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"THAT MY MOUTH MAY DECLARE YOUR GLORY": HOW JEWS IN ROMAN PALESTINE INVENTED OBLIGATORY PRAYER

ALAN APPELBAUM

Thesis Submitted in Partial Fulfillment of
Requirements for Master of Arts in Judaic Studies Degree

Hebrew Union College-Jewish Institute of Religion
Graduate Studies Program
New York, New York

February 27, 1998
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ACKNOWLEDGMENTS

I owe thanks first to the administration of Hebrew Union College-Jewish Institute of Religion for the idea of the Master of Arts in Judaic Studies program, which allows people like me to fully immerse themselves in a wide variety of Jewish studies taught at a graduate-school level. Special thanks to Provost Norman J. Cohen, to "my" Dean, Kerry Olitzky, and to President Sheldon Zimmerman, who has been an example of learning and wisdom for me for over fifteen years.

I am grateful, as well, to the teaching faculty who made the idea a reality. Although everyone with whom I studied was enormously helpful, special mention should go to Martin Cohen, who acquainted me with the fascination and accessibility of the world of late antiquity, and Carole Balin of the History department; to Michael Chernick and Norman Cohen of Rabbinics, who introduced me to the Tannaim, the group that dominates the conclusions of this study; to David Sperling, who provided a model of critical reading of ancient materials, and Sharon Keller in the Bible department; to Leonard Kravitz and Eugene Borowitz in Philosophy/Theology and to guest professor Peter Ochs in that area, whose flattering attempt to convince me that I could be a phenomenologist informs much of the style of this study, if not the substance . I was also fortunate to have studied with Robert Chazen and especially Elliot Wolfson of NYU and with Michael Stanislawski of Columbia.

I owe a towering debt of gratitude to Lawrence Hoffman. The chance to study with Dr. Hoffman was one of the principal reasons I chose to come to HUC-JIR when I retired from my first career; the possibility of being a scholar anything like him is a principal motivation for my next step, the pursuit of a Ph.D.

degree Dr Hoffman's course in Rite and Ritual was *the* best course I have taken in ten years of higher education.

Even more important to me was the role he played as my advisor in connection with this thesis His guidance helped me formulate the topic; his genius for conceptualization gave the paper its form and shape; his gentle insistence on rigorous scholarship based on the sources stands behind all of the paper but especially Chapter 5; he made hundreds and hundreds of comments on the paper with generosity, authority and tact. I cannot adequately express my admiration for him or my debt to him.

People not formally my teachers must also be acknowledged. The research was expedited by the help of the HUC library staff, especially Henry Resnick, and the staff of the Jewish division of the New York Public Library. Ruth Ebenstein, a student at Hebrew University, translated articles by Ezra Fleischer for me, and the paper could not have been written without her.

My mother, my children and several of my friends have been incredibly supportive of my career change and of the work that went into this thesis. Judith Appelbaum read it several times, helped me get the words right, and enabled me to write it, just as she enabled me to retire and to embark on my new life and to do everything worthwhile that I do. This thesis is of course dedicated to her, as am I.

1. Introduction

"God God Dear Father in Heaven, I'm not a praying man, but if you're up there and you can hear me, show me the way."

It's a Wonderful Life[1]

When George Bailey tried to gain access to the Divine to save his family and his business from Uncle Billy's carelessness, he prayed. In their concern over George's troubles, his family and friends prayed. We know from having seen them on V-E Day and V-J Day that had their spontaneous prayers not been successful, the people of Bedford Falls would have prayed for George in church on the following Christmas morning, in the company of a congregation representative of their religious community; their spontaneous prayers for George would have accompanied standard prayers with fixed words.

To moderns like George Bailey's neighbors, the way to access the Divine, indeed the experience of being religious, mostly consists of going to services of set prayer at set times in buildings designed for such prayer at such times; George might well have started his prayer with an even more hackneyed Hollywood phrase: "I'm not much of a churchgoing man."[2]

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[1]Frances Goodrich, Albert Hackett and Frank Capra, *It's a Wonderful Life*. Screenplay. Liberty Films, 1946. In Jeanine Basinger ((In Collaboration with the Trustees of the Frank Capra Archives), *The It's a Wonderful Life Book*, 269. New York: Alfred A. Knopf, 1986.

[2]According to a recent Pew survey on the state of religion in America, "53 percent believe in daily prayer." Frank Rich, "Let Them Not Pray," *New York Times*, January 7, 1998.

Jews are no different. Non-"Orthodox" religious Jews have long understood breaking traditional laws of Shabbat and festival observance in order to get to a synagogue to recite fixed prayers at fixed times not only as obedience to a higher religious obligation but as providing a greater likelihood of access to the God of Israel to whom they so pray.

I will suggest in this study that the idea underlying the dominant practice of western religiosity -- accessing the Divine through obligatory community prayer at set times with set subjects -- was a startling innovation of the dominant faction of a reasonably small but broadly-based group in the Land of Israel, not yet the leaders of the Jewish people, some time during the century or so after 70 CE. To make this suggestion it will be necessary first to contextualize and to describe the "religiosity" -- an anachronistic term -- of pre-70 Israel.

Several scholars, consciously or otherwise echoing talmudic sources, have confused obligatory fixed prayer at fixed times (Bedford Falls on Christmas morning) with the spontaneous act of speaking to the Divine (George Bailey in Mr. Martini's bar) or with rituals of praise and thanksgiving (such as the recital or singing of hymns or psalms) that accompanied animal sacrifice in ancient temples in Jerusalem and elsewhere. This study is not about "prayer" so broadly understood.

The two principal components of Jewish obligatory worship are (1) biblical passages bracketed by introductory and concluding blessings --the "*Sh'ma* and its blessings" -- and (2) a string of blessings to be said in its exact prescribed wording three times each and every day, called the *Amidah*, or "Standing" (because it is to be said while standing) or the *Sh'moneh Esreh*, or "Eighteen" (after the traditional number of blessings it contains, although it no longer does), or *haTefillah*, "*the* Prayer."

This study explores the origins of the *Tefillah*

"Historical" approaches to issues of Jewish prayer are somewhat out of favor, perhaps for four reasons: (1) diachronic studies are especially difficult when the ancient world is involved; (2) they are even more difficult when issues of religious belief are involved; (3) several earlier "historical" attempts to discuss the origin of the *Tefillah* have been forced and occasionally ludicrous; and (4) our post-modern sensibilities shy away from any attempts to recover "facts."

But points 1, 2 and 4 are being overcome in a series of new approaches to Jewish history during the Roman period. Historians are devoting increasing energy to trying to understand the experience of the Jews of the first centuries of this Era as the experience, not of a chosen people which lives separate and apart (although the individual scholar may so believe as a matter of personal faith) and not of the precursors and deniers of the Christ (although the individual scholar may so believe as a matter of personal faith), but of one member-nation of the Greek-speaking eastern regions of the Roman Empire, with much in common with its neighbors.[3]

Following the lead of these scholars, who have not yet devoted much attention to the origin of the *Tefillah*[4], I have, in conducting this

[3]These historians include, among others, Martin A. Cohen, Shaye J. D. Cohen and Louis H. Feldman in the United States, Martin Goodman, Judith Lieu, John North and Tessa Rajak in England, and Isaiah Gafni and Aharon Oppenheimer in Israel.

[4]Tsvee Zahavy may be regarded as an exception. See "The Politics of Piety, Social Conflict and the Emergence of Rabbinic Liturgy." In Paul F. Bradshaw and Lawrence A. Hoffman, eds., *The Making of Jewish and Christian Worship*, Notre Dame: University of Notre Dame Press, 1991, 42-68.

study, consulted general historians as well as liturgists, and students of the worship practices of Israel's neighbors as well as of Israel, in order to be able to apply my understanding of current historical approaches to the Jewish experience of the first centuries of this Era to the issue of the origins of the *Tefillah*.[5] My goal is not, of course, to date the *Tefillah's* origins, but to shed some light on the phenomenon of fixed prayer at fixed times from a somewhat different point of view and perhaps to contribute to the project of recovering some of the experience of the Roman-period Jews, particularly those who first prayed the *Tefillah*.

I intend to demonstrate that the dominant feature of the spiritual life of most pre-70 Jews, their principal path of access to their God, was no different than that of their neighbors -- a sacrificial cult surrounded by dramatic and impressive ceremonies in a splendid Temple. The cult propitiated the Divine, while providing occasions for comradeship, for relief from the oppression of daily life and, not least, for eating meat.

After four years of a largely successful war of rebellion, the Jews' Temple was destroyed. Sixty-five years passed, and the Jews, now banned from Jerusalem, lost a second, even bloodier, Roman war. But the passage of sixty-five more years found some of these people, their eventual leaders, not serving in another temple, but, prominently among their many religious practices, piously praying the *Tefillah* -- spoken words at fixed times on fixed themes in a fixed order -- and regarding it to some extent as the equivalent of the defunct cult.

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[5] Elias J. Bickerman anticipated such an approach. "The Civic Prayer for Jerusalem." *Harvard Theological Review* 55 (1962), 163-85.

It is striking that the group of intellectuals who eventually developed the idea that their group's ancestral traditions, passed along by word of mouth, had originated on Sinai may have contributed to the idea that the ancient spiritual practices of their people could be replaced with words of mouth. It is even more striking that they may have done so in an intellectual environment which, at the same time, emphasized *Scripture* above all. No account of these phenomena written in the late twentieth century can fail at least to mention the attention paid to "saying" by Emmanuel Levinas, one of the leading Jewish thinkers of our time.

Such are my approaches, assumptions and premises.[6] "Modern" authors have considered such issues at least since Zunz, with the pendulum swinging from the search for an Ur-text to an equally unpersuasive, although perhaps still dominant, application of form-criticism in searches for varied *Sitzen im Leben*.. Various writers have touched upon the origin of the *Tefillah* while pursuing other scholarly projects. Recently, an Israeli scholar, primarily interested in how *avodah* might have been replaced by *tefillah*, has concluded that the *Tefillah* was created, all at once and in writing, in Yavneh under Gamaliel II; another, in England, treats the issue of the origins of the *Tefillah* as part of an attempt to understand the relative importance to the Rabbis of prayer, of study and of good deeds. These viewpoints, and others, will be the subject of the next Chapters.

[6]These words are given more particular meanings in Chapter 2.

2. What are people saying?

"What, then, are the major historical problems which still confront us ? What actually happened at Yavneh? How was the statutory liturgy, and particularly the Eighteen Benedictions, shaped there? Was there in fact a prayer of Eighteen Benedictions before 70, or was the number fixed by Rabban Gamaliel II and his circle at Yavneh? To what extent are the basic rubrics and formulae Rabbinic or popular in origin? These are questions which probably never will be answered to our complete satisfaction because the data are sparse, ambiguous and relatively late."

Richard Sarason, after a review of the scholarship to date[1]

The subject of this study is hardly new; academic interest in the origins of the *Tefillah* goes back at least to the Amoraim in both Israel and Babylonia, was a significant element in the nineteenth-century *Wissenschaft des Judentums* and has continued in the twentieth century, in fits and starts, ever since. Nor is the inconclusiveness of the results of investigation described by Sarason a recent development; one of the most important talmudic sources, Megillah 17b,[2] provides and supports alternative theories for the *Tefillah*'s beginnings.

The Amoraim based their discussion on tannaitic statements in the Mishnah and in baraitot, and embellished them with biblical prooftexts. Their twentieth-century successors have added the Greek Scriptures,

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[1]Richard Sarason, "On the Use of Method in the Modern Study of Jewish Liturgy." In William Scott Green, ed., *Approaches to Ancient Judaism: Theory and Practice* 1, 97, 148. Missoula, Mont.: Scholars Press, 1978. The other major "historical problems" mentioned by Sarason are the institution of the synagogue, which will be addressed later in this study, and the events of the geonic period, which are beyond its scope.

[2]Described below.

Josephus, Philo, the Qumran literature and the Amoraim themselves to their sources. Less interested in proof-texting as such, some of them have also culled the Tanakh, the Apocrypha and the Pseudepigrapha for older material, embellishing their consideration of the origins of the *Tefillah* and related matters in a different fashion. The number of ancient sources is, of course, limited, and as a result twentieth-century authors all generally consult the same ones. But they come to varying conclusions, partly because the sources are difficult, but perhaps also because of the jobs the authors ask the sources to do.

Only a few of the twentieth-century authors who have taken a position on the origin of statutory prayer in Israel have made that one of their major scholarly projects.[3] Much of the literature that deals with the

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[3]The principal authors in this category considered in this study are Ismar Elbogen, Joseph Heinemann, Ezra Fleischer and Stefan Reif. Ismar Elbogen, *Jewish Liturgy: A Comprehensive History*. Translated by Raymond P. Scheindlin and based on the 1913 German edition and the 1972 Hebrew edition edited by Joseph Heinemann and others. Philadelphia, New York and Jerusalem: Jewish Publication Society and Jewish Theological Seminary of America, 1993. Joseph Heinemann, *Prayer in the Talmud: Forms and Patterns*. Berlin and New York: de Gruyter, 1977. Ezra Fleischer, "On the Beginnings of Obligatory Jewish Prayer." Privately translated by Ruth Ebenstein. *Tarbiz* (1990) LVIX, 397-441. Ezra Fleischer, "The *Shemone Esre* -- Its Character, Internal Order, Content and Goals," Privately translated by Ruth Ebenstein. *Tarbiz* LXII (1993), 179-223. Stefan Reif, "The Early History of Jewish Worship." In Paul F. Bradshaw and Lawrence A. Hoffman, eds., *The Making of Jewish and Christian Worship*. Notre Dame: University of Notre Dame Press, 1991. Stefan Reif, *Judaism and Hebrew Prayer: New Perspectives on Jewish Liturgical History*. Cambridge: Cambridge University Press, 1993.
Other important authors in this category include Elias J. Bickerman, Asher Finkel, Louis Finkelstein, Steven Katz, Kaufmann Kohler, M. Liber, Leon Liebreich, A. Marmorstein, Tsvee Zahavy and Solomon Zeitlin. Elias J. Bickerman, "The Civic Prayer for Jerusalem." *Harvard Theological Review* 55 (1962), 163-85. Asher Finkel, "Yavneh's Liturgy and Early Christianity," *Journal of Ecumenical Studies* 18 (1981), 231-50. Louis Finkelstein, "The

subject does so in other contexts, such as more general studies (historical or literary) of the Second Temple, tannaitic and amoraic periods,[4] including

Development of the Amidah." *Jewish Quarterly Review (New Series)* 16 (1925), 1-43. Steven T. Katz, "Issues in the Separation of Judaism and Christianity After 70 C.E.: A Reconsideration," *Journal of Biblical Literature* 103 (1984), 43-76. Kaufmann Kohler, "The Origins and Composition of the Eighteen Benedictions With a Translation of the Corresponding Essene Prayers in the Apostolic Constitutions." *Hebrew Union College Annual* 1 (1924), 387-425. M. Liber, "Structure and History of the *Tefilah*." *Jewish Quarterly Review (New Series)* 40 (1950), 331-57. Leon J. Liebreich, "The Intermediate Benedictions of the Amidah." *Jewish Quarterly Review* 42 (1952), 423-26. A. Marmorstein, "The Oldest Form of the Eighteen Benedictions." *Jewish Quarterly Review* 34 (1943), 137-59. Tsvee Zahavy, "The Politics of Piety, Social Conflict and the Emergence of Rabbinic Liturgy." In Paul F. Bradshaw and Lawrence A. Hoffman, eds., *Making of Jewish and Christian Worship*, 42-68. Solomon Zeitlin, "The Tefillah, The Shemoneh Esreh: An Historical Study of the First Canonization of the Hebrew Liturgy." *Jewish Quarterly Review* 54 (1964), 208-49.

[4]Gedaliah Alon, *Jews, Judaism and the Classical World: Studies in Jewish History in the Times of the Second Temple and Talmud*. Translated by Israel Abrahams. Jerusalem: Magnes Press, 1977. Gedaliah Alon, *The Jews in Their Land in the Talmudic Age (70-640 C.E.)* Translated and edited by Gershon Levi. Jerusalem: Magnes Press, 1980. Elias J. Bickerman, *From Ezra to the Last of the Maccabees: Foundations of Postbiblical Judaism*. New York: Schocken, 1962. Martin A. Cohen, "The First Christian Century -- As Jewish History," in J. Philip Hyatt, ed., *The Bible in Modern Scholarship*, 227-51(Nashville and New York: Abingdon, 1965. Martin A. Cohen, *Two Sister Faiths: Introduction to a Typological Approach to Early Rabbinic Judaism and Early Christianity*. Worcester: Assumption College, 1985. Shaye J. D. Cohen, *From the Maccabees to the Mishnah*. Philadelphia: Westminster, 1987. Louis J. Feldman, *Jew and Gentile in the Ancient World: Attitudes and Interactions from Alexander to Justinian*. Princeton: Princeton University Press, 1993. Steven D. Fraade, *From Tradition to Commentary: Torah and Its Interpretation in the Midrash Sifre to Deuteronomy*. Albany: SUNY Press, 1991. Ellis Rivkin, *A Hidden Revolution*. Nahsville: Abingdon, 1978. Shmuel Safrai, The Era of the Mishnah and the Talmud." In Haim Hillel Ben-Sasson, ed., *A History of the Jewish People*, 307-84. Cambridge, Mass.: Harvard University Press, 1976. Shmuel Safrai, "Home and Family," "Religion in Everyday Life," and "The Synagogue." Translated by Shimon Applebaum and others. In Shmuel Safrai and Menahem Stern, eds., *The Jewish People in the First Century: Historical Geography, Political History, Social, Cultural and Religious Life*

texts useful in undergraduate courses[5]; more traditional textual analyses,[6] or specialized research in areas such as the institution of the synagogue [7], ascetic movements[8], the early Church[9], Qumran[10] and messianism[11]. Still

and Institutions 2, 631-700. Assen and Amsterdam: Van Gorcum, 1976. Menahem Stern, "The Period of the Second Temple." In Haim Hillel Ben-Sasson, ed., *History of the Jewish People*. Menahem Stern, "Aspects of Jewish Society: The Priesthood and Other Classes." Translated by Shimon Applebaum. In Shmuel Safrai and Menahem Stern, eds., *The Jewish People in the First Century* 2.

[5]A good example is Lawrence H. Schiffman, *From Text to Tradition: A History of the Second Temple and Rabbinic Judaism*. Hoboken: Ktav, 1991.

[6]An example is Tsvee Zahavy, *The Mishnaic Law of Blessings and Prayers: Tractate Berakhot*. Atlanta: Scholars Press, 1987.

[7]This area is dominated by works written or edited by Lee I. Levine. Lee I. Levine, ed., *Ancient Synagogues Revealed*, 42-44. Jerusalem: Israel Exploration Society, 1981. Lee I. Levine, ed., *The Synagogue in Late Antiquity*, 159-82. Philadelphia: American Schools of Oriental Research, 1987.

[8]Steven D. Fraade, "Ascetical Aspects of Ancient Judaism." In Arthur Green, ed., *Jewish Spirituality: From the Bible through the Middle Ages*, 253-88. New York: Crossroad, 1988.

[9]Examples include the works of Paul Bradshaw, James Burtchaell and Wayne Meeks. Paul F. Bradshaw, *Daily Prayer in the Early Church: A Study of the Origin and Early Development of the Divine Office*. New York: Oxford University Press, 1982. Paul F. Bradshaw, *The Search for the Origins of Christian Worship: Sources and Methods for the Study of Early Liturgy*. New York and Oxford: Oxford University Press, 1992. James Tunstead Burtchaell, *From Synagogue to Church: Public Services and Offices in the Earliest Christian Communities*. Cambridge: Cambridge University Press, 1992. Wayne A. Meeks, *The First Urban Christians: The Social World of the Apostle Paul*. New York and London: Yale University Press, 1983.

[10]Lawrence H. Schiffman, *The Halakhah at Qumran*. Leiden: Brill, 1975. Lawrence H. Schiffman, *Sectarian Law in the Dead Sea Scrolls: Courts, Testimony and the Penal Code*. Chico, Cal.: Scholars Press, 1983. Lawrence H. Schiffman, *The Eschatological Community of the Dead Sea Scrolls*, Atlanta: Scholars Press, 1989. Lawrence H. Schiffman, "The Dead Sea Scrolls and the Early History of Jewish Liturgy." In Lee I. Levine, ed., *The Synagogue in Late Antiquity*, 49-60. *Reclaiming the Dead Sea Scrolls: The History of Judaism, the Background of Christianity, the Lost Library of Qumran*. Philadelphia and Jerusalem: Jewish Publication Society, 1994. S.

another such context is ritual studies, where scholars refuse to privilege the text of a prayer at the expense of understanding what is really going on when people worship.[12]

This Chapter surveys the state of the scholarly conversation on the subject. (Chapter 3 focuses on Ezra Fleischer and Stefan Reif, two principal scholars now engaged in investigating the origins of the *Tefillah*.) To some extent both Chapters supplement Sarason's article, which preceded the contributions of Fleischer and Reif, and the first chapter of Reif's 1993 book, which is briefer than Sarason's article but more current.[13] Their work is chronological in method; I have instead grouped writers in terms of their approaches, assumptions, conclusions and premises (giving each of those words a particular meaning) and I have taken greater account of the less-elaborated views of various historians, literary analysts and liturgists as well as those of the researchers who have made the *Tefillah* and its dating their object.

Talmon, "The 'Manual of Benedictions' of the Sect of the Judaean Desert." *Revue de Qumran* 2 (1960), 475-500.

[11]Reuven Kimelman, "The Daily 'Amidah and the Rhetoric of Redemption." *Jewish Quarterly Review* 79 (1988),165-97. Reuven Kimelman, "The *Sema* and its Blessings: The Realization of God's Kingship." In Lee I. Levine, ed., *The Synagogue in Late Antiquity*, 73-86. Reuven Kimelman, "The Messiah of the Amidah: A Study in Comparative Messianism," *Journal of Biblical Literature* 116 (1997), 313-320.

[12]Lawrence A. Hoffman, *Beyond the Text: A Holistic Approach to Liturgy*. Bloomington and Indianapolis: Indiana University Press, 1987. Lawrence A. Hoffman, "Reconstructing Ritual as Identity and Culture." In Paul F. Bradshaw and Lawrence A. Hoffman, eds., *Making of Jewish and Christian Worship*, 22-41. These investigations beyond the text have not yet, as far as I have been able to discover, taken a historical turn and focused on the people who may have first prayed the *Tefillah*.

[13]See also Reuven Kimelman, "Liturgical Studies in the 90's." *Jewish Book Annual* 60 (1994), 59-72.

The authors I will be reporting on are of different ages and backgrounds. They can easily be understood as representing different schools of thought with respect to Jewish history, historiography, belief and practice. This chapter will, for the most part, disregard such characterizations and attempt to describe views on the origins of the *Tefillah* without regard to whether the author might more generally be understood as, say, a Marxist or a Zionist or an observant Jew.

The number of positions on when and how the *Tefillah* began is limited, and, with occasional exception, the writers covered in this survey will end up in one of a handful of camps on that question. But their views on the meaning of the creation of fixed, obligatory communal prayer, especially in relation to the destruction of the Temple, and how they get to their conclusions regarding the origins of the *Tefillah*, are more important than their opinions on the time and place or mechanics of the *Tefillah*'s beginnings. Accordingly, before setting out the authors' *conclusions* about the origins of the Tefillah (including their views on the functions that the early *Tefillah* performed for the Jews who prayed it), this Chapter surveys:

1. the various authors' *approaches* to their investigations -- what questions do they ask, and what processes underlie those questions?

2. their unstated (and perhaps unrealized) basic *assumptions* about the world of late antiquity on which their views are based.

3. some of the writers' theological *premises*.

Approaches

On one level, all the twentieth-century writers use the same method; they read the same sources (although sometimes citing different

texts within them) and draw conclusions from those sources. For example, virtually everyone cites Megillah 17b, either for the story that Shimon haPakuli *hisdir* eighteen blessings before Rabban Gamaliel *al haseder* in Yavneh[14] or for the story that 120 elders including many (or "how many") prophets *tiknu* eighteen blessings *al haseder*, or both. Those who give greater weight to the 120-elders version often find authority also in B'rakhot 33a's account of the Men of the Great Assembly ordaining *berakhot, tefillot, kedushot* and *havdalot* for Israel in the context of a discussion of where to insert *havdalah* in the *Tefillah*.[15] Use of this method is consistent with several *approaches*.

A. *The search for antiquity*

One *approach* to studying the origins of the *Tefillah* is to seek its original version or content. While the search for an Ur-text, properly so called, is correctly associated with the philological efforts of Leopold Zunz and others in the nineteenth century, twentieth-century authors have continued the enterprise. Furthermore, the active search for the great antiquity of the *Tefillah*, even when the author eschews philology and acknowledges the absence of an Ur-text, is part of the same *approach*. For example, Elias Bickerman states that while it is absurd to search for an original text, it is profitable to search for the original content of Jewish regular prayer.

For decades it seemed that Joseph Heinemann had demolished the idea that the *Tefillah* had an Ur-text. His alternative reconstruction

[14]This baraita, in somewhat different form (introduced by the abbreviation *t"r* rather than by *d'tanya*), also appears in Ber. 28b.
[15]See the discussion below, under "The *Tefillah*-finders," of the *approach* which treats ancient references to *tefillah* as references to *haTefillah*.

posited a *Tefillah* that developed over time in several places from a number of different, popularly generated texts which in turn developed from a greater number of popularly generated oral versions. But of late Ezra Fleischer has assigned both the formulation and the writing of the *Tefillah* -- all at once -- to Gamaliel, Shimon haPakuli and their circle in Yavneh. Thus while he denies the possibility of recovering the Ur-text, he locates both the time and the place of an original textual version.

His thesis so boldly attacks Heinemann's fundamental idea that the pre-Heinemann search for an Ur-text, or at least the search for the great antiquity of the *Tefillah*, should not be ignored in a survey of twentieth-century approaches to the origin of the *Tefillah*. Of course not all the authors who assign an early date to the *Tefillah* should be regarded as followers of this approach; Heinemann himself finds early *Tefillot* in the second or even third centuries BCE and regards the Shimon haPakuli story as "not tenable."[16]

Among twentieth-century scholars the leading searcher for antiquity is Ismar Elbogen, who was disposed to find evidence of antiquity (both in general and with respect to the *Tefillah*) in a wide variety of ideas. If a prayer is the same in various rites, it must be ancient, having been fixed before the rites separated (his view of *Birkat Kohanim*). Then too, since the *Kaddish* is "simple," it must be ancient.[17] A hymn's "lovely, poetic" style also counts as proof of its antiquity.[18] The *Tefillah*'s "'structure" is "biblical," Elbogen tells us without citation;[19] therefore it

[16]Joseph Heinemann, *Prayer in the Talmud*, 22.
[17]Ismar Elbogen, *Jewish Liturgy*, 81.
[18]Ismar Elbogen, *Jewish Liturgy*, 96.
[19]Ismar Elbogen, *Jewish Liturgy*, 193.

originated soon after the conclusion of the biblical period. The *Tefillah* must be ancient, also, because "in real life," petitionary prayer is something everyone engages in.[20]

Others find Ur-texts through investigations of the provenance of individual benedictions in the *Tefillah*.[21] If an event can be interpreted or imagined as having resulted in the "addition" of a blessing, it follows that something like an Ur-text, or at least an early text or framework, is the remainder.[22] Louis Finkelstein vividly illustrates the technique: the material on *minim* and proselytes was added after the destruction of the Temple, when such matters became important; "nationalism" arose before the first Roman war (for otherwise how could there have been a rebellion), with the result that the "nationalist" blessings of redemption, judges, ingathering and David were added around 50 CE. Some time before then in reaction to various "new movements" the blessings which constitute "a confession of Pharisaic faith" were added, as were wisdom, repentance and forgiveness, indications of the "sophisticated" nature of the late Hellenistic/early Roman period. The Hasmonean Revolution resulted in the blessing for Jerusalem, while an earlier unidentified war suspended Temple practice and resulted in the priestly blessing, *Birkat Tefillah* and thanksgiving -- which had been said in the Temple -- being added. What's

[20]Ismar Elbogen, *Jewish Liturgy*, 16.

[21]Finding early sources for the blessings of the *Tefillah* does not equal using this *approach*. Heinemann himself made connections between individual blessings and the prayer for healing and saving in Jeremiah 17:14 and the formula for renewal in Lamentations 5:21.

[22]Consideration of individual blessings is beyond the scope of this study, with the exception of "David" which is discussed in a brief Appendix. But it has received a great deal of attention in the literature, from Elbogen, Heinemann, Fleischer, Bickerman, Finkelstein, Shaye J. D. Cohen, Asher Finkel, Steven T. Katz, Kaufmann Kohler and M. Liber.

left is the Ur-text. "it may be stated definitively that the oldest form of the *Amidah* can be proved to have originated at the beginning of the second century B C E and that it consisted of a single benediction. This benediction consisted of an introduction, calling upon God in various terms . . and of a prayer which asked for the granting of the individual petitions of the congregants." In other words, something like the surviving *Birkat Tefillah* is the Ur-text.[23]

B. *Literary analysis*

With the relative loss of interest in this century in orthodox philology, painstaking word-by-word analysis of the *Tefillah* has been de-emphasized as a method of uncovering its origins and accordingly I will not

[23]Louis Finkelstein, "Development of the Amidah," 41. This article is also an early example of the *approach* described below as "the presumed applicability of sources." Finkelstein's reconstruction of the Ur-text of the *Tefillah* still tends to be cited as authoritative by Christian scholars. Paul F. Bradshaw, *Search for the Origins*. Heinemann has noted this fact with disapproval.

Most scholars who have thought about the issue think that *Birkat Tefillah* refers to what has gone before it. See, *e.g.*, Elias Bickerman, "Civic Prayer," 169. Finkelstein's idea foreshadows Tsvee Zahavy, who argues that *Birkat Tefilla* refers to what comes after it (*avodah, hodoah* and *Birkat Kohanim*, which many believe were said in the Temple) as part of his argument that the *Tefillah* is the prayer of a priestly, patriarchal, elitist group. Tsvee Zahavy, "Politics of Piety." See also Ismar Elbogen, *Jewish Liturgy*, 27; Louis Finkelstein, "Development of the Amidah," 41; Joseph Heinemann, *Prayer in the Talmud*, 131.

Like any "historical' work, this study has periodization issues. Perhaps Finkelstein should not have been treated as a twentieth-century author, but rather as belonging to the late nineteenth century; not only does he look for, and find, an Ur-text, but he is the sort of philologist who can report that it cannot be chance that ten of the blessings of the *Tefillah* use the words *Adonai Eloheinu*, treat that as an "Akiban form" never used by Gamaliel or his generation, and declare therefore that such blessings are *earlier* (even though Akiba is generally believed to have been somewhat younger than Gamaliel.)

devote much space to it. But it is important to remember that Heinemann's form criticism is a technique of literary analysis concerned solely with texts Heinemann himself acknowledged that the application of his method to the *Tefillah* was prompted by its success in biblical scholarship. In its search for *Sitzen im Leben*, form criticism sounds as if it is trying to undertake religious phenomenology, but only to the ears of those who are familiar with the work of Heinemann's successors as the major scholars of Jewish liturgy. Actually it is an approach not that different in attitude and style to the search for an Ur-text, and its *Sitzen im Leben* can seem as artificial as some of the earlier Ur-texts. Indeed, Heinemann purported to advance form criticism only as a "supplement" to what he called the "historical-philological" approach.[24]

Finkelstein also engaged in word-by-word literary analysis: all seven-word blessings come from the same time; mystics prefer seven-word formulations; Hillelites were mystics; the seven-word blessings originated with Bet Hillel.

C. *The* Tefillah-*finders*

Both the search for antiquity and literary analysis start with the current text of the *Tefillah* and reason from it. The next two approaches reverse the direction of the inquiry and start with early reports of prayer, in which they find the *Tefillah* or a proto-*Tefillah*. Just as Fleischer may have precipitated a renewed interest in the search for an Ur-version, Stefan Reif may have revived *Tefillah*-finding by his review, to be described in Chapter

[24]Heinemann, *Prayer in the Talmud,* 6. Compare Ezra Fleischer's statements of indebtedness to Heinemann in his opening comments in "On the Beginnings."

3, of Apocryphal and Pseudepigraphical sources. Tsvee Zahavy has engaged in a similar task.[25]

The first *Tefillah*-finding approach never distinguishes between personal petitionary prayer (George Bailey at Martini's) and fixed, required, community prayer (Bedford Falls on Christmas morning.) It locates texts in which Jews are shown praying, especially when the noun *tefillah* or the verb *lehitpallel* are present in the text and identifies them with the *Tefillah* or finds the *Tefillah* prefigured in them.

Since Hebrew has no capital letters, the word that we would render "*tefillah*" and translate as "prayer" is the same as the word we would render "*Tefillah*" and translate as the *Amidah*. Thus authors such as Elbogen and A. Marmorstein who attribute the *Tefillah par excellence* to the Men of the Great Assembly find authority in B'rakhot 33a's recollection that this body instituted *tefillot* along with *berakhot, kedushot* and *havdalot*. Such authors' disregard of the use of the plural may be explained by their recognition that the *Tefillah* did not yet have a fixed text.

Bickerman uses a similar technique to find the *Tefillah* mentioned in Ben Sira, Maccabees and Jubilees, although the "*Tefillah*" he is writing about at that point is limited to a "civic" prayer for the welfare of Jerusalem.

The second *Tefillah*-finding *approach* emphasizes sources in which either the language or the subject -- such matters as requests for health, well-being and prosperity or praises of God -- are mentioned in prayer. Without always conflating spontaneous and obligatory prayer, it finds a background of the *Tefillah* in such sources.

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[25]Tsvee Zahavy, *The Mishnaic Law of Blessings and Prayers*.

Form criticism itself can be characterized as this variety of *Tefillah*-finding. For example, Heinemann went well beyond B'rakhot 33a for his view that the Men of the Great Assembly played a role in creating the (or a) *Tefillah*. Nehemiah 9's account of Torah reading, confession, and a new written covenant has the *Levites*, not the assembled people, saying, in the course of a long address to God, "*barukh et Adonai Eloheinu min ha-olam ad ha-olam.*" Heinemann seems to regard this as an early "form" of the *Tefillah* and to have found its *Sitz im Leben* in this unique gathering, which he identifies with the "Great Assembly."[26]

Bickerman may also be regarded in this category, in the "thematic" subdivision, when he identifies organized prayer for the welfare of a city -- in the Jews' case, Jerusalem -- with an early form of *Tefillah*. Marmorstein noticed parallels between the subject matter of the Tefillah and the petitions found in a Greek papyrus which had been published as a Christian prayer. Because of the similarity of subject matter he concluded that this papyrus is a translation into Greek, for use in Egypt, of the first form of the *Tefillah* we have; he dates it from the time of Ben Sira, and

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[26]Finkelstein dates the Great Assembly to the third century BCE and assigns its organization to "Simeon II," the High Priest mentioned in Ben Sira who was an early supporter of the Seleucids in their struggle with the Ptolemies over Judaea. Peter Schaefer, *The History of the Jews in Antiquity: The Jews of Palestine from Alexander the Great to the Arab Conquest*. Translated by David Chowcat. Luxembourg: Harwood Academic Publishers, 1995. Shaye J. D. Cohen regards the group that Heinemann treats as the Great Assembly as a "proto-sect." *From the Maccabees,* 160. Lawrence Hoffman treats the Rabbis' use of the "Great Assembly" as "a reification of a presumably existent entity, so as to explain the functioning of the Jewish polity in an earlier period about which later generations knew nothing," that is, as a way of explaining things they didn't know the explanation for, not unlike the practice of "primitives" observed by Levi-Strauss of explaining that they do what they do because it has always been done. *Beyond the Text,* 28.

claims that it might have still been in use in the first century, so that it would have been the *Tefillah* Jesus and his disciples used when they "arose and prayed."[27] Zahavy found a prototype of something like the *Tefillah* in Ben Sira, and examples of early prayer in Judith, 1 and 2 Maccabees, Tobit and Jubilees.[28]

The most interesting scholars using this approach -- those whose work centers on the community of Qumran -- do not confuse spontaneous and obligatory prayer. They seem agreed that prayer was for those sectarians, as it became in rabbinic Judaism, obligatory and communal.

To the extent that these scholars rely on the language and themes of prayers uncovered in the Scrolls of the Judaean Desert, their work is similar to that of other *Tefillah*-finders. Both Talmon and Schiffman rely on the final verses of the Rule of the Community the themes of which, like the themes of the prayers specified by Bickerman and Marmorstein, seem common to all praying people. As to language, they are correct that the blessing form is used, although it may be significant to note that most of the blessings refer to God in the third person, with the exception of one which translates as "Blessed are Thou, my God, who opens the heart of your servant to knowledge."

But these *Tefillah*-finders go farther than their counterparts studying other material in that they also make a connection between the *Tefillah* and Qumran on a phenomenological level. For example, Talmon writes:

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[27]A. Marmorstein, "Oldest Form," 159.
[28]Tsvee Zahavy, *Mishnaic Law of Blessings*.

"The practice of saying prayers at fixed times and according to prescribed formulas developed to fill the void created. . .by the cessation of sacrifice. . . .Sectarians' voluntary renunciation of Temple sacrifice [because of their belief that the Temple was using the wrong calendar and therefore offering sacrifice at the wrong time]. . . placed the sect, even before the destruction of the Temple, in a sociological and religious situation parallel to that in which normative Judaism was to find itself. . . obliged to anticipate the development . . . and to institute prayers to take the place of the sacrifice in divine service. . . .The sect . . . provided for the regular devotions of its members a series of benedictions to be uttered individually or in congregation at fixed times of the day."[29]

D. *The Presumed Applicability of Sources*

The certified minutes of the Great Assembly or the cover memo for Shimon haPakuli's final draft of the *Tefillah* might end this inquiry. But the ancient sources are notably limited in number and in scope, and it is neither overly worldly nor insufficiently bold to suggest that many more relevant documents have been lost than have been retained.

The next *approach* consequently takes a position diametrically opposite to that of the *Tefillah*-finders. Rather than attempt to do the most it can with the available sources, it seems to insist that the sources we have are sufficient. Part of this approach is the argument from silence. I call this approach the presumed applicability of sources, since it seems to proceed from the notion that a source, or a silence, can always be applied.

Again, Elbogen is a good starting point. "If it [public worship] had been introduced later, our sources certainly would not have neglected a fuller discussion of the innovation."[30] We have no recorded disputes among Second-Temple period factions over the *Tefillah*; therefore all parties agreed that the *Tefillah* was both legitimate and obligatory.

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[29]S. Talmon, "The "Manual of Benedictions" of the Sect of the Judaean Desert." *Revue de Qumran* 2 (1960), 475, 476.
[30]Ismar Elbogen, *Jewish Liturgy*, 193.

Somewhat more nuanced: the books of Maccabees do not say that Antiochus Epiphanes prohibited communal prayer; may we therefore conclude that there wasn't any? No, because Daniel shows private daily prayer, and Ben Sira shows the populace assembled outside the Temple; therefore "organized' prayer existed before the Hasmonean Revolution.[31]

Bickerman finds that since the Book of Daniel shows Daniel customarily praying privately three times daily, and since the eponymous heroine of the Book of Judith prays one morning and on another occasion at the time of the evening incense offering, private prayer three times a day was well established at an early point. Bickerman also understands Josephus' admonition that prayer for the general welfare should precede prayer for personal interests to mean that the *Tefillah* was established in the Herodian period.

Finkelstein's analysis of the origins of the separate blessings of the *Tefillah*, described above, presumes the applicability of sources, as does M. Liber's similar exercise, which claims that the *Tefillah* was formed, sequentially, by the Maccabean crisis, the conflict between Pharisee and Sadducee, resistance to Rome, and opposition to nascent Christianity.

Heinemann also follows this *approach*. Because there is no evidence that anyone reformulated prayer after the Destruction (since he regards the Shimon haPakuli story as "not tenable") the *Tefillah* had not been fixed yet. Since the Mishnah doesn't set out the themes of the *Tefillah*, it shows that everyone already knew them.

Randall Chessnut and Judith Norman conclude that the *Tefillah* was the product of Yavneh from the same absence of earlier material that

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[31] *Ibid.*

Elbogen uses to show the existence of the *Tefillah* before the destruction of the Temple.[32] Shaye Cohen seems generally to agree, although at times he refers to "statutory" prayer during the Second-Temple period[33] and to pre-Destruction Judaism generally having included a "regimen of daily prayer, Torah study, participation in synagogue services and observation of the commandments."[34] Zahavy notes that kingship, priesthood and Temple are mentioned in the *Tefillah* but not in the *Sh'ma*, and concludes that the *Tefillah* was the prayer of the upper class and the priesthood while the *Sh'ma* was the prayer of another sociopolitical group.

E. *"Nothing happens without a purpose"*

The *approach* of the attribution of purposiveness, which is related to the *approach* of the presumed applicability of sources, is evident in much of the literature. This *approach* finds purposiveness behind outcomes; something that happened must have been planned, and if a group is seen to be in control after an event it follows that they planned it.

Lawrence Schiffman provides a good illustration of this *approach*. The Tannaim, faced with the fact of the destruction of the Temple, "immediately recognized" the need to standardize and unify Judaism; they quickly set about doing so; one of their first steps was to standardize the Tefillah.[35]

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[32]Randall D. Chessnut and Judith Newman, "Prayers in the Apocrypha and Psuedepigrapha." In Mark Kiley and others, eds., *Prayer from Alexander to Constantine: A Critical Anthology*, 38-42. London and New York: Routledge, 1997.
[33]Shaye J. D. Cohen, *From the Maccabees,* 68.
[34]Shaye J. D. Cohen, *From the Maccabees*, 218.
[35]Lawrence J. Schiffman, *From Text to Tradition*, 153.

F. *The Mother of Invention; the Historian's Friend*

It is one thing, however, to ask "Who did it?," as do practitioners of the *approach* of the attribution of purposiveness. It is another to ask instead "What did it?" Where pre-Enlightenment writers might have found the will of God, several of our writers find a force of historical necessity behind the phenomena they study, including the phenomenon of obligatory, fixed, daily prayer.

For Elbogen, public prayer was instituted to meet "the believer's need";[36] prayer was "doubtless" part of the Temple service in First-Temple times;[37] fixed prayer became "inevitable" once public worship became a fixed institution[38]; the Hasmonean Revolution "must have" made important contributions to the content of public prayer;[39] communal prayer eventually became so important that the individual, when alone, felt obliged to say the same prayers, as fixed prayer "conquered the entire people and dominated all of life";[40] after the Bar Kochba war it was "necessary first of all" to restore fixed prayer.[41]

In using the *approach* of historical necessity, Elbogen has many colleagues. Finkelstein believes that pietists in the time of Jeremiah (who regarded the Temple as defiled) "were driven to" prayer meetings.[42] For Liber, once the Temple was destroyed, organized obligatory prayer was the

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[36]Ismar Elbogen, *Jewish Liturgy*, 286.
[37]Ismar Elbogen, *Jewish Liturgy*, 188.
[38]Ismar Elbogen, *Jewish Liturgy*, 192.
[39]Ismar Elbogen, *Jewish Liturgy*, 194.
[40]Ismar Elbogen, *Jewish Liturgy*, 196.
[41]Ismar Elbogen, *Jewish Liturgy*, 204.
[42]Louis Finkelstein, "Development of the Amidah," 432.

"sole worship left."[43] Ellis Rivkin postulates certain "Pharisaic" beliefs, which, once established, made fixed regular prayer "mandatory."[44]

Richard Sarason accuses form criticism of a similar approach, which he labels the "collective axiom." He charges Heinemann with having given too much credit to the people as a whole, and not enough to individuals, in connection with the development of the *Tefillah*.

The historical-necessity *approach* is not restricted to an older generation. Schiffman finds that new worship forms "must have" developed during the Babylonian exile,[45] that the role of prayer was constantly increasing in Second-Temple times, and that there must have been special buildings set aside for prayer. Shaye Cohen sees organized communal prayer as the obvious answer to the worship needs of people living outside of Jerusalem, and, while he doesn't here use the language of necessity, he writes that some Second-Temple groups (in the Land of Israel, outside of Qumran) followed a regimen of daily prayer. Wayne Meeks writes that the earliest Christian assemblies "of course" included prayer.[46] Jacob Neusner finds it "not possible to suppose that there were no . . . services before the [first] war" against Rome.[47]

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[43]M. Liber, "Structure and History," 332.
[44]Ellis Rivkin, *A Hidden Revolution*, 62.
[45]Lawrence J. Schiffman, *From Text to Tradition*, 22.
[46]Wayne A. Meeks, *The First Urban Christians*, 147.
[47]Jacob Neusner, *The Evidence of the Mishnah*, 85. Chicago and London: University of Chicago Press, 1981.

As seen above, Elbogen, Rivkin and Shaye Cohen each regard historical necessity as proceeding from the psychological needs of human beings. Psychological necessity is a branch, or variant, of the historical-necessity *approach*. For example, Elbogen found that statutory prayer filled a need since everybody prays; that the natural need for a night prayer led to a universal private night prayer; which led to *ma'ariv*, and that in every service the *Tefillah* eventually became so important that people

G. *Recognition of anachronistic projections in the sources*

Earlier scholars, including Heinemann, Bickerman and Finkelstein, had basically understood Rabbinic traditions to have been historically accurate and reliable. But a final *approach* to those sources relevant to the origins of the *Tefillah* recognizes the possibility that they may involve anachronistic projections of later experience to earlier times. Just as contemporary scholars may project their own experience onto that of their forebears, the authors of ancient sources, including tannaitic and amoraic texts, written when regular prayer was well established, may well have invested earlier generations with their own experience. For example, Schiffman points out that the presence of prayers in the Septuagint that do not appear in the Masoretic text means that praying people added the prayer experience to texts in places that they believed appropriate. Jacob Neusner, Shaye Cohen and Tsvee Zahavy read the talmudic sources on the *Tefillah* in this light.[48]

This *approach* was implicitly anticipated by Elbogen, who understood that the Amoraim put a "great[er] value" on community worship than did earlier generations,[49] which is not that far away from

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praying privately felt obliged to say the same words.

[48] Neusner concludes that the possibility of standardization of the number of blessings to be said at fixed times was on the Tannaitic discussion agenda during the Gamaliel period, but did not yet occur. This conclusion may be based on reading M. Ber. 4:3 to mean that Joshua and Akiba only partially agreed with Gamaliel about instituting a mandatory *Tefillah*, while Eliezer disagreed. An awareness of the possibility of anachronistic projection in the sources, while valuable, must be applied with restraint, lest it render the only available sources useless. See Chapter 5 for my proposal that tannaitic evidence be treated as establishing a prima facie case for events during the period between the destruction of the Temple and the redaction of the Mishnah, and for discussion of M. Ber. 4:3.

[49] Ismar Elbogen, *Jewish Liturgy*, 205.

understanding that the Amoraim may have taken their experience to be that of their predecessors

Assumptions

The various *approaches* sketched above embody "assumptions" in the plain-English meaning of the word. I mean to reserve the word "assumption" in this study for larger matters than whether there must be a meaningful connection between two prayer-texts each of which includes a request for a good harvest, or even whether an author who believes in the great antiquity of the *Tefillah* is more likely than not to find it in the sources.

The three groups of *assumptions* I will mention here are of broader scope and greater importance.[50] Each of them will be questioned by this study.

A. *130 years, in their sight, is like a flower that withers, or a watch in the night.*

Many of the authors surveyed assume that not much happened in the 130 or so years between the destruction of the Temple and the redaction of the Mishnah. This assumption is, I think, driven by the paucity of texts and other evidence from a period that Steven Fraade has aptly likened to a dark tunnel, at the entrance to which is the War and at the exit to which is the Mishnah, with nothing visible in between.

130 years ago Andrew Johnson was acquitted in his impeachment trial; Disraeli and Gladstone alternated as Prime Minister; Brahms

[50]Most of our authors also make a meta-*assumption* that the religious experience of Second-Temple Judaism was unique, totally unlike that of Israel's neighbors. Chapter 4 compares Second-Temple Judaism to contemporary "pagan" religion and finds them similar.

composed his *Lullaby*, the typewriter was invented, Herzl was a little boy in Budapest. Those things happened a long, long time ago, the year 2128 seems to us an even longer time from now.

But as the distance in time from us gets larger, distances between different long-ago times get smaller, or disappear. The souvenir shop's statuettes of a leering "Groucho" circa 1934 and a mop-topped "John" circa 1964 strike our eye as both coming from the "old days," maybe 15 or 20 years ago.

Something similar happens when historians look at late antiquity. The Mishnah is contemporaneous with the Destruction in the same way that Marx is teamed with Lennon, especially since there is so little evidence remaining from the period.

Heinemann illustrates the point well. He emphasizes the Mishnah's use of the phrase *sh'moneh esreh* -- "eighteen" -- with respect to the number of blessings in the *Tefillah*, and regards it as evidence of a very well-known list. He concludes from this that the number of blessings was very well-established by the time of the Mishnah, and then, and therefore, that there must have been eighteen blessings in various *tefillot before* the destruction of the Temple. He fails to note that if the Shimon haPakuli story is indeed "tenable" the *Tefillah* described there would have been about 100 years old when our Mishnah was written down.[51]

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[51]Elbogen similarly reads the Mishnah as showing the *Tefillah* in an advanced state of development and therefore concludes that it is very ancient. This may, however, be better characterized as an example of Elbogen's *approach* of the search for antiquity. Ezra Fleischer and Paul Bradshaw believe that the fixing of the number "eighteen" occurred at the end of the first century, and Shmuel Safrai would give it an even later date.

B *Who's in charge here?*

Many of the authors surveyed here *assume* that the Tannaim are the Pharisees known by another name after 70. They believe the Pharisees to have controlled the Jewish nation, based largely on evidence from Josephus, who wrote of the popularity of the Pharisees with the people, and from the Evangelists, who present the Pharisees, sometimes along with scribes, or priests, or both, as the leaders of the Jewish people during Jesus' ministry.

There is less evidence for identifying the Tannaim either as having succeeded the Pharisees or as the leaders of the Jewish people, but writers like Rivkin, Bickerman, Finkelstein and Martin Cohen do make that identification, and since they believe the Pharisees to have been in charge before the Destruction, it ineluctably follows that the Tannaim were in charge after it. Among the other writers who have concluded, largely from Talmudic sources, that the Tannaim were the undisputed leaders of the Jewish people from the Destruction on are Gedaliah Alon, Asher Finkel, Steven Katz, M. Liber and Lawrence Schiffman.[52] (A corollary *assumption* is that the members, both urban and rural, of the priestly caste generally lost their centuries-old influence once they stopped ministering in the Temple.)

Pharisaic and tannaitic control is *assumed* to have reached all the Jews' religious institutions, including the synagogue. Our writers frequently

[52]Gedaliah Alon, *Jews, Judaism and the Classical World*; Gedaliah Alon, *The Jews in Their Land*; Asher Finkel, "Yavneh's Liturgy"; Steven T. Katz, "Issues in the Separation"; M. Liber, "Structure and History"; Lawrence H. Schiffman, *From Text to Tradition*. Liber specifically finds that the priesthood was "eliminated" after the Destruction.

assume, therefore, a synagogue setting for the development of the *Tefillah*, an assumption that skews both the picture of the early synagogue and that of the development of the *Tefillah*.[53] Elbogen and Finkelstein visualize the Pharisees reciting the *Tefillah* in synagogues prior to the destruction of the Temple. Liber, Katz and James Burtchaell do the same for the Tannaim after 70.[54] Alon projects the recitation of the *Tefillah* in a synagogue onto the first Christians, while Leslie Hoppe attributes it to Jewish villagers.[55]

C. *"They kill cattle, don't they?"*

Most of the authors surveyed *assume* insight into the nature of Second-Temple spirituality (to use an anachronistic but perhaps precisely correct term), more particularly, they *assume* that they understand the spiritual, religious and social components of a system of animal sacrifice.

Inherent in my own assumptions, briefly described in Chapter 1, is the idea that people have not changed much in the course of history. But people's institutions do change. A principal task for those who would study a different era than their own is to try to understand people *like* themselves doing things that they and their world would not possibly do.

The institution of animal sacrifice is hard for us to fathom. We focus on the everyday meaning of the word "sacrifice" and cannot accept it as part of what we call religion, and we reject a God who wants to share

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[53]Lee. I. Levine writes that "it is gratuitous to *assume* that . . . [the *Tefillah*] was . . . part of synagogue liturgy [before Yavneh, and that]. . . we must *conclude* that neither the *Amida* nor probably any other prayer was an established part of synagogue worship at the time" (emphasis added.) "The Second Temple Synagogue: The Formative Years," 20. In Lee I. Levine, ed., *The Synagogue in Late Antiquity*.
[54]James Tunstead Burtchaell, *From Synagogue to Church*.
[55]Leslie J. Hoppe, *The Synagogues and Churches of Ancient Palestine*. Collegeville, Minn.: Liturgical Press, 1994.

our meat rather than command our hearts. More important, we focus on the animals and cannot imagine ourselves finding a "religious" experience in the slaughtering of barnyard cattle, making liberal use of their blood, and then roasting their carcasses. Owning such an animal and bringing it to slaughter would hardly occasion a feeling of atonement for our sins. More likely it would evoke sorrow. We name our animals and encourage our children to pet them. We would not find it a highlight of our week, or perhaps of our year, to eat those animals after watching their slaughter, nor would we imagine God, or God's representatives, eating them first. We cannot imagine ourselves regarding a hereditary caste of butchers as the highest rung of our society.

But 2000 years ago people like us did.

The official religions of the Roman Empire, from the Imperial City to the mature cities of the Greek-speaking east (including Jerusalem) centered on animal sacrifice. Mystery cults, women's separate practices, and various sects of Judaea included animal sacrifice, usually of the official variety, among their principal acts of piety.

Nonetheless, many of our authors gratuitously *assume* that animal sacrifice had ceased to be a vibrant institution among the Jews. Elbogen believes that the growth of the synagogue (in which he locates the recitation of the *Tefillah*) had made the Temple expendable by the time it was destroyed, since it had become only an "accessory" to the religious life of the Jews once the Babylonian exile had created a new spirit of personal piety; the cult would have ended on its own, even if the Temple had never been destroyed.[56] Safrai also confidently asserts that before the

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[56]Ismar Elbogen, *Jewish Liturgy, 188.*

destruction of the Temple sacrifice stopped being important and was replaced by Torah study, the mitzvah system, charity and prayer.

Conclusions

A. *When did the* Tefillah *begin?*

Many of the authors surveyed would, in effect, reconcile both of the traditions of Megillah 17b, both that Shimon haPakuli *hisdir* eighteen blessings before Rabban Gamaliel in Yavneh and that 120 elders *tiknu* eighteen blessings at an earlier time. Hoffman, Lee Levine and Liber are comfortable with the idea that the *Tefillah*'s beginnings are early, but believe it to have been more or less finalized in Yavneh around the turn of the second century. Bradshaw regards this idea as possible.

Elbogen, Marmorstein, Safrai and Schiffman agree, but more confidently place the beginnings of the *Tefillah* in pre-Hasmonean times, often attributing it to the Men of the Great Assembly themselves. Finkel thinks that the blessings concerning *minim* and proselytes were added in Yavneh to an already-fixed *Tefillah*. Bickerman is also in this camp to the extent that his "civic prayer" is thought to be that old; when he addresses the question of a series of blessings, he opts for a somewhat later, Herodian, beginning.[57]

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[57]Bickerman writes that the schema of the *Tefillah* was fixed under *Shimon ben* Gamaliel. I take this either to be a slip of the pen or a conflation of haPakuli and his chairman; perhaps, however, Bickerman is denying the Yavneh tradition and, like Menahem Stern, asserting an earlier "fixing" of the "schema" under Gamaliel's father, who had been a member of the revolutionary government during the first War with Rome, or idiosyncratically asserting a later one, under Gamaliel's son.

Other scholars believe in early beginnings but give the Yavneh tradition short shrift.

Heinemann's basic thesis is that many alternative second- or third-century BCE written *Tefillot*, based on even earlier oral formulations, had been devised by the "common people," and that different series of benedictions, always eighteen in number, considerably antedate the destruction of the Temple. While he rejects the Shimon haPakuli story, he credits later Tannaim with having selected and ordered the final series to create an official service of worship.

Menahem Stern finds that the order and the obligatory nature of the *Tefillah* were a part of Second-Temple practice. Rivkin seems to be in the same camp, since he regards the *Tefillah* as an innovation of the Pharisees. Karl[58] goes back one generation farther than Bickerman may and identifies the Gamaliel of Megillah 17b as the Yavneh leader's grandfather. Finkelstein accepts the Men of the Great Assembly as the devisors of the formulae of the benedictions, sees the benedictions accreting one by one over the years (as described above under "Approaches -- The *Tefillah*-finders") and reserves only *minim* for the post-70 period. In other words, he accepts the story of Gamaliel and Shmuel haKatan set out in B'rakhot 28b[59], but not the immediately preceding story of Gamaliel and Shimon haPakuli.

Kaufmann Kohler declares the Great Assembly a rabbinic fiction, but finds the *Tefillah* to have originated with another early group, the early

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[58]Cited in Richard Sarason, "On the Use of Method."

[59]"Rabban Gamaliel said to the sages: 'Is there one among you who knows how to *tkn* a blessing about the *minim*? Shmuel haKatan stood up and *tknah*."

hasidim, who he then identifies with the Essenes. (It should be noted that Kohler worked before the discoveries in the Judaean Desert.)

Stefan Reif finds that much of the phraseology of the *Tefillah* began during the Second-Temple period; he claims that while some Second-Temple groups engaged in communal prayer, the Tannaim generally de-emphasized it.

Others give much more credit for the *Tefillah* to the Gamaliel group in Yavneh. As noted, Fleischer finds Gamaliel, Shimon and their colleagues to have created the *Tefillah* there. Martin Cohen foreshadows Fleischer's view when he says that Shimon, pursuant to the instructions of a Gamaliel already holding full Patriarchal powers, arranged earlier-existing prayers into the *Tefillah*, a view held even earlier by Solomon Zeitlin. Paul Bradshaw acknowledges that it is possible that the *Tefillah* first emerged in Yavneh. Karl similarly believes that prayers were gathered together at Yavneh to form the Tefillah. Gedaliah Alon, while asserting that the *Tefillah* originated many centuries before the destruction of the Temple, nonetheless thinks the "middle twelve" may have been devised after 70 and that Gamaliel and his associates instituted both the format of the *Tefillah* and its obligatory character. Although Shaye Cohen's emphasis is on the *Tefillah* not having been put in definitive form in Yavneh, he nonetheless belongs in this camp, as do Randall Chessnut and Judith Norman.

Jacob Neusner and his student Tsvee Zahavy differ here. Neusner thinks that Yavneh was the site of discussion about *tefillot* but not the site of standardization of the *Tefillah*. He concludes that the possibility of standardization of the number of blessings to be said at fixed times was on the Tannaitic discussion agenda during the Gamaliel period, but he finds

that standardization did not occur. The Tannaim of that period, he thinks (citing an unpublished work by Zahavy), wanted only to legislate about existing liturgy, not to create liturgy, and that material in the Mishnah about the *Tefillah* dates from after the Bar Kochba War. Zahavy undertakes a "political science" approach which would recognize "discontinuities in rabbinism," and concludes that the *Tefillah* was the prayer of the priests, the patriarchal family, and the otherwise well-born, while the *Sh'ma* was the prayer of the scribal profession.

Since Heinemann virtually everyone, including Fleischer, has agreed that the *Tefillah* did not achieve its present literary formulation for centuries after Yavneh; Lawrence Hoffman and Shaye Cohen are among those who have been most emphatic on this point. What then do authors mean when they write that the *Tefillah* was "fixed" or "finalized" in Yavneh (or elsewhere)? Usually they are referring to the standardization of the themes, the order of the blessings and perhaps the location of the activity. "By the end of the tannaitic period, a relatively fixed synagogue service had been achieved, in the sense that certain persons attended certain institutions at certain times to recite certain prayers."[60] Hoffman suggests that the particular form of the Rabbinic blessing was devised around the same time; Bradshaw points out, and Hoffman agrees, that the blessing was only one of several first-century Jewish prayer forms. Those authors who address the issue also generally believe that "finalization" involves making the recitation of the *Tefillah* obligatory, and I believe that those authors who do not specifically say so also include the obligatory nature of

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[60]Lawrence A. Hoffman, *The Canonization of the Synagogue Service*, 4. Notre Dame: University of Notre Dame Press, 1979.

the *Tefillah* in their understanding of its "fixing." Heinemann and Sarason, however, believe that only the number, order and general content were fixed, since they find that some Tannaim regarded the recitation of the *Tefillah*, even after it became *the Tefillah*, as optional; this is probably also what Neusner means when he says that standardization of prayer was on the agenda at Yavneh but not accomplished.

B. *What function did the* Tefillah *serve?*

All of the authors surveyed believe that at some point the *Tefillah* was instituted, fixed as to subject matter and length, and made mandatory as one of the Jew's religious obligations. But what function did the *Tefillah* serve; what role did it play in the life of the Jew, *whenever* it began?

Many of the authors surveyed relate the function of the *Tefillah* to that of the Temple.

Some focus on the Temple's unavailability. Alon claims that the founders of the *Tefillah* "frankly substitute[d] . . .prayer for sacrifice."[61] Fleischer says much the same thing. Lee Levine understands the *Tefillah* to have been "conceived as a parallel to sacrifices offered at the Temple."[62] Hoffman notes that the Rabbis patterned the *Tefillah* and its performance after the model of the Temple cult and compares this explanation for the absence of sacrifice with Christianity's presentation of Jesus as the final High Priest and of the Passion as ending the need for a cult. Shaye Cohen and Mark Harding[63] both regard prayer as having been a substitute for sacrifice for those pre-Destruction Jews who were too far

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[61] Gedaliah Alon, *The Jews in Their Land*, at 265.
[62] Lee. I. Levine, "Historical Introduction, 3. In Lee I. Levine, ed., *Ancient Synagogues*.
[63] Mark Harding, "Josephus and Philo." In Mark Kiley and others, eds., *Prayer from Alexander to Constantine*.

away from Jerusalem to participate in the sacrificial service; as noted above, Schiffman and Talmon hold similar views about the role of prayer in the absence of sacrifice in Qumran. Katz believes that the *Tefillah* was designed to carry on Temple rites and Martin Cohen understands the synagogue, as the locus of the *Tefillah*, as having assumed the Temple's prerogatives.

Several writers, including Heinemann, Martin Cohen, Finkel, Safrai and to some extent Rivkin and Bradshaw, see the *Tefillah* as a "service of the heart,"[64] a replacement for -- indeed, an improvement over -- the *avodah* of the Temple, without the need for a priest.

Bickerman specifically mentions the blessings about repentance as having replaced "the Altar."[65] Liber suggests that there was no absolute variance between *avodah* and *Tefillah*, since contemporary circles regarded prayer as a substitute for sacrifice and since the last three blessings of the *Tefillah* were deliberately parallel with the final acts of the Temple service.

Other writers, however, minimize the extent to which the *Tefillah* functioned as a replacement for the cult. While Elbogen sometimes relates the times of the *Tefillah* to the times of the sacrifices, and Safrai sees the Temple connection in the hours set aside for the *Tefillah*[66] and in the idea that the congregation faced the Temple Mount when they recited it, they both think that sacrifice was on its way out before the Destruction[67] and

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[64]See Ta'an. 2a.
[65]Elias J. Bickerman, "Civic Prayer," 173.
[66]Heinemann understands the parallel timing of sacrifice and *Tefillah* as evidence that both went on simultaneously before the Temple was destroyed.
[67]An idea shared by Bickerman and Finkelstein.

that prayer had already emerged as the dominant form of access to God; Elbogen bases his conclusion that prayer was not a substitute for sacrifice on the claim that no Tanna ever said it was, and that every Tanna regarded both prayer and sacrifice as ancient.

Reif sees no role for the *Tefillah* as a substitute for sacrifice; it is "simply one of a number of precepts enjoined upon the observant Jew," and hardly the most important one.[68]

Arnold Goldberg, writing in Germany in the early 1980s, seems differently, and perhaps more sensitively, attuned to the spiritual side of sacrificial worship than the other writers surveyed. He uses the popular phrase "service of the heart" uniquely; he says that, unlike the Mass, the *Tefillah* may not claim to be a "liturgy," a word Goldberg uses to have the same meaning as the Hebrew word "*avodah*" had in connection with the Temple, that it is *only* a "service [as in *avodah*, or liturgy] of the heart," lacking central organization, revelation and charismatic spontaneity. "Liturgy in the sense of a concrete holy service before God. . .came to an end."[69] For Goldberg, the *Tefillah* is compensation for loss of *avodah*, not a replacement for it.

Shaye Cohen also stresses the importance of the *Tefillah* in terms other than as a substitute for sacrifice. He believes that the *Tefillah*, along with the institution of the synagogue, demonstrated a new, individualist "ethos" among the Jews "closely paralleled by, and perhaps derived from,

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[68]Stefan Reif, *Judaism and Hebrew Prayer*, 67.
[69]Arnold Goldberg, "Service of the Heart: Liturgical Aspects of Synagogue Worship," 198. Translated by Nora Quigley and others. In Asher Finkel and Lawrence Frizzell, eds., *Standing Before God: Studies on Prayer in Scriptures and Traditions with Essays in Honor of John M. Oesterreicher*, 185-212. New York: Ktav, 1981.

Hellenistic culture";[70] implicit in that conclusion is the idea that the *Tefillah* fostered such an ethos and did not merely mirror it.

Other writers have thought in a different way about how the *Tefillah* functioned. They analyze what the blessings mean separately and, more important, in their "fixed" sequence. They proceed on the idea that understanding the reasons behind the arrangement would improve our understanding of the function the *Tefillah* played.

Asher Finkel, anticipating to some extent Shaye Cohen's views about individualism, regards the "middle twelve" blessings as "existential," by which he means concerning the life of the individual person praying, although he styles the first three and the last three as "eschatological."[71] Liber sees the first three blessings of the *Tefillah* as "Messianic," a "natural association of ideas" following the benedictions after the *Sh'ma*.[72] He divides the "middle twelve" into six for a happy present and six for a better future.[73]

Leon Liebreich strongly disagrees. He finds the "original purpose of the institution of the *Amidah*"[74] by reading the totality of the blessings in their order as a coherent structure on behalf of "the nation, the land and the Temple." All the blessings are oriented toward the future, as knowledge leads to repentance, repentance to forgiveness, forgiveness to redemption from exile, to ingathering, to restoration of the judges and establishment of the kingdom of God, together with the suppression of subversive forces and the vindication of the steadfast, the reestablishment of the capital city

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[70]Shaye J. D. Cohen, *From the Maccabees,* 43.
[71]Asher Finkel, "Yavneh's Liturgy," 243.
[72]M. Liber, "Structure and History," 342.
[73]M. Liber, "Structure and History," 348.
[74]Leon J. Liebreich, "Intermediate Benedictions," 423.

of God's kingdom and the restoration of the Davidic line to the throne. "Whatever the particular dates of these benedictions, or the historical circumstances which originally prompted their composition, their present structural arrangement or order of succession displays [this] . . .design or pattern."[75] Heinemann is in the Liebreich camp on this issue.[76]

Reuven Kimelman has further refined these ideas. He identifies the fourth through ninth blessings -- regarding knowledge, repentance, forgiveness, individual redemption, health and harvest -- as involving personal, physical and agricultural dimensions of redemption. These dimensions are needed to sustain the hope of a not-yet available national redemption, the order of which is spelled out in the tenth through fifteenth blessings. Kimelman notes that past redemption, as manifested by the Exodus, is not mentioned in the *Tefillah*, and he explains this absence by echoing Liber and connecting the *Tefillah* to the third blessing after the *Sh'ma*, which focuses on the redemption from Egypt and immediately precedes the *Tefillah*, making for a liturgical whole which moves from past to future redemption.

As indicated above, studying the words of the *Tefillah* yielded different conclusions for Zahavy; his understanding of the *Tefillah* as the prayer of the priests and the Gamaliel family leads him to assign to it a wholly political function; it helped enable the Patriarchate to govern the Jews, explicitly on behalf of God and implicitly on behalf of Rome.

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[75]Leon J. Liebreich, "Intermediate Benedictions," 426.
[76]See below under "Premises."

Premises

I indicated above that the authors I have surveyed might have been classified as belonging to different schools of thought with respect to Jewish belief, practice, history and historiography, but that my report on their views on the origins of the *Tefillah* would ignore such characterizations as far as possible.

But the works on which I have reported are analyses of Jewish prayer, not shipping reports from the Port of Odessa or biographies of NHL greats, and so, for the most part, they are written by people who care about Jewish prayer as more than a topic of academic interest. To further my goal of reporting on the *ideas* held by twentieth-century writers concerning the origins of Jewish worship practices some of the participants in our conversation will be placed on a spectrum representative of a larger world of Jewish thought.

The word I have chosen for this purpose is "*premise*." Sometimes an author's view will be shown to be bottomed on a *premise*. Sometimes the view is better described as clearly related to a *premise*. Other views will be best seen as merely consistent with a *premise*.

To say that a particular idea is a *premise* of an author's view concerning the origins of the Tefillah is not to suggest that the view is trumped up to meet the author's religious agenda or that the author's scholarship has not been rigorously and objectively undertaken. It is close to impossible for any scholar to function without *premises*, and this may be even more of a factor in religious studies than in other fields, ranging from art history to gender studies, in which scholars are passionately involved in their disciplines. To search for a particular author's *premises* is not to

criticize the author, but to pursue a more nuanced understanding of the author's contribution to the conversation.

Drawing conclusions about other people's theological *premises* based on their views of the origins of the *Tefillah* (especially in comparison with the views of the later author) is not a novel endeavor. Usually, though, the conclusions are drawn by someone on the "progressive" end of the spectrum about someone thought to be traditionalistic and conservative.

For example, Karl dismisses the idea that the Men of the Great Assembly originated the Tefillah as flowing from of a talmudic mind-set; "talmudic" is clearly meant as the equivalent of "backward" and "narrow," and as opposed to scholarly. With the same intention and with the same effect, Kohler terms the Great Assembly a "fictitious product of the rabbinical schools."[77]

Accordingly, from my place on the "liberal" end of the spectrum it seems clear that Lawrence Schiffman is a traditionalist in light of his employment of the *approach* of the attribution of purposiveness as he argues that immediately upon the destruction of the Temple the Tannaim set out to unify the Jewish people and conceived of mandatory daily prayer as one way to do so. And Karl and Kohler are not wrong in viewing the Great-Assembly theory as tied up with the *premise* that traditional Rabbinic Judaism, as understood by present-day Orthodox authorities, has always been the sole authentic mode of Jewish life.

Indeed Zahavy seems to restrict the word "theological" to the "right" side of the spectrum: "Scholars with theological intent posit . . .antiquity of

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[77]Kaufmann Kohler, "Origins and Composition," But Kohler believes in the Talmud's *hasidim harishonim* enough to credit them with the origination of the *Tefillah*.

certain prayers in the absence of, or contrary to, evidence."[78] But I am not using the word that way; I do not equate "theology" with "traditional" or "old-fashioned." I mean it to describe that category of thought which involves God, the Jewish people, and/or the relationship between them.

Kohler and Karl's own theological *premises* are revealed at least in part by their views of the *premises* of others; they take a stance as progressives who find "modern" scholarship very valuable in Jewish matters. Kohler's attribution of the origins of the *Tefillah* to the Essenes, together with his location of Essene prayers in the Apostolic Constitutions, identify him as a universalist interested in commonalties among world religions, especially between Judaism and Christianity. Marmorstein's reading of a document previously identified as a Christian prayer as the oldest known form of the *Tefillah*, coupled with his statement that this might have been the very *Tefillah* that Jesus prayed, displays similar *premises*. Bickerman's comparison of Jewish practice with Hellenistic practice, with citations of Aeschylus and Hesiod, mark him too as a universalist, perhaps of a more secularist stripe.

Ismar Elbogen, who has perhaps been the most persistent voice in the conversation, emerges as a standard type of early twentieth-century religious person, someone who would have been comfortable with William James as well as with Kaufmann Kohler. Underlying each of the *approaches* he employs and *conclusions* he reaches is one core *premise*: the religious experience does not ultimately take place in groups; it takes

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[78]Tsvee Zahavy, "Politics of Piety," 44. Martin A. Cohen has written that conflicting interpretations of the first century are due in part to the "prevalence of theological prejudice over dispassionate analysis in much of the Jewish and Christian historiography of the period." "First Christian Century," 228.

place in each and every individual, spontaneously, emotionally and with overwhelming reality, and it takes place in words addressed by the human being to God. "Public worship was originally instituted because of the believer's need to lift his heart up to his Creator, and every conscious innovation and change in the liturgy that occurred in later times flowed from the desire to intensify and deepen the service of the heart."[79]

He searched for the antiquity of organized prayer, employed the *approach* of historical necessity, and dated the *Tefillah* as early as he could because of his belief in the overwhelming existential importance of prayer to the individual human being. For Elbogen, the *Tefillah*, to the same extent as the dining hall or the village square, was simply the result of combining an essential aspect of the human condition with the fact that people live in society; people must pray to the same extent that they must eat and must earn a livelihood. Even his acknowledgment that community prayer was more meaningful to the Amoraim than to earlier generations can be explained in terms of the continued development over time from "natural" individual prayer to "inevitable" group prayer.

Elbogen's *conclusion* that animal sacrifice would have vanished even had the Temple not been destroyed is a direct consequence of his theological *premise*: "[T]he new [post-exile] spirit, which demanded personal piety and the participation of every individual . . . would have led to the elimination of the sacrifices."[80] Even the second-person form of the Rabbinic blessing formula "is a clear expression of strongly marked religious individualism."[81]

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[79]Ismar Elbogen, *Jewish Liturgy*, 286.
[80]Ismar Elbogen, *Jewish Liturgy*, 190.
[81]Ismar Elbogen, *Jewish Liturgy*, 193.

Elbogen's use of Ben Sira 50 illustrates Elbogen's *premise* even more clearly. The text is a description of a magnificent public gathering during the time of the High Priest Simon, of the family of Onias. The focus is on the High Priest, his gorgeous vestments, the perfect splendor of his attire, the magnificence of the other priests surrounding Simon like a circle of palms around a young cedar of Lebanon. Ben Sira emphasizes the trumpets of beaten silver, the blasts of which cause the assembled people to fall on their faces to worship. Then the choir sings while the people make petitions. Simon comes down to them a second time and blesses them, pronouncing the Name of God as it is written. The people fall on their faces a second time to receive God's blessing via Simon.

Elbogen's reading of this passage is entirely centered on the statement that the people made petitions: "This was the moment when the people worshipped in the full sense of the word, when each individual expressed in his private prayer the desires that at that moment moved his heart."[82] Worship "in the full sense of the word": not seeing the High Priest and his colleagues in their finery, not hearing the silver trumpets and the singing of the Levites, not being directly and personally blessed by the High Priest of Israel himself using the awesome Name of God -- but relating one on one with God through private prayers, presumably for matters like personal and family health and a good harvest.

