 8.7).<sup>75</sup> Echoing

Evidence for the Conversion of the Roman Empire to Christianity in Book 16 of the *Theodosian Code*,” *Historia* 42/3 (1993), 362–78; D. Hunt, “Christianising the Roman Empire: The Evidence of the Code,” in J. Harris and I. Wood (eds.), *The Theodosian Code* (London, 1993), 143–58.

<sup>71</sup> Liebeschuetz, *Continuity and Change*, on the *pax deorum*, 292; on Constantine’s conversion and its sequalia, 277–308.

<sup>72</sup> MacMullen, *Christianity and Paganism*, 51–3, with copious primary references in n. 63.

<sup>73</sup> The basic study, old but still valuable, is J. Juster, *Les Juifs dans l’empire romain*, 2 vols. (Paris, 1914); W. Pakter, “Early Western Church Law and the Jews,” in H. Attridge and G. Hata (eds.), *Eusebius, Christianity, and Judaism* (Leiden, 1992), 714–35. See also ch. 5 in the present volume.

<sup>74</sup> L. Cracco Ruggini, “Pagani, ebrei e cristiani: Odio sociologico e odio teologico nel mondo antico,” in *Gli ebrei nell’alto medioevo*, 1 (Settimane di Studio del Centro Italiano di Studi sull’Alto Medioevo 26, 30 marzo–5 aprile 1978; Spoleto, 1980), 15–117; idem, “Intolerance: Equal and Less Equal in the Roman World,” *Classical Philology* 82 (1987), 187–205.

<sup>75</sup> A statute dating from 409 condemns such conversions as well as “God-fearing” (voluntary judaizing), and vilifies Judaism as a “perversitatem . . . alienam Romano imperio,” *CTb* 16.8.19. In 423, Theodosius II specified confiscation of property and perpetual exile as the penalty for a Jew facilitating the circumcision (hence, conversion) of a Gentile Christian (*nostrae fidei hominem*), 16.9.5.

canon law, the state also condemned judaizing (in the language of the statute, Christians “polluting themselves with Jewish contagions,” 16.7.3, here combined with execrations against pagans and Manichees) and intermarriage (3.7.2). By 418, the *imperium* limited the offices within public service that Jews could fill, and denied them a place in the military (16.8.24); in 425, together with pagans, Jews were in principle excluded from imperial administration entirely, as well as from law (the concern, again, was that, because of this contact, Christians might convert, *Cons. Sirm.* 6). Construction of new synagogues was forbidden;<sup>76</sup> those in “desert places” were ordered destroyed, if that destruction could be accomplished without disturbing public order (*CTb* 16.8.22; 8.25; 8.27).

Yet orthodoxy’s anti-Judaism provided only one small tributary to those Roman legal traditions regarding Jewish rights and practices that had coursed, by Constantine’s day, for more than three centuries. Occasionally (which is to say, exceptionally), emperors enacted legislation that impinged directly on Jewish practice: *Codex Theodosianus* 16.8.18 on Purim celebrations (in 408); *Codex Justinianus* 1.9.7 on consanguinity rules (393); and *Novella* 146 on protocols for synagogue worship (553).<sup>77</sup> Harsh rhetoric aside, though, Christian emperors through the fifth century by and large continued and arguably even extended the policies of their pagan predecessors, granting to Jewish communities a significant degree of autonomy, both religious and social. Laws pressuring Jews into curial service must be seen in context; the city councils throughout this period became increasingly desperate, and the annulment of traditional cult in the function of government had removed the reason for the Jews’ original exemption. (Strikingly, Jewish “clergy,” like their Christian counterparts, were excused.<sup>78</sup>) By mandate, synagogues were protected from destruction, from appropriation by the military (troops were not to be quartered therein), and from unlawful seizure (in such cases, Jewish communities were to be fairly compensated for their property), all on the well-established principle – and in increasing contrast to non-Catholic Christians and to traditional cult – that “Iudaeorum secta nulla lege prohibita” (*CTb* 16.8.9).<sup>79</sup>

<sup>76</sup> G. Stemberger, *Jews and Christians in the Holy Land. Palestine in the Fourth Century* (Edinburgh, 2000), 121–60, on the null effect of this law in Palestine in the fourth century in light of the archaeological evidence.

<sup>77</sup> Linder, *Imperial Legislation*, 236–8, 191–3, 402–11.

<sup>78</sup> On Jews and curial duties, *CTb* 16.8.3–4 (exempting Jewish “clergy”); 12.1.99 (mitigating this exemption); 16.8.13 (confirming their rights, in exceptionally respectful language); 12.1.158 (a specifically western interpretation of these exemptions); 12.1.165.

<sup>79</sup> The language of this statute of 393, coming within a few years of the destruction of the synagogue at Callinicum, is quite strong. It continues: “We are therefore gravely

Christian emperors in general affirmed the prerogatives of the Jewish Patriarch.<sup>80</sup> Imperial mandate asserted his unique authority with respect to excommunication (16.8.8; reaffirmed in 8.15) and forbade public insult to him (8.11; no such law protecting bishops appears in the books).<sup>81</sup> With the Empire *de facto* divided, Honorius tried to prohibit the Patriarch's collection of donations from western synagogue communities (8.14, in 399); within five years, he rescinded his own order and granted the Jews "the right of conveyance [of these monies] according to the privileges established by the ancient emperors" (8.17). Jewish courts exercised authority not only in cases concerning religious issues but also (with the preceding consent of both parties) in civil cases, and their judgments were to be enforced by the imperial government.<sup>82</sup> Finally – and in striking contrast to what would later be the case in medieval Europe – Jews who had converted to Christianity for reasons of convenience (or "out of various necessities") rather than conviction were allowed to return *ad legem propriam* (16.8.23, issued in 416).

Thus, when compared with the ultimate consequences of Constantine's conversion for imperial and ecclesiastical politics, therefore, for Church doctrine, for non-Catholic Christians, and for the public practices of

disturbed by the interdiction imposed in some places on their [the Jews'] assemblies. Your Sublime Magnitude [Addeus, the supreme military commander in the East] shall, upon reception of the order, repress with due severity the excess of those who presume to commit illegal acts (*inlicita*) under the name of the Christian religion and attempt to destroy and despoil synagogues." Other statutes protective of Jews and synagogues include 16.8.12 (issued in 397); 8.20 (412; this statute both protects synagogues and affirms Jewish exemptions from legal business on Sabbaths and holy days by appeal to long-standing legal precedent); 8.21 (420; protecting both Jewish persons and property, whether private or communal); 8.25 (423; specifically forbidding the quartering of troops in synagogues, and ordering compensation for those seized); 8.26 (423; coupling protective measures with a warning against Jews' circumcising "a man of our faith").

<sup>80</sup> M. Jacobs, *Die Institution des jüdischen Patriarchen. Eine quellen- und traditionskritische Studie zur Geschichte der Juden in der Spätantike* (Tübingen, 1995); P. Brown, *Authority and the Sacred* (Cambridge, 1995), 47–8; L. I. Levine, "The Status of the Patriarch in the Third and Fourth Centuries: Sources and Methodology," *JJS* 47 (1996), 1–32.

<sup>81</sup> The demotion of Gamaliel VI (a *vir clarissimus* and "illustrious honorary praetorian prefect") and the restriction of his powers (16.8.22, in 415) is exceptional and evidently enacted because of the Patriarch's overstepping himself; see Linder, *Roman Legislation*, 267–72; Stemberger, *Jews and Christians in the Holy Land*, 230–68; O. Irshai, "Confronting a Christian Empire: Jewish Culture in the World of Byzantium," in D. Biale (ed.), *Cultures of the Jews: A New History* (New York, 2002), 189–92. This institution had run its course by 429; the language of the *Theodosian Code* (*post excessum patriarcharum*, 16.8.29) suggests that the family line had died out, not that the Empire had eliminated the office.

<sup>82</sup> *CTh* 2.1.10, dated February 3, 398. This same prerogative was extended to bishops five months later (*CJ* 1.4.7). See Linder, *Imperial Legislation*, 204–11.

traditional polytheism, the changes that the Christianization of the government worked on the Empire's official legal posture toward Jews and Judaism seem relatively mild. What did change markedly in the course of the fourth century as a result of Constantine's decision, however, was the role of the bishop in urban politics. In the coming centuries, the power of the bishops only increased and their role in local administration only grew; so, too, did their involvement in political strife and urban violence. These later developments, in turn, affected Jewish communities significantly.<sup>83</sup>

Bishops had long stood at the heart of their communities, directing the internal flow of charity, instructing their congregations through exposition of Scripture, shaping local opinion, and administering community resources. In frequent and regular contact with Church members (who were, in effect, their urban power-base), their tenure in office was in principle permanent. (By comparison, their secular counterparts for the most part served from year to year.) As a group, they were distributed throughout the Empire and linked across vast spaces by their common canon, calendar, and theological commitments. For Constantine, they represented an enormous and previously untapped pool of disciplined administrative talent. By lavishing imperial largesse and new judiciary powers on these men, he in effect created a new Empire-wide system of welfare and justice that served as an alternative to the clogged and corrupt mechanisms of the state.<sup>84</sup> This new role, and the imperial authority that strengthened it, vastly enhanced the bishops' already considerable local power.

Unexpectedly, however, in 361, the new Emperor, Constantine's nephew Julian, reversed this huge and improvised imperial-ecclesiastical system. Renouncing the orthodox Christianity in which he had been raised, Julian humiliated the bishops by revoking imperial patronage. Furthermore, he publicly and energetically embraced polytheism and proclaimed universal religious toleration (thus further destabilizing the orthodox by allowing exiled bishops and heretics to return). Finally, he announced that he intended to oversee the rebuilding of the Jews' Temple in Jerusalem.<sup>85</sup>

<sup>83</sup> J. H. W. G. Liebeschuetz, *The Decline of the Roman City* (Oxford, 2001), 145–68; G. Fowden, "Bishops and Temples in the Eastern Roman Empire AD 320–435," *JTS* 29 (1978), 53–78.

<sup>84</sup> H. A. Drake, *Constantine*, especially 11, 27–34 (religious coercion and episcopal power); 325–52 (*Sirmondian Constitutions* empowering bishops with judiciary functions).

<sup>85</sup> On restoring temples and sacrifices as well as rescinding earlier privileges granted to Christians, Ammianus Marcellinus, *Historia* 22.5.2; Libanius, *Orationes* 18.126; allowing previously exiled Christians to return, Julian, *Ep.*; Amm. Marc. 22.5.3–5. Hunt, *CAH* XIII 60–73. On Julian's assessment of Christianity, *Against the Galileans*; on his plans to rebuild the Temple in Jerusalem, Loeb *Ep.* 51 to the Jews, 398. For the impact of his plan on later Christian–Jewish relations, see Wilken, *Chrysostom*, 128–60. Later Christian

This last gesture took deliberate aim at two of the Church's most powerful "empirical" arguments against Jews and Judaism, namely, that Rome's defeat of Judaea in AD 70 and 135 proved incontrovertibly that God had repudiated Israel because of their rejection of his Son; and that the "fleshly" (that is, Jewish) observance of the Law was in any case impossible, since the biblically mandated sacrifices could be performed only at the Temple in Jerusalem.

Julian died while on a campaign in 363 before much could come of his efforts. His successor Jovian, a Christian scrambling to consolidate his own position, promptly restored orthodox bishops to their privileged position. Their experience under Julian had evidently radicalized them because, from this point on, they embraced imperial patronage and exercised their powers of coercion seemingly without ambivalence. By century's end, the bishops emerge as the impresarios of urban violence. Assisted by paramilitary bands of roving monks and urban "hospital workers" (the *parabalani*), they could enforce their own views on religious unity while the enormous spiritual prestige of the monks legitimated their resort to force. Pagan cult statues and temples, heretical assemblies, Jewish buildings and communities all might serve as targets for Christian mobs, the local bishop inciting and inspiring their actions.<sup>86</sup>

Paradoxically, however, the one island of relative safety for religious outsiders remained the synagogue. Jews, like everyone else, could be the

historians dwelt on Julian's attempted defiance of Jesus' prophecy of the Temple's desuetude in Matt. 24.2: "There shall not be left here [on the Temple Mount] one stone upon another, that shall not be thrown down": Rufinus, *HE* 10.40; Philostorgius, *HE* 7.9; Socrates, *HE* 3.20; Sozomen, *HE* 5.22; Theodoret of Cyrus, *HE* 3.5.

<sup>86</sup> *Callinicum*, 386 or 388: a synagogue was burned down (a Valentinian chapel, likewise destroyed by the mob, does not merit mention as a criminal act), Ambrose, *Ep.* 40, who mentions there an earlier synagogue-burning in Rome. *Alexandria*, 415: during the episcopate of Cyril, Alexandrian Jews (as well as pagans and heretics), were targeted by Christian mobs and expelled from the city, and their synagogues were seized and consecrated as churches, Socrates, *HE* 7.13–15. *Edessa: Chron. Edess.* 51 = *TU* 1X (1892), 106. *Magona* (Minorca), 418: the synagogue was destroyed and the Jewish population were given the choice of conversion or exile, *Severus of Minorca, Letter on the Conversion of the Jews*, ed. S. Bradbury (Oxford, 1996). *Antioch*: synagogues were destroyed during the reign of Theodosius II, Evagrius, *HE* 1.13. See E. D. Hunt, "St. Stephen in Minorca: An Episode in Jewish–Christian Relations in the Early 5th Century AD" *JTS* 33 (1982) 106–23, at 116–17; Bradbury, *Severus*, 53–7; P. Brown, "Christianization and Religious Conflict," *CAH* XIII 632–64, who comments that "these incidents . . . do not in themselves amount to evidence for a generalized, and inevitable, trend toward the victimization of Jews in the post-Constantinian empire," 643. F. Winkelmann, "Der *laos* und die kirchlichen Kontroversen im frühen Byzanz," in idem, *Volk und Herrschaft im frühen Byzanz* (Berlin, 1991), 133–53. On the important issue of the role of bishops in religious coercion, Bradbury, "Constantine and Anti-pagan Legislation," 137–8; Fowden, "Bishops and Temples," 67–77.



occasional object of mob violence. However, Roman legal tradition in general prevailed, and Judaism – unlike paganism or heresy – even when marginalized, was nonetheless never outlawed. Jewish communities not only remained protected by legislation framed at the highest levels of government; they also continued to attract sympathetic attention and social support at a popular level.<sup>87</sup> Indeed, the hostility of ecclesiastical writers, their repeated efforts to delegitimize and disallow Christian involvement (both clerical and lay) in synagogue activities, and their insistence that Judaism itself represented the ultimate antitype of the true faith, obliquely witness to a positive attitude toward Jews and Judaism on the part of many in their own congregations.

The intense and articulate anti-Judaism that had characterized orthodox Christian sensibility and rhetoric since the internal hermeneutical wars of the second century thereby found full expression in the commentaries, treatises, Church histories, and especially the sermons of fourth-century churchmen, the ideologues of imperial orthodoxy. This literature betrays not only the “push” of clerical disapproval but also the continuing “pull” of the synagogue’s attraction, and Chrysostom’s sermons of 387, delivered in Antioch, are a premier example.<sup>88</sup> During approximately the same period, Church councils repeatedly published canons the chief aim of which was to establish and enforce a separation of Christians, ecclesiastics and lay people, from Jews. These prohibitions reveal the situation on the ground: some Gentile Christians kept the Jewish Sabbath as a day of rest and worked on Sundays (Laodicea, canon 29); they received festival gifts from Jews and heretics (canon 37) and accepted *matzah* and participated in Jewish “impieties” (canon 38). They shared in Jewish fasts and feasts (*Apostolic Canons*, canon 69); tended lamps in synagogues on feast days (canon 70); joined with Jews and heretics in prayer (canon 63), and gave their children to Jews in marriage (Chalcedon, canon 14).<sup>89</sup> In addition, the Jewish

<sup>87</sup> The donor inscription from Aphrodisias, if dated to the mid-fourth to late fifth century, would be further evidence of this. A. Chaniotis, “The Jews of Aphrodisias: New Evidence and Old Problems,” *SCI* 21 (2002), 209–42.

<sup>88</sup> These sermons catalogue the Jewish practices of John’s Gentile Christian congregation, who attend synagogue on the Sabbath and the high holy days (1.5; 8.8), go to hear the “trumpets” (i.e. Rosh Ha-Shanah; 1.5), fast on Yom Kippur (1.2), and join in “pitching tents” (that is, erecting *sukkot*, 7.1). Wilken notes that John, Theodoret of Cyrus, and the *Apostolic Constitutions* likewise criticize Gentile Christians for frequenting *mikvaot*, *Chrysostom*, 75; J. N. D. Kelly, *Golden Mouth: The Story of John Chrysostom* (London, 1995), 63–6. A recent MS of the previously missing section of *Contra Iud.* 4 has just been discovered on the island of Lesbos: see W. Pradels et al., *Zeitschrift für Antikes Christentum* 6 (2002), 1–124.

<sup>89</sup> Linder, *Legal Sources*; Parkes, *Church and Synagogue*, 174–7.

calendar – especially the date of Pesach relative to Easter – continued to influence Christian communal celebration, Constantine’s pointed efforts at Nicaea notwithstanding.<sup>90</sup>

Whence this sympathetic Gentile Christian involvement, despite frequent and fervid condemnations by the leadership? The answer lies in part with the strong and prevailing social patterns of religious interaction that had shaped communal life in the Mediterranean city for nearly a millennium. Celebrations (of all sorts) were open and public, and Jewish celebrations in particular had long numbered among them. Indeed, so strong was this tradition of openness that the Christian mass, despite regrets occasionally expressed by churchmen, was also frequented by outsiders – pagans, heretics, and Jews.<sup>91</sup> The theologically inspired effort to establish and enforce a separation between these habitually mixing populations was a *novum*. On the evidence, it succeeded only rarely, if ever.

Another part of the answer lies, however, with the type of Christianity that triumphed in the fourth century and beyond. Unlike many of its various rivals, the Church backed by Constantine had laid claim to the Septuagint: Scriptures enjoining and praising fidelity to Jewish law were, as the Old Testament, part of the Church’s own canon, thus read aloud regularly whenever the community gathered for worship. Furthermore, the services in the synagogue (not least the public readings in the vernacular from the Pentateuch and the Prophets, and reciting psalms) could not be alien to Christian visitors. As a matter of theological principle, this Church identified its high God, through the pre-incarnate Christ, with the God of Israel. In the four canonical Gospels – read regularly in Christian community service – Jesus of Nazareth was portrayed as an observant Jew (Matt. 5.17–19), worshiping in the synagogue, observing the great Jewish pilgrimage festivals, reciting the *Shema* (Mk. 12.29), wearing *tzitziot* (the *krespeda* of Mk. 6.56), giving instruction on fasting, prayer, and on offerings at the Temple (Matt. 5.23–4), and the appropriate dimensions of tefillin (Matt. 23.5). The supersessionist rhetoric of the erudite *adversus Iudaeos* tradition notwithstanding, then, many Gentile Christians evidently perceived Jewish practice as continuous from the Old Testament through

<sup>90</sup> See especially Wilken’s comments on this “dispute about religious and communal identity” in the year 387, when Nisan 14 fell on Easter Sunday, *Cbrysostom*, 76–9. For Constantine’s fulminations against Quartodecimans, *Vita Const.* 3.18–19; see too notes in A. Cameron and S. G. Hall, *Eusebius: Life of Constantine* (Oxford, 1999), 269–72.

<sup>91</sup> Proclus of Constantinople (mid-fifth century) complains about Jews attending his sermons, and then criticizing their content to Christians in the congregation, *Homily 2*; J. H. Barkhuizen, “Proclus of Constantinople,” in M. B. Cunningham and P. Allen (eds.), *Preacher and Audience: Studies in Early Christian and Byzantine Homiletics* (Leiden, 1998), 94.

the New Testament to their contemporary Jewish neighbors. Indeed, some Christian judaizers justified their voluntary observance of Jewish law by pointing precisely to the example of Christ, whose practices they wanted to imitate.<sup>92</sup>

Finally, although both traditional polytheism and “deviant” Christianity were roundly condemned in the New Testament itself, Judaism as such was not. The orthodox could only condemn the Jewish practice of Judaism, complaining that Jews observed in a “fleshly” way a Law meant to be understood and kept “spiritually,” that is, according to (orthodox, Gentile) Christian interpretation. In addition, by holding Jews, not Romans, as particularly responsible for the death of Jesus Christ, they focused, fueled, and justified a continuing anti-Jewish hostility.<sup>93</sup> Nonetheless, Judaism was never and could never be in the same relation to the Church that paganism and heresy were, if only for the reason that Judaism, according to orthodoxy’s own self-understanding, was incontrovertibly the source of (true) Christianity. As Augustine observed, although the Church was the bride of Christ, the synagogue was his mother (*Contra Faustum* 12.8). The Church’s rise to power did little to resolve the tradition’s abiding and intrinsic ambivalence. Thus, from the late fourth century onward, searing hostility and episcopally orchestrated violence – against pagans and contesting Christian churches as well as against Jews – could unpredictably disrupt the comfortable social and religious intimacy that often characterized relations between these various urban communities.

#### V JEWS AS *TESTES VERITATIS*: PLACE, TEXT, TIME

Orthodoxy’s awareness of and insistence on a historical connection between Judaism and Christianity had expressed itself both theologically and socially in various ways from the second to fifth centuries. Contemporary synagogue Judaism served as an object of derogation as well as a site of religious coceleration throughout this period. Equally rich subjects of controversy were the Land of Israel, and specifically Jerusalem; the

<sup>92</sup> Christians justify their judaizing by arguing that they should be imitators of Christ, Origen, *Matt. Comm. Sermon*. 79; similarly Epiphanius, *Haer.* 28.5.1; on keeping Pesach because Jesus did, John Chrysostom, *Jud.* 3.4; references with discussion in Wilken, *Chrysostom*, 92–4.

<sup>93</sup> Jews sometimes returned this hostility: in 414, Jews rioted in Alexandria, killing Christians, Socrates, *HE* 7.13; a century later, the Himyarite kingdom persecuted Christians, on which see J. Beaucamp, F. Briquel-Chatonnet, and C.J. Robin, “La Persecution des Chrétiens de Nagrân et la chronologie himyarite,” *Aram* 11–12 (1999–2000), 15–83.

acknowledged substratum of Hebrew behind the text of the Septuagint and, in certain instances, passages of the New Testament; and the religious significance of the historical priority of Judaism to Christianity. All three areas presented churchmen with additional opportunities to construct their particular definitions of Christian identity with immediate reference to Jews and Judaism.

#### A PLACE

The Galilee, Judaea, and Jerusalem were familiar imaginary landscapes for early Christians because they served as the setting for the New Testament's narratives about Jesus, the first disciples, and Paul. The spiritual significance of these places intensified, however, during the second-century wars of interpretation, when proto-orthodox Church Fathers – Justin Martyr, Irenaeus, Hippolytus, and Tertullian – ranged themselves against their Valentinian and Marcionite opponents. Against their Docetic Christian opposition, orthodox writers insisted that Christ truly had a fleshly body both before and after his resurrection. Accordingly, they argued, believers too would be raised in their fleshly bodies at the End (against the individual and purely spiritual redemption imagined by their opponents). This final redemption would manifest itself on earth, specifically in a renewed Jerusalem, where the saints would reign with Christ for a thousand years.<sup>94</sup>

This millenarian understanding of redemption used many of the same sources that its Jewish counterpart did, namely the classical prophets of the Septuagint, and various pseudepigrapha. Accordingly, the struggle between Gentile Christians over the correct understanding of salvation in Christ articulated, as well, a struggle between Christians and Jews over the correct millenarian understanding of these Jewish texts, and by extension, over who held title to the eschatological real estate of the New Jerusalem.<sup>95</sup> As these traditions developed, they gave scope to anti-Jewish fantasies as the imagined character of Antichrist assumed specifically Jewish features: he would come from the tribe of Dan; he would gather in the dispersed of

<sup>94</sup> C. C. Hill, *Regnum Caelorum: Patterns of the Future Hope in Early Christianity* (Oxford, 1992).

<sup>95</sup> Tertullian refers to Jewish Apocalyptic interpretations of the Prophets, *Adv. Marc.* 3.24. Justin informs Trypho that the gathering in Jerusalem of Christian saints raised in the flesh accords with “the prophets Ezekiel and Isaiah and others” (*Dial.* 80), and he adds that Jews who do not repent (presumably, by joining Justin’s Church) “shall not inherit anything on [God’s] holy mountain” (*Dial.* 24). R. Wilken, “Early Christian Chiliasm, Jewish Messianism, and the Idea of the Holy Land,” *HTR* 79 (1986), 298–307.

Israel; he would restore the Temple and the kingdom; the Jews would worship him as a god.<sup>96</sup>

By the turn of the third century, these apocalyptic traditions were framed by elaborate chronographical calculations attempting to determine the expected time of the End by knowing the age of the world.<sup>97</sup> Here, too, the debate between like-minded Christians and Jews reveals knowledge of the opposing interpretation and thereby evinces communication between these communities. Meanwhile, the shared temperament and the exegetical compatibility of these two contesting camps gave more allegorically minded interpreters, such as Origen, the opportunity to condemn both. Christian millenarianism, he urged, was “literal,” “fleshly” and thus essentially “Jewish.” Understood *kata pneuma*, “Jerusalem” was not a place name but a spiritual state. “Israel is a race of souls, Jerusalem a city in heaven” (*De Princ.* 4.3.8).<sup>98</sup>

Constantine’s patronage of Christianity put the earthly Jerusalem back on the map. Emperors had always endorsed large projects of public building, and in this sense Constantine was little different from his pagan predecessors. However, to the earlier imperial repertoire of temples, theaters, baths, and circuses, the new Emperor added grand basilicas and churches built over martyrs’ shrines.<sup>99</sup> In Jerusalem, in particular, he established a new Christian urban topography by constructing churches at sites named in the Gospels that were associated with Jesus’ suffering (Golgotha), death and resurrection (Holy Sepulchre), and ascension into heaven (Mount of Olives). When Eusebius wrote about this cycle of construction in the *Vita Constantini*, he described the city as rebuilt and resplendent, with a new “temple,” that is, the church of the Anastasis (resurrection) at its heart (3.33). The architecture of the new, beautiful city made a theological point, for the Christian Jerusalem stood counterpoised to the devastated old Jewish city, represented by the blasted plain of the empty Temple mount.

Politically and theologically, Eusebius drew new meaning from ancient prophecies of restoration. Since Augustus, imperial ideology had regarded the emperor as heaven’s particular representative on earth; when things went well, the emperor’s intentions conformed to the will of heaven and the Empire prospered. After 312, this ideology remained intact, although the

<sup>96</sup> W. Bossuet, *Der Antichristus in der Überlieferung des Judentums, des Neuen Testament und der alten Kirche* (Göttingen, 1895); E. Lohmeyer, “Antichristus,” *RAC* 1 450–7.

<sup>97</sup> O. Irshai, “Dating the Eschaton: Jewish and Christian Apocalyptic Calculations in Late Antiquity,” in A. I. Baumgarten (ed.), *Apocalyptic Time*, (Leiden, 2000), 113–53.

<sup>98</sup> For a full survey, see N. de Lange, *Origen and the Jews* (Cambridge, 1976).

<sup>99</sup> Recent full discussion: R. L. Wilken, *The Land Called Holy: Palestine in Christian History and Thought* (New Haven, 1992).

identity of “heaven” had changed, and on earth, heaven was also represented by the Church. In light of biblical prophecy and in view of the new cycle of building projects centered specifically on the Holy Land, Eusebius rendered this old imperial ideology in a new, Christian key. Constantine had restored Jerusalem; Constantine had (re)built the “temple.” Therefore, Constantine was God’s anointed; in unifying the Empire, he had realized Isaiah’s promise of the messianic peace: “He shall have peace from sea to sea” (*Laus Const.*).<sup>100</sup>

The Christian building project embraced much of Palestine, marking sites of significance established by the Old Testament as well as by the New. These sites in turn provided a growing stream of pilgrims with important destinations; and in some places of shared significance – the caves of the Patriarchs or the Oak at Mamre – festivals were celebrated by crowds of Christians, Jews, and pagans.<sup>101</sup> Eventually, these foci of piety gave rise to story cycles about the miraculous divinations through which such sites or relics had been identified. Often these stories featured a Jew who, combining local knowledge with biblical authority, established the authenticity of the sacred object or place. In this manner, “Judah Cyriacus” helped Helena, Constantine’s mother, to find the relics of the true cross; Gamaliel, “a knowing Jew,” revealed the burial spot of Stephen’s bones; the garments Jesus wore the day he was crucified were retrieved by the Jew Dorotheus; and a fifth-century Galilean Jewish virgin helped to locate the robe worn by the Virgin Mary.<sup>102</sup> In such stories, the “Jew” functions as an authenticator of Christian tradition. This character embodies orthodoxy’s commitment to the complementary ideas of Christianity as the fulfillment of the promises and prophecies of the Old Testament (indeed, often these “Jews,” their mission complete, convert to the Church), and to the idea that the true Israel rests upon the foundation of the *veritas hebraica*.

#### B TEXT

These ideas about Jewish witness and Jewish loci recapitulated a linguistic and textual fact, namely, the priority of the Hebrew language in both phases, Old Testament and New, of Christian written tradition. The

<sup>100</sup> P. W. L. Walker, *Holy City, Holy Places: Christian Attitudes to Jerusalem and the Holy Land in the Fourth Century* (Oxford, 1990).

<sup>101</sup> Eusebius, *Vita Const.* 3.53; Sozomen, *HE* 2.4; A. Kofsky, “Mamre: A Case of Regional Cult?” in A. Kofsky and G. Stroumsa (eds.), *Sharing the Sacred: Religious Contacts and Conflicts in the Holy Land* (Jerusalem, 1998), 19–29.

<sup>102</sup> O. Limor, “Christian Sacred Space and the Jew,” in J. Cohen (ed.), *From Witness to Witchcraft: Jews and Judaism in Medieval Christian Thought* (Weisbaden, 1997), 55–77.

centrality of the Bible to the contemporary dialogue and controversy with Jews cannot be overestimated.<sup>103</sup> Early Christianity's awareness that it dealt in translations can already be seen in the stories that evolved during the course of the second century around the Gospel of Matthew, traditionally held to be the oldest of the canonical four. Ascribed to the apostle Matthew, the Gospel was thought to be an eyewitness account, composed originally in "the Hebrew tongue" and, accordingly, preached to Jewish Christians (so Papias, *apud* Eusebius, HE 3.24.5; Epiphanius, *Panarion*, 30.6.8). The words in Aramaic or Hebrew that pepper the Greek text of the Gospels also pointed to this prior linguistic layer; and Christian scholars consulted Jews in order to secure the meanings of these words.

Gentile Christians were also aware of differences between the Greek and Hebrew texts of the Jewish Scriptures. Justin discussed at length the reading of Isaiah 7.14, LXX, *parthenos* or "virgin," complaining to Trypho that Jewish teachers maintain that the Hebrew *'almah* would be better translated by *neanis*, "young girl" (*Dial.* 43; 66–7).<sup>104</sup> At other points, he accused Jews of having suppressed Christological references in the Greek biblical text by editing them out (72–3; Trypho responded that this "seems incredible"). The Christians' dependence on and interpolations into the Septuagint text, as well as their interpretations of it, eventually prompted Jews to make other translations. Beginning in the 230s, Origen attempted to establish a sort of critical Greek edition by bringing four of these Jewish versions – Aquila, Symmachus, Theodotion, and the Septuagint – in parallel columns, together with the Hebrew, and a transliteration of Hebrew into Greek characters (thus securing the vocalization). Although he deferred to the Septuagint's authority, Origen suggested amended readings in light of the Hebrew; and one sees the same deference to the Hebrew text and same readiness to consult with Jewish scholars on linguistic and interpretive points in Eusebius and Jerome.<sup>105</sup>

It was Augustine, Jerome's contemporary, who synthesized all these issues – the differences between the Hebrew and Greek texts of the Old Testament; the variety of other Jewish Greek translations; the compounding problem of multiple anonymous Latin translations; the relationship of

<sup>103</sup> W. Horbury, "Jews and Christians on the Bible: Demarcation and Convergence (325–451)," in J. van Oort and U. Wichert (eds.), *Christliche Exegese zwischen Nicaea und Chalcedon* (Kampen, 1992), 72–103.

<sup>104</sup> A. Kamesar, "The Virgin of Isaiah 7.14: The Philological Argument from the Second to the Fifth Century," *JTS* 41 (1990), 52–75.

<sup>105</sup> J. N. D. Kelly, *Jerome: His Life, Writings, and Controversies* (London, 1975), 159–60; A. Kamesar, *Jerome, Greek Scholarship, and the Hebrew Bible: A Study of The Quaestiones Hebraicae in Genesim* (Oxford, 1993); H. I. Newman, *Jerome and the Jews* (PhD dissertation, Hebrew University, Jerusalem, 1997) (Hebrew).

Jewish prophecy to Christian fulfillment – in a theological vision that positively resolved earlier, seemingly unnerving problems. As a Latin reader, Augustine had always necessarily depended on biblical translations for the New Testament as well as the Old. His move in 383 from Carthage to Rome and eventually to Milan brought him into contact with previously unfamiliar regional Latin renderings of biblical texts, and he later commented on the vast number and variable quality of western translations.<sup>106</sup>

Augustine's richly complex appreciation of language itself as a sign and an effect of Adam's fall, however, radically relativized the value of any linguistic record of God's word. Divine being, Augustine maintained, transcended time and thereby temporal sequence; human consciousness, as a consequence of Adam, was "divided up in times." The linear nature of language, he held, was the linguistic and cognitive reflection of humanity's entrapment in time, on account of which human knowledge of God can only be mitigated and imperfect.<sup>107</sup> In this sense, then, even the original Hebrew was a sort of "translation" from the divine realm into the human, thus the historical, since language itself – any language, in Augustine's view – attests to the primal dislocation of consciousness suffered by the entire species after Eden.

God's Spirit, Augustine held, is nonetheless the "author" of Scripture in both its Hebrew and its Greek recensions. For this reason, the Septuagint takes precedence over any other Greek rendering, divinely authorized through the miracle of the seventy-two elders' inspired translation. In places where its Greek differs undeniably from the earlier Hebrew, then, Augustine concluded, this difference is also due to the inspiration of the Holy Spirit, and *vice versa*: anything in the Hebrew not in the Greek "is something which the Spirit of God decided not to say through the translators but through the prophets." In this light, there are no mistranslations, only a plenitude of meanings, divinely intended for different audiences, whether the Jews (primarily at the level of the Hebrew) or the Gentiles (for whose benefit, maintained Augustine, the Greek translation was made). In this sense, then, Ptolemy's translators themselves, the legendary Jewish sages sent from Jerusalem, had served as prophets to the church (*De Civ. Dei* 18.42–3).

<sup>106</sup> *De Doctrina Christiana* 2.11.16, 34–6.

<sup>107</sup> Hence, the epistemologically integrative function of memory, *Confessions* 10 passim; human consciousness as distended in time, 11.29.39; the language of Scripture as a bridge connecting a timeless Deity and time-bound (thus, word-bound) humanity, 13.29.44. On this aspect of Augustine's theology, see also T. Martin, "Modus inveniendi Paulum," in D. Patte and E. TeSelle (eds.), *Engaging Augustine on Romans* (Harrisburg, 2002), 63–90, especially 69–70.



## C TIME

The broad lines of orthodoxy's critique of Judaism had remained fairly constant from the mid-second century onward. In the Church's eyes, the newness of the revelation in Christ, its apparent temporal inferiority to Judaism, understood aright, actually revealed Christianity's religious superiority. Such an apology appealed to the prominent biblical theme of fraternal rivalry wherein the elder brother ceded to the younger – Cain to Abel, Ishmael to Isaac, Esau to Jacob, and, by Christian reckoning, the elder nation (the Jews) to the younger (the Gentiles). Orthodox readings of Scripture also distinguished between “good” Jews – “Hebrews,” in Eusebius' designation, that is, “Christians” before Christ (Abraham and the other Patriarchs, for example) – and “bad Jews,” that is, those Jews who lived according to the Law.<sup>108</sup>

Furthermore, in their effort to justify retaining the Septuagint while not observing the practices it mandated, the orthodox generated a more global condemnation, holding that Jews and their religion (although not their book) were themselves intrinsically otiose. Understood “spiritually” (as God had always intended, but as the Jews were incapable of doing), the Law had always been an encoded allegory of Christ and his Church. In this view, the Jews' continuing attachment to “literal” observance – most especially their insistence on fleshly circumcision – broadcast both their essential misapprehension of the Law's own nature and their own enduring spiritual obduracy. Finally, the heroes of biblical history who had correctly apprehended the essential Christian content of the (only seemingly) Jewish message had been an alienated minority among their own people. The repudiation of Jewish practice pronounced by the Jews' own prophets (so stated the argument) had been unambiguously repeated and enacted by Christ and by his disciples after him. The Prophets, Christ, his disciples, and indeed (most especially through the destruction of the Temple and the exile imposed by Rome) God himself had all denounced the Jewish understanding of the Law.

By the late fourth century, however, and especially in the West, two new developments created a theological and social context wherein the *adversus Iudaeos* tradition seemed to cause more problems than it solved. First, from outside the Church, an exotic and extreme form of Pauline Christianity, Manichaeism, presented an articulate challenge to orthodoxy's biblical theology. A late avatar of the sorts of Christianities established by Marcion

<sup>108</sup> Eusebius, *HE* 1.4.4–14; A. Kofsky, *Eusebius of Caesarea against Paganism* (Leiden, 2000), 98–103; J. Ulrich, *Eusebius von Caesaria und die Juden: Studien zur Rolle der Juden in der Theologie des Eusebius von Caesaria* (Berlin, 1999), 57–131.

and Valentinus, western Manichaeism repudiated the Old Testament entirely, its creator God, and its people, while holding that Paul's letters, purged of their judaizing interpolations, provided the guidelines for Christian faith. The problem for the Church was that the Manichees' critique of the Old Testament and their reading of Paul recapitulated too closely, in tone and even in substance, orthodoxy's own traditional anti-Judaism. Second, from within the Church, an impending storm gathering around Origen's theological legacy complicated orthodoxy's extensive reliance on philosophical allegory. Historically, allegory had been the hermeneutic of choice for reading Christian meaning into Jewish texts, and the rhetoric of traditional anti-Judaism condemned Jewish understanding as excessively fleshly – *kata sarka* or *secundum carnem* – precisely in contrast to the “spiritual,” allegorizing understanding of the Church. As Origen's work grew increasingly suspect in the course of the fourth century, however, so too did his style of interpretation. The question then was, in the absent philosophical allegory, how could the Old Testament be read as a work of Christian revelation?

In these circumstances, Augustine (354–430) made his singular contribution to Christian teaching on Jews and Judaism.<sup>109</sup> His reconceptualization of the relationship of Judaism to Christianity began as a side effect of his attempt against the Manichees to understand the letters of Paul. However, it quickly grew into a major support of his historical approach to understanding the double canon of Catholic Scripture, and thus of his life-long theological effort to understand how a changeless, radically transcendent God works in time. His novel response to the anti-materialist, dualist, Pauline heresy of his generation gives the measure of his intellectual self-confidence in the face of the challenge of both heresy and Judaism. Unlike the orthodox writers of the second century, whose most thoroughgoing arguments *adversus Iudaeos* appeared most prominently in their anti-heretical writings, Augustine built his novel apology for Catholicism against the Manichees precisely by mounting a defense of Jews and Judaism. In so doing, he challenged the polemic against the Jews that had characterized the anti-Judaism not only of his opponents but also of his own tradition.

<sup>109</sup> This discussion synthesizes constructive arguments with full references in P. Fredriksen, “*Excaecati Occulta Iustitia Dei*: Augustine on Jews and Judaism,” *J ECS* 3 (1995), 299–324; idem, “*Secundum Carnem*: History and Israel in the Theology of St. Augustine,” in W. E. Klingshirm and M. Vessey (eds.), *The Limits of Ancient Christianity: Essays on Late Antique Thought and Culture in Honor of R. A. Markus* (Ann Arbor, 1999), 26–41; idem, “Allegory and Reading God's Book: Paul and Augustine on the Destiny of Israel,” in J. Whitman (ed.), *Interpretation and Allegory* (Leiden, 2000), 125–49; and idem, “Augustine and Israel: *interpretatio ad litteram*, Jews, and Judaism in Augustine's Theology of History,” *Studia Patristica* 38 (2001), 119–35.

Augustine's arguments appear fully assembled for the first time in his massive refutation of Latin Manichaeism, the thirty-three books of the *Contra Faustum* (written c. 399). Against the view (common to both Catholics and Manichees) that emphasized a sharp contrast between Law and gospel, Augustine insisted that the Law was continuous from Moses to Jesus: Law and gospel together, he urged, were dual aspects of a unitary divine initiative of redemption (*Contra Faust.* 12.3–4). Much more radically, he argued further that those who praised the Law but condemned the “fleshly” Jewish interpretation of it were fundamentally mistaken in their reading of Scripture and in their understanding of Catholic truth. God's commands to Israel had been neither ambiguous nor ironic: lists of permissible foods had in fact related to eating, keeping the Sabbath really had meant not doing certain kinds of work, circumcising the flesh really did mean circumcising the flesh, and so on. “The Jews,” he urged, “were right to practice all these things” – blood sacrifices, purifications, food disciplines, Sabbath, and holidays (12.9). Despite the plenitude of meanings available in Scripture – and Augustine could effortlessly conjure Christological references from virtually any Old Testament text – God, he maintained, was no allegorist when He gave Israel His Law. In the time before Christ, the Law also prescribed behavior.

This prescribed behavior was nowhere more true, Augustine insisted, than with that most reviled observance, fleshly circumcision. What the apostle Paul himself had designated “the seal of the righteousness of faith” (Rom. 4.11), marked in the male organ of generation the *regeneration* of the flesh accomplished by Christ's being born in the body and being raised in the body (*Contra Faust.* 6.3). Had Jews understood God's command to circumcise *secundum spiritum* without performing it *secundum carnem* (as the framers of the classical *adversus Iudaeos* tradition would have wished), they would have prefigured only imperfectly the central Christological *mysterium* of incarnation and resurrection. Instead, however, by following the precepts of the Law *ad litteram*, by observing the Law *secundum carnem*, the entire Jewish people “was like a great prophet” foretelling Christ not only in word but also in deed (22.24). Circumcision, and indeed all the myriad Jewish observances were *sacramenta*: [*signa*] *cum ad res divinas pertinent*.<sup>110</sup> Thus the Jewish observance of Jewish law, Augustine concluded, had been entirely appropriate and in accordance with God's will. Enacting the Law in the flesh had been precisely the point.

This new interpretation of Israel's past and of Jewish religious practice was thereby addressed directly to the two theological challenges of his day. Against the Manichees, Augustine provided a radical defense of the intrinsic

<sup>110</sup> *Ep.* 138.7.

unity of the Law and the gospel, hence of the Catholic double canon. Against the growing Latin suspicion of Alexandrian-style allegory, Augustine advanced a reading of the Old Testament *ad litteram*, by which he meant *secundum historicam proprietatem*, “historically.”<sup>111</sup> Whereas the earlier *adversus Iudaeos* tradition, relying on allegory, had condemned Jewish practice as an unintelligent antitype of Christianity, Augustine, interpreting *ad litteram*, commended Jewish practice as the divinely mandated, historical, embodied expression of Catholic truth. Whereas allegorical typology had emphasized contrast, Augustinian historical typology emphasized continuity.

