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ISRAEL-DIASPORA RELATIONS IN THE FOURTH CENTURY AS REFLECTED IN THE TALMUDS YERUSHALMI AND BAVLI

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Thesis Submitted in Partial Fulfillment of
the Requirements for Ordination

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Introduction

In the draft proposal of *Ten Principles for Reform Judaism* to be voted on by the Central Conference of American Rabbis this coming Spring in Pittsburgh, the following statement can be found in regards to the Diaspora's relationship with Israel:

> After 2000 years of statelessness and powerlessness, the restoration of *Am Yisrael*, the people of Israel, to its ancestral homeland in *Eretz Yisrael*, the Land of Israel, represents an historic triumph of the Jewish people and of modern Zionism, which created *Medinat Yisrael*, the State of Israel....while Israeli and Diaspora Jewry are both creative and vibrant communities, independent yet responsible for one another, we encourage Reform Jews to make *aliyah*, immigration to Israel, in fulfillment of the precept of *yishuv Eretz Yisrael*, settling the Land of Israel, in a manner consistent with our Reform commitments.[1]

This dynamic, positive perspective regarding the relationship between the two Jewish communities represents the present import of the relationship within the North American Jewish community. Whereas once the Reform movement took an anti-Zionist or non-Zionist position, this statement places Israel and the relationship with Israel as a central tenet of belief. The mutuality of this relationship, however, may not be so clear. In a recent statement in the Israeli daily Ha'Aretz, the following editorial was presented discussing lack of interest within the Israeli public about the relationship between Israel and the Diaspora. This disinterest was reflected in the general ignorance of the recent, first-ever meeting of the General Assembly in Jerusalem:

> Here, due to a profound and profoundly weird national neurosis, the *bon*

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[1] *Reform Judaism*, 27,2 (Winter, 1998): pp. 15-16

> *ton* is to ignore Jews and their doings as much as possible.... This peculiar Israeli version of discrimination against Jews is also reflected in the pervasive lack of interest in what is happening in the Jewish communities of the Diaspora.[2]

These two sources represent just two perspectives regarding the ambivalent relationship that exists between the Jews of Israel and the North American Diaspora. While both give lip service to the idea that the relationship needs to be one of import, intentionally ambiguous language is often utilized to cloud true feelings about one another. For the past one hundred years, the North American community has staked out the position that the Diaspora is a vibrant place that should be seen as one of the foci of the larger Jewish polity. At the same time, the Zionist message of the centrality of Israel and the negation of the Diaspora continues to be an important "truth" of modern day Israel. An ongoing debate continues between those aligned with the centrality of the land of Israel and the subsequent "Jewishness" that naturally stems from dwelling in the land and those that suggest that survival of Judaism into the modern period requires the dynamic spirituality of the North America community.

This thesis stems from a concern with this present day dichotomy that exists between these two opposing perspectives. By examining a similar relationship in the past, I hope to enrich the debate by analyzing a parallel relationship, and through that analysis illuminate some of the lessons that can be culled from our historical experience. I have selected the fourth century of the Common Era as an important parallel in Jewish history. Two Jewish centers existed, one in the land of Israel and the other abroad. Through

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[2] *Ha'aretz* (English edition), Friday, November 20, 1998, p. A6.

historical analysis of textual witnesses, I believe that insights can be gained as to how our predecessors dealt with this sometimes-rocky relationship in the past. These two centers, the Palestinian and the Babylonian, left written record of the issues of their day in the two different Talmuds. These texts provide the textual witnesses that can present this historical insight.

The fourth century also represents a meeting point in time between the two communities. In this period, the Palestinian community, while still functioning as the legitimate legal center of the Jewish world, was beginning to lose power as the surrounding Roman empire switched from pagan beliefs to Christianity. At the same time, economic and social changes also began to dig away at the Palestinian Jewish community from within. During this same period of time, the Babylonian rabbinic community established itself as a legitimate contender in its right to independent Torah interpretation. It benefited from the fact that the growing Sassanian Empire continued the Parthian policies of granting authority to its various sub-groups, including the Jewish community.[3] In addition, a number of Palestinian sages had relocated to this Diaspora community, while at the same time, some Babylonian sages were "going up" to the Land of Israel. This time period therefore represents a point in time where both communities need to reevaluate their relationship based on a more equal status. By the end of the next

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[3] S. Baron states, "The available evidence doe not allow us to answer the intriguing question as to whether Persia merely continued a state institution [the exilarchate] well-established in Parthian times, or whether it was Shapur I who, for political as well as religious reasons, first wove it into the imperial fabric." *A Social and Religious History of the Jews,* Vol. II (Philadelphia: Jewish Publication Society, 1952), p. 195.

century, the momentum was gone in the Palestinian rabbinic community, having lost much of its authority and position within the land. The Babylonian community clearly took the position of primacy. The land as center had given away to the Torah as center, and it was the Torah-centered Babylonians that would control the Jewish center for the next half a millenium.

While other existing Diasporas served as important centers, only the Babylonian community left an extensive collection of "textual witnesses" in the form of the Babylonian Talmud.[4] This Talmud, the Bavli, reflected the reframing of the Palestinian constitution of the third century, the Mishnah. At the same time that this Babylonian text was being created, a parallel discussion was taking place in the land of Israel as Palestinian sages discussed and expanded upon the Mishnah to reflect their own reality. While these two discussions operated independently of one another, there was a cross-fertilization of ideas and even specific statements that were shared by both communities. This came through the interaction of sages who traveled between the two communities, the use of messengers and letters to share ideas and ruling, and the resettlement of certain sages from one land to the other. Both Talmuds contain explicit statements that reflect the reaction of one community to the other in relationship to a number of key leadership issues of the day. In addition, both Talmuds have more implicit messages that illuminate a struggle for primacy between these two communities. Through close reading and careful analysis of the texts, this dynamic relationship will be brought

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[4] An interesting discussion of the lack of a "Roman Talmud" is provided by A. T. Kraabel 'Unity and Diversity among Diaspora Synagogues' in L. Levine (ed.),*The*

out for discussion. The results of the discussion can then be applied to our contemporary situation.

Structure of the Thesis

This thesis is organized into three sections that represent three different stages of analysis of data from the time period. The first section aims to set the thesis within a scholarly context. The first chapter does this by detailing the historical backdrop of this time period. By understanding the interaction between the rabbinic leadership and such externals as economics, political and sociological change, and changes within the non-Jewish governing authorities, a better sense of how the texts reflect these external realities can be derived.[5] The second chapter continues with this process of contextualization by placing the thesis within the chain of scholarship focusing on Talmudic studies in general and the relationship between the two Talmuds in particular. In this second chapter, an attempt will be made to better understand the internal influences that have lead to two different texts representing the two communities' separate hermeneutic and literary tradition. Issues that will be addressed in this chapter include the reliability of the Talmuds as historical sources, reliability of tradents, and differences between the two Talmuds.

Synagogue in Late Antiquity, (Philadelphia: Schools of Oriental Research, 1987), p. 54.

[5] This must be done with both caution and a sensitivity to the internal workings of rabbinic literature. To this end, I have been guided by C. E. Hayes' insightful critique of the historical analysis of rabbinic texts in *Between the Babylonian and Palestinian Talmuds* (New York: Oxford University Press, 1997), pp. 4-24.

The second section of the thesis explicates a variety of primary sources in order to generate data for analysis. In the first chapter of this section, chapter three, I address the issues of boundaries of the land of Israel as discussed in various Palestinian sources and the concomitant textual reactions in the Bavli. This includes the reactions to the specific Palestinian texts as well as parallel strategies that were developed by the Babylonians in their attempt to rewrite spiritual geography. The second chapter of this section, chapter four, is dedicated to the issue of monetary fines. In the Bavli, we are told that the Babylonians did not have the authority to rule on cases related to monetary fines.[6] This chapter will examine the textual history regarding this claim and determine if this reflected a true limitation on Babylonian authority or if the statement represents Babylonian lip service. In addition, the chapter will attempt to arrive at a conclusion as to how the Babylonian leadership dealt with problems that would require such rulings.

In the concluding section of the thesis, I present textual citations that deal directly with the issue of how the two communities related to one another. In this chapter, I am interested in how the Palestinian leadership discussed those who live "over there" and what it had to say to those Babylonians who were living in the Land of Israel and representing the Babylonian tradition. I also address various texts that demonstrate the Babylonian position in regards to their brethren in the Land of Israel and how the Babylonians relate to the Torah of the land of Israel. I also utilize this chapter to arrive at conclusions based on the previous four chapters. I attempt to define the relationship between these two communities at this import juncture in time.

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[6] TB Sanhedrin 31b.

My conclusions support the thesis that both communities were taking a more reactive position as they outlined their priorities in the two Talmuds. The Palestinian community attempted to maintain its primacy through the elevation of the Land of Israel and its *mitzvot* within the context of "normative Judaism." The Babylonians, on the other hand, down played the centrality of the land as an integral part of Judaism. By elevating a more "spiritualized" form of Torah, this Diaspora community could compensate for its lack of "holy land." In fact, I will demonstrate that they go even further by attempting to replace the geographic holy land with a spiritual holy land that has less defined borders. In its most extreme expression, this approach lead to statements saying that Babylon is the true holy land. In the minds of the Babylonians, their homeland had become "*Eretz-Yisrael shel 'matah*;" the beginning of a process that would continue until today as subsequent communities reframed their own locale as the "new Jerusalem."[7] In the Epilogue, I suggest possible modern applications to the present day reality where the two great centers of the Jewish world are once again debating the location of the center.

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[7] This idea that the ongoing redefining of local communities as the "new Jerusalem" began first during this time period was suggested to me by I. Gafni in a personal communication.

Chapter One

The Jewish World in the Fourth Century

Challenges of History and Historiography

Although the Jewish Diaspora has a history of almost 2500 years, with some suggesting that from the time of the first Temple's destruction (586 BCE) onward the majority of the Jewish community lived outside of the boundaries of the land of Israel, most scholars agree that the land of Israel functioned as the Jewish center without question through the first century of the common era. Even such cosmopolitan expatriates as Philo or Josephus make numerous comments that support a Judaism and a Jewish sense of self that is Land of Israel-centered.[1] On a practical level, this relationship was demonstrated through such institutions as the pilgrimages to the land during holidays and festivals, the common calendar set in Jerusalem, and the sending of the half-shekel to the Temple to support the institution and the surrounding city of Jerusalem.[2] On a more symbolic level, this Israel-centered relationship could also be seen in terms of the language that was used by the Jewish community living outside of the land. The Jews

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[1] For examples, see Philo's Legatio ad Gaium 216, 315, On Rewards and Punishments 164-65, Josephus' Ant. 14:110-113.

[2] M. Goodman, in 'Diaspora Reactions to the Destruction of the Temple' in J. Dunn (ed.), *Jews and Christians: The Parting of the Way A.D. 70 to 135*, (Tubingen: Mohr, 1992) suggests that the giving of the half shekel served as a key source of Jewish identity in the Diaspora communities. This strengthened the relationship between the larger Jewish community and the land of Israel. See also comments regarding the half shekel in S. Safrai, 'Relations Between the Diaspora and the Land of Israel' in S. Safrai and M. Stern (eds.), *The Jewish People in the First Century*, (Assen, the Netherlands: Van Gorcum, 1974), pp. 184-215 and those by D. Elazar 'Land, State and Diaspora in the

utilized the term Judean (*Iudaeus* in Latin, *ioudaios* in Greek) to define themselves even in environments such as Alexandria,[3] a land-based definition of self.[4] Even the use of the term "Diaspora" in early writings implied an existence that was in relationship to a central place; the Diaspora is specifically not the place from whence one was dispersed.[5] Of course, much of what is known from this time period is based upon a handful of textual sources, many which are questionable in terms of how accurate they portray the time period and its inhabitants. While most historical material is suspect for the same reason, this is particularly true for this time period as many of the texts that we have today were clearly written as polemics or as apologetics. Even those texts that appear to have no axe to grind and exist as side comments in non-Jewish sources are often brought forward into the modern period in anti-Jewish or anti-Judaism host sources. Despite these challenges, and the fact that for certain communities or eras we have no outside sources to support our rabbinic texts, it is possible to reconstruct with some accuracy the situation of the Jews in the land of Israel and the surrounding communities during this time period.

History of the Jewish Polity', *Jewish Political Studies Review*, 3:1-2 (Spring 1991), p. 6.

[3] See Philo, Flacc. 46 as cited by M. Goodman in *Diaspora Reactions*, p. 28.

[4] Some scholars, such as M. Goodman, suggest that this represents an externally imposed definition of self and was connected to the religious practice of Jews rather than relating towards a particular land-based polity. If this is the case, then one might ask if this is how Diaspora Jews, at least those in the Roman Empire, would see themselves. Note M. Goodman, *Diaspora Relations*, p. 31

[5] For a further discussion of the term "Diaspora" and its possible meaning, see J. M. Scott, 'Exile and Self-Understanding of Diaspora Jews in the Greco-Roman Period' in J. M. Scott (ed.), *Exile: Old Testament, Jewish and Christian Conceptions* (Leiden: Brill, 1997), pp. 173-218, and in particular, his summary of the work of W. C. van Unnik, pp. 178-85. Van Unnik's work is also mentioned in I. Gafni's *Land, Center and Diaspora* (Sheffield: Sheffield Academic Press, 1997), p. 118.

If the centrality of the land was not in question at the beginning of the Common Era, a second challenge to inquiry about this time period stems from subsequent change to the status of the community that lived in the land after the First Century. This is the question as to when the Jewish community and its leadership authority ceased to exist in a significant way in the land. In other words, what was the watershed event that served as the dividing point between an active, functioning center and a powerless, diffused polity?[6] This question is more difficult to answer, despite the prevalence of a number of written and archeological sources that are available to us today.

Depending upon how one reads and interprets the historical sources, opinions link the turning point to a range of events dating from the destruction of the Second Temple (70CE) onward. For example, M. Simon states that it was the destruction of the Temple that allowed for a relationship of equals between the Erez-Israel and Diaspora Jewish communities.[7] A much later date is arrived at based on the Muslim invasion of the early seventh century as suggested by G. Alon.[8] Others find dates that fall within these two termini such as the Bar Kochba revolt (132-135CE)[9] or the abolition of the Patriarchy in Tiberias at the beginning of the 5th century.[10]

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[6] Of interest is I. Gafni's discussion in 'Concepts of Periodization and Causality in Talmudic Literature', *Jewish History*, 10, 1 (Spring 1996), pp.33-34 where he suggests that the sages utilized the term בזמן הזה to explore various watershed events that could be utilized to explain their present reality.

[7] M. Simon, *Versus Israel* (Oxford: Oxford University Press, 1986), p. 35.

[8] G. Alon, *The Jews in Their Land*, (Jerusalem: Magnes, 1980), p. 16.

[9] D. Elazar, 'Land, State and Diaspora in the History of the Jewish Polity', *Jewish Political Studies Review*, 3, 1-2, (Spring 1991), p. 14.

[10] See L. Levine, 'The Status of the Patriarch in the Third and Fourth Centuries: Sources and Methodology', *Journal of Jewish Studies*, XLVII (1996), p. 1.

In addition to the challenge of pinpointing a date for the waning of Eretz-Israel's dominance, there are other challenges to the historical paradigm that must also be mentioned. First and foremost is the assumption that historiography makes that causal relationships between events can be determined based upon accurate analysis of the past. In reality, the fact that one event follows another does not imply causality.[11] The post-modern reality admits that any study often tells more about the assumptions and worldview of the scholar than any object reality that exists. This is certainly true in the discipline of history where the approach taken by the scholar – political, sociological, ideological – often determines the types of questions that are to be asked and therefore also determine what conclusions will be found. This is particularly true in the study of the Jewish past where many scholars are admittedly subjective and are often looking for precedents from the past that will justify contemporary positions.[12]

Linked to this challenge is the fact that the Jewish past is most often accessed through Jewish texts. The question of dating, authorship, the operative or functional authority of these texts in the contemporary period, and access to various manuscripts all contribute to a problematic picture of these texts' usefulness for historiography. In addition, the reliance on texts has also lead many to utilize the texts themselves as dividers of historical periods as if society changed dramatically the moment a text was completed. One must assume that the texts themselves come out of a particular tradition

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[11] I. Gafni, *Periodization and Causality*, pp. 22-23.

[12] I would include myself in this category – I am drawn to the subject matter of this theses as a Diaspora-born Jew that holds both American and Israeli citizenship, who has spent extensive periods of time in Israel and in the Diaspora.

that had earlier precursors. The dating of each text is also open for much debate, making this system of "literary dating" quite problematic.[13]

Even if one accepts these limitations, another problem stems from the tension between modern historiography and the traditional Jewish concept of memory as the main approach to the past. M. Herr raised this as an issue when he stated, "The question of the relationship of the sages towards history has almost not been engaged in at all by any researcher."[14] Herr suggests that the sages were hardly interested in history and were not at all interested in historiography.[15] It was historian Y. H. Yerushalmi who brought the issue to the top of the agenda in his book *Zachor*.[16] In the book, he suggests that Jewish history and Jewish memory often oppose one another. In the prologue, he writes:

> At the very heart of this book lies an attempt to understand what seemed a paradox to me at one time – that although Judaism throughout the ages was absorbed with the meaning of history, historiography itself played at best an ancillary role among the Jews, and often no role at all; and, concomitantly, that while memory of the past was always a central component of Jewish experience, the historian was not its primary custodian.[17]

After mentioning that the Hebrew root, זכר linked to memory is attested to in the bible 169 times, he restates this point poignantly, "Israel is told only that it must be a kingdom of priests and a holy people: nowhere is it suggested that it become a nation of

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[13] I. Gafni, 'The Historical Background', in S. Safrai (ed.) *The Literature of the Sages* (Philadelphia:Fortress Press, 1987), p. 2.

[14] M. Herr, 'The Conception of History among the Sages [Hebrew] *Proceedings of the Sixth World Congress of Jewish Studies*, Vol. III (1973), p. 133.

[15] *Ibid.*, p. 142.

[16] Y. H. Yerushalmi, *Zachor*, (Seattle:University of Washington Press, 1992).

[17] *Ibid.*, *Prologue* to the original edition, p. XXXIII.

historians."[18] According to Yerushalmi, any "attempts by some modern scholars to find traces of historiography in the Talmudic period merely reflect a misplace projection of their own concerns upon a reluctant past."[19] A. Funkenstein has challenged this position, most notably in his text, *Perceptions of Jewish History*. Funkenstein suggests that Yerushalmi is lacking an understanding regarding the link between historical narrative and "collective memory, a link that he suggests were never "completely alien to each other.[20] Although he agrees that the majority of non-biblical Jewish texts lack historical narrative, it never lacked "an acute historical *consciousness*, albeit different at different periods."[21] For example, he suggests that the halakhic discussions of the rabbis often reflected awareness of distinctions of time and place; that "distinctions concerning customs and their context, exact knowledge of the place and time of messengers and teachers of *halakha*, the estimated monetary value of coins mentioned in sources, etc." all represent a historical consciousness.[22] Even political history is relevant to the rabbis, as he demonstrates through a mishnaic text:

> On that same day [that Rabban Gamliel was demoted from the presidency at the court of Yavne] Yehuda, an Ammonite convert, came and asked to join the congregation. Rabbi Gamliel said to him: "You are forbidden, as it is said: 'No Ammonite or Moabite shall join the congregation of God.'" Rabbi Joshua [b. Chananya] said to him: "Do Moab and Ammon remain in their place? Sanherib came and mixed up all the nations, as it is said: "And I will remove the boundaries between nations and ruin their

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[18] *Ibid.*, p. 10.
[19] *Ibid.*, pp. 20-21.
[20] A. Funkenstein, *Perceptions of Jewish History* (Berkeley: University of California Press, 1993), p. 11.
[21] *Ibid.*, p. 11.
[22] *Ibid.*, p. 17.

reserves."[23]

Funkenstein is ultimately supporting the idea that the talmudic texts can and do reflect historical consciousness and therefore can serve as historiographical sources.

As one moves from a focus on historiography to history, additional approaches lead to different readings of the past. Some scholars, often representing a more traditional perspective, accept a majority of the rabbinic texts as historically accurate and then reconstruct a historical narrative that is uncritical from the perspective of the modern historical paradigm.[24] In his text *The Sages: Their Concepts and Beliefs,*[25] E. Urbach articulates this position regarding the study of rabbinic texts in his first chapter. On the one hand, he states that the texts reflect an awareness of their historical reality, "in the light of the divergence of political, economic, and social background, when Sages living in different periods are spoken of."[26] On the other hand, he then collapses the diverse statements into a single "normative Judaism," a series of beliefs that "were accepted as credal principles and were held in common by the scholars and the nation as a whole."[27] While he notes that there will be problems in accuracy, primarily based on the lack of

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[23] *Ibid.*, p. 18, translation of M. Yadayim 4:4 from the text.

[24] It is not just the traditionalists that attribute historical accuracy to rabbinic texts. J. Neusner himself criticizes his own early works, such as his five-volume history of the Jews of Babylon, and his acceptance at that point of rabbinic literature as historical sources. As will be noted later in the second chapter of this thesis, this criticism will be applied by many towards other "modern" scholars.

[25] E. Urbach *The Sages: Their Concepts and Beliefs*, trans. I Abrahams (Jerusalem: Magnes Press, 1979).

[26] *Ibid.*, p. 3.

[27] *Ibid.*, p. 2.

quality texts and appropriate understanding of those texts,[28] by collapsing the texts into a single world view, he is taking later editors opinions about the historical past as accurate.[29] As will be discussed in further detail in the next chapter, this approach taken by Urbach and others is open to much criticism in the contemporary academic environment.

Between these points of questioning the historiography and total acceptance lay a range of opinions as to the value of the Jewish texts from what we call the Talmudic period as sources of information about the past. While these will be discussed at length in the next chapter, it would be safe to say that I will attempt to find a moderate, middle ground where informed readings of the rabbinic texts will suggest a possible reconstruction of the past. Differing positions will be given voice and the primary texts that serve as the foundation for many of these positions will be presented to allow for further investigation. While this will never lead to an objective, unconditional truth, it is hoped that the central historical thrust of these texts can be revealed.

The Jews of the Land of Israel and of the Diaspora

Regardless of the stipulations elaborated upon in the preceding section, it is important to get a sense of the general picture during the fourth century both within the Land of Israel and in the outlying communities of the Diaspora. This next section will

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[28] *Ibid.*, p. 18.

[29] See J. Neusner's agreement with this critique in J. Neusner, 'The Teaching of the Rabbis: Approaches Old and New' *Journal of Jewish Studies*, XXVII, 1 (Spring 1976), p. 25.

focus on the Palestinian Jewish community and its political, economic and religious structures. In addition, the larger, Roman context will be presented with a particular focus on the changes caused by the transition into Christianity and the subsequent integration of political authority and an anti-Judaism theology. Babylonian Jewry, and its concomitant Sassanian context, will also be presented, with a few words about some of the other Jewish communities of the period.

Despite the importance placed upon the Great Revolt and the Bar Kochba Revolt against the Romans, the first two centuries of the Common Era in fact reflected a fairly non-invasive period of time for the Jewish community of Judea. During this era, Rome was primarily concerned with keeping the peace and ensuring a constant flow of tax income in its direction from Judea.[30] By the third century, however, this situation had changed with the Romans taking a more direct role in the affairs of the eastern provinces, and the local communities suffering or profiting from this increased intervention.[31] This intervention included an extension of Roman citizenship to all inhabitants of the empire in the year 212 C.E.

Despite this enfranchisement, at no point did the Jewish leadership in Judea see the Romans as the legitimate authority in the land of Israel. For example, the Mishnah states that one need not pay taxes to the Romans as they were no different than highway

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[30] See S. Lieberman's discussion of this in 'Palestine in the Third and Fourth Centuries' *Jewish Quarterly Review* XXXVI, April, 1946 (4), p. 343.

[31] M. Goodman, 'The Roman State and the Jewish Patriarch in the Third Century' in L. Levine (ed.) *The Galillee in Late Antiquity* (New York: Jewish Theological Seminary, 1992), p. 127.

robbers.[32] This is contradictory to the rulings made later in Babylon, where "*dina d'malkhuta dina*" reflects the legitimacy of foreign rule outside of the land of Israel.[33] Rather, the leadership of the Jewish community assumed that the Romans were temporarily in control, in the same way that the Assyrians, the Babylonians, and the Persians had ruled over the land in the past. The land belonged to God and was given to God's people, Israel, as an eternal inheritance. The Romans were, at best, puppets that were carrying out God's will. All this lead to certain ambivalence in Jewish eyes as to how Rome was to be viewed.[34] Some have suggested that if the Jews in Eretz-Israel had any sense of displacement, it was a sense of exile that reflected a state of mind rather than any physical reality.[35] The sages were thus very concerned with maintaining an ongoing internal political structure that would rule with as much authority as Rome would allow. When the time came, this structure would then reinstate itself as the sole authority in the land.[36] In fact, as some scholars state, the rabbis felt "the status of the land politically and

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[32] M. Nedarim 3:4.

[33] TB Gittin 10b, see also I. Gafni 'The World of the Talmud: From the Mishnah to the Arab Conquest' in H. Shanks (ed.) *Christianity and Rabbinic Judaism: A Parallel History of Their Origins and Early Development*, (Washington: Biblical Archaeology Society, 1993), p. 254.

[34] L. Feldman, 'Some Observations on Rabbinic Reaction to Roman Rule in the Third Century', *Hebrew Union College Annual*, LXIII (1992), p. 46, 80-81.

[35] See discussion in C. Milikowsky 'Notions of Exile, Subjugation, and Return in Rabbinic Literature' in J. M. Scott (ed.) *Exile: Old Testament, Jewish and Christian Conceptions* (Leiden: Brill, 1997), pp.265-96. In particular, note his discussion of the relationship between exile and the four kingdoms discussed on p. 272 where two of the exiles recorded under Meida and Greece are examples where the people never left the land of Israel but were only politically subjugated. However, Milikovsky's analysis of the situation may be based on too selective a reading of the texts.

[36] For a discussion as to why Rome extended authority to the Jewish community and supported the continuation of the Sanhedrin and may have even helped create the

economically was as much a religious problem.... as the ritual commandments to be performed in it."[37]

In the past, the Jewish community of Israel had three different frameworks through which to manifest leadership and extent authority. The first of these, the priesthood, could no longer function due to the destruction of the Temple. Despite this, an extensive legal framework developed to maintain the purity of the priestly caste in preparation for a return to this form of leadership in the future. The second framework of leadership was connected with the monarchy. This too no longer functioned in an operative sense although the Patriarchy in Judea and the Exilarch in Babylon both based the legitimacy of their authority as a function of their connection to the Davidic line.[38] The last framework really took hold during the third and fourth century with the movement of the rabbinic leadership from the margin to the center.[39] The two Talmuds, which, along with the midrashim, serve as our major sources of internal information from this time period, are products of this rabbinic framework. While they present the rabbis as the main authority within the community, it is possible that many Jews did not look to

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position of the Patriarch, see M. Goodman, *The Roman State*. Goodman suggests that the Romans even allowed the nominally religious authority, the Patriarch, to function as a representative of the secular authorities and to exercise this power in a number of ways (pp. 135-36). See also A. Rabello 'Jewish and Roman Jurisdiction' in N. S. Hecht, et. al. (eds.) *An Introduction to the History and Sources of Jewish Law* (Oxford: Clarendon Press, 1996), p. 141 and B. Lifshitz 'The Age of the Talmud' in the same volume, p. 170.

[37] G. Cohen, 'Zion in Rabbinic Literature' in G. Cohen (ed.) *Studies in the Variety of Rabbinic Cultures* (New York: Philadelphia, 1991), p. 24.

[38] For a full development of this issue, see Goodblatt, D. *The Monarchic Principles: Studies in Jewish Self-Government in Antiquity* (Tubinger: Mohr, 1994).

[39] S. Cohen, *The Three Crowns: Structures of Communal Politics in Early Rabbinic Jewry* (New York: Cambridge University Press: New York, 1990), p. 147.

rabbinic community for leadership and relied either on the Patriarchy or on the secular Roman authorities.[40] It is also important to keep in mind that the divisions between these three frameworks is not always clear as there were many sages who were also of priestly decent and certain Patriarchs functioned primarily as members of the rabbinic class.[41] While it is this third leadership framework that will be examined in greater detail in the subsequent chapters of this thesis, the other two sources for leadership will also be of import. In particular, the thesis will examine how these positions of political or religious leadership were related to in the two different communities. Of course, during this time period, it would be a mistake to attempt to divorce religious leadership from political leadership.[42] Each one of these leadership sources integrated religion and politics as two sides of the same coin.

While status of these various political structures was firmly in place by the third century, the economic situation had taken a turn for the worse. Both Roman and Jewish sources from the time discuss the latter half of the third century and the beginning of the fourth century as times of economic hardship.[43] These economic difficulties lead many

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[40] M. Goodman, 'Identity and Authority in Ancient Judaism' *Judaism*, 39, 2 (Spring 1990), p. 193.

[41] I. Gafni, *The Historical Background*, p. 4.

[42] A. Oppenheimer 'Leadership and Messianism in the Time of the Mishnah' in H. G. Reventlot (ed.) *Eschatology in the Bible and in Jewish and Christian Tradition*, (JSOT Supplement Series 243, 1997), pp. 156-57, ff. 10.

[43] See S. Safrai, *The Economy of Roman Palestine* (London: Routledge, 1994), 457-58, S. Lieberman, 'Palestine in the Third and Fourth Centuries', *Jewish Quarterly Review* XXXVI, (April, 1946) (4), pp. 344-60, J. Schwartz, 'Tensions Between Palestinian Scholars and Babylonian Olim in Amoraic Palestine', *Journal for the Study of Judaism*, XI, 1 (July 1980), p. 84, D. Sperber, *Roman Palestine 200-400: The Land*, (Ramat-Gan: Bar-Ilan University, 1978), pp. 5-6. Sperber suggests that this economic

Jews to leave the land of Israel for Babylon or other Diasporas.[44] The tension between the individuals who decide to remain in the land and the relative economic prosperity of those who choose to leave created a number of statements in the Talmuds that will be examined in Chapter Five. It is sufficient to note that the reality of the contemporary economic disparity felt by the large number of Israelis now living abroad has a long history dating back to this time.

If one analyzes the literature of this time period, one sees that there were a number of critical issues that were developed in the Tannaitic and Amoraic texts. There are questions related to such theological themes as Divine judgement and reward, the interrelationship between prophecy, revelation and interpretation, the role of God in history, and redemption. On the more practical level, there are concerns about the restructuring of religious worship, the development of the holiday and life cycle, and the establishment of a fully functional legal system. It is critical to note, however, that the land of Israel plays an important role in many of these various issues. In an analysis of the major Tannaitic work, the Mishnah, G. Cohen found a full third dealt with laws "inextricably connected with the land of Israel."[45] He states further that "[T]he rabbis could no more conceive of Judaism without the *land* of Israel than they could have

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downturn began to change in the fourth century but that the improvement was only relative.

[44] I. Gafni, *The Historical Background*, p. 25.

[45] G. Cohen, *Zion in Rabbinic Literature*, p. 20.

without the *people* of Israel"[46] for "Palestine was the umbilical cord of Jewish life. It was *the Land*, the pivot about which all religious life should evolve."[47]

During the period of the Mishnah, this land-centered ideology began to grow.[48] At the same time, the geographic boundaries may have begun to unloosen, as the center could no longer be anchored in Jerusalem. As the leadership in Palestine began to move from Jerusalem to Yavne, and then from Yavne to the various communities in the Galilee,[49] the specific sacred boundaries began to shift. While this will be discussed at length in Chapter Three, it is important to mention that the rabbinical focus on the defining Eretz-Israel's boundaries probably represents a reaction to the more ambiguous nature the land of Israel had taken during the third and fourth century. It is also possibly a reaction to a redrawing of the boundaries of this eastern province of the Roman Empire.[50] It is not until the Tosefta, a third century text, that we have specific boundaries outlined. Boundary setting for the land will continue in the Yerushalmi.