Similarly, although the *ma'amadot* took place in a community when the local priests and Levites went to Jerusalem for their shift at Temple service and seems to have consisted of readings from Genesis, Elbogen downplays the importance both of the Temple and of the Torah in

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[82]Ismar Elbogen, *Jewish Liturgy*, 66.

connection with them. He is confident that the *ma'amadot* featured personal petitionary prayers in the country, and that the participants in the *ma'amadot* expected their neighbors who had gone to Jerusalem to pray for them.[83]

A second *premise* of Elbogen's, related to the first, is one of the *premises* of classical Reform; services that are too long lose their ability to touch the religious consciousness of the individual. His analysis starts with the individual, whose prayer is "displaced little by little."[84] But that displacement involves the addition of "husks that came to envelop the nucleus" to the prayers which the individuals would have said on their own [85] while the prayers themselves acquire "a rote character."[86] Implicit in Elbogen's thought is a larger, related *premise* of classical Reform, the idea that Judaism had become layered and obscured by "husks" of accreted irrelevancies; I would not have been surprised to hear Elbogen echo Kohler and Karl's condescending use of words like "talmudic" and "rabbinical."

Ellis Rivkin also *premises* his views concerning the Pharisaic origins of the *Tefillah* on the relationship between an individual and God, but he differs from Elbogen in emphasizing substantive content of the individual's beliefs rather the phenomenon of the person in direct petitionary dialogue with God. He explains the *Tefillah* as the result of a "triad of faith" that he attributes to the Pharisees and their followers: God's paternal love for the individual manifested in the giving of the two-fold Law; the immortality of the soul; and the resurrection of the body. "The individual

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[83]Ismar Elbogen, *Jewish Liturgy*, 191.
[84]Ismar Elbogen, *Jewish Liturgy*, 4.
[85]Ismar Elbogen, *Jewish Liturgy*, 187.
[86]Ismar Elbogen, *Jewish Liturgy*, 195.

reaching out for an unmediated relationship with God in his quest for eternal life and resurrection needed a non-cultic institution where, in the presence of other co-believers, he could . . . utter the Tefilla."[87] Rivkin's views seem *premised* on his personal faith in this "triad," demonstrating, along with Elbogen's, that personal piety need not be traditionalist in order to constitute a basis of a scholar's *premises*.[88]

Other participants in the conversation to which we have been listening do not *premise* their views on ideas about the individual in relation with God. Their *premises* are instead about the role of the Jewish people in its corporate, national or congregational capacity.

The easiest of our scholars to identify as operating from nationalist *premises* are Liebreich and Kimelman, who understand the entire *Tefillah*, in its final form, as an elegantly wrought unitary plea for national redemption.

The most important voice among the earlier writers in the nationalist camp, however, is Heinemann's. While he acknowledges the Rivkinian view of the importance of resurrection and oral law in the *Tefillah*, he finds that "the central motif in the world-view of the prayers is unquestionably the belief in the [national] Redemption, and the longing for its realization."[89] His emphasis is on ingathering, destruction of the

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[87]Ellis Rivkin, *A Hidden Revolution*, 62.
[88]Another *conclusion* concerning the Pharisees' role in establishing the *Tefillah* comes from Finkelstein, who in this instance *premises* his views on ideas about power and authority; he understands the origins of the *Tefillah*'s material about physical resurrection -- an important element in Rivkin's "triad of faith" -- to lie not in the needs of the individual faithful to express their hopes for immortality but to have been imposed from above by the Pharisaic leadership, in order to exclude nonbelievers from the locus of community activity.
[89]Joseph Heinemann, *Prayer in the Talmud*, 34.

kingdom of arrogance and idolatry, rebuilding of City and Temple, restoration of David, the submission of all humanity to Israel's God and the establishment of God's kingdom, which together add up to national redemption.

His nationalist *premise* is evident not only in his view of the *Tefillah*'s substance but also in his understanding of its provenance. He insists that the prayers are the creations of the common people, and not of the "Rabbis in their academies,"[90] "not originally created by the Sages, but [they] were rather spontaneous creations of the people themselves."[91] Even the prayers which had been said by the priests in the Temple were "outgrowths of the popular creations."[92]

For Heinemann's theology of the *Tefillah*, the Jewish people stands together as a body before God, with the role of its clerical leadership diminished. The People creates a prayer; the prayer is for the redemption of the People. *Kohen* and *Chakham* alike stand aside. That Heinemann wrote in Hebrew and lived in Israel reinforces this description of his *premises*.

Shaye Cohen's discussion of *minim* may shed light on his *premises*. Unlike many observers, he does not regard it as aimed at any particular group, including Christians.[93] Rather, the Yavneh community

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[90]His source for this, T. Shabb. 7:22, on what practices are the "ways of the Amorites," does not specifically mention prayer.
[91]Joseph Heinemann, *Prayer in the Talmud*, 156.
[92]Joseph Heinemann, *Prayer in the Talmud*, 133. It was because of these *premises* that Heinemann received the "collective axiom" charge from Sarason.
[93]See Asher Finkel, "Yavneh's Liturgy." Finkel himself shares Cohen's view that no particular group was intended to be reached by *minim*, at least not until after the Bar Kochba War.

had understood the harm done by sectarians of all stripes (including Pharisees, if they are rightly understood as a sect) to the Jewish people during the days of the Second Temple. *Minim* was designed to exclude "true believers" of various stripes, "all those who persisted in maintaining a separatist identity in a world without a temple and in a society that was prepared to tolerate disputes."[94] To Cohen, the Judaism of Yavneh was to be "one big tent" where no-one had the only possible answer; his *premises* seem to be those of a late-twentieth-century liberal Jewish believer concerned about the dangers implicit in Jewish divisiveness.[95]

Zahavy, on the other hand, has conflict and discontinuities built into his *premises*; the emphasis on variety in the Judaisms of late antiquity which he learned from his teacher has caused him to read texts with a super-vigilant eye for political rivalry and class and professional struggle. His *conclusions* -- the *Sh'ma* a polemic of a temporarily ascendant scribal profession, the *Tefillah* the instrumentality of a ruling upper class, Mishnaic connections of the *Sh'ma* with the priesthood explained away as a cover-up -- follow from his *premises.*

Lawrence Hoffman's *conclusion* that reconciles both parts of Megillah 17b is consistent with one of his fundamental *premises*; when the

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[94]Shaye J. D. Cohen, *From the Maccabees*, 228. The idea that *minim* was directed at a wide variety of sectarians may have been a traditional one, at least in some circles. A 26-year old Mordecai Kaplan objected in his diary to "uttering curses against sectaries whose very names have been forgotten." Jeffrey S. Gurock and Jacob J. Schacter, *A Modern Heretic and a Traditional Community: Mordecai M. Kaplan, Orthodoxy, and American Judaism*, 34. New York: Columbia University Press, 1997.

[95]Thus, his *premises* may be collective although his analysis of the *Tefillah*'s function emphasized an "individualist ethos." See Chapter 3 which discusses a *conclusion* shared by Stefan Reif and Cohen and tries to draw Reif's *premises* from that *conclusion.*

Tefillah was formulated is of little interest next to thinking about how people pray it and how people prayed it. "[T]he community that worships is of supreme significance. . . . Religion . . .dares to make the primary definition of what reality is for its members, and it does so, primarily, in its liturgical setting."[96]

More important, his *premises* would lead him to reconcile the elements of Megillah 17b *because Megillah 17b is sacred to the worshipping community*. "A chain of tradition provides a lasting basis for what we do. We are linked to. . . sacred history [which]. . .can be more properly described as a sacred myth."[97] Hoffman thus wrote about liturgy itself, not about the history of liturgy. But the thought is applicable to both.

The Babylonian Talmud is perhaps the most important set of links in the Jewish people's "chain of tradition"; its account of the *Tefillah*'s origin both in the Great Assembly and in Yavneh is such a "sacred myth." A *conclusion* that reconciles both talmudic views[98] helps a contemporary congregation in its work of "censoring in and censoring out," of including itself in the authentic definition of Jewishness while leaving it free to define itself as having whatever special characteristics it believes it has, whether in Crown Heights or in Cincinnati.[99]

Hoffman's *premise* leads to empowering the Jewish people to pray the *Tefillah*, today, in full identification with those who first prayed it, whether they did so at the Great Assembly or at Yavneh or in the academy at Pumbedita, and with all those who prayed it from then to now.

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[96]Lawrence A. Hoffman, *Beyond the Text*, 75.
[97]Lawrence A. Hoffman, *Beyond the Text*, 76.
[98]I am not using the word "talmudic" in the negative way Karl used it.
[99]See Lawrence A. Hoffman, *Beyond the Text*, 175.

3. But what are people saying now?

Fleischer: The First-Century Written Tefillah

Ezra Fleischer's articles on the origins of the *Tefillah* are not available in English.[1] They represent the most significant contribution to the field since Heinemann's, and my own views may be most clearly presented against the background of Fleischer's.[2] Accordingly, I will describe his theses more fully than those of the other participants in the conversation.

Fleischer contends that the scholarly consensus, set out in its "sharpest and most convincing" form in the work of his "deceased friend" Joseph Heinemann,[3] is flat-out wrong. His quarrel with his predecessors is not with the method of form criticism, about which he has nothing to say; his fundamental disagreement is about the likelihood, among human beings, of the phenomenon of *obligatory* prayer with *optional* words.

According to the consensus that he opposes, the Tannaim did not devise obligatory language for the *Tefillah*; instead, congregations and

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[1]Ezra Fleischer, "On the Beginnings of Obligatory Jewish Prayer." Privately translated by Ruth Ebenstein. *Tarbiz* (1990) LVIX, 397-441. Ezra Fleischer, "Rejoinder to Dr. Reif's Remarks." Privately translated by Ruth Ebenstein. *Tarbiz* LX (1991), 678-88. Ezra Fleischer, "The *Shemone Esre* – Its Character, Internal Order, Content and Goals," Privately translated by Ruth Ebenstein. *Tarbiz* LXII (1993), 179-223. In accordance with *Tarbiz'* policy, English-language summaries of these articles (and of Stefan Reif's comments on Fleischer's 1990 article) accompany the complete Hebrew-language texts.

[2]My *conclusion* that obligatory fixed prayer did not exist in most Jewish communities before the destruction of the Temple was, however, reached before I read Fleischer's articles.

[3]Ezra Fleischer, "On the Beginnings," 400.

prayer leaders had complete freedom as to the words uttered, long after the recitation of the *Tefillah* became mandatory. To Fleischer, the principal element of that consensus is that a *Tefillah* was somehow recited without mandatory language, an idea that Fleischer totally rejects.

Fleischer believes that for the utterance of a prayer to be mandatory, its words must also be mandatory. This belief is the basis for his alternative theory of when and how the words were put together.

He argues that "even the smartest man in the world" could not be *obligated* to recite a fixed number of blessings on fixed topics in a fixed order but still be left rudderless to formulate the words himself.[4] The words of the *Tefillah* must therefore have been fixed at the same time as the obligation to recite the *Tefillah* was created. Thus, the first part of Megillah 17b should be given great credence. Accordingly, he *concludes* that the *Tefillah* was composed, in written form, by a group headed by Shimon haPakuli working under the direction of Gamaliel II in Yavneh, approximately in the year 100 of this Era. "Even if this baraita had not been written, we would logically assume that this is what happened."[5]

Before stating these *conclusions*, however, Fleischer argues that earlier scholars have misunderstood the central characteristic of Jewish prayer, and therefore misunderstood the *Tefillah*'s function. Having misunderstood the *Tefillah*'s function, they have necessarily been unable to identify its origins.

The consensus, according to Fleischer, finds Jewish prayer ultimately to consist of unmediated entreaties to God by a Jew or by the

[4]Ezra Fleischer, "On the Beginnings," 427.
[5]*Ibid.*

Jewish people. Accordingly, spontaneous prayer would be as essential and authentic an act of Jewish worship as is recitation of the *Tefillah*. He locates this concept of the essence of prayer, applied to the *Tefillah*, in both Elbogen and Heinemann.[6]

Fleischer, however, finds the essence of the *Tefillah*, and of rabbinic prayer in general, to be the fact that it is obligatory on individuals and on the Jewish collective. The obligatory nature of the *Tefillah* allows it to function as a substitute for the *avodah* of the Temple. While Fleischer makes no attempt to discuss the "spirituality" that Temple *avodah* represented, his *assumptions* do not include the idea that the sacrificial

[6] Fleischer argues that if Elbogen and Heinemann were right in locating the essence of Jewish prayer in unmediated entreaties to God, it would follow that the *Tefillah* was recited before the destruction of the Temple, and that people then believed that it was the equivalent of *avodah*, ideas for which he can find no justification. "Apparently from the material it is false." Ezra Fleischer, "On the Beginnings," 401.

I do not understand the basis for his argument. What does unmediated supplication, whether or not the essence of prayer, have to do with an equivalency between prayer and *avodah*? What does such an equivalency have to do with when the *Tefillah* was originated? The *Tefillah* could have been put together in Yavneh, as he believes, and still be characterized as essentially unmediated entreaty.

Fleischer later argues that the essential characteristic of Jewish statutory prayer is, in fact, its mandatory character, and that only mandatory activity could ever be regarded as a replacement for or equivalent to *avodah*. He will then *conclude* that such replacement and equivalency is the *Tefillah*'s function. Perhaps he sees his own view as so obvious that it is part of the context in which he sees his opponents operating: the *Tefillah* starts, in everybody's analysis, not just his own, as something equivalent to *avodah*; only against that background is the question asked about its essential characteristic. If that characteristic is unmediated supplication, unmediated supplication somehow is the equivalent of *avodah*, and since people made direct entreaty of God before the destruction of the Temple they must have regarded it as equivalent to *avodah* "in the Temple. . . via sacrifices and . . . via the priests." Ezra Fleischer, "On the Beginnings," 401.

In any event, this confusing point is not critical to Fleischer's thesis.

system was of decreasing importance to first-century Jews; indeed, he *assumes* its importance and his *approaches* include the historical necessity of an institution by which its loss could be overcome.

It is the *Tefillah*'s obligatory character that makes it different from the prayers of other people of antiquity, and of the prayers of Jews before the *Tefillah* was instituted. Other people, and earlier Jews, prayed, but their prayers were not *avodah* because they were not obligatory; only a *required* prayer can be *avodah*.

Why would the *Tefillah* have to be mandatory to be *avodah*? Surely an optional or voluntary *Tefillah* would be "worship," or a "service," as in "church services." Fleischer does not explain. In Chapter 2, I suggested that Arnold Goldberg uses the word "liturgy" the way a Hebrew speaker in antiquity would have used the word "*avodah*," that is, as something like "divine service." But it is highly unlikely that a modern Israeli like Fleischer would use the word "*avodah*," with its connection to the root "*'vd*" -- slave -- that way,[7] and I cannot therefore advance an argument for his *ipse dixit* based on the language in which he thinks and writes.

Having thus made the claim that the essential element of the *Tefillah* is its obligatory character, Fleischer turns to what he understands to be the primary question concerning it: how did it become obligatory?

First, he asserts that there was no such thing as regular or obligatory prayer prior to the destruction of the Temple. Using the *approach* of the argument from silence, identified in Chapter 2 as part of the *approach* of the presumed applicability of sources, he reviews Ben

[7]Stanley T. Nash of Hebrew Union College -- Jewish Institute of Religion, email to author, February 16, 1998.

Sira, other Apocrypha, Philo, Josephus and the Greek Scriptures and finds no evidence of such prayer. "It is impossible that people's custom to say an obligatory prayer at a fixed time on a fixed day would not be mentioned at all -- not even hinted at in one of them."[8]

Then, *assuming* a synagogue setting for the development of the *Tefillah*, he reviews the sources, with special attention to the Greek Scriptures, and finds no evidence of regular prayer in the pre-Destruction synagogue and therefore no evidence of pre-Destruction regular prayer. He discovers that the synagogue was an institution devoted to reading scripture and other community activities, and emphasizes the meaning, in Hebrew, of *bet knesset*, and, in Greek, of *synagoge*, as "place of assembly." He deals at length with references to the use of a *proseuche*, usually translated as "prayer-house," by Jews, and finds that the word *proseuche* is almost always used in a Diaspora setting and among Greek-speakers; that formal Torah-reading might have been understood by Gentiles as a form of prayer; that the word might have been chosen to indicate a religious institution other than a temple; and that in any event no evidence exists of regular prayer in *proseuchei*.

Not only does Fleischer *conclude* that there was no obligatory prayer before the destruction of the Temple, he uses the *approach* of the attribution of purposiveness and *concludes* that its absence was a conscious decision of the "Sages," who he *assumes* to have been in charge of Jewish life, including the synagogue, in pre-Destruction times.[9]

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[8]Ezra Fleischer, "On the Beginnings," 405.

[9]Stefan Reif published a brief article in *Tarbiz* in response to Fleischer's 1990 article. Stefan Reif," On the Earliest Development of Jewish Prayer. Privately translated by Ruth Ebenstein. *Tarbiz* LX (1991), 677-81. In it he criticizes Fleischer for not saying who the "Sages" were. Fleischer replied

It is "impossible that fixed forms or degrees of prayer" existed before the destruction of the Temple, for if they did, the "Sages" would have brought them into the synagogue. "The fact that the pre-[destruction of the] Temple synagogue remained 'clean' of prayer demonstrates that the Sages did not want to change its [the synagogue's] standing at all."[10] This is not to say that religious leaders did not compose standardized prayers for their followers, people he describes as living in a state of high religious tension and having only a limited ability to formulate specific phrases; examples include the Lord's Prayer and the similar prayer devised by John the Baptist.[11]

Why, Fleischer asks, did the "Sages" decide not to institutionalize prayer and bring it into the synagogue? Again, his answer shows that he has a different *assumption* about the function of the cult than do other participants in the conversation about the origins of the *Tefillah*. The Sages, like the people, believed that the Temple was the only site for *avodah* and that sacrifice according to halakha[12] was the only form of *avodah*, in which Jews throughout the world participated through their payment of the half-shekel Temple tax. The Sages did not want to undermine the cult or the status of the ministering priesthood.

Fleischer reinforces his views by noticing that those Jewish

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by demurring and saying that they were the people who oversaw the synagogue, and uses the Greek word "*archsynagogei*" -- heads of synagogue -- as a synonym for "Sages." Ezra Fleischer, "Rejoinder to Dr. Reif."

[10]Ezra Fleischer, "On the Beginnings," 413.

[11]In "Earliest Development," Reif finds the two points summarized in this paragraph to be inconsistent.

[12]Again, note that Fleischer *assumes* the early prevalence of what came to be rabbinic Judaism.

communities who were cut off from the Temple -- Philo's Theraputae, Josephus' Essenes, and the Qumran community --were the ones that did indeed engage in statutory prayer, and by claiming that they did so because they needed an alternative to the cult.[13] On this point Fleischer seems to get a bit carried away; only Jews who believed that the Temple had become corrupted would not have regarded themselves as *forbidden* to engage in non-Temple *avodah*. He is not fazed by reports that Daniel, Judith, Josephus and Peter engaged in private prayer near the Temple and/or at the time of sacrifice; the Temple was thought of as a gateway to Heaven, and private petitionary voluntary prayer was thought to have a better chance of success there and at that time

Of the *approaches* mentioned in Chapter 2, the one most fruitful for Fleischer is recognition of anachronistic projections in the sources. He does more than recognize the possibility of such projections; he is inclined to seize upon it at every opportunity. He writes that the redactors of the Mishnah and the Talmuds operated at a time when the mandatory *Tefillah* was a "natural reality" and that the Tannaim and Amoraim wanted to "fortify the standing of obligatory prayer."[14] He reviews the rabbinic sources and treats most references to an early *Tefillah* as anachronistic retrojection. On two occasions he finds explicit or implicit references to prayer in the Babylonian Talmud which do not appear in cognate passages of the Palestinian Talmud or in every available manuscript of the Tosefta, and concludes that the work of redaction included adding references to prayer

[13]There is, however, nothing in Philo or in Josephus, respectively, which suggests that the Theraputae or the Essenes were cut off from the Temple.
[14] Fleischer, "On the Beginnings," at 419. Fleischer regards these rabbinic authors as using the *approach* of historical necessity.

and could not conceivably have involved omitting references to prayer As for rabbinic controversies over the *Tefillah*, he understands these to antedate its status as mandatory, to be easily dateable to the post-Destruction period and to constitute commentary on an existing reality

Until 70, therefore, there were, in Fleischer's mind, three "religious" institutions 1) the Temple, the site of *avodah* and the locus of the religious life of the individual Jew and the Jewish nation, at which there was no statutory prayer; 2) the synagogue, the site of Torah reading and study and community activities, at which there was no prayer at all; and 3) private prayer, which was spontaneous and personal and virtually without "religious" status among most Jews. Some people, sectarians and perhaps scribes, prepared prayers for others to use, and these prayers were available once the "Sages" decided to make prayer an obligation. The Sages were "probably assisted by ancient literary sources which resonated thematically with their needs."[15] This is the *approach* of "*Tefillah*-finding" in reverse; where Elbogen might have found an early version of the *Tefillah* in a BCE source, Fleischer finds an ingredient in the early sources that later authors of the *Tefillah* would eventually use in devising it.

After 70, there was a "void created by the abolition of sacrifice," and "the nation's existence depended on finding a new means" of worshipping God.[16]

Who found such means and saved the nation? Since Fleischer assumes that the Tannaim controlled the nation, he need look no further

[15]Ezra Fleischer, "On the Beginnings," 181.
[16]Ezra Fleischer, "On the Beginnings," 179.

than the Shimon haPakuli story and Gamaliel's statement in the Mishnah that the *Tefillah* is obligatory.[17]

But the strength of Fleischer's *assumption* takes his *conclusion* about the origins of the *Tefillah* far beyond what accepting the authenticity of the baraita and the mishnah would require. Gamaliel presided over a *beit din gadol*,[18] a great court; Shimon, himself not an "authorized Sage"[19] worked together with a group of Sages; and Gamaliel's statement in the Mishnah is understood as the issuance of a great *takkana* which circulated quickly among the people and took effect everywhere. "Perhaps no other *takkana* in the history of Israel was so decisive in its importance and, even more so, in its results."[20]

And, as previously mentioned, once Israel was bound to utter the *Tefillah*, the words of the *Tefillah* had to be simultaneously fixed. Years later *minim* was added; the Shmuel haKatan story, which is "known for its authenticity,"[21] with its subsequent anecdote of Shmuel himself forgetting the blessing he composed, proves that there was fixed language for *minim*, and therefore for the original eighteen blessings.

Fleischer is certain that the fixed *Tefillah* did not circulate in oral form; it was written down and immediately became a text.

But Shimon's text changed with use and with "improvement." It was too austere for the tastes of prayer leaders and others -- "amazingly

[17]M. Ber. 4.3: "Rabban Gamaliel says each and every day a man prays Eighteen."
[18]Ezra Fleischer, "On the Beginnings," 179.
[19]Ezra Fleischer, "On the Beginnings," 440.
[20]Ezra Fleischer, "On the Beginnings," 426.
[21]Ezra Fleischer, "On the Beginnings," 435. Fleischer provides no citation for this assertion, and is here following the *approach* of the presumed applicability of sources.

restrained rhetorically frugal" [22] – and as it became embellished, different variants emerged. Therefore, while there was indeed an Ur-text, the words the Shimon committee wrote, it cannot be recovered or reconstructed.[23]

What sort of people were Shimon and his colleagues? Based on the austere language of the *Tefillah* (the *approach* of literary analysis), Fleischer finds them to have been gradual messianists, cool quiet rationalists who were disinclined to mysticism and who had few wants. Because of the scant mention in the *Tefillah* of the priesthood, Fleischer believes them to have been opposed to the continued prominence of the priests.[24]

Fleischer's second article, in which the last-mentioned *conclusion* appears, sets out to examine the *Tefillah* itself "as a text composed at one stroke, with forethought"[25] and accordingly usually employs the *approach* of literary analysis. The article largely consists of blessing-by-blessing analyses consistent with his first article's *conclusions*.

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[22]Ezra Fleischer, "Shemone Esre," 182.

[23]In "Earliest Development" Stefan Reif does not grasp this point and asserts an inconsistency between a fixed form at the *Tefillah*'s origin and the absence of an available Ur-text today. Reif later correctly understood Fleischer's position to be that variant versions found in the Genizah are "the result of cantorial and poetic expansions in the post-talmudic period." Stefan Reif, *Judaism and Hebrew Prayer*, 5.

[24]Tsvee Zahavy finds the *Tefillah* to be the prayer of the priestly caste, among other upper-class segments of post-70 Jewish society. "The Politics of Piety, Social Conflict and the Emergence of Rabbinic Liturgy." In Paul F. Bradshaw and Lawrence A. Hoffman, eds., *The Making of Jewish and Christian Worship*, 42-68. Notre Dame: University of Notre Dame Press, 1991.

[25]Ezra Fleischer, "Shemone Esre," 181.

Fleischer claims that the form of the rabbinic blessing involves praise of God, not petitions to God. Thus, *rofeh hacholim* praises God as the healer but does not request healing, and so on. Indeed, he argues that there is no place in the *Tefillah* for private supplication and entreaty. This idea is advanced in support of his *conclusions* about the origins of the *Tefillah*. The use of the blessing (praise) form is for him evidence of a conscious attempt to devise words that would act as a substitute for *avodah*. The fact that all the blessings are short and more or less equal range is evidence for him of unitary composition.

Fleischer uses literary analysis to display a collectivist, or nationalist, *premise* similar to Liebreich's and Heinemann's. He argues that the first-person plural form, to be used even on those occasions when the *Tefillah* is to be recited alone, combined with the fact that all the subjects of the blessings are matters of general interest, demonstrate the authors' intention to establish the *Tefillah* as an organized, ceremonial community activity.

Fleischer's finds the structure of the blessings after the *Kedushah* -- "neatly ordered according to a profound, precise order"[26]-- to support such an intention. His analysis is remarkably similar to those of Liebreich and Heinemann, although he seems unaware of the similarities.[27]

He understands the first of the intermediate blessings to be praise of God for granting knowledge, which results in the community knowing why its pre-Destruction world collapsed.[28] Its world collapsed because of its

[26]Ezra Fleischer, "Rejoinder to Dr. Reif," 688

[27]He inexplicably describes Liebreich's article as a "flimsy" attempt on the "fringes" of research to interpret the *Tefillah* as a text, and ignores Heinemann's similar effort. Ezra Fleischer, "Shemone Esre," 181.

[28]Actually in this part of the article Fleischer contradicts himself and writes

sin, and therefore God is next praised for permitting repentance, which leads to praise for pardon, healing and sustenance. At this point, the *Tefillah* leaves the present, and praises God for events that will happen in the future.[29] The future events are the ingathering of the exiles, the appointment of judges, the removal of *minim*, the multiplication of *hasidim*, *tsaddikim*, sages and converts, the rebuilding of Jerusalem and the restoration of the messianic royal line of David.

In addition to his clear collectivist *premise* and what seems to be hostility to Elbogen's *premises* about the personal relationship between an individual and God,[30] Fleischer displays the *premises* of traditional piety, evidenced by his use of the *approach* of the attribution of purposiveness, his *assumption* of national leadership by the "Sages" both before and after the destruction of the Temple, his idea that the sacrificial system was governed by halakhah, his notion that statutory prayer was forbidden while the Temple stood and perhaps by his unexplained confidence that only obligatory words could replace obligatory *avodah*. The kind of traditional piety on which Fleischer's work seems to be *premised* is the one which he attributes to Shimon and his group, his Yavneh being not that far away from Vilna: gradually messianic, democratic, easily contented, rationalist.

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as if the blessings were indeed petitions; I have recast his analysis to conform it to his claim that they were not.

[29]This idea is indeed new; Liebreich and Heinemann made no such distinction and would have said that the entire *Tefillah* relates to the future, in the sense that it is petitionary in nature; it is understandable that Fleischer articulated these "praises" as if they were indeed petitions, since little distinction exists between praise for *X*, when *X* has not yet happened, and a request for *X*.

[30]Which he also to attributes to Heinemann.

Fleischer's rationalist bent and his emphasis on *written* words permit him to ignore the Great Assembly and similar ideas to which other scholars with traditionalist *premises* pay heed: for him, specific words are of great importance and vague ideas about early prayer formulations do not stand up to a baraita involving named people whose work can easily be understood as having been in writing; the *Tefillah* is mandatory, and a prayer cannot be mandatory unless its words are mandatory, for what else is a prayer but its words? The form of the words chosen -- statements praising God -- indicate an intention that the words replace *avodah*; it is self-evident that obligatory words can indeed replace *avodah*.

Reif: The Reduced-Importance Tefillah

Cautious and moderate in his language, Stefan Reif takes the stance of the Cambridge don he is.[31] He summarizes his own *conclusions* on prayer in the centuries surrounding the turn of the Era in his response to Fleischer's first article:

> (1) prior to the Destruction of the Temple the Jewish people had some frameworks by which people could approach their father in heaven [in prayer]; (2) the synagogue was indeed one of these frameworks. . . , whereas the ceremonial worship of God was concentrated in the Temple; (3) the formula of most of the prayers which Jews prayed during the Tannaitic and Amoraic period were. . .formulated by *Chazal*[32]; however, we

[31]Stefan Reif, "The Early History of Jewish Worship." In Paul F. Bradshaw and Lawrence A. Hoffman, eds., *The Making of Jewish and Christian Worship*, 109-36. Notre Dame: University of Notre Dame Press, 1991. Stefan Reif, "Earliest Development." Stefan Reif, *Judaism and Hebrew Prayer: New Perspectives on Jewish Liturgical History*. Cambridge: Cambridge University Press, 1993.

[32] "Our Sages of blessed memory," a formulation Reif does not use when he writes in English. The quoted material in the text is from his published response to Fleischer, who consistently uses the acronym in Hebrew.

do not know these formulations; (4) once the ancient institutions ceased to exist, in the first century CE, the leaders of the nation felt that it was necessary to reevaluate their spiritual preferences and adapt the order of worshipping God to a new reality.[33]

Reif claims to "agree with the crux of [Fleischer's] opinions and assertions,"[34] and this claim is more than an example of scholarly courtesy to an older colleague and his teacher.[35] If the crux of Fleischer's opinions and assertions is that no fixed service of prayer existed for "normative" Jews until after the destruction of the Temple, Reif clearly does agree: in the first century of this Era, he writes, "neither the founders of Christianity nor the precursors of the talmudic tradition had a definitive theory *or practice* with regard to worship outside the Jerusalem Temple."[36]

Moreover, although he is not definitive on the point, Reif, like Fleischer, seems to reject the common *assumption* that the Temple cult was insufficient to meet the "spiritual" needs of Second-Temple Jews, although he is not definitive on that point. His summary of liturgical research to date pays attention to Goldberg, and he stresses the antiquity going back to biblical times and the ubiquity, in surrounding cultures, of animal sacrifice by a priesthood in order to "ensure a happy frame of mind" in the deity.[37] (Reif's views of the "spirituality" of cultic activities in pre-Destruction Israel itself are more nuanced; he recognizes that a sacrificial system allows people to relate to the deity by way of appeasement,

[33]Stefan Reif, "Earliest Development," 677
[34]*Ibid.*
[35]Such as Heinemann's statement that form criticism was only a "supplement" to the "historical-philological" approach and Fleischer's statement of indebtedness to Heinemann.
[36]Stefan Reif, "Early History, 111 (emphasis added.)
[37]Stefan Reif, *Judaism and Hebrew Prayer*, 25.

apology or gratitude, but he thinks that monotheism curbs the "excesses" of a cult.[38])

Nevertheless, he is a practitioner of the *approach* of *Tefillah*-finding, the *approach* Fleischer would most clearly reject.

Reif's program of *Tefillah*-finding does not stop with the late- or post-biblical periods, his scholarly agenda, for himself or his followers, specifically includes taking the early biblical period into account in both Israel and nearby countries. Accordingly, Reif finds "the antecedents of personal prayer" (which, like Fleischer, he clearly distinguishes from communal prayer) in biblical times. He thinks that during the Second-Temple period, the "personal prayer of earlier centuries expanded in content, form and function, . . .[with] more formulaic language and vocabulary, [including] . . elements of the phraseology that later became part of rabbinic prayer -- themes of confession, lessons of history, need for forgiveness and improvement. . .[with] increased theological content."[39] Obviously, therefore, and like other *Tefillah*-finders, Reif finds precursors of the *Tefillah* in the Apocrypha and Pseudepigrapha.[40]

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[38]And reduces the role of singing, dancing and recitation, as a result of which early biblical prayer is not formulaic. Stefan Reif, *Judaism and Hebrew Prayer*, 50.

[39]Stefan Reif, *Judaism and Hebrew Prayer*, 41.

[40]Including 1 Maccabees 4: 30-40, where Judah Maccabee spots the enemy army and spontaneously prays to the "Savior of Israel," who helped David beat Goliath and delivered the Philistines to Jonathan, to likewise help his army, who will then offer praise, and where the Hasmonean army finds the Temple laid waste and spontaneously sounds the Shofar and cries aloud to Heaven; Judith 8:31, where Judith is asked to pray for rain (which she refuses to do); Baruch 1:11, in which the exiled *High Priest* is asked by the exiled Judahite *king and nobles* to pray for the Babylonian rulers and for themselves; in Noah's prayer that malignant spirits not harm his sons in Jubilees 10:5-6; Judah's remark in Testament of Judah 19:2 that he would have died childless had it not been for his repentance and

Thus, while the Temple cult may still have been sufficient for the spiritual life of Israel, prayer was increasing in importance. He relates these developments to similar events in other cultures.

Another similarity between Reif and Fleischer is the *approach* of the attribution of purposiveness and the related *assumption* that the Tannaim were the "leaders of the nation" after the destruction of the Temple, who "adapted the order of worship" to a "new reality."[41] But Reif modifies that *assumption* as he points out that competing groups "had been seeking to dominate the liturgical scheme."[42]

In addition, like Fleischer, Reif *assumes* that the *Tefillah* grew up in the synagogue, but he differs vigorously on how and when. Fleischer thinks that the Sages, as *archsynagogei*, deliberately withheld prayer from the pre-Destruction synagogue so as not to downgrade the cult and the priesthood. Reif, however, thinks the same Sages borrowed a proto-*Tefillah* from the practices of people in pre-Destruction synagogues or other places of assembly. He believes it self-evident that individuals may have gathered together for the purpose of reciting their personal prayers, that the

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Jacob's prayers; and in Tobit's remark to his son to "remember the Lord every day of your life."

Chessnut and Norman's study of prayer in the Apocrypha and Psuedepigrapha reach the opposite conclusion, finding that the prayers in 2 Chronicles 33:12-13 and in sources like Reif's were representations of acts of "private devotion" which were likely never actually prayed, even privately, and do not provide explicit information on the origins of fixed daily prayer. Randall D. Chessnut and Judith Newman, "Prayers in the Apocrypha and Psuedepigrapha." In Mark Kiley and others, eds., *Prayer from Alexander to Constantine: A Critical Anthology*, 38-42. London and New York: Routledge, 1997.

[41]Stefan Reif, "Earliest Development," 677.
[42]Stefan Reif, "Early History," 111.

synagogue is as likely a place as any other for such gatherings, and that "these kinds of popular groups were apparently the birthplace of *Chazal*'s customs at a later time, when they drafted the words anew."[43]

Consistently with his *Tefillah*-finding, Reif does not share Fleischer's *approach* of eagerly seeking evidences of anachronistic retrojection in the sources; on the contrary, he vigorously argues for reading talmudic traditions in a synchronic fashion, on the ground that "it is difficult to securely define what preceded what and what succeeded what in [talmudic] sources . . . [and] to . . . define the fruit of the labor of the Tannaim and the Amoraim and what was adapted by those who succeeded them."[44]

Reif's *conclusions* differ from Fleischer's once they go beyond the idea that no fixed service of prayer existed for "normative" Jews until after the destruction of the Temple. Reif *concludes* that the *Tefillah* was not as central as Fleischer and others think --"it should not be forgotten that there was no unanimous conviction that public prayer, other than that which might have existed in the Temple, deserved a central place in the religious commitments of the ordinary Jew."[45]

Indeed, Reif thinks that the *Tefillah* was not even the most central element of post-70 *liturgical* activity.[46] The synagogue, as the site of fixed, communal, obligatory prayer, shared *liturgical* importance with the home,

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[43]Stefan Reif, "Earliest Development," 678.
[44]Stefan Reif, "Earliest Development," 679.
[45]Stefan Reif, *Judaism and Hebrew Prayer*, 83.
[46]I understand Reif to be using the word "liturgy" as synonymous with "worship," or as means by which Jews "expressed the closeness they felt to God and his revealed word." See Stefan Reif, *Judaism and Hebrew Prayer*, 75.

the academy, and perhaps the Temple site [47] The recitation of the *Tefillah*, along with the *Sh'ma*, was only one of the obligations incumbent upon the post-Destruction Jew, and not the most important one.

Torah-study, prayer and good deeds each had arguments made in its favor as the principal method of "the religious way forward," as the new primary mode of access to God, and "ultimately, Torah-study appears to have been the victor . . . particularly since the reason for its pre-eminence was given as its ability to win people over to practice."[48]

What may we deduce about Reif's *premises*? We have classified other scholars who employ the *approach* of the attribution of purposiveness and who *assume* Tannaitic leadership immediately after the destruction of the Temple as among those whose views may be *premised* on traditional piety, and nothing else in Reif excludes that possibility. His view that the *Tefillah* of *Chazal* was based on proto-*Tefillot* said by common people in synagogues and other places of assembly suggests, as did Heinemann's similar view, a nationalist *premise*.

What of Reif's *conclusion* that prayer was less important than study? Reif's work seems predicated on a bookishness which I associated above with the great British universities. Perhaps the combination of traditional piety and the don's life together constitute Reif's master *premise*,

[47]Stefan Reif, "Early History," 112.
[48]Stefan Reif, *Judaism and Hebrew Prayer*, 67. Reif's view was anticipated by Shaye J. D. Cohen. "The Mishnah has very little to say about prayer, and almost nothing to say about synagogues, because initially the Rabbis believed that Torah study was more important than prayer. Only later, when they began to extend their power into the synagogue, did they see prayer as an equally important means of communing with God." *From the Maccabeesto the Mishnah*, 219. Philadelphia: Westminster, 1987. See *From the Maccabees*, 223. It is noteworthy that Cohen does not *assume* a synagogue setting for the origins of the Tefillah.

4: Setting the Stage

As indicated In Chapter 1, I have *concluded* that the idea of accessing God through obligatory fixed communal prayer at fixed times originated among a group of Jews in Palestine some time in the late-first or early- to mid-second centuries of this Era. In other words, I am in the Gamaliel/Yavneh camp

In the next Chapter I will consider in some detail the texts which support, and those which do not support, my *conclusion*. Finally, in Chapter 6, I will emulate Fleischer and others and try to reconstruct the circumstances under which the *Tefillah* began in Yavneh.

This Chapter will provide the background against which my reconstruction will be drawn. Gamaliel and his circle did not come out of nowhere, but had roots in the world of pre-70 Judaea.[1] Yavneh was a specific place, and how Gamaliel, Shimon and their colleagues got there sheds light on who they were.

Government

The primary goal of the Jews' revolt against Rome in 66 CE was the restoration of Judaea's status as an independent Temple-state.[2]

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[1]It has become customary to use an anglicized form of the name of the Roman province for the entire period of late antiquity.

[2]See E. Mary Smallwood, *The Jews Under Roman Rule: From Pompey to Diocletian*, 293. Leiden: Brill, 1976. Before the Hasmonean revolution, "contemporary Greek sources affirm that Jews were a nation dedicated to religion and ruled by priests. The essence of their nation lay in the Temple in Jerusalem." Martin Goodman, *The Ruling Class of Judaea: The Origins of the Jewish Revolt Against Rome A.D. 66-70*, 30. Cambridge: Cambridge University Press, 1987. Under the Hasmoneans, "the normal patterns of

Pompey had conquered Judaea in the mid-first century BCE Roman rule, direct or through the dynasty begun by Herod the Great,[3] ended an era of independence under the Hasmoneans. While the later Hasmoneans were called kings as well, especially in relation to the rest of the world, they ruled as High Priests, as had their semi-autonomous predecessors under the Persians, the Ptolemies and the Seleucids. One man played the combined roles of leader of the sacrificial cult of the Temple, head of the state and head of the government. After the Roman conquest, the High Priest was appointed by the Romans or by Herod and his successor client-kings,[4] and his role was limited to leading the cult.

Herod distanced himself and his state from people connected to the pre-Roman regime by bringing Diaspora Jews, particularly from Babylonia, to Jerusalem and making them important figures in his court and his government, where they became rich.[5] In addition, he ignored family

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Jewish authority had been reasserted. The leaders of the nation were again High Priests." Martin Goodman, *Ruling Class*, 31.

[3]Herod's father, Antipater, had been the power behind the throne of the Hasmonean king Hyrcanus. After Pompey's death Julius Caesar appointed Antipater procurator of Judaea and Hyrcanus High Priest and ethnarch (but not king.) Antipater and Herod were Idumaeans, that is, Edomites, a people converted to Judaism, perhaps forcibly, during the reign of one of the earlier Hasmoneans but apparently not yet fully accepted as "Jews" by Judaeans.

[4]In one interesting instance, which brings the relationship of the High Priesthood and Rome into full relief, Rome ruled Judaea directly but delegated the appointment of the High Priest to Agrippa II, the Roman-raised son of the last of the client kings, Agrippa I, and a descendant both of Herod and of the Hasmoneans. In addition to having authority over the Jerusalem Temple, he was the king of another Roman satellite in the region.

[5]"This process of the rise of Babylonian families to the upper stratum of Jerusalem society is reflected also in the history of the house of Hillel, "whose rise was no doubt assisted considerably by the general trend to give prominence" to outsiders. Menahem Stern, "The Period of the Second

claims, whether Hasmonean or older, to the High Priesthood, and appointed "nonentities or worse" whom he had "plucked from obscurity," including from outside Judaea, to the High Priesthood.[6]

Demographics

Like all ancient agrarian empires, Rome (including Judaea) had a two-class system, consisting of the rich and the poor.[7] As elsewhere, the city, in this case Jerusalem, dominated the state, and the rural areas functioned largely to feed the city. Jerusalem was, in turn, dominated by the Temple and the civil power, whether king or procurator. In earlier times, the Temple had been dominated by the High Priest but Herod's appointments policy had diminished the High Priest's separate power, although the circle around the High Priest seems to have taken a leadership role in the revolt of 66 CE.

At the pinnacle of Judaen society was the king, if one was in office, and the governing class of the very rich.[8] These *aristocrats* were based in Jerusalem, although their wealth was probably derived from ownership of land outside the city.

Temple." In Haim Hillel Ben-Sasson, ed., *History of the Jewish People*, 185, 243. Cambridge, Mass.: Harvard University Press, 1976. Hillel, usually identified as a Pharisee, is generally thought to have been our Gamaliel's great-great-grandfather.

[6]Martin Goodman, *Ruling Class*, 40.

[7]Probably most of the people were either poor or very poor. See Shaye J. D. Cohen, *From the Maccabees to the Mishnah*, 123. Philadelphia: Westminster, 1987. The history of the very poor in late antiquity, as of the very poor in most eras, cannot be written, and it is likely that the history of the poor cannot be written either. Unfortunately, this Chapter must largely be about the rich and the very rich; the rich were probably not really very rich, while the very rich were *very* rich indeed.

[8]This was consistent with Roman policy throughout the Empire. "Rome ruled the provinces through the support of rich provincials." Martin Goodman, *Ruling Class*, 36.

Martin Goodman has argued persuasively that by the middle of the first century CE the majority of the *aristocrats* were members of the families of the outsiders brought to Jerusalem as part of Herod's policy of preferring people without a Hasmonean past. The chief priests (especially if their claim to the priesthood was old and supported by wealth) and members of other older wealthy families not displaced by Herod's "new class" may also have remained among the *aristocrats*, although Goodman claims that by this time "no natural Judaean elite" existed.[9]

At the next level might have been the rural squirearchy, moderately wealthy people who lived outside Jerusalem, where family background and history would have meant more than they did in the city. Their wealth was also in land and its produce, and presumably had remained in the same family for generations. Perhaps some of them had been among those with Hasmonean connections who were forced into the countryside as their places in Jerusalem were taken by newcomers, like Whig ministers retiring to their country seats upon the formation of a Tory government, but permanently.

"Squirearchy" (like "Whig" and "Tory") is obviously a word borrowed from eighteenth-century England; "rural gentry," an alternative descriptive phrase for the class being discussed, smacks of the Confederacy. What would Hebrew-speakers in late antiquity have called the leading people of the land? I suggest that they may have been called just that: *"ammei ha'aretz"* -- "the people of the land," and that is what I will call them.[10]

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[9]Martin Goodman, *Ruling Class*, 38.

[10]The phrase was used in the way I am using it in earlier times, although it was also used to mean all the people of the land, rich and poor alike. See

The *ammei ha' aretz* had wealth and land; they were respected by the rest of the populace,[11] many of them were high-caste;[12] some were

2 Chronicles 33 25, where first King Amon's courtiers kill King Amon, and then the *am ha'aretz* kill the courtiers and make Josiah king. In 2 Chronicles 23.20 the captains, the nobles, the governors and the *am ha'aretz* escort the king from the Temple to the royal palace, suggesting some element of the national leadership, while in the very next verse the *am ha'aretz*, apparently referring to all the people of Judah, rejoice.

[11]Shaye J. D. Cohen claims that the title "rabbi," presumably with the meaning of "my superior," not necessarily "my teacher," was used for centuries for men outside the rabbinic class, although he further claims that men called "rabbi," of either type, did not lead the synagogue. "Epigraphical Rabbis." *Jewish Quarterly Review* 72 (1981), 1,16. I will argue below that the *ammei ha'aretz* indeed led the synagogue. "Many Jews were led by men who might not have found favor in the eyes of those who were establishing what was to become, but still was not 'normative' Judaism." Shaye J. D. Cohen, "Epigraphical Rabbis," 17. Such men were among the *ammei ha'aretz* of this study.

Cohen also believes that country people envied and/or hated city people. Shaye J. D. Cohen, *From the Maccabees*, 123.

[12] M. Ta'an. 4:1 recounts the practice of priests and Levites from localities outside Jerusalem participating in turn in the twenty-four shifts of Temple service. The men so honored must have enjoyed high status in their home communities, and it is hard to imagine such status being separated from leadership and from wealth.

A principal source used by scholars of the first-century synagogue is an inscription on behalf of one Theodotus, who describes himself both as priest and as *archsynagogus* -- head of the synagogue -- and also as the son and grandson of men of the same ranks. I would advance Theodotus as the avatar of a leading man of the *ammei ha'aretz* but for the fact that his inscription was found in Jerusalem near the Temple Mount.

Morton Smith suggests that the Nehemiah passage described in Chapter 2, p. II-13, (in which Levites play a leading institutional role) indicates a continuing leading role for Levites in the various communities of Judaea; Smith reads the account as having been edited to turn the gathering into a synagogue service of the times of the editing. *Palestinian Parties and Politics That Shaped the Old Testament*, 167. New York: Columbia University Press, 1971.

The importance of priests and Levites in pre-War Judaea may be reflected by the post-War practice of calling them first to read the Torah in the synagogue, an institution which I will argue below was developed by *ammei ha'aretz* and the principal function of which was Torah reading.

learned.[13] After the War they might well have seemed the most likely leaders of the entire Jewish people and may have been the "natural Judaean elite" which Goodman says did not exist; they probably survived the War with greater financial and psychological wherewithal than did Jerusalemites (of either old or new money) closer to the conflict.[14] Among their rivals for providing leadership for post-War Jewish Palestine were the members of the emerging rabbinic class, which in the beginning comprised, or at least included, the Gamaliel circle in Yavneh. History is written by winners, and the opposition of the Rabbis or their predecessors to those members of the "rural gentry" who did not themselves become part of or subject to the rabbinic class resulted in *"am ha'aretz"* losing its original, literal meaning and becoming synonymous with religious carelessness and churlish ignorance.[15]

The *ammei ha'aretz* were not merely the top of country society; according to Gedaliah Alon, they also provided the villages with their legislatures (in the form of town councils) and their courts.

But after the destruction of the Temple and the eventual assumption of national leadership by the rabbinic class, these councils and

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[13]The Gospels frequently describe Jesus' encounters with scribes (and Pharisees, which may be a subsequent interpolation) in the villages. See Martin Goodman, *Ruling Class*, 73. Following Richard Saldarini in using the concept of a "retainer," such scribes should be counted as members of the governing class. *Pharisees, Scribes and Sadducees in Palestinian Society: A Sociological Approach*. Wilmington: Michael Glazier, 1988. Just as Jerusalem scribes would therefore be *aristocrats*, village scribes would be *ammei ha'aretz*.

[14]See Martin Goodman, *Ruling Class*, 251.

[15]See Shabb. 32a; Martin A. Cohen, *Two Sister Faiths: Introduction to a Typological Approach to Early Rabbinic Judaism and Early Christianity*. Worcester: Assumption College, 1985.

courts were replaced by rabbinic institutions. The only institution of the *ammei ha'aretz* that survived their disappearance as a separate major force in Jewish society was the synagogue.

The *assumption* that the synagogue is a rabbinic institution is unwarranted; evidence for the synagogue in Palestine, while itself first-century,[16] predates the rise of the Rabbis. It is unlikely that the Jerusalem priesthood or other aristocrats were the groups behind the synagogue.[17] Nor could the large peasantry or the small class of poor urban artisans -- the broad base of the Judaean societal pyramid -- have founded an institution like the synagogue.[18]

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[16]Possible earlier references to synagogues exist. For example, Psalms 74:8, believed to be of Hasmonean provenance, refers to *m'adei -El* -- getting-togethers of El -- usually translated as "meeting places" or "holy places," and therefore conceivably, although probably not, synagogues. The Septuagint renders the phrase as *eortas kyriou* -- feasts, or festivals, of the Lord -- and is a witness for this being a reference to events, not places.

[17]Martin Hengel writes that "the priestly nobility has no interest in creating competition for the Temple." "The Pre-Christian Paul." In Judith Lieu, John North and Tessa Rajak, eds., *The Jews among Pagans and Christians in the Roman Empire*, 29, 42. London and New York: Routledge, 1994. Less naively, Joseph Heinemann finds it "probable" that "prayer and the reading of Scripture," which he understands as fundamental to synagogue life, did not develop under Temple auspices. *Prayer in the Talmud: Forms and Patterns*, 132. Berlin and New York: de Gruyter, 1977.

Many scholars have thought of the synagogue as a place principally for prayer, and have also considered the Pharisees as the religious leaders of the people during the Second-Temple period. They have therefore attributed the founding of the synagogue to the Pharisees or an even earlier group of "Sages." Martin Hengel is an example; he describes the synagogue as "a result of Pharisaic initiative." "The Pre-Christian Paul," 42. *Contra*, Shaye J. D. Cohen, *From the Maccabees*, 114.

[18]Richard Sarason characterizes Joseph Heinemann as thinking of the synagogue as a "popular folk institution." "On the Use of Method in the Modern Study of Jewish Liturgy." In William Scott Green, ed., *Approaches to Ancient Judaism: Theory and Practice* 1, 97, 146. Missoula, Mont.: Scholars Press, 1978. To so think of the synagogue would risk missing the

They went to the synagogue principally to worship. They worshipped in the synagogue, not mainly by prayer or by sacrifice, but by hearing the Torah read, and perhaps by studying and discussing it. "First and foremost, [it was] a place for religious worship [and] the reading of the Torah and its accompanying rituals constituted the main, and at least in [the Land of] Israel, exclusive function of synagogue worship."[23]

and Sabbath observance. In the Diaspora, "synagogue" had the additional meaning of "community" and was comparable to other Greek words meaning political bodies or separate settlements within a city. See Tessa Rajak, "The Jewish Community and its Boundaries," In Judith Lieu, John North and Tessa Rajak, *The Jews Among Pagans*, 9, 10.

[23]Lee I. Levine, "The Second Temple Synagogue: The Formative Years." In Lee I. Levine, ed., *The Synagogue in Late Antiquity*, 7, 15. Philadelphia: American Schools of Oriental Research, 1987. See also Lee I. Levine, "Ancient Synagogues -- A Historical Introduction." In Lee I. Levine, ed., *Ancient Synagogues Revealed*, 1, 3. Jerusalem: Israel Exploration Society, 1981. In addition, the synagogue performed a variety of social and communal functions, including that of a hostel. Levine's reading, and that of the other scholars whose views are collected in this note, is based in large part on the Theodotus inscription, mentioned above, which states that the synagogue he has built is for the reading of the Law and the teaching of the commandments and for providing for the needs of travelers from abroad. These views are also supported by the visits made by Jesus and by Paul to synagogues as recounted in the Greek Scriptures. See Luke 4:16-22, Acts 13:14, 15:21, 17:1, 2, 18:4, Other scholars who believe that Torah reading, and perhaps reading from the Prophets, was the principal activity of the Second-Temple period synagogue include Martin Goodman, Martin Hengel, Arnaldo Momigliano, Stefan Reif and Shmuel Safrai. "The primary and seminal element in the synagogue was not prayer but Scripture reading." Shmuel Safrai, "The Synagogue." Translated by Shimon Applebaum and others. In Shmuel Safrai and Menahem Stern, eds., *The Jewish People in the First Century : Historical Geography, Political History, Social, Cultural and Religious Life and Institutions* 2, 908, 912. Assen and Amsterdam: Van Gorcum, 1976. According to Momigliano, Jewish practice involved "a minimum of weekly reading and interpretation of the Bible [which was] . . . a new departure in the religious life of the classical world. . . .While in Athens and Rome thinking about religion usually made people less religious, among Jews the more you thought about religion the more religious you became." *On Pagans, Jews and*

The Religious Life of the Pre-Destruction Jews

Although worship of God through hearing and perhaps discussing Torah was the main function of synagogue attendance for Second-Temple Jews, synagogue attendance was hardly the main mode of their worship of God

The religious life of the Jews and the other people of the Roman Empire may perhaps be better understood by analogy to the religious life of contemporary Americans in which emphasis is placed on what everyone does, and differences among "denominations" are downplayed as mere matters of detail. Today one hears that it doesn't matter what church, synagogue, mosque or other house of worship one goes to so long as one

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Christians, 90. Middletown, Conn.: Wesleyan University Press, 1987. Reif writes of a "gradual incorporation into various liturgical contexts of a preoccupation with scriptural reading and study." *Judaism and Hebrew Prayer: New Perspectives on Jewish Liturgical History*, 64. Cambridge: Cambridge University Press, 1993. Shaye J. D. Cohen's emphasis on the variety among synagogues does not permit him to go this far: "even by the end of late antiquity the synagogue did not attain a single definition. . in reality . . .many kinds of synagogues [existed], during both the second temple and rabbinic periods, with varying functions, architecture, religious rituals and social settings." *From the Maccabees*, 114. Elsewhere, dealing with the period up to the fourth century, he writes that all ancient synagogues' practices were based on communal study or prayer. "Pagan and Christian Evidence on the Ancient Synagogue." In Lee I. Levine, ed., *The Synagogue in Late Antiquity*, 159, 175.

Reading the Torah in the synagogue may have taught "civics" as well as "religion," since the Torah was the constitution of the state. Teaching may well have had elements of the seminar as well as of the lecture, at least in those synagogues which featured the stepped benches of the Hellenistic assembly hall and allowed the seated public both to hear a speaker and to participate in discussions. Z. Ma'oz, "The Synagogue of Gamla and the Typology of Second-Temple Synagogues." In Lee I. Levine, ed., *Ancient Synagogues*, 35, 41.

goes, and that it doesn't matter what one believes in as long as one believes in something. That is because "churchgoing" and belief are universally accepted as the constituents of the religious life. Accordingly, Jews cover their heads in synagogue while Christians bare theirs in church and some Christians believe that sprinkling accomplishes the sacrament of baptism while others believe in full immersion, these are differences generally regarded as no more important than that an Episcopalian clergyman may be called "Mister" while a Lutheran clergyman should be called "Pastor."

Analogously the inhabitants of the Greek-speaking Eastern regions of the Roman Empire "shared a common, generally accepted religious adherence,"[24] the constituents of which[25] -- the equivalent of our churchgoing and belief -- were the worship of a god "through sacrifices, that is, the slaughter, roasting and eating of animals" with attendant pomp, ceremony and celebration in grand temples, and through ancillary temple offerings of grain, fruit, bread and incense.[26]

[24]Judith Lieu, John North and Tessa Rajak, "Introduction." In Judith Lieu, John North and Tessa Rajak, *The Jews Among Pagans*, 2. These authors' scholarly project includes demonstrating the extent to which the Jews were *not* part of this consensus in order to demonstrate their role in creating the subsequent "marketplace" of religious ideas which earlier scholars had attributed solely to the Christians.

[25]"If the focus of study is Roman religion in general, then it is late antiquity's dominant definition of religion that everyone emulates -- Jews too sacrificed animals in their Temple, with all the drama and flourish that all cosmopolitans expected of religion then." Lawrence A. Hoffman, *Beyond the Text: A Holistic Approach to Liturgy*, 175. Bloomington and Indianapolis: Indiana University Press, 1987.

[26]Shaye J. D. Cohen, *From the Maccabees*. The quotation is specifically about Second-Temple Judaism.

See also Lester L. Grabbe, "Orthodoxy in First Century Judaism: What Are the Issues?" *Journal for the Study of Judaism* 8 (1977), 149, 151-52.

Other religious practices by groups who engaged in sacrificial cults, such as dietary restrictions among the Jews, participation in "mysteries" among the Bacchists, and sexual asceticism among the Mithraists, while of tremendous importance to the particular group involved, nonetheless may be thought of as matters of detail in the religious life of a universalistic although diverse world.

Participation in the Temple and its sacrificial cult was the means by which Jews related to the God of Israel -- "the supreme expression of the bond between the people and its God"[27] -- just as, with important exceptions,[28] other temples and other cults were the means by which other

Entering a debate between two other scholars on what may have constituted "orthodox Judaism" in the first century, Grabbe compares first-century Jews to twentieth-century Christians who go to church only on the odd Christmas or Easter, but finds that virtually everyone adhered to the sacrificial cult. Devotion to the cult is the only "orthodoxy" he finds.

The talmudic tradition was aware of the relationship between pagan cults and the sacrificial cult in the Jerusalem Temple. See Git. 56a-56b, where it is noted that the Romans and the Jews had different ideas about what constitutes a blemish in a calf to be offered.

[27]Gedaliah Alon, *The Jews in Their Land in the Talmudic Age (70-640 C.E.)*, 265. Translated and edited by Gershon Levi. Jerusalem: Magnes Press, 1980.

[28]Other temples were frequently not exclusive to only one god or to one people. Arnaldo Momigliano, *On Pagans, Jews and Christians*, 89. See Robin Lane Fox, *Pagans and Christians*, 34, 66. New York: Alfred A. Knopf, 1987. Prior to the rise of Christianity Jews were the only monotheists in the Empire. As such, they did not participate in "pagan" sacrifices. (In the Diaspora they received exemptions from the civic requirement of making offerings in the local temple.) They were accordingly charged with misanthropy and atheism. See Lawrence A. Schiffman, *From Text to Tradition: A History of the Second Temple and Rabbinic Judaism*, Hoboken: Ktav, 1991; Ramsay MacMullen, *Paganism in the Roman Empire*, New Haven: Yale University Press, 1981. According to the Emperor Julian (the "Apostate") "the Jews agree with the [pagan] Gentiles, except that they believe in only one God. That is indeed peculiar to them and strange to us." *Against the Galileans* 306B, quoted in Fergus Millar, "The Jews of the Graeco-Roman Diaspora Between Paganism and

peoples of the Empire related to other gods [29] The cult was fundamental to their worldview and to the tone, character and quality of their lives, so much so that both Jewish and Christian observers, twenty or more years after 70, wrote about Temple sacrifices as an essential element of Jewish life [30]

As discussed in Chapter 2, the chances are small of recovering what sacrificial worship meant, spiritually or otherwise, to those who participated in it. It is difficult enough to describe the phenomenology of religious practices we ourselves find meaningful, and immeasurably more likely that we will get it wrong when we try to understand practices we may find repellent. But we have some evidence of what sacrificial temple worship meant to the people who practiced it elsewhere in the Empire, which we can be look at without the potentially distorting lens of Judaism as it has developed since the destruction of the Temple. We also have the work of several outstanding "classics" scholars who have devoted themselves to studying that evidence. I *assume* that Jews then were like their neighbors just as I am like mine and therefore that I might begin to

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Christianity, AD 312-438." In Judith Lieu, John North and Tessa Rajak, eds., *The Jews Among Pagans*, 97, 106.

[29]Arnaldo Momigliano expresses a view probably shared by many other contemporary Jews when he writes that modern religious values *must* have "made a stronger appeal in Jerusalem than in Rome or Athens. . .-- if only we could find the evidence!" *On Pagans, Jews and Christians*, 75.

I do not mean to associate Second-Temple religious practices with the imperial cult, in which sacrifices were offered to the Emperor, or with other instances of divinization. See Arnaldo Momigliano, *On Pagans, Jews and Christians*, 185-87. In the Jerusalem cult and the other cults with which I am associating it the difference between people and gods was enormous.

[30]Martin Goodman, *Ruling Class*, 232, referring to Josephus and Clement of Rome.

understand what the Jerusalem cult may have meant to my ancestors by looking at what other cults in other temples meant to other people.

The basic premise of the sacrificial system may be simply stated: the world is scary. Bad things happen. Gods, if they have any role at all, control the world. Therefore, gods are scary. Dealing with the scariness of the gods is a central problem of religion that different groups handle differently at different times. To say that "general anxiety [is] at the core of pagan religiousness"[31] may be to single out "paganism" unduly; anxiety may be central to much religiosity.

Fundamental to the approach of those who worshipped through sacrificial cults is the idea that the gods are most scary when they are angry, and that a properly performed cult will honor the gods and will thereby appease or prevent their anger.[32] Moreover, ritually correct sacrifice was *expected* to appease or avoid it.[33]

Whatever feelings of dread and awe ancient people felt toward the gods[34] were heightened by "the emotional impact of the sacrificial rite. It was an impressive spectacle which had associations with all the most

[31]Robin Lane Fox, *Pagans and Christians*, 101.
[32]Robin Lane Fox relates this idea to a theory that the gods shared what he terms the Greek commercial idea that one "gives to the giver." *Pagans and Christians*, 38, 95.
[33]Alan Wardman, *Religion and Statecraft Among the Romans*, 7. Baltimore: Johns Hopkins University Press, 1982. "To 'follow pagan religion' was generally to accept . . .[the] tradition of the gods' appeasable anger." Robin Lane Fox, *Pagans and Christians*, 95. Ramsay MacMullen dissents to some extent when he writes that the gods were not entitled to "day-to-day" service or perpetual allegiance," but that offerings were made to gain favor; human need, not divine right, stood behind the service. *Christianizing the Roman Empire*, 13. New Haven and London: Yale University Press, 1984.
[34]See Alan Wardman, *Religion and Statecraft*, 7.

solemn moments of a Roman's life. Above all, there was the primordial emotion aroused by the act of killing."[35] Emotions were further increased by the accompanying song and dance, or at least orchestrated movement, and by the people's conviction that only sacrifice properly performed in all details would be efficacious.[36]

The classicists' emphasis on the necessity that the cult be punctiliously performed shows these scholars' understanding of the role that ritual actions, ritually performed, can play in satisfying the human need to find meaning with respect to the otherwise incommensurate gods. To the ancients, ritual was not "mere ritual," as some moderns would have it. The fact that the cult was performed in the way it had always been performed, with the right animals, in the right temple, by the right officiants who wore the right clothes, said the right words, and made the right movements, was itself an independent source of religious meaning and religious experience for the participants.[37]

A second aspect of a system of sacrificial worship deals with the scariness of the world in a different, but equally recognizable, way: if

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[35]John H. W. Liebeschuetz, *Continuity and Change in Roman Religion*, 80. Oxford: Oxford University Press, 1979.

[36]Baruch Levine, "Biblical Temple." In Mircea Eliade, ed.-in-chief, *The Encyclopedia of Religion* 2, 202, 207. New York and London: Macmillan and Collier Macmillan, 1987. It may be assumed that, like other people, the ancients who participated in sacrificial cults did so because they worked, and knew that they worked because everyone had always sacrificed.

[37] The proper performance of the cult "made up a body of revealed truth rich in content and stimulating to informed piety." Ramsay MacMullen, *Paganism in the Roman Empire*, 12. See also John North, "The Development of Religious Pluralism." In Judith Lieu, John North and Tessa Rajak, *The Jews Among Pagans*, 174, 188.

Of course, "the practice of nothing but cult acts would be impossible. The very idea of action involves intention or motive or purpose and some relation to belief." Robin Lane Fox, *Pagans and Christians*, 32.

tomorrow we die, today we will eat and drink and be merry, in fellowship with others equally subject to the scariness of the gods. And on such occasions a god would, in contrast to his everyday persona, serve "as guest of honor, as master of ceremonies, or as host in the porticos or flowering, shaded grounds of his own dwelling."[38] "Conviviality was part of religion,"[39] and "festivals were the only holidays."[40]

A highlight of the merriment was the menu; at the dining facility on the temple grounds, people ate meat.[41]

"A sacrifice was the one recognized occasion for consuming meat in the diet of the Greek . . . cultural area. . . . While Paul's Gentile Christians were being told to avoid meat offered to idols, . . . [people punished for eating unconsecrated meat] were learning from hard experience to eat nothing else."[42] According to the (Christian and therefore anti-cult) Bishop of Alexandria: "Sacrifices were devised by men, I do think, as a pretext for meat meals."[43]

[38]Ramsay MacMullen, *Paganism in the Roman Empire*, 40.
[39]Arnaldo Momigliano, *Pagans, Jews and Christians*, 191.
[40]Robin Lane Fox, *Pagans and Christians*, 66. Josephus was careful to emphasize that a surfeit of meat and an excess of wine were not the purpose of sacrifice at the Jerusalem Temple and that sobriety and orderliness were appropriate at the time of sacrifice, *Against Apion* II, 24 (195). He need not have done so if sacrifices were not, in fact, understood as occasions for eating and drinking. He is preaching moderation, not abstinence.
[41]"Even a little rural shrine might have five separate rooms for eating; even a remote center might boast a banquet hall." Ramsay MacMullen, *Paganism in the Roman Empire*, 37.
[42]Robin Lane Fox, *Pagans and Christians*, 70.
[43]Clement of Alexandria, *Strom.*7.6.105 (PE9.445), quoted in Ramsay MacMullen, *Paganism in the Roman Empire*, 41 and n.38.

But Clement's quip is polemical and unreliable[44]: the "sacred banquet" has been an element of meaningful, genuine religious experience from early antiquity through a Rebbe's *tisch* to Shabbat dinner in American homes. Moreover meat, which was scarce in late antiquity, is an important source of fat and protein; even more important, camaraderie is a requirement of the human condition; good food (and strong drink) foster camaraderie. "For most people, to have a good time with their friends involved some contact with a god. For most people, meat was a thing never eaten and wine to surfeit never drunk save as some religious setting permitted."[45]

A third element of the sacrificial cults of late antiquity was less about the god to whom sacrifice was offered than about the populace offering the sacrifice. "The religion of the Roman was . . .inextricably bound up with the life of the state. . . but such was the case with most religions of the ancient world." [46] This emphasis on the worshipping city was an important element of the worship of a god worshipped only in one city, whether or not the deity and the city were identified with each other. This

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[44]Robert L. Wilken, in the context of the Emperor Julian's plans to rebuild the Jerusalem Temple, writes: "Jews, who in many ways were set apart from other peoples, were in this respect similar. . . All practice some form of animal sacrifice. With their ritual of a spiritual or unbloody sacrifice the Christians alone stood apart." *The Christians as the Romans Saw Them*, 189. New Haven and London: Yale University Press, 1984.
[45]Ramsay MacMullen, *Paganism in the Roman Empire*, at 40. Just as H. L. Mencken confessed that his Bible Belt "boobs" would have been worse off had they been atheists, Clement, had he been able to contemplate roast beef and wine without the presence of a supervising deity, would have preferred the "collective celebration and enjoyment of a positive kind" involved in the sacrificial system. See Alan Wardman, *Religion and Statecraft*, 8.
[46]Robert L. Wilken, *Christians as the Romans Saw Them*, 57.

"civic" aspect of sacrificial religion is late antiquity's version of the Fourth of July parade in small-town America, or of Homecoming Day at a university: the point of participating is identification with one's fellow-citizens. "Every aspect of the social order in a typical city" was accompanied by cult acts,[47] and little if any distinction existed between being a citizen, say, of Athens and a devotee of the cult of Athena. "An ordinary Roman pagan was certain of helping his country by performing certain rituals and by showing respect for the traditional gods."[48]

I need not elaborate in great detail the applicability of the last few pages to the possible partial recovery of the religious experience of Second-Temple Judaea. The basic elements of "pagan" worship are all present. The God of Israel was potentially the source of great calamity, but would without doubt be propitiated by a correctly administered cult in the right place. The proper administration of the cult was itself a matter of great religious value and meaning. The cult was conducted with impressive pomp and circumstance. Meat was eaten, wine drunk, and a good time had by people who did not ordinarily do so, accompanied on the Temple grounds by God, family and friends. No important distinction existed between "civic" and "religious" identity: To participate in the cult was to be a Jew.[49]

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[47]Robin Lane Fox, *Pagans and Christians*, 89. "Every public act was invariably accompanied by sacrifice." Elias J. Bickerman, *From Ezra to the Last of the Maccabees: Foundations of Postbiblical Judaism*, 108. New York: Schocken, 1962.

[48]Arnaldo Momigliano, *Pagans, Jews and Christians, 144.*

[49]Not that the Jews' sacrificial religion was exactly like everyone else's. They worshipped only one God, and sacrificed in only one place; non-Jews were not permitted to join them any more than they would have joined non-Jews in pagan temples; they may have emphasized absolution from sin as a result of the cult more than did other people, and de-emphasized healing, Scott B. Noegel, review of *Illness and Health Care in the Ancient Near*

Participation in the cult was fundamental to the Judaism of Jews outside of Judaea as well. "Whether or not Philo is exaggerating, he expected at the very least that his readers would believe that the Egyptian Jews, as a group, were enormously loyal to the Temple,"[50] and his readers certainly included those very same Egyptian Jews. Some synagogues may have been so oriented so that the worshipper faced Jerusalem.[51] Jews everywhere paid a tax for the upkeep of the Temple and the priesthood, an exemption from the imperial prohibition of sending specie abroad was equated with the Jews' "religious liberty."[52]

There was, of course, more to Second-Temple Judaism than its central institutions of the Temple and the cult. The typical Judaism of the time -- even if we posit the absence of rabbinic or proto-rabbinic leadership[53] -- included Sabbath, new moon and festival observance

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East: The Role of the Temple in Greece, Mesopotamia and Israel, by Hector Avolon, *Journal of the Association for Jewish Studies* 22 (1997) 107-09.

[50]Louis H. Feldman, *Jew and Gentile in the Ancient World: Attitudes and Interactions from Alexander to Justinian*, 50. Princeton: Princeton University Press, 1993

[51]The Masada synagogue was "wholly oriented toward Jerusalem." Yigael Yadin, "The Synagogue at Masada." In Lee I. Levine, ed., *Ancient Synagogues, supra*, 19-23. But worshippers in Galilee would have had to turn around to face Jerusalem, and the orientation of the synagogue at Gamla toward Jerusalem was "dictated by the exigencies of the topography." Gideon Foerster, "The Synagogues at Masada and Herodium," in Lee I. Levine, ed., *Ancient Synagogues*, 24, 26; Z. Ma'oz, "Synagogue of Gamla," 37.

[52]E. Mary Smallwood, *Jews Under Roman Rule*, 126.

[53]"Whatever kinds of Judaism existed in the period before the turn of the first century, that kind represented in the Mishnah, the Talmuds and other rabbinic writings of late antiquity did not." Jacob Neusner, *The Evidence of the Mishnah* 1. Chicago and London: University of Chicago Press, 1981.

(whether or not the pilgrimage to the Temple was made), with perhaps special attention to Sukkot,[54] circumcision, ritual immersion and kashrut.[55]

And then, as always, there were those whose practices went beyond those of mainstream religion. Sects[56] abounded in the first century; a second-century source quoted by Eusebius purported to know of anti-Christian "Essenes, Galileans, Hemerobaptists, Masbotheans, Samaritans, Sadducees and Pharisees ... among the Children of Israel." Whether or not this testimony is reliable, we also know of the Christians themselves, the earlier followers of John the Baptist, the members of the Qumran community (if they are different than the Essenes) and the Theraputae mentioned by Philo.[57] It is not clear whether any of these

[54]See Lawrence J. Schiffman, *From Text to Tradition*, 89. A letter of Bar Kokhba, the "nasi" of the Second Roman War, has been discovered in which he orders the "four kinds" so that he may observe Sukkot. Yigael Yadin, *Bar-Kokhba: The Rediscovery of the Legendary Hero of the Second Jewish Revolt against Rome*, 128. New York: Random House, 1971.

[55]The early rabbinic literature does not complain about nonobservance of these mitzvot by the rest of the population. See Tessa Rajak, "Jewish Community," 13. See also Shaye J. D. Cohen, "Pagan and Christian Evidence," 160; Morton Smith, "Palestinian Judaism in the First Century," in Henry A. Fischel, ed., *Essays in Greco-Roman and Related Talmudic Literature*, 183-97, New York; KTAV, 1977.

[56]Shaye J. D. Cohen's definition of a sect is very useful: "an organized group which separates itself from the community and asserts that it alone has religious truth," in effect, that it is the only group practicing the real religion that everyone purports to practice. "The Significance of Yavneh: Pharisees, Rabbis, and the End of Jewish Sectarianism." *Hebrew Union College Annual* 55 (1984), 27, 28.

[57]Philo says that "Theraputae" may be encountered in many places, since "both Greeks and barbarians" will include seekers after the perfect good. Philo would have probably included Jews among the "Greeks" who could be Theraputae; in any event, it is clear that Jews could be Theraputae although most Theraputae were not Jews. The reason scholars regard Philo's Theraputae as a Jewish sect is that he abandons his description of the "general sect" in favor of a report on a particular group of Theraputae. Egypt has more Theraputae than any other place, especially in Alexandria.

groups (outside of Qumran) was opposed to the cult as practiced in the Jerusalem Temple

One of the groups mentioned by Eusebius' source is the Pharisees. Several of the scholars whose views on the origin of the *Tefillah* were mentioned in Chapter 2 associated the Pharisees with those origins. The Pharisees were variously treated by them as the authors of the *Tefillah*, the leaders of the Jewish people prior to the destruction of the Temple, the founders of the synagogue and/or the predecessors of the Tannaim who produced the Mishnah. All these points are matters of scholarly controversy. Scholars also disagree as to whether the Pharisees are most accurately regarded as a sect, a party, a movement, an elite, an extension of the scribal profession or "a holiness sect or eating club."[58] No consensus seems to exist as to what social class they may have

(Alexandria had a very large Jewish population.) "The best" of these Egyptian Theraputae are the subject of Philo's description. This group of Theraputae go on a retreat to a desert spot, presumably in Egypt, near a particular lake. In the Loeb translation they regard this spot "as their fatherland"; the Yonge translation is that they go there "as if it were their country." Are Philo's Theraputae Jews? On one hand, each of their homes has a holy place where they study the laws and oracles of God as stated by prophets, and sing hymns and praises. They meditate on sacred writings, including those of their founder, and philosophize on them in an allegorical fashion and assemble on the seventh day. On the other hand, Philo does not identify them as Jews, and it would be odd for Jews to regard an Egyptian lakeside as their fatherland unless somehow it was identified with the Exodus. Eusebius identified the Theraputae with Christians.

[58]See Shaye J. D. Cohen, "Significance of Yavneh," 30; Jacob Neusner, *Evidence of the Mishnah*, 70; Jacob Neusner, "The Use of the Later Rabbinic Evidence for the Study of First Century Pharisaism," in William Scott Green, ed., *Approaches to Ancient Judaism: Theory and Practice* 1, 215-28, Missoula, Mont.: Scholars Press, 1978.

represented, or even whether they held views which became part of Rabbinic Judaism, such as belief in the Oral Law.[59]

It seems unanimously agreed, however, that the Pharisees had been something like a political party in Jerusalem during Hasmonean times, that by Herodian times they were led, at least to some extent, by the Hillel family, which may have had a Diaspora background, and that they were still playing an important role in Judaean society at the time of the revolution against Rome which began in 66 CE.

In summary, over and above both the universally practiced mitzvot and attention to Torah in the synagogue, the central fact of mainstream Second-Temple Judaism, which propitiated the God of Israel, atoned for the sins of Israel, provided the essential element of being a member of the People of Israel, and allowed Israel to eat meat, was the Temple in Jerusalem and its sacrificial cult.

And then it was gone.

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The War

The destruction of the Temple did not, however, happen overnight. It marked the end of a massive, bloody, ultimately disastrous four-year war of revolution by the Jews, which included at least two years of civil war among them.[60]

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[59]Compare Ellis Rivkin, *A Hidden Revolution*, Nashville: Abingdon, 1978; Martin A. Cohen, "The First Christian Century – As Jewish History," in J. Philip Hyatt, ed., *The Bible in Modern Scholarship*, 227-51, Nashville and New York: Abingdon, 1965; and Martin Goodman, *Ruling Class*, 73, with Shaye J. D. Cohen, review of *A Hidden Revolution*, by Ellis Rivkin. *Journal of Biblical Literature* 99 (1980), 627, 628 and "Significance of Yavneh," 37.

[60]The War was one of the most difficult colonial wars the Roman Empire ever fought and, at least for a while, the Jews achieved independence. The

A spectrum of opinion undoubtedly existed, but most of the *aristocrats*, both new and old, and the Jerusalem craftsmen, and at least some of the *ammei ha'aretz* and the peasantry, were rebels. Similarly, while some sects may have been opposed to the War, most religious outlooks -- centered as they ultimately were on the Temple and its cult -- were consistent with the objective of an independent Temple state. For example, one "John the Essene" was a military commander during the War, and at least some, if not most, Pharisees were part of the revolutionary movement. Shimon ben Gamaliel, believed to be Hillel's great-grandson and our Gamaliel's father, was one of the movement's leaders.[61]

But, for many reasons, the revolution failed. Scholars disagree on the timing of Titus' decision to burn the Temple rather than letting it stand and adding the God of Israel to the Roman pantheon. What matters for

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revolution seems to have been triggered by a decision by the Temple Captain (who was also the High Priest's son) to suspend the daily sacrifice for the benefit of the Emperor. This act of defiance came in response to events ranging from plunder of the Temple treasury by the head of the civil authority to an act of juvenile delinquency -- what we might now call a "hate crime" -- in Caesarea, a city of mixed population on the Mediterranean coast. See, *e.g.*, Martin Goodman, *Ruling Class*, 3; Peter Schaefer, *The History of the Jews in Antiquity: The Jews of Palestine from Alexander the Great to the Arab Conquest*, 121, David Chowcat tr., Luxembourg: Harwood Academic Publishers, 1995.

[61]His deputy may have been Johanan ben Zakkai, Gamaliel's predecessor as the leader of the post-War community in Yavneh. Martin A. Cohen thinks that both Shimon and Johanan were revolutionaries. "First Christian Century," 240. Michael Avi-Yonah, however, treats Johanan as a leader of an accomodationist minority wing of Pharisees. *The Jews of Palestine: A Political History from the Bar Kokhba War to the Arab Conquest*, 10. Oxford: Basil Blackwell, 1976. Martin Goodman observes that Shimon may have been in more than one pro-War faction as the War progressed. *Ruling Class*, 187. Peter Schaefer thinks that Johanan was a scribe and not a prominent Pharisee. *Jews in Antiquity*, 135.

this study, however, is that it was gone, and that the fundamental component of the spiritual life of first-century Jews went with it.

A World Without a Temple

Jews could have reacted to the catastrophe in many ways, and they probably did. The "traditional" theological reaction to the loss of a war and the destruction of the losers' temple was to understand that the winners' god had defeated the losers' god. The losers could then in perfectly good faith turn to the cult of the winners' god. Or, as at least one scholar believes happened after the First Temple had been destroyed, people could have turned to other sacrificial cults whether or not they were associated with the victorious Romans.[62] But by the first century monotheism may have become so much part of the Jew's essence, and knowledge of the Torah may have become so widespread as a result of synagogue attendance, that such reactions would not have been very frequent. More likely, Jews inclined to modify their beliefs and practices would have bridged the gap between their Jewish loyalty and the loss of the Jewish Temple by turning to variants of Judaism less dependent on the cult, such as Christianity.

Another reaction might have been to build a new Temple to serve as the sanctuary of the sacrificial cult of the God of Israel. This may have

[62]Sean Freyne thinks that during the Babylonian Exile Jews must have turned to local ("non-Yahwist") cult centers "in order to express their belief in the powers that determined life and death." *Galilee from Alexander the Great to Hadrian, 332 B.C.E. to 135 C.E.: A Study of Second Temple Judaism*, 259. Wilmington and Notre Dame: Michael Glazier and University of Notre Dame Press, 1980. See also Louis Finkelstein, *The Pharisees: The Sociological Background of their Faith*, 566. 3d ed. New York: Jewish Publication Society, 1962.

happened on some scale during the Babylonian Exile,[63] and had precedent in Egypt earlier in the Second-Temple period.[64] But financial resources were probably lacking after four years of all-out war, and such construction would have required the approval of the Roman rulers.

In any event, most Jews would probably not have engaged in sacrifice outside Jerusalem. Louis Finkelstein has written that the survivors of the destruction of the First Temple "could not establish a Temple on foreign soil; Deuteronomic law forbade that."[65] Whether or not he may have been right about the pervasiveness of knowledge of Deuteronomy in the earlier period, by the first century, Jews who listened to the Torah regularly in their synagogues would not have participated in cult activities on any meaningful scale anywhere but in the Holy City.[66]

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[63]Baruch Levine of New York University, conversation with author, New York City, Fall, 1997. Levine suggested that this may be what the Book of Ezekiel reflects.

[64]Onias III, the son of the High Priest encountered in Chapter 2 (in a passage from Ben Sira), was less skillful than his father had been in balancing Judaea between the Seleucids and Ptolemies or in his family's rivalry for eminence with the Tobiad family of Trans-Jordan. He was exiled to Egypt, where, apparently taking the position that the cult followed the High Priest, he presided over a Temple to the God of Israel in Leontopolis. See Hayim Tadmor, "Period of the . . .Restoration," 180; Peter Schaefer, *Jews in Antiquity*, 32-34, 38.

[65]Louis Finkelstein, *The Pharisees*, 455. For the contrary view, see notes 62 and 63 above.

[66]Instances of sacrificial worship on a smaller scale during the Second-Temple and later periods have, however, been demonstrated. In addition to records of the Leontopolis temple mentioned in note 64 above, Josephus records a decree of Julius Caesar permitting the Jews of Sardis (in present-day Turkey), *inter alia*, to offer sacrifices. See Shaye J .D. Cohen, "Pagan and Christian Evidence," 166. Lawrence H. Schiffman, noting that the early second-century government of Bar Kokhba prominently included a priest, whose name was mentioned on some of the government's coins, has speculated that perhaps that priest offered sacrifices. *From Text to Tradition*, 173. (It is unclear whether Bar Kokhba ever took Jerusalem.)

The Jewish community in Jerusalem had a variety of priestly, royal and wealthy leaders. The Jewish community in Yavneh was apparently led first by Johanan ben Zakkai, who may have been a prominent Pharisee during the War but of whom little is known,[71] and then by Gamaliel, a scion of the house of Hillel.

Gedaliah Alon, followed by Asher Finkel, has advanced the view that Johanan did not go to Yavneh, but was sent there. Alon argues that Yavneh was a place to which Rome sent potential post-War troublemakers whose presence in Jerusalem Rome wished to prevent.[72] And if Pharisees were sent there it follows that members of all classes and many viewpoints were there as well. I understand Yavneh, therefore, as a small city with a

Faiths, 32. According to Michael Avi-Yonah, by the second century Yavneh was an area of dense Jewish population in an area that was 75% Gentile. *Jews of Palestine*, 19.

[71]See Jacob Neusner, "In Quest of the Historical Rabban Yohanan ben Zakkai." In Michael Chernick, ed., *Essential Papers in the Talmud*, 255, 56. New York and London: New York University Press, 1994. See also note 61 above. Johanan's arrival in Yavneh is the subject of fanciful-sounding rabbinic stories, which I have largely ignored in favor of the views of Alon set forth in the text at note 72 below. He is supposed to have been smuggled out of Jerusalem in a coffin, to have predicted to Vespasian that he would be Emperor, and to have successfully asked Vespasian for Yavneh, its Sages, the "chain" of Rabban Gamaliel and a physician to heal R. Zadok. See Gitt. 56b; Martin A. Cohen, *Two Sister Faiths*, 31-32; Peter Schaefer, *Jews in Antiquity*, 137-38. Shaye J. D. Cohen regards the Vespasian story in the context of the absence of an air of crisis in tannaitic literature and its point as being that Yavneh was not founded at a time of crisis. "Significance of Yavneh," 28.

[72]Gedaliah Alon, *Jews in Their Land*, 97; Asher Finkel, "Yavneh's Liturgy and Early Christianity." *Journal of Ecumenical Studies* 18 (1981), 231. Alon uses the phrase "detention center," which may well overstate his case. He produces no evidence that the residents of Yavneh were under detention or even surveillance; they were merely out of the way, in banishment, not in Gulag. See also E. Mary Smallwood, *Jews Under Roman Rule*. It is noteworthy that after the Second War, the Bar Kokhba rebellion, *all* Jews were banished from Jerusalem.

sizable mixed population to which a diverse group of Jewish political exiles and refugees was added [73] It could not have been the only place in Palestine where Jews struggled to overcome the loss of Temple and sovereignty, but it is the one whose program eventually became generally accepted [74]

The first "Tannaim" were the men around Johanan and Gamaliel Many of them may well have been Pharisees, including those known as

[73]Several prominent Tannaim, including Nehunya and Tarfon, came to Yavneh later than did Johanan. Gedaliah Alon, *Jews in Their Land*, 101.

[74] Shaye J. D. Cohen advances the view that after 70 the Rabbis competed for power with the wealthy, the priesthood and local aristocracies. *From the Maccabees*, 221, I do not think Cohen should be understood to be saying that such "competition" was conscious, just that there were several groups who might have emerged as the leaders of post-Destruction Israel. Actually, the wealthy were well represented among the Tannaim as, it will be argued below, were members of the "local aristocracies."

The Tannaim do not appear to have been in any way opposed to the priests. They included priests in their number, were careful to keep alive Temple ceremonies like sounding the Shofar and removal of shoes, and were content that priests had precedence in synagogal Torah-reading honors; there is no reason to suppose that they, at least before the Bar Kokhba revolt, did not expect that sacrifices would some day be resumed. See M. Gitt. 5.7; Gedaliah Alon, *Jews in Their Land*, 113; Martin Goodman, *Ruling Class*, 250.

Among the rural gentry of the time were those criticized in rabbinic literature for *nitqarva lemalkhut* -- approaching the kingdom --understood to mean currying favor with Rome. Gedaliah Alon (1980) at 22 and 61 identifies these people with the *conductores* who leased large tracts of land from the Empire (which asserted extensive land ownership in reconquered Judaea) and then leased them in smaller tracts to tenant farmers. But, contrary to Alon's *assumption*, *conductores* need not have been impious, or even opposed to the "religious ideas" of the Tannaim; they may well have either compartmentalized their economic and religious lives or even have been a needed conduit and financing agency between the Imperial power and the people who needed to live off the land and may well have treated their tenants with scrupulous fairness. In any event, Gamaliel himself seems to have curried favor with Rome. See Peter Schaefer, *Jews in Antiquity*, 140. Well he might have.

chaverim, people who placed a greater emphasis than others did on table purity and on tithing.[75] But the Tannaim did not identify themselves as Pharisees, and their surviving literature pays scant attention to the Pharisees[76]; it was not until the Amoraim that a firm connection between the Pharisees and the rabbinic class was asserted, and this may have involved the rabbinization of Pharisees to almost the same extent as of Moses ("*Rabbenu*") himself.

People of non-Pharisaic background -- priests, statesmen, military leaders, members of the scribal profession, *ammei ha'aretz*, sectarians -- may also have been sent to Yavneh or have come there voluntarily. They then might have joined the disciple circles of Johanan, Gamaliel, Eliezer (himself a priest), Joshua and the other stars of the first generation of Rabbis (not necessarily of Pharisaic background themselves) and become members of the rabbinic class.[77] The Pharisees, as a separate group, became "lost among the general body of scholars and interpreters of the Torah."[78]

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[75]See M. Dem. 2:3, Martin Goodman, *Ruling Class*, 83. The *chaverim* seem to have been the group that first identified *ammei ha'aretz* with ignorance and sloth.

[76]Not even Hillel and Shammai "figure prominently in the legal tradition that forms the core of the Mishnah. . . If the Rabbis really were the descendants of the Pharisees, it is remarkable that they know (or choose to reveal) so little information about their ancestors." Shaye J. D. Cohen, *From the Maccabees*, 158.

[77]"Disciple circles were the normal pattern for higher education in both Jewish and Greco-Roman antiquity. . . .Palestine. . .must have seen a large variety of people who were called *didaskolos* or *rabbi* by their followers. . . . Not all of them were Pharisees." Shaye J. D. Cohen, *From the Maccabees*, 122.

[78]Avigdor Tcherikover, *Hellenistic Civilization and the Jews*, 254. Translated by Shimon Applebaum. Philadelphia and Jerusalem: Jewish Publication Society and Magnes Press, 1961.

This diversity was both cause and effect of the remarkable tolerance with which the Tannaim treated each other, in spite of great differences among them.[79] They or their intellectual ancestors had seen sectarianism and, more to the point, civil war, and they would have none of it. This perhaps explains why, if they were indeed dominated by Pharisaic traditions, they made so little of their Pharisaic pedigree, the Pharisees had been a sect, or a party, or a separate group of some kind, and the Yavneh leadership was not in the business of separatism, but of forming a "grand coalition."[80]

Little can be said about Johanan; more is known about Gamaliel. His family had for generations been perhaps the most prominent Pharisees. His putative great-great grandfather, the eponymous founder of the house of Hillel, had Diaspora roots; as discussed above, many of the Jews imported to Jerusalem from Babylonia by Herod became rich through their association with the royal family. It is generally acknowledged that Judah haNasi, Gamaliel's grandson, was a very rich man, and the story about Gamaliel's temporary deposition from leadership[81] postulates wealth as a requisite for his successor. Granted that the talmudic material may date from a time when Gamaliel's descendants had not only been rich for generations but also recognized by Rome and by most Jews as Patriarchs (a title given to Gamaliel, it appears, only retrospectively), nonetheless it

[79]"A very small social group. . .who knew each other and who claimed to have studied with the same great masters" produced the Mishnah. Jacob Neusner, *Evidence of the Mishnah*, 23.
[80]Shaye J. D. Cohen, "Significance of Yavneh," 42.
[81]In part because of his manner of insisting on the obligatory nature of the evening *Tefillah*, according to Ber. 27b.

makes sense that Gamaliel's family riches as well as his family connections helped him successfully to assert and maintain his leadership position.[82]

We may also speculate about the financial resources and background of Shimon haPakuli. The baraita in which he is mentioned does not give him the honorific "R.," a fact that Fleischer explains by saying that he was not an "authorized Sage." We know, however, from his name that he had something to do with flax, or its finished version, linen.[83] By the second century linen was one of the most important products of Palestine,[84] and Gentile sources single out Palestinian linen as among the world's finest.[85]

[82]Gamaliel "I," our Gamaliel's grandfather, is presented in the Book of Acts as "a teacher" of Torah who defended Peter and others. Acts 4:24. The fact that Gamaliel's ancestors may have been learned and pious teachers does not exclude the possibility that they also made, preserved and passed along money. *Contra* the tradition that Hillel had been a porter. See, *e.g.*, Raskas, *Toward A Jewish Work Ethic: Envisioning Work for the 21st Century*, 3. Cincinnati: University of Cincinnati Press, 1997.

Throughout the Roman Empire, prestige was inextricably linked to wealth. Martin Goodman, *Ruling Class*, 240.

[83]Kaufmann Kohler disagrees, and claims that "haPakuli" is a geographic designation, citing a town mentioned in Josephus, and not a reference to flax. "The Origins and Composition of the Eighteen Benedictions With a Translation of the Corresponding Essene Prayers in the Apostolic Constitutions." *Hebrew Union College Annual* 1 (1924), 387.

[84]See Michael Avi-Yonah, *Jews of Palestine*, 22. But Applebaum gives linen barely a nod in his article on economics, while Stern does not include flax among the principal branches of agriculture in his article on social class. Shimon Applebaum, "Economic Life in Palestine," in Shmuel Safrai and Mehahem Stern, eds., *The Jewish People in the First Century* 2, 631-700; Menahem Stern, "Aspects of Jewish Society: The Priesthood and Other Classes," in Shmuel Safrai and Menahem Stern, *The Jewish People in the First Century* 2, 561-630.

[85]Louis H. Feldman, *Jew and Gentile*, 111.

The linen industry was centered in Beth Shean, or Scythopolis, in northeast Samaria not far from the border with Lower Galilee.[86] It was largely a Jewish industry.[87] Beth Shean was known for its idyllic beauty[88] and for its "exceptionally cordial" Jewish-Gentile relations.[89] An "ever increasing number of synagogal remains" are being found in the Beth Shean area.[90]

It is perfectly possible, therefore, that Shimon grew flax and sold linen in Beth Shean far from Jerusalem, that he amassed a reasonably substantial fortune for a rural agriculturist, that he at least attended and perhaps led one of the area's many synagogues, and that he brought to the diversity of Yavneh useful experience with living near and working with Gentiles. If so, we can propose Shimon the Flaxman as one of the *ammei ha'aretz* who joined the community of exiles and refugees in post-War Yavneh, and can imagine such a worldly and energetic "layman" being asked to *hisdir* the *Tefillah* by the community's principal citizen, himself a wealthy member of an established, if not ancient, Jerusalem family.

[86]Nicholas de Lange, *Atlas of the Jewish World*, 32.
[87]Gedaliah Alon, *Jews in Their Land*, 168. By the end of the second century, the early Amora Hiyya was identified as a flax grower. *Ibid.*
[88]At least by the third century CE. In Erub.19a, Resh Lakish is reported to have said that if the Garden of Eden is in the Land of Israel, it is at Beth Shean.
[89]Gedaliah Alon bases this conclusion on 2 Maccabees 12:29-31, which dates back to early Hasmonean times. Gedaliah Alon, *Jews in Their Land*, 142.
[90]Lee I. Levine, "Forward," (i). In Lee I. Levine, ed., *Ancient Synagogues*.

5. Examining the Evidence

I have *concluded* that the *Tefillah* -- as obligatory fixed prayer -- originated in Yavneh at the instance of Gamaliel, Yavneh's most prominent citizen. In this Chapter I will discuss evidence that opposes this *conclusion* and evidence that supports it.[1]

First, some points about method.

Concerning the Gamaliel/Yavneh Material in the Mishnah

I have rejected all three *assumptions* defined in Chapter 2. In contrast to the *assumption* that the sacrificial cult was of diminishing importance to the spiritual lives of pre-Destruction Jews, I have set forth, in Chapter 4, my views that it had an enormous spiritual meaning to virtually all first-century Jews. I have found no evidence to support the *assumption* that the Tannaim were the leaders of Jewish society soon after the War. In addition, in opposition to the *assumption* that not much happened between the end of the War and the redaction of the Mishnah, I think that the 130-year "tannaitic tunnel" proposed by Steven Fraade must be taken very seriously, and that in reading tannaitic sources we must recognize that a great deal happened in that period, including a second war with Rome which annihilated two-thirds of the Jewish population of Judaea,[2] an Imperial decree which banished Jews from Jerusalem, and much more, of which we are entirely ignorant, concerning both the Tannaim and the larger society.

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[1]In addition to M. Ber. 4:3 and the Shimon haPakuli baraita, which together may create a prima facie case in support of my *conclusion* for the reasons given below in the course of discussing issues of method.

[2]Shimon Applebaum, *Judaea in Hellenistic and Roman Times: Historical and Archaeological Essays*, 157. Leiden: Brill, 1989.

We have no documents or epigraphical evidence that we can directly attribute to the generations of rabbinic Jews who lived in the approximately 130 years between the time Johanan arrived in Yavneh and the time of the Patriarchate of Judah haNasi, Gamaliel's grandson. We do have the Mishnah, which appears on its face to come from people who were the direct heirs of those very Jews. Although tannaitic material, principally the Mishnah, is not contemporary with the words and activities of rabbinic Jews who lived in the "tunnel," it is the only source we have for them.

Accordingly, these sources must be given serious weight as evidence of such earlier words and activities, even though the period of their redaction was much later than, and probably very different from, the period that preceded it.[3]

In this body of literature the existence of the *Tefillah* is a given.[4] Therefore the *Tefillah* could not have originated later than approximately 200 CE; the more difficult issue involves how much earlier it might have begun.

M. B'rakhot 4:3 has Gamaliel pronouncing the obligation of the *Tefillah* for everyone every day: "Rabban Gamaliel says on each and every day a man prays Eighteen." As Joseph Heinemann and others say, this passage sounds as if, to author and audience, the idea of "praying

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[3]Some scholars have tried to make judgments about which materials attributed to the earliest Tannaim or their predecessors are genuine; they have not included the material which relates to the origins of the *Tefillah*. See generally Jacob Neusner, *The Evidence of the Mishnah*. Chicago and London: University of Chicago Press, 1981.

[4]See, for example, M. Ber. 4:1, a debate involving Judah haNasi on when the morning, afternoon and evening *Tefillot* should be said.

Eighteen" is very old. But this aura of antiquity does not constitute evidence that the *Tefillah* is older than Gamaliel's saying; the idea of "praying Eighteen" would have indeed been ancient to the redactors of the Mishnah were it in fact 130 years old.

M. B'rakhot 4:3 goes on to indicate that Gamaliel's colleagues did not agree with him, as will be discussed later. This *makhlokhet* is evidence that the idea of daily recital of the *Tefillah* was not yet firmly established at the time of Gamaliel's pronouncement, and perhaps that it was new.

Accordingly, this mishnah and the Shimon haPakuli baraita clearly associate Gamaliel with the origins of the *Tefillah*, and constitute evidence to be given serious weight in dating the *Tefillah* to Yavneh some time around the year 100 CE.[5]

How much weight should a mishnaic source be given for events occurring during the "tunnel"? What do I mean by "serious weight"? Is an evidentiary standard available that will facilitate drawing *conclusions* from the evidence?

In the American legal system the concept of "burden of proof" is used in civil litigation in this way. One party or the other is assigned the burden of proof as a matter of substantive law. Although assignment of the burden of proof is often characterized as merely a matter of procedure, the consequences of assigning it to one party rather than to the other on a particular factual matter will often determine the outcome of the case.

Analogously, use of a "burden-of-proof" method in reviewing the sources under study may help determine the scholarly outcome.

[5]See below, under "Sources Opposing My *Conclusion*--Earlier Attributions of the *Tefillah*" with respect to contrary rabbinic sources.

"Burden of proof" is actually made up of two, quite different, components. The higher "burden of proof" is the "risk of nonpersuasion," the risk that the jury or other trier of fact will not believe the party's evidence. If the party, who (as a matter of law) bears this sort of burden of proof, satisfies it, for example, because the jury believes his or her testimony, that party wins; if the party fails to satisfy this burden -- even if the adverse party has offered no other evidence, that party loses.

It is inappropriate to subject ancient evidence to this sort of burden of proof, because doing so would involve looking at the only evidence there is and simply not believing it without preferring contrary other evidence and without a standard by which to make judgments concerning credibility, such as the demeanor of a witness or the unlikelihood of a story in the light of the common experience of the trier of fact. When Heinemann found the Shimon haPakuli baraita to be "not tenable" he was subjecting it to the risk of nonpersuasion.

The lesser "burden of proof" is the "burden of coming forward with the evidence," the obligation to bring what lawyers call "some" evidence to the attention of the trier of fact. A party who bears this sort of burden of proof as a matter of law and sustains the burden is said to have made a prima facie case; the case is tentatively won, but only if the adverse party fails to introduce any evidence at all. Once the other party introduces evidence, the outcome of the case will no longer turn on who bore the burden of proof but will be won or lost on the merits of whose evidence is more convincing to the trier of fact. If, on the other hand, the party who is legally required to bear the burden of coming forward with the evidence fails to sustain the burden, the case is lost and the adverse party need not introduce any evidence at all.

The fact that the party who bears the burden of coming forward with the evidence will establish a prima facie case is a meaningless advantage in litigation, since the opposing party will almost certainly introduce some contrary evidence. Applying these ideas to thinking about the ancient world will, however, privilege the source to which we assign the burden of coming forward with the evidence; litigants virtually always offer some evidence, but ancient sources often do not, and therefore the source that establishes a prima facie case would be the source on which the most justifiable *conclusions* would be based.

Analogously to the way the substantive law assigns the burden of coming forward with the evidence to one party or the other in civil litigation, which may be outcome-determinative, I suggest subjecting mishnaic claims concerning the people and events of the tannaitic tunnel to a similar "burden." Since these sources are the only ones available for the period and group under study, they will (at a minimum) establish a prima facie case and should be relied on in the absence of contrary evidence.

This suggestion is not an instance of the *approach*, criticized in Chapter 2, of the presumed applicability of sources. That *approach*, simply stated, seems to begin with a *conclusion* or an *assumption* and to apply the source to demonstrate the result. For example, were I to accept the *assumption* that the Tannaim were in charge of Jewish society shortly after the War, I might use that *approach* to argue that M. B'rakhot 4:3 is evidence that Gamaliel was in a position to dictate what all Jewish men do every day, or, reading the mishnah as descriptive rather than legislative, to know what all Jewish men in fact did every day.

I propose, therefore, that the textual claim that Gamaliel played a major role in instituting the *Tefillah* -- made in M. B'rakhot 4:3's report that

Gamaliel said that every man is obligated to say the *Tefillah* every day and that his colleagues did not fully agree, as supplemented by the Shimon haPakuli baraita -- has made a prima facie case, which should win scholarly acceptance in the absence of more convincing contrary evidence. Much of this Chapter will be devoted to seeing if any such contrary evidence exists.

Concerning Other First-Century Evidence

Other, non-rabbinic, sources representing other, non-tannaitic, kinds of Judaism, could not support my *conclusion* unless they mentioned Yavneh, or Gamaliel and his circle, or events supportive of the Gamaliel tradition,[6] which they do not. But they could provide evidence that opposes my *conclusion* if they were to show the *Tefillah*, or something like it, being recited before the War or elsewhere than Yavneh earlier than the Gamaliel period. These sources must be read carefully: Josephus was writing for his Roman audience and had a substantial self-justification agenda; the Greek Scriptures are, except for Paul's genuine letters, post-Destruction if not second-century and may well evidence rivalry between the nascent Church and the emerging rabbinic movement; Philo lived in the early part of the century in Egypt and may never have visited Palestine.

Concerning Earlier Sources

Sources earlier than the first century have generally proved not to be useful for my purposes. They demonstrate beyond doubt that before the War Jews prayed for things mentioned in the *Tefillah* using language

[6]If, however, the erroneous *assumptions* that the Tannaim were in charge of Jewish society immediately after 70 or that they were in fact the same group as the Pharisees were accepted, such sources could support my conclusion, since they do discuss Jewish society and mention Pharisees.

and forms sometimes similar to those of the *Tefillah*.[7] But so did everyone else.

According to an early scholar of the history-of-religions school, even "primitive" prayer includes invocation, petitions, vows and expressions of dependence.[8] Prayer was prominent in Greco-Roman religions -- at least from Homer's time through the fifth century CE.[9] -- "as it is in any religious system in which superhuman power is imagined anthropologically in terms of agency. [Prayer is] a request made of divine agents."[10] Among the things "pagans" prayed for were health, wealth and safety, along with beauty, fecundity and relief from taxes.[11] Prayers accompanied "every

[7]Examples include Deut.1:11, Ben Sira 36, Judith 12:5-6, Psalms of Solomon 6:45 and Letter of Aristeas 256. For a detailed discussion of Ben Sira 36, which concludes that there is "no reason to date rabbinic liturgy in general earlier than the Rabbis and rabbinic institutions," see Lawrence A. Hoffman, *Covenant of Blood: Circumcision and Gender in Rabbinic Judaism*, 55-59, Chicago and London: University of Chicago Press, 1996. Jews may have prayed more in the first century than they had previously. In Antiquities 3.1.7, Sec. 34 Josephus adds a prayer by Moses to the biblical account, indicating to some extent that he lived in a world in which prayer was thought of as appropriate religious behavior.

[8]Friedrich Heiler, *Prayer: A Study in the History and Psychology of Religion*. Translated and edited by Samuel McComb. London, New York and Toronto: Oxford University Press,1932.

[9]Robin Lane Fox, *Pagans and Christians*, 117. New York: Alfred A. Knopf, 1987.

[10]Larry J. Alderink and Luther H. Martin, "Prayer in Greco-Roman Religions." In Mark Kiley and others, eds., *Prayer From Alexander to Constantine: A Critical Anthology*, 123. London and New York: Routledge, 1997. Alderink and Martin collect the prayers of many famous "pagans," including Cato, Catullus and Diodorus of Sicily. Larry J. Alderink and Luther H. Martin, "Prayer in Greco-Roman Religions,' 125 *ff.* See also Louis H. Feldman, *Jew and Gentile in the Ancient World: Attitudes and Interactions from Alexander to Justinian*, 307, Princeton: Princeton University Press, 1993; John Ferguson, *The Religions of the Roman Empire* 99, Ithaca: Cornell University Press, 1970.

[11]Ramsay MacMullen, *Paganism in the Roman Empire*. New Haven: Yale University Press, 1981.

major cultic occasion,"[12] and Roman temples remained open to the public for prayer.[13]

Pagan prayer even existed in Palestine side-by-side with Second-Temple Judaism. An altar, dated to the second century BCE, has been found in Palestine dedicated to "Adad and Atargatis, the gods who answer prayer."[14] As reported in Matthew 6:7, Jesus was critical of the prayers of pagans of his time for heaping up empty phrases. Thematic proximity existed as well; the High Priest's prayer on Yom Kippur has been compared to Roman prayer formulae reported by Livy.[15]

This commonalty of theme and form among many peoples of the area, as well as between the spontaneous prayers of pre-War Jews and the *Tefillah*, is precisely why the *approach* of *Tefillah*-finding is irrelevant.

Sources Opposing My Conclusion

These sources may be divided into three principal categories: (1) rabbinic sources specifically assigning the origins of the *Tefillah* to a group or period other and earlier than the circle around Gamaliel; (2) sources suggesting regular prayer at fixed *times* before the Yavneh period; and (3) sources going beyond category 2 and suggesting regular fixed prayer in the Temple, the synagogues or elsewhere prior to Gamaliel's time.

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[12]Walter Burkert, *Greek Religion*, 95. Translated by John Raffan. Cambridge, Mass.:Harvard University Press, 1985.
[13]John H. W. G. Liebeschuetz, *Continuity and Change in Roman Religion*, 80. Oxford: Oxford University Press, 1979.
[14]D. Flusser, "Paganism in Palestine." In Shmuel Safrai and Menahem Stern, eds., *The Jewish People in the First Century: Historical Geography, Political History, Social, Cultural and Religious Life and Institutions* 2, 1065. Assen and Amsterdam: Van Gorcum, 1976.
[15]Solomon Zeitlin, "The Tefillah, The Shemoneh Esreh: An Historical Study of the First Canonization of the Hebrew Liturgy." *Jewish Quarterly Review* 54 (1964), 208, 219.

Rabbinic Attributions of the Tefillah *to a Pre-Yavneh Period*

Chapter 2 mentioned Megillah 17b's statement (perhaps tannaitic) that 120 elders, including many prophets, ordained the *Tefillah*, and the amoraic story in B'rakhot 33a of the Men of the Great Assembly prescribing *tefillot* for Israel (probably including ha*Tefillah*, since the story is given in the context of a discussion of where in the *Tefillah havdalah* should be said). Other rabbinic sources also attribute the *Tefillah* to groups supposed to have lived long before Yavneh. Sifre Deuteronomy, Piska 343, specifically ascribes the *Tefillah* to *neavi'im harishonim* -- the early, or first, prophets -- perhaps a different group than the many prophets of Megillah 17b.[16]

These accounts should not be regarded as having historical value. They were composed by people who were interested not in writing history but in stressing the importance of the elements of their religious life. The *Tefillah* was a fundamental part of their Judaism, like Sabbath observance and Torah study. It is natural that they attributed the origins of such an important practice to shadowy figures in the distant past. They may well have recoiled from M. B'rakhot 4:3 and from the Shimon haPakuli baraita which assigned such an important religious requirement as the *Tefillah* to a

[16]Several rabbinic sources indicate an awareness that the *Tefillah* is of rabbinic origin, but it is not clear when after the closing of the biblical canon the rabbinic period would have been thought to have begun in these sources. T. Ber.3:1 ascribes a Toraitic origin for the "fixing" of *kriyat Sh'ma*, but says that the "Sages" ordained the *z'man l'tefillah*, the time for prayer. Workmen in treetops were required to say the *Sh'ma* but not the *Tefillah*, apparently on the basis that the *Sh'ma* is Toraitic and the *Tefillah* is *d'rabbanan*. See M. Ber. 2:4; Y. Ber. 2:4. A *ba'al keri* (according to Ber. 21a) or someone who is not sure whether he has already said the *Tefillah* (according to Y. Ber. 1:1) apparently need not say it, on the same theory.

relatively recent, named historical personality at a specific time in a particular town.

To the extent that these traditions are tannaitic, they might be connected to an anti-Gamaliel group, such as the men who temporarily deposed him from his leadership position in the stories of B'rakhot 27b. The natural resistance to assigning the origins of an important element of religious practice to a specific person would be heightened if the assignee were someone not admired. But I need not go that far to suggest that the Great Assembly, the 120 elders and the early prophets no more originated the *Tefillah* than did Abraham, Isaac and Jacob.[17]

Evidence of Prayer at Fixed Times

First-century sources as well as earlier ones strongly suggest that prayer was somehow linked to particular times of day. Do they suggest also that prayer at such times was obligatory, or even customary? If so, we would find an important element of the *Tefillah* anticipated, perhaps to the extent of overcoming the prima facie case established by the Mishnah and the Shimon haPakuli baraita and casting doubt on my *conclusion*.

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[17]See Ber. 26b, which credits the morning, afternoon and evening *Tefillot* to each of the Patriarchs in sequence.

Even to the extent that the traditions discussed in the text are tannaitic, the method I proposed above of giving tannaitic sources the benefits associated with the burden of coming forward with the evidence is not applicable. That method relates to tannaitic claims about events during the tannaitic tunnel, not to tannaitic claims about remoter periods involving non-tannaitic groups. But even were that method to be applied, the claim would fail either because a) a vague claim of action by a vague group, such as 120 elders including a vague subgroup of many prophets, is a failure to bring forward any evidence at all, so that the burden of coming forward with the evidence has not been met, or b) the burden has been met but the prima facie case has been defeated by more convincing evidence having been offered about Gamaliel.

The early source most frequently cited for the antiquity of fixed times for prayer -- often for prayer on the rabbinic pattern of morning, noon and night -- is Daniel 6.11.[18] The Book of Daniel is usually dated to the time of the Hasmonean revolution, but is set during the first Exile. It is therefore a literary creation, not a historical account, and it should be read not as evidence of what the characters in it in fact did, but as evidence of what its author and its intended audience thought was plausible or appropriate.

Daniel is shown in his roof-chamber in Babylon, where he has had windows made looking toward Jerusalem. In his roof-chamber he would kneel down three times daily -- the times of day are not specified --to offer prayers and praises to the God of Israel, as had always been his custom.

The passage does not suggest that anyone other than the remarkable hero of the book engaged in three-times daily, or even daily, prayer; nor does it suggest that Daniel's prayer was fixed in words or in theme. Had the author wished to reflect a tradition of obligatory prayer, even among an elite, that could easily have been done. Rather, Daniel's practice is characterized as Daniel's own custom, a custom perhaps peculiar to him.

In fact, Daniel's custom of frequent prayer is a plot device, one used to introduce the lions'-den motif with which the Book is most often identified. In the tradition of Joseph and Mordecai, Daniel is one of the

[18]Dan. 6:11 was perhaps cited for thrice-daily prayer before any other source. T. Ber. 3:6 cites Daniel for praying three times daily while facing Jerusalem, both in the Land of Israel and in the Diaspora. This Tosefta passage also credits Hannah (Samuel's mother) with the practice of praying silently, Psalms with the practice of not saying all three daily *Tefillot* at once, and Solomon with the practice of lingering after prayer.

king of Persia's three principal ministers and the supervisor of 120 satraps Again in the same tradition as the Book of Esther, other ministers and satraps are jealous of Daniel's success and seek to discredit him. They cannot do so on the basis of his skillful administration of his governmental responsibilities, and, since he is a foreigner and a follower of another god, they cook up a scheme to use his religious practices, particularly his custom of frequent prayer, against him. They convince the king to issue a decree that anyone making petitions to any god or king other than Darius will be thrown into the lions' den; Daniel continues to engage in petitionary prayer to the God of Israel and is thrown to the lions. Had the author not pictured Daniel as praying frequently, another device would have had to be found to get him to the lions' den.

The most that can be derived from this story is that as far back as the time of the Hasmonean revolution an author could advance, and expect his audience to accept, the idea of frequent and regular petitionary prayer as part of the religious practices of an exemplary Jew. Petitionary prayer was common in all cultures in antiquity; the king's decree is not specifically directed to the Jews. Daniel offers no evidence for pre-War obligatory, or even customary, regular prayer, and no evidence for fixed themes in prayer no matter how irregular.[19]

Sources other than Daniel have suggested to others a practice of praying three times a day.

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[19]On the other hand, only petitionary prayer was necessary to advance the plot to the lions' den; the king's decree was about petitions. Yet the author describes Daniel's custom as thrice-daily prayer *and* praise. Perhaps Daniel is evidence that the custom of regular petitionary prayer would have been unconvincing to a Hasmonean audience in the absence of accompanying praise.

Psalms 55:18 is translated in the New English Bible as

> But I will call upon God,
> the LORD will save me
> Evening and morning and noon
> I nurse my woes, and groan.

If this were about prayer under normal conditions, and if the reference to three times during the day referred to prayer, this Psalm might indeed be thought to evidence an early practice of praying three times a day as the Rabbis and their followers eventually did, evening, morning and noon.

But the Psalm is not about normal conditions. The Psalmist here, as so often, is "panic-stricken at the shouts of my enemies," overwhelmed by "fear and trembling," and calling both for the death of his enemies and their transportation, alive, to Sheol.

The Psalmist proposes to call upon God who will save him, and expresses confidence that his call will be answered with salvation. It is not farfetched to regard such a call as an instance of prayer, although hardly fixed, statutory prayer. But the Psalmist has not yet made his call. He does not utter his prayer three times a day; he has not uttered his prayer yet. Rather he nurses his woes, and groans, evening and morning and at noon. Indeed, he does not really whine and carry on only three times a day; "*erev v'boker vetsihirayim*" is better understood as a trope for "always."

Slavonic Enoch [2 Enoch] 51:4, thought to date from Alexandria in the period from 30 BCE to 70 CE, is a first-century source sometimes cited for thrice-daily prayer. Charles translates it as "it is good to go morning, midday, and evening into the Lord's dwelling, for the glory of your Creator." On its face, this has nothing to do with prayer; going to the Lord's house

suggests visiting the Temple, and morning, midday and evening might refer to times of sacrifice or other cult activity

But an Alexandrian would find it difficult to get to Jerusalem to follow this advice, and perhaps the reference to the Lord's house is to the great *proseuche* -- usually translated as "prayer house" [20] — of Alexandria. If so, whether this source evidences a custom of thrice-daily prayer will depend on what went on in the *proseuche*. It does, of course, indicate that the author thought some form of worship was beneficial three times a day; perhaps *Slavonic Enoch* represents the practices of a smaller group who had some sort of thrice-daily worship, although not necessarily prayer, practice.

In any event, arguments for early dating of rabbinic-style thrice-daily prayer might well be regarded with suspicion, since traditions concerning disagreement by the Rabbis themselves over the obligatory nature of each day's third prayer, the evening *Tefillah*, are preserved as late as the Talmud.[21]

Another source, the *Letter of Aristeas*, which tells the miraculous story of the simultaneous translation of the Hebrew Bible into Greek by the seventy elders for whom the Septuagint is named, offers an entirely different idea of the time of day for Jewish prayer. When the elders would get up in the morning, "as is the custom of all the Jews, they washed their hands in the sea and prayed to God and then devoted themselves to reading and translating the particular passage upon which they were

[20]The possible existence of institutions so devoted to prayer as to be called prayer houses is itself one of the principal pieces of evidence which oppose my *conclusion*. It is discussed below.
[21]Ber. 27b, concerning the deposition of Gamaliel.

engaged."[22] This part of the text is not clear on whether it was thought to be the custom of all the Jews to pray when they got up in the morning or whether it was the custom of all the Jews to pray before they began their work. If the former,[23] *Aristeas* stands alone as a source claiming a universal Jewish custom of early-morning prayer. The content of the prayer is not mentioned, and it is likely that any such prayer would have been personal, petitionary and spontaneous, although communal, and that this is no evidence of fixed, statutory prayer once a day. If, however, the circle from whom this document comes was one of the many subgroups of the Jews whose identity has been lost, it may be counted along with the Essenes as a group outside the mainstream that did indeed engage in communal daily prayer.

Other sources suggest (as *Slavonic Enoch* might) a pre-War practice of coordinating prayer with the time of Temple activities.

Daniel 9:21 finds the hero in the midst of a long prayer of "nationalist" confession and petition when he is approached, or touched, by Gabriel, whom Daniel had previously seen in a vision, at the hour of the *minchat-erev*. Thus the author has Daniel uttering this important prayer at the time of significant cult activity. Likewise, Judith 9:1, a passage from another "historical novel," has the heroine pray for the ability to injure the Assyrians at the time of the evening offering of incense at the Jerusalem Temple.

The Book of Ezra is not so clearly a work of the imagination, and may provide evidence of actual events and not merely of literary

[22]Letter of Aristeas 305-06.
[23]See below under "Sources Supporting My *Conclusion* -- The Letter of Aristeas" for the view that it is rather the latter.

expectations and conventions. In Ezra 9:4-5, Ezra, having learned about the mixed marriages of the population that was not exiled at the time of the destruction of the First Temple, sits *m'shumam* -- dumfounded, appalled, horrified -- *ad l'minchat ha'erev*, until the same time when Daniel met Gabriel, when he begins to pray. Perhaps the pause before his prayer is meant to show that Ezra sat in his confusion for a long time, but since the text does not tell us what time of day he sat down, it should more properly be read as indicating that he wished to coordinate the timing of his prayer with cult events.

A stronger case for a fixed time of prayer may be provided by Acts 3:1, where Peter and another disciple are found entering the Temple courtyard *epi ten horan tes proseuches*[24] -- usually translated as "at the hour of prayer" -- specifically at the "ninth hour" (3 in the afternoon), perhaps the same time as the *minchat ha'erev* of Ezra and Daniel. To the post-Destruction author -- apparently the same as that of the Gospel of Luke -- and to his probably Gentile audience, the time for cult activity has become so identified with prayer that it is designated as the time for prayer.

Peter and John never get to pray, as they are arrested for preaching that the resurrection of the dead is in Jesus, so the text offers no clues about what their prayer might have consisted of -- confessional and petitionary, like Ezra's and Daniel's, or specifically petitionary, like Judith's -- or even about whether they had in fact gone to the Temple in order to pray. This source, like Ezra, Daniel and Judith, may provide evidence for

[24]This is the same word, usually translated as "prayer," which will be discussed below in connection with the possibility that "prayer houses" existed among pre-Destruction Jews. To the extent that it can be translated differently than as "prayer," this passage from Acts provides less evidence contradicting the prima facie case.

the idea that the best time for prayer is the time of Temple events -- the primacy of the cult in the spiritual lives of pre-War Jews makes such an idea easy to understand -- but, like the earlier sources, it provides no evidence that would affect the prima facie case made by the tannaitic material about Gamaliel and Yavneh.

Josephus, and perhaps Luke, suggest a practice slightly different than coordinating one's prayers with the *time* of cult events, that is, of praying at the *site* of the Temple.

Josephus suggests that prayer was appropriate when, for whatever reason, one was present at the cult event. In the context of describing proper behavior at the Temple, with an emphasis on moderation in food and drink, he says that prayer for the common welfare of all takes precedence over prayer for oneself.[25]

Against Apion is a frankly polemical work, in which Josephus aims to counter Apion's arguments against the Jews and to advance the reputation of his people in the Roman Empire. Since prayer was a widespread accompaniment of cult activities throughout the Empire, Josephus would have wanted to demonstrate that the practice was no different among the Jews. Nonetheless there is no reason to doubt him here; prayer was indeed a widespread accompaniment of sacrifice among all peoples, and it is highly plausible that the Jews were no different. Thus we may accept Josephus' testimony that Jews in fact engaged in petitionary prayer when they engaged in cult activities at the Temple.

In Luke 1:10 a priest is offering incense at the Temple when Gabriel -- the same angel who touched or approached Daniel -- appears at

[25]Against Apion II, 24 (196-97).

the altar and tells him that although he and his wife are old, she will bear a son who will be filled with the Holy Spirit from birth and will do great things for the people of Israel. While this is going on, a great throng of people are praying outside the Temple. The text is not clear on whether this throng always, or often, prayed outside the Temple at the time of the incense offering.

Perhaps Luke needed a throng outside as a literary matter, either to demonstrate popular participation in the announcement of the forthcoming birth of John the Baptist or as a contrast to Gabriel's even more important announcement to Mary, all by herself, of the forthcoming birth of Jesus. If so, its status as evidence is greatly diminished. Nor can we read Luke as evidence of what a Jewish audience at the time of the event described would have found plausible, since the Temple had been destroyed for decades when Luke wrote, and since his named audience, one Theophilus, was probably a Gentile.

If we put these reservations aside, Luke's throng of praying Jews somewhat supports both the position that prayer was best coordinated with the time of cult activities -- the idea supported by Ezra, Daniel, Judith and the other work by the same authorship, Acts-- and Josephus' evidence that people were accustomed to pray when at or near the Temple. None of these sources suggests that prayer was thought to be obligatory at the Temple. Josephus comes closest when he says that prayers for the general welfare must come before prayers for one's own livestock and family, but he does not suggest an obligation to begin praying in the first place, and his views may in any event be regarded as those of a pompous and self-important polemicist on behalf of the Jews and their piety.

Further Evidence of Fixed Prayer at or in Connection with the Temple

These sources therefore provide limited evidence for customary prayer by the *populace* in connection with the Temple service. The Mishnah recollects fixed prayer by *priests* in connection with the Temple service, and an examination of those texts may be relevant to the origins of the *Tefillah*. For example, had the priests regularly recited the *Tefillah*, or something very close to it, on a twice-daily, or even less frequent but regular basis, the events at Yavneh might have been merely one more in the series of tannaitic practices making every home and study-house a Temple and every Jew a priest. Such a finding would not, however, constitute evidence in opposition to the Gamaliel/Yavneh material, although it would diminish somewhat the startling originality of the idea of *Tefillah*, every day for every Jew, as a religious obligation that somehow came to be a stand-in for the cult.

M. Tamid 5 is the Mishnah's recollection of daily Temple practices. It recounts, in storyteller fashion, the routine of the shift of priests on duty, how they kept watch, where they slept, the superiority of one privy -- "the house of the chair of honor" -- which could be locked, their conduct with the animals, how the various priestly tasks were allocated, how the actual sacrifice was conducted and cleaned up after, and finally, in 5:5, how, in the Chamber of Hewn Stones, the priests would, on instructions from their superintendent, "bless one blessing," say the Ten Commandments and the *Sh'ma*, and then bless *ha-am* ("the people"? "the nation"?) with three blessings: "true and certain," *avodah*, and the priestly blessing, plus, on the Sabbath, a blessing "to" the outgoing shift.

This is not evidence of a priestly precedent for the *Tefillah*. Yes, the priests "blessed" daily, and uttered four blessings (five on the Sabbath), but: the first is unidentified; the second, if it is the same as the "true and certain" recited today, is not part of the *Tefillah* but is part of the *Sh'ma* service as it appears to have been in the Chamber of Hewn Stones (and as it may have been conducted in the pre-rabbinic synagogue); the third may be the ancestor of the *avodah* blessing of the *Tefillah*;[26] the fourth is probably the ancestor of *dukhunen* in the *Tefillah*; and the fifth is clearly context-specific. And yes, we may assume for purposes of exposition that the five blessings were similar in form to the *b'rakhot* of the *Tefillah*.

But the difference is in the direction, and therefore the function, of the blessings. In the *Tefillah*, *God* is blessed, or perhaps praised. The incongruity of humans purporting to bless God has been noted by many, if not most, participants in Jewish worship service. The stance of the person reciting the *Tefillah* is that of an insignificant creature before the Sovereign of the Universe; the worshiper is looking as far upward as can be imagined, and the *Tefillah*'s function is prayer, prayer as praise, prayer as petition, prayer as thanksgiving, in spite of the oddness of the use (or misunderstanding) of the word *barukh*.

By contrast, the stance of the priests of M. Tamid 5:5 is as that of high-caste representatives of the Temple state before lesser beings; they are looking down, perhaps literally. There is nothing incongruous about them using the blessing form, if they indeed did so; the function of their blessing was to confer a benefit on, to improve the lot of, *ha-am* even if the

[26]Although it cannot be the same, since the *Tefillah* petitions for the restoration of the Temple *avodah*, for which it would have been impossible for the priests to have prayed.

words of all the blessings, which are lost to us, were not directed to the people. (The fifth blessing conferred a benefit on those priests who were going off Temple duty back into the workaday world.) "True and certain" and *avodah* might have had forms similar to their later counterparts; it may have been the recital of the words by the priests in the presence of the people that conferred a benefit on the people without specific language of direction. It is unlikely, however, that the priestly blessing had the form in the Temple that it does now; more probably the introductory words asking God to bless us with the three-fold blessing of the Torah were added later, and the priests simply directly blessed the people as they understood Aaron and his sons to have done.

What of the unidentified first blessing? It is possible that here we find the prototype of blessing as prayer, and therefore of the *Tefillah*, reduced to one blessing in a way that would have made Finkelstein glad. But much more likely is the common view that this was a blessing designed to precede the recitation of the [Ten Commandments and the] *Sh'ma*, whether or not it is one of the blessings still recited before the *Sh'ma* is read, just as "true and certain" is a blessing coming after the *Sh'ma*. Saying the *Sh'ma* had become too important not to be surrounded by ceremony, both in the Temple and in the synagogue of the *ammei ha'aretz*; along with ceremonial methods of holding and dealing with the Torah scrolls and other trappings of dignity, it seems very likely that the *Sh'ma* would have blessings on *both* sides of it. Perhaps the germ of the idea of the *Tefillah* can be located in this first blessing if, unlike the others, it was directed not to the people or the outgoing shift but to heaven.

M. Yoma 7:1 is another mishnaic account of Temple practices that may be relevant to the origins of the *Tefillah*. Earlier chapters of the tractate

have described the Yom Kippur service in detail, chapter 6 ends with the High Priest being informed that the scapegoat has reached the wilderness

M. Yoma 7:1 finds the High Priest coming to read Torah. The location of the Torah reading is not specified, but it is so far away from the Temple that someone who saw the High Priest read could not have seen the bullock and the billy-goat being burned, because both events took place at the same time

Many readers have thought that the reading takes place at a synagogue, since the Torah scroll is first handed by the *chazan haknesset* (literally, "officer of the assembly") to the *rosh haknesset* (literally, "head of the assembly) before it is eventually handed to the High Priest. But a *knesset* is not necessarily a *bet-knesset*, and a *chazan* is not necessarily either a cantor or a synagogue sexton; perhaps this was some other sort of assembly altogether.[27]

For purposes of this study, however, I accept this *knesset* as a synagogue, and accordingly note the importance the ruling establishment gave to the *ammei ha'aretz* (or, more likely, their urban counterparts, burghers rather than gentry) who ran it as the High Priest himself came to read Torah at the height of the holiest moments of the year.

In any event, the High Priest would, according to the Mishnah, first read from Leviticus 16 and Leviticus 23, roll up the scroll containing Leviticus, and then recite a passage from Numbers by heart.

[27]M. Sotah 7:4 describes the reading of Torah by the king every seven years on the first day of Sukkot. The location of this *parashat hamelekh* is a specially constructed wooden dais in the Temple court, not in a synagogue. Nonetheless the chain of people engaged in passing the Torah scroll to the king begins with the *chazan haknesset* and the *rosh haknesset*.

Just as the passage from M. Tamid (discussed above) featured blessings after Torah reading, so does this one. In the Babylonian Talmud's version of the Mishnah, the High Priest would then recite, "in connection with" his Torah reading, "eight blessings"

1. *al* (on, over, for, in respect of) *haTorah*;

2. *al haAvodah* (perhaps the same blessing the junior priests recited in the Tamid account);

3. *al hahodoah*, "*al*" the thanksgiving;

4. *al machilat ha'on*, "*al*" the forgiveness of sins;

5. *al haMikdash*, "*al*" the Temple, "*bpnei atzmo*" (literally, "in the face of itself" -- on its own account? separately?);

6. *al Yisrael bpnei atzman*;

7. *al Yerushalayim bpnei atzmah*;

8. al *haKohanim* "*bpnei atzman*"; and finally

-- *al sh'ar hatefillah*, "*al*" the rest, or the remainder, of prayer, or perhaps "*al*" the rest, or the remainder, of the *Tefillah*.

The "eight" blessings, therefore, add up to nine . The version of the Mishnah in the Palestinian Talmud solves this problem by omitting the blessing "*al*" Jerusalem as do other editions of the Mishnah.[28]

In discussing M. Tamid I made a distinction between the blessings in the *Tefillah*, which go upward, and function as praise and petition of, and thanksgiving to, God, and the priests' blessings of *ha-am*, which go downward and confer a benefit on the object of the blessing or, if the

[28]According to the editors of the Soncino edition of the Babylonian Talmud. These editions also omit the confusing limitations on the blessings involving the Temple, Israel and the priests. An interpretation of these phrases is offered below.

blessing has no grammatical object, on the people who hear, or otherwise are thought to be connected to, the blessing. Which is the case here? Or do different blessings flow in different directions?

Chapter 2 describes an earlier High Priest of the Second Temple, Simon ben Onias in the time of Ben Sira, blessing the assembled people. His blessing clearly flowed downward; he was the means by which God's blessing, in the sense of conferring a benefit, reached the people. Most likely, Simon's blessing was the three-fold blessing of Aaron, and no more.

A blessing "*al*" the people, like the one described by Ben Sira, is in fact among those mentioned in M. Yoma; with respect to Israel, the phrase that might be translated "separately" is in plural form -- *bpnei atzman* -- (unlike the feminine singular -- *bpnei atzmah* --used for Jerusalem), demonstrating that the High Priest's blessing of "Israel" was of the people of Israel. Accordingly, at least one of the nine blessings must have flowed downward; the practice of Ben Sira's day continued in the memory of the compilers of the Mishnah.

Conceivably the other blessings were directed upward and constituted a personal, perhaps once-a-year *Tefillah* by the High Priest. If so, this, like the one-blessing *Tefillah* of the priests on Temple shift hypothesized above regarding M. Tamid, would constitute a precedent for the *Tefillah* and would cast some light on what may have happened in Yavneh and some doubt on Gamaliel's originality.

But it appears more likely, given the status of the High Priest and the circumstances both of the day and of his off-site visit to the *knesset*, that all his blessings followed the direction of his blessing of the people of Israel and flowed downward to confer a benefit, God's own blessing via the

High Priest, on the grammatical object of the blessing or on the people present.

Thus, the blessings concerning Temple, Jerusalem and the priests, like that of Israel, would have been direct blessings of the Temple, the city and the priests by the High Priest acting on behalf of God. The objects of the blessings are indicated by the phrase *bpnei atzmo* and its equivalents, which are used only with respect to those four blessings. Even the blessing concerning the Torah might have related not to the Torah itself but to the scroll from which the High Priest had read, and have also been a direct blessing, not only of the scroll but of the particular *knesset* that owned it.[29] On the other hand, the blessings of *avodah*, thanksgiving and the forgiveness of sins could have somehow reinforced the benefits already achieved through the cult for the people present, who are far from the Temple; the blessings may have been thought necessary to complete the cultic event for this *knesset*, which was not present at the Temple, and perhaps vicariously for all Jews who were not so present.[30]

The word "*al*" may mean different things in different places in the passage: over the city, of the people, on the Torah scroll, concerning thanksgiving, for the priests, and so on. But the word bears all those meanings easily.

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[29]A baraita at Yom. 70a understands the High Priest's blessing *al* the Torah to have been said in the manner said in the synagogue, presumably by the person called to read. So viewed, this blessing would be a consequence of the fact that the High Priest has read Torah, but still might flow downward.

[30]The baraita at Yom. 70a understands these blessings to have been said by the High Priest "*kitikna*," which may mean "as usual" or "properly," and may support the reading in the text by suggesting that he repeated things said earlier in the Yom Kippur liturgy of the Temple.

The ninth blessing -- *al sh'ar hatefilla*, *'al'* the rest of [the] prayer -- is, however, harder to explain using this hypothesis. Had the High Priest said a prayer in the Temple service that he is somehow completing for the benefit of people who had not been at the Temple, in the manner suggested above regarding the blessings *'al'* thanksgiving and the forgiveness of sin? This is not likely, since the blessing concerns "the rest" of the prayer, not the prayer itself. Or does *'al'* here mean something else? Are the first eight blessings thought themselves to be the prayer to which the ninth refers, and the ninth a reference to the High Priest saying something "in lieu of" saying "the rest of" the prayer? Or is this scribal shorthand for spelling out the rest of the prayer? (A *Tefillah*-finder would say that the High Priest skipped, or the scribe or the redactor has failed to record, ten blessings, to make eighteen in total.)

If so, the High Priest may have uttered his own regular annual *Tefillah*, only part of which we know. Or perhaps he said it more often; if there was a *Tefillah* in Temple times it might well have included blessings *'al'* the eight specified matters, and perhaps other things were left out or summarized on Yom Kippur because of the specialness of the day, or because the High Priest was outside the Temple. The eight blessings do bear similarities to the *Tefillah* as it ultimately emerged. While this is not ha*Tefillah*, because of the direction it goes in as well as the singularity of the attested occasion of its recitation, it might be a source used when the *Tefillah* was put together.[31]

[31]M. Sot.7:4 describes the reading of the Torah every seven years by the king, who would conclude by saying the same blessings as the High Priest, except for one *shel* -- of, for -- the festivals instead of one relating to the pardon of sin. The text is not clear what set of blessings of the High Priest the king is echoing. This is further evidence that the High Priest said a

But I do not regard the foregoing proposal as the best solution of the meaning of the ninth blessing, since it does not also solve the peculiarity of calling nine blessings eight.

The compilers of the Mishnah included in the Jerusalem Talmud, other editors of the Mishnah and a baraita at Yoma 70a solved that problem by crediting the number "eight" and discrediting the list of nine, and eliminated the blessing *al* Jerusalem. But in the cult system of a Temple state centered on a holy city only the Temple and its service might have taken precedence over the city as a subject of the High Priest's liturgy.

"Jerusalem" seems therefore the wrong blessing to eliminate to make the number "eight' right. I suggest instead eliminating the blessing for the remainder of the prayer: it is last, and most easily conceived as tacked on; it is hardest to reconcile with the other eight; its use of the litanized introductory word "*al*" is the most forced. Perhaps the compilers of the Mishnah looked at the High Priest's eight blessings and noticed their resemblance to the *Tefillah*. In order to complete the thought, and to bring the High Priest into closer alignment with a world in which the *Tefillah* was over a century old, they added a reference to the rest of the *Tefillah* in vague reliance on the plasticity of the word "*al*."

M. Sotah 7:3 provides a variant of the material in M. Yoma 7:1. Again the High Priest "comes" to read Torah at an unspecified place, but M. Sotah does not say that the date is Yom Kippur or that events are simultaneously going on at the Temple. (If the usual reading -- that this

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fixed series of blessings -- downward in direction both from him and from the king -- more frequently than once a year.

passage also refers to Yom Kippur -- is rejected, the possibility that the High Priest said his own *Tefillah* more than once a year is strengthened.) Again *knesset* officials hand the Torah scroll ultimately to the High Priest, who again reads from Leviticus and recites from Numbers by heart. Again he recites the first eight of the nine blessings of Yoma "in connection with" his Torah reading, each subject being introduced by the word "*al*," but without any extra words attached to the blessings concerning Israel, Jerusalem, the Temple and the priests.

In the version of M. Sotah included in the Babylonian Talmud, the passage ends with the words "and the rest of the prayer," *without* the introductory word "*al*." This mishnah specifically says, therefore, that the High Priest recited a prayer, or The prayer, consisting of eight specified blessings and an unspecified remainder. In other words, the Mishnah text of Sotah in the Babylonian Talmud claims the pre-Destruction existence of a standard prayer of more than eight blessings, part of the contents of which is lost (and may have been lost to the compilers of the Mishnah text.)

In the version included in the Palestinian Talmud and in other editions of the Mishnah, however, the text is identical to their versions of the text of M. Yoma; "*al*" precedes the "rest of the prayer" and the blessing of Jerusalem is omitted. The compilers of the Mishnah text included in the Palestinian Talmud's tractate Sotah, therefore, may have been working with earlier material which, like that of Yoma, specified that the High Priest said "eight" blessings but listed nine. They solved the problem in the same way they or their colleagues did with the parallel text in Yoma, and eliminated one blessing.

Perhaps the compilers of the Mishnah text included in the Babylonian Talmud's tractate Sotah were working with older material which

offered them no numerical problem, in which the "rest of the prayer" was not set forth as one of an enumerated series of blessings. If so, we have clearer evidence than M. Yoma of an early tradition of a *Tefillah* of more than eight blessings said by the High Priest although the fact of variant Mishnah texts in this important regard weakens the force of the evidence. Since such a prayer was restricted to the High Priest, and since it flowed downward, this is not the *Tefillah*, but it is as close as this study has come so far.

I suggested above that the tannaitic compilers of M. Yoma may have added a "ninth blessing" to make the High Priest's liturgy more like their own. Perhaps the tannaitic compilers of the abbreviated version of the same material included in M. Sotah did the same thing in a briefer way by adding a reference to the "rest of the prayer." If so they disregarded or failed to notice the rhythmic and literary considerations that prompted their colleagues who worked on Yoma to take advantage of the ambiguities of the word "*af* in their emendation of older material.

Evidence of Fixed Prayer outside the Temple

1. Gentile sources

Scattered Gentile sources have sometimes been proffered as evidence of fixed prayer outside the Temple, but they are unsatisfactory.

Fragment 37 of Petronius, an anti-Jewish text, says that the Jews worship a pig-god and "clamor in the ears of high heaven," a phrase which Louis Feldman takes to "allude. . .to the Jewish practice of loud and noisy communal prayer."[32] Perhaps -- but not necessarily a fixed obligatory

[32]Louis H. Feldman, *Jew and Gentile*, 152. Petronius deduced the porcine nature of the Jews' god from their refusal to eat pork.

prayer, and in any event just as explainable, if stereotypical Jews then were like stereotypical Jews now, as having little to do with the actual conduct of prayer.

Agatharchides of Cnidus, who wrote in the second century BCE and whose words are preserved by Josephus, said that Jews pray on the Sabbath with outstretched arms in their temple until the evening. Feldman finds this "apparently an allusion" to prayer in synagogues,[33] but more likely Agatharchides knew a temple when he saw one, especially since we know that the priests stretched out their arms when bestowing the priestly blessing.

Latin documents indicate that the Jews' "private altars" were removed from public places in Rome in the second century BCE, but this is no more evidence of regular prayer in Rome than it is of regular sacrifice.[34]

2. The *Ma'amadot*

The origins of the *Tefillah* as well as the origins of the synagogue are sometimes sought in the institution of the *ma'amad*, described in M. Ta'anit 4:1. According to the Mishnah, while the Temple stood, the population had been divided into twenty-four shifts, each including priests, Levites and laity. When a shift's turn came up, at least some of the priests and Levites would go to Jerusalem and serve in the Temple. (One such shift has been seen going off duty in M. Tamid and receiving the blessing of other priests.)

While the locality's high-caste people were in Jerusalem, those who stayed behind, presumably including all the laity, would fast from

[33]Louis H. Feldman, *Jew and Gentile*, 159.
[34]See E. Mary Smallwood, *The Jews Under Roman Rule: From Pompey to Diocletian*, 129-30. Leiden: Brill, 1976.

Monday to Thursday. Every day from Sunday through Friday they would assemble and read passages from the Book of Genesis. These readings were coordinated with the times of sacrifices at the Temple, so that while their higher-caste neighbors were engaged in the cult, they were engaged in reading Torah. There were exceptions to the coordination of their readings; for example, they did not gather to read at the time of the afternoon sacrifice on Friday, out of respect for the Sabbath.[35]

The Mishnah says nothing about prayer, and while the origins of the synagogue may well be found in this rural institution which paid its highest honors to the cult, the Torah and the priesthood all at once, the origins of the *Tefillah* lie elsewhere.

3. Priestly blessings in the *medinah*

A number of tannaitic texts report that the priestly blessing was pronounced in the countryside as well as at the Temple and on the occasions described in M. Yoma and M. Sotah and discussed above.

M. Tamid 7:2, M. Sotah 7:2 and T. Sotah 7:8 each say that while the priestly blessing was said as one blessing as part of the Temple

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[35]In Jacob Neusner's translation of the parallel text in the Palestinian Talmud, he either was working from a text other than the text of the Palestinian Talmud available to me or he has inexplicably translated "*b'mincha*" not to relate to the time of the afternoon sacrifice but to the time of the afternoon *prayer*. (Similarly, he translates references to "*shakharit*," "*musaf*," and "*mincha*" appearing elsewhere in the Palestinian Talmud respectively as "morning prayer," "additional prayer" and "afternoon prayer.") A French translation of the same passage of the *ma'amadot* material in the Palestinian Talmud even more inexplicably reads "*on ne va meme a la synagogue faire recitation*," "they didn't so go to the synagogue to recite." *Le Talmud de Jerusalem*. Translated by Moise Schwab. Paris: Editions G.-P. Maisonneuve, 1960. Unlike either of these translations the original version of the Palestinian Talmud available to me does not indicate that the *ma'amadot* engaged in prayer, and I am therefore ignoring any problems raised by the translations.

service it was pronounced as three separate blessings when said in the *medinah*.[36] Ismar Elbogen regards this as evidence of increased popular participation in the cult, since the people could thus say "Amen" two extra times, and therefore as an indication of a move from the primacy of the cult to the beginnings of a more democratic, prayer-oriented spirituality even before the destruction of the Temple. An equally plausible explanation, which would lead to the opposite *conclusion*, might be that the cult and its priesthood were of supreme importance to the religiosity of the populace and that either the rural priesthood -- an important segment of the *ammei ha'aretz* -- or the rural laity enjoyed the experience of blessing, or that of being blessed, enough to prolong it.

These texts indicate a tradition of regular convocations outside of Jerusalem at which at least the priestly blessing, and perhaps other blessings, were said. Is this evidence of an early *Tefillah*? Conceivably, but it is more consistent with weekly practice at the early synagogue, where there was as yet no prayer service but where Torah would be read and where, if priests were present, the benefit of their blessing would be available to the congregation.[37]

4. Hillel, Shammai, Honi and a series of seven, eight, nine or ten blessings

[36]Other differences involved the priests raising their hands not as high in the country as they did at the Temple and not pronouncing God's name as written outside the Temple. Both of these seem to follow from the supreme importance of the Temple and its cult.

[37]Some scholars believe that other blessings associated with the Temple and the priesthood were also said in such a setting. See the next two notes and the accompanying text.

T. Rosh Hashanah 2.17 reports a debate between the House of Hillel and the House of Shammai, two turn-of-the Era disciple circles usually thought of as Pharisees. Even if Gamaliel was not in fact descended from the founder of the House of Hillel, no evidence exists that contradicts the tradition that his family belonged to the Hillelite circle. The debate is over how many blessings are to be said when a festival coincides with the Sabbath. The House of Shammai said "pray ten," while the House of Hillel said "pray nine." The difference between nine and ten, in turn, depended on whether two separate blessings are required, one for the Sabbath and one for the festival, or whether a single blessing suffices for both Sabbath and festival. Since ten minus two equals eight, and nine minus one also equals eight, both disciple circles seem to have agreed that eight blessings were required on Sabbaths which coincided with festivals in addition to the one or two blessings that somehow specially concerned the special day.

Several scholars have concluded from this text that three opening blessings (*assumed* to be versions of *avot, gevurot* and *kedushat ha-Shem*, as in the *Tefillah*) and three closing blessings (*assumed* to be a blessing concerning *avodah*, a blessing of thanksgiving and the priestly blessing, as in the *Tefillah*, and to have been connected to the Temple service) bracketed a blessing for the Day in a *Tefillah* for Sabbaths and festivals that pre-dated the destruction of the Temple.[38] The existence of

[38]An example is Ezra Fleischer, who regards this text as "the only one smacking of authentic antiquity that seems to refer to a quasi-seven-blessing *Amidah* recited in the service held by 'elders of the House of Hillel' and the 'elders of the House of Shammai.'" "On the Beginnings of Obligatory Jewish Prayer." Privately translated by Ruth Ebenstein. *Tarbiz* (1990) LVIX, 397, 425.

such a *Tefillah* would indicate that Gamaliel's accomplishment was much smaller in scope than the prima facie case asserts, since it would mean that he extended a holy-day obligation to every day, a smaller step than initiating the *Tefillah de novo*.

This scholarly position is difficult to justify. First, of course, three and three equal six; three and three do not equal eight, and eight is the common number between the two Houses, so far, in the reported controversy. If the first three and the last three blessings of the *Tefillah* were among the eight, what blessings have been lost?

Second, the text does not tell us what the eight blessings are about, although it is clear that Hillel's ninth and Shammai's ninth and tenth are about the Sabbath and the festival. Thus we have no firm basis to say that they are about the same themes as the first three and the last three blessings of the *Tefillah*, unless we use a bootstrap argument based on the *Tefillah* itself.[39]

Third, the text does not support the view that both Houses agreed on a core of eight blessings to which one or two would be added in honor of the Day. The House of Hillel supported their position ("pray nine") by citing the precedent of an earlier holy man who said only *seven* blessings and was congratulated for it. The only way the precedent of Honi the

[39]And we have no basis to say that the "last three" blessings of the *Tefillah* were connected with or derived from the Temple. The priests of M. Tam. said four blessings in connection with their recitation of the *Sh'ma* and the Ten Commandments, one or two of which has carried over, if at all, to the blessings which still surround the *Sh'ma* and none of which seems to have been thanksgiving. The High Priest on Yom Kippur, M. Yom. and M. Sot. tell us, did say these three blessings, but no matter how Honi's blessings are counted, three is fewer than half of them, and nothing suggests these three were more important than the blessings concerning, say, the Temple, Israel and Jerusalem.

Younger having said seven blessings -- in what context? -- would support the Hillelite argument of saying nine blessings rather than ten would be if the point was that it doesn't really matter how many blessings are said and that fewer are often better than more.

Ezra Fleischer and other scholars finding a seven-blessing *Tefillah* in this source can count as well as I, of course, and we must therefore conclude that they found their seven-blessing *Tefillah* in Honi's cited prayer, which he appears to have prayed on only one occasion, and not on the dictates of the Houses of Hillel and Shammai. To do so is to privilege a practice of a figure even more shadowy than Hillel and Shammai over the stated requirements of both of the disciple circles most identified with pre-War Pharisaism, and thus to privilege an anecdote over the supposed authority of these master Pharisees.

We can learn from this Tosefta passage only that the Houses of Hillel and Shammai each supported saying a series of blessings, of uncertain subject matter and of uncertain number, either on the Sabbath, or on Festivals, or on both, or only when a festival fell on the Sabbath. This is not the *Tefillah*; the passage should be treated alongside the accounts of regular prayer by the marginal groups mentioned in the final footnote of this Chapter.

5. The Festival of the Water Drawing

Several sources report the reminiscences of Joshua ben Hananiah, a leading early Tanna and a contemporary of Gamaliel,[40] about how busy his circle was in Temple days on the festival of the water drawing.

[40]M. Ber. 4:3 reports that Joshua did not fully agree with Gamaliel about the mandatory nature of the *Tefillah*.

Y. Sukkah 5.2 quotes Joshua as saying that on that day they never got any sleep, going from the morning sacrifice, to the additional sacrifice and to voluntary sacrifices, to eating and drinking, to Torah study, to the evening sacrifice, to the celebration of rejoicing of the water festival. T. Sukkah 4.5 -- in the version of the Vienna manuscript included in the Lieberman edition -- inserts a visit to the synagogue between the morning and additional sacrifices, which, if the understanding of the synagogue put forth in this study is correct, would have been for the purpose of Torah reading.

But in the Erfurt manuscript included in the Zuckermandel edition, on which Heinemann must have based his view that this Tosefta passage is evidence for regular prayer in Temple days, there is also a stop for additional *prayers* and a stop for afternoon *prayers*.[41]

The version of the baraita in the Babylonian Talmud (Sukkah 53a) adds a third prayer stop, with the result that Joshua and his colleagues fulfill the rabbinic requirement of reciting the *Tefillah* three times in the day: they proceed from morning sacrifice to *tefillah* to additional sacrifice to additional *tefillah* to the study house to eating and drinking to afternoon *tefillah* and finally to the evening sacrifice and to the rejoicing of the festival.

Did the compilers of the Palestinian Talmud and the scribe of the Vienna Tosefta manuscript drop references to the *Tefillah*? If so, did they drop the two references of the Tosefta or the three of the Bavli? And why would they? Or did the compilers of the Babylonian Talmud and the scribe of the Erfurt manuscript add them? It would have been natural for them to

[41]I rely on Fleischer for information about the two manuscripts. Ezra Fleischer, "On the Beginnings," 422-23.

do so, since it was clear to them that the sources they were working with had left them out, and it is easy to imagine the redactor of the Bavli taking the additional step of adding an extra *Tefillah* for good measure.

Fleischer seems clearly right when he writes that "there really was no prayer there."[42]

6. Fast days

Accounts of how fast days were observed during the Second-Temple period not only claim that a *Tefillah* was said on such special occasions, but specifically that eighteen blessings were said every day. They constitute claims, at least one of which is apparently tannaitic, that daily recital of the *Tefillah* was practiced while the Temple stood, in direct, unspoken, denial of the Gamaliel/Yavneh tradition.

M. Ta'anit 2:1 sets out the procedure for fast days. The ark would be taken out to a street of the city, heads would be covered with ashes, and the eldest present would exhort the group to repentance, citing the experience of the people of Nineveh and the inefficacy of a fast without repentance. The group stood *bitefillah* and were led by a poor old man, the father of children, who knew the prayer well. He would then say "twenty four blessings, *18 of every day* and he adds to them six more, and these were"[43] *zikhronot, shofarot* and four specified Psalms.

Just as references to prayer were added to Joshua's recollections of Temple times, the twelve Hebrew words translated above as "twenty four blessings, 18 of every day and he adds to them six more and these were" could have been added to older material which the compilers of the

[42]Ezra Fleischer, "On the Beginnings," 423.
[43]Emphasis added. The original is "*esri'm v'arbah b'rakhot y"ch sheb'chol yom umosi'f ale'hen od shesh v'alu hen.*"

Mishnah, accustomed to Gamaliel's requirement of the "18 of every day," could easily have regarded as incomplete. The words are insignificant to the substance of the passage, which is about the special things done on fast days. Moreover, the words do not necessarily make sense, for although *zikhronot* and *shofarot* may be blessings, Psalms are not and probably would not have been thought of as blessings either by the men of the fast-day assemblies or by those who compiled the Mishnah.[44]

If we regard these words as having been added to earlier material, all we have left is an account of a congregation in extremis -- for otherwise there would not have been a fast day, praying, "*bitefillah*," as part of their fast-day observance along with fasting and repentance.[45] This would not be surprising and would not constitute evidence of a daily *Tefillah*; indeed, the bootstrap argument would be that the emendation was necessary because the passage otherwise gives no support for the early existence of the *Tefillah*.

Nonetheless, while I strongly believe that these words were indeed added to the Mishnah from earlier material, and that the baraita at Ta'anit

[44]Further, the Mishnah records the view of Judah haNasi that *zikhronot* and *shofarot* need not have been recited but should have been replaced by passages from Jonah and Joel, which are certainly not blessings. We may not rely on Judah's authority to demonstrate that the "additional" six were not blessings, and therefore were not in fact added to a core of eighteen, since Judah would have concluded each of the components of the recital with a blessing, which would then be the additional six. Judah specifies blessings which conclude, respectively "redeems Israel," "remembers all forgotten things," "hears the Shofar blast," "hearkens to cries," "hearkens to prayer," "answers in time of trouble," and "has mercy on the land." These are seven blessings with which to conclude six Biblical passages. The Gemara grapples with this issue at Ta'an. 16b.

[45]As emended to delete these words, the Mishnah passage would read "*v'omer lifne'hen zikhranot shofarot ve...*[here the beginnings of several Psalms are given]," -- "he said before them *zikhranot*, *shofarot* and . . ."

16b to like effect and the parallel account in T. Ta'anit[46] are also the results of a post-Yavneh sensibility. I do not believe that I have adequately demonstrated the correctness of my views so as to ignore these claims entirely. The argument that Psalms and prophetic passages are not "blessings" does not stand up well to the argument that they could have been concluded by blessings and thus have been counted as blessings just as several of the longer blessings of the present-day service are. I have in the Mishnah an apparently tannaitic source, which is supported by two apparently amoraic sources which agree with each other, that is not countered by the existence of the equivalent of the Vienna manuscript of the water festival story and that I cannot satisfactorily explain beyond saying that the words could have easily added by people who would have been likely to add them. Although they are in a context in which the number of blessings said, or even the fact of blessings being said, every day is irrelevant, and although there is no reason to pay special attention to a tannaitic source for events allegedly taking place before the Tannaim arose, I must give it some weight. Sometimes the best source for historical fact is the throwaway line that appears to be out of context, and a claim of

[46]T. Ta'anit 1:8-9 repeats the account of M. Ta'an. 2:1 in a slightly abridged fashion that suggests the Mishnah was known to the compilers of the Tosefta account. The elderly family man is omitted, and the blessings are said by the same older man who had preached repentance. He would say : *esri'm v'arbah b'rakhot sh'moneh esreh sheb'chol yom v'shesh hayah mosi'f* – "twenty four blessings *eighteen that are of every day* and he used to add six." The Tosefta, like the baraita at Ta'an. 16b, proceeds to discussions of where in the fixed order of the *Tefillah* the six extra blessings were inserted and how many times "amen" was said, including when the blessings of the *Tefillah* were said in the Temple. Both these topics sound amoraic.

emendation to explain sources contrary to theory is an unattractive scholarly stance

Even if these sources were proven reliable, however -- and they are not -- the role of Gamaliel and Yavneh would be modified but not eliminated. Since the disagreement in M. B'rakhot 4:3 makes it clear that the *Tefillah* was not yet firmly established in Gamaliel's time, we would then date the restoration or the expansion, although not the origination, of the practice of saying eighteen blessings every day to the period of Gamaliel's leadership. And M. Ta'anit says nothing about the eighteen blessings having been obligatory; the passage could be properly read to mean that eighteen blessings were said every day on which there was, perhaps for other reasons, a convocation, or even a convocation for a purpose that would have been aided by prayer, such as that of a fast-day.

7. Prayer houses

Another source of objection to the prima facie case set forth at the beginning of this Chapter is not a Hebrew text but a Greek word in various forms. First it is necessary to discuss the word; then I will discuss some texts that use it.

As indicated above, the word is "*proseuche*," usually translated "prayer" or "prayer house." Epigraphical evidence exists for a Jewish *proseuche* in Egypt dedicated to a Ptolemaic king as early as the third century BCE.[47] This word, rather than the Greek word "*synagoge*," was used almost exclusively by Jews in Egypt[48]

[47]Ismar Elbogen, *Jewish Liturgy: A Comprehensive History*, 338, Raymond P. Scheindlin tr., based on the 1913 German edition and the 1972 Hebrew edition, Joseph Heinemann and others, eds., Philadelphia, New York and Jerusalem: Jewish Publication Society and Jewish Theological Seminary of America, 1993; Ellis Rivkin, "Ben Sira and the Nonexistence of the

Calling institutions prayer houses, as Shaye Cohen dryly observes, is to use a designation "strongly implying that [their] primary function was [as] houses of prayer."[49]

Much of the scholarly discussion of the *proseuche* has been phrased in terms of whether it is the same institution as the synagogue, but writers purporting to disagree on that issue have in fact agreed on the substance. Lee Levine, for example, believes that some "synagogues" were called *proseuchei*, while Shaye Cohen thinks that they were different institutions. Yet both agree with the scholarly consensus that the *proseuche* was a Diaspora institution that placed an emphasis on prayer, and that the emphasis on prayer was related to the congregation's distance from the Temple.[50]

Synagogue: A Study in Historical Method," in Daniel Jeremy Silver, ed., *In the Time of Harvest: Essays in Honor of Abba Hillel Silver on the Occasion of His 70th Birthday*, 320, 350. New York: Macmillan, 1963. See Elias J. Bickerman, *From Ezra to the Last of the Maccabees: Foundations of Postbiblical Judaism*, 103. New York: Schocken, 1962.

[48] Some inscriptions suggest that *proseuche* was used for the building and *synagoge* for the congregation. Shmuel Safrai, "The Synagogue." Translated by Shimon Applebaum and others. In Shmuel Safrai and Menahem Stern, eds., *The Jewish People in the First Century* 2, 908, 914.

[49]Shaye J. D. Cohen, *From the Maccabees to the Mishnah*, 112. Philadelphia: Westminster, 1987.

[50]Lee I. Levine writes that "a great many synagogues of the Diaspora. . . . were called *proseuche*, house of prayer," and that they differed from other synagogues in terms of their location and "with regard to the ritual conducted therein." He argues that the need for such a place of prayer increased with distance from the Temple. "The Second Temple Synagogue: The Formative Years." In Lee I. Levine, ed., *The Synagogue in Late Antiquity*, 7, 20-21. Philadelphia: American Schools of Oriental Research, 1987. Arnaldo Momigliano agrees with Levine. *On Pagans, Jews and Christians*, 89. Middletown, Conn.: Wesleyan University Press, 1987. Shaye J. D. Cohen makes a distinction between "prayer houses" in the Diaspora and "meeting houses" in Palestine, asserts that "Palestinian synagogues are not *proseuchi," and* explains the *proseuche* in terms of

If the *proseuche* were indeed an institution restricted to the Diaspora, the use of the word would, as Levine, Cohen, Fleischer and others have argued, have little bearing on whether Jews in Palestine engaged in regular prayer before the destruction of the Temple. But a Diaspora-only institution dedicated to prayer would strongly suggest that the post-Destruction community in Palestine adopted Diaspora practices, and that the pre-Destruction synagogue became a *proseuche* as well. This, in turn, would suggest, inconsistently with all rabbinic sources, an origin of the *Tefillah* among the *ammei ha'aretz*.

Moreover, at least one *proseuche* existed in Galilee. Josephus, who usually uses the Greek word "*synagoge*," reports being in a *proseuche* in Tiberias. A political meeting was held one Sabbath in this *proseuche*, suggesting that it was a synagogue with a different name. But the word alone is some evidence for prayer practices even if the building was used for different purposes on this occasion.[51]

The word, however, is Greek, suggesting not only a Diaspora locale but a relation to Hellenistic culture.[52] Although the word seems to

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Diaspora Jews "need[ing the]. . .means for regular communion with God. . .[and] creat[ing] a new institution in which the community could gather for prayer." *From the Maccabees*, 66, 111,113. Solomon Zeitlin shares Cohen's views. "The Tefillah, The Shemoneh Esreh: An Historical Study of the First Canonization of the Hebrew Liturgy." *Jewish Quarterly Review* 54 (1964), 208, 229-233. Ellis Rivkin argues the inverse of Levine's position, that some *proseuchei* were synagogues and others were not. "Ben Sira," 350. See below, note 58, for a summary of Rivkin's views of the origin of the *proseuche* and the further development of the same ideas by Martin A. Cohen.

[51]See below for another interpretation of Josephus' use of the word.

[52]See Shaye J. D. Cohen, *From the Maccabees*, 111. Scholars disagree, however, on the extent to which Palestinian Jews spoke Greek.

have been used principally for Jewish institutions,[53] it may have been used occasionally to refer to Gentile worship sites.[54] If both Jews and Gentiles attended *proseuchei*, the contribution of the *proseuche* to the origins of the *Tefillah* may be minimized; a "pagan" *proseuche* would have been a place for the spontaneous, voluntary "pagan" prayer encountered earlier in this study, and so would a Jewish *proseuche*.[55]

Substantial arguments exist, however, that a Jewish *proseuche*, regardless of its name or usage, was not in fact a place for prayer.

The "home" of the *proseuche*, as indicated above, appears to have been Egypt, specifically near Alexandria, and Philo, Alexandria's most prominent first-century Jew, describes the *proseuche* in the same terms with which this study has described the Palestinian synagogue. In *Moses* II:216 Philo writes: "For what are our *proseuchteria* but educational institutions ["*didaskaleia*"] of prudence and courage and temperance and justice and also of piety, goodness and every virtue." In *Hypothetica* 7:12-13 he makes it clear that the way these virtues were taught in the *proseuche* was by reading Torah:

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[53]Juvenal has a character insult another by saying that he can be found in a "*proseucha*" -- transliterating the Greek word into Latin -- by which he apparently meant that the object of scorn was a Jew. See, *e.g.*, Molly Whittaker, *Jews and Christians: Greco-Roman Views*, 33. Cambridge: Cambridge University Press, 1984.

[54]See Schuerer, *Geschichte des Judischen Volkes* 2, 517 n. 59, cited in Ezra Fleischer, "On the Beginnings," 408 n.27.

[55]If Louis Feldman is right that Philo knew no Hebrew and that in Philo's time Hebrew was "almost unknown in Egypt," any prayers said in an Alexandrian *proseuche* were unlikely to have included the *Tefillah*, since it would have hardly been so well established that Jews with no Hebrew would nonetheless have said a Hebrew prayer in the manner of many twentieth-century Americans. Feldman acknowledges that Harry Wolfson, one of the leading Philo scholars of this century, disagrees. Louis H. Feldman, *Jew and Gentile*, 55.

[Moses] commanded all the people to assemble together in the same place, and sitting down with one another, to listen to the laws with order and reverence, in order that no one should be ignorant of anything that is contained in them; and, in fact, they do constantly assemble together, and they do sit down one with another the multitude in general in silence, except when it is customary to say any words of good omen, by way of assent to what is being read. And then some priest who is present, or one of the elders, reads the sacred laws to them, and interprets each of them separately to eventide; and then when separate they depart, having gained some skill in the sacred laws, and having made great advances toward piety.

This account could well serve as a description of the practices of the synagogues of the *ammei ha'aretz*. There seem to be some words said by the leadership to which the congregation says the equivalent of "Amen," and then the group settles down to a long day of Torah study led by one of its high-caste members, or, if none is present, by an elder. The "words said" are likely blessings surrounding the Torah reading, and not a separate *Tefillah*.

Why would Philo and the rest of Hellenistic Judaism call an institution a prayer house if it was not used for prayer?[56] Ellis Rivkin, Lee Levine and Ezra Fleischer suggest that the word emphasized the religious character of the institution, that it was "a more elevated and spiritual name," and more easily understood as such in mixed communities.[57] I find this suggestion persuasive.

[56]If in fact Diaspora Jews called synagogues *proseuchei* this could explain Josephus' use of the word when he was writing his autobiography in Rome. E. Mary Smallwood has written that Diaspora synagogues were known as prayer-houses and were used by Jews for "worship," "Sabbath services" and "educational purposes." *Jews Under Roman Rule*, 133. But it does not explain why Josephus used it with respect to only one occasion and used the word "*synagoge*" elsewhere.

[57]Ellis Rivkin, "Ben Sira," 354; Lee I.. Levine, "Second Temple

This Rivkin-Levine-Fleischer argument is even more persuasive after analysis of the Greek word *proseuche*. Although "prayer" and "prayer house" are its most common meanings, they are not its only meanings, and a substantial case can be made that in late antiquity its meaning was sometimes closer to "worship" or "house of worship," particularly among a group which, being "native" speakers of Greek, would have used Greek words for their own Jewish purposes.

"Temple" is the English translation of "*mikdash*," the cult center in Jerusalem. But "temple" has other connotations in English, of a sort of oriental religiosity, and the nineteenth-century Reform Jews who called their houses of worship "temples" used the flexibility and ambiguity of that English word for their own Jewish purposes. They did not imply to

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Synagogue," 22. Fleischer's views are summarized in Chapter 3, p. III-5. Rivkin adds another explanation for the use of the word. He finds that the first attested *proseuche*, the one dedicated to Ptolemy IV Eugertes in the middle of the third century BCE, was not meant for general use, but was erected to commemorate a benign decree by the king and that a "prayer house" in honor of the king was used only to pray for the welfare of the king. Rivkin understands Philo's references in *Flaccus* 49 to *proseuchei* in which Jews display their piety and devotion to the house of Augustus to mean that some *proseuchei* had a similar function in Philo's time, although Philo uses the same word two verses earlier in a phrase Colson has translated as "rioting against their synagogues and ancestral customs." Rivkin thus believes Philo used the same word to describe "the classical *proseuche* that had its origins as a symbol of loyalty in the Hellenistic period, especially in Ptolemaic Egypt, and the post-Hellenistic *synagogue* which took its strongest root in Rome." "Ben Sira, " 353. Leslie J. Hoppe agrees with Rivkin that a "prayer house" originally was a place used only to pray for the welfare of the king. *The Synagogues and Churches of Ancient Palestine*, 7. Collegeville, Minn.: Liturgical Press, 1994.) Martin A. Cohen develops the idea further and writes that some *proseuchei* "served as licit alternatives to shrines for emperor worship." *Two Sister Faiths: Introduction to a Typological Approach to Early Rabbinic Judaism and Early Christianity*, 16. Worcester: Assumption College, 1985.

themselves or to their Gentile neighbors that they were engaged in animal sacrifice, but only that they attended a house of worship too modern and enlightened to be called a "synagogue" but too Jewish and too exotic to American eyes to be called a "church."

Similarly, even if "*proseuche*" would have meant only "prayer house" to Athenian nobles in the Attic period, it still might have meant "house of worship" -- but one different from a "*hieron*," a "temple," a cult site -- to Alexandrian or Corinthian Jews *and* to their Gentile neighbors.

And "*proseuche*" may never have meant only "prayer house" to anyone.

"*Pros*" is a Greek prefix, indicating, among other things, movement towards something, or direction; it is also used outside such literal meanings to indicate "of," or "about" or "concerning." Thus, when combined with "*helios*" -- the sun -- it results in "*pros-helios*," and can have a purely directional meaning, "toward the sun," or less literally, "exposed to the sun," or, not literally, "sunny."

"*Euche*" derives from a verb, "*euchomai*," that has four meanings, the two primary ones being "to pray" or "to vow." Another meaning is "to profess" or "to assert." The less frequently used meaning, "to boast," "to call attention to oneself," may have been the word's original meaning.[58]

"*Proseuche*," therefore, on one level, principally means "toward prayer" or "toward vow," or of, about or concerning prayer or vows, or something like "prayer-ey" or "vow-ey."

[58]See Walter Burkert, *Greek Religion*, 73. Translated by John Raffan. Cambridge, Mass.:Harvard University Press, 1985.

But for the alternative and equally important meaning of "vow," therefore, the translation as "prayer house" would so far seem right. Since a prayer house may have also been the best place for vows, an argument seeking to deny the prayer connection on the basis of the alternative meaning would not be advanced, and we would be left with the Rivkin-Levine-Fleischer position that Greek-speaking Jews called some synagogues "prayer houses" in order that their Gentile neighbors would understand that a place with no sacrifices was nonetheless a place involving the Jews' relation to their God.

"*Euchomai*," just like the English "to pray," can be used in different grammatical constructions to mean "to pray" *to*, or "to pray" *that*, or "to pray" *for*. In Greek, a verb sometimes also has an "absolute" meaning, and the standard lexicon meaning for "*euchomai*," when prefixed by "*pros*," has the "absolute" value of "to worship."

When "absolute" is used in a lexicon regarding the meaning of a verb it usually indicates the meaning of the verb when used alone, without objects or adverbs.[59] If the noun "*proseuche*" is derived from the absolute meaning of the compound verb "*proseuchomai*," therefore, its best definition would be "house of worship" rather than "house of prayer" and the Rivkin-Levine-Fleischer argument would be substantially reinforced.

Indeed, such a derivation is more likely than one from the more common meanings of "*proseuchomai*." Neither the Jews nor their neighbors engaged in a religious life that featured praying to, or praying

[59]James Mulkin of City University of New York, email to author, November 19, 1997. Mulkin would not necessarily agree with the argument in the text; in a conversation in July 1997 he expressed the view that "*proseuche*" means prayer or prayer house, and that no philological argument can be made for a broader meaning.

that, or praying for. Their religious life centered on cult activities, which could be easily understood as "praying" without objects or adverbs, for which the absolute meaning of "*proseuchomai*" might make an excellent semantic fit. Had they called a house of worship a "*hieron*" -- a "temple" -- their neighbors would have been confused, and their claim that they did not attend their neighbors' sacrifices because they were bound by their religion to sacrifice to only one God in only one Temple would have been weakened. But *proseuche* may have gotten across the idea of sacrificial worship without sacrifice.

The foregoing analysis sheds light on three texts from Josephus which have been used to support the idea that the Jews engaged in regular prayer -- recited the *Tefillah* -- before the destruction of the Temple.

In *Antiquities* 18.1.3, Sec. 15, Josephus says that the Pharisees, because of their views on immortality, are extremely influential among the urban populace concerning divine worship, *euche* and Temple sacrifices. The reference to "*euche*" is often taken to mean that the Jewish populace prayed in accordance with the views of the Pharisees. Josephus saying that the people prayed in accordance with the views of the Pharisees, the argument runs, means two things: one, the Pharisees prayed regularly, and, two, the people prayed regularly. Obviously an additional step (or leap) would be needed to deduce from that that the Pharisees and the people prayed the *Tefillah*.

But the text does not even demonstrate that the Pharisees prayed. Louis Feldman's translation in the Loeb edition of Josephus is quick to offer the alternative definition of "vow" in a footnote. He therefore suggests that it might have been matters of vows in which the people followed the Pharisees, not matters of prayers.

Further, the word may have no separate meaning in this text, but merely be repetition or padding. The entire phrase in which the word appears is translated by Whiston as "divine worship [here appears the word "*euche*," which he translates as "prayers"] and sacrifices" but by Feldman as "sacred rites of divine worship" While standard lexica do not assign an absolute value to "*euchomai*" without the prefix, in the context of the other words in the phrase it may well have that meaning, and perhaps that is why Feldman ignores it in his translation.

In Sec. 294 of his autobiography, Josephus returns, armed and with a bodyguard, to the Tiberias *proseuche*. There is a pause in the political back and forth, and Josephus and his bodyguards "proceed with the ordinary service," in the Feldman translation, or "engage in the duties of the day," in the Whiston translation, and therefore *pros euche trapomenon*, -- engage (as in Feldman), or betake themselves, as in Whiston, "toward" *euche*. Josephus describes his activity with a preposition and a simple noun which together make up the compound noun "*proseuche*." While this is usually cited as evidence that prayer was a regular feature of life in the Tiberias *proseuche*, I believe that the same analysis I applied to the compound noun may be applied to the preposition and the simple noun. Josephus and the rest of the congregation engaged in "worship," not necessarily prayer, and therefore, based on Philo's testimony concerning *proseuchei* in Alexandria, in listening to the Torah being read together with its surrounding liturgy.

In *Antiquities* 14.10.23, Josephus records a decree of Julius Caesar allowing the Jews of Halicarnassus to make *proseuchei* at the seaside according to the customs of their fathers. If these were prayers, or prayer houses, it may be that the Jews of Halicarnassus were one of the

groups that in fact engaged in regular prayer, although Josephus does not say so elsewhere.[60] More likely, they engaged in other worship practices, perhaps those of the synagogue, at the beach as a matter of local *minhag*.

An Interim Evaluation of the Prima Facie Case.

It will be helpful at this point to review the status of the evidence. M. B'rakhot 4:3 associates Gamaliel with the origination of the obligatory *Tefillah* while making it clear that his view was not yet universally accepted even among the leading Tannaim, while the Shimon haPakuli baraita provides some background on what Gamaliel referred to when he said "pray Eighteen." Since the tannaitic literature is the only evidence we have for the activities of the Tannaim between their rise and the redaction of the Mishnah (the period that, following Steven Fraade, I have called the tannaitic tunnel), this material has been determined to have satisfied an assigned burden of coming forward with the evidence and accordingly to have made a prima facie case.

Much of the evidence offered to the contrary, such as the stories in Daniel and Judith, is not evidence at all. Some of the evidence -- such as the possibility that the unidentified blessing said by the priests in M. Tamid was the prototype of the *Tefillah*, or that the High Priest had his own private *Tefillah*, or Petronius' noisy Jews shouting heavenward -- is so weak that a reasonable trier of fact might conclude that it too is not evidence and that the prima facie case is successful.

Other sources, including the variant texts about the water festival, the Hillel, Shammai and Honi material, and the priestly blessings in the

[60]Another decree of Caesar's which Josephus preserves indicates that the Jews of Sardis may have engaged in sacrifices. See Chapter 4, p. IV-25..

countryside, clearly provide at least a scintilla of evidence, probably enough to prevent the prima facie case from succeeding simply because it is a prima facie case.

But the evidence of "eighteen blessings said every day" from M. Ta'anit -- even though I believe it to be a later emendation -- and the existence of an institution called, on the face of the word used for it, a "prayer house" -- even though I believe the word not to mean that at all -- clearly must be treated as some evidence, enough so that the prima facie case, if it is to prevail, must do so on the merits, must be more convincing than the contrary evidence.

I believe that it is.[61] By 200 CE the *Tefillah* was established in the world that produced the Mishnah. But contrary to its normal treatment of the *Tefillah* as an obvious requirement, the Mishnah testifies that Gamaliel said that saying eighteen blessings every day -- the *Tefillah* -- was mandatory, and that his senior colleagues did not agree.

Joshua argued that an abbreviated "eighteen" was sufficient,[62] and Akiba tried to bridge the gap between Gamaliel and Joshua by saying that only someone who knows the full "eighteen" need say it while others would fulfill their obligation by saying an abbreviated "eighteen."[63]

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[61]As mentioned above, however, even if the contrary evidence is preferred, the result would be that Gamaliel and his circle restored the *Tefillah* or brought it to Palestine. This would have been no small accomplishment in itself.

[62]If the "deposition" material in Ber. 27b is to be believed, Joshua kept on battling against the amount of required prayer; the event that triggered Gamaliel's deposition was his treatment of Joshua after Joshua disagreed with him about the mandatory nature of the evening *Tefillah*.

[63]Akiba may have been arguing to keep the requirement of a full *Tefillah* within the elite group of Tannaim, while Gamaliel may have already understood that the brand of Judaism he and his colleagues practiced

Most important, Eliezer was opposed to making the *Tefillah* mandatory in the first place. Eliezer said *ha'oseh tefillato keva ein tefillato tachanonim* -- "the one who makes his prayer fixed, his prayer is not [does not function as] supplication." Most readers of this mishnah, including the Rabbis of the Gemara,[64] have understood Eliezer to have been talking about the manner in which the fixed *Tefillah* is to be said. But this is not the most obvious reading of the text, which discloses a spectrum of opinion on Gamaliel's statement: 1) Gamaliel, who stands for fixed, lengthy obligatory prayer; 2) Joshua, who stands for fixed but abbreviated obligatory prayer; 3) Akiba, who would have different rules for different people; and 4) Eliezer, who opposes obligatory prayer entirely, believing that God will treat only spontaneous prayer as genuine.[65] Perhaps the fact that Eliezer was himself a priest was one of the reasons he was unwilling to accept a new-fangled substitute for *avodah* but wanted to keep prayer what it had always been. In any event, he did not eventually prevail, but the issue was a live one in Yavneh.

M. B'rakhot 4:3 is not the record of the views of a group differing only on details; it is a glimpse into a substantial controversy among the principal Tannaim of the period around 100 CE. I think that evidence of an eventually accepted position, taken in the course of a controversy about the position, is very strong evidence that the person shown as taking that position indeed took it, that those who disagreed with him did indeed

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might best be spread to the rest of the Jews through the instrumentality of a mandatory *Tefillah*.

[64]See Ber. 29b.

[65]As indicated in Chapter 2, Heinemann and Sarason share this view. It was also suggested by Michael Chernick of Hebrew Union College -- Jewish Institute of Religion in a class at which I was present.

disagree, and that he in fact prevailed. Gamaliel wanted the *Tefillah* to be mandatory. His colleagues opposed him or sought to convince him to modify his position. He won.[66] Therefore, for our purposes, M. B'rakhot 4.3 is convincing evidence that Gamaliel played a leadership role in the origination of the Tefillah.

And nothing credible contradicts this understanding. If "praying Eighteen" had been the practice since the time the Temple still stood, or if a cognate Sabbath practice of "praying" eight or nine or seven had been established by the turn of the Era, why would Joshua and Akiba try to step backward, and why would Eliezer want to alter the practice, with the Temple gone?

Accordingly, I believe that the evidence connecting the origination of fixed, obligatory prayer with Gamaliel and his circle in Yavneh is more convincing than any contrary evidence. The case becomes stronger when we examine additional evidence supporting my *conclusion*.

Sources Supporting My Conclusion[67]

The Sermon on the Mount

Chapters 5 through 7 of the Gospel of Matthew set forth Jesus' Sermon on the Mount. In the course of his sermon, Jesus expresses two negative views about contemporary prayer practices, one apparently about prayer among pagans, and one about prayer among certain Jews.

[66]After his loss to Gamaliel on making the *Tefillah* mandatory, Eliezer seems to have continued to teach that spontaneous personal prayer is more important than the recitation of the *Tefillah*. According to a baraita in Av. Zar.7b, "R. Eliezer says a man asks for his needs and after that "*yitpallel*." Joshua took the opposite position.

[67]See also note 16 above for rabbinic sources treating the *Tefillah* as "*d'rabbanan*."

In Matthew 6:7, Jesus tells his disciples not to babble on in their prayers with many words as the pagans do, but to use few words. The few words he ordains -- 57 both in Greek and in The New English Bible's English -- comprise the Lord's Prayer. A barebones version of each daily *Tefillah* contains well over ten times as many Hebrew words. If such *Tefillot* were said in the mainstream Jewish community that the Matthean community knew, and if they were accompanied by recitals of the *Sh'ma* and whatever blessings surrounded the *Sh'ma*, the Matthean authorship would have indicted the Jews, along with the pagans, as babbling many words in prayer. But only pagans are so accused, probably because Jews did not recite many prayers, since at the time the Gospel story is set-- and perhaps when Matthew was written -- the Jews did not yet say the *Tefillah*.

Two verses earlier Jesus tells his disciples that when they pray they should not be like hypocrites who love to pray standing in the synagogues and on street corners, so that they may be seen at prayer by others. Had the authorship of Matthew meant to say that followers of Jesus should not pray like mainstream Jews the text would say so[68] just as it says that they should not pray like pagans. The Matthean authorship was willing to say that *all* pagans prayed with too many words, but not to say that *all* Jews prayed in synagogues or in the streets. Hostility to other Judaisms appears to have not taken complete hold yet in this community, and few Jews, in fact, prayed either in the synagogues or on the streets.[69]

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[68]Once redacted after the rise of enmity between the Church and the Jews the version we have might have simply said "the Jews."

[69]Matthean Christianity and early rabbinic Judaism have been characterized as "twin alternatives." Alan Segal, *Rebecca's Children: Judaism and Christianity in the Roman World.* Cambridge, Mass.: Harvard University Press, 1986. "The Matthean group. . .are Jews who believe in

The subsequent anti-Judaism of Christianity has caused many readers, Christian and Jew alike, to read the reference to "hypocrites" to be a reference to Jews who were not followers of Jesus, with the result that this text has been cited as evidence of the *existence* of regular prayer among pre-Destruction Jewry. Heinemann, for example, finds that "it is clear beyond all shadow of a doubt that these words of Jesus are directed against the prayer of the Synagogue, and against fixed, statutory public prayer in general."[70] The much better reading, however, is that when Matthew says "hypocrites," hypocrites are meant. In Matthew 6:16, Jesus tells his disciples that when they fast they should not fast as hypocrites do, who disfigure their faces to show that they are fasting. It is unlikely that Heinemann would deduce from this that most if not all first-century Jews pulled long faces in insincere fasts. No more should it be deduced from 6:5 that they prayed in synagogues or on the streets.[71]

Jesus as the Messiah and Son of God. . .a fragile minority still thinking of themselves as Jews and still identified with the Jewish community by others[;] despite its sharp conflicts. . .or better, because of these negative relationships, the Matthean group is still Jewish." Richard Saldarini, *Matthew's Christian-Jewish Community*, 1. Chicago and London: University of Chicago Press, 1994. "Whether we think of Mt's church. . .as a Gentile Christian [church] inheriting Jewish-Christian tradition or as a Hellenistic-Jewish Christian [church] growing out of a narrow Jewish-Christian past. . .a once strongly Jewish-Christian church is becoming increasingly Gentile in composition." John P. Meier, *Law and History in Matthew's Gospel: A Redactional Study of Mt. 5:17-48*, 22. Rome: Biblical Institute Press, 1976.

[70]See Joseph Heinemann, *Prayer in the Talmud: Forms and Patterns*, 192. Berlin and New York: de Gruyter, 1977.

[71]Jesus' solution, to avoid his disciples' praying in synagogues and on the streets, where the disciple will seem to be a hypocrite, or praying with many words in the manner of pagans, is to ordain that they pray the Lord's Prayer in secret, contrary to Heinemann's claim that the text is directed against fixed statutory prayer in general.

The Letter of Aristeas

The work of the seventy elders went so well, the story in *Aristeas* goes, that the king gives a big party. Not only does he order a feast, but he asks that it be conducted in accordance with Jewish customs. As a direct result of the application of these Jewish customs, the feast is marked by the absence of sacred heralds, and sacrificing priests, and others who (apparently at the king's typical banquets) offered prayers. Instead, the eldest priest present is called upon for a few words. He utters a prayer for the welfare of the king, and sits down to general applause.

This suggests that Jews at the time prayed *less* regularly than some Gentiles, and that when they did pray, they did so informally and spontaneously. Thus the regular seaside prayer uttered by these translators as discussed above would have represented the custom "of all the Jews" to pray before they began their work, especially such work as that of the Seventy, and not a custom of daily prayer.

Arguments from silence

While arguments from silence are objectionable when used to demonstrate the existence of an institution,[72] they can be useful to demonstrate the non-existence of one, even though the argument from silence is an example of the *approach* of the presumed applicability of sources and must be used gingerly.[73] Had the *Tefillah* been in existence before the destruction of the Temple, I should have expected it to be

[72]Ellis Rivkin, "Ben Sira," 345.
[73]"All history rests on arguments from silence." Martin A. Cohen, *Two Sister Faiths*, 4.

mentioned in certain in various sources, its absence in them could be evidence of its non-existence

1. Silences in primary sources

Chapter 1 mentioned the reflection in *It's a Wonderful Life* of the American practice of churchgoing at times of national importance. "Like everybody else, on V-E Day he [George Bailey] wept and prayed. On V-J Day he wept and prayed again."[74] Had the *Tefillah* existed during the four years of the War with Rome, Josephus might have mentioned it. He apparently did not.

While rabbinic sources usually assume the long-standing existence of the *Tefillah*, one source affords a glimpse of a world in which the *Tefillah* may not have existed or have been very well-established. A baraita in T Hagiga 1:2 discusses what a child is obligated to do. If he is not dependent on his mother, he must sit in a *sukkah*. If he can wave a *lulav*, he is obligated to wave one. If he can dress himself he is obligated to observe the laws of *tsitsit*. If he knows how to slaughter an animal, his slaughtering is kosher. And so on.

It is striking for the purposes of this study that if he can talk, he is obligated to learn to say the *Sh'ma*, obligated to learn Torah, and obligated to learn Hebrew. He is not obligated to learn or to say the *Tefillah*.

2. Silences in secondary sources

To adequately argue the non-existence of the *Tefillah* from silence would require reading all the sources in encyclopedic detail. Arguably, the

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[74]Frances Goodrich, Albert Hackett and Frank Capra, *It's a Wonderful Life*. Screenplay. Liberty Films, 1946. In Jeanine Basinger (In Collaboration with the Trustees of the Frank Capra Archives), *The It's a Wonderful Life Book*, 237. New York: Alfred A. Knopf, 1986.

secondary literature collectively considered has done so, and its failure to mention the *Tefillah* in contexts where such a reference would have been expected could itself be evidence that the *Tefillah* did not exist.

Gedaliah Alon has studied the Roman persecution after the Bar Kokhba War, and has found that the Romans closed the synagogues and thereby banned Torah study, banned the wearing of *tefillin*, banned the posting of *mezuzot*, banned the giving of *teruma*, banned immersion in the *mikveh*, banned the observation of the sabbatical year, banned the celebration of *Hanukkah*, and banned living in a *sukkah*. These bans were effective in Palestine only, since the Romans did not want to ban the observation of Judaism in the Diaspora. Alon is silent about a ban on the *Tefillah* anywhere.[75]

Louis Feldman has studied the favorable attitudes of the Gentiles of late antiquity toward the Jews. The Jews were admired for their piety, but their piety consisted of obedience to the Torah, especially the avoidance of idolatry and the observance of the Torah's dietary restrictions, particularly regarding pork. Their recitation of the *Tefillah* is not mentioned.[76]

Shaye Cohen has studied pre-War sectarianism. He devotes a chapter to it in his book, and shows differences among various sects concerning the Temple and the Torah. He does not mention any

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[75]Gedaliah Alon, *The Jews in Their Land in the Talmudic Age (70-640 C.E.)*, 634, 636. Translated and edited by Gershon Levi. Jerusalem: Magnes Press, 1980. Alon believed, however, that the *Tefillah* was recited in synagogues and he may well have meant to suggest that the *Tefillah* was also banned when the synagogues were closed.

[76]Louis H. Feldman, *Jew and Gentile, 230*. Feldman has also studied adverse attitudes toward the Jews, and finds that they were criticized for circumcision (thought to be barbaric), Sabbath observance (thought to manifest laziness), and kashrut, but not for their prayers, except if Petronius' remark about a clamor in the ears of heaven is such a criticism.

differences among them concerning prayer. This might mean that they all prayed the *Tefillah*, as Elbogen suggested, but it suggests to me as it did to Chessnut and Norman that perhaps there was no *Tefillah* about which they might have disagreed.

Martin Goodman has studied the War. He claims that various factional leaders -- all of them *aristocrats* -- attempted to appeal to the masses. The "slogans used by ambitious politicians were, characteristically for Jewish society, religious." Accordingly they claimed that the War was being fought to "defend the Law, the city and the Temple by preserving the purity and piety of the cult." The campaign was successful, and the populace followed these leaders in the hope that in return for their piety God would be their ally. Goodman does not say that the political leaders called the people to prayer, or mention that any of these pious people prayed or thought about prayer.[77]

Prayer Among Jews Outside the Mainstream --The Essenes

Among the leading sources supporting my *conclusion* are Josephus' writings on the Essenes who did, indeed, pray regularly. That he found this remarkable is substantial evidence that most of the Jews he knew of did not pray regularly.

In Chapter 7 of the second volume of the *War*, Josephus divides the Jews into three "schools of thought": the Pharisees, the Sadducees and the Essenes. The Essenes are unusual in several ways, including that, in the Williamson translation, as revised by Smallwood, "they show devotion to the Deity in a way all their own. Before the sun rises they do not utter a

[77]Martin Goodman, *The Ruling Class of Judaea: The Origins of the Jewish Revolt Against Rome A.D. 66-70*, 218-19. Cambridge: Cambridge University Press, 1987. at 218-19

word on secular affairs, but offer to Him some traditional prayers "[78] The older Whiston translation makes the point even more dramatically: "And as for their piety towards God it is very extraordinary; for before sunrising they speak not a word about profane matters, but put up certain prayers which they have received from their forefathers "[79]

Josephus finds the Essenes fascinating; he devotes over five pages (in the Penguin Classics edition) to them, but sums up the Pharisees and the Sadducees together in one paragraph.[80]

What is it that Josephus finds so unusual about the Essenes' prayer practices? Is it the silence before prayer? Or the pre-dawn timing? Or the very fact of daily prayer? If the Pharisees (whom he elsewhere described as being the leaders of the Jews in matters of *euche*)

[78]E. P. Sanders reads this as meaning that the Essenes had fixed texts for their prayers. *Jewish Law From Jesus to the Mishnah*, 73. London and Philadelphia: SCM Press and Trinity Press, 1990.

[79]The Greek phrase after the quoted material can be translated to mean that they were beseeching God to appear, which Williamson and Smallwood favor, or that they were beseeching the sun to rise, which Whiston adopts. In her notes to her revision of the Williamson translation, Mary Smallwood remarks that the alternative translation "rather surprisingly impl[ies]. . .sun-worship. But cf. their extraordinary respect for 'the rays of the god.'" Josephus, *The Jewish War* 427 n.5. Translated by G. A. Williamson. Revised by E. Mary Smallwood. Hammondsworth, England: Penguin Books, 1981. Smallwood refers to an Essene practice Josephus describes of draping their cloaks around them when they defecate "so as not to affront the rays of the god."

[80]He describes the Pharisees as the leading sect, the most authoritative exponents of Torah, who ascribe everything to Fate or to God, who believe in the immortality of the soul, the transmigration of the souls of the good, and the punishment of the souls of the bad, and says they are friendly with one another and seek to promote concord with the general public. He describes the Sadducees as denying Fate altogether, holding God incapable of either doing or committing sin and believing in untrammeled free will and that the soul dies with the body, and says they are as harsh and disagreeable with each other as they would be to foreigners.

had prayed every day, or if the Sadducees had. I doubt if he would have found the Essenes' practice "a way all their own" or "very extraordinary." Although his description of the Pharisees and the Sadducees is so short that little can be derived from his silence, he does not mention either of them praying. But his attitude toward the Essenes is evidence that the other "schools of thought" did not engage in regular prayer.

In addition to the Essenes, other groups of Jews prayed before the destruction of the Temple,[81] but no-one recited the *Tefillah*. By 200 CE the

[81]No group of which there is information employed regular communal prayer to as great an extent as did the Qumran community. Many scholars have associated this community with Josephus' Essenes, but "voices have recently been heard claiming that the Jews behind the Scrolls were Sadducees." Joseph A. Fitzmyer, review of *The Complete Dead Sea Scrolls in English*, by Geza Vermes, *New York Times Book Review*, September 21, 1997. The consensus appears to be that the community was led by priests, that it retired to the desert because it believed the Temple cult to have become impure, and that it practiced a Judaism in which prayer, purity and the sectarian life itself served as a replacement for the Temple. The community -- or the priests among it -- may have prayed together as often as three times daily and used fixed prayers. Esther G. Chazon and Moshe Bernstein, "An Introduction to Prayer at Qumran," in Mark Kiley and others, eds., *Prayer from Alexander to Constantine*, 9; Stefan Reif, *Judaism and Hebrew Prayer: New Perspectives on Jewish Liturgical History* 48-49, Cambridge: Cambridge University Press, 1993; Lawrence H. Schiffman, *The Halakhah at Qumran*, 85, Leiden: Brill, 1975; Lawrence H. Schiffman, *Sectarian Law in the Dead Sea Scrolls: Courts, Testimony and the Penal Code*, 143, Chico, Cal.: Scholars Press, 1983; Lawrence H. Schiffman, *The Eschatological Community of the Dead Sea Scrolls*, 57, Atlanta: Scholars Press, 1989; Lawrence H. Schiffman, *Reclaiming the Dead Sea Scrolls: The History of Judaism, the Background of Christianity, the Lost Library of Qumran*. Philadelphia and Jerusalem: Jewish Publication Society, 1994; S. Talmon, "The "Manual of Benedictions" of the Sect of the Judaean Desert," *Revue de Qumran* 2 (1960), 475, 476; Yigael Yadin, *The Scroll of the War of the Sons of Light against the Sons of Darkness*, 11, 17, 208, Oxford: Oxford University Press, 1962.

As indicated above, the disciple circles of Hillel and Shammai may have engaged in regular prayer. Philo mentions that certain Theraputae, at least

Tannaim prayed the *Tefillah* and regarded themselves as obligated to do so. Eventually all Jews prayed the *Tefillah* and regarded themselves as obligated to do so. The next Chapter will try to reconstruct what happened in Yavneh, and how the *Tefillah* may have spread from the Tannaim around Gamaliel to the synagogues of the *ammei ha'aretz*.

when they are on retreat, pray twice a day, at sunrise that the happiness of the day shall be real happiness, and at sunset that they may be able to discover truth. Another Alexandrian group that may have prayed regularly is the circle that produced *Slavonic Enoch*. See "Sources Opposing My *Conclusion* -- Evidence of Prayer at Fixed Times," above. Still another is the authorship of the *Wisdom of Solomon*, which describes certain snow and ice that "melted away when warmed by the sun's first rays, to teach us that we must rise before the sun to give thee thanks and pray to thee as daylight dawns. 16:28. The similarity to Josephus' version of the Essenes is notable. *Sibylline Chronicles* III, lines 573-93, predicts that a holy race of God-fearers will arise, who perform good sacrifices, possess the law of the Most High, shun idolatry and "instead raise heavenward holy arms, rising early from their beds and ever leaning their flesh with water and they honor Him who reigns forever." Perhaps the circle from which that comes knew of regular, fixed prayer. Another praying group would be the followers of "the simple prayer-cult -- without sacrifice" -- posited by Michael Weitzman to have existed in the Diaspora in support of his claim of a Jewish translation of the Tanakh into Syriac. "From Judaism to Christianity: The Syraic Version of the Hebrew Bible." In Judith Lieu, John North and Tessa Rajak, eds., *The Jews Among Pagans, in the Roman Empire*, 147, 166. London and New York: Routledge, 1994.

6. Reconstructing Yavneh

"[A]ll historical reconstruction should probably be written in the subjunctive mood."

Erwin Goodenough[1]

The Yavneh I described in Chapter 4 would have been an exciting place, one in which all sorts of people -- scribes and Pharisees, intellectuals and generals, Essenes and *ammei ha'aretz* -- with all sorts of ideas were together in one small city, united only in their patriotism, in their weariness of war, in their loss of the Temple, and in their commitment not to let disagreements over ideas result in the sectarianism that they now understood could lead to civil war.

And what ideas they had! By the end of the tannaitic tunnel the Tannaim had emerged from the group, and the way of life they had created eventually became mainstream Judaism. Different people from different groups, living with each other in creative ferment, would have contributed different ideas, which together became the universal ideas of Judaism: the idea that the study of Torah is our greatest duty to God; the idea that Scripture is the word of God joined to the idea that Scripture must be interpreted before it can be obeyed; the idea that the dead will be raised; the idea of an elaborate mitzvah system going far beyond those mitzvot practiced in pre-Destruction times; the idea that an Oral Torah stands at least next to and perhaps above the Written Torah; and many others, including the idea that the daily recital of a fixed *Tefillah* is obligatory.

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[1]Erwin Goodenough, *Jewish Symbols in the Greco-Roman Period*, 35. Abridged and edited by Jacob Neusner. Princeton: Princeton University Press, 1988.

The experience of living in such a place at such a time would have been itself a major factor in overcoming the loss of the Temple for the emerging Tannaim. Just as life during the wrenching experience of war is often described, by combatants and others, as somehow the best and headiest of times, the painful experience of post-Destruction Yavneh might also have been exhilarating. And the passage of thirty years of settling into a new reality and the rise of a new generation who had only youthful memories of the Temple would have further reduced the sense of loss.[2]

In those thirty years more and more people would have come to Yavneh or have brought "Yavneh" to themselves, as teachers or as disciples, and they continued to avoid discord by creating centers of Yavneh-style Judaism elsewhere: Eliezer in Lod, Joshua in Pikiyin, Akiba in B'nei Brak.[3]

Who were some of the people in Yavneh and what ideas might they have contributed?

Scribes

Building on Saldarini, Chapter 4 classified Jerusalem scribes among the *aristocrats* and rural scribes among the *ammei ha'aretz*. To be a scribe in the Middle East of late antiquity was to be a member of a learned profession; of the available sources only the Synoptic Gospels treat scribes

[2]At the same time, Yavneh continued to yearn for the Temple. Temple customs like the priestly blessing, lulav, etrog and Shofar were preserved, and the intellectuals of Yavneh studied the laws of sacrifice as assiduously as they studied anything else in the Torah.

[3]As indicated above, as tannaitic Judaism grew and developed it spread to various locales where leading Tannaim formed their own disciple circles. My references to Yavneh are meant to include all centers of emerging tannaitic Judaism.

as a social group [4] Scribes could write (and read)[5], and they made their living writing everything from business documentation to Torah scrolls [6] The highest-level urban scribes probably got most of their trade from other *aristocrats* and were probably involved with Temple life.[7] The scribes among the *ammei ha'aretz* undoubtedly played a role in their synagogues

It is a commonplace that without scribes there would have been no Torah scrolls and, indeed, no Torah; the contents of the Bible were determined at least to some extent by the men who wrote it down, probably members of the scribal profession.[8] Morton Smith writes that synagogues were formed during the First Exile by members of the "Yahweh-alone" party, and that synagogues were the places where what became the Torah was written and preserved.[9] Unless there had been a sufficient number of literate priests or others in such synagogues, the writing of the Torah was done by scribes.

It follows, therefore, that the scribes were among the groups in Yavneh most focused on the Written Torah.

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[4]Richard Saldarini, *Pharisees, Scribes and Sadducees in Palestinian Society: A Sociological Approach*. Wilmington: Michael Glazier, 1988, 241.
[5]See Richard Saldarini, *Pharisees, Scribes and Sadducees*, 275.
[6]See Richard Saldarini, *Pharisees, Scribes and Sadducees*, 273.
[7]Ellis Rivkin treats Second-Temple period scribes as high-status "intellectual supporters of Aaronide supremacy." "Ben Sira and the Nonexistence of the Synagogue: A Study in Historical Method," in Daniel Jeremy Silver, ed., *In the Time of Harvest: Essays in Honor of Abba Hillel Silver on the Occasion of His 70th Birthday*. New York: Macmillan, 1963, 338.
[8]See Richard Saldarini, *Pharisees, Scribes and Sadducees*, 247.
[9]Morton Smith, *Palestinian Parties and Politics That Shaped the Old Testament*. New York: Columbia University Press, 1971, 102.

Intellectuals

Some of the scribes would have been intellectuals, just as some lawyers and rabbis today are also intellectuals. But in a synagogue world which read Torah as its principal form of worship, there would have been people then, as there are now, who fell in love with what they read and wanted to devote their lives to study and exposition of texts. Some of these people might have also made their living by writing, and thus have also been scribes, but others might have made their livings in a dozen different ways, from blacksmithing to absentee landlordism. Josephus tell us that the Pharisees were leading exponents of the Torah, and we may therefore include some of the Pharisees among the intellectuals. Probably not all Pharisees were intellectuals; certainly not all intellectuals were Pharisees.

Another breed of intellectual may also have been present in Yavneh. Many scholars believe that the "Midrash" method -- deriving rules of conduct from Biblical texts, as in the exegetical Midrashim -- predated the method of the Mishnah -- stating rules of conduct without support from earlier texts.[10] But first-century sources refer to the existence of oral traditions apparently separate and apart from the Torah text and therefore suggest an early dating of the method of the Mishnah.

In the *Antiquities* Josephus distinguishes the Pharisees from the Sadducees during the reign of John Hyrcanus by saying that the Pharisees taught a great many observances from the traditions of their fathers not written in the Torah. This is the "method of the Mishnah" in the second century BCE reported by a first century CE historian.

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[10]*E.g.*, Lawrence H. Schiffman, *From Text to Tradition: A History of the Second Temple and Rabbinic Judaism.* Hoboken: Ktav, 1991, 186.

Philo makes explicit what Josephus only implies -- that the ancestral traditions observed along with the written Torah were unwritten -- and provides evidence that the "method of the Mishnah" was well known to him in early first-century Alexandria. Philo's *Hypothetica* is preserved in fragmentary form by Eusebius; much of it is written in the third person, as Eusebius summarizes the Philo text he apparently had before him.

Eusebius tells us that Philo furnishes an abridgment of the constitution established for the Jews by the laws of Moses -- that is, of the Torah -- mentioning, among other things, laws concerning private property, sexual behavior, blasphemy and domestic relations.

Philo (or Eusebius in his name) then says that, besides these rules, there is a *muria* -- literally 10,000, but also carrying the meaning of "countless"[11] -- of other unwritten customs and institutions. These "10,000" customs are not described as having been derived from the "constitution" but as being separate from them.

In Galateans 1:14 Paul provides evidence that the "method of the Mishnah" was practiced by mid-first-century Jews. He describes himself as extremely zealous for the traditions of his fathers. He may have meant nothing by this other than that he was a conscientious Jew; that is the context of his remark. But Paul mentions "the Law" so often in his letters that it is appropriate to follow Ellis Rivkin in regarding this as an invocation of another, oral, tradition, similar to that reported on by Josephus and Philo.

Perhaps the same intellectuals were involved in studying both the Written Torah and the various ancestral traditions; Josephus cites the

[11]The English word "myriad" is derived from *muria*.

Pharisees both for proficiency in the former and teaching the latter. Or perhaps there were two groups of intellectuals in Yavneh, one concentrating on studying the Written Torah and one concentrating on studying the oral traditions of the Jewish people. In any event, both areas of interest came together during the period of the tannaitic tunnel, so that at least by the age of Judah haNasi they had become merged. Oral traditions were by then or were soon to be Oral Torah, given at Sinai, and a bridge between the supremacy of Scripture and the supremacy of oral tradition was created in the exegetical Midrashim and in the Talmuds via the technique of the proof-text, so that a source can be found in the Torah for virtually every oral tradition. Proof-texting existed before the rise of the Tannaim -- Paul himself was an eager and skillful practitioner of the technique[12] -- but it was perfected in the world that began at Yavneh.

These intellectuals brought the intellectualism that has marked Judaism ever since to the mix of Yavneh. When Reif and Shaye Cohen say that study was more important than prayer in Yavneh, it is the activity of the intellectuals that they cite.

Pharisees

An important connection clearly exists between pre-Destruction Pharisaism and Yavneh; Johanan was probably a Pharisee, and Gamaliel himself was the son, and perhaps the grandson and great-grandson, of Pharisees. In addition to their expertise in the exposition of the written Torah, and their attachment to unwritten traditions, the *chaverim* among them brought an attention to and emphasis on purity rules which colored

[12]*E.g.*, 1 Corinthians 1:18-19 (using Isaiah 29:14's "destroy the wisdom of the wise" to explain those who find the message of the cross to be foolishness)

tannaitic Judaism. Ellis Rivkin and many others have claimed that the Pharisees supplied tannaitic Judaism with its most distinctive doctrinal aspects -- the "triad" of the two-fold Law, the immortality of the soul, and the resurrection of the body.[13]

In any event, the Pharisees certainly supplied Yavneh with its leadership.

Gamaliel

What can we make of Gamaliel?

He was rich, and his family's money went back to the days when Diaspora Jews were welcomed to Judaea and assisted in making their fortunes by Herod the Great. He was well-born; even if Martin Goodman's theory that the Herodian aristocracy had no popular standing, a fourth-generation Pharisee, and especially Hillel's great-grandson, would have had tremendous prestige in a population that, according to Josephus, greatly admired the Pharisees. He was used to having his own way, difficult, arrogant, but virtually irresistible, if we may believe the "deposition" texts. He would have been interested in asserting, expanding and keeping power, and skillful in doing so, not just for himself within his group but for his group within the nation. He was smart enough to have been remembered two generations later as "Rabban," but Gamaliel was no

[13]See generally Ellis Rivkin, *A Hidden Revolution*. Nashville: Abingdon, 1978. Josephus identifies himself as a Pharisee and his only mentions of any part of the Rivkin triad are of their ancestral traditions and of something like reincarnation of the souls of the good, while Paul identifies himself as a Pharisee and places such an overwhelming emphasis on physical resurrection that it is hard not to believe that that was a Pharisaic idea.

intellectual [14] He was worldly, and may well have been happier in the company of other worldly people than in the company of intellectuals [15]

Yavneh had its share of worldly people, men who had helped run an independent Judaea for four years and who had conducted one of the most successful wars of rebellion in the history of the Roman Empire, along with successful farmers and merchants like Shimon. Such people would have been in contact with elements in the rest of the country.

The rest of the country would have been having a harder time than Yavneh in overcoming the calamity of the loss of the Temple and the loss of the War. The *ammei ha'aretz* continued to avoid pork and shellfish, to circumcise their sons and to listen to the Torah read once a week in their synagogues, but that would have made them miss the Temple even more. They continued to honor the priests among them, and to give them and the Levites precedence in Torah reading, but since shifts of them no longer went to Jerusalem the reason for the priestly status might have faded from memory. Lacking the stimulation of Yavneh's heady atmosphere, they would have been eager for a new post-Temple spirituality.

Many of them must have suffered losses during the War and therefore have placed increased emphasis on the physical resurrection of the dead, and for that reason and others perhaps they would have found Peter's evangelism especially attractive. Many were probably attracted to apocalyptic formulations of Israel's destiny. These people and others were

[14]The title does not necessarily mean "our teacher."
[15]Judge Learned Hand once said that liberals, including the ones who idolized him and whose views he frequently shared, were not "fit company for gentlemen," and it is easy to imagine Gamaliel feeling the same way about the Akibas with whom he worked.

ripe for the Bar Kokhba rebellion. Some probably abandoned all forms of Judaism.

But as it turned out, most of them, over the decades and the centuries, became Rabbinic Jews. The very first baby-steps in this process could have been the result of Gamaliel and his more "secular" colleagues reaching out to them.[16]

M. B'rakhot 4:3 and the Shimon haPakuli baraita help us locate the origins of the *Tefillah* with the worldly group among the Tannaim. While the idea of fixed obligatory prayer was a startling innovation, it may not have had the intellectual or spiritual force of some of the other great ideas of Yavneh, like the Oral Law (once so much of the Written Law became irrelevant), the mitzvah system (once the saving power of the altar was gone) or the resurrection of the dead (an especially appealing doctrine after a long and bloody war), ideas we may associate with the intellectuals.

On the other hand, replacing the cult with a prayer marks a sea change in theology, from propitiation to petition. We may associate an idea like that with the kind of strong personality and self-confidence Gamaliel seems to have had, and with the world view of worldly people generally. "Men of the world" are more likely to relate to the Divine with their own agendas in hand and not so much in fear and trembling.

Gamaliel and his colleagues would have been interested in whether prayer, or any other activity, *works*. If General John, or some other Essenes or members of another group that engaged in pre-

[16] Shaye J.D. Cohen writes that the Tannaim began to "extend their power into the synagogues" after the redaction of the Mishnah but that their "triumph" was not earlier than the seventh century. *From the Maccabees to the Mishnah*. Philadelphia: Westminster, 1987, 219, 221.

Destruction fixed prayer were among them, they may well have been given reason to believe that it does.[17]

It would have been a masterstroke if Gamaliel and his colleagues had deliberately set out to provide the *ammei ha'aretz* with what was missing from their post-Destruction religious life. Perhaps he had the *ammei ha'aretz* in mind when he said that every man should pray Eighteen, since the intellectuals who may have given Yavneh its tone were too busy fashioning Judaism, and too focused on the mitzvah of study, to need anything like daily prayer to round out their spiritual lives. Joshua's suggestion would then have been designed to accommodate Gamaliel without taking too much away from the study time of the Yavneh intellectuals while more efficiently reaching the *ammei ha'aretz*; Akiba's proposed compromise might have simply advanced Joshua's program; Eliezer's anti-*Tefillah* stance may be explained equally by a lack of concern for people outside the elite or by a faith in the sincerity of their prayers without the need for *keva*. I need not, however, employ the *approach* of the attribution of purposiveness to suggest that the obligatory *Tefillah* may well have been the instrumentality by which the Tannaim took the synagogue from the *ammei ha'aretz*.

[17]Ismar Elbogen rejects the idea that the Essenes were a source of the idea of statutory prayer in Rabbinic Judaism on the grounds of the *Tefillah*'s "complete absence of ecstasy." *Jewish Liturgy: A Comprehensive History*, 286. Translated by Raymond P. Scheindlin and based on the 1913 German edition and the 1972 Hebrew edition edited by Joseph Heinemann and others. Philadelphia, New York and Jerusalem: Jewish Publication Society and Jewish Theological Seminary of America, 1993. But we have no reason to think that the Essenes were any more ecstatic as a group than any of the other components of Second-Temple Judaism, and it is unlikely that John or someone like him was much of an ecstatic.

In any event, Gamaliel seems to have chosen an *am ha'aretz* to put the *Tefillah* together.

What did Shimon haPakuli do when he *hisdir* the *Tefillah al haseder* in Yavneh? I think we should take the baraita's choice of verb seriously, and understand Shimon as having compiled previously existing material into the *Tefillah*. If some of the praying communities mentioned above, including the heirs of the disciple circles of Hillel and Shammai, were present in Yavneh, there may well have been a great deal of material to work with. The things prayed for in the *Tefillah*, from knowledge through health to the restoration of fortune, were the common stuff of the prayers of all the peoples of late antiquity.

Such a use of pre-existing material would help to explain the peculiarity of the blessing form, in which the person at prayer purports to "bless" God. The blessing form may well have originated in the downward-flowing blessing of the priests.[18] Either the designers of the *Tefillah* or earlier praying people would have then taken the familiar format of the blessing and changed the direction, so that it went up from a layperson to God. The designers of the *Tefillah* could then have adapted other prayer material that was not yet in blessing form and conformed it.

The order in which Shimon *hisdir* the material was brilliant, just as Fleischer, echoing Heinemann, Liebreich and Kimelman, has said. The blessings work as a coherent whole, in which the agenda of post-Destruction Israel is clearly set forth in sequence. This is further evidence

[18]See Joseph Heinemann, Joseph, *Prayer in the Talmud: Forms and Patterns*, 77-103. Berlin and New York: de Gruyter, 1977.

that the *Tefillah* was the work of worldly patriots, like Gamaliel and Shimon haPakuli.

I agree with Fleischer on the skill with which the *Tefillah* was put together, and on the fundamental value of the Shimon haPakuli baraita. I also agree with his view, and that of most of the scholars whose work is reviewed in Chapters 2 and 3, that "fixing" the *Tefillah* included making it mandatory.

Obviously I do not agree with Fleischer's *assumption* that the "Sages" were in charge of Judaean religious life including the synagogues while the Temple still stood, or with his *assumption* that the Tannaim were in charge of the religious life of the nation afterward. I therefore do not agree with his notion that M. B'rakhot 4:3 was a great *takkana* which took effect immediately. Gamaliel and his colleagues, both his "secular" colleagues like Shimon and his perhaps "clerical" colleagues like Joshua and Eliezer, had no ability to *t'kn* for the rest of the nation even if they did for the community in Yavneh or for their own disciple circles. We must look elsewhere for the reason that Gamaliel's innovation eventually took hold everywhere.

Nor can I agree with Fleischer's insistence that, to have become mandatory, the *Tefillah* must have been written down in fixed language.[19]

[19]I find Fleischer's argument based on the Shmuel haKatan story in Ber. 28b-29a to be his strongest argument in favor of fixed language, if not necessarily fixed written language. The year after Shmuel composed *minim*, he forgets it, tries for "two or three" hours to remember it, and is not removed as prayer leader. Fleischer argues that one cannot "forget" a blessing like *minim* unless its words are fixed, and that point is well-taken. But the Shmuel story, unlike the Shimon haPakuli story that immediately precedes it, is not set forth as a baraita, and the idea of him standing before a congregation for two or three hours either silent or stammering casts doubt on the historicity of the tale. The Amoraim mentioned in the

When the flow of material is as smooth as that of the blessings in the *Tefillah*, one need not be "the smartest man in the world"[20] to remember them in sequence, especially if a prayer leader said them first or at the same time, and if one said them every day, and more than once every day. Eventually, of course, individuals and perhaps congregations would probably have fallen into the habit of repeating the same words each time, but because of convenience, not because of the existence of a text.

Moreover, Fleischer ignores a technological fact of the first century: many of the *ammei ha'aretz* and all of the peasantry were probably illiterate; they *heard* Torah in the synagogue every week, but only a few of them *read* Torah.

But the reason the *Tefillah* -- as spoken words with no fixed texts, never written down -- caught on may have been for reasons more profound than that.

Gamaliel and his colleagues would have been influenced in their choice of the oral medium by the emphasis some of the oralist intellectuals around them placed on the spoken word as well as by the low level of literacy in the country as a whole. Orality played an important role in the ancient world among all peoples. "Poets, orators and lecturers traveled

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Gemara explain that prayer leaders are not usually removed when they forget a prayer, although an exception is made for someone who purports to forget *minim*, since he might be a *min* and therefore should be removed. They conclude that Shmuel was made an exception because he is the one who composed *minim*, and dismiss the possibility that he might have become one in the interim on the basis that a good man is not presumed to turn bad. Then follows a discussion of a High Priest who became a *min*, and a distinction between a High Priest named Johanan and one named Yannai. The entire passage seems more about amoraic concerns about *minim* than about the origins of the blessing.

[20]See Chapter 3, p. III-2.

from city to city and regularly gave oral recitations of written work."[21] Indeed an entirely oral culture may still have existed outside of the elites analogous to those of which we know in "primitive" cultures in modern times.[22] To this extent, part of the appeal of the *Tefillah* to the *ammei ha'aretz* may well have been the fact that it was available to everyone who could talk, that one did not have to be a member of the literate elite to participate in this new way of dealing with God and of being assured that God had not abandoned Israel just because God's House was gone.

But there is more to it than that. The oralist intellectuals under whose influence Gamaliel and Shimon may have been working were not illiterate bards or *habladors*.[23]

Unusually for the custodians of an oral tradition other than professional reciters of written work, they were literate. They were themselves members of the literate elite, who nonetheless valued the spoken, the said, over the written. They *could* write down the *muria* of oral traditions of their ancestors, but they found value in the fact that they did not.[24] Their insistence on not writing down *halakhot* contributed to the

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[21]Louis H. Feldman, *Jew and Gentile in the Ancient World: Attitudes and Interactions from Alexander to Justinian*. Princeton: Princeton University Press, 1993, 322.

[22]Examples include the oral history traditions in Africa made famous by Alex Haley or the Amazonian *hablador* tradition that is the subject of a Vargas Llosa novel. Alex Haley, *Roots*,, Garden City,, N.Y.: Doubleday, 1976; Mario Vargas Llosa, *The Storyteller*, Helen Lane tr., New York: Farrar Straus Giroux, 1989.

[23]See Martin Jaffee, "Figuring Early Rabbinic Literary Culture: Thoughts Occasioned by Boomershine and J. Dewey, *Semeia* 65 (1994), 67, 72.

[24]This is the inverse of the notion popularized in media studies of the Greek Scriptures that Jesus and the Jerusalem Church represented oral traditions and that Paul, who wrote, became the dominant voice in early Christianity *because he wrote*. Thomas E. Boomershine sets forth and criticizes this idea. "Jesus of Nazareth and the Watershed of Ancient

eventual understanding, as the oral traditions of their grandfathers became transformed into Oral Law from Sinai, that the really important part of the Torah was unwritten.

What is the value that Yavneh ascribed to orality?

Emanuel Levinas, the Jewish-French phenomenologist, devoted much of his thought to privileging the Other over the Same, in what he regarded as a reversal of Western philosophy and a recovery of rabbinic thought. He thought that attention to Being privileges the Same, ignores that which is not the Same, the Other, and results ineluctably in violence and oppression.

One important step in his project involved analyzing the difference between the Saying and the Said. The Said, which is complete, is the equivalent of the Same. Once all is Said, the Said is all. Saying, which has not yet happened in its entirety, leaves room for the Other. It is not a great jump to say that the written is the Said in even more final form.

Did the oralist intellectuals of Yavneh resist writing down the traditions of their ancestors for reasons akin to Levinas' thought? Perhaps they wanted to avoid entirely completing the process of articulating their traditions, since it is not up to one to finish the work. Perhaps they preferred the open-endedness of speech to the closure of writing. And perhaps this openness of meaning also appealed to the *ammei-ha'aretz*, as oral Torah and oral *avodah* took over the Jewish world, while still leaving plenty of room for more and different Torah and more and different *avodah*. Other Jews -- both intellectuals and *ammei ha'aretz* -- have been

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Orality and Literacy," *Semeia* 65 (1994) 7, 10-11.

enabled to learn and teach more and different Torah and *avodah* ever since

Appendix

Chapter 2 noted that many scholars -- Fleischer, Heinemann, Elbogen, Bickerman, Finkelstein, Shaye Cohen, Liber, Finkel, Katz, Kohler -- have studied the individual blessings of the *Tefillah*, and some have drawn *conclusions* about its origins or development based on that study. Some have *concluded* that each of the blessings included in today's *Tefillah* (other than *minim*) predate the destruction of the Temple. Joseph Heinemann, for example, writes that there should be no surprise if both *David* and *Jerusalem* were commonly recited long before the Destruction.[1]

Granted that some form of prayer for the welfare of Jerusalem might well have been said while the Temple stood -- we saw the High Priest say such a blessing in Chapter 5 -- only subversives and revolutionaries would have recited a prayer for the restoration of the Davidic dynasty, since doing so constituted a prayer for the downfall of the existing Hasmonean or Herodian dynasty.[2] Of course it is possible that just as what is now a prayer for the rebuilding of Jerusalem may once have been a prayer for the welfare of the city, what is now *David* might have

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[1]Joseph Heinemann, *Prayer in the Talmud: Forms and Patterns*, 229. Berlin and New York: de Gruyter, 1977.

[2]A sixteen-verse Hallel-like Hebrew fragment, the eighth verse of which in the Charles translation reads "Give thanks to Him that maketh a horn to sprout for the House of David," is sometimes included between the twelfth and thirteenth verses of Ben Sira 51. The authenticity of this fragment is even more suspect than is the rest of Ben Sira 51, although it is conceivable that a prayer for a Davidic restoration might have existed in pre-Hasmonean times, if it could have been said unknown to the Persian, Seleucid or Ptolemaic authorities. See Lawrence A. Hoffman, *Covenant of Blood: Circumcision and Gender in Rabbinic Judaism* 55-59. Chicago and London: University of Chicago Press, 1996.

been a prayer for the welfare of the non-Davidic king, whether Hasmonean or Herodian, or the government, whether pre-Hasmonean or Roman

In its present version in a commonly used Orthodox Siddur, the blessing is translated as "Speedily cause the offspring of thy servant David to flourish, and let his glory be exalted by thy help, for we hope for thy deliverance all day. Blessed art thou, O Lord, who causest salvation to flourish."

And yet scholars have argued that mainstream groups regularly uttered this prayer before 70. "Pharisees" -- who participated in the government of Hasmonean kings and who even conducted the government of Queen Salome Alexandra -- are imagined to have regularly left their official posts and prayed for the downfall of the government of which they were a part.

Josephus tells of a dinner that the Hasmonean king John Hyrcanus gave for the Pharisees in which he first got them into "a good humor" and then asked if he was doing anything he should not be doing. The group told him he was doing very well, but one Eleazar told him to renounce the High Priesthood and content himself with the civil government, on the theory that he was illegitimate. The Pharisees thought Eleazar should be whipped for saying this, but the king thought only the death penalty adequate. As a result the king went over to the Sadducees. Eleazar does not seem to have thought it inappropriate for a non-Davidic Hasmonean, and a bastard to boot, to be king. Is it likely that he would have recited a blessing for the restoration of the house of David? Could his colleagues have done so?

M. Sotah 7:4 recalls an instance of an occasion, supposedly held every seven years, when the king would read Torah in the Temple courtyard. The Torah scroll would be passed from the *chazan haknesset* to

the *rosh haknesset* to the deputy High Priest to the High Priest to the king In this instance King Agrippa -- perhaps Agrippa I, who was king of Judaea, or perhaps Agrippa II, who was a king elsewhere but had the power to appoint the High Priest -- read the portion of Deuteronomy which prohibits placing a foreigner over the people of Israel and burst into tears, fearing the applicability of the Torah prohibition to himself. "They" told him not to cry, saying "you are our brother."

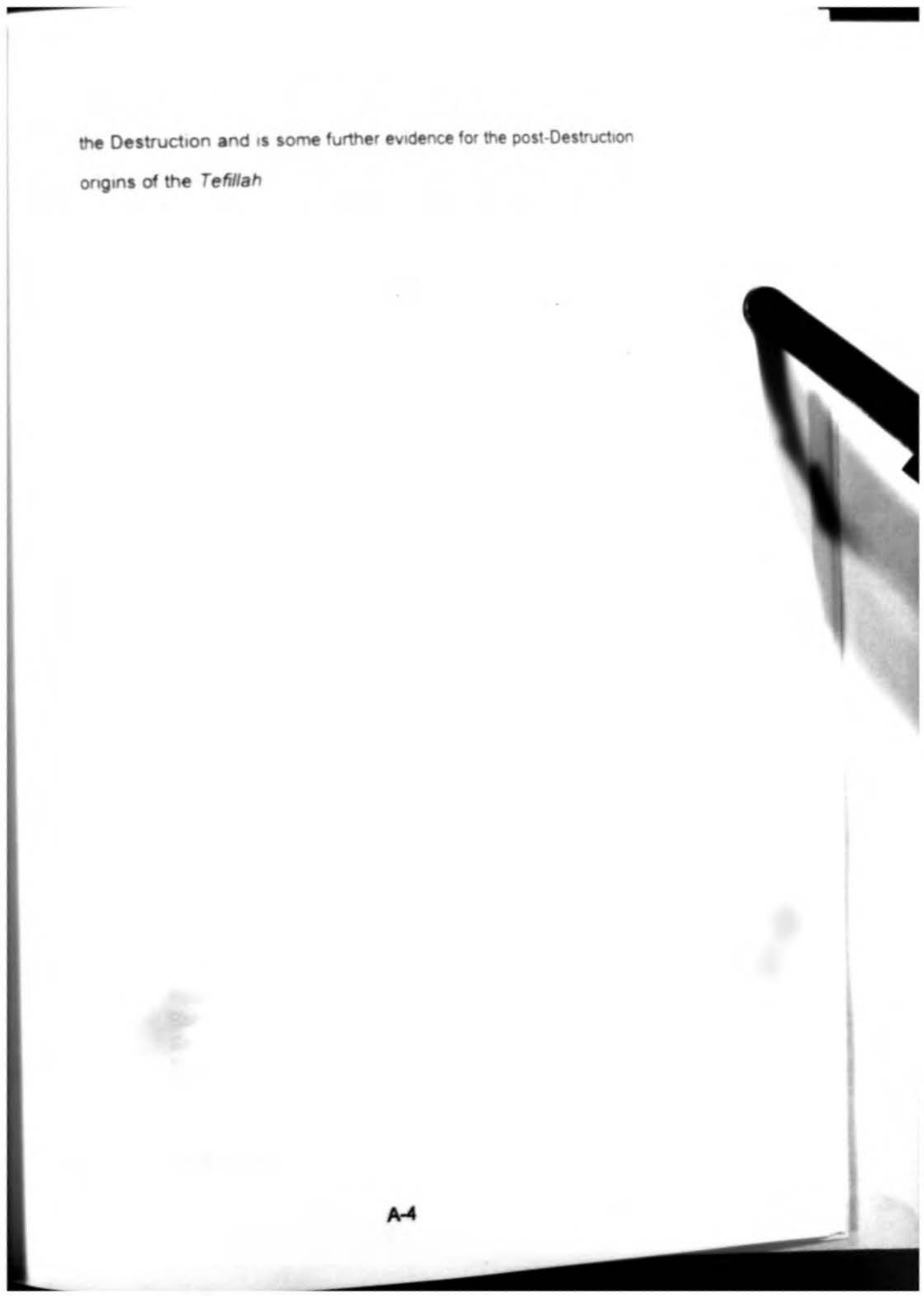
Who were "they"? Presumably the king's comforters included the Temple and *knesset* officials who were on the dais with him. Perhaps the populace joined in. Thus, even though Agrippa was part Herodian (and therefore part Idumaean) he was Jew enough to be king. He had no Davidic claim. Is it likely that "they" prayed for the restoration of the Davidic dynasty, even secretly when Agrippa was out of earshot?[3]

The Davidic dynasty was lost in the mists of time, so much so that Bar Kokhba may have claimed Davidic lineage[4] and eventually both Gamaliel's descendants and the Babylonian exilarchs certainly did. It made a splendid symbol around which the Tannaim and the *ammei ha'aretz* could organize their yearnings for independence and for a messianic redemption. *David* seems clearly to have been composed after

[3]See Gedaliah Alon, "The Attitude of the Pharisees to the Roman Government and the House of Herod," *Scripta Hierosolymitana* 7 (1961) 53, 57

[4]Akiba, who did pray the *Tefillah*, hailed Bar Kokhba as the King-Messiah, and therefore conceivably attributed Davidic ancestry to him. See Yigael Yadin, *Bar-Kokhba: The Rediscovery of the Legendary Hero of the Second Jewish Revolt against Rome*, 19, New York: Random House, 1971; Martin A. Cohen, Two *Sister Faiths: Introduction to a Typological Approach to Early Rabbinic Judaism and Early Christianity*, 34, Worcester: Assumption College, 1985. On his coins Bar Kokhba only called himself *nasi* of Israel.

the Destruction and is some further evidence for the post-Destruction origins of the *Tefillah*



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Sotah 7:4
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Ta'anit 1:2

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