

MARCUS MORDECAI SCHWARTZ

Rewriting the Talmud

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175

Mohr Siebeck

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Marcus Mordecai Schwartz

Rewriting the Talmud

The Fourth Century Origins
of Babil Rosh Hashanah

Mohr Siebeck

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For Esther

פיה פתחה בחכמה ותורת חסד על לשונה

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Introduction

This study argues that there were two distinct periods in which traditions from Rabbinic Palestine exerted their influence upon extended passages of *B. Rosh Hashanah*. This doubling of influence resulted in a Babylonian-born text with two distinct Palestinian ancestries. This oddly mixed parentage was responsible for Bavli texts that both resemble synoptic passages in the Yerushalmi and differ from them in substantial ways. The main goal of this book is to trace the dynamics of this doubled Palestinian influence and to account for the mark it left on passages of *B. Rosh Hashanah*.

First, I claim that a plurality of discrete traditions from Palestine were present in Rabbinic Babylonia from the late-third or early-fourth century (c. 290–320 C. E.). These traditions had an influence upon the formation of a number of Babylonian passages of talmud.¹ These passages would eventually develop into many of those we find in *B. Rosh Hashanah* today. However, in the fourth century, these passages would have differed to a significant degree from those texts we know, their literary descendants. Although in the fourth century, they may have shared subject affinities with Palestinian Rabbinic traditions (and even with the later Yerushalmi traditions), they would have shared few structural elements in common with Palestinian *sugyot*. As time passed, the Babylonian *amoraim* of the fourth generation (c. 320–350 C. E.) seem to have played a redactional or editorial role. It appears that they took the material from the two centers, combining and shaping passages into a form that began to resemble the Bavli that we know.

By using contemporary source-critical methods, I have uncovered sustained passages, extended in length, of mid-fourth century redaction that lay submerged below the textual surface of *B. Rosh Hashanah*. In many places, I discovered *B. Rosh Hashanah* to be a palimpsest, with an older redacted *sugya* lying beneath a newer one. In a second, later period, a document, akin to the Yerushalmi we possess today, made its way from Palestine to Babylonia. It may have made the journey as late as the sixth century. Its influence was such that it prompted Babylonian Rabbis to rework a significant number of passages in their own Talmud. The passages they selected for reworking were those that already shared affinity with the Palestinian text. The goal seems to have been to make the structure of these passages resemble more closely those of the Yerushalmi. It is the complexity

¹ I use the lower case here to indicate a passage of the Bavli that was still in development.

(and inconsistency) of this process that accounts for many of the synoptic/parallel problems we face when comparing the Bavli and the Yerushalmi.

The common use of the terms *synoptic* and *parallel* illustrates the exact problem that this study grapples with. I use *parallel* here, and throughout the study, but I do so mostly out of convention. Scholars of Rabbinics who write in Hebrew generally use the term *maqbilot* – often translated as *parallels* – to refer to these sorts of affinities between Rabbinic texts. Scholars writing in English have adopted the terms *parallel* and *synoptic* to refer to a relationship between Rabbinic texts. Neither term is entirely satisfactory as a description of the affinities between the Bavli and the Yerushalmi. Rather than parallel or synoptic (both imply an overall tallying account), the relationships actually might be best described as *asymptotic*. In general, as one attempts to account for influence between traditions – those of the Bavli on the one hand, and those of the Yerushalmi on the other – it becomes clear that the difference between the two is often smaller in one respect (e.g., we may find the same or similar *midrash halakhah* on the same verses), while simultaneously greater in another (the attributions may totally differ, an accompanying narrative in one Talmud may be absent in the other, etc.). However, the difference is rarely so small that one is able to specify that the Bavli tradition could plausibly be taken as deriving exclusively from the Yerushalmi tradition. Nor is it often great enough that one is able to specify that the Bavli traditions clearly could not have been derived from the Yerushalmi tradition. I posit that my theory of doubled influence plus redaction best accounts for this asymptotic strangeness. Because the subject affinities that some Babylonian passages share with Palestinian traditions were set in an earlier period, and the structure of these passages was reworked to fit that of the Yerushalmi in a later period, we have passages in the Bavli that appear to be both like and unlike the Yerushalmi: similar because they were reworked to tally with the Yerushalmi structurally; dissimilar because the redactors had to preserve the older Babylonian *sugyot* underneath their reworkings.