As a whole, then, the pre-Christian period of Roman control suggests a general tendency of the Roman to promote peace and tranquillity in Eretz-Israel and to generate taxes for the Roman coffer. An examination of Roman tax policy can give us insight into how Rome saw the Jewish community. From Roman sources, such as the various edicts related to the *fiscus Judaicus*, the tax imposed by Rome on all Jews in the empire,[51] one

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[46] *Ibid.*, p. 20.
[47] *Ibid.*, p. 22.
[48] For examples, see M. Kelim 1:6-9.
[49] TB Rosh Hashana 31a.
[50] Gafni, I. *World of the Talmud*, p. 235.
[51] See V, A, Tcherikover and A. Fuks, *Corpus Papyrorum Judaicarum*, *Vol. I.*

can make the assumption that before the rule of Nerva, a Jew was any Judaean. When he came to power in 96 CE, a change was made limiting this tax to only those Judaeans who were practicing Judaism. This implies that there was already a split occurring between the way that the Roman government was relating to the larger Jewish community and its splinter groups, such as the nascent Christian community. As the fourth century ended and Church Fathers began to demand more limitations on the Jewish community autonomy in the land, this situation began to change, albeit slowly. Some of these changes most certainly had roots that predate the fourth century. By the fifth century, the Christian authorities' ascendancy had brought with it a change in Jewish autonomy that reflected a more difficult political and civic status along with the new religious challenges.[52] Within that context, the Jewish community developed different leadership structures and attempted as best as possible to maximize its internal control and autonomy.

During this same time period, as the Jewish community was undergoing various challenges within the context of Roman rule, the Babylonian community found its own legs as a result of the rise of the Sassanian dynasty and the development the rabbinic leadership under Shmuel and Rav.[53] It is important to also look at this community, its origins and its communal structures in this important era. The Jews of Babylon made up the largest Jewish Diaspora outside of the Roman Empire during the time period

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(Cambridge, Mass, 1957), pp. 80-82.

[52] A. Rabello, *Jewish and Roman Jurisdiction*, p. 153.

[53] TB Gittin 6a.

surrounding the end of the Second Temple and its subsequent destruction.[54] As important as its size is the fact that it was the only major Jewish community from this period to develop beyond the all-pervasive Hellenistic framework.[55] Yet there are only the fewest of details that we have about this community during the first and second century of the Common Era. One of the challenges, as stated earlier, stems from the fact that there are no extant non-Jewish sources that mention the existence of a community in Babylon. Only a handful of Jewish sources mentioning Babylonian Jewry were written in the Second Temple period. It is not until the third century that the rabbinic sources begin to discuss the Babylonian community in any serious detail.[56] This leaves us with a situation that is highly speculative when attempts are made to describe the situation of the Babylonian community during the period parallel to the Tannaitic period in the land of Israel.

In regards to the origin of the Babylonian community, let us first examine the traditional textual claims that present largely a picture of continuity stemming even as far back as the period of the Patriarchs.[57] Most certainly, the community could point to the Bible to support continuous settlement that starts in the sixth century before the Common

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[54] I. Gafni, 'The Jewry of Babylon and its Institutions' [Hebrew] in G. Alon and E. Urbach (eds.) *Sidrot Sugiot b'Toldot Am Yisrael* (Jerusalem: Merkaz Zalman Shazar, 1994), p. 234. See also J. Neusner's discussion of the size of the Jewish population in Babylon in J. Neusner, *A History of the Jews of Babylon, Vol. I* (Leiden: Brill, 1968-70), pp. 246-50.

[55] I. Gafni, *The World of the Talmud*, p. 262.

[56] Goodman, *Diaspora Reactions*, p. 28.

[57] For a discussion on the relationship between the Diaspora community of Babylon and its Abrahamic roots, see I. Gafni's discussion of TB Pes. 87b in *Land, Center and Diaspora*, p. 34, ff. 24, also pp. 53-54.

Era and then continues on as reflected in the books of Ezekiel, Esther, and Daniel. The Apocryphal text, Tobit, while portraying an earlier historical period, appears to reflect some understanding of Second Temple Babylonia.[58] While this may provide some continuity to the story of the Babylonian community, the textual tradition, with a few side comments,[59] ends until the third century of the Common Era with the burgeoning of the rabbinic tradition. It was important to these later Babylonian rabbis, however, to make claims that there had been no breaks in Jewish settlement for a period of almost a millenium. This belief was reflected in a number of Talmudic statements that imply continuity with the biblical past; for example, the claim that the Jews of third century Babylon were of a purer stock than those of Israel.[60] By demonstrating continuity with the past, all later statements made by the Babylonian leadership attained an even higher level of authority. Today, scholars are much more cautious in accepting the rabbi's claims about their pedigree. This issue and the issue of the reliability of tradents and talmudic history in general, will be discussed in the next chapter.

During this period of time, the Sassanians extended an extensive amount of autonomy to the Jewish community and empowered the Exilarch to wield this authority. Contrary to the context of the Roman Empire, the Sassanian context was more

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[58] I. Gafni, *The Jews of Babylon in the Talmudic Era* [Hebrew], (Jerusalem: Zalman Shazar Center, 1990), pp. 55-61.

[59] For example, see D. Goodblatt, 'Josephus on Parthian Babylonia' *Journal of the American Oriental Society* 107.4 (1987), pp. 650-622, also I. Gafni, *Jews of Babylon*, pp. 61-68.

[60] TB Kiddushim 69b. This topic will also be examined in Chapter Five. For more discussion on this, see I. Gafni "Local Patriotism' in Sasanian Babylonia', *Irano-Judaica II*, Jerusalem (1990): pp. 63 –71, especially pp. 66-67.

centralized. This may have lead to the rise of the Exilarch in Babylon.[61] In addition to the Exilarch, however, the rabbis also were able to influence much internal authority within the context of the academies and courts. It was they who regulated the economic and social life of the Jewish community. Because of the buffer role that the Exilarch played in the Babylonian context, the rabbis of Babylon did not involve themselves in the politics of the larger context in the ways that their brethren in the Eretz-Israel did.[62]

In many ways, the Sassanian context was also different than the Roman context because the Romans had come into the land as conquerors. On the other hand, the Babylonian Jewish community functioned within a foreign land with its own legitimate institutions and legal system.[63] This is reflected in a Talmudic text that describes the situation by reflecting on "joyousness in Babylonia vs. Roman troops in Tzippori during all of the festivals."[64] While there were periodic changes in this relationship, this arrangement lasted until the Muslim conquest in the seventh century. In fact, there are many indications in the rabbinic texts that this was a two-way relationship with the Jews of Babylon providing important support to the Persians within the context of the four hundred-year clash between Rome and Persia.[65]

Similar to the relationship that many contemporary Diaspora Jews have with the modern State of Israel, the Babylonian Jews had a complex, often contradictory

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[61] I. Gafni, *World of the Talmud*, p. 263.
[62] *Ibid.*, p. 263.
[63] B. Lifshitz, *The Age of the Talmud*, pp. 184-85.
[64] BT Shabbat 145b, quoted in J. Paymer, *Historiographical Sources Dealing with Cultural Life of the Jews of Babylon*, Senior Thesis for HUC, 1939, p. 123.
[65] See discussion in I. Gafni, *The World of the Talmud*, pp. 257-260.

relationship with the Land of Israel and its leadership. The Bavli reflects the positive side of this relationship in its commentary to Deut. 3:23-28, where Moses is requesting to enter in to the Land of Israel. The Talmud states:

> מפני מה נתאוה משה רבינו ליכנס לא"י? וכי לאכול מפריה הוא צריך? או לשבוע מטובה הוא צריך? אלא כך אמר משה: הרבה מצות נצטוו ישראל ואין מתקיימין אלא בא"י, אכנס אני לארץ כדי שיתקיימו כולן על ידי

> "Why was Moses our teacher so eager to enter the land of Israel? Did he need to eat its fruits? Or to be satisfied by its goodness? Rather, said thus: "The people of Israel have been given many commandments which can only be fulfilled in the Land of Israel. Let me enter into the Land that I may fulfill them myself."[66]

The sentiment behind such an interpretation implies that the author of this commentary did not feel that Judaism could be totally fulfilled outside of the land of Israel. On the other hand, there were other voices in the community that represented a much less land-centered approach, or at least Land of Israel-centered. These included equation burial within the land of Babylon as being comparable to being buried in the Land of Israel[67] and equating Babylon as being Israel from the moment that Rav returned. Between these two positions, we find the voices of the *Nehutei*, the "ones who go down."[68] These were sages who traveled back and forth between these two communities during this time period. The stated purpose of their movement was the transmission of information between the two communities, in particular through the delivering of letters.[69]

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[66] TB Sota 14a.
[67] Avot D' Rabbi Natan, A, ch. 26 [ed. Schecter, p. 82]
[68] M. Beer, Encyclopaedia Judaica, XII, (Keter: Jerusalem (1972): 942-43.
[69] TB Gittin 9b.

During this time period, there were also important Jewish Diaspora communities in North Syria, Asia Minor and Greece, Arabia, Rome and possibly even China. The Jewish community of Alexandria appears to have diminished in size and in strength as a result of assimilation and due to hostilities within the larger Roman Empire.[70] Some scholars suggest that the rabbinic patriarch in Galilee exerted control over all of the Jewish Diaspora within the Roman Empire and was able to enforce its system of taxation upon the community with support by the Roman government. Its actual control over other communities is, however, historically uncertain.[71] While these various communities are mentioned in the rabbinic sources, their impact on the larger Jewish world TB Sotah 14a is difficult to gauge as they left no major textual witnesses that can give them voice today.[72]

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[70] See S. Baron *History of the Jews,* Vol. II, p. 211-12., Goodman, *Diaspora Reactions,* p. 36, and I. Gafni *The Historical Background*, pp. 20-21.

[71] Goodman, *Diaspora Reactions,* p. 28.

[72] In the article *Unity and Diversity*, p. 54, A. T. Kraabel raises the issue that both the Palestinian and Babylonian communities created Talmuds but this did not appear to be a necessary activity for the various communities found throughout the Mediterranean.

Chapter Two

The Talmud as History: The Yerushalmi and the Bavli

The Relationship between the Yerushalmi and the Bavli

The Mishnah served as the constitution of the rabbinic Jewish community in the Third Century, second in holiness only to the bible. At their most basic level, each of the two Talmuds functions as an amplification or exegesis of this mishnaic foundation text.[1] Over the next two to five centuries,[2] depending upon the location, the Palestinian and Babylonian rabbinic communities evaluated, reshaped, and augmented traditions from the previous generations in order to arrive at a text that would reflect the rabbinic worldview. These Talmuds, with the Bavli soon taking the place of primacy, would serve as a new constitution for the Jewish people that would function until today.[3] This section will look at some of the differences between the two Talmudic texts as well as examine the scholarship related to the relationship between these two texts.

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[1] J. Neusner 'Why the Talmud of Babylonia Won', *Midstream*, XXXI, 3 (March 1985), p. 18, 20.

[2] R. Kalmin *Sages, Stories, Authors, and Editors in Rabbinic Babylonia* (Atlanta: Scholars Press, 1994), p. 1, ff. 2. Some scholars set the terminus point for the Bavli closer to the beginning of the Eighth Century rather than the more commonly accepted beginning of the sixth. Even those that set the later date, though, accept that a majority of the material in the Bavli had already been gathered and that it was only the further layers of redaction with some additions that take place over the next period of time. For a full discussion on this see D. Goodblatt, 'The Babylonian Talmud' in W. Haase (ed.) *Aufstieg und Neidergang Der Roemischen Welt II* (New York: Walter de Gruyter, 1979), pp. 304-18.

[3] R. Goldenberg 'Talmud' in M. Chernick (ed.) *Essential Papers on the Talmud*

The Yerushalmi

We presently have Palestinian *gemara* to four of the six orders of the Mishnah with a handful of comments on the fifth order of *Niddah* and nothing of the order *Qodashim*;[4] there are varied opinions as to whether this represents the totality of the Yerushalmi or if certain tractates were lost over time or never completed.[5] Unlike the Bavli, the Yerushalmi covers the entire order of *Zeraim*, primarily dealing with agricultural law, an area of concern to those living in the Land of Israel. The Yerushalmi is much closer in scope and interest to the Mishnah and the Tosefta with a focus on laws pertinent to life in the Land of Israel; in particular, its readings of tannaitic sources are often much closer than those in the Bavli.[6] The language of the Yerushalmi is a combination of Hebrew and Western Aramaic, the vernacular of the rabbinic leadership

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(New York: New York University Press, 1994), p. 30.

[4] Y. Sussman *Perkei Yerushalmi* [Hebrew] in M. Bar- Asher and D. Rosenthal (eds.) *Mihkarei Talmud* (Jerusalem: Magnes, 1993). p. 223, Bokser, B 'An Annotated Bibliographical Guide to the Study of the Palestinian Talmud' in W. Haase (ed.) *Aufstieg und Neidergang Der Roemischen Welt II* (New York: Walter de Gruyter, 1979), pp. 165-66.

[5] B. Bokser, *Palestinian Talmud*, pp.165-68, H. L. Strack and G. Stemberger, *Introduction to the Talmud and Midrash* (Edinburgh: T & T Clark, 1991), pp.184-86. For the argument that these two orders never existed, see Krupp, M. 'Manuscripts of the Palestinian Talmud', in S. Safrai (ed.) *The Literature of the Sages, Vol. 1* (Philadelphia: Fortress Press, 1987), pp. 319-20; for the opposing position, see Sussman, Y., 'Babylonian Sugyot to the Orders of *Zeraim* and *Tohorot*, Doctoral Dissertation for Hebrew University, (1969).

[6] A. Goldberg 'The Palestinian Talmud' in M. Chernick (ed.) *Essential Papers on the Talmud* (New York: New York University Press, 1994), p.229. This position is partially challenged by A. Houtman, who suggests that in certain areas, the Tosefta may be preserving Babylonian traditions. See "'They Directed Their Heart to Jerusalem:' References to Jerusalem and Temple in Mishnah and Tosefta Berakhot" A. Houtman, et. al. (eds.) *Sanctity of Time and Space in Tradition and Modernity* (Leiding: Brill, 1998), p. 164-66.

in Israel during the time that the Yerushalmi was being arranged. As mentioned above, the Yerushalmi developed out of rabbinic dialogue over a period of two centuries. While traditionally, most scholars accepted the beginning of the fifth century as the terminus point for its redaction,[7] Y. Zussman pushes the date of codification backward another fifty years, placing the terminus point in the mid-forth century.[8] The name Yerushalmi is a misnomer. In general, the text was compiled in and around Tiberias with S. Lieberman claiming that the *Gemara* to the tractate *Nezikin* was edited at an earlier point in Caesarea.[9] The geographic focus of the text is the Galilee and the three major centers in the North: Tiberias, Tzippori, and the Caesarea with a few references to sages from "The South."[10] Starting with the earliest Palestinian Amoraim, the Yerushalmi's sages span

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[7] This date is partially based on the fact that the last tradents mentioned in the text are from the end of the fourth century and that both political and economic changes, as well as the dissolution of the Sanhedrin, all took place at the beginning of the fifth century. However, there are non-Jewish texts that make mention of a Sanhedrin after the traditional 425CE date and it is possible that the Yerushalmi continued to be redacted into the future and that a later terminal point might be possible. In general, see B. Bokser, *Palestinian Talmud*, pp. 191-95. In regard to the other Sanhedrin and the continuation of organized Jewish life in the Land of Israel up until the sixth or seventh century, see also I. Gafni, *World of the Talmud*, p. 248-49.

[8] Sussman, Y., *Babylonian Sugyot*.

[9] S. Lieberman 'The Talmud of Caesaria' [Hebrew] Supplement to Tarbiz, Vol. II (Jerusalem, 1931), p. 9-13. While this position is still maintained by most scholars (see J. Neusner 'The Talmud of the Land of Israel' in M. Chernick (ed.) *Essential Papers on the Talmud* (New York: New York University Press, 1994), p. 221), the position is not without its own problems (see J. N. Epstein's comments as cited in H. L. Strack and G. Stemberger, *Introduction,* pp. 192-93.

[10] B. Bokser, *Palestinian Talmud*, p. 195. For additional discussion on the "South" and its sages, see J. Schwartz 'A History of Jewish Settlement in Southern Judea After the Bar-Kochba War Until the Arab Conquest' [Hebrew] Doctoral Thesis for Hebrew University (1980), pp.338-42 and his subsequent book *Jewish Settlement in Judaea* [Hebrew] (Jerusalem: Magnes Press:Jerusalem, 1986), pp. 240-44.

five generations of Amoraim.[11] In addition, there is also representation of some sages from Babylon who studied in the Land of Israel.[12] The Palestinian sages' discussion of the Mishnah tends to be briefer than the polished *sugya* found in the Bavli, "usually with shorter and elliptical or less clear discussions.... that are more to the point."[13] This more laconic approach typically explains the Mishnah, adds comments that are seen as related or relevant, or bring in similar pericope for comparison.[14] The text that we therefore have before us is much briefer than the Bavli, more terse in its style, and ultimately, a more difficult source for understanding the Palestinian rabbinic community.[15] While the text may be less refined and redacted from a literary point of view, these same limitations may suggest that the text remains closer to its historical "source."[16] In addition, the Yerushalmi is augmented by the various midrashic collections, additional creations of the Palestinian community that help provide a more complete picture.

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[11] A. Goldberg, *The Palestinian Talmud.* p. 231-33.

[12] A full discussion of Babylonians in the Land of Israel is carried out in Chapter Five of this thesis.

[13] B. Bokser, *Palestinian Talmud*, p. 170.

[14] *Ibid.*, p. 171.

[15] In J. Neusner's *Judaism in Society: The Evidence of the Yerushalmi* (Chicago: University of Chicago Press, 1983), p. ix, he states "The Yerushalmi...fills many hundreds of pages of barely intelligible writing. Famous for its incomprehensibility, the document has come before the scholarly public in bits and pieces, odd pages snatched from an otherwise inaccessible *Geniza.*"

The Bavli and its Differences

The Bavli is much different in its structure, interests, and style than its Land of Israel counterpart, and is almost twice the size in terms of content.[17] These differences have been attributed to different literary and redactorial styles, the varied Persian vs. Roman/Christian environments, contrasting historical context, or just to sheer time.[18] As in the Yerushalmi, the Mishnah serves as both its starting point and internal skeleton. Unlike the Yerushalmi, the Bavli often moves away from the Palestinian foundation text to examine the traditions of the earlier Amoraim.[19] The Bavli only contains 37 tractates of *Gemara*, although every order is represented at least once.[20] While there are no tractates dedicated to the discussion of agricultural law in the Bavli, perhaps due to the fact that these laws did not hold outside of the Land of Israel, the Bavli does engage extensively in themes pertaining to *Zeraim* and *Tohorot*.[21] The Bavli does talk about almost everything else; M. Jastrow made the following note regarding the subjects addressed by this Talmud:

> The subjects of this literature are as unlimited as are the interests of the human mind. Religion and ethics, exegesis and homiletics, jurisprudence and ceremonial laws, ritual and liturgy, philosophy and science, medicine and magic, astronomy and astrology, history

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[16] This insight was suggested by I. Gafni, personal communication.
[17] R. Goldenberg *Talmud*, p. 31.
[18] C. E. Hayes *Between the Babylonian and Palestinian Talmuds*, pp. 20-23.
[19] D. Goodblatt, *The Babylonian Talmud*, p. 259.
[20] *Zera'im* is only represented by the tractate on Berakhot and *Tohorot* is only represented by the tractate on Niddah. see D. Goodblatt, *The Babylonian Talmud*, p. 260.
[21] Y. Sussman, *Babylonian Sugyot*, p. 285. Of particular interest is his claim that these two orders did not develop because they were not a part of the curriculum of study in the Babylonian Academies. For a complete discussion, see his chapter seven.

and geography, commerce and trade, politics and social problems, all are represented here....[22]

Each one of these subjects is addressed through a form distinctive to the Bavli, the *sugya*, or Talmudic argument. These units contain the differing views of the sages, earlier traditions to support these views, various specified argumentative formulae, and typically a conclusion.[23] In addition to these units that make up the basic building blocks of the Bavli, there is an additional layer to the text that is not as noticeably present in the Yerushalmi.[24] This is an additional recorded level within the text, identified by such early figures as Julius Kaplan, Hyman Klein, and Abraham Weiss, and studied more intensively by David Weiss-Halivni and Shamma Friedman, as the creation of the Stammaim, or anonymous authors.[25] This post-Amoraic redactorial level includes much material that is strictly discursive, although often there is also an attempt to resolve conflicts or arrive at conclusions not presented by the Amoraim. In many ways, it is their contribution that distinguishes the Bavli from the Yerushalmi.[26] Weiss-Halivni's approach is challenged by some scholars who question the need for such a long gap

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[22] M. Jastrow *A Dictionary of the Targumim, the Talmud Babli and Yerushalmi, and the Midrashic Literature* (New York, 1886-1903): p. v., and partially cited in D. Goodblatt, *The Babylonian Talmud*, p. 259.

[23] L. Jacobs 'The Talmudic Argument' in M. Chernick (ed.) *Essential Papers on the Talmud* (New York: New York University Press, 1994), pp. 53, 61-64.

[24] D. W. Halivni, *Midrash, Mishnah, and Gemara* (Cambridge: Harvard University Press, 1986), p. 82; note also ff. 16 on p. 142 where Halivni discusses the stammic layer that is present in most of the Yerushalmi (he suggests that it is minimal, if existent at all, in the older tractates in Nezikin).

[25] D. W. Halivni 'The Amoraic and Stammaitic Periods' in M. Chernick (ed.) *Essential Papers on the Talmud* (New York: New York University Press, 1994), p.136, Y. Elman, "Righteousness as its own Reward: an Inquiry in to the Theology of the 'Stam" *Proceedings of the American Association for Jewish Research* Vol. LVII (1991), p. 37.

between the Amoraic layer of named sources and the next named layer. By reducing this Stammaic period, they propose that the Talmuds were completed at the latest by the late 5th century.[27]

Because of the addition of this layer of text, as well as the additional material that reflects an even younger layer, it is difficult to determine exactly when the Bavli was written. Traditionally, the text suggests that Rav Ashi and Rabina close it at the beginning of the 6th Century. This of course appears to be problematic for this statement implies that very little if any material was added after their work ended. According to D. Weiss-Halivni and others who share his basic view, the Stammaim added an additional eighty to one hundred years to the Talmudic process. If one regards the Saboraic contribution as being something different from the stammaitic one, then one concludes the Talmud's final conclusion at some point in the seventh or eighth century.

As many of the later redactorial levels are anonymous, the question of who wrote the Talmud may always be clouded in mystery. Those sages that are treated in the text as Amoraim represent two additional generations beyond the Palestinian Amoraim.[28] Traditionally, these sages were seen as being based in the academic centers of the Babylonian community. Some scholars now suggest that there were many circles of

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[26] D. W. Halivni *The Amoraic and Stammaitic Periods*, pp. 142-43.

[27] See R. Kalmin 'The Post-Rav Ashi Amoraim: Transition or Continuity? A Study of the Role of the Final Generations of Amoraim in the Redaction of the Talmud' *AJS Review* XI, 2 (Fall, 1996), pp. 157-88, R. Kalmin 'The Stam and the Final Generations of Amoraim: Assessing the Importance of Their Relationship for Study of the Redaction of the Talmud' in A. Avery-Peck (ed.) *The Literature of Early Rabbinic Judaism: Issues in Talmudic Redaction and Interpretation* (Maryland: University Press of America, 1989), pp. 29-35.

scholars and disciples that only in the Islamic period developed into real academies.[29] It is also important to note that there are many references made to Palestinian sages and their traditions within the text, an issue that raises the question as to whether or not the Bavli, as the later text, knew of the Yerushalmi.[30] This is a question that goes back to the Eleventh Century, where in his commentary on the Babylonian Talmud, the *Rif*, R. Isaac Alfasi, suggests that

> We have to rely on our Talmud [the Babylonian], for it is the younger one. [The Babylonian Sages] were more familiar with the western [Palestinian] Talmud than we are, and they would not have rejected any of its statements, unless they were sure that it was not dependable.[31]

While the traditional approach assumed that the reason for both extensive quoting of Palestinian Amoraim and parallel traditions in the Talmud came as a result of the Bavli knowing the Yerushalmi, this is a view that is no longer held by most scholars.[32] Today, most scholars almost unanimously reject this position, and while supporting the idea that the Babylonian community had access to Palestinian traditions, the authors of the Bavli did not have in front of them a completed copy of the Yerushalmi. This is based on two premises. The first is that while there are a number of Palestinian parallels in the Bavli,

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[28] A. Carmell *Aiding Talmud Study* (Jerusalem: Feldheim, 1991). pull-out chart.

[29] H. L. Strack and G. Stemberger, *Introduction*, p. 13, D. Goodblatt 'Local Traditions in the Babylonian Talmud' *Hebrew Union College Annual* XLVIII (1977), pp. 187-217.

[30] M. Jaffee, 'The Babylonian Appropriation of the Talmud Yerushalmi' Talmud' in A. Avery-Peck (ed.) *The Literature of Early Rabbinic Judaism: Issues in Talmudic Redaction and Interpretation* (Maryland: University Press of America, 1989), p. 5.

[31] Translation cited in M. Jaffee, *The Babylonian Appropriation*. p. 3, ff. 2.

[32] B. Bokser, *Palestinian Talmud*, p. 187, D. Goodblatt, *The Babylonian Talmud*, p. 288.

the Bavli never refers to an "earlier Talmud by name as a source."[33] The second stems from a general acceptance that the *Geonim* asserted knowledge of the Yerushalmi and still called for the primacy of the Bavli. This, however, served a clear polemical agenda.[34]

M. Jaffee challenges this position, suggesting that the Bavli need not have named the Yerushalmi as a source as only "Tannaitic materials enjoy a privileged status as *sources* of tradition" and that all polemics need not be false.[35] He also finds it hard to believe that the redactors of the Bavli would be unaware of a text that had been completed at least a hundred years prior that attempted to accomplish the same things as the Bavli. This is particularly true given the various interactions between the two communities during the period of development of both Talmuds. Through his analysis of the tractate *Horayot*, Jaffee arrives at the conclusion that while the Bavli did not necessarily rely on the Yerushalmi for "individual textual parallels," the Yerushalmi did direct the Bavli's overall conception of its own task; that is, the Yerushalmi "supplies the dominant exegetical themes appropriated by them [the Babylonian Sages] for amplification or revision.[36] At the most minimal level, this implies that the Babylonian sages had in front of them an outline of the Yerushalmi laying out its programmatic agenda at the organizational level.

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[33] M. Jaffee *The Babylonian Appropriation*, pp. 4-5.
[34] *Ibid.*, p. 5.
[35] *Ibid.*, p. 5.
[36] *Ibid.*, pp. 6-7.

While there is some Hebrew in the text, especially the cited traditions of the Tannaim, the majority of the Bavli is in Babylonian Talmudic Aramaic.[37] S. D. Sperling presents an insightful, programmatic article on the dialectic variations of the Aramaic found in the two Talmuds.[38] By analyzing the language that is utilized in the two texts, insights can be gained as to the relationship between the Bavli and the Palestinian sources. Certain parallel traditions point to a re-translation of a western source into the eastern dialect within the Bavli; this can add support to the idea that during this period, there was active interaction between the two centers. This, of course, is different from claiming that the Bavli possessed the Yerushalmi's text.

A final difference may explain why it was the Bavli, and not the Yerushalmi that managed to become the authoritative compellation. According to Neusner, the Yerushalmi, like the Tosefta, organized itself around the structure of the Mishnah.[39] This structure, when seen in the previous tradition of Jewish writing, did not base itself on the language or style of the Bible. The Mishnah contains few examples of biblical exegesis nor does it claim to represent the word of God. The Bavli, on the other hand, not only expanded its discussion of the mishnaic foundation text but also introduced its own biblical exegetic units. This allowed, in Neusner's words, for "a synthesis of two of the available components of the canon, the Mishnah and Scripture."[40] It was this synthesis

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[37] D. Goodblatt, *The Babylonian Talmud*, pp. 378-80.

[38] S. D. Sperling, 'Talmud: East and West' in S. Nash (ed.) *Between History and Literature: Studies in Honor of Isaac Barzilay* (Tel Aviv: Hakkibutz Hameuchad Publishing House, 1997). pp. 151-169.

[39] J. Neusner *Why the Talmud of Babylonia Won*, p.21.

[40] *Ibid.*, p. 22.

that gave the Bavli primacy in the Jewish world, and not its high level of redaction or the subject matter contained within. This combination allowed the two approaches to understanding the divine command to be brought together in a single text. From this point forward, both the Bible and the Mishnah was primarily accessed through the Bavli.[41] What Neusner does not address is the fact that the Palestinian community was engaged in biblical exegesis outside of the Yerushalmi, namely, the midrashim. These midrashim would serve as important access points to the biblical text in the future as well. Rashi's "simple understanding" of the text is often simply a reworking of these Palestinian midrashim. It is just as likely that the Babylonian Talmud became authoritative for world Jewry because it spoke to that Jewry's reality as a community living in the midst of a host society in a more or less agreed upon arrangement. The Bavli's work is that Jewish world, while the Yerushalmi still tries for Jewish hegemony in its own Land to the extent possible.

One last point of departure between the two texts is in regard to their value as historical sources. Some suggest that due to the fact that the Yerushalmi is the less refined text, one can state that it is more open to diachronic analysis with many of its statements coming be closer to the original truth, with parallels in the Bavli reflecting subsequent "literary recasting."[42] Of course, the Palestinian text is more corrupt then the Babylonian text we have in our hands today, and as mentioned before, many of the

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[41] *Ibid.*, p. 23.

[42] S. Freidman 'Literary Development and Historicity in the Aggadic Narrative of the Babylonian Talmud: A Study based upon B. M. 83b-86a' *Community and Culture: Essays in Jewish Studies* (Philadelphia: Seth Press, 1987). pp. 67, 68.

problems were resolved or harmonized to the Babylonian text.[43] J. Neusner supports this idea that the Yerushalmi might be more historical for an internal reason. He believes that the Yerushalmi moved away from the Mishnah's lack of interest in history. Whereas the Mishnah limited its interest in historical events to two areas – events of the Bible and the destruction of the Temple - the Yerushalmi added the events connected to the deeds of the rabbis as well as political events of the day.[44] The Mishnah was interested in the Temple; the Yerushalmi was concerned with "the people Israel, and its natural, this-worldly history."[45] Neusner hedges his bets, though, by suggesting that the sages of Babylon were just as concerned about the historical realities of their day and that this too is reflected in the Bavli.[46] His claims that the Mishnah's only concern were the limited ones he proposes can be viewed as hyperbolic. What Neusner appears to forget is that all three of the texts – the Mishnah, the Yerushalmi, and the Bavli – are all primarily collections of *halakhot* that functioned as legal, and not historical, texts. S. Friedman also hedges a bit. Citing Graetz's, he states that the historicity of the Bavli is "considered a

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[43] I. Gafni disagrees, stating that while less effort may have gone in to preserving the Yerushalmi text, the fact that it was studied less may also imply that fewer intentional emenadations were made. This would suggest that the Yerushalmi is the less corrupt text of the two Talmuds. personal communication.

[44] J. Neusner 'History Invented: The Conception of History in the Talmud of the Land of Israel' in J. Neusner (ed.) *The Christian and Judaic Invention of History* (Atlanta: Scholars Press, 1990), p. 183.

[45] *Ibid.*, p. 194. See his discussion regarding the Bar Kochba revolt in TY Taanit 4:5 on pp. 196-98 to understand how he sees the shift from the "holy Israel" to the "people Israel."

