Halevy, Halivni and The Oral Formation of the Babylonian Talmud

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ABSTRACT

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This dissertation is dedicated to a detailed analysis and comparison of the theories
on the process of the formation of the Babylonian Talmud by Yitzhak Isaac Halevy and
David Weiss Halivni. These two scholars exhibited a similar mastery of the talmudic
corpus and were able to combine the roles of historian and literary critic to provide a full
construct of the formation of the Bavli with supporting internal evidence to support their
claims. However, their historical construct and findings are diametrically opposed.

Yitzhak Isaac Halevy presented a comprehensive theory of the process of the
formation of the Talmud in his magnum opus *Dorot Harishonim*. The scope of his work
was unprecedented and his construct on the formation of the Talmud encompassed the
entire process of the formation of the Bavli, from the *Amoraim* in the 4th century to the
end of the saboraic era (which he argued closed in the end of the 6th century). Halevy was
the ultimate guardian of tradition and argued that the process of the formation of the Bavli
took place entirely within the amoraic academy by a highly structured and coordinated
process and was sealed by an international rabbinical assembly. While Halevy was
primarily a historian, David Weiss Halivni is primarily a talmudist and commentator on
the Talmud itself. Halivni offers his bold construct of the history of the formation of the
Bavli in the context of his commentary *Meqorot Umesorot*, which spans almost the entire
Babylonian Talmud. Halivni explains the process of the formation of the Bavli as taking
place well after amoraic times in a massive unstructured process of reconstruction. This
dissertation will demonstrate that both of the theories of Halevy and Halivni are in need
of careful analysis and revision. Halevy's construct despite providing valuable scholarly
insights is tainted by a strong ideological agenda. On the other hand, Halivni, as a literary

critic, provides insightful literary analysis and his conclusions on the uniqueness of the *stam* have been firmly established in contemporary scholarship. However, when analyzing Halivni's theory one must distinguish between his literary conclusions and his historical construct. The later is a constantly evolving theory, and it has presented numerous problems as it has developed over time, mainly in the introductions to *Meqorot Umesorot*.

The body of this dissertation consists of three chapters, each focusing on a different model for the formation of the Bavli. Chapter One focuses on Halevy, beginning with his biography and continuing with an in-depth analysis of the scope and purpose of his *Dorot Harishonim* and the ideological import of his research. The second chapter addresses the theory of Halivni on the formation of the Bavli. After a biographical sketch of Halivni's life, I review the scope and purpose of *Meqorot Umesorot* with a special emphasis on his scholarship *ki'peshuto*, followed by a detailed analysis of his model and the evidence he offers in support of it. The third chapter proposes an alternative model for the formation of the Talmud which combines aspects of Halevy's and Halivni's theories. I propose a model that includes a fixed oral text, accompanied by an oral fluid commentary. This dual form of transmission accounts for the diverse structure and style of the apodictic material and the dialectical interpretative argumentation of the *stam*. The fixed apodictic text, the proto-Talmud follows the basic contour of Halevy's model, while the understanding of the *stam* follows many aspects of Halivni's description of the reconstruction of the dialectical argumentation by the *Stammaim*. By applying form criticism to determine the *Sitz im Leben* of talmudic transmission and teaching, combined with recent scholarship on the various forms of oral transmission, I propose a framework which allows for a developmental model which integrates the perceptive historical insights of Halevy with Halivni's literary findings.

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For Iona

Introduction

THE FORMATION OF THE BABYLONIAN TALMUD

The Talmud

The Babylonian Talmud, known simply as the Bavli, is the collaborative effort of

generations of sages and the foundational legal and ethical document of rabbinic Judaism.

Maimonides, in his Introduction to the *Mishneh Torah* writes; "whatever is already

mentioned in the Babylonian Talmud is binding on all Israel . . . and those sages . . .

constituted the total body or the majority of Israel's wise men."[1] Since the Bavli

represents the activity of generations of sages and underwent a gradual process of

formation it contains multiple literary strata. Most *sugyot* consist of material representing

three layers—a tannaitic layer, consisting of *baraitot* or quotes from the Mishnah often

begin the discussion, an amoraic layer, consisting of *memrot* and other amoraic traditions

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[1]Moses Maimonides, *Mishneh Torah* (Bnei Berak: Mahadurat Shabtai Frankel, 1999), Introduction 3–4 as found in Moses Maimonides, *A Maimonides Reader*, in *Library of Jewish Studies*, trans. Isadore Twersky (New York,: Behrman House, 1972), 38. On Maimonides' view of the Bavli see Shamma Friedman, "The Rambam and the Talmud (Hebrew)," *Dine Israel* 26–7: 221–39 Gerald J. Blidstein, "Where Do We Stand in the Study of Maimonidean Halakhah?" in *Studies in Maimonides*, ed. Isadore Twersky (Cambridge, Mass.: Harvard University Center for Jewish Studies, 1991), 1–29; Jacob S. Levinger, *Darkhe Ha-Mahashavah Ha-Hilkhatit Shel Ha-Rambam: Mehkar `al Ha-Metodah Shel Mishneh Torah* (Jerusalem: The Hebrew University Magnes Press, 1965), 155–89; Hanina Ben-Menahem, "The Second Canonization of the Talmud," *Cardozo Law Review* 28, no. 1 (2006): 46–51; Binyamin Ze'ev Benedict, *HaRambam Leloh Sti'ah Min Hatalmud* (Jerusalem: Mosad ha-Rav Kook, 1985); Shamma Friedman, "'Wonder Not at a Gloss in Which the Name of an Amora is Mentioned': The Amoraic Statements and the Anonymous Material in the Sugyot of the Bavli Revisited (Hebrew)," in *Melekhet Mahshevet: Studies in the Redaction and Development of Talmudic Literature*, ed. Aaron Amit and Aharon Shemesh (Ramat Gan: Bar-Ilan University Press, 2011), 123–36. Appropriate in this context are the words of Ephraim E. Urbach: "The process which fused the decisions, *halakhot* and *sevarot* of Sages and scholars from generation to generation created a collective authority which can be seen as the sum total of the recognition enjoyed by those sages and scholars" (Efraim Elimelech Urbach, *The Halakhah: Its Sources and Development* [Israel: Massada, 1986], 347).

often comment on and expand upon the tannaitic material, and finally an editorial layer,

consisting of the words of the *stam ha'talmud* frame and organize the discussion.[2] The

later two strata are the primary components of the talmudic *sugyot*.

The primary difficulty of the reader of Talmud is to differentiate between the

attributed statements of the *Amoraim* and the stratum which comprises the anonymous

dialectical discussion surrounding these amoraic dicta.[3] Jeffrey L. Rubenstein describes

the differing styles of the two strata:

> These strata differ in form and style: Amoraic dicta (*meimrot*) are brief and
> "apodictic" a term Halivni borrows from biblical studies, and by which he
> means both terse and categorical. These typically consist of
> pronouncements of legal rulings or succinct explanations of an earlier
> source. The anonymous Talmud, by contrast, is verbose, expansive, and
> contains the Talmud's intricate and complex dialectical argumentation. It
> may include series of objections, solutions, rhetorical questions, and
> contrived and spurious propositions, sometimes extending over a full folio
> or more.[4]

The anonymous stratum not only encompasses the majority of talmudic material

but actually creates the framework of the *sugya*[5] into which the attributed amoraic

statements are inserted. The structure of the Talmud is therefore essentially anonymous

yet the lack of attribution in such a vast work which contains traditions that celebrates the

value of attribution is ironic.[6] As David W. Halivni remarks: "The authority of *hora'ah* is

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[2]See Judith Hauptman, "The Three Basic Components of the Sugya: The Tannaitic Passages, the Amoraic Statements and the Anonymous Commentary (Hebrew)," in *Melekhet Mahshevet: Studies in the Redaction and Development of Talmudic Literature*, ed. Aaron Amit and Aharon Shemesh (Ramat Gan: Bar-Ilan University Press, 2011), 39–55.

[3]Halivni notes that these terms are not found in the writing of the *Geonim* but are commonly used by the 12th century ashkenazic commentators, like the tosafits and R. Asher ben Jehiel, the *Asheri* See David Weiss Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud* (Jerusalem: The Hebrew University Magnes Press, 2012), 42.

[4]David Weiss Halivni, *The Formation of the Babylonian Talmud*, Introduced, Translated and Annotated Jeffrey L. Rubenstein (New York: Oxford University Press, 2013), xxi–ii.

[5]In my discussion I will use the Aramaic term *sugya* to mean any talmudic literary unit.

[6]This idea is quoted in several passages in the Bavli. The statement: " whoever says [a ruling] in the name of the one who originated it brings deliverance into the world, as it says 'and Esther told the King

derived from that of the individual Amora whose name is attached to a particular

hora'ah;[7] it bears no collective authority."[8]

As Rubenstein explains these two strata differ in form and style, and yet, it is not

always easy for the reader of Talmud to differentiate between material which belongs to

the *Amoraim* and that which we would attribute to the *stam*.[9] While it is useful to notice

that the apodictic material of the *Amoraim* is often in Hebrew, and the anonymous

stratum is primarily in Aramaic these distinctions are not absolute.[10] The nature as well as

the history behind these two varied strata has been a key element in the understanding of

the structure of the Talmud and it has been the subject of fierce debate, as will be

explained in this dissertation.

The Formation of the Talmud

Despite the centrality of the Bavli to rabbinic Judaism, the history of its formation

is elusive and remains an important topic of scholarly debate. There is a paucity of direct

evidence on the major questions concerning the Talmud's textual development and

redaction—and even indirect evidence is elusive. Louis Jacobs writes: "Judging by the

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in the name of Mordechai.'" (Esther 2:22) is indicative of this tradition. See examples in m. Avot 6:1, b. Hullin 104b and b. Niddah 19b. See David Weiss Halivni, *Meqorot Umesorot Leseder Mo'ed from Yoma Until Hagiga* (Jerusalem: The Jewish Theological Seminary, 1975), 5.

[7]Legal ruling.

[8]David Weiss Halivni, *Midrash, Mishnah, and Gemara: The Jewish Predilection for Justified Law* (Cambridge, Mass.: Harvard University Press, 1986), 67.

[9]I will address later the term *Stammaim* and its origin.

[10]H. Klein argued that the anonymous dialectical material is exclusively in Aramaic with the exception of technical Hebrew expressions. See Hyman Klein, "Gemara and Sebara," *JQR* XXXVIII (August 1947): 75–6 and 91. On the other hand, S. Friedman's position on the subject has evolved over time. Initially, his position was similar to Klein. See Shamma Friedman, "A Critical Study of Yevamot X with a Methodological Introduction (Hebrew)," in *Mehqarim Umeqorot* (New York: Jewish Theological Seminary, 1977), 301–2 and 301n60. For the development in Friedman's thinking on the topic, see Shamma Friedman, "'Wonder Not at a Gloss in Which the Name of an Amora is Mentioned': The Amoraic Statements and the Anonymous Material in the Sugyot of the Bavli Revisited (Hebrew)," 101–44.

Talmudic evidence, the final editors of the Talmud managed successfully to conceal their identity. Nowhere in the Talmud is there any definite statement about the process of redaction and how it was done and by whom."[11] Although the Mishnah also does not contain information about its editing process, it is clear that Rabbi Judah the Prince played a leading role. Several talmudic passages refer to Rabbi Judah the Prince as the editor of the Mishnah.[12] No such information is available for the Talmud's redaction and editing with the exception of a brief talmudic tradition found in b. Bava Metzi'a 86a: "Rav Ashi and Ravina—End of *hora'ah*," which does not describe or detail a redaction or editing process.[13]

This dissertation is dedicated to a comparison of the theory of two scholars who were able to combine the roles of historian and literary critic to provide a full construct of the process of the formation of the Babylonian Talmud with supporting internal evidence to support each claim: Yitzhak Isaac Halevy and David Weiss Halivni. Their mastery of the Talmud enabled them to present a comprehensive account of the development and history of the Bavli, a daunting task. In order to make a comprehensive argument, internal evidence needs to be brought from the vast talmudic material spanning over more than 2,700 folios. As J. Rubenstein writes:

> The reluctance to attempt vast and synthetic histories of the Bavli is certainly understandable in view of the formidable challenges entailed. To do so requires proficiency in the "sea of Talmud" in all its length and breadth, its thousands of folios, the variant manuscript traditions, the interrelationships and intertextual connections between its myriads of passages. One must possess exhaustive knowledge of parallel and related passages in the Mishnah, Tosefta, Yerushalmi, halakhic and aggadic

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[11]Louis Jacobs, *Rabbinic Thought in the Talmud* (Edgware, Middlesex ; Portland, OR: Vallentine Mitchell, 2005), 4.

[12]Halivni, *The Formation of the Babylonian Talmud*, 103, note 88 and the literature cited there.

[13]This short passage came to be a source of great controversy among scholars. See pp. 100 and 188.

midrashim, and in the complete corpus of rabbinic literature with which to compare Bavli traditions so as to reconstruct their development and metamorphoses.[14]

Yet while Halevy and Halivni are both masters of the talmudic text, their methodology is very different. While Halevy starts with a historical construct and proceeds to internal textual evidence to support his claims, Halivni's literary findings are what lead him to his theories regarding historic development. While Halevy is primarily a historian, Halivni is primarily a talmudist and commentator on the text. This dissertation will demonstrate that despite progress based on their theories we are still in need of additional models for our understanding of the historical construct of the process of the redaction of the Bavli. Halevy's construct despite providing valuable scholarly insights and findings is tainted by a strong ideological agenda. Halivni on the other hand, as a literary critic, provides an insightful literary analysis and his conclusions on the uniqueness of the *stam* have been firmly established and demonstrated. However, when analyzing Halivni's theory one must distinguish between his literary conclusions and his historical construct. Halivni's historical construct is constantly evolving, and it has presented numerous problems as it has developed. One of the major problems has been the placement of a hitherto unknown category of sages, the *Stammaim*, as central and actively involved in the redaction process, despite the lack of any historical or chronological records to support such a claim; here Halivni's theory contradicts R. Sherira's Epistle which was written less than two hundred years later. I will present in chapter three of this dissertation a workable framework that provides a plausible historical construct of the elusive history of the formation of the Bavli. By applying form criticism to determine the *Sitz im Leben* of talmudic transmission and teaching, combined with recent scholarship on the various forms of oral transmission, I will propose a model

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[14]Halivni, *The Formation of the Babylonian Talmud*, xviii–ix.

which allows for a plausible historical construct that integrates the perceptive historical insights of Halevy with Halivni's illuminating literary findings. This intermediate model allows for the return to historicity while at the same time applying Halivni's uniquely valuable literary insights. Moreover, the historical construct proposed can provide a compelling approach to solving the scholarly problem of dating the *stam* and the recurring evidence of early *stamot*. This method presents a model of transmission that demonstrates that this dilemma was predicated upon an erroneous understanding of the process of the Talmud's formation. My hope is that my conclusions will help to bridge some of the divides of talmudical scholarship and provide a platform for further detailed analyses of *sugyot* and the development of new ideas.

The Historical Accounts

The earliest account of the history surrounding the formation of the Bavli is found in *Seder Tannaim we-Amoraim* [henceforth: STVA], which was composed ca. 884 CE (or 886/7 CE),[15] during the geonic period—at the time of Hayya b. Nahshon Gaon of Sura and Şemah b. Paltoy Gaon of Pumbedita.[16] Although its author is unknown, S. Abramson believed the work to be of Suran origin.[17] However, R. Brody disagrees and sees no logical reason for assigning it to Sura.[18] STVA is divided into two parts: a historical

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[15]Kalman Kahana, "Seder Tannaim Weamoraim auf Grund Mehrerer," MA thesis (Wurzburg University, 1932), 7.

[16]Shraga Abramson, "The Textual History of Seder Tannaim We-Amoraim (Hebrew)," in *Studies in Rabbinic Literature, Bible, and Jewish History - Ezra Melamed Jubilee Volume*, ed. Yitzhak D. Gilat, Chaim Y. Levine, and Zvi Meir (Ramat Gan: Universitat Bar Ilan, 1982), 217; Robert Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture* (New Haven and London: Yale University Press, 1998), 344.

[17]See Abramson, "The Textual History of Seder Tannaim We-Amoraim (Hebrew)," 217.

[18]See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 9.

section and a methodological section.[19] The historical section contains a description of the chain of transmission of rabbinic tradition from the patriarchs through the middle of the third century. This is followed by a description of the chain of transmission in Babylonia during the next three centuries; including a list of the dates of death of the prominent Babylonian *Amoraim* and *Saboraim* followed by a concluding formula. Calculating the date of the work from the time of creation, yields a date in the 880s. The narrative then returns to the tannaitic period with a list of the *Tannaim* and their predecessors. Finally, in a concluding section, the author adds a third historical section, in which both *Tannaim* and *Amoraim* are listed by generation, from the time of Hillel and Shammai during the first century BCE to the time of R. Ashi and Ravina in the fifth century CE. The chronology extends beyond that date, although the text relating to the sages beyond that date is of doubtful authorship and is perhaps a late addition.[20] The methodological section contains a few remarks on the chronology of the *Amoraim* and the precise identification of sages followed by observations concerning the time and place in which they were active. Adding to the confusion, in the second section, the chronological order is maintained for the *Tannaim*; however, the account of the *Amoraim* is completely out of order.[21] Given these chronological problems, it is highly doubtful that STVA was the work of one author.[22] As Brody writes: "As a result, we cannot be sure that the date found at the end of the first historical section applies to the entire work as transmitted."[23]

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[19]The exact structure and content of this work require a separate analysis. Here it is important to note that the structure is complex and not always coherent.

[20]See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 275n30.

[21]See Abramson, "The Textual History of Seder Tannaim We-Amoraim (Hebrew)," 217.

[22]See Abramson, "The Textual History of Seder Tannaim We-Amoraim (Hebrew)," 217–8; Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 276. Brody believes that Abramson overemphasizes the incoherence of the text.

[23]Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 276.

Therefore, STVA is of doubtful attribution and accuracy.[24] Brody argues that it could be that the questioners from Qayrawan who queried R. Sherira believed that they had adequate sources concerning the amoraic period in STVA and R. Sherira felt compelled to address them and obliquely attack the accuracy of the work.[25] There is a critical edition of STVA,[26] however a full modern critical edition is still a desideratum.[27]

The second, and by far the most authoritative and extensive account of the talmudic period, is the Epistle of R. Sherira Gaon [henceforth: Epistle]. It was written in 986/7 CE (1298 of the Seleucid era) by R. Sherira Gaon of Pumbedita in response to a series of questions addressed to him by the community of Qayrawan.[28] The last question addresses the issue of the Saboraic era and it reads: "And the Saboraic rabbis—how were they ordered after Ravina, and which heads of the academies reigned after them, and for how many years did they reign, from then until now?"[29] In his response, R. Sherira expands the scope of the question and included information concerning the history of the

[24]Halevy was also critical of STVA. He believed the text was corrupt and the material disjointed. He thought it was a compilation of several chronologies and not the work of one author. See Isaac Halevy, *Dorot Harishonim* (Berlin, 1922), II:227n28.

[25]See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 21n6. For the instances where the Epistle directly contradicts STVA see David Goodblatt, *Rabbinic Instruction in Sasanian Babylonia*, in *Studies in Judaism in Late Antiquity ; v. 9* (Leiden: Brill, 1975), 36–7; Isaiah Gafni, *The Jews of Babylonia in the Talmudic Era: A Social and Cultural History (Hebrew)*, in *Monografyot Be-Toldot Am Yisrael* (Jerusalem: The Zalman Shazar Center for Jewish History, 1990), 246–7.

[26]Kahana, "Seder Tannaim Weamoraim auf Grund Mehrerer."

[27]Abramson, "The Textual History of Seder Tannaim We-Amoraim (Hebrew)," 217n1; Robert Brody, "On the Sources for the Chronology of the Talmudic Period (Hebrew)," *Tarbiz* 70, no. 1 (2001): 76.

[28]This information is contained in the heading of the Epistle in various manuscripts. See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 20n4; Sherira ben Hanina, *Iggeret Rav Sherira Gaon*, edited and annotated by Benjamin M. Lewin (Haifa, 1921), 2–4.

[29]Hanina, *Iggeret Rav Sherira Gaon*, 6. See also Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 10.

amoraic era.[30] R. Sherira addresses the topic of the formation of the Talmud, and

discusses the *Saboraim* twice in his response: once in the context of literary history, with

regard to their role in and their contribution to the process of formation of the Talmud,

and once as their role as contemporaries of the early *Geonim* in the context of institutional

history.[31]

Due to R. Sherira's affiliation with Pumbedita, some scholars have suggested that

R. Sherira presents the Pumbeditan view of Babylonian Jewish history.[32] However, as

Brody has argued, there is no good reason to question the accuracy of his account of the

events and the chronology of the sixth century.[33] R. Sherira relies on a variety of sources

and scholars debate whether the Epistle should be considered an independent

chronological source or whether R. Sherira used STVA.[34] Brody argues that the

chronology of the Epistle is in some cases similar to STVA,[35] while in others it varies

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[30]R. Sherira explains that misinformation had been circulating about the period and therefore he was compelled to record accurately the historical record. Brody notes that, "Although Sherira does not say so, he may also have seen this as an excellent opportunity to stress the great antiquity and glorious heritage of the Babylonian academies, and particularly his own academy of Pumbedita." See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 20–1.

[31]See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 4–5.

[32]This accounts for R. Sherira's failure to provide a specific account of the fortunes of Sura in early sixth century as well as his apparent dating of the end of the saboraic period. See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 9–10 and note 26 and the literature cited there. These assertions in my view are not an indication of R. Sherira's Pumbeditan tradition as will be discussed at length below.

[33]See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 10.

[34]H. Graetz believed that R. Sherira relied upon the confused chronology of STVA while Halevy took the opposite view. See Isaac Halevy, *Dorot Harishonim*, II:441–7; Brody, "On the Sources for the Chronology of the Talmudic Period (Hebrew)," 72. Many other scholars, including Yaakov Efrati, Daniel Sperber and Moshe Baer have addressed this topic. See summary of views in Brody, "On the Sources for the Chronology of the Talmudic Period (Hebrew)," 77.

[35]For instance, the chronology of events during the amoraic era is strikingly similar between STVA and the Epistle. See Brody, "On the Sources for the Chronology of the Talmudic Period (Hebrew)," 82–3.

considerably[36] and proposes that both STVA and the Epistle shared a common third

source that was lost.[37] According to this model, each one completed their chronology

from the third source at their disposal.[38] In Brody's opinion the lost source was of Suran

origin and included a chronicle of the *Amoraim* until the death of Rav Ashi and perhaps

beyond. This Q-like source may even reflect the origin of the chronology of the academy

of Sura during the early saboraic age noted in the Epistle.[39] Brody believes that such a

chronicle, spanning a period of over 200 years, is not the product of an individual but the

product of an established institution, perhaps of the exilarchate.[40]

    If Brody is correct the Epistle's credibility on the account of the amoraic period is

much enhanced. Before Brody presented his theory it was assumed that R. Sherira's

knowledge of the amoraic period and of the evolution of talmudic literature stemmed

principally from his interpretation of talmudic sources. Scholars debated whether R.

Sherira had access to reliable non talmudic sources.[41] Isaiah Gafni argues that even for

the amoraic period R. Sherira drew information from a variety of chronological lists,

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[36]For example, the account of *events* during the amoraic era varies significantly between STVA and the Epistle. See Brody, "On the Sources for the Chronology of the Talmudic Period (Hebrew)," 82–3. For more significant differences, see Brody, "On the Sources for the Chronology of the Talmudic Period (Hebrew)," 77–81; Goodblatt, *Rabbinic Instruction in Sasanian Babylonia*, 36–7; Isaiah Gafni, *The Jews of Babylonia in the Talmudic Era: A Social and Cultural History (Hebrew)*, 246.

[37]Brody's theory of a lost common shared source is similar to the Gospel's Q source—Quelle.

[38]Brody, "On the Sources for the Chronology of the Talmudic Period (Hebrew)," 83–99.

[39]See Hanina, *Iggeret Rav Sherira Gaon*, 94–9; Brody, "On the Sources for the Chronology of the Talmudic Period (Hebrew)," 91–2.

[40]See Brody, "On the Sources for the Chronology of the Talmudic Period (Hebrew)," 92–5.

[41]R. Sherira continually cites talmudic sources and hardly mentions other sources on the period. Brody notes that it is unclear whether he does so because his most important sources are talmudic or because his readers only had access to this material. See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 23.

making his broad chronological framework sound and free of major flaws;[42] nonetheless, that is not necessarily the case for the historiographic narrative of the talmudic period. In that narrative R. Sherira had a far more active and creative role.[43] David Goodblatt disagrees with Gafni arguing that the long span of time between the talmudic period and R. Sherira's Epistle highly decrease the likelihood that he had access to reliable chronological sources.[44]

Scholars are in agreement that R. Sherira's account of the post-talmudic era draws on written records of the two academies and the oral traditions which were current in his circles.[45] As a Pumbeditan *Gaon* it is clear that R. Sherira's knowledge of the events in Pumbedita were more detailed and perhaps more accurate than his records for Sura. The core of his account includes a description of the saboraic activities and a list of *Saboraim* with some details about them, followed by his account of the geonic period with a list of the *Geonim*, including the lengths of their terms (in most instances). For most of the Pumbeditan *Geonim* he also includes the date of their accession. The reliability of his account of the post-talmudic period is also corroborated by independent documentary evidence.[46] The Epistle's account of events is structured chronologically and the account

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[42]See Isaiah Gafni, "On the Talmudic Chronology in Iggeret Rav Sherira Gaon (Hebrew)," *Zion* LII, no. 1 (1987): 1–24.

[43]Isaiah Gafni, "On Talmudic Historiography in the Epistle of Rav Sherira Gaon: Between Tradition and Creativity (Hebrew)," *Zion* 73, no. 3 (2008): 271–96.

[44]See Goodblatt, *Rabbinic Instruction in Sasanian Babylonia*, 35–40.

[45]For a discussion whether these were family or institutional oral traditions see Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 22–3.

[46]For example, the persecutions during the rule of Yazdgird II in 448 CE (or 455 CE according to the French version) mentioned in the Epistle are corroborated by independent sources. See Hanina, *Iggeret Rav Sherira Gaon*, 96. These persecutions and impositions also affected the Christians (other than Armenians). Several of the Syriac acts of martyrs also mention the persecutions by Yazdgird II against the Jews. See Richard N. Frye, "The Political History of Iran Under the Sasanians," in *The Cambridge History*

is divided into centuries (according to the Seleucid era). The account of events alternate between the two leading academies of Sura and Pumbedita.

As is well known, the Epistle has been transmitted in two recensions. They are clearly two versions of the same work and do not show signs of authorial revision; it does not appear that R. Sherira ever revised his work in a second edition. The two versions differ in wording, grammar and even on some substantial points of content. The most famous difference between the two versions relates to R. Sherira's response concerning the oral versus written redaction of the Mishnah and the Talmud. As Brody has made clear, the question posed to R. Sherira assumed a written model: "The questioners appear to have taken it for granted that these and other works of talmudic literature were composed (and, presumably, transmitted) in writing."[47] Therefore, their question was: "How was the Mishnah written?"[48] And: "And also the Talmud, how was it written?"[49] The two recensions differ on R. Sherira's response: the so called "Spanish recension" adopts the questioners language of a written model, while the so called "French

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of Iran, ed. Ehsan Yarshater (Cambridge, London et. al.: Cambridge University Press, 2003), 147. See also Isaiah Gafni, "On the Talmudic Chronology in Iggeret Rav Sherira Gaon (Hebrew)," 11–3 for further corroboration of these persecutions. There were further persecutions mentioned in the Epistle that occurred in 469 CE (up to 473 CE according to the French version). See Hanina, *Iggeret Rav Sherira Gaon*, 96–7. These were the persecutions under Pērōz (Pīrūz) who ruled 459–484. For more details on Pērōz (Pīrūz) and the significance of the year 469 in his reign see Frye, "The Political History of Iran Under the Sasanians," 147–9; Parvaneh Pourshariati, *Decline and Fall of the Sasanian Empire: The Sasanian-Parthian Confederacy and the Arab Conquest of Iran* (London ; New York: I.B. Tauris in Association with the Iran Heritage Foundation, 2008), 380–4. For further details and corroborating data see Isaiah Gafni, "On the Talmudic Chronology in Iggeret Rav Sherira Gaon (Hebrew)," 12–3.

[47]Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 21.

[48]Hanina, *Iggeret Rav Sherira Gaon*, 5.

[49]Hanina, *Iggeret Rav Sherira Gaon*, 6.

recension"[50] avoids any mention of writing and uses the terms "redaction"[51] and

"formulation."[52] B. M. Lewin, the editor of the only critical edition of the Epistle,[53]

grouped the manuscripts into these two groups—one Spanish and one French, in parallel

columns, on the basis of this distinction. Lewin argued that the Spanish recension was for

the most part the original version, since he believed that Spanish scholars were in closer

contact with the *Geonim* and the Babylonian academies.[54] Thus, in his opinion, the

French recension was secondary.[55]

Both the division of the text of the Epistle into a Spanish and French grouping and

the preference for the Spanish version have been challenged in recent scholarship. The

nineteenth century division was predicated upon assuming that the views of medieval

scholars could be superimposed on the Babylonian *Geonim* and that they "edited" the

work to fit their pre-conceived views, rather than any other concrete evidence.

Furthermore, Brody has written: "particularly striking and significant is the fact that *all*

the fragments of the Epistle found in the Cairo *Geniza* belong to the so-called French

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[50]The terms "Spanish" and "French" originate in nineteenth century scholarship on the Epistle. They stemmed from the fact that medieval Spanish authorities, like Maimonides and R. Shmuel Hanagid, understood that the Mishnah and Talmud were written in an early period. Therefore, they called versions of the Epistle that used the terms *katav* as Spanish. On the other hand, versions that avoided the written model were termed "French" because of the opinion of French authorities like Rashi and R. Moses ben Jacob of Coucy, author of the *Sefer Mitzvot Gadol* (*SeMaG*). See J. N. Epstein, *Introduction to Amoraitic Literature: Babylonian Talmud and Yerushalmi (Hebrew)*, ed. Ezra Zion Melamed (Jerusalem: The Hebrew University Magnes Press, 1962), 610.

[51]Hanina, *Iggeret Rav Sherira Gaon*, 36.

[52]Hanina, *Iggeret Rav Sherira Gaon*, 31.

[53]Hanina, *Iggeret Rav Sherira Gaon*. It is worthy of note that Lewin was a disciple of Halevy.

[54]See Hanina, *Iggeret Rav Sherira Gaon*, xlvii, lvii—lx.

[55]See Hanina, *Iggeret Rav Sherira Gaon*, xlviiii—l.

recension!"[56] A closer analysis of the text indicates that the French recension is original. It is more faithful to geonic Aramaic and preserves the original text; difficult readings (*Lectio difficilior potior*) are left in place in the French version, while they are often interpreted and explained in the Spanish version. Moreover, the assumption of a written redaction has clearly been superimposed on the basic text which assumed a oral redaction as noted by Epstein.[57] Both recensions have the same reading in the following critical passage, demonstrating that R. Sherira assumed an oral model: "And as for what you wrote: How were the Mishnah and the Talmud written? The Talmud and the Mishnah were not written, but redacted, and the rabbis are careful to recite them orally and not from written[58] copies."[59]

In conclusion, today there is scholarly consensus that the so-called French recension is closer to the original text.[60] In this dissertation, for sake of simplicity, I maintain Lewin's classification of Spanish and French recensions, and any significant variants in the text of the Epistle will be noted.

Another contribution to the chronology of the talmudic period is found in Abraham Ibn Daud's Book of Tradition (*Sefer Haqabbalah*),[61] which was completed in

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[56]Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 22.

[57]See J. N. Epstein, *Introduction to Amoraitic Literature: Babylonian Talmud and Yerushalmi (Hebrew)*, 610–15; Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 22.

[58]Only the Spanish recension adds "and not from written copies."

[59]Hanina, *Iggeret Rav Sherira Gaon*, 71.

[60]Although in a few instances there are original readings in the so-called Spanish recension. See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 22. See examples on J. N. Epstein, *Introduction to Amoraitic Literature: Babylonian Talmud and Yerushalmi (Hebrew)*, 614–5. See also Halivni, *The Formation of the Babylonian Talmud*, 25n71.

[61]Abraham Ibn Daud, *The Book of Tradition (Sefer Haqabbalah)*, ed. Gerson D. Cohen (Philadelphia: Jewish Publication Society of America, 1967).

1161[62] in Toledo. *Sefer Haqabbalah* includes much of the same material as the Epistle but major differences as well. For example, *Sefer Haqabbalah* differs significantly from the Epistle regarding the date of the death of Ravina bar Huna and the redaction of the Talmud.[63]

Furthermore, Ibn Daud's survey of the geonic is materially different than the Epistle's account, and is replete with problems and inaccuracies.[64] As G. Cohen writes: "modern research into the history of the geonim has confirmed the trustworthiness of Sherira, but virtually shattered the credibility of Ibn Daud whenever he makes an otherwise unattested statement."[65] Cohen argues that Ibn Daud was guided by one post-talmudic source, which was closely related to the Epistle but not identical to it. Ibn Daud incorporated material from other works and reworked the Epistle's materials to create his own chronology.[66]

All of the works surveyed above can be classified as literature of the so called "chain of tradition" of the Oral Law (*shalshelet haqabbalah*). They detail the chronology of the sages who were the transmitters of the oral law. Another chronological work that

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[62]The date of the composition of the work is noted by Ibn Daud himself. See Ibn Daud, *The Book of Tradition (Sefer Haqabbalah)*, 43.

[63]While the Epistle has the date of Ravina bar Huna's death and the concurrent closing of *hora'ah* in 500/1, *Sefer Haqabbalah* has the date as 474/5. See Hanina, *Iggeret Rav Sherira Gaon*, 95; Ibn Daud, *The Book of Tradition (Sefer Haqabbalah)*, 42 (Hebrew 29). See pp. 116 for further details.

[64]His list of the first three generations of *Geonim* is indicative of the problems. The *Geonim* of Sura are placed in Pumbedita by Ibn Daud, and vice versa. See Ibn Daud, *The Book of Tradition (Sefer Haqabbalah)*, 177–9.

[65]Ibn Daud, *The Book of Tradition (Sefer Haqabbalah)*, 178.

[66]See Ibn Daud, *The Book of Tradition (Sefer Haqabbalah)*, 179–88. As we will explain in chapter one, Halevy, for ideological reasons, assumed that Ibn Daud had not seen the Epistle, and any errors encountered are due to faulty sources. Halevy thought that some of *Sefer Haqabbalah's* chronology is superior to the Epistle.

should be mentioned in this context is the *Seder Haqabbalah* of R. Menahem Meiri (1249–c. 1310).[67] His work was unique among the medieval rabbinic scholars[68] who offered theories about the process of the redaction of the Talmud; however, their comments were offered in the course of their commentaries on the Talmud or as introductions to their *halakhic* works. Thus, they do not provide a comprehensive and cohesive construct of the process. Halevy argued that the works of medieval scholars cannot be accepted as historical truth since historiography was not their objective; therefore, their historical assumptions and traditions are not reliable.[69] The Meiri's work on the other hand, although it was also published as his introduction to his commentary on m. Avot, is unique among them in that it is a historiographical work in the same genre of *shalshelet haqabbalah*. It details the entire chain of transmission until his days, noting the names of the sages and detailing their works. In addition he includes a brief summary of Jewish history from the creation of the world until his own time. As the Meiri himself noted, "Through [my commentary on] this Mishnah, I expand to [detailing] the entire chain of tradition, from the days of the Divine Creation of Adam until now."[70] As noted by S. Z. Havlin, his work expands beyond a pure historiographical account into

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[67]Menahem Meiri, *Seder Haqabbalah: History of the Oral Law and of Early Rabbinic Scholarship*, with introductions, indexes, explanatory notes and comments by Shlomo Zalman Havlin (Jerusalem and Cleveland: Ofeq Institute, 1995). The work was first published in 1821 and almost the entire edition was burned with very few copies remaining. It was thus unknown by many rabbinic authorities throughout the ages.

[68]For example, see Maimonides' view in the introduction to his commentary to the Mishnah in Moses Maimonides, *Mishnah: Im Pirush Mosheh Ben Maimon* (Jerusalem: Mosad Harav Kook, 1963), I:1–34 and in his introduction to *Mishneh Torah* in Maimonides, *Mishneh Torah*, I:1–4. See also Rashi in b. Bava Metzi'a 86a s.v. *sof*.

[69]See Isaac Halevy, *Dorot Harishonim*, II:228, 241,262 among various other instances.

[70]Menahem Meiri, *Sefer Hidushey Ha-Meiri Hanikra Beit Habehirah: Nedarim, Nazir, Sotah, Gittin, Qiddushin* (Zikhron Ya`akov: Hamakhon Lehotsa'at Sefarim Vekhitvey Yad Sheleyad Hamerkaz Lehinukh Torani, 1975), 7.

historiosophy—the analysis of events and of the character of the sages.[71] Meiri's sources

for the historiography of the talmudic period are primarily from rabbinic literature itself

and for the chronology of the post-talmudic period his main source is Ibn Daud's *Sefer*

Haqabbalah, although it is possible that he at times relied also on an hitherto unknown

Book of Tradition authored by R. Nissim ben Jacob, also known as Rav Nissim Gaon

(990–1062).[72] His account of the formation of the Talmud thus does not add any

significantly reliable original perspectives outside of the earlier works on the subject.[73]

These works were not historiography per se. As noted by Y. H. Yerushalmi,

"Their purpose was to establish and demonstrate an unbroken succession of teaching and

authority from the Bible, through the Talmud, and often up to the time of the author

himself."[74] There is now a scholarly consensus that the Epistle was not written in defense

of rabbinic tradition against Karaite criticism,[75] but rather the questions asked of R.

Sherira are representative of the sort of intellectual inquiry of the rabbanite intellectuals

of Qayrawan.[76] Nonetheless, it is clear that their interest was limited to the relation of

talmudic literature to earlier rabbinic law. Thus, biographical details about the sages are

few and far between and historical events are mentioned arbitrarily. Their account of the

process of the formation of the Talmud is neither comprehensive nor fully developed.

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[71]See Meiri, *Sefer Hidushey Ha-Meiri Hanikra Beit Habehirah: Nedarim, Nazir, Sotah, Gittin, Qiddushin*, xiv.

[72]Meiri specifically mentions R. Nissim Gaon only once in his work. See Meiri, *Seder Haqabbalah: History of the Oral Law and of Early Rabbinic Scholarship*, xxiv–xxviii.

[73]Meiri, *Seder Haqabbalah: History of the Oral Law and of Early Rabbinic Scholarship*, xlvi.

[74]Yosef Hayim Yerushalmi, *Zakhor: Jewish History and Jewish Memory*, in *The Samuel and Althea Stroum Lectures in Jewish Studies;* (Seattle: University of Washington Press, 1996), 31.

[75]See B. M. Lewin's introduction to the Epistle on Hanina, *Iggeret Rav Sherira Gaon*, v–xvii.

[76]See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 20n5.

These works, together with minimal internal evidence in the Talmud itself, is all we have

to rely upon in attempting to reconstruct the process of the formation of the Talmud.

Although Judaism throughout the ages was absorbed with the meaning of history and

there were a small number of historical works written by medieval Jews, the classic

position of rabbinic Judaism in the medieval era towards history can best be described as

aversion. As Yerushalmi writes, "far from indicating a gap in their civilization, it may

well reflect a self-sufficiency that ours no longer possesses."[77]

The desire for the creation of a historical construct for the formation of the Bavli

gained new impetus in the nineteenth century with the foundation of the modern study of

history as a discipline. Several Jewish historians published important works of Jewish

historiography that addressed the question of the formation of the Talmud. Heinrich

Graetz (1817–1891) in his *Geschichte der Juden*[78] and Isaac Hirsch Weiss (1815–1905)

in his *Dor Dor Vedorshaiv*[79] provided a general account of the process of the Talmud's

formation.[80] As historians they relied on the scant "historical" evidence available, namely

a few germane sources scattered in the Talmud, STVA, the Epistle and *Sefer*

Haqabbalah, as well as a small amount of independent corroboration of major events

from outside sources. The main problem was that these scholars were not talmudists and

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[77]Yerushalmi, *Zakhor: Jewish History and Jewish Memory*, 34.

[78]Heinrich Graetz, *Geschichte der Juden von Den Altesten Zeiten Bis auf die Gegenwart* (Leipzig, 1853–68), IV:350–2, 370–4, 377–8. See also Herman J. Blumberg, "Heinrich Graetz and Ze'ev Jawitz," in *The Formation of the Babylonian Talmud: Studies in the Achievements of Late Nineteenth and Twentieth Century Historical and Literary-Critical Research*, ed. Jacob Neusner (Leiden: Brill, 1970), 3–10.

[79]Isaac Hirsch Weiss, *Dor Dor Vedorshaiv* (Berlin ; New York: Platt & Minkus, 1923), III:208–30. See also Shamai Kanter, "I. H. Weiss and J. S. Zuri," in *The Formation of the Babylonian Talmud: Studies in the Achievements of Late Nineteenth and Twentieth Century Historical and Literary-Critical Research*, ed. Jacob Neusner (Leiden: Brill, 1970), 11–25.

[80]For a summary of their theories see Julius Kaplan, *The Redaction of the Babylonian Talmud* (New York: Bloch Publishing Company, 1933), 3–5, 13–9.

were not able to draw much material from a literary analysis of the talmudic text or from internal evidence. Due to the scarcity of material their theories were lacking and did not withstand critical analysis.[81] As J. Neusner writes: "The evidence they thought relevant was inadequate to answer the question they posed, and reliance on it led them inevitably to inadequate results."[82]

On the other hand, literary critics, scholars of talmudic literature who concentrated on precise study of the texts by means of modern, critical methods have made impressive progress in the analysis of the Bavli. For example, Zechariah Frankel[83] modified Graetz's theory by extending the saboraic era to 90 years while at the same time diminishing the extent of their contribution; however, he admitted that he did not reconcile the accounts found in geonic sources.[84] Several other noted twentieth century scholars, discussed below, further developed the analysis of the development of rabbinic literature. However, these scholars did not provide a comprehensive theory and account of the process of the formation of the Talmud, as they had little, if any, interest in historical questions. As further noted by Neusner, "they never translated the results of their literary criticism into historical categories of inquiry."[85] They began to distinguish the anonymous stratum from the attributed amoraic rulings based on literary and formal criteria as well as its distinct

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[81]For an analysis of their weaknesses see Kaplan, *The Redaction of the Babylonian Talmud*, 5, 17–9; Jacob Neusner, *The Formation of the Babylonian Talmud*, in *Studia Post-Biblica ; v. 17* (Leiden: Brill, 1970), 6, 16–9. Halevy criticizes their findings throughout his work. For examples see Isaac Halevy, *Dorot Harishonim*, II:198–203,205–10, III:1–3, 17–9 among many others.

[82]Neusner, *The Formation of the Babylonian Talmud*, x.

[83]Zacharias Frankel, *Monatschrift Fur Geschichte und Wissenschaft Des Judenthums* (1861): 258–67.

[84]Frankel, *Monatschrift Fur Geschichte und Wissenschaft Des Judenthums*, 267.

[85]Neusner, *The Formation of the Babylonian Talmud*, xi.

genre and terminology. This group of scholars includes H. Klein, Abraham Weiss and

Julius Kaplan. H. Klein's (ca. 1900–1958) contribution is found in his theory of the

stratification of the talmudic text into what he termed *Gemara* and *Sebara*[86] and their

respective functions in the Babylonian *sugya*.[87] Abraham Weiss (1895–1970) wrote

detailed studies and analysis of many *sugyot*, and his approach featured the separation of

the original amoraic statement from the explanation and the context augmented by later

editors. In his opinion, the Talmud is composed of short original statements, the *memrot*,

which were later reinterpreted and debated. The earlier *Amoraim* of the first and second

generation only composed *memrot* and these were later developed into literary units,

sugyot, by the later *Amoraim*. According to Weiss, these later editors even created

complete *sugyot*.[88] Julius Kaplan re-evaluates the opinions of earlier scholars and adduces

several new passages to demonstrate and either validate or discredit their theories.[89] He

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[86]He wrote several articles on the subject. See Klein, "Gemara and Sebara," 67–91; Hyman Klein, "Gemara Quotations in Sebara," *JQR* XLIII (March 1952): 341–63; Hyman Klein, "Some Methods of Sebara," *JQR* L (1959/60): 124–46; Hyman Klein, "Some General Results of the Separation of Gemara from Sebara in the Babylonian Talmud," *Journal of Semitic Studies* 3 (1956): 363–72. For a summary and an analysis of his view see Shamma Friedman, "A Critical Study of Yevamot X with a Methodological Introduction (Hebrew)," 293–308; Terry R. Bard, "Julius Kaplan, Hyman Klein and the Saboraic Element," in *The Formation of the Babylonian Talmud: Studies in the Achievements of Late Nineteenth and Twentieth Century Historical and Literary-Critical Research*, ed. Jacob Neusner (Leiden: Brill, 1970), 67–74.

[87]I will discuss Klein's theory in chapter three pp. 282.

[88]See Abraham Weiss, *The Babylonian Talmud as a Literary Unit (Hebrew)*, in *Sefarim Ha-Yotsim le-or Be-Hotsaat Ha-Mosad le-Zikhron Aleksander Kohut;* (New York: The Alexander Kohut Memorial Foundation, 1943); Abraham Weiss, *The Talmud in Its Development* (New York: Feldheim, 1954); Abraham Weiss, *Mehkarim Batalmud* (Jerusalem: Mosad Harav Kook, 1975); Abraham Weiss, *The Creation of the Saboraim (Hebrew)* (Jerusalem: The Hebrew University Press, 1953), 17–8. For a summary of his theory see Meyer S. Feldblum, "Prof. Abraham Weiss: His Approach and Contribution to Talmudic Scholarship," in *The Abraham Weiss Jubilee Volume* (New York, 1964), 7–80; Shamai Kanter, "Abraham Weiss: Source Criticism," in *The Formation of the Babylonian Talmud: Studies in the Achievements of Late Nineteenth and Twentieth Century Historical and Literary-Critical Research*, ed. Jacob Neusner (Leiden: Brill, 1970), 87–94; David Goodblatt, "Abraham Weiss: The Search for Literary Forms," in *The Formation of the Babylonian Talmud: Studies in the Achievements of Late Nineteenth and Twentieth Century Historical and Literary-Critical Research*, ed. Jacob Neusner (Leiden: Brill, 1970), 95–103.

[89]See Kaplan, *The Redaction of the Babylonian Talmud*.

postulates a distinction between the terms Talmud and *gemara*. In his view *gemara* is a

product of Talmud. While the Talmud relates to the discussions—arguments and

narrative—the *gemara* represents its terse conclusion and final ruling. However, in the

end both the *gemara* and the Talmud alternate. The *gemara* becomes the central point of

the literary unit of the talmudic *sugya* and the Talmud continues to develop around it.

These two forms coexist and interact.[90] He argues that the talmudic statement in b. Bava

Metzi'a 86a: "Rav Ashi and Ravina—End of *hora'ah*" relates to the end of *gemara* but

the Talmud's redaction continued until the end of the saboraic era.[91]

  Scholarship in the mid to late 20th century continued to offer important

contributions to the late nature of the *stam ha'talmud*. Parallel to Halivni's work on the

nature of the *stam ha'talmud*,[92] Shamma Friedman in his introduction to his commentary

on *Pereq ha-Ishah Rabbah*[93] also argues that the anonymous stratum post-dates the

amoraic one. However, as many scholars have noticed, Friedman's theory differs from

Halivni's.[94] In his article: "A Good Story Deserves Retelling: The Unfolding of the Akiva

Legend"[95] Friedman presents an alternative model. In contrast with Halivni, Friedman

argues that the anonymous voice in the Bavli is original and creative and that their role

extends well beyond just preserving or transmitting earlier traditions as theorized by

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[90]See Kaplan, *The Redaction of the Babylonian Talmud*, 195–235.

[91]See Kaplan, *The Redaction of the Babylonian Talmud*, 289–317. For a summary of his theory see Bard, "Julius Kaplan, Hyman Klein and the Saboraic Element," 61–74.

[92]See Jeffrey L. Rubenstein, "The Rise of the Babylonia Rabbinic Academy: A Reexamination of the Talmudic Evidence," *Jewish Studies, an Internet Journal* I (2002): 57–8.

[93]Shamma Friedman, "A Critical Study of Yevamot X with a Methodological Introduction (Hebrew).".

[94]See Rubenstein, "The Rise of the Babylonia Rabbinic Academy: A Reexamination of the Talmudic Evidence," 57–8.

[95]Shamma Friedman, "A Good Story Deserves Retelling: The Unfolding of the Akiva Legend," *Jewish Studies - An Internet Journal* 3 (2004).

Halivni. They reworked and reinterpreted traditions. In his opinion, this type of literary intervention was already present in the early stages of talmudic literature.[96] Friedman's approach is in many ways similar to the theory which will be presented in chapter three of this dissertation.

This dissertation is dedicated to a comparison of the theories of Yitzhak Isaac Halevy and David Weiss Halivni. Halevy's and Halivni's mastery of the Talmud is strikingly similar, however, the historical construct and the findings of these two scholars are diametrically opposed. Halevy was the ultimate guardian of tradition and sees the process of the formation of the Bavli as taking place entirely within the amoraic academy by a highly structured and coordinated process and sealed by an international rabbinical assembly. In contrast, Halivni explains the process of the formation of the Bavli as taking place well after amoraic times in an enormous yet unstructured process of reconstruction. Halivni's massive commentary, covering almost the entire Bavli, gives him the proper perspective for understanding the formation of the Bavli from within.

Yitzhak Isaac Halevy presented a comprehensive theory of the process of the formation of the Talmud in his magnum opus *Dorot Harishonim*. The scope of his work was unprecedented and his construct of the formation of the Talmud encompassed the entire process of the formation of the Bavli, from the *Amoraim* in the fourth century to the end of the saboraic era (which he argued closed at the end of the sixth century). Reading Halevy, it is clear that he carefully searched the entire corpus of rabbinic literature and analyzed each question in light of the data, drawing from parallels and inferences. His theories and findings are voluminous, including over three hundred pages in volumes II and III of his book. The weakness in Halevy's work, as will be explained in depth in chapter one, was his highly polemical nature and apologetic agenda. The convoluted rhetorical and narrative structure of *Dorot Harishonim* as well as Halevy's highly

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[96]Shamma Friedman, "A Good Story Deserves Retelling: The Unfolding of the Akiva Legend," 56–9, n9.

combative style caused his work to be largely ignored by the scholarly community.[97] Although David Goodblatt[98] summarized Halevy's findings and briefly commented on them he did not provide a critical detailed review of Halevy's voluminous evidence and postulations.

David Weiss Halivni, on the other hand, offers in his research a bold construct of the history of the formation of the Babylonian Talmud. Halivni's method is different than Halevy. While Halevy starts with a historical construct and proceeds to internal textual evidence to support his claims, Halivni does the opposite. His literary findings are what lead him to his theories regarding historic development. While Halevy is primarily a historian, Halivni is primarily a talmudist and commentator on the text. His theory develops throughout his commentary on the Bavli, *Meqorot Umesorot*. In his *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*[99] Halivni synthesizes his theory and the evidence that he has collected in the span of writing his commentary on most of the Bavli. The *mevo* to b. Bava Batra was recently translated into English and annotated by J. Rubenstein in the book *The Formation of the Babylonian Talmud*.[100] In retrospect, we can see that it is Halevy who is Halivni's "debate partner." Rubenstein writes in his introduction: "Halevy's Generations of the Former Sages (*Dorot Harishonim*), in particular, receives close attention, as it covers much of the same territory but reaches significantly different conclusions, and Halivni painstakingly explains why the rival claims should be rejected."[101] The competing claims of Halivni and Halevy have never

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[97]*Dorot Harishonim* has been out of print for a long time. Although it is difficult to ascertain the precise number of editions, the last known publication was an undated facsimile edition printed by Books Export Enterprises, Ltd. in Israel.

[98]Neusner, *The Formation of the Babylonian Talmud*, 26–47.

[99]Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*.

[100]Halivni, *The Formation of the Babylonian Talmud*.

[101]Halivni, *The Formation of the Babylonian Talmud*, xix.

been independently evaluated, compared and contrasted. This is necessary because such an evaluation can be a useful tool for scholarship on the history of the redaction of the Bavli. Halevy's work has been largely ignored and Halivni's work is still in the process of creation. Nonetheless, with Halivni's commentary almost complete it is a good time for careful evaluation.

In this dissertation I will critically review both the theories of Halevy and Halivni in light of their evidence and offer my own model for the formation of the Bavli. There is particular value in an analysis of Halevy's theories since they have been largely dismissed in modern scholarship. I will attempt to demonstrate that despite the ideological nature of Halevy's work he made a number of important and highly original contributions, with solid evidence, that add an important dimension to the process of formation of the Talmud.

One major shortcoming with both the theory of Halevy and Halivni is the peripheral role assigned by them to the oral dimension of the transmission of talmudic *sugyot* and the transition from an oral matrix where texts are transmitted orally to a literary setting of written texts in their constructs. Halevy devotes a total of two lines[102] to the question of the writing of the Bavli in the over 300 pages dedicated to the formation of the Talmud, just noting that *Rabanan de'Mefarshei,* the first generation of *Saboraim* were responsible for committing the Talmud to writing. According to Halevy, the recording of the Bavli in writing had no major impact upon the process of formation of the Talmud, and the activities of *Rabanan de'Mefarshei* or the later *Saboraim* was not impacted by it. Halivni also attributes a minor role to the transition from orality into a written literary culture, and he also does not address the mechanism of textual production and editing in an oral setting. Halivni is fully aware of the oral setting in talmudic transmission, as the critical roles of the reciters attest. In his view, the Talmud was

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[102]See Isaac Halevy, *Dorot Harishonim*, III:25–6.

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written during the second half of the eighth century or beginning of the ninth. This transition however was a *result* of the process of formation of the Talmud not a critical step in it—it was just coincidental. In his words, "When transmitters could not handle the vast amount of tradition, they resorted to writing."[103]

The dynamics of orality and its impact upon production and editing of texts, as well as the role of innovation and interpretation in an oral matrix versus a literary setting cannot be minimized. As Rubenstein writes:

> Yet there has been a great deal of interest lately on the complexities of oral cultures, interfaces of orality and literacy, and mechanisms of textual production and editing in conditions of orality. Some of this work can potentially sharpen our understanding of the formation of the Bavli and the similar dynamics within rabbinic culture.[104]

I will present a model that addresses these considerations in chapter three of this dissertation.

Orality and the Talmud

Recent scholarship has convincingly demonstrated the oral matrix of the rabbis even extending throughout the amoraic and the post-amoraic periods. There is scholarly consensus that the Bavli remained in oral form until the second half of the eighth century. Martin Jaffee in *Torah in the Mouth: Writing and Oral Tradition in Palestinian Judaism, 200 BCE–400 CE*,[105] and in his articles *"Oral Tradition in the Writings of Rabbinic Oral Torah: On Theorizing Rabbinic Orality,"*[106] and "Oral Tradition and Rabbinic Studies"[107]

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[103]Halivni, *The Formation of the Babylonian Talmud*, 123.

[104]Halivni, *The Formation of the Babylonian Talmud*, xxix.

[105]Martin S. Jaffee, *Torah in the Mouth: Writing and Oral Tradition in Palestinian Judaism, 200 BCE-400 CE* (Oxford ; New York: Oxford University Press, 2001).

[106]Martin S. Jaffee, "Oral Tradition in the Writings of Rabbinic Oral Torah: On Theorizing Rabbinic Orality," *Oral Tradition* 14, no. 1 (1999): 3–32.

[107]Martin S. Jaffee, "Oral Tradition and Rabbinic Studies," *Oral Tradition* 18, no. 1 (2003).

as well as Yaakov Elman in "Orality and the Redaction of the Babylonian Talmud"[108] have both demonstrated and explained the oral matrix of the *Amoraim*. Elman has progressed one step further, demonstrating a similar oral matrix in the formulaic structure of the *stam ha'talmud*.[109]

Additional dimensions in the orality of talmudic teaching and transmission have been provided by Yaacov Sussman in his work *Torah Sheb'al Peh' Peshutah Kemashma'a* (*Oral Torah Understood Literally*),[110] Nahman Danzig in *Me-Talmud al-Peh le-Talmud be-Ktav* (*From Oral Talmud to Written Talmud*),[111] Robert Brody in *Sifrut ha-Geonim veha-Tekst ha-Talmudi* (*Geonic Literature and the Talmudic Text*),[112] and in his book *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*,[113] and Talya Fishman in *Becoming the People of the Talmud*.[114] These scholars have collected vast materials from geonic literature demonstrating the nature of the oral transmission of the talmudic text even in post-amoraic times. They also postulate various theories about what prompted the transition from an oral matrix to a written culture at the end of the eighth century. The end of what Halivni terms the stammaitic period coincides with this

[108]Yaakov Elman, "Orality and the Redaction of the Babylonian Talmud," *Oral Tradition* 14, no. 1 (1999): 52–99.

[109]See Elman, "Orality and the Redaction of the Babylonian Talmud," 81–92.

[110]Yaacov Sussman, "Oral Torah Understood Literally (Hebrew)," in *Mehqerei Talmud*, vol. III:a, ed. Yaacov Sussman and David Rosenthal (Jerusalem: The Hebrew University Magnes Press, 2005).

[111]Nahman Danzig, "From Oral Talmud to Written Talmud: On the Methods of Transmission of the Babylonian Talmud and Its Study in the Middle Ages (Hebrew)," in *Bar-Ilan Annual 30–31* (Ramat Gan: Bar-Ilan University Press, 2006).

[112]Robert Brody, "Geonic Literature and the Talmudic Text (Hebrew)," in *Mehqerei Talmud*, vol. I, ed. Yaacov Sussman and David Rosenthal (Jerusalem: The Hebrew University Magnes Press, 1990), vol. 1 237–303.

[113]Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*.

[114]Talya Fishman, *Becoming the People of the Talmud: Oral Torah as Written Tradition in Medieval Jewish Cultures* (Philadelphia: University of Pennsylvania Press, 2011).

date. I argue that an additional dimension in this date is the completion by Anan of a competing Talmud during the tenure of R. Yehudai Gaon.[115] As R. Natrūnai Gaon describes it, Anan: "set down a Talmud of evil and iniquity for himself."[116] In this dissertation I will explore the correlation of these events to the written production of the Talmud and its transition from an oral text to a written document.

Recently there has been a great deal of interest in the complexity of oral cultures and the dynamics of oral transmission and performance. The conventional view of oral performance of tannaitic material as fixed verbal versions reproduced verbatim by sages, as described by Saul Lieberman in *Hellenism in Jewish Palestine*,[117] has been challenged. Albert Lord in his book *The Singer of Tales*,[118] argues that oral transmission as verbatim reproduction of text is only possible in a world of print where literary copies can act as control units. Elizabeth Shanks Alexander in her book *Transmitting Mishnah*[119] believes in a more fluid form of transmission of the Mishnah in which there is inherent fluidity of texts in an oral setting. Lord's findings however are not necessarily accurate across all oral societies. As noted by Ruth Finnegan in *Oral Poetry*,[120] in some traditions of oral

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[115]See Hanina, *Iggeret Rav Sherira Gaon*, 107. See also Moshe Gil, "The Origins of the Karaites," in *Karaite Judaism: A Guide to Its History and Literary Sources*, ed. Meira Polliack (Leiden and Boston: Brill, 2003), 74–5.

[116]Robert Brody, *The Responsa of Rav Netronai Bar Hilai Gaon* (Jerusalem: Ofeq, 1994), I:257–8 (138).

[117]Saul Lieberman, *Hellenism in Jewish Palestine* (New York and Jerusalem: The Jewish Theological Seminary of America, 1994), 83–99.

[118]Albert Bates Lord, *The Singer of Tales*, ed. Stephen Mitchell and Gregory Nagy (Cambridge, Mass.: Harvard University Press, 2000).

[119]Elizabeth Shanks Alexander, *Transmitting Mishnah: The Shaping Influence of Oral Tradition* (Cambridge and New York: Cambridge University Press, 2006).

[120]Ruth Finnegan, *Oral Poetry: Its Nature, Significance and Social Context* (Bloomington and Indianapolis: Indiana University Press, 1992).

poetry, the oral performers *do* think in terms of a fixed exemplar, and thus Mishnaic oral performance could belong to such a category.

In my work, I have been influenced by the research of Carol Fleisher Feldman. In her article "Oral Metalanguage"[121] Feldman analyzes the oral performance of the Wana's[122] *kiyori*. Their oral performance includes two parts: a short terse fixed text that demands interpretation—mostly ambiguous expressions with multiple possible meanings, followed by interpretation, done in a fluid conversational format. I have also drawn from the research of Jan Assmann. In *Religion and Cultural Memory*[123] Assmann argues that the most important distinction between an oral culture based on memory and a written culture can be found in the area of innovation.

A close reading of geonic responsa which address their oral transmission of texts and traditions yields a system similar to the *kiyori*. In applying form criticism to determine the *Sitz im Leben* of talmudic transmission and teaching, I propose a model that includes a fixed text, accompanied with fluid commentary. This dual form of transmission accounts for the diverse structure and genre of the apodictic material and the dialectical interpretative argumentation of the *stam*. While the amoraic rulings were preserved in a fixed format, the interpretative layer was purposely left in a fluid form in order to allow for creativity and transformation. Therefore, my model incorporates elements of both Halevy's and Halivni's theories. The fixed apodictic text, which was perhaps compiled into a proto-Talmud, follows the basic contour of Halevy's model, while the *stam* follows many aspects of Halivni's reconstruction. However, according to

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[121]Carol Fleisher Feldman, "Oral Metalanguage," in *Literacy and Orality*, ed. David R. Olson and Nancy Torrance (Cambridge: Cambridge University Press, 1991).

[122]A group of about five thousand people who live in the mountainous interior area in Indonesia and have several oral forms that include legal, priestly language and poetry. This type of oral performance will be discussed in chapter three below.

[123]Jan Assmann, *Religion and Cultural Memory* (Stanford: Stanford University Press, 2006).

my model the anonymous dialectical argumentation was transmitted (unlike Halivni), through the heads of the academy. Instead of being transmitted verbatim, the *stam* was transmitted in a fluid manner through the heads of the academy and then through the *Saboraim*. It therefore naturally grew over time as a hierarchical structure, where what is whole at one stage becomes part of a larger whole at the next stage.[124] My model differs from Halivni most on the question of the impact of writing. Halivni believes that the Talmud was only written due to the great accumulation of the anonymous dialectical material and the end of its reconstruction. I propose that the opposite is true. The *stam ha'talmud* was only finalized when the Talmud was transferred from an oral to a written form and written copies of the Talmud began to circulate, and thus any additions became clearly discernible as distinct from the text which they were added.