Below, I present a general introduction to this project in three sections. Section I describes the initial scholarly influences on the project and traces the above hypothesis in greater detail than in the brief abstract above. Section II presents additional scholarship that touches on two areas crucial to this project: the influence of the early *amoraim* on the formation of the two Talmuds and the role of middle-generation Babylonian *amoraim* in the redaction of the Bavli. Section III describes my methodology and its application over the course of the present study.

1. Initial Influences and Hypothesis

In the first decade of the twenty-first century, Richard Kalmin took up a banner previously lifted by Zwi Dor in the mid-twentieth century and Isaac Halevy in the late nineteenth; he argued that the fourth generation of Babylonian *amoraim* adopted and adapted materials from Palestinian sources and gave them voice in Babylonia.² Kalmin's careful argumentation added a solid contemporary methodological foundation to the contributions of these earlier scholars. He took care in documenting the increasing influence of Palestinian traditions and behaviors on middle-generation Babylonian *amoraim*.³ In particular, Kalmin reaffirms Dor's theory of a special relationship that existed between the circle of the mid-fourth century Babylonian Rava and the early Palestinian Rabbi Yohanan.⁴ Kalmin is not the only scholar interested in middle-generation Babylonian *amoraim*. Several others have shown that Rav Hisda, another middle-generation Babylonian *amora*, had a similar special link to the Toseftan *baraitot* and other sources from the West.⁵ The access these Sages had to Palestinian Torah significantly altered the trajectory of their learning and profoundly influenced the ongoing composition of Babylonian scholastic discourse.

Prior to this influx, the culture of learning in Babylonia seems to have been largely concerned with developing and collecting Mishnah commentary.⁶ Natu-

² Yitzhak I. Halevy, *Dorot ha-Rishonim: Divre ha-yamim li-vene Yisra'el*, 6 vols. (Frankfurt am Main: n.p., 1901–18), vol. 2a (1901), or Halevy and Salomon Bamberger, *Dorot ha-Rishonim*, 6 vols. (Jerusalem: Mif'ale sefarim li-yetsu b'am, 1966; repr., Frankfurt am Main: n.p., 1901–18, vols. 1–5, and Pressburg: Alkalai, 1897, vol. 6; vol. 5, 1966), 551–56; Halevy and Bamberger, *Dorot ha-Rishonim, 1897–1939*, vol. 3 (1897), or vol. 6 (1966), 117; Zwi M. Dor, *Torat Erez-Yisrael be-Bavel* (Tel Aviv: Devir, 1971), 11–84; Richard L. Kalmin, *Jewish Babylonia between Persia and Palestine* (New York: Oxford University Press, 2006), 4–10, 149–50, 173–86. Kalmin also notes that Dor's view has become widespread among contemporary scholars. See the extensive literature he cites in no. 6 on p. 249.

³ The *amoraim* are conventionally divided into eight generations. See Alyssa Gray, "Amoraim," in *Encyclopaedia Judaica*, 2nd ed. I account the first and second Babylonian generations as *early*, the third and fourth as *middle*, and the fifth to the eighth as *late*. The fifth generation belongs to the late period by virtue of its late-style behaviors. See Richard Kalmin, *Sages, Stories, Authors, and Editors in Rabbinic Babylonia* (Atlanta: Scholars, 1994), 171. See also 127–40.

⁴ Kalmin, *Jewish Babylonia*, 3–18, 173–86. On Rava, see 175–76, 179, and 184; and Kalmin, *Sages*, 87–91.

⁵ With regard to the Tosefta, this is true at least in *Seder Mo'ed*. Yoel Florsheim, "Rav Hisda u-Farshanuto le-Meqorot Tenai'im be-Seder Mo'ed ba-Bavli v'Urshalmi" [Rav Hisda as exegeter of tannaitic sources], *Tarbiz* 41 (1971–72); 24–48. See also Geoffrey Herman, "Ha-Yahasim bein Rav Huna l'Rav Hisda," *Zion* 61, no. 3 (1996): 263–79; and Peter Schäfer, *Jesus in the Talmud* (Princeton: Princeton University Press, 2007), 16–17, 26–31, 42, 114, and 153, no. 5. However, Catherine Hezser, in her review of Schäfer's *Jesus in the Talmud* in *Review of Biblical Literature* (2007) [http://www.bookreviews.org/pdf/5783_6103.pdf] points out with regard to the case mentioned on pp. 26–31, "The reference to Jesus (introduced with 'another interpretation') does not seem to be part of Rab Hisda's statement here."

⁶ Included in this are the comments of early Babylonian *amoraim* on *baraitot* directly related to the Mishnah. See Baruch Bokser, *Post-Mishnaic Judaism in Transition: Samuel on Berakhot*

rally, attempts to interpret these early amoraic elucidations of the Mishnah proliferated in the middle-amoraic generations, resulting in an organic engagement in Babylonian super-commentary: comments upon comments on the Mishnah.⁷ However, absent an influx of material from Palestine, the other major behaviors that uniquely characterize the Babylonian middle-amoraic generations would likely not have developed naturally. These generations are characterized by the rise of the dispute form, the growing importance of the Toseftan *baraitot* (whether or not closely linked to the Mishnah), a proliferation of Babylonian amoraic statements interpreting the sayings of Palestinian *amoraim*, and a growing number of statements attributed to Babylonians that appear to rework traditions from the Yerushalmi and other Palestinian sources.⁸ These are far from inevitable

and the Beginnings of Gemara (Chico: Scholars, 1980), 445, 461–84; Jacob N. Epstein, *Mavo le-Nusah ha-Mishnah*, 2nd ed., 2 vols. (Jerusalem: Magnes; Tel Aviv: Devir, 1963 or 1964), 1:166–233, 349–50. See also S. K. Mirsky, “The *Mishnah* as Viewed by the *Amoraim*,” in Leo Jung, Menahem Kasher, Norman Lamm, and Leonard Rosenfeld, *The Leo Jung Jubilee Volume: Essays in his Honor on the Occasion of his Seventieth Birthday, 5722, 1962* [Sefer ha-yovel likhevod ha-Rav Dr. Eliyahu Yung] (New York: Jewish Center, 1962), 155–73.

⁷ Kalmin, *Sages*, 43–58, shows that later *amoraim* treat Rav and Shemuel differently than do earlier ones. Whereas early *amoraim* preserve distinctions between the relative authority of these two important first-generation *amoraim*, later *amoraim* tend to quote them with equivalent frequency and authority, treating them as sources rather than as people. Kalmin argues that amoraic attitudes toward Rav and Shemuel changed over time and that the Rabbinic sources accurately reflect this change. Borrowing Bokser’s language, I would call this an “organic” change, a change we would expect to see as the result of continuity in the culture rather than a change resulting from outside influence.

⁸ Avraham Weiss defines the dispute form as a discussion that embraces a sequence of direct questions and answers that are clearly attributable to *amoraim*. See Weiss and Menachem Stein, *Ha-Talmud ha-Bavli be-hithavuto ha-sifrutit*, Pisma Instytutu Nauk Judaistycznych w Warszawie 8–9 (Warsaw: Keren l’hotsa’at sefarim ‘al shem Yisra’el Shpilfogel zal she-‘a.y. ha-Makhon le-mada’e ha-Yahadut be-Varshah, 1937), 2–3; see Weiss’s *Le-Heker ha-Talmud* (New York: Feldheim, 1954), 18–32; and Meyer Feldblum, “Professor Avraham Weiss: Ha’arakhat Darko be-Heker ha-Talmud ve-Siyyum Maskanotav,” in Samuel Belkin and Abraham Weiss, *Sefer ha-yovel li-kevod Avraham Vais*, (New York: Abraham Weiss Jubilee Committee 1964), 18–19. David C. Kraemer, in “Stylistic Characteristics of *Amoraic* Literature” (PhD diss., Jewish Theological Seminary, 1984), 19, seems to agree with Weiss’s definition and defines argumentational forms in opposition to so-called “apodictic” statements. On the development and proliferation of the dispute form, see Kraemer 80–136 for a detailed description and 330–33 for a summary of his conclusions about these generations; and see Avraham Weiss, *Al ha-Yetzirah ha-Sifrutit shel ha-Amoraim* [Studies in the Literature of the *Amoraim*] (New York: Yeshiva University, 1962), 10–23, and nn35–36. On the middle-generation adoption of Tosefta, see Florsheim, “Rav Hisda u-Farshanuto,” 24–48. P. R. Weiss, in “The Controversies of Rab and Samuel and the *Tosefta*,” *Journal of Semitic Studies* 3, no. 3 (1958): 288–97, claims that knowledge of the Tosefta is discernible in Rav’s, but not Shemuel’s statements. His attempt to discern this suitably shows the tiny percentages of a direct quotation of the Toseftan *baraitot* by either figure. Bokser, 443–47, claims that Shemuel may have had knowledge of the Tosefta. This he bases on the similarity between the style of the “commentary” elements of the Tosefta and the “commentary” elements of Shemuel’s statements relating to the Mishnah. Note, however, that he points to a single tradition of Shemuel’s – he lists it as tradition no. 51 – from his sample set in which Shemuel quotes a Toseftan *baraita*. When one looks to the direct quotations of, or references to, Toseftan *baraitot*

developments. These four phenomena lead me to advance the hypothesis that there was a new access to, and acceptance of, Palestinian sources in the middle-amoraic period in Babylonia. When we consider these data in combination with other behaviors that Kalmin characterizes as “redactional,”⁹ we develop the picture of a growing transformation in Babylonian Torah. It is easy to imagine a milieu in which *amoraim* of the fourth century were conjoining admixtures of material from the two centers – perhaps even mingling proto-Talmudic collections – to create new products whose sum was greater than their parts.

Here then is the crux of the argument: the Bavli’s themes – its major subjective concerns, the tannaitic sources it employs and much of its amoraic content¹⁰ – may largely have been set by the end of this middle period of Babylonian amoraic activity. This reading of the evidence has wide-reaching implications. Not least among these is a reassessment of the striking affinities that we see between the Bavli and the Yerushalmi. In this, I am strongly influenced by the work of Alyssa Gray,¹¹ without whose work such a reappraisal would be impossible.

Until Gray’s recent work, the scholarly consensus was that the editors/redactors of the Bavli did not have the Yerushalmi in front of them as they went about the business of shaping their Talmud.¹² Gray, however, convincingly shows that the prominence of the structural features shared by the two documents, at least as far as *Avodah Zarah* is concerned, is too strong to be the result of independent treatment of the same or similar sources.¹³ She has demonstrated that, both on the large scale and the small, the shared structures of the two Talmuds are not necessarily called for by the supposedly independently received sources under

by Shemuel as recorded by Bokser, or in his *Samuel’s Commentary on the Mishnah* (Leiden: Brill, 1975), 184, 199–201, the percentages are small. Tirzah Z. Meacham, in “*Tosefta* as Template: *Yerushalmi Niddah*,” in Harry Fox, Tirzah Meacham, and Diane Kriger, *Introducing Tosefta: Textual, Intratextual, and Intertextual Studies* (Hoboken: Ktav, 1999), 181, implies – but does not make explicit – the dearth of *Toseftan* material in Babylonia prior to the middle generations. On the increasing preference for citation of Palestinian *amoraim* by middle-generation Babylonians, see Kalmin, *Sages*, 46–47, 58–59, and 89–94. On the adaptation of Palestinian sources by Babylonians, see Kalmin, *Jewish Babylonia*, and Dor, *Torat Erez-Yisrael be-Bavel*, 15–16, no. 7; 16, no. 1; 24, 36, 66–73, 77, 79–115, and 127–40.

⁹ Kalmin, *Sages*, 169–73.

¹⁰ I propose this time period because there is a drop-off of amoraic activity following the fourth generation of Babylonian *amoraim*. See Kraemer, “Stylistic Characteristics of *Amoraic* Literature,” 57, 69–70, 80–81, 109, 138, and 335–36; Kalmin, *The Redaction of the Babylonian Talmud: Amoraic or Saboraic?* Monographs of the Hebrew Union College 12 (Cincinnati: Hebrew Union College, 1989), 43–65; and Kalmin, *Sages*, 55–57, 169–72, 275–81.

¹¹ Alyssa Gray, *A Talmud in Exile: The Influence of Yerushalmi Avodah Zarah on the Formation of Bavli Avodah Zarah* (Providence: Brown Judaic Studies, 2005).

¹² *Ibid.*, 9–15. Many prominent scholars remain attached to this view. See, e.g., Jeffrey Rubenstein, *The Culture of the Babylonian Talmud* (Baltimore: Johns Hopkins University Press, 2003), 159; as well as Leib Moskovitz, “Designation Is Significant: An Analysis of the Conceptual *Sugya* in bSan 47b–48b,” *Association for Jewish Studies Review* 27, no. 2 (2003): 248, no. 100. To be fair, Moskovitz seems more circumspect than Rubenstein.