[46] *Ibid.*, p. 183.

matter of distinguishing between the legendary and the historic. When the former is removed, the latter remains as a plausible historic kernel."[47]

As has been demonstrated, while the two Talmuds set out with a similar agenda, the process of getting there and the subsequent literary work differ significantly. As various comparisons are made in the following chapters, I will attempt to analyze each tradition as much as possible within the framework of its host text. While there will be occasion to utilize the Bavli to shed light on the meaning of a Palestinian text, or vice versa, I believe it will be important to head the words of L. Ginzberg from his *Commentary on the Palestinian Talmud:*

> ... However for this very reason [that it is difficult to comprehend the Yerushalmi without recourse to the Bavli], one must be especially careful not to emphasize the amount of comparison, and even though the points of similarity between the two Talmuds are many, the points of difference between them is not small. The *halakhot* in the Yerushalmi is at times tied in harmony with the *halakhot* of the Bavli and at times in discord...but whoever thinks that one Talmud is a mirror of the other Talmud, lo he is looking at a mirror that does not reflect.[48]

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[47] S. Freidman, *Literary Development and Historicity*, p. 71. For a full discussion on Freidman's position, see 'The Aggadic Narrative in the Babylonian Talmud' [Hebrew] in S. Freidman (ed.) *Saul Lieberman Memorial Volume* (New York: Jewish Theological Seminary, 1993), pp. 119-64.

[48] L. Ginzberg *A Commentary on the Palestinian Talmud* [Hebrew] (New York (1941), p. 47; also cited by H. Fox "Neusner's '*The Bavli and Its Sources*'" *Jewish*

The Talmuds as Historical Sources

The question of the suitability of the Talmuds, or rabbinic literature in general, to be used as historiographic sources, has engendered a long history of debate. Modern day scholars have continued this tradition within the academic context with such famous discussions as that between P. Schaefer and C. Milikowsky in the *Journal of Jewish Studies*[49] and the ongoing diatribe between those from the "School of Neusner" and everyone else. Through time, the various positions have coalesced into recognizable approaches, each with its own insights and limitations. The following section will provide an overview as to these various approaches.

From within the texts themselves, there also exists the rabbis' approach to their own sense of history. In general, these texts present themselves as ahistorical; for example, within the 63 tractates of the Mishnah, only tractate *Avot* places itself within a historical context through the discussion of the "chain of tradition."[50] While there is recognition of differences in time and place that play important roles in the discussion of *halakhic* and *aggadic* material, these distinctions rarely are mentioned for their own sake. For example, the various *takkanot* and *gezerot* in the rabbinic literature came in response

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Quarterly Review LXXX, 3-4 (Jan.-Apr., 1990), pp. 358-59.

[49] Schaefer 'Research into Rabbinic Literature: An Attempt to Define the Status Quaestionis' *Journal of Jewish Studies* XXXCII, 2 (Autumn 1986), pp. 139-52, C. Milikowsky 'The *Status Quaestionis* of Research in Rabbinic Literature' *Journal of Jewish Studies* XXXIX, 2 (Autumn 1988), pp. 201-11, P. Schaefer 'Once again the Status Quaestioinis of Research in Rabbinic Literature: An Answer to Chaim Milikowsky' *Journal of Jewish Studies* XL, 1 (Spring 1989), pp. 89-94.

[50] M. Avot 1:1. See discussion in J. Neusner, *Why the Talmud of Babylonia Won*, p. 20 where he agrees with this understanding of the Mishnah and also J. Neusner, *History Invented*, p. 181, where he disagrees with this understanding.

to both contemporary realities and an informed break with past decisions.[51] When the texts do comment on the historical reality of the time, such as the rabbinic usage of Esau to represent Rome, it is done in an ahistorical manner.[52] For the sages, the typologies of the Bible were timeless – "there is no earlier or later in the text" – and this made their own historical reality timeless as well.[53] I. Gafni, an important historian of this time period, has suggested that the sages were hardly concerned with those elements of the past that "fall under the general rubric of historiographical undertaking, at least as commonly related and attributed to the classical world."[54] This leaves us with an enigmatic situation, for when these texts do comment on a historical reality, we can not know even the internal assumptions that are made by the texts, or if they reflect an objective reality that is somehow authentic and truthful.

As one moves into the modern period, the total acceptance of the tradition as true begins to be modified. This modern scholarship, while divided on the degree of its prevalence, almost all agree that a certain level of fictitiousness can be found throughout the Talmuds.[55] The most traditional of these approaches, the traditional-halakhic, operates under the assumption that there exists a single, heterogeneous rabbinic worldview, independent of time or place. This leads to an assumption that the texts reflect an internally consistent, historical reality. S. Safrai, while acknowledging that the texts

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[51] I. Gafni, *Periodization and Causality*, p. 29, 34, and ff. 33 that cites E. Urbach 'The Halakhah: Its Sources and Development' (Jerusalem, 1986), Ch. 2, 7-29.

[52] I. Gafni, *Concepts of Periodization*, p. 22.

[53] See discussion in J. Neusner, *History Invented*, pp. 199-201.

[54] I. Gafni, *Periodization and Causality*, p. 23, ff. 10.

[55] D. Kraemer 'The Scientific Study of the Talmud' *Judaism* 36, 4 (Fall, 1987), p.

contain embellishment and legend, states that all *aggadot* relating to the deeds of the sages contain a "genuine historical core."[56] He supports his statement by stating that the various background elements fit well within the historical context of the various incidents and that, despite the variety of traditions that preserve any one story, there is no confusion of names amongst these versions in regard to the main protagonists. Other practitioners of this approach include S. Lieberman and J. N. Epstein[57] who see a "comprehensive construct to which all individual elements of rabbinic literature are referred, irrespective off where the work belongs."[58] With this approach, the focus is on the various principles developed within the literature rather than on the literature itself. The major limitation of this approach, in addition to the fact that many scholars do not accept that there ever existed such a thing as a strictly normative rabbinic worldview, is that through its attempt to present a unified rabbinic approach, historical differences of time and place are resolved away.

Close to this approach is what P. Schaefer has defined as the thematic approach. It involves selecting a theme or issue and then analyzing as many passages as possible that relate to the selected focus. Once again, this presupposes a single, normative worldview and a seamless relationship between the various rabbinic texts. An example of this

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[56] S. Safrai, 'Tales of the Sages in the Palestinian Tradition and the Babylonian Talmud' in J. Heinemann and D. Noy (eds.) *Scripta Hierosolymitana* 22 (Jersualem: Magnes, 1971), p. 210.

[57] Although C. Milikowsky points out that in no way are these traditionalists fundamental in their approach and that they utilize critical methods to arrive at their conclusions. C. Milikowsky *Status Quaestionis*, p. 201.

[58] P. Schaefer *Research into Rabbinic Literature*, p. 139.

approach was discussed in the previous chapter of this thesis in regard to the work of E. Urbach.[59] While accepting the various statements as historically valid, this approach also leads to a collapsing of the various centuries of the rabbinic period into a single period of time.

While not related specifically to the historical reliability of the texts, yet another approach to Talmudic studies must be mentioned. According to Schaefer, this important approach is the one pioneered by A. Goldberg with his attempt to apply to the text a method he calls form-analysis. The focus of this approach begins by identifying small units of tradition according to the language and formulaic structure and then analyzing those units so as to determine their function.[60] This is a synchronic literary approach and has the potential to reveal the system of rules that guide interpretation of the text. The challenge to this method is that it requires the scholar to determine what a unit exactly means, or for that matter, the meaning of a text.

This shortcoming is now being met with a similar, yet broader approach where the complete literary work is analyzed as the unit of text. This approach would define the most recent work of Neusner and his school. The larger unit is seen as functioning with its own hermeneutic that separates it somehow from the rest of rabbinic literature. An additional challenge to this approach is that it ignores the various versions a text may take

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[59] See E. Urbach's 'Halakhah and History' in *Jews, Greeks and Christians: Essays in Honor of W. D. Davies* (Leiden: Brill, 1976), pp. 112-28 where he argues that midrash served as the expression of "Jewish narrative genius," as well as functioning as historiography. (Cited in R. Bonfil 'Jewish Attitudes Toward History and Historical Writing in Pre-Modern Times' *Jewish History*, 11, 2 (Spring 1997), p. 33, ff. 6.)

[60] P. Schaefer, *Research into Rabbinic Literature*, pp. 144-45.

over time (MSS, etc.) or place (Ashkenazic tradition vs. Yemenite or Sephardic). Which one of the various versions will serve as the "text" that will be studied to reveal the text's rules?[61] The form-analytical approach can impact how the texts are seen in relationship to one another and so can impact historical analysis and interpretation, but it is not flawless.

In his article discussing the current state of Talmudic studies, B. Bokser states in his concluding comments that "Because the sources [the Talmuds] are shaped by literary and rhetorical considerations, we cannot blindly employ them for information as to what they purportedly claim."[62] This sentence correctly reflects that middle ground that many of today's scholars attempt in their presentation of the historical reliability of the Talmud. On the one hand, there is an assumption that much of what the Talmud presents as reality can stand as truth until proven wrong. On the other hand, great effort is extended in terms of intertextual analysis and the introduction of outside sources that can provide verification in order that statements that can be proven inaccurate are in fact excluded from consideration.

Of course, new division has developed between those scholars who accept that rabbinic material contains salvageable historic information. One school feels that one can only access historical information from the period of the oldest redactorial level. The process of reworking of earlier traditions to meet the agenda of the redactor removes the earlier historical information contained within the tradition. The other position, while acknowledging the impact of the redactor(s) upon the text, suggests that there is an

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[61] P. Schaefer, *Research into Rabbinic Literature*, pp. 146-47.
[62] B. Bokser 'Talmudic Studies' in S. Cohen, et. al. (eds.) *The State of Jewish*

inherent conservatism in the redactorial process that preserves much of the integrity of the earlier material.[63] As this most recent debate progresses, new understandings are certain to be revealed.[64]

One of the scholars whose work reflects a new approach to understanding the historical value of the Talmudic texts is C. E. Hayes. One of the aspects that differentiates her approach from many others is that she comes to the texts more from the perspective of the Talmudist than of the historian. Hayes feels that many scholars in the past have engaged in too much reductive historical analysis. That is, they interpreted changes in the Talmudic texts as resulting from external cultural, regional and historical factors such as changes in society or economics.[65] She posits that this stems from the fact that this analysis is often being done by historians, scholars who frame the world around issues most easily answered by certain questions that do not necessarily stem from the actual textual reality. Ultimately, according to Hayes, this approach leads to conclusions that are

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Studies (Detroit: Wayne State University Press, 1990), p. 102.

[63] Note R. Kalmin's comments on the greater reliability of information stemming from discussions between contemporary and near-contemporary sages in 'Rabbinic Attitudes Towards Rabbis' *Jewish Quarterly Review* LXXXIV, 1 (July 1993), pp. 4-10. Due to their proximity in time, Kalmin suggests that these statements are probably not "later editorial fabrications." (p. 26). This same approach is also reflected in his article 'Saints or Sinners, Scholars or Ignoramuses? Stories About the Rabbis as Evidence for the Composite Nature of the Babylonian Talmud' *AJS Review* XV, 2 (Fall 1990), p. 179-206. I would suggest that this reflects the conservative nature of the rabbbinic texts and can be applied to other areas of rabbinic discussion beyond inter-personal relations.

[64] For a well articulated discussion of these two new directions, see either C.E. Hayes, *Between the Babylonian and Palestinian Talmuds*, pp.. 9-17 or S. Stern *Jewish Identity in Early Rabbinic Writings* (Leiden: Brill, 1994). pp. xxii-xxix in the Introduction.

[65] C.E. Hayes *Between the Babylonian and Palestinian Talmuds*, p. 4.

"not only speculative and idiosyncratic but (also) unfalsifiable."[66] Rather, Hayes champions a dimension of the form-critical approach that she calls "looking for the exegetical impulse."[67] She claims that the main role of the Talmuds is to provide interpretations of past traditions.[68] Scholars who are seeking to place the texts within a historical context should start with an analysis of the internal elements of the Talmud(s). When a text presents a change in hermeneutic, here, and only here, should one then try to look for an external, "historical" reason for the change.[69] This requires first and foremost a strong sense of how the texts function internally as stated in the following quote:

> Only with a proper understanding of Talmudic strategies is one equipped to recognize precisely those places in which these strategies are violated, to spot interpretations of a midrash or early tradition that changes from interpretive norms, to sense when a rabbinic reading is a reading against the grain. And it is precisely where the exegetical element is muted or compromised or deformed that the text may be susceptible to analysis in cultural-historical terms.[70]

In the analysis that I will present in the bulk of this thesis, I will try to utilize this more nuance approach that begins by looking first and foremost at the texts as rabbinic literature rather than as historical documents. Only after this analysis, will I attempt to identify changes in the texts that may reflect reactions to a change in the external historical reality. A diachronic approach such as this has its limitations, such as the possibility that a comment ascribed to the fourth century may be from the fifth century.

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[66] *Ibid.*, p. 9.
[67] *Ibid.*, p. 17.
[68] *Ibid.*, p. 19.
[69] *Ibid.*, pp. 16-17.
[70] *Ibid.*, p. 8.

However, as my thesis is attempting to understand a process that took two to three hundred years to develop, this lack of precision is less critical.

Reliability of Tradents

A subsection of this larger debate regarding the Talmuds as historical sources revolves around the issue of the reliability of the tradents. That is, when a text is attributed to Rabbi X, how confident can we be that this statement, and all other statements with the same tradent, were made by this individual in that individual's time period and place? The reliability of the information gained from these tradents is paramount for studies in this field and for this thesis. According to D. Kraemer, if the

> Bavli's claims for the authorship of individual traditions cannot be accepted, we will be forced to admit that those centuries (third-to-fifth century C. E.) are essentially invisible to us, and that the only picture we may truly have is that recorded in the document at is completion, that is, in the fifth-to-sixth century.[71]

As in most cases, there is a range of responses to this concern. At one extreme, P. Schaefer posits that there is nothing to be gained from this approach as he rejects the reliability of any real historiographical information connected to a tradent.[72] W. S. Green

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[71] D. Kraemer 'On the Reliability of Attributions in the Babylonian Talmud' in M. Chernick (ed.) *Essential Papers on the Talmud* (New York: New York University Press, 1994), pp. 276-77.

[72] J. Neusner, after writing a number of rabbinic biographies early in his career, switched his position regarding the reliability of tradents. For an overview of his present position, see 'Evaluating the Attributions of Sayings to Named Sages in the Rabbinic Literature' *Journal for the Study of Judaism* XXVI, 1 (April 1995), pp. 93-111. In the article, he argues for a "rabbinic consensus" that built by minimizing the individual authorship of any central tenet.

discusses this problem within the context of "rabbinic biography."[73] He suggests that the literature itself "encourages such a posture" where similar statements are attributed to different scholars, attributions are removed in parallel texts, or obvious pseudepigraphy is acknowledged.[74] Many scholars who believe that the texts can be coaxed into providing much important information related to their tradents have challenged this position.[75]

S. Stern supports a middle-ground position by broadening the meaning of authorship in the Talmudic context. He suggests that the Talmud moves back and forth between the ascribing to individuals traditions that were not theirs and the removal of attributions from certain traditions in order to present a consensus perspective.[76] M. Bregman continues this more subtle approach in suggesting that the sages intentionally were creative in attributing traditions to one another in order to be "acceptably

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[73] W. S. Green "What's in a Name? – The Problematic of Rabbinic 'Biography'" in *Approaches to Ancient Judaism* (Montana: Scholars Press for Brown University, 1978), pp. 77-96.

[74] *Ibid.*, p. 84.

[75] See D. Goodblatt 'Towards the Rehabilitation of Talmudic History' in B. Bokser (ed.) *History of Judaism: The Next Ten Years* (Ann Arbor: Brown Judaica Studies No. 21, 1980), pp. 31-44, C. E. Hayes, *Between the Babylonian and Palestinian Talmuds*, R. Kalmin *Sages, Stories*, R. Kalmin 'Rabbinic Attitudes Toward Rabbis as a Key to the Dating of Talmudic Sources' *Jewish Quarterly Review* LXXXIV, 1 (July, 1993), pp. 1-27.

[76] S. Stern 'Attribution and Authorship in the Babylonian Talmud' *Journal of Jewish Studies*, 45, 1 (Spring 1994), pp. 28-51, S. Stern 'The Concept of Authorship in the Babylonian Talmud' *Journal of Jewish Studies*, 46(Spring 1995), pp. 183-95. This is an expansion from his earlier approach outlined in his book *Jewish Identity*, where he states that because there is no "objective way of distinguishing them (reliable attributions) from 'false' attributions," they can not be used for historical purposes. In addition, "we cannot know to what extent an attribution is indicative of the date in which the saying was *originally* produced."(p. xxv).

deceptive."[77] This claim is also supported by the findings of Stern, who presents a Talmudic text where "Rabba attributed an anonymous Tannaitic text to R. Yose so as to invest it with further authority (TB Eruvin 51a)."[78] In a sense, the sages never knowingly attributed a statement to someone unless there was a good reason. Most other attributions can be taken at face value. While this may be true, the challenge remains as to the possibility of identifying when a good reason sits behind a false statement or when an attribution is in fact accurate.

Scholarly Debates and Polemicism

If the Talmudic *machloket* lead to the development of the various rabbinic ideals, it is no surprise then that the heated academic debate of today has also brought out many important insights into the past. In her book *Between the Babylonian and Palestinian Talmuds*, C. E. Hayes includes a single appendix entitled "Response to Jacob Neusner."[79] The focus of this appendix is to counter Neusner's criticism of Hayes' dissertation, to be found in four different publications. In the second round of the Schaefer-Milikowsky debate cited earlier, Milikowsky suggests that critiquing Schaefer's ideas will be "a basic epistemological problem.... [T]he task facing me is disproving the existence of a three-headed cat, when no-one has yet cited any evidence proving the existence of such a

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[77] M. Bregman 'Pseudepigraphy in Rabbinic Literature' *Pseudigraphical Perspectives* (1999), pp. 15-16. Note: Page numbers in this paper are according to the earlier, unpublished manuscript.

[78] S. Stern, *Jewish Identity*, p. xxv, ff. 27.

[79] C. E. Hayes *Between the Babylonian and Palestinian Talmuds*, pp. 183-88.

cat."[80] These two examples point to the reality that academic discourse is often filled with attacks and counter-attacks and that politics and personal dynamics often play an important role in academic undertakings and findings.

In the 19th Century, the beginning of Jewish studies took place within the *Wissenschaft der Judentums* milieu that posited a solely objective search for truth. Of course, this was far from the reality and it is well documented that this academic exploration of Jewish texts took place within a politically charged context. I. Gafni has insightfully pointed out the linkage between the comparisons between the two Talmuds and the growing rift between the Reform and Orthodox world.[81] Dating back to A. Geiger's first article on the language of the Mishnah in 1845, the Reformers attempted to demonstrate that the Yerushalmi represented the more pristine Jewish spirit.[82] The goal of this scholarship, however, was primarily to delegitimize the Bavli, and therefore by extension, traditional Judaism that was based on this Babylonian text.[83] The Orthodox world responded with its own scholarship to prove that the Babylonian traditions were in fact the older traditions and therefore more representative of true Judaism.[84] While important information regarding the historical development of these two texts came out of this debate that is still utilized today, many have forgotten the original charged context of these early years.

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[80] C. Milikowsky, *Status Quaestionis*, p. 202, ff. 4.

[81] I. Gafni, 'Between Babylonia and the Land of Israel: Ancient History and the Clash of Ideologies in Modern Jewish Historiography' [Hebrew] *Tzion* 62 (1996), pp. 213-42.

[82] *Ibid.*, pp. 217-18.

[83] *Ibid.*, pp. 220-21.

A similar conflict has taken place between those who are a part of the Zionist project and those that would be described as non-Zionists. For example, the writings of Y. Efron have impacted a generation of Israeli scholars with his Israel-centered scholarship. In particular, he has privileged the Palestinian texts, such as the Yerushalmi and the various midrashim, regarding them as a more accurate portrayal of their time periods as historiographical sources. In his *Studies in the Hasmonean Period*, he states:

> The greater antiquity of the Jerusalem Talmud, which was sealed several generations before the Babylonian, and the fact that it is rooted in the earth of its homeland the draws directly on recollections of the past, endow it in advance with superiority in the retention of the purely Eretz Israel tradition. In contrast the Babylonian Talmud is saturated with and sometimes gives off an atmosphere of distant Diaspora.[85]

Efron appears to believe that the closing of the text of the Yerushalmi soon after the events it portrays ensures that the text contains an accurate preservation of history. If proximity in time is the critical element, then only a clear ideological bias explain his statement that the Yerushalmi also contains "unsubsided echoes of the events which happened in the time of the Hasmonean kingdom," events that took place some four to five hundred-years before the closing of the text.[86] This ideologically-driven approach is quite open to attack; its opponents can point to the appearance that these texts have been read in such a way to buttress already determined conclusions in order to support the Zionist endeavors.

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[84] *Ibid.*, p. 231.
[85] Efron, J. *Studies on the Hasmonean Period* (Leiden: Brill, 1987), p. 144.
[86] *Ibid.*, p. 147.

Challenges Stemming from Limitations of the Available Textual Witnesses[87]

One of the challenges inherent in contemporary Talmudic studies stems from the problem of textual corruption that has come about over a fifteen hundred-year process of transmission. Some of these changes to the older traditions were unintentional, such as those due to scribal error; other losses stem from intentional changes made to the text as a result of either censorship or rabbinic emendation.[88] The issue of emendation is particularly problematic with the Yerushalmi, as many textual problems may have been resolved by introducing material from the Bavli, thereby making such comparisons as this thesis problematic.[89] The complete manuscripts that are available to us of the Bavli and the Yerushalmi are fairly late. The smaller units that are available to us are not that much older.[90] The reliability of the printed editions also suffers from the fact that each is based on *Vorlage* that mirrors the problem of these MSS. Some of these changes can be overcome by analyzing commentaries that predate the MSS that are available to us.

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[87] For a short annotated bibliography of the various manuscripts, see Krupp, M. *Manuscripts of the Palestinian Talmud* and 'Manuscripts of the Babylonian Talmud' in the same volume, pp. 346-50, 319-23.

[88] In regard to censorship, see H. L. Strack and G. Stemberger, *Introduction*, pp. 226-27; for example of rabbinic emendation, see change over time of word ארזג to ארגז to ארון, BT Sanhedrin 46b as various sages lost ability to understand original Persian term.

[89] This is also true in terms of many of the commentaries to the Yerushalmi, with the most well known commentary, *Pnei Moshe*, particularly representative of this approach. In addition, see B. Bokser, *Palestinian Talmud*, pp. 199-200, in particular his reference to Lieberman's work and L. Ginzberg 'The Palestinian Talmud' in M. Chernick (ed.) *Essential Papers on the Talmud* (New York: New York University Press, 1994), pp. 206-07.

[90] The MS Leiden of the Yerushalmi is dated to 1289; the MS Munich of the Bavli dates to 1343. The oldest MS of the Yerushalmi appears to be a North African fragment from the 12th century; the oldest MS of the Bavli appears to be MS Leningrad,

Within the text of these Geonic or medieval commentators, sections of texts are cited that can be recovered from the past. Other times, commentator's comments will give us a better sense of the wording that was in the text before him. This may then direct us to a more accurate reading of a text that is in front of us today. In addition, geniza fragments now provide another set of older textual witnesses that bridge the gap in time. As these are gathered, assessed and published, and then presented alongside of the MSS, printed editions, and other textual witnesses, a better sense of the text will be easier to determine.[91]

Of course, this assumes that there was at one point a single, definitive version of any of these texts; recently, scholars have suggested that various versions existed contemporaneously and that even the written form maintained some of the fluidity of the oral tradition.[92] At one end of the debate is the position that the rabbinic texts were not written down until the later end of the first millenium, potentially as a response to the Karaite Movement.[93] This would suggest a five-century gap between when the fluid traditions were formed and when they were "frozen" through transformation to their written form. If this is the case, the philological chase after the correct "Urtext" is

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dated to 1112. H. L. Strack and G. Stemberger, *Introduction*, pp. 199, 201, 227.

[91] See B. Bokser's comments in *Talmudic Studies*, pp. 81-82.

[92] M. Chernick 'Contemporary Talmudic Studies: The Continuing Agenda in A. Avery-Peck (ed.) *The Literature of Early Rabbinic Judaism: Issues in Talmudic Redaction and Interpretation* (Maryland: University Press of America, 1989). p. 80. H. L. Strack and G. Stemberger, *Introduction*, p. 56, B. Bokser *Talmudic Studies*, pp. 87-89.

[93] L. Finkelstein 'Note on Rab Pirqoi Ben Baboi' *Contemporary Jewry: Studies in Honor of Moshe Davis* (Jerusalem: Institute of Contemporary Jewry, 1984), p. 269.

doomed to failure.[94] At best, these different textual traditions can be brought together in order to derive some sense of the breadth of any particular discussion. However, critical editions are not yet available of the complete Yerushalmi or the Bavli, although some work has been done on specific tractates, making this a difficult challenge to overcome.[95]

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[94] D. Goodblatt, *The Babylonian Talmud*, p. 272, E. S. Rosenthal 'The History of the Text and Problems of Redaction in the Study of the Babylonian Talmud' [Hebrew] *Tarbiz*, LVII, 1 (Oct. – Dec. 1987), p. 36.

[95] For a list of critical editions and collations of variant readings of the Bavli, see D. Goodblatt *The Babylonian Talmud*, p. 263; for the Yerushalmi, see B. Bokser, *Palestinian Talmud*, pp. 151-53.

Chapter Three

The Holy Land: Borders of the Land of Israel

As has been touched upon already in this thesis, an area of growing concern to the rabbis of this period was the differentiation between those activities that could or must take place within the confines of the Land of Israel and those that took place outside of the Land.[1] As time progressed, it became all the more critical for this community to define the boundaries that separated the Land of Israel from everything else; regardless if that elsewhere was the more general *hutz l'aretz* or a more specific community, such as Syria or Babylon. This chapter will examine the issue of boundaries - sacred, physical, and geographic - as understood and defined initially by the Palestinian rabbinic community and then reacted to by the Babylonians. What will be demonstrated is that the Palestinian rabbinic community began a process that removed the boundaries of sacred space from its initial anchor. This was done first by enacting rulings outside of Jerusalem and second, by shifting focus from place to Torah. This allowed a "multiplicity of sacred centers;" as the tradition states, "Rabbi Hananya ben Teradyon said: '... Two who sit

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[1] Some would suggest that it is these actions that take place within the Land that give it the attribute of holiness. For a discussion of this from the biblical period, see S. Japhet 'Some Biblical Concepts of Sacred Place' in B. Kedar and R. Weblowsky (eds) *Sacred Space: Shrine, City, Land: Proceedings of the International Conference in Memory of Joshua Prawer* (London: MacMillan, 1998), pp. 69-70; for the rabbinic period, see the discussion of the first and second sanctities of the Land in the *Encyclopaedia Talmudit* (Jerusalem: Machon Encylopaedia Talmudit, 1947-97) under the entry ארץ ישראל, section B, sub-section 10-13.

together and do exchange words of the Torah – the *Shekinah* is among them…'"[2] The ability to connect with the deity and the attribute of holiness created not only moments but locations that became sacred.[3] This was later capitalized on by the Babylonians, allowing Babylon to claim that their mastery and engagement in Torah changed Babylon in to the equivalent of the Holy Land.[4] When the Palestinian community began to sense that they might ultimately lose the use of the Land of Israel as a central advantage over the Babylonian sages, they attempted to re-impose a more physical, geographic emphasis in to the *halakha*. Their attempts lead to a re-elevation of the Land of Israel within Judaism. The Babylonians responded with their own sense of sacred geography that would allow them to dwell in the "Holy Land."

Importance of Sacred Space

Most cultural groups assign great importance to the concept of sacred space and borders; M. Eliade suggests that these sacred spaces are "the only real and real-ly existing space - and all other space, the formless expanse surrounding it."[5] This sacred space may function on a number of levels, with each level representing a relative holy status. At the

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[2] As cited by J. Schultz 'From Sacred Space to Sacred Object to Sacred Person in Jewish Antiquity' *Shofar* Vol. 12, 1 (Fall, 1993), p. 37.

[3] S. Japhet *Some Biblical Concepts*, p. 57.

[4] See TB Gittin 6a, TB Bava Qamma 80a, as well as discussion by I. Gafni in *Land, Center and Diaspora*, p. 116.

[5] M. Eliade *The Sacred and the Profane: The Nature of Religion*, trans. Willard Trask (New York: Harcourt Brace, and Co., 1959), p. 20. Some biblical scholars have suggested that Eliade's approach may be too general for application to the Bible and the biblical reality. See J. Schultz, *From Sacred Space*, pp. 28-30, S. Japhet, *Some Biblical Concepts*, p. 56.

top of the pyramid, a sacred space may be a mystico-religious site that is understood by a group of believers to be a universal point for contact with the divine. Often a cultural group ascribes its own uniqueness to the fact that it originates from or dwells within the confines of a sacred space. This type of sacred space is lower in status as compared to the mystico-religious site because of its inherently particularistic relationship to the believing community. At the lowest level are found sacred sites that gain their sanctity because holy events took place there.[6] Each one of these levels shares the possibility of hierophany, the opportunity to come in contact with the Divine. The uniqueness of the possibility "results in detaching a territory from the surrounding cosmic milieu and making it qualitatively different."[7] It was this "possibility for sacred interaction" that the sages of the Land of Israel attempted to locate and anchor within their discussions and rulings regarding the borders of the Land of Israel. It was these attempts that were rejected by the sages of Babylon who saw themselves more as "the People of the Book" than as "the People of the Land."[8]

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[6] This tripartite classification of sacred space is suggested by Chris Park in C. Park *Sacred Worlds: An Introduction to Geography and Religion* (London: Routledge, 1994): p. 251.

[7] M. Eliade, *The Sacred and the Profane*, p. 26.

[8] Z. Gurevitch and G. Aran 'Never in Place: Eliade and Judaic Sacred Space' *Archives de Sciences Sociales des Religions*, 87 (1994, *juillet-septembre*), pp. 135-37. In their article, they challenge Eliade's assumption that *place* is always the axis mundi for connection to the sacred. Instead, they suggest that in Judaic thought, "the place is never place." I would suggest that their critique derives from a very selected reading of the biblical texts and a dependence solely upon the Babylonian traditions. One arrives at the exact opposite if one also includes the Palestinian traditions and a wider selection from the Bible. This second, broader approach, is developed within this chapter.

Borders in the Bible

This somewhat ambiguous or shifting nature of sacred borders dates back to the biblical period. While Abram is promised all of the land between the "river of Egypt to the great river, the river Euphrates"[9] to his offspring, Moses is shown a much more limited plot that will serve as the home of the Israelites.[10] When the people are given the detailed borders of the land that they are to enter, however, yet a different area is presented.[11]This in turn is much larger than the actual area occupied by the returnees from Babylon after the destruction of the First Temple. Scholars have suggested that the different areas represent different historical periods when Israelite hegemony had expanded or contracted.[12]

Within the Land, there is also much debate as to the location of sacred points for hierophany. The biblical texts presents the possibility that cultic centers can exist in various places,[13] that cultic activity must be restricted to one place, although unspecified,[14] or that Jerusalem is the only legitimate sacred space.[15] It is clear that much

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[9] Gen. 15:18. All biblical citations are from Tanakh: The Holy Scriptures (Philadelphia: JPS, 1985) unless otherwise stated. See also Ex. 23:31, Deut. 1:7, Deut. 11:24, and Josh. 1:4. See Z. Kallai 'Patriarchal Boundaries, Canaan and the Land of Israel' *Israel Exploration Journal* 47, 1-2 (1997), pp. 73-76 for a discussion on other formulation related in the covenant narrative, "from the river of Egypt unto the great river, the river Euphrates."

[10] Deut. 34:1-3.

[11] Num. 34:1-15.

[12] Z. Kallai 'The Southern Border of the Land of Israel - Pattern and Application' *Vetus Testamentum* XXXVII, 4 (1987), p. 438, B. Mazar 'The Historical Background of the Book of Genesis' *Journal for Near Eastern Studies* 28 (1969), p. 75.

[13] Ex. 20:21.

[14] Deut. 12-18.

[15] II Kings 22-23. Of interest is a suggestion made by Z. Gurevitch and G. Aran

of the early prophetic literature reflects Judean attempts to establish authority over sacred space by delegitimizing the cultic centers of the Northern Kingdom.[16]

The text also presents us with the phenomena that many of the important moments of theophany take place outside of the designated borders of the Land. The great theophany of Sinai and the lesser theophany of Elijah take place at Sinai/Horeb, an important location outside of the Eretz-Israel. Other encounters with the Divine take place in ambiguous locations, such as the night encampment encounter Zipporah experiences[17] or Manoah's wife's encounter with the angel in the field.[18] A final group of encounters take place in locations that function as borders of the Land of Israel, such as Jacob's encounter at Jabbok.[19] Encounters such as these appear to highlight the specific import of borders. By passing through the liminal space symbolized by the border, ones very core being can be transformed.

These various biblical positions are important because they allow the rabbis a variety of starting points for their own exegesis as they determined the borders in their age. Each rabbinic position could look to either a maximalist or minimalist precedent to support their contemporaneous rulings. At other times, the silence of the rabbis in regard

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that the commandment "Ye shall utterly destroy all the places" (Deut. 6:12), found at the beginning of the list of land-dependent commandments, was designed to both abolish the sites of pagan worship and the "popular tendency to relate the sources of sanctity to places." *Never in Place*, p. 143.

[16] B. Levine 'The Next Phase in Jewish Religion: The Land of Israel as Sacred Space' in *Tehillah le-Moshe: Biblical and Judaic Studies in Honor of Moshe Greenberg* (Indiana: Eisenbrauns, 1997), p. 247.

[17] Ex. 4:24.

[18] Judges 13:9.

[19] Gen. 32:23.

to biblical statements that could lend authority to their positions can raise additional questions to be examined regarding the rabbinic period.[20] Biblical positions are also important if one accepts the more ahistorical nature of rabbinic texts posited by Yerushalmi and other historians.[21] If the rabbis saw the biblical past as reflecting their own experience, then how the Bible presents itself is of primary importance. For example, scholars have suggested that the Josian reforms that restrict sacred space to the Temple in Jerusalem are in fact post-exilic interpolations and reflect acceptance of this Jerusalem-centered position by the exilic community in Babylon.[22] If this position was accepted by the rabbinic community of Babylon a thousand years later, who trace their roots back to this earlier community, how did this biblical past shape their present?[23] The relationship between these biblical elements and their explication in the Talmuds will be an important source of information about the rabbinic period.

One of the areas later rabbinic writings connect with borders is the category of commandments that are dependent upon the Land of Israel.[24] Some historians attribute

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[20] Note I. Gafni's discussion of how the Babylonians did not utilize the fact that Moses lays hands on Joshua outside of the Land (Num. 27:23) to claim that *hasmacha* can take place in Babylon. I. Gafni *Land, Center and Diaspora*, p. 112.

[21] See discussion in Chapter One.

[22] B. Levine, *The Next Phase in Jewish Religion*, p. 251.

[23] It appears that neither Babylonian community (biblical or rabbinic) attempted to replace Jerusalem as the cultic center in regards to sacrifice. This is contrary to the Elephantine community of the fifth century BCE or the community that worshipped at the Temple of Onias in the second century BCE. If either Babylonian community wanted to look for a precedence, they could have found one in either of these two breaks with the center. See also M. Goodman's discussion in 'Sacred Spaces in Diaspora Judaism' *Te'uda* 12 (1996), pp. 4-5.

[24] TJ Shvi'it 36b, TJ Shvi'it 39c, TJ Orlah 63b, TJ Gittin 45d, TJ Kiddushin 58b, TJ Kiddushin 61c, TB Kiddushin 36b-37a.

the focus on these issues to socioeconomic challenges or to political changes within society. For example, the movement of the borders so that Beit Shean would be outside the Land allowed the Jewish farmers there the ability to compete in the marketplace with the Gentiles.[25] According to this approach, it is the mundane reality of the world that is being reflected in these sacred texts. M. Eliade suggests a broader approach that allows the focus to both reflect a mundane reality while still demonstrating concern for the sacred. He writes:

> By manifesting the sacred, any object becomes *something else*, yet it continues to remain *itself*, for it continues to participate in its surrounding cosmic milieu. A *sacred* stone remains a *stone*; apparently (or, more precisely, from the profane point of view), nothing distinguishes it from all other stones. But for those to whom a stone reveals itself as sacred, its immediate reality is transmuted into a supernatural reality.[26]

In other words, the sages could simultaneously be concerned with the economic, social or political realities of their day while engaging in what was felt to be sacred.[27]

I would suggest that an example of the multiple levels of meaning might be seen in the special role the walls of Jerusalem play in both the Bible and rabbinic literature. The walls play an important physical and spiritual role in defending Jerusalem during the days of Hezekiah.[28] Their destruction at the hands of the Babylonians symbolized the

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[25] TJ Demai 22c, TB Hullin 6b, 7a.

[26] M. Eliade *The Sacred and the Profane*, pp. 64-65.

[27] This idea that the world does not break into a "neat set of dichotomies called 'sacred' and 'secular'" is also supported by T. Idinopulos who raises this issue in his critique of Victor Turner's writings on the concept of sacred space. For a full discussion, see T. Idinopulos 'Sacred Space and Profane Power: Victor Turner and the Perspective of Holy Land Pilgrimage' in B. Le Beau and M. Mor (eds.) *Pilgrims and Travelers to the Holy Land* (Creighton University Press, 1994), pp. 9-19.

[28] II Kings Chapters 18-19.

destruction of Judea.[29] They are only rebuilt in the days of Nehemiah, after he receives both the secular permission of King Artaxerxes and the spiritual guidance of Ezra.[30] In rabbinic literature, the miracle of Yavne comes about through R. Yohanan ben Zakai's movement through the walls, symbolically as a dead man who is brought back to life once he escapes. Judaism is also brought back to life by passing from the walled city of Jerusalem to Yavne and then to the North. Clearly, the walls of Jerusalem in our examples are functioning as important boundaries of sacred space. M. Eliade suggests that,

> "[T]he enclosure, wall, or circle of stones surrounding a sacred place - these are among the most ancient of known forms of man-made sanctuary....[T]he same is the case with city walls: long before they were military erections, they were a magic defense, for they marked out from the midst of a 'chaotic' space, peopled with demons and phantoms, an enclosure, a place that was organized, made cosmic, in other words, provided with a 'center.'"[31]

When the rabbis of Yavne stated that the shofar could be blown outside of the walls of Jerusalem,[32] they were removing themselves from both the physical and spiritual limitations of the sacred space. As cultic worship had also come to an end, at least for the time being, it is also possible that Jerusalem had lost a measure of its holiness.[33] No

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[29] Jer. 50:15, Psalms 51:20, Lam. 2:8, and others.

[30] Nehemiah Chapters 2-3.

[31] M. Eliade *Patterns in Comparative Religions*, trans. Rosemary Sheed (Cleveland and New York: World Publishing Co., 1958), pp. 370-71.

[32] M. Rosh Hashana 4:1, TJ Rosh Hashana 59a, TB Rosh Hashana 29b.

[33] This idea is suggested by F. Peters, who presents M. Kelim and its reason for Jerusalem's special status in that there "they eat the lesser holy things and the second tithe." 'Holy and Haram: The Limits of Sacred Real Estate' in B. Le Beau and M. Mor (eds.) *Pilgrims and Travelers to the Holy Land* (Chreighton University Press (1994). p. 3.

longer anchored solely to the holy city, the contours of the sacred space were now more ambiguous.

It is important to state that the Palestinian sages did continue to maintain the special sacred nature of Jerusalem, even as they were reformulating Jewish expression outside of Jerusalem. The entire order of Qodashim is built on the notion that the "traditional structures of the Temple and the city of Jerusalem continue."[34] This continuity is explicit in Mishnah where the concept of concentric circles of expanding holiness is articulated, placing the Temple and its holy of holies at the center.[35] B. Bokser suggests that this need to assert that "certain fixed places continue to maintain a special sacredness" is most clearly articulated in a midrash from *Sifra*:

> תלמוד לומר ואת שבתותי תשמורו ומקדשי: אין לי אלא בזמן שבית המקדש קיים בזמן שאין בית המקדש קיים מנין תלמוד לומר את שבתותי תשמורו, ומקדשי תיראו מה שמירת שבת לעולם, אף מורא מקדש לעולם. איזו מוראלא יכנס להר הבית במקלו ... ולא יעשנו ברקיקה מקל וחומר.

> "You shall keep My Sabbaths and venerate My sanctuary; I am the Lord" (Lev. 19:30) I know [from this that the holy should be respected] only when the Temple exists, from where [do I know that this applies] when the Temple does not exist? The teaching says: "you shall keep My Sabbaths and venerate My sanctuary." Just as the keeping of the Sabbath is forever, so the veneration of the holy is forever. What is "veneration"? [One] should not enter the Temple mount with his staff, ... all the more so spitting. (M. Ber. 9.5b-d).[36]

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[34] B. Bokser 'Approaching Sacred Space' *Harvard Theological Review* 78:3-4 (1985), p. 288.

[35] M. Kelim 1:6-9.

[36] Sifra Kiddushin 3: 8-9. B. Bokser, *Approaching Sacred Space*, p. 291. Translation according to Bokser's text.

At the same time, the sages claimed that the study of the texts dealing with the Temple and the sacrificial cult was equivalent to the offering of actual sacrifices.[37] This therefore relocated the sacred space to wherever a Jew might be engaged in the sacred.[38] While this would allow the ongoing interpretation of the Divine command to take place wherever the Sanhedrin sat,[39] it also re-opened up the possibility that there could be more than one "cultic center" for Torah interpretation. When this possibility began to be raised by the Babylonian rabbinic community, the sages of the Land of Israel began to look for new physical boundaries that would protect their monopoly on sacred space.

The Rabbinic Borders of the Land of Israel

The Land of Israel was always of import to the sages. Here we explore the relative importance the Land played at different time periods and within the two different rabbinic centers. Either as a result or as an antecedent to this fluctuation, the rabbinic literature reflects a wide number of definitions of the borders of the Land of Israel. This next section will look at the different border definitions in general and explore in great detail one particular text known as the "Borders of the Land of Israel Braita"[40] and the

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[37] Vayikra Rabbah 7:3.

[38] B. Bokser, *Approaching Sacred Space*, pp. 288-89. Bokser suggests that while this approached has precedents in the pre-destruction reality, it only "becomes pronounced in post-70 times when study is made incumbent upon every individual, and the institutions of the rabbi and of the synagogue come into their own."

[39] TB Rosh Hashana 31a.

[40] T. Shevi'it 4:8-11 (two versions, MSS Erfurt and MSS Vienna), Sifre Devarim 51, TJ Demai 22c-d, (and some suggest TJ Shevi'it 36c-d as well). This text was also found as part of the Rehov Inscription; a mosaic floor found in an ancient synagogue in the Beth Shean valley in 1973. Four of the five versions of the text will be presented

specific ambiguity of the city of Caesarea. The analysis of these various sources will suggest a Palestinian perspective as to the geographic location of the Land of Israel and the concomitant sacredness. The Babylonian reaction to this position will then be analyzed in final section of the chapter.[41]

The rabbinic texts present a number of different sets of divisions of the Land of Israel, each with its own borders, history, and articulated purpose. While each division stems from the biblical text, the first grouping of divisions are those that are specifically outlined in the bible. This would include the various borders of the Land of Israel mentioned at the beginning of this chapter and the various formulae for division of the country into the tribal portions. At different points, the sages attempted to harmonize these differences through discussion[42] or suggested reasons why the borders need not, in fact, be harmonized.[43]

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below.

[41] M. Goodman utilizes the two communities' treatment of the synagogue to suggest that the Palestinian and Babylonian communities differed on how they defined sacred space. Utilizing a comment of Josephus' that describes the Jews of Caesaria abandoning their synagogue (B.J. 2.285-91) and the authorization given by the Mishnah to sell synagogues (M. Megillah 3:2-3), Goodman suggests that to the Palestinians, it was not the place that was sacred but the acts that took place there. The Babylonians, he claims, say the synagogue itself as sacred; to support this position, he brings a braita preserved in TB Shabbat 72b where a Jew who bows down before a pagan shrine is not to be punished if he mistakenly thought the building to be a synagogue. He backs up this claim by citing the regular appearance of the inscription *hagiotatos*, "most holy," in many of the synagogues found throughout the Diaspora. For a full discussion, see Goodman, M. *Sacred Spaces*. p. 5-8.

[42] See the section on Borders in the *Encyclopaedia Talmudit*, ארץ ישראל, Section A, sub-section 6 where various rabbinic disagreements about the borders are presented and cited.

[43] See Bereshit Rabbah 44:19-21 that discusses why Moses only saw seven of the ten lands that were promised to Abraham. According to this midrash, the three remaining

The second approach to dividing the land consisted of identifying three different provinces: Judea, Trans-Jordan and the Galilee.[44] The rabbinic texts are not always in agreement as to the specifics of the division, thereby implying that either it was a general, but insignificant division, or one that was no longer actually operative in their time.[45] Those *halakhot* that relate to the division according to provinces appear to acknowledge climatic and geographic differences between the three regions that lead to differing agricultural calendars or historical realities.[46]

The last formula for dividing the land combined both temporal and spatial components. This was the division of the land into those areas that were occupied by the Israelites upon their return from Egypt and the areas occupied by the returnees from Babylon after the destruction of the First Temple.[47] There is much discussion regarding the sanctity of the land during these two periods of time.[48] While the Land always has an intrinsic sanctity that stems from the special relationship between God and the Land,[49] it also contains a measure of sanctity that stems from the presence of Israel in the land

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lands, and the consequent border change that resolves the conflict, will take place in the "world to come."

[44] This division is first reflected in the Mishnah. See Shvi'it 9:2, Ketubot 13:10 and Bava Batra 3:2.

[45] For example, see the question regarding the location of border towns in TB Gittin 76a or the discussion of regarding the meaning of Trans-Jordan presented in Encyclopaedia Talmudit, 'Erez Israel, section A, sub-section 8.

[46] See TB Pesahim 52b and TJ Sanhedrin 18d.

[47] While Sifre Devarim 51:24 presents the details of the "historical" background of this division, the division is also recognized as early as the Mishnah: see M. Shvi'it 6:1. See also the discussion of the differences in Lieberman, S. 'Regarding the Halakhic Inscription from the Beisan Valley' [Hebrew] *Tarbiz* 45, 3-4 (1976), p. 55.

[48] TB Hagiga 3b and TB Yebamot 82b present explanations as to when the Land is resanctified during the two historical periods.

performing the *mitzvot* incumbent upon the nation.[50] This second measure of sanctity is discussed by the rabbis, in particular comparing the commandments that are required in the areas occupied during the two different periods and whether the first sanctity is eternal or ceased until the return of the Jews from Babylon.[51] The position that there was a possible diminishment of sanctity when the Jews are not in the Land may have been created by the Babylonians to support their non-Land centered focus during the Amoraic period. This is supported by the fact that this concern is only addressed in the Bavli.

While the sages of the Talmudic period saw themselves as primarily living in the area that was occupied by the returnees from Babylon,[52] they were also concerned with the *mitzvot* that needed to be kept in the larger area of land held by the returnees from Egypt. Much of their discussion is in regard to the various *mitzvot* that are dependent upon the land are linked to these two different geographic areas. A typical statement might suggest what practice is required in each area is the following:

> שלש ארצות לשביעית כל שהחזיקו עולי בבל מארץ ישראל ועד כזיב לא נאכל ולא נעבד וכל שהחזיקו עולי מצרים מכזיב ועד הנהר ועד אמנה נאכל אבל לא נעבד מן הנהר ומאמנה ולפנים נאכל ונעבד

> There are three provinces in regards to the Sabbatical year: All of the area occupied by the returnees from Babylon, from the Land of Israel until the Chezib – there (the fruit that grows that year) is not eaten and (the land) is not worked; and all of the area occupied by the returnees from Egypt from Chezib until the River and until Amanah – one eats but (the land) is not

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[49] See Joel 4:2, I Sam 26:19, Deut. 11:12 and others.

[50] For examples, see M. Kelim 1:6, TB Gittin 47a.

[51] See TB Hullin 7a, TB Hagiga 3b, TB Yebamot 82b, M. Terumoth 1:5, and others.

[52] Demsky, A. 'Holy City and Holy Land as Viewed by Jews and Christians in the Byzantine Period: A Conceptual Approach to Sacred Space' in A. Houtman, et. al. (eds.) *Sanctity of Time and Space in Tradition and Modernity* (Leiden: Brill, 1998), p. 295.

worked; from the River and Amanah and further – one eats and works.[53]

Through the carrying out of these various land-based *mitzvot*, the sages saw themselves as maintaining the sanctity of the Land of Israel in their day as well.

After the destruction of the Temple and the shift of the rabbinic center out of Jerusalem, the sages must have been troubled by the possibility that sanctity might depart from the Land as it did after the first destruction. One of the ways that they may have responded to this concern was by ensuring that the various behaviors that insured the revival of the second sanctification be carried out in as strict a manner as possible. As suggested above, the removal of the Temple as center may have also raised the possibility that the center need not be in the Land of Israel. These concerns may have lead to the Palestinian rabbis to clarify for their era exactly where the Land of Israel, and its concomitant sanctity, resided. The concern might also have stemmed from changes that were taking place in the larger Roman context. During the fourth century, Palestine was split into two provinces; the southern province of *Palaestina Salutaris* was then split in two again in 409.[54] As the Roman's realigned the country, the rabbis may have wanted to reflect the realignment in their discussions. Regardless of the source, this resulted in the outlining of the borders in a textual unit now referred to as the "*braita* on the boundaries of Eretz-Israel."

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[53] M. Shvi'it 6:1.

The "Braita on the Boundaries of Eretz-Israel"

This important tannaitic textual witness that presents the sages concerns regarding the borders of the Land of Israel is found in four different textual sources and as an inscription in a mosaic floor of an ancient synagogue in the area of Beit Shean. The *braita's* boundaries outline that area that is considered within the Land of Israel in regard to the commandments relating to agricultural produce that are incumbent upon Jews.[55] The definition of these borders and the general rabbinic concern for placing limits on behaviors is "central to *halakha* in its attempt to concretize aspects of spirituality."[56] The earliest of these texts that contain this source is the Tosefta, with the *braita* found in the tractate parallel to the above mishnah detailing the sabbatical year in the three provinces.[57] While this may be the oldest context for the braita, the text found in the mosaic inscription is actually the oldest extant version, dating back to the six or seventh century.[58] In fact, the first twenty-six lines of the inscription "comprise the oldest extant version of rabbinic texts found in tannaitic sources."[59] While this is important, in particular as a corrective to textual corruption,[60] I will present the texts in their historical

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[54] I. Gafni, *The World of the Talmud*, p. 235.

[55] Y. Sussman 'A Halakhic Inscription from the Beit-Shean Valley' *Tarbiz* XLIII, 4 (1974), p. 97.

[56] A. Demsky, *Holy City and Holy Land*, p. 292.

[57] T. Shvi'it 4:11.

[58] While the mosaic floor and synagogue may be dated back to this period, Y. Sussman suggests the possibility that the text itself may be a product of the fifth century. *Halakhic Inscription*, p. 153.

[59] A. Demsky 'The Permitted Villages of Sebaste in the Rehov Mosaic' *Israel Exploration Journal* Vol. 29, 304 (1979), p. 182.

[60] For example, in my translation of three of the text versions found below, I have utilized the Rehov inscription's spelling of various locations as the text most likely to

order. I therefore present the Tosefta[61] text first, followed by the other tannaitic text *Sifre Devarim*; this will then be followed by the attestation in the Yerushalmi tractate *Shvi'it* and then the text from the inscription.[62] I will not be presenting the Yerushalmi text from tractate *Demai* as it does not follow the same formula as the other four texts, although that text presents rabbinic concern for the borders of the Land as well.

T. Shvi'it 4:11:

תחום ארץ ישראל פרשת אשקלון וחומת מגדל שר ושינה ודור ושורה דקיסרה
שורה דעכו ורישׁ מייא דגעתין וגעתין גרמא וכברתא וכזניתא וקצטריא דגלילא
וקובעיא דראתון ומילתא דכור וכוריי רבתא ותפניא וסנפתא וסחרתא דיתר
וממציא דגתא ומספד ומחרשת וגחלא דיפצאל ועולשתא ואולם רבתא ומגדל
חרוב ונקבתא דעיון וכזישא ותיקרת וכרכא דבר סינגורא ותרנגלא עילייא
דקיסרין וקנת ורקם דדוגרא וסרכונא דמתחם לבצרה ויגר שהדותא ונמרין ומלח
דזרואי ויבקא וחשבון ונחלא דרד ורפיח וחוגרה ועמון ומואב ורקם גיאה
וגינייה דאשקלון ודרך הגדולה ההולכת למדבר.

The area of the Land of Israel: The Crossing of Ashkelon and the walls of the Tower of Sher and the Cliff of Dor and the walls of Caesra[63] and the wall of Acco and the head waters of Gaatin and Gaatin itself,[64] Kubrata and Kaznita and the short-cut to the Galil and Qebaiya of Ratun and the

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represent the original pronunciation and spelling as they were places known to the community. One can not make this same assumption about the scribes who were responsible for the transmission of the text-based witnesses hundreds of years later.

[61] The Tosefta text is according to the Lieberman edition; see Lieberman's *Tosefta k'Peshuta* [Hebrew] (New York: JTS (1955-88) to determine which MSS is being utilized.

[62] Y. Sussman suggests that a relationship exists between the inscription and the Yerushalmi text. He states, "In spite of the deviations from the text of the Yerushalmi, it is apparent that the Yerushalmi text served as the proto-type for the inscription. On the other hand, there is also some possibility that the author of the inscription utilized a textual tradition somewhat different from the extant talmudic text." *Halakhic Inscription*, p. vi.

[63] Location uncertain, according to Jastrow, p. 1365, but probably Caesaria.

[64] Based on third definition of גרמא, according to Jastrow, p. 270, first entry of גרמא.

fort of Kur,[65] and the great Khuray,[66] and Tafniah and Sanfatah and the neighborhood of Yattir,[67] and Mamtsi in the area of Gat and Masped and Mahareshet,[68] and the stream of Bezal,[69] and Ulshata and the Great Ulam and the Tower of Harub and the Hollow of Iyon and Kazisha and Tikrat and the town of Bar Sannigora, and Upper Tarnagola of Caesarin, and Kenet and the Rekem in the area of Dugra and the reaches of Trachona; to Bozrah and the hill of Sahaduta and Nimrin and Melah d'Zarvai, and the Jabbok,[70] and Heshbon and the stream of Zered, and Raphiah and Hugra and Ammon and Moab and Rekem in the area of Gaya and the Gardens of Ashkelon and the highway to the desert.

Sifre Devarim 51, ד״ה תחומי ארץ:

תחומי ארץ ישראל עד מקום שהחזיקו עולי בבל, פרשת אשקלון חומות מגדל שרשן דור וחומות עכו וראש מגיאתו וגיאתו עצמו כברתא ובית זניתא קצרא דגלילא קבייא דעייתא מצייא דעבתא כמותא דביריין פחורתא דיתר נחלה דאבצל בית ער מרעשתא לולא רבתא כרכא דבר סנגרא מיסף ספנתא נקיבתא דעיון תרנגלא עילאה דקיסרי בית סוכות וינקת ורקם דחגרא וסרכונא דזימרא דביתחום ביצרא סקא וחשבון ונחלא דורד סכותא נימרין מליה זירזא ורקם גיאה וגינייא דאשקלון ודרך גדולה ההולכת במדבר.

The borders of the Land of Israel, the area settled by those who returned from Babylon: The Crossing of Ashkelon, the walls of *Sarsan* Tower,[71] Dor, and the walls of Acco and the headwaters of Gaato and Gaato itself, Kubrata and Beit Zanita, [the] short-cut to the Galil, Qebaiya d'Aiita, Metzia d'Avahata, Kemuta d' Birain,[72] P'horta in the region of Yittar,

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[65] Based on Jastrow's reading, p. 625.

[66] Jastrow gives this translation on p. 625.

[67] Jastrow provides definition of neighborhood for סחרתא. This text might also be in error, with the correct reading, as given in TJ Shvi'it, of מחרתא, or caves.

[68] Jastrow suggests reading it as מרחשת, as in the TJ. Shvi'it 36c version (p. 764).

[69] The phrase גחלא דיפצאל should probably be rendered נחלא דבצעל, as in the Rehov inscription (the Sifrei version switches letters, presenting נחלה דאבצל). The emendation of the first word is questionable because it is a word missing from the mosaic; it is easy, however, to see how a נ can be mistaken for a ג. The second word most certainly should be brought in line with the older textual witness.

[70] Based on the reading יובקא, as per Jastrow pp. 562, 567.

[71] Demsky translates שרשון from the Rehov Inscription as Straton (see ff. 35); Jastrow suggests in his translation of TJ Shvi'it 36c to read it as שן (p. 1603) and suggests this text here in Sifrei should be emended to מדבר שר שן דור (p. 1604).

[72] The other versions do not contain any location similar to this; it is possible that the term reflects either an unknown location or an error. The word דביריין could have

Bezal stream,[73] Beir Er,[74] Marhesheth,[75] to the Great Ula and the town of Bar Sannigora, *Meisif Safnata,*[76] the Hollow of Iyon,, Upper Tarnagola of Kisri, Beit Sukkot,[77]and Kenet,[78] and Rekem in the area of Hagra, and Trachona in the area of Zimra, and the reaches of Bosra,[79] *Saka,*[80] and Heshvan, and Dored[81] Stream, Nimrin, *Maleia Zirza,*[82] and Rekem in the area of Gaya and the Gardens of Ashkelon and the highway to the desert.

TJ Shvi'it 36c:

תחומי ארץ ישראל כל שהחזיקו עולי בבל פרשת חומת מגדל שיד ושינ' דרור
ושורא דעכו וקציריא דגלילא וכברתה ובית זניתה וקובעיא ומילתה דכיר
ובוריי רבתא תפניס וסנפתה ומחרתא דייתיר וממציא דאבהתא וראש מי נעתון
וגעתון עצמה מי ספר ומרחשת ומגדל חרוב ואולם רבתא ונוקבתא דעיון
ותוקרת ברכה רבא ובד סנגדא ותרנגולא עילאה דלמעלה מן קיסרין ומרכונא
דמתחם לבוצרה ומלח דחרכאיי ונמרין ובית סכל וקנת ורפיח דחגרא ודרך
הגדולה ההולכת למדבר חשבון ויבקא ונחלא דחרך ויגר שהדותא ורקם דגועה
וגניא דאשקלון.

The borders of the Land of Israel, the district settled by those who returned from Babylon: The Crossing of the Walls of the Tower of Sher,[83] and the

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originally been כוריין, a word that is attested to in the Rehov Inscription and T. Shvi'it 4:11 but reflected as בוריי in the TJ 36c version.

[73] The letters appear to be in the wrong order and the text should be modified to be rendered נחלא דבצעל, as in the Rehov inscription.

[74] Rehov Inscription reads Beit Ait.

[75] Jastrow suggests reading it as מרחשת, as in the TJ. Shvi'it 36c version (p. 764).

[76] *Meisif* may possibly be a border-mark, as in מסיפס (Jastrow 806) or it may need to be emended to ומסב to match Rehov Inscription (note: Demsky translates as incline/slope, perhaps as in *hifal* of root סבב where it has meaning of reclining); ספנתא should probably be emended to ספנחא as well.

[77] Both TJ Shvi'it and the Rehov Inscription provide Beit Sebel; T. Shvi'it does not reference site.

[78] Text should be emended to קנת, as in the three other versions.

[79] Based upon emending the text to דמתחם לבוצרה, as in the Rehov Inscription.

[80] None of the other texts present the word סקא; the other texts do present various variations of יבקא, or Jabbok. It is possible that the ס replaced the other letters due to scribal error.

[81] Other versions provide זרך, דרך and זרד.

[82] מליה זירזא should probably be emended to ומלח רזיזה as in the Rehov Inscription.

[83] Based on the reading שר, as per Jastrow, p. 1626. He reads this as Straton's Tower, and sees the ו as error.

Cliff of Dror[84] and the walls of Acco, and the short-cut to the Galil and Kubrata and Beit Zanita and Qebaiya and the Fort of Kir and Great Khoray,[85] Tafnis[86] and Sanfatah and the neighborhood[87] of Yattir and Mamtsi d'Ahavhata and the head waters of the Gaaton and Gaaton itself, the wasters of Sefer and Marhesheth and the Tower of Harub and the Great Ulam and the Hollow of Iyon[88] and Tukrat, and the town of Bar Sannigora,[89] and Upper Tarnagolah, above Caesarin,[90] and the reaches of Trachona; to the Bozrah and the Melah d'Zarvai,[91] and Nimrin and Beit Sakal and Kenet and Raphiah and Hagra,[92] and the highway to the Desert, Heshbon and Jabbok and Zered stream[93] and the Hill of Sahaduta, and Rekem in the area of Goah[94] and the Gardens of Ashkelon.

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[84] Based on the reading ון, as per Jastrow, p. 1603. He also suggests Dor instead of Dror, based on his reading TJ. Shevi. VI, 36c, although the version in front of him must have been different that the printed Venice edition of 1523 that serves as the base text for Bar Ilan Responsa.

[85] The reading of בוריי is probably due to a scribal error and כוריי should be rendered, as in T. Shvi'it 4:11 version, and in the Rehov Inscription, which provides כוריים.

[86] Other vars. read תפנית. See Jastrow, p. 1687.

[87] The word מחרתא is probably a scribal error. The Rehov Inscription and the parallel T. Shvi'it 4:11, read סחרתא, or neighborhood (for translation, see Jastrow, p. 972).

[88] Based on reading of נקיפתא, as per Jastrow, p. 933.

[89] Based on reading of סניגורא, as per Jastrow, p. 1007. In addition, the text ברכה רבא ובר should probably be rendered וכרכא דבר, as in both the Rehov Inscription and the T. Shvi'it 4:11 texts.

[90] In the Rehov inscription, the location is spelled קיסריון, which Demsky reads as Caesarion, otherwise known as Paneas (see Jastrow, p. 1365). Jastrow (same page) reads our spelling as meaning Caesarea. While I have left the location transliterated, Demsky's reading is probably correct, based on the communities listed before and after.

[91] Based on the reading of זרואי, as per Jastrow, p. 412.

[92] Jastrow suggests that these are two different towns and the ד is an error. Jastrow, p. 1490.

[93] The word דזרך should probably be emended to דזרד to match the T. Shvi'it 4:11 and Rehov Inscription text.

[94] The word גועה should probably be emended to גיעה to match the T. Shvi'it 4:11 and Rehov Inscription text.

The Tel Rehov Inscription:[95]

תחומי ארץ ישראל מקום שה[חזיקו] עולי בבל פורשת אשקלון וחומת מיגדל
שרושן דור וחומת עכו וראש מי גיאתו וגיאתו עצמה וכברן]מה וב]ית זניתה
וקסטרה דגלילה וקובעייה דאייתה וממצייה דירכתה ומלתה דכוריים וסחרתה
דיתיו ונחל]ה דבצאל ובית עיט וברשתה ואולי רבתה ונקבתה דעיון ומסב
ספנחה וכרכה דבנ ס]נגורה ותרנגולה עלייה דקיסריון ובית סבל וקנת ורקם
טרכום זימרה דמתחם לבוצרה יבקה וחשבון ונחלה דחרד איגר סהדותה נימרין
ומלח רזיזה רקם דגיאה וגנייה דאשקלון ודרך הגדולה ההלוכת למידבר.

The borders of the Land of Israel, the district settled by those who returned from Babylon: (Starting from) the Crossroad of Ashkelon, Straton's Tower, Dor, the city wall of Acco, and source of the waters of the Gaato(n), and Gaato(n) itself, and Kubrata and Beth-Zanita and *castrum* of the Galil and Qebaiya de 'Aiita and from Masyah (the source?) of Yarkata and the watering trought (?) of Kuraim and Saharta de-Yatir and the Brook of Bezal and Beth-'Ait and Barshata and the greater Auli and the Valley of Iyyon and the Sefanhah incline/slope (?) and the town of Bar-Sangorah and Upper Tarnagolah of Caesarion and Beth-Sebel and Kennth and Reqem of Trachonitis, Zimra in the district of Bosra, Jabbok and Heshbon and the Brook of Zered, 'Igar Sahaduta, Nimrin and the Salt (lake) of Ziza(?), Reqem de-Gaya to the Gardens of Ashkelon and the highway to the Desert.[96]

A Comparison of the Four Texts

All four of the texts begin with the term תחום or תחומי, or "area;" the implication being that of borders. This is particularly true in the three texts where the term is presented in the plural, *Sifre, Yerushalmi,* and the inscription. These three texts also share the phrase "the returnees from Babylon," perhaps suggesting that as time progressed, the Palestinian sages wanted to reminded their contemporaries in Babylon that their ancestors had valued *aliyah* to Israel. After this opening, each one of these versions presents a list of communities that can be assumed to be contiguous; the challenge then comes in

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[95] Y. Sussman, *Halakhic Inscription*, p. 162, lines 13-18.

[96] Translation from A. Demsky. *Holy City and Holy Land*, p. 362-63. Note: In his translation, he offers suggested locations for many of the sites; I have removed them for

identifying each one of the locales. In particular, scholars are interested in identifying the towns mentioned in these texts because they are seen as the most important sources of geographic information from the time period.[97] While numerous scholars have taken up this challenge, it is a particularly difficult task that may not have a resolution.[98]

What can be done is compare the names of each locale between the four texts and look for names that are held in common. The following table compares the four different texts and their relationship to one another; the higher percentage of common toponyms may point to a stronger relationship between the texts.

Comparison of the Four "Braita on the Borders of Israel" Texts[99]

Name of the Text (# of toponyms)	# of sites in common/% in common with Tosefta Shvi'it	# of sites in common/% in common with Sifre Devarim	# of sites in common/% in common with TJ Shvi'it	# of sites in common/% in common with Inscription
Tos. Shvi'it (44)	-	23/52	30/68	27/61
Sifre Devarim (35)	23/66	-	22/63	24/69
TJ Shvi'it (36)	30/83	22/61	-	26/72
Inscription (35)	27/77	24/69	26/74	-

ease of textual comparisons.

[97] Frankel, R. and I. Finkelstein "'The Northwest Corner of Eretz-Israel' in the Baraita 'Boundaries of Eretz-Israel'" [Hebrew] *Cathedra* 27 (March 1983), p. 39.

[98] Y. Sussman, *Halakhic Inscription*, p. 128. Also note his ff. 277 on the same page.

[99] This comparison is between the following extant texts: Tosefta [Lieberman ed.], Sifre [Finkelstein ed.], Talmud Yerushalmi [Venice ed. (1523)], Inscription as presented by Y. Sussman in *Halakhic Inscription*, p. 162, lines 13-18. It is highly possible that the actual number of toponyms in the first three texts may have changed

The text with the largest number of toponyms, the Tosefta text, appears to have served as a base for both its tannaitic partner, the *Sifre* text and the Yerushalmi text dealing with the same tractate; the *Sifre* text has sixty-six percent of its sites in common and the Yerushalmi shares an eighty-three percent overlap. This appears to imply that while the Yerushalmi text does contain a few locales that it only shares with the *Sifre* text, the Yerushalmi is probably more dependent upon the Tosefta as a source for its traditions than on *Sifre*. Of the thirty-five toponyms listed in the Rehov inscription, twenty-six of them are mentioned in the Yerushalmi, representing a seventy-four percent overlap. When this is compared with the earlier texts, there are twenty-four names in common mentioned in the *Sifre* text and twenty-seven in common with the Tosefta, representing sixty-nine percent and seventy-seven percent overlap respectively. The inscription and the two tannaitic texts begin with "the Crossing of Ashkelon" and end with "the highway to the desert," also suggesting a strong relationship. When the numbers are compared, the inscription appears to be closer to the later text of the Yerushalmi than to *Sifre*, with its closest relationship being with the Tosefta.[100] When all four texts are compared together, there are twenty-one toponyms that are shared in common.[101] Given that there may be as much as a four hundred-year difference between

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over time as texts are apt to change during transmission.

[100] Y. Sussman also notes this, stating, "at times, the version (of the inscription) is closer to the tannaitic sources and in opposition to the Yerushalmi." [translation mine] *Halakhic Inscription*, (1974): p. 139.

[101] The following list of names in common is taken from the Rehov Inscription, based on the above mentioned fact that the inscription is the oldest extant version (note: some locales utilize the same place name but may be more specific, such as calling it a cliff): מיגדל שרושן, דור, עכו, ראש מי גיאתו, גיאתו עצמה, כברתה, קסטרה דגלילה, קובעייה

the Tosefta text and the inscription, this represents a high level of continuity. This may also represent a high level of concern about the borders of the Land of Israel that rises as time progressed.

Despite the commonality of these texts, it is important to attempt to account for the differences as well. One certain source for these variations most certainly stems from scribal error. This was certainly pointed out in the various footnotes above where letters have been switched or replaced by similarly shaped letters. It would make sense that as scribes were copying names of locations they were unfamiliar with, they would have no internal logic or linguistic system that could be turned to for assistance. It is most certain that over the years some of the names changed to the point that they are no longer recognizable. Therefore, the commonality between the texts may have originally been much higher.

A second source for variation may stem from the different historical period each text represents. Not only do toponyms change over time but different communities may have declined in importance or disappeared over time. This may account for the fact that the earliest text, from a period of stability in Palestine, has the most names. The names may have also changed as differing economic realities required certain community's status to be changed by the rabbinic leadership as the local Jewish community interacted more and more with a growing non-Jewish population. This may also be why so many of the locales mentioned are located in the northwestern area of the Galilee, an area where

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דאייתה, ממצייה דירכתה, יתיר, אולי רבתה, נקבתה דעיון, ספנחה, בר סנגורה, תרנגולה, קנת בוצרה, חשבון, נימרין, גנייה דאשקלו , דרך הגדולה ההלוכת למידבר.

there was constant interaction with gentiles.[102] This position may be further supported through examination of additional material found in the Rehov Inscription. While not discussed in this thesis, the inscription lists other communities such as Sebaste, where there were a high percentage of gentiles and/or Samaritans.[103] It is to this northwestern border that this chapter will now turn its attention next. While this section looked at the larger borders of the land, this next section will look at the specific status of the border community, Caesarea, as discussed in the Yerushalmi.

Defilement and Borders: Yerushalmi Berakhot 6a[104]

To reach a better understanding of the rabbinic concern with borders, this next section of this chapter will present an in-depth analysis of a pericope from the Yerushalmi that deal with defilement and borders. In this analysis, I have chosen to use a pericope found in TJ Berakhot as my base text; though there is a parallel text in TJ Nazir, whose minor differences will also be identified and analyzed. The pericope is concerned with various sources of defilement, and tries to ascertain the appropriate balance between a priest's need to be engaged in worldly affairs and the need to prevent himself from defilement. This discussion of defilement and borders can also be understood as an attempt to make order out of a changing world. The anthropologist M. Douglas states:

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[102] This has been suggested by certain scholars who have suggested that many of the toponyms refer to northwestern borders. For a full discussion, see R. Frankel and I. Finkelstein, *The Northwest Corner of Eretz-Israel* or Y. Sussman, Y. 'The 'Boundaries of Eretz-Israel' *Tarbiz* 45 (1976).

[103] A. Demsky, *The Permitted Villages*, p. 183.

[104] Page 23a in the Vilna edition.

> "Defilement is never an isolated event. It cannot occur except in view of a systematic ordering of ideas. Hence any piecemeal interpretation of the pollution rules of another culture is bound to fail. For the only way in which pollution ideas make sense is in reference to a total structure of thought whose key-stone, boundaries, margins and internal lines are held in relation by the rituals of separation."[105]

By applying this to our text, we see that the rabbinic focus on defilement functions primarily as a discussion about how their world should be arranged, and only secondarily attempts to outline specific borders.

The pericope to be analyzed comes immediately after a discussion regarding whether or not a priest can defile himself in order to honor his teacher. While we will not examine this question, it is important to remember how the Yerushalmi moves from a single issue in a way that allows other issues of concern to be addressed. In this manner, the Yerushalmi is able to address the concern with borders that are initially connected to cleanliness and uncleanliness and then afterward, connected to more physical borders. We will begin our analysis with the second question as to whether or not a priest can defile himself for the sake of Torah. In the contexts of this second question, physical locations that are potential sources of defilement are discussed, including locations in the border community of Caesarea. This begins the movement of this pericope into the subject of borders. The third section raises the question directly through a list of activities that take precedence over a priest's need to stay within the borders of the Land of Israel; the assumption being that leaving the confines of the Land and entering the *eretz*

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[105] M. Douglas *Purity and Danger* (London: Rutledge, 1966), p. 41.

ha'amim will lead to defilement.[106] Given this, it is perhaps not coincidental that the abbreviation for being outside of the Land, חו"ל, shares the same spelling as the Hebrew word for profane, חול.

Section One: Lines 40-48

מהו[107] שיממא כהן לכבוד תורה ר' יוסי הוה יתיב מתני ועאל מיתא מן דנפיק ליה לא אמר ליה כלום ומן דיתיב ליה לא אמר לי' כלום רבי נחומיה בריה דר' חייא בר אבא אמר אבא לא הוה עבור תחות כפתה דקיסרי' ר' אמי ר' חזקיה ורבי כהן ור' יעקב בר אחא הוו מסיילין באילין פלטיותא דציפורי הגיעו לכיפה ופירש רבי כהן הגיעו למקום טהרה וחזר אצלן אמ' לון במה עסקין א"ר חזקיה לר' יעקב בר אחא לא תימור ליה כלום אין משום דבאיש ליה דפרש שמטמא לת"ת לא ידעין ואין משו' דהוה טייסן לא ידעין.

Is it permitted for a priest to defile himself for the sake of the Torah? R. Yose was sitting and teaching and a body was brought in. To those that left (in order to prevent defilement), he said nothing and to those that sat (despite the fact that they would be defiled) he said nothing. Rabbi Nehamia son of Rabbi Hia son of Aba said: "My father would not pass under the vaulted ceiling of Caesarea."[108] R. Ami, Rabbi Hezkiya and R. Cohen were strolling in this open place[109] of Tzippori.[110] They arrived at a vaulted chamber and R. Cohen left them. They arrived at a pure area (an area that did not lead to defilement) and he returned to them. He asked them what they were engaged in. R. Hezkiya said to R. Yakov son of Aha: "Do not tell him anything." Whether it was because he was angry that he

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[106] See T. Ohalot 18.

[107] Unlike the question found prior in the text, the word order is a little different with the question word מהו preceding the subject; the parallel in Nazir follows this word order but switches *cohen* for *adam*.

[108] In Neusner's translation *The Talmud of the Land of Israel: Brakhot* (Chicago: Chicago University Press, 1982-91), p. 117, he adds "even though this was the shortest way for him to study Torah for the arch could transmit the uncleanness of a corpse as a tent." In M. Schwab's translation, *The Talmud of Jerusalem: Brachot* (New York: Hermon Press, 1969), he adds here "he always went another way round (the dead were buried under these arcades)." Despite the similarity to the two additions, neither Neusner nor Schwab proved a source for this extension. Later in the comments to this section, I suggest possible sources for these two extensions.

[109] Comes from Latin *platea*, meaning public space.

[110] In Nazir parallel, they are walking in Caesaria, not Tzippori.

separated [from them and he ruled that one was allowed to] be defiled for the sake of studying Torah it is not known [to the reader] or whether it was because R. Hezkiya was a proud person[111] (and was upset by R. Cohen' leaving), it is not known.

This section introduces the question as to whether or not a priest can defile himself for the sake of Torah study. As is typical in the Yerushalmi's causal law, a series of cases are brought forward to answer the question. In the first case, once again dealing with R. Yosi, a situation is described where a potential defilement took place and each individual was allowed to answer the question on his own without the senior sage presenting a ruling on what was proper. This would suggest that one can defile oneself in order to honor the Torah or one can privilege the needs of purity over the study of Torah.

The "sugya" continues with a statement by Rabbi Nehemia that suggests that one should not defile oneself for the sake of Torah. The identity of this R. Nehemia is not exactly clear, making it difficult to attach it to a time period. According to Albeck, *Nehemia* is really *Nehumi*; he is a fourth generation Amora from Israel.[112] This approach is supported by the fact that in the parallel Nazir text, the tradent is *Nehum*. He is also mentioned in a parallel source in TJ Demai 1:2. Heinemann also amends the text, supporting the reading of *Nehumi*.[113] Margolit disagrees, maintaining *Nehemia* as the correct reading and suggesting he is *Nehemia Baria*, a third-generation Amora from Babylon. Margolit's suggestion can probably be rejected due to the fact that there are few

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[111] It is unclear what the term *taisan* means. The parallel in Nazir has *saisan* but Ginzberg (p. 86) and Sokoloff (pp. 735, 791) both suggest emendation to *gavison*, meaning proud, as in R. Yohanan's comment about Reish Lakish in TJ Hullin 18b.

[112] H. Albeck, *Mavoh L 'Talmudim* [Hebrew] (Tel Aviv: Dvir, 1987), p. 344.

[113] J. Heinemen *Drishot B 'Sibur* (Jerusalem: Bialik), p. 922.

Babylonians in the Yerushalmi who also have the title *Rabbi*. Rabbi Hia bar Abba is recognized by all three as the second-generation Amora who was originally from Babylon but came to Israel in his youth to study with R. Yochanan. It is his behavior as regards to the "vaulted ceiling of Caesarea" that will open our discussion regarding the concern of this community's status as inside or outside the borders of the Land.

The Vaulted Ceiling of Caesarea

The meaning of this forbidden location, the "vaulted ceiling of Caesarea," raises a difficult challenge. The location is important because it raises the possibility that what is of concern is not just the source of defilement but also the possibility that being in certain areas of Caesarea is similar to being outside of the Land. M. Sokoloff gives the meaning of כיפה to be "dome, vaulted chamber."[114] The concordance of the Yerushalmi cites usage of כיפה in TJ Sanhedrin 25d to provide the definition of "a roof of a bathhouse." and TJ Avoda Zarah 40a as "something forbidden."[115] In this Avoda Zarah text, כיפה is related to a behavior. It is this that leads to R. Cohen to remove himself from one place and to go to another later in the same pericope. TJ Sanhedrin 27b equates the term with a person; in that sense, it is probably referring to an aspect of the architecture rather than relating to the issue of impurity.

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[114] Sokoloff, M. *Dictionary of Jewish Palestinian Aramaic* (Ramat-Gan: Bar Ilan, 1990): p. 256.

[115] Vol. 4, P. 780 under entry *kipa*.

The most prominent traditional commentary to the Yerushalmi, *Pnei Moshe*, written in the 18th century by Moses Margalioth. Margalioth,[116] while supporting the practice of R. Hia, provides its own understanding of the term:

> That this vaulted arch was a "tent of defilement" and one did not pass there, even if one was going to study Torah.[117]

Another commentary, *Toratan shel Rishonim*, found in Dov Bear Ratner's *Ahavat Ziyyon vi-Yerushalayim*,[118] suggests the following:

> *And R. Ami would pass*, should be interpreted to mean that it was defiling and that the way to the *beit midrash* passed there and he did not need to lengthen his path based on the reason of defiling oneself for the sake of study of Torah.[119]

It may also be assumed that Ratner had a different text in front of him, such as the pericope found in Nazir, for he adds ר' עמי עבר. While Ratner makes no other comment regarding the "vaulted arches," it appears to be that he is in disagreement with R. Hia and supports R. Ami's approach.

In Ginzberg's commentary to the Yerushalmi, he suggests that three different possible situations that might be reflected here in the text. The first is that the site is certainly a source of defilement. The second may be a situation where the כיפה may be a *safek tuma*, or possible source of defilement. Continuing this line, he suggests a third possibility: the arch was built over a gentile cemetery, and there is considerable rabbinic

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[116] B. Bokser, *Palestinian Talmud*, p. 243.

[117] This may be Schwab's source for the extension in his translation.

[118] According to the Encyclopaedia Judaica, Vol. 13:1572, Ratner (1852-1917) was a Lithuanian Zionist and talmud scholar who wrote this twelve part commentary from 1901-1917.

[119] Combining this reading, and that of Margalioth, must have lead to Neusner's

opinion that gentiles do not contaminate via *ohel*. Ginzberg suggests that R. Hezekiah's response might indicate that he held that one could defile oneself for true impurity, and certainly for doubtful cases of it.[120]

While searching the Bar Ilan Responsa project for any relationship between Caesarea and impurity, I found an interesting text that adds additional insight into our pericope. In *Midrash Mishlei* (Buber), *perek* 9, ד. ה. דבר אחר עץ ארכה,[121] a case is brought in detailing events surrounding the death of R. Akiva. His students all gather around his body, including Eliyahu haCohen, who then proceed to attend to his body. In lines 24-25, Yehoshua haGorsi challenges Eliyahu's involvement in the ritual, saying:

> הלא אמרת לי אני אליהו כהן, וכהן אסור לטמא במת, א"ל דייך ר' יהושע בני חס ישלום שאין טומאה בצדיקים ואף לא בתלמידיהם, והיו מוליכין אותו כל הלילה עד שהגיעו לטרפילון של קסרין.

> "Didn't you say to me "I am Eliyahu haCohen."? Isn't it forbidden for a priest to be contaminated by death [a dead body]" Eliyahu responds: "Enough, Yehoshua, my son. Has v'Shalom. There is no contamination in regards to righteous ones and not even in their students." From there, they went to the trapilin shel kisarin [the four arched gateways of Caesarea].[122]

This *trapilin* may be seen as a parallel to the *kipa* discussed in our pericope. B. Visotzky footnotes the term in his translation of the midrash, seeing it as a loan word from the Greek - *tetrapylon*.[123] In other versions of the text, *trapilin* is also called *etzel*

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extension in his translation commented upon above.

[120] L. Ginzberg, *Perushim V'hidushim Birushalmi* [Hebrew] (New York: JTS, 1941-61), p. 86.

[121] Also found in *Midrash Mishlei* [Hebrew] (New York: JTS, 1990): lines 19-32 were used for this translation..

[122] Translation of the phrase *trapilin shel kisarin* is by B. Visotzky, *The Midrash on Proverbs* (New Haven: Yale, 1992): p. 50. The rest of the translation is mine.

[123] Visotzky, p. 50. He gets this reading from D. Sperber, 'Greek and Latin Words in Rabbinic Literature: Prolegomena to a New Dictionary' *Bar Ilan Annual*, 14-5

antipras and *etzel antipatras*,[124] both referring to a town northwest of Jerusalem founded by Herod and named after his father.[125] In the Sperber article that serves as the source of Visotzky's reading, the author cites *Expositio Totius Mundi*, a text from circa 350 CE, that explicitly discusses the tetrapylon of Caesarea, a gateway with four arches. This is in contrast to a *trypilon*, a gateway with three arches. Sperber feels that it is unlikely that the city would have both types of gateways. MSS Leningrad H45 of *Midrash Mishlei* has the reading *tetrepilin*. He therefore believes that the text we have before us represents a situation where one of the 'ט fell out by mistake during transmission, creating an erroneous reading of *trypilin*.[126]

It is no surprise that this discussion involves a particular site in the city of Caesarea; it is a city with a long history of debate in regard to its *halakhic* status. In an article by L. Levine on Caesarea,[127] the author frames the city as a place between two cultures. This a position supported by non-Jewish texts as well Jewish texts: Pliny's statement calling Caesarea "the frontier of Palestine," and the Yerushalmi citation[128] that discusses a Jew from Caesarea who only knows how to pray the *shema* in Greek.[129] Additional support for Caesarea serving as the point of connection between the internal

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(1977), pp. 37-38.

[124] Visotzky utilizes Vatican Ebr. 44, 11 as his main text. These other two readings come from Parma 31222,4 and the Vilna printed edition, respectively.

[125] Discussed in TB Gittin VII, 7 (76a); Jastrow, p. 83.

[126] Sperger, p. 38.

[127] L. Levine, 'The Jewish Community at Caesaria in Late Antiquity' in Robert Linlay Van (ed.) *Caesaria Papers* (Ann Arbor: Journal of Roman Archaeology, Sup. Series, 1992).

[128] TJ Sotah 7:1.

[129] Levine, *Jewish Community*, p. 268.

rabbinic system and the Roman Empire can be seen in the discussion of R. Abbahu and how he was honored by the Roman heads at Caesarea and utilized these opportunities to intercede on behalf of the other stages with the Roman authorities.[130]

Whereas Levine focuses on Caesarea solely as a point of contact, Ephrat Habas suggests that the status of Caesarea in the rabbinic period was much more complex.[131] Discussing at length our "*braita* of the borders of Israel," Habas suggests that perhaps Caesarea sits outside of the Land of Israel, with its walls serving as one of the border markers in the west.[132] If this is the case, then the defilement that is caused by passing through the gates comes not from possible connection to the dead through possible burials at this sight (to be discussed below) but from the fact that Caesarea is outside the land and therefore similar to *beit paras*. The question of its ability to defile is then two-fold: 1) is the city inside or outside of the land, and 2) how does ownership or authority over the land affect its *halakhic* status in regards to purity. Habas suggests an even further complication related to the dynamic nature of the *halakha* in relationship to Land. Citing the Yerushalmi,[133] he brings in the release of Caesarea under the leadership of R. Yehuda haNasi and suggests three different ways that this action might be understood. It is unclear if this release implies that tithes were previously required. If so, it would mean that Caesarea was within the borders of Israel. It is also possible that its

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[130] TJ Megillah 3:7, as cited by Levine, *Jewish Community*, pp. 272-73.

[131] Habas, E. 'The Halachic Status of Caesaria as Reflected in the Talmudic Literature' in A. Raban and K. Holum (eds.) *Caesarea Maritime* (Leiden: Brill, 1996), pp. 454-468.

[132] His analysis is heavily dependent upon Sussman's argument in his article *Halkhic Inscription*.

status was always questionable. Therefore, given the difficult economic situation in the land, it was deemed outside of the land to minimize the hardship on Jewish farmers who were selling to gentiles. This would mean that the gentiles would not pay extra in order to make up the losses caused by tithing.[134] It is finally possible to understand this release, or הותר, as a clear statement that the land is outside of the borders but that R. Yehuda haNasi is releasing it from its inherent impurity as gentile land.[135]

It is also possible that the town of Caesarea was divided between Jewish and gentile lands. In T. Ohol. 18:13, there is a discussion of "the rest of Caesarea," ranging from "against its tetrapylon up to its oil press." This idea that there were different status for sections of the town is also raised in relationship to its harbors in the Bavli.[136] In a discussion regarding a *get* that came from the harbors of Caesarea, there is a debate as to whether this location is within or outside of the Land of Israel.[137] The resolution assumes that the harbor is seen as outside of the land. However, according to R. Avin, a student of R. Avihu, this assumption is inaccurate based on the fact that it was not the location of the harbor that was critical, but rather the fact that it was written on a boat within the harbor. While the boat is outside the harbor, the harbor itself, and the city by extension, is

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[133] TJ Demai 22c.

[134] See my section in Chapter One on the Historical Context: Jews in the Land of Israel for discussion on the economic situation in the land of Israel in the 3rd and 4th century.

[135] E. Habas, *Halakhic Status*, p.459.

[136] P. Neeman, *Encyclopaedia L'giographia Talmudit* (Tel Aviv: Sagiv, 1970), pp. 388-402, entry on *Caesaria*.

[137] TB Gittin 43b.

within the land of Israel.[138] By separating Caesarea into more than one entity, this may allow for more than one of Habas' three ways of understanding the Demai text to be simultaneously operative.

Habas arrives at the conclusion that the city was in fact outside of the land of Israel but its surrounding agricultural land was inside the land. These agricultural lands were released by R. Yehuda haNasi from the requirements of tithing and a decision was made by the sages to remove its status as gentile land. At a later point, the fact that R. Zeira saw it as susceptible to impurities was a mistake.[139]

Within the context of his long analysis of the larger issue of the status of Caesarea, Habas mentions the specific problem of the status of the *kipat d'casrin*, suggesting two possible approaches to understanding their source of impurity. In the Nazir text, it is connected to the *plati*, a large open space. This may be the *tetrapylon* "at the crossroads of two wider colonnaded roads, not far from the Temple Platform, through which the sages could have passed while strolling."[140] It is also possible that it is connected to the ψαλίδες (*psalides*)[141] mentioned by Josephus[142] as the vaulted ceilings near the harbor, translated as כפות in Simhoni's translation of Josephus. Checking Thackeray's translation in English, this term is given the meaning of inlets, although in

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[138] P. Neeman, *Encyclopaedia*, p. 396, ff. 437.
[139] T. Ohol. 18:16-17 as cited by E. Habas, *Halakhic Status*, p. 464.
[140] *Ibid.*, p. 467.
[141] Pronunciation according to chart in Goodwin, W. *A Greek Grammar*, (London: MacMillan, 1963), p. 7.
[142] Josephus, *The Jewish War*, 1.413.

his notes to the translation, he offers "vaulted chambers" or "crypts" as alternates.[143] Liddell and Scott's classic Greek-English Lexicon, which also offers both crypt and vault as meanings, also support the translation of the term to mean crypts.[144] If the כפות were in fact the location of crypts, then that would explain why the priests needed to avoid this area without bringing in the status of the location as either inside or outside the land of Israel.

Ultimately, it is unclear how to understand the source of impurity for both the city and the כפות, primarily because of the unclear nature of their location. As Habas states, "The exact identity of Caesaria's 'dome(s)' is still a matter of speculation. They must have been roofed structures with a round feature. 'Domes' are mentioned in the Talmudic literature in some other places as well, notably Akko, another maritime Roman Colonia."[145] It would be important to analyze these attestations to see if they too raised issues of unclear halakhic status.[146] A final possible understanding may stem from the symbolic power associated with Caesarea. In the rabbinic texts, Caesarea is seen as the antithesis to Jerusalem; this tension between the two locations is articulated in particular

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[143] Josephus, *The Jewish War* (Harmondsworth: Penguin Books, 1959), p. 194-95, ff. c.

[144] H. Liddell, and P. Scott, *Greek-English Lexicon* (Oxford: Clarendon Press, 1961), p. 2017. The lexicon also offers the following additional meanings: sewer, barrel vault, and entrance to a theatre.

[145] E. Habas, *Halakhic Status*, p. 467.

[146] According to the Habas article, he is in the process of writing a paper entitled "Gentile Dwellings" [*m'dor ha'goyim*] that will address this issue.

in the Bavli.[147] Perhaps in our pericope, the "vaulted arches" may also represent a Roman rule being rejected by a prominent leader.

Returning to our text, we find a third case where someone took action to prevent defilement, despite his involvement in studying Torah. In our pericope, there are four individuals named, starting with R. Ami. This text probably should be amended and brought into line with the parallel text in Nazir, where R. Ami is cited as someone who, unlike R. Aha, would pass through the כיפה in Caesarea. At some point, scribal error from the last section lost the word עבר but maintained the name of R. Ami. A later scribe then tacked R. Ami along with the other three rabbis who were walking near Tzippori. This is supported by the fact that R. Ami is a priest of the third generation Amora[148] and the other sages mentioned are from the fourth and fifth generation sages; it would be difficult for them all to living at the same time.[149] Regardless of who is to be included in the group, in the TJ Nazir text, the location that is given is Caesarea instead of Tzippori. Once again, this points to a great concern about the location of this community and its halakhic status.

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[147] TB Megillah 6a.

[148] M. Margolit, *Encyclopaedia to the Sages of the Talmud and the Geonim* [Hebrew] (Tel Aviv: Yavne, 1995), pp. 61-62.

[149] R. Hezkiya was 4th or 5th generation who lived in Caesaria but may have also moved to Babylon (TB Shabbat 28b) - Margolit, p. 116; Albeck, p. 391. R. Cohen was 4th generation Amora and may have even been the brother of R. Hia bar Aba (TJ Shabbat 2:6) - Margolit, p. 244; Albeck, p. 255. R. Yaakov was also 4th generation Babylonian who came to Israel but continued to teach in the name of the Babylonians with the phrase rabanan d'teman (TJ Shabbat 17:6) - Margolit, p. 228; Albeck, p. 249. R. Ami is also cited in parallel to R. Hia bar Abba, another third generation Amora in TB Gittin 63b.

Section Two: Lines 48-52

תני ממא כהן ויוצא חוצה לארץ לדיני ממונות ולדיני נפשו' ולקידוש החדש ולעיבור שנה להציל שדה מן הגוי ואפי' ליטור יוצא ועורר עליה ללמוד תורה ולישא אשה ר' יודה או' אם יש לו מאיכן ללמוד אל ימא ר' יוסי או' אפילו יש לו מאיכן ללמוד תורה ימא שלא מכל אד' זוכה ללמוד אמרו עליו על יוסף הכהן שהיה ממא ויוצ' אחר רבו לצידן אבל אמרו אל יצא כהן לחוץ לארץ אלא א"כ הבטיחו לו אשה.

It is taught that a Cohen may defile himself by going out of the land to judge monetary cases and capital cases and to proclaim a new month had begun and to [declare] a leap year. To reserve a field from a gentile and even to litigate[150] and make an appeal for its owners against its present holder;[151] to study Torah and to get a wife.[152] R. Yoda[153] says: "If he has a

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[150] One of the major textual problems found in this pericope is the inclusion of the verb ליטור. According to Ginzberg (p. 87), this term is incorrect and probably due to scribal error. In a parallel text in *Smachot* 4:14, the word ליטור is replaced by the word ליטול, meaning to receive or take (Jastrow, pp. 899-90). This same braita is also extant in the same tractate in 4:25 in the *Meorot* edition but is missing any verb (Ginzberg, p. 86). In the *Soncino* edition of the tractate(p. 342), the braita is also present without the verb ליטור. Ginzberg comments on some scholars who see ליטור as ריטור, Roman Greek for lawyer and translator. While he feels this is an inaccuracy, he does not give an explanation or citation to support his position. D. Zlotnick, in his translation of the tractate (*The Tractate "Mourning"*(New Haven:Yale University Press, 1966): English p. 43, Hebrew p. 9), does read the text (and the parallel text in 4:14) this way based on his compilation of manuscripts. His main textual source is MSS Oxford, Opp. 726 (Neubauer 370:6),where ליטו is preserved; Zlotnick supports the emendation to ליטור through the interchange of letters ל and ר, explained in a cited article (MLM, 2 1228 by J. N. Epstein (*Mabo le-nusach hem-Mishnah* (Jerusalem, 1948). This spelling is preserved in the Vilna edition, where ליטור is found. This reading of ליטור is also supported by M. Higger (*Masechet Smachot* [Hebrew] (New York: Bloch, 1931): p. 121. where ליטור is brought into the main text but his notes suggest that various manuscripts (Mich. 175, Edelad 2237, and the printed Shas Venecia) do not contain the word. Finally, Pnei Moshe suggests a completely different reading. This commentary suggests that the letter ע is missing from the word and the term should be amended toלעיטור, to adorn. That is, if the priest is not certain that he will save the land, he should not go; however, if he has in his hand a wreath, a crowning contract of protest - only then should he leave the land.