The body of this study consists of three chapters, each focusing on a different model for the formation of the Talmud. The chapters on Halevy and Halivni begin with a biographical sketch of their lives, derived to a large extent from their own words. These sketches aim to provide the proper context for reading and understanding their scholarly works. Their biographies inform the reader of their views and aspirations and provide a glance into their larger ideological and political agendas. Chapter One focuses on Halevy, beginning with his biography and continuing with an in-depth analysis of the scope and purpose of his *Dorot Harishonim* and the ideological import of his research. This chapter also includes a detailed description and evaluation of his model of the formation of the Talmud. The chapter concludes with a summary of the strengths and weaknesses of Halevy's model.

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[124]In a similar fashion to the hierarchical structure described by Ken Wilber, where a developmental sequence which is whole at one stage becomes part of a larger whole in the next stage of development. See Ken Wilber, *The Essential* (Boston & London: Shambhala, 1998), 55.

The second chapter addresses Halivni's theory on the formation of the Bavli. After a biographical sketch of Halivni's life, I review the scope and purpose of *Meqorot Umesorot* with a special emphasis on his scholarship *ki'peshuto*, followed by a detailed analysis of his model and the evidence he offers in support of it. Additionally, I contrast Halivni's theory with Halevy's and address issues scholars have raised with his model.

The third chapter proposes an alternative model for the formation of the Talmud which combines aspects of Halevy's and Halivni's theories. This chapter opens with an analysis of the oral matrix of rabbinic teaching during both the amoraic and post-amoraic period. It then examines various dynamics of oral cultures and their application in rabbinic teaching and the transmission of text, arguing that the writing of the Talmud is what brought the work to its conclusion. It is this development that prompted individual works to be written as separate entities from the Talmud. The chapter concludes with an analysis of the relative strengths of this hybrid model in contrast with the individual theories of Halevy and Halivni.

A Note on Translation of Text

All translations of text in this dissertation are my own. However, it should be noted that I have examined other translations that are available and incorporated them when I believe they are the most accurate rendering of the text. I have translated the talmudic texts within this dissertation from the standard Vilna edition but reviewed and checked against the extant textual witnesses. The vast majority of the texts are not controversial, and whenever the witnesses differ significantly, both versions are noted. Nevertheless, the reader is invited to turn to the appendix at the end of the dissertation for synopses of all the textual witnesses of the significant passages. All translations of the Epistle follow the so-called French recension in accordance with the text of the majority of the manuscripts. However, when the Spanish recension differs materially it is also noted.

CHAPTER 1

Y.I. HALEVY AND *DOROT HARISHONIM*
THE TRADITIONAL VIEW

Biographical Sketch

Yitzhak Isaac Halevy[1] was born into an eminent rabbinic family in Ivianiec, near

Vilnius, in 1847. On the epitaph of his tombstone, it is written that Halevy was a "scion

of the renowned Ivenec family in Russia"[2] whose members were noted rabbis and

scholars. One of Halevy's ancestors, R. Isaac Ivenecer, had been instrumental in the

founding of the famous Volozhin yeshiva.[3] Halevy's father, R. Elyahu, was in his

twenties when he was accidentally killed by a soldier in his home. As a result of this

tragedy, Halevy was raised and educated by his paternal grandfather, R. Nahum Haim,

whom he admired greatly.[4] R. Nahum Haim remained his mentor and teacher even after

Halevy moved to Vilnius to live with his maternal grandfather R. Mordecai Eliezer

Kovner, the author of *Karne Re'em*, after the great fire which destroyed Ivianiec in the

summer of 1858.[5]

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[1]His original name was Y. I. Halevy Rabinowitz. The surname Rabinowitz was later dropped. See O. Asher Reichel, *Isaac Halevy: Spokesman and Historian of Jewish Tradition* (New York: Yeshiva University Press, 1969), 26.

[2]See also Reichel, *Isaac Halevy: Spokesman and Historian of Jewish Tradition*, 15.

[3]See Shmuel Halevy, "My Father of Blessed Memory (Hebrew)," in *Yitzhak Isaac Halevy Memorial Volume*, ed. Moshe Auerbach (Bnei Brak: Netsah Yisrael, 1964), 13 for further details.

[4]Shmuel Halevy, "My Father of Blessed Memory (Hebrew)," 14; Reichel, *Isaac Halevy: Spokesman and Historian of Jewish Tradition*, 16. It is notable that both Halevy and Halivni share a similar fate as both were educated by their respective grandfathers whom they admired.

[5]Shmuel Halevy, "My Father of Blessed Memory (Hebrew)," 14–5 See also "Eine Kurze Biographie," *Der Israelit* 21 (23 May 1929): 1. For details about the fire, see S. J. Fuenn, *Kiryah Ne'emanah* (Vilna: Y. Funk, 1915), 306.

Halevy acquired a comprehensive knowledge of the Talmud at a very young age, and when he was thirteen years old he joined the Volozhin yeshiva where he became known as a Talmud prodigy and a favorite student of Rabbi Joseph Dober Soloveitchik, the author of the *Beit Halevy*.[6] Halevy did not remain long in the yeshiva in Volozhin, studying there for only one year and returning to Vilnius[7] to continue his studies. At the age of eighteen he married and immediately assumed a prominent role in rabbinical circles as a rabbi of the community of Berezin.[8] Halevy was primarily self taught in all subjects including his Torah studies.[9] Although Halevy developed a deep personal relationship with R. Soloveitchik, he considered the written works *Mishneh Lemelekh* (novellae on Maimonides' *Mishneh Torah* composed by R. Yehuda Rosanes [1657–1727]) and the *Noda Bi-Yehuda* (responsa composed by R. Yehezkel Landa [1713–93]) as his ultimate instructors.[10] Halevy's independent approach extended throughout his life and to his historiographical research as well, since he never pursued formal academic training in a university.

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[6]Shmuel Halevy, "My Father of Blessed Memory (Hebrew)," 15–7; Reichel, *Isaac Halevy: Spokesman and Historian of Jewish Tradition*, 16; Mordechai Breuer, *Modernity Within Tradition: The Social History of Orthodox Jewry in Imperial Germany*, Elizabeth Petuchowski (New York: Columbia University Press, 1992), 193; "Eine Kurze Biographie," 1–2. Halevy's son, Shmuel, notes that although the head of the yeshiva in Volozhin at the time was R. Naftali Berlin, the Netziv, Halevy developed a stronger and deeper relationship with R. Joseph Dober due to his greater analytical thinking. Shmuel adds that the only scholar ever mentioned by Halevy as his mentor was R. Joseph Dober. R. Joseph Dober usually addressed Halevy as "Beloved of God, my beloved and beloved by all." See Shmuel Halevy, "My Father of Blessed Memory (Hebrew)," 19.

[7]Upon his departure, Halevy presented a lengthy talmudic discussion in the presence of the students and faculty of the yeshiva which deeply impressed the attendees. For further details see: Shmuel Halevy, "My Father of Blessed Memory (Hebrew)," 16; Shaul Stampfer, *The Lithuanian Yeshiva (Hebrew)* (Jerusalem: The Zalman Shazar Center for Jewish History, 1995), 117; "Eine Kurze Biographie," 1.

[8]Shmuel Halevy, "My Father of Blessed Memory (Hebrew)," 16.

[9]Although Halevy studied as a young boy with his grandfather, he was mostly self taught. His studies as a young man in Volozhin did not last longer than one year.

[10]See the biography published in honor of the 15th anniversary of his death in "Eine Kurze Biographie," 1.

Halevy's early work, *Batim Labadim*, is a collection of novellae in the traditional

rabbinical analytical method on various talmudic topics, and attests to his erudition in all

rabbinic texts.[11] His unique approach to the analysis of talmudic *sugyot* is reflected in his

avoidance of forced solutions or abstruse analogies so common in the latter Talmud

commentators. Instead Halevy returns to the source of the problem and offers an

interpretation of the subject which attempts to eliminate the problem at its base.[12] Once

upon reviewing a new book written by a prominent scholar Halevy noted: "The difference

between my approach and that of the author is that while he has postulated eighty

solutions to a problem I search for a single solution that can resolve eighty questions."[13]

Halevy often quoted in this context the introduction of R. Joseph ben Meir Teomim's

(1727–1792) renowned *Pri Megadim* to the laws of *Shekhita* who noted that:

> We have seen from various authors solely the application of very subtle
> *sevarot*[14] employed in order to differentiate among contradictory
> [passages] without [providing] any support [for their assertions]. They
> have addressed problems differently in every instance, without providing a
> consistent framework for the understanding of what is being presented.[15]

His approach was in many ways similar to the one developed by the renowned

master of the Volozhin yeshiva, R. Hayyim Soloveitchik, who pioneered a similar

analytical method.[16] Halevy and Soloveitchik developed a strong relationship which

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[11]*Batim Labadim* is a treatise dealing with complex issues of *hazakah*, a *halakhi*c concept defining an assumptive state based on previous behavior. See Isaac Halevy, "Batim Labadim" (Bnei Brak, 2001). This work remained in manuscript and was only published in 2001.

[12]See the biography published in honor of the 15th anniversary of his death in "Rabbi Yizchok Halevy: Eine Kurze Biographie," *Der Israelit* 22 (30 May 1929): 1–2.

[13]Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, ed. O. Asher Reichel (Jerusalem: Mosad Harav Kook, 1972), 17.

[14]Logical explanations or propositions attempting to resolve textual problems.

[15]Quoted in "Rabbi Yizchok Halevy: Eine Kurze Biographie," 2.

[16]For details see Stampfer, *The Lithuanian Yeshiva (Hebrew)*, 118–25.

lasted throughout their lives.[17] Their friendship was described by Halevy in one of his letters as follows: "it is known in Russia that we were bound as two brothers, and that I was instrumental in his appointment to the yeshiva in Volozhin during its prime era. Every year he lived in my home for several months."[18]

In 1867, at the young age of 20, Halevy was appointed *gabbai* of the Volozhin yeshiva,[19] an honorable title awarded to a select few.[20] This position gave him responsibility for the internal affairs of the yeshiva, allowing the *Rosh Yeshiva* to focus his efforts on teaching and external affairs.[21] Halevy's involvement with the yeshiva lasted until it was closed by the Russian authorities in 1892.[22] Between 1868 and 1892, Halevy worked tirelessly to delay the closing of the Volozhin yeshiva, thwarting a concerted effort on the part of the *maskilim* to convince the Russian authorities to close the yeshiva in 1879.[23] Halevy's failure to prevent the closing and the controversies with the Russian *maskilim* likely played a role in developing his antagonism towards them and influenced the combative style later displayed in *Dorot Harishonim*.[24] The leadership role in the yeshiva catapulted Halevy into a prominent status in the community and enabled

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[17]Halevy was instrumental in securing R. Soloveitchik's participation in the founding conferences of the Agudah. See David Holzer, *The Rav: Thinking Aloud* (Miami Beach, 2009), 15–6.

[18]Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 165–6 (letter 96).

[19]Halevy was appointed *gabbai* with a unique role in the administration of the yeshiva despite having learned there for a very short period of time.

[20]See Shmuel Halevy, "My Father of Blessed Memory (Hebrew)," 17; Reichel, *Isaac Halevy: Spokesman and Historian of Jewish Tradition*, 17 for further details.

[21]Shmuel Halevy, "My Father of Blessed Memory (Hebrew)," 17.

[22]For details on this historical event see Stampfer, *The Lithuanian Yeshiva (Hebrew)*, 208–50.

[23]"Eine Kurze Biographie," 1–2 For further details on this episode see Stampfer, *The Lithuanian Yeshiva (Hebrew)*, 215–6; Shmuel Halevy, "My Father of Blessed Memory (Hebrew)," 24–8.

[24]See a similar comment in Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 6.

him to participate in decisions regarding many communal affairs.[25] As his son Shmuel

noted in his father's biography: "From the time that he was appointed as the *gabbai* of

Volozhin, no decisions were taken by the orthodox community in Russia without his

participation and approval."[26] In particular he excelled in polemic activities in defense of

the orthodox establishment both in writing and action.[27] It is clear that throughout his life

he reveled in his participation in communal decisions and controversies, and thus

developed strong ties with the most prominent rabbinic figures in Russia of the time. This

included, the head of the Volozhin yeshiva, R. Zvi Yehuda Berlin, also known as the

Netziv,[28] and the famed R. Hayyim Ozer Grodzinsky of Vilnius[29] among many others.

His lifelong relationship with R. Hayyim Ozer began when the latter was a young man

and it deepened over the years. This long lasting relationship with one of the leading

figures of Lithuanian yeshivot would prove to be pivotal in Halevy's future role and

mission.[30]

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[25]Shmuel Halevy, "My Father of Blessed Memory (Hebrew)," 18.

[26]Shmuel Halevy, "My Father of Blessed Memory (Hebrew)," 18. See also Reichel, *Isaac Halevy: Spokesman and Historian of Jewish Tradition*, 18–26; Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 4–11; "Eine Kurze Biographie," 1–2.

[27]See notable examples in Shmuel Halevy, "My Father of Blessed Memory (Hebrew)," 28–35; Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 9–11; Reichel, *Isaac Halevy: Spokesman and Historian of Jewish Tradition*, 23–6. See also Mordechai Breuer, *Modernity Within Tradition: The Social History of Orthodox Jewry in Imperial Germany*, 193 for further details.

[28]See Shmuel Halevy, "My Father of Blessed Memory (Hebrew)," 26–7; Reichel, *Isaac Halevy: Spokesman and Historian of Jewish Tradition*, 20–1.

[29]See Reichel, *Isaac Halevy: Spokesman and Historian of Jewish Tradition*, 21–2. See also Shmuel Halevy, "My Father of Blessed Memory (Hebrew)," 39–41 and 43–4 for some notable examples of their close relationship.

[30]R. Hayyim Ozer's prominent role in Agudath Israel founded by Halevy was a result of their close relationship. See Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 7; Reichel, *Isaac Halevy: Spokesman and Historian of Jewish Tradition*, 21. For a fascinating example of their mutual admiration in Halevy's correspondence see Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 167–8 (letter 98). Furthermore, as we will discuss below, R. Hayyim Ozer was influential in Halevy's composition of *Dorot Harishonim*.

Halevy's home during this period was a hotbed of activity. He hosted many

rabbinic figures from abroad in their visits to Vilnius. His hospitality enabled him to

forge a relationship with a wide cross-section of rabbinic authorities from Europe and

Israel and vastly extend his network of contacts.[31] Halevy was a talented and savvy

political activist who built an unmatched network of orthodox rabbinic authorities from

the most diverse locales and affiliations, both *mitnagedim* and *hasidim*.

During this period Halevy made his living as a tea wholesaler, a pursuit that

required his attention from the afternoon until late at night. However, in 1895 his life

drastically changed when his tea business failed as a result of an unsuccessful venture into

a foreign tea exchange. Halevy was forced to flee Russia and wander for several years

until he finally settled in Bad Homburg in 1901.[32] These years of wandering lead him to a

variety of locales, including London and Paris, and allowed him to further expand his

contact with a global network of rabbinic and community leaders of the west. The sudden

exile turned out to be a blessing in disguise as both his new milieu and his wandering

prompted him to embark on the two defining projects of his life: the writing of *Dorot*

Harishonim and his role as the visionary and architect of Agudath Israel.

Upon his arrival in Pressburg, Bratislava in 1895, after a long and arduous stay in

several different communities, Halevy decided to dedicate his efforts to writing and

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[31]See Shmuel Halevy, "My Father of Blessed Memory (Hebrew)," 18. Halevy developed similar relationships with the most diverse figures, from the Zionist R. Kook to the anti-Zionist R. Yosef Hayyim Sonnenfeld. See Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 51–2 . For notable examples of the mutual admiration between R. Kook and Halevy see their correspondence in Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy* and Abraham Isaac Hakohen Kook, *Igrot Ha-Re'iyah* (Jerusalem: Mosad Harav Kook, 1961). R. Kook was even asked by Halevy's son, Shmuel, to compose Halevy tombstone. See pp. 49 below and Kook, *Igrot Ha-Re'iyah*, II:202–3.

[32]For details see Shmuel Halevy, "My Father of Blessed Memory (Hebrew)," 35–45; Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 12–5; Reichel, *Isaac Halevy: Spokesman and Historian of Jewish Tradition*, 27–31.

publishing. We can surmise that Halevy's decision stemmed in part from his inability to be directly involved in the communal affairs of a new community where he was unknown.[33] Initially Halevy focused on preparing the manuscript of his novellae, *Batim Labadim*, for publication. However, he soon realized that he lacked sufficient funds.[34] As a result, Halevy decided to complete the initial volume of what would become his magnum opus: *Dorot Harishonim*.[35] Halevy's emphasis on the new project was also a strategic decision, since he felt that *Dorot Harishonim* would attract sponsors interested in his approach to *Wissenschaft*. During a stay in Frankfurt he befriended R. Mordechai Horovitz who had numerous connections with the wider community and Horovitz introduced him to the Chief Rabbi of Paris at the time, R. Zadoc Kahn. Halevy's relationship with Kahn proved to be valuable for his scholarly pursuits. Kahn arranged for the French journal, *Revue des Études Juives* to publish a draft version[36] of his manuscript of *Dorot Harishonim* in French, which included his theories on the redaction of the Talmud and the saboraic era. The publication of Halevy's articles brought his theories to the attention of scholarly circles in Western Europe. Kahn was also instrumental in attaining the sponsorship of the *Alliance Israelite Universelle* for the publication of the initial volume of *Dorot Harishonim* in 1897 and even to commit to additional funding for

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[33]Despite the fact that he only stayed five months in Pressburg, Halevy was still able to become involved with the local yeshiva. See Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 13; Reichel, *Isaac Halevy: Spokesman and Historian of Jewish Tradition*, 29.

[34]As noted earlier, it remained in manuscript form until its publication in Israel in 2001.

[35]The First Generations. His compendium eventually included four volumes.

[36]His article was published in two parts in Isaac Lévi, "The Closing of the Talmud and the Saboraim (French)," *Revue Des Etudes Juives* 33 (1896): 1–17 and in Isaac Lévi, "The Closing of the Talmud and the Saboraim (French)," *Revue Des Etudes Juives* 34 (1897): 241–50 and it was later reviewed and severely criticized by Abraham Epstein in Abraham Epstein, "Les Saboraim," *Revue Des Etudes Juives* 36 (1898): 222–36. The final version published in the *editio princeps* of *Dorot Harishonim* in 1901 was rewritten and corrected in order to address Epstein's comments.

the publication of Halevy's second volume. However, the funding for the second volume fell through, most likely as a result of the polemic tension created by the publication of the first volume.[37] The first volume of *Dorot Harishonim* was published in 1897.[38] The primary focus of the book is the history of the *Amoraim* who lived after Rav Ashi and the activities of the *Saboraim*, encompassing the period from the completion of the Talmud to the end of the geonic period. The title page of the book identified the volume as *helek shelishi* (Volume III), which hints at Halevy's intention of his work encompassing the entire expanse of Jewish history. Three years later, Halevy managed to publish the second volume,[39] which addressed the era from the end of the Mishnah until the completion of the Talmud. This volume is dedicated to the contribution of Abaye and Rava to the formation of the Talmud and the activities of the earlier *Amoraim* and concludes with a description of the editorial activity of Rav Ashi and his rabbinical assembly . As Halevy wrote in the introduction to Volume III, he had intended to publish Volume II beforehand;[40] however, because of his travels and the inaccessibility of books he was forced to delay the publication of Volume II.[41] Interestingly, Volume II was dedicated to Baron Wilhelm Carl de Rothschild, the pious philanthropist, who paid the printing costs and died a month before the publication of Volume II.

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[37]See Shmuel Halevy, "My Father of Blessed Memory (Hebrew)," 37–9; Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 13–4; Reichel, *Isaac Halevy: Spokesman and Historian of Jewish Tradition*, 29–30.

[38]Pressburg [Bratislava], 1897.

[39]Frankfurt-am-Main, 1901.

[40]Due to the importance of the understanding of the process of formation of the Talmud. In his opinion the Talmud was the work of Abaye and Rava; this is in contrast with the traditional view which attributed the redaction of the Talmud to Rav Ashi.

[41]See Isaac Halevy, *Dorot Harishonim*, III:Introduction. See also Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 14–5; Reichel, *Isaac Halevy: Spokesman and Historian of Jewish Tradition*, 30–1.

Rothschild's agreement to aid the publication of *Dorot Harishonim* was part of the fruits of Halevy's relationship with the rabbinic circle of Frankfurt. Rothschild was influenced by the recommendation of the rabbis of Frankfurt, R. Mordechai Horowitz and Salomon Breuer, the son-in-law and successor of R. Samson Raphael Hirsch. Although Hirsch was a vocal critic of *Wissenschaft des Judentums* and in particular of the pursuit of historical truth,[42] nonetheless, Halevy was successful in obtaining Breuer's endorsement of his *Dorot Harishonim*, a further confirmation of his political acumen.[43] Upon sending Breuer sections of Volume II which had come off the press during the summer of 1900 he included a note saying, "knowing your purest desire for all holy things in Israel . . . I am confident that you will rejoice to see how through my hand, God has fulfilled the desire of all pious Jews to establish *Hokhmat Israel* and Jewish history properly and to restore them to their rightful place."[44]

After his stay in Bratislava, Halevy moved for a few months to the town of Bad Homburg near Frankfurt where he was warmly received in the home of the local rabbi, Heymann (Samuel) Kottek (1860–1912). Kottek grew to become Halevy's most loyal admirer, confidant and closest friend.[45] Halevy finally settled in Hamburg in 1902 where he assumed the post of Rabbiner of the Leib Shaul *Klaus*, one of the numerous foundations established by wealthy patrons for subsidizing rabbinical scholars. The Leib

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[42]See Samson Raphael Hirsch, *The Nineteen Letters on Judaism*, Breuer, Jacob <e>, trans. Bernard Drachman (Jerusalem: Feldheim Publishers, 1969), 128 (18th letter); Mordechai Breuer, *Modernity Within Tradition: The Social History of Orthodox Jewry in Imperial Germany*, 177–80; Noah H. Rosenbloom, *Tradition in an Age of Reform: The Religious Philosophy of Samson Raphael Hirsch* (Philadelphia: Jewish Publication Society of America, 1976), 272.

[43]Despite Hirsch's criticism of *Wissenschaft des Judentums*, he praised Halevy (in an unpublished letter dated 1887) for his polemical writings and encouraged him to continue with his works and with his controversies with the *maskilim*. See text of the letter in Asaf Yedidya, *Criticized Criticism: Orthodox Alternatives to Wissenschaft Des Judentums 1873–1956 (Hebrew)* (Jerusalem: Bialik Institute, 2013), 155.

[44]Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 81 (letter 5).

[45]Mordechai Breuer, *Modernity Within Tradition: The Social History of Orthodox Jewry in Imperial Germany*, 193. See also Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy* for examples of the vast correspondence between them.

Shaul *Klaus* foundation was established in 1810 with the stipulation that its rabbis be nonresidents who devote their time primarily to the study of Torah. In order to insure this goal, the foundation forbade scholars who held the position to serve as rabbinical judges.[46] Halevy held this position until the end of his life and it provided him with ample time to continue with the writing of *Dorot Harishonim*.[47] His only rabbinic obligation during this time consisted of a weekly Talmud class which he gave to a group of outstanding talmudists of Hamburg.

Not long after his settlement in Germany, Halevy resumed his communal and political activities which now extended not only to continental Europe but also to the Holy Land. His political influence ranged from the appointments of chief rabbis in Jerusalem[48] and Constantinople[49] to directing the orthodox establishment in their relationship with government authorities[50] and in their controversies with the *maskilim*.[51] One of his initial political endeavors was close to home. In 1902[52] he was joined by prominent orthodox scholars[53] in forming the *Jüdisch-Litterarische Gesellschaft* in

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[46]See Reichel, *Isaac Halevy: Spokesman and Historian of Jewish Tradition*, 32.

[47]See Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 81 (letter 4). It is evident that Halevy was very involved in securing this post and that in order to achieve his goal he activated all of his various contacts.

[48]See Reichel, *Isaac Halevy: Spokesman and Historian of Jewish Tradition*, 34–5; Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 17–8. See also his correspondence in Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 116 (letter 43).

[49]See Reichel, *Isaac Halevy: Spokesman and Historian of Jewish Tradition*, 35–6.

[50]See Reichel, *Isaac Halevy: Spokesman and Historian of Jewish Tradition*, 37–8.

[51]See Reichel, *Isaac Halevy: Spokesman and Historian of Jewish Tradition*, 37–8; Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 19–20 and 201 (letter 52a).

[52]The same year as the founding of the liberal *Berlin Gesellschaft zur Foerderung der Wissenschaft des Judentums*. See Fred Skolnik and Michael Berenbaum, *Encyclopaedia Judaica* (Farmington Hills, Mich.: Macmillan Reference USA, 2007), s.v. Juedisch-Literarische Gesellschaft.

[53]Rabbis Solomon Bamberger, Jonas Bondi, Heymann Kotek and Moses Marx together with the educator Gerson Lange. See Skolnik and Berenbaum, *Encyclopaedia Judaica*, s.v. Juedisch-Literarische

Frankfurt. The Society's stated objectives were to "advance rigorous scientific efforts which are suitable for deepening the knowledge of the verity of traditional Judaism."[54] Naturally only scholarship which fit the orthodox *Weltanschauung* was sponsored, making the Society's chief concern apologetic. As a result, theories such as the documentary hypothesis of biblical criticism were rejected, while studies on rabbinic texts were encouraged. In pursuit of its scholarly aims the Society published an annual[55] publication entitled *Jahrbuch der Jüdisch-Literarischen Gesellschaft*[56] and it sponsored such scientific-apologetic works as Halevy's *Dorot Harishonim* and H. Kottek's *Geshichte der Juden*. The society became a valuable tool for achieving the aims of the orthodox *Wissenschaft* enterprise, extending Halevy's influence by gathering like minded scholars who followed his approach.[57] Halevy was deeply involved in every aspect of the Society's activities.[58] The society was also responsible for the publishing of the third installment of *Dorot Harishonim* in 1906 (volume Ic),[59] covering the period from the last days of the Hasmoneans until the Roman procurators, and for the publishing of the next installment (volume Ie) in 1918,[60] four years after Halevy's death.

Gesellschaft; Yedidya, *Criticized Criticism: Orthodox Alternatives to Wissenschaft Des Judentums 1873–1956 (Hebrew)*, 182–4.

[54]*Der Israelit* 17 (1902): 383.

[55]It was published semi-annually from 1932.

[56]It was published from 1903 until 1932. Solomon Bamberger was its editor from 1903 until 1920 and Jonas Bondi was the editor from 1920 until 1929. See Yedidya, *Criticized Criticism: Orthodox Alternatives to Wissenschaft Des Judentums 1873–1956 (Hebrew)*, 184.

[57]See Reichel, *Isaac Halevy: Spokesman and Historian of Jewish Tradition*, 45–6; Yedidya, *Criticized Criticism: Orthodox Alternatives to Wissenschaft Des Judentums 1873–1956 (Hebrew)*, 182–7.

[58]For notable examples see Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 89 (letter 17), 91 (letter 18a), 106 (letter 37) among numerous other correspondence.

[59]Frankfurt a.m., 1906.

[60]Frankfurt a.m., 1918.

An additional political movement which attracted Halevy was the *Freie Vereinigung für die Interessen der Orthodoxen Judentums* (Free Association for the Interests of Orthodox Judaism) which was formed by R. Samson Raphael Hirsch in Frankfurt in 1886 to assist and strengthen the struggling traditional communities.[61] The association was reorganized in 1907 to represent the interest of the orthodox communities throughout Germany and attracted several prominent leaders to its fold.[62] Halevy enthusiastically approved of this development and was particularly happy that the new association brought together the Frankfurt and Berlin orthodox leadership.[63] Halevy decided to take an active role in the *Freie Vereinigung*'s operations and particularly in expanding its activities in Palestine. Upon invitation by Jacob Rosenheim, Halevy became a member of the organization's Commission on Literature and Publicity and the Palestine Commission. Halevy's main interest was in one of the subcommittees of the Palestine Commission which was dedicated to the educational activities in Palestine and it enabled him to influence the orthodox educational system there. He perceptively suggested naming the Palestine Commission the "Spiritual Commission" or "Cultural Commission of Eretz Israel" instead of "Torah Commission," in order to allow for equal standing with other European organizations such as the *Alliance* and the *Hilfsverein*.[64] Giving the subcommittee a general "cultural" title would force these organizations to deal

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[61]Rosenbloom, *Tradition in an Age of Reform: The Religious Philosophy of Samson Raphael Hirsch*, 119–20.

[62]For details see Reichel, *Isaac Halevy: Spokesman and Historian of Jewish Tradition*, 93; Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 48.

[63]Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 126 (letter 49).

[64]Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 131 (letter 59).

with Halevy in an official capacity, a further demonstration that to Halevy, a skilled strategist, politics and cultural endeavors went hand in hand.

In his position as a member of this subcommittee, Halevy was involved extensively with the development of the orthodox educational system in Palestine, and through its activities he developed a close relationship with R. Abraham I. Kook (1865–1935). This relationship is documented in their extensive correspondence which included a wide variety of topics, from educational issues[65] to political matters.[66] Halevy soon realized that the *Freie Vereinigung* could at best be a stop gap measure in preventing the decline of orthodoxy in Germany. He quickly understood that in order to strengthen the community and to face the enormous challenges emerging from the new denominations of Judaism it was necessary to unite and to form a global orthodox political body. In a letter to Jacob Rosenheim, who later became the first head of the organization, Halevy wrote: "The *Freie Vereinigung* itself will only achieve great success after the creation of a great organization which will unite all orthodox Jews."[67] Consequently, Halevy embarked on what would become the crowning political achievement of his career: the establishment of a world-wide orthodox Jewish body—"Agudath Israel."

Due to their dispersion throughout the world, the orthodox Jewish communities in the nineteenth century were fragmented and heterogeneous; their only common bond was their commitment to *halakhah* according to the orthodox approach. Although levels of

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[65]See Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 152–3 (letter 80a); Kook, *Igrot Ha-Re'iyah*, I:184–90 (letter 146).

[66]An example is the question of the extent of German influence over institutions in Palestine. See Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, I:145–6 (letter 73a) and R. Kook's response in Kook, *Igrot Ha-Re'iyah*, 184–90 (letter 146). While Halevy was worried about the possible influence of the Germans upon the orthodox community in Palestine, R. Kook assured him of the strong stance of the community and its distance from German customs.

[67]Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 158 (letter 86).

observance varied widely among the so-called orthodox communities, the identification with the abstract label "orthodox"[68] created a common bond among them. Nonetheless, the differences among the various communities in Europe, east and west, in their life-style, language, cultural values and their relationship to non-Jewish culture were immense.[69] The realization of Halevy's plan for an international organization which would unite rabbinical authorities from the east and west was a monumental task and required the credibility and acumen of a skilled politician. Halevy's international exposure, having lived both in the east and the west, positioned him as an ideal executor of such an endeavor.[70] Halevy's first step was to convene a meeting of leading rabbinical authorities which was held at his home in Bad Homburg in the summer of 1909. Halevy was instrumental in bringing together rabbinical luminaries from diverse backgrounds. The group included the renowned Lithuanian scholar R. Hayyim Soloveitchik,[71] and the hasidic master, the Grand Rabbi of Gur R. Avraham Mordechai Alter, also known as the *Imrei Emes*.[72] In his autobiography, Jacob Rosenheim wrote of the conference: "Thus in August 1909 (5669) the Homburg conference took place where during a period of two to

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[68]This term was created in the 19th century in order to contrast various reformist strands of Judaism and represented the commitment to traditional religious rules.

[69]For further details see Menachem Friedman, *Society and Religion: The Non-Zionist Orthodox in Eretz-Israel 1918–1936 (Hebrew)* (Jerusalem: Yad Ben-Zvi, 1977), 219.

[70]For more details see Jacob Rosenheim, *Erinnerungen: 1870–1920* (Frankfurt a.m.: Verlag von Waldemar Kramer, 1970), 110.

[71]Halevy's close relationship with R. Hayyim was the motivation for the latter's attendance at the meeting. See Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 165–6 (letter 96). Furthermore, Halevy was the one responsible for addressing R. Hayyim's famous 18 points presented at the Kattowitz conference in 1912. See Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 204 (letter 157). R. Hayyim's participation in the Agudah's activities ceased when Halevy died in 1914.

[72]Halevy was not acquainted with the Rebbe of Gur. R. Hayyim Soloveitchik, however, intervened and helped secure his participation. See Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 167–8 (letter 98). The Lubavitcher Rebbe, R. Sholom Dov Ber Schneerson, however did not participate in the meeting personally but did send a representative. See Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 167–8 (letter 98). See also Rosenheim, *Erinnerungen: 1870–1920*, 112 for a detailed list of the attendees.

three weeks gathered . . . the greatest rabbis and lay leaders . . . from Eastern and Western Europe."[73] This historic meeting was described at the time as a "conclave of rabbis,"[74] and represented a milestone in Jewish politics, bringing to fruition Halevy's vision of the *Metivta Kolelet*—which was the centerpiece of his construct of the formation of the Talmud. At the meeting it was decided that a world organization was required. The guidelines for the formation of the body were outlined and the implementation was left to the leaders of German Orthodoxy.[75] Halevy was assigned with the drafting of the constitution of the organization.[76] In his view, the organization was to "unite with its activities all of observant Jewry, both in the Diaspora and in Eretz Israel. . . and to function as a spokesman for the entire nation."[77]

In a meeting in June of 1912, in Kattowitz, Agudath Israel was officially established with a rabbinic council (later to become known as *Moetzes Gedolei Hatorah*—the Council of Torah Sages), as the supreme governing body of the organization.[78]

Halevy's involvement with Agudath Israel continued until his death in 1914. As a leading member of the temporary council, he was involved in all aspects of the Agudah,

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[73]Rosenheim, *Erinnerungen: 1870–1920*, 111–2.

[74]See Reichel, *Isaac Halevy: Spokesman and Historian of Jewish Tradition*, 109.

[75]See Joseph Friedenson, "A Concise History of Agudath Israel," in *Yaakov Rosenheim Memorial Anthology*, ed. Joseph Friedenson (New York: Orthodox Library, 1968), 121–3.

[76]See Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 174–5 (letter 110). For a draft of the constitution see Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 175 (letter 110a).

[77]Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 175 (letter 110a).

[78]The original name of the council proposed by R. Breuer was *"Vaad Gedolei Harabanim"* (Council of Great Rabbis). Halevy vehemently opposed this name, however from his letter it is not clear his name choice. See Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 204 (letter 156). For further details see Friedenson, "A Concise History of Agudath Israel," 6–8; *The Struggle and the Splendor - A Pictorial Overview of Agudath Israel of America* (New York: Agudath Israel of America, 1982), 18–25.

from the planning of a future World Congress[79] to placating and coordinating the competing rabbinic factions that emerged in Kattowitz.[80] After his death, the movement envisioned by Halevy further developed to become one of the paragons of orthodoxy. Despite the fact that the activities of Agudath Israel were suspended during the First World War, they resumed with great vigor after the war and the organization still exists to this day both in Israel and in the Diaspora.

Halevy's busy political life did not take his attention away from working on his scholarly enterprise, *Dorot Harishonim*. As noted above,[81] Halevy succeeded in publishing volume Ic in 1906.[82] His historical research was accomplished in an unsystematic fashion: Halevy first published volumes III and II dealing with the formation of the Talmud and the geonic period and then proceeded to publish volume Ic covering the period from the last days of the Hasmoneans until the Roman procurators. The remaining volumes were published posthumously. Volume Ie,[83] covering the period from the destruction of the Temple until the redaction of the Mishnah, was published in

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[79]Although originally planned to take place in 1914, the First World Congress of Orthodox Jewry only took place in Vienna in 1923 due to the outbreak of the First World War in 1914.

[80]As could be expected, there were issues raised during the Kattowitz meeting which provoked tension among the numerous rabbinical authorities involved which threatened the viability of this international enterprise. One notable controversy was over the presentation of "eighteen points" by R. Hayyim Soloveitchik as conditions for his remaining in the organization. See Rosenheim, *Erinnerungen: 1870–1920*, 122–4; Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 200 (letter 150) for further details. Halevy continued with his involvement and attempted to negotiate a compromise until his death in 1914. See Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 204 (letter 157) for an example. Notably, his involvement in this issue predated the Kattowitz conference. In an unpublished letter in my possession, written by Halevy to Rosenheim and dated 11 Adar 5672 (Feb 29 1912), Halevy regrets the fact that the Rebbe of Tcharkow was made aware of his continuing negotiations with R. Hayyim and requested Rosenheim to relay to him "that I have taken personally on the issue of the '18 points' and I am in written communications with the Rabbi of Brisk to redraft them." After Halevy's death in 1914 R. Hayyim withdrew from the movement. See Reichel, *Isaac Halevy: Spokesman and Historian of Jewish Tradition*, 119–20.

[81]See page 41 above.

[82]Frankfurt a.m., 1906.

[83]Frankfurt a.m., 1918.

1918—four years after Halevy's death. As noted on the title page Halevy was directly

involved in its publication only until page 208 with the remaining part of the volume

completed by Dr. Salomon Bamberger. Volume Id, which treats the end of the second

temple period was only published in 1964 as a section of Halevy's *Memorial Volume*[84] by

Moshe Auerbach. Dr. Binyamin M. Lewin edited, from Halevy's manuscript, the section

of *Dorot Harishonim* dealing with biblical times and published it as volume VI in 1939.[85]

Halevy suffered from heart ailments since 1905[86] and his heart condition

worsened with age.[87] Although he was careful with nutrition,[88] his busy schedule did not

allow for the rest recommended by his doctors.[89] On one of his evening walks Halevy

suffered a heart attack and he passed away three weeks later on Friday night, 20 Iyar 5764

(May 15th, 1914) in a hospital in Hamburg. His funeral was held on the following

Sunday[90] and a large procession accompanied him by foot the whole way from the

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[84]Moshe Auerbach, *Yitshak Isaac Halevi Memorial Volume* (Bene Berak: Netsah Yisrael, 1964). Auerbach was entrusted with the unedited manuscript by Shmuel Halevy's widow and children. As noted in his preface, he thoroughly edited it, both by omitting certain parts and reorganizing others. In addition he reworked Halevy's translation of Josephus' works. Auerbach's volume, probably due to his thorough reworking, never became part of the series. Its style and structure are clearly not Halevy's.

[85]Jerusalem, 1939. This volume does not deal with the history of the Biblical period, which Halevy planned to write and publish at a later time but did not succeed to do it before his death. It is an apologetic attack upon Wellhausen's biblical criticism. It was written as a compendium to his account of the era of the Second Temple in contrast to the first Temple. It was therefore introduced by Lewin as part VI and not as an integral volume of the series. See Isaac Halevy, *Dorot Harishonim: Bible Period* (Jerusalem: Mosad Harav Kook, 1939).

[86]See Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 85 (letter 10).

[87]See Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 199 (letter 148); Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 207–8 (letter 161).

[88]See Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 196 (letter 144).

[89]See Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 199 (letter 148).

[90]See Shmuel Halevy, "My Father of Blessed Memory (Hebrew)," 63. His son, Shmuel, in reverence to his father notes that, as an indication of his holiness and piety, he did not decompose during the waiting time.

hospital to the Langenfelde cemetery.[91] In his will Halevy had requested that no eulogies be delivered at his funeral. Nonetheless, Rosenheim delivered a short eulogy at the hospital.[92]

His sudden death had wide repercussions for the orthodox establishment in Germany and in particular for the rabbis involved with the Agudah. Rosenheim, describing the loss, wrote: "In the midst of the arrangements for the *Knessio Gedaulo* (World Congress) . . . the nascent *Agudas Jisroel* (Agudath Israel) was met with a difficult hit: the sudden passing of its real spiritual father, Rabbi Jizchok Eisik Halevy in Ijar (May) 1914. One can say about him: *Chochom odif minowi* (a sage is preferable to a prophet)."[93] There is no question that in his life Halevy succeeded in assembling a sizable number of followers. His political acumen and communal activities, as well as his selfless dedication to the cause[94] generated numerous admirers and disciples. However, at the same time, Halevy's belligerent style, bitter attacks against his opponents and his combative tone detracted from the scholarly achievements of *Dorot Harishonim* and attracted strong criticism and many enemies.[95]

Halevy had a colorful and diverse life that included many achievements. Educated and raised in the east in the renowned Volozhin yeshiva, he became a talented talmudist

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[91]This was an unusual honor for the time. See *Der Gemeindebote: Beilage Zur "Allgemeinen Zeitung Des Judentums"* 78–22 (29th May 1914): 3; Reichel, *Isaac Halevy: Spokesman and Historian of Jewish Tradition*, 128.

[92]*Der Gemeindebote: Beilage Zur "Allgemeinen Zeitung Des Judentums"*, 3.

[93]Rosenheim, *Erinnerungen: 1870–1920*, 138. Rosenheim transliterates the passage applying his Germanic pronunciation of the text.

[94]See Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 207 (letter 181). Halevy notes in a letter to H. Lewin, "everyone knows that I always recuse myself in order to avoid the limelight."

[95]For a prime example of a sharp criticism of his combative style see Bezalel Rosenberg, *Mahshevet Bezalel* (Leeds: Goldberg & Epstein, 1926), 28.

who at an early age wrote *Batim Labadim*. In this first phase of his life, Halevy represented the typical and traditional *talmid haham*. After his tea business failed, Halevy's relocation to the west afforded him new opportunities. First and foremost it allowed him to establish himself as a representative of *Wissenschaft* scholarship and produce his magnum opus *Dorot Harishonim*. Rosenheim summed it up well when he called Halevy: "the bridge between German and eastern orthodoxies."[96] The move to Germany and connection with world orthodox leaders enabled the realization of the second part of Halevy's life project, the building of a *Metivta Kolelet* in his own time: Agudath Israel. W. Jacobsohn in the *Jüdischen Presse* described Halevy's legacy accurately when he wrote: "Rabbi Yitzchak Halevy, our great deceased, lives eternally through the memorial that he himself established through his *Dorot Harishonim* and his Agudath Israel."[97] These two projects seem at first glance to be completely different: one a political movement the other rabbinic scholarship. However, Halevy conceived of them as one united project stemming from the same *Weltanschaunng*.

Dorot Harishonim: Scope and Purpose

Orthodox Wissenschaft

Although Judaism throughout the ages was absorbed with the meaning of history and there were a small number of historical works written by medieval Jews,[98] the classic

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[96]Rosenheim, *Erinnerungen: 1870–1920*, 110 The importance that learning played in Halevy's life can be witnessed by the fact that his study table was used to manufacture his coffin. See Reichel, *Isaac Halevy: Spokesman and Historian of Jewish Tradition*, 128.

[97]The same message is inscribed on Halevy's tombstone which was composed by R. Kook. Wolf L. Jacobson, "Rabbiner Isaak Halevy," *Beilage Zur Judischen Presse* 23 (1914): 238 See also Kook, *Igrot Ha-Re'iyah*, II:302–3 (letter 432).

[98]For a list of works see Yerushalmi, *Zakhor: Jewish History and Jewish Memory*, 31–51.

position of rabbinic Judasim towards history can best be described as aversion.[99] This

attitude changed drastically during the nineteenth century. Together with the introduction

of the scientific study of history in Western universities,[100] a complementary ethos of

historical consciousness emerged within the Jewish community. Leopold Ranke, widely

considered the father of modern historical scholarship was called to the University of

Berlin in 1825 where he instituted what he termed *Wissenschaft*, the scientific study of

history. His conception of "scientific" was defined as a historiography based on objective

research free from value judgments. The goal was to show the past *wie es eingentlich

gewesen*, as it really was.[101] In Ranke's view the historian's role was to provide a

valuable insight into the meaning of the world. Ranke viewed history as the ideal science

to replace philosophy and to provide these insights:

> While the philosopher, viewing history from his vantage point, seeks
> infinity merely in progression, development, and totality, history
> recognizes something infinite in every existence: in every condition, in
> every being, something eternal, coming from God; and this is its vital
> principle.[102]

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[99]See David Ellenson, "Wissenschaft Des Judentums, Historical Consciousness, and Jewish Faith: The Diverse Paths of Frankel, Auerbach and Halevy," The Leo Back Memorial Lecture 48 (Leo Baeck Institute), 2; Jacob Neusner, "Paradigmatic Versus Historical Thinking: The Case of Rabbinic Judaism," *History and Theory* 36, no. 3 (1997): 353–77.

[100]See Georg G. Iggers, *Historiography in the Twentieth Century: From Scientific Objectivity to the Postmodern Challenge* (Hanover, NH: Wesleyan University Press, 1997), 23.

[101]See Iggers, *Historiography in the Twentieth Century : From Scientific Objectivity to the Postmodern Challenge*, 25; Peter Novick, *That Noble Dream:The "Objectivity Question" and the American Historical Profession*, in *Ideas in Context* (Cambridge England: Cambridge University Press, 1988), 27–9. Paradoxically however, his historiography was anything but value free scholarship. His historiography had a very definite political and ideological agenda. Although he replaced Hegel's philosophical approach with a historical one, their world views were remarkably similar. For further details see Iggers, *Historiography in the Twentieth Century : From Scientific Objectivity to the Postmodern Challenge*, 26. Iggers remarked that, "Although replacing Hegel's philosophical approach with a historical one, Ranke agreed with Hegel that the existing political states, insofar as they were the results of historical growth, constituted 'moral energies,' thoughts of God."

[102]Leopold von Ranke, "The Idealistic Theory of Historiography," in *The Theory and Practice of History*, ed. Konrad von Moltke and Georg G. Iggers, trans. Wilma A. Iggers and Konrad von Moltke (Indianapolis: Bobbs-Merrill, 1973), 38.

Ranke's authority was often invoked to legitimize the consensus practice, even outside of Europe.[103] This same ethos penetrated the Jewish community and it stimulated the development of a modern critical historical consciousness and the establishment of the scientific study of Judaism, *Wissenschaft des Judentums*.[104] Beginning as a movement of Jewish academicians around 1820, *Wissenschaft des Judentums* was a direct by-product of the process of secularization that ultimately came to dominate the modern West.[105] Although its founders spoke of an idealized objectivity in their scholarship, few if any, practitioners of Jewish academic scholarship in Germany during the nineteenth and early twentieth centuries ever truly accomplished this goal. Isaac Jost, the early twentieth century German Jewish historian, described the lofty goal of objectivity: "No prejudice should blind the historian, no universally held dogma should darken his views; no apprehension should intimidate him from revealing the truth as he sees it."[106] However, in reality, from the beginning *Wissenschaft des Judentums* was employed as an ideological tool.[107] Similar to Ranke's enterprise, *Wissenschaft des Judentums* from its inception was an endeavor imbued with ideological and political agendas. As Ismar Schorsch noted, "Recourse to the study of the past was taken to serve the overwhelming needs of the

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[103]See Novick, *That Noble Dream : The "Objectivity Question" and the American Historical Profession*, 28–9 for further details.

[104]See Ismar Schorsch, *From Text to Context: The Turn to History in Modern Judaism* (Hanover, N.H.: Brandeis Univ. Press, 1994), 161 who accurately noted that, "As the sonorous name *Wissenschaft des Judentums* implies, the emergence of historical thinking in modern Judaism is unimaginable outside the German context."

[105]See David Ellenson, "Wissenschaft Des Judentums, Historical Consciousness, and Jewish Faith: The Diverse Paths of Frankel, Auerbach and Halevy," 2.

[106]Quoted in Ismar Schorsch, "Ideology and History in the Age of Emancipation," in *The Structure of Jewish History and Other Essays* (New York: Jewish Theological Seminary of America House, 1975), 4.

[107]For more details see David Ellenson and Richard Jacobs, "Scholarship and Faith: David Hoffman and His Relationship to 'Wissenschaft Des Judentums'," *Modern Judaism* 8, no. 1 (1988): 27–8.

present, with the inevitable result that ideology dominated the writing of scientific history."[108]

The agenda of *Wissenschaft des Judentums* was diverse. One of the prominent objectives was external, a desire to improve the standing of Jews and Judaism among the nations. Leopold Zunz, who was one of the leaders and founders of the movement and the most "objective," not serving as the rabbi of a large community or the leader of any particular ideological movement, believed that scholarship could be used for political goals in order to obtain full political and religious rights.[109] Another set of objectives of the early practitioners was aimed inward. First and foremost, it was a form of rebellion against the rabbinic establishment. As Schorsch writes, "*Wissenschaft* battled to emancipate the historian from the authority of the theologian."[110] Zunz listed the rejection of rabbinism[111] as one of the main tenets of *Wissenschaft*. The new method secularized Jewish history and created the possibility that sacred texts could be studied as historical documents, moving the emphasis towards Judaism as a culture.[112] An additional dimension of *Wissenshchaft* was the aim of bringing about religious reform. Scholarship was employed to demonstrate the evolution of Jewish Law and to find a precedent in the past for reform and change. *Wissenschaft* also used to search for an essence of Judaism

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[108]Schorsch, "Ideology and History in the Age of Emancipation," 9.

[109]See Michael A. Meyer, "Jewish Religious Reform and Wissenschaft Des Judentums: The Positions of Zunz, Geiger and Frankel," *Leo Baeck Institute Year Book* XVI (1971): 19–26.

[110]Schorsch, "Ideology and History in the Age of Emancipation," 4.

[111]What Zunz meant by rabbinism was the hegemony of the type of rabbis common in his day. His antagonism was directed towards what he called the vulgarization of rabbinic Judaism brought about by the narrow-minded and sophistic study of the Talmud. His goal was to replace these rabbis with learned but enlightened leaders in tune with the times. See Schorsch, *From Text to Context: The Turn to History in Modern Judaism*, 242–8.

[112]See Schorsch, "Ideology and History in the Age of Emancipation," 1–19; Mordechai Breuer, *Modernity Within Tradition: The Social History of Orthodox Jewry in Imperial Germany*, 175–7; Michael A. Meyer, "Jewish Religious Reform and Wissenschaft Des Judentums," in *Year Book XVI.* (London: East and West Library, 1971), 19–26.

compatible with emancipation and integration within the European society.[113] These

diverse agendas created within *Wissenschaft des Judentums* internal inconsistencies. The

internal dissonance was recognized by later renowned *Wissenschaft* practitioners[114] and it

was a constant discussion point, duly noted by its critics who observed with cynicism the

Wissenschaft claim of objectivity.[115]

Understandably this historical awakening was enthusiastically adopted by the

liberal and emancipated segments of the Jewish community and it was employed to

undermine tradition. As also could be expected, the orthodox establishment thoroughly

rejected the new method. The chief spokesman for orthodox Jewry at the time was Rabbi

Samson Raphael Hirsch of Frankfurt a.m. (1808–88)[116] who vigorously defended

orthodoxy and opposed the *Wissenschaft* enterprise. In his view, Jewish scholarship

which did not *a priori* acknowledge the uniqueness of the Jewish nation as well as the

divine origin of its laws was unlawful and false.[117] In his view both the Jewish nation and

Jewish law were eternal and not influenced by history. Noah H. Rosenbloom described

Hirsch's attitude as follows:

> It should be pointed out that what Hirsch calls history is more accurately
> metahistory, since history also has its laws of natural development and all
> the nations of the world are subject to these laws. Israel, however, was not
> governed by these laws and frequently defies them. In the *Neunzehn*

[113]See Mordechai Breuer, *Modernity Within Tradition: The Social History of Orthodox Jewry in Imperial Germany*, 173–7; Meyer, "The Positions of Zunz, Geiger and Frankel," 19–41; Schorsch, "Ideology and History in the Age of Emancipation," 1–31; Schorsch, *From Text to Context: The Turn to History in Modern Judaism*, 183–98.

[114]See Gershom Scholem, "Mitokh Hirhurim al Hokhmat Israel," in *Devarim Bego: Explications and Implications— Writings on Jewish Heritage and Renaissance* (Tel Aviv: Am Oved, 1975), 385–403.

[115]See Mordechai Breuer, *Modernity Within Tradition: The Social History of Orthodox Jewry in Imperial Germany*, 179–80. Breuer notes how H. Graetz's criticism of A. Geiger was employed by S. R. Hirsch against his own scholarly work.

[116]For a detailed biography see Rosenbloom, *Tradition in an Age of Reform: The Religious Philosophy of Samson Raphael Hirsch*.

[117]For more details see Mordechai Breuer, *Modernity Within Tradition: The Social History of Orthodox Jewry in Imperial Germany*, 179–81.

Briefe, Hirsch had placed the essence of Israel outside the domain of history and therefore not subject to its fluctuations: "While mankind, educated by experience, was to learn to know God and itself from its manifold vicissitudes, the final goal of this experience was to be made surer and speedier of attainment by a special ordainment" (NL66).[118]

According to Hirsch, a secular historicism divorced from "cultural memory" had no value. As he wrote: "you are studying in order to know the light, the truth, the warmth and the sublimity of life, and when you have attained this end you will understand Israel's history and Israel's law, and that life, in its true sense, is the reflection of that Law, permeated with that spirit."[119] Hirsch opposed the value-free concept of modern science that sought only historical truth and he likened it to the dissection of a dead body.[120] Hirsch's view represented the prevailing opinion among the orthodox Jewish community that *Wissenschaft des Judentums* had no place within the Jewish community and was of no use to Torah observant Jewry.[121]

One notable orthodox exception to Hirsch's view of *Wissenschaft* was advocated by Ezriel Hildesheimer (1820–99),[122] who viewed *Wissenschaft* as an ideal tool to

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[118]Rosenbloom, *Tradition in an Age of Reform: The Religious Philosophy of Samson Raphael Hirsch*, 272.

[119]Hirsch, *The Nineteen Letters on Judaism*, 128 (letter 18). See also Yerushalmi, *Zakhor: Jewish History and Jewish Memory*, 101. It is interesting to note the striking similarity of Hirsch's comment to Yerushalmi's remarks.

[120]See Mordechai Breuer, *Modernity Within Tradition: The Social History of Orthodox Jewry in Imperial Germany*, 180–1 for more details.

[121]See also Yerushalmi, *Zakhor: Jewish History and Jewish Memory*, 96 who noted a similar thought, "Those Jews who are still within the enchanted circle of tradition, or those who have returned to it, find the work of the historian irrelevant. They seek, not the historicity of the past, but its eternal contemporaneity. Addressed directly by the text, the question of how it evolved must seem to them subsidiary, if not meaningless."

[122]See David Harry Ellenson, *Rabbi Esriel Hildesheimer and the Creation of a Modern Jewish Orthodoxy*, in *Judaic Studies Series* (Tuscaloosa: University of Alabama Press, 1990) for his biography and for further details of his ideology.

strengthen religion and conserve its observance.[123] In his view, both Torah study and scientific research shared a common goal: the pursuit of truth. In 1873 Hildesheimer founded[124] *Das Rabbiner-Seminar zu Berlin*,[125] which came to represent his ethos of combining the scientific study of Judaism with traditional belief. He wrote that the Institute's goal would be "to make science, hitherto unable to make peace with traditional belief, serviceable and fruitful for the knowledge of Torah, and through its methods, enrich and advance true Jewish knowledge."[126] Hildesheimer shared in many ways the aims of the other liberal scholars of raising the dignity of contemporary Jewish life and enhancing the Jewish collective self-understanding. However, unlike his liberal contemporaries, he believed that *Wissenschaft des Judentums* could be reconciled with traditional belief and used to resist religious reform. Thus we see that both liberals and traditionalists shared a common belief that the utilization of the scientific and historical study of the Jewish past could be used to advance contemporary agendas.[127]

The new rabbinical seminary in Berlin pursued *Wissenschaft* assiduously, no less than in the seminaries in Breslau and the Hochschule.[128] The teaching staff, included David Zvi Hoffmann, Abraham Berliner and Jakob Barth and embodied the combination of Torah erudition with exceptional academic rigour. This group of scholars, joined by

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[123]See his programmatic declaration in the first issue of the *Jüdische Presse* quoted in Mordechai Breuer, *Modernity Within Tradition: The Social History of Orthodox Jewry in Imperial Germany*, 181.

[124]See David Harry Ellenson, *Rabbi Esriel Hildesheimer and the Creation of a Modern Jewish Orthodoxy*, 141–65 for further details about the Seminar.

[125]Originally (until 1883) it was called *Rabbiner-Seminar für das Orthodoxe Judentum*. See David Harry Ellenson, *Rabbi Esriel Hildesheimer and the Creation of a Modern Jewish Orthodoxy*, 142.

[126]*Jüdische Presse* (1922), 53:267 as quoted in Mordechai Breuer, *Modernity Within Tradition: The Social History of Orthodox Jewry in Imperial Germany*, 185.

[127]See Schorsch, "Ideology and History in the Age of Emancipation," 11.

[128]Schorsch, "Ideology and History in the Age of Emancipation," 11. See also Ellenson and Jacobs, "Scholarship and Faith: David Hoffman and His Relationship to 'Wissenschaft Des Judentums'," 27–9 for further details. See also Marc B. Shapiro, *Between the Yeshiva World and Modern Orthodoxy: The Life and Works of Rabbi Jehiel Jacob Weinberg* (Portland, Or.: Littman Library, 1999), 77.

many others involved with Hildesheimer, created an extensive literature that made an important contribution to modern Jewish *Wissenschaft*.[129] Their unwavering commitment to scholarship caused them to adopt what would be seen by contemporaries as controversial ideas. For example, Barth adopted the theory of a Deutero-Isaiah in his book on Isaiah, for which he was severely criticized by several orthodox rabbis.[130] Hoffmann, accepted the orthodox view that Scripture was of divine origin and therefore not open to unrestrained scientific scholarship,[131] however, he held that the Oral Law was a human creation, allowing for full scientific inquiry in the search of truth, albeit bound by *halakhic* observance.[132] Hoffman described his approach in the introduction to his work on the Mishnah, *Die Erste Mischna und die Controversen der Tannäim*:

> Both Scripture and Mishnah, the written Law and those laws transmitted to our sages orally, both are the two sources from which every Jew draws the Torah received by Moses from God at Mount Sinai. . . When we speak about the Written and the Oral Law, we understand them to be a single unified Divine Law which was partially taught through Scripture while the other part was transmitted through our sages as traditional laws . These two however differ in their form, and thus in our research also. Scripture both in its content as well as in its form are the words of the Living God. Its date of composition in most instances is clear and defined, and immediately or a short time thereafter it achieved its final immutable form

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[129]See Mordechai Breuer, *Modernity Within Tradition: The Social History of Orthodox Jewry in Imperial Germany*, 183–4 for more details.

[130]See for instance Jacob Rosenheim's criticism of Barth in Rosenheim, *Erinnerungen: 1870–1920*, 54. See Shapiro, *Between the Yeshiva World and Modern Orthodoxy: The Life and Works of Rabbi Jehiel Jacob Weinberg*, 79–80 for a detailed analysis on the ensuing criticism of his approach.

[131]See the introduction to his commentary on Leviticus in David Zvi Hoffmann, *Sefer Vayikra* (Jerusalem: Mossad Harav Kook, 1972), 3–8. See also Ellenson and Jacobs, "Scholarship and Faith: David Hoffman and His Relationship to 'Wissenschaft Des Judentums'," 31–5 for further details.

[132]Some graduates of the *Rabbiner Seminar* like Isaac Unna (1872–1948), Rabbi of Manheim, believed that the research of the Oral Law also had its constraints. In his view, "from the Jewish historian we require, in our view, that he be conscious of the unique status of the Jewish nation as a special nation and its Torah as a Divine Torah." Furthermore, "[the sages] are nevertheless above all criticism with regard to their aspiration to the truth and to their absolute credibility." See the text of his letter quoted in Asaf Yedidya, "Orthodox Reactions to 'Wissenschaft Des Judentums'," *Modern Judaism* 30, no. 1 (1 February 2010): 81. Unlike Asaf Yedidya's assessment, however, there is no evidence that such an extreme position was widely held in the *Seminar* and it was perhaps unique to Unna. See Yedidya, "Orthodox Reactions to 'Wissenschaft Des Judentums'," 80–3. Clearly Hoffman was in favor of a far more unrestrained research of the Oral Law.

which has been preserved until today. The Mishnah, on the other hand, although its content derives also from a Divine source (in relation to the laws transmitted from Sinai that it contains), its form however was only established at a later time . . . Thus when analyzing Scripture we hold that one can not doubt its source or perfection and therefore one can only accept any conclusions which do not contradict this principle. We however hold that in relation to Mishnah criticism (as long as its conclusions do not contradict the *halakhah* established by the sages of the Talmud), the historical research of the time of its composition and of its development into its current form, is not only permissible but more over the research into the sources of the transmitted Torah is an obligation upon us.[133]

Hoffman strongly believed in free inquiry into rabbinical law. His dissertation, entitled *Mar Samuel: The Life of a Talmudic Sage* (Leipzig, 1873), caused a great polemic among the Frankfurt orthodox circles due to its scholarly style and scientific historical approach. In Hoffman's opinion, *halakhah* had been influenced by historical and sociological factors, as well as the personalities of the rabbis involved in its development. Hirsch after examining *Mar Samuel* declared it heretical.[134] Accordingly Hirsch and his Frankfurt followers did not support or endorse the rabbinical seminary in Berlin and were critical of its work. Several articles were published, some anonymously, criticizing the school and its pursuit of *Wissenschaft*.[135] According to the Frankfurt orthodox school, the seminar did not differ from the various liberal seminars of the time.[136] Moreover, in their view, any scientific pursuit of the Jewish past divorced from

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[133]David Zvi Hoffmann, *Hamishnah Harishonah Ufelugta Detana'e*, ed. Grinberg Shemuel (Jerusalem, 1969), 3.

[134]See Mordechai Breuer, *Modernity Within Tradition: The Social History of Orthodox Jewry in Imperial Germany*, 185–6 for further details about the controversy. See Shapiro, *Between the Yeshiva World and Modern Orthodoxy: The Life and Works of Rabbi Jehiel Jacob Weinberg*, 30–1. See also Mordechai Breuer, "Hokhmat Israel: Three Orthodox Approaches to Wissenschaft," in *Rabbi Joseph B. Soloveitchik Jubilee Volume* (Jerusalem: Mosad ha-Rav Kook, 1984), II:860.

[135]See Shapiro, *Between the Yeshiva World and Modern Orthodoxy: The Life and Works of Rabbi Jehiel Jacob Weinberg*, 77–8 Ellenson and Jacobs, "Scholarship and Faith: David Hoffman and His Relationship to 'Wissenschaft Des Judentums'," 29–30.

[136]See Der Israelit (1872), Issues 16–8 and 22 quoted in Ellenson and Jacobs, "Scholarship and Faith: David Hoffman and His Relationship to 'Wissenschaft Des Judentums'," 29–30n.

apologetics only served to confuse students and shake their faith.[137] These contradictory

views between the orthodox communities of Berlin and Frankfurt concerning

Wissenschaft repeatedly led to disagreements and strife between them.