Augustine’s reassessment of the Jewish past, however, and specifically his endorsement of the Jews’ commitment to observing the Law *secundum carnem*, entailed yet another radical revision of the *adversus Iudaeos* tradition. He applied his positive assessment of Jewish observance to two other crucially important historical moments, namely, that of Jesus and his apostles and that of the present-day Church. Against the traditional view that Jesus and his apostles (especially Paul) had condemned the Law, Augustine argued exactly the opposite. Jesus, he maintained, had himself been a Law-observant Jew, the son of Law-observant parents; and his apostles, the founding generation of the Church, had themselves, as Christians, kept their people’s customs.<sup>112</sup> They did so, Augustine said, in part because they understood that the ordinances of the Law pointed forward to the redemption in Christ. However, a pastoral as well as a theological reason had also motivated them: it was crucially important for their Gentile audiences to see them keep the Law. These Gentiles had been instructed that they had to abandon their old gods and that they were not to assume Jewish observances. Torah observance, the entire Jewish people’s *actio prophetica*, however, was not at all the same as idolatry; and the reasons for not worshipping idols had nothing in common with the reasons for not obeying Jewish law. Therefore, within the new movement, Augustine concluded, traditional Jewish observance of Torah was to be relinquished only gradually, “lest by compulsory abandonment it should seem to be condemned rather than completed (*terminata*)” (*Contra Faust.* 19.17).

So much for biblical Jews and for the Jews of the apostolic generation. What of contemporary Jews and current Jewish practice? What was their relation and relevance to the present-day Church? Here again Augustine proposed an original and positive view of Jews and Judaism.<sup>113</sup> And he did

<sup>111</sup> *Retractationes* 1.18.   <sup>112</sup> Correspondence with Jerome, *Epp.* 40, 71, 75, 82.

<sup>113</sup> Augustine’s enthusiasm for things Jewish was strictly theologically determined; he was not a philo-Semite, and many of his anti-Jewish and anti-judaizing remarks are dismally traditional: see Blumenkranz, *Judenpredigt*, 62–8; Efrogmson, “Whose Jews? Augustine’s *Tractatus* on John,” *Multiform Heritage*, 197–211.

so, paradoxically, by focusing on two episodes – one biblical and one historical – around which earlier tradition had built powerful condemnations: the story of Cain and the fact of post-Second Temple exile.

The figure of Cain for earlier Christian interpreters had encoded negative attributes associated with Jews: unacceptable sacrifice, malice, jealousy; and fratricide.<sup>114</sup> Conflating the effects of the First Revolt and the Bar Kochba rebellion, these men held that the Roman destruction of the Temple and the Jews' exile from Judaea pronounced God's repudiation of the people and their cult for having rejected His Son.<sup>115</sup> In the *Contra Faustum*, Augustine, too, understood Cain as a figure for the Jewish people, and he also drew parallels between Cain's murder of Abel and the Jews' murder of Christ. As God confronted Cain because Abel's blood cried to him from the ground (Gen. 4.10), "so the voice of God in the Holy Scriptures accuses the Jews" through the voice of his Church, which was established through Christ's blood (12.9). Like Cain, the Jews continue "tilling the earth," that is, they understand the Law in a carnal or earthly way (12.11). Like Cain, they groan and tremble, wandering, established in every kingdom while they mourn the loss of their own, which has been taken from them; like Cain, they live in fear, "in terrified subjection to the immensely superior number of Christians" (12:12).

Here, however, the Jews' allegiance to the Law, Augustine urged, served precisely as their safeguard. As God had put his mark on Cain in order to protect him, so too, in the present, toward the same end, God marks the Jews. The Jewish traditions for keeping the Law *secundum carnem* are the "mark of Cain" by which God Himself signals to the rest of humanity His continuing protection of the Jewish religion and people. As a result, anyone who "kills" Cain, that is, any emperor or monarch who tries to force Jews to stop living as Jews, in effect strives against God, the true author of their practices. Such a ruler would risk drawing down upon himself God's seven-fold curse against those who would injure Cain (Gen. 4.15; *Contra Faust.* 12.12–13). And God will preserve the Jews as a people "to the end of the seven days of time" precisely so that, in their stateless condition, they will "be a proof to believing Christians of the subjection merited by those who, in the pride of their kingdom, put the Lord to death" (12.12).

Furthermore, Augustine argued, precisely because of the integrity of their religious identity and their dogged loyalty to the traditional observances of the Law, Israel *secundum carnem* served an abidingly revelatory

<sup>114</sup> L. A. Unterseher, *The Mark of Cain and the Jews: Augustine's Theology of Jews and Judaism* (PhD thesis, Southern Methodist University, Dallas, Texas, 2000), ch. 3.

<sup>115</sup> E.g. Justin, *Dial.* 17, within the larger context of a condemnation of fleshly circumcision.

purpose within Christian society. "It is a most notable fact that all the nations subjugated by Rome adopted the ceremonies of Roman worship; whereas the Jewish nation under pagan or Christian monarchs has never lost the sign of their Law by which they are distinguished from all other nations and peoples" (*Contra Faust.* 12.13). But what the Jews (like the Manichees) do not realize (although orthodox Christians do) is that the Law's fundamental message is Christological. God has so arranged things that the Law proclaims Christ behaviorally, in the present, exactly through the fleshly practices to which the Jews so loyally cling, as well as textually, in the ancient books which they uncomprehendingly read.

The scattered Jewish community, therefore, living in exile in every corner of the Empire, served the Church like a desk (*scriniaria*), bearing their ancient Scriptures ultimately for Christian benefit (12.23). How so? Here Augustine refers to the two cardinal Roman indicators of legitimate religion: antiquity and ethnicity. Precisely through the antiquity of their nation and of their sacred texts, Jews authenticate Christian beliefs, since "from the Jewish manuscripts we prove that these things [the prophecies of Christ] were not written by us to suit the event, but were long ago published and preserved as prophecies in the Jewish nation" (13.10). That the Jews rejected Christian interpretations of these prophecies only strengthened the Church's claim:

It is a great confirmation of our faith that such important testimony is borne by enemies. The believing Gentiles cannot suppose these testimonies to Christ to be recent forgeries; for they find them in books held sacred for so many ages by those who crucified Christ, still venerated by those who blaspheme him . . . The unbelief of the Jews has been made of signal benefit to us, so that those who do not receive these truths in their heart . . . nonetheless carry in their hands, for our benefit, the writings in which these truths are contained. And the unbelief of the Jews increases rather than lessens the authority of these books, for their blindness is itself foretold. They testify to the truth by their not understanding it. (*Contra Faust.* 16.21)

Thus far Augustine's presentation of the Jews as a special kind of textual community seems a variation on earlier teachings about the positive value of the Hebrew Scriptures as witness to Christian revelation. Whereas earlier writers had claimed the Jewish Bible by condemning Jewish practice, however, Augustine mounts his argument by focusing on the Jewishness of Scripture and on the particularity of Jewish practice as positive historical realities. The Jews' fleshly observance of the Law had prophesied Christ; his death, through their agency, founded the Church; they share with the typological figure of Cain the negative aspects (both are fratricides) and the positive (both are explicitly protected by God). Their refusal to credit Christian interpretations of Scripture supported rather than undermined

Christian claims. Their continuing exile taken together with their continuing practice was more than simply a punishment. Through divine providence, against the Church's enemies, the Jews as Jews witnessed to Christian truth. Unique among the religious minorities of the Christian Empire, the Jews were to be left alone.

This theme of the Jews as a protected witness people defines Augustine's discussion in *The City of God*, where he links it to the proof-text of Psalm 59.12, "Slay them not, lest your people forget; scatter them with your might" (*De Civ. Dei* 18.46).<sup>116</sup> "Slaying" for Augustine does not mean "killing"; it means "impeding or preventing traditional Jewish practice," most extremely by forced conversion ("not putting an end to their existence as Jews").<sup>117</sup> Neither does his reference to Jewish "subjection" intend anything more dire than what had occurred long ago, that is, the loss of Jewish national sovereignty.<sup>118</sup> Both aspects of Jewish destiny, their loyalty to their Law and their wandering in exile, are linked strategies in God's providential plan; the broadest possible dispersion of observant Jews was necessary in order to amplify the broadest possible dissemination of the gospel.<sup>119</sup>

In his own period, Augustine's "witness doctrine" articulated a theological justification for an already long-standing principle of Roman law. His views on the positive value of ancient Jewish observance created a new, more historically oriented way for Christians to understand their Bible. His insistence on the essential continuity of law and gospel, Old Testament and New, furthermore, powerfully responded to the Manichaean challenge. In short, Augustine's teaching fundamentally addressed questions of theology and identity internal to his own religious community. But the fact remains that Augustine, alone of all the Church's apologists, mounted a defense of Catholic Christianity that also served, in its way, as a defense of Jews and Judaism.

Augustine had little reason to think that his ideas on this topic would some day in their turn be understood "literally." He lived in a society governed by Roman law, wherein Jews were full citizens. One of his recently

<sup>116</sup> Augustine reiterates this theme, together with the citation from Psalms, in *Enarr. in Ps.* 58; *Ep.* 149; *Tractatus adv. Iudaeos*.

<sup>117</sup> *De Civ. Dei* 18.26; so too *Contra Faust.* 12.13.

<sup>118</sup> "Subject to the immensely superior number of Christians," *Contra Faust.* 12.12; "bend down their backs always," *Enarr. in Ps.* 69.22; *De Civ. Dei* 18.46.

<sup>119</sup> Augustine continues: "Thus it was not enough for the psalmist to say, 'Do not slay them, lest at some time they forget your law,' without adding, 'Scatter them.' For if they had lived with that testimony of the Scriptures only in their own land, and not everywhere, the obvious result would be that the Church, which is everywhere, would not have them available among all the nations as witnesses to the prophecies which were given beforehand concerning Christ," *De Civ. Dei* 18.46.

discovered new letters reveals that a North African Jew, Licinius, requested that Augustine intervene on his behalf in a property dispute between him and the bishop Victor, one of Augustine's own colleagues. Augustine, extremely familiar with Roman law, took Licinius' side in the affair.<sup>120</sup> The letter testifies not only to Augustine's sense of justice and knowledge of law but also to Licinius' unself-conscious expectation of justice, and to Victor's acknowledgment that, were Licinius to pursue the matter in court, Victor would lose. All the principals in the case knew themselves to be members of the same society, ruled by the same law.

All this would eventually change as late Latin society altered in the wake of the western Empire's demise. Nevertheless, because of Augustine's tremendous authority, his "witness doctrine" became part of the erudite tradition through which patristic learning entered into and shaped western Christian thought.<sup>121</sup> In the changed social context of medieval Christendom, his invocation of Psalm 59, taken literally, would ultimately safeguard Jewish lives even as it justified policies of oppression; Jews were permitted to "survive but not thrive." However, those days fell well after the lifetime of Augustine,<sup>122</sup> in a culture in many ways discontinuous with his own.

## VI EPILOGUE: CHRISTIAN ANTI-JUDAISM AND THE END OF MEDITERRANEAN ANTIQUITY

Successive waves of Vandals, Goths, and Franks rent the cultural and political fabric of the western Empire from the early fifth century onward. Two centuries later, the double blow of invasions, first Sasanian (611–14 CE) and then Muslim Arab (634 CE), forever altered east Rome. As the Empire fragmented, so does the evidence, foreclosing the possibility of a comprehensive account of Christian anti-Judaism in the fifth through seventh centuries. Nevertheless, enough data remain to permit some closing remarks on the constant master themes of the older, pan-Mediterranean tradition as well as on some of its new and regionally distinctive variations.

In the West – Italy, Visigothic Spain, and Gaul – the accelerated decline of central imperial power and of traditional civic politics tended to concentrate local authority further in the person of the bishop. Ecclesiastical

<sup>120</sup> *Ep.* 8\* (*CSEL* 88, 41–42); H. Castritius, "Seid weder den Juden noch den Heiden noch der Gemeinde Gottes ein Ärgernis' (1 Kor. 10,32): Zur sozialen und rechtlichen Stellung der Juden im spätrömischen Nordafrika," in R. Erb and M. Schmidt (eds.), *Antisemitismus und jüdische Geschichte* (Berlin, 1987), 47–67.

<sup>121</sup> J. Cohen, *Living Letters of the Law: Ideas of the Jew in Medieval Christianity* (Berkeley, 1999).

<sup>122</sup> Contra M. Simon, who sees the shift toward Jewish victimization occurring already under Theodosius, *Verus Israel*, 227.



office, often monopolized by senatorial families, looked back to and identified itself with *Romanitas*: to be orthodox and Catholic was to be Roman, especially in the sea of Arian newcomers. The newcomers, meanwhile, attempting also to draw on the ancient Empire's prestige, enacted their *Romanitas* by reaffirming Roman law. Each cultural posture brought with it social as well as legal consequences for western Jews. As power condensed, local patronage networks thickened and became more exclusive with the amplification of a celestial layer: saints' relics embodied a city's heavenly *patronus*; the bishop served as the impresario of his cult; the town's calendar and thus its communal rhythms were increasingly determined by the liturgical cycles of the Church. This regional erosion of a "secular," that is, a religiously pluralistic, concept of citizenship meant in practical terms an erosion as well of the place of Jewish Romans in their cities.<sup>123</sup>

Caesarius, Bishop of Arles (469–542), presents an instructively inconsistent figure.<sup>124</sup> An active preacher, Caesarius attempted to limit Jewish influence on Christian behavior by curtailing social interactions between the two groups. Accordingly, he urged fasting on the Sabbath during Lent, thus demoting Saturday to the status of a regular weekday and enhancing the separate status of Sunday. He also forbade Christians to attend *Judaeorum convivium* (whether religious or more purely social) and to invite Jews to theirs. Presiding over the Council of Agde in 506, Caesarius oversaw the ratification of this and other divisive directives.<sup>125</sup> Nevertheless, the Bishop also publicly admitted his high regard for the Jews' piety and his admiration for their abstinence from work on the

<sup>123</sup> For saints' cults, episcopal power, and nostalgic evocation of *Romanitas*, see P. Brown, *The Cult of the Saints* (Chicago, 1981); for political and urban decline and the end of old, religiously pluralistic citizenship, see J. H. W. G. Liebeschuetz, *Decline and Fall of the Roman City* (Oxford, 2001), especially 247. On bishoprics and senatorial families, see Gregory of Tours, *Hist. Frank.*; R. A. Markus, *Gregory the Great* (Cambridge, 1997), 76–80; V. Colorni, "Gli ebrei nei territori italiani a nord di Roma dal 568 agli inizi del secolo XIII," *Settimane* 26 (1980), 241–312. Hymning the forced conversion of the Jews of Clermont in 576, the poet Venantius Fortunatus opined that *una urbs* should be united *una fide*, *Carmina* 5.17–20.

<sup>124</sup> W. E. Klingshirn, *Caesarius of Arles: The Making of a Christian Community in Late Antique Gaul* (Cambridge, 1994).

<sup>125</sup> Agde, canon 40, against mixed socializing. On an earlier, similar ruling, see B. Blumenkranz, "*Judaeorum convivium*: à propos du concile de Vannes (465), c. 12," in *Etudes d'histoire du droit canonique dédiées à Gabriel le Bras*, II (Paris, 1965), 1055–8. Jews who converted were also a source of anxiety: Agde, canon 34, ruled that Jewish candidates for baptism be subject to a longer period of instruction because they were "prone to return to their vomit," i.e., their traditional practices: *Concilia Galliae* A.314—A.506, ed. C. Munier, *CCSL* CXLVIII 207–8; cf. Gregory, *Hist. Frank.* 6.17. Forced conversions, as in Clermont 576, occasioned no such scruple; see above.

Sabbath.<sup>126</sup> His city – a Roman administrative center since 395 and a thriving metropolitan see since 440 – itself also presents evidence of growing social dissonance between its Jewish and Christian inhabitants. Nevertheless, Jews participated actively in the defense of Arles against the Burgundian siege of 507/8 CE, and they attended the public procession at Caesarius' funeral. Although the latter story might well be a hagiographic commonplace, it nonetheless reflects a social world wherein Jews – distinctive, different, singled out – still remained integrated within the lingering urban framework.

Some Gothic regimes, seeking to establish themselves, reaffirmed Roman law and custom, thereby in consequence likewise reaffirming established Jewish legal rights. Early Visigothic lawcodes reasserted the Jews' status as "Roman" citizens; and the Ostrogoth King Theodoric (455–526) extended to Italian Jews unequivocal protection and freedom of practice according to their laws, a policy he communicated to the Jews of Genoa and Milan. Arsonists who torched a Roman synagogue he found and condemned.<sup>127</sup> Elsewhere things could be otherwise. In 576, between Easter and Pentecost, the town of Clermont in the Auvergne was wracked by a series of violent clashes between Jews and Christians, evidently a result of enflamed local church politics and of the "frequent" efforts of Bishop Avitus to convert Clermont's Jews. Finally, a Christian mob destroyed the synagogue, and Avitus baptized most of the Jewish community (some 500 people, according to contemporary sources). Those who refused were expelled from the town, evidently without legal redress.<sup>128</sup>

The contrasting behaviors of two important and near-contemporary figures of the western Church, Gregory the Great (c. 540–604, Pope from 590) and Isidore of Seville (c. 560–636, bishop from 600) effectively illustrate the range of possible policies and actions regarding Jews. Both men were aristocrats, well connected socially and ecclesiastically; both, for

<sup>126</sup> On the Sabbath, Caesarius, *Serm.* 13.3 and 73.4.

<sup>127</sup> For status of the Jews in Visigothic law, see *The Breviary of Alaric* 2.1.10 (compiled in 506); discussed in E. A. Thompson, *The Goths in Spain* (Oxford, 1969), 52–6. Theodoric's epistles to these Jewish communities are reported in Cassiodorus, *Variae*, 4.33.1–2.5.37, *MGH AA* XII (Berlin, 1894), 128–9; 163–4; the synagogue in Trastevere, 4.43, 133–4. On Theodoric's attitude toward the Jews, see J. Moorehead, *Theodoric in Italy* (Oxford, 1992), 97–100; and P. Amory, *People and Identity in Ostrogothic Italy*, 489–554 (Cambridge, 1997), 59–60. The relevant legislation is assembled in A. Linder, *Legal Sources*.

<sup>128</sup> B. Brennan, "The Conversion of the Jews of Clermont in AD 576," *JTS* 36 (1985), 320–37, who also considers a similar occurrence in Orleans (before 585). Gregory of Tours, *Hist. Frank.* 5.11–12 (Clermont), 8.1 (Orleans); Venantius Fortunatus, *Opera Poetica* 5.5, *MGH AA* IV/1 (Berlin, 1881); J. W. George, *Venantius Fortunatus: A Latin Poet in Merovingian Gaul* (Oxford, 1992), 127–9.

their day, were well educated and erudite; both drew on Augustine in particular as well as on Latin tradition more generally for their fundamental theological orientations. In their homiletic and exegetical writings, both fully exhibited the by now standard Catholic expressions of contempt for Jewish obduracy and religious blindness. Nevertheless, the social expression of their religious convictions differed notably. Gregory, although extending greater effort than did Augustine to actively attract Jews to the Church, nonetheless acknowledged their legitimacy as a community and upheld Roman legal tradition. Jewish ownership of Christian slaves he actively and everywhere combated (with mixed results),<sup>129</sup> and coerced conversions as well as Christian seizures of Jewish property he condemned strenuously.<sup>130</sup> Neither he nor the Jews whose grievances he sought to redress seemed to regard them(selves) as anything less than Roman citizens.

Isidore's political and religious environment differed significantly from Gregory's. In 587, the Visigoth King Reccared embraced Catholicism, converting Arian clergy in the course of the Council of Toledo two years later. Subsequent efforts to integrate *regnum* and *ecclesia* invariably involved Iberian Jews, a particular target of Reccared's pious successor, Sisebut.<sup>131</sup> The means of choice was law. Beginning in 589, both kings and bishops approved a seemingly endless stream of oppressive anti-Jewish legislation, affirming and extending earlier penalties and introducing new ones. A royal mandate of 613 gave Jews the choice of conversion or exile.<sup>132</sup> Intermarriage between Jews and Christians, interdicted centuries earlier (*CTb* 3.7.2, in 388), incurred an added and onerous entanglement: children born of such unions should necessarily be Christian.<sup>133</sup> In 633, the Fourth Council of Toledo, over which Isidore presided, consented in principle to forced conversions (canon 57) and specified penalties against Catholic Jews who maintained

<sup>129</sup> R. A. Markus, *Gregory the Great and His World* (Cambridge, 1997), 78–9.

<sup>130</sup> Ordering bishops to compensate Jews for seizures of synagogues: Terracina, in 591 (*Ep.* 1.34; 2.6); Palermo, in 598 (*Ep.* 9.38); Brennan, "Clermont," 336–7; Markus, *Gregory*, 76–80.

<sup>131</sup> On Reccared's conversion, see P. Heather, *The Goths* (Oxford, 1996), 280–4; on Visigoth Spain, P. Geary, *The Myth of Nations: The Medieval Origins of Europe* (Princeton, 2002), 127–35; Thompson, *Goths*, 92–109.

<sup>132</sup> Isidore, *Historia Gothorum* 60, MGH AA XI 291.

<sup>133</sup> Third Council of Toledo, canon 14. The *Theodosian Code* had likewise banned mixed marriages between Romans and others (3.14.1, in 373, specifies Goths), probably to equal effect. Toledo's *novum* was thus not repeating the ban itself, but legislating the religious identity of the offspring. For conflicting assessments on the motivations and social effects of post-Arian Visigothic law, B. Blumenkranz, *Juifs et Chrétiens dans le monde occidental 430–1096* (Paris, 1960); B. Bachrach, "A Reassessment of Visigothic Jewish Policy, 589–711," *American Historical Review* 78 (1973); B. S. Alpert, "Un Nouvel examen de la politique anti-juive wisigothique," *REJ* 135 (1976), 3–29.

contact with their unconverted kinsmen (canons 59–62).<sup>134</sup> Children of converted Jews whose parents relapsed were to be taken from their homes and raised by Christians (canon 60).

Isidore both enacted and influenced these repressive initiatives. He countenanced the government's edict enjoining forced conversions, voicing concern but (unlike Gregory) nowhere suggesting that the perpetrators of such acts be penalized in any way. Less intellectually sophisticated than Augustine, much more Eusebian in his political theology, and living in a more brutal age, Isidore's convictions led him to propound an integrative vision of ecclesiastical expansion and universal redemption, one in which the conversion of the Jews figured as a historical stage anticipating the return of Christ. In such a context, Augustine's meaning in invoking Psalm 59.12 ("Slay them not") – originally an injunction against interfering with Jewish religious practice – seemed instead to determine the extreme limit of permissible coercion.<sup>135</sup>

In the East, the Roman *risorgimento* under Justinian (487–565, emperor from 527) also strengthened the identification of Church and state. As in Catholic Spain, Byzantine Jews were the object of increasingly hostile or intrusive legislation. Outstanding in this regard is Justinian's *Novella* 146, enacted in 553, whereby the Emperor proposed to regulate biblical readings for synagogues. At stake was the language of biblical instruction: which Greek translation could Jewish communities use? Justinian endorsed the Septuagint while permitting Aquila as well. However, he explicitly forbade instruction in "*deuterosis*," by which he (perhaps) intended specifically rabbinic tradition. Through such encroachments on Jewish custom and liturgy, the Emperor hoped to encourage Jews to grasp the "true" meaning of the text, that is, its Christological sense.<sup>136</sup>

Strong continuities between east Rome and the earlier culture of the old Empire remained. Central power, such as it was, continued to be exercised by the emperor; urban culture, together with its traditions of lay education

<sup>134</sup> P. D. King, *Law and Society in the Visigothic Kingdom* (Cambridge, 1972), 130–44; A. M. Rabello, "The Legal Condition of the Jews under the Visigothic Kings," *Israel Law Review* 11 (1976), 216–87, 391–414, 563–90.

<sup>135</sup> W. Drews, *Juden und Judentum bei Isidor von Sevilla: Studien zum Traktat De Fide catholica contra Iudaeos* (Berlin, 2001). Cohen, *Living Letters*, 73–122, compares Augustine, Gregory, and Isidore.

<sup>136</sup> M. Avi-Yona, *The Jews of Palestine: A Political History from the Bar Kokhba War to the Arab Conquest* (Oxford, 1976), 249–51; cf. L. Rutgers, "Justinian's *Novella* 146," in R. Kalmin and S. Schwartz (eds.), *Jewish Culture and Society under the Christian Roman Empire* (Leiden, 2002), 381–403; on the general deterioration of Jews in civil law, consult A. M. Rabello, "Civil Jewish Jurisdiction in the Days of the Emperor Justinian (527–565): *Codex Justinianus* 1.9.8," *Israel Law Review* 33 (1999), 51–66, repr. in idem, *The Jews of the Roman Empire: Legal Problems from Herod to Justinian* (Aldershot, 2000); and Linder, *Imperial Legislation*, 402–11.

and literacy, lavish municipal entertainments, and governance by a civilian curia or *boule*, however attenuated, endured. Jews remained integrated in the social and political life of their cities of residence (indeed, they were still legally obligated to serve in the curias).<sup>137</sup> Byzantine Christian intellectuals, like their western counterparts, channeled anti-Jewish sentiments, exegesis, and theological opinions into homilies, commentaries, and legislation both imperial and canonical. But they also developed new literary expressions of this ideology: hymns and liturgical poems, fictive disputations, *altercations*, and various historical fictions.<sup>138</sup> In particular, the wave of so-called “public disputations” placed in legendary settings imagined capitulations of Jews to the new Christian imperial order inaugurated by Constantine. One such legend presented a debate between Pope Sylvester and twelve rabbis (accompanied by scriptural allusions, discussions of Jesus’ descent, and miraculous revelations), culminating in the conversion of 3,000 Roman Jews; similar themes characterized another fiction set in Jerusalem, the “Invention of the True Cross.” While each of these stories may have originated in the late fourth century, their earliest redactions date from the fifth and sixth, and they circulated mainly in the East.<sup>139</sup>

In both halves of the Empire during these centuries, then, one sees the repetition of centuries-long anti-Jewish polemical traditions as well as opportunistic innovations. In the West, repressive canonical and secular lawcodes expressed this theological legacy in a new key. There, bishops who were heir to earlier traditions of erudite anti-Judaism found themselves, in the decentralizing wake of the invasions, in an unprecedented position of authority and power. Culturally *déclassés* barbarian kings, whether Arian (as the Vandals and Goths) or pagan (as the Franks), to the degree that they availed themselves of the bishops and of the Roman Church, to that degree

<sup>137</sup> *Novella* 45, in 537. Such service was onerous, and heretics, too, were likewise obliged. The East’s generally higher levels of lay literacy meant that rulers need not depend on clerics for administration, to the degree that was becoming true in the West: hence, despite disabilities, members of religious minorities could still serve in government.

<sup>138</sup> On the work of the sixth-century Constantinopolitan poet Romanos, see SC 99, 110, 114, 128; and R. J. Schronk, *From the Byzantine Pulpit: Romanos the Melodist* (Gainesville, 1995). More generally, see S. Krauss and W. Horbury, *Jewish-Christian Controversy*, 148–9; A. Külzer, *Disputationes Graecae contra Judaeos: Untersuchungen zur byzantinischen anti-Jüdischen Dialogliteratur und ihrem Judenbild* (Stuttgart, 1999); and P. Andrist, *Le Dialogue d’Athanasie et Zacharée: étude des sources et du contexte littéraire* (doctoral thesis, Geneva, 2001), especially 431–49. On Greek disputations, see also A. Cameron, “Disputations, Polemical literature and Formation of Opinion in the Early Byzantine Period,” *Orientalia Lovaniensia Analecta* 42 (1991), 91–108; while on the similar (and slighter) Latin traditions, Williams, *Adversus Judaeos*.

<sup>139</sup> On the *Acta Silvestri*, see Krauss and Horbury, *Controversy*, 44–6; Andrist, *Dialogue*, 98–99.

could they avail themselves of the lingering prestige of “Rome.” Ironically, then, it was the collapse of western Roman power that facilitated the practical rebirth of the Constantinian-Eusebian political theology that identified Church, Empire, and divine will. While the barbarian king championed his miniature Christian *imperium*, the bishops upon whose administrative skills he depended influenced royal politics and policy to a degree unimaginable in Constantine’s day.<sup>140</sup> Christian anti-Judaism, expressed in the changed context of the now shrunken, ideally religiously homogeneous city and kingdom, had greater scope for social expression than ever before.<sup>141</sup>

In the East, confused accounts in various late chroniclers also allude to seventh-century imperial efforts to baptize Jews forcibly.<sup>142</sup> For the most part, however, Byzantine theological anti-Judaism seems to have given rise less to new laws than to new sorts of literature. The trauma of twice losing Christian Jerusalem – once to the Persians and again to the Arabs – further stimulated such production. Christian authors strove to distinguish their fate from that of the Jews, whose own loss of Temple and homeland centuries previously, much emphasized in Christian writings from the second century onward as clear indications of God’s anger and rejection, looked, on the face of it, uncomfortably close to current Christian experience.<sup>143</sup>

The “Jew” as a theological and hermeneutical idea – carnal, hard-hearted, philosophically dim, and violently anti-Christian – had assumed its familiar shape in the disputes of early second-century, formerly pagan intellectuals. The concept helped them to articulate their convictions as readers of the Septuagint against the other biblical communities. In no Gentile theological system do Jews and Judaism seem to figure positively; but for orthodox theology in particular, hostile characterizations of Jews became a defining characteristic. The men developing the literary patrimony and group

<sup>140</sup> Gregory of Tours specifically recasts the thuggish Clovis, converted to the Roman Church from Frankish paganism in (probably) 508, as a “new Constantine,” *Hist. Frank.* 2.31.

<sup>141</sup> Catholic Visigoth kings occasionally outflanked their own bishops in this regard, enacting anti-Jewish legislation so extreme that they included, as well, penalties for clergy unwilling to enforce it: E. A. Thompson, *Goths*, 185–9 (Chintila), 204–9 (Recceswinth), 231–9 (Erwig); see also legislation in Linder, *Legal Sources*, 257–332.

<sup>142</sup> Parkes, *Conflict*, 257–69, usefully sets these in the context of domestic doctrinal turmoil and impinging Persian power.

<sup>143</sup> D. Olster argues that these sixth- and seventh-century anti-Jewish dialogues actually encode a cultural apology *vis-à-vis* Islam, *Roman Defeat, Christian Response and the Literary Construction of the Jew* (Philadelphia, 1994); cf. Averil Cameron, “Byzantines and Jews: Some Recent Work on Early Byzantium,” *Byzantine and Modern Greek Studies* 20 (1996), 249–74; V. Deroche, “Polémique anti-judaïque et l’émergence de l’Islam (7e–8e siècles),” *Revue des études byzantines* 57 (1999), 141–61.

identity of this new community lived in a culture wherein Jews had been part of the fabric of Mediterranean urban life for centuries; wherein, from 212 CE, they were Roman citizens; and wherein they and their Gentile neighbors (whether pagan or Christian) mixed and mingled in the baths, gymnasia, schools, senates, and synagogues of their cities. This easy social intimacy, and the religious symbiosis it expressed and facilitated, both contrasted with and provoked the charged rhetoric of the ideologues.<sup>144</sup>

Constantine's patronage eventually empowered orthodox bishops, but had little effect on these long-lived social patterns. Religious and social mixing between different types of Jews and Christians, between Christians of different sorts, and between Christians, Jews, and pagans all continued. Indeed, the vitality of this habitual contact accounts in part for the increasing shrillness of anti-Jewish invective. As orthodox identity, enabled especially under Theodosius II, becomes enacted in Mediterranean cities, the volume and the vituperation of the *adversus Iudaeos* tradition increased. Together with the laws preserved in the *Codex Theodosianus* and the canons in various conciliar corpora, this literature at once relates the optative prescriptions of the governing elites and provides glimpses of the social reality that they condemn or attempt to regulate.<sup>145</sup> Church and state collaborated in the Christianization of late Roman culture; however, no immediate correspondence between law, theology, and society can be presumed. Indeed, the constant reiteration of civil and ecclesiastical legislation suggests the opposite: legal prescription cannot yield social description.<sup>146</sup>

Mediterranean society in the fifth through seventh centuries became increasingly brutalized as ancient traditions of urban civility waned. In this new climate of violence, the Church's tremendous moral prestige legitimated the coercion of all religious outsiders. By this point, in learned Christian imagination, "the Jew" represented the religious outsider *par excellence*. In time, within this changed context, the rhetoric of the ancient *adversus Iudaeos* tradition would create a new social reality.

<sup>144</sup> This phenomenon of social interaction disguised or embedded in a more formal literature ideologically committed to separation is investigated narratologically by G. Hasan-Rokem, who focuses on folkloric Galilean stories available in gospels and the Talmud, *Tales of the Neighborhood: Jewish Narrative Dialogues in Late Antiquity* (Berkeley, 2003).

<sup>145</sup> Summarized in Parkes, *Conflict*, 379–86.

<sup>146</sup> See also S. Schwartz, *Imperialism and Jewish Society* (Princeton, 2001), 195–9, noting a sixth-century inscription from Calabria attesting to a Jewish *patronus civitatis*; *JWE* 1 114; M. Williams, "The Jews of Early Byzantine Venusia: The Family of Faustinus I, the Father," *JJS* 50 (1999), 47–8.

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## JEWS IN BYZANTIUM

STEVEN BOWMAN

## I INTRODUCTION

Byzantium was founded in the seventh century BCE as a Greek colony on the western shore of the Bosphoros. Renamed in 330 CE by Constantine I as New Rome, it was popularly known as Konstantinoupolis or I POLIS [also Kosta and later Hebrew Kushta]. Byzantium became the modern scholarly name for the Roman Empire after the seventh century, if not from 330, and is alternatively known as the East, or Christian, Roman Empire. While individual Jews had occasionally attained Roman citizenship, most Jews (as freemen) became Roman citizens with the decree of Emperor Caracalla in 212. This citizenship, as well as the recognition of Judaism as a “permitted religion” (*religio licita*), characterized the status of the Jews in Byzantium until its conquest by the Ottomans and determined the status of the Greek-speaking or Romaniote Jews of Istanbul [from the Greek *eis ten polin*] under the Ottomans.<sup>1</sup>

<sup>1</sup> The ancient city of Byzantium gave its name to the Byzantine Empire among modern scholars, although the Empire called itself correctly Roman and its citizens and subjects Romans. To the East it was known as Rum, in the Balkans Rumelia. In so far as the period of this chapter is concerned, the center of the Empire was indisputably in New Rome, also known as the City of Constantine. See Introduction to *CMH* 1v, by J. B. Bury. No sources are available for a Jewish presence at Byzantium prior to the 320s, although it is not impossible that they may have had a settlement in such a salubrious site midway between Jewish colonies surrounding the Aegean and the Black Seas. The question is when a Jewish presence in the center of Constantinople appeared. Is it connected to the Chalkoprateia (the quarter of the bronze and copper workers' workshops) located east of Hagia Sophia (see map in *CMH* 1v or A. Kazhdan (ed.), *The Oxford Dictionary of Byzantium* [Oxford, 2002]). A. Galante, *Les Juifs de Constantinople sous Byzance* (Istanbul, 1940), 23–5, argued for a mid-fourth-century date; see D. Jacoby, “Les Quartiers juifs de Constantinople à l'époque byzantine,” *Byzantion* 37 (1967), 167–227. J. Juster, *Les Juifs dans l'empire romain*, 1 (Paris, 1914), 470–2, discussed the confiscation of the new synagogue in the Chalkoprateia, which had been authorized by the Eparch of Constantinople, Honoratus, under Theodosian II. In his *Novella* 3.3 of 415, Theodosius ordered it to be transformed into a church and fined the Jews 50 gold solidi for violating the law against building new synagogues. Juster questioned the designation of Chalkoprateia by Theophanes (*Chronographia*, year 442 [an. 5942], ed. De Boor, 102)

The Roman Empire was reunited under the single rule of Constantine the Great (306–33) after his defeat of co-Caesar Maxentius near Rome in 312 and his co-emperor Sicinus at Chrysopolis in 323. The recognition of Christianity, first as the *primus inter pares* by Constantine and later as the official religion of the Empire by Theodosius I, led to the intermittent reduction of Jews to a second-class citizenship, a process which culminated in the reign of Justinian the Great (527–65). Justinian's attempt to reconquer the western provinces of the Empire was only partially successful, and events of the seventh century, including the Muslim conquests and the rise of independent Germanic kingdoms in the West, continued the restriction of imperial control to the Balkans, southern Italy, and Anatolia. The vicissitudes of the Jews during the period 330–565 reflect this external war to maintain the ancient Roman Empire as well as the internal struggle to establish orthodox Christianity as the legitimate successor to the polytheistic Roman Oecumenum.<sup>2</sup>

## II PATTERNS OF SETTLEMENT: ARCHAEOLOGICAL DATA

The Jewish communities of the SE Mediterranean littoral, that is, the Land of Israel (the Roman provinces of Palestina Prima, Secunda, Tertia), Egypt, Lybia, and apparently Cyprus underwent a sustained decline following the disastrous revolts of 66–73, 115–17, and 132–5. By the second half of the second century, the situation had stabilized. One finds well-organized and widespread settlement of Jews throughout the Galilee and its periphery

and suggests that perhaps here is a transposition of the burning of the synagogue of Callinicum in 382 and the order of Theodosius I to compensate the Jews for the value destroyed and to rebuild the synagogue. (Ambrosius, Bishop of Milan, challenged the Emperor and forced him to cancel the order.) In any case, Justinian followed Theodosius I's precedent in his *Code* (*CJ* 1.9.18) and forbade the building of new synagogues. This principle was adopted by the Muslims in the areas they conquered from the Empire in the seventh century and they extended it throughout the *dar al islam*. Hence, the question still remains unanswered: where was the synagogue located that was involved in the controversy over the language of Torah-reading settled by Justinian in his *Novella* 146? See A. Linder (ed. and tr.), *The Jews in Roman Imperial Legislation* (Detroit, 1987), 323–4. Given the scholarly tradition that Jews were expelled from Constantinople by Theodosius in connection with the confiscation of their synagogue, it is likely that it was a recent congregation that Justinian judged; see J. Starr, "Byzantine Jewry on the Eve of the Arab Conquest (565–638)," *Journal of the Palestine Oriental Society* 15 (1935), 280–93, especially 281 and n. 4.

<sup>2</sup> For a general reference, see *CMH* IV, Part 1, ch. 1; J. B. Bury, *History of the Later Roman Empire from the Death of Theodosius I to the Death of Justinian*, 2 vols (repr. New York, 1958); A. M. H. Jones, *The Later Roman Empire 284–602*, 1 (Oxford, 1964); and J. Barker, *Justinian and the Later Roman Empire* (Madison, 1966).



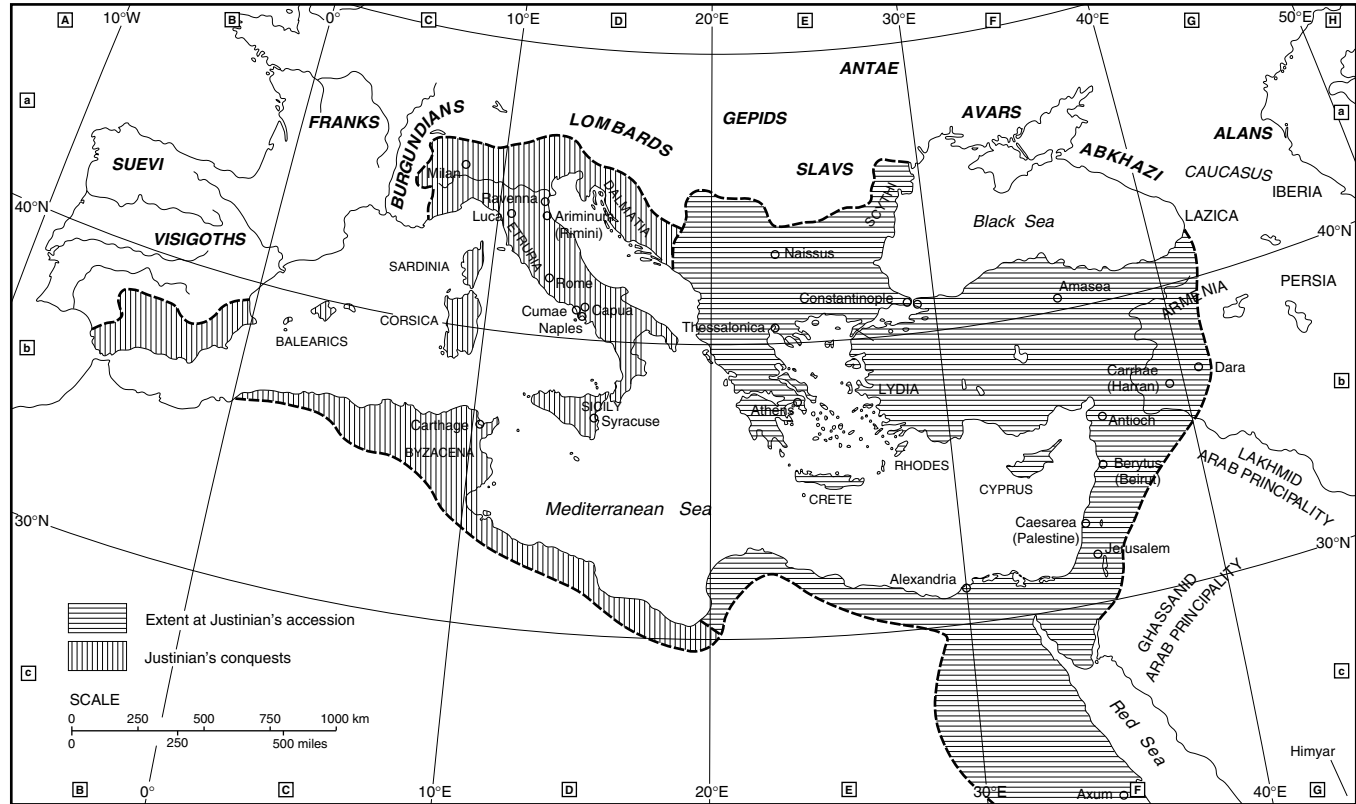


Figure 39.1 Justinian's empire in 565

under the auspices of the Pharisees and their successors who were recognized as the official spokesmen for the Jews in the Land of Israel. One may assume a later expansion of Jewish settlements throughout the *imperium* following the imperial fostering of colonization in the new frontier regions and along the limes that defined the Empire's borders. This assumption is based on later evidence of established communities in Dacia, Pannonia, Germania, Gallia, perhaps Britannia, Hispania, Mauritania, let alone the continuity of Jewish settlements in Italia, Graecia, Macedonia, Illyrica, Asia Minor, Syria, Roman Mesopotamia, and Egypt. The discovery of the Dura Europos synagogue and attending community on the Euphrates frontier is noteworthy from this perspective.<sup>3</sup>

When the curtain lifts on the pre-Christian Balkans in the fourth century, Jewish communities of long duration were already scattered along the coasts and trade routes. Jules Juster lists some twenty-eight cities recorded in the *Corpus Inscriptorum Latinorum*; subsequent research has added others; for example, in Pannonia: Intercisa/Dunapentele, Tricciana/Sagvar, Aquincum, Esztergom, and Savaria. The major areas of Jewish settlement, however, were still located in the metropolitan centers of Asia Minor and along the coasts of Italy, two primary areas that continued to supply immigrants to the Balkans throughout the medieval period. In Roman Egypt, Jewish communities slowly reappeared after the disastrous losses in Alexandria during the revolt under Trajan. Evidence for an organized Jewish community reappears in fourth-century Cyprus. These Jews were Greek-speaking, primarily urban settlers, and engaged in manufacture and commerce. Their culture was hellenized even as they (or some of them) adhered to the authority of the "Patriarch of the Jews" in Palestine. His prerogatives authorized him to announce the liturgical calendar for the Diaspora, arbitrate in their complaints with the Empire, and interpret the Torah (Bible) and Mishnah (legal code of Jewish law) for them.<sup>4</sup>

<sup>3</sup> See M. Avi-Yonah, *The Jews Under Roman and Byzantine Rule: A Political History from the Bar Kokhba War to the Arab Conquest* (New York, 1976, 1984); for Diaspora settlements, see Juster, *Les Juifs*, 1, 179–212; for Israel, see S. Klein (ed.), *Sefer Hayishub*, 1 (Jerusalem, 1978); and G. Stemmerger, *Juden und Christen im Heiligen Land: Palästina unter Konstantin und Theodosius* (Munich, 1987).