[151] In parallel text in Nazir, the section להציל שדה מן הגוי ואפי' ליטור יוצא ועורר עליה is absent.

[152] See parallel text in TB Avodah Zarah 13a

[153] According to H. Albeck, *Mavoh* (p. 394), R. Yoda was one of two 5th century Amoraim in the land of Israel. He was either R. Yoda Gozriah or he was R. Yoda Bartitas who was also known as Yehuda. This second tradent may be more accurate as the Vilna

place to study, he should not defile himself." R. Yosi says: "Even if he has a place to learn he should defile himself [by going outside of the land] for not from everyone does one succeed to learn."[154] They said about Yosef the Cohen[155] that he defiled himself and went out [of the land] after his master to Sidon.[156] But they (the Sages) say a Cohen should not go out of the land except in a situation where they have promised him a wife.[157]

This next section responds to the problem of the sanctity of the Land of Israel and the unclean nature of the lands outside of Israel. The text suggests a number of specific cases where the needs of the communities outside of the land take precedence over the issue of priestly defilement. The first issue of concern is how does the land outside of Israel come to be considered unclean? The internal reason given by the rabbinic tradition is tied to the concept of *beit hapras*. This is a field that has been ploughed together with

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edition of the Yerushalmi reads *r. yehuda*; this reading is also supported by Zlotnick, p 9. In the Tosefta, *r. yehuda* is also found in T. M.K 2(1):1, based upon MSS Orfert Vienna (Tzukermendel ed. (Jerusalem, 1962), p. 231). Margolit (pp. 190-91) reads this tradent as R. Yodan, a 4th generation Amora in the land of Israel.

[154] M. Schwab (p. 59) translates this as "for, he adds, one must be able to choose one's master." He does not provide a citation for this extension. The Tosefta parallel in MK 2:1 (Tzukermendel ed.) adds אלא ממי שזכה; this extension may be the basis for Schwab's reading of the text.

[155] There appears to be some question as to the identity of Yosef haCohen. Ginzberg cites a parallel tradition in Smachot 4:14 where Yosef haCohen is replaced by Yosef haBavli - this parallel is not present in either of the parallels in the Bavli or the Tosefta. Margolit cites BT Pesahim 113b that lists the various names attributed to Isis ben Yehuda, a fifth generation Tana from Babylon who went up to the land of Israel (Vol. I, p. 36). One of those names is Yosef haBavli but the name Yosef haCohen is not present on the list. In addition, Margolis does not mention in this entry that he is a priest. In M. Challah 4:11, a Yosef HaCohen is mentioned, but Margolit suggests that he was not one of the sages (Vol. II, p. 219).

[156] The Jewish community of Sidon goes back at least until Hasmonean times (Mac. I 5:15) and grew during the various revolts against Rome, especially after the fall of Betar in 135. The large community during the talmudic period had many leaders, the most important one mentioned being R. Shimon ben Yocha (BT Gittin 11a). P. Neeman, *Encyclopaedia*, pp.355-56.

[157] This section has a very close parallel in Tosefot Avoda Zarah 1:8-9

the grave that was located in the field, creating a situation where the land then becomes an extension of the grave. This uncleanness is caused by the integration of soil and crushed bones.[158] The rabbis assumed that gentiles did not mark their graves with the same diligence as the Jewish community; therefore, this type of problem occurs outside of the land while not occurring inside the land.[159]

L. Ginzberg compares our pericope to the following two texts:[160]

לוקחין מן הגוים שדות בתים וכרמים בהמה עבדים ושפחות מפני שהוא כמציל מידם וכותב ומעלה בערכאים ואם היה כהן מיטמא להן ולא עוד אלא לדון עליהן בחוצה לארץ וכשם שמיטמא בחוצה לארץ כך מיטמא בבית הקברות ומיטמא לתלמוד תורה ומיטמא לישא אשה.

[We] take from the gentiles fields, homes and vineyards; animals, male slaves, and female slaves, for we are saving them from their hands. He writes [a deed of sales] and has it recorded in the office of gentiles [Romans]. And if he is a priest, he defiles himself for these things (various property that is taken from gentiles), and not just this but also to judge them outside of the land, and in the same way that he defiles himself by going out of the land, he should also do this in a cemetery (if it allows him to accomplish the same things); he can defile himself to study Torah and defile himself to get a wife.[161]

מטמא כהן ויוצא לחוץ לארץ לדיני ממונות ולדיני נפשות, לקידוש החודש ולעיבור השנה, ולהציל שדהו מן הגוי, אפילו ליטול, יוצא ועורר עליה; ללמוד תורה ולישא אשה.

A priest can defile himself and go out of the land to judge civil cases and capital cases, to proclaim a new month and to declare a new year; reserve a field from a gentile and even to litigate; and make an appeal for it

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(Zuckermandel ed. p. 461: Lines 4-10.

[158] See TB Moed Katan 5b; ff. 8 on p. 66, Soncino Talmud Avoda Zara.

[159] As mentioned above, TJ Moed Katan discusses the importance of going out at the end of the rainy season and remarking all graves. This is included in a list of critical communal needs that must be attended to before the beginning of the new year.

[160] Ginzberg, *Perushim*, pp. 88-89. He also includes TB Avodah 12a (although I believe he intends to reference 13a) as a parallel text. In that text, it is merely a further extension of the *braita* in T. Mo'ed Qatan 1:12.

[161] T. Mo'ed Qatan 1:12.

owners against its present holder;[162] to study Torah and to get a wife.[163]

He suggests that the original *braita* must be the one found in Smachot as it has the shortest list of situations that allow a priest to leave the land. As time progressed, and the land-centered focus weakened, a more lenient approach was taken, allowing for more exceptions. This was also paralleled by the fact that the Amoraim were dealing with a time period where the priesthood had become a less critical issue. This approach is contrary to Gafni's understanding of the time period. He states that as time progressed, the land became more and more central to the Palestinian community.[164]

Pnei Moshe limits the leniency in this unit, explaining that a priest may not go out of the land of Israel into a gentile land for a wife unless it is known for certain that he has been promised a wife and that he will marry her. It is unclear where the commentary gets this limitation of a certain marriage, though the end of the citation might be understood this way. The issue of Sidon may also be someone different because of its possible location within "rabbinic Syria." Syria appears to have had a more ambiguous halakhic status during certain periods of history.[165]

When taken as a whole, these sections of TJ Berakhot 6a provide us with important insights as to the changing status of the Land, as well as the previously

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[162] In parallel text in Nazir, the section להציל שדה מן הגוי ואפי' ליטול יוצא ועורר עליה is absent.

[163] Smachot 4:14.

[164] Gafni, *Land, Center and Diaspora*, Chapter 3.

[165] It appears that Syria played both a role in the difference between the land defined by the *olei mitzrayim* and the *olei bavel*. In addition, the fact that David and Solomon had extended Israelite control over certain parts of "Syria" modified its halakhic status during later periods.

discussed issue of *dinei mammonot*. This text reflects a reality that the carrying out of *dinei mammonot* was an important enough activity that a Cohen can defile himself to carry them out. We also see that border communities, such as Sidon and Caesarea, have come into focus as the sages try to determine where the specific borders of the Land of Israel are to be found. Great detail is given in the texts regarding these communities so that there is no question as to where the Land of Israel ends and the *eretz ha 'amim* begins. Heightened concern with borders indicates a continuation of the changes regarding the Land and communities outside of the Land mentioned that began with the Tosefta.[166]

The Babylonian Concern for Boundaries

The '*braita* of the borders of Eretz-Israel' and the Yerushalmi text both reflect Palestinian concerns about borders and the holiness of the Land of Israel. Our attention will now turn to the Babylonian community to see what steps were taken there either as a reaction to the Palestinian's claims or to assert their own positions that justified the continued growth of a competing center. In regard to the issue of the borders of Eretz-Israel, the Bavli is almost silent. Of the almost two hundred citations in the Bavli related to the root תחם, almost all relate to the area within which one can move on Shabbat.[167] One of the three attestations where the term is not specifically related to the

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[166] See the discussion in Chapter Four in the section on the Tosefta.

[167] For example, TB Rosh Hashana 31b and TB Baisa 5a that outline the borders of the Shabbat area of Jerusalem. Note – the statement regarding the almost two hundred attestations is based on a search of the Bavli, utilizing the Bar Ilan Responsa Project 6.0.

Shabbat limitations is related to a community near Gaza,[168] where the word תחום is used to imply region. In the other two, the word is used in the same way the Palestinian sources utilize it to mean the borders of the Land of Israel.[169] In both examples, the root is used as part of a term for in-land towns that sit on the border of the Land of Israel.[170] Despite the Bavli's use of the term, while granted quite limited, there is no further discussion regarding any Palestinian claims.

That does not mean that the Babylonian community was not interested in the issues of borders or sacred space. In fact, it appears that the Bavli chose not too challenge the Palestinian claims directly but rather to undermine its monopoly on sacred space by mimicking the behavior. In the *sugya* mentioned above related to the validity of a *get* that is written and signed in Babylon, we find the statement, "בבל - רב אמר: כא"י לגיטין" "concerning Babylon, said Rav, it is like Eretz-Israel in regard to the laws of *gets*." Shmuel challenges this and a long discussion ensues. As a part of the discussion, various *mishnayyot* are brought in to support the position of Shmuel that limit halakhic practices in relationship to borders. When the *sugya* resolves the claim in favor of Rav's position, it then raises the question, "Until where is Babylon?" The text appears to be suggesting that if we know the borders of Eretz-Israel are important in regard to halakhic rulings, the same issue must be true for Babylonia.

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[168] TB Sanhedrin 71a, where in a discussion of *metzora*, a community called Hurvata Sgirtah is mentioned; Sgirtah implying locked up due to leprosy.

[169] TB Gittin 4a and Gittin 6b.

[170] The text in both places is concerned with whether or not gets from these types of towns require witnesses to be brought to a central town before the *get* can be considered valid.

The text in TB Gittin does not answer its own question but this same question is also raised in TB Kiddushin.[171] In this text, the issue is not the validity of divorce proceedings but the genealogical purity of the Babylonians over their brethren in the Land of Israel. After presenting a number of cases that prove the genealogical superiority of the Babylonians, the same question as to the location of the boundaries of Babylon is raised. This time, however, the text also provides an answer:

עד היכן היא בבל? רב אמר: עד נהר עזק, ושמואל אמר: עד נהר יואני. לעיל בדיגלת עד היכא? רב אמר: עד בגדא ואיונא, ושמואל אמר: עד מושכני, ולא מושכני בכלל. והאמר רבי חייא בר אבא אמר שמואל: מושכני - הרי היא כגולה ליוחסין! אלא, עד מושכני, ומושכני בכלל. לתחתית בדיגלת עד היכא? אמר רב שמואל: עד אפמייא תתאה. תרתי אפמייא הויין, חדא עיליתא וחדא תתייתא, חדא כשירה וחדא פסולה, ובין חדא לחדא פרסה, וקא קפדי אהדדי ואפילו נורא לא מושלי אהדדי, וסימניך: דפסולתא - האדמישתעיא מישנית. לעיל בפרת עד היכא? רב אמר: עד אקרא דתולבקני, ושמואל אמר: עד גישרא דבי פרת, ור' יוחנן אמר: עד מעברת דגיזמא. לייט אביי, ואיתימא רב יוסף אדרב. אדרב לייט, אדשמואל לא לייט? אלא, לייט אדרב וכ"ש אדשמואל. ואב"א: לעולם אדרב לייט, אדשמואל לא לייט, וגישרא דבי פרת לתתאיה הוה קא", והאידנא הוא דליוה פרסאי. אמר ליה אביי לרב יוסף: להא גיסא דפרת עד היכא? אמר ליה: מאי דעתיך? משום בירם, מייחסי דפומבדיתא מבירם נסבי. אמר רב פפא: כמחלוקת ליוחסין כך מחלוקת לענין גיטין; ורב יוסף אמר: מחלוקת ליוחסין, אבל לגיטין - דברי הכל עד ארבא תניינא דגישרא.

Until where is [the area of] Babylon? Rav said, "Up until the River Azak," but Shmuel said, "Up until the River Yo'ani." How far up the River Tigris [does it extend]? Rav said, "Until Bagda and Avna," but Shmuel said, "Until Mushkani, and Mushkani is not in Babylon." But didn't Rabbi Hiah bar Abba say in the name of Shmuel, "Mushkani – it's like the Exile (Babylon) in regard to genealogy!" Rather, until Mushkani and Mushkani itself is included. How far down the River Tigris [does it extend]? Rav Shmuel said: "Until lower Apamya." There were two [places called] Apamya, one upper and one lower, one fit and one unfit; between the two there was a Persian mile. They were strict with each other; they wouldn't even lend fire to one another. And the sign of the unfit one (the place that is genealogically impure): that [place] where Mayshan is spoken. How far up the River Euphrates [does it extend]? Rav said, "Until Ekra d'Tulbakani," but Shmuel says "Until the Euphrates Bridge," and R. Yochanan said, "Until the Gizma crossing." Abaye cursed, and some say it

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[171] TB Kiddushin 71b-72a.

was Rav Yosef (who cursed), against the opinion of Rav. He cursed against [the opinion] of Rav and didn't curse against [the opinion] of Shmuel? Rather, he cursed against [the opinion] of Rav and even more so against [the opinion] of Shmuel. If you want to say, in reality he cursed against Rav and against Shmuel he did not curse, for the Euphrates Bridge stood down[stream] (during his time);[172] but nowadays, it was moved up [by] the Persians (and no longer where it was). Abaye said to Rav Yosef, "Until how far (is the border) on the side of the Euphrates?" He said to him, "What is your reasoning (for your question)? – (Is it) because of Biram? The genealogically pure of Pumbedita take wives to marry from Biram." Rav Pappa said, "As is the dispute in regard to genealogy, so is the dispute in regard to *gittin*." But Rav Yosef said, "The dispute [applies only] in regard to genealogy, but regarding *gittin*, in the opinion of all [it extends] until the second boat of the floating bridge."[173]

What is critical here is not the details in terms of the specific points that are raised or the range of opinions; rather, the important point is that the sages of Babylon are laying out the boundaries within which certain halakhic positions are supported. This is exactly parallel to the behavior outlined in the Palestinian material, especially the *braita* of the boundaries of the Land of Israel. Both traditions, the Babylonian and the Palestinian, utilize toponyms to reflect the outer points along the boundaries. By stating that within these boundaries the people are more genealogically pure, the sages of Babylon are also creating their own sacred space, where that which is within is more "set aside" than that which is outside of the sacred borders.

Once this parallel type of parallel begun, it was only a matter of time before the sages of Babylon looked for other ways to equate their locale with the Land of Israel. As mentioned above in the TB Gittin text, the sages equated themselves with the Land of

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[172] According to Rashi, the bridge stood downstream during Shmuel's time; meaning that his position was different from Rav's because the physical reality was different in his time.

Israel in regard to rulings dealing with divorce contracts. This was also held true in regard to the issue of breeding small cattle.[174] The original context of these statements merely meant that the Babylonian rabbinic community was sufficiently stringent and knowledgeable about the fine points of the law that their ruling was accepted in 'Eretz-Israel. Both of these statements also include the phrase "from the time Rav arrived in Babylon," and are attributed to Rav Huna, the student and replacement for Rav and a colleague of R. Yehuda haNasi. It would be in Huna's interest to maintain some of the independent authority that had been given to Rav by R. Yehuda haNasi. Therefore, one must consider the possibility that once Babylonians could claim equality on a few issues, they would then seek to expand their own autonomy. It is certainly possible that this belief that there was certain equality between the two communities may have gone back to the first two generations of Amoraim. It is also quite possible, however, that the redactor(s) of the text have placed these statements as introductions to other issues that are of concern to them at a much later period. This would allow these later Babylonian authorities to claim that their ability to act independently begin as soon as the Mishnah was brought over from the Land of Israel.

I. Gafni has suggested yet another way that the Babylonians were able to break from the need to draw authority from the Land of Israel.[175] In the tractate Pesahim, the sages are listing various reasons why Israel was exiled to Babylon, ranging from the fact that its iniquities would soon lead to Israel's redemption to the fact that the language that

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[173] TB Kiddushin 71b.
[174] TB Bava Qamma 80a.

the Babylonians spoke was similar to the language of the Torah. The text then gives the following, additional reason:

> רבי יוחנן אמר: מפני ששיגרן לבית אמן. משל לאדם שכעס על אשתו, להיכן משגרה - לבית אמה. והיינו דרבי אלכסנדרי, דאמר: שלשה חזרו למטעתן, אלו הן: ישראל, כסף מצרים, וכתב לוחות. ישראל - הא דאמרן. כסף מצרים - דכתיב +מלכים א יד+ ויהי בשנה החמישית למלך רחבעם עלה שושק מלך מצרים על ירושלים וגו'. כתב הלוחות - דכתיב ואשברם לעיניכם. תנא: לוחות נשברו ואותיות פורחות.

> Rabbi Yohanan said: Because [God] sent them back to their mother's home. This is similar to a man that is angry with his wife. Where does he send her? To her mother's home." This is the [the reason behind the statement] of Rabbi Alexandri, that said, "Three returned to their planting place (place of origin): and they are Israel, the silver of Egypt and the writing of the Tablets." Israel, as we said [was returned to Babylon], the silver of Egypt, as it is written about the King of Egypt, *In the fifth year of King Rehoboam, King Shishak of Egypt marched against Jerusalem and carried off the treasures of the House of the Lord and the treasures of the royal palace* (I Kings 14:25)," and the writings of the Tablets, it is written, "*Thereupon I gripped the two tablets and flung them away with both my hands, smashing them before your eyes* (Deut. 9:17)." A braita taught, the Tablets were broken but the letters flew up.[176]

Gafni suggests that this third reason is placed here to support the idea that the land of Babylon is not really an exile and therefore of a different status than other places outside of the Land of Israel. The text is stating that the Jews have not been exiled to a strange land, but rather returned to their motherland where their father Abraham had originated. If they are in their original "place of planting," than there should be less reason to limit any of their authority.

This shifting of borders is also reflected in relationship to changes in burial practices in Babylon. In the Tosefta, we find a Palestinian tradition that states that "one

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[175] I. Gafni, *Land, Center and Diaspora*, p. 116.
[176] TB Pesahim 87b.

who is buried in the Land of Israel is as if one who is buried under the altar (of the Temple)."[177] While this tradition is not repeated in the Yerushalmi, the Bavli does bring it up in the following, larger discussion of the land of Babylon as compared to the Land of Israel:

אמר רב ענן: כל הקבור בארץ ישראל - כאילו קבור תחת המזבח, כתיב הכא: +שמות כ+ מזבח אדמה תעשה לי, וכתיב התם: +דברים ל"ב+ וכפר אדמתו עמו. עולא הוה רגיל דהוה סליק לארץ ישראל, נח נפשיה בחוץ לארץ, אתו אמרו ליה לרבי אלעזר, אמר: אנת עולא +עמוס ז+ על אדמה טמאה תמות! אמרו לו: ארונו בא, אמר להם: אינו דומה קולמתו מחיים לקולטתו לאחר מיתה. ההוא גברא דנפלה ליה יבמה בי חוזאה, אתא לקמיה דר' חנינא, א"ל: מהו למיחת וליבמה? א"ל: אחיו נשא כותית ומת, ברוך המקום שהרגו, והוא ירד אחריו? אמר רב יהודה אמר שמואל: כשם שאסור לצאת מארץ ישראל לבבל, כך אסור לצאת מבבל לשאר ארצות. רבה ורב יוסף דאמרי תרוייהו: אפילו מפומבדיתא לבי כובי. ההוא דנפק מפומבדיתא לבי כובי, שמתיה רב יוסף. ההוא דנפק מפומבדיתא לאסתוניא, שכיב, אמר אביי: אי בעי האי צורבא מרבנן הוה חיי. רבה ורב יוסף דאמר תרוייהו: כשרין שבבבל - א"י קולסתן, כשרין שבשאר ארצות - בבל קולסתן. למאי? אילימא ליוחסין, והאמר מר: כל הארצות עיסה לארץ ישראל, וארץ ישראל עיסה לבבל! אלא לענין קבורה. אמר רב יהודה: כל הדר בבבל - כאילו דר בארץ ישראל, שנאמר: +זכריה ב'+ הוי ציון המלטי יושבת בת בבל.

Rav Anan said: All who are buried in the Land of Israel; it is as if they were buried underneath the altar, as it is written here (for the former), "*make Me an altar of earth* (Ex. 20:21)," and it is written there (for the latter), "*and cleanse the land of His people*.(Deut. 32:43)" Ulla often went to the Land of Israel, but his soul rested (he died) outside of the Land. (When people) came and told this to Rabbi Elazar, he said, "O Ulla, '*you yourself shall die on unclean soil!* (Amos 7:17)" They said to him, "His coffin has arrived." He said to them, "It is not the same; to receive him during his life as compared to receiving him after his death." There was a man, and it [the need to participate in a] Levarite marriage obligation occurred in Beit Huza. He came in front of R. Haninah, and said to him, "What is the ruling on going down (going to Babylon) and doing the levarite marriage?" He said to him: "His brother married a heathen and died, blessed is God who killed him, and he wants to go down after him?"

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[177] Tosefta Avoda Zarah 4:3. I. Gafni, citing both Finkelstein and Urbach, suggests that this statement is actually an interpolation to the Tosefta text and therefore difficult to date to the third century. See discussion in I. Gafni, 'Reinterment in the Land of Israel: Notes on the Origin and Development of the Custom' in L. Levine (ed.) *The Jerusalem Cathedra* (Jerusalem: Yad Izhak Ben-Zvi, 1981), pp. 100-01.

> Rav Yehuda said in the name of Shmuel, "In the same way that it is forbidden to go out of the Land of Israel to Babylon, so is it forbidden to go out of the land of Babylon to other lands." Raba and Rav Yosef both said: "Even from Pumbedita to Be Kubi!" A person went out from Pumbedita to Be Kubi, and Rav Yosef put a ban on him. A person went out from Pumbedita to Astonia, died, and Abaye said, "If the rabbinical student wanted it, he [could still] be alive." Raba and Rav Yosef both said, "The fit of Babylon, the Land of Israel accepts, the fit of the rest of the lands, Babylon accepts." With regard to what? If we say in regard to genealogy, did not the master say "all of the lands are dough (impure) to the Land of Israel, and the Land of Israel is dough to Babylon!" Rather, in regard to the matter of burial. Rav Yehuda said, "All who live in Babylon, it as if he lives in the Land of Israel, as it says, "*Away, escape, O Zion, you who dwell in Fair Babylon!* (Zech. 2:11)"

In addition to the many statements that are Land of Israel centered in this pericope, there are also many that elevate Babylon either to an equal level or higher than Israel. The section opens with Rav Anan's statement regarding the sacred nature of burial in the Land of Israel; this is quickly followed by an example of Ulla being brough. to the Land of Israel for his burial. The text then moves to other cases where the centrality of the Land is paramount; this time, however, a parallel follows it where someone was prevented from leaving the land of Babylon. Then Babylon is presented as a place for burial of Jews who have died in other lands! It was not a very far shift before burial in Babylon was fully equated with burial in the Land of Israel. By shifting the eastern border of the Land of Israel to the area immediately to the west of the Euphrates, Babylonian Jews could be buried right outside of Pumbedita and be buried in the "Land of Israel."[178] This midrashic text attributes to Shmuel the ruling that being buried in

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[178] See citation of Bereshit Rabbah 16:3 by A. Oppenheimer and M. Lecker 'Burial Beyond the Euphrates' [Hebrew] *Milet* (Tel Aviv: Everyman's University, 1983), p. 157.

through the biblical period; the question will remain whether the various rabbinic centers will act accordingly or whether they will attempt to stray "either to the right or to the left."[2]

As this legal system developed in the early Talmudic period, the sages identified two broad categories of rulings: *dinei nefashot*, or laws that involved capital cases, and *dinei mammonot*, or civil cases.[3] Within this second category, a further sub-category was created that dealt with punitive fines called *dinei knasot*.[4] These fines are called fines because, unlike *mammon*, they do not correspond directly to the value of an actual damage. Of course, while the definitions of these broad categories are useful for heuristic purposes, it is also important to keep in mind that the biblical and rabbinic reality and therefore, legal system, was quite different from that which we experience in our contemporary society. In discussing the larger relationship between these and contemporary legal concepts, the preeminent Jewish legal scholar, M. Alon, states:

> What would be surprising would be complete congruence between any term of Jewish law and any generally accepted concept of contemporary legal systems. We have already seen and stressed - as we shall have occasion to do again - that conceptually the very idea of distinguishing 'religious' from 'legal' norms, as those terms are generally understood today, is foreign to Jewish law. All halakhic precepts, 'legal' as well as 'religious,' include an aspect of divine commandment as the source of civil or criminal obligation.[5]

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[2] Deut. 17:8-11.

[3] Translation of *dinei nefashot* and *dinei mammonot* according to Jastrow, p. 301.

[4] Elon, M. *Jewish Law: History, Sources, Principles* B. Auerbach & M. Sykes, trans. (Philadelphia: JPS, 1994): p. 108, ff. 73.

[5] *Ibid.*, p. 109.

By extension, the categories that function within Jewish law, whether from the biblical or rabbinic period, must also be understood as not directly parallel to our legal taxonomy.

This sensitivity is of particular import when attempting to understand Jewish law as reflected in the two Talmuds. These two texts reflect similar attempts to maintain the dynamic nature of the *halakha* in two very different environments. As discussed at length earlier in this paper, the Palestinian community was operating within a Roman, and later Roman-Christian, context. The Jewish community interacted with the highly developed Roman legal system that would both have influence on the Jewish legal system as well as dictate the level of autonomy to be enjoyed by the Jews. In addition, the Jewish community had to develop a sense of center in a post-destruction era that would speak to the community and assist in maintaining Jewish life in the land of Israel. The Babylonian community, on the other hand, functioned within a Sassanian Persian context, with its own set of communal standards and centralizing forces. The centrality of the land, agricultural law, and commandments dependent upon the land were outside of this communities immediate concern. Rather, a new focus would need to be developed to address this major Diaspora community. Therefore, while both communities would look to the Bible and to the Mishnah as the basis for its own legal taxonomy, different systems would develop. While the new systems would inevitably share similar terms, their true meaning, or operative meaning, might be quite different. This allows us to rethink Rashi's statement regarding the area of *dinei knasot*. While this might have been "the law on the books," the authorities in both communities must have had the ability to impose

fines – even if it meant extending authority beyond the letter of the *halakha* in order to function.[6] This chapter will attempt to understand these positions to see how these terms were experienced in the two communities, and how the two communities found ways to broaden the terms' functional meaning when the literal meaning was too limiting.

The Textual Tradition: The Mishnah

Upon examination, the Mishnah reveals twenty-two *mishnaiot* that engage in discussing monetary fines, either in relationship to the term קנס or the term חצי נזק, the actual value of the fine imposed in regard to punitive damages.[7] In most of these *mishnaiot*, the terms are mentioned in relationship to specific case examples; for example, the term קנס is mentioned in eight different *mishnaiot* in M. Ketubot, with each one related to the fine that must be assigned in a specific case.[8] In a few examples, the term is referred to in relationship to a larger legal principle, such as the one found in the following mishnah:

....חייב רבי שמעון פוטר שאינו משלם קנס על פי עצמו אמרו לו אף על פי שאינו משלם קנס על פי עצמו משלם בושת ופגם על פי עצמו.

....he is obligated (for a fine) based on his own admission. Rabbi Shimon does not obligate because one does not pay a fine based on one's own admission. They said to him, even though one does not pay a fine based on one's own admission, (in this case) one pays for the shameful insult and the discredit (of the woman) based on one's own admission.[9]

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[6] Encyclopaedia Judaica, 6:1288.

[7] The number twenty-two is based upon a search of the Mishnah for the root קנס and the term חצי נזק (with prefixes and suffixes) on the Bar Ilan Responsa Project. In fact there are forty-four attestations but almost half are duplicates.

[8] See M. Ketubot 3:1-4, 7-9, 4:1.

[9] M. Sh'vuot 5:4, discussing a man who is accused of violating and seducing his

In none of these *mishnayyot*, however, is there a discussion related to practices outside of the Land of Israel. This silence about practices outside of the land also holds true for the larger category of *dinei mammonot*. While the text places a strong value on engaging in this area of the law, that "there is nothing greater task in the Torah than engaging in *dinei mammonot*,"[10] it is quite brief on the specifics as to how it is to be done. The Mishnah only tells us that it is to be done by three[11] and it has lower status than *dinei nefashot*.[12] Once again, the text is silent about any practice that might be taking place outside of the land. This is particularly peculiar as the Mishnah reflects great concern with practices that take place outside of the land in other areas of the law.[13] This certainly would be expected in areas dealing with agricultural law; after all, the following is a well-known principle:

> כל מצוה שהיא תלויה בארץ אינה נוהגת אלא בארץ ושאינה תלויה בארץ נוהגת בין בארץ בין בחוצה לארץ

> All *mitzvot* that are dependent upon the land are not done except inside the land; those that are not dependent upon the land are done in the land and outside of the land.[14]

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own daughter.

[10] M. Bava Batra 10:8.

[11] M. Sanhedrin 1:1, 3:2, 4:1.

[12] See M. Sanhedrin 4:2,5, M. Makot 1:8, M. Niddah 6:4 which state the following: not everyone who is fit to judge *dinei mammonot* is fit to judge *dinei nefashot*, that the second set of laws are not the same as the first in terms of judgements, and that witnesses are dealt with differently in the two different types of cases.

[13] There are twenty-eight different *mishnaoit* that compare practices within the land and outside of the land.

[14] M. Kiddushin 1:9.

While this is often applied by the Mishnah to agricultural law,[15] it is also true in regard to marriage and divorce law,[16] commerce,[17] and the sacrificial cult.[18] When dealing with the application of law, however, there is only one *mishnah* critical to this thesis. The text states, "סנהדרין נוהגת בארץ ובחוצה לארץ;"[19] that is, "the authority of the Sanhedrin does extend outside of the land." The statement, however, does not follow up with details about any differences in terms of the implementation of that authority. The changes in these practices must therefore have either been common knowledge or taken place after the codification of the Mishnah.

The Tosefta

While the specific relationship between the Tosefta and the Mishnah is still open to much debate,[20] it is an accepted position by both the tradition and most scholars that the Tosefta, as a document, post-dates the Mishnah. While this does not necessarily mean that its traditions are younger, as a post-tannaitic collection it reflects a later consensus as to what merited saving by the Palestinian sages.[21] In addition, there are a number of points where the Tosefta consciously expands upon a Mishnah, thereby serving as the

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[15] There are eleven *mishnaiot* that expand upon the M. Kiddushin 1:9 principle in relationship to agricultural law.

[16] See M. Gittin 4:6.

[17] See M. Avodah Zarah 1:8.

[18] See M. Menahot 8:1, Bekhorot 9:1, and Terumot 3:5 for examples.

[19] M. Makot 1:10.

[20] See discussion in H. L. Strack and G. Stemberger, *Introduction*, pp. 169-77.

[21] J. N. Epstein sees the Tosefta as an additional important foundation text for the Yerushalmi, and therefore clearly a representation of early Amoraic tradition. Ch. Albeck disagrees and places the Tosefta as a late Amoraic text. See discussion in H. L. Strack

earliest commentary to our foundation text.[22] It is therefore helpful to our study to look for additional developments regarding the application of civil law within this text.

Similar to the Mishnah, most of the comments about fines are within the context of specific case law. In addition, in a number of places the Tosèfta reaffirms the principle of one not having to pay a fine based one owns admission.[23] The text also reflects continuity in that cases dealing with *dinei mammonot* are done by three,[24] and that *dinei nefashot* still require a more stringent approach.[25] However, the Tosefta does differ from the Mishnah in that it provides us with the first instance of usage of the term דיני קנסות.[26] This appears in a list of activities that must be done by sages in order to meet the needs of the public. The text does not say where the court that does this must be located or if it is an activity solely limited to the Land of Israel.

In terms of this focus on the differences between practices within the land and those outside of the land, the Tosefta certainly has much more to say than the Mishnah. In fact, there are sixty-four toseftan pericopes that address this issue.[27] Some of the statements can be seen as a continuation of the Mishnah's position; for example, the following statement

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and G. Stemberger, *Introduction*, pp. 174-75.

[22] H. L. Strack and G. Stemberger, *Introduction*, pp. 171-74.

[23] For examples, see T. Bava Qamma 1:2, T. Makot 1:1, and T. Shevi'it 2:16.

[24] T. Sanhedrin 1:1, 6:3.

[25] T. Sanhedrin 7:2, 5, 7, T. Makot 1:10, T. Sh'vuot 3:8.

[26] T. Mo'ed Qatan 2:11.

[27] Based on a search of the term חוץ לארץ and its derivatives in the Bar Ilan Responsa Project.

regarding the range of the Sanhedrin's authority is an extension of M. Makot 1:10:

> סנהדרין נוהגת בארץ ובחוצה לארץ שנ' והיו אלה לכם לחוקת משפט לדורותיכם בכל משבות' בארץ ובחוצה לארץ אם כן למה נאמר שפטים ושוסרים תתן לך בכל שעריך אלא בארץ ישראל עושין אותן בכל עיר ועיר בחוצה לארץ עושין אותן פלכין פלכין רבן שמעון בן גמליאל אומ' לשבטיך ושפטו מצוה על השבט שיהא דן את שבטו.
>
> The Sanhedrin is active within the Land and outside of the Land as it is said, "*Such shall be your law of procedure throughout the ages in all your settlements* (Num. 35:29)." Within the Land and outside of the Land. If this is true, why does it say, "*You shall appoint magistrates and officials for your tribes, in all the settlements that the Lord your God is giving you, and they shall govern the people with due justice* (Deut. 16:18)?" Rather, in the Land of Israel they do this in every city and outside of the Land they do this district by district, Rabban Shimon ben Gamliel said "*and they shall govern the people*;" this means the commandment upon each tribe to judge its own tribe."[28]

This extension, or amplification of the Tannaitic worldview is also reflected in the other areas of law discussed above, although with an apparently greater awareness that there are more Jews living outside of the Land of Israel.[29] We are even told that the obligation of directing one's prayer discussed in M. Berakhot 4:6 has been expanded to account for those living outside of the Land:

> העומדים בחוצה לארץ מכוונין את לבם כנגד ארץ ישראל שנ' ויתפללו דרך ארצם העומדים בארץ ישראל מכוונין את לבם כנגד ירושלם ומתפללין שנ' ויתפללו אל העיר הזאת.
>
> Those standing (for prayer) outside of the Land direct their hearts towards the Land of Israel, as it is says, "*and pray in the direction of their land (*II Chron. (6:38)," and those standing in the Land of Israel direct their hearts

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[28] T. Sanhedrin 3:10. This is also brought into the Yerushalmi in TJ Makot 31b.

[29] Compare the fact that the Mishnah has eleven *mishnaiot* dealing with agricultural law while the Tosefta presents at least 25 *halakhot* dealing with produce grown outside of the land.

towards Jerusalem, as it is says, "*and they pray to You in the direction of the city you have chosen* (II Chron. 6:34)."[30]

More importantly, however, one begins to find comments in the Tosefta that point to a change in how life outside of the Land is viewed by the Palestinian sages of this period. In T. Avodah Zarah, one finds the following statement:

ישרה אדם בארץ ישר' ואפילו בעיר שרובה גוים ולא בחוצה לארץ ואפילו בעיר שכולה ישר' מלמד שישיבת ארץ ישר' שקולה כנגד כל מצות שבתורה וכל הקבור בארץ ישר' כאילו קבור תחת המזבח.

A person in the Land of Israel is upright, even in a city where the majority is Gentile; and not outside of the Land (is he upright), even in a city where everyone is Jewish. This teaches that dwelling in the Land of Israel is equivalent to all of the *mitzvot* in the Torah and all that are buried in the Land of Israel are as if buried under the altar (of the Temple).[31]

This new, Land-centered perspective is also reflected in the next *halakha* in the same tractate. There it continues:

לא יצא אדם בחוצה לארץ אלא אם כן הולכין חיטין סאתים בסלע אמר ר' שמע' במה דברים אמו' בזמן שאין מוצא ליקח אבל בזמן שמוצא ליקח אפילו סאה בסלע לא יצא וכן היה ר' שמעון אומ' אלמלך היה מגדולי הדור ומפרנסי ציבור ועל שיצא לחוצה לארץ מת הוא ובניו ברעב והיו כל ישר' קיימין על אדמתן שנ' ותהם כל העיר עליהם ותאמרנה הזאת נעמי מלמד שהייתה כל העיר קיימת ומת הוא ובניו ברעב.

A person should not go out of the Land except when a measure of wheat costs a *sela*. R. Shimon said, "Under what circumstances does this apply?" He said, "When one can not find a seller but if one can find a seller, even if the measure costs a *sela*, one can not go out." And thus R. Shimon said, "Elmelach was one of the greats of his generation and sustainer (leader) of the public and when he went out of the Land, he and his sons died of hunger. All of Israel should be in its land as it says, *the whole city buzzed with excitement over) them. The women said, 'Can this be Naomi?'* (Ruth 1:19). This teaches that the whole city survived and he and his sons died of hunger."[32]

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[30] T. Berakhot 3:15.
[31] T. Avodah Zarah 4:3.
[32] T. Avodah Zarah 4:4.

The Tosefta text sums up its feelings in the next *halakha* where it equates going outside of the Land of Israel as engaging in *avodah zarah*, or pagan worship.[33] These three statements, while not speaking directly to the issue of *dinei knasot*, help set the stage for a split between the community inside the Land and any community outside of the Land that might want to seek legitimacy for its own authority.

The Yerushalmi

As we move to the actual Talmudic texts, we can see that while there has been no direct textual tradition that would specifically support Rashi's statement, a change has begun in how the Palestinian community values life within the Land and in its greater focus on legislating activities that are taking place outside of the Land. In this next section, I will look at how these changes continue within the Yerushalmi.

Within the Yerushalmi, the root קנס is attested to 268 times in seventy-nine different textual units.[34] The majority of these, similar to the Mishnah and the Tosefta, discuss fines that are being levied in particular cases. As would be expected in the Yerushalmi, almost a fifth of these cases deal with agricultural law;[35] what is more surprising is that over half of the attestations are found in the tractates of Yevamot,

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[33] T. Avodah Zarah 4:5.

[34] According to the Bar Ilan Responsa Project where the divisions of the text into *halakhot* according to the Vilna edition of the Yerushalmi is utilized to determine each separate textual unit. Originally, the Yerushalmi was one continuous text without any divisions; the breaking of the text into tractates, chapters and *halakhot* are all later additions. See B. Bokser, *Palestinian Talmud*, p. 172.

[35] Of the 268 attestations, fifty-one are found within the order Zera'im.

Ketubot, Kiddushin and Gittin.[36] While this thesis will not explore this, it does appear that during this time period, issues surrounding marital status were of central concern to the rabbis of the Yerushalmi. In general, the text also maintains that these rulings must be done by three, although there is a statement in Sotah 24a that describes communities in the North that would judge *dinei mammonot* with a single judge. As in the two previous texts, there are also pericopes that are more concerned with the underlying principles. For example, there are two pericopes that continue the tradition that one does not have to pay a fine based on one's own admission, even if one commits a fineable offence.[37] These statements all suggest a high level of continuity from the Mishnah through the Tosefta to the Yerushalmi.

However, when the broader term *dinei mammonot* is examined, the Yerushalmi provides additional information that is critical. While most of the references to *dinei mammonot* relate to the fact that they may not be done on Sabbaths, festivals, and holidays, there are two traditions that appear in a few different places that are worth exploration. The first piece of important information is derived from two similar lists of critical public needs found in tractates Shekalim and Mo'ed Qatan. The list from Shekalim, which states what must be done before the beginning of the new year, is as follows:

> ועושין כל צורכי הרבים אילו הן צורכי הרבים דנין דיני ממונות ודיני נפשות דיני מכות ופודין ערכין וחרמין והקדישות ומשקין את הסוטה ושורפין את הפרה ועורפין עגלה ערופה ורוצעין עבד עברי ומטהרין את המצורע ומפרקין את המנעל מעל גבי האימום ואין מחזירין אותו ומציינין על הקברות.

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[36] 143 of the 268 attestations.

[37] See TJ Ketubot 27c and 27d; TJ Ketubot 27a and TJ Sh'vuot 36a include reiterations of the Mishnaic traditions.

> And one does all of the needs of the public. These are the needs of the public: Civil and capital cases, rulings involving corporal punishment, Redemption of evaluated, dedicated and sanctified things (that are dedicated to the Temple), making a woman suspected of faithlessness drink (the Sotah water), burning the (red) heifer and breaking the neck of the calf, perforating the ear-lobe of a Hebrew slave, purifying the one who suffers from *zara'at*, and breaking the form from the shoe-maker's last, and not replacing it, and indicating the location of the graves [that have not been marked since the last Adar].[38]

This text is introduced with the term תניין, implying that it is a *braita*. However, in the earlier Tosefta list referenced above,[39] דיני קנסות has been retained instead of the דיני ממונות reflected in this text. This may suggest that we are dealing with an alternative version of the *braita* or that by the time the *braita* made its way into the Yerushalmi, the critical public need of *dinei knasot* had been subsumed under the general heading of *dinei mammonot*. If this is the case, this text appears to imply that every community, regardless of location, requires leadership that is able and capable to meet all of its needs, including *dinei knasot*. Interestingly enough, the Bavli also contains a list of public needs as well, but it does not include *dinei mammonot* on its list despite the fact that no one questions the Babylonians right to judge *dinei mammonot*.[40] One would think that a statement found in the Yerushalmi that might imply the importance of *dinei knasot* in every community would give support to the Babylonians demanding this authority for themselves as well.

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[38] TJ Sheqalim 46a. The list from TJ Mo'ed Qatan 80a is similar with the addition of redeeming of the captives.

[39] T. Mo'ed Qatan.

[40] TB Mo'ed Qatan 5a. The list in the Bavli is less focused on issues of rulings

The second additional piece of information is that the Yerushalmi refers twice to an instance where a sage who was also a priest went out of the Land of Israel to engage in *dinei mammonot*.[41] The main thrust of the text points to the need for sages to leave the Land of Israel for the purpose of doing *mitzvot*, even if it meant overriding the rabbinically imposed ruling regarding the impurities of *eretz ha-'amim*. However, it does appear to imply indirectly that sages needed to go out of the Land of Israel to carry out this *mitzvah*. This might give some support to a reality where only the sages of the Land of Israel could rule on *dinei mammonot*, but insofar as this is an isolated incident and the central issue is the performance of *mitzvot*, it probably says nothing about Palestinian control over *dinei mammonot*. What the source is clear about is that these judgements could take place outside of the Land.

The Bavli

We are now ready to turn to the Bavli and the comment of Rashi that opened this chapter. As noted above, he stated that "we (they) do not rule on fines in Babylon." In our analysis of the Mishnah, the Tosefta, and the Yerushalmi, we found nothing that could confirm this position. This is particularly peculiar in that these three texts all represent Palestinian perspectives. One would assume that it would be in one of these texts that such a Land-centered ruling would be preserved. In fact, it is only Babylonian sages who make this claim, although it is often in relationship to comments made by Palestinian

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and more concerned with the maintenance of public works such as wells and *mikvaot*.

[41] TJ Berakhot 6a, discussed at length in Chapter Three, and TJ Nazir 56a, also

sages about ordination. In this next section, the texts will be presented and analyzed. In addition, a possible reason will be given as to why this is preserved in the Bavli and a suggestion will be made as to how the Babylonian sages got around what they seem to consider the letter of the law.

The first case that we will deal with is in regards to a claim made by Mar Ukban against a party named Yerimiah that is found in tractate Sanhedrin of the Bavli. There, the following sugya is found:

> שלחו ליה למר עוקבא: לדיו ליה כבר בתיה, שלם! עוקבן הבבלי קבל קדמנא: ירמיה אחי העביר עלי את הדרך, ואמרו לו, השיאוהו ויראה פנינו בטבריא. הא גופא קשיא; אמרת! אמרו לו - אלמה דיינוה אתון. השיאוהו ויראה פנינו בטבריא אלמא שדרוהו הכא! - אלא הכי קאמרי: אמרו ליה - דיינו אתון, אי צייתי - צייתי, ואי לא - השיאוהו ויראה פנינו בטבריא. רב אשי אמר: דיני קנסות הוה, ובבבל לא דיינו דיני קנסות. והא דשלחו ליה הכי - כדי לחלוק כבוד למר עוקבא.

> They sent to Mar (the Exilarch) Ukba[42] thus: To the one who is enlightened like Bar Bithya (Moses): Ukban[43] the Babylonian complained before us thus: "Yerimiah my brother blocked my way." They said to him (Mar Ukba), "Send him up and he'll be seen before us in Tiberias." The text is internally contradictory. You say, "They said to him" implying, "You judge the matter." Then they said, "Send him up and he'll be seen in before us in Tiberias," that is, send him here (to Israel). Rather, they said thus: "See him and say to him 'We'll judge you.' If he obeys, he obeys. If he doesn't, send him up to Tiberias." Rav Ashi said: "This is a case involving fines and in Babylon they don't judge cases involving fines. Why did they send him such a statement? To give honor to Mar Ukba."[44]

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discussed in relationship to the Berakhot text.

[42] Mar Ukban was the Exilarch of Babylon during the first and second generation of Amoraim who was renown for his own righteous behavior and Torah knowledge. A. Steinzaltz, *The Talmud Bavli: Sanhedrin, Vol. I* (Jerusalem: Israel Institute for Talmudic Publication, 1974), p. 135.

[43] The two different spellings of the tradent in the sugya, עוקבן and עוקבא, do not appear to be critical, although the second spelling appears to be the preferred. There are 15 attestations of the first spelling and 175 attestations of the second spelling in the Yerushalmi and the Bavli.

[44] TB Sanhedrin 31b.

In this sugya, the text begins with the claim that the most powerful member of the Babylonian community was dependent upon the Palestinian rabbinic community to resolve his local problems. The *stam* suggests that this is not the case; rather, the Exilarch should first attempt to solve his problem on his own and only if that fails, should he fall back on the court in Tiberias. Rav Ashi's statement is then brought in to undermine the initial stammaic explanation. In fact, says Rav Ashi, the Exilarch's powers are limited. Rav Ashi explains that the Palestinians gave the appearance that Mar Ukba could have ruled on the case in Babylon. It was a matter of collegial politeness and honor.

This text's non-*stammaitic* sections tell a single story. The Exilarch was subservient to Palestinian jurisdiction. The question that looms, and which R. Ashi answers, is whether this subservience related to all *dinei mammonot* or just to *dinei knasot*. R. Ashi says Mar Ukban's case was one of *knasot*, and Babylon did not have jurisdiction over those cases, at least not in Mar Ukban's time. Other early Babylonian Amoraic sources will reinforce this. What is interesting is the *stam's* purposeful forced reading of the Palestinian message to Mar Ukban as internally contradictory. Without the *stam* the message is clear: use your authority to send the defendant to Tiberias. With the *stam* there is some assertion that Mar Ukban should judge the case, rendering a Babylonian more authoritative. Ultimately the *stam* retreats in the face of the Amoraic tradition it always supports, but the retreat still leaves in its wake a semblance of Palestinian respect for Babylonian rabbinic leadership, a view that emerges from the actual wording of the Palestinians' letter to Mar Ukban.

Another traditions that would support Rav Ashi's position is the claim that only ordained sages could engage in *dinei knasot*, and there was no ordination outside of the Land of Israel. This position is presented in the following text:

אמר ליה רב אחא בריה דרבא לרב אשי: בידא ממש סמכין ליה? - אמר ליה: סמכין ליה בשמא, קרי ליה רבי, ויהבי ליה רשותא למידן דיני קנסות. וחד לא סמיך? והא אמר רב יהודה אמר רב: ברם, זכור אותו האיש לטוב, ורבי יהודה בן בבא שמו, שאילמלא הוא נשתכחו דיני קנסות מישראל. - נשתכחו? נגרוטינהו! - אלא: בטלו דיני קנסות מישראל. שפעם אחת גזרה מלכות הרשעה שמד על ישראל, שכל הסומך - יהרג, וכל הנסמך - יהרג, ועיר שסומכין בה - תיחרב, ותחומין שסומכין בהן - יעקרו. מה עשה יהודה בן בבא? הלך וישב לו בין שני הרים גדולים, ובין שתי עיירות גדולות, ובין שני תחומי שבת, בין אושא לשפרעם. וסמך שם חמשה זקנים, ואלו הן: רבי מאיר, ורבי יהודה, ורבי שמעון, ורבי יוסי, ורבי אלעזר בן שמוע. רב אויא נוסיף: אף רבי נחמיה. כיון שהכירו אויביהם בהן אמר להן: בניי, רוצו! אמרו לו: רבי, מה תהא עלינך? - אמר להן: הריני מוטל לפניהם כאבן שאין לה הופכים. אמרו: לא חו משם עד שנעצו בו שלש מאות לונביאגת של ברזל, ועשאוהו ככברה. - רבי יהודה בן בבא אחריני הוו בהדיה, והאי דלא חשיב להו - משום כבודו דרבי יהודה בן בבא. - ורבי מאיר רבי יהודה בן בבא סמכיה? והא אמר רבה בר בר חנה אמר רבי יוחנן: כל האומר רבי מאיר לא סמכו רבי עקיבא - אינו אלא טועה! - סמכיה רבי עקיבא ולא קיבלו, סמכיה רבי יהודה בן בבא - וקיבלו. אמר רבי יהושע בן לוי: אין סמיכה בחוצה לארץ. - מאי אין סמיכה? אילימא דלא דייני דיני קנסות כלל בחוצה לארץ.

Rav Aha son of Rava said to Rav Ashi: "Do they ordain actually by hand?" He said to him: "They ordain by name; they call him Rabbi and this makes him authorized to make judgements on *dinei knasot*." And one alone can not ordain? This is what Rav Yehuda said according to Rav. "Truly, this man be remembered for a blessing, Rabbi Yehuda ben Bava was his name; were it not for him, *dinei knasot* would have been forgotten in Israel." Forgotten? It was committed to memory; rather, they abolished *dinei knasot* from Israel. Once the evil kingdom decreed to destroy Israel, that all that ordained would be killed, and all that were ordained would be killed, and the city where they ordained would be destroyed, and the regions where they ordained would be uprooted. What did Yehuda ben Bava do? He went and sat between big mountains, between two big cities, between two areas of the Shabbat limits, between Usha and Shefaram. And he ordained there five elders, and they were: Rabbi Meir, and Rabbi Yehuda, and Rabbi Shimon, and Rabbi Yosi, and Rabbi Elazar ben Shamua. Rav Ivya adds: also Rabbi Nehamiah. When their enemies knew of this, he [Yehuda ben Bava] said: "My sons, run!" They said to him: "Our Master, what will be with you?" He said to them: "Behold, I will lie before them like a rock that cannot be rolled (destroyed)." They say he did not move from there until they had stuck into him three hundred iron spearheads, and made him like a sieve. Rabbi Yehuda ben Bava, clearly

others were like him, and they were not counted out of honor of Rabbi Yehuda ben Bava. And Rabbi Meir – he was ordained by Rabbi Yehuda ben Bava? And thus said Rava bar bar Hana said Rabbi Yohanan: "Anyone that says Rabbi Akiva did not ordained Rabbi Meir – He is wrong!". Rabbi Akiva ordained [him] and they didn't accept it; Rabbi Yehuda ben Bava ordained [him] – they accepted. Rabbi Yehoshua ben Levi said: "There is no ordination outside of the land." What is the meaning of there is no ordination? They are saying that there are not *dinei knasot* outside the land.[45]

In this unit, the text opens with a question about ordination and its meaning. Once again, Rav Ashi tells us that this means having the power to judge *dinei knasot*. The text then brings the heroic story of Rabbi Yehuda ben Bava to make the link between ordination and the ability to judge *dinei knasot*. Because of his actions, the tradition of ordination was maintained in the Land of Israel, and the assumed ability to judge on fines. The text then brings a statement by Yehoshua ben Levi, an early Palestinian Amora, who says there is no ordination outside of the land. The redactor then closes the circle by equating ordination with the ability to judge *dinei knasot*, something that can not be done outside of the Land. This unit continues to make the claim that this is an authority limited to Palestinians. Despite this thrust, however, this source still has not been able to place a direct statement to this affect in the mouth of a Palestinian.

In our third pericope, we find a case that presents a Babylonian sage sending an inquiry about the value of a particular fine:

שלח ליה רב חסדא לר"נ, הרי אמרו: לרכובה - שלש, ולבעיטה - חמש, ולסנוקרת - שלש עשרה, לפנדא דמרא ולקופינא דמרא מאי? שלח ליה: חסדא, חסדא, קנסא קא מגבית בבבל?

Rav Hisda sent [an inquiry] to R. Nachman, saying: "For a knee [kick that causes injury the fine is] three, and for a foot kick [the fine is] five, and for

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[45] TB Sanhedrin 13b-14a.

a blow to the face, thirteen. What [is the fine] for an [injury caused by the] blade of a hoe or the handle of a hoe?" He [R. Nachman] sent him [a reply]: "Hisda, Hisda, are you [judging and] collecting fines in Babylon?"[46]

The text implies that the Babylonians are not supposed to engage in the judgment of fines. Hence, one could say that this is a textual witness that presents additional and early support for Rav Ashi's statement. The statements in this unit are all attributed statements. While that does not rule out the possibility that they are later constructs, they are not characteristic of the later, stammaitic layer. This also shifts back the tradition that Babylonians are limited in their abilities to judge these types of cases from the fifth generation to the third. However, once again this is strictly a Babylonian phenomenon with a Babylonian rabbi seeking information from the head of the academy in Nehardea.[47]

This pericope does appear a second time, however, and in that second attestation, additional important information is recorded. Later in the same tractate, the following is found:

דשלח ליה רב חסדא לרב נחמן, ושלח ליה: חסדא, חסדא, קנסא קא מגבית בבבל? אלא, כי עבדינן שליחותייהו

Rav Hisda sent [an inquiry] to Rav Nachman, and he [Rav Nachman] sent him [a reply]: "Hisda, Hisda, are you [judging and] collecting fines in Babylon?" Rather, [we can do this] because we have been made their [the Palestinians] agents.[48]

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[46] TB Bava Qamma 27b.

[47] Rashba suggests that there are certain circumstances in which it would important for even a Babylonian judge to know the amount of a penalty. This might be one of those cases where it is strictly a hypothetical discussion. See note 20 in Schottenstein Edition of the Talmud, Tractate Bava Qamma 27b, second page.

In this second attestation, there are a number of differences of note. First of all, the specifics of the case are not presented; just Rav Nachman's reaction. This might suggest that the case itself, and this unit as a whole, is well known and therefore does not require duplication. Secondly, and more importantly, this text suggests that in fact, Babylonians do engage in ruling on fines by acting as the agents of the Palestinian rabbinic leadership. This suggests an important way that the Babylonians could honor the centrality of the Palestinian community while still engaging in all aspects of the legal system. I. Gafni suggests that this may have functioned early on. He states that,

> This notion of agency might have served as an ideal solution. It formally recognizes the priority of Palestinian authority, while at the same time it removes the shackles from the hands of Babylonian judges, and in effect affords them a large degree of practical independence.[49]

Gafni is suggesting, then, that this was operative during a time when the Palestinians were still a viable community. It is therefore possible that the talmudic statement comes from a time period considerably earlier than the *stammaim*. Nevertheless, the notion is found only in stammaitic comments, and the academic consensus about these is that they are late, probably later than the existence of a significant Palestinian rabbinic authority.

Up until this point, the text continues to make a specific claim but it has not been able to support that claim through statements made by the Palestinians. In fact, it may

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[48] TB Bava Qamma 84b.

[49] I. Gafni, *Land, Center and Diaspora*, p. 114. Also note his ff. 34 where he raises the question that due to post-talmudic emendations and glosses, it is difficult to determine when, in fact, the Babylonians may have been considered Palestinian agents.

very well be that this limit on Babylonian authority may have only been operative during the first few generations of Amoraim. As time progressed, the Babylonians may have started saying their hands were tied more often, while at the same time asserting more authority. In a search of both Talmuds for the root קנס, I found a number of instances where it appears that Babylonian Amoraim were engaged in discussions and rulings dealing with fines.[50] For example, we have our previously accused third generation[51] Amora Rav Hisda stating "Everyone agrees the one having intercourse with a menstruant must pay a fine." It is most likely, however, that his statement is merely part of an intellectual exchange. We do find fourth generation Amora[52] Abaye asking Rav Yosef: "What is your reason that you fine the buyer? The punishment should be decreed on the seller!" Since the context is the sale of a field during the Jubilee year, a thoroughly theoretical matter, it tells us nothing about the actualities of fines in Babylonia.[53] Abaye is also the one who resolves a problem in a sugya where another fourth generation Amora,[54] Rav Nahman bar Yitzhak, cites a ruling on fines:

> פיתה שלא לשום אישות קרא בעי? אמר ר"נ בר יצחק: לומר, שמשלם קנס כמפותה. א"ל רב יוסף: אי הכי, היינו דתנינא: +שמות כב+ מהר ימהרנה לו לאשה - שצריכה הימנו קידושין, ואם פיתה לשום אישות, קידושין למה ליה? א"ל אביי: צריכה קידושין לדעת אביה..

A seducer that did not have the intention of establishing a matrimonial

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[50] It is important to differentiate between those statements that are made that are part of a theoretical discussion and those that appear to reflect actual examples of cases. Those cases that utilize actual names have a larger chance of informing us about an actual reality.

[51] Albeck, p. 674.

[52] Albeck, p. 669.

[53] TB Gittin 45a.

[54] Albeck, p. 678.

relation; what does scripture require? Rav Nahman bar Yitzhak said: "It is said, he pays a fine as if she was a seduced woman." Rav Yosef said to him: "If so, that is identical to what we have learned in a mishnah: '*He must make her as his wife by payment of a bride-price* (Ex. 22:15)' – one needs to do a betrothal; but what if he seduced with the intention of establishing a matrimonial relation; why does he need a betrothal?" Abaye said to him: "A betrothal is needed with her father's consent."[55]

This, however, may merely be another theoretical discussion as no specific case is mentioned. In addition, the *sugya* opens with *itmar*. *Itmar* is not a usual sigla for actual cases, but rather the introduction to a wall accepted Amoraic dictum. Actual cases are usually introduced by *hahu gavra, hahi iteta, hava `uvda, ata X kamei de-Rav Y* and the like.

Finally, we have a statement by Rav Huna, an important leader of the fifth generation Amoraim. The question is raised regarding the fact that:

הניזק והמזיק בר׳שלומין. אתמר: פלגא נזקא - רב פפא אמר: ממונא, רב הונא בריה דרב יהושע אמר: קנסא.

The injured and the injurer may be subject to payments of indemnities. It is stated – the payment is half-damage. Rav Papa said: "It is a due indemnity." Rav Huna son of Rav Yehoshua said: "It is a fine."[56]

This case also appears to be academic rather than an actual case, but because of its later dating, may also reflect a new sense of authority on the part of the Babylonians.

If any of these various cases of Babylonian Amoraim are actual cases, they seem to point to either of two possibilities. The first possibility is that there was a large disparity between what the sages said and what they did. That is, they made statements to

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[55] TB Kiddushin 46a.
[56] TB Bava Qamma 15a.

the effect that only the Palestinians could engage in *dinei knasot* and then did what ever was necessary. The second, and I believe more credible reading of this material, is that during the third and perhaps fourth century, the Babylonians were not engaged in *dinei knasot*. They toed the Palestinian line, however unspoken, until the fourth or even fifth Amoraic generation. During the earlier period, the Palestinians were able to maintain their centrality. Their rule was so sufficiently unquestioned that they did not have to impose the limitation on fine collection on the Babylonians. Of course, we can only stipulate this as a possibility because we have no Palestinian text that specifically states this position! We may be able to assume, however, that this was such a commonplace to the Palestinians that it needed not mention. Otherwise, why does the Bavli present positions that appear to be reactions to this view?

We can also infer that any changes in the Babylonian community stem from a period after the Yerushalmi was already completed since there is no counter-reaction. It would make sense that only after the Babylonian leadership had broken completely with the sages of the Land of Israel that the tradition of limited authority would be revised. The Bavli therefore presents these rulings only so long as they represent the actual position of Babylonia vis-à-vis the Palestinian rabbinate. Once the breakdown of Palestine was complete, this tradition was no longer tenable, and the Babylonians could do whatever they pleased, either through the legal loophole of serving as Palestine's agents, or by disregarding limitations on their authority completely.

TJ Sanhedrin 24b

A final, intriguing comment regarding the issue of *dinei mammonot* is in order. In TJ Sanhedrin 24b, one finds the following statement:

> תני קודם לארבעים שנה עד שלא חרב בית המקדש ניטלו דיני נפשות מישראל
> בימי רבי שמעון בן יוחי ניטלו דיני ממונות מישראל.

> It is taught: Forty years before the destruction of the Temple, they (the Romans) took (the right to engage in) capital cases away from Israel; in the days of Rabbi Shimon ben Yohai, they took (the right to engage in) civil cases from Israel.[57]

If this text is to be accepted as historically accurate, the entire discussion related to who could engage in *dinei mammonot* must be reframed as a strictly hypothetical discussion. This is probably not necessary since historical sources outside of the rabbinic texts indicate that shortly after the Bar Kochba Revolt the Jewish community was allowed to return to its previous level of autonomy. By the third century, it was not only ruling on areas of Jewish law but also implementing some aspects of Roman secular law. The number of cases dealing with fines and *dinei mammonot* found in the two Talmudic texts also point to an active legal system that was able to adjudicate *dinei mammonot* without encumbrance. I therefore suggest that this problematic pericope be seen as descriptive of the pre-Severan, Hadrianic period.

It appears that the early Babylonian Amoraic sources regarding cases and Palestinian sources cited in Babylonian texts, like the Mar Ukba letter, tell the historical

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[57] In TJ Sanhedrin 14a, a parallel to this statement is found but the name Shimon ben Yohai has been switched to Shimon ben Shetach. This is probably an error as Shimon ben Shetach lived during the Hasmonean period, before the Romans began ruling either through proxy or direct rule. It also makes sense, within the context of the tradition, that this would be another liberty removed during or after the Bar Kochba Revolt. The Bavli

truth about the Land of Israel while the rabbinic community's center was there. As the center weakened, Babylonia asserted more authority. The full flourishing of this authority came in the late talmudic era, the period of the *stam*, and it came as a matter of necessity. The law had to be carried out and justice had to be ensured. By the end of the talmudic period, the Babylonians were the only existent authority that could do this.

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also discusses this issue in TB Shabbat 15a, TB Avodah Zarah 8b, and TB Sanhedrin 41a.

Chapter Five

Were We One?

In the previous chapters, the focus of the thesis has either been on the larger context of the relationship between the two communities or on analysis of key issues that the two communities needed to deal with in common. In this chapter, the issue of how the two rabbinic centers commented upon one another is examined directly. In particular, I look at how certain phrases and comments were utilized by each community to refer to the other. As these comments will demonstrate, it was a relationship. Some of these comments were quite bitter or abusive, while at other times, the relationship reflected one built upon mutual respect and a common sense of destiny. I also demonstrate how these comments changed depending upon their targeted audience. Rabbis from Palestine who came to live in Babylon, and those from Babylon who came to live in the Land of Israel, were treated in a unique manner. I believe this provides us with important insight in to the dynamic relationship that existed between these two centers. The chapter ends with a bringing together of the elements of the previous four chapters to present a series of conclusions regarding the state of Diaspora-center relations in the Fourth Century. This includes a presentation of what I have developed and articulated in each of the previous four chapters in comparison with contemporary scholarship.

Babylonians in the Land of Israel

In general, the Amoraic period is seen primarily as a time when the Babylonian community was growing and gaining strength. Some of this growth came from the movement of Jews to Babylon, who were primarily seen as leaving the Land of Israel for economic opportunities in Babylon.[1] At the same time, however, there was always movement in the opposite direction, with important rabbis leaving behind their homes in Babylon to join the Palestinian community.[2] J. Schwartz has suggested that there were multiple reasons why these Babylonians may have made the decision to "go up" to the Land of Israel, including the opportunity to study, to be ordained, to engage in calendrical intercalation, and even possibly for economic reasons.[3] In his article on the subject of Babylonian *aliyah* during this period, he cites R. Eleazar b. Pedat who explains in the Yerushalmi why he made this decision:

> דא"ר לעזר והיתה ידי על הנביאים החוזים שוא והקוסמים כזב בסוד עמי לא יהיו זה סוד העיבור ובכתב בית ישראל לא יכתבו זה המינוי ואל אדמת ישראל לא יבואו זו ארץ ישראל וא"ר לעזר כד סלקית להכא אמרית הא גבי חדא נד מנוני אמרית הא גבי תרתיי כד עלית לעיבורא אמרית הא תלתיהון גבי.

And R. Leazar [=Elazar] said: "And My hand shall be against the prophets

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[1] For example, see T. Avodah Zarah 4:4 and TJ Nedarim 41c. In particular, economic difficulties lead to burdens that were often disproportionately placed on the leadership of the community. I. Gafni suggests that in certain economic situations, the rabbis of Palestine even encouraged movement to the East. See his analysis of TJ Moed Qatan in *World of the Talmud*, p. 230, ff. 23.

[2] For a bibliography on this phenomena and a list of the Babylonian scholars who came to Palestine in this period, see J. Schwarz, 'Tension Between Palestinian Scholars and Babylonian Olim in Amoraic Palestine' *Journal for the Study of Judaism*, Vol. XI, 1 (July 1980), p. 78, ff. 2. A. Steinzaltz suggests that there were many scholars who went to Israel, but for some reason are not cited in the Yerushalmi. 'The Relations Between Babylon and the Land of Israel' [Hebrew] *Talpioth* IX, 1-2 (November 1964), p. 301.

[3] See J. Schwartz, 'Aliya from Babylonia During the Amoraic Period (200-500 C.E.)' *The Jerusalem Cathedra*, pp. 58-62.

that see vanity, and that divine lies" (Ezek. 13:9). [The continuation of the verse states] "they shall not be in the council [lit. sod – secret] of My people" – this is the secret of the intercalation of the calendar. "Neither shall they be written in the register of the house of Israel" – this is appointment. "Neither shall they enter into the Land of Israel" – this is the Land of Israel. And R. Leazar said: When I came here [= Land of Israel], the first [curse] was removed. When I was appointed, the second [curse] was removed. When I went up to intercalate the year the third was removed.[4]

In other words, the movement to the Land of Israel could provide both temporal opportunity and spiritual transformation. In fact, many capable scholars from Babylon came to Israel and were able to attain positions of leadership within the Palestinian rabbinic community.[5] Scholars have suggested that this movement was significant enough to be seen by the heads of the Babylonian academies as a real threat to the future viability of the Babylonian community [6]

On one hand, the Palestinians recognized the important contribution that immigrants from Babylon had made in the past and could make in their time period as well. This is reflected in the following statement, which while preserved only in the Bavli, was attributed to Palestinian leader R. Shimon b. Lakish:

דאמר ריש לקיש: הריני כפרת רבי חייא ובניו. שבתחלה כשנשתכחה תורה מישראל עלה עזרא מבבל ויסדה, חזרה ונשתכחה עלה הלל הבבלי ויסדה,

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[4] TJ Rosh Hashana 58b, translation provided by J. Schwartz in *Aliya from Babylonia*, p. 59.

[5] See the case of R. Hanina b. Hama in TJ Shabbat 15c and the Babylonian scholars listed as participants in a discussion regarding the Sanhedrin in TJ Rosh Hashanah 58b.

[6] J. Schwartz, *Aliya from Babylonia*, p. 61, I. Gafni, *Land, Center and Diaspora*, pp. 73-74. They both cite TB Ketubim 110b-111a where Rav Yehuda taught: "He who goes up from Babylonia to the Land of Israel transgresses a positive commandment, for it is written: '*They shall be transported to Bavel and there they will remain until I remember them, said God* (Jer. 27:22).'"

חזרה ונשתכחה עלו רבי חייא ובניו ויסדוה.

...Resh Lakish said, "Behold, I am an expiation for Rabbi Hiyya and his sons. For in the beginning, when Torah was forgotten from Israel, Ezra came up from Babylon and re-established it. When Torah was forgotten again, Hillel the Babylonian came up re-established it. When it was forgotten again, Rabbi Hiyya and his sons came up and re-established it."[7]

Resh Lakish also appears to bemoan the fact that in his day and age, insufficient numbers were leaving Babylon to come live in Israel. This is reflected in a statement found in midrash where he provides an interpretation of Deut. 28:65 that is critical of the Babylonians that remain in exile:

ובגוים ההם לא תרגיע ולא יהיה מנוח (דברים כח סה) הא אילו מצאו לא היו חוזרים.

"*Yet even among those nations you shall find no peace, nor shall your foot find a place to rest.*" But if they found it, they would not return.[8]

The implication of this statement appears to critique of the Babylonians who "had found rest" and therefore did not return. Implicitly, Resh Lakish is calling his Babylonian brethren home.

At the same time, however, much animosity was directed at those Babylonians that did carry out Resh Lakish's wish. Rather than embrace those that had given up their homeland for the Homeland, the new immigrants were chastised for not having come earlier:

ריש לקיש הוי סחי בירדנא, אתא רבה בר בר חנה יהב ליה ידא. אמר ליה: אלהאי סנינא לכו, דכתיב אם חומה היא נבנה עליה טירת כסף ואם דלת היא נצור עליה לוח ארז, אם עשיתם עצמכם כחומה ועליתם כולכם בימי עזרא - נמשלתם ככסף, שאין רקב שולט בו, עכשיו שעליתם כדלתות נמשלתם כארז

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[7] TB Sukkah 20a.
[8] Bereshit Rabbah 33:6.

שהרקב שולט בו.

> Resh Lakish was swimming in the Jordan. Rava Bar b. Hanah came to give him a hand. He (Resh Lakish) said to him, "By God, we hate you! As it is written, '*If she be a wall, we will build upon it a silver battlement; if she be a door, we will panel it in cedar.*' If you had made yourselves as walls and came up together in the days of Ezra, you would be compared to silver, that cannot be overpowered by rottenness. But you come up now as doors; you are compared to cedar, which is overpowered by rottenness.[9]

In fact, most of the comments made about the Babylonians by the sages of Eretz-Israel are negative.[10] J. Schwarz, who has written on this overall phenomenon, suggests that these comments reflect the "budding competition between the two centers."[11] For example, R. Yohanan and R. Yeramiah provide their own critique of the Babylonians and their level of Torah scholarship when they state:

> מאי בבל? אמר רבי יוחנן: בלולה במקרא, בלולה במשנה, בלולה בתלמוד. +איכה ג'+ במחשכים הושיבני כמתי עולם אמר רבי ירמיה: זה תלמודה של בבל.

> What is Babylon (how should it be evaluated)? Rabbi Yohanan said, "Mixed up in [regard to] Bible, mixed up in [regard to] Mishnah, mixed up in [regard to] Talmud." "*He has made me dwell in darkness, like those long dead,*" (Lam. 3:6) – said Rabbi Yeramiah, "This is the learning of Babylon."[12]

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[9] TB Yoma 9b. The text appears to imply that Resh Lakish hated him strictly because he was Babylonian.

[10] In fact, J. Schwartz claims that Resh Lakish was "one of the most rabid anti-Babylonian spokesman in the Amoraic period," *Babylonian Olim*, p. 84. However, he also notes that Resh Lakish selected a Babylonian, R Hiyya b. Ada, to serve as his son's educator (TB Ketuvbot 111b), p. 93. This all points to a more complex relationship between the various local leaders and the immigrants.

[11] J. Schwarz, *Babylonian Olim*, p. 87.

[12] TB Sanhedrin 24a. Note: I have translated בלול based on the root בלל, as found in Jastrow, p. 171. However, Jastrow also suggests the possible reading of ברור, giving a meaning of *clear* or *best*, as found on p. 191. This would allow for a reading with the exact opposite meaning. This appears to be how A. Steinzaltz reads the text in *Relations Between Babylon and the Land of Israel*, pp. 303-04. Many parts of this Steinzaltz article,

The attacks on the Babylonians were not just limited to scholarly debate regarding Torah knowledge. The following comment by Rava Bar b. Hana and the follow-up by R. Yosi demonstrate that even the term Babylonian could be used as a general term for anything inappropriate:

> אמר רבה בר בר חנה: לא בבליים היו אלא אלכסנדריים היו, ומתוך ששונאים את הבבליים היו קורין אותן על שמן. תניא, רבי יהודה אומר: לא בבליים היו אלא אלכסנדריים היו.

> Rava Bar b. Hana said, "They were not Babylonians (that were involved with abuse of the scape goat and its bearer on Yom Kippur) but Alexandrians, but because they (Palestinians) hate the Babylonians, they called [the Alexandrians] by their name. It was taught in a braita by Rabbi Yehuda, "They were not Babylonians but Alexandrians.[13]

Even some of the Babylonian immigrants themselves made statements that were negative about their country of origin.[14] For example, the immigrant R. Zeira fasted in order to forget the teachings of the Babylonian tradition upon his arrival in the Land of Israel.[15] In two different locations in the Talmud, R. Zeira went even further, claiming that "the Babylonians were fools."[16] While R. Yerimiah joins him in making this claim,[17] it is particularly interested that this particular tradition is only preserved in the Bavli.

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however, are filled with less-than-critical statements such as "Babylon accepted with all of its heart the Torah of the Land," p. 305.

[13] TB Yoma 66b. This is also found in TB Menahot 100a, although there it is also given in the name of R. Yohanan.

[14] J. Schwartz, citing an article from a magazine on human relations, suggests the possibility that these immigrants only made these comments to "fit in." "Aliya from Bablyonia," ff. 26. Even if this is the case, however, it would support the general disregard for the Babylonians within Palestinian society.

[15] TB Bava Mezia 85a, as cited by J. Schwartz, *Aliya from Babylonia*, p. 62.

[16] TB Nedarim 49b and TB Betza 17a.

[17] See TB Pesahim 34b, TB Yoma 57a, TB Ketuvot 75a, TB Zevahim 60b, TB Menahot 52a, and TB Behorot 45b.

Perhaps this is due to the fact that the Babylonians could then present the last word. In the Bavli, we find the following statement attributed to Rava:

> אמר ליה רבא: עד השתא קרו לן טפשאי, והשתא טפשאי דטפשאי, דקא מגמרינן להו ולא גמירי.

> Rava said to them: Until now they have called us fools, now they are fools of fools, because we have taught them and they have not learned.[18]

Babylonian Self-image and the Palestinians in Babylon

Despite the fact that the sages of Palestine are mentioned twice as often in the Bavli as compared to the number of Babylonian attributions in the Yerushalmi,[19] there is very little mentioned in either Talmuds about the Palestinians who moved to Babylon. A comment from the *midrash*, however, probably reflects the general Palestinian perspective on those who considered leaving:

> מעשה בתלמיד אחד של ר"ש בן יוחאי שיצא חוצה לארץ ובא עשיר והיו התלמידים רואין אותו ומקנאין בו והיו מבקשים הן לצאת לחוצה לארץ וידע ר"ש והוציאן לבקעה אחת של פגי מדון ונתפלל ואמר בקעה בקעה מלאי דינרי זהב התחילה מושכת דינרי זהב לפניהן, אמר להם אם זהב אתם מבקשים הרי זהב טלו לכם אלא היו יודעין כל מי שהוא נוטל עכשיו חלקו של עוה"ב הוא נוטל.

> It once happened that a disciple of R. Shimon b. Yohai went abroad and returned wealthy; and all the disciples saw him and wished also to go abroad; R. Shimon was aware and removed them to the valley near his town of Miron. There he prayed before God: "O valley, fill up with golden dinars!" and it filled up with golden dinars. He told them: Whoever wishes to take – let him come and take, but know you that whoever takes now, makes a withdrawal against his reward in the next world.[20]

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[18] TB Yoma 57a.

[19] Steinzaltz, A. "Relations Between Babylon and the Land of Israel," p. 300.

[20] Exodus Rabbah 52:3, ד"ה ג ד"א ויביאו. This is also found in *Tanhuma* Pekudei, 7 (ed. Buber). Translation by I. Gafni, *Land, Center and Diaspora*, p. 69.

The uneven ratio of Babylonian voices in the Yerushalmi, or concern about Palestinians in Babylon, probably reflects a reality where Torah was still seen primarily as "flowing out from Zion."[21] The sages of Babylon, at least as late as the second generation of Amoraim, went so far as to state that they "were subservient to them (the sages in Palestine).[22] This statement, at least if taken at face value, implied that in areas of Torah, the Palestinians were still maintaining supremacy. This is also supported by examining the phrase "כי אתה ר' פלוני," that is, "when Rabbi X came [from Israel to Babylon]. In these cases, the Bavli seems to be suggesting that the Rabbis from Israel would bring with them appropriate rulings that would resolve Babylonians conflicts. For example, we get the following:

תא שמע: כי אתא רבי אחא בר חיננא מדרומא, אתא ואייתי מתניתא בידיה:

> Come and hear [a proof or a resolution of a problem]: For when Rabbi Aha bar Hanina came from the South (Judea), he came and he brought a braita with him.[23]

In addition to other attestations of R. Aha bar Hanina,[24] the formula is repeated with R. Yitzhak a number of times,[25] with R. Haggai,[26] as well as with others.[27] Each one

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[21] Isaiah 2:3. See how this is treated in the discussion of R. Hananiah and his attempt to establish a calendar in Babylon in TJ Sanhedrin 19a. Also, see Gafni, I. "Talmudic Babylonia and the Land of Israel," p. 103.

[22] See TB Horaiot 11b, TB Pesahim 51a, and TB Hullin 18b. These statements are attributed to Abaye, a second generation Amora from Babylon.

[23] TB Yevamot 57a.

[24] TB Sukkah 54a, TB Yevamot 58a, TB Sotah 24b, and TB Sanhedrin 53b.

[25] TB Berakhot 44a, TB Shabbat 105a, TB Eruvin 27a, TB Eruvin 36b, TB Sanhedrin 56b, and TB Shevuot 36a.

[26] TB Bava Qama 42a.

[27] The phrase is also used in the Yerushalmi. See TJ Bikkurim 65d, although in that contexts, it merely states that three rabbis came in, perhaps to join the discussion.

of these appears to reinforce the fact that important rulings continued to come to Babylon from Israel.

While there was great respect for the Torah of the Land of Israel, as also reflected in the many scholars who "went up to the Land" for an opportunity to study, it did not mean that the Babylonians looked up to the Palestinians in all matters. A midrash is found that, while recapping an event in Palestine, points to Babylonian concerns about the Palestinians. In particular, it relates to R. Zei'ri's desire to limit his contact with the Palestinians to their Torah alone:

> זעירי הוה קא מישתמיט מיניה דר' יוחנן, דהוה אמר ליה נסיב ברתי. יומא חד הוו קאזלי באורחא, מטו לעורקמא דמיא, ארכביה לר' יוחנן אכתפיה וקא מעבר ליה. א"ל: אורייתן כשרה, בנתין לא כשרן?

> Zei'ri would evade R. Yohanan, who said to him "Marry my daughter." One day they were walking on the road and arrived at a pool of water. He (Zei'ri) put R. Yohanan on his shoulders, and carried him over. He (Yohanan) said to him, "Our Torah is fit [for you], and our daughters are not fit [for you]?[28]

This text seems to imply that R. Zei'ri, a Babylonian who had come to Israel to study with R. Yohanan, was willing to demonstrate his respect for his master's Torah by carrying him through the puddle. At the same time, however, he was not willing to marry into the Palestinian community, lest he weaken what he perceived to be his purer Babylonian genealogical history. In this same *sugya*, the text continues a few lines onward with the statement:

> לא עלה עזרא מבבל - עד שעשאה כסולת נקייה ועלה.

Ezra did not come up from Babylon until he made it like pure flour; [only

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[28] TB Kiddushin 71b.

then did] he go up.[29]

That is, the Babylonians saw themselves as genealogically purer than all other Jews, including those Jews who lived in the Land of Israel. This is articulated fully further down on the same page, where it states:

היינו דאמר רב יהודה אמר שמואל: כל ארצות עיסה לארץ ישראל, וארץ ישראל עיסה לבבל.

That is, stated Rav Yehuda in the name of Shmuel: All of the lands are suspected of containing an alien admixture [as compared] to the Land of Israel, and the Land of Israel is suspected of containing an alien admixture [as compared] to Babylon.[30]

No wonder that Zei'ri did not want to marry in to R. Yohanan's family! This sense of genealogical purity must have also impacted on how the Palestinians living in Babylon were treated as well.[31] While the Bavli does not speak directly about Palestinians living in Babylon, it does preserve a comment by Rav Yehuda, who states:

כל הדר בבבל - כאילו דר בארץ ישראל, שנאמר: הוי ציון המלטי יושבת בת בבל.

All who live in Babylon, it is as if they are living in the Land of Israel, as it is written, "*Away, escape, O Zion, you who dwell in Fair Babylon!*" (Zech. 2:11).[32]

While originally this statement was related to the issue of burial, the focus of the statement is on those that are living, not those that are dead. This appears to support the

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[29] TB Kiddushin 69b, 71b.

[30] TB Kiddushin 69b.

[31] This sense of genealogical superiority was not just directed at the Jews of Palestine. Even within the Babylonian community, there was a constant focus on distinctions as to which city was more pure than the other. For an interesting discussion of this internal conflict, see Gafni, I. "'Local Patriotism' in Sasanian Babylonia" Irano-Judaica II, Jerusalem (1990): pp. 68-71.

[32] TB Ketuvot 111a.

concept that the Babylonians felt that they were not living in exile but in the Diaspora. By extension, it can also be construed that they would have been more embracing towards their Palestinian brethren that came to dwell with them in Babylon. Each emigrant from Israel was another vote of support for Jewish life outside of the Land.

What we see, therefore, are a few salient points worth articulating. On the one hand, the Palestinian sages seem much more concerned about the status of those who have come to live in Israel from abroad. The various statements made by Palestinians reflect complex, and often ambivalent, feelings about their Babylonian brethren. Most of these comments, however, appear to be primarily preserved in the Bavli. This might suggest that it was the Babylonians who were more concerned about having a record of how they had been treated poorly when they "went up to the Land." This may also have been part of Rav Yehuda's reason for opposing *aliyah*, or, more likely, part of his arsenal of propaganda against doing so. On the other hand, while the Babylonians looked to Israel for Torah, at least in the early part of the Amoraic period, they felt that their genealogical supremacy had to be maintained. As time moved forward, it is also possible that they need for Torah from Zion diminished. Indications of this can be found in the fact that there are no statements utilizing the phrase "Rabbi X came from Israel with..." connected to rabbis past the second generation of Amoraim. Placed next to the various statements about Babylon being Israel, it appears that an inevitable break took place between these two communities.

The Relationship Between these Two Communities in the Fourth Century

We have now generated sufficient data to draw some important conclusions about these two communities and their relationship with one another during the Talmudic period. In each of the first two chapters of this thesis, we can see that the secondary literature helps us understand the different context of the two communities and the elements that shape the internal content and agenda of the two Talmuds. We have also seen in chapters three through five that specific issues were addressed and the tradition was utilized by the two communities in very different ways. Much of their efforts appear to be directed towards limiting the authority of the competing community while at the same time claiming sole legitimacy for themselves. While I believe that many of the conclusions are difficult to disprove, and therefore problematic as hypotheses, I believe that a sufficient pattern of behaviors is present in the analyzed literature to support my claims as reflect the historical reality of this period.

The historical analysis of the period certainly supports the fact that each community, while demonstrating concern about a common past and future, was also very much caught up in its own reality. In Eretz-Israel, this meant finding a way to maintain maximum autonomy in the face of a changing Roman Empire. Economic and religious challenges had great affect on the Jewish community. This in turn needed to be reacted to by a cadre of sages that sought to impose its leadership onto the situation. They would have to work very hard to ensure that Jews would stay in the land so that there would be a community to lead. This included elevating specific land-based laws or even adding certain elements to the *mitzvah* system, such as making dwelling in the Land one of the

most important *mitzvot*. On the other side of the Jordan, Babylonians were utilizing their greater freedom of movement within the Sassanian context to find ways to consolidate their own center. They needed to find ways to gain authority that would either be recognized by, or be at least parallel to, the Palestinian center.

We have also seen that these two different realities lead to two texts that differed significantly in terms of focus and structure. On the literary level, some of this certainly stemmed from the different periods of redaction available to each community and to slightly different foundation texts. Some of the differences may also be accounted for in the different environments where the texts were studied, repeated, and eventually written down. The mishnaic orders discussed in the Yerushalmi and Bavli reflect a focus on the Land on one hand, and other elements of the Jewish experience in the other. At the same time, we have also seen that each community held issues in common. These were interpreted by each set of rabbis in ways that furthered their own internal agenda. Due to the earlier conclusion of the Yerushalmi, it is somewhat difficult to take this claim to its full conclusion. For example, it is not clear what is to be made of the Yerushalmi's lack of reaction to Babylonian claims that Babylon was the new holy land. It is possible that the Palestinians did not discuss it because they did not want to give this position even limited legitimacy by discussing it. Of course, this is argument from silence. It is just as possible that the Babylonian's break away took place only after the Yerushalmi had taken form. All we have left is the Babylonian's use of Palestinian sages' comments to support their new positions.

We have also seen, as described in chapter three, the focus on the centrality of the Eretz-Israel go through a major transition in the Talmudic period. Up until the destruction of the Temple, Jerusalem served as the main focus of sacred geography within the Jewish world. While there were elements of holiness that were spread throughout the entire Land, it was to Jerusalem that Jews made pilgrimage, sent their tithes and donations, and directed their prayers. In the post-destruction period, the sages disengaged the Jewish center from Jerusalem because they had no choice. If they were to continue to maintain a Jewish legal system, a calendar, a system of worship, as well as other critical elements of Jewish life, they would need to make this center mobile. This continued to develop through the Tannaitic period. Coming into the Amoraic period, the Palestinian traditions reflect a reversal in previous movement toward a mobile Judaism. The Palestinian texts, starting with the Tosefta and continued in the Yerushalmi, began to elevate the role of the entire Land within the theological framework of rabbinic Judaism. As was demonstrated, this was done explicitly through the articulation of traditions that stated that the settlement of the Land was equal to or greater than all other commandments. This tradition was also expressed in a more implicit manner through the drawing of borders, the clarifying of what communities were inside or outside of the Land, and the re-anchoring of complete and perfect as possible Jewish practice to the Land.

All of this appears to be a reaction to two phenomena. The first of these suggest that this was a period of economic, political and religious difficulty and that many Jews were deciding to ride out this period outside of the Land. This new land-centered framework appears to have developed as an attempt to stem the tide. Ultimately, this

appears to have been unsuccessful. At the same time, a second challenge, somewhat linked to the first, appears to have begun. This was the challenge raised by the growing rabbinic center in Babylon that was beginning to question Palestinian hegemony in the larger Jewish world. These policies appear to be an attempt to play the one ace in the hole still retained by the Palestinian sages. By suggesting that Israel was the only place where Judaism could be expressed in its totality, the Palestinians were attempting to limit the Babylonians ascension in a way they thought could not be trumped.

We are able to draw these conclusions because we also have record of the Babylonian counter response. The Babylonians, while maintaining some elements of the tradition that paralleled the Palestinian claims, also began their own process of defining sacred space. This was done by drawing borders in order to outline the "sacred spaces" of Babylon and by burying the dead to the immediate west of Pumbedita.[33] The Babylonians also looked to biblical texts and rabbinic traditions that supported Babylon as a homeland as well. By taking these steps, the Babylonians were staking their own claims to being in the holy land.

In chapter four, I have shown that the struggle was not just over land but also over the ability to function as legislative leaders and interpreters of the Torah tradition. While it appears that there were some elements that were initially retained as the sole prerogative of the Palestinian sages, it also appears that this did not hold throughout the Talmudic period. Utilizing *dinei knasot* as an example, we saw that in the early Amoraic period, the limitations upon the Babylonian community appeared to be in fact operative

and maintained by both communities. By the time the Palestinian rabbinic community began to lose its power to impose its will, however, the Babylonians were able to act independently through the use of agency. It also appears that even the element of agency was no longer needed once the Palestinian center had completely disappeared. The now totally independent Babylonian community could continue to make statements that preserved the stance of submission to Eretz-Israel, while going ahead and doing what had to be done to maintain justice in their society.

In this chapter, we have seen that these underlying struggles for primacy and control were not limited to discussions of legal authority or geographic space. They also came out in direct statements made in each community about the competing center. Whether it was the misdirected animosity hurled at those Babylonians who came to join the sages in Palestine or the stereotyping of one community at the hands of the other, our texts preserve a period of time when the relationship between the communities was extremely complex and sometimes hostile. While on the one hand the Palestinian's looked down upon the Babylonians, they also remembered that they owed their own continuity of Torah tradition to Babylonian interventions that had occurred from time to time. While the Babylonians appeared to recognized that much Torah also came from Israel, they also attempted to limit their embrace strictly to this Torah in order to maintain their own genealogical purity. All of these statements point to a period of time when neither community was fully sure of itself or its role outside of its own community. By the time that the dust settled, and there was no question as to where the center was, we

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[33] A. Oppenheimer and M. Lecker, *Burial Beyond the Euphrates*, p. 160.

see an end to the accusations. The Bavli, while retaining the earlier conflicts, no longer makes an issue of the various Palestinian sages who have come to make their lives in Babylon.

By the end of the Talmudic period, a new reality existed. While there most certainly continued to be ongoing movement between the two communities - otherwise why would this issue of primacy surface in heated Babylonian polemics against Eretz-Israel practices during the Geonic period - Babylon now held sway over the entire Jewish world for all intents and purposes. The Babylonians could claim that they held all of the critical elements of Jewish authority that once belonged to the Land of Israel. I. Gafni develops this idea fully, identifying each element of authority and explaining how the Babylonians held claim to the element.[34] They claim that they maintained the Davidic line in the personage of the Exilarch. They saw their synagogues as replacements of the holy temple. As explained in chapter three, the synagogue itself was holy and not just the activities that took place within it. As I have demonstrated, they also claimed that they lived in the holy land. This holy land was the homeland of Abraham, a land kosher for burial, and a land with designated boundaries. Without a competing body, they could now also claim to be the masters of Torah. I would also add the fact that the Jewish people were now either located in Babylon or in areas where the more decentralized approach of the Roman Empire ensured that there was no other coordinated group to challenge Babylonian sages on any of these points. As this Diaspora reality was to persist for another five hundred years, it is no surprise that the views of the Babylonians that were

codified in the Bavli came to determine Israel-Diaspora relations for the following thousand years or more. It was only when groups were willing to step outside of the norms of this text, such as the mystics of the sixteenth century and the Zionists of the nineteenth century, that Eretz-Israel could once again begin to reclaim its place. As the community of the Land of Israel, and its impact on the larger Jewish world, continues to grow, it will be interesting to see what steps are taken in the future to attempt to fully reclaim primacy of place.

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[34] I. Gafni, *Land, Center and Diaspora*, pp. 114-116.

Epilogue

The texts presented have demonstrated that the fourth century reflected a time of re-evaluation and reformation of Jewish sacred geography and Jewish world leadership. The Palestinian community entered into the Amoraic period as the unquestioned leaders of Jewry; by the end of the Amoraic period, they appear to have lost on almost all fronts to the Babylonians. Somewhere in between, this role reversal had taken place. The ramifications of the break would last until the modern period. In addition, this break from the center would become a paradigm that would now be repeated numerous times subsequently.[1] Spanish Jewry would make a break from the Babylonians, the central European community would break with the Sephardim, and even in the last century, the Reformers would make a break from the *halakha*. Many of the same elements that the Babylonians would look to for legitimacy would also be developed by these later breakaway groups. Each community would make the claim that they now lived in "the new Jerusalem." Each community would state that their sages held the greatest insights to the Torah. And each one of these communities would distance itself further from Eretz-Israel. Of course, each one of these breaks took place between communities that were outside of the actual Eretz-Israel and during a time when there were was no viable Jewish community in its land.

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[1] This concept that the break of Babylon from the Palestinian community should be seen as an often repeated paradigm is an idea developed by R. Bonfil and I. Gafni. For a discussion of its development, see I. Gafni, *Land, Center and Diaspora*, pp. 116, ff. 39.

We are living in a reality that has not existed since the fourth century. The people Israel have returned to reestablish itself in its ancestral homeland. Today, a Jewish government exists in Eretz-Israel. At the same time, Jewish centers continue to thrive outside of the Land, in Europe, in the former Soviet Union, and in North America. The Jewish community of the United States, in particular, is still the largest Jewish community in the world. It claims to be home of many major centers of Jewish study and spirituality. It has also spent much of the post-World War Two period staking its own claim as a key player in the leadership of the Jewish world, while the State of Israel has been laying out its own claims. We are once again in a situation where one community is utilizing the Land of Israel as its major claim to lead while another community states that spirituality and Torah knowledge guarantee its legitimate place at the top. In the world of scholarship, scholars argue whether or not all serious scholarship in the field of Jewish studies must be done in English. The political leadership of the two communities attempts to utilize the religious communities to further their agendas, while in the religious world, politics has in many case become more important than Torah. If we have returned to a similar situation, we must then ask what can be learned from the fourth century to direct this confrontation to a positive conclusion?

At the end of the Talmudic period, we saw that what remained was a complete cleavage between the communities that continued for two millenium. Each subsequent community carried on this pattern of cleavage, breaking away from the previous community. Each one of these breaks lead to the further disunity of the Jewish people. This continuous chain of secessions also lead to the point where the Jews of the Diaspora

became distant from the Land of Israel and those who continued to live within Eretz-Israel disappeared from the collective Jewish memory.

Unless we want to see this rift return as a possibly outcome of our differences, we need to recommit ourselves to a meaningful relationship that recognizes the two different realities without necessarily making it a issue of "all or nothing." It is possible for the major, and minor, communities to support one another through the sharing of what is strongest in both. The Jewish state can utilize the Land of Israel, and the elements that develop from a community of Jewish living within its land as the majority, to strengthen the Jewish people as a whole. It can bring about a resurgence of Jewish culture based on Hebrew language. It can bring the Torah tradition into the modern period through application of the tradition to the moral and ethical dilemmas that stem from being a Jewish nation state. The Diaspora communities can also bring its familiarity with mixing Judaism and the western culture to Israel to help find ways to resolve the contradictions of being both a western democracy and a Jewish state. In the same way that the *Nehutai* connected the two communities, new technologies and the breaking down of distances can lead to a real dialogue. We must just reaffirm our commitment to being one people.

> כל מחלוקת שהיא לשם שמים סופה להתקיים ושאינה לשם שמים אין סופה להתקיים איזו היא מחלוקת שהוא לשם שמים זו מחלוקת הלל ושמאי ושאינה לשם שמים זו מחלוקת קרח וכל עדתו.
>
> Every disagreement that is in the name of Heaven will in the end be fulfilled; that which is not in the name of Heaven, will not be fulfilled. What disagreement is in the name of Heaven? This is the disagreement between Hillel and Shammai. And what disagreement is not in the name of Heaven? This is the disagreement between Korach and his assembly.[2]

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[2] M. Avot 5:17.

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