However, as time went on the argument between the two centers was resolved. In

1891 the influential orthodox weekly *Der Israelit*, which was far closer to the Frankfurt

school in ideology than the seminary in Berlin, published[138] a call for the formation of an

orthodox *Wissenschaft* which would pursue the scientific study of Judaism in an objective

manner while at the same time remaining compatible with orthodox values. From 1892

and on, the newspaper began the publication of a scientific supplement. During this same

period in Eastern Europe various *Wissenschaft* works had significant impact upon

orthodox youth, including many yeshiva students. First, Heinrich Graetz's (1817–91)

History of the Jews was translated and published in a popular Hebrew edition by Shaul

Pinchas Rabinowitz published in installments from 1888 to 1898 and reached a wide

audience.[139] Second, Isaac Hirsch Weiss' (1815–1905) five volume *Dor Dor Vedorshaiv*,

a historiographic work in Hebrew dedicated to the history of the rabbis and their works,

was first published between the years 1871 and 1891 and achieved wide distribution.

Four editions were printed before 1907 and by 1911 an additional two editions were

brought to print.[140] The large audience included lay men and a great number of yeshiva

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[137]See Rosenheim, *Erinnerungen: 1870–1920*, 54–5.

[138]M. Jung, *Der Israelit* 32 (31 December 1891): 1907–8.

[139]*History of the Jews* achieved a wide audience also in yeshivot and it was a cause of concern to the rabbinical establishment. See B. Dinur's reminiscence about his two years in the yeshiva in Telz in Immanuel Etkes, "Introduction (Hebrew)," in *880–01*, in *Yeshivot Lita: Pirkey Zikhronot*, ed. Imanuel Etkes and Tikochinky Shlomo (Jerusalem: Merkaz Shazar, 2004), 35–6. See also Asaf Yedidya, "Alternatyvot Ortodoxyot le Madah Hayahadut: Haortodoxyah Umekhkar Mada'ey Hayahadut" (Ramat Gan: Bar Ilan University, 2007), 119–21.

[140]See Asaf Yedidya, "Benjamin Menashe Levin and Orthodox Wissenschaft Des Judentums (Hebrew)," *Cathedra* 130 (2008): 133–4 for further details.

students.[141] *Dor Dor Vedorshaiv* posed a serious threat to orthodoxy in Eastern Europe since Isaac Weiss was a noted talmudist[142] and the books were written in an engaging style. Weiss employed a critical approach to rabbinic sources, discussed the development of *halakhah* and placed it within a historical context. *Dor Dor Vedorshaiv* described the history of talmudic and rabbinic literature and the character of the primary sages. Although Weiss agreed with the orthodox claim of the Sinaitic origin of the Oral Law, his critical portrayal of the character of various sages, and his claim of developmental changes in the Oral Law through the ages[143] challenged the regnant orthodox view and raised doubt about its value in orthodox circles. R. Hayyim Ozer Grodzinski, the leading rabbinic judge of Vilnius and the leader of the orthodox Lithuanian community, severely criticized *Dor Dor Vedorshaiv*, writing:

> And he [Weiss] approached [the Oral Law] with an unrestrained criticism focused on weakening the basic foundations of the Oral Law. . . This poison has extended beyond its original boundaries to places where the living Torah is still dear to her expounders, and it has started to develop roots and to give fruition . . . and its ideology started to be adopted, leading to the outcome of the forgetfulness of Torah and the abandonment of Judaism.[144]

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[141]See Stampfer, *The Lithuanian Yeshiva (Hebrew)*, 354n138 for detailed examples of the infiltration of their work in yeshivot. See also Etkes, "Introduction (Hebrew)," 40; Yedidya, "Benjamin Menashe Levin and Orthodox Wissenschaft Des Judentums (Hebrew)," 133–4 for further details.

[142]He studied in the yeshivot of Trebitsch and Eisenstadt. See Yedidya, "Alternatyvot Ortodoxyot le Madah Hayahadut: Haortodoxyah Umekhkar Mada'ey Hayahadut," 32; Moshe David Herr, "Isaac Hirsch Weiss," in *Encyclopaedia Judaica* for further biographical details. His publications, two *midrashei-halakhah*, *Sifra* (1862) and *Mekhilta* (1865) with his introduction and notes, were endorsed and praised by great rabbinical authorities of the time. These approbations were subsequently edited and Hirsch's name was removed.

[143]See for instance Isaac Hirsch Weiss, *Dor Dor Vedorshaiv*, I:45 among various examples. See also Yedidya, "Alternatyvot Ortodoxyot le Madah Hayahadut: Haortodoxyah Umekhkar Mada'ey Hayahadut," 32–3.

[144]Grodzinski published this attack in his approbation to Natah Lifschitz, *Dor Yesharim* (Pieterkow, 1907), 7–8.

With the publication of these popular works it became much more difficult to follow Hirsch's path of ignoring *Wissenschaft* since it made significant inroads within the orthodox community and began to impact yeshiva students in eastern Europe. Thus, the time was ripe for the development of an orthodox *Wissenschaft* which could be used to advance and validate orthodox ideology.[145]

Halevy's arrival in Germany and his decision to pursue a scholarly career coincided with the orthodox need to address *Wissenschaft*. Halevy was at the right place at the right time. He had already gained experience in defending tradition against what in his view was faulty historiography based on insufficient knowledge or on a tendentious view of rabbinic sources. In 1887 he published a Hebrew essay refuting a thesis of Zacharias Frankel.[146] His essay was subsequently printed in a German translation in *Jeschurun*.[147]

Halevy's arrival in Germany inaugurated a new era in the Jewish orthodox community and it paved the way for a novel reconciliation between Torah values and *Wissenschaft des Judentums*. It represented orthodoxy's first step in employing history to

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[145]See Meyer, "The Positions of Zunz, Geiger and Frankel," 19–41; David Ellenson, "Wissenschaft Des Judentums, Historical Consciousness, and Jewish Faith: The Diverse Paths of Frankel, Auerbach and Halevy," 2–4.

[146]Zacharias Frankel proposed that the sages who compiled the Babylonian Talmud did not make use of the Palestinian Talmud, thus contradicting several medieval rabbinic authorities, like R. Isaac Alfasi (1013–1103), the Rif (b. Eruvin—Rif page 35b). They believed that the compilers of the Babylonian Talmud had the Palestinian Talmud. See Zacharias Frankel, *Mevo Hayerushalmi: Introductio in Talmud Hierosolymitanum* (Breslau: Schletter, 1870), 46b. The Hebrew article was published in Isaac Halevy, "Kabbalat Avot," *Ben Ami*, April/May 1887, 45–60. For further literature on the subject of the knowledge of the Yerushalmi by the Bavli and for recent scholarship on the topic see Halivni, *The Formation of the Babylonian Talmud*, 25n71, 39, 39n94 and IN71.

[147]*Jeschurun* (1887), 43:681–3, 45:713–5 and 46:729–31. See also Mordechai Breuer, *Modernity Within Tradition: The Social History of Orthodox Jewry in Imperial Germany*, 193. R. S. R. Hirsch who opposed the entire *Wissenschaft* enterprise, nonetheless, praised Halevy's work and approved of his translation into German and its inclusion in *Jeschurun*. See his hitherto unpublished letter to Halevy in Yedidya, "Alternatyvot Ortodoxyot le Madah Hayahadut: Haortodoxyah Umekhkar Mada'ey Hayahadut," 123–4.

defend traditional Jewish piety.[148] It is evident that R. Hayyim Ozer Grodzinski was instrumental in persuading Halevy to employ his talmudic erudition in the service of orthodoxy by writing a historiographical work validating tradition. As noted in his approbation to *Dorot Harishonim* dated 1898, "All of orthodoxy shall rejoice to the fact that this literature has also found her redeemer. . . for a long time I have been hoping for the vineyard keeper to come and remove its thorns, and I have discussed it [with Halevy] more than once."[149]

Halevy's historiography was programmatic, designed with the express intention of defending tradition. His apologetic objectives are stated clearly in a letter to H. Kottek dated 1887:

> I am not involved with [*Wissenschaft*] literature in order to write articles and to ingratiate myself in the eyes of the ignoramus, but only because I have witnessed the [spiritual] poverty of my nation. The *maskilim* have taken over our nation's literature and have focused their efforts in deconstructing, destroying and confounding it—the German scholars with their methodic approach as part of a developed system with the assistance of the Russian *maskilim* and their confused ideas and great disdain. The young and the vast majority of unknowledgeable readers get caught in their traps and therefore I have decided that the time has come to take action on behalf of God and thus I have started to organize my thoughts on these subjects. . . It is incumbent upon all to expose their lies.[150]

Halevy's entire *Wissenschaft* enterprise was defined by an apologetic objective. His *Juesdisch-Litterarische Gesellschaft* had the goal to "advance rigorous scientific efforts which are suitable for deepening the knowledge of the verity of traditional Judaism."[151] Clearly, only scholarship which fit the orthodox *Weltanschauung* was

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[148]Ezriel Hildesheimer also viewed *Wissenschaft* as an ideal tool to strengthen religion and conserve its observance, however his approach was a scholarly pursuit as opposed to Halevy's apologetic agenda. See Yedidya, *Criticized Criticism: Orthodox Alternatives to Wissenschaft Des Judentums 1873–1956 (Hebrew)*, 192–4.

[149]R. Hayyim Ozer Grodzinski, *Iggrot R. Hayyim Ozer* (Bnai Berak, 2000), I:314 (letter 292).

[150]Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 79 (letter 1).

[151]*Der Israelit*, 383.

allowed. Therefore, Halevy rejected the documentary hypothesis of biblical criticism, concentrating on rabbinic texts instead.[152] Halevy wrote with great pride, "Our association is not like the Berliners.[153] They are indifferent if one writes for or against the Torah."[154]

Halevy's antagonism and disrespectful language towards non-orthodox views reveal his combative style and demonstrate clearly the ideological nature of his scholarship. This antagonism towards his opponents was used by critics of his approach as evidence of the apologetic non-scholarly nature of his work. For example, Abraham Epstein wrote:

> Halevy's works do not find favor in my eyes. He is not motivated in his research by his love of truth but rather by his despise of the pursuit of free research. This hate compromises his work and it therefore lacks impartial truth. Every chapter of his books starts with insults and derogatory comments against Rappoport, Frankel, etc.[155]

Y. N. Simkhuny noted in a critical review of *Dorot Harishonim* published in 1921:

> Three basic flaws plague his work. The first flaw is the deeply personal tone expressed in his book which enrages any reader. . . All earlier researchers were insignificant in his eyes. . . The second flaw is the lack of research basis for his conclusions. . . The third flaw is the unique writing style of the author.[156]

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[152]In his view, rabbinic literature provided the ideal material to demonstrate the antiquity of the Oral Law and the unbroken chain of the transmission of traditions.

[153]The scholarly orthodox community affiliated with the Berlin *Rabbiner-Seminar*. Halevy's dislike for the "Berliners" had not escaped them and thus, although the membership in the *Gesellschaft* represented the vast majority of German orthodox intelligentsia, it did not include many of those in Berlin. See Mordechai Breuer, *Modernity Within Tradition: The Social History of Orthodox Jewry in Imperial Germany*, 199. Halevy's religious and political approaches were far closer to the Hirsch Frankfurt school's approach than to Hildesheimer's Berlin school. See Yedidya, *Criticized Criticism: Orthodox Alternatives to Wissenschaft Des Judentums 1873–1956 (Hebrew)*, 192–4.

[154]Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 132 (letter 59).

[155]Abraham Epstein, "Iggrot Bikoret," *Haeshkol: Hebräisches Sammelbuch Für Wissenschaft und Literatur* 5 (1905): 256–7.

[156]Y. N. Simkhuny, "Dorot Harishonim," *Hatekufah* 11 (1921): 428–9.

Criticism of his opponents is found throughout his book to such an extent that it actually detracts from a coherent historical writing style. As noted by the orthodox *maskil* Yehiel Michael Pines (1843–1913) in a letter to Halevy:

> "Notwithstanding [my praise of your work] noted above, I can not refrain from telling you that your work is not properly ordered. Your book is more of a controversy against others than a historical work."[157]

Ironically according to Halevy only unbiased scholarship had value and research was to be conducted free of any preconceived notions:

> The time has come to research *Hokhmat Israel* and our history in a value-free manner; the events, eras and happenings as they really were, without distortion to the right or to the left. The time has come to collectively establish *Hokhmat Israel* on the same basis as other sciences. The writer's inclination and agenda should not play a role [in his conclusions] but solely the result of the evidence and of his own research. The time has come to no longer view Jewish history from an alien viewpoint or through the lenses of others.[158]

Halevy repeatedly emphasized his objectivity throughout his work, claiming it as the centerpiece of his achievement. In the introduction to volume III of *Dorot Harishonim* (the first volume to be printed) he wrote:

> Any reader of this work will recognize that I have written only those conclusions which I have arrived at after much analysis. . . I have not twisted the sources to coincide with my views, but quite the contrary, I have limited my views to the results from my research and from the evidence which in my view was compelling. Thus, my only goal is to share my conclusions with the reader and to arrive at its core together.[159]

In his view, he was the only scholar equipped to engage in unbiased research, which incidentally, happened to confirm the orthodox view of tradition. In Halevy's view,

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[157]Unpublished letter quoted in Yedidya, "Alternatyvot Ortodoxyot le Madah Hayahadut: Haortodoxyah Umekhkar Mada'ey Hayahadut," 121–2.

[158]Isaac Halevy, *Dorot Harishonim*, II:Foreword.

[159]Isaac Halevy, *Dorot Harishonim*, III:Introduction.

historians like Graetz and Weiss whose research was at odds with tradition were biased in their writing and their conclusions were flawed.[160]

In truth, Halevy's contradictory relationship towards scholarship was not significantly different from the entire Jewish *Wissenschaft* enterprise in the nineteenth century as explained earlier. Nonetheless, it is remarkable, that while Halevy noted the contradiction between objectivity and agenda in the work of others he was completely oblivious to the tension in his own scholarly enterprise. He reiterated this view to Isaac Unna:

> And God-fearing individuals, despite having unimpeachable evidence still remain ambivalent towards engaging in [*Wissenschaft*] for various reasons. I assure you that this approach will not raise any challenges [against tradition]. . . Why should we be the last ones to adapt *Hokhmat Israel*? Why should those [heretics] who are [attempting to] destroy the [Jewish orthodox] world take our place?[161]

Halevy's genuine scholarly commitment is confirmed by his willingness to disagree with interpretations offered by early rabbinic authorities,[162] such as R. Hayya b. Sherira

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[160]Halevy notes repeatedly in his criticism of other scholars: "If other researchers would not have acted with total disregard and would not have distanced from honest research, if they would not have approached it with anger and gripe, and if their intention would not have been to just find fault, they would certainly have arrived at different conclusions." See Isaac Halevy, *Dorot Harishonim: Bible Period*, 3. Moreover, in a letter to H. Kottek, Halevy describes his approach to *Wissenschaft* as a purely scholarly pursuit with no need for apologetics: "The time has come to join forces for the benefit of *Hokhmat Israel*, in all its subjects, and rescue it from the hands of heretic researchers—for in reality that is the only reason for [it causing] great damage among the Jews—and to reestablish it with holy purity. It is not the case that we desire to write apologetics on behalf of the Torah, since our holy Torah does not require any apologetics. Our desire is to provide honest work and to present full research which will reveal all of its glory." See Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 118 (letter 44). In an unpublished letter to R. Kook in the summer of 1908, Halevy attributes their errors to their ignorance of the Talmud in addition to their heretical biases. See Yedidya, *Criticized Criticism: Orthodox Alternatives to Wissenschaft Des Judentums 1873–1956 (Hebrew)*, 162.

[161]Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 83 (letter 7a).

[162]However, his language is more respectful when arguing with rabbinical authorities versus when arguing with other scholars. For examples of language employed, see Eliezer Sariel, "Rabbi Yitzchak Isaac Halevy," MA thesis (Unpublished: Hebrew University of Jerusalem, 2003), 26–8.

Gaon,[163] Rashi and others.[164] In Halevy's eyes, these early scholars lacked a historical

consciousness and as a result provided inaccurate historical accounts. Even the Epistle

was seen by Halevy as lacking historic sophistication:

> We have already noted that it is obvious that in regards to the era of
> *Tannaim* and *Amoraim* it is imperative to return to the sources and to
> analyze the subject straight from the Talmud obtaining clear evidence,
> irrespective of the accuracy of the text of the Epistle.[165]

Halevy was not concerned with who said a certain opinion—whether by great

medieval rabbis like Rashi or Maimonides or heretic scholars like Weiss—he was willing

to challenge or accept any opinion that was registered. However on issues of belief and

dogma—he was unwilling to bend.

Further evidence for a level of intellectual independence on the part of Halevy can

be found in his agreement with the views of non-orthodox scholars when they provided

what he believed to be accurate historical information.[166] Halevy was even willing to

praise the opinions of rival scholars, such as Graetz and Weiss, despite his sharp criticism

of their theories in other contexts.[167] Halevy displays familiarity with the New

Testament[168] and works of the church fathers, at times relying on the works of

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[163]See for example Isaac Halevy, *Dorot Harishonim*, II:448. See also Sariel, "Rabbi Yitzchak Isaac Halevy," 25.

[164]See for example Isaac Halevy, *Dorot Harishonim*, II:81, 109, 116, III:218, 224 among many other instances. See Sariel, "Rabbi Yitzchak Isaac Halevy," 25n188 and 25–8.

[165]Isaac Halevy, *Dorot Harishonim*, II:215n17.

[166]See an extensive list of cases of scholarly agreement in Sariel, "Rabbi Yitzchak Isaac Halevy," 29–30.

[167]See for example Halevy's agreement with Graetz in Isaac Halevy, *Dorot Harishonim*, III:62–3, Ic:180,424 among many others. See also the detailed list in Sariel, "Rabbi Yitzchak Isaac Halevy," 29n37. For his agreement with Weiss, see: Isaac Halevy, *Dorot Harishonim*, Ic:19n12.

[168]See Isaac Halevy, *Dorot Harishonim*, Ic:48n26, 630–1. See also Sariel, "Rabbi Yitzchak Isaac Halevy," 29n247.

Eusebius,[169] although his knowledge was mainly from secondary German sources due to his limited knowledge of Greek and Latin.[170]

Nonetheless the most significant weakness of Halevy's work is the apologetic agenda which colored his research. In Halevy's view, the antiquity and the integrity of tradition were of paramount importance in order to validate the orthodox claim against reform. Therefore, he argued that the Oral law was transmitted without any creative development or human input:

> However, there is not among Jews neither a new Torah nor a new Judaism. Whatever existed during in its earliest times remains the same in the later days. Whatever is found in the holy Scriptures is the same as what is mentioned in the Torah. The [Judaism] practiced by Elkana, Samuel and David is similar to the one practiced by all of Israel until the end of the second Temple and the same was later transmitted and noted in the Mishnah.[171]

Halevy argued that even rabbinic practices like prayer and the study of text were the same in First Temple times as they were in rabbinic times,[172] and remarkably, he even argues that synagogue practices like the repetition of the *amidah* were performed in the First Temple period as well![173]

Even with such a rigid model of the transmission of *halakhah*, Halevy had to formulate a more nuanced explanation regarding the development of rabbinic *midrash*

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[169]See notable examples in Isaac Halevy, *Dorot Harishonim*, Ie:75, 77 130 among many other instances. See Sariel, "Rabbi Yitzchak Isaac Halevy," 29n248 for a detailed list.

[170]See Mordechai Breuer, *Modernity Within Tradition: The Social History of Orthodox Jewry in Imperial Germany*, 195.

[171]Isaac Halevy, *Dorot Harishonim: Bible Period*, 168.

[172]See Isaac Halevy, *Dorot Harishonim*, Ic:332–3. See also Sariel, "Rabbi Yitzchak Isaac Halevy," 11.

[173]In Halevy's view even synagogue customs as the repetition of prayers by the *hazan* (cantor) dated from the earliest biblical times. See Isaac Halevy, *Dorot Harishonim*, Ie:168. See also Sariel, "Rabbi Yitzchak Isaac Halevy," 11n44 for a detailed list of similar instances. Although a similar concept is already quoted as *aggadah* in the Talmud (b. Yoma 28b) concerning Abraham's observance of later rabbinic edicts, nonetheless Halevy is unique in that he takes this fact as historical truth.

halakhah. Halevy conceded that this was a later development which came to provide
scriptural proof for laws received at Sinai but not to adduce new laws. In his view the
Mishnah represents the original form of the Oral Law. Halevy's apologetic agenda is clear
and he stood alone in his radical opinion of the antiquity of the Mishnah. The accepted
theory, agreed upon by Halevy's contemporaries[174] and by traditional rabbinic scholars,
like Rav Sherira Gaon in his Epistle,[175] was that after Ezra, during the period of the
sofrim, the oral law was transmitted as *midrash halakhah* in conjunction with Scripture.
As Halivni noted, "His [=Halevy's] view was ignored, however, because of his ferocious
polemical tone and his obvious tendentiousness in seeking a scientific basis for the
antiquity of the Mishnah and thereby the oral law."[176]

Halevy argued that the Mishnah composed in the second century was based on an
earlier foundational Mishnah, the *Yesod Hamishnah*, composed by the sages of the Great
Assembly during the era of the establishment of the Second Commonwealth. This *Yesod
Hamishnah* did not include any creative additions by the sages of the Great Assembly and
was based solely on earlier oral traditions.[177]

Even with this more nuanced approach, Halevy's apologetic agenda can be
recognized in his analysis of *midrash halakhah*. In his defense of orthodoxy, Halevy
attempted to scientifically demonstrate the static nature of Jewish Law, where the role of
the rabbis was one of passive transmitters rather than active developers of law. Therefore,

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[174]As D. Z Hoffmann in Hoffmann, *Hamishnah Harishonah Ufelugta Detana'e*, 5–12. See a
detailed list and further discussion in David Weiss Halivni, *Peshat and Derash: Plain and Applied Meaning
in Rabbinic Exegesis* (New York: Oxford University Press, 1991), 19–37. See also Wiliam Scott Green,
"The Talmudic Historians: Nachman Krochmal, Heinrich Graetz, Isaac Hirsch Weiss," in *The Modern
Study of the Mishnah*, ed. Jacob Neusner (Leiden: Brill, 1973), 107–21.

[175]Hanina, *Iggeret Rav Sherira Gaon*, 39.

[176]Halivni, *Midrash, Mishnah, and Gemara: The Jewish Predilection for Justified Law*, 18.

[177]See Isaac Halevy, *Dorot Harishonim*, Ic:204–310.

Halevy believed that *midrash halakhah* merely provided support and mnemonic devices for laws known through tradition, not exegesis. In short: Midrash did not create *halakhah*.[178] As he repeatedly remarked: "As it becomes clearly evident, that the Rabbis never relied upon any exegesis, even the most elementary, to derive biblical law. The source of law has always been exclusively tradition, nothing else."[179] Halevy believed that the law was immutable.[180] His agenda becomes patently clear when he attributes this view to early rabbinic authorities like Maimonides, who clearly believed in the existence of a creative midrashic process. According to Maimonides a substantial portion, perhaps the majority of law, was derived by the rabbis through the creative application of exegetical devices, like the 13 *middot* of Rabbi Yishmael and therefore are defined as rabbinic, and not sinaitic law.[181] Halevy in his relentless pursuit of a rabbinic consensus with his view of an immutable tradition forcibly reinterprets Maimonides' view to agree with Nahmanides[182] that all law is biblical and transmitted from Sinai.[183] In Halevy's *Weltanschauung* there was no room for a view which allowed for innovation.

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[178]For a further detailed analysis of the role of Midrash and the reform agenda see Jay M. Harris, *How Do We Know This?: Midrash and the Fragmentation of Modern Judaism* (Albany: State University of New York Press, 1995), 211–63 in particular. See also Sariel, "Rabbi Yitzchak Isaac Halevy," 12 and note 59 who justly demonstrates from Halevy's attitude that this approach to *midrash halakha*h was not limited to German orthodoxy.

[179]Isaac Halevy, *Dorot Harishonim*, Ic:307.

[180]See Isaac Halevy, *Dorot Harishonim*, Ic:292–311, Ie:467–543.

[181]See Maimonides, *Mishneh Torah*, Rebels 2:1; Moses Maimonides, *Sefer Hamitsvot: Makor Wetargum* (Jerusalem: Mosad Harav Kook, 1971), Principle 2 (12–5); Maimonides, *Mishnah: Im Pirush Mosheh Ben Maimon*, 11.

[182]See his critical rejection of Maimonides' view in Moses Maimonides and Moses Nachmanides, *Sefer Hamizvot Leha-Rambam*, glosses by Charles Ber Chavel (Jerusalem: Mosad Harav Kook, 1981), 31–43 For a further analysis see Moshe Halbertal, *People of the Book: Canon, Meaning, and Authority* (Cambridge, Mass.: Harvard University Press, 1997), 54–72.

[183]See Isaac Halevy, *Dorot Harishonim*, Ie:503–14.

Rav Kook and the Apologetic Agenda

Halevy's uncompromising and rigid view of tradition coupled with his pursuit of scientific and historical validation of that view was noted and criticized, even by his admirers. For example, Rabbi Abraham Isaac Kook, who was in general extremely complimentary of *Dorot Harishonim* wrote to Halevy upon receipt of the earlier volumes, that "you have sent me a jewel with no blemishes."[184] Nonetheless, R. Kook criticized Halevy's combative style, writing in a letter to A. Rivlin: "from our exchange of correspondence I am able to assess that his personality (Halevy's) is very different from mine, and the same is evident from the tone of his work. He is always in a fighting mode, [and although] truth be told he is battling a divine war, nonetheless, I am a peaceful individual who pursues peace. . . and thus I am not able to adopt his method in my thought and in my activities in the holy land. Nonetheless, I value both his work and personality, and hopefully many others will follow in his footsteps."[185] In addition to the problem with Halevy's combative tone, R. Kook was also troubled by Halevy's historical apologetics regarding tradition. Halevy feared that any legitimization of creativity would lead to anarchy and reform and would threaten the basic foundations of orthodoxy. This is quite paradoxical since Halevy's historiographical method itself constituted a great innovation. As Halevy himself noted numerous times,[186] earlier rabbinical authorities did not have a historical consciousness[187] and therefore presented in many instances anachronistic accounts.[188] R. Kook insightfully noted, "You remark that 'We need to be

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[184]Kook, *Igrot Ha-Re'iyah*, I:122–3 (letter 103).

[185]Kook, *Igrot Ha-Re'iyah*, I:168 (letter 136).

[186]For example see Isaac Halevy, *Dorot Harishonim*, Ie:144–5, II:117, 228, 241.

[187]See Yerushalmi, *Zakhor: Jewish History and Jewish Memory*, 5–52 for a similar observation.

[188]For some illustrative examples, see Isaac Halevy, *Dorot Harishonim*, II:228–31, 240–1.

extremely careful from applying new approaches,' but at the same time I can say with

utmost conviction that you yourself would agree that in contrast to all other Torah

scholars you have pursued a new approach with your historiographical works and that

they have provided more value than the work of many other authors who have given us

more *pilpulim*[189] following old methods."[190] Halevy's response to R. Kook is also

noteworthy. He argues that his approach did not offer a radical change but represented

only a reinterpretation of existing sources: "I have not undertaken a new approach in my

works, but rather I have found the keys to understanding the Mishnah and the Gemara. I

am certain that had the *Tosafot Yom Tov*[191] of blessed memory been alive today, he would

have mentioned me frequently in his work. Furthermore, had Rashi and Maimonides seen

it, they would be very pleased with it."[192] Halevy understood well that interpretation

provided the ultimate tool for change while at the same time maintaining tradition. R.

Kook's comment is incisive as Halevy's own approach allowed for creativity while

maintaining tradition through creative interpretation. However, when describing the

process of the formation of the Talmud Halevy presented rabbinic tradition as static and

unchanging and did not give any latitude for the creative power of interpretation.

In the same letter, Halevy provides a compelling approach to his own scientific

method. Halevy argues that "in any situation where there are many questions and the

approach has been to solve each one on an ad hoc basis, it is incumbent upon us to realize

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[189]Dialectic discussions.

[190]Kook, *Igrot Ha-Re'iyah*, 168 (letter 146). See also David Ellenson, "Wissenschaft Des Judentums, Historical Consciousness, and Jewish Faith: The Diverse Paths of Frankel, Auerbach and Halevy," 14. However, it is clear from this letter that R. Kook was not warning Halevy "to be guarded against new ways," as Ellenson understands. R. Kook was simply quoting Halevy and pointing out the inherent inconsistency in his approach.

[191]R. Yom-Tov Lipmann Heller (1578–1654).

[192]Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 152 (letter 80).

that the key to understanding has been lost. The sign of a true approach is when a method

can be found where everything is coherent and harmonious."[193]

R. Kook's entire attitude towards the validation of orthodoxy varied greatly from

Halevy. He believed that historiography alone was not effective as a tool to safeguard

tradition. In his view, the validation of tradition was far more effective when presented as

part of a sound philosophical and theological interpretative framework. R. Kook believed

that history and scientific research could be conducted on their own terms without any

preconceived notions:

> What precipitated those who came to destroy the world by rebelling
> against tradition, in a deeper sense was the fact that their world was devoid
> of any inner meaning . . . For instance, in a similar vein to the question
> about *shiurim*[194] where it does not make any difference whether they are
> traditions to Moses from Sinai, as concluded in the Babylonian Talmud, or
> whether they are in essence decrees of the court of Jabez,[195] as indicated
> by the literal interpretation of the [*sugya*] at the beginning of y. Pe'ah. . .
> the determining factor is its acceptance by the nation[196] . . . in the same
> way it will not matter in our reverence to the Oral Torah whether the
> Mishnah was sealed during earlier or later generations, and similarly the
> Talmud.[197]

According to R. Kook's view, historiography did not need to be apologetic, as it

was in any case ineffective. Although his method was different than Halevy's, R. Kook

enthusiastically endorsed Halevy's approach and even agreed to co-direct a student

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[193]Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 152 (letter 80).

[194]Measurements used in the performance of commandments and employed in determining prohibitions.

[195]Chronicles I 4:9. According to this opinion *shiurim* were not a tradition from Sinai but were established by the rabbinical court of Jabez. See b. Temurah 16a.

[196]R. Kook's positive law approach in validating Jewish norms is widely mentioned in his writings. In his view collective acceptance gives normative authority to law. See Zalman Menahem Koren, "Tannaim, Amoraim, Geonim Verishonim: Samkhut Harishonim Kelapei Ha'aharonim," in *Berurim Behilkhot Hareiyah*, ed. Moshe Zevi Neriah, Aryeh Shtern, and Neriyah Gotel ([Israel]: Bet Harav, 1991), 423–50. See also Ismar Schorsch, "Zacharias Frankel and the European Origins of Conservative Judaism," *Judaism* 30, no. 119 (1981): 344–54 for a similar approach by Zacharias Frankel.

[197]R. Kook's letter to Halevy in Kook, *Igrot Ha-Re'iyah*, 193–4 (letter 149).

organization in Bern named *Takhkemoni*, for the dissemination of Halevy's methods.[198]

Despite his endorsement, R. Kook was well aware of the apologetic nature of Halevy's

work and of its limitations. He criticized Halevy's followers for being resistant to any

criticism of Halevy's methods, writing to Meir Bar Ilan (editor of the periodical *Ha-*

Ivri):[199] "Although both[200] are good and appropriate historiographical works, and we have

no other [alternatives], we still cannot deny the existence of much good content in other

works despite being faulty in many areas. Moreover, they (Halevy and Yaavetz) were also

not always correct in their apologetic criticism. As such, the truth is the most beloved and

through it the Almighty can be praised and true faith can be elevated."[201]

Halevy believed that the only way to defend religion in the eyes of a young

orthodox audience from the attacks of reform was to adopt *Wissenschaft* as his own. It

was thus imperative to disseminate Jewish scholarship among yeshiva students and

teachers. As he noted in an unpublished letter to R. Kook, yeshiva students had to be

taught how to contend with the challenges intellectually: "We must therefore teach our

youngsters to speak out against them."[202] As he further explained" this is a great

endeavor, since by reading these books their ideologies will be corrected."[203]

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[198]See Yedidya, "Benjamin Menashe Levin and Orthodox Wissenschaft Des Judentums (Hebrew)," 136–9.

[199]Zionist weekly founded and edited by Meir Bar-Ilan (Berlin). It was published in Berlin from 1910 until 1914 and in New York from 1916 to 1921. See Skolnik and Berenbaum, *Encyclopaedia Judaica*, s.v. Bar-Ilan, Meir.

[200]Halevy's *Dorot Harishonim* and Zev Yaavetz's *Toldot Israel*.

[201]Kook, *Igrot Ha-Re'iyah*, II:20 (letter 355).

[202]Unpublished letter mentioned in Yedidya, "Orthodox Reactions to 'Wissenschaft Des Judentums'," 80.

[203]Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 134 (letter 62).

Halevy's apologetic agenda of applying scholarship in the defense of orthodoxy

had problematic results. It negatively impacted the credibility of his scholarship and

prevented the wide dissemination of his works not only among scholars but also among

his intended audience, yeshiva students and orthodoxy in general.[204] To yeshiva students

it was too scholarly. Halevy was right in the middle—the reformers dismissed him as an

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[204]See Mordechai Breuer, *Modernity Within Tradition: The Social History of Orthodox Jewry in Imperial Germany*, 198. See also Sariel, "Rabbi Yitzchak Isaac Halevy," 28, 28n235. Sariel attributes the ambivalence towards *Dorot Harishonim* of later orthodox leaders to Halevy's criticism of earlier rabbinical authorities. However, his assessment is not totally accurate. Although some notable rabbis, like R. Yaakov Kamenetsky (c. 1891–1986) in Nathan Kamenetsky, *Making of a Godol* (Jerusalem: PP Publishers, 2004), 14 and note n did criticize Halevy for this, others, like R. Avraham Yeshaya Karelitz, (1878–1953), popularly known by the name of his magnum opus *Hazon Ish*, were only ambivalent towards his work due to his apologetics. Moreover, R. Kamenetsky's reservations had more to do with the harsh tone of his criticism both against his contemporaries and against earlier authorities, than with his arguments against them. On the other hand, the Hazon Ish and others were ambivalent about *Dorot Harishonim* because in their view Halevy's work was mainly a controversy against heretics and thus would unduly expose orthodox youth to issues and heresies of earlier generations. This exposure was unnecessary since the issues in his eyes had already been resolved and had already lost currency among the orthodox community and thus were no longer relevant. Horowitz in Abraham Horowitz, *Orkhot Rabenu* (Bnei Brak, 1998), III:119 notes in the name of R. Hayyim Kanievsky (1928–), that the Hazon Ish in a meeting with Halevy's grandson, Mordechai, argued that *Dorot Harishonim* should not be republished when the previous editions were sold out. In R. Hayyim Kanievsky's view, the Hazon Ish took issue also with Halevy's attitude towards his rabbinic predecessors in addition to his reservations about the apologetic nature of the work. In a meeting with Halevy's great grandson in 2007—R. Shmuel, who is currently in the administration of the elementary school named for the Hazon Ish and established in his former house—told me that he remembers that meeting. In his recollection, the Hazon Ish cited Halevy's recurring controversies with the heretics of previous generations as a reason to avoid republishing the book. However, he maintains that there was no mention of Halevy's arguments with earlier rabbinic authorities. See also R. Jehiel Jacob Weinberg's criticism of Halevy's narrow approach in Jehiel Jacob Weinberg, *Mehkarim BaTalmud* (Berlin: Bait Hamedrash Lerabanim, 1938), V. Some noted orthodox scholars however did respect his work. D. Z. Hoffman praised Dorot Harishonim in his review published in 1901. He writes that, "[t]he author was careful and responsible in his conclusions. We fully believe his statement that he did not intend to write apologetics but rather to pursue the truth through incisive research." See David Zvi Hoffmann, "J. Halevy: Dorot Harishonim," *Zeitschrift Fur Hebraeische Bibliographie* 5, no. 1 (1901): 100–7, Serial; Yedidya, *Criticized Criticism: Orthodox Alternatives to Wissenschaft Des Judentums 1873–1956 (Hebrew)*, 176–8. Furthermore, several noted contemporary rabbinical authorities also respected his work. I personally heard from Rabbi Moshe Shapiro, one of the leading rabbinic personalities in Israel, that the work of two authorities in the past century (despite being apologetic) added a unique dimension to Torah scholarship. They were the works of Halevy, *Dorot Harishonim* and the works of Rabbi Meïr Leibush Wisser (1809–1879), also known as Malbim. Notably even the credibility of Halevy's own disciples' work was affected by his uncritical apologetics. See Aaron Hyman, *Toldot Tannaim Veamoraim* (Jerusalem: Boys Town Jerusalem Publishers, 1964), I:4. Hyman's son notes in the introduction to the second edition, that one of the main criticisms on his father work was his reliance upon the uncritical research of *Dorot Harishonim*.

orthodox apologetic and the orthodox as someone using heretical methods, even if it was for a good purpose.[205]

Scholarship

Even if we can describe Halevy as a product of his time within Jewish *Wissenschaft*, his scholarship displays several weaknesses unrelated to any apologetic tendencies. In general, these weaknesses stem from the fact that Halevy was an autodidact. Examination of Halevy's work shows that the structure and style of his presentation do not conform to the requirements of modern systematization and present great difficulty to any reader.[206] In addition, the style of his Hebrew is outdated and contains numerous grammatical errors.[207] Both of these weaknesses were exploited by critics and damaged the reputation of Halevy's work.[208] An additional weakness can be found in Halevy's reliance on problematic printed editions of both early rabbinic texts and later material. This is specially acute in the absence of critical review of textual variants of talmudic texts.[209] Despite the fact that R. N. Rabinowitz had already published

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[205]The extent of the ignorance about his work is also evident in the description of the meaning of the street in Jerusalem named after *Dorot Harishonim*. R. Eisenberg in his descriptions of the streets in Jerusalem describes it as the "street named in memory of the early pioneers (*halutzim*) who built up the Land of Israel and Jerusalem." See Ronald L. Eisenberg, *The Streets of Jerusalem: Who, What, Why* (Jerusalem: Devora Publishing Company, 2006), 84.

[206]See Mordechai Breuer, *Modernity Within Tradition: The Social History of Orthodox Jewry in Imperial Germany*, 195. Halevy's lack of systematization is already evident in the order of the publication of the various volumes of *Dorot Harishonim*, which as noted earlier were not issued in chronological order. Furthermore the numbering of his volumes are on their own confusing as Volume I is divided among Ic, Id and Ie, without a Ia or Ib!

[207]See Mordechai Breuer, *Modernity Within Tradition: The Social History of Orthodox Jewry in Imperial Germany*, 195.

[208]See the sharp criticism of his work by one of his contemporaries on Simkhuny, "Dorot Harishonim," 428–9 for a notable example.

[209]Nonetheless, Halevy does correct and edit the text when he believed the extant version posed difficulties. His emendations are at times significant and contradict all textual witnesses and the view of all

his magnum opus—his 16 volume *Diqduqey Sofrim* published in installments between 1867 and 1897[210]—and that his book was widely disseminated in Europe,[211] Halevy does not mention *Diqduqey Sofrim* at all in his work.[212] The reluctance to rely upon manuscripts was not unique to Halevy. Notable among those who were against using manuscript readings was R. Avraham Yeshayahu Karelitz (1878–1953), known as the Hazon Ish, who rejected Rabinowitz's work on theological grounds:[213]

> And about emending the talmudic text based upon the Munich manuscript: Is it conceivable that all former Rabbis, from the time of the *rishonim*[214] until now, did not arrive at the truth just because of an error by a scribe who emended the text of the Talmud and thus fooled all the sages?. . . The text used by the *rishonim* who have sacrificed their lives for its (Torah) sake, and which was protected by Divine providence. . . should not be discarded . . . I almost don't see any value in arriving at the truth by checking variants found in the various *genizot*.[215] Their only achievement is to confuse and to distort the truth. They should be buried since their damage is greater than their benefit."[216]

However, unlike Karelitz, Halevy rejected the use of manuscripts for practical reasons and not on theological grounds. Halevy believed that manuscripts were not any more reliable than printed editions and in his eyes were actually more susceptible to

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early rabbinical authorities. His numerous emendations to the Talmud are dispersed throughout his work. See Isaac Halevy, *Dorot Harishonim*, II:437–9 for a notable example.

[210]The last volume was published posthumously by H. Ehrentreu.

[211]For further details concerning *Diqduqey Sofrim* and the controversies around its publication see Yaakov Shmuel Spiegel, "Chapters in the History of the Jewish Book: Writing and Transmission (Hebrew)" (Ramat-Gan: Bar-Ilan University Press, 1996), 478–531.

[212]See Abraham Epstein, "Iggrot Bikoret," 256. See also Yedidya, *Criticized Criticism: Orthodox Alternatives to Wissenschaft Des Judentums 1873–1956 (Hebrew)*, 164.

[213]Karelitz also rejected the use of the novellae of medieval commentator Menahem Meiri which were only published from manuscripts in the modern era.

[214]Medieval rabbinic scholars.

[215]Store room (usually above the town's synagogue) where old sacred texts are stored.

[216]Avraham Yeshayahu Karelitz, *Kovets Iggrot* (Bnei Brak: Grainiman, 1989), I:59–60 (letter 32). See also Karelitz, *Kovets Iggrot*, II:37 (letter 23).

errors since they were not reviewed in a systematic way. In a letter to his son Shmuel, he expressed his preference for the printed edition of the Epistle and criticized the critical edition of his friend Benjamin Lewin: "Your honored friend Lewin has a similar disease to those who think that manuscripts have a special holiness and were composed by angels. . . . The truth is quite the opposite. Manuscripts are more susceptible to errors than printed editions who were corrected by qualified editors."[217] Halevy's mistrust of manuscripts caused him to ignore important readings and prompted harsh criticism even on the part of his admirers.[218]

Halevy's complex character thus combines sincere scientific commitment towards historiographical research with traditionalist zealotry.[219] Therefore, it is imperative that our analysis of his work be critically sensitive and cognitive of his agenda in order to discern his contribution to historiography from his apologetics. We can then reveal Halevy's significant contribution to historical research while allowing critical rejection of those assumptions which are ideologically based. R. Joseph B. Soloveitchik framed it well in his assessment of *Dorot Harishonim*: "His book is scientifically sound [despite containing] a lot of nonsense too, but still a good *sefer* (book)."[220] Notably, a useful critical approach towards *Dorot Harishonim* can be derived from Halevy's own

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[217]Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 147 (letter 76).

[218]R. Jehiel Jacob Weinberg (1884–1966), the rector of the *Rabbiner Seminar* in Berlin from 1925 until its closing by the Nazis, despite praising Halevy's work—albeit in a qualified way (see Jehiel Jacob Weinberg, *Mehkarim BaTalmud*, V)—nonetheless criticized him harshly for his dismissal of textual variants. See Jehiel Jacob Weinberg, *Seride Esh: Sheelot u-Teshuvot* (Yerushalayim: Mosad Harav Kook, 2003), IV:249.

[219]See a similar comment in David Goodblatt, "Y. I. Halevy," in *The Formation of the Babylonian Talmud: Studies in the Achievements of Late Nineteenth and Twentieth Century Historical and Literary-Critical Research*, ed. Jacob Neusner (Leiden,: Brill, 1970), 26.

[220]Holzer, *The Rav: Thinking Aloud*, 16. R. Jehiel Jacob Weinberg expressed a similar attitude in his introduction to his *Mekhkarim Batalmud*. See Jehiel Jacob Weinberg, *Mehkarim BaTalmud*, V. Notably this comment was censored and omitted by Mosad Harav Kook in their edition. See Jehiel Jacob Weinberg, *Seride Esh : Sheelot u-Teshuvot*, Volume IV.

methodology towards the works of Josephus who in his view also combined a political agenda with historical writing.[221] Halevy throughout his work provides a framework to allow a critical reader to discern valuable historical writing from Josephus' work while at the same time identifying and recognizing his political and ideological bias.[222] He applies the criterion of multiple attestation,[223] criterion of dissimilarity[224] and various other modern critical methods.[225]

When we approach the scholarship of Halevy with objectivity, not forgetting his inherent weaknesses, we reveal a scholar who was an expert in his subject and who developed an important theory for the formation of the Talmud, unmatched by other historians.[226] Halevy's yeshiva training[227] and talmudic erudition provided powerful tools for such a research project. His knowledge of the Talmud and other rabbinic works was unparalleled by any of his contemporaries. Moreover, throughout his work Halevy provides valuable and original insights.[228] At the same time, we must recognize that the subject of the formation of the Talmud in Halevy's mind was of extreme ideological import. As he noted in his letter to R. Kook, "It is the malady of the generation to say that Israel has no tradition of transmittance, that the Talmud is a compilation of baseless, warped interpretations . . . and that the Talmud was not compiled by a group of sages and

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[221]See Isaac Halevy, *Dorot Harishonim*, Ic:19–20, n12; Auerbach, *Yitshak Isaac Halevi Memorial Volume*, 78.

[222]See the numerous instances noted in Sariel, "Rabbi Yitzchak Isaac Halevy," 36–41.

[223]See Isaac Halevy, *Dorot Harishonim*, Ic:188.

[224]See Auerbach, *Yitshak Isaac Halevi Memorial Volume*, 31.

[225]See Sariel, "Rabbi Yitzchak Isaac Halevy," 38–9.

[226]See Kaplan, *The Redaction of the Babylonian Talmud*, 25.

[227]Despite his short stay in Volozhin, Halevy was a self taught traditional rabbinic scholar who was in constant conversations with major rabbinical figures of his time.

[228]See a similar comment in Goodblatt, "Y. I. Halevy," 26.

sealed in the days of Rav Ashi but during the time of the *Geonim* themselves. . . . All

these things circulate among our young people in a most alarming fashion. . . We must

therefore teach our youngsters to speak out against them. This is truly an urgent

matter."[229] Naturally it was the subject chosen by Halevy to inaugurate his work and it

constituted the centerpiece of the initial volume of *Dorot Harishonim*.[230]

In the next sections I will describe his findings and his unique contributions to the

history of the formation of the Talmud and to the analysis of its structure. At the same

time, as required by the hybrid nature of his research, as both a scholarly and an

apologetic endeavor, his theories will be evaluated and critically assessed in order to

discern the valuable historical conclusions from his ideological and political agendas.

The Formation of the Talmud

The Initial Stages—The Disciple Circles, Abaye and Rava

Halevy describes the formation of the Talmud as an extended process, consisting

of four principal stages. The initial stage began immediately upon the publication of the

Mishnah by Rabbi Judah the Prince, and consisted of assembling tannaitic teachings

relevant to each of the sections of the Mishnah. These teachings were in a structure and

terminology similar to *baraitot*.[231] These additions contained tannaitic traditions not

included in the Mishnah together with other anonymous explanations. They represented

the understanding of individual schools and were preserved by various individual amoraic

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[229]Unpublished letter quoted in Yedidya, "Orthodox Reactions to 'Wissenschaft Des Judentums'," 86; Yedidya, *Criticized Criticism: Orthodox Alternatives to Wissenschaft Des Judentums 1873–1956 (Hebrew)*, 157.

[230]See a similar conclusion in Samuel Kalman Mirsky, *Ishim u-Demuyot Be-Hokhmat Yisrael, Be-Europah Ha-Mizrahit Lifne Sheki'atah*, in *Morashah ; 5* (New York: Hotsa'at Ogen, 1959), 68.

[231]Coming from the Aramaic word *bar*—meaning outside, primarily referring to traditions not included in the Mishnah.

disciple circles.[232] They were memorized and transmitted by *tannaim*, the reciters of sources, functioning much like human tape recorders.[233] In Halevy's view, Rabbi Judah's Mishnah was universally accepted upon its redaction as a sealed corpus. Thus, in contrast with the view of Z. Frankel, these *baraitot* were not addenda to the Mishnah but were rather saved as explanatory glosses appended to the authoritative Mishnah.[234] According to Halevy, this initial stage continued during the first two generations of *Amoraim*, and therefore similar explanations and traditions were in certain cases transmitted as both *baraitot* and as amoraic traditions.[235] These sources were arranged and taught together with the relevant Mishnah.[236] Halevy argues that this first stage of development came to an end during the third and fourth generation of *Amoraim* when Abaye and Rava revolutionized talmudic learning by composing a common body of amoraic traditions which were shared and studied by all academies and amoraic disciple circles. He believed this occurred when the center of power in Babylonia shifted from the academy in Sura to the academy in Pumbedita.

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[232]Isaac Halevy, *Dorot Harishonim*, II:114–52. Notable examples are the *beraitot* of R. Hiyya and R. Oshaya, Bar Kappara and Levy.

[233]Halevy's model of transmission is similar to the publication of the Mishnah as explained by S. Lieberman. As he noted, "A regular oral edition of the *Mishnah* was in existence, a fixed text recited by *Tannaim* of the college. The *Tanna* (repeater, reciter) committed to memory the text of certain portions of the *Mishnah* which he subsequently recited in the college in the presence of the great masters of the law." See Lieberman, *Hellenism in Jewish Palestine*, 83–99.

[234]In Zechariah Frankel's opinion these *baraitot* were composed as addenda to Rabbi Judah's Mishnah. See Zacharias Frankel, *Darkhey Hamishnah* (Leipzig: H. Hunger, 1859), 313.

[235]See Isaac Halevy, *Dorot Harishonim*, 148–60. Halevy is clear that these were tannaitic traditions. At times however they were transmitted as *baraitot* and at times as amoraic statements—as the *Amoraim* were sometimes the transmitters of those traditions. His position is not very different than Halivni's, despite the fact that apparently Halivni understood Halevy to assume that these were amoraic traditions. See Isaac Halevy, *Dorot Harishonim*, II:138; Halivni, *The Formation of the Babylonian Talmud*, 135, n30.

[236]The first two amoraic generations include Rav and Shmuel—from the first generation and Rav Huna and Rav Hisda—from the second generation. During this initial stage the central and most influential academy was located in Sura. Isaac Halevy, *Dorot Harishonim*, II:490

Halevy postulated that talmudic learning during the first two generations of *Amoraim* was decentralized and was confined to the particular traditions of the various schools.[237] The academies functioned in essence like "disciple circles"[238] where the individual traditions of a particular *Amora* were debated[239] and preserved individually by disciples of that center. During this period, amoraic statements are commonly introduced by tracing the history of transmission using the word *amar*, as found in the phrase: *amar Rav Yehudah amar Rav*.[240]

The centerpiece of Halevy's reconstruction of the editing of the Talmud is his theory that during the mid fourth century a "proto-Talmud" was collected and redacted. Although proto-Talmud is my term,[241] it accurately depicts Halevy's conjecture that it was at this time that the dispersed tannaitic traditions, together with the explanations of the various *Amoraim*, were collected from each of the academies and disciple circles. In addition, variants of the amoraic statements and teachings which circulated among the many disciples were collected as well. These traditions were then incorporated, contrasted

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[237]See Isaac Halevy, *Dorot Harishonim*, II:494.

[238]Halevy's conception is in many ways similar to David Goodblatt's notion of the learning activities of the early *Amoraim*. See Goodblatt, *Rabbinic Instruction in Sasanian Babylonia*, 267–80; David Goodblatt, "The History of the Babylonian Academies," in *The Cambridge History of Judaism. Vol. 4*, ed. Steven T. Katz (Cambridge: Cambridge University Press, 2006), 835. Goodblatt noted that this style of learning was also reflected in the structure of the academies of the time. However, Halevy disagrees with this assumption and argues that structured *yeshivot* were already in existence in Babylonia from the era of the first *Amoraim*. See Goodblatt, "The History of the Babylonian Academies," 47, Isaac Halevy, *Dorot Harishonim*, 404:17.

[239]In the original: אמר רב יהודה אמר רב—This direct double attribution is quite common and is found in printed editions of the Talmud over 1200 times.

[240]See also Abraham Weiss, *The Talmud in Its Development*, 409n8. Weiss' comment that Halevy appears to contradict himself when describing the activities of the academy in Sura is not accurate. Halevy agrees that debates were in existence from the earliest amoraic times. He believed that they were confined to the particular traditions of an *Amora*.

[241]The term proto-Talmud is not mentioned nor referred to by Halevy. I employ the term to denote the initial early skeleton of a unified corpus of amoraic rulings and discussions which eventually developed into the Talmud.

and debated in an integrated format.[242] The collection of the many individual traditions into a collective body of knowledge constituted the creation of a unified curriculum of rabbinic traditions. These debates were preserved and transmitted in a fixed form.[243] The proto-Talmud was similar in structure to R. Judah's Mishnah, with the exception that the proto-Talmud also included the reasoning and debates of the *Amoraim* in addition to their final opinion and conclusions.[244] According to Halevy the existence of an early type of proto-Talmud can be traced to an earlier period as well.[245] However, in his view the contribution of Abaye and Rava represented the critical formative step in the creation of the fixed proto-Talmud, since it was their activity that transformed the decentralized traditions into a unified body of traditions which was coordinated among the various disciple circles. Following Abaye and Rava, the traditions were preserved and transmitted to future generations exclusively in a collective setting by the academies and not by disciple circles. It is conceivable that this coordination of the various traditions of the different *Amoraim* allowed for the eventual institutionalization of the Academies. Precisely such an increased institutional complexity was noted by David Goodblatt as evident from the beginning of the fourth century. These institutions eventually developed into the full-fledged academies of geonic times although the precise time of when it occurred remains unclear.[246] This epistemological shift constituted the critical stage in the evolution of the Babylonian Talmud.

The pivotal role of Abaye and Rava in the compilation of the Talmud is one of the central points of Halevy's theory and represents an important contribution to the study of

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[242]See Halevy, *Isaac Halevy, Dorot Harishonim*, II:480–2, 90–4, 552–4.

[243]See Isaac Halevy, *Dorot Harishonim*, II:480–2, 90–4, 552–4.

[244]Isaac Halevy, *Dorot Harishonim*, II:481.

[245]See b. Eruvin 32b: ?קביעתו ליה בגמרא . See Isaac Halevy, *Dorot Harishonim*, III:117.

[246]Goodblatt, "The History of the Babylonian Academies," 821–39.

the formation of the Talmud. While it is true that earlier rabbinic scholars had argued for the centrality of Abaye and Rava in the talmudic *sugya*,[247] it was Halevy who developed the theory that their activity was integrated in the process of the formation of the Talmud. According to Halevy it was Abaye and Rava who created the basic structure of the extant Talmud. As Goodblatt noted: "Halevy's theory, particularly the large role he assigns to Abaye and Rava, is at variance with the usual view that R. Ashi "compiled" the Talmud. With various minor modifications this view was shared by most of the rabbinic scholars of his time"[248] Thus, Halevy's theory on the creation of the Talmud is an example of his scholarly independence as it directly contradicted the traditional theory prevalent for many centuries.

Although Halevy does not provide enough evidence for his theory, a remarkable indication of this transition can be observed by the abrupt change in the transmission of traditions by disciples. Prior to the era of Abaye and Rava the teaching and the traditions of masters were preserved by their disciples and were conveyed to future generations by them. Disciples thus embodied the extension of their master after his demise and afforded him immortality. Although it is possible that many of their teachings were preserved through the use of reciters, in a fixed format,[249] nonetheless, many traditions were

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[247]See Rabbenu Yosef Koulon, *She'elot VeTeshuvot Maharik* (Jerusalem, 1998), 162 (Shoresh 84). See also Yaacov Sussman, "Once More on Yerushalmi Nezikin (Hebrew)," in *Mehqerei Talmud*, vol. I, ed. Yaacov Sussman and David Rosenthal (Jerusalem: The Hebrew University Magnes Press, 1990), 101n88.

[248]Goodblatt, "Y. I. Halevy," 31 See also b. Bava Metzi'a 86a and Rashi (*ad loc*; s.v. *sof hora'ah*). For an analysis of Rashi's view see Aaron Hyman, *Toldot Tannaim Veamoraim* (London: Express, 1910), I:252:3; David Rosenthal, "Pirkah de Abaye (Rosh Hashana, Chapter Two)," *Tarbiz* 46, no. 1–4 (1976–1907): 97n2. For a further discussion on the topic see Yaacov Sussman, "Sugyot Bavliot Lisdarim Zeraim Vetaharot," PhD Dissertation in *Talmud* (Jerusalem: Hebrew University of Jerusalem, 1969), 30a, n94.

[249]See b. Eruvin 32b a statement by R. Nahman (d. 320 CE) : "Did you incorporate it [the answer given] in the *Gemara*?"

preserved by students.[250] This strategy can be observed by the frequent use in the Talmud of "direct double attributions." When statements were conveyed by disciples as transmitters of their master's teachings this attribution method was employed. As an example Rav's statement when transmitted by Rabbi Yehuda his disciple is referred to as *amar Rav Yehudah amar Rav*, Rabbi Yehuda said [and] Rav said, rather than *amar Rav*, Rav said. This "direct double attribution" demonstrated the fusion between the student and his teacher and emphasized the connection with the source of the quotation. The extent of the task of the disciple to maintain and to transmit his master's teachings is confirmed by the requirement that the disciple was not entitled to profess a view contrary to his master's opinion transmitted by him unless his master's view was also conveyed at the same time.[251] This direct double attribution is in noted contrast to indirect double attributions. During the first two amoraic generations the double attributions could be either direct or indirect. The term *amar Rav Yehudah amar Rav* noted above reflects a direct double attribution,[252] while the term *Rav Yehudah Mishmeyh d'Rav amar*, Rav Yehuda *in the name* of Rav said, denotes an indirect double attribution.[253] Indirect double attributions reflect instances where disciples were not the transmitters of their master's teachings but rather just conveyed statements heard from them.[254]

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[250]Martin Jaffee writes: "The disciple in this world keeps his master's teachings in his mouth so that even the master's earthly remains can, in a minor way, be restored to physical life through the sweet refreshment of his own teaching. As his disciples transmit his traditions, the dead master enjoys a kind of postmortem participation in the revivifying life of learning." Martin S. Jaffee, *Torah in the Mouth: Writing and Oral Tradition in Palestinian Judaism, 200 BCE-400 CE*, 150.

[251]Like in b. Qiddushin 42a. See also b. Shabbat 47a and *Bi'ur HaGr''a Orakh Haim* 443:1.

[252]This direct double attribution is the most common form of double attribution and it is mentioned frequently in the Talmud (in excess of 1200 times).

[253]This indirect double attribution is mentioned in approximately 760 instances in the Talmud. See, for example, b. Hullin 57a.

[254]Rashi in b. Hullin 113b (s.v. *ha derabeyh*) explains that this term is used when a student did not hear the statement directly from his master but only through intermediaries. Rashbam in b. Bava Batra 114b

A careful analysis of the talmudic text indicates a puzzling phenomenon. While the direct attribution was by far the most frequent form of conveyance[255] during the first two generations of *Amoraim*, it was nonetheless completely discontinued after the era of Abaye and Rava. These direct double-attributed statements were not employed by *any* of the later sages.[256] Even important disciples like Rav Pappa only conveyed indirect transmissions.[257] In light of Halevy's theory this phenomenon makes sense. From Abaye and Rava's era onwards traditions were preserved and transmitted to future generations as part of a unified and coordinated body of traditions and they were conveyed exclusively to *tannaim* for preserving and transmitting to future generations. It is thus obvious why the strategy of "direct double attribution" was discontinued by these later sages.

This novel status of disciples in the era post Abaye and Rava, is attested by the marked shift in the process of *halakhic* determination. Most rabbinic authorities[258] thought that in debates between disciples and their masters the *halakhah* was to follow the view of the master—*ein halakhah ketalmid bimkom harav*—, the law does not follow

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(s.v. *mishum*) gives an alternative interpretation, arguing that the term is used by interlocutors who are not the principal disciples of the *Amora*.

[255]These statements appear in excess of 1,200 times in the Talmud and they are at least twice as frequent as indirect double attributions.

[256]While the Talmud mentions in excess of 200 such indirect double attributions of later sages not even *one* double direct attribution is indicated. The only exceptions noted are instances of direct double attributions in the name of Rav Ashi and all of these are obvious printing errors as proven by manuscript readings in these cases. See b. Berakhot 44a, b. Shabbat 142a, b. Gittin 39b, b. Zevahim 55b and b. Niddah 63a.

[257]See b. Shabbat 93b, b. Pesahim 7a, b. Meguillah 26b among many other instances.

[258]For the various opinions on the matter see Kahana, "Seder Tannaim Weamoraim auf Grund Mehrerer," 17; Mal'akhi Hakohen, *Yad Malakhi* (Bnei Brak and New York: Mishor, 2001), s.v. halakhah kebatra'ey (167) 11–4; Israel Ta-Shma, "Hilkhita Kebatrai: Historical Aspects of a Legal Rule," *Shenaton Hamishpat Haivri* 6–7 (1979–80): 409–14. Ta-Shma believes that all *Geonim* are in agreement with this principle.

the view of a disciple [when in argument with his master].[259] The *Geonim* however

qualified this ruling.[260] From Abaye and Rava onwards the law was to follow the opinion

of the later sages—*Hilkheta Kebatra'ey*—*even* in instances of arguments between

masters and their disciples. In light of the changed nature of the disciple/master

relationship this ruling is also logical. Once there was an integrated body of traditions,

students were no longer disciples of an individual *Amora* but rather of the collective

rabbinic body.[261]

Halevy posits that the central editing process of Abaye and Rava took place at the

beginning of the fourth century in the academy of Pumbedita,[262] following the death of

Rav Hisda in 308 CE,[263] when the academies of Sura and Pumbedita united and

Pumbedita became the dominant Academy.[264] According to Halevy, this setting where

only one central academy was operative ended with the death of Rava in 351/2 CE.[265]

This setting provided Halevy with what he thought to be the ideal setting for the creation

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[259]See Kahana, "Seder Tannaim Weamoraim auf Grund Mehrerer," 17.

[260]See Kahana, "Seder Tannaim Weamoraim auf Grund Mehrerer," 17n2; Hakohen, *Yad Malakhi*, s.v. halakha kebtra'ey (167) 11–4; Ta-Shma, "Hilkhita Kebatrai: Historical Aspects of a Legal Rule," 409–14.

[261]Once the disciple/master relationship changed, students became the disciples of the entire amoraic tradition which grew over time and thus later generations were deemed greater than earlier ones. See Koulon, *She'elot VeTeshuvot Maharik*, Shores 84, pg. 162. See also *Kitzur Kelaley Hatalmud* in b. Berakhot s.v. *ein halakha*.

[262]See Isaac Halevy, *Dorot Harishonim*, II:481–2, 90 and 94.

[263]See Hanina, *Iggeret Rav Sherira Gaon*, 85. Brody, "On the Sources for the Chronology of the Talmudic Period (Hebrew)," 96, 78n17. See also Kahana, "Seder Tannaim Weamoraim auf Grund Mehrerer," 5n63.