¹³ Gray, *Talmud in Exile*, 43–77, 101–42, 149–63, 176–88, and 239–42.

their treatment.¹⁴ Furthermore, Gray points out a number of passages in tractate *Avodah Zarah* in which the Bavli picks up a thread of conversation where the Yerushalmi left off.¹⁵ She also can point to juxtapositions of similar halakhic and aggadic materials in both versions of tractate *Avodah Zarah*, as well as their occurrence in the same order and at the same or similar intervals along the same or similar thematic arcs. Here is evidence of her thesis that the editors/redactors of the Babylonian Talmud had the Yerushalmi available to them, and that they made extensive use of it.¹⁶ I am largely convinced by her claims. It appears that the Bavli was greatly influenced by the Yerushalmi. That is to say, a redacted Palestinian Rabbinic text, much like the Yerushalmi we know, seems likely to have been both accessible to, and influential upon, the final redactors of tractate *Avodah Zarah* of the Babylonian Talmud.

At the same time, Gray makes a series of more radical claims that I find less convincing. She claims that *our* Yerushalmi was the source upon which the Bavli drew, and that it came to Babylonia in a late period, in the sixth century, and furthermore that the Yerushalmi is likely to have come to Babylonia by way of a scroll. Finally, she denies the possibility that any other sources – such as an “early” Talmud or a *Quelle* or “Q” text – could have played a role in developing the affinities that we see between the two Talmuds.¹⁷

¹⁴ Ibid., 85–86. See also 33–39.

¹⁵ Ibid., 172–73. As Gray notes, she is not the first to notice this phenomenon. See Zvi H. Chajes, “Imrei Binah,” in *Qol Sfrei Mohara'tz Chaiot* (Jerusalem: Divrei Chakhamim, 1959), 495–97; and Halevy, *Dorot ha-Rishonim: sefer divre ha-yamim li-bene Yisra'el*, 8 vols. ([Israel]: Mif'ale sefarim li-yetsu, 1990–1999), 8:128–30. See Gray's discussion of their arguments in *Talmud in Exile*, 11–12.

¹⁶ Gray, 43–52, and 69–72.

¹⁷ For her claim that our Yerushalmi was the text drawn from by *B. Avodah Zarah*, and her denial of theories of early Talmud, as well as her negation of the possibility of a “Q” text, see *ibid.*, 15–33. Her arguments against a Yerushalmi “Q” text are extensive, but based, by and large, on Mark Goodacre's arguments against a New Testament “Q,” in *The Case Against “Q.”* (Harrisburg: Trinity, 2002). At the heart of Goodacre's argument, ultimately, is the fact that no text containing even a fragment of the proposed New Testament “Q” has ever been recovered. This is not the case with Yerushalmi “Q.” The *Y. Neziqin* parallels to other Yerushalmi tractates are exactly the sorts of texts that one would expect Yerushalmi “Q” to look like. For Gray's dating of the initial influence of the Yerushalmi on the Bavli, and her “scroll hypothesis,” see *Talmud in Exile*, 199–234. For two rather convincing examples of the argument that the transmission of Rabbinic literature must have been oral in a late period, see E. S. Rosenthal, “Toldot Nusach u-Ba'ayot 'Arikhah be-Cheqer ha-Talmud,” *Tarbiz* 57 (1988), 1–36; and Ya'akov Sussmann, “Torah shebe'al Peh: Peshuto keMashma'o- Kocho shel Kotzo shel Yod,” in Rosenthal and Ya'akov Sussmann, *Mehkere Talmud: kovets mehkarim be-Talmud uvi-tehumim govlim, mukdash l'zikhro shel Prof. Efrayim E. Urbakh* (Jerusalem: Magnes, 2005) 3:209–384. However, Shamma Y. Friedman, in “Lehit'havut Shinuyei Girsat'ot ba-Talmud ha-Bavli” *Sidra* 7 (1991): 67–102, sees in the same set of phenomena evidence for a written transmission of Rabbinic texts in a relatively early period. My preference for Rosenthal and Sussmann's description of oral transmission is limited to the amoraic period rather than the somewhat later period described by Friedman.

In particular, I find too strong her claim that “our” Yerushalmi is the only candidate available as the source upon which the Bavli drew.¹⁸ In 1931, Saul Lieberman published his work on *Y. Neziqin* under the title “Talmudah shel Qesarin.”¹⁹ Many aspects of the study have been drawn into question since his initial publication. However, one aspect that has never been disputed is his claim there were two “complete Yerushalmis” in an early period.²⁰ To begin our survey of this theory, we should note that Lieberman’s method was to compare parallel texts within the Yerushalmi.²¹ He identified all of the passages of *Y. Neziqin* that paralleled passages in other tractates of the Yerushalmi and listed 138 parallels. He then analyzed the relationship between the parallels. Lieberman’s method of bringing all paralleled texts from other places in the Yerushalmi that match or fit the context of *Y. Neziqin* presents us with a significant phenomenon. Just as is the case in the majority of other Yerushalmi tractates,²² at some point the redactors of *Y. Neziqin* expanded their text by inserting passages from other Yerushalmi tractates that held relevance for the text of *Y. Neziqin*. Conversely, the redactors of other Yerushalmi tractates, going about a similar expansionary project, set down in their texts passages that had their origins in *Y. Neziqin*. However, all of the texts that appear in other tractates whose context placed their origins in *Y. Neziqin*, do not come from our *Y. Neziqin*, but instead appear to come from another version of *Y. Neziqin*. All of these texts share a style much more like the remainder of the Yerushalmi that we know, and unlike the unique style of our *Y. Neziqin*. Furthermore, all of the expansions imported to *Y. Neziqin* from other tractates appear similar to *Y. Neziqin* in their style and form.

Although we should make allowances for editorial revision in the process of transfer, the awkwardness that we generally see in the wake of such transfers leads

¹⁸ See Gray, *Talmud in Exile*, 21. She puts forth the argument that Occam’s Razor dictates that we reject early Talmud or a “Q” text as an explanation, “since we can explain the similarities and differences between *Y.* and *B. Avodah Zarah* without early Talmud, we do not need it as a global explanation.”

¹⁹ Saul Lieberman, “Talmudah shel Qesarin,” *Tarbiz* 2, suppl. (1931). See the literature cited by H. L. Strack and Günter Stemberger, *Introduction to the Talmud and Midrash*, 2nd ed., trans. Markus Bockmuehl (Minneapolis: Fortress, 1996), 173–75.

²⁰ This is not a claim about the “missing chapters” of the Yerushalmi, or even a claim that every tractate had both forms of the Yerushalmi. The claim is that two or more large Yerushalmis on many, if not all, tractates existed at some relatively early period; see Lieberman, “Talmudah shel Qesarin,” 4–6. See also his *Sifre Zutta* (New York: Jewish Theological Seminary, 1968), 125–36. See Sussmann, “Ve-Shuv le-Yerushalmi Neziqin,” in David Rosenthal and Ya’akov Sussmann, *Mehkere Talmud: Kovets mehkar be-Talmud uvi-tehumim govlim* (Jerusalem: Magnes, 1990), 1:83–87, who confirms this aspect of Lieberman’s work.

²¹ Nearly three-fourths of Lieberman’s text is given over to these parallels! Lieberman, *Talmudah shel Qesarin*, 21–83.

²² On this phenomenon, see Baruch Bokser, “An Annotated Bibliographical Guide to the Study of the Palestinian Talmud,” in *The Palestinian and Babylonian Talmuds*, vol. 2 of Jacob Neusner, *The Study of Ancient Judaism* (New York: Ktav, 1981; repr., Atlanta: Scholars, 1992), 178–81.

to the conclusion that such revisions were minimal. The implication is that there were at one point two more or less complete Yerushalmis.²³ This factor, unmentioned in Gray's book, opens the door to the possibility that a different version of the Yerushalmi may have had an influence on the Bavli in an early period.

Finally, the sudden and striking proliferation of Palestinian traditions in the middle-Babylonian amoraic period strikes me as too strong to lay the credit for all, or nearly all, of the strong affinities between the two Talmuds at a relatively late point in time, as Gray does. By stripping away all material that post-dates this middle period from *B. Rosh Hashanah*, I have reconstructed a number of passages in which most of the striking thematic affinities the two Talmuds have for one another remain intact. Gray points to a large number of shared structures and themes between the Yerushalmi and the Bavli. I posit that, for *B. Rosh Hashanah* at least, a number of shared *thematic* elements are, in fact, located in a fourth-century layer of the text. On the other hand, Gray's claim of late (post-fifth century) influence in *B. Avodah Zarah* does not, in my opinion, fully obtain in *B. Rosh Hashanah*. There it often seems restricted to shared *structural* affinities.²⁴ In other words, I claim that the themes and sources shared by some of the passages in *B. and Y. Rosh Hashanah* were established by the fourth century, but that the structure that *B. Rosh Hashanah* shares with the Yerushalmi *in those same passages* were likely established by the Bavli's later editors.

2. Additional Scholarly Influences

Below, I review the influences on my thinking in two areas: (1) the role of the early *amoraim* in the formation of the two Talmuds and (2) the role of middle-generation Babylonian *amoraim* in the redaction of the Bavli.

a) *The Role of the Early Amoraim*

I am indebted to Baruch Bokser's groundbreaking work in this area. Bokser showed that the early Babylonian *amora* Shemuel had a decided interest in the Mishnah. Shemuel's comments, as recorded in the Bavli, refer to the Mishnah, and to *baraitot* closely associated with it, more frequently than to any other sources.²⁵ Bokser took this to imply that in Babylonia, the first flowering of that Talmud began with a strong emphasis on Mishnah commentary. Prior to Bokser's study, Jacob Nahum Epstein noted that the Mishnah became a subject of

²³ As noted, despite all the lively discussion surrounding *Yerushalmi Neziqin*, this particular point has never been drawn into question since Lieberman's initial publication in 1931. See Strack and Stemberger, 173–75.

²⁴ I will define what I mean by "structure" vs. "theme" below in the description of my methodology.

²⁵ Bokser, *Post-Mishnaic Judaism*, 253–82, and 426–28.

intense study in Babylonia within a generation of its redaction.²⁶ Epstein claimed that this differed from the way the Mishnah was treated in Palestine. Although the text was more carefully preserved in Palestine, there the Mishnah was viewed as an important *part* of a larger tannaitic curriculum, not a text to be studied in isolation.²⁷ Bokser built on Epstein's argument, convincingly presenting the converse: Shemuel, at least, attempted to study the Mishnah in near isolation from other tannaitic texts. Bokser's most controversial conclusion posits that the culture of Mishnah study in Babylonia may have led to Mishnah commentaries, one by Shemuel and perhaps another by Rav.²⁸ These putative commentaries also may have referred to *baraitot* that were directly related to the Mishnah, but tended not to deal directly with the Toseftan *baraitot*.²⁹

Taking a step back to assess Bokser's work, it must be noted that Bokser indicates only that the likely referent points of Shemuel's – and, therefore, perhaps also Rav's – statements are *mishnaiot* and related *baraitot*. In other words, it is generally more likely that in any given *meimra*, they comment on a *mishnah* or related *baraitot*, not that they exclusively do so. It would be overly reductive to claim that the first Babylonian Talmud was only interested in Mishnah commentaries. Neither Epstein nor Bokser makes such a claim. They speak of general trends: higher percentages of Mishnah commentaries in the first Babylonian amoraic generation and a greater academic interest in Mishnah than in other subjects.

From Epstein's and Bokser's work we can discern the possible major project of the first generation of *amoraim* in Babylonia: the practice of commenting on the Mishnah. On the other hand, from Avraham Weiss we see what perhaps the major project of the next generation was: collecting the comments of the first

²⁶ Epstein, *Mavo le-Nusah*, 211–34, 349–52; and, with Ezra Z. Melamed, *Mevo'ot l'sifrut ha-Amoraim: Bavli vi-Yerushalmi* (Jerusalem: Magnes; Tel Aviv: Devir, 1962), 12. See also Jacob Neusner, *A History of the Jews of Babylonia*, 5 vols. (Leiden: Brill, 1966–70), vol. 1, 163–64, 169, 174, 176–77, and vol. 2, 92–125, 284–87; 134–135. See also Jechiel Weinberg, "The Talmudic Exegesis of the Mishnah," in Yosef Tirosh, *Shai li-Yesha'yahu: l-R. Yesha'yahu Volfsberg ben ha-shishim* (Tel Aviv: ha-Merkaz le-tarbut shel ha-Po'el-ha-mizrahi, 1955), 86–105.

²⁷ Epstein, *Mavo le-Nusah*: 706–26, 771–803, and *Mevo'ot l'sifrut ha-Amoraim*, 604–6. See also Avraham Weiss, *Mehqarim be-Sifrut ha-Amoraim* (New York, 1962), 1–5. See also Sussmann, "Torah shebe'al Peh," 245–48.

²⁸ Bokser, *Post-Mishnaic Judaism*, 461–67.

²⁹ See Meacham, "Tosefta as Template," 184, and 219–20, who argues that the Tosefta imparts a structural element to the Yerushalmi. A. Joshua Cahan's 2012 dissertation calls Meacham's claims into doubt. Cahan, (2012). *Sources and Innovation: How the Rabbis' Relationship to Received Teachings Shaped their Legal Thinking* (unpublished PhD diss., Jewish Theological Seminary). Ultimately, whether or not the Toseftan *baraitot* provided a structural frame for the Yerushalmi is a secondary concern for me. To me, the most important point is that these sources seem not to have held much cultural currency in the early generations of amoraic Babylonia. Conversely, they seem to have held relatively more importance in coeval Rabbinic circles in Palestine. In the fourth century, they gained a greater level of currency in Babylonia. This Toseftan rise in status correlates with Kalmin's claimed "Palestinianization" of Rabbinic Babylonia generally. I find all this far too suggestive to ignore.

generation. Noting a trend toward the collection of the first generation's comments on the Mishnah by the second, Weiss envisioned the gradual accretion of these traditions among Babylonian *amoraim* of the first two generations slowly forming a "proto-Bavli." This first Babylonian Talmud was, supposedly, largely but not entirely, Mishnah commentary produced by the first generation and largely, but not entirely collected by the second. The consistency of the behavior of the *amoraim* of these generations, together with the equally consistent different behaviors of later ones, points to the likelihood that these phenomena accurately reflect changes in *Talmud Torah* during the amoraic period, rather than the thoroughgoing hand of a later editor.

Tirzah Meacham points to a very different project in Palestine.³⁰ Although the interest in the elucidation of Mishnah remains in evidence as the central element of the general project, Meacham claims that the Toseftan *baraitot* held a higher level of interest for the producers of the Yerushalmi.³¹ The production of commentary on these *baraitot* seems to have been of importance, and they seem to have been an additional part of the curriculum in Palestine.³² According to Meacham, this importance can be seen in the Yerushalmi's use of Toseftan *baraitot* as a structural element. That is to say, the Yerushalmi presents itself not only as an amoraic commentary on the Mishnah, but also one concerned with the Toseftan *baraitot*. Meacham states:

³⁰ Meacham, "Tosefta as Template," 84. Cahan disputes Meacham's findings, suggesting a higher overall interest in Tosefta in Babylonian circles than in Palestinian ones. I suggest the possibility that further work might show that both Meacham and Cahan have a bit of the truth. Perhaps on deeper investigation we might find that there was a greater interest in Tosefta in the early Palestinian generations of *amoraim* than in the early Babylonian ones. However, once we look at the Bavli's treatment of Toseftan materials from the fourth century onward, we might discover a greater interest in these materials than was the case earlier in Palestine. I recognize that this is a speculative suggestion. It is a study worth carrying out.

³¹ Jacob Neusner in *Judaism in Society: The Evidence of the Yerushalmi; Toward the Natural History of a Religion* (Chicago: University of Chicago Press, 1983), 75–78, notes that 90 percent of the Yerushalmi is taken up with exegesis of the Mishnah. Whether or not his percentages can be trusted, he does not deny the importance of the Tosefta in Yerushalmi studies. The Yerushalmi, he claims, presents itself as a Mishnah commentary and seems largely to lack interest in direct exegesis of scripture. This stands in contrast to the way that Neusner views the Bavli, a document he sees as having a strong interest in the direct interpretation of scripture. See his *Judaism: The Classical Statement: The Evidence of the Bavli* (Chicago: University of Chicago Press, 1986), 94–114. This is the point he attempts to make in claiming that 90 percent of the Yerushalmi is commentary on the *Mishnah*: its discussions revolve around the *Mishnah* and other tannaitic sources of the same genre, evincing a decided disinterest in direct interpretation of the Bible. He does not deny the deep importance of the Toseftan *baraitot* to the "program" of the Yerushalmi. Indeed, he notes the citation of Toseftan *baraitot* and their importance to the discussion of the Yerushalmi throughout *Judaism in Society*: see: 64, 87–88, 91, 94, 103, 107, 124–25, 147, and 165.

³² On the differences between the roles of the *tannaim* in Palestinian Rabbinic circles and Babylonian ones (at least early in the amoraic period), see Sussmann, "Torah Shebe'al Peh," 241, no. 52, and 270, no. 38, but see also 268, no. 34–35.

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