<sup>4</sup> See note 3; also A. Lengyel and G. T. B. Radan (eds.), *The Archaeology of Roman Pannonia* (Lexington and Budapest, 1980); for Egypt, see J. M. Modrzejewski, *The Jews of Egypt from Ramses II to Emperor Hadrian* (Princeton, 1995), who adds a new dimension to the discussion through papyrological studies and claims a distinctive break in Jewish settlement during the reign of Trajan. By the beginning of the fifth century, they apparently regained strength, since Bishop Cyril (c. 376–444) had them driven out (Socrates Scholasticus, *HE* 13); this act was contemporary with the brutal slaying of Hypatia in 415, for which he also bears responsibility.

Jews practicing various Judaisme had by then happily found their niche in the polytheistic Roman *imperium* after the thorny path of absorption that had destroyed their Temple, their capital, and their independence in the two centuries from Pompey to Hadrian. Even the sister of Emperor Diocletian [the end of the third century], who had relocated his capital to the region of the Bosphoros, had converted to Judaism, whereas other members of the upper class had converted or sympathized with this ethical monotheistic cult. Synagogues in Stobi, Thessalonica, Veroia, and elsewhere in Rome and Ostia flourished, as did major synagogue complexes in Anatolian Sardis, Aphrodisias, and the islands.<sup>5</sup> The lack of sources notwithstanding, little doubt exists that a substantial Jewish presence existed in the urban centers surrounding the Aegean Sea and in the frontier hinterland encompassing the Danube. The question of the extent and continuity of settlement in Gallia Provincia attending the exile of Herodians (Archelaus and Herod Antipas) is not answerable, but the existence of Jewish communities in Arles, Bordeaux, Metz, Poitiers, and Avignon by the fourth century is confirmed in archaeological and literary sources. In the late fourth and fifth centuries, Jews were settled in Vannes (Brittany), Clermont-Ferrand, Narbonne, Agde, Valence, and Orleans.<sup>6</sup> Jews in Spain are confirmed by the canons of the Council of Elvira at the beginning of the fourth century; inscriptions, some doubtful, exist in Adra (Abdera) in Almeria, Majorca (?), Ibiza (?), Elche (Illici) in Alicante, Merida, Tortosa, Tarragona (Pallaresos), and Villamesias.<sup>7</sup> Sardinia, Malta, and Sicily (Palermo) have inscriptions. Italian sites are too numerous to list, although those of Venossa and Taranto deserve special mention for their later Hebrew epitaphs.<sup>8</sup> Archaeological data and later references in the Theodosian and Justinianic codes attest to Jewish communities in North Africa where Jews had lived since Punic times. The campaign of the Church Fathers against the influence of Jews and judaizing tendencies and

<sup>5</sup> J. Reynolds and R. Tannenbaum, *Jews and God-fearers at Aphrodisias: Greek Inscriptions with Commentary* (Cambridge, 1987); J. Wiseman (ed.), *Studies in the Antiquities of Stobi* (Belgrade, 1973), 208–10 and bibliography, 241–2, 263–4; and L. Levine, *The Ancient Synagogue* (New Haven, 2000), 252–5.

<sup>6</sup> N. Golb proposed that any *Rue des juives* in Normandy, France, probably represents a Jewish settlement from Roman times (*The Jews in Medieval Normandy* [Cambridge, 1998]; see, however, the critique in *Kiryath sefer*, 1998). If his thesis proves valid, then the list of Jewish settlements in France (and indeed throughout the *limes* where such a tradition can be found) should be expanded considerably.

<sup>7</sup> See the Greek and Latin inscriptions in F. Cantera and J. M. Millás, *Las Inscripciones Hebraicas de España* (Madrid, 1956), 406–18.

<sup>8</sup> See D. Noy, *Jewish Inscriptions of Western Europe*, 1 (Cambridge, 1993), s.v.; N. Bucaria, M. Luzzati, and A. Tarantino (eds.), *Ebrei e Sicilia* (Palermo, 2002).

conversions among the pagans was of little avail until Christianity became the premier and later the official religion of the Empire. Jerome's claim that Jewish settlements stretched across North Africa from Mauretania to Egypt is substantiated by numerous inscriptions and archaeological remains, for example Carthage. North Africa was to remain rife with heresy (most prominently the Donatists) until the Muslim conquest; this turn of events explains the ease of the Vandal conquest in 430 and the influence of their Arian heresy.<sup>9</sup> No hint is present of the radical change that transformed Jews from *cives romani* to second-class citizens, and Judaism to a disparaged religion, by the mid-fifth century, and both into a status that was denigrated if not harassed for the next millennium.

### III SURVEY OF LEGAL STATUS

Since Julius Caesar, Judaism was a religion publicly recognized by the state. Jews practicing Judaism were exempted from certain public acts and requirements that might violate their own laws. In addition, they were allowed to assemble for worship and common meals, to observe the Sabbath and festivals, and to hold funds to erect new synagogues.<sup>10</sup> Roman law also safeguarded their communal property and monetary contributions to Jerusalem. Since 212 [the Edict of Caracalla], free men, including Jews, were accorded the right of Roman citizenship. This right accounts for the survival of the names Romanos, Politis, and so on among Greek-speaking Romaniote (that is, Roman) Jews until the present day.

To summarize the status of the Jews: they were Roman citizens, and members of a legally incorporated entity with an authorized cult, which Tertullian called a *religio licita*. This status is perhaps the single most important factor in the survival of Jews and Judaism in the Christian Roman Empire and among its heirs in the Latin West and the Orthodox Balkans throughout the later medieval period. The *Nasi* or *Patriarchos ton Ioudaion*, whose seat was located in Palestina, was the recognized spokesman for imperial Jews. In turn, he was the head of the academy that provided interpreters of Jewish law (according to the Mishnah code) and administrators of the Roman system among the subjected (albeit citizens) Jews. As head of the Jewish corporate body and heir to the authority of the High Priest of the destroyed Second Temple (70 CE), he was also the recognized religious authority for the Jews of the Empire and was accepted as such by

<sup>9</sup> H. Z. (J. W.) Hirschberg, *A History of the Jews in North Africa*, 1 (Jerusalem, 1965), 30–1 (Hebrew).

<sup>10</sup> E. M. Smallwood, *The Jews Under Roman Rule from Pompey to Diocletian* (Leiden, 1981), 134f; cf. Suetonius, *Julius Caesar*. See also ch. 5 in the present volume.

the eastern Diaspora as well. One of his major prerogatives was to determine the religious calendar. He also collected the Jewish taxes for the Empire and for the support of his manifold endeavors. A leader of power and influence, he was a trusted ally of the ruler and had the ear of the state.

#### IV THE NEW CHRISTIAN ORDER

This felicitous status underwent a process of change for the worse after Constantine's recognition of Christianity as a *religio licita* and his fostering of its development as a *primus inter pares* among the other religions in the Empire. Constantine made Christianity a legal religion whose leadership was subject to imperial control. He and his imperial successors held the title of Pontifex Maximus, that is, chief priest of the Empire, and Constantine presided over the First Ecumenical Council at Nicaea in 325. His successors initiated various theological programs, and some continued to flourish even after the theological position of the emperor-controlled church changed. (Thus, the Egyptian Monophysites or Malakites followed Justinian's attempt at defining an official theology, and the Amorian emperors of the eighth to ninth centuries promoted iconoclasm via state-sponsored persecution of the Orthodox adoration of icons.) Canon laws received the support of the state that, in turn, made them binding on the citizens of the Empire beyond the confines of the local councils that promulgated these rules of conduct. Therefore, canons enacted against Jews in local councils became applicable to the wider Jewish community and contributed to their social segregation.<sup>11</sup>

During the period prior to the codification of the *Theodosian Code* (429), a series of *ad hoc* laws shed some light on the status and history of the Jews. These laws represent the aggressive competition of Christianity with Judaism. They reflect the rise to power of the new faith that used the state system to attack the older polytheistic religions, which it eventually outlawed. They were intended also to weaken Judaism, which was deemed necessary to survive in a denigrated status in order to prove the theological

<sup>11</sup> The conflict between the Church and the Synagogue, as J. Parkes termed Christian aggression, is considered from the perspective of this chapter as a by-product of the political situation. True, the Church influenced the Emperor socially and theologically and interfered with political processes *vis-à-vis* Jews and pagans. Moreover, a constant stream of *Adversus Judaeos* literature, already extant from the pre-Nicaean period, established patterns during the two centuries surveyed in this chapter that would reverberate throughout Christendom into the modern period. See S. Krauss, *The Jewish-Christian Controversy from the Earliest Times to 1789*, ed. and rev. W. Horbury (Tübingen, 1995) and bibliography; and J. Cohen, *The Living Letter of the Law: Ideas of the Jew in Medieval Christianity* (Berkeley, 1999) and bibliography.

argument that the monotheistic God of Israel had transferred His grace from the “old Israel” to the “new Israel.” As long as Christianity predominated, the survival of Judaism was assured by the state or by the Church, even if there were to occur, for various political reasons, forced baptisms of the Jewish population by Justinian (527–65) and his successors.

The promulgation of these *ad hoc* laws may occasionally be used to illuminate the local situation in which they were issued.<sup>12</sup> Such an approach has long been accepted among Byzantinists, yet the reader is cautioned to beware of extending such a methodology without a critical reading of the local situation and the law’s relationship to it. For example, later editors may well have adjusted negatively any earlier law preserved in either the *Theodosian Code* or the *Code of Justinian* or the situation may have changed to the detriment of the law’s addressee. Therefore, Constantine’s general law regarding the admission of the Jews of Cologne to the decurionate<sup>13</sup> was beneficial at the time – note the *pristina observatio* perpetual exemption.<sup>13</sup> Nonetheless, it soon became burdensome when the Jews were excluded later from all public office, save for the curia, in which they were responsible for providing local liturgies.<sup>14</sup> One may note here several examples that illuminate the contemporary local situation and subsequently became Empire-wide when incorporated in the later codification. Constantine<sup>15</sup> at Burgulu (in Thrace) in 329 prohibited Jews from persecuting Jewish converts to Christianity. Earlier, he had prohibited their possessing Christian slaves, the latter clearly a blow to Jewish economic livelihood.<sup>16</sup> Constantine II prohibited buying and proselytizing Christian slaves and prohibited intermarriage with female workers in the imperial weaving factories (presumably in Constantinople).<sup>17</sup> Both of these laws, although worded in religious polemical terminology, affected negatively the economic and social condition of the Jews, in the latter case their own garment industry that competed with the imperial monopoly. Slaves were necessary to agriculture and manufacturing, while the women were skilled textile workers. The slaves, who were converted to Judaism according to Jewish law, and the women, were contributors to demographic increase.

The brief interlude of Julian’s pro-Jewish (or anti-Christian) policy (361–3) ended with the aggressive laws of Theodosius I, although not

<sup>12</sup> See J. Cohen, “Roman Imperial Policy Toward the Jews From Constantine Until the End of the Patriarchate (c. 429),” *Byzantine Studies* 3 (1976), 1–29.

<sup>13</sup> *CTb* 16.8.3; December 11, 321.

<sup>14</sup> Cf. *CTb* 12.1.100; 12.1.158 and 12.1.164–5; *CJ* 1.9.10; and *Novella* 45.

<sup>15</sup> *CTb* 16.8.1. <sup>16</sup> Cf. *Constitution Sirmondiana*, dated 335.

<sup>17</sup> *CTb* 16.9.2; 16.8.6. If these *gynacea* were in the capital, then it argued for a Jewish presence in Constantinople in the 330s.

before some twenty years had passed!<sup>18</sup> In 388, Theodosius interdicted marriage between Christians and Jews.<sup>19</sup> Although it was an intensified repetition of earlier laws, this one issued at Thessalonica perhaps reflects the continued existence of mixed marriages in that city. The presence at that time of a sumptuous Samaritan synagogue near the forum is an indication of a prominent Jewish presence.<sup>20</sup> This law expands previous bans on intermarriage by allowing anyone, not only relatives, to proffer such an accusation. Towards the end of the fourth century, conditions in the Prefecture of Illyricum were unstable because of internal conflicts between Stilicho and Rufinus, and this instability was exacerbated by Alaric's invasion (395). Local Christians used the opportunity to attack Jews and their synagogues. Such aggressive acts occurred periodically since the days of Bishop Ambrosius of Milan (for example, 388 in Callinicum on the Euphrates, over which he clashed with the Emperor Theodosius I). Arcadius in 397 ordered the Anatolian Prefect of Illyricum (including Dacia and Macedonia) to protect Jews and their synagogues;<sup>21</sup> a law addressed to Philippus, Praefectus Praetorio in Illyricum (c. 420) renewed this imperial protection.<sup>22</sup>

The promulgation of the *Theodosian Code* under Theodosius II (408–50) incorporated a fairly comprehensive body of Jewry law for the contemporary Empire. It would later serve as the basis for western Jewry law throughout the Middle Ages, and, with the ramifications introduced by the *Justinian Code*, served as the basic law for Jews in the Balkans until the Ottoman conquests in the fourteenth and fifteenth centuries. These codes and their successors recognized the Jews as Roman citizens, subject to limitations which excluded them from participation in the military, political (save for service in the curia), and legal apparatus of the Christian states. In addition, they were restricted in their economic, social, and sexual intercourse with Christians. Nevertheless, Jews were able to establish

<sup>18</sup> Avi-Yonah, *The Jews*, ch. 8. On the question of Julian's interest in allowing the rebuilding of the Jerusalem temple, see Y. Levy, "Yulianus Caesar ve-binyan habayit," *Zion* 6 (1940–1), 1–32 (Hebrew).

<sup>19</sup> *CTb* 3.7.2.

<sup>20</sup> Decorative architectural remains of that synagogue are immured in the Byzantine wall of the city, while an undated Hebrew inscription is still found on the Gate of Anna Palaiologina in the Heptapirgon. For the Greek inscription, see B. Lifshits and J. Schiby, "Une Synagogue samaritaine à Thessalonique," *RB* 75 (1968), 368–78 and Plate 35; and Y. Shibi, "Kehila shomronit bisaloniki," *Zion* 42 (1977), 103–9 (Hebrew), for a map of Samaritan locations in the city.

<sup>21</sup> *CTb* 16.8.1.

<sup>22</sup> *CTb* 16.8.21. See also the discussions of these issues in chs. 5 and 38 in the present volume.

niches wherein they could survive economically and even flourish. These niches included the garment industry (dyeing and manufacturing), tanning, gold and silver filigree work, trade in jewelry, glass-making, long-distance trade (in particular the trade in foodstuffs from North Africa to Rome, where a corporation of Jewish *navicularii* resided on Mount Colius, near the Coliseum), and so on. There seems to have been no restriction on Jewish ownership of rural land or urban real property. Within the community, the production of books, manuscripts, and religious services employed a number of individuals. Jewish medicine flourished in the Balkans, and indeed may have been a monopoly in certain periods.

## V DEMOGRAPHIC CHANGES

The periods surrounding the promulgation of the two imperial codes (c. 400–600) were ones of decline, not only in terms of status but perhaps in demography (although sources are scarce), the latter decline due more to conversion than to warfare, as in Palestine (from the first through the sixth centuries).<sup>23</sup> The Empire, in general, suffered a decline in manpower during this period. In charting the demographic patterns of settlement, one is faced with modern scholarly guesstimates of the first century and the figures recorded in the *Itinerary* of Benjamin of Tudela, who visited Greece and environs in the latter twelfth century. Overall, a comparison between these two sets of figures (that is, the total world population of Jews, approximately 10–12 million in the first century and approximately 2 million in the twelfth) reveal a geometric decline in absolute numbers that continued until the nadir of Jewish population at about one million in approximately 1500.<sup>24</sup> During this long period, small waves of immigration filtered into the Balkans, and these sustained or may have increased the Jewish population. In North Africa, an increase in Jewish population resulted from conversions made by Jewish refugees among the Berber

<sup>23</sup> See a summary of Jewish settlements in Palestina by Y. Schwartz, *Hayishuv bayebudi biyehudah meleahar milbemeth bar-kokhba ve'ad lekibbush ha'aravi* (Jerusalem, 1986) (Hebrew).

<sup>24</sup> I am not aware of any studies that discuss this trend, which seems to warrant some attention even if the figure for the first century is exaggerated. For more specific demographic arguments see the critique by A. Wasserstein, "The Number and Provenance of Jews in Graeco-Roman Antiquity: A Note on Population Statistics," in R. Katzoff, Y. Petroff, and D. Schaps (eds.), *Classical Studies in Honor of David Soblberg* (Ramat-Gan, 1996), 307–17 with bibliography. A critical minimalist reading is offered by M. Toch, "The Jews in Europe, 500–1050," in P. Fouracre (ed.), *The New Cambridge Medieval History of Europe*, 1 (Cambridge, 2005), 547–70. I am grateful to Professor Toch for an advanced reading of this text.



tribesmen. More likely, continued assimilation and conversion (occasionally forced during the period under review) was not offset by conversions to Judaism and natural increase.

These immigrations in their proper sequence will be given attention. First, however, the results of the demographic vicissitudes and shifts of the fifth to sixth centuries will be examined. The *Theodosian Code* recognized the end of the Palestinian Patriarchate of the Jews in 429, and in the process transferred the *aurum coronarium* to the imperial treasury.<sup>25</sup> The collapse of the patriarchal superstructure eventually cast many scholars adrift, and undoubtedly many emigrated, some to the Aegean littorals, which was the locus of the larger Jewish communities in the Empire, and others to North African cities. One reads of the controversy between the Hebrew literate immigrants and the local Graecophone Jews in Justinian's *Novella* 146 of 553. There the local Jews had complained that the Palestinian scholars had tried to impose a Hebrew reading of the Scriptures on them. Justinian arbitrated in his capacity as Pontifex Maximus and legislated that Jews could read the Torah in any translation (preferably the Christianized Septuagint). More important for the long term, he forbade them to study the *deuterosis* (here most likely the "oral tradition" of the Palestinian Rabbinat, including the second-century Mishnah, the code of oral law).<sup>26</sup> Since prayer was not interdicted by this *Novella*, the scholars, primarily in Palestine, summarized the oral law in liturgical *piyyutim* that then entered the synagogue service and contributed ultimately to the developing Romaniote and other synagogue rites throughout the Balkans. Perhaps an increase in conversions occurred, or assimilation among the Graecophones now deprived of their traditional Judaism.

It should not be overlooked that the Church and its secular protector (the Empire) tended to define all heresies as "judaizing," and indeed heresies of all types proliferated throughout its tenure. The *Theodosian Code* lists dozens of heresies under this category. In addition, Greek (and Syriac) ecclesiastical literature of all types used the term "Jew" as a general pejorative that occasionally makes it difficult to distinguish between "authentic" Jews and varying degrees of heretics (judaizing or otherwise) throughout the period. A serious investigation of this phenomenon would take one too far afield for the purposes of this chapter.

A corollary to the termination of the Patriarchate may be the messianic movement of Moses of Crete [c. 448] recorded by Socrates Scholasticus.<sup>27</sup> (The year 440 was 200 years after the beginning of the fifth millennium

<sup>25</sup> *CTb* 16.8.29.

<sup>26</sup> See Linder, *The Jews*, 402–11, although he prefers "Mishnah" for *deuterosis*.

<sup>27</sup> *HE* 12.33.

according to Jewish reckoning. The Visigothic sack of Rome in 410, which necessitated Augustine's apologia *De Civitate Dei*, and its predecessor, Paulus Orosius' *Historiarum adversum paganos*, and the Vandal conquest of Africa [430–40] and subsequent sack of Rome in 455, as well as upheavals in the East, may well have contributed to the messianic excitement that always had as its goal a repatriation to Israel.) Such a debacle on Crete (if indeed it actually occurred) led to many deaths by drowning – the sea did not part for this deuteromoses – and to the conversion of the survivors, at least according to this ecclesiastical polemic.

Jewish demographic expansion and (perhaps only regional) demographic growth continued through the fourth century, when it began to be curtailed by the legitimization of Christianity and the latter's increasing attacks on the Jews. The ensuing question for the historian asks: to what extent was the urban presence of the Jews compromised by the growing aggression of Christianity, and to what extent was the prior demographic growth reversed by syncretistic assimilation, if not conversion? In addition, can one extrapolate from a few examples a larger trend *vis-à-vis* the Christian–Jewish competition in the rural areas of the Empire? Here a judicious reading of Church councils and individual laws in the Code of Theodosius II may illuminate the frontier relations. Later we shall note some competition in the major centers where the victory of the Church was assured by the overpowering presence of the imperial superstructure, which had adopted Christianity first as the favorite religion and then as the official ideology of the state.

## VI ON THE FRINGES OF THE EMPIRE

By the middle of the fifth century, the Jewish situation had changed drastically from a flourishing religious nation with special privileges to one denigrated by a lawcode that had effectively reduced the Jews to second-class citizenship, and by a Church policy that marginalized them in an increasingly Christian public domain. On the other hand, the inscription from Aphrodisias suggests that pockets of Jews continued to flourish, particularly in areas where polytheism still predominated. In addition, the exile of heretical bishops such as Arius and Nestorius was instrumental in the spread of a heterodox Christianity beyond the borders of the Empire. On the frontiers, the successes of Arian Christianity as well as the utility of Jews to the newly Arianized Germanic conquerors would improve the condition of the provincial Jews. Nonetheless, from a legal perspective, they were now subject to the breviaries derived from the *Theodosian Code*; however, these breviaries would be interpreted and applied by the conquerors and their bureaucrats.

The institutional integrity of the Jewish world represented by the *Nasi* or Patriarch was shattered with the effective abolition of that office in 429. The establishment of an independent province in the South, Palestina Tertia, further compromised the territorial integrity of the Land of Israel. The transfer of the annual *shekel* temple tax to the imperial fisc was an insult to the pride of the Jews and a blow to the economic stability of the Palestinian communities. The way the far-flung Jewish communities reacted to these blows is unknown, since most of the literary evidence derives from Palestine, which was affected the worst. Both the state and the Church combined efforts to christianize the land called holy by the Jews through pilgrimage, monumental buildings, monasticism, a reidentification of Jewish historical sites as Christian holy places, and sustained polemics in both text and sermon, as well as in liturgy.<sup>28</sup>

The continuity of substantial Jewish communities into the subsequent century is well known; for example, Aphrodisias, Sardis, Stobi, Thessalonica, and the capital Constantinople, plus additional sites in Italy and Africa. This Jewish presence in many of the areas where strong polytheistic political and cultural centers existed no doubt contributed to the survival of a strong Jewish society. Pagans did not overtly attack Judaism, as did the revolutionary new Christian authority; rather, one might suggest that pagans and (some) Jews allied against the common threat, at least on the political plane. Moreover, under pressure from the orthodox Christian state to accommodate monotheism, pagans would have seen in Judaism a preferable alternative to the authoritarianism of a state-controlled cult. Indeed, a number of heresies existed to attract pagans as well. Nevertheless, the survival of strong pagan and heretic centers into the reign of Justinian must be considered as one more reason for the continued flourishing of Judaism in the Empire. Justinian, early in his reign (529), attacked the pagans when he closed the Platonic Academy in Athens, the center for the study of (pagan) Greek philosophy.

<sup>28</sup> See G. Armstrong, "Imperial Church Buildings in the Holy Land in the Fourth Century," *BA* 30 (1967), 90–102; idem, "Fifth and Sixth Century Church Buildings in the Holy Land," *Greek Orthodox Theological Review* 14 (1969), 17–30; A. Ovadia and C. Gomez de Silva, *Corpus of Byzantine Churches in the Holy Land* (Bonn, 1970) and Supplements in *Levant* 13 (1981), 200–61 and *Levant* 14 (1982), 122–70; E. D. Hunt, *Holy Land Pilgrimage in the Later Roman Empire AD 312–460* (Oxford, 1982); Y. Hirschfeld, *The Judean Desert Monasteries in the Byzantine Period* (New Haven, 1992); R. L. Wilkin, *The Land Called Holy: Palestine in Christian History and Thought* (New Haven, 1992).

## VII JUSTINIAN (527–565) AND THE JEWS

Justinian's attack on the Jews was based on two separate policies. The first one was retaliation for the Jews' support of the heretical Donatists and Arian Visigoths prior to his reconquest of those lost provinces.<sup>29</sup> He also punished the Jews of Naples, who had fought his armies in support of the Ostrogoths, who had briefly conquered that territory. One may assume that retribution was also forthcoming for the Visigoth conquest of Spain and the support of the Jews for the new regime that relied on them for varied assistance in the face of orthodox hostility to the heretic conquerors.

Justinian also reacted to the Jews on a religious level, and here two separate instances reveal the complexity of his policy. In his well-known *Novella* 146 (553), Justinian interfered directly with the hitherto autonomous permitted cultus of the Jews. The opportunity emerged from an internal struggle within the capital's Jewish community, reflecting a situation that may well have antedated his reign. The problem brought to him, in his capacity as Pontifex Maximus of the *imperium*, was whether Hebrew or Greek should be the language in which the Torah was read in the synagogue. In his response, Justinian allowed any translation to be used, thus frustrating the Hebraists, who bore such communal titles as *Archipherekitae* (*Roshei Perakim*), *Presbyteroi* (*Zekenim*), and *Didaskaloi* (*Rabbanim?*), each reflecting perhaps a cultic function. He specifically recommended the Septuagint translation, by now some eight centuries old and thoroughly Christianized. He also mentioned the more literal (and Jewish-sanctioned) translation of Aquila. A more significant challenge to Judaism's autonomy came from his severe threat to those who denied the resurrection, or the last judgment, or the existence of angels. Finally, he outlawed the *deuterosis*, most likely the midrashic tradition (both halachic and aggadic) that constituted the developing content of Judaism, at least for those conservatively faithful to Palestinian traditions. (Some modern commentators translate *deuterosis* as "Mishnah," with its implied meaning as halachic Judaism.) Justinian also introduced the terms "superstition" and "heresy" in his discussions of Jews, and this introduction set the precedent for the Emperor and his successors to introduce forced baptism when it suited their policies. Justinian, according to Procopius, forcibly baptized the Jews of Borton in Cyrene after turning their ancient synagogue into a church.<sup>30</sup>

<sup>29</sup> *Novella* 37 (535).

<sup>30</sup> M. Avi-Yonah, *The Jews*, 251; Procopius, *De aedificiis* 6. Justinian's revision of the Jews' legal status is discussed in more detail in the Appendix in the present volume.

In addition, Justinian challenged the Jews on a symbolic level. Procopius, in his notorious *Secret History*, relates that Justinian ordered the sacred treasures of the Second Temple, recovered from the Visigoths during the North African campaign, to be brought to his capital. (The Visigoths had captured them from the Huns, who had sacked Rome and the Temple of Janus on the Capitoline Hill, where Titus had deposited them.) Procopius records that a Jew at court warned that the treasures brought bad luck to their possessors, so Justinian ordered them to be sent to Mount Athos. In the event, part or all of the treasure fleet sank in the Aegean.<sup>31</sup> Justinian built, *inter alia*, two massive churches to demonstrate the victory of Christianity over Judaism: Hagia Sophia in Constantinople, regarding which he claimed to have outdone Solomon, and Ta Nea in Jerusalem. The latter was located on the hill west of the Dung Gate overlooking the Temple Mount, which since Constantine's time, had become the dumping ground for construction refuse in an attempt to denigrate the Jewish site. As a result, the axis of Jerusalem shifted from the centrality of the Temple Mount to a higher and more western line that stretched from the Ta Nea Church to the Church of the Anastasis (as recorded on the Madaba Map).

Jews in turn responded to Justinian's attacks, not only by joining with the Germanic invaders in the western provinces and the citizens of the capital in the Nike riots, which nearly overthrew the Emperor, but also by revolting in Palestine. Their punishment was less severe, however, than Justinian's response to the perennial Samaritan revolt (451, 484, 529, and 556). After their serious defeat in 529 (approximately 20,000 dead and an equal number of boys and girls sold into slavery), he declared the Samaritans to be "heretics," thus removing them from their hitherto legal recognition as part of the Jewish status of *religio licita*. He was now free to persecute them nearly to extinction. Elsewhere, the earlier conflict (517/18–25) with the Jewish king of Himyar, Yusuf Asar Yathar Dhu Nuwas, over the right of way through the Red Sea, was part of the larger competition between the Roman and Sasanian Empires in which the (Christian) Ethiopian kingdom of Axum played a pivotal role. The extent of Judaism in Ethiopia is still a matter of controversy among scholars; however, Dhu Nuwas converted to Judaism some time prior to his rule, and repelled the Ethiopians who claimed the country. According to Christian sources, Dhu Nuwas persecuted the Christian subjects of the negus in Najran, whom he suspected of treason, as well as Byzantine Christian merchants who attempted to exit the Red Sea for the Indian trade. When the Persians failed to aid him, the invading Ethiopians defeated and killed Dhu Nuwas

<sup>31</sup> A local tradition has some of them buried with Alaric near Cosenza in southern Calabria, according to H. V. Morton, *A Traveller in Southern Italy* (London, 1969), 338.

in 525. Justinian later secured complete Christian control of the Red Sea by ending the autonomy of the Jewish merchant community on the island of Jotaba (perhaps Jezirat el-Far'un according to Avi-Yonah), thus ending any possibility for Jewish control of the Red Sea.<sup>32</sup>

Justinian's war with the Jews, therefore, was part of his general war strategy to recover parts of the Empire lost to invaders. It was also fought on a religious plane to weaken the Jews – still a factor despite a century of restrictions encoded by Theodosius II. A need existed to demonstrate symbolically to the Christians that God was on their side and not on that of the Jews. As a result, Justinian legitimized ecclesiastical control over the Jews of the Empire, which legalized social segregation, hitherto an internal matter within the Christian ecclesia.<sup>33</sup> Furthermore, Justinian's direct interference with the practice of Judaism led to the imperial policy of forced baptism, which remained a Damoclean sword, imposed on the Jews of the Empire some five times through the seventh to thirteenth centuries until its final demise.

With the Samaritans crippled and the Jews humbled by the power of the state, survival became the new policy until the Muslim conquests. The Samaritan Diaspora constricted considerably, while the Jews developed the *piyyut* (from *poietis*, "poet") to versify the oral tradition whose teaching was now interdicted; the continuously developing *piyyut* involved enriching the synagogue rites among the descendants of Greek-speaking and other Jewries until the modern period. The *piyyut* allowed the survival of Judaism in the synagogue service, which had not been outlawed by the Emperor. Other additions to the synagogue service, due to imperial persecution, were the additional *mussaf* service on the Sabbath. Tradition has it that spies and apostates left after the regular service and thus more "nationalist" prayers were uttered. Modern scholars have identified a number of other synagogue adjustments.

The lack of Hebrew inscriptions outside Palestine alongside the monumental Greek remains is one indication of the acculturating effect of the dominant Greek society. The *Kulturkampf* that surfaces in the sources during the reign of Justinian is another one. The absorption of Greek and Latin words and themes by Palestinian Hebrew sources is a clear indication that the linguistic domination of Greek was not viewed as a danger by Jewish authorities. Indeed, before the Muslim Arabic conquest, the concept of language purity was totally alien to Jews, and Hebrew, like most languages, freely absorbed grammar and lexicon from its neighbors.<sup>34</sup> Underlying many Hebrew texts from the period also is a substratum of

<sup>32</sup> See Avi-Yonah, *The Jews*, 251–3. <sup>33</sup> *Ibid.*, 249; *Novella* 131 and *CJ* 1.3.44.

<sup>34</sup> For more on these liturgical developments, see chs. 22 and 27 in the present volume.

non-Hebrew texts, many of them also read in Greek, whose ideas were judaized through translation or reinterpretation. Whatever their origin, once translated into Hebrew, these texts became part of an expanding reality of Judaism that remained unchallenged by the emerging authorities during the subsequent Islamic period.<sup>35</sup> One should then be sensitive to an eclectic Hellenistic panoply of Judaisms scattered throughout the Roman world during the zenith of the Christian Roman Empire from Constantine to Justinian.

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<sup>35</sup> Despite the late antique date proposed for *Sefer Yetzirab*, it would seem to suggest that in some circles the divine character of the alphabet was accepted. It is as likely that aspects of *Sefer Yetzirab* were influenced by Muslim claims for the divinity of their sacred text. Both Muslims and Jews imbibed their grammar studies via Greek streams.

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MESSIANISM AND APOCALYPTICISM  
IN RABBINIC TEXTS

LAWRENCE H. SCHIFFMAN

## I THE BASIC NOTION OF MESSIANISM

Central to the development of post-biblical Judaism in all its various manifestations has been the messianic idea. Roughly stated, this concept speaks of the eventual coming of a redeemer, a descendant of David, who is expected to bring about major changes in the nature of life in this world, changes which include the attainment of such goals as world peace, prosperity, and the elimination of evil and misfortune. Essential to the messianic idea in Judaism is the expectation of the re-establishment of the ancient glories of the Davidic kingdom in the Land of Israel. It must be firmly emphasized that Jewish messianism is this-worldly and expresses itself in concrete terms. The rise in the spiritual level of humanity which will attend the messianic era is to be both cause and effect of the ingathering of Israel and the recognition of Israel's God by all humankind.

The foregoing is, of course, a sweeping generalization. The messianic idea in Judaism has a complex history. The matter is further complicated by the simultaneous existence, even within the same strain of Judaism, of various views of messianism. This chapter seeks to understand, through what may appear to be a circuitous route, a striking and extremely significant feature of rabbinic Judaism in the amoraic period, namely the resurfacing of a set of apocalyptic messianic ideas that had typified various trends of Second Temple Judaism, but that had appeared to have become extinct in tannaitic times after the destruction of the Temple. Yet in fact, amoraic literature evidences a widespread return of such motifs into mainstream eschatological discourse.

To understand this phenomenon it will be necessary, first, to trace some of the early history of messianism and apocalypticism from the Bible through Second Temple literature, especially the Dead Sea Scrolls, up through the rabbinic corpus. This will enable us later on to understand the re-emergence of these earlier trends in amoraic literature. At the same time, even as we emphasize the apocalyptic trends, we will explore the plurality of messianic approaches that is also in evidence in the rabbinic sources themselves. This methodology will allow us to understand the

competing approaches to messianism so prominent in the history of Judaism. Only by taking this long view of our subject can we understand the significant developments that took place in the amoraic period.

A few methodological considerations must precede this study. Many investigations of the history of Jewish messianism assemble in chronological order the various texts, beginning with the Hebrew Bible and extending through the rabbinic corpus, and maintain that such an assemblage of data constitutes a history. Nothing can be further from the truth. Messianism developed in different ways among different Jewish groups. We shall have to ask not only about the chronological relationship of the texts one to another, but also about their conceptual framework. We will see that certain patterns or trends of messianic thought can be distinguished, and that by tracing them historically a more detailed and more accurate picture will emerge.

We shall be guided here by the programmatic essay of G. Scholem. Scholem set out to understand the dominant trends in Jewish messianism and the tension between them.<sup>1</sup> He noted the poles of restorative versus utopian messianism. The restorative seeks to bring back the ancient glories, whereas the utopian constructs a view of an even better future, one which surpasses anything that ever came before. The restorative can be described as a much more rational messianism, expecting only the improvement and perfection of the present world. The utopian is much more apocalyptic in character, looking forward to vast catastrophic changes in the world with the coming of the messianic age. It is not that either of these approaches can exist independently of the other; rather, both are found in the messianic aspirations of the various Jewish groups. But the balance or creative tension between these tendencies is what determines the character of the messianism in question.

## II THE BIBLICAL BACKGROUND

The messianic ideal is based on the doctrine of the Bible that David and his descendants had been chosen by God to rule over Israel until the end of time

<sup>1</sup> "Towards an understanding of the Messianic Idea in Judaism," trans. M. Meyer, in G. Scholem, *The Messianic Idea in Judaism and Other Essays* (New York, 1971), 1–36. On the apocalyptic genre, see J. J. Collins, *The Apocalyptic Imagination* (New York, 1984), 1–32; idem, "From Prophecy to Apocalypticism: The Expectation of the End," in idem (ed.), *The Encyclopedia of Apocalypticism, 1: Theories of Apocalypticism in Judaism and Christianity* (New York, 1998), 129–61. The definition of apocalypticism followed by Collins, however, is wider than that employed in this chapter.

(2 Sam. 7; 23.1–3, 5).<sup>2</sup> God also gave the Davidic House dominion over alien peoples (2 Sam. 22.44–51 = Ps. 18.44–51; Ps. 2). 2 Samuel 22.50–1 (= Ps. 18.50–1) speaks of King David as the “anointed one” (*mashiah*) whose descendants shall rule for ever. Kings were anointed as part of a rite of appointment or consecration. The term *mashiah* is used even for non-Jewish kings, such as Cyrus in Isaiah 45.1.<sup>3</sup>

With the split of the kingdom after the death of Solomon and the attendant diminution of the scope of the Davidic empire, there arose a hope for the restoration of the ancient glories of the past.<sup>4</sup> This reunited Davidic monarchy would also control the neighboring territories that were originally part of the Davidic and Solomonic empires. Isaiah emphasizes the qualities of the future Davidic monarch, the most prominent of which is to be the justice of his rule (Isa. 11.1–9).<sup>5</sup> Somewhat related to the question of messianism, certainly with the benefit of hindsight, is the biblical notion of the Day of the Lord. This is the concept found in prophetic literature, namely, that at some certain though as yet unrevealed time God is expected to punish the wicked and bring about the triumph of justice and righteousness.<sup>6</sup> The most prominent feature of this notion is the underlying sense of doom, including the motifs of wailing and darkness. The Prophets assert that this day is near. This concept was already well established by the time of Amos, in the earliest years of the literary Prophets. Apparently (cf. Amos 5.18–20), the popular view was an optimistic one which presumably had patriotic overtones. It may be that this concept is to be connected with the notion of a divine warrior who reveals his will through victory in battle (cf. Ezek. 13.5). The wicked will be punished, justice will be established, and the destiny of the world will be changed. God is certain to act to destroy evil and exalt righteousness in a sudden and decisive manner. For the Prophets this was a source of intense dread, as widespread destruction was expected.<sup>7</sup>

<sup>2</sup> On David in the Hebrew Scriptures, see K. E. Pomykala, *The Davidic Dynasty Tradition in Early Judaism: Its History and Significance for Messianism*, SBL, Early Judaism and Its Literature (Atlanta, 1985), 11–126; A. Laato, *A Star is Rising: The Historical Development of the Old Testament Royal Ideology and the Rise of the Jewish Messianic Expectations* (Atlanta, 1997), 131–85.

<sup>3</sup> Cf. J. J. M. Roberts, “The Old Testament’s Contribution to Messianic Expectations,” in J. H. Charlesworth (ed.), *The Messiah: Developments in Earliest Judaism and Christianity* (Minneapolis, 1992), 39–51.

<sup>4</sup> Cf. R. H. Charles, *Eschatology: The Doctrine of a Future Life in Israel, Judaism and Christianity: A Critical History* (New York, 1970), 82–130.

<sup>5</sup> H. L. Ginsberg, “Messiah,” *EncJud* XI 1407–8; cf. S. Mowinckel, *He That Cometh*, trans. G. W. Anderson (Oxford, 1956), 3–186.

<sup>6</sup> Cf. Isa. 13.6–13; Joel 1.15; 2.1; 3.4; 4.14; Amos 5.18–20; Obad. 15; Zeph. 1.17–18; Mal. 3.23. See also Isa. 2.12; Ezek. 30.3; Zech. 14.1–9.

<sup>7</sup> Cf. The summary in J. Licht, “Day of the Lord,” *EncJud* V 1387–8.

Let us pause to consider the biblical material from the First Temple period in light of the messianic typologies proposed by Scholem. The notion of a return to the bygone days of Davidic rule and to the place of Israel as a world power typifies the restorative tendency. That which was, but is no more, is to be again. The notion of the Day of the Lord, the catastrophic upheaval which is to usher in a new age, is utopian. It calls for the utter destruction of all evil and wickedness, something never before seen in the history of humanity. That which never was is to be. These two approaches together will mold the eschatological speculation of all Jewish groups. Yet it is important to notice that in the Hebrew Scriptures these ideas are still separate. It is their combination in Second Temple times which will unleash the powerful forces eventually to propel the Jews through a series of revolts against Rome and to lead the Christians to the acceptance of a messianic figure.

### III THE SECOND TEMPLE PERIOD

The very same two trends are visible in the Second Temple period. Restorative and utopian views of the Jewish future vied with one another as part of the melting pot of ideologies which make up the varieties of Judaism in this era. The restorative trend emphasized primarily the reconstitution of the Davidic dynasty,<sup>8</sup> whereas the destruction of the wicked is the main object of the more utopian and apocalyptic varieties which take their cue from the notion of the Day of the Lord.<sup>9</sup>

In early Second Temple times, the prophets Haggai and Zechariah expected that the Davidic kingdom would be renewed under Zerubbabel. At the same time, Zechariah expected two "messianic" figures, the High Priest and the messianic king (Zech. 6.9–16). This essentially restorative approach would eventually be combined with the more apocalyptic in the Dead Sea sect, a matter to which we will return.<sup>10</sup>

Ben Sirach (c. 170 BCE) expresses his hope for a better future in 36.11–17. Nonetheless, here we hear only of a return to the ancient glories. No messianic king is mentioned, and continuance of the priesthood is much more prominent than that of the Davidic dynasty (45.24–5). The

<sup>8</sup> For David in Second Temple literature, see Pomykala, *The Davidic Dynasty Tradition*, 127–229.

<sup>9</sup> Cf. Charles, *Eschatology*, 167–246; J. C. VanderKam, "Messianism and Apocalypticism," in Collins (ed.), *Encyclopedia of Apocalypticism I* 193–228; J. J. Collins, "Messianism in the Maccabean period," in J. Neusner, W. S. Green, and E. Frerichs, (eds.), *Judaisms and Their Messiahs at the Turn of the Christian Era* (Cambridge and New York, 1987), 97–109.

<sup>10</sup> Cf. P. D. Hanson, "Messiahs and Messianic Figures in Proto-apocalypticism," in Charlesworth (ed.), *The Messiah*, 67–78; Laato, *A Star is Rising*, 186–235.

notion of Elijah as harbinger of the messiah appears in 48.10–11. An additional prayer in Hebrew in the medieval manuscripts (51.12) describes God as the “redeemer of Israel, and gatherer of the dispersed, Who builds His city and His holy place, and Who causes a horn to sprout from the house of David.” These passages, assuming that they are indeed part of the original work, would indicate that the restoration of the rule of the Davidic House was a central part of the author’s view of the coming redemption.<sup>11</sup>

The *Psalms of Solomon*, composed probably in the time of Pompey (63–48 BCE), give much prominence to the figure of the messianic king. The author emphasizes the kingship of God as well as the permanent nature of the Davidic House (17.1, 5). The Roman domination of Jerusalem in the author’s time encouraged his longing for a Davidic king. This king is expected to rule over Israel, crush its enemies, and cleanse Jerusalem of the Gentiles (17.23–7). Righteousness will reign and the land will again be returned to the tribal inheritances (17.28–31). The Gentiles will serve the Davidic king and come up to Jerusalem to see the glory of the Lord. This righteous king will bless his people with wisdom and be blessed by God. He is described as “anointed of the Lord.” This messiah, despite God’s providential benevolence on his behalf, is seen as a worldly ruler, a real king of Israel.<sup>12</sup>

The Second Temple views discussed thus far are essentially restorative. The more utopian view is expressed initially in the book of Daniel and those sources which follow its approach. Most of the later sources combine the Davidic messiah with the motif of the victory of the righteous from Daniel. The book of Daniel expects that a time of deliverance will follow the present age of distress (12.1). God will judge the kingdoms of this world and their powers will be taken away. The “holy ones of the Most High” will inherit eternal dominion, and the righteous and the evildoers will both be resurrected to receive their just desserts. Daniel does not seem to have envisaged a messianic king. It appears that the “son of man” should not be taken as a messianic figure, but rather is a representation for the people of the Most High.<sup>13</sup> The ascent of the righteous is the result of their conquest of the evildoers.

*Sybilline Oracles* 3.652–795, usually dated to c. 140 BCE, is almost exclusively messianic in content. Yet only at the beginning is the messianic king mentioned briefly. This king will put an end to war, in obedience to God’s command. When this king arises, the Gentile kings will attack the

<sup>11</sup> *HJPAJC* 11 498–500. Messianic concepts as such do not figure in the books of the Maccabees, since they do not look forward to the Davidic restoration. Some eschatological motifs do occur, however. See *HJPAJC* 11 500.

<sup>12</sup> *HJPAJC* 11 503–5. <sup>13</sup> Mowinckel, *He That Cometh*, 348–53.

Temple and the Land of Israel, yet God will cause them to perish. Various natural phenomena will accompany this process, as in the biblical Day of the Lord. These attackers will die and the children of God will live in peace and tranquility with God's help. This defeat will cause the Gentiles to return to God's law, and peace will now prevail. God will establish an everlasting kingdom over the earth.<sup>14</sup>

Although the older strata of the *Ethiopic Enoch* have little messianic material, the vision of the end of history in 90.16–38 is relevant. The author expects a final attack by the Gentiles, who will be defeated with God's miraculous intervention. A throne will be erected on which God will sit in judgment. God will then replace the old Jerusalem with a new one in which the pious Israelites will live, and where the Gentiles will pay homage to them. The messiah will then appear, and all the Gentiles will adopt the ways of the Lord. Here the messiah appears only at the end of a process which God Himself ushers in.<sup>15</sup>

The *Assumption of Moses*, written most probably around the turn of the era, mentions no messiah but expresses a wish for the destruction of the wicked (ch. 10). The same vision of the future attends *Jubilees* 23.27–31; 32.18–19; 31.18–20. The *Assumption of Moses* speaks of a messianic figure, an angel of God, but no human agent of salvation is mentioned.<sup>16</sup>

All these sources take up the utopian trend, expecting the eventual destruction of all the wicked. They are closely linked to dualistic ideas regarding the struggle between good and evil. While, as Scholem pointed out, each approach includes elements of the other, it was left for the Qumran sect to bring both trends together prominently into one system, thus creating at the same time tremendous tension and tremendous power.<sup>17</sup>

<sup>14</sup> *HJPAJC* 11 501–3.

<sup>15</sup> Cf. G. W. E. Nickelsburg, "Salvation Without and With a Messiah: Developing Beliefs in Writings Ascribed to Enoch," in Neusner et al. (eds.), *Judaisms and Their Messiahs*, 49–68. The *Parables of Enoch*, probably influenced by Christianity, in chs. 37–71, primarily follow the approach of the book of Daniel, with one exception. The expression "son of man" is now applied to the messiah. He is assumed literally to have come from heaven and to have been pre-existent (*HJPAJC* 11 502–3). Cf. M. Black, "The Messianism of the *Parables of Enoch*: Their Date and Contributions to Christological Origins," in Charlesworth (ed.), *The Messiah*, 145–68; VanderKam, *The Messiah*, 169–91; Laato, *A Star is Rising*, 285–316; J. J. Collins, *The Scepter and the Star: The Messiahs of the Dead Sea Scrolls and Other Ancient Literature* (New York, 1995), 49–135.

<sup>16</sup> *HJPAJC* 11 506–7.

<sup>17</sup> Cf. F. García Martínez, "Apocalypticism in the Dead Sea Scrolls," in Collins (ed.), *Encyclopedia of Apocalypticism* 1 162–92.

According to the Dead Sea Scrolls,<sup>18</sup> these two messiahs were expected to lead the congregation in the end of days. At the same time the sect expected a prophet who was a quasi-messianic figure. The notion of a priestly messiah fit well with the place of the priesthood in the origins, leadership, and organization of the Qumran sect. The Messiah of Aaron was expected to be superior and to dominate religious matters, while the Messiah of Israel would rule over temporal and political matters. Both messiahs would preside over the eschatological banquet. This model is based on the Moses/Aaron, Joshua/Zerubbabel type of pairing, and was represented by Bar Kochba and the High Priest Eleazar in the Bar Kochba Revolt (132–5 CE) as well. The same approach is found in the *Testaments of the Twelve Patriarchs*, where the Davidic king is inferior to the messianic priest.<sup>19</sup> Note that when there is a priestly messiah, the worldly redeemer is a Messiah of Israel. The Davidic messiah appears only in texts assuming one messiah.<sup>20</sup>

Thus far we have been describing restorative tendencies based on the biblical prophetic visions. Yet the Qumran sect went much further. Like the apocalyptic trend, it expected that the advent of the messianic age would be heralded by the great war described in the *War Scroll*.<sup>21</sup> It would mean the victory of the forces of good over those of evil, in heaven above and on earth below. After forty years the period of wickedness would come to an end; the elect would attain glory. The messianic banquet presided over by the two messiahs, described in the *Rule of the Congregation*, would usher in the new age, which would include worship at the eschatological Temple. This sacrificial worship would be conducted according to the law as envisaged by the sectarian leaders. In essence, the messianic vision was to include the reaching of a level of purity and perfection in the observance of Jewish Law impossible in the present age.<sup>22</sup> The utopian trend manifests itself here not only in the destruction of the wicked at the end of a great

<sup>18</sup> L. H. Schiffman, *Reclaiming the Dead Sea Scrolls: The History of Judaism, the Background of Christianity, the Lost Library of Qumran* (Philadelphia, 1994), 323–6, 333–4; S. Talmon, “Waiting for the Messiah: The Spiritual Universe of the Qumran Covenanters,” in Neusner et al. (eds.), *Judaisms and Their Messiahs*, 111–37.

<sup>19</sup> J. Liver, “The Doctrine of the Two Messiahs in Sectarial Literature in the Time of the Second Commonwealth,” *HTR* 52 (1959), 149–85; idem, “Ha-mashiaḥ mi-bet David bi-megillot Midbar Yehudah,” in idem (ed.) *Iyyunim bi-megillot Midbar Yehudab* (Jerusalem, 1964), 55–76.

<sup>20</sup> L. H. Schiffman, “Messianic Figures and Ideas in the Qumran Scrolls,” in Charlesworth (ed.), *The Messiahs*, 116–29.

<sup>21</sup> Y. Yadin, *The Scroll of the War of the Sons of Light against the Sons of Darkness*, trans. B. and C. Rabin (Oxford, 1962).

<sup>22</sup> L. H. Schiffman, *The Eschatological Community of the Dead Sea Scrolls* (Atlanta, 1989), 70–1.

cosmic battle, but also in the sphere of Jewish Law. Only in the future age will it be possible properly to observe the Torah as interpreted by the sect.

Extremely significant, but at the same time elusive, is the relationship of the Pharisees and the Sadducees to the question of messianic belief. Josephus relates that these two groups were divided over the eternality of the soul. The Pharisees accepted it and the Sadducees did not.<sup>23</sup> This might lead some to the unsupported assumption that the Pharisees adopted a belief in the messiah while the Sadducees, holding more literally to biblical tradition, did not expect a future age. This claim is totally unsubstantiated. There is no reason to believe that the Sadducees did not accept the notion of a restorative messianism in accord with the biblical traditions. We cannot speculate on the Pharisaic messianism of this time either. As in so many other matters, the views of the Pharisees and Sadducees must remain shrouded in mystery.

#### IV REVOLT AND CATASTROPHE

The Roman occupation and the deterioration of conditions which led up to the Great Revolt most probably caused ever greater emphasis to be put on the hope of restoration of national independence under the Davidic king. Josephus testifies to various messianic pretenders who arose in response to these conditions in the first century CE.<sup>24</sup> Eventually, these strong messianic hopes helped to fuel the fires of the Great Revolt of 66–74 CE and the Bar Kochba uprising of 132–5 CE. There can be no question that even in the case of the first revolt, strong messianic tendencies were in evidence among many of the rebels, who saw themselves as hastening the age of the redeemer, and who may have seen their leaders as messianic figures.<sup>25</sup> The revolt itself must be seen as primarily restorative, in that it endeavored to re-establish Jewish independence and sovereignty and the freedom to follow the ancestral ways of the Jewish people. After the failure of the revolt and the catastrophe which came in its wake, utopian views again come to the fore in the literature of the period. Yet the strong presence of the restorative elements in these apocalyptic writings, just as in the Qumran scrolls, was now a permanent feature.

<sup>23</sup> *Bell.* 2.8.14 (163); *Ant.* 18.1.3–4 (14–16).

<sup>24</sup> See, e.g., *Ant.* 17.2.4 (45). R. Gray, *Prophetic Figures in Late Second Temple Jewish Palestine: The Evidence from Josephus* (New York, 1993), 112–44.

<sup>25</sup> D. M. Rhoads, *Israel in Revolution, 6–74 CE* (Philadelphia, 1976), 172–3. Cf. R. A. Horsely, “‘Messianic’ Figures and Movements in First-century Palestine,” in Charlesworth (ed.), *The Messiah*, 276–95; and Pomykala, *The Davidic Dynasty Tradition*, 258–64.



After the destruction of the Temple in 70 CE, messianic hope is reflected in the Syriac *Apocalypse of Baruch* (2 *Baruch*) and in 4 *Ezra*. 2 *Baruch* expects a period of hatred and confusion in which the evildoers will rule over the righteous. War and calamity will come upon Israel. Those saved will be delivered into the hands of the messiah (70.2–10), who will destroy the armies of the last kingdom, assemble the nations, and judge them, destroying all the wicked. The messiah will rule for ever, and peace and joy will reign over the whole earth. Various natural phenomena will embody the messianic era: wild beasts will become tame; tremendous crop yields will bring great prosperity; manna will again fall. Eventually, the dead will be resurrected bodily. The just will be rewarded and the evildoers punished.

4 *Ezra* in the main agrees with 2 *Baruch*. Specific additions include the return of the ten tribes to the holy land (13.39–47) and the specific term of 400 years for the anointed one (7.27–8; 12.34; 13.48–50; cf. 9.8). Afterwards, all humanity, including the messiah, will die. For seven days the world will return to the silence of death, as in the creation. After seven days a now sleeping world will be awakened, and the corrupt world will disappear. God will judge and punish the evildoers in a “place of torment” and the righteous will inherit Paradise. The day of judgment is to last a week of years.<sup>26</sup>

Again, like the Qumran literature before it, the post-Destruction literature maintains the potent combination of both the restorative and utopian trends. Perhaps the restorative attempts of the Great Revolt had shown the authors of these books that only the complete destruction of the wicked, as predicted in the apocalyptic books of utopian character, would allow the triumph of Israel and the return to its ancient glories. In this matter, the sectarians of Qumran had been shown to be correct by the events of the Great Revolt. Only a major cataclysm of cosmic proportions would suffice to bring the end of days.

## V THE RABBINIC TRADITION

Ultimately, as the flames of the two revolts of the first and second centuries died down, it was the rabbinic approach to Judaism which dominated the Jewish community until modern times. Our discussion now turns to the way messianism is treated in the late antique corpus of talmudic literature. Talmudic literature is by no means monolithic, often reflecting differing points of view on important issues. More importantly, it is a literature which represents the views of sages who range over a millennium and,

<sup>26</sup> *HJPAJC* 11 510–12; Laato, *A Star is Rising*, 357–69. Cf. M. E. Stone, “The Question of the Messiah in 4 *Ezra*,” in Neusner et al. (eds.), *Judaisms and their Messiahs*, 209–24.

therefore, historical development must certainly be taken into account. Further, the presence of both Babylonian and Palestinian materials in our literature is also of great significance.<sup>27</sup> We shall have to bear in mind that the tannaitic period itself was punctuated by two revolts, both of which had messianic overtones. We shall see that the effect of these revolts was to produce a sort of quietism in the tannaitic texts that is punctuated primarily by restorative, naturalistic, messianic tendencies. Only in the amoraic period will we observe the return of the apocalyptic – even catastrophic – form of eschatology familiar to us from Second Temple times.<sup>28</sup>

#### A TANNAITIC TEXTS

The earliest document to emerge from the houses of study of the Tannaim was the Mishnah, finally redacted in Palestine c. 200 by Rabbi Judah the Prince. This text is essentially a lawcode, or, more properly, a curriculum for the study of Jewish law in the academies. Aside from some incidental references to the messianic era, and some discussion of the notion that Elijah will be the harbinger of the future age, the only significant eschatological passage in the Mishnah comes as part of the “historical” section at the end of tractate *Sotah*. This passage in M. *Sotah* 9.15 speaks of the “footsteps of the messiah,” that is, the immediately pre-messianic period, in which desolation, corruption, and religious decline will be characteristic.<sup>29</sup>

The Tosefta, an exegetical companion to the Mishnah, probably finally redacted in the fifth century in Palestine, contains primarily materials the origins of which are in the oral traditions of the mishnaic period. For this reason, on virtually every issue the Tosefta operates within the parameters set out by the Mishnah. In our case, the Tosefta mentions the messiah incidentally, as does the Mishnah, usually in the same context. Just as in the

<sup>27</sup> For a detailed discussion of the messianic material in rabbinic traditions, see J. Neusner, *Messiah in Context: Israel's History and Destiny in Formative Judaism* (Philadelphia, 1984). Cf. A. Marmorstein, *Studies in Jewish Theology: The Arthur Marmorstein Memorial Volume*, ed. J. Rabbinowitz and M. S. Lew (London and New York, 1950), 17–76 (Hebrew); E. E. Urbach, *The Sages: Their Concepts and Beliefs*, trans. I. Abrahams (Jerusalem, 1987), 649–90, where he compares the rabbinic traditions to Second Temple sources.

<sup>28</sup> For a collection of older studies, see L. Landman, *Messianism in the Talmudic Era* (New York, 1979).

<sup>29</sup> J. Neusner, *Messiah in Context*, 25–31. Cf. J. Neusner, “Mishnah and Messiah,” in idem et al. (eds.), *Judaisms and Their Messiahs*, 265–82; B. M. Bokser, “Messianism, the Exodus Pattern, and Early Rabbinic Judaism,” in Charlesworth (ed.), *The Messiah*, 239–60; Laato, *A Star is Rising*, 380–93.

Mishnah, subjects such as how to recognize a false messiah, appropriate in legal context, are ignored in the Tosefta. Allusions to the rebuilding of the Temple and Jerusalem are not connected to eschatological hopes for the Davidic messiah.<sup>30</sup>

The tannaitic midrashim, also dated to the same period as the Tosefta, and purportedly preserving primarily tannaitic material, contribute very little more to the issue of messianism. We learn of the notion that there will be suffering before the coming of the messiah, that no one knows when the messiah will come, and that observance of the Sabbath can bring about the messianic era.<sup>31</sup>

How is this lack of emphasis on messianism in the tannaitic materials to be understood? Several avenues of approach suggest themselves. First, it must be understood that the tannaitic materials were formulated in a period that saw two revolts against Rome, the second of which was explicitly messianic in tone.<sup>32</sup> The tannaim were divided as to whether to support the Bar Kochba Revolt. The experience of the destruction of the nation and its Temple in the first revolt, and the prohibition of even visiting the ruins of Jerusalem after the second, must have led the Sages to seek other means for the immediate redemption of Israel. Messianism, then, had to be tempered. Second, the Mishnah and Tosefta are concerned first and foremost with the establishment of an ideal in which adherence to the *balachab* was regarded as the purpose and fulfillment of life. These were legal codes and not works of *aggadab*. They sought to prescribe the way of life for the rabbinic Jews in this age, not to deal with issues of theology. Hence, prominent placement of the messianic ideal in these sources is not to be expected. The entire notion of history espoused in the tannaitic sources is one in which it is the ongoing process of sanctification, not salvation, a one-time event in the end, which is of primary importance.<sup>33</sup>

Tannaitic Judaism sought, at least as represented in the extant documents, to mute the apocalypticism of the earlier period and its revolts, and of the sectarian and apocryphal literature. Put from the perspective of this study, the matter is readily understood. Tannaitic Judaism moves away from the utopian aspects of messianism, seeing these as having led to the terrible destructions Israel experienced. It continues to hope for restorative messianism, for the rebuilding of the Temple and Jerusalem, and for the Davidic king. For this reason, the system of sanctification of Israel which

<sup>30</sup> See Tos. *Sanh.* 13.5; Tos. *Bava B.* 2.17; Tos. *Men.* 13.22–23; Tos. *Ber.* 6.3–6; Tos. *Zev.* 13.6. These materials and others are discussed by Neusner, *Messiah in Context*, 53–63.

<sup>31</sup> See *Mekb.* 2.120 (ed. Lauterbach; *Sifra, Behukotai, perek* 1.12, and Neusner, *Messiah in Context*, 133–7.

<sup>32</sup> Laato, *A Star is Rising*, 369–80. <sup>33</sup> Neusner, *Messiah in Context*, 74–8.

the Mishnah calls for, in a period when there is no king, there is no High Priest, and there is no Temple, is still one that assumes that these institutions constitute perfection. Even more, the Mishnah speaks as if these institutions are actually functioning, as if the nation, its tribes, and its sanctuary are still in place, for this is the ideal world. Restorative messianism is everywhere present in the Mishnah, as it is inherent in the Mishnah's description of the perfect system of Judaism. This is the case in spite of the infrequency of direct allusions to the messiah. Apocalyptic, utopian messianism has been dropped. It did not fit either the historical context of the period or the desire of the Tannaim to provide stability and sanctification for Israel.

#### B THE PALESTINIAN (JERUSALEM) TALMUD

The period from the beginning of the third to the end of the fifth centuries saw the exegesis of the Mishnah in the great works of the amoraic period, the Talmuds of Palestine and Babylonia. The Palestinian Talmud was completed under Byzantine Christian rule in Palestine in the early fifth century. The Babylonian Talmud was completed somewhat later, under Sasanian rule, with some editorial activity continuing for approximately another two centuries.

The Palestinian Talmud makes no attempt, in those passages in which it interprets tannaitic material, to read in messianic concepts not present. We, therefore, have to be concerned only with amoraic material that provides substantial innovations. The Palestinian Talmud, however, shows evidence of the widespread nature of the messianic idea in Judaism. The return of the dynasty of David was expected (PT *Naz.* 7.1) with a Davidic messiah (PT *Suk.* 5.1; PT *Kidd.* 4.1), following the restorative trend we have observed. Further, it was believed that the dead would be brought back to life in the messianic era (PT *Ket.* 12.3). The messiah was said to have been born on the day of the destruction of the Temple. His name was to be Menahem, son of Hezekiah, from Bethlehem. The same text intimates that the messiah was hidden away until his expected later revelation (PT *Ber.* 2.4). This passage is striking because, while it expects a Davidic messiah, this messiah is not a "David *ridivivus*," just a descendant. Other candidates for the role of messiah were also reported. It is the Palestinian Talmud that relates the view of Rabbi Akiva that Bar Kochba was the messiah, but opposition to his view is also reported, all in the name of Tannaim (PT *Taan.* 4.5).

Some emphasized that the Jews would see the coming of the messianic era only if they repented (cf. PT *Taan.* 1.1), even if it were at the hand of a persecutor. Others argued that God would send redemption in any case, but that, without the merit of Israel, it would be delayed (PT *Taan.* 1.1). These

two poles, a messianic era inaugurated either as a result of human self-improvement, or through divine, miraculous intervention, in many ways constitute the same debate that we have observed regarding the restorative versus utopian forms of messianism. In amoraic literature, the restorative theme picks up on the older mishnaic approach. The more miraculous, utopian approach, very prominent (as we will see) in the Babylonian Talmud, apparently results from the re-entry of Second Temple ideas into talmudic thought in the third century.<sup>34</sup> Another text emphasizes the gradual nature of redemption (PT *Yoma* 3.2), but it refers to Tannaim whose ideas it expresses. What has happened here is that the restorative tendencies of the Mishnah and Tosefta have been developed further. Ideas only latent in tannaitic texts, perhaps because of the great ambivalence of the teachers, come to the fore in the Palestinian Talmud. Restorative messianism based around a central Davidic redeemer remains prominent, and the utopianism of the Second Temple period is practically absent from the Judaism of the Palestinian Talmud.

## VI THE BABYLONIAN TALMUD

It is in the Babylonian Talmud that the most developed form of messianic speculation in rabbinic literature occurs, and there we shall encounter a re-emergence of the utopian approach. It takes its place side by side with the restorative trend, so that the combination of the two emerges as normative. At the outset we should note that a variety of circumstances leads in this direction. On the one hand, the Jewish nation recovered successfully from the tribulations of the failed messianic revolts of the first two centuries. On the other hand, the continued domination of the Jewish people in Palestine and Babylonia by foreign overlords again sparked yearnings for a utopian future. This re-emergence goes hand in hand with tendencies in the Babylonian Talmud to greater emphasis on the mystical and the magical, as well as to speculation on such esoteric matters as creation and the nature of the divine throne. The Babylonian Talmud tends to include large aggadic excursuses on such topics. Indeed, it is typical for the Babylonian Talmud to treat matters earlier consigned to the literature of the Apocrypha, pseud-epigrapha, and sectarian compositions, which do not appear in tannaitic or Palestinian amoraic materials.

From the Babylonian Talmud we learn that the coming of the messiah will be inaugurated by a period of misfortune, that calculation of the end is not to be undertaken, since it will lead to disappointment, that the

<sup>34</sup> Cf. Neusner, *Messiah in Context*, 97–8, for a different approach to the contrast between the mishnaic approach and the messianic concepts just presented.

messianic era constitutes the last third of the history of the world, that the messiah will be sent by God only when Israel repents. This may occur either because the world moves through a steady period of improvement or because repentance results from the world's having sunk to the lowest state. Finally, the messiah will descend from the House of David.<sup>35</sup>

The fullest statement of the messianic idea in the Babylonian Talmud is BT *Sanbedrin* 96b–99a. This long collection of *aggadot*, most of which is amoraic in origin, represents the re-entry of apocalyptic approaches into rabbinic Judaism. This is true both in terms of new content, and also from the overall impression of the concentration of such themes, carefully organized and brought together here.

Most passages emphasize that the time of the messiah will be preceded by terrible tribulations. This concept harks back to the concept of the Day of the Lord found in the Prophets, which itself underlies much of the apocalyptic approach in later Judaism. It is emphasized that there are various ways of calculating the onset of the End-time, dependent for the most part on a variety of concepts of the world's history and teleology, but the Rabbis discourage these calculations, as they never came about. Yet the passages indicate that the Rabbis were nonetheless involved in such speculations in the amoraic period. Most of these views assumed that world history had three parts, the last of which was the messianic age.

Although debate persisted on these issues, the overarching impression is that human repentance would either precede or accompany the messianic era's onset. The more naturalistic messianic approach argued for repentance and self-improvement as a stimulus to the messianic era that would come to a righteous generation, while the old apocalyptic approach argued for God's sending the messiah to an as yet unrepentant world that would be forced to repent as a result of tribulations accompanying the coming of the messiah. In any case, the messiah will come either when Israel has sunk to the depths of sin and is in need of redemption, or when it deserves redemption because of its righteousness. Throughout, it is assumed in this passage, in line with normative rabbinic messianism, that the messiah will come from the House of David. While it is possible to locate any or even most of the ideas found in this passage in earlier texts, the sheer concentration of them here, in a unified presentation, testifies to the re-emergence of such apocalypticism in talmudic times, at least

<sup>35</sup> See BT *Sanb.* 96a–99a; BT *Pes.* 118a; BT *Shabb.* 118a; BT *Ket.* 111a; BT *Ket.* 111a; 112b; BT *Hul.* 63a; BT *Av. Zar.* 9b; BT *Meg.* 17b; BT *Shabb.* 118b; BT *Suk.* 52a–b; BT *Sanb.* 93a–b; BT *Sanb.* 94a; BT *Yev.* 76b; BT *Bava B.* 14b; BT *Ber.* 4a; 7b; BT *Moed K.* 16b. An analysis of these sources is provided by Neusner, *Messiah in Context*, 169–91.

among the redactors of the Babylonian Talmud and their predecessor tradents.

Various other passages testify also to this resurgence. The misfortunes at the onset of the messianic era are termed “birth pangs of the messiah,” and BT *Shabbat* 118a gives advice on avoiding them. BT *Ketubbot* 111a–112b contains various views on whether Babylonian Jewry (presumably because of its piety) or the rabbinic Sages would be spared. These passages assume a period of destruction that will usher in the eschaton.

Because the onset of redemption is seen in the apocalyptic view as setting aside the natural order, various strange events will signal the onset of redemption (BT *Hull.* 63a; BT *Ber.* 57a). Sages debated whether the messiah would come in Nisan, the season of Israel’s first redemption (BT *Rosh H.* 11a), in a sabbatical year (BT *Meg.* 17a), or on a weekday, not a Sabbath or festival (BT *Er.* 43a–b). But the truth is regarded as hidden (BT *Pes.* 54b; BT *Meg.* 3a). However, Rome and Sasanian Iran will fall when he comes (BT *Av. Zar.* 2b). Some views assumed that there is a prearranged, correct time for his coming that must be maintained (BT *Bava M.* 85b). One sage, based on tannaitic tradition, argued that the messiah would come in 4231 from creation, that is, 468 CE (BT *Av. Zar.* 9b). Whatever the basis of this calculation, it represented a claim that messianic redemption was imminent, and a willingness to lay out specific dates and predictions.

One of the more intriguing differences of opinion, to some extent a source of confusion, in rabbinic eschatology is the relation of the messianic era to the world to come. Some texts (for example, BT *Zev.* 118b, with tannaitic attribution) assume that there are three periods in history: the present age, the messianic era, and afterwards the world to come. In other texts, the world to come seems to be synonymous with the messianic era.<sup>36</sup>

It was assumed that the messiah would rule over the People of Israel and free them from foreign domination. This, in fact, was the entire purpose of the redemption according to the naturalistic, restorative view of the amora Samuel (BT *Sanh.* 91b; BT *Shabb.* 63a; 151b; BT *Pes.* 68a). This would be an era of peace, as spoken of by the prophet Isaiah (Isa. 11). All foreign rulers would submit to the messianic king of Israel (BT *Taan.* 14b).

The assumed order of eschatological events was set out, in rabbinic interpretation, in the order of the daily benedictions in BT *Megilla* 17b. First, the exiles will return to the Land of Israel, then the wicked will be judged, then the righteous exalted, and Jerusalem rebuilt. Then David (= the messiah) will come, and rebuild the Temple. But we should note that this scheme, which was based on an order of benedictions and blessings

<sup>36</sup> Cf. L. Finkelstein, *Mavo le-Massekhtot Abot ve-Abot d’Rabbi Natan* (New York, 1950), 212–38 (Hebrew).

from the tannaitic period, reflects the naturalistic approach to messianism, not the catastrophic, apocalyptic scenario.

Overall, it is argued that Israel's fate is in its own hands, since repentance from transgression and observance of the commandments can bring redemption. This was especially the case regarding observance of the Sabbath (BT *Sabb.* 118b). Despite all this, Israel had to accept that it was up to God to fix the onset of the redemption, and not for Israel to force His hand (BT *Ket.* 111a). He had various reasons to delay (BT *Nid.* 13b; BT *Yev.* 62b; 63a, BT *Sanh.* 38a).

Extremely important to the apocalyptic view in the Babylonian Talmud is the idea that a messiah, son of Joseph, would be slain in the eschatological battle (BT *Suk.* 52a). Some passages do speak further of a variety of messianic figures – the Davidic messiah, Messiah son of Joseph, Elijah, and a righteous priest or Melchizedek (BT *Suk.* 52b), to some extent recalling Second Temple approaches. A further idea with ancient roots is that the name of the messiah was pre-existent before the world was created (BT *Ned.* 39b; BT *Pes.* 5a; 54b). One view held that the messiah would come only after Rome had conquered the entire world (BT *Yoma.* 10a). Or, in another version, the reign of (or stand-off between) Rome and Persia will last until the coming of the messiah (BT *Av. Zar.* 2a–b).

Many of these notions are simply a restatement of what we have already seen elsewhere in the rabbinic corpus. What is new is the full-scale re-entry of the old notions of apocalyptic and utopian messianism. We hear of such notions as the war of Gog and Magog, the various ages (or stages) of the world, and that there will be a great struggle, as it were, a Day of the Lord, before the coming of the messiah. Certainly, in the restorative sense, the age of the messiah was to be marked by the elimination of foreign domination of the People of Israel and the rise of world peace. All nations would again prostrate themselves before Israel as they had done in the Davidic period. The exiles would return, Jerusalem would be rebuilt, the righteous exalted, and the sacrifices in the Jerusalem Temple restored. Several times we hear that repentance and observance of the Law are the keys to bringing the messiah.

There are indications here of strong apocalyptic tendencies. There is the legend of the two messiahs, that of David and Joseph. The latter is to be killed in the messianic wars. There is also the miraculous notion of the messiah's ability to judge. The notion of the four kingdoms, based, of course, on Daniel, is also quite prominent. The idea that Rome must be destroyed for Israel to prosper reflects the dualistic notion that the destruction of the wicked must precede the coming of the messianic era.<sup>37</sup> While

<sup>37</sup> Urbach, *The Sages*, 677–83 deals with apocalyptic motifs in amoraic literature.



we lack in the Babylonian Talmud a full-scale description of the eschatological war and the destruction of the wicked such as we have in the Second Temple materials, it is obvious that such concepts, in “rabbinized” form, lie behind the notions of the messiah in the Babylonian Talmud. The utopian has come back, yet in a somewhat different form.

## VII AMORAIC MIDRASH

The emergence of apocalyptic teachings in the context of midrashic literature, to which we now turn, simply continues this tendency seen already in the Babylonian Talmud. Yet these texts are primarily compilations of traditions of the Sages of the Land of Israel. For them, by the eve of the Muslim conquest, the apocalyptic form of messianism had become the norm. Further, we find here a distinct emphasis on the sequence of the four kingdoms.

According to *Genesis Rabbah* the messiah will assemble the exiles of Israel and teach the nations (98.9). According to *Leviticus Rabbah* the messiah will record the good deeds of people (34.8). *Leviticus Rabbah* includes a long passage (13.5) which is basically a rewriting and expansion of the sequence of the four kingdoms of Daniel, expressing the same sense of linear history culminating in the redemption of Israel. A similar but less expansive passage is found in *Lamentations Rabbah* 1.42 and another passage involving the four kingdoms occurs in *Esther Rabbah* 1.4. The extensive messianic passage in *Song of Songs Rabbah* 2(13).4 combines numerous elements that we have seen already. Basically, this passage expects the messiah to come to an age deserving of punishment and misfortune. *Song of Songs Rabbah* 2(7).1, also making extensive use of earlier material, presents the strongest argument against apocalypticism – that God had adjured Israel not to seek to hasten the End of days. The text explicitly refers to the messianic failures of the past and cautions against repeating them. Here we have the ultimate objection to the re-entry of apocalyptic traditions into amoraic teaching.

Apocalyptic elements are even more prominent in *Pesikta de-Rav Kahana*. Section 5.9 speaks of eschatological figures: Elijah, the messiah, Melchizedek, and the War Priest, all figures well known in Second Temple-period apocalyptic literature. Further, this passage, following the utopian trend, expects that a great pestilence will destroy the wicked. Accordingly, this text assumes that the messiah can come only to a sinful generation, a generation to be destroyed. Picking up on the sequence of empires, the text presents a magnificent hymn to be recited at the coming of the messiah (Suppl. 6). The full restoration of Zion is described in beautiful terms in sections 16–22, the seven prophetic portions dealing with

comforting the Jewish people in the weeks after the Ninth of Av, the fast-day mourning the destruction of the First and Second Temples. Here again we meet the utopian approach, as Zion's restoration surpasses even the glory of the revelation at Sinai (section 22 and Isa. 61.10) when God, the King, returns to Zion.

## VIII CONCLUSION

Two trends of messianism take their cues from the traditions of the Hebrew Bible. The restorative speaks of the restoration of the ancient glories of Israelite independence. The utopian speaks of the perfection of society. The two at first circulated independently, coming together in the eschatology of the Dead Sea texts, if not earlier. In the aftermath of the destruction of the Temple and the nation in 66–73 CE, tannaitic Judaism moved away from the utopianism that had brought on the revolt, moving even further after the failure of the messianic war of Bar Kochba in 132–5 CE. Yet in the amoraic period, first in Babylonia and later in the Land of Israel, such apocalyptic traditions again make their appearance in rabbinic Judaism. The only way to explain this phenomenon is that it represents the re-emergence into the light of day of religious trends that had continued to circulate among elements of the Jewish people, even if the Tannaim had tried hard to suppress or to limit these ideas after the twin debacles of the Great Revolt and the Bar Kochba Revolt. These Second Temple-period traditions emerged again into the light of day in amoraic literature and thereafter continued to play a role in the ongoing development of Jewish messianic and apocalyptic speculation.

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## JUSTINIAN AND THE REVISION OF JEWISH LEGAL STATUS

ALFREDO MORDECHAI RABELLO

Justinian I (Flavius Petrus Sabbatius Iustinianus, 482–565 CE), the Roman Emperor in the East (527–65),<sup>1</sup> was appointed coruler of the Empire in 527 by his uncle, Justin I, and succeeded him in 528. For Justinian, Empire and Church were a single unit of universal character, the Emperor as the head of both, the representative of God on earth. His devotion to the Church so profoundly influenced his actions and his juridical system that it has been claimed that the most characteristic and essential feature of his Empire was religion. It is easy, therefore, to understand that he opposed, *a priori*, heathens and Jews and tried to suppress the numerous “heretical” movements.

Of particular importance was Justinian’s legislative work, which was entrusted to Tribonian, assisted by many legal experts and lawyers. Justinian had assumed power for only a short time, when he set about preparing what was to become the *Corpus Iuris Civilis*. Unavoidably, a number of laws in this code refer to the Jews and their legal status.<sup>2</sup>

The *Digest* (D.) contains only three passages that touch upon Jewish matters, namely: the Jews are compelled to accept the guardianship of non-Jews (D. 27.1.15); circumcision is forbidden except for Jews by birth (D. 48.8.11); and the exemption from formalities contrary to the Jewish religion is maintained in cases when Jews assume a public office (D. 50.2.3).

<sup>1</sup> See, for more on these events, W. G. Holmes, *The Age of Justinian and Theodora*, 2 vols. (London, 1912); B. Biondi, *Giustiniano primo Principe e Legislatore cattolico* (Milan, 1936); E. Stein, *Histoire du bas empire* (Paris, 1949); D. M. Nicol, “The Emperor Justinian,” *History Today* 9 (1959), 513; G. G. Archi, *Giustiniano legislatore* (Bologna, 1970); A. Cameron, *Procopius and the Sixth Century* (London, 1985); J. Moorhead, *Justinian* (1994); and J. A. S. Evans, *The Age of Justinian: The Circumstances of Imperial Power* (Jerusalem, 1996).

<sup>2</sup> On Justinian and the Jews, see J. Juster, *Les Juifs dans l’empire romain* (Paris, 1914); J. W. Parkes, *The Conflict of the Church and the Synagogue* (1934); P. Browe, “Die Judengesetzgebung Justinianus,” *Analecta Gregoriana* 8 (1935), 109; S. W. Baron, *A Social and Religious History of Israel* 111 (1957), 4; A. M. Rabello, *Giustiniano, Ebrei e Samaritani alla luce delle fonti storico-letterarie, ecclesiastiche e giuridiche* (Milan, 1987–8); and A. Linder, *The Jews in Roman Imperial Legislation* (Detroit, 1987).

In the Justinian Code (JC)<sup>3</sup> book 1, chapters 9 and 10 deal with the Jews. These were the statutes of the earlier *Theodosian Code* that Justinian wished to retain, together with his own dispositions. Characteristic was the exclusion of the recognition of Judaism as a permitted religion (*religio licita*). Observance of the Sabbath and other Jewish festive days was recognized, and the Jews were exempt from appearing in a lawcourt on such days (JC 1.9.2, 13). The observance of Purim is allowed, with numerous restrictions, in order not to offend the Christian religion by the “crucifixion” of Haman.<sup>4</sup> Reinstated was the law that synagogues cannot serve as places of asylum, and those who break into Jewish synagogues were required to leave (JC 1.9.4). The following laws were also enacted:

- JC 1.3.54(56); 1.10.1, 2 The Jews were forbidden to keep Christian slaves.  
 JC 1.4.5 pr; JC 2.6.8 Legal practice was forbidden to Jews.  
 JC 1.5.8 The office of *defensor civitatis* (particularly important for the Jews of the Land of Israel) was also forbidden.  
 JC 1.5.13 If one parent desired that a son convert to Christianity, this could be done even against the will of the other (without regard to the paternal power (*patria potestas*).  
 JC 1.5.21 Jews could not testify *against* Christians.  
 JC 1.7.1 The possessions of a convert to Judaism were to be confiscated.  
 JC 1.7.2 If a convert to Judaism was accused after his death, his testament was null and void.  
 JC 1.7.5; 1.9.12 A convert from Christianity to Judaism was considered to have committed sacrilege and was to be punished by death.  
 JC 1.9.3 Those persons, and in particular the heads of synagogues, who physically attacked Jews who converted to Christianity, were condemned to be burned alive.  
 JC 1.9.5 Jews were exempt from military service, but they were obliged to perform the duties of the *curia*.  
 JC 1.9.6 Sexual intercourse between a Christian and a Jew was considered adultery and was punished by death.  
 JC 1.9.7 It was forbidden to apply Jewish Law in matters of matrimony.  
 JC 1.9.8 It was compulsory for the Jews, in cases of disputes among themselves, to present themselves before Roman courts even in religious lawsuits; Jewish courts of law were used only by agreement of the parties.<sup>5</sup>

<sup>3</sup> The *Codex Iustiniani* was published in two editions: the first in 529 and the second in 534. It is the second that has come down to us. Justinian's *Code* superseded the *Codex Theodosianus* in the East. From it, we can learn about the legal changes concerning the Jews which had occurred in the course of nearly a century.

<sup>4</sup> E. Wind, “The Crucifixion of Haman,” *Journal of the Warburg Institute* 1 (1937), 245.

<sup>5</sup> “THE THREE EMPERORS AND AUGUSTI GRATIAN VALENTIAN AND THEODOSIUS TO EUTYCHIANUS, PRAEFECTUS PRAETRIO. Jews, who live under the Roman common law, shall address in the usual way the courts in those cases which concern their

- JC 1.9.14 It was forbidden to disturb Jewish gatherings and desecrate synagogues.
- JC 1.9.15 Any dispute between Jews and Christians was judged by ordinary tribunals.
- JC 1.9.16 A Jew who circumcised a Christian was condemned to permanent exile and his possessions were confiscated.
- JC 1.9.18, 19 Jews were excluded from holding administrative and distinguished offices as well as from municipal honors.
- JC 1.10.1 If a Jewish master circumcised a Christian slave, the slave obtained his liberty and the master was sentenced to death. A Jewish master was obliged to liberate his slave when the latter converted to Christianity.
- JC 5.5.5 The levirate and the marriage to two sisters, after the death of the first, were forbidden.

In Justinian's *Novellae* (*N.*), his new constitution, some previous dispositions pertaining to Jews were reinstated, for example, the law that a Christian slave of a Jewish master became a free man (*N.* 37.7). In addition, new measures were taken by the Emperor against the Jews. For example, the Jews of North Africa were forbidden to practice their religion, and their synagogues were ordered to be transformed into churches (*N.* 37.8). Likewise, although Jews were subject to the numerous curial charges, they were deprived of curial honors ("Jews must never enjoy the fruits of office but only suffer its pains and penalties" (*N.* 45, of 537)). The law now also forbade the construction of new synagogues (*N.* 131, of 545) and required that Jews alter the date of Passover so that it did not fall before the Catholic Easter.<sup>6</sup> Furthermore, Jews who denied the resurrection of the dead, the final judgment, and the divine nature of the angels were to be exiled. Finally, Justinian expressed the hope that the correct understanding of the Scriptures might lead the Jews to the "truth," that is, to Christianity (*N.* 146 *De Hebraeis*, of February 13, 553).<sup>7</sup> The enforcement of these onerous rules, which attempted to determine the Jewish creed and the manner in which Jews worshiped God,

superstition as well as those that concern court, laws and rights and all of them shall accuse and defend themselves under the Roman laws. Indeed, if some of them shall deem it necessary to litigate before the Jews in a common agreement in the manner of arbitration and in civil matters only, they shall not be prohibited by public law from accepting their verdict. The governors shall even execute their sentences as if arbiters were appointed through a judge's award. Given on the Third Day before Nones of February at Constantinople, in the Consulate of Honorius Augustus for the Fourth Time, and of Eutychianus." (From the translation of Linder, *The Jews in Roman Imperial Legislation*, 208. On this constitution see also A. Berger, "C.Th. 2.1.10 and C. J. 1.9.8 pr. A perfect example of an interpolation through Cancellation of a 'non,'" *Juristische Ausbildung* 10 (1959), 14ff.

<sup>6</sup> Procopius, *Historia arcana*, 28, 16–18; and see A. M. Rabello, *Giustiniano*, 1 277.

<sup>7</sup> See V. Colorni, "L'uso del greco nella liturgia del Giudaismo ellenistico e la Novella 146 di Giustiniano," *Annali di Storia del Diritto Italiano* 8 (1964), 19, reviewed by A. M. Rabello in *Labeo* 12 (1966), 140; A. Linder, *The Jews in Roman Imperial Legislation*; and A. M. Rabello, *Giustiniano*, 11 814.

was entrusted to the governors and bishops, who had to report directly to the Emperor should there be any failure to comply.

Finally, taking advantage of an internal controversy within the Jewish community over the synagogue liturgy regarding the language to be used in the divine service (Hebrew or Greek), the Emperor ruled that the Bible could be read in the synagogue in Greek, Hebrew, Latin, or in any other language, provided that it could be understood by the listeners. He, in fact, went further and recommended that the Septuagint (which was preferred by the Church) be used, but also tolerated Aquila's version, which was preferred by the Jewish authorities. At the same time, he forbade the reading of the *deuterosis*, that is, the Mishnah (and rabbinic law more generally), which he considered a human law that distorted rather than interpreted the Scriptures. Moreover, to support the use of the Septuagint, the Jewish religious authorities were forbidden to punish, by excommunication or penalties, anyone who read the Bible in Greek or in any other language. Anyone who executed the forbidden punishment was himself subject to corporal and monetary penalties.

The work of Justinian represented the last Roman attempt to construct a unified legislative assault on the Jews.<sup>8</sup>

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<sup>8</sup> See P. Allen and E. Jeffreys (eds.), *The Sixth Century: End or Beginning?* (Brisbane, 1996).



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