[264]Hanina, *Iggeret Rav Sherira Gaon*, 89; Isaac Halevy, *Dorot Harishonim*, II:481.

[265]See Hanina, *Iggeret Rav Sherira Gaon*, 89; Brody, "On the Sources for the Chronology of the Talmudic Period (Hebrew)," 97.

of the proto-Talmud. Halevy termed this Pumbeditan[266] academy the *Metivta Kolelet* or *Beit Hava'ad*[267] and argued that it was universally recognized as supreme and authoritative. On this point Goodblatt writes: "Halevy does not deny that other schools existed, a fact for which there is abundant evidence, but asserts that from the death of Rav (247) to that of Rava (351/2), and again under R. Ashi, there was one particular school which was acknowledged as supremely authoritative."[268]

In Halevy's opinion the *Metivta Kolelet* consisted of a *Va'ad*, a collection of all the major rabbinical scholars of the time, including sages from both Palestine and Babylonia. According to Halevy this group constituted the *Sanhedrin* of its time, making its decisions authoritative. Goodblatt describes Halevy's theory as, "a part of the rabbinic myth of the uniform and orderly development of the *halakhah* overseen by a central, universally recognized authority, heir to the Great Assembly and the Sanhedrin."[269] Halevy's historical presentation of a unified and orderly formation of the Talmud by an international body was an effective tool for substantiating Halevy's ideological agenda of presenting the Talmud as the supreme and unassailable legislative work of the entire community. It also served as a model of his political ambitions for his own time: the creation of an international organization of worldwide orthodox Jewry, Agudath Israel. Halevy's reconstruction of the talmudic *Metivta Kolelet* provided the historical precedent

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[266]For details of how this *Metivta Kolelet* functioned in light of the well established link of Rava to the city of Mahoza see Hyman, *Toldot Tannaim Veamoraim*, III:1041–7; Richard Kalmin, *Sages, Stories, Authors, and Editors in Rabbinic Babylonia*, in *Brown Judaic Studies ; No. 300* (Atlanta,: Scholars Press, 1994), 176–8 and the literature cited there.

[267]General Academy. See Isaac Halevy, *Dorot Harishonim*, II:481.

[268]Goodblatt, "Y. I. Halevy," 37.

[269]Goodblatt, "Y. I. Halevy," 46.

and potential impact for precisely the kind of unified body he wanted to create in his own day.[270]

Despite the fact that Halevy repeats his theory about the *Metivta Kolelet* numerous times in *Dorot Harishonim*,[271] nowhere does he provide adequate proof for its existence. The only evidence which Halevy cites are the instances in the Talmud that seem to indicate that a redaction activity had taken place. Halevy's creativity in revealing such instances is remarkable. For example, Halevy finds proof for the existence of a *Metivta Kolelet* in Bavli Pesahim 105b where R. Nahman b. Yitzhak refers to himself as "a teacher and systematizer of traditions"(*gamarna ve sadarna*).[272] This title is quite ambiguous and not used elsewhere, and thus medieval commentators have struggled in identifying R. Nahman b. Yitzhak's role.[273] Halevy understands the term to mean that he was one of the *Amoraim* responsible for the redaction of the Talmud in the *Metivta Kolelet*.

Despite the importance Halevy attributed to the *Metivta Kolelet*,[274] it is important to understand that he did not see Abaye and Rava as part of a body which met and worked in one physical location. In my view Halevy's opinion of the innovation of Abaye and Rava is not dependent on a physical location, but instead their approach represented a new paradigm in the study and the transmission of the oral law: the establishment of a collective talmudic structure. This paradigm shift was performed in coordination with numerous academies and was primarily an epistemological shift. Halevy's understanding

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[270]It is unclear whether his political model for Agudath Israel was the determining factor which informed his theory about the role of the *Metivta Kolelet* in the formation of the Talmud, or vice versa. Nonetheless, it is obvious that both were part of a common vision and ideology.

[271]See Isaac Halevy, *Dorot Harishonim*, II:480–94,550, 593–600, III:126–37.

[272]See Isaac Halevy, *Dorot Harishonim*, II:500–1: "אלא גמרנא וסדרנא אנא"

[273]See Rashi s.v. *ela* and s.v. *ve-sadarna*.

[274]See Isaac Halevy, *Dorot Harishonim*, II:480–94,550, 593–600, III:126–37.

of Abaye and Rava's contribution fits nicely with the argument of Richard Kalmin, who argues: "In sharp contrast to the conventional view . . . the Talmud portrays Abaye and Rava as active in separate talmudic centers functioning at a distant remove from one another, with little direct contact."[275] This conception is also similar to a theory suggested by Abraham Weiss that some of Abaye's teachings were transported from Pumbedita to Mahoza through disciples serving as intermediaries; in Weiss' opinion Rav Pappa may have been one of these emissaries.[276] Therefore, the statement *Havayot de'Abaye ve Rava* refers solely to this *coordinated* activity.[277] As Kalmin noted: "nothing about the term, however, implies that the discussions, arguments, or investigations of Abaye and Rava were authored by Abaye and Rava together in each other's presence. Nothing precludes the discussions having been authored by Abaye and Rava individually or in dialogue with their students."[278] Even in the instances where the Talmud states that "Abaye and Rava both state,"[279] it does not denote that both said it together but rather that it was the opinion that both taught and held the same view.

Halevy further postulates that this collective process had already been initiated while Rabbah was the head of the academy prior to Abaye and it was further developed during Rav Yosef's era.[280] However, in his opinion, Abaye and Rava were the primary

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[275]Kalmin, *Sages, Stories, Authors, and Editors in Rabbinic Babylonia*, 189.

[276]See b. Makkot 6a. See also Abraham Weiss, *The Babylonian Talmud as a Literary Unit (Hebrew)*, 32.

[277]This concept is in contrast to Kalmin's definition of the term. Kalmin's definition is too reductive of their activity in light of their contribution. See Richard Kalmin, "The Formation and Character of the Babylonian Talmud," in *The Cambridge History of Judaism, Vol. 4*, vol. 4, ed. Steven T. Katz (Cambridge, UK: New York, 2006), 192.

[278]Kalmin, *Sages, Stories, Authors, and Editors in Rabbinic Babylonia*, 191.

[279]b. Shabbat 7a, 67a among others.

[280]See Isaac Halevy, *Dorot Harishonim*, II:482, 91.

architects of this enterprise at the time.[281] Furthermore, this activity was further enhanced

during their tenure to include traditions transmitted by Palestinian sages[282] who were in

Babylonia after Rav Yosef's death in 324 CE.[283] The basic unified text was completed by

the death of Rava in 351/2 CE when the academy again was split.[284] These integrated

debates were preserved from then on and were transmitted to future generations by the

reciters, the *tannaim*, in a structured format, and this is what Halevy calls the initial

version of the Talmud. In Halevy's opinion the Talmud is essentially built on Abaye and

Rava's paradigm and it is therefore commonly referred to as *Havaiot de'Abaye ve*

Rava.[285] Their endeavor is referred to by Halevy as the *sidur*, the redaction, of the

Babylonian Talmud.[286]

This redaction process entailed the creation of a fixed text from the various

traditions, and it included a critical analysis of the material and of the various sources in

order to analyze and discuss any contradictions among them.[287] In addition, the dialectics

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[281]See Isaac Halevy, *Dorot Harishonim*, II:490; Isaac Halevy, *Dorot Harishonim*, II:490.

[282]See Isaac Halevy, *Dorot Harishonim*, II:474. 81. 94. These sages included: R. Yossi bar Zvidah, R. Yossi bar Avin, Rav Ami, R. Zeira ha-Sheni, R. Abba ha-Sheni, the disciples of R. Yirmiah, Rav Huna, Rav Hezkiah, Rav Haggai and the *Nehutei* (the emissaries which shuttled between the Babylonian and Palestinian academies relaying their different traditions). See further details in Isaac Halevy, *Dorot Harishonim*, II:481.

[283]See Hanina, *Iggeret Rav Sherira Gaon*, 61. See also Lewin's remarks in Ibid. note 5. For the different opinions concerning the date of Rav Yosef's death and of Abaye's appointment as head of the academy see Hanina, *Iggeret Rav Sherira Gaon*, 87; Kahana, "Seder Tannaim Weamoraim auf Grund Mehrerer," 5; Isaac Halevy, *Dorot Harishonim*, II:473–4; Brody, "On the Sources for the Chronology of the Talmudic Period (Hebrew)," 87, n48, 101.

[284]See Hanina, *Iggeret Rav Sherira Gaon*, 89, Isaac Halevy, *Dorot Harishonim*, II:480.

[285]See b. Sukkah 28a and b. Bava Batra 134a. See Isaac Halevy, *Dorot Harishonim*, II:482.

[286]See Isaac Halevy, *Dorot Harishonim*, II:496, 552, 558 and 567.

[287]Isaac Halevy, *Dorot Harishonim*, II:490–1.

and the anonymous discursive stratum, *stam ha'Talmud*,[288] was included as an integral part of the text.[289] Halevy repeatedly notes that the basic structure of the Talmud as we have it today was composed during the era of Abaye and Rava and was already fixed by then.[290] This process was interrupted when the academies split after the death of Rava.

Halevy's view of the centrality of Sura and Pumbedita is in direct opposition to Halivni's view that the *Amoraim* taught in their own localities and the academies were dispersed with no central academy operative during the amoraic period.[291] Halevy, on the other hand, believed that central academies, like Sura and Pumbedita, operated in amoraic times in a similar style to the geonic institutions.[292] He argues for the existence of central academies and the composition of the Talmud in the *Metivta Kolelet*. A somewhat similar debate exists among contemporary scholars, whether rabbinic academies were operative in Sasanian Babylonia.[293] However, in contemporary scholarship a consensus appears to be developing,[294] that the most common institutional setting was the disciple circle.

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[288]As Halivni notes, the term *stam ha'Talmud* is not found in the writing of the *Geonim* but it is commonly used by the 12th century *ashkenazic* commentators like the tosafists and R. Asher ben Jehiel, also known as Asheri (1250 or 1259–1327). See Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 42.

[289]Isaac Halevy, *Dorot Harishonim*, II:550–1.

[290]Isaac Halevy, *Dorot Harishonim*, II:550–62.

[291]Halivni, *The Formation of the Babylonian Talmud*, 94n61 and 102. Halivni adduces this from b. Qiddushin 53a where R. Zeira expounded a legal ruling in Mahoza. Despite the lack of institutional structure, however, Halivni concedes that these academies were academic and that students came to learn on a regular basis.

[292]For a discussion of the structure of geonic academies see Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 35–53.

[293]For the view that the Babylonian rabbinic academies first arose in post-amoraic times, see Goodblatt, *Rabbinic Instruction in Sasanian Babylonia*; Rubenstein, "The Rise of the Babylonia Rabbinic Academy: A Reexamination of the Talmudic Evidence". For the view of the existence of rabbinic academies in amoraic times see Isaiah Gafni, "Yeshiva and Metivta (Hebrew)," *Zion* 43, no. 1–2 (1978): 12–37.

[294]Both Goodblatt and Gafni have modified their original positions. See Goodblatt, "The History of the Babylonian Academies," 837 and note 48.

Nonetheless, an increased institutional complexity is evident from the beginning of the fourth century. These institutions eventually developed into the full fledged academies of geonic times although the precise time of when it occurred remains unclear.[295] As David Goodblatt writes "The time when that development occurred remains unclear. The amoraic sources do not unequivocally attest the academy, while the geonic sources know it as an ancient institution. Logic dictates that one look for its origins between these two periods."[296] Thus perhaps the historical truth about the nature and existence of institutionalized academies during amoraic times may lie somewhere between Halevy and Halivni.

Halevy based much of his conclusions about the details of the chronology of the talmudic period on the Epistle. It is interesting to note that R. Sherira does not attribute to Abaye and Rava any special role in the redaction of the Talmud.[297] This is important because STVA,[298] one of the possible sources of the Epistle as noted above,[299] does allude to a special role by them.[300]

One of the fundamental components of his theory, which is consistent with Halevy's conservative view of an unbroken transmission and of a complete closure of the Talmud, is that traditions were transmitted in their structured form as fully developed literary creations (*sugyot*), and that they already included the dialectics and the

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[295]Goodblatt, "The History of the Babylonian Academies," 821–39.

[296]Goodblatt, "The History of the Babylonian Academies," 837.

[297]See Hanina, *Iggeret Rav Sherira Gaon*, 87–9. In his account of Abaye and Rava, no mention is made of such an endeavor.

[298]Kahana, "Seder Tannaim Weamoraim auf Grund Mehrerer," 31.

[299]See pp. 9 above.

[300]See Kahana, "Seder Tannaim Weamoraim auf Grund Mehrerer," 31. In a rather ambiguous passage, STVA notes that" all anonymous questions, where Abaye and Rava are not explicitly mentioned, were authored by them."

anonymous discursive stratum, *stam ha'Talmud* [henceforth: *stam*] from the time when the academies united to form the *Metivta Kolelet*. Furthermore, several such structured *sugyot* had already been transmitted in their final form from the earliest amoraic times, when the *stam* was recorded and transmitted together with the tannaitic and amoraic material.[301] These *sugyot* were transmitted and studied by later generations of *Amoraim* who added their own views to existing debates.[302] Accordingly, the *stam* represented the consensus view of the academy as a whole rather than of an individual *Amora* and therefore was transmitted anonymously. Halevy's model accounted for the anonymity of the *stam* and attributed to it supreme authority as a consensus view.[303] Halevy's view was unlike many medieval rabbinical authorities like the tosafists, who believed that the *stam* was authored by Rav Ashi. In Halevy's opinion much of the *stam* predates Rav Ashi.[304]

Halevy, using his great talmudic erudition, was able to cite numerous passages in the Bavli that demonstrate to his satisfaction the idea that much of the *stam* was created in the early generations of the *Amoraim*, long before Rav Ashi. However, even with his keen understanding of the Talmud, Halevy's analysis is tendentious and rather naive. To illustrate his approach we will examine one of Halevy's principal proofs, a *sugya* in Bavli Shabbat 71b. The *sugya* is long and complicated and includes two distinct units—one Palestinian and one Babylonian. These two units are woven together with an intricate and highly structured layer of *stam*. The *sugya* opens with a disagreement between the

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[301]Isaac Halevy, *Dorot Harishonim*, II:210–1, 482, 551–62.

[302]Isaac Halevy, *Dorot Harishonim*, III:116–20.

[303]Isaac Halevy, *Dorot Harishonim*, II:210–1.

[304]See b. Shabbat 10b tosafot s.v. *betisporet*, b. Hullin 2b tosafot s.v. *ana*. See Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 42–3. Halevy's view does have some similarity to R. Asher ben Jehiel's view; the Rosh disagreed with tosafot. For the Rosh, Rav Ashi played no role in formulating the anonymous material of the Talmud. See his comments on b. Shabbat 10b and Rosh b. Bava Metzi'a Chapter 1 clause 40. See Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 43.

Palestinian sages Rabbi Yohanan and Resh Laqish regarding a person who unknowingly

eats forbidden fat in two separate episodes and continues with a typical stammaitic debate

between the two positions presented:

> It was stated: If one eats two olive-sized pieces of *helev*[305] in a state of
> unawareness, [and then] is apprised of the first and subsequently of the
> second:
>
> (A)   Rabbi Yohanan maintains: He is liable to [bring] two [sin-offerings];
> (B)   Resh Laqish rules: He is liable to [bring] one only.
>
> (A1)   Rabbi Yohanan maintains: He is liable [for the second], [deducing] "for
> his sin . . . he shall bring [a sacrifice]."[306]
> (A2)   While Resh Laqish rules, He is not liable [for the second], [interpreting]
> "of his sin . . . and he shall be forgiven."[307]
>
> (B1)   But according to Resh Laqish too, surely it is written, "for his sin . . . he
> shall bring?"—That holds good after atonement.
> (B2)   But according to R. Yohanan too, surely it is written, "of his sin . . . and he
> shall be forgiven?" —That refers to one e.g., who ate an olive and a half
> [of *helev*], was apprised concerning the size of an olive, and then ate again
> as much as half an olive in the unawareness of the second [half]. Now you
> might say, let these combine; therefore it informs us [otherwise].[308]

Based on Rashi, Halevy viewed the portions marked A1-B2 as *stama de'gemara*.

In the first section of *stam* (A1 and A2), scriptural support is brought for Rabbi Yohanan

and Resh Laqish. According to this argument, Rabbi Yohanan obligates two sin offerings

based on the fact that Leviticus 4:28 emphasizes "and he shall bring" (והביא), implying

that the sacrifice is brought for each sin separately; Resh Laqish bases his opinion on

Leviticus 4:26 "and he shall be forgiven" (ונסלח) which implies one sin offering is

enough. In the second section (B1-B2), the *stam* asks why the *Amoraim* did not take into

account the verse of the opposing position. In each case a reason is found to dismiss the

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[305]The Hebrew noun *helev* is the term given to some kinds of prohibited animal fats.

[306]Leviticus 4:28, q.v. for each sin a separate sacrifice is required.

[307]Leviticus 4:35. The word "of" is interpreted partitively: i.e. even if he offers a sacrifice for only
a portion of his sin he is forgiven for the whole.

[308]b. Shabbat 71b.

difficulty: Resh Laqish holds that the word והביא is only true after atonement, and therefore as long as it is before atonement there is only need for one sacrifice; Rabbi Yohanan holds that the word ונסלח refers to a separate case altogether which one might have thought would require two sin offerings, but in fact only requires one. Halevy's proof for the early *stam* lies in the second unit of the *sugya*, in which we find a debate between Rav Ashi and Ravina which refers to the first:

(A1) Ravina asked Rav Ashi: Do they disagree where it [the eating of the second piece] became known to him before setting apart [a sacrifice] for the first, and they differ in this: one Master holds, Appraisements divide, whilst the other Master holds, [Only] separations [of sacrifices] divide; but if [he learnt of the second piece] after setting apart [a sacrifice for the first], Resh Laqish concedes to Rabbi Yohanan that he is liable to two?

(A2) Or perhaps they disagree where it became known to him after the act of setting apart, and they differ in this: One Master holds, Separations [of sacrifices] divide, while the other Master holds, [Only] acts of atonement divide; but if [he learnt of the second piece] before setting apart [a sacrifice for the first], R. Yohanan concedes to Resh Laqish that he is liable only to one [sacrifice].

(A3) Or perhaps they differ in both cases?

(B1) Said he to him: It is logical that they differ in both cases. For should you think that they differ before the setting apart of a sacrifice, whereas after "setting apart" Resh Laqish concedes to Rabbi Yohanan that he is liable to two sacrifices,—then instead of interpreting the verse as referring to after atonement, let him interpret it as referring to after "setting apart."

(B2) Whilst if they differ after "setting apart," whereas before separation Rabbi Yohanan agrees with Resh Laqish that he is liable only to one [sacrifice]; — instead of interpreting the verse as referring to [one who ate] as much as an olive and a half, let him relate it to [appraisement of the second] before "setting apart."[309]

Ravina queries Rav Ashi about how to understand the disagreement between Resh Laqish and Rabbi Yohanan. Do they disagree only when the sinner is informed of eating the second measure of *helev* before the separation of the sacrifice for the first (A1), only after the separation of the first (A2), or in both cases (A3)? Rav Ashi replies to Ravina that they clearly differ in both cases, basing his conclusion upon the fact that the interpretation offered on behalf of Resh Laqish for the verse "and he shall bring" (והביא)

[309] b. Shabbat 71b.

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in the previous section, was understood to be *after* atonement; if it were true, that Resh Laqish agreed with Rabbi Yohanan that after separation there is also need of a separate sacrifice, the previous section should have read, not "after atonement," but instead "after being set apart." Therefore, Halevy infers that Rav Ashi must have based his answer on the earlier stammaitic interpretation of the verse, which he understood to be the official position, and thus we have proof that the early *stam* was redacted in exact form before the time of Rav Ashi and he relied upon it to resolve Ravina's query. The same reasoning applies in his view to Rav Ashi's analysis of the interpretation of the verse "and he shall be forgiven" (ונסלח) according to Rabbi Yohanan.[310]

However, Halevy's reading of the text is problematic. As Halivni notes in his commentary on the *sugya*, Rav Ashi's response (according to some of the textual witnesses) was limited to answering Ravina's question, "Said he to him: It is logical that they differ in both cases." However, the continuation of the text, "For should you think that they differ before the setting apart of a sacrifice, whereas after "setting apart" Resh Laqish concedes to Rabbi Yohanan" etc. is the stammaitic analysis of his proof text. Halivni notes that such an understanding may have already been noted in Rabbenu Hananel's commentary long before.[311] Moreover, Halivni noted that "Said he to him" is missing in the Vatican 108 manuscript,[312] and therefore Halivni prefers to argue that Rav Ashi did not respond at all to Ravina's query and the whole section should be attributed to the *stam*. Thus, instead of a proof for Rav Ashi reacting to early *stam*, we have in

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[310]For further details see Isaac Halevy, *Dorot Harishonim*, II:551–2.

[311]Rabbenu Hananel ben Hushiel's commentary ad loc. Rabbenu Hananel—an eleventh-century north African Rabbi and Talmudist—was a student of one of the last *Geonim*. He is best known for his commentary on the Talmud. He is often referred to as Rabbenu Hananel.

[312]It was later added by a second hand. Halevy would not have been aware of this variant since, as we noted above, he was against using manuscripts. Moreover, this textual variant is not noted in *Diqduqey Sofrim*. The difference in methodologies between Halivni and Halevy is indeed striking in this example.

reality a case of the *stam* using his own words in the previous section for proof for his answer (which some versions attribute to Rav Ashi) in the next.

Halevy assumes similar instances of early *stam* in many other instances in the Talmud where apparently *Amoraim* are directly addressing issues raised by the *stam*, thus proving the existence of the stratum in their own era and their knowledge thereof. Halevy displays great erudition and prodigal knowledge of the vast talmudic corpus, demonstrating that his proficiency of the Talmud far exceeded that of other Jewish historians of the time. These other instances however can also easily be explained away, by applying the same critical reading as in the demonstrative case above.[313]

The Third Stage—Rav Ashi and the *Beit Hava'ad*

The third stage in the formation of the Talmud, according to Halevy, took place approximately 40 years after the death of Rava in 351/2. Just as in the initial stage of editing, in the days of Abaye and Rava, this redaction was performed by a *Metivta Kolelet* or *Beit Hava'ad*, which was universally recognized as the supreme authoritative rabbinical authority of the time. The body which completed the final redaction of the Bavli included representation of sages from both of the great academies of the time, Sura and Pumbedita. In addition the body included sages from Palestinian academies who had relocated to Babylonia.[314] The *Beit Hava'ad* met in the city of *Mata Mehasia* (outside of Sura) and was lead by Rav Ashi.[315] As we described above, Halevy's model assumes that the *sugya* was formed as a proto-Talmud before Rav Ashi's time and it was under his

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[313]See Isaac Halevy, *Dorot Harishonim*, II:551–62, III:116–21. These instances include: b. Menahot 55a, b. Yevamot 65a, b. Ketubbot 20b among many others.

[314]Isaac Halevy, *Dorot Harishonim*, 562–72.

[315]Ravina, contemporary of Rav Ashi, at times replaced him as temporary head of the academy.

leadership and constant involvement that it was redacted in its final form. Unlike Graetz and Weiss who believed that the editing took place by Rav Ashi during very limited times, during the two months of *yomei d'kalla*,[316] Halevy thought that the editing was a year round enterprise performed by this unique *Beit Hava'ad*.[317]

According to Halevy, historical circumstances were conducive to this final editing of the Bavli: both Rav Ashi and Huna bar Natan were respected by the Sasanian authorities and were independently wealthy, allowing them to support the activities of the unified academy throughout the year. Furthermore, Rav Ashi's longevity allowed him to lead the academy for approximately 60 years making such a monumental task possible. Halevy further noted that not only Rav Ashi was granted uncommon longevity but other members of the *Beit Hava'ad* also enjoyed unusually long lives.[318] According to Halevy, this was all miraculous, a time when stars were aligned by Divine Providence[319] to conclude the Babylonian Talmud.

The idea that Rav Ashi was the editor of the Babylonian Talmud was widely accepted among scholars for generations, although it is not clear the scope of the editorial activity that was attributed to him.[320] In the Talmud itself there is no source which

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[316]The Kallah months are the months of Adar (February/March) and Elul (August/September) when no urgent agricultural work needed to be performed. During those months the academies were filled with many students who had returned home during the year and had studied on their own, as to allow them to earn a living while pursuing their studies. See Isaac Halevy, *Dorot Harishonim*, II:553–4; Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 43–4 for further details.

[317]Isaac Halevy, *Dorot Harishonim*, II:536–9.

[318]Isaac Halevy, *Dorot Harishonim*, 600–03. For instance, Ravina was Rav Ashi's senior and died in year 420 and Rav Aha brei d'Rava, also older than Rav Ashi, died in 418. For the view that Ravina even outlived Rav Ashi see Avinoam Cohen, *Ravina and Contemporary Sages:Studies in the Chronology of Late Babylonian Amoraim (Hebrew)* (Ramat-Gan: Bar-Ilan University Press, 2001), 252–3.

[319]Term used by Halevy. See Isaac Halevy, *Dorot Harishonim*, II:600.

[320]Maimonides, *Mishneh Torah*, Introduction; Introduction to the Talmud by Shmuel Ha-Nagid, Jehiel Jacob Weinberg, *Mehkarim BaTalmud*, III–IV. Both Maimonides and Shmuel Ha-Nagid were of the view that Rav Ashi compiled the Talmud. A similar view was also shared by the Asheri. See Asheri Sanhedrin clause 4. In Halevy's view, Rav Ashi's critical role in the formation of the Talmud constituted

explicitly attributes the final redaction to Rav Ashi. Moreover, in sharp contrast to the editing of the Mishnah which according to the Epistle, was completed by Rabbi Judah the Prince, no special role is attributed by him to Rav Ashi in the formation of the Talmud.[321] In place of an active role by Rav Ashi, R. Sherira describes an evolutionary process: "In this manner, *hora'ah*[322] expanded generation after generation until Ravina. It ceased after Ravina. . . . Rav Ashi and Ravina are the conclusion of the era of *hora'ah*."[323] In contrast to R. Sherira, Halevy believed that the Talmud went through a redactional process similar to the Mishnah on the part of Rav Ashi. In his opinion the only distinction between the two editorial processes was that the Mishnah omitted all of the ensuing debates and discussions and preserved only the direct rulings while the Talmud preserved both the rulings and theoretical discussions surrounding them.[324] Scholars were aware of the problems of attributing to Rav Ashi the redaction of the Bavli. Isaac Hirsch Weiss in his book *Dor Dor Vedorshaiv* noted: "The Talmud does not state clearly and directly that Rav Ashi was its author and redactor, but it contains definite allusions to this effect."[325] However, the allusions cited by Weiss and others, do not constitute proof of editorial activity by Rav Ashi. Examination of talmudic evidence, shows that Rav Ashi was held in

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such axiom that it needed no proof. As he noted, "traditions accepted by all Israel needs no proof." See Isaac Halevy, *Dorot Harishonim*, II:81.

[321]Abraham Weiss, *The Babylonian Talmud as a Literary Unit (Hebrew)*, 247–9.

[322]For the term *hora'ah* see pp. 100 below.

[323]Hanina, *Iggeret Rav Sherira Gaon*, 69.

[324]Isaac Halevy, *Dorot Harishonim*, II:480–2. In his opinion the only exception was the Palestinian Talmud which was not edited; it was finished abruptly due to the precarious situation in Palestine at the time. Paradoxically Halevy did not follow his own vision of the approach of the early rabbis, as it is obvious that his *magnum opus*, *Dorot Harishonim*, never went through a careful process of editing. Unfortunately his book contains many contradictions, is out of sequential order and would have benefited from proper editing.

[325]Isaac Hirsch Weiss, *Dor Dor Vedorshaiv*, III:210.

high regard, but nowhere does the Bavli note that his contribution was substantively

different than any other *Amora*.

In order to understand the perspective of Weiss and others, it is valuable to

discuss the sources in the Bavli that they saw as constituting proof of Rav Ashi's role in

the redaction of the Bavli. In b. Sanhedrin 36a we find Rabbi Judah the Prince and Rav

Ashi mentioned in tandem:[326]

> אמר רב אדא בר אהבה אף אני אומר מימות רבי עד רב אשי לא מצינו תורה וגדולה במקום
> אחד ולא והא הוה הונא בר נתן הונא בר נתן מיכף הוה כייף ליה לרב אשי

> R. Adda b. Ahabah said: I similarly affirm that since the days of Rabbi
> [Judah the Prince] until R. Ashi we do not find learning and high office
> combined in the same person. But do we not: was there not Huna b.
> Nathan? —Huna b. Nathan was certainly subordinate to R. Ashi.[327]

This passage compares Rav Ashi's stature to that of Rabbi Judah the Prince, the

editor of the Mishnah. This allows the interpretation, advocated by Weiss, that both had

similar roles, Rabbi Judah edited the Mishnah and Rav Ashi edited the Bavli. Indeed,

both Rav Ashi and Rabbi Judah the Prince were the greatest sages of their generation,

attaining both universal recognition for their learning as well as material wealth and

power; however, their exact roles could have been very different.

Perhaps the most famous source in supporting the idea that Rav Ashi was the

editor of the Bavli, cited by numerous scholars,[328] is Bavli Bava Metzi'a 86a:

> רבי ורבי נתן סוף משנה רב אשי ורבינא סוף הוראה

> Rabbi and R. Nathan—End of Mishnah, Rav Ashi and Ravina—End of
> *hora'ah*.[329]

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[326]Kaplan, *The Redaction of the Babylonian Talmud*, 28–34.

[327]See b. Sanhedrin 36a.

[328]Abraham Weiss, *The Babylonian Talmud as a Literary Unit (Hebrew)*, 245, Kaplan, *The Redaction of the Babylonian Talmud*, 33–4.

[329]See b. Bava Metzi'a 86a. Florence II-I-8 and Hamburg 165 have the order of the names reversed, Ravina and then Rav Ashi. See below for a discussion of which Ravina is being referred to.

Like the previous source, this tradition also juxtaposes Rabbi Judah the Prince with Rav
Ashi, adding the name of an additional sage with each. It would follow logically that if
Rabbi Judah the Prince and Rabbi Nathan are the "end of the Mishnah" and Rabbi Judah
is the editor, then the term *sof horah'ah* would imply the end of the Talmud. However,
the term *sof hora'ah* is ambiguous. Even if one interprets the term *hora'ah*, which
literally means "teaching," as a reference to the editing of the Talmud, it does not
necessarily follow that Rav Ashi was the head editor.[330] Although Halevy believed that
the editorial activity of Rav Ashi and Rabbi Judah the Prince were similar—he also did
not believe this source could be used for proof.[331] Another source used by scholars to
attribute the editing of the Bavli to Rav Ashi was Bavli Bava Batra 157b, where we find
mentioned *mahadura qamma* and *mahadura batra* of Rav Ashi on a ruling. Scholars
argued that these two versions relate not just to the specific rulings mentioned, but to the
whole talmudic corpus: Rav Ashi redacted the entire talmudic corpus twice,[332] first in
what is called a *mahadura qamma* and then in a *mahadura batra*.[333] These two cycles
were noted by R. Sherira in the Epistle: "Rav Ashi served as head of his academy for
almost sixty years . . . so he reviewed the entire Talmud in thirty years. Since Rav Ashi
ruled close to sixty years, there were two cycles."[334] These two cycles inspired another
parallel with Rabbi Judah the Prince who in Bavli Bava Metzi'a 44a and Avodah Zarah
52b is described as changing his mind regarding a *halakhah* in the Mishnah—teaching it

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[330]Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 63.

[331]Isaac Halevy, *Dorot Harishonim*, III:80.

[332]See Kaplan, *The Redaction of the Babylonian Talmud*, 31–2.

[333]See b. Bava Batra 157b.

[334]Hanina, *Iggeret Rav Sherira Gaon*, 93–4.

in his youth in one way and in his elder years in another.[335] Clearly, this association does not provide evidence of any sort—both Rav Ashi and Rabbi Judah the Prince are described as changing their minds regarding an individual case not on the entire corpus. Furthermore, Rav Ashi's *mahadura* simply indicates a lesson cycle or at most a master's occasional summary of a cycle of his lessons.[336] Numerous attempts were made by scholars prior to Halevy to uncover conclusive evidence for the process by which the Talmud was redacted and for Rav Ashi's role in it, but to no avail.[337] Evidence had to be brought in a creative way, and Halevy as a talmudic prodigy was the right person to make the attempt of solving the problem.

It was in his work in this sphere that Halevy set himself apart from previous historians who did not have command over the talmudic corpus. Halevy, through his masterful and creative readings of talmudic passages, demonstrates Rav Ashi's unique role among the *Amoraim*. Through the lens of Halevy's analysis one can see how Rav Ashi's editorial activity took place without having been recorded by his contemporaries. A striking example of Halevy's demonstration of Rav Ashi's unique role comes in his observation that in numerous *sugyot*, *Amoraim* address Rav Ashi with answers to queries presented by other *Amoraim* in an early *sugya*, even in instances where Rav Ashi was not part of the debate nor made any contribution to the *sugya*.[338] Rav Ashi is the only *Amora*

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[335]This passage relates to a specific Mishnah—Bava Metzi'a 4:1. Kaplan, *The Redaction of the Babylonian Talmud*, 31. Kaplan writes that Rabbi Judah "went over the Mishnah twice, once in his youth and once in his later years," but does not cite the source for this tradition.

[336]See Martin S. Jaffee, "Rabbinic Authorship as a Collective Enterprise," in *The Cambridge Companion to the Talmud and Rabbinic Literature*, ed. Charlotte E. Fonrobert and Martin S. Jaffee (Cambridge, New York et al.: Cambridge University Press, 2007), 25. Jaffe notes that the term is ambiguous and that "the semantic range of *mahadura* suggests that we have to do more with a lesson cycle than an act analogous to the editing of a lecture series."

[337]Kaplan, *The Redaction of the Babylonian Talmud*, 28–34, Abraham Weiss, *The Babylonian Talmud as a Literary Unit (Hebrew)*, 245–51.

[338]Isaac Halevy, *Dorot Harishonim*, II:562–71, III:17–9. The instances are: b. Shabbat 87b, b. Qiddushin 6b, b. Bava Batra 64a, 83a,86a/b and 150a, b. Shevu'ot 37b, b. Hullin 141b, b. Menahot 21b.

who is presented with *answers* of *Amoraim* in this way, instead of the answers being presented to the *Amora* who asked the question. It is worth noting that this unique role is not evident regarding questions. Although in many cases questions are also addressed to Rav Ashi about *sugyot* where he had not previously been involved, such instances are also present among many other *Amoraim*. Questions may arise when early *sugyot* are studied and reviewed by later scholars, but why would Rav Ashi have a special place in the collection of answers? Therefore, the evidence provided by Halevy is cleverly different than previous attempts to prove Rav Ashi's unique role.[339] Although, in Halevy's opinion, tradition needed no proof, here he was able to support it with internal objective evidence. His assertion can be proven by computer assisted research, which validates his hypothesis,[340] a feat not possible in earlier generations.[341]

Even with Halevy's creative readings, the evidence he presents fails to show that there was an editing process, conducted by an international conclave of the greatest sages of the time, from both Babylonia and Palestine, working full time for over sixty years. The allusions for such activities are sparse at best. How is it possible that such a critical

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[339]It is obvious that Abraham Weiss' criticism of Halevy's evidence missed this point. He notes that Rav Ashi is not unique among other *Amoraim*, and cites several instances to demonstrate it (b. Hagigah 13b, b. Yevamot 8b, b. Ketubbot 13a among many others). However, these examples are situations where later *Amoraim* present questions to another *Amora* not previously mentioned in the *sugya*. There are no cases where an *Amora* addresses an answer to an *Amora* who had not been involved in the early *sugya* instead of addressing the *Amora* who asked the question or just stating his answer. See Abraham Weiss, *The Babylonian Talmud as a Literary Unit (Hebrew)*, 253n113.

[340]I have tested for similar phenomena among the most commonly quoted *Amoraim*: Rav Huna, Rav Hisda, Rav Yosef, Rabbah, Abaye, Rava, Rav Nahman, Rav Pappa and Ravina and its is not present even once among them. The test was performed by checking all instances where answers were addressed to them and verifying that they were also involved in the discussion before.

[341]Halevy also notes that the fact that Rav Ashi's conclusive remarks are often quoted at the end of the debate, thus finalizing the *sugya* (see b. Ketubbot 21b) is further evidence of his editorial role. This phenomenon is not conclusive evidence of editorial activity. Since Rav Ashi was one of latest *Amoraim*, and is frequently mentioned in the Talmud, it would be expected that he would be quoted at the end of the *sugya*. See Isaac Halevy, *Dorot Harishonim*, II:564–5.

enterprise and massive conference of rabbis is not mentioned anywhere in the Talmud nor is commented upon by the early talmudic historians such as STVA or the Epistle? Moreover, if the Talmud was formally edited, like the Mishnah, why does it contain so many contradictory opinions and *sugyot*? There are dozens of unresolved conflicting passages in the Talmud which are deemed irreconcilable.[342] Even the medieval tosafists,[343] acknowledged that dozens of contradictions were irreconcilable and originated from diverse traditions.[344] If the Talmud was edited in full, how is it possible that it was inconsistent on so many issues?[345] Although it is plausible that Rav Ashi did perform some editorial activity, evidence of a comprehensive editing is lacking, and despite Halevy's best efforts, the record does not fit his model.

The weakness of his assertion of a unified fully edited Talmud by an international conclave of the greatest sages of the time is evident in the nature of the divergent

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[342]Several of the medieval commentators already noted that the Talmud is replete with such instances. For a detailed list see Shraga Abramson, *Kelalei Hatalmud Bedivrei HaRamban* (Jerusalem: Mosad Harav Kook, 1971), 20–1, 107–10.

[343]Hayim Soloveitchik, "The People of the Book - Since When?" *Jewish Review of Books* 12 (2013 Winter) describes them aptly as "the great Franco-German glossators of the two centuries following Rashi, who undertook the massive project of collating all of the talmudic discussions on a given issue, noting any contradictions among them, and resolving them in good dialectical fashion by distinguishing between two apparently similar cases or seemingly identical legal terms."

[344]See b. Menahot 58b tosafot s.v. *ika de'amrei*, who enumerates a long list of such instances. Notably Halevy in Isaac Halevy, *Dorot Harishonim*, III:59–60 quotes one of these instances as a demonstration of an early *stam* which in his view had been known to *Amoraim* in b. Pesahim 81b. See tosafot s.v. *lereish* ad loco.

[345]J. N. Epstein notes that it is plausible that in some instances various traditions circulated and Rav Ashi was not sure of the correct version, thus both were used in different contexts where one was more appropriate than the other. See J. N. Epstein, *Introduction to Amoraitic Literature: Babylonian Talmud and Yerushalmi (Hebrew)*, 12. Halivni however notes that Epstein contradicts himself later by saying that each tractate of the Talmud must be viewed in isolation, since the Talmud was not edited as a whole. See J. N. Epstein, *Introduction to Amoraitic Literature: Babylonian Talmud and Yerushalmi (Hebrew)*, 12; Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 49n9 J. N. Epstein, *Introduction to Amoraitic Literature: Babylonian Talmud and Yerushalmi (Hebrew)*, 12. A Similar view, that the Talmud was not edited globally, can be discerned in the ruling of R. Mal'akhi Hakohen (1695(1700)-1772) who argues that such contradictions only occur in *sugyot* that are far apart. See Hakohen, *Yad Malakhi*, 497 (343).

tractates, the *Masekhtot Meshunot*. They consist of the five tractates in the Babylonian

Talmud, Nedarim, Nazir, Temurah, Kerithot and Me'ilah. They are distinguished from

the other tractates by their odd language and distinct genre, both by the employment of

terminology used only infrequently anywhere else[346] and by the usage of a uniquely

variant grammar rule,[347] as already noted by early rabbinical sources.[348] In Halevy's view,

these variances did not constitute substantive differences and did not contradict his model

as they were mere terminology differences caused by the proliferation of Palestinian

exemplars of the Babylonian Talmud. In his view, there are no substantive differences

between these tractates and the others, since all were edited in a common central

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[346]For instance, the word *Tibaey* is used in b. Nedarim, b. Nazir, b. Temurah and b. Kerithot instead of the common term *Teyku* employed elsewhere in the Talmud to address unanswered queries. The Aramaic term *lahma* is used for bread instead of *nahama* employed in other tractates. See J. N. Epstein, *Introduction to Amoraitic Literature: Babylonian Talmud and Yerushalmi (Hebrew)*, 54; Abraham Weiss, *The Babylonian Talmud as a Literary Unit (Hebrew)*, 114–6; Z. W. Rabinowitz, *Sha'are Torat Bavel* (Jerusalem: The Jewish Theological Seminary of America, 1961), 300–01. In b. Nazir and b. Temurah the word *hadeyn* is employed for the pronoun 'that,' instead of the term *hay* employed elsewhere in the Talmud, among many other differences. See J. N. Epstein, *Introduction to Amoraitic Literature: Babylonian Talmud and Yerushalmi (Hebrew)*, 72–3 and 131; Abraham Weiss, *The Babylonian Talmud as a Literary Unit (Hebrew)*, 116–22. In b. Kerithot several words which are not in usage anywhere else are used as *hadeyn* in b. Kerithot 4a, the word *haleyn* used in b. Kerithot 4b among others. See Rabinowitz, *Sha'are Torat Bavel*, 300–01. In b. Me'ilah several idioms are employed which are not used anywhere else, as the term *Mekhuvarta* (clearly), meaning "clearly [from biblical sources]." For more details see Rabinowitz, *Sha'are Torat Bavel*, 300. Yochanan Breuer notes that although these terms are found also in other tractates in the Bavli, nonetheless there is a sharp distinction in frequency in these tractates versus the others. He notes 22 such odd forms. See Yochanan Breuer, "The Babylonian Aramaic in Tractate Karetot According to MS Oxford," *Aramaic Studies* 5 (2007): 1–18.

[347]For the distinct grammar employed in b. Nedarim see J. N. Epstein, *Introduction to Amoraitic Literature: Babylonian Talmud and Yerushalmi (Hebrew)*, 54–6; Abraham Weiss, *The Babylonian Talmud as a Literary Unit (Hebrew)*, 114–6. For the distinct grammar employed in b. Nazir, see J. N. Epstein, *Introduction to Amoraitic Literature: Babylonian Talmud and Yerushalmi (Hebrew)*, 72–4; Abraham Weiss, *The Babylonian Talmud as a Literary Unit (Hebrew)*, 116–9. For the distinct grammar employed in b. Temurah, see J. N. Epstein, *Introduction to Amoraitic Literature: Babylonian Talmud and Yerushalmi (Hebrew)*, 131; Abraham Weiss, *The Babylonian Talmud as a Literary Unit (Hebrew)*, 119–22.

[348]On b. Nedarim, see b. Nedarim 7a *tosafot* s.v. *tibaey*, 20a *tosafot* s.v. *tibaey*, R. Asher ben Jehiel (1250 or 1259–1327) glosses on b. Nedarim 2b, among various others. On b. Nazir see b. Nazir 12a *tosafot* s.v. *may ta'ama*, 20a *tosafot* s.v. *qetaney*, 22a s.v. *mar*, R. Bezalel ben Abraham Ashkenazi's (ca. 1520–ca. 1592) *Shittah Mequbetzet* on b. Nazir 15a s.v. *umatnitin*, 18b s.v. *gufa* among various others. On b. Me'ilah see b. Me'ilah 16a *tosafot* s.v. *mayi*.

academy.[349] Halevy posited that the Babylonian Talmud was spread in Palestine by Mar Zutra, son of Mar Zutra the exilarch. He was exiled from Babylonia to Palestine and in Halevy's view became the head of the academy in Palestine in 589[350] and thus was responsible for the dissemination of the Bavli there. Since b. Nedarim was not studied in Babylonia during geonic times as noted by several *Geonim*,[351] Palestinian copies proliferated in Europe and outnumbered the Babylonian ones. These copies applied terminology which was closer to Palestinian Aramaic than Babylonian. However, once again one feels that Halevy uses his imagination creatively to fit the findings to his theory. As he himself acknowledges, his explanation takes care of b. Nedarim but what about the other odd tractates? Furthermore, how does he know that the Babylonian Talmud was spread in Palestine by Mar Zutra and that it was so popular that the Palestinian copies outnumbered the Babylonian ones?[352] Additionally, as noted by Weiss the differences are not merely terminological but are rather substantive, the *sugyot* are structurally different. When synoptically compared, the differences are obvious.[353] One further dimension is that the dialectics and the anonymous discursive stratum, the *stam*, of b. Nedarim is far less developed than in other tractates, to the extent that regular questions commonly asked by the *stam* in other tractates are omitted in b. Nedarim and

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[349]Isaac Halevy, *Dorot Harishonim*, III:48–50.

[350]Menasseh Grosberg, *Seder Olam Zuta* (London, 1910), 54–4. See note 18, where Grosberg argues with Halevy. In his opinion Halevy misread the text, and Mar Zutra was a child at the time and was not head of the academy but rather he was a student there.

[351]Brody, *The Responsa of Rav Netronai Bar Hilai Gaon*, I:311 (185); Binyamin M. Lewin, *Otsar Hageonim: Teshuvot Geoney Bavel Uperushehem al-Pi Seder Hatalmud* (Jerusalem: Mosad Harav Kook, 1940), XI (Nedarim):16 (48, 49), 19–20 (53, 54, 55, 56), 22–3 (63). For further details see pp. 290 below.

[352]Rabinowitz, *Sha'are Torat Bavel*, 301–3.

[353]See a synoptic analysis of various examples in Abraham Weiss, *The Talmud in Its Development*, 73–128.

had to be instead asked by medieval commentators.[354] The oddities of these tractates are not merely cosmetic but rather structural and they clearly indicate a different source than the rest of the Talmud.

A further issue with Halevy's central editing theory relates to an additional odd feature of b. Temurah. Our extant version of the tractate contains a large number of instances where the Talmud quotes alternate versions of the same *sugya*, while introducing the second version as *lishna ahrina* (an alternate version).[355] It is obvious that the two versions relate to two variant editions of the Talmud. This is also evident from the fact that medieval commentators in b. Temurah frequently choose between the two versions indicating their preferred version;[356] this is an unusual phenomenon. If the Talmud was centrally edited and published by a unified *Beit Hava'ad*, how and why would these two variant versions develop? Halevy, well aware of the problem, remarks that the differences between the versions are limited to the terminology or the phraseology used, but they did not vary in content or essence. In his view, there was only one version of the Talmud which had been centrally and globally edited by Rav Ashi's *Beit Hava'ad*. These alternate versions were just rephrasing other versions. Halevy posits that this was a result of the oral transmission of the text until it was first written at the end of the first saboraic generation, and thus the exact text was still fluid and transmitters applied their own terminology.[357] Although he is correct that at times the second version

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[354]Many stammaitic questions regularly asked in other tractates are omitted in b. Nedarim and had to be asked by the medieval commentators, like R. Nissim ben Reuven (1320–1376,)—also known as the *Ran*—in his commentary on b. Nedarim. See examples in b. Nedarim 15b *Ran* s.v. *muteret*, 32b *Ran* s.v. *lo* among many others.

[355]For example, see b. Temurah 5a, 6b, 7a, 9b.

[356]For example, see b. Temurah 13b Rashi s.v. *lishna*, 21b Rashi s.v. *mai*, 29a tosafot s.v. *ela*.

[357]Isaac Halevy, *Dorot Harishonim*, III:49–50.

just restates and rephrases the earlier *sugya* while applying different terminology and wording,[358] nonetheless, there are various other instances where the second version is significantly different with a completely variant structure, asking different questions and dealing with diverse issues.[359] It is evident that the two variants indicate two different versions emanating from different sources. However, it is striking that these variants are found exclusively in the *stam* and not in the amoraic statements.

Although not mentioned by Halevy, there is one more unique phenomenon that is notable in the post Rav Ashi additions. This was noted by Eliezer Segal and indicates some sort of redactional activity taking place in Rav Ashi's era. As he examined the many records of court cases and decisions included in the Talmud, Segal noted the following phenomenon:

> Most of them did not merit any discussion by identified Amora'im. The handful that did (once we had weeded out the misleading instances that, after serious textual and redactional analysis, turned out not to have been discussed by early Amora'im) belonged almost exclusively to the generations from Rav Ashi onwards. . . . It was the task of the latest generations of the Amora'im to re-organize the cases as elements in the great project of the Babylonian Talmud.[360]

Segal convincingly demonstrated that the introduction of cases tried by the *Amoraim* is not found prior to Rav Ashi, and that it is clear that the collection of cases was introduced into the talmudic corpus by Rav Ashi's contemporaries.[361] This phenomenon does seem to indicate some form of redactional activity at that time.

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[358]See examples noted by Halevy in Isaac Halevy, *Dorot Harishonim*, III:49–50. A similar remark was noted also by medieval commentators. See b. Temurah 6b and Rashi s.v. *hakhi*, 10b.

[359]See for example b. Temurah 8b and Rashi *ad loco* s.v. *lo*, 9b Rashi s.v. *shney* and s.v. *amar*.

[360]Eliezer Segal, *Case Citation in the Babylonian Talmud: The Evidence of Tractate Neziqin*, Brown Judaic Studies (Atlanta, Ga.: Scholars Press, 1990), 214.

[361]See Segal, *Case Citation in the Babylonian Talmud: The Evidence of Tractate Neziqin*. Especially Segal, *Case Citation in the Babylonian Talmud: The Evidence of Tractate Neziqin*, 60–89 and 213–6.

In his description of the editing process of the Bavli, Halevy emphasizes another phenomenon: the attribution of anonymous material in the *stam* to Abaye and Rava. According to Halevy, because Abaye and Rava were the original redactors of the Talmud, many of their own statements were recorded anonymously. However, by the time of Rav Ashi when the Talmud had already been firmly established as a collective work, Rav Ashi and the *Beit Hava'ad* made an effort to re-attribute material of Abaye and Rava, adding their names to anonymous statements.[362] This thesis allowed Halevy to connect three of his main theories—first, that Abaye and Rava were the original redactors of the Talmud, second, that the *stam* dated from Abaye and Rava's time, and third, it provided further evidence for the editorial activity by Rav Ashi. Similar to the other parts of this theory, Halevy relied on the talmudic text itself for proof of his thesis. However, the evidence he supplies is indicative of the shortcomings in his research. An important proof noted by Halevy is found in Bavli Me'ilah 9b where an apparent inconsistency between the beginning and the end of a *baraita*, is attributed by the *stam* to Rabbi Shimon and the sages, respectively. This is followed by an opinion of Rav Geviha of *Bei Katil* who attributes the teaching to Abaye:

רישא ר' שמעון היא דאמר כל חטאת שכיפרו בעליה תמות וסיפא רבנן אמר רב גביהא דבי
כתיל לרב אשי הכי אמר אביי רישא רבי שמעון וסיפא רבנן

> The first clause is in accordance with the view of R. Simeon while the
> latter clause is in accordance with the Sages. Said R. Geviha of *Bei Katil*
> to R. Ashi: [Indeed] thus said Abaye: "The former clause reflects R.
> Simeon's view and the latter that of the Sages."[363]

First, the *sugya* attributes the first section of the *baraita* to Rabbi Shimon and the second to the sages. Then Rav Geviha of *Bei Katil* comes to the same conclusion attributing the opinion to Abaye. He did not add anything to the *sugya* except attributing

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[362]Isaac Halevy, *Dorot Harishonim*, III:566–7.

[363]See b. Me'ilah 9b-10a Vilna edition.

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the *stam*'s statement to Abaye. At first glance, this *sugya* appears to demonstrate the three

points of Halevy's theory. However upon review of the textual witnesses, this is not the

case. While the printed text reads the statement of the *stam* as a resolution of the

question, Oxford 370, Florence II-I-7 and Vatican 120 read significantly different:

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רישא ר' שמעון היא דאמר כל חטאת שכיפרו בעליה תמות רישא ר' שמעון וסיפא רבנן
אמר רב גביהא דבי כתיל לרב אשי הכי אמר אביי רישא רבי שמעון וסיפא רבנן

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The former clause is in accordance with the view of R. Simeon. The
former clause is in accordance with the view of R. Simeon while the latter
clause is in accordance with the Sages? Said R. Geviha of *Bei Katil* to R.
Ashi: [Indeed] thus said Abaye: "The former clause reflects R. Simeon's
view and the latter that of the Sages."

The resolution provided by the *stam* was limited to saying that the early clause was in

accordance with the view of R. Simeon. It was then followed by a *question*, that given

that the former clause is in accordance with the view of R. Simeon the *baraita* would be

truncated as the former clause follows the view of R. Simeon and the latter clause follows

the view of the Sages. It is the *stam* that creates the dialectical dialogue in order to

introduce Rav Geviha's statement. Rav Geviha then responds that in fact Abaye held that

the *baraita* was truncated. Abaye's statement was brought as an answer and not as a

reiteration of the stammaitic statement and thus it does not prove any of Halevy's

assertions. It does not indicate that Rav Ashi or Rav Geviha were aware of the *stam*, since

it was an answer to the apparent inconsistency of the *baraita*. Since the Talmud's

questions are usually anonymous, our case is not any different. It also does not

demonstrate that early stammaitic statements were attributed to Abaye by Rav Ashi's *Beit*

Hava'ad, nor does it indicate any editorial activity.

Halevy was also able to creatively combine his theories. In his quest to

demonstrate the amoraic nature of the *stam* and the role of Rav Ashi in the editing of the

Bavli, Halevy attempted to demonstrate how Rav Ashi even attributed early *stam* to

himself. Halevy cited b. Hullin 2b as proof of this phenomenon:

איכא הכל לכתחלה ואיכא הכל דיעבד אלא הכל דהכא ממאי דלכתחלה הוא דתקשי לך
דלמא דיעבד הוא ולא תקשי לך א"ל אנא שחיטתן כשרה קשיא

> There are instances [where the statement] "All may" implies a right in the
> first instance (*lekatehila*) and sometimes it implies a sanction after the act
> (*di'avad*). This being so, in the case of our Mishnah, why should you say
> that it is a right in the first instance and consequently raise a difficulty?
> Say, rather, it is a sanction after the act and there will be no difficulty. He
> [Rav Ashi] replied: My difficulty is [not the statement "All may" but
> rather] the expression "And their slaughtering is valid."[364]

This *sugya* includes a lengthy dialogue between Rav Aha berei d'Rava and Rav
Ashi. At this point in the conversation Rav Aha berei d'Rava proposes that the *stam*'s
question about the Mishnah's statement "All may" does not pose a problem since it can
have multiple meanings. Rav Ashi responds by rephrasing the question while attributing
the query to himself—as if he was the one to ask the original question; however, the
query was presented by the *stam* in the beginning of the *sugya* and not by Rav Ashi!
Halevy understands from Rav Ashi's reference to the query as "my question," that as the
editor of the Talmud he could co-opt the text as his own, including the *stam* and even
earlier amoraic statements. Rav Ashi's editing created a de facto ownership of the text.[365]
Halevy quotes several other instances of similar phenomena and adduces that this was
Rav Ashi's style and approach as editor of the text.[366]

Applying modern methodology to the analysis of this *sugya* shows Halevy's
argument to be tendentious. Introductory questions, although anonymous, clearly had

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[364]b. Hullin 2b.

[365]See tosafot s.v. *ana* in b. Hullin 2b. Tosafot argues that the *stam*'s question was composed by
Rav Ashi, and thus it is evidence of Rav Ashi as the author of the Talmud. Tosafot also remarks that the
question must have been asked also in earlier generations since Abaye and Rava come to answer it earlier in
the *sugya*. Halevy, consistent with his view that the *stam* was not composed by Rav Ashi, argues and notes
that the structure is far more simple. The question originated in earlier generations and it was composed as
part of the Talmud by Abaye and Rava, the authors of the proto-Talmud. Rav Ashi co-opted the question as
his own in his role of editor of the text.

[366]Isaac Halevy, *Dorot Harishonim*, II:81–2. Halevy notes a similar pattern in b. Ketubbot 7a, 69a,
and b. Niddah 14b.

been asked before since the *Amoraim* come to answer them. These questions frame the *sugya* and they provide the introduction to amoraic debates and statements. The introductory question to the *sugya* was asked long before and it was repeated whenever the *sugya* was learned. Thus it is natural for Rav Ashi to refer to the anonymous questions as his own, since it was *his* introduction to the *sugya*.[367] Furthermore as already noted by Abraham Weiss, the meaning of "my difficulty" can be understood as *my understanding* of the question. Halevy in his quest to prove his theory at times reached too far and resorted to forced interpretations. These passages do not reflect the existence of the *stam* at the time of Rav Ashi nor his co-opting of texts as his own as editor.

The Post Rav Ashi Activities

One of the problems Halevy faced in his model of the formation and editing of the Talmud by Rav Ashi is the fact that the Talmud clearly extended beyond Rav Ashi's lifetime.[368] Several *sugyot* quote amoraic discussions that clearly took place after Rav Ashi's death since they discuss issues about RavAshi's statements without his involvement.[369] Opinions attributed to *Amoraim* who lived after Rav Ashi are found in numerous *sugyot*. These later *Amoraim* include: Mareimar, Rav Idi bar Avin, Rav Nahman bar Huna, Rav Aha m'Difti, Mar bar Rav Ashi and Rabbah Tusfa'ah. Therefore, Halevy frames the editing process by Rav Ashi to include the greatest sages of that generation and to extend up to the death of the youngest of the group, Ravina bar Huna. In his opinion, all the sages who were of a stature to participate in the *Beit Hava'ad*

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[367]Abraham Weiss, *The Babylonian Talmud as a Literary Unit (Hebrew)*, 253. Weiss notes that this phenomenon was not limited to Rav Ashi. For example, see b. Ketubbot 17b.

[368]The date of his death is unclear as there are contradictions among various sources. Halevy assumes that it happened sometime between 422–6. See Isaac Halevy, *Dorot Harishonim*, III:10; Hanina, *Iggeret Rav Sherira Gaon*, 94.

[369]See example in b. Qiddushin 64a.

during Rav Ashi's lifetime were empowered to continue the process of editing which lasted until Ravina bar Huna's death.[370] Therefore, according to Halevy, the meaning of the statement: "Rav Ashi and Ravina—End of *hora'ah*[371]" is that the editing of the Talmud was performed in the era spanning from Rav Ashi until Ravina bar Huna, and it included all of the great sages of the time. Rav Ashi and Ravina were named as representatives of the that generation because they were the greatest leaders of their time.[372] Halevy relies upon the Epistle[373] in order to identify the Ravina in question, since R. Sherira believes that the Ravina mentioned in Bavli Bava Metzi'a is in fact Ravina bar Huna, nephew of the earlier Ravina who was a contemporary of Rav Ashi.[374]

One of the main issues with Halevy's theory about Rav Ashi is the Epistle's account of the closure of the Talmud. While the Epistle is silent about Rav Ashi's role in

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[370]Halevy demonstrates from b. Yoma 69 that Ravina bar Huna was already a great sage and a renowned judge by the time of Rav Ashi's death. See Isaac Halevy, *Dorot Harishonim*, III:11–15, 19–22.

[371]See b. Bava Metzi'a 86a. Florence II-I-8 and Hamburg 165 have the order of the names reversed, Ravina and then Rav Ashi. A. Cohen argues that these two versions are the product of the different opinions regarding the identity of Ravina in this passage. The version that has Ravina following Rav Ashi refers to the later Ravina, Ravina bar Huna. This is the Epistle's view to which Halevy subscribes. See Hanina, *Iggeret Rav Sherira Gaon*, 69. The other version which has Ravina preceding Rav Ashi understands that Ravina in this passage refers to the earlier Ravina contemporary of Rav Ashi. This is the position of Rashi in b. Bava Metzi'a 86a s.v. *sof* . See Avinoam Cohen, *Ravina and Contemporary Sages:Studies in the Chronology of Late Babylonian Amoraim (Hebrew)*, 55, 126n57.

[372]Isaac Halevy, *Dorot Harishonim*, III:18–22.

[373]Hanina, *Iggeret Rav Sherira Gaon*, 95. See also Hanina, *Iggeret Rav Sherira Gaon*, 69.

[374]The name Ravina is mentioned numerous times in the Talmud and according to Halevy it refers to two distinct sages, the earlier Ravina contemporary and senior to Rav Ashi, who died before Rav Ashi in 421, and his nephew Ravina bar Huna who was younger than Rav Ashi. Halevy notes that the although the Epistle is silent about the year of the earlier Ravina's death, *Mahzor Vitry* and *Sefer Hakerithot* mention 421/2 as the date. See Isaac Halevy, *Dorot Harishonim*, 10. According to Halevy, there were only two sages named Ravina and at times it is difficult to ascertain which one the Talmud is referring to. See Isaac Halevy, *Dorot Harishonim*, III:3–16. See also Avinoam Cohen, *Ravina and Contemporary Sages:Studies in the Chronology of Late Babylonian Amoraim (Hebrew)*, 109–43. Cohen argues that the early Ravina contemporary of Rav Ashi actually outlived him and passed away approximately in the year 440 CE (approximately 18 years later than Halevy's date). Cohen believes the identity of the Ravina who continued Rav Ashi's work was the early Ravina and although Ravina bar Huna does appear in the Talmud, his contribution is of a lesser scale. See Avinoam Cohen, *Ravina and Contemporary Sages:Studies in the Chronology of Late Babylonian Amoraim (Hebrew)*, 54–5.

the process, it does contain two passages noting the date of the "End of *hora'ah*." One passage reads: "On Wednesday the 13th of Kislev in the year 811 (Sel. =499/500 CE) Ravna Avina son of Rav Huna, the Ravina [quoted in the Talmud] passed away and he is the end of *hora'ah*."[375] R. Sherira notes the event a second time when he describes the chronology of the heads of the Pumbedita academy, "And after him [Rav Sama son of Rava] Rav Yose became the head [of the academy] and in his days it was the end of *hora'ah* and the Talmud was concluded."[376] These two passages appear in direct contradiction to the tradition in Bavli Bava Metzi'a which ostensibly attributes to Rav Ashi the editing of the Talmud. In order to reconcile these passages, Halevy assumes that there were three distinct stages in the editing of the Bavli. The first, and principal editing was carried out by Rav Ashi and was followed by the conclusion of the editing process by the last of the original sages of the *Beit Hava'ad*, Ravina bar Huna. The final stage of redaction consisted of elucidation and clarification of the existing Talmud by Rav Yose, who was actually not an *Amora* but one of the early *Saboraim*.[377] Therefore, since according to Halevy, Rav Ashi was the primary editor of the Bavli and the first stage of editing was the most comprehensive and critical;[378] this relegates Ravina bar Huna and Rav Yose to relatively minor roles.[379]

In order to expand Rav Ashi's role as the supreme editor of the Bavli, Halevy argued that the additions that were made following Rav Ashi's death were extremely

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[375]Hanina, *Iggeret Rav Sherira Gaon*, 95.

[376]Hanina, *Iggeret Rav Sherira Gaon*, 97.

[377]On Rav Yose's role, see pp. 123 below.

[378]While Abaye and Rava were the redactors of what we termed the "proto-Talmud," as noted above, Rav Ashi was the final editor. His role was to add the new amoraic material accumulated since then, to finalize the actual phrasing of the material and to conclude the *sugyot* by attempting to resolve any outstanding issues. See Isaac Halevy, *Dorot Harishonim*, II:524–6,550.

[379]Isaac Halevy, *Dorot Harishonim*, 17–9.

short and represented minor clarifications to existing *sugyot* with no new concepts.[380] Furthermore, Halevy not only minimizes the quality of the post Rav Ashi material, but moreover he takes an untenable position that the quantity of the material is also *de minimis* to such an extent that if taken all together it does not comprise more than one third of a common Talmud tractate among the thirty six existing tractates—less than three percent of the entire Talmud.[381] His minimization of the post Rav Ashi *sugyot* was strongly challenged by R. Jehiel Jacob Weinberg in his introduction to his *Mehkarim Batalmud*. Upon reviewing Halevy's claim he noted, "the view of Halevy that all these additions do not constitute any new *sugyot* etc. but are rather very short additions added in order to explain existing *sugyot*, does not withstand a critical review."[382]

In order to validate his claim that Rav Ashi was the primary editor and only minor changes were made after his death, Halevy searched for textual evidence. A problem that plagued Halevy was a chronological question: if, following the death of Rav Ashi, the editorial activity was reduced, and the material developed was so sparse, why was the Talmud only concluded in the year 499 approximately seventy five years after Rav Ashi died? In order to resolve these issues, Halevy resorted to emending the text of the Epistle and antedating Ravina bar Huna's death and the ensuing closing of the Talmud by 25 years to 474/5. This emendation is one of the weakest points of his account and it was criticized even by his own son.[383]

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[380]Halevy attempts to explain several passages where these later sages appear to be introducing new ideas rather then just expanding upon existing *sugyot*, like in b. Yoma 78a, b. Nedarim 60b and 90a and b. Hullin 97b. See Isaac Halevy, *Dorot Harishonim*, III:19–22.

[381]Isaac Halevy, *Dorot Harishonim*, 19–22.

[382]Jehiel Jacob Weinberg, *Mehkarim BaTalmud*, V. In his opinion, sweeping exaggerations like this indicate the narrowness of Halevy's research. See a similar criticism in Kaplan, *The Redaction of the Babylonian Talmud*, 24.

[383]See Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 147–8 (letter 76).

Halevy argued that following Rav Ashi's death, the Talmud continued to be edited in the central *Beit Hava'ad*. However, the *Beit Hava'ad* was moved from *Mata Mehasia* to the academy of Sura,[384] which, according to Halevy was lead by Rabba Tusfa'ah from 466 until 474.[385] On the date of Rabba Tusfa'ah's death Halevy rejects both versions of the Epistle; according to the Spanish version he died in 469 and according to the French version in 476.[386] Halevy corrects the date of Rabba Tusfa'ah's death to 474 in order to coincide with the period of Sasanian persecutions against the Jews when, "all the Babylonian synagogues were closed."[387] Halevy believed that these persecutions began in 469 when great sages were killed, but that the mass persecutions only began in 473/4.[388] In his view, Rabba Tusfa'ah was really the final editor of the Babylonian Talmud because in his opinion his successor as the head of the Sura academy was Ravina bar Huna who only ruled a few months, passing away in Kislev 474 CE. Halevy's understanding of Ravina bar Huna's role was a radical departure from the Epistle. According to the Epistle, Ravina bar Huna died in the year 500, which is described by R. Sherira as the conclusion

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[384]Although the Epistle remarks that the academy remained in Mata Mehasia as in the times of Rav Ashi, Halevy believes that only Mar bar Rav Ashi, Rav Ashi's son, remained there while the entire *Beit Hava'ad* relocated to Sura. See Hanina, *Iggeret Rav Sherira Gaon*, 94–5; Isaac Halevy, *Dorot Harishonim*, II:593–600.

[385]Hanina, *Iggeret Rav Sherira Gaon*, 95.

[386]See Hanina, *Iggeret Rav Sherira Gaon*, 95.

[387]Hanina, *Iggeret Rav Sherira Gaon*, 97. Halevy corrects the Spanish version which has the date as 469 instead of 473/4.

[388]This date is based upon Halevy's emendation to the text of the Epistle. The Spanish version has 469 instead, while the French version has the reading 476. Halevy changes both to 473/4. See Hanina, *Iggeret Rav Sherira Gaon*, 97. These were the persecutions under Pērōz (Pīrūz) who ruled between 459–484. For more details about Pērōz (Pīrūz) and the significance of the year 469 in his reign see Frye, "The Political History of Iran Under the Sasanians," 147–9; Pourshariati, *Decline and Fall of the Sasanian Empire: The Sasanian-Parthian Confederacy and the Arab Conquest of Iran*, 380–4. For further detail and corroborating data see Isaiah Gafni, "On the Talmudic Chronology in Iggeret Rav Sherira Gaon (Hebrew)," 12–3.

of the Babylonian Talmud.[389] Moreover, it is clear from the Epistle that Ravina bar Rav Huna's contribution to the editing of the Bavli was significant.[390] Halevy emends the date to 474, which matches the date given for Ravina bar Huna's death by Abraham Ibn Daud in his *Sefer Haqabbalah* who notes that Ravina bar Huna only headed the academy for one year.[391] This departure from the Epistle was pivotal to his theory as it reduced the length of the era of the post Rav Ashi *Amoraim*, for one of the central weaknesses of his theory was that if their contribution was so small why was it so long spanning almost 75 years? Furthermore, it provided an ideal historical context for the closure of the Talmud. In Halevy's view the Talmud had to be compiled and edited in times of peace in order to allow for an international conclave to convene and work full time, in a context similar to the editing of the Mishnah by Rabbi Judah the Prince.[392] Thus, the Sasanian persecutions were a great catalyst for the closure of the process. Moreover, by naming Rabbah Tusfa'ah as the last editor, it conveniently provided the elusive proof for the scope of the editing committee after Rav Ashi. The name Tusfa'ah in Halevy's view was enigmatic. It was not a common name nor did it came to denote a name of a locale as Halevy could not indentify such a place. In his view, it was a professional title, derived from the Hebrew word, *tosefet*, meaning addition. Rabbah was titled "*tosefet*," because his editing function was limited to noting additions and elucidations to the Talmud edited by Rav Ashi.[393] The last editor was given an official title denoting the scope of his professional activity.

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[389]Hanina, *Iggeret Rav Sherira Gaon*, 95.

[390]R. Sherira stresses that Ravina bar Huna is the Ravina mentioned in the Talmud in the passage referring to the end of *hora'ah*. See Hanina, *Iggeret Rav Sherira Gaon*, 95.

[391]Ibn Daud, *The Book of Tradition (Sefer Haqabbalah)*, 42 (Hebrew 29).

[392]See Isaac Halevy, *Dorot Harishonim*, III:23.

[393]See Isaac Halevy, *Dorot Harishonim*, III:19–23.

His theory was rightfully challenged and contradicted by many scholars upon publication. On the name Tusfa'ah, which Halevy found puzzling, there was a simple explanation as it denoted the name of the city from where he originated, Tusfah (Thospia) in Eastern Turkey.[394] Moreover, Halevy's emendation of the Epistle regarding the date of Ravina bar Huna's death and the closure of the Talmud from the year 499 to 474 is contradicted by the Epistle itself. Rav Sherira notes Ravina's death as occurring on "Wednesday the 13th of Kislev."[395] This convergence of day of month and week only occurred in the year 499 and not in 474/5. In 474 the 13th of Kislev fell on a Saturday, making Halevy's emendation impossible.[396]

However, the Epistle does appear to validate one of Halevy's assertions. In his view, the final editing of the Talmud in the post Rav Ashi era took place in the *Beit Hava'ad* at Sura. Halevy in his model promoted the centrality of the academy of Sura over Pumbedita also in the final editing of the Talmud starting in the era of the post Rav Ashi *Amoraim* until the saboraic era.[397] This assertion is important for Halevy, since in

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[394]Rabinowitz, *Sha'are Torat Bavel*, 518; Israel Lewy, *Ueber Einige Fragmente Aus der Mischna Des Abba Saul* (Berlin: G. Bernstein, 1874), 94. However, this identification is not so simple. That is the opinion of Adolphe Neubauer, *La Geographie du Talmud*, p. 370. However, others identified it with Ctesiphon, see A. Oppenheimer, Babylonia Judaica in the Talmudic Period, p. 207: "Rabbah (or Rava) Tosefa'a is mentioned in several places in the Talmud. Mostly he is reported in discussions with Ravina, of the seventh generation of Babylonian Amoras. The appellation may very well indicate the sage's provenance from Ctesiphon (=Taisafun, also Tausafun in Arabic sources, although the substitution of *taw* for *tet* is not common)." However, Oppenheimer's identification of Tusfa'ah as meaning "from Ctesiphon" is problematic since the same origin is quoted in b. Yevamot 104a as *qatusfa'ah*, with a *tet* instead of *taw*. My thanks to Zvi Septimus for his insightful comment.

[395]Hanina, *Iggeret Rav Sherira Gaon*, 95.

[396]Jacob M. Greenfield, *Luach Olam* (New York: Ateres Publishing, 1997). See also Avinoam Cohen, *Ravina and Contemporary Sages:Studies in the Chronology of Late Babylonian Amoraim (Hebrew)*, 24n7 and the literature cited there. It is rather fascinating that his disciple, Aaron Hyman, did a similar analysis and came to the opposite conclusion, that only in the year 474 did the calendar coincide! See Aaron Hyman, *Iggeret Rav Sherira Gaon: Collated from Various Texts and Edited with a Critical Commentary Patshegen Haketab* (London: Express, 1910), 82n17.

[397]See Isaac Halevy, *Dorot Harishonim*, III:26–7.

his view all of the editing of the Talmud was performed in a unified academy, his *Beit Hava'ad*, and it had to be located in Sura during the editing of the post Rav Ashi *Amoraim*. This was necessary in order to give a sense of continuity directly from Rav Ashi and to postulate that until Ravina bar Huna the editing sages were the remainders of Rav Ashi's court. R. Sherira notes about Ravina bar Huna, the head of Sura that, "Ravna Avina son of Rav Huna who is the Ravina [quoted in the Talmud] passed away and he is the end of *hora'ah*."[398] However, when describing the history of Pumbedita he makes a similar remark about Rav Yose, the head of the academy and Ravina's counterpart, but in very different terms, "in his days was the end of *hora'ah* and the Talmud was concluded."[399] R. Sherira is careful to note that Rav Yose, the head of Pumbedita, was not personally involved with the concluding *hora'ah*—he only notes that it took place "in his days."[400] Clearly R. Sherira is arguing that the central editing activity was conducted in Sura by Ravina.[401] This is consistent with R. Sherira's description of Sura's centrality over Pumbedita throughout the Epistle and this despite the fact that R. Sherira was from Pumbedita.[402]

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[398]Hanina, *Iggeret Rav Sherira Gaon*, 95.

[399]Hanina, *Iggeret Rav Sherira Gaon*, 97.

[400]See Brody, "On the Sources for the Chronology of the Talmudic Period (Hebrew)," 95 . Brody similarly believes that it is evident from the Epistle that Sura was the central academy and the closing of the Talmud took place with Pumbedita working in tandem. Brody comments that Halevy's model of a central academy is indeed evident during this period. See Brody, "On the Sources for the Chronology of the Talmudic Period (Hebrew)," 95n73.

[401]Halevy, adds a further dimension to this passage, explaining that the Talmud was not finished when Rav Yose passed away but rather *during* his tenure as head of Pumbedita, upon the passing of Ravina bar Huna and the closing of Sura. See Isaac Halevy, *Dorot Harishonim*, III:24n7.

[402]For details about the Sura academy see Raphael S. Weinberg, "Decline of the Hegemony of the Sura Academy (Hebrew)," in *Samuel K. Mirsky Memorial Volume*, ed. Gersion Appel (New York: Yeshiva University, 1971), 169–77.

According to Halevy, after Ravina bar Huna passed away in 474, the academy of Sura ceased its activities as a result of the Sasanian persecutions described in the Epistle,[403] and the Talmud was officially concluded and sealed.

The Fourth Stage and the Early *Saboraim*

The era that followed was centered in the academy of Pumbedita under the leadership of Rav Yose. This new phase in the formation of the Talmud is known as the saboraic era and it represents the final step in the process of the Talmud's redaction. Halevy believed that this phase consisted of two separate stages and activities: the first was carried out by the *Rabanan de'Mefarshey*, who elucidated certain *sugyot*, and the second consisted of the post editing activities of the later *Saboraim*. According to Halevy, these editing activities of the *Saboraim* were significant and account for the differing styles of the Bavli and Yerushalmi, and the clearer style of the former. Halevy does not attribute the stylistic difference to a different editing method by Rav Ashi's court and to the fact that the Yerushalmi was concluded much earlier than the Bavli, but rather to the saboraic activities.[404]

Despite the death of Ravina bar Huna and the closing of the academy in Sura, the process of the formation and editing of the Talmud continued in Pumbedita. According to R. Sherira these activities were no longer considered *hora'ah*, which concluded with the

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[403]Hanina, *Iggeret Rav Sherira Gaon*, 97; Isaac Halevy, *Dorot Harishonim*, III:26. Halevy consistent with his view that Ravina bar Huna died in 474 at approximately the same time of the Sasanian persecutions, believes that these persecutions were the reason for the cessation of activities in Sura. He argues that Pumbedita was largely unaffected and thus continued its activities and became the new locale of the *Bait Hava'ad*. However, his construct is difficult to accept. R. Sherira describes the Sasanian persecutions in his account of the activities of Pumbedita rather than Sura. If these persecutions were the cause of the cessation of Sura's activities why is he silent about them when describing its history? Furthermore, as indicated earlier, his dating of 474 as the year of Ravina bar Huna's death does not fit the historical record, and thus begs the question of what prompted Sura to cease its activities in 499? See our discussion below.

[404]Isaac Halevy, *Dorot Harishonim*, III:36–8.

death of Ravina. The first generation of *Saboraim*, known as the *Rabanan de'Mefarshey*, were responsible for elucidating obscure passages in the Talmud and several of their names are even mentioned in some *sugyot*. Notable examples are Rav Yose,[405] R. Beroka Hoza'ah[406] and Rav Revai of Rov.[407]

One example of a clarification which Halevy attributes to the *Saboraim* occurs in b. Yevamot 37a:

> It was stated: [In a case where] a man betrothed a woman within the three [months][408] and fled: Rav Aha and Rafram disagree. One holds the man should be excommunicated, and the other holds that the fleeing is sufficient. It once happened [that a man fled before three months] and Rafram ruled "His flight is sufficient."

The disagreement here concerns a man who betroths a widow or divorced woman within three months of the end of her previous marriage. In such a case, the man must wait for the three month period to be over before he performs *nisuin*.[409] In the case discussed here, the man flees before the three months are over, leaving behind the betrothed wife. The term *itmar* usually introduces a case of two *Amoraim* arguing a point of *halakhah* and the attribution is left in doubt. However, in this case the disagreement is followed by the description of a case in which Rafram explicitly ruled that "his flight is sufficient." This is unusual and implies that Rafram is the *Amora* who favored this idea. According to Halevy, the description of the incident which follows the disagreement

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[405]In Halevy's view, all the interactions between Rav Yose and Ravina, relate to Ravina bar Huna the last *Amora* and his contemporary Rav Yose the first *Sabora*. See examples in b. Betzah 17a, b. Hullin 48a, b. Niddah 41a among others. See Isaac Halevy, *Dorot Harishonim*, III:3–7.

[406]See b. Ta'anit 22a.

[407]See b. Sanhedrin 43a according to the readings of R. Sherira and R. Hananel.

[408]The Talmud requires a woman to wait three months after she became a widow or a divorcee before she remarries in order to ascertain whether she became pregnant from her previous relationship. See b. Yevamot 42a.

[409]Second and final stage of marriage.

represents an addition by *Rabanan de'Mefarshey* of the *Saboraim*, which was added after the earlier text introduced by *itmar*. As *hora'ah* was concluded, the text was finalized and sealed and any clarifications and additions could not tamper with the original textual tradition and had to be noted as an appendix to the existing *sugya*.[410] This phenomenon is indeed prevalent throughout the Talmud.[411] Such appendices by the *Saboraim* were already noted by the earliest commentators of the Talmud.[412] This phenomenon of b. Yevamot 37a, however, can easily be explained in a different way. This *sugya* is simply giving us two stages—in the first stage the *memrot* were learned in an *itmar* structure and were of doubtful attribution. Afterwards a later *Amora* reports that Rafram indeed ruled in accordance with one of them. Halevy's attribution of such a phenomenon to the *Saboraim* is consistent with his view that the Talmud was edited by Rav Ashi and thus the later report should have been incorporated organically into the *sugya* by the editor.

His understanding of the title *Sabora* as it relates to this activity resembles Brody's translation of the term as "opinions."[413] Other scholars on the other hand

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[410]Isaac Halevy, *Dorot Harishonim*, III:89.

[411]Halevy notes a similar phenomenon in b. Hullin 93a/b. See Isaac Halevy, *Dorot Harishonim*, III:89. As noted this pattern is evident in various other instances in the Talmud and it accounts for many puzzling cases when debates are analyzed and several *baraitot* are brought to contradict one of the opinions while validating the other. The Talmud continuously labors to find a resolution to the contradicting text. However at the end of the *sugya*, it quotes a *baraita* which clearly supports one of the views and it does not use it to contradict the other view as it did before! Clearly these are additions from a later time when the text was already closed and could not be altered. See for example b. Megillah 29b. In Halevy's model these additions were composed by the early *Saboraim*. Halivni also understands this phenomena as additions from a time when the Talmud was already closed. However, in his opinion, it is the work of the Compilers and not of the *Saboraim*. See Halivni, *The Formation of the Babylonian Talmud*, 156–63.

[412]For example see b. Pesahim 101b, where R. Zerahia Halevy of Girona (ca. 1125-ca. 1186) notes a similar comment in his monumental work, *Hama'or*. He comments upon a puzzling instance where after discarding a previous opinion categorically, the Talmud brings a *baraita* at the end of the *sugya* to support that same view which had been discarded before. In his view, this *baraita* was found by the time of the *Saboraim* when the talmudic text had already been closed and thus it was appended at the end of the *sugya*. Nahmanides (1194–1270) is also of a similar view. See *Sefer Hazekhut* on Rif Yevamot 37a s.v. *ve'im*.

[413]Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 4.

understand their activity to be quite different, as will be discussed in the following chapters.[414]

According to the Epistle, the majority of the sages of the first generation of *Saboraim* died in a short span of time. R. Sherira writes that Rabana Sama brei de Rabna Yehuday died in 504; Rav Ahay, Rav Rehumy[415] and Rav Shemuel bar Yehudah in 506; Ravina bar Amotzia in 507; Rav Huna the Exilarch in 508; Rav Ahai brei de Raba bar Avuha in 511 and Rav Tahna and Mar Zutra in 515. The only remnant of this generation who lived beyond 515 was Rav Yose, head of Pumbedita academy, who lived until approximately 520.[416] One theory for explaining the proximity of the deaths of the early *Saboraim* is that it may have resulted from a plague.[417] A plague was indeed noted by Procopius[418] in the beginning of the sixth century as: "pestilence, by which the whole human race came near to being annihilated."[419] The tradition about the deaths of the *Saboraim* are used by Halevy to bolster his theory that Ravina bar Rav Huna died in 474 and not in 499. Halevy argues that if Ravina bar Huna died on the earlier date, a clear demarcation can be created between the *Amoraim* and *Saboraim*.[420]

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[414]See pp. 207 and 282 below. Rubenstein notes that some scholars derive the term *Savora'ei* from the *pe'al* form of root SBR "to think, hold the opinion"; Halivni, on the other hand, translates it as the *afel*—to explain, while Sokoloff translates *Sevara* as logical deduction.

[415]Other versions have Rav Rehuma'y instead. See Hanina, *Iggeret Rav Sherira Gaon*, 96.

[416]Hanina, *Iggeret Rav Sherira Gaon*, 97–9.

[417]Halivni has a similar view, arguing that due to a plague that struck in the beginning of the sixth century the *Amoraim* dwindled little by little until none remained. See Halivni, *The Formation of the Babylonian Talmud*, 113 and note 120.

[418]In his account of the Persian war. Notably in the same account Procopius describes a battle in "the city of Sura, which is on the River Euphrates." See Procopius, *History of the Wars Books I-II*, H. B. Dewing (Cambridge: Harvard University Press, 2001), 297.

[419]Procopius, *History of the Wars Books I-II*, 451.

[420]Isaac Halevy, *Dorot Harishonim*, III:15–6.

Halevy was also able to identify Rav Yose's participation in several *sugyot* in the Talmud. He made this identification despite the fact that this name was common among earlier *Amoraim* as well. Halevy's unique creative mind is evident here, since his hypothesis about the identity of Rav Yosef in his discussions with Ravina as the saboraic Rav Yose,[421] helped solve a puzzle noted by many medieval commentators.[422]

Halevy viewed the entire process of the "closure of the Talmud" as a planned and conscious activity. In Halevy's opinion Sura's closure and the ensuing prominence of Pumbedita provided an ideal setting for his model of a unified *Beit Hava'ad*, located in one central academy, allowing for the participation of all of the great sages of the time.[423]

However, his evidence is not convincing. In my opinion these events should be understood instead through the prism of an evolutionary process of periodization. Although the great majority of the first *Saboraim* died in a short span of time, Rav Yose, the head of the academy in Pumbedita, outlived them and remained active until approximately 520 and thus *hora'ah* continued.[424] It is plausible however that once Sura, the main hub of amoraic activity, ceased operations in 499, Pumbedita alone did not have

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[421]Despite the slight difference in the names Rav Yose versus Rav Yosef, in Halevy's opinion they are different versions of the same name. See Isaac Halevy, *Dorot Harishonim*, III:5. Rav Yose's name is quoted however in some versions of the French recension as Rav Asi. MS Vienna, MS Berlin and MS Paris of the French version, on the other hand, read like the Spanish recension, Rabbah Yose. See Hanina, *Iggeret Rav Sherira Gaon*, 97 (French recension note 22).

[422]The medieval commentators were puzzled by the fact that the Talmud quotes face to face discussions between Rav Yosef, who had passed away in 324 CE and Ravina who lived approximately 100 years later. See b. Hullin 48a *tosafot* s.v. *amar*, b. Betzah 17a *Shittah Mekubetzet* s.v. *amar*. In Halevy's view, all the interactions between Rav Yosef and Ravina, relate to discussions between the later Ravina, Ravina bar Huna the last *Amora* and his contemporary Rav Yose the first *Sabora*. See examples in b. Betzah 17a, b. Hullin 48a, b. Niddah 41a among others. See Isaac Halevy, *Dorot Harishonim*, III:3–7. See also Halivni, *Meqorot Umesorot Leseder Mo'ed from Yoma Until Hagiga*, 296n2 and the literature cited. Weinberg praised Halevy for his creative solution. See Jehiel Jacob Weinberg, *Mehkarim BaTalmud*, V.

[423]Isaac Halevy, *Dorot Harishonim*, 26–7.

[424]Isaac Halevy, *Dorot Harishonim*, III:28. According to Halevy, Rav Yose lived a long life, since he was already head of the academy when Ravina bar Huna died (which in his view took place in 474), thus in 520 he was over 80 years old.

the same status and power and its activities were viewed differently than before. Accordingly, the saboraic era of the *Rabanan de'Mefarshey* was part of an evolutionary process of periodization, prompted by the closure of Sura and the death of many great sages of the generation during a short span of time. Because of these events the activity of the sages that followed was viewed in a different light. Although their contribution to the Talmud was reduced as expected, there was no real difference in their activity but rather in the way their activity was *perceived*. This transitional period was short, and lasted up to the death of Rav Yose and the end of all of the contemporary Suran sages. As Aldo Scaglione described it: "periodization has to do with a perceived self-consciousness or self-awareness, which is consequent to a process of self-analysis: people become conscious of certain characteristics of their time, which distinguish their existence from that of previous epochs."[425] As Robert Brody explains, probably the early *Saboraim* did not refer to themselves as such, but rather this new term and category was coined by their successors in order to express their sense of belonging to a new era.[426]

In contrast, according to Halevy the saboraic era was clearly distinct from the previous period, creating a period with a defined and conscious post editorial activity, with defined tasks and objectives. In Halevy's view this era would logically only last for enough time to allow the process to develop. If this were not the case, why did it end with the first generation of *Saboraim* and not continue? However, Halevy's attempt to prolong the saboraic period relies on the problematic assumption that Ravina died in 474 and not

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[425]Lawrence L. Besserman, ed., *The Challenge of Periodization: Old Paradigms and New Perspectives* (New York: Garland Pub., 1996), 95.

[426]See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 9n25. A similar process of periodization was probably operative throughout Jewish history. See Moshe Lichtenstein, "'Ve'et Aharonim Ani Hu' - Tequfat Ha'aharonim: Magamot Vekiwunim," *Netu'im* 16 (2010): 131–74; Israel J. Yuval, "Rishonim and Aharonim, Antiqui et Moderni: Periodization and Self-Awareness in Ashkenaz (Hebrew)," *Zion* 57, no. 4 (1992): 369–94.

499. Furthermore, it is clear from the Epistle that *Rabanan de'Mefarshey* were not limited to the first generation of *Saboraim* as Halevy understood, but rather they represent the entire saboraic era.[427] Nowhere is there proof that their activity was limited to the first generation of the *Saboraim*. Instead, they represent the transitional era in the process of the closure of the Talmud. This reading is clear in the French version of the Epistle, where it is written: "and afterwards, although there was no longer *hora'ah*, there were explanations and clarifications which were close to *hora'ah*, and these sages were called *Saboraim*."[428] Unlike the Spanish version which described those sages as "*Saboraim* who *provided elucidations* close to *hora'ah*,"[429] the French version is categorical that those sages "were called" *Saboraim*.

Clear evidence against Halevy's theory that *Rabanan de'Mefarshey* were limited only to the first generation of *Saboraim* and were completely distinct from the remainder of the *Saboraim*, can be found in the sage Rav Revai of Rov, who is quoted in b. Sanhedrin 43a[430] and is mentioned in the Epistle among the *Rabanan de'Mefarshey*.[431] In Halevy's opinion, he therefore had to belong to the first generation of *Saboraim* ca. 475. The issue is that Rav Revai of Rov is later mentioned by the Epistle in its account of the academy of Pumbedita as its head after Rav Simona[432] who passed away in 540, and Rav Revai was its head until 560.[433] R. Sherira also further noted that "some say that he was

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[427]See similar comment in Elyahu Rahamim Ziany, *Rabanan Savoraei Vekelalei Hahalakha* (Haifa: Erez, 1992), 13–5.

[428]Hanina, *Iggeret Rav Sherira Gaon*, 69 (French version).

[429]Hanina, *Iggeret Rav Sherira Gaon*, 69 (Spanish version).

[430]According to both versions of the Epistle and Rabenu Hananel *ad loco*.

[431]Hanina, *Iggeret Rav Sherira Gaon*, 70–1.

[432]Hanina, *Iggeret Rav Sherira Gaon*, 99.

[433]Isaac Halevy, *Dorot Harishonim*, III:27–30. Halevy relies upon the dating noted in *Sefer Haqabbalah*. See Ibn Daud, *The Book of Tradition (Sefer Haqabbalah)*, 33.

one of the *Geonim*."[434] Although R. Sherira notes that he lived a long life, in Halevy's conception his longevity had to be extraordinary, extending beyond the age of one hundred.[435] It is evident that Rav Revai of Rov was *not* of the first generation of *Saboraim*, and nonetheless he is mentioned by name in the Talmud and is referred to by the Epistle as *Rabanan de'Mefarshey*.

An additional activity which Halevy attributes to the first generation of the *Saboraim* is the committing of the Talmud to writing, placing the writing of the Talmud in the middle of the sixth century. This is important for Halevy since he envisions the later *Saboraim* working with an existing written document, as we shall explain below.[436] However, there is no evidence of written copies of the Talmud prior to the mid eighth century,[437] and it is possible that the writing of the Talmud, took place in that time and was influenced of the Arab conquest of Babylonia. Although parts of the Talmud may have been written in earlier periods, the Talmud certainly remained primarily an oral work until the end of the eighth century. As N. Danzig noted, "it is also evident from other testimony, and from the dates of Talmud manuscripts, which clearly point to the committing of the Talmud to writing during the 8th century at the earliest."[438]

As noted above, Halevy believed that the *Rabanan de'Mefarshey* were active only in the first generation of the *Saboraim*, when the academy in Sura was closed and Pumbedita was the only academy and the location of the *Beit Hava'ad*. Their activities

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[434]Hanina, *Iggeret Rav Sherira Gaon*, 99.

[435]See Isaac Halevy, *Dorot Harishonim*, III:28. This assumption was necessary, since in Halevy's view the *Rabanan de'Mefarshey* only included the sages of the first generation of *Saboraim* which ended upon Rav Yose's death approximately in 520, thus Rav Revai of Rov had to already be of age at that time.

[436]Isaac Halevy, *Dorot Harishonim*, III:25.

[437]See pp. 261 below.

[438]Danzig, "From Oral Talmud to Written Talmud: On the Methods of Transmission of the Babylonian Talmud and Its Study in the Middle Ages (Hebrew)," 60.

ceased once the academy of Sura reopened and thus no central *Beit Hava'ad* was in existence. According to the Epistle, in approximately 520, following the death of Pumbedita's leader Rav Yose,[439] Rav Simona assumed the leadership of Pumbedita and Rav Eina became the head of the newly reopened academy in Sura. Thus, according to Halevy, the academy in Sura ceased operations from the death of Ravina bar Huna until the appointment of Rav Eina around 520. Halevy's assumption regarding the closing of the academy in Sura builds on two inferences in his reading the Epistle: first, the fact that R. Sherira lists Ravina bar Huna as the head of Sura immediately preceding Rav Eina with no one else in between, and second R. Sherira's description of persecutions in Sura in 474. As the Epistle notes, both Rav Simona in Pumbedita and Rav Eina in Sura were contemporaries and their leadership of the academies overlapped. The Epistle's description of persecutions in Sura in 474[440] provided support for Halevy to fix Ravina bar Huna's death in 474 and not 499.[441]

However, moving Ravina bar Huna's death to 474 contradicts the historical record and there is not sufficient proof to emend the Epistle on this point. While it is plausible that the academy in Sura ceased operations from Ravina's death until Rav Eina, there is not enough support to argue that the persecutions of 474 caused the academy to close. It

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[439]Isaac Halevy, *Dorot Harishonim*, III:26. This date is assumed by Halevy. He derives it from the Epistle, as it noted upon the passing of Mar Zutra in 515 that Rav Yose remained the head of the academy for some years. See Hanina, *Iggeret Rav Sherira Gaon*, 99.

[440]Hanina, *Iggeret Rav Sherira Gaon*, 97 according to the French version. As noted earlier, Halevy emended the Spanish recension to also read 474. See note 388 above.

[441]Isaac Halevy, *Dorot Harishonim*, III:26–8. See also Heinrich Graetz, *History of the Jews* (Philadelphia: Jewish Publication Society of America, 1891–98), II:628–30. Graetz also believed that the academy in Sura was closed since the city was destroyed. As we have noted, Halevy questioned the date of 499 mentioned by the Epistle (and agreed upon by Graetz) for the death of Ravina bar Huna. Halevy argues that if the persecutions took place in 474, why would the academy only close in 499, twenty five years later?

makes more sense to assume that the persecutions *slowed* the activities of the academy[442] instead of forcing its closure and to assume that it finally closed in 499 as a result of Ravina's death.

Halevy noted an additional factor in possibly bringing about the closure of the academy in Sura in the early 6th century—the ascension of the Mazdakite movement which gained strength after Kāvad, a sympathizer of the movement, returned to power as king in 498.[443] The movement's actions appear to have impacted the Jewish community and certainly could have affected the academy in Sura and for some reason it did not affect Pumbedita. This further aggravating event is necessary to Halevy in order to explain why Sura remained closed until ca. 510 CE. Otherwise, if the closure of Sura was only due to Pērōz's persecutions, it should have reopened in 484 when he was killed.[444] He thus notes that due to the Mazdakites' call for the sharing of possessions—their version of a primitive communism, including the sharing of wives—the political situation was unstable and it caused many public disturbances thus preventing the proper operation of the academy in Sura.[445] Furthermore, scholars have speculated that Kāvad's support of Mazdak was motivated by his desire to counter the power of the aristocracy[446] as their

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[442]Such a perspective is indeed probable based on the Epistle, since R. Sherira never notes that Ravina was *officially* the head of the academy as he remarked about the other heads of the academy. Hanina, *Iggeret Rav Sherira Gaon*, 95. Halevy also notes that the omission by R. Sherira indicates that the post of the head of the academy was never assumed by Ravina. See Isaac Halevy, *Dorot Harishonim*, III:9.

[443]Pourshariati, *Decline and Fall of the Sasanian Empire: The Sasanian-Parthian Confederacy and the Arab Conquest of Iran*, 344–50; Frye, "The Political History of Iran Under the Sasanians," 150–1.

[444]Frye, "The Political History of Iran Under the Sasanians," 148 and 178. See also Kahana, "Seder Tannaim Weamoraim auf Grund Mehrerer," 6. STVA also notes Pērōz's assassination in either 482 or 484, depending on the various versions (note 141). See Isaac Halevy, *Dorot Harishonim*, III:61.

[445]Isaac Halevy, *Dorot Harishonim*, III:60–3.

[446]See Frye, "The Political History of Iran Under the Sasanians," 150. Frye is of the opinion that the weakening of the aristocracy was the reason why the king adhered to Mazdakism. See also Richard N. Frye, *The Heritage of Persia* (Costa Mesa: Mazda Publishers, Inc, 2004), 251.

primitive form of communism was essentially anti hierarchical. As they opposed any structure of power, it is quite plausible that the hierarchy of the academy of Sura was also anathema to them and it therefore had to cease operations. Although scholars doubt how far Mazdak went, and whether he went as far as his detractors accused him, like promoting the sharing of wives,[447] Halevy cleverly finds an allusion of precisely such an instance affecting the Jewish community, in b. Ta'anit 22a:[448]

> R. Beroka Hoza'ah used to frequent the market at Belapat where Elijah often appeared to him. Once he asked [the prophet], is there any one in this market who has a share in the world to come? He replied, No. Meanwhile he caught sight of a man wearing black shoes and who had no thread of blue (*tekhelet*) on the corners of his garment and he exclaimed, This man has a share in the world to come. He [R. Beroka] ran after him and asked him, What is your occupation? And the man replied: Go away and come back tomorrow. Next day he asked him again, What is your occupation? And he replied: I am a *zenduqna*[449] and I keep the men and women separate and I place my bed between them so that they may not come to sin; when I see a Jewish girl upon whom the Gentiles cast their eyes I risk my life and save her. Once there was amongst us a betrothed girl upon whom the Gentiles cast their eyes. I therefore took lees of [red] wine and put them in her skirt and I told them that she was unclean. [R. Beroka further] asked the man, Why have you no fringes and why do you wear black shoes? He replied: The Gentiles amongst whom I constantly move may not know that I am a Jew, so that when a harsh decree is made [against Jews] I inform the rabbis and they pray [to God] and the decree is annulled. He further asked him: When I asked you, What is your occupation, why did you say to me, Go away now and come back tomorrow? He answered, They had just issued a harsh decree and I said I would first go and acquaint the Rabbis of it so that they may pray to God.

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[447]Frye, "The Political History of Iran Under the Sasanians," 150; Pourshariati, *Decline and Fall of the Sasanian Empire: The Sasanian-Parthian Confederacy and the Arab Conquest of Iran*, 82–3. Poursharati appears to be less doubtful that such occurrences did take place.

[448]Isaac Halevy, *Dorot Harishonim*, III:60–3.

[449]The Aramaic text denotes his occupation as *zenduqna* (Manuscripts have variant terms: Munich 140 has it as *Zandeqana*, Yad Harav Herzog I has it as *Zandeqaey*). Rashi s.v. *zenduqna*, explains the term to mean jailer. Sokoloff similarly translates the term as jailer, arguing that it derives from the Pahlavi term *zēndānakān* and from Syriac. See Michael Sokoloff, *A Dictionary of Jewish Babylonian Aramaic of the Talmudic and Geonic Periods* (Ramat-Gan, Baltimore and London: Bar-Ilan University Press and The Johns Hopkins University Press, 2002), s.v. zendankana.

Halevy explains that Rav Beroka Hoza'ah is unknown among the *Amoraim*, and he was

one of the sages of the first generation of *Saboraim*, among the *Rabanan de'Mefarshey* in

the beginning of the sixth century, and thus this entire *sugya* is of saboraic origin. The

man in the story upon describing his occupation uses the term *zenduqna*, an unknown

word. The connection of the term to Mazdakites is obvious. It does not mean, as Rashi

comments, that his occupation was a jailer but rather that he was a member of the sect.[450]

Thus the communal setting implied in the story as well as the reference to the abduction

of "a betrothed girl" is pretty clear. As the passage implies the movement had a direct

impact on the Jewish community and thus Halevy surmises that it might have impacted

Sura and prompted it to cease operations.

The Later *Saboraim*

As noted in the Epistle, after Rav Yose's passing Rav Simona became head of

Pumbedita and concurrently Rav Eina in Sura,[451] thus the Sura academy had already re-

opened by then. Halevy understands it to have happened between the years 510[452] and

520.[453] They represent the beginning of the second generation of *Saboraim* who in his

opinion had a very limited role in the formation of the Talmud.

Based on his reading of the Epistle, Halevy divides the saboraic period into two

distinct phases and types of activity. As described above, Halevy believed the first

generation of *Saboraim*, the *Rabanan de'Mefarshey*, were sages who brought about the

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[450]As already noted, Sokoloff agrees with Rashi's translation as it is consistent with the Pahlavi and Syriac terms. This is a further demonstration of the weakness of Halevy's research. Although very creative, his assertions are weak due to his ignorance of ancient languages.

[451]Hanina, *Iggeret Rav Sherira Gaon*, 99.

[452]Isaac Halevy, *Dorot Harishonim*, III:61.

[453]Isaac Halevy, *Dorot Harishonim*, III:26.

final creation of the Talmud and worked in the united *Beit Hava'ad* of Pumbedita.[454]

They were followed by a new generation of *Saboraim* which is described in the Epistle as follows:

> And several explanations were included in the *gemara* authored by the later sages, such as Rav Eina and Rav Simona. We also have a tradition from the early [sages] that the gemara of [b. Qiddushin's first] chapter "*Haisha Nikneit Beshalosh Derakhim*" which starts [with the words] "Whence do we know"[455] until the words "whence do we know [that a woman can be betrothed with a gift of] money?,"[456] all of the questions and the answers which are noted in the gemara, the later saboraic rabbis answered and established them."[457]

The sages described here were the *Saboraim* from the second generation onwards, beginning with Rav Eina in Sura and Rav Simona in Pumbedita. Halevy's absolute distinction between these two periods of the saboraic era is based on a tenuous allusion by Rav Sherira in his description of Rav Yose: "in his days [it was] the end of *hora'ah* and the Talmud was concluded."[458] Halevy understood that the "conclusion of the Talmud" refers to a different stage than "the end of *hora'ah*." Halevy argued that the end of *hora'ah* related to the end of the post Rav Ashi *Amoraim*, which ended with the death of Ravina bar Huna *during* Rav Yose's lifetime.[459] After this, the *Rabanan de'Mefarshey* concluded the Talmud, a process that ended with Rav Yose's death.[460] According to

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[454]Isaac Halevy, *Dorot Harishonim*, III:36–46.

[455]Spanish version. Our editions and manuscripts of BT Qiddushin do not include these words in the beginning of the tractate. The French version however reads it as, "the *gemara* at the beginning of *Haisha Nikneit* until 'whence do we know [that a woman can be betrothed with a gift of] money'," omitting the initial words 'Whence do we know'.

[456]See b. Qiddushin 3b.

[457]Hanina, *Iggeret Rav Sherira Gaon*, 71.

[458]Hanina, *Iggeret Rav Sherira Gaon*, 97.

[459]Isaac Halevy, *Dorot Harishonim*, III:24n7.

[460]Isaac Halevy, *Dorot Harishonim*, III:36–7.

Halevy, the conclusion of the Talmud was not as significant an activity as the end of

hora'ah of the post Rav Ashi *Amoraim*. By the time of Rav Yose's death the Talmud was

complete in all senses both edited and recorded in writing, making the activities of the

later *Saboraim* minimal. In Halevy's mind this closing of the Talmud was imperative,

since he believed any significant editorial activity required a unified academy, hosted by

his theoretical *Beit Hava'ad*.[461] Since after Rav Yose's death it is clear that both the

academies of Sura and Pumbedita were active and therefore there was no unified *Beit

Hava'ad*.

     This last generation of *Saboraim*, limited their activities to clarifying existing

sugyot without adding to the text or augmenting any *halakhic* conclusions.[462] They also

performed cosmetic work, which included separating *sugyot* and appending them to the

related portion of the Mishnah in order to facilitate the flow of the text,[463] and they also

provided limited cross referencing.[464] It is obvious that these activities would be more

consistent with a written text and an existing and established Talmud.

     However, it is difficult to reconcile this understanding of the chronology of the

saboraic period with the first *sugya* of BT Qiddushin, attributed by Rav Sherira to these

later *Saboraim*. How can that lengthy *sugya* be described as only an explanation? How

does it differ in style and distinguish itself from what Rav Sherira defined as *sof hora'ah*?

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[461]Isaac Halevy, *Dorot Harishonim*, III:27.

[462]Halevy notes that this activity is what the Epistle means when describing their activity as "several explanations were included in the *gemara.*"

[463]Halevy adduces this activity from the words of STVA which describes their activity as, "they did not add nor create anything on their own but [only] organized chapters of all teachings in order." See pp. 290 below. See Kahana, "Seder Tannaim Weamoraim auf Grund Mehrerer," 9; Isaac Halevy, *Dorot Harishonim*, 36.

[464]Isaac Halevy, *Dorot Harishonim*, III:36–7. An example of such cross referencing is noted by Halevy in BT Hulin 66a.

It is evident that Halevy's distinction between the first generation of the *Saboraim* and the later *Saboraim* as well as his minimization of the contributions of the latter are not supported by the Epistle.

The weakness of his overall theory is further evident in the repeatedly mentioned arguments between Rav Aha and Ravina, where the Talmud quotes them indeterminately as *ḥad āmar veḥad āmar*,[465] one says so and the other says so, which means that later authorities no longer knew which sage stated which ruling. In Halevy's view, the Ravina mentioned in these arguments is Ravina contemporary of Rav Ashi and not the later Ravina, thus by the time of Rav Ashi's final editing, when Ravina had died, it was not clear the precise attribution of their arguments.[466] His assertion, as usual, contradicts the view of noted earlier authorities who believed that the Ravina mentioned is Ravina bar Huna, the latest *Amora*.[467] As noted by Halivni, Ravina's identity is also evident from b. Yevamot 11a, and it is obvious that the Ravina who argues with Rav Aha is not the same Ravina who is the contemporary of Rav Ashi.[468] According to Halevy, if Ravina bar Huna

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[465]See b. Shabbat 157a, b. Sukkah 18a among many others.

[466]Isaac Halevy, *Dorot Harishonim*, III:74–85.

[467]Shimeon Kayra, *Halakhot Gedolot* (Jerusalem: Machon Yerushalayim, 1992), 296. Halevy himself quotes the same passage, albeit in a problematic form, as "Rav Aha and Ravina are later [sages]" instead of "are later *than Rav Ashi*" as in our text. His version conveniently allows him to explain the text in order to be consistent with his view that Ravina is not later than Rav Ashi but rather he is his contemporary. See Isaac Halevy, *Dorot Harishonim*, III:79n6. Other notable rabbinical authorities, like Nahmanides believed that the Ravina in these arguments, is "Ravina of the conclusion of *hora'ah* who was after all talmudic rabbis." See *Sefer Hazekhut* on Rif Yevamot pg. 37a s.v. *umikahn*. See also Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 68–9 and note 58. However, contemporary scholars like A. Cohen hold an opinion similar to Halevy's. Cohen argues the Ravina in these passages is the earlier Ravina who outlived Rav Ashi. See Avinoam Cohen, *Ravina and Contemporary Sages:Studies in the Chronology of Late Babylonian Amoraim (Hebrew)*, 234n6, 252–3. However, Cohen's approach does not solve the issue for Halevy, since in Halevy's view Ravina died earlier than Rav Ashi.

[468]Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 69. Halivni notes that the Talmud quotes an argument between Rav Ashi and Ravina (the earlier) noting that Ravina's view is consistent with the view of R. Yohanan. Later in the same folio, an argument between Rav Aha and Ravina is mentioned in indeterminate form. It was unknown who held which view despite the fact that the later

was the latest *Amora*, and the Talmud in its basic structure had already been sealed by Rav Ashi's death, how and when did these indeterminate arguments get into the Talmud? How could they have entered the Talmud at a time when they did not know anymore who said what? It is obvious from these indeterminate arguments that material was introduced in the Talmud at a later time when the exact details of the argument had been forgotten and were not known anymore[469] or perhaps they represent arguments which were not introduced originally as an integral part of the Talmud and thus were not preserved in detailed form. They were introduced later but the exact details were never preserved.

Coincidentally these arguments also provide an additional dimension. Although they are quoted in an indeterminate form, the Talmud does provides guidance to determine their proper attribution. As stated in b. Pesahim 74b and b. Hullin 93b:

בכל התורה כולה רב אחא לחומרא ורבינא לקולא והילכתא כרבינא לקולא לבר מהני תלת
דרב אחא לקולא ורבינא לחומרא והלכתא כרב אחא לקולא

> In the whole Torah R. Aha is stringent while Ravina is lenient, and the law
> is in accordance with Ravina, the lenient [view]; except in these three,
> where R. Aha is lenient and Ravina is stringent, and the law is as R. Aha,
> as the lenient view.

It is obvious that this passage is of a later authorship than the undetermined arguments, otherwise why were the debates quoted in undetermined form instead of applying the rule and determining who said what? Halevy, consistent with his view, understands this rule as originating from the first generation of *Saboraim*, the *Rabanan de'Mefarshey*, at a time when the Talmud had already been finalized and thus the rule was only added as an appendix instead of re-attributing the statements.[470] However, his

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argument is also dependent upon the same argument of R. Yohanan quoted before. If Ravina was the contemporary of Rav Ashi, his view would have been evident as it had to follow the view of R. Yohanan as noted earlier.

[469]Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 69.

[470]Isaac Halevy, *Dorot Harishonim*, III:74.

understanding is only compatible with his own theory, that the Ravina mentioned refers to the earlier Ravina contemporary of Rav Ashi and therefore these arguments were introduced into the Talmud prior to its conclusion. Thus by the first generation of *Saboraim*, when the attribution became known, the Talmud had already been concluded and it was not possible to emend the text anymore. The rule had to be quoted in an appendix to the *sugya*. However, as we demonstrated above, it is evident that the Ravina in these debates is none other than Ravina bar Huna, the last *Amora* of the Babylonian Talmud under whose leadership *hora'ah* was concluded, as explained in the Epistle. Therefore, it is obvious that these debates were introduced into the Talmud at a later time by the *Saboraim*, and thus the attribution rule mentioned must have originated at a significantly later time when even saboraic *sugyot* could not be changed anymore. This phenomenon is a clear indication that not only was the Talmud not sealed by the time of Ravina bar Huna's death as envisioned by Halevy, the process of the formation actually extended far beyond, to a time when the text could not be emended anymore but only have things added to it.[471]

The late nature of this attribution rule and the *halakhic* ruling mentioned can actually explain one additional odd phenomenon. This *halakhic* ruling is quite unique in that although it appears to be an all inclusive one it was not completely accepted. As noted by earlier rabbinical authorities,[472] this *halakhic* ruling was not universally adopted throughout the Talmud and in several instances it was actually ignored[473] or

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[471]See pp. 237 below for further details and for Halivni's approach on this issue.

[472]See R. Akiva Eiger's (a.k.a. R. Akiva Güns 1761–1837) *Gilyon Ha-Shas* in b. Hullin 93b s.v. *vehilkheta*. For further details see Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 69; Halivni, *Meqorot Umesorot Leseder Mo'ed from Yoma Until Hagiga*, 181–2.

[473]See b. Yevamot 39b, b. Hullin 8b and 46b. See Halivni, *Meqorot Umesorot Leseder Mo'ed from Yoma Until Hagiga*, 182 for more details.

contradicted.[474] The reason for this ambivalence is due to the lateness of the ruling, explaining why it was not widely accepted, since different schools accepted it while others did not. It could also be that its scope was curtailed from a general rule into a more limited particular ruling in individual instances.[475]

Halevy understood that the saboraic period came to a close with the appointment of the first *Gaon* in Pumbedita in 589.[476] Based on the Epistle,[477] Halevy explained that the persecutions towards the end of the Sasanian empire drastically curtailed the activities of both the academies in Sura and Pumbedita. Sura ceased operations once more after the death of Rav Eina in approximately 540.[478] However, in Pumbedita the persecutions were less severe and the academy continued to function. After Rav Revai of Rov passed away around 560,[479] the persecutions intensified and the academy in Pumbedita was forced to close temporarily. In approximately 570, when the community came to the realization that the academy in Pumbedita would be unable to resume operations, it was decided to move the academy to the area of Nehardea, Piruz Shabur. Again it was established as the sole

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[474]See b. Sotah 25a, b. Avodah Zarah 33b, 75b. See Halivni, *Meqorot Umesorot Leseder Mo'ed from Yoma Until Hagiga*, 182n4 if b. Avodah Zarah 27b should also be included.

[475]See similar comment in *Sefer Hazekhut* on Rif Yevamot pg. 37a s.v. *ve-khen*. See also Halivni, *Meqorot Umesorot Leseder Mo'ed from Yoma Until Hagiga*, 181–3; David Weiss Halivni, *Meqorot Umesorot: Beurim Batalmud: Masekhet Shabat* (Jerusalem: Jewish Theological Seminary of America, 1982), 69–74.

[476]Isaac Halevy, *Dorot Harishonim*, III:1–3, 30–3, 54.

[477]As noted in the Epistle, "there were years of persecution and troubles at the end of the Persian (i.e. Sasanian) monarchy, and they were unable to establish *pirkey* and convene the academies and conduct the customs of the geonate until a number of years had elapsed, and the rabbis of our academy came from Pumbedita to the neighborhood of Nehardea, to the city of Piruz Shabur. And these are the names of the *Geonim* who were in our city of Pumbedita after these events, at the end of the Persian [Sasanian] monarchy from the year [589]." Hanina, *Iggeret Rav Sherira Gaon*, 99.

[478]Isaac Halevy, *Dorot Harishonim*, III:34.

[479]Isaac Halevy, *Dorot Harishonim*, III:30.

surviving academy, serving the entire Babylonian community, allowing Halevy to theorize about the effect of a newly unified *Beit Hava'ad* on the community in Babylonia.[480]

However, unlike Halevy's assertion, R. Sherira does not comment explicitly on the *end* of the saboraic period. His Epistle gives the clear impression that there was no distinct saboraic era. Had R. Sherira believed it was a distinct period he would not have applied the term *Gaon* to sages who led the academies during the early saboraic period, and would have only used it for sages after 589. It is clear that R. Sherira understood the term *Gaon* to mean *head of the academy,* as noted in the Epistle about Rav Revai of Rov.[481] Nonetheless, it is also clear that R. Sherira believed there was a turning point in the re-opening of the academy in Pumbedita in 589. As Robert Brody writes:

> [After the middle of the sixth century] there is a clearly defined break [in the Epistle's literary-historical sketch], occasioned by "persecutions and troubles" and marked by the temporary removal of Pumbedita's scholars to Nehardea. Sherira resumes his systematic account of Pumbedita's leaders with the round number 900, and from here on it is uninterrupted (although full information on the heads of the sister academy of Sura begins only a century later,[482] as does the dating of most of the Pumbeditan scholars mentioned). It is almost impossible to escape the conclusion that as far as Sherira is concerned, the Geonic period had begun by the year 900 Sel. (588/9). Whatever may have been the precise nature of these troubles, the

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[480]Isaac Halevy, *Dorot Harishonim*, III:33–8, 46. In his opinion, this newly unified academy provided a de facto *Beit Hava'ad* and enabled the later *Saboraim* to compile and publish the *Masekhtot Qetanot*—the Minor Tractates, the extra-canonical semi-talmudical tractates. See Isaac Halevy, *Dorot Harishonim*, III:38. For further details on the *Masekhtot Qetanot* see Hermann Leberecht Strack and Günter Stemberger, *Introduction to the Talmud and Midrash*, trans. Markus N. A. Bockmuehl (Minneapolis: Fortress Press, 1991), 225–32.

[481]Hanina, *Iggeret Rav Sherira Gaon*, 71, 99. Notably even Halevy alludes to a similar explanation. See Isaac Halevy, *Dorot Harishonim*, III:27–30. See also Hanina, *Iggeret Rav Sherira Gaon*, 99n7; Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 7n15. See also Jacob Efrati, *The Sevoraic Period and Its Literature in Babylonia and in Eretz Israel (Hebrew)* (Petah Tiqvah: Hotsaat Agudat Bene Asher, 1973), 77–9. Efrati understands the term *Gaon* to mean a respected teacher who commands followers. See Isaac Halevy, *Dorot Harishonim*, III:32–3, where Halevy argues that the title *Gaon* was erroneously appended to several early sages.

[482]As explained later, Halevy is of the view that Sura remained closed until 609. See Isaac Halevy, *Dorot Harishonim*, III:36.

scholars who reopened the academy of Pumbedita apparently saw themselves as belonging to a different era from that of their predecessors, the Savora'im.[483]

Although a new era had begun upon the reopening of the Pumbedita academy by Mar Rav Hanan of Ashiqiyya in 588/9, there is no allusion to the formal cessation of saboraic activities and no formal closure of the kind that was envisioned by Halevy. It is plausible that when the title *Gaon* was bestowed upon the academy leaders, giving them more authority, in retrospect it was seen as the dawn of a new era. As discussed earlier,[484] here also it was an evolutionary process of periodization where the activity of the sages that followed was viewed in a different light. There was no actual difference in their activity but rather in the way their activity was perceived. Saboraic activities continued and were performed by the *Geonim* themselves. Attesting to this continuity is the fact that the Suran *Gaon* R. Natronai b. Hilai describes as saboraic the famous enactment of the rebellious wife,[485] which is known from other sources and it should be dated to 650/1 CE,[486] immediately after the Muslim conquest of Babylonia. Thus, both of the artificial epochs Halevy created, both for the *Rabanan de'Mefarshey*, and the second generation of *Saboraim* lack any evidence from the Epistle.

Examination of other chronologies of the saboraic period further confuse any potential historical conclusions. Both STVA[487] and Ibn Daud's *Sefer Haqabbalah*[488] mention the end of the saboraic era and their dating varies widely from each other and

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[483]Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 8–9.

[484]See page 123 above.

[485]See Brody, *The Responsa of Rav Netronai Bar Hilai Gaon*, II:456 (304).

[486]See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 9, 62–3.

[487]Kahana, "Seder Tannaim Weamoraim auf Grund Mehrerer," 9–10.

[488]Ibn Daud, *The Book of Tradition (Sefer Haqabbalah)*, 35.

from R. Sherira. *Sefer Haqabbalah* marks the date of the end of the *Saboraim* as 689 with

the death of Rav Mesharshia bar Tahlifa,[489] and STVA says the period ended with the

emergence of Muhammad.[490] Since the date cited in STVA for the emergence of

Muhammad is clearly mistaken, it most likely derives from a mistaken gloss, either from

a compiler of the text or a later scribe.[491] The confusion over the dates of the end of the

saboraic period points to a gradual periodization process and does not point to a distinct

event which ended the period. It is logical to assume that saboraic activities continued

albeit in a gradual diminishing role while geonic activities started to take a central role.[492]

Thus, both the terms, *Gaon* and *Sabora*, were used interchangeably by many of the sages

of the period.[493] This gradual transition from saboraic activities into the geonate slowly

led to an altered self-understanding of the *Geonim* from their predecessors, the

Saboraim.[494]

   As we demonstrated, Halevy understood the end of the saboraic era as a formal

process instituted by the unified Pumbeditan academy culminating with the closure of the

Talmud. When forced to choose among the contradicting dates found in the chronologies,

Halevy chose R. Sherira's date of 589, explaining the contradictory dates cited in *Sefer*

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[489]Ibn Daud, *The Book of Tradition (Sefer Haqabbalah)*, 35.

[490]Kahana, "Seder Tannaim Weamoraim auf Grund Mehrerer," 7. In its words: "And in their [of the *Saboraim*] days Muhammad emerged, in the year 828 (Sel. =516/7 CE)."

[491]It places him a century too early. See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 10 and note 31.

[492]See Efrati, *The Sevoraic Period and Its Literature in Babylonia and in Eretz Israel (Hebrew)*, 79–81 for a similar approach.

[493]As noted earlier, Rav Revai of Rov is referred to by the Epistle as both *Gaon* and *Sabora*. See Hanina, *Iggeret Rav Sherira Gaon*, 99. The same phenomenon is evident in the responsa by the Suran *Gaon* Natronai b. Hilai about the enactment concerning the rebellious wife noted above.

[494]See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 10.

Haqabbalah and *STVA*, as stemming from the Suran origin of these works.[495] The

academy in Sura did not resume activities until 609, and only then was the title *Gaon*

used, leading to the erroneous notion by these chronologies that saboraic activities

continued until then. This misunderstanding distorted their notion of the transition from

Saboraim into *Geonim*, and led to the belief that it did not take place until after the Arab

conquest of Babylonia.[496] Another factor in Halevy's conception of a deliberate decision

by the unified academy in Piruz-Shabur in 589 to close the Talmud, is his identification

of the heads of the academy at that momentous occasion. As would be expected, the

chronologies vary widely on their identities. The Epistle is silent on the identity of the

sages of Piruz-Shabur, while STVA identifies them as Rav Guiza[497] and Rav Simona.[498]

R. Samson ben Isaac of Chinon (ca. 1260-ca. 1330) records the names of these sages in

his *Sefer Hakerithot* as Rav Gada and Rav Sama.[499]

On this point Halevy ignores all of the chronologies and identifies the sages of the

last saboraic generation as Mar R. Dimi father of Mari Sorgo the second *Gaon* of Piruz-

Shabur,[500] and R. Huna father of R. Mar the first *Gaon* of Sura in 609.[501] Although both

Mari Sorgo and R. Mar were mentioned as *Geonim* in the Epistle, their fathers were not.

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[495]In Halevy's opinion STVA was composed by Suran scholars, although not by Rav Nakhshon b. Zadoq as noted by Graetz. See Isaac Halevy, *Dorot Harishonim*, 56. See pp. 6 above for a further discussion on the subject. For Ibn Daud's Suran sources, see Ibn Daud, *The Book of Tradition (Sefer Haqabbalah)*, 181–8.

[496]Isaac Halevy, *Dorot Harishonim*, III:54–6.

[497]Various versions of the name are noted in the diverse editions, among them: Guiza, Guza, Guida, and Zaggai. See Kahana, "Seder Tannaim Weamoraim auf Grund Mehrerer," 9 and 11.

[498]Kahana, "Seder Tannaim Weamoraim auf Grund Mehrerer," 9 and 11.

[499]Samson of Chinon, *Sefer Hakerithot*, ed. Jacob Hagiz (Amsterdam, 1709), 43.

[500]Hanina, *Iggeret Rav Sherira Gaon*, 100.

[501]Hanina, *Iggeret Rav Sherira Gaon*, 100.

As both were early *Geonim*, Halevy envisioned their fathers as *Saboraim*. Halevy's

inclusion of two hitherto unknown saboraic sages not mentioned anywhere in the early

literature was a convenient and subtle move to buttress his theory about the official end of

the saboraic period. It allowed Halevy to resolve one of the most challenging issues his

model faced, the identity of the author of the first *sugya* in b. Qiddushin. R. Sherira had

identified the authors as *Saboraim*, and several noted early sources identified the author

as R. Huna an unknown late *Sabora*.[502] Halevy attributed the *sugya* to Rav Huna father of

R. Mar, who in his view was among the last generation of *Saboraim*.[503] Although the

same sources appended to Rav Huna the title *Gaon*, Halevy dismisses it as an error, since

in his view the title *Gaon* was only used after the saboraic period was over.[504] This was a

clever and creative solution, but however, once again, it contradicts the historical record.

The attribution of the opening *sugya* in b. Qiddushin to Rav Huna is also found in other

early sources,[505] where his identity is revealed as the *Gaon* of Sura in whose days the

promulgation of enactments concerning the rebellious wife was implemented. As noted

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[502]Isaac ben Abba Mari, *Sefer Ha'ittur* (Warsaw: Untherhaedler Publishing House, 1883), 69; David Conforte, *Kore Hadorot* (Jerusalem and New York: Hokhmat Israel, 1945), 2. See note 505 below for further sources. See also Efrati, *The Sevoraic Period and Its Literature in Babylonia and in Eretz Israel (Hebrew)*, 79–80.

[503]Isaac Halevy, *Dorot Harishonim*, III:30–3. Halevy quotes Simhah ben Samuel's (died 1105) *Mahzor Vitry* as mentioning Rav Huna among the last *Saboraim*. See Isaac Halevy, *Dorot Harishonim*, III:30.

[504]Isaac Halevy, *Dorot Harishonim*, III:33.

[505]See Lewin, *Otsar Hageonim: Teshuvot Geoney Bavel Uperushehem al-Pi Seder Hatalmud*, IX:2 (Qiddushin 3a) Several medieval commentators also mention the same Rav Huna. See Yom Tov ben Avraham Asevilli's (1250–1330) *Hiddushei ha-Ritva* b. Qiddushin 3a s.v. *ela* and Nahmanides' (1194–1270) *Hiddushei ha-Ramban* b. Qiddushin 3a s.v. *ela*. Notably Nahmanides appends to Rav Huna the term *Gaon* while addressing him as a saboraic sage. See also Efrati, *The Sevoraic Period and Its Literature in Babylonia and in Eretz Israel (Hebrew)*, 78–81; David Conforte, *Kore Hadorot* (Modi'in Ilyt: Ahavat Shalom, 2008), 4; Hanina, *Iggeret Rav Sherira Gaon*, 101n7; Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 10n32. Brody however on the other hand argues with this identification and holds that the name Huna is a scribal corruption of Eina, and it relates to Rav Eina noted in the Epistle as belonging to the second generation of *Saboraim*. See Brody, "Geonic Literature and the Talmudic Text (Hebrew)," 280n177. He however does not provide any evidence for his assertion.

above it was in mid seventh century, in 650/1 after the Arab conquest of Babylonia.[506]

Rav Huna is thus obviously Rav Huna *Gaon*, the head of Sura and contemporary of Mar

Rava in Pumbedita who was active around 650.[507] Therefore, Halevy's conception of the

sealing of the Talmud and the saboraic activities in 589 is impossible historically and

further illustrates that his model for the end of the period was the fruit of his imagination

and was created to be consistent with his *Weltanschauung* as well as to further his

contemporary agenda.[508]

Halevy acknowledged that the Talmud contains certain additions that were added

by Rav Yehudai *Gaon*, the Pumbeditan scholar who was appointed as the head of the

academy of Sura in the middle of the eighth century.[509] Halevy believed that these

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[506]According to the Talmud, the divorce was to be granted to a rebellious wife only after a year's delay, but immediately after the Muslim conquest of Babylonia in the middle of the seventh century, the authorities of Sura and Pumbedita promulgated a decree which called for the divorce to be granted without delay. For details see Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 62–3.

[507]Hanina, *Iggeret Rav Sherira Gaon*, 101.

[508]Halevy's artificially created sealing of the Talmud in 589 was also not the accepted view of many early rabbinic authorities. R. Samuel ben Meir, the Rashbam, (Troyes, c. 1085–c. 1158), argued that Rav Ahai mentioned in the Talmud was none other than the 8th century *Gaon* R. Ahai of Sabha author of the *Sheiltot* whom he calls a *Sabora*. Notably, even the tosafists (b. Ketubbot 2b s.v. *parikh* and b. Zevahim 102b s.v. *pashit*) who argue with Rashbam on Rav Ahai's identity due to the context of the *sugya*, had no problem in having an 8th century *Gaon* acting as a *Sabora* and being mentioned as part of the talmudic text. Halevy however argues with tosafot and holds that Rashbam never assumed Rav Ahai to be the eighth century *Gaon* R. Ahai of Sabha author of the *Sheiltot*, but rather Rav Ahai son of Rav Huna mentioned in the Epistle among the sages of the first generation of *Saboraim*. See Hanina, *Iggeret Rav Sherira Gaon*, 98; Isaac Halevy, *Dorot Harishonim*, III:56–60.

[509]As early commentators have noted, Rav Yehudai Gaon's additions are found in a number of *sugyot* in the Talmud. For examples see b. Bava Metzi'a 2a, 3a, 5a, 7b, 12a, 13a/b, 14a, 15b, 19a/b, 26b, 28a, 38a, 50b and 98a and the comments noted by R. Bezalel ben Abraham Ashkenazi's (ca. 1520–ca. 1592) *Shittah Mekubetzet* ad loc, b. Hullin 97b among many others. For further details and analysis of the accuracy of such attributions see Brody, "Geonic Literature and the Talmudic Text (Hebrew)," 279–90, n175; Nahman Danzig, *Introduction to Halakhot Pesukot with a Supplement to Halakhot Pesukot* (New York and Jerusalem: The Jewish Theological Seminary of America, 1999), 451–3; Sussman, "Once More on Yerushalmi Nezikin (Hebrew)," 109n206; Sussman, "Oral Torah Understood Literally (Hebrew)," 324n15.

statements only made their way into the text when certain scribes copied comments attributed to Rav Yehudai *Gaon* from marginal notes into the text.[510] It is however odd why this phenomenon is almost only present in regards to Rav Yehudai *Gaon*. According to Halevy, why don't we find such scribal errors by other *Geonim*?

The majority of evidence points to the conclusion that saboraic activities continued far beyond the sixth century and perhaps continued well into the eighth century. Although the era of the *Saboraim* came to an end at some time between the end of the 6th century and the middle of the 7th, saboraic activities continued to be performed by the *Geonim*, even if they understood themselves to belong to a different era. Upon a careful reading of the Epistle, this idea is precisely alluded to by R. Sherira when he notes that in addition to the listed *Saboraim* there were several explanations in the talmudic text from the *late* Rabbis. In his words, "And several explanations were included in the *gemara* which were authored by the later rabbis . . . [all of theses explanations] the later saboraic rabbis authored and established them."[511]

Conclusion

Halevy's model of the formation of the Talmud provides a detailed and comprehensive analysis of the process of unparalleled scope and breath. His mastery of the talmudic corpus with a keen textual acumen places him in a unique position in relation to other historians who had addressed the subject previously.

Halevy's historical construct and the chronology of the various stages of the formation of the Talmud is summarized in the charts below:

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[510]Isaac Halevy, *Dorot Harishonim*, III:137–46.

[511]Hanina, *Iggeret Rav Sherira Gaon*, 71.

The Formation of the Talmud

ca. 308	Abaye and Rava and the compilation of the proto-Talmud	Pumbedita
324	Inclusion of the traditions of the Palestinian sages	Pumbedita
351/2	Death of Rava and the end of the compilation of the proto-Talmud	Sura and Pumbedita
ca. 391/2	Final redaction and editing of Talmud by Rav Ashi's court	Mata Mehasia (Sura)
422/6?	Rav Ashi's death and the post Rav Ashi editing	Mata Mehasia and Sura
474/5	Death of Ravina bar Huna and the closing of the Talmud	Sura

The Saboraic Era

474/5	Rav Yose and the first generation of *Saboraim*	Pumbedita
	(*Rabanan de'Mefarshey*)	
	Committing of Talmud to writing	
ca. 510/20	The reopening of Sura and Rav Eina named its head	Sura
520	Death of Rav Yose and end of *Rabanan de'Mefarshey*	Pumbedita
520	Later *Saboraim* and minor editing/ cosmetic work of the Talmud	
	Rav Eina	Sura
	Rav Simona	Pumbedita
ca. 540	Rav Eina's death and closing of Sura due to new persecutions	
560	Death of Rav Revai of Rov and temporary closure of Pumbedita	
570	Creation of a new *Beit Hava'ad*	
	Composition of *Masekhtot Qetanot*	Piruz Shabur
		(Nehardea)
589	Appointment of first *Gaon* and end of saboraic era	Pumbedita
609	Reopening of the academy in Sura	Sura

A critical review of his research shows that his apologetic goals and political agenda heavily affected his views and distorted his conclusions. Unfortunately, when analyzing his research, one has a sense of a retrofit attempt to convert research into

ideology. Halevy's desire to uphold his conservative view of tradition actually forced him to break with traditional views and previously held opinions. As noted by Weinberg, "the author of *Dorot Harishonim* should be remembered favorably, for his work opened new horizons in the research of the period of the saboraic rabbis and into their contribution to the sealing of the Talmud. . . however, Halevy's research is bounded, in my view, in a very narrow framework."[512]

Halevy's findings make a significant contribution regarding the role of Abaye and Rava in the formation of the Talmud. He argues that there was a fundamental change in the transmission of learning during their time, and there is indeed evidence to support this. The establishment of the Talmud's unique structured collective format in their time is a unique step in the formation of the text, and Halevy's findings are a great contribution to our understanding of the process. A further contribution of his research that is also evident is the unique role of Rav Ashi in the Talmud and his participation in the formation process of the Talmud. Nonetheless none of the evidence provided by Halevy sheds any light on the extent or nature of his participation, nor to the extent proposed by him. The following are the salient points of his theory and the weaknesses and problems noted:

(a) His theory about the *Metivta Kolelet*, central to his historical construct, lacks any adequate proof. Furthermore, although an increased institutional complexity is evident from the beginning of the fourth century it nonetheless clearly seems that the most common institutional setting was the disciple circle, and that it was rather diffused. It is clear that Halevy's ideology led him to search for the existence of a talmudic *Beit Hava'ad*. In his world view, any major accomplishments could only be achieved by a unified body, like his Agudath Israel, created by him for similar purposes. Notably,

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[512]Jehiel Jacob Weinberg, *Mehkarim BaTalmud*, V.

although evidence of Halevy's *Beit Hava'ad*, is elusive and all indications are that it perhaps never existed and it was merely a fruit of his imagination, nonetheless Halevy was able to create and establish his own *Beit Hava'ad* during his lifetime in the 20th century. The establishment of Agudath Israel in 1912 and its rabbinic council (later to become known as *Moetzes Gedolei Hatorah*—the Council of Torah Sages), allowed Halevy to implement the dream he so much attempted to find in his research of the past.

(b) His theory that the dialectics and the anonymous discursive stratum, the *stam*, was already included as an integral part of the text composed during the era of Abaye and Rava and that it was already fixed by then is also problematic. Again, Halevy, despite his erudition and creative mind, does not provide convincing evidence. The instances that he notes as proof of his theory can easily be explained in other ways.

(c) Halevy's construct that the Talmud went through a redactional and editorial process similar to the Mishnah on the part of Rav Ashi is also lacking adequate evidence from the Talmud or the Epistle. In his opinion the only distinction between the two editorial processes was that the Mishnah omitted all of the ensuing debates and discussions and preserved only the direct rulings while the Talmud preserved both the rulings and theoretical discussions surrounding them. Although, as noted above, Rav Ashi does seem to have a unique role in his participation in the process of the formation of the Talmud, nonetheless the extent or nature of his participation is unclear but it is certainly not as extensive as proposed by Halevy. The fact that such a critical enterprise and massive conference of rabbis is not mentioned anywhere in the Talmud nor is commented by the early historians of the Talmud such as STVA or the Epistle makes his theory highly unlikely. Moreover, if the Talmud was formally edited, like the Mishnah, why does it contain so many contradictory opinions and *sugyot*? The unique nature and genre of the divergent tractates, *Masekhtot Meshunot*, is further evidence that the Talmud was not edited nor that it emanated from a single unified academy.

(d) His assertion of the substantial decrease in the contribution of the post Rav Ashi *Amoraim* is also difficult. Their era, spanning over 75 years, is just too long to justify such *de minimis* activity. His emendation of the Epistle shortening their era by one third through the antedating of Ravina bar Huna's death by 25 years is untenable and his understanding of Rabbah Tusfa'ahs name is fanciful. His assertion of the extent of their participation in the Talmud, as noted by Weinberg, does not withstand a critical review.

(e) Halevy's definite demarcation between *Amoraim* and *Saboraim*, as a discrete event, is artificial and mechanic and does not reflect historical evolutionary processes. His evidence from the Talmud and the Epistle is not convincing. This transition can be better understood instead through the prism of an evolutionary process of periodization. Accordingly, the saboraic era of the *Rabanan de'Mefarshey*, was part of an evolutionary process of periodization.

(f) Halevy's theory that the saboraic period was divided into two distinct phases and types of activity: the first generation of *Saboraim*, the *Rabanan de'Mefarshey*, the sages who brought about the final creation of the Talmud and worked in the united *Beit Hava'ad* of Pumbedita and the following generations of *Saboraim*, the later *Saboraim*, with a very limited activity is also fanciful and is contradicted by the historical record. Halevy's hard distinction between these two periods of the saboraic era is based on a tenuous allusion by R. Sherira in his description of Rav Yose which can easily be explained away. Clear evidence against his theory can be adduced from Rav Revai of Rov who was *not* from the first generation of *Saboraim*, and who is nonetheless mentioned by name in the Talmud and is referred to by the Epistle as *Rabanan de'Mefarshey*. Furthermore, his understanding of the contribution of the later *Saboraim* is inconsistent with the first *sugya* of b. Qiddushin attributed by R. Sherira to these later *Saboraim*. How can that lengthy *sugya* be described as only an explanation? Moreover, the multi-layered undetermined arguments between the later Ravina, Ravina bar Huna, and Rav Aha clearly

indicate that the process of formation of the Talmud extended far beyond the first generation of *Saboraim* and that it contained various stages including when the text could not be altered.

(g) Halevy's determination of the closing of the saboraic era with the appointment of the first *Gaon* in Pumbedita in 589 is also problematic. R. Sherira does not comment explicitly on the *end* of the saboraic period. His Epistle gives the clear impression that there was no distinct saboraic era. Furthermore, examination of other chronologies of the saboraic period further confuse any potential historical conclusions. The wide dispersion among the various sources is evidence that there was no clear definite end to the era. The attribution of the opening *sugya* in b. Qiddushin to Rav Huna, the *Gaon* of Sura in whose days the promulgation of enactments concerning the rebellious wife was implemented in 650/1 after the Arab conquest of Babylonia makes Halevy's conception of the sealing of the Talmud and the ensuing end of saboraic activities in 589 historically untenable. Halevy himself acknowledged that the Talmud contains certain additions that were added by Rav Yehudai *Gaon*, the Pumbeditan scholar who was appointed as the head of the academy of Sura in the middle of the eighth century. His theory about the closure of the saboraic era further illustrates that his model of the end of the period was the fruit of his imagination and was created to be consistent with his *Weltanschauung* and to further his contemporary agenda.

In summary, although Halevy provides a comprehensive model of the formation of the Talmud which is informed by his impressive genius and extensive knowledge unparalleled by any of his contemporary historian, his model is problematic. An alternate model needed to be found. Fortunately in David Weiss Halivni Halevy found a peer qualified to challenge his theory and to provide a diametrically opposed model which could address his weaknesses.

CHAPTER 2

HALIVNI AND *MEQOROT UMESOROT*
THE CONTEMPORARY VIEW

Biographical Sketch

David Weiss Halivni,[1] was born in 1927 in Kobolecka Poljana, a small town in

Czechoslovakia (now Ukraine).[2] When he was four years old his parents separated, due in

part to what his mother described as "his father's lifestyle as an assistant to a dubious

'miracle worker.' "[3] After their separation, they relocated to Sighet in Hungary to the

home of Halivni's maternal grandfather, Rabbi Shaye Weiss—a well known Talmud

scholar and a Belzer hasid.[4] Halivni's grandfather would become the central figure of his

childhood and serve as a model in his dedication to Talmud study.[5] Upon moving to

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[1]Halivni's father's name was Zallel Wiederman. Halivni adopted his maternal surname "Weiss." When he arrived in the United States after the war he added the Hebrew form "Halivni" to his surname. For further details see pp. 156 below.

[2]Halivni has noted that there is a certain doubt about his year of birth because he was not registered immediately at birth. However, Halivni remembers that his Bar Mitzvah was celebrated in the year 1940 which places his year of birth as 1927.

[3]Yair Sheleg, "A Living Talmud Encyclopedia," *Haaretz*, 15 February 2008, B7. This miracle worker, as it turns out, was a relative of Halivni's classmate and friend—Elie Wiesel. See David Weiss Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction* (New York: Farrar, Straus and Giroux, 1996), 6.

[4]Weiss was a member of the Belz hasidic movement and a follower of the Grand Rabbi Aharon Rokeach (1880–1957). Belz is a hasidic dynasty named for the town of Belz in Western Ukraine, near the Polish border.

[5]Later in life Halivni was told that the main reason that his mother brought him to Sighet was that she did not trust his father with his education, since he was precocious and her father was a great Talmud scholar (Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 5). It is interesting to note that Halevy and Halivni were both raised and guided in their studies by their grandfathers.

Sighet, Halivni joined the *klos hadorim*, a religious primary school for boys, which was also attended by Elie Wiesel and the future Satmar Rebbe, R. Joel Teitelbaum (1887–1979).[6] Halivni's primary formative influence was his grandfather, who served as his primary teacher,[7] since his formal Jewish education ended when he was only nine years old.[8]

Rabbi S. Weiss was self-taught and his approach to learning Talmud was not the regular yeshiva style of *pilpul*,[9] and instead focused on the *peshat*, the simple and original meaning of the text. According to Halivni, his passion for *peshat* was inspired by his grandfather and in his pursuit of *peshat* he sees himself as following in his grandfather's footsteps.[10] Another salient feature of S. Weiss' approach to study was his supreme reverence of the text. As he would say, "When you study a text, you have to have faith that the author cannot make a mistake. Otherwise, why bother understanding the text? You could simply dismiss it by saying that the author made a mistake."[11]

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[6]Sheleg, "A Living Talmud Encyclopedia," B7.

[7]S. Weiss delivered weekly Talmud lessons which were attended by Halivni. Although Weiss did not publish or leave any manuscripts, Halivni quotes one of his interpretations in David Weiss Halivni, *Meqorot Umesorot: Tractate Bava Metzia* (Jerusalem: The Hebrew University Magnes Press, 2003), 11n1.

[8]The only other formal education Halivni had was when the Jews of Sighet were in the ghetto prior to deportation. He studied for *Semikha*, rabbinic ordination, at the home of the Berbester Rav in the ghetto until deportation. The Berbester Rav, Rabbi Zalman Leib Gross, was a *Dayan*, rabbinical court judge, in Sighet. See Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 50–2.

[9]For an analysis of the *Pilpul* method see Haim Zalman Dimitrowsky, "The Pilpul Method (Hebrew)," in *The Salo Baron Jubillee Volume*, ed. Saul Lieberman (Jerusalem: The American Academy for Jewish Studies, 1975), 111–82.

[10]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 25–7. Interestingly, in Halivni's view, he inherited from his grandfather both the predilection for *peshat* and his sense of humor. S. Weiss would regularly conclude his class in Sighet with a funny story or a joke.

[11]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 26. As we shall explain below, Halivni's approach to *peshat* is quite different from the approach he learned from his grandfather. Halivni argues that his experience in the concentration camps instilled in him a basic mistrust of human beings and skepticism. See David Weiss Halivni, *Breaking the Tablets: Jewish Theology After the Shoah*, edited and introduced by Peter Ochs (Lanham: Rowman, 2007). S. Weiss' approach to the text takes

Despite growing up in a very modest home with many deprivations, Halivni's childhood was pleasant, due mostly to his dedication to learning. From a young age he was known in Sighet as a Talmud prodigy, an *iluy*—"the *iluy* of Sighet." Given the supreme respect given to Torah learning by the community, this title gave Halivni recognition which more than compensated for his family's financial deprivation.[12] The appreciation for his learning was such that upon visiting the renowned Hasidic master, Rabbi Menachem Mendel Hager in Visheva, the rabbi told his family that he would love such a husband for his granddaughter Tzipora. Indeed, after the war Halivni married Tzipora in 1953 after they both graduated from Brooklyn College.[13]

For the majority of his time in Sighet Halivni received no secular education. It was only in 1940 when the city came under Hungarian occupation that he was summoned to attend compulsory education.[14] However, this was interrupted by the Holocaust and Halivni would only finish his elementary school education in America after the war.[15] Halivni's lack of a basic formal secular education was one of the catalysts prompting him to assiduously pursue secular subjects upon his liberation and emigration to the US.

On March 19th, 1944 the Germans occupied Hungary, and at the age of 16 Halivni's life would never be the same. He closed the tome of the Talmud[16] that he was

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Hans-Georg Gadamer's (1900–2002) preconception of completeness to an extreme, where not only a presumption and possibility of truth is assumed, but rather it is an axiom. Paradoxically, Gadamer acknowledges that even his presumption of truth requires the reader's input and interpretation and original intent does not suffice, while for Weiss *peshat* and the total completeness of the text were compatible. For more on Gadamer's approach see Georgia Warnke, *Gadamer: Hermeneutics, Tradition and Reason* (Cambridge: Polity Press, 1987), 86–91.

[12]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 14–7.

[13]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 14–7.

[14]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 20–7.

[15]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 140.

[16]According to Halivni's recollection it was b. Hullin.

studying and was not able to open it again until the end of 1945 after the war was over.[17] In that same year, after Passover, he and his family were taken to the ghetto and on May 15th, 1944, to Auschwitz.[18] On May 18th,[19] Halivni was separated from his grandfather, mother, sister and aunt and was sent to one of the camps in Gross-Rosen in lower Silesia. His grandfather and mother were taken to the gas chambers, while his sister and aunt would die under torture. Halivni was the sole survivor of his family.[20]

In Gross-Rosen, Halivni was part of the sub-camp of Wolfsberg, a newly built camp filled with Hungarian and Polish Jews who came on the last transport from the Lodz ghetto. In a very short period, Halivni had been uprooted from the study hall and placed in hard labor, with his half naked body exposed to the sun he was now cutting stones needed for building roads.[21] However, even in these circumstances, as always, learning was what made his life bearable.[22] Since every second Sunday was "officially" a day off, with work done on a "voluntary" basis, Halivni had the chance to commune with other Jews and engage in learning. They gathered to learn the Mishnah of the second chapter of tractate Shabbat, since it was familiar to all of the participants due to its inclusion in the Friday evening prayers. Halivni would teach the Mishnah, while others participated, at times reminding him of words that he had forgotten. During those precious few days that it was possible to learn, they also had the opportunity to don

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[17]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 59–60.

[18]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 60.

[19]David Weiss Halivni, *Meqorot Umesorot: A Source Critical Commentary on Seder Nashim* (Toronto: Otsreinu, 1993), 6. The same Hebrew date—25 Iyar—is also the date of his introduction to *Meqorot Umesorot* on *Nashim*.

[20]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 36–8, 60. See also Halivni, *Meqorot Umesorot: A Source Critical Commentary on Seder Nashim*, 6.

[21]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 60.

[22]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 167.

tefillin, which were brought to the camp by one of the Lodz Jews.[23] Halivni, a master storyteller, tells in his memoir the following story: one night upon seeing a German from the *Todt*[24] eating a sandwich wrapped in a page of Pesil Balaban's edition of R. Joseph Karo's *Shulkhan Arukh*, Halivni fell at the feet of the guard to beg for the page. The guard instinctively put his hand on his revolver, the usual reaction in an unknown situation, but when Halivni implored him to give him the page the guard acquiesced. This page from *Orakh Haim* 434 became the *bletl*, the little page, that would be studied when the group convened on the off Sundays. The *bletl* came to represent the resilience and survival of the Jewish people and provided solace and hope to all participants. It survived until February 1945 when the Gross-Rosen camp was liquidated and occupied by the Russians. They were then transferred to Ebensee, part of the Matthausen camp complex in Austria, and from then on there were no more Sundays off or group study. The *bletl* ultimately was lost when its keeper Mr. Finkelstein was taken to the crematorium right before liberation.[25] Halivni understood this as further demonstration that Torah has value only as long as those who keep it are alive.

Halivni was liberated on May 6th, 1945 and arrived in America on February 11th, 1947 as part of the adoption program led by Eleanor Roosevelt. Upon arrival, Halivni was placed in a Jewish orphanage where he created a stir by challenging the *kashrut* of the institution. Halivni was surprised by the fact that the supervising rabbi did not have a beard and, more importantly, was not fluent in the commentaries of the *Pri Megadim*, written by R. Joseph ben Meir Teomim (1727–1792). Halivni presented the Rabbi with a question that any rabbi in Sighet would have known. However, in the U.S. the *Pri*

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[23]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 60–2.

[24]German brigade in charge of construction work in Germany founded by Fritz Todt, Hitler's chief engineer.

[25]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 68–72.

Megadim was not part of the material that was studied carefully for rabbinic ordination. The Rabbi's ignorance meant that the new arrivals refused to eat the meat. This situation provided Halivni with the opportunity to meet Saul Lieberman, who came to be the second greatest influence on his life. A social worker who was fluent in Yiddish[26] introduced Halivni to Lieberman who vouched for the *kashrut* of the institution and deeply impressed him with his great talmudic scholarship.[27] In retrospect, Halivni saw this meeting as the catalyst for his eventual joining the Jewish Theological Seminary of America (JTS) in New York where Lieberman was a professor.[28] While Halivni acquired a secular education he kept in contact with Lieberman and visited him periodically. Subsequently, Halivni learned that it was Lieberman who signed the requisite papers allowing him to remain in New York.[29]

After a frustrating meeting at Yeshiva Torah VoDa'ath in New York where the examiners were completely insensitive to Halivni's recent experiences in the concentration camps,[30] Halivni joined Yeshivat Chaim Berlin under the leadership of Rabbi Yitzchok (Isaac) Hutner (1906–1980) with whom he developed a personal

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[26]Shulamit Halkin, granddaughter of R. Naftali Zvi Yehuda Berlin, (1816–1893), the famous Netziv, and sister in law of Saul Lieberman. See Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 80–1.

[27]From their lengthy discussion, Halivni fondly remembers one notable episode when he mentioned a comment about a tosafot in b. Hullin 97a which Lieberman had forgotten, but which Halivni had remembered. At the time Lieberman did not say anything, but as Halivni left he noticed that Lieberman had taken the Hullin volume from his bookcase, turned to the first page and started learning. Halivni was puzzled and asked Lieberman why was he starting to now learn specifically this tractate. His answer was remarkable: "If I forgot one tosafot, who knows how many others I may also have forgotten?" In Halivni's eyes, this episode demonstrated how erudition is demanding and requires complete dedication.

[28]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 78–81.

[29]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 140.

[30]In February 1947 they were asking him questions as though he had just stepped out of the study hall instead of a concentration camp. See Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 140.

relationship.[31] For many years after he left the yeshiva, Halivni carried in his wallet a note from Rabbi Hutner authorizing him to buy a suit and shoes at his expense for Passover in 1949.[32] Halivni received a second rabbinic ordination, from Rabbi Moshe Benjamin Tomashoff (1878–1960) in 1948. In the *semikha* certificate Tomashoff writes: "I was very awed by him—he is a genius excelling in sharpness and perception, possessed of a logical mind and a powerful memory and a vast knowledge of the Talmud and its commentaries. . . . I am convinced that with God's help he is destined to become one of the greatest *geonim* of his generation."[33]

During his time in the yeshiva Halivni pursued the secular education he so strongly desired after the war.[34] After completing elementary school, and two years of high school, Halivni was admitted to Brooklyn college in 1949 where he graduated in 1953 and received a medal for excellence in philosophy.[35] Halivni continued his secular studies receiving a Masters of Arts degree in Philosophy from New York University in 1956. While in high school Halivni hebraized his name Weiss to its biblical equivalent *Halivni*.[36] After his experience in the Holocaust Halivni was bothered by his German sounding name, specially after learning that Martin Weiss was the commandant of

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[31]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 147. R. Hutner was the one who introduced Halivni to Halevy's works and encouraged him to learn Dorot Harishonim, since in his view he came to represent the pioneer in the study of Jewish history within the orthodox community.

[32]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 147.

[33]Irwin H. Haut, *The Talmud as Law or Literature: An Analysis of David W. Halivni's Meqorot Umesorot* (New York: Bet Sha'ar Press, 1982), 82.

[34]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 31.

[35]*Neti'ot Ledavid: Jubillee Volume for David Weiss Halivni*, ed. Yaakov Elman, Ephraim Bezalel Halivni, and Zvi Arie Steinfeld (Jerusalem: Orhot Press, 2004), 9.

[36]Weiss in Yiddish means white, while Halivni is a biblical name (Numbers 3:21, 26:58) which is derived from the Hebrew word, *lavan*, which also means white.

Majdanek. However, in honor of his grandfather's memory he did not discard the name

Weiss and thus became known as "David Weiss Halivni."[37]

There were several attempts to dissuade Halivni from his decision to enter

Brooklyn college and pursue an academic degree. Both R. Aharon Kotler (1891–1962),[38]

founder of one of the main American rabbinical academies, Beth Medrash Govoha in

Lakewood and the Satmar Rebbe, Rabbi Joel Teitelbaum (1887–1979), tried to dissuade

Halivni from academia.[39] Nonetheless, Halivni decided to continue his pursuit of

academic studies and entered Brooklyn college in 1949, while still living in the yeshiva.[40]

Ultimately, Halivni decided to leave the yeshiva becoming disillusioned with the

approach to text and disregard for *peshat* and the focus on applied meaning.[41] Another

factor in his decision was R. Hutner's dedication to the approach of Rabbi Judah Loew

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[37]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 84.

[38]Halivni was asked to accompany R. Kotler to a wedding. While they were on their way R. Kotler lectured Halivni about the importance of producing *talmidey hakhamim* in America and how learning Torah was more important than going to college. When they arrived at the Brooklyn Battery Tunnel, R. Kotler expressed his amazement of the technology involved in building a tunnel surrounded by water. Halivni exclaimed "that it is exactly what they teach in college!" R. Kotler responded with an answer that Halivni would use throughout his career to encourage students, particularly female students, to take on graduate studies in Talmud. R. Kotler said: "They already have tunnels!" There are plenty of lawyers, doctors and engineers and therefore it is rather difficult to really make a difference; becoming a serious Talmud scholar is rarer and more important." See *Halivni, The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 85–7.

[39]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 87–9.

[40]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 84. This is a critical difference between Halivni and Halevy who never pursued academic studies. However, Halevy was not against the pursuit of academic studies, as his own son Shmuel pursued a doctorate at the University of Bern. He was particularly proud of his son's scholarly work as it reflected his own views. See Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 199 (letter 148). Halevy actively advised him on his dissertation, both by providing materials as well as by insuring that his dissertation was published within the required time. He also followed his progress with interest and was proud of his achievements. See Isaac Halevy, *Iggrot Rabbi Yitzhak Isaac Halevy*, 95 (letter 25), 173 (letter 107), 182 (letter 121). See also Reichel, *Isaac Halevy: Spokesman and Historian of Jewish Tradition*, 87–8. Although Halevy did not pursue academic studies, some of his students did attend the University of Berlin (Universität zu Berlin). See Yedidya, *Criticized Criticism: Orthodox Alternatives to Wissenschaft Des Judentums 1873–1956 (Hebrew)*, 192.

[41]See pp. 167 for further details.

ben Bezalel Loewe (c. 1520–1609), the Maharal of Prague, which combined talmudic analysis with Qabbalistic interpretations,[42] which Halivni found to be too fanciful and far removed from the plain meaning of the text. A final factor in Halivni's decision to leave the yeshiva and move to the Seminary was the fact that he was just married and concerned about his future. Therefore, Halivni joined the Jewish Theological Seminary at the beginning of 1954 to pursue his doctorate and study under Saul Lieberman.[43] The Seminary had provided Lieberman with the ideal environment and structure to pursue his studies with proper financial support. Indeed, Halivni would be treated in the same way. In late September 1954, Louis Finkelstein, the chancellor of the seminary, provided him with a much appreciated $4,000 fellowship accompanied with the following message: "From now on, let me have your *daiges parnasa*—let me worry about your livelihood. You sit and learn."[44] Halivni was forever grateful to Finkelstein for his support.[45] Halivni writes in his memoir that when Finkelstein was old and sick, on one of his frequent visits to his home, he found him crying, expressing doubts about his life's work in light of the changes taken place in the Seminary. Halivni consoled him saying that "if you had done nothing else but what you did for me, a lost soul of the Holocaust, your place would be secure."[46]

At the Seminary, Halivni was impressed by the mixture of faculty with yeshiva background and university training. Despite being observant he felt comfortable in the

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[42]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 141–2.

[43]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 99–101.

[44]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 102.

[45]Over the years of his chancellorship Finkelstein's support of Halivni was unwavering. Halivni fondly remembers that Finkelstein was particularly sensitive to such an extent that if he would not say *Shabbat Shalom* on Shabbat, Finkelstein would sense that there was something amiss and therefore shortly thereafter he would find a raise in his salary.

[46]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 102–3.

seminary, which he felt was value-free and not bound by ideological and theological pressures. It was a place where one could pursue his studies independent of religious commitments or affiliations, allowing one to be comfortably associated with any denomination or none at all.[47]

Halivni studied under Lieberman and received his MHL in 1957 and his doctorate in 1958.[48] Lieberman was a great influence, and reflecting in his memoir, Halivni noted that his grandfather and Lieberman were the two major influences on his learning—one before the Holocaust and one after.[49] Halivni notes how Lieberman once boasted that he had "made a Litvak out of him."[50] Although he had arrived at the seminary to pursue the study of Talmud Yerushalmi[51] under Lieberman, he eventually moved in a new direction. While learning b. Gittin 64b in the seminary library, Halivni came to believe that the Babylonian Talmud did not have the correct version of an amoraic statement of Rabbi Yohanan and based on the Yerushalmi he was able to reconstruct the original context and meaning of Rabbi Yohanan's statement. Thus, despite being Lieberman's student, Halivni came to deviate from his master's approach. Lieberman was a comparative scholar who used his in depth talmudic knowledge to show how talmudic literature could best be

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[47]Based upon discussions with Halivni. Halivni recalls the existence of two *sukkot* that were built during the festival of *Sukkot*, one with no metal supports and one with metal supports, based upon the two explanations noted by R. Abraham Abele Gombiner (c. 1635–1682) in his commentary *Magen Avraham* to *Shulkhan Arukh Orakh Haim* 629:9. Halivni saw this as a true respect for the multiple positions in the *halakhah*.

[48]His dissertation entitled *Fragments of a Commentary on the Treatise Ta'anit* was a compilation of the commentaries written by R. Elyakim on b. Ta'anit which he compiled from manuscripts. It was subsequently published by Mosad Harav Kook in Jerusalem in 1959.

[49]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 168.

[50]Elijah J. Schochet and Solomon Spiro, *Saul Lieberman: The Man and His Work* (New York: The Jewish Theological Seminary of America, 2005), 139. Halivni noted that he took this statement as a compliment, meaning that despite his Hungarian hasidic background, he had adapted well to the scientific study of the Talmud which in Lieberman's eyes was identical with the classic Lithuanian style of learning.

[51]Halivni studied the Yerushalmi on tractates Berakhot, Megillah, Ketubbot and Gittin.

understood when projected against the background of surrounding cultures. However, Halivni wanted to focus on the text of the Babylonian Talmud itself.[52] His approach was thus directed towards source criticism, looking for discrepancies in the early transmission of a text to account for forced interpretation.[53] Lieberman was not a great believer in the approach, and Halivni's endeavor caused some friction with his teacher although it was soon overcome.[54] Lieberman frequently expressed to his students his dislike for source criticism by saying, "you don't have to operate on the Talmud,"[55] albeit never mentioning Halivni by name. Moreover, Lieberman never openly disagreed with Halivni on his approach and was a speaker at the celebration for the publication of the first volume of *Meqorot Umesorot*.[56]

Halivni began teaching at JTS in 1957 and was named the Morris Adler Professor of Rabbinics in 1969. He decided to make source criticism of the Babylonian Talmud his primary scholarly mission. Ironically, despite the centrality of the Bavli in Jewish learning, very little scientific scholarship of *Hokhmat Israel* had been written on the Babylonian Talmud,[57] since it was assumed that all of the major issues were covered by the medieval scholars, the *Rishonim*. Halivni recognized the potential contribution of source criticism in creating a new understanding of the Bavli. He built his methodology around solving the issues which had been addressed by the early commentaries but in a

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[52]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 136–9.

[53]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 167.

[54]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 167.

[55]Schochet and Spiro, *Saul Lieberman: The Man and His Work*, 179.

[56]The celebration was held at the home of Moshe Zucker, a colleague from the faculty of JTS.

[57]A notable exception was *Darkah shel Torah* authored by Z. Pineles and first published in 1863.

way he perceived to be forced, deviating from the plain meaning of the text.[58] Halivni

believed these difficulties were the result of problems with the transmission of the

talmudic text while it was in oral form or in the process of formation. As Halivni writes,

"Serious exegetical difficulties are often the result of compositional peculiarities."[59] By

recognizing that an element of the text could have been altered in transmission or

problematically arranged he solved serious exegetical problems. Eventually, Halivni's

major contribution would be a new understanding of the role of the anonymous discursive

stratum, the *stama d'gemara*. In creating a model for the redaction of the Bavli Halivni's

coined a new term *Stammaim*.[60] In Halivni's opinion, hundreds of years[61] elapsed

between the *Amoraim* and *Stammaim*,[62] and in the intervening generations much of the

original context was lost since it was not formally preserved and had to be reconstructed,

causing problems and forced interpretation.

The first volume of *Meqorot Umesorot* was published in 1969 on *Seder Nashim*,

as his project had begun with b. Gittin.[63] The name of Halivni's book, *Meqorot Umesorot*

(*Sources and Traditions*) is described succinctly on the English title page: "Source

criticism seeks to differentiate between the original statements as they were enunciated by

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[58]Halivni termed these interpretations *dehukim* and sought to show how the commentators were forced into these interpretations by the problematic state of the text in front of them.

[59]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 150.

[60]See introduction to *Meqorot Umesorot* on b. Shabbat—where he first used the term—in Halivni, *Meqorot Umesorot: Beurim Batalmud: Masekhet Shabat*, 5–27.

[61]As discussed later, Halivni's assessment of the dating of the *Stammaim* and the lateness of their activities evolved over time.

[62]See Halivni, *The Formation of the Babylonian Talmud*, xxvii-xxviii. See also chronological table I.1 on Halivni, *The Formation of the Babylonian Talmud*, xxix. See pp. 251 below.

[63]Based upon discussions with Halivni.

their authors and the forms they took as a consequence of being orally transmitted; that is

between the sources and their later traditions."[64] In the introduction to his first volume

Halivni describes his devotion to scholarship *ki'peshuto,* the search for the plain meaning

of the text and the original intent of its authors, which Halivni sees as a desideratum.[65]

Any forced interpretations were a less than optimal attempt to resolve problems arising

from breaks or changes in the original source as a result of transmission faults. Naturally,

this approach drew criticism. In an article in the New York Times magazine dedicated to

Halivni's approach, two disparate reactions were described: "The ultra-Orthodox Israeli

political party Agudath Israel called it an 'abomination,' while Professor Marvin Fox,

chairman of the Near Eastern and Judaic studies department at Brandeis University calls

Weiss 'one of our precious, precious treasures.' "[66]

 The first volume on *Seder Nashim* was followed in 1975 by Halivni's

commentary on b. Yoma to Hagigah.[67] It was in the introduction to this volume that

Halivni first identified the unique role of the *stam ha'talmud* in the formation of the

Talmud, modifying his theory on the unique role of Rav Ashi presented in his

commentary to *Seder Nashim.*[68] It was in this same volume that Halivni established a

model for the rest of his work. In each of the volumes he dedicated an introduction to his

theories on the larger questions concerning the editing of the Talmud and the role of the

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[64]Halivni, *Meqorot Umesorot: A Source Critical Commentary on Seder Nashim*, English title page.

[65]Halivni, *Meqorot Umesorot: A Source Critical Commentary on Seder Nashim*, 12.

[66]Israel Shenker, "A Life in the Talmud," *New York Times*, 11 September 1977, Magazine:44. Agudath Israel attacked Halivni fiercely in an editorial in its magazine Beth Jacob noting, "Yet this young scholar has the audacity . . . that the transmitters of the Talmud changed the text not even knowing that they did so." See Shenker, "A Life in the Talmud," 44–77.

[67]Halivni, *Meqorot Umesorot Leseder Mo'ed from Yoma Until Hagiga*.

[68]Halivni, *Meqorot Umesorot: A Source Critical Commentary on Seder Nashim*, 696n7; Halivni, *Meqorot Umesorot Leseder Mo'ed from Yoma Until Hagiga*, 2–3.

sages in the redaction process. The body of the work contains Halivni's explanations and critical understanding of the individual *sugyot* according to their order. In his many years of scholarship Halivni has made his main project the completion of a critical commentary on the entire Babylonian Talmud. To date he has completed *Seder Nashim*, *Mo'ed*, and *Nezeqin*, and is now working on tractate Zevahim.[69] In 2009 Halivni published a volume containing all of the introductions to *Meqorot Umesorot* describing his theory about the formation of the Talmud and the role of the *Stammaim*. This volume is dedicated to explaining his methodology while the others describe its application.[70]

In addition to his commentary on the Talmud, Halivni has published extensively[71] on a wide variety of topics. His books on Scripture include *Peshat & Derash*[72] and *Revelation Restored*,[73] and they extend his critical methodology to Scripture. In these works, Halivni attempts to harmonize biblical criticism with traditional religious belief and he also addresses the various instances in Scripture where the plain meaning, without accessing *derash*—applied meaning through exegesis, is unattainable. In his view the

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[69]The volume on b. Shabbat was published in 1982, followed by the volume on Eruvin and Pesahim in 1982, Bava Qamma in 1993, Bava Metzi'a in 2003, Bava Batra in 2008 and Sanhedrin through Horayot in 2012. See Halivni, *Meqorot Umesorot: Beurim Batalmud: Masekhet Shabat*; David Weiss Halivni, *Meqorot Umesorot: Tractates Eruvin and Pesahim* (Jerusalem: The Jewish Theological Seminary of America, 1982); David Weiss Halivni, *Meqorot Umesorot: Tractate Bava Qamma* (Jerusalem: The Hebrew University Magnes Press, 1993); Halivni, *Meqorot Umesorot: Tractate Bava Metzia*; David Weiss Halivni, *Meqorot Umesorot Tractate Bava Batra* (Jerusalem: The Hebrew University Magnes Press, 2007); David Weiss Halivni, *Meqorot Umesorot: From Sanhedrin Until Horayot* (Jerusalem: The Hebrew University Magnes Press, 2012).

[70]Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*; Halivni, *The Formation of the Babylonian Talmud*.

[71]For a comprehensive list updated as of 2004, see *Neti'ot Ledavid: Jubillee Volume for David Weiss Halivni*, 11–4.

[72]Halivni, *Peshat and Derash: Plain and Applied Meaning in Rabbinic Exegesis*.

[73]David Weiss Halivni, *Revelation Restored: Divine Writ and Critical Responses*, Radical Traditions (Boulder, Colo.: Westview Press, 1997).

biblical texts originally given to Moses have become irretrievably corrupted as a result of what he terms *Chate'u Israel* and therefore *peshat* is unattainable.[74]

Halivni taught at the seminary for more than thirty years. As he writes in his memoir: "I had peaceful years in the Seminary, free from interference, friendly, and devoted almost exclusively to study. . . I taught a minimum course load, and I taught what I wanted to teach, which more often than not was a try-out of what I was doing creatively. My theory about the composition of the Talmud was hatched and developed during that period."[75] However, both the Seminary and the conservative movement were undergoing significant changes. In 1972 Gerson Cohen became the chancellor of the Seminary and the partnership that Halivni had enjoyed with Finkelstein was replaced with a new direction in leadership. Cohen wanted to direct academic focus towards history as well as the traditional areas of Talmud and rabbinics. Cohen was also interested in modifying the "ivory tower" image of the Seminary in order to strengthen ties between Conservative congregations and the Seminary. The Conservative movement as a whole had now come to see the ordination of women as Rabbis as necessary for the future,[76] and it seemed that scholars like Lieberman and Halivni were holding them back.

Following Lieberman's death in April of 1983, on October 24, 1983 the seminary faculty voted to admit women to the Seminary's rabbinical school. Halivni, who represented the traditional approach advocated by his teacher, found himself in the minority. However, even with his personal disagreement on the issue, he was hopeful that a solution could be found. Halivni believed that proper process required that *halakhic*

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[74]Halivni developed a conception of an immaculate tradition coupled with a corrupted Scripture text as a function of *Chate'u Yisrael*, Israel sinned. See Halivni, *Peshat and Derash: Plain and Applied Meaning in Rabbinic Exegesis*, 126–53.

[75]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 103.

[76]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 105–7.

precedent be found for the majority decision of the faculty to allow ordination, even if it were held by a small minority of rabbinical authorities.[77] In his opinion, however, the decision to admit women was made independently and its *halakhic* repercussions were ignored. In Halivni's opinion this episode represented the beginning a completely new decision making process, in which *halakhah* would yield to modernity when the two collided.[78] Halivni believed that the rabbis never consciously changed a law for either ethical or moral reasons. Although he acknowledged that changes did take place, they came about imperceptibly within the framework of *halahkah* as part of an evolutionary process. Thus, the decision to admit women to the rabbinical school and ordain them as rabbis caused Halivni's permanent break with the Seminary. In the end, it was not the final decision, but the process that brought about Halivni's resignation. In 1985, after an association of more than thirty years, Halivni left the Seminary and the Conservative Movement.[79] In an emotional departure letter, Halivni expressed his sentiments and the following paragraph summarizes well his feelings:

> It is my personal tragedy that the people I *daven* (pray) with, I cannot talk to, and the people I talk to, I cannot *daven* with. However, when the chips are down, I will always side with the people I *daven* with; for I can live without talking. I cannot live without *davening*.[80]

Halivni in his essence was committed to a strict observance of *halakhah*, creating a unique fusion of faith and observance with modern and critical scholarship. This combination is not easy to understand. If in his view many of the conclusions of the Talmud were based on incomplete information, how could they be binding? How can his

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[77]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 104–5. Joel Roth, one of the younger faculty members and Halivni's student also wrote a responsum defending the decision. See Roth's responsum on www.jtsa.edu/prebuilt/women/roth.pdf.

[78]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 104–5, 109–10.

[79]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 109–15.

[80]Halivni, *The Book and the Sword: A Life of Learning in the Shadow of Destruction*, 114.

critical method not undermine the entire *halakhic* process? As Gershom Scholem (1892–1982), the noted scholar of mysticism, once pointedly asked him, "How could a modern/critical scholar be so conservative as to reject women Rabbis?"[81]

Halivni was able to combine a critical methodology with a full commitment to *halakhah*, believing that the divine commandments were given by God to humans and it was their responsibility to interpret and pass them on. The sages' exegeses dictated *halakhah* since *lo bashamaim hi*,[82] the Torah was not in heaven anymore. It was the role of the sages to use their best judgment in the preservation of the oral law.[83] As a critical scholar Halivni explained that many conclusions found in the Talmud do not reflect accurately the intentions of the sages they are attributed to. Nonetheless, in numerous cases the *halakhah* follows the final form of the sages words and not their original intention. Halivni describes this as two dimensions in the study of rabbinic literature: *Torat Haim* (the living Torah), and *Torat Emet*, (Torah of truth). The first dimension of *Torat Haim* sees rabbinical authority as representing the best judgments of the sages, despite the existence of forced solutions, *dehuqim*, which in the critical scholar's eyes are the consequence of oral traditions being altered in transmission through the centuries. Even with this alteration the rabbis were not wrong[84] and their judgment defined Jewish law. They made their best effort in dealing with an incomplete and imperfect situation.

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[81]Based upon discussions with Halivni.

[82]See b. Bava Metzi'a 59b.

[83]Halivni frequently notes the prayer recited whenever the Torah is read in public, at the moment when it is raised and exhibited to the congregation, "*Vezot Ha-Torah Asher Sam Moshe Lifney Beney Yisrael* (Deut. 4:44) *Al'Pi HaShem beyad Moshe*." (Numbers 9:23). The end of this verse is combined in the prayer service with the previous one to indicate that the Bible was given by God through Moses' interpretation. Ironically, this combination is in itself a demonstration of the development of the text as it is not present in the older editions of the *Siddur*. See Yehoshua and Vinograd Cohen, Yeshayahu, *Siddur Ezor Eliyahu* (Jerusalem: Kerem Eliyahu, 2008), 72n.

[84]Halivni always demonstrated the utmost reverence to the rabbis of the Talmud and frequently corrected students when they mentioned that the Rabbis were wrong or mistaken in their interpretation. In his view they did not err but rather applied the best solution available to deal with an imperfect situation. As Halivni always remarks, had he lived in their time, he would have approached issues in the same manner.

The second dimension, *Torat Emet*, relates to one's obligation to search for truth and the plain meaning of the texts. This dimension is a scholarly obligation without any *halakhic* implications or consequences.[85] His critical approach constitutes the search of how the difficulty in the text arose in the first place, how it came to be, without attempting to answer or to resolve the problem. Instead of facing forward to formulate a resolution as the traditional learning does, Halivni focuses on the past, investigating the origins of the problem and how it originated.

After leaving the Seminary, Halivni received the prestigious Bialik prize in Tel Aviv in 1985 for his works *Meqorot Umesorot*. A year later Halivni returned to New York to take a position at Columbia University as the Lucius N. Littauer Professor of Classical Jewish Civilization. At Columbia Halivni taught Talmud and Jewish Studies until his retirement in 2004.[86] His weekly seminars on Tuesday nights, on the Critical Formation of Talmudic Texts, were attended by students of diverse backgrounds and the position at Columbia enabled Halivni to publish books in English as well as continuing his work on *Meqorot Umesorot*.[87]

After his retirement from Columbia, Halivni moved to Jerusalem where he continues his scholarly activities. His weekly classes in Talmud continue at the Hebrew University of Jerusalem on Monday afternoons. In his usual style the class is attended by a diverse audience. Halivni received the Israel Prize in Talmud in 2008 for his lifetime of research as one of the leading talmudic scholars of our time. As noted by the committee,

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[85]s Halivni noted, even if one was convinced that Beit Hillel were wrong in their view, he would nonetheless be required to follow their decision, as the *halakhah* follows their opinion. However, if you were convinced that Beit Hillel never said something it would be wrong to quote the statement in their name.

[86]Halivni at the time also helped to establish the Union for Traditional Judaism (UTJ) and from 1991 he was the rector of The Institute of Traditional Judaism until his departure to Israel.

[87]At Columbia Halivni dedicated time to work on theology as well. Some of his ideas were published in 2007 in Halivni, *Breaking the Tablets: Jewish Theology After the Shoah*.

Halivni combines both in his personality, as well as in his study and research, the analysis of the traditional *Beit Midrash*, with the modern critical methods of scientific Jewish studies.

<center>***Meqorot Umesorot*: Scope and Purpose**</center>

Scholarship *ki'peshuto*

Meqorot Umesorot, unlike *Dorot Harishonim*, is not historiography. It approaches the issue of the formation of the Talmud based first and foremost on a sustained critical literary analysis of the talmudic text. As Halivni describes it: "I base my account exclusively on internal analysis of the Talmud itself."[88] In contrast, *Dorot Harishonim* is primarily concerned with the historical description of the process of the formation of the Talmud and only utilizes the Talmud to validate its theories and its historical reconstruction. *Meqorot Umesorot* is concerned with the literary analysis of the text and understanding the various difficulties and inconsistencies in the Talmud. It utilizes a historical account of the process of the formation of the Talmud in order to account for the breaks that came to cause such faults. Its historical account comes to identify the discontinuities in transmission which caused the breaks between the original amoraic statements and their later traditions. It is primarily a methodology of learning and exegesis of the talmudic text. Halivni's enterprise is predicated upon his "scholarship *ki'peshuto*." In his view the Talmud's objective in its discussions and analyses of earlier sources was to find the original meaning of earlier statements and to uncover the intention of the author. Later rabbis attempted to reveal the original intent of the earlier ones. Any deviation of an interpretation from the literal meaning of the text is a function of the inability to recover its original meaning. His understanding is in stark contrast with the

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[88]Halivni, *The Formation of the Babylonian Talmud*, 57. See also Halivni, *The Formation of the Babylonian Talmud*, 96.

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interpretative approach proposed by H. Gadamer. In his view, interpretation is never to

uncover the intention of the author but rather it is the reader's re-creation of the created

text brought to representation in accord with the meaning the interpreter finds in it—what

he terms "Applied Meaning."[89] Halivni's methodology thus entails employing historical

constructs as a means of resolving textual difficulties. Unlike previous traditional

commentators who attempted to *resolve* textual difficulties, Halivni identifies a historical

construct which can explain how the problem was created in the first place. As Halivni

writes, his method differs from the traditional approach in two respects:

> While the traditional method of study attempts to eliminate the difficulty
> such that the text appears clear-cut, straightforward and unproblematic.
> The critical method, on the other hand, emphasizes the difficulty and
> makes no attempt to remove it; rather, the critical method accounts for the
> source and cause of the difficulty. Whereas the traditional method is
> oriented "forward" and adds to the received text, the critical method looks
> "backward" and attempts to understand the sources of the text's
> development.[90]

The historical constructs that Halivni creates can be speculative. Rubenstein

describes it as follows: "To be sure, many of the conclusions result from the most subtle

and delicate inferences, and from teasing out the implications of slight textual anomalies,

irregularities and inconsistencies. There is a paucity of direct evidence about the major

questions of the Talmud's textual development and editing, and sometimes indirect

evidence is lacking too. Certainly some of the conclusions must remain in the realm of

conjecture or speculation."[91]

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[89]See Hans-Georg Gadamer, Joel Weinsheimer, and Donald G. Marshall, *Truth and Method*, in *Continuum Impacts*, edition no. 2nd, rev. (London ; New York: Continuum, 2004), 110–19, 291–309. See also Wolfgang Iser, *The Act of Reading: A Theory of Aesthetic Response* (Baltimore: Johns Hopkins University Press, 1978), 163–79; Stanley Fish, *Is There a Text in This Class?: The Authority of Interpretive Communities* (Cambridge, Mass.: Harvard University Press, 1980), 303–21.

[90]Halivni, *The Formation of the Babylonian Talmud*, 42–3.

[91]Halivni, *The Formation of the Babylonian Talmud*, xix-xx.

As stated above, Halivni's theory about the process of the formation of the Talmud emanated from his difficulty with the issue of the "forced explanations"[92] which are found in almost every talmudic *sugya*. Often one finds that sources are interpreted in ways which contradict the plain meaning of the text. This happens in numerous ways: at times an *Amora* explains a *halakhah* in the Mishnah against the plain meaning of its language; at times the text of the Mishnah or *baraita* is emended in order to avoid contradictions with the rulings of later authorities which violate the intention of the original ruling. Such forced interpretation is applied to amoraic sources as well, with later *Amoraim* offering forced understandings of the traditions of earlier *Amoraim*. Perhaps the greatest amount of forced interpretation is found in the *stama d'gemara*. Halivni argues that these forced interpretations and the deviation from the simple meaning of the text stem from transmission faults, which created gaps or changes in the original tradition. Halivni's methodology attempts to explain how these gaps were created in the process of the formation of the Talmud.

Therefore, Halivni's project assumes that the tannaitic and amoraic traditions began with a plain meaning which only became confused in transmission.[93] However, what is overlooked in Halivni's devotion to scholarship *ki'peshuto*, is the possibility that the *Tannaim* and *Amoraim* themselves were not interested in *peshat*, but rather their exegetical enterprise was dedicated to *derash*, which I define as applied meaning.[94] The Bavli is quite explicit about their attitude towards *peshat*. As noted in b. Shabbat 63a:

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[92]Halivni terms these *dehuqim*—see Halivni, *Meqorot Umesorot: A Source Critical Commentary on Seder Nashim*, 7–19.

[93]Halivni, *Meqorot Umesorot: A Source Critical Commentary on Seder Nashim*, 12.

[94]The reader's re-creation of the created text as proposed by Gadamer. *Derash*, unlike *peshat*, comes to apply a new meaning to the text. Notably Halivni understands the term in a similar way as indicated in the title of Halivni, *Peshat and Derash: Plain and Applied Meaning in Rabbinic Exegesis*.

אמר רב כהנא כד הוינא בר תמני סרי שנין והוה גמירנא ליה לכוליה תלמודא[95] ולא הוה
ידענא דאין קרא יוצא מידי פשוטו עד השתא

> R. Kahana said: By the time I was eighteen years old I had studied the
> whole Talmud,[96] yet I did not know that a verse cannot depart from its
> plain meaning until today.

Rav Kahana at the age of eighteen and after learning a substantial corpus of
traditions did not even know that the plain meaning of a verse had any value since the
Talmud is primarily concerned with *derash*, applied meaning, not plain meaning.

Derash as an interpretive tool of applied meaning was not limited to the exegesis
of Scripture. It is clear from an analysis of rabbinic texts, including later rabbinic
commentaries, that *derash* was the dominant interpretive tool employed by the sages
throughout the ages. *Derash* encompassed the interpretation of the entire rabbinical
corpus, from the Mishnah to the last statements of the sages. This perspective was
adopted by R. Elijah ben Shlomo Zalman Kremer (1720–1797), also as the Vilna Gaon or
simply the Gr"a,[97] as described by R. Manasseh of Ilya (1767–1831):[98] "[A]nd I have
heard from the holy mouth of the *gaon* and *hasid* of blessed memory, the great Rabbi
Elijah of Vilna [the Gr"a], who explained . . . that even in the Mishnah there is also
peshat and *derash*. He presented an example and through it he illuminated my eyes by
providing solutions to [difficulties in] several *Mishnayot*."[99] The Gr"a believed that the
interpretation of the Mishnah by amoraic sages encompassed both *peshat* and *derash*. At

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[95]As per all manuscripts. The Vilna edition has substituted the word "shas" (acronym for six orders
of the Mishnah) for "Talmuda" because of the censor.

[96]Although the term Talmud used here obviously does not refer to the entire redacted Bavli,
nonetheless it relates to a significant corpus of traditions.

[97]For his biography see Eliyahu Stern, *The Genius: Elijah of Vilna and the Making of Modern
Judaism* (New Haven & London: Yale University Press, 2013).

[98]One of the foremost disciples of the Gr"a. See Yitzhak Barzilay, *Manasseh of Ilya* (Jerusalem:
The Magnes Press, The Hebrew University, 1999).

[99]Manasseh of Ilya, *Binat Miqra* (Horodno, 1818), Introduction.

times they presented the plain meaning of the text while at others they chose *applied* meaning instead. Therefore, the Gr"a argued that it was possible and permissible for later generations to offer an alternative interpretation to the Mishnah which was closer to its literal meaning than the one given by the *Amoraim*. In fact, in his commentary on the Mishnah, *Shnot Elyahu* to *m. Zera'im* (1799) and *Elyiahu Rabbah* (1802) to *m. Teharot*[100] the Gr"a offers numerous explanations which contradict the interpretation of the *Amoraim* on the Mishnah under discussion. This is in contrast to the traditional view, presented by Maimonides in his *Commentary on the Mishnah*, that "when all the [talmudic] sages died, may their memory be blessed, the last of them being Ravina and Rav Ashi, the Talmud was already completed [and] the intent of anyone that followed them was only to comprehend the words that they composed for there is nothing that one can add to or delete."[101] Nonetheless, the Gr"a understood that later sages were entitled to propose alternative *peshat* interpretations; the reason for allowing original *peshat* interpretations is that the *halakhah* and the interpretation enterprise of the *Amoraim* was primarily concerned with *derash* and not *peshat*. Even Maimonides in his *Commentary on the Mishnah* in several places offers interpretations to the *Mishnah* different than those offered by the both the Bavli and Yerushalmi.[102] This attitude was widely accepted by rabbinical authorities of all eras.

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[100]See m. Temurah 1:4, m. Bikkurim 2:2 among many others. See Hanan Gafni, "Peshat and Derash in the Mishnah: On the Metamorphosis of a Tradition from the School of R. Elijah of Vilna (Hebrew)," *Sidra* 22 (2007): 5–9.

[101]Moses Maimonides, *Maimonides' Introduction to His Commentary on the Mishnah*, trans. Fred Rosner (Northvale, N.J.: Jason Aronson, 1995), 106–7.

[102]For notable examples see m. Rosh HaShanah 1:1 and m. Nazir 5:5. See also Yosef Shalom Elyashiv, *He'arot Bemasekhet Rosh Hashanah* (Jerusalem, 2003), 41 s.v. vekan; Yom-Tov Lipmann Heller, *Tosafot Yom Tov* (Jerusalem, 1990), m. Nazir 5:5 s.v. she'eyn. This attitude was widely accepted by rabbinical authorities of all eras. For notable examples see Heller, *Tosafot Yom Tov*, m. Nazir 5:5; Yisrael Lipschutz, *Tifereth Yisrael*, m. Bava Metzi'a 1:1. See also R. Samuel Strashun's (1794–1872) commentary, commonly known as *Resha"sh*, b. Berakhot 49b s.v. *ehad* and b. Pesahim 74a s.v. *ma'aseh*.

On first glance the use of *derash* as an exegetical tool on rabbinic texts resembles the *derash* applied to Scripture. In both, each and every word is given hermeneutic significance since both demand careful reading in an attempt to derive the deepest possible meaning. Isaac Hirsch Weiss in his historical account of the rabbinic enterprise, *Dor Dor Vedorshav* writes:

> Anyone who reflects upon the exegesis of the masters of the Talmud and their interpretative method knows that the teaching of the *Tannaim* expressed in the Mishnah was for them the principal Torah. They studied these teachings and they exegetically interpreted every single word carefully weighting their words; in a similar manner to their approach to the written Scripture. . . . Upon reflection on the Talmud and its interpretation to the Mishnah it is evident that the talmudic sages applied the same exegetical tools and rules used in Scriptural exegesis also in their interpretation of Mishnayot.[103]

Weiss documented cases in the Bavli in which we find interpretation of tannaitic texts employing the same terminology applied to Scripture.[104] A similar implementation of careful reading of rabbinic texts can be found in tosafot who periodically proceed to explain every minute nuance of various *Mishnayot*.[105]

This limited definition of *derash*, however, does not suffice. The instances of application of the hermeneutical tools commonly applied by the rabbis in their interpretation of Scripture[106]—*qal vahomer*, *heqesh* and the like—in mishnaic interpretation are at best sporadic.[107] Moreover, as tosafot themselves noted, the text of

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[103]Isaac Hirsch Weiss, *Dor Dor Vedorshaiv*, 9.

[104]Isaac Hirsch Weiss, *Dor Dor Vedorshaiv*, 9–13. Weiss argues that exegetical tools like *qal vahomer* (inferences *a fortiori*), *gezerah shavah* (inference by analogy) are noted in talmudic passages relating to interpretation of rabbinic literature.

[105]For notable examples see b. Qiddushin 2a s.v. *haisha* and b. Rosh Hashanah 2a s.v. *arba'ah*.

[106]For a further analysis of these hermeneutical tools see Lieberman, *Hellenism in Jewish Palestine*, 47–82. See also Harris, *How Do We Know This?: Midrash and the Fragmentation of Modern Judaism*, 25–72.

[107]See Isaac Hirsch Weiss, *Dor Dor Vedorshaiv*, III:9–13. The examples noted by Weiss are just a small sample of the talmudic interpretation of earlier rabbinic texts.

the Mishnah is not always consistent.[108] Furthermore, tosafot's attitude towards the

mishanic text was not widely accepted and various early authorities did not subscribe to

their method. The following comment by R. Menahem Meiri is indicative of their

criticism:

> Our masters, the tosafot . . . have interpreted hermeneutically any
> superfluous text or omissions [in the Mishnah] as if the text had been
> written on the Tablets of the Law at Sinai. I however do not see any value
> in mentioning these explanations and let the reader understand as he sees
> fit.[109]

It is evident that the application of the hermeneutical tools operative in scriptural

interpretation were not widely employed in the Talmud's interpretation of rabbinic

literature. If so how did the rabbis derive their *derash* and in what aspect did their

interpretation deviate from *peshat*?

An insightful perspective on the rabbinic approach was presented by the Gr"a in

his explanation of a common device employed in talmudic interpretations, the

emendation of mishnaic text introduced with the words: *hasorei mehasra vehakhi*

ketanei.[110] Frequently, as solutions to questions posed, the text of earlier rabbinic sources

is emended by the Talmud saying: "It [the Mishnah or the *beraita*] is surely lacking and it

should read as follows." The problem with the use of this term in most contexts is that a

careful reader notices that the text of the Mishnah or the *beraita* is in fact complete and

the emendation offered does not reflect the plain meaning of the text. Therefore, the term

hasorei mehasra is a classic example of "forced interpretation." According to the position

of the Gr"a presented above, the departure from the plain meaning is not a problem:

rabbinic interpretation did not seek to elucidate the original intention of the text rather its

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[108]As noted by Tosafot b. Qiddushin 2a s.v. *haisha*.

[109]Meiri, *Sefer Hidushey Ha-Meiri Hanikra Beit Habehirah: Nedarim, Nazir, Sotah, Gittin, Qiddushin*, 315a.

[110]For more details on the term see Aaron Amit, "R. Hananel's Reading in Bavli Pesahim 8b," *Sidra* 21 (2006): 135n12.

intention was to offer readings that allowed for the integrity of the text. R. Israel of

Skhlov, one of the Gr"a's main disciples, describes in his introduction to *Pe'at*

Hashulkhan the Gr"a's position on the term *hasorei mehasra*:

> And you should know that whenever the Talmud notes an emendation [to
> the mishnaic text by saying:] *hasorei mehasra vehakhi ketanei*, the text of
> the Mishnah edited by R. Judah the prince is not missing any wording as
> his approach was not to leave any incomplete texts. Rather the intention
> [of the talmudic device is to note that] while the text fully reflects the
> tannaitic opinion subscribed by R. Judah nonetheless it is possible to
> amend the Mishnah as to read a diverse tannaitic opinion which was [later]
> subscribed by the Talmud. He [the Gr"a] would expound the verse "Your
> rounded thighs are like jewels"[111] as an acronym of *hasorei mehsera ve
> hakhi ketanei*,[112] as an allusion to the fact that the interpretative device
> reveals the "thighs"[of the Mishnah]. As the thighs are hidden so rabbinic
> interpretation reveals the inner meaning of the text and it exposes the
> greatness of the Torah.[113]

The Gr"a's praise of the use of *hasorei mehasra* is easy to understand in light of

his approach to the rabbinic interpretative enterprise. While the pursuit of *peshat* relates

to uncovering the author's original intention; *derash* reveals the inner meaning of the text

by applying the reader's insight. Applied reading becomes a function of the reader rather

than of the text itself. *Peshat* in his view is an interpretation bound by either textual

determinism or by the author's original intention.[114] *Derash* on the other hand involves a

dynamic negotiation between the text and the reader.[115] In a similar fashion to *derash* of

Scripture which removed the text from its original meaning and allowed for revealing its

concealed significance by way of the applied reading of the *reader*, so too the talmudic

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[111]Song of Songs 7:2.

[112]The Hebrew word for rounded is *hamukey*.

[113]Yisrael of Skhlov, *Pe'at Hashulkhan* (Jerusalem: Yad Binyamin, 1968), Introduction 5b.

[114]See a similar analysis on constitutional interpretation and the conceptions of interpretation
offered by John Ely and Michael Perry in Owen M. Fiss, "Conventionalism," *Southern California Law
Review* 58 (1985): 178–80.

[115]See Fiss, "Conventionalism," 180–2.

interpretation of rabbinic statments allowed for the readers' applied meaning to redefine the text.[116]

Therefore, rabbinic predilection for *derash* instead of *peshat* can be well understood. Because rabbinic teachings span generations, they become what may be termed a transtemporal text, not constrained by the original intention of the author. As Lawrence H. Tribe writes about the U.S. constitution:

> Most fundamentally, a text that has a strong transtemporal extension cannot be read in the same way as, say, a statute or regulation enacted at a given moment in time to deal with a specific problem . . . much of the Constitution simply cannot be understood as a law enacted by a particular body of persons on a specific date but must instead be comprehended as law promulgated in the name of a "people" who span the generations.[117]

The Talmud's attitude towards *derash* is thus also well understood. As rabbinic teachings accumulated and evolved, earlier texts had to be re-read in a consistent fashion with the views and teachings of later rabbinic authorities and their judicial decisions. Interestingly, a similar approach was also advocated by R. Naftaly Zvi Yehuda Berlin (1817–1893), the Netziv,[118] a follower of the Gr"a's tradition and head of the Volozhin

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[116]*Derash* in the Gr"a's opinion, however, was not totally unconstrained. It did not allow for a total deconstruction of the text and for a completely subjective approach to interpretation. A careful analysis of his writings indicates that he believes there is a clear distinction between valid and unacceptable *derash*. Acceptable *derash* entails an interpretation which provides for the unity and the integrity of the text. The desirable reading of a text is predicated upon an interpretation which provides for the unity and integrity of rabbinic literature *as a whole*. Therefore, valid interpretation has to be consistent not only with the exoteric teachings of the rabbis but furthermore it also has to be consistent with the esoteric literature. The Gr"a applied this criterion to his own interpretations of rabbinic writings. The unity of the text was the determining factor of the validity of rabbinic interpretation and it therefore defined his own exegetical activity. See Hayyim ben Isaac, "Introduction to the Gra's Commentary to Safra de Zniutah," in *Nefesh HaHaim* (Jerusalem, 1973).

[117]Antonin Scalia and Amy Gutmann, *A Matter of Interpretation: Federal Courts and the Law: An Essay* (Princeton, N.J.: Princeton University Press, 1997), 83.

[118]See Louis Ginzberg Eisenstein and Judah David, "Berlin, Naphtali Zebi Judah," in *Jewish Encyclopedia*.

yeshiva (founded in 1803 by R. Hayyim ben Isaac of Volozhin (1749–1821)[119] the main disciple of the Gr"a). In his words: "The approach of the Talmud is to adjust the interpretation of the Mishnah in order to conform it to its own *halakhic* conclusions."[120] This makes it obvious why the anonymous discursive stratum, *stama d'gemara* contains so many *dehuqim*. As Rubenstein writes: "While forced explanations are found among the Amoraim too, the extent and quantity of forced explanations in the anonymous layer—even when predicated on traditions of the latest Amoraim—is striking."[121] As the interpretative strata developed and evolved over a very long period time it is natural that earlier texts needed to be re-read and adjusted to new realities.

Derash enabled a rabbinic program of evolutionary law bound by the unity and the cohesiveness of rabbinic literature. Rabbinic texts were re-interpreted in order to form a cohesive harmonized whole. The power of *derash* can be appreciated in light of the theory of law as integrity, as expressed by Ronald Dworkin. He argues that in this type of law a judge or legislator is "to think of himself as an author in the chain."[122] Dworkin explains: "[L]aw as integrity asks them to continue interpreting the same material that it claims to have successfully interpreted itself. It offers itself as continuous with—the initial part of—the more detailed interpretations it recommends."[123] As *halakhic* views were expressed and evolved over time *derash* allowed for a creative reader's

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[119]See Peter Wiernik and Solomon Schechter, "Hayyim Ben Isaac of Volozhin (Hayyim Volozhiner)," in *Jewish Encyclopedia*.

[120]Aha of Shabha, *Sheiltot*, with commentary by R. Naftaly Zvi Yehuda Berlin (Jerusalem: Mosad Harav Kook, 1978), III:63.

[121]Halivni, *The Formation of the Babylonian Talmud*, xxii.

[122]Ronald Dworkin, *Law's Empire* (Cambridge, Mass.: Belknap Press, 1986), 238.

[123]Dworkin, *Law's Empire*, 226.

interpretation of the text in a manner which enabled ensuing generations to jointly create "a single unified novel that is the best it can be."[124] In sum, *Derash* enabled rabbinic texts to become atemporal texts which provided guidance to the Jewish community for over a millennia.

The Gr"a's approach to *derash* is strikingly similar to the reader's interpretation described by Hans-Georg Gadamer, who argues: "In a certain sense interpretation probably is re-creation, but this is a re-creation not of the creative act but of the creative work, which has to be brought to representation in accord with the meaning the interpreter finds in it."[125] Richard King analyzed Gadamer's theory, arguing that "for Gadamer, the meaning is not so much to be *found in* the text, as *negotiated between* the text and the interpreter. Understanding is an event in which both interpreter and text mutually determine one another."[126] Unlike Gadamer,[127] I however believe that in many cases it is possible to discover the original meaning of the text; therefore, only *derash* involves a re-creation of the text by the interpreter.[128]

This understanding of *derash* addresses the issue raised by Halivni that reinterpretation of earlier traditions by later commentators appears to violate rabbinical

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[124]Dworkin, *Law's Empire*, 229.

[125]Gadamer, Weinsheimer, and Marshall, *Truth and Method*, 118.

[126]Richard King, *Orientalism and Religion: Post-Colonial Theory, India and the Mystic East* (London and New York: Routledge, 1999), 74.

[127]See Gadamer, Weinsheimer, and Marshall, *Truth and Method*, 296. In Gadamer's opinion, "Not just occasionally but always, the meaning of a text goes beyond its author. That is why understanding is not merely a reproductive but always a productive activity as well."

[128]Similarly to Gadamer, the Gr"a argues that the counterforce to the potential arbitrariness of *derash* and the boundaries of valid interpretation is the unity of the text. As explained by Georgia Warnke, "this initial projection [to the text] can be corrected in one's further reading. Gadamer points out that the presumption here is that the text forms a unity, an internally consistent whole, and that one can use the regulative ideal of unity to assess the adequacy of one's interpretations of its various parts." See Gadamer, Weinsheimer, and Marshall, *Truth and Method*, 83.

authority. Because rabbinic statements are inherently connected to their authors and draw authority from them, Halivni argues that "the author is inexorably connected with the authority of the statement. It is he who lends validity to the statement. . . To *usurp*, therefore, a person's name, a person's authority for an interpretation which that person did not intend, or what is worse, outrightly rejected, smacks of historical distortion."[129] In my view, the conception of *derash* enables the interpretation to be an integral part of the original statement, revealing the inner meaning of the text by applying the reader's insight, in a similar fashion to rabbinic exegesis of Scripture. It is essentially *negotiated* between the text and the interpreter. Understanding is an event in which both interpreter and text mutually determine one another. This approach is strikingly similar to rabbinical exegetical activity as defined by Halivni himself,[130] through the example of the liturgical statement: "*Vezot Hatorah Asher Sam Moshe Lifney Beney Yisrael*[131] *Al'Pi HaShem beyad Moshe*"—"This is the Torah that Moses set before the Israelites, dictated by God through Moses." The Torah was given by God to the Israelites *through* Moses's interpretation. Likewise interpreters of the text become initiated into the program begun with the interpretation of Moses.

Thus, we see that the school of the Gr"a represents an understanding of the rabbinic interpretive enterprise which is in sharp contrast to Halivni's approach. According to Halivni "the objective of Talmudic exegesis, like any other textual exegesis, is to approximate as closely as possible, the original intention of the author."[132]

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[129]David Weiss Halivni, "Contemporary Methods of the Study of Talmud," *Journal of Jewish Studies* 30, no. 2 (1979): 197.

[130]See page 165 above.

[131]Deuteronomy 4:44.

[132]Halivni, "Contemporary Methods of the Study of Talmud," 192–201.

Contrasting approaches to interpretation can be found throughout the generations,[133] the interesting question is to ponder what the talmudic sages believed about the pursuits of *peshat* and *derash*. In my opinion, it is plausible that both *Amoraim* and the authors of the anonymous discursive stratum (who offered many forced interpretations) believed, much like the school of the Gr"a that the pursuit of *derash* superseded the pursuit of *peshat*. Halivni notes that a similar view was already remarked by Rav Hayya Gaon (939–1038), who advocated "protest against reading something into a text."[134] Rav Hayya wrote: "Know that it was never our way to cover up a thing (a text) and explain it in a manner differently from the intent of the one who said it, as others are wont to do."[135] Interestingly, Rav Hayya himself only noted that it was *his own approach*, to explain the text in accord with the author's intent, but he recognized that others did not agree with him. He further noted that "Evidently there are many *Mishnayiot* which are not upheld in *halakhah*,[136] and we [nonetheless] explain them according to the view of the author."[137] Rav Hayya's personal preference for a pursuit of *peshat* is obvious, but it is clear that he is well aware that his approach is not universally accepted. These diverse approaches to rabbinical interpretation remain operative even in current times.[138]

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[133]Halivni himself acknowledges the existence of these various approaches in rabbinic interpretation. See Halivni, "Contemporary Methods of the Study of Talmud," 192–201. As he pointedly noted, "Perhaps it should be added that no scholar uses a single method all the time. Most likely he will be using a combination of methods."

[134]Halivni, "Contemporary Methods of the Study of Talmud," 197n9a.

[135]Lewin, *Otsar Hageonim: Teshuvot Geoney Bavel Uperushehem al-Pi Seder Hatalmud*, Hagigah 14.

[136]In other words, that the Talmud does not uphold its view as binding.

[137]Lewin, *Otsar Hageonim: Teshuvot Geoney Bavel Uperushehem al-Pi Seder Hatalmud*, 14.

[138]An example regarding interpretation of the Rambam can be cited in the diverse approaches of R. Avraham Yeshayahu Karelitz, the Hazon Ish, and of R. Hayyim Soloveitchik. In his glosses to R. Hayyim's novellae on Maimonides' *Mishneh Torah*, the Hazon Ish comments that at times R. Hayyim offers an interpretation of the *Mishneh Torah* in which Maimonides himself explained it differently to *Hakhmei*

One can appreciate how these two approaches of interpretation affect Halivni's

source critical method based on the *sugya* in b. Gittin 77a-b. The Mishnah reads:

הזורק גט לאשתו והיא בתוך ביתה או בתוך חצרה הרי זו מגורשת

Mishnah: If a man throws a *get*[139] to his wife while she is in her house or
in her courtyard, she is thereby divorced.

The meaning of the Mishnah is clear: the woman must be in her house or courtyard when

the *get* is thrown there by her husband. Therefore, the discussion between the *Amoraim* is

surprising here:

והיא בתוך ביתה: אמר עולא והוא שעומדת בצד ביתה ובצד חצרה רב אושעיא אמר אפילו
היא בטבריא וחצרה בציפורי היא בציפורי וחצרה בטבריא מגורשת והא היא בתוך ביתה
ובתוך חצרה קתני הכי קאמר והיא כמי שבתוך ביתה והיא כמי שבתוך חצרה דכיון דחצר
משתמרת לדעתה היא מתגרשת

"While she is her house": Ulla said: That is so, provided she is standing by
the side of her house or by the side of her courtyard. R. Oshaya [on the
other hand] said: She may even be in Tiberias and her courtyard in
Sepphoris or she may be in Sepphoris and her courtyard in Tiberias; she is
still divorced. [The Talmud then asks how can R. Oshaya say so] but (if) it
[the Mishnah] says: "While she is in her house or in her courtyard?"– [the
answer is that] What it [the Mishnah] means [to say] is, "While she is
virtually in her house or in her courtyard," on account that the courtyard is
being kept [for her] with her knowledge and consent, and therefore she is
divorced.

Halivni questions how Ulla and Rabbi Oshaya could debate where the wife was

located if the Mishnah stated clearly that she was "in her house or courtyard." The fact

that the *Amoraim* debate this point and Rabbi Oshaya even argues that the woman can be

in a completely different venue, together with the forced answer of the Talmud that her

[139]Bill of divorce.

ownership of the property makes it "as if" she is located there, causes Halivni to view this case as a quintessential example of a "forced interpretation," *perush dahuq*. Halivni further ponders the question of why the Talmud seems to be more concerned with R. Oshaya but ignores the problematic interpretation of Ulla. What did Ulla add to the simple meaning of the Mishnah?[140]

Halivni finds the answer to the problem in source criticism. He argues that the Mishnah originally did not include the word "והיא," and simply read "If a man throws a *get* to his wife in her house or courtyard,"[141] as opposed to "his wife *while she is* in her house or in her courtyard." According to the original version the Mishnah did not address where the wife was located at the time of the delivery of the *get*. Therefore, Ulla and R. Oshaya argued exactly this point. Ulla argued that the woman needed to be in close proximity to the courtyard or house while Rabbi Oshaya thought that her ownership of the property was enough and her physical presence was not necessary. However, as time went on the Mishnah was altered, in accord with the interpretation of Ulla, and the *stam ha'talmud* had the reading of the Mishnah which included the word "והיא" which made the amoraic discussion difficult to comprehend. Therefore, without a better solution, the *stam* provided a forced explanation, arguing that Rabbi Oshaya interpreted the Mishnah

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[140]See Halivni, *Meqorot Umesorot: A Source Critical Commentary on Seder Nashim*, 599–600. However, Halivni concedes that perhaps Ulla only had to state his view in order to exclude R. Oshaya's treatment of the Mishnah as *virtually* there, as explained by the Talmud.

[141]Halivni, *Meqorot Umesorot: A Source Critical Commentary on Seder Nashim*, 599–600. Halivni could find no such textual variant in the manuscripts. However, Halivni adduced this textual variant from the text of the Mishnah quoted by some medieval commentators, the *Rishonim*, as R. Menahem Meiri in b. Gittin 77b, R. Shlomo ben Aderet (1235–1310), the Rashba, in b. Qiddushin 23a among others. Halivni later found that Rashi in b. Bava Metzi'a 10b s.v. *qetana* and 11b s.v. *ve'amar* also omits the word when quoting the Mishnah. However, none of these commentators explains the passage like Halivni, and Rashi himself in b. Eruvin 92b s.v. *isha*, when quoting the same Mishnah, does include the word. While his book was in press, however, MS Feldblum's *Diqduqe Sofrim* on b. Gittin (folio 77b) appeared and it recorded a Mishnah MS with precisely Halivni's reading thus omitting the word "and she." See David Goodblatt, "David Weiss Halivni: Meqorot Umesorot Gittin," in *The Formation of the Babylonian Talmud: Studies in the Achievements of Late Nineteenth and Twentieth Century Historical and Literary-Critical Research*, ed. Jacob Neusner (Leiden: Brill, 1970), 172–3.

as the wife having control over her property and therefore being *virtually* present when the *get* was delivered. Source criticism allowed Halivni to explain the argument without a need to resort to forced interpretations and enabled him to differentiate between the original statements and the forms they took on in later transmission. However, Halivni's consideration of the final *sugya* as being problematic is based on his assumption that the sages in the amoraic discussion were interested in understanding and explaining the plain meaning of the text. However, if one assumes, as we discussed above, that according to some of the sages, the dominant approach to interpretation was not to seek the author's intention but rather to *apply* meaning to the text, then it would make sense that earlier texts would be reread in creative ways, in line with the views and teachings of later rabbinic authorities and their judicial decisions. As Leib Moscovitz has argued, while the Mishnah was casuistic, the *Amoraim* became more and more focused on conceptualization and were more interested in abstract concepts. Their interpretations of earlier sources were heavily influenced by it. As he noted, "The analysis of rabbinic conceptualization can also shed light on our understanding of rabbinic exegesis, since one of the principal functions of conceptualization is the interpretation of earlier rabbinic sources. . . . In particular, the study of rabbinic conceptualization may shed light on one of the fundamental questions about rabbinic exegesis: to what extent was such exegesis influenced by atextual considerations (here, conceptual assumptions)?"[142]

In this case, it is clear that although the Mishnah could have been read literally, dictating that the wife was required to be in or in close proximity of her house or courtyard, it would make little conceptual sense. If the house and courtyard belong to the woman and are under her control, why do we require physical presence?[143] Therefore,

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[142]Leib Moscovitz, *Talmudic Reasoning: From Casuistics to Conceptualization* (Tubingen: Mohr Siebeck, 2002), 10.

[143]See Haut, *The Talmud as Law or Literature: An Analysis of David W. Halivni's Meqorot Umesorot*, 45–7. Haut notes a similar interpretation using rules of statutory construction.

Rav Oshaya *reinterpreted* the Mishnah, arguing that as long as the house or courtyard were under her control, she is considered present. This could be the argument between Ulla and Rabbi Oshaya: Ulla argues for a literal understanding of the Mishnah while Rabbi Oshaya argues for a conceptual understanding. The *stam ha'talmud* explains their argument as follows:

לימא בהא קמיפלגי דמר סבר חצר משום ידה אתרבאי ומר סבר חצר משום שליחות אתרבאי לא דכולי עלמא חצר משום ידה איתרבאי מר סבר כידה מה ידה בסמוכה אף חצרה בסמוכה ואידך אי מה ידה בדבוקה אף חצרה בדבוקה אלא כידה מה ידה משתמרת לדעתה אף חצרה המשתמרת לדעתה

May we say that the point at issue between them is this, that the one authority [Ulla] holds that [the rule about] a courtyard is derived from "her hand," and the other from its being regarded as analogous to her agent? — No; both agree that the [rule about] a courtyard is derived from "her hand." One, however, interprets the analogy in the following manner: just as her hand is close to her, so her courtyard must be close to her. And the other? —He will rejoin: Since her hand is attached to her, has her courtyard also to be attached to her? But [you must say] it is like her hand in this sense. Just as her hand is kept for her with her knowledge, so her courtyard must be kept for her with her knowledge.[144]

The explanation provided by the *stam* for the argument is entirely conceptual. A house or courtyard is a virtual extension of the wife's hand. Therefore, their argument centers on how conceptually that extension should work; either as contiguous extension of her persona as held by Ulla or as an extension of her control as sponsored by Rabbi Oshaya. Both of the *Amoraim* agree that the courtyard represents the wife only conceptually not physically. This approach is consistent with the stammaitic attitude towards conceptualization.[145]

Therefore, it is necessary to examine the implications of these diverse approaches before applying Halivni's methodology. According to Halivni, when studying the Talmud

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[144]See b. Gittin 77b.

[145]See Moscovitz, *Talmudic Reasoning : From Casuistics to Conceptualization*, 18. The *stam* explains, links and amplifies amoraic dicta and thus by nature its focus is conceptual.

one must evaluate whether the explanation provided is forced and not satisfactory, and then investigate the reason why that is the case.[146] However, this determination is predicated upon the idea that the author was concerned uniquely with *peshat*. If the author was engaged in applied meaning then it is highly possible that the explanation will appear to us as forced. Only when we can determine the reason the author of the text made a certain argument for explaining a certain difficulty in the text can we begin to explore whether historical circumstances were the cause for the explanation.

Halivni's approach evolved throughout his career and his "paradigm shift" only occurred later. Originally, the analysis of b. Gittin led Halivni to source criticism as a way to explain contradictions and solve textual problems without recourse to forced interpretations. Halivni's first volume of *Meqorot Umesorot* on *Nashim*, addressed these issues by reconstructing the original source and solving the problem which led to the forced interpretation. According to Halivni, the *Amora*'s explanation in the case above was never "forced," it made perfect sense in its original context, which Halivni was able to reconstruct. In other cases, the forced explanations were given by the *Amoraim* themselves in situations where sources were truncated or abbreviated by the time they

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[146]Halivni notes that his approach is entirely a talmudic learning process and it has significant pedagogical and methodological implications. See Halivni, *The Formation of the Babylonian Talmud*, 202. It entails learning a *sugya* in five stages. In the first stage, one should learn the *sugya* with the commentaries of the medieval commentators, the *Rishonim*, as well as with the commentaries of selected *Ahronim* (later commentators from the sixteenth century onwards). In Halivni's view each tractate has its unique *Ahronim* which should be studied. See Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 32; Halivni, *The Formation of the Babylonian Talmud*, 42). In the second stage, the original text of the Mishnah or other text which the *sugya* is based upon should be reviewed in order to evaluate whether the explanation provided by the Talmud is satisfying and whether it fits the text smoothly or is forced. In the third stage, this review is completed and if the interpretation of the source indeed fits the source, then the *sugya* is well understood and not problematic. However, it the interpretation is difficult, then in the fourth stage one must evaluate all of the parallel versions of the *sugya* to see if the source analyzed by the *sugya* is accurate. Finally, in the final stage, if the text is indeed accurate, and yet the explanation provided by the Bavli is forced and not totally satisfactory, one must then investigate the reason why that is the case. One must determine what caused the author of the text to say what he said and to explore whether historical circumstances came to cause the reason for the difficulty. See Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 32–3; Halivni, *The Formation of the Babylonian Talmud*, 42–3.

reached them, or the original sources or contexts had been lost. In these cases the *Amoraim* dealt with the text as best they could given the limited information at their disposal. Only when they were left with no other choice did the *Amoraim* offer forced interpretations to solve difficulties with the text. Halivni's reconstruction of these original sources make sense if we assume that the *Amoraim* were trying to identify the original intention of their sources rather than apply new meaning to them. Reading Halivni's commentary on *Nashim* we can recognize the seeds of a revolutionary new way of thinking about the process of the formation of the Talmud, however, his commentary on *Nashim* mainly concentrates on specific issues in the *sugyot* and does not offer a comprehensive approach to the editing of the Talmud. As Rubenstein writes: "At this time Halivni had not yet realized the implications of this theory regarding the formation and editing of the Talmud as a whole, and he rarely addressed these larger topics."[147]

The *Stammaim*

Halivni first explicitly addresses the "paradigm shift" in his scholarship in his Introduction to the second volume of *Meqorot Umesorot* on the shorter tractates of *Mo'ed* (from *Yoma* until Hagigah). In the process of searching for reasons for problems in the transmission which led to "forced interpretations," Halivni came to the realization that the anonymous discursive stratum, *stama d'gemara*, was not contemporaneous with the amoraic stratum, and in fact postdated it. Halivni noted: "Thus we must see the Talmud as a composite work of two distinctive books: The Amoraic Book and the Book of the *stam*, distinguished by genre, approach and history."[148] This "paradigm shift," led him to reject the traditional understanding that the two layers of the Talmud were

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[147]Halivni, *The Formation of the Babylonian Talmud*, xxi.

[148]Halivni, *Meqorot Umesorot Leseder Mo'ed from Yoma Until Hagiga*, 7–8.

contemporaneous and that attribution or lack thereof only indicated whether the material could be attributed to an individual or to the entire academy. The traditional view, assumed that the anonymous material represented the consensus of the academy, similar to the anonymous portions of the Mishnah.[149] Halivni observed that the anonymous discursive stratum, *stama d'gemara*, differed from attributed amoraic statements not only in lack of attribution but primarily by the terminology used, genre and perspective. While attributed amoraic dicta were terse and definitive (or as Halivni termed them "Apodictic",[150] the anonymous interpretative stratum was verbose, explanatory and contains the vast majority of talmudic dialectical argumentation. Similar ideas about the *stam* had already been proposed by certain earlier rabbinical authorities, but not in a systematic way and it clearly did not represent scholarly consensus.[151]

Halivni coined a new term for these late sages calling them *Stammaim*. Halivni claimed that the *Stammaim* sought to explicate the amoraic traditions they received, and thus, at times such explanations were forced, since they tried to make sense of traditions from the distant past. Remarkably, the anonymous portion of the Talmud amounts to

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[149]See Halivni, *The Formation of the Babylonian Talmud*, 25.

[150]Halivni borrowed the term from biblical studies. See Halivni, *The Formation of the Babylonian Talmud*, xxi.

[151]For instance, R. Yair Hayyim Bacharach (1639–1702), notes in his responsa *Havvot Yair*, that the genre of the *stam* is different in that it discusses and expands upon views of sages whose views were not adopted in *halakha*, while attributed amoraic statements do not. Any time an *Amora* elaborates upon an earlier view, it is *prima facie* evidence that he holds by that view. In his opinion *halakha* would therefore follow it. Otherwise, why should he bother explaining a discarded view. See b. Shabbat 112a. However, the *stam* elaborates upon views of earlier authorities despite the fact that those views are not regarded as *halakhah*. See Jair Hayyim ben Moses Samson Bacharach, *She'elot Uteshuvot Havot Yair*. (Lemberg: [S.n.], 1894), 50 (Responsa 94 s.v. batosafot). R. Malakhi Hakohen (ca. 1695–before 1790), in his methodological work *Yad Malakhi*, argues with this proposition and he believes that amoraic statements and the *stam* are of the same genre and approach. As he noted, "What is the difference between an *Amora* providing an explanation of the words of another *Amora* and the *stama d'gemara*? Isn't the *stama d'gemara* also amoraic?" See Hakohen, *Yad Malakhi*, 284.

more than half of the finished work! Rubenstein writes: "No longer should the Talmud be attributed to the final Amoraim, the last named sages in the Talmud, but to anonymous authors-editors who postdated the Amoraic age."[152] With the coining of this new term Halivni had created an entire new era in the process of the formation of the Talmud.[153] As will be explained ahead, Halivni's finding unlike source criticism, is not completely dependent upon his emphasis on scholarship *ki'peshuto*.

Over the years Halivni continued to sharpen and develop his theory, arguing for the extension of the period of the *Stammaim* and delaying the conclusion of the Talmud later than the traditional date, which most scholars placed at the beginning of the 6th century. Initially, Halivni believed the stammaitic activity began around Rav Ashi's death in 422/6[154] and spanned until the beginning of the saboraic era in 501 or 520 CE.[155] This dating reflects Halivni's acceptance of the chronology of the amoraic and saboraic eras in the Epistle, and his uncertainty regarding the date of the saboraic period reflects the question of which Rav Ashi and Ravina were intended in b. Bava Metzi'a 86a.[156] Halivni accepted the talmudic dictum in b. Bava Metzi'a 86a, "Rav Ashi and Ravina—End of

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[152]Halivni, *The Formation of the Babylonian Talmud*, xxii.

[153]Shamma Friedman also independently developed a similar theory that the *stam* postdates the amoraic stratum. See pp. 21 and 286 for a further analysis of his theory.

[154]The date of his death is unclear as there are contradictions among various sources. See Isaac Halevy, *Dorot Harishonim*, III:10; Hanina, *Iggeret Rav Sherira Gaon*, 94. See chapter one note 368 above. Halivni notes a date of ca. 430 CE.

[155]This according to the traditional dating of the saboraic era. See: Halivni, *Meqorot Umesorot Leseder Mo'ed from Yoma Until Hagiga*, 7. Halevy, however, anticipates the saboraic era to 475 when in his view Ravina bar Huna passed away. See page 116 above. See Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 2 and note 3. Halivni in Halivni, *Midrash, Mishnah, and Gemara: The Jewish Predilection for Justified Law*, 76 noted the beginning of their era as 520, the year that R. Yose died. See pp. 127 above.

[156]Halivni, *Midrash, Mishnah, and Gemara: The Jewish Predilection for Justified Law*, 76n1.

hora'ah," as a historic axiom. Halivni believed that the term *hora'ah* did not mean the Talmud as traditionally interpreted,[157] but apodictic statements. Thus, following the death of Rav Ashi and Ravina[158] the use of apodictic statements was severely curtailed.[159]

As Halivni's work progressed he argued that the stammaitic era should be extended. This position stemmed from his understanding of the immensity of the project and his growing comfort with contradicting the historical account of the Epistle and willingness for a more liberal interpretation of the statement in b. Bava Metzi'a 86a. As Rubenstein writes: "The controversy over this dating derives in large part from what I call the 'tyranny' of a brief talmudic tradition found in BM 86a: 'Rav Ashi and Ravina—End of *hora'ah*.' "[160] Halivni came to interpret the passage far more creatively, freeing himself from its constraints. Initially Halivni understood the passage not as historic truth but "rather the adulation of a student who thought that the death of his celebrated master brought an end to *hora'ah*."[161] His approach to this passage however has evolved over time and he has attempted to reconcile it with his theory. His original hypothesis was that *hora'ah* did not mean the Talmud but rather apodictic statements or legislation.[162] It however did not fully capture the term *hora'ah* linguistically, i.e. it did not fully capture

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[157]See Rashi s.v. *sof*.

[158]See b. Bava Metzi'a 86a. Florence II-I-8 and Hamburg 165 have the order of the names reversed, Ravina and then Rav Ashi.

[159]See Halivni, *Meqorot Umesorot Leseder Mo'ed from Yoma Until Hagiga*, 6n10.

[160]Halivni, *The Formation of the Babylonian Talmud*, xxv.

[161]Halivni, *The Formation of the Babylonian Talmud*, 4. Halivni postulates that the student might have been Rav Aha b. Rava. See Halivni, *The Formation of the Babylonian Talmud*, 4n4.

[162]In his view post Rav Ashi and Ravina amoraic dicta was not anymore preceded by the term *itmar* ("it was said").

the meaning of what is meant by "the end of *hora'ah*."[163] Halivni now postulates that

perhaps the phrase comes to indicate the end of transmission of legislation by the reciters.

As noted by Halivni, "the end of legislation means the end of *transmission* of

legislation."[164] He surmises that in their days they stopped transmitting fixed laws to the

reciters, but instead the sages themselves transmitted them and integrated them with

dialectical argumentation.[165] It is clear that although he has been freed from the tyranny of

the passage, Halivni still struggles with it and would like to work out an interpretation

which is consistent with his theories about the redaction of the Talmud.

In his introduction to *Meqorot Umesorot* on b. Bava Metzi'a[166] Halivni further

delayed the era of the *Stammaim* and postulated that it postdated any of the named sages

in the Talmud; the latest named sage is Rav Revai of Rov who passed away about 560

CE[167] and is mentioned in b. Sanhedrin 43a according to some versions.[168] Halivni

assumed that since Rav Revai of Rov lived a long life[169] and was perhaps a transitional

figure, the quotation in the Talmud represents a tradition in his younger years. Later he

would have become one of the first *Stammaim*.[170] Therefore, the era of the *Stammaim*

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[163]Halivni, *The Formation of the Babylonian Talmud*, 200.

[164]Halivni, *The Formation of the Babylonian Talmud*, 200.

[165]Halivni, *The Formation of the Babylonian Talmud*, 202. Halivni notes that indeed Rav Ashi and Ravina are the last *Amoraim* of whom it is stated: "The Reciter repeated before Rabbi so-and-so' (*tanei tanna qameih*)."

[166]Halivni, *Meqorot Umesorot: Tractate Bava Metzia*, 11–3; Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 2–3.

[167]See pp. 136 above.

[168]See R. Ḥananel ben Ḥushiel (990–1053) commentary to b. Sanhedrin 43a. See also Hanina, *Iggeret Rav Sherira Gaon*, 70–1.

[169]Hanina, *Iggeret Rav Sherira Gaon*, 71.

[170]Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 3n5; Halivni, *The Formation of the Babylonian Talmud*, 4n5.

only began in the middle of the sixth century (approximately in 550 CE)[171] and extended

until ca. 600 CE. According to Halivni's model, the *Stammaim* could not have functioned

during the amoraic era, which he understood to encompass all of the sages named in the

Talmud, as their activities were entirely diverse and part of a new era.[172] As he noted, "A

new era starts only after [the previous one] disappears."[173] Halivni's amoraic era thus

extends well beyond the traditional view represented in the Epistle of 499/500,[174] and

identifies as *Amoraim* all of the later sages who R. Sherira[175] and the traditional

sources[176] identified as the early *Saboraim*. Furthermore, the *Saboraim* listed by R.

Sherira, who predated Rav Revai of Rov,[177] but were not quoted by name in the Talmud,

are not deemed to be either *Amoraim* or *Saboraim* by Halivni. Therefore, sages like Rav

Eina and Rav Simona cannot be identified as *Amoraim* since their statements are not

quoted in the amoraic stratum of the Talmud and they cannot be identified as *Stammaim*

since the anonymous stratum was not composed until after the completion of the amoraic

period. According to Halivni, all of the sages listed on the Epistle who lived in this

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[171]This delay of the beginning of the stammaitic era also provides Halivni with an ideal setting for understanding the activities of the *Stammaim*. The dwindling in the number of the *Amoraim* in the earlier part of the sixth century and their limited participation in the Talmud indicates a lull and interruption in learning that would prompt the *Stammaim* into reconstructing and preserving the amoraic argumentation which was in danger of being forgotten.

[172]Halivni, *Meqorot Umesorot: Tractate Bava Metzia*, 12–3.

[173]Halivni, *Meqorot Umesorot: Tractate Bava Metzia*, 12.

[174]475 according to Halevy.

[175]See Hanina, *Iggeret Rav Sherira Gaon*, 97–9.

[176]See Ibn Daud, *The Book of Tradition (Sefer Haqabbalah)*, 33.

[177]These would include Rav Eina head of Sura and Rav Simona head of Pumbedita. Hanina, *Iggeret Rav Sherira Gaon*, 99.

transitional period[178] and are not mentioned by name did not contribute anything to the Talmud.[179] Halivni's theory is quite radical, since he reduces their role, contradicting the Epistle which argues that they made a significant contribution to the Talmud. With this revision of his theory, Halivni broke completely away from the Epistle's account. At the same time, Halivni also disagreed with R. Sherira's chronology of the *Saboraim*, since in his view they followed the *Stammaim* and therefore their activity could only have begun in the seventh century and lasted for approximately 150 years.[180] The *Saboraim* had the Talmud in its entirety and only were responsible for glossing the text and for minor additions.[181]

Halivni proposed that after Rav Ashi's death the number of *Amoraim* began to dwindle until the era came to a close approximately 100 years later when the *Stammaim* began their activity. According to Halivni the *Amoraim* only transmitted legal rulings but did not include in the concise traditions they passed on to their students the reasoning behind their decisions. Since the traditions of the *Amoraim* were not collected into a compendium which could have been closed and canonized in order to indicate the end of their era, the conclusion of their era was achieved only by adding to the concise legal

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[178]The early *Saboraim* noted by the Epistle include: Rabana Sama brei de Rabna Yehuday, Rav Ahay, Rav Rehumy, Rav Shemuel bar Yehudah, Ravina bar Amotzia, Rav Huna the Exilarch, Rav Ahai brei de Rabba bar Avuha, Rav Tahna and Mar Zutra. See Hanina, *Iggeret Rav Sherira Gaon*, 97–9.

[179]Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 4. In Halivni's opinion, their role was similar to those sages mentioned by R. Sherira in the Epistle in the amoraic era and who are rarely mentioned by name in the Talmud like Rav Geviha me'bei Katil and Rav Rehumy (the second). See Halivni, *Meqorot Umesorot Leseder Mo'ed from Yoma Until Hagiga*, 7n11; Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 4

[180]Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 7; Halivni, *The Formation of the Babylonian Talmud*, 9.

[181]Halivni, *Meqorot Umesorot: Tractate Bava Metzia*, 13–4.

traditions the dialectical discussions which had not been transmitted with their statements.[182]

Through a masterful literary analysis of the anonymous stratum Halivni was able to demonstrate its structural difference from amoraic traditions. His revolutionary theory positing the existence of a hitherto completely unknown category of sages, the *Stammaim*, and his assertion that their dialectic argumentation was not officially transmitted during the amoraic period was based on a number of arguments:

1. There are many more forced explanations in the anonymous stratum than in the amoraic stratum. According to Halivni this is a result of the truncated traditions that reached the *Stammaim* and the fact that they worked long after the majority of the *Amoraim* flourished.

2. If the *Stammaim* were contemporaries of the *Amoraim* they would have had clear traditions on the interpretations of amoraic material. While it is clear that *Amoraim* communicated with each other, this is not the case with the anonymous material.

3. The vast majority of questions before amoraic material are anonymous. Moreover, in many instances it can be proven that the statement of the *Amora* did not come in reaction to the question posed.[183] Halivni believes that the reason for both of these phenomena is that questions were not officially transmitted during the amoraic period and only remained in fragmentary form

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[182]Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 4; Halivni, *The Formation of the Babylonian Talmud*, 5.

[183]Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 10–1; Halivni, *The Formation of the Babylonian Talmud*, 12–3. As an example, see b. Yevamot 20a/b. See Halivni, *Meqorot Umesorot: A Source Critical Commentary on Seder Nashim*, 30–1. Halivni explains that the *stam* was not being deceitful as it made clear that the question was not asked by the *Amora*.

in the collective memory of certain members of the academy. They were only transmitted by the *Stammaim*.

4. Much of the terminology,[184] structure,[185] rhetorical approach, and discursive language of the *stam* are all unique and not found in the amoraic stratum.[186] According to Halivni's theory this unique terminology and style is a result of the fact that the *stam* represents the latest stratum of the Talmud. It should be noted that Halivni acknowledges that the unique style of the anonymous stratum could be a function of the differing role of the transmitters of discursive reasoning who could have been contemporary with the *Amoraim* but employed a different formulation due to its different genre. However, according to Halivni this does not sufficiently explain the extent of the differences;[187] In his view, "Perhaps the strongest argument that the Stammaim were not contemporaries of the Amoraim is their distinctive language. Often we find that the Stammaim employ terms and expressions rarely found among Amoraim."[188]

5. The exegetical agenda and approach of the anonymous stratum differs vastly from that of the *Amoraim*. Despite the fact that *Amoraim* were comfortable in

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[184]Several terms are characteristic of the *stam* and are not employed by *Amoraim*. See Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 15; Halivni, *The Formation of the Babylonian Talmud*, 18.

[185]As Halivni notes questions are organized by strength of arguments and not by chronological order or by the order of the Mishnah or *beraita*. See Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 15; Halivni, *The Formation of the Babylonian Talmud*, 18–9.

[186]Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 15; Halivni, *The Formation of the Babylonian Talmud*, 16.

[187]Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 15. Halivni, *The Formation of the Babylonian Talmud*, 19.

[188]Halivni, *The Formation of the Babylonian Talmud*, 18.

discarding the rulings of the Mishnah by attributing it to a minority position, the *stam* will go out of its way to emend the text of Mishnah so that it matches the final *halakhic* ruling, in order not to attribute it to a minority position.[189]

6. In Halivni's view, the work of the *Stammaim* did not include any *aggadic* material. The vast majority of *aggadic* material dealing with non legalistic exegetical texts or homiletics, as opposed to metaphysics, history and longer stories, are attributed and not anonymous. It is evident that their project was aimed in preserving *halakhic* dialectics but did not extend to non legal material.[190] As the *Amoraim* clearly focused on *aggadic* material in addition to *halakhic* rulings, if the *Stammaim* were their contemporaries why did their project differ so much from the amoraic work? However, this argument is quite weak as Halivni's contention has been challenged by recent scholarship. J. Rubenstein for instance has demonstrated that the *Stammaim* did make substantive contributions to the *aggadic* portion of the Talmud.[191]

7. According to Halivni the tentative language of the *stam*, in contrast to the definitive statements of the *Amoraim*, indicates that they were late and the traditions they received did not include a conclusive interpretation. Halivni cites this as further evidence that while the amoraic statements were preserved

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[189]For examples see b. Berakhot 15b and b. Megillah 18b. See Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 16; Halivni, *The Formation of the Babylonian Talmud*, 19–20. Halivni concedes that *Amoraim* also emended the text of the Mishnah, but in his opinion it was done only to obtain the simple and original meaning of the author rather than to allow the Mishnah to follow their halakhic ruling. However, Halivni himself noted several contradictions to his assertion like b. Bava Qamma 14a and 16a.

[190]In a similar fashion to both the Mishnah and Tosefta which also did not preserve them. See Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 17–8; Halivni, *The Formation of the Babylonian Talmud*, 22–3.

[191]See Jeffrey L. Rubenstein, *Talmudic Stories: Narrative, Art, Composition and Culture* (Baltimore & London: The Johns Hopkins University Press, 1999). See also literature cited on Halivni, *The Formation of the Babylonian Talmud*, TN:I.23.

and transmitted, the dialectical interpretations and debates were not. They had to be reconstructed by the *Stammaim* who lived many years later and did not represent a conclusive interpretation of the amoraic material.[192]

Based on three talmudic passages Halivni argues that during the amoraic period we can show awareness of two channels of transmission; one was the official channel of transmission which included legal rulings of the *Amoraim* and the second an unofficial channel, included informal dialectical argumentation. The latter was less authoritative than the official rulings and did not always survive. When these discursive traditions found their way to the *Stammaim*, Halivni calls them *seridim*. Halivni writes that there is "incontrovertible evidence against the traditional view and as support for my claim, and which demonstrate that the Talmud itself was aware of the late provenance of dialectical argumentation."[193]

(1) b. Bava Qamma 110b: The *sugya* distinguishes between two versions of a tradition of Rava. One tradition is formulated as a question followed by Rava's resolution while a second tradition, attributed to Rav Aha bar Rava taught Rava's tradition "explicitly"(*behedya*). The obvious question is: what is the difference between these two versions? Halivni formulates it as follows: "Is a question, followed by 'he subsequently resolved it' less 'explicit' or less clear than a dictum, as found in Rav Aha bar Rava's formulation?"[194] Halivni believes these two versions relate to the form of transmission of Rava's dictum. According to Rav Aha bar Rava, the dictum attributed to Rava was transmitted as a fixed ruling and was passed down by the reciters. Fixed rulings are called *behedya*, explicit, because they consist of the exact literary tradition of the *Amora*.

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[192]Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 18–9; Halivni, *The Formation of the Babylonian Talmud*, 23–4.

[193]Halivni, *The Formation of the Babylonian Talmud*, 145.

[194]Halivni, *The Formation of the Babylonian Talmud*, 147.

Dialectical argumentation, on the other hand, does not have the same level of reliability since it was not officially transmitted and it survived in certain cases in the audience's memory.

(2) b. Eruvin 32b: This passage is quoted by R. Sherira as evidence of a talmudic text transmitted by the *Amoraim*. The Talmud quotes a question posed by Rav Hiyya b. Abba, R. Asi and Rava b. Natan to Rav Nahman: "Did you fix it [the explanation of that Mishnah] in the *Gemara*?" Rav Nahman then responds: "Yes." The Talmud brings a proof, introduced by the term "It was also stated," quoting "Rav Nahman in the name of Samuel," that he did explain the Mishnah this way: "Rav Nahman said that Shmuel said: Here [in the Mishnah] we are dealing with a tree that stands in the public domain. . . ." Halivni understands from the Talmud's proof to Rav Nahman's reply, quoting the dictum of Rav Nahman as an explanation to the Mishnah while omitting the dialectical argumentation, that *gemara* in the eyes of the *Amoraim* only included fixed laws and brief explanations to the Mishnah and not dialectical argumentation. Thus, according to Halivni "when the Talmud brings proof in support of Rav Nahman that the explanation was indeed fixed in the *gemara*, it brings only a condensed explanation and completely neglects to bring the accompanying dialectical argumentation."[195] In Halivni's opinion, this is because only legal rulings and short explanations were transmitted by the reciters during amoraic times, akin to the tannaitic era, while dialectical argumentation was not officially transmitted.

(3) In several passages the *Amoraim* asked about the provenance of amoraic rulings, "Did you learn this explicitly or on the basis of an inference,"[196] questioning whether the ruling was heard through the official channel of transmission, the reciters, or it was only through an inference. Therefore, it is clear that the *Amoraim* differentiated

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[195]Halivni, *The Formation of the Babylonian Talmud*, 148.

[196]See b. Shabbat 39b, b. Eruvin 46a, b. Yevamot 60b and b. Gittin 39b.

between the canonicity and authority of legal rulings officially transmitted by the reciters in contrast to the dialectic material. Halivni notes that the *Stammaim* often ask about the *Amora's* position: "And if it was through an inference—what does that matter?"[197] This type of question is only found in the stammaitic stratum but not among the *Amoraim*. Halivni believes that the reason for the dichotomy is the fact that the *Stammaim* routinely derived laws from inferences; therefore they did not believe there should be a difference between inferences and explicit rulings. The *Amoraim*, on the other hand, did differentiate between the explicit rulings officially transmitted through the reciters and inferences and dialectical argumentation which was not preserved. These passages are proof for the change in the nature of transmission between the amoraic and stammaitic periods only if one endorses Halivni's interpretation for the reason of such questions as only being posed by the *Stammaim*. An alternative answer is that such questions are only posed in the anonymous discursive stratum, because it is a form of dialectical argumentation attempting to understand the theory behind the law. Thus, Halivni's reasoning is quite circular since he also agrees that dialectical argumentation is always anonymous even in cases where the *Amoraim* themselves dealt with the issues. Therefore it is quite plausible that these questions were posed by the *Amoraim* themselves but are part of the anonymous discursive stratum preserved from amoraic times.

The first two passages cited above, b. Bava Qamma 110b and b. Eruvin 32b, are only evidence against the Epistle's account of transmission of amoraic material because in Halivni's view R. Sherira believed that dialectical argumentation was transmitted during amoraic times through the same channels as the legal rulings. Halivni bases his understanding on the following passage of the Epistle:

> Along came the next generation and the heart became diminished, and
> matters which had been clear to the earlier sages and had been simply

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[197]See b. Berakhot 12a, b. Shabbat 40a, b. Hullin 94a. Halivni notes that the *Stammaim* did not always pose this question; only when they had an answer. See Halivni, *The Formation of the Babylonian Talmud*, 148.

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explained to the students, with no need to recite them and establish them in the *gemara*; now, in this generation these matters became subject to doubt and they had to establish them in the *gemara* and in the *girsa*.[198] They [therefore] presented them before the *metivta* and established them in the *gemara*, and the Rabbis studied them. As said [in the discussion] concerning an *eruv*[199] that was deposited on a tree. . . . "Did you fix it [the explanation to that Mishnah] in the *gemara*?"[200]

Halivni understands that R. Sherira is arguing that in the amoraic era they transmitted the justifications for rulings, including dialectical argumentation, in the same form of transmission as amoraic dicta, by preserving it in the *gemara*. As he writes: "One can accept or reject this position, but there is no denying that Sherira Gaon makes this claim."[201] However, Halivni's claim is not obvious from the text. It is quite plausible that R. Sherira in this passage refers only to amoraic explanations of the Mishnah and not to dialectical argumentation. Alternatively, as will be explained below,[202] it follows from the Spanish version of the Epistle,[203] that there were two separate channels of transmission which he calls *gemara* and *girsa*. Thus, although dialectical argumentation was

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[198]The meaning of the word *girsa* is quite ambiguous. N. D. Rabinowitz translates it as "with an exact wording." See Sherira ben Hanina, *The Iggeres of Rav Sherira Gaon*, translated and annotated by Nosson Dovid Rabinowich (Jerusalem: Rabbi Jacob Joseph School Press, 1988), 73. His translation however is problematic since the root *grs* has nothing to do with exact wording but instead relates to oral recitation and learning, as noted in the Epistle (and notably also translated by Rabinowich as such). See Hanina, *Iggeret Rav Sherira Gaon*, 18; Hanina, *The Iggeres of Rav Sherira Gaon*, 14.

[199]The discussion in the Talmud addresses an *eruv hatzerot*—which allows objects to be carried in a wider radius on the Sabbath.

[200]Hanina, *Iggeret Rav Sherira Gaon*, 62–3.

[201]Halivni, *The Formation of the Babylonian Talmud*, 200.

[202]See pp. 288 below.

[203]The text above is from the Spanish version of the Epistle. The French version is less explicit on the subject and it reads as follows: "Along came the next generation and the heart became diminished, and the matters which had been clear to the earlier sages and had been simply explained to the students, with no need to recite them and establish them in the *gemara*; now, they saw that these matters became subject to doubt and they had to establish them in the *girsa*. They [therefore] presented them before the *metivta* and established them in the *gemara*, and the rabbis recited them. As said [in the discussion] concerning an *eruv* that was deposited on a tree. . . . Did you fix it [the explanation to that Mishnah] in the *gemara*?" The French version thus appears to conflate both terms. See Hanina, *Iggeret Rav Sherira Gaon*, 62–3.

preserved, its channel of transmission was fluid and not subject to a fixed text like the *gemara*. The first two passages above provide evidence that only legal apodictic rulings were transmitted in the *gemara* and that in the eyes of the *Amoraim* they were more reliable than dialectical argumentation. There is no evidence that dialectical argumentation was not transmitted at all during amoraic times and only remained in the memory of the students and reconstructed by the *Stammaim*. It is quite plausible that although not part of the *gemara*, and not as reliable as apodictic statements, dialectical argumentation was indeed transmitted through an alternative channel. As we will explain in detail, this alternative channel was called by R. Sherira *girsa*.

Halivni's theories regarding the significance of the separation between amoraic statements and the *stam*, as representing different authors separated by centuries with vastly different approaches, has become foundational in modern critical Talmud study. According to Halivni it is imperative to first determine the original apodictic amoraic statement which the *Stammaim* received through the official channel of transmission and then analyze and evaluate the interpretation which was reconstructed by them.

Halivni's distinction between the two strata is significant and well-documented and clearly has provided a revolutionary understanding of how the Talmud was composed. However, his understanding of the nature of the distinctive nature of the *stam* and of its chronology is a radical departure from the traditional view and worthy of review. Halivni's literary acumen dictates his historical construct, and at times this weakens his argument. Halivni's evidence must be evaluated in detail in order to appreciate the strength of his historical postulations. When analyzing his theory one must ask if there can be a more subtle approach to solve the literary issue raised without the need to resort to his radical historical construct. Both his chronology of the events as well as his contention of the lack of transmission of the dialectical argumentation during amoraic time and the reconstructive work of the Stammaim are radical departures of the

traditional account and thus need to be critically evaluated against any other possible
theory.

Halivni's first proof for the late chronology of the activity of the *Stammaim* is
based upon his predilection for scholarship *ki'peshuto*. Only if one is bothered by forced
explanations and assumes that the rabbis were interested in searching for the plain
meaning of the text and the original intent of its authors does the quantity and extent of
forced explanations indicate activity in a later period. As we noted earlier, this contention
is not obvious and not universally accepted. On the contrary, forced explanations could
indicate the predilection for applied meaning to the text, that *derash* was the preferred
method and not *peshat*. As will be explained in chapter three, a functional distinction
between the two strata by applying form criticism can successfully address all of these
evidence without the need for a radical historical construct which contradicts early
rabbinical sources as R. Sherira's Epistle.

Halivni's understanding of the dating and nature of the activity of the *Stammaim*
and the role of the *Saboraim* continues to evolve. While his literary theory of the
uniqueness of the *stam* is firmly established, his historical account of the formation of the
Talmud is constantly under review. In his latest volume on his studies in the formation of
the Talmud, a collection of his introductions to *Meqorot Umesorot*, Halivni extends the
stammaitic era to the mid 8th century and posits that the saboraic era was the last part of
the stammaitic era, spanning from the second third of the 8th century until the time when
the *Geonim* began to compose independent works.[204] According to his latest
understanding, the stammaitic period is thus much longer than in his early assumption.
Halivni now believes the period spans more than 150 years—from ca. 550 to ca. 730.
Such an extended stammaitic era has caused Halivni to argue for a smaller and shorter

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[204]Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 7–8.

contribution of *Saboraim*. Halivni believes the *Saboraim* worked during approximately 40 years (less than a third of his original assumption)—from ca. 730 to ca. 770—when sages ceased to add their comments to the Talmud itself and began to compose independent works. Halivni argues that the *Saboraim* were the same sages who composed the earliest post-talmudic works: including the *Sheiltot* (of R. Ahai of Sabha), and *Halakhot Gedolot* (of R. Simeon Kayyara). These sages added minimal comments to the Talmud itself; however, because they sought to circulate their own interpretations in detail, in conjunction with their legal rulings, they decided to compose independent works which could not be incorporated in the Talmud.[205] Furthermore, in his view there were not two discrete periods, the era of the *Stammaim* and the era of the *Saboraim*, but rather one period only, that of the *Stammaim*.[206] Thus, Halivni has further sharpened his deviation from the Epistle's account by expanding the hitherto unknown stammaitic era to over one hundred and fifty years and by delaying the saboraic era by over two hundred years from the traditional chronology and by shortening their era dramatically. This makes Halivn's current historical account more perplexing[207] since it delays the

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[205]Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 8. Halivni notes that his assumption explains why those works quote saboraic ideas without quoting the name of their authors; they themselves were the authors. It also validates the view of R. Samuel ben Meir (Troyes, c. 1085–c. 1158), the Rashbam, who believed that Rav Ahai mentioned in the Talmud was none other than the 8th century Gaon R. Ahai of Sabha author of the *Sheiltot* whom he calls a *Sabora*. See Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 8n25. Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 8.

[206]See Halivni, *The Formation of the Babylonian Talmud*, 7.

[207]Despite the difficulty with his historical account, Halivni posits that the *Stammaim* were a group of real sages and not merely literary functions. As noted by S. Dolgopolski, "Despite the tension between his literary approach to the Talmud and the problematics of historical-chronological time, Halivni insists on embracing history and chronology." See Sergey Dolgopolski, *The Open Past: Subjectivity and Remembering in the Talmud* (New York: Fordham University Press, 2013), 238. Dolgopolski applies film theory to provide an alternative to Halivni's historical-chronological approach. In his opinion, the *Stammaim* were part of the functional "montage" of the Talmud and not of its diegetic time. See Dolgopolski, *The Open Past: Subjectivity and Remembering in the Talmud*, 218–46. In chapter three I propose a historical theory of transmission that provides for a plausible historical construct for Halivni's *Stammaim*.

completion of the Talmud to the end of the eighth century, within two hundred years of the Epistle![208]

In summary, Halivni's account of the formation of the Talmud differs from R. Sherira's account, as he understands it, as follows:[209]

- R. Sherira thought that the anonymous statements of the Talmud are explanations of amoraic dicta and are coterminous with the *Amoraim* upon whom those traditions are predicated. The dialectical argumentation is anonymous because it reflects the consensus of all sages, much like the anonymous dicta of the Mishnah. In his view, both legal rulings and the accompanying dialectical argumentation were officially preserved and transmitted for posterity. However, according to Halivni the *Stammaim* were the authors of the anonymous statements and they were not contemporaries of the *Amoraim*, but lived long after them. Their work was a reconstruction of the dialectical argumentation of the *Amoraim* which had not officially been preserved and transmitted by the reciters, and were only preserved in a fragmentary for in the memory of the students. Their material was not attributed in order not to conflate their words with amoraic statements and to emphasize the difference between amoraic tradition, which consisted mainly of dicta and fixed laws preserved and transmitted in official form, versus stammaitic tradition which was predominantly dialectic argumentation.

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[208]R. Sherira wrote his Epistle in the year 1298 of the Seleucid era (986/7 CE). The dating is contained in the heading of the Epistle in various manuscripts (one has the date as 1299 instead). See Hanina, *Iggeret Rav Sherira Gaon*, 4 and note 5. See also Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 20 and note 4.

[209]See Halivni, *The Formation of the Babylonian Talmud*, 25–9; Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 20–3.

- According to the chronology of Rav Sherira the conclusion of the amoraic period is approximately in the year 500 CE[210] when the Talmud was completed, including the dialectical argumentation. The only later additions were brief explanations of the *Saboraim* who lived shortly after the *Amoraim*. In contrast, Halivni argues that the vast majority of the Talmud, consisting mainly of anonymous dialectical argumentation, was composed during the period of the *Stammaim* which extended for at least for 200 years, from the last named *Amora*—R. Revai of Rov in mid 6th century[211]—until the *Geonim*, like Rav Yehudai Gaon in the second half of the 8th century, who composed independent works.

- According to R. Sherira dialectic argumentation was transmitted throughout the amoraic period in an official manner and edited at the end (or near the end) by Ravina and Rav Ashi. In contrast, Halivni believes there was no general editing of the dialectical argumentation, not even at the end of the stammaitic period. Thus at the end of the stammaitic period traditions which were neither reworked nor reconstructed were incorporated into the Talmud by the later *Stammaim*, the compilers. This lack of editing accounts for the various contradictions and breaks in the talmudic corpus.

There are several other differences between Halivni's understanding and the account found in R. Sherira's Epistle which are not stressed by Halivni. According to the Epistle the later sages, including those who came after the second Ravina in the sixth century, are considered by R. Sherira to be *Saboraim* while to Halivni they are *Amoraim*.

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[210]475 according to Halevy.

[211]Or from the second Ravina at the beginning of the 6th century. See Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 3; Halivni, *The Formation of the Babylonian Talmud*, 25.

Furthermore the saboraic era according to R. Sherira starts in the beginning of the sixth century, while to Halivni they are the later *Stammaim* in the second half of the eighth century.

Although Halivni presents R. Sherira's account as contradicting his position in the points noted above, a more nuanced reading of the Epistle may actually indicate otherwise. His first assertion, that R. Sherira believes that the dialectical argumentation is anonymous because it reflects the consensus of all sages, in a fashion similar to the anonymous dicta of the Mishnah, is predicated upon the following two passages of the Epistle:

I. The French version states: "If all the Rabbis heard a teaching and taught it at the same time, with no one who heard it first,[212] the teaching is stated anonymously without saying 'Rabbi so-and-so said.' [However] if somebody heard it first, it is cited in his name: 'Rabbi so-and-so said.'"[213] It is however ambiguous if R. Sherira refers to all anonymous statements, including the anonymous stratum—the dialectical argumentation—or perhaps he refers only to the legal rulings and apodictic interpretations which are anonymous. Halivni clearly chose the former interpretation probably influenced by Halevy's approach.[214] The Spanish version however clearly demonstrates the opposite as it reads: "If all the Rabbis heard a teaching and taught it at the same time, with no one [saying it] first, the teaching is cited anonymously, for example when it says: 'They said.'"[215] It is thus limited to those instances where anonymous statements or

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[212]B.M. Lewin notes that some manuscripts have it as: "no one who said it first." See Hanina, *Iggeret Rav Sherira Gaon*, 64nB.

[213]Hanina, *Iggeret Rav Sherira Gaon*, 64.

[214]Halevy was the first true talmudist to interpret the Epistle and he heavily influenced his disciple, B. M. Lewin.

[215]Hanina, *Iggeret Rav Sherira Gaon*, 64.

interpretations are introduced by: "They said"[216] but not the anonymous discursive stratum.

II. "When all the scholars say one thing it is stated *kedi*."[217] As the word *kedi* is derived from the Aramaic root *kd hi*, lit. as is, it comes to mean simply.[218] Halivni takes the passage to mean that when all sages agreed it was stated simply, meaning anonymously. However this passage might have a completely different meaning and is limited to those instances in which the Talmud explicitly states *kedi*, namely in the instances where the Talmud explicitly quotes a statement with the introductory term *kedi*.[219] What R. Sherira holds to be the consensus of all sages are not the anonymous passages of the Talmud, the dialectical argumentation, but rather only the apodictic statements which are not attributed but instead are quoted with the introductory term: *kedi* as in b. Megillah 2b: "Rava, or as some say, *kedi* replied."[220] Halivni himself notes that this expression appears in connection to both early *Amoraim* and later ones. He, however, is of the view that as these instances are cases where one attribution is attributed while the other is *kedi*, that if the attribution is correct then the alternative tradition forgot the name and therefore transmitted it anonymously.[221]

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[216]See examples in b. Berakhot 12b,14b,16b; b. Shabbat 13b, 50b, 85b among many other cases.

[217]Hanina, *Iggeret Rav Sherira Gaon*, 66.

[218]Sokoloff, *A Dictionary of Jewish Babylonian Aramaic of the Talmudic and Geonic Periods*, s.v. kedi.

[219]Rabinowich also translates the passage to say: "When all the Rabbis teach the same thing then it is quoted with the introductory term *kedi*." See Hanina, *The Iggeres of Rav Sherira Gaon*, 76.

[220]The same terminology is found in various other passages. See b. Yoma 44a and 72b, b. Yevamot 90a, b. Gittin 54a (among others).

[221]Halivni, *The Formation of the Babylonian Talmud*, 45.

His second assertion that in R. Sherira's model both legal rulings and dialectical argumentation were officially transmitted, is also nuanced. As discussed earlier,[222] although the Epistle notes that both were preserved and transmitted, their mode of preservation and transmission might have been very different. Furthermore, Halivni's contentions that according to R. Sherira upon the completion of the Talmud it was edited by Rav Ashi and his court, including the anonymous stratum, and that no additions were added to the Talmud in the post-amoraic era after the death of the second Ravina, are not obvious in the Epistle. Halivni's reading of the Epistle again might have been influenced by Halevy's interpretation and construction. Halevy's reading of the Epistle was heavily biased, as noted earlier, and a more subtle reading of the Epistle actually indicates otherwise. R. Sherira does not mention any editing activity of Rav Ashi anywhere in the Epistle. In fact, the Epistle notes about Rav Ashi's activities the following: "Rav Ashi functioned as head of his *Metivta* for almost sixty years, and this is what is says in Chapter *Mi Shemet*:[223] 'In the first cycle of Rav Ashi he told us told us so and in the latter cycle of Rav Ashi he told us in a different way.' "[224] Nowhere is Rav Ashi's editing or redaction of the Talmud ever mentioned. Notably, even Halevy notes[225] that these two cycles had nothing to do with the redaction of the Talmud but rather they were the biannual *kallah*[226] learning cycles.

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[222]Page 198 above.

[223]b. Bava Batra 157b.

[224]Hanina, *Iggeret Rav Sherira Gaon*, 93–4.

[225]Isaac Halevy, *Dorot Harishonim*, II:155, 263 and III:116n18.

[226]During the months of Adar (February/March) and Elul (August/September) the academies functioned in full strength when students came from all over to review the tractates they had studied at home. For more details see Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 43–4.

In relation to post-amoraic additions, once again, Halivni was influenced by Halevy in his reading of the Epistle. As noted earlier, Halevy explained the Epistle precisely in this way, minimizing the role of the *Saboraim*. The Epistle however does not explicitly say anything close to Halevy's reading and upon careful reading it might actually be saying the opposite. The critical passage reads as follows: "In this manner *hora'ah* expanded generation after generation until Ravina, and after Ravina it ceased[227] as Shmuel, the astronomer, had seen in the Book of Adam: '[Rav] Ashi and Ravina—End of *hora'ah*.' And afterwards, although certainly there was no longer *hora'ah*, there were *Savora'ei*, who provided explanations which were close to *hora'ah*.[228] These sages are called *Saboraim* and anything which remained unclear was explained by them. . . . And many *sevarot* are included in the Talmud which are from the later rabbis."[229] Nowhere does R. Sherira explain the nature of these explanations or their extent. The Epistle only notes that they were *sevarot*. This term relates to their title, *Rabanan Savora'ei*. The precise definition of the term is however ambiguous. Rubenstein notes that some scholars derive the term *Savora'ei* from the *pe'al* form of root SBR "to think, hold the opinion."[230] Halivni on the other hand translates it as the *afel*—to explain. In his words, their type of activity was "explanations = *hesberim*."[231] Brody translates it as opinions.[232] Sokoloff,

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[227]The French version reads: "until Ravina when it ceased." See Hanina, *Iggeret Rav Sherira Gaon*, 69.

[228]The French version reads as follows: "And afterwards, although certainly there was no longer *hora'ah*, there are explanations and *sevarot* close to *hora'ah*. These sages are called *Saboraim* and anything which remained unclear was explained by these Rabbis." Hanina, *Iggeret Rav Sherira Gaon*, 69–70.

[229]Spanish version of the Epistle on Hanina, *Iggeret Rav Sherira Gaon*, 69–71. The French version reads as follows: "And many *sevarot* were included in the Talmud by them and also by later Rabbis." See Hanina, *Iggeret Rav Sherira Gaon*, 71.

[230]See translation note I.57 on Halivni, *The Formation of the Babylonian Talmud*, 273.

[231]Halivni, *The Formation of the Babylonian Talmud*, 57.

[232]Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 4.

however, translates *sevara* as logical deduction,[233] and that is how the term is commonly used in the Talmud.[234] The term as used in the Talmud—logical deduction—is clearly related to the anonymous stratum, the dialectical argumentation. Thus, it is quite possible that R. Sherira believed that the dialectical argumentation was at least partially composed by the *Saboraim* as will be explained below.[235]

Therefore, it follows that nothing in the Epistle directly contradicts Halivni's literary theory. His historical construct and his chronology, however, do directly contradict R. Sherira's account, since the later rabbis—after the second Ravina in the sixth century—are deemed by R. Sherira to be *Saboraim* while to Halivni they are *Amoraim*. Furthermore, the saboraic era, which according to R. Sherira begins in the beginning of the sixth century, according to Halivni is actually the time of the later *Stammaim* who lived in the second half of the eighth century. The omission of the *Stammaim* by R. Sherira and his vastly different historical construct poses a difficult issue for Halivni since R. Sherira lived not long after their activity . As he himself acknowledges, "[the fact that] R. Sherira Gaon and those who later followed him were completely ignorant of the existence of the Stammaim, and at a minimum did not mention them, creates doubt as to the relative lateness of the end of the stammaitic era and the sealing of the Talmud, approximately one hundred and fifty years before R. Sherira Gaon."[236]

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[233]Sokoloff, *A Dictionary of Jewish Babylonian Aramaic of the Talmudic and Geonic Periods*, s.v. sevara.

[234]For examples see b. Hullin 44b, b. Gittin 6b, b. Sotah 20a. For more instances see Sokoloff, *A Dictionary of Jewish Babylonian Aramaic of the Talmudic and Geonic Periods*, s.v. sevara.

[235]See pp. 293 below.

[236]Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 31. Halivni's current hesitancy regarding contradicting the Epistle's account is far less than in his earlier scholarship. His earlier comment: "However, with respect to the time when the period of the Saboraim began, as well as what happened during the period, I do not dare to diverge from R. Sherira's chronicle. We are totally dependent on him—the oldest and most classical historian of the Talmud—for the history of the Saboraim." See

Halivni, who as explained above, believes that R. Sherira held the "traditional" view that Rav Ashi concluded the Talmud and its anonymous stratum, and that any posterior additions were *de minimis*, theorizes that the *Geonim* and their successors understood the talmudic statement in b. Bava Metzi'a 86a: "Rav Ashi and Ravina—End of *hora'ah*" as a historical truth and *hora'ah* as the Talmud. Furthermore, in his opinion they felt theological pressure to confer upon the Talmud and its dialectical argumentation the imprimateur of Rav Ashi, the leading *Amora* of the fifth century.[237] In Halivni's opinion, this was the same reason R. Sherira fails to mention the role of the reciters in amoraic transmission as a group, since he wanted the authority of the Talmud to rest upon Rav Ashi and not upon anonymous transmitters.[238] Halivni further notes that a close examination of the sources quoted by R. Sherira from archival materials indicates that his records were accurate insofar as they related to official materials, like the list of *Geonim* which were official positions that were officially recorded. These records, however, were insufficient to indicate the scope of their activity since it was not officially recorded.[239]

However, it is plausible that Halivni's account of the *Stammaim* does not completely contradict the Epistle. It is quite possible that Halivni's *Stammaim* are deemed *Saboraim* by R. Sherira, and thus Halivni's argument is mainly a question of terminology. Halivni does acknowledge precisely this possibility.[240] Halivni's historical construct—his definition of the latest *Amoraim* and his positioning of the *Saboraim* in the second half of

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Halivni, *Midrash, Mishnah, and Gemara: The Jewish Predilection for Justified Law*, 140n5.1. See also the insightful comment of Zvi Septimus in his review on http://thetalmudblog.wordpress.com/2013/12/02/a-review-of-weiss-halivni-the-formation-of-the-babylonian-talmud-guest-post-by-zvi-septimus/.

[237] See Halivni, *The Formation of the Babylonian Talmud*, 55.

[238] Halivni, *The Formation of the Babylonian Talmud*, 55n117.

[239] Halivni, *The Formation of the Babylonian Talmud*, 54–7.

[240] See Halivni, *The Formation of the Babylonian Talmud*, 10–11. However, recently he has deviated from this assumption as represented by his argument that the term *Sabora* relates to an activity which denotes explanations of an existing text and not the creation of new opinions. See pp. 207 earlier.

the eighth century—on the other hand, does contradict R. Sherira's and the geonic records and therefore Halivni is compelled to explain the lack of reliability of the Epistle's account.

The Formation of the Talmud

The Amoraic Era

Halivni's description of the activity of the early *Amoraim* is similar to the traditional model described by Halevy. According to Halivni this activity began immediately upon the publication of the Mishnah by Rabbi Judah the Prince, and consisted of assembling tannaitic teachings relevant to each of the sections in the Mishnah. These teachings were structured as *baraitot*[241] and recited together with the Mishnah. These additions contained tannaitic traditions not included in the Mishnah. Halivni argues that although the earliest *Amoraim* were the authors of these *baraitot*, they did not include amoraic interpretations but rather tannaitic traditions not included in the Mishnah.[242] In Halivni's view, the early *Amoraim* composed and taught *baraitot* but they were not officially memorized and preserved by the reciters.[243]

Furthermore, according to Halivni the *Amoraim* taught in their own locations and these disciple circles were dispersed with no central academy in operation.[244] His view is

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[241]Coming from the Aramaic word *bar*—meaning outside, i.e. relating to traditions not included in the Mishnah.

[242]Halivni understands that his view is in contrast to Halevy who in his understanding believed that these *baraitot* reflected amoraic interpretations instead. See Halivni, *The Formation of the Babylonian Talmud*, 135n30. As explained earlier, however, a careful reading of Halevy indicates that he is not in disagreement with Halivni and he also thinks that these *baraitot* represent tannaitic traditions. See pp. 78 above.

[243]In a fashion similar to the discursive material which was also not officially preserved. See Halivni, *The Formation of the Babylonian Talmud*, 135n30.

[244]Halivni, *The Formation of the Babylonian Talmud*, 94n61 and 102. Halivni adduces this from b. Qiddushin 53a where R. Zeira expounded a legal ruling in Mahoza. Despite the lack of institutional structure these academies were academic and students came to learn on a steady basis.

in stark contrast to Halevy who believed that central academies, like Sura and Pumbedita, operated in amoraic times in a similar fashion to the institutions described during geonic times.[245] As discussed earlier, this contention was pivotal to Halevy as it allowed him to claim that the Talmud was composed in its entirety by a united academy, his *Metivta Kolelet*.[246]

Halivni describes the amoraic learning as follows: their system followed the order of the tractates of the Mishnah and when they completed their discussions, the apodictic rulings were transmitted and memorized officially through the transmitters (called by Halivni *tannaim*),[247] while the underlying dialectical argumentation was never officially transmitted but remained in the informal memory of the students present. Thus, the dialectical argumentation survived only in chance circumstances since there was no official channel of transmission.[248] This point is one of Halivni's major contributions and a major departure from the traditional view espoused by Halevy. Previous scholars had understood that these reciters transmitted Mishnah and *baraitot* in the amoraic discussion; however, Halivni sees them as also transmitting amoraic teachings throughout the amoraic era.[249] According to Halivni's model, these reciters attached apodictic amoraic explanations and legal rulings to tannaitic materials, which were transmitted for posterity. Halivni infers this based on passages in which the amoraic *tanna* utilizes amoraic terminology in a statement which could be seen as tannaitic; for example, "this only

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[245]See pp. 90 for a further discussion on their views.

[246]See pp. 92 above.

[247]See Saul Lieberman, *Greek in Jewish Palestine ; Hellenism in Jewish Palestine* (New York: Jewish Theological Seminary of America, 1994), II:88–91.

[248]Halivni, *The Formation of the Babylonian Talmud*, 183–4.

[249]See Halivni, *The Formation of the Babylonian Talmud*, 133. See also the sources and related material on Halivni, *The Formation of the Babylonian Talmud*, 133n23.

applies (*lo shanu*)," when applied to tannaitic material.[250] Since amoraic dicta were transmitted separately from tannaitic sources they have certain peculiarities regarding transmission.[251] The transmitters only memorized and passed on explanations that resembled fixed laws, based on the model of tannaitic transmissions. Therefore, according to Halivni there were two distinct phases in the transmission of traditions:

Phase I. In the tannaitic period, traditions were passed down in the form of fixed rulings, and the material was eventually assembled into collections like the Mishnah and collections of *baraitot*. These traditions were transmitted via the reciters, or *tannaim*.

Phase II. In the amoraic period, there were two separate channels of transmission. One for the Mishnah and other tannaitic material and the other for autonomous rulings of Amoraim. These rulings were not attached to the individual Mishnah or *baraita* which the *Amora* was explaining, but were transmitted as a dictum or as a dispute.[252] In some rare occasions, however, concise explanations were appended to a Mishnah or *baraita* and introduced with the term *lo shanu ela* ("this only applies") and the like. These rulings were transmitted alone, without their justification.[253] These traditions were also transmitted by the Reciters, or *tannaim*.[254]

During the amoraic period dialectical argumentation was not officially transmitted. Like the sages of the Mishnah, the *Amoraim* engaged in debates and

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[250]Halivni quotes the following examples on b. Bava Metzi'a 27a, b. Bekhorot 59a and 60b. See Halivni, *The Formation of the Babylonian Talmud*, 133–8.

[251]Halivni thus explains why amoraic dicta at times does not appear in both Talmuds, since they were probably not known since they were transmitted separately from the Mishnah. See Halivni, *The Formation of the Babylonian Talmud*, 136.

[252]Halivni, *The Formation of the Babylonian Talmud*, 149.

[253]Halivni, *The Formation of the Babylonian Talmud*, 201.

[254]It is worthy of emphasis that Halivni uses the term *tannaim* in two senses: first, for the sages of the tannaitic period, and second, for the reciters who preserved and transmitted tannaitic and amoraic material in the amoraic period.

clarifications, and just as the Mishnah does not include the dialectic of the arguments, so too, the transmitters of amoraic dicta did not officially transmit these discussions.[255] Rubenstein emphasizes that dialectical argumentation in the view of *Amoraim* was only a means to an end—it provided the reasoning and the underpinnings of legal rulings. Rubenstein continues: "Among Halivni's favorite examples is the United States Constitution, which was debated for months in the Constitutional Convention as the disparate parties argued, deliberated, quarreled, and wrangled over each and every point. In the end they transmitted to posterity the Constitution alone, the conclusion of those debates, and not transcripts of the debates themselves."[256] These debates were never officially transmitted because only the conclusions and rulings emanating from them were considered necessary to keep for posterity. The debates remained in a fragmentary state in the memory of the participants and audience, and could only survive in an informal state. As a result, the difference between the traditions of apodictic rulings and dialectical argumentation did not only differ by their method of preservation and purity of content, but by their degree of reliability. Since apodictic rulings were preserved officially, the *Amora* "edited, refined, polished and formulated it (for the most part) in Hebrew,"[257] prior to committing it to the reciter. Thus, according to Halivni the reliability of the dialectical argumentation is impaired, since it did not undergo this process; Halivni

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[255]In Halivni's opinion, the Mishnah's conclusion was an abrupt and discrete event. This is witnessed by the fact that although Rav belonged to the court of Rabbi Judah the Prince, he is nonetheless viewed as an *Amora* rather than a *Tanna*. Although the Talmud at times refers to him as a *Tanna*—"*Rav Tanna hu upalig*" (b. Eruvin 50b, Pesahim 42b among others)—this is a very limited phenomenon. See David Weiss Halivni, *Meqorot Umesorot : Tractate Bava Batra* (Jerusalem: The Hebrew University Magnes Press, 2008), 84–5; Halivni, *The Formation of the Babylonian Talmud*, 65n12, 129–30. Since the Mishnah's closure was not a gradual event, the *Amoraim* still saw themselves as continuing the mishnaic project and therefore they followed a similar system. The amoraic era on the other hand, came to a close through a gradual dwindling of the *Amoraim*, and therefore the *Stammaim* saw themselves as belonging to a new era and were thus responsible for a separate project; the reconstruction and preservation of the dialectic material. See pp. 191 above.

[256]Halivni, *The Formation of the Babylonian Talmud*, xxiii.

[257]Halivni, *The Formation of the Babylonian Talmud*, 119.

concludes: "it is open to doubt whether the dialectical argumentation comprises an accurate expression of the ideas of the sage to whom it is attributed."[258]

Halivni's view of the careful channel of transmission regarding apodictic statements of *Amoraim* was in sharp contrast to the position advocated by Jacob Neusner. Neusner doubted the accuracy of all attributions and argued that the statements could only be seen to represent the editors of the Bavli not a process of formation over numerous generations. Neusner writes: "The Bavli will then constitute an independent and fresh statement of its own authorship, not a restatement of what its authorship has received from prior generations and assuredly not a statement of cumulative and incremental tradition."[259] In his scholarship Halivni is well aware of the numerous ways in which even a carefully transmitted statement could change. The preserved apodictic dicta went through a process of change and transformation, which is proven by the many discrepancies between the dicta as quoted by the Bavli and the Yerushalmi, many of them in the name of the same *Amora*. Halivni believed that these differences were a result of numerous factors: in certain cases the *Amora* changed his mind, creating two distinct traditions, in other cases there were errors in transmission.[260] However, these changes are the exception, not the rule. The vast majority of apodictic rulings and explanations were preserved in the original language and form they were transmitted to the reciter. Halivni's model assumes that attributions in the Talmud are accurate and reflect actual rulings by the named *Amora*, unless there is good reason to suspect them. A majority of scholarship has demonstrated that Halivni is correct in considering most attributions as reliable.[261] As

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[258]Halivni, *The Formation of the Babylonian Talmud*, 119.

[259]Jacob Neusner, *Sources and Traditions: Types of Compositions in the Talmud of Babylonia*, South Florida Studies in the History of Judaism, no. 36 (Atlanta, Ga.: Scholars Press, 1992), 5.

[260]Halivni, *The Formation of the Babylonian Talmud*, 122–3.

[261]Yaakov Elman, "How Should a Talmudic Intellectual History Be Written? A Response to David Kraemer's 'Responses'," *JQR* 88 (1999); Halivni, *The Formation of the Babylonian Talmud*, 282TN–III.123.

I have demonstrated earlier, there are numerous reasons to reject Neusner's position regarding the authenticity of *memrot* in the Bavli. The whole nature of the discussion in the Bavli demonstrates a constant process of development which represents traditions passed down over numerous generations. This can be seen by the fact that double attributions changed entirely following the period of Abaye and Rava, by the unique structure of Rav Ashi's participation in debates, and by the constant development of technical terminology in the Bavli.[262]

Although the vast majority of amoraic apodictic dicta were preserved in attributed form, Halivni acknowledges that some amoraic material was preserved anonymously. This phenomenon was a result of the original attributions being lost over time.[263] In order to identify these early anonymous traditions and distinguish them from the later anonymous strata, Halivni provides several internal and external markers.[264] These include the following: 1. When the Talmud notes about a statement "And Some State It Anonymously (*ve'amri lah kedi*)" it represents a situation in which one version has an attributed statement and the other version preserves it as an anonymous tradition.[265] In Halivni's opinion, the alternative tradition lost the attribution and thus transmitted it anonymously. This expression appears both in connection with early *Amoraim*, like R. Yehoshua b. Levi[266] and later authorities like Rav Pappa.[267] 2. Brief explanations (*nimuq qal*) are added to a Mishnah, *baraita* or dictum of an early *Amora* anonymously. In Halivni's opinion these explanations should be seen as being contemporaneous with the surrounding dicta and not the latest addition to the talmudic *sugya*.

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[262]See pp. 80, 101 and 107 for further details.

[263]See Halivni, *The Formation of the Babylonian Talmud*, 43–4.

[264]See Halivni, *The Formation of the Babylonian Talmud*, 43–54.

[265]See pp. 205 above for a further discussion on this usage.

[266]See b. Horayot 8a.

[267]See b. Bava Metzi'a 2a.

Halivni describes another phenomenon worthy of note in this context: the combination of certain amoraic traditions with the dicta of other *Amoraim* by their disciples, creating structured disputes. One of the forms this takes is *itmar* ("it was said"). This structure is used even when sages did not disagree face-to-face and at times were not even contemporaries. In some cases in which the *itmar* form was used, it was forgotten which positions were taken by the *Amoraim*. Therefore, the tradition was later transmitted anonymously as "One said *x* and one said *y*." Halivni refers to the students who combined the amoraic dicta *metsarfim* (combiners), and in his opinion they were active throughout the talmudic era until the end of stammaitic era.[268] However, it is not clear to Halivni if this was an official and systematic approach or whether it was an ad-hoc activity. Furthermore, as the amoraic learning was diffused among various locales, was this activity coordinated among the various study circles? Was there a unified body of learning among the various amoraic schools? Halivni also does not account for the drastic change in the style of transmission that took place in the generation of Abaye and Rava.[269] In my opinion, Halevy's theory about the role of Abaye and Rava in integrating the various disputes and transmitting them in a structured collective format, his proto-Talmud,[270] dovetails well with Halivni's conception of the combiners and can provide an additional step in the understanding of the process. Perhaps, as increased institutional complexity started to develop in the fourth century, as noted above,[271] it became feasible to institute a common collective tradition and to preserve this common curriculum as structured *sugyot*. However, Halivni disagrees with the basic premise of Halevy on the

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[268]Halivni, *The Formation of the Babylonian Talmud*, 63, 189.

[269]See pp. 80 above.

[270]See pp. 80 above.

[271]See pp. 90 above.

existence of an integrated tradition coordinated among the various schools. In his view, the different *sugyot* were formed and developed in different academies, and thus at times they remained inconsistent and divergent.[272]

Another point of divergence between Halivni and Halevy, relates to the role of Rav Ashi in the formation of the Talmud. In Halivni's model, Rav Ashi served as head of the academy for sixty years, apparently longer than any other *Amora*; however, there is no evidence that he changed or deviated from the mode of study of his predecessors. Although some *sugyot* conclude with statements of Rav Ashi, the same phenomenon is found among other *Amoraim*,[273] and Rav Ashi was one of the later *Amoraim*. This combined with his long tenure makes it natural that his statements would appear at the end of *sugyot* on a more frequent basis than other *Amoraim*. Halivni adds that the fact that many *Amoraim* posed questions to Rav Ashi, including those who are only mentioned in the context of questions,[274] is not unique to Rav Ashi and is found among other *Amoraim* as well.[275] Halivni however does not address the main evidence brought by Halevy about the unique nature of Rav Ashi's contribution. As noted above,[276] Rav Ashi is the only *Amora* who other *Amoraim* address in numerous instances[277] with answers to queries presented by others earlier in the *sugya*, even in instances where Rav Ashi was not part of

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[272]Halivni, *The Formation of the Babylonian Talmud*, 65.

[273]Halivni, *The Formation of the Babylonian Talmud*, 98.

[274]As R. Adda b. Havu, R. Adda Saba among others. Aaron Hyman quotes a list of the sages who posed questions to R. Ashi and several of them do not appear elsewhere. See Halivni, *The Formation of the Babylonian Talmud*, 277TN–II.98; Hyman, *Toldot Tannaim Veamoraim*, I:253–5.

[275]Notably, however, Halivni does not mention any examples of such instances among other *Amoraim*.

[276]See pp. 101 above.

[277]The instances are: b. Shabbat 87b, b. Qiddushin 6b, b. Bava Batra 64a, 83a,86a/b and 150a, b. Shevu'ot 37b, b. Hullin 141b, b. Menahot 21b.

the debate nor had made any contribution to the *sugya*. Rav Ashi is the only *Amora* who is presented as having answers of other *Amoraim* addressed to him, instead of, as one would expect, addressing the answer to the *Amora* who posed the question.

One more unique feature of the *Amoraim* following Rav Ashi was noted by Eliezer Segal as he examined the many records of court cases and decisions included in the Talmud.[278] As discussed earlier,[279] Segal convincingly demonstrated that the introduction of cases adjudicated by the *Amoraim* is not prominent prior to Rav Ashi, and that it is clear that the collection of cases were introduced into the talmudic corpus by Rav Ashi's contemporaries.[280] This phenomenon could indicate a form of redactional activity on the part of Rav Ashi and his contemporaries.

Halivni, in contrast to Halevy,[281] does not believe the Talmud was edited by Rav Ashi and his contemporaries.[282] As Halivni writes: "In sum, the impression left by the activity during the period between Rav Ashi and the latter Ravina and the succeeding generation is a far cry from the consistent and continual editing suggested by the expression Rav Ashi and Ravina—the end of *hora'ah*."[283] For example, the correct reading of statements by Rav Ashi and by his son Mar bar Rav Ashi are at times in doubt.[284] If Rav Ashi and his court edited the Talmud, how could there be a doubt

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[278]Segal, *Case Citation in the Babylonian Talmud: The Evidence of Tractate Neziqin*, 214.

[279]See pp. 107 above.

[280]See Segal, *Case Citation in the Babylonian Talmud: The Evidence of Tractate Neziqin*. Especially Segal, *Case Citation in the Babylonian Talmud: The Evidence of Tractate Neziqin*, 60–89 and 213–6.

[281]Isaac Halevy, *Dorot Harishonim*, II:480–2. In his view the only exception was the Palestinian Talmud which was not edited, as it was abruptly finished in light of the precarious situation in Palestine at the time.

[282]See Halivni, *The Formation of the Babylonian Talmud*, 95n65.

[283]Halivni, *The Formation of the Babylonian Talmud*, 97.

[284]Halivni quotes a notable example in b. Qiddushin 32b.

regarding attribution of a statement of the editor himself? Furthermore, Rav Ashi is among those *Amoraim* who at times asks about the purpose of superfluity, questioning why are two cases mentioned when one would suffice.[285] This question however is not always asked.[286] If he was the editor of the Talmud, it should be asking this question in every place.[287]

According to Halivni, Halevy's axiom of Rav Ashi's editorial role is refuted by the mere fact that even in Halevy's view[288] the redaction of the Talmud extended for at least 50 years after Rav Ashi's death. How could he be considered the editor of a work composed during a period of approximate 250 years, if he was absent for the final 50 years, a full twenty percent of its time of formation? In his view it is also odd to have the editor as one of the named participants without indicating his special role.[289] Halivni's most compelling evidence that the Talmud was never subject to a comprehensive editing process by Rav Ashi and his academy, derives from several disagreements between Rav Aha and Ravina which are introduced by the phrase *ḥad āmar veḥad āmar*,[290] one says so and the other says so, which means that they no longer knew which sage stated which ruling. If Rav Ashi and the later Ravina were central in the redaction of the Bavli, how could there be a doubt of attribution concerning Ravina? It should be noted here that

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[285]See example on b. Bava Batra 104 a.

[286]As already noted by the medieval commentaries. See example in tosafot in b. Mo'ed Qatan 22b s.v. *ulesimhat*.

[287]Halivni, *The Formation of the Babylonian Talmud*, 97.

[288]Halevy anticipates the closing of the Talmud to the year 475 upon Ravina bar Huna's death. See pp. 116.

[289]Although Rabbi Judah the Prince, the editor of the Mishnah, is mentioned as a participant, nonetheless, whenever he is brought as an author not an editor he is quoted as Rabbi Judah says, "*this is what I say*," in order to indicate that the statement is his own as an author and not as an editor. See examples in m. Arakhin 4:2, b. Eruvin 3b among others.

[290]See b. Shabbat 157a, b. Sukkah 18a among many others.

Halivni, unlike Halevy,[291] believes the Ravina mentioned in these passages is the later Ravina and not the earlier one.[292]

Although Rav Ashi is referred in some passages of the Talmud as Rabbana Ashi,[293] the significance of the title is ambiguous[294] and does not indicate that Rav Ashi was the editor of the Talmud. Halivni proposes that this title was added in later stammaitic times in order to increase his stature, since he was viewed by them as the greatest *Amora*. In the geonic period the title "Rabbana" was bestowed upon the greatest sages.[295]

According to Halivni's model, the Bavli never went thorough a full-fledged editing process as an integrated work, reconciling the contradictions and inconsistencies of its various parts. This general lack of editing is shown in "the contradictions and forced argumentations that can be found in almost every Talmudic folio."[296] Halivni argues that these contradictions are the result of the *sugyot* being created by different academies, making them at times inconsistent. Nonetheless, Halivni's model of redaction does allow

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[291]See pp. 133 above.

[292]See Halivni, *The Formation of the Babylonian Talmud*, 92–5. As noted earlier, A. Cohen argues that Ravina in these passages refers to the earlier Ravina who outlived Rav Ashi and thus Halivni's evidence is not obvious. See Avinoam Cohen, *Ravina and Contemporary Sages:Studies in the Chronology of Late Babylonian Amoraim (Hebrew)*, 234n6, 252–3. See also chapter one note 467 . Furthermore, as Halivni himself notes, it is possible that these arguments were originally not included in the original edited text but were only found later and added to the edited text by the saboraic sages.

[293]See b. Ketubbot 22a and b. Sanhedrin 30a.

[294]Although Halivni notes that this title was bestowed upon Nehemia and Uqba because of their office as exilarchs, Rubenstein notes that the evidence is insufficient to deem them exilarchs. See Halivni, *The Formation of the Babylonian Talmud*, 98 and 278TN–II.98.

[295]Halivni, *The Formation of the Babylonian Talmud*, 100.

[296]Halivni, *The Formation of the Babylonian Talmud*, 64. In Halivni's opinion, even medieval commentators like the Tosafists, who attempted to reconcile these contradictions—albeit in a forced and unsatisfied manner—still acknowledged that there are several contradictory *sugyot* in the Talmud. See a list of those *sugyot* in tosafot b. Menahot 58b s.v. *ve'ika*. See Halivni, *The Formation of the Babylonian Talmud*, 64, and 64n10.

for a limited editing of the preserved amoraic dicta. Such editing comprised of a process of *arikha*, namely an assessment of the accuracy of statements and the reliability of transmission. If the editor finds that traditions had been corrupted, he has the authority to change or reject them. Such activity was deemed by Halevy to have been done by Rav Ashi and his court. However, Halivni believes that this limited type of editing was done by the *Amoraim* themselves in each generation,[297] and it did not include dialectical argumentation which was never officially preserved, even in a limited form.[298]

According to Halivni's model, the amoraic period continued for several decades after Rav Ashi. However, after his time[299] the *Amoraim* dwindled little by little until with the death of Rav Revai of Rov in the year 550 CE the period came to a close.[300] The dwindling of the *Amoraim* was probably the result of a severe plague that struck at the beginning of the sixth century[301] and due to "the persecution of Yazgedard"[302] in 499 CE,

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[297]Halivni, *The Formation of the Babylonian Talmud*, 63–4.

[298]Halivni, *The Formation of the Babylonian Talmud*, 64.

[299]Halivni, *The Formation of the Babylonian Talmud*, 5.

[300]In Halivni's opinion, Rav Revai of Rov was the last *Amora* as he is the latest sage mentioned in the Talmud (mentioned in b. Sanhedrin 43a, according to the reading of R. Hananel. See Halivni, *The Formation of the Babylonian Talmud*, 4). Halivni notes, however, that it is conceivable that the amoraic era ended not upon Rav Revai of Rov's death but during his lifetime. As he had a long life (see Hanina, *Iggeret Rav Sherira Gaon*, 70) it is possible that he was mentioned in the Talmud in his youth but was considered as of the *Stammaim* in his old age. In this case, the amoraic period ended earlier than the middle of the sixth century. See Halivni, *The Formation of the Babylonian Talmud*, 4n5. This construct is however problematic as it is very unclear what prompted the amoraic era to end and Rav Revai of Rov's activities to change.

[301]According to R. Sherira this plague coincided approximately with the beginning of the saboraic period, and as noted above pp. 122 might have been the cause of the clustering of the death of these sages alluded by R. Sherira. As noted earlier, such a plague is already mentioned in Procopius, *History of the Wars Books I-II*, 451. See Halivni, *The Formation of the Babylonian Talmud*, 113 and 113n120. See also Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 9n25 and the literature cited.

[302]Although Halivni attributes the persecutions of 499 CE to Yazgedard (probably Yazdgird II) see Halivni, *The Formation of the Babylonian Talmud*, 113, it is undoubtedly a mistake since his reign ended in 457. The Epistle does not mention any persecutions in 499 CE but it does note persecutions during the ruling of Yazdgird II in 448 CE (or 455 CE according to the French version). See Hanina, *Iggeret Rav*

in which some sages were imprisoned and killed.[303] In Halivni's opinion, unlike the close of the tannaitic period which was caused by a specific event—the editing of R. Judah the Prince's Mishnah—, the transmission of apodictic rulings ended gradually with no specific reason.

The Stammaitic Era

According to Halivni's model the stammaitic period could not begin until the last of the *Amoraim* had died. Halivni argues: "As long as Amoraim existed and are referred to by name—even if they are few—that period cannot be called the stammaitic period."[304] Thus, the stammaitic period began in the middle of the sixth century, approximately 100

Sherira Gaon, 96. These persecutions and impositions also affected the Christians (other than Armenians). Several of the Syriac acts of martyrs also mention the persecutions by Yazdgird II against the Jews. See Frye, "The Political History of Iran Under the Sasanians," 147. See also Isaiah Gafni, "On the Talmudic Chronology in Iggeret Rav Sherira Gaon (Hebrew)," 11–3 for further corroboration of these persecutions. There were further persecutions mentioned in the Epistle that occurred in 469 CE (up to 473 CE according to the French version). See Hanina, *Iggeret Rav Sherira Gaon*, 96–7. These were the persecutions under Pērōz (Pīrūz) who ruled 459–484. For more details about Pērōz (Pīrūz) and the significance of the year 469 in his reign see Frye, "The Political History of Iran Under the Sasanians," 147–9; Pourshariati, *Decline and Fall of the Sasanian Empire: The Sasanian-Parthian Confederacy and the Arab Conquest of Iran*, 380–4. For further details and corroborating data see Isaiah Gafni, "On the Talmudic Chronology in Iggeret Rav Sherira Gaon (Hebrew)," 12–3. See chapter one note 388 above. However, R. Sherira does not mention any other persecutions until the later persecutions at the end of the Sasanian empire. Although the Epistle does not mention any other persecutions in the 6th century, persecutions of Christians and the temporary closure of a leading Christian academy about the year 540 is also mentioned. See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 9n25.

[303]Hanina, *Iggeret Rav Sherira Gaon*, 96–7. Notably, Halevy also credits these persecutions for the closing of the Talmud in 475 CE. See pp. 115 above. Rubenstein notes that indeed the notion that persecutions were the dominant factor in causing the end of the amoraic period (or the closing of the Talmud) has been a staple of modern scholarship. See Halivni, *The Formation of the Babylonian Talmud*, 280TN–II.113. David Goodblatt quotes Richard Kalmin who was skeptical of such approaches, "seeing them as instances of the lachrymose conception of Jewish history," since anticipation of distress does not spur contemporaries to try to complete literary projects. Goodblatt agrees and further notes that quite the contrary, massive literary projects need times of quiet and prosperity. See David Goodblatt, "A Generation of Talmudic Studies," in *The Talmud in Its Iranian Context*, ed. Carol Bakhos and M. Rahim Shayegan, Texte und Studien Zum Antiken Judentum (Tübingen: Mohr Siebeck, 2010), 16–8. Notably Halevy agrees with their assertion and holds that these persecutions precipitated the *conclusion* of the redaction process.

[304]Halivni, *The Formation of the Babylonian Talmud*, 5.

years after the death of Rav Ashi. As already noted by Rubenstein, this formula is overly

rigid and appears mechanical not reflecting what can be seen as messy historical

reality.[305] Even Halivni appears ambivalent about such a rigid chronology and in a later

part of his work concedes the possibility that the stammaitic period began as early as the

beginning of the sixth century with the death of the second Ravina.[306] The *Stammaim*

collected the dialectical argumentation from the memory of the remaining disciples of the

Amoraim, reconstructing and filling in missing parts by themselves. The *Stammaim* are

the unsung heroes of the Talmud, since their activity preserved the argumentation and

legal reasoning behind the amoraic rulings which would have otherwise been forgotten.[307]

Their work consisted of collecting the fragments that had been passed down from

previous generations in an incomplete state and then completing them. In addition, these

sages identified the amoraic or tannaitic contexts in which the arguments were generated

and attached the legal reasoning to the related ruling.[308] Unlike the *Amoraim*, the

Stammaim preserved the reconstructed dialectical argumentation and transmitted it

officially[309] so that it would be preserved for future generations. They chose dialectical

argumentation as the distinctive style for the transmission of their traditions in order to

distinguish their activity from the activity of the *Amoraim*.[310] Furthermore, they were

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[305]Halivni, *The Formation of the Babylonian Talmud*, 268TN–I.5 and the literature cited there.

[306]Halivni, *The Formation of the Babylonian Talmud*, 25.

[307]Halivni, *The Formation of the Babylonian Talmud*, 5, 54.

[308]Halivni, *The Formation of the Babylonian Talmud*, 102.

[309]In Halivni's model, during the stammaitic era both legal rulings and dialectical argumentation were all transmitted by the *Stammaim* themselves and not by the reciters. See Halivni, *The Formation of the Babylonian Talmud*, 201.

[310]Halivni notes that just appending their traditions to those of the *Amoraim* would not suffice since the *Amoraim* themselves also appended their traditions to the compilations of the *Tannaim*. See Halivni, *The Formation of the Babylonian Talmud*, 5.

concerned that due to the "decline of generations,"[311] future sages would not be able to reconstruct the argumentation on their own and the task to officially preserve it for posterity had to be completed by them.[312] As a result, the *Stammaim* did not formulate fixed rulings to be preserved for posterity, even though they certainly enacted new rulings.[313] The dialectical argumentation preserved by the *Stammaim* was transmitted anonymously since by their time a great deal of the argumentation from the amoraic period had been forgotten and had to be reconstructed, which made attribution impossible. They only attributed traditions to the *Amoraim* when they were certain of its provenance.[314] Representing the final stage of redaction, the *Stammaim* did not think it important to preserve their own names. Moreover, the lack of attribution helps distinguish their activity and traditions from those of the *Amoraim*.[315]

One can question why the project of reconstructing the dialectical argumentation began only in the stammaitic period. According to Halivni, the project was impossible during the amoraic period because the academies were dispersed in numerous

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[311]An adage pervasive in traditional Jewish circles and also mentioned by R. Sherira as a reason for the closure of the Mishnah by Rabbi Judah the Prince. See Hanina, *Iggeret Rav Sherira Gaon*, 20. See Halivni, *The Formation of the Babylonian Talmud*, 268TN–I.5. For an analysis of the various rabbinic views on this tradition see Menachem Marc Kellner, *Maimonides on the "Decline of the Generations" and the Nature of Rabbinic Authority*, in *SUNY Series in Jewish Philosophy;* (Albany: State University of New York Press, 1996), 5–26 and 37–54.

[312]Halivni, *The Formation of the Babylonian Talmud*, 5.

[313]Such fixed rulings were rare among the *Stammaim*. See Halivni, *The Formation of the Babylonian Talmud*, 149. For this reason, whenever an anonymous legal ruling is quoted in the Talmud Rashi remarks that "These are legal rulings." As Halivni notes, Rashi sensed that unattributed apodictic law is unusual. See Rashi b Pesahim 9b s.v. *tesha* and Rashi b. Sukkah 4a s.v. *savar Abaye* and Halivni, *The Formation of the Babylonian Talmud*, 25n73.

[314]Halivni, *The Formation of the Babylonian Talmud*, 6.

[315]For the same reason the Mishnah did not include even the teachings of a semi-*Tanna* like Rav, in order to avoid conflating his traditions with those of the *Tannaim*, since both were formulated in apodictic form. See Halivni, *The Formation of the Babylonian Talmud*, 6.

locations.[316] Halivni explains that the task of reconstruction, "requires a center in which all known traditions are collected, such that they can all be examined and organized into general *sugyot*. A center of this type existed in the stammaitic era and in early Geonic times."[317] However, Halivni's assumption seems quite contrived. The institutionalization of academic learning is an evolutionary process over an extended period of time and is not a discrete event. It is thus perplexing why the stammaitic period would start *precisely* at the end of the amoraic era. Why and how did the death of the last *Amora*, Rav Revai of Rov,[318] prompt an abrupt change in the academic setting? It is also puzzling why immediately following the amoraic period the sages became worried about the "decline of generations" which would cause the dialectical argumentation to be lost. Why were the final *Amoraim* not worried about this loss? What prompted the *Stammaim* to dedicate their major project to the recovery of the lost legal reasoning behind rulings?[319]

The significant anonymous dialectical argumentation of the Palestinian Talmud poses a further problem to Halivni's model of the redaction of the Bavli.[320] Although the dating of the closure of the Palestinian Talmud is the subject of debate among scholars,[321]

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[316]See pp. 210 above.

[317]Halivni, *The Formation of the Babylonian Talmud*, 102. *Amoraim* were dispersed among various villages while the *Geonim* were concentrated in two cities, Sura and Pumbedita. See Halivni, *The Formation of the Babylonian Talmud*, 102n87.

[318]See pp. 189 above.

[319]However, it is possible that the dwindling in the number of the *Amoraim* in the earlier part of the sixth century and their limited participation in the Talmud indicates a lull and interruption in learning that would prompt the *Stammaim* into reconstructing and preserving the amoraic argumentation which was in danger of being forgotten. Nonetheless, it is still rather difficult: why would the *Stammaim* wait until the death of the last *Amora* to start their endeavor? Why didn't the final *Amoraim* share a similar concern?

[320]See Robert Brody, "The Contribution of the Yerushalmi to the Dating of the Anonymous Material in the Bavli (Hebrew)," in *Melekhet Mahshevet: Studies in the Redaction and Development of Talmudic Literature*, ed. Aaron Amit and Aharon Shemesh (Ramat Gan: Bar-Ilan University Press, 2011), 37.

[321]The dating ranges from year 360 CE (Sussman) to 380 CE. See Brody, "The Contribution of the Yerushalmi to the Dating of the Anonymous Material in the Bavli (Hebrew)," 29n3.

it was certainly not later than the eighth decade of the fourth century.[322] Since in Palestine anonymous dialectical argumentation was preserved by this time, it implies that a similar system must have been in place in Babylonia.[323] Halivni argues that the anonymous dialectical argumentation in the Palestinian Talmud is also later than the apodictic material, and is the product of the last amoraic generation in Palestine.[324] However, Halivni concedes that this layer preceded the work of the *Stammaim* by a significant amount of time. It is therefore difficult to understand why dialectical argumentation was preserved in Palestine so much earlier than in Babylonia and why the *Amoraim* did not preserve it at all and its preservation began only with the *Stammaim*.[325]

The reconstructed dialectical argumentation of the *Stammaim* includes the argumentation which was associated with both the accepted and rejected legal rulings—

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[322]It is possible however that the dialectical argumentation of the Yerushalmi, in a fashion similar to the Bavli, was only introduced after the Palestinian amoraic period. As Alyssa Gray notes however, it is clear that by the end of the fifth century at the latest the Yerushalmi as we know it had already been fully redacted. Archaeological and internal evidence all point to the conclusion that the situation of the Jews in Palestine seriously deteriorated in the sixth century. See Alyssa M. Gray, *A Talmud in Exile: The Influence of Yerushalmi Avodah Zarah on the Formation of Bavli Avodah Zarah* (Providence: Brown Judaic Studies, 2005), 199–217.

[323]Brody further supports his position by demonstrating that similar anonymous *sugyot* appear in both the Babylonian and Palestinian Talmuds. He cites as an example y. Ketubbot 7:2 and the parallel *sugya* in b. Ketubbot 71a. See Brody, "The Contribution of the Yerushalmi to the Dating of the Anonymous Material in the Bavli (Hebrew)," 29–30. It is possible, however, that this *sugya* was incorporated only later by the *Stammaim*. He further adduces from three common anonymous dialectical expressions which pose simple questions, that these must have been asked relatively early in the amoraic period. In Halivni's model these expressions do not indicate that the material had been preserved and not reconstructed. See Brody, "The Contribution of the Yerushalmi to the Dating of the Anonymous Material in the Bavli (Hebrew)," 32–3. See also Robert Brody, "The Anonymous Talmud and the Words of the Amoraim (Hebrew)," in *Iggud I* (Jerusalem: Haiggud Haolami Lemada'ey Hayahadut, 2008), 224–5.

[324]This is from my personal discussions with Halivni. See also Halivni, *Midrash, Mishnah, and Gemara: The Jewish Predilection for Justified Law*, 82n16. Brody disagrees with Halivni's postulation as in his view it is highly improbable that such extensive and important material is the product of the last generation given our knowledge of the diminishing of the Jewish population in Galillee during the fourth century CE. See Brody, "The Anonymous Talmud and the Words of the Amoraim (Hebrew)," 224–5. Notably in Halivni's view Rav Muna and Rav Yona were not the redactors of the Yerushalmi.

[325]The anonymous dialectical argumentation of the Yerushalmi is, however, significantly less developed and substantially different than the Bavli's. Their varied style is a complicated issue that requires further analysis. See pp. 289 for further discussion.

for them it was as important to understand the refuted "what one might have thought"(*hava amina*), as the final conclusion. Unlike the *Amoraim*, who were interested primarily in the final legal ruling, the *Stammaim* saw the dialectical argumentation as a goal and worthy in its own right.[326] This caused the *Stammaim* not only to preserve their reconstructed dialectical argumentation but to see its inherent value as being on par with legal rulings. Therefore, they incorporated and integrated dialectical argumentation together with legal rulings and stopped transmitting the legal rulings through the reciters and instead transmitted the traditions themselves. Halivni explains that the shift required great ability: "To preserve dialectical argumentation with all its detailed complexities and nuances demands more than a phenomenal memory. One must be a great scholar (*talmid hakham*) with a profound knowledge and consummate analytical abilities."[327]

The *style* of the reconstructed argumentation by the *Stammaim* differed greatly from the amoraic source. The amoraic style of dialectical argumentation was organic and natural, making each part independent of what followed. In contrast, the stammaitic argumentation is highly structured and has an artificial feel since it takes into account all of the parts of the discussion. Each new section of the *sugya* is influenced by what precedes and follows, and is crafted in order to pave the way for the continuation. This is not a natural flow and at times can create what seems to be incoherent, since they intended to incorporate as much dialectical argumentation as possible.[328] One classical example of their unique style can be seen in b. Yevamot 20a and b:

A   [The Mishnah states:] A widow with a high priest [performs *halitsah* but may not enter into levirate marriage; m. Yevamot 2:3]
B   He (the authority of the Mishnah) rules in general terms (*qa paseiq vetanei*): there is no difference between [a widow] after marriage and [a widow] after bethrotal. It makes sense [regarding a widow] after marriage, as this is a case of violating a positive commandment (i.e. the high priest is

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[326]Halivni, *The Formation of the Babylonian Talmud*, 123–4.

[327]Halivni, *The Formation of the Babylonian Talmud*, 201–2.

[328]Halivni, *The Formation of the Babylonian Talmud*, 124.

commanded by a positive commandment to marry a virgin) and a negative commandment (i.e. that the high priest is commanded not to marry a widow); and [therefore] a positive commandment (i.e. to perform the levirate marriage) does not override both a negative and a positive commandment. However, [regarding a widow] after betrothal, it is merely a negative commandment (the prohibition against marrying a widow, as she is still a virgin). Let a positive commandment come and override the negative commandment!

. . .

C   Rather Rava said: A woman widowed after betrothal is also forbidden [to the high priest] by a positive and negative commandment, for it is written "They should be holy. . . ."[329]

D   What would you say then of the cases of a woman of illegitimate birth (*mamzeret*) or a *netinah*?[330] (as both do not perform the levirate marriage despite the fact that their prohibition is merely a negative commandment and yet may not be superseded by the positive commandment of levirate)

E   It is [because it is] written "And you shall sanctify yourselves"[331] (i.e. a positive commandment)

F   If so, [all negative commandments] throughout the entire Torah can be considered both positive and negative commandments, as it is written "And you shall sanctify yourselves"![332]

G   Rather Rava stated: A widow after betrothal is [forbidden to perform the levirate marriage] as a preventive measure on account of a widow after marriage.

H   What you say then for the cases of a woman of illegitimate birth (*mamzeret*) or a *netinah*?[333]

. . .

I   Rather Rava stated: The first act of intercourse [with the woman widowed after her betrothal] is [prohibited as] a preventive measure against a second act of intercourse [with her, which would then lack a positive commandment to take precedence over the negative commandment].[334]

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[329]Lev. 21:6.

[330]A *netinah* is an alleged descendant of the Gibeonites and they are not permitted to marry ordinary Jews (m. Yevamot, 8:3).

[331]Lev. 11:44.

[332]Lev. 11:44.

[333]A *netinah* is an alleged descendant of the Gibeonites and they are not permitted to marry ordinary Jews (m. Yevamot, 8:3).

[334]Adapted and abbreviated (albeit with variant letter codes and arrangement) from the translation of b. Yevamot 20a/b by Jeffrey L.Rubenstein in Halivni, *The Formation of the Babylonian Talmud*, 124–6.

The progression of the dialectical argumentation in this *sugya* is incoherent. Against Rava's second answer [G] which came to resolve the objections regarding woman of illegitimate birth (*mamzeret*) and the *netinah* [D] raised against Rava's first answer [C], the Talmud repeats exactly the same objection "What you say then for the cases of a woman of illegitimate birth (*mamzeret*) or a *netinah*?" [H]. How could Rava have given an answer that did not address the question at all? Even more puzzling is that the objection against Rava [D] pertains only to the cases of a woman of illegitimate birth (*mamzeret*) and a *netinah*, but there is no objection against the case of a widow after betrothal, since it involves a positive and a negative commandment. Why then does the Talmud quote Rava as: "Rather Rava stated: A widow after betrothal is [forbidden to perform the levirate marriage] as a preventive measure on account of a widow after marriage."[G]? The unique style of the *Stammaim* is evident in this *sugya* and it is obvious that the dialectical argumentation above is artificial and does not record a historical account of the evolution of Rava's statements. The whole argument functions to explain why Rava's final statement [I]; "The first act of intercourse is a preventive measure against a second act of intercourse," was required, rather than the other two possible explanations [C] and [G]. The weakness of these positions is that they do not satisfactorily address the cases of the woman of illegitimate birth (*mamzeret*) and the *netinah*.[335] Clearly, the initial formulations of Rava's statements were hypothetical possibilities which were rejected, indicating that they were never officially recorded by Rava. Nonetheless, the *Stammaim* still quote them as amoraic dicta and refutes them with Rava's official and accepted position.[336]

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[335]Halivni, *The Formation of the Babylonian Talmud*, 131–2.

[336]Halivni, *The Formation of the Babylonian Talmud*, 153. Halivni further notes that in a similar fashion, at times the *Stammaim* complete an amoraic statement in the first person, as if it was stated by the *Amora* himself, but in reality it is language of the *Stammaim*. See example in b. Bava Batra 23a where it appears that Rav Yosef was responding to a comment by Rav Mari and Rav Zevid, which is impossible,

The method of reconstruction used by the *Stammaim* varied with the form of the traditions that they received. Since a dialectical argumentation was not officially transmitted, it survived in a wide variety of forms. At times only the explanation or part of it survived and had to be completed, in other cases the dictum itself was deficient and needed to be corrected. In some cases both the dictum and the legal reasoning survived intact but the context was unknown. The *Stammaim* were forced to resolve all of the outstanding issues in the *sugya*. When the explanation did not fully survive and had to be completed, the *Stammaim* distinguished their words from the words of the *Amoraim* by introducing the statement with the words "What is the reason (*mai ta'ama*)?[337] When the dictum was lacking or needed explanation, the *Stammaim* employed specific terminology to elaborate upon it. For example, they used terms like "*heikhei damei*" ("in what circumstance"), and "*ha gufa qashya*" ("there is an internal contradiction") to complete the tradition.[338] In many cases specific terminology is lacking and the stammaitic intervention can be identified by a linguistic shift from Hebrew to Aramaic; in other cases they supplemented the *Amora*'s words by using the language of the dictum itself and the stammaitic addition can only be identified by analyzing the context. When the dictum and explanation survived but its context was lost, the *Stammaim* recreated the context by giving the impression that the *Amora* was directly addressing the *stam*. This explains several passages which give the impression that an *Amora* addresses the anonymous stratum. R. Brody objected to Halivni's hypothesis—that no dialectical argumentation was preserved in the amoraic period—precisely because of this phenomenon.

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since they lived more than two generations later. See Halivni, *The Formation of the Babylonian Talmud*, 153–4.

[337]At times only those words are from the *Stammaim* but the explanation is amoraic. See Halivni, *The Formation of the Babylonian Talmud*, 150.

[338]Halivni, *The Formation of the Babylonian Talmud*, 150–4; Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 111–4.

Halivni's insightful analysis of the text and unique methods separate him from earlier scholarship. Scholars, like Halevy,[339] who preceded Halivni assumed that the fact that the dicta of *Amoraim* which were placed in a context of responding to the anonymous stratum meant that the *stam ha'talmud* was in place before they made their statements and they reacted to it. This same position has been reintroduced by Robert Brody, who recently has cited several examples in b. Ketubbot where it seems that *Amoraim* directly address the *stam*.[340] Interestingly, the vast majority of cases cited by Brody are from Rav Ashi's generation and onwards.[341] Brody argues that the anonymous material was preserved and accumulated from the end of the third century or beginning of the fourth and grew substantially from the end of the fourth century and throughout the fifth century. His position in this respect reflects substantially Halevy's view of the redaction of the Bavli. Even with Brody's objections, Halivni's model of the stammaitic reconstruction supplies answers to the challenges posed. Several of the cases[342] Brody cites can be explained as examples in which the *Stammaim* reconstructed the dialectical argumentation which they believe gave rise to the amoraic statements; these reconstructions were added later and give context to the rulings, however, they give the impression that the *Amora* was addressing the anonymous material.[343] In the other

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[339]See pp. 92 above.

[340]Brody does not disagree with many of Halivni's conclusions, since he agrees that much of the anonymous material is late. However, he believes in the concept of an early *stam* and the possibility of *Amoraim* directly addressing that *stam*.

[341]Approximately 2/3 of his examples are from Rav Ashi's era onwards while four cases are from Abaye and Rava's generation and two cases are from intervening generations. See Brody, "The Anonymous Talmud and the Words of the Amoraim (Hebrew)," 213–32.

[342]See b. Ketubbot 26b, 31b among others.

[343]See Halivni, *The Formation of the Babylonian Talmud*, 153–4.

cases[344] cited by Brody, Halivni would agree that the anonymous material is amoraic,[345] based on terminology and style he sees as coming from the *Amoraim*.

According to Halivni the activity of the *Stammaim* lasted for over 200 years, extending into the second half of the eighth century when *Geonim*, like R. Yehudai Gaon and R. Aha of Shabha[346] composed independent works. Halivni argues that the period came to a close when the "creative powers of *Stammaim* ceased, when they finished explicating the dialectic argumentation that had been transmitted to them."[347] The end of the period was not marked with a momentous event—the activity came to a close when most of the reconstruction had been accomplished.

Given the extended period of their activity, the work of the *Stammaim* evolved over time. Halivni argues that there are three different strata in their work reflecting the evolutionary process of their activity. In the first part of the stammaitic period the style of the *sugyot* was typified by completion of fragmentary amoraic dicta, or of tannaitic material connected with the *sugya*. In these cases, the amoraic ruling relates directly to the dialectical analysis since the *Stammaim* possessed traditions concerning the amoraic material.[348] The second stratum was composed by later Stammaim who did not possess a tradition directly related to the *sugya* that they reconstructed. Therefore, they imported

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[344]See b. Ketubbot 26b. Although preceded by a lengthy anonymous discussion, the anonymous material addressed by Rav Ashi is the final explanation of the argument—"*hayshinan le zeiltuta de'beit din*"—which in Halivni's opinion can be of amoraic origin.

[345]See pp. 215 above.

[346]Halivni, *The Formation of the Babylonian Talmud*, 25.

[347]Halivni, *The Formation of the Babylonian Talmud*, 112. Halivni concedes that although the *Stammaim* completed their work, numerous minor explanatory insertions were added afterwards. See Halivni, *The Formation of the Babylonian Talmud*, 113 and 113n122.

[348]They are formulated as "R. so-and-so says." See Halivni, *The Formation of the Babylonian Talmud*, 8.

amoraic dicta from parallel *sugyot* and quoted from it indirectly.[349] The latest generation

of *Stammaim*, far removed from the amoraic period involve no amoraic dicta and these

passages are entirely anonymous. As Halivni describes it: "The more distant the *sugya*

from amoraic times, the fewer amoraic dicta it includes."[350] Halivni's model of

development is rigid and seems to be somewhat artificial. It assumes a process of

reconstruction based on available materials and not a sequential process, where topics

were addressed in a systematic fashion following the order of the tractates of the Mishnah

or another logical order. If they had reconstructed the material in a specific order, either

topically or by tractate, it would mean that they availed themselves of direct amoraic dicta

when available, otherwise they explicated it as feasible, either with indirect amoraic

rulings or without them if none was available. Halivni's theory, however, is consistent

with his view that the *Stammaim*, unlike the *Amoraim*, studied in the academy by topic

and not following the order of tractates. These topics were selected by availability of

amoraic material. In Halivni's view, the heavily reworked stammaitic *sugya* resulted from

this mode of study, where the homogeneity of the topic binds loose ideas together.[351] In

his opinion, these topics were selected by the *Stammaim* not by their academic interest

but rather by the efficiency of their reconstruction project.

Halivni contemplates two distinct stages in the stammaitic era. In the first stage,

immediately after the amoraic period (c. 550–650 CE—approximately half of the entire

era) there were many amoraic dialectic traditions, and thus the first type of reconstruction

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[349]"As R. so-and-so said (*de'amar rabbi ploni*)" or "did not R. so-and-so say (*ha'amar rav ploni*)."
See Halivni, *The Formation of the Babylonian Talmud*, 8.

[350]Halivni, *The Formation of the Babylonian Talmud*, 8.

[351]Halivni, *The Formation of the Babylonian Talmud*, 183–4. Halivni's proof, however, is not
conclusive since the nature of a fluid dialectic discussion develops into the loose association of ideas even if
the topics were studied following the order of tractates of the Mishnah or any other system.

work, as discussed above, was operative. At this time, the *Stammaim* were centralized in one location and internal debates were rare.[352] Even after they dispersed into different academies there was no need to coordinate an effort to reconcile any of their disagreements. In the second stage (c. 650–730 CE), however, the tradition of amoraic dialectical argumentation dwindled, and thus the other two styles of reconstruction work discussed above were operative. Furthermore, there was also a proliferation and diffusion of houses of study,[353] and therefore naturally the number of arguments grew. Consequently the *Stammaim* devoted greater efforts to reconciling their differences, and they had to resort to forced explanations to resolve these incongruities.[354]

According to Halivni's model of redaction, the role of the *Stammaim* encompassed a reconstruction of dialectical argumentation that had existed alongside the rulings of the *Amoraim* but had not been officially transmitted. Halivni does not attribute to the *Stammaim* any original and creative activities where they actively reinterpreted and created *sugyot* as active participants. In this way Halivni's model is quite similar to the

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[352]Halivni, *The Formation of the Babylonian Talmud*, 167. This assumption is consistent with Halevy's theory that Sura ceased operations approximately in year 540 CE and only reopened in 609 CE. See Isaac Halevy, *Dorot Harishonim*, III:54–6. At the time Pumbedita was the sole academy (it was relocated temporarily to the surrounding area of Nehardea, Piruz Shabur in 570 CE until 589 CE). See Isaac Halevy, *Dorot Harishonim*, III:33–8, 46 See pages 136 above.

[353]The academies of Sura and Pumbedita dominated the intellectual landscape of Babylonia in the geonic period to such an extent that little is known about the other academies or their prominence. See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 38. Brody notes that there are two instances of known academies outside of these main hubs. One example is the academies that were formed when scholars were unable to agree on the choice of the *Gaon*. However, none of these splinter academies lasted longer than a decade or two. The other example was the *Bet Rabbenu shebe-Bavel* (The House of Our Master in Babylonia), which was closely associated with the Sura academy and it served as its annex . See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 40–2. Halivni's construct is thus unclear. Where were the *Stammaim* diffused and among which academies did they continue their work? Why weren't they centralized between these two academies as before? Perhaps Halivni's intention is that until Sura reopened there was only one central academy in Pumbedita, but upon its reopening there were two competing parallel efforts of stammaitic work.

[354]Halivni, *The Formation of the Babylonian Talmud*, 167.

model of Halevy, both of them limit the place of creativity and create a rigid mode of redaction.[355]

All of Halivni's descriptions of the anonymous strata of the Talmud reveal a complex and diverse enterprise. Halivni argues: "[O]ne who is proficient in the stammaitic stratum of a single chapter of Talmud, has no reliable knowledge of the form and style of the entire Talmud: the stammaitic stratum differs not only from tractate to tractate but even within the tractates themselves, from chapter to chapter and even from folio to folio."[356] These differences were not limited to distinctive styles documented by the medieval commentators.[357] The progression of thought varies from *sugya* to *sugya*. Halivni offers the following examples:

> In some passages the Talmud states "He taught [some matters] and omitted others (*tanna veshayar*)" and then asks, "What [else] did he omit [besides] this omission?" and in other passages it does not ask this question. In some cases the Talmud states "It was not stated explicitly but derived from an inference" and continues "What [difference does it make] if stated on the basis of an inference?" and sometimes it does not continue with this question. Sometimes the Talmud states "It is [merely] an explanation (*peroshei ka mefaresh*)" and then asks "What is the purpose of the repetition?" and sometimes it does not. In some cases amoraic statements appear in chronological order and in some cases they are presented in a different order. In addition, the logic of the *sugya* differs from passage to passage, and objections raised by the Stammaim in one passage are not always raised in other passages, and so too responses offered in one passage are not always offered elsewhere.[358]

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[355]See a similar comment in Shamma Friedman, "A Good Story Deserves Retelling: The Unfolding of the Akiva Legend," 56n9. Halivni's model is quite different than the model advocated by Friedman, who believes that the redactors carried out a creative role throughout the editing of the Bavli. See Shamma Friedman, "A Good Story Deserves Retelling: The Unfolding of the Akiva Legend," 55–93.

[356]Halivni, *The Formation of the Babylonian Talmud*, 115–6.

[357]Several stylistic differences were already noted by the medieval commentators. Certain talmudic passages make inferences from the language of the Mishnah while others do not. Halivni notes that these differences are also present in the Mishnah. See Tosafot, b. Rosh Hashana 2a, s.v. *arba'ah* and b. Bava Qamma 2a, s.v. *arba'ah*. For other examples and further information, see Halivni, *The Formation of the Babylonian Talmud*, 115.

[358]Halivni, *The Formation of the Babylonian Talmud*, 115–6.

Thus, the dialectical argumentation found in the Bavli was composed by different *Stammaim* from diverse academies over an extended period.

The work of Adiel Schremer on two Cairo *Geniza* fragments of b. Mo'ed Qatan[359] could be used to confirm parts of Halivni's theory which argue for the existence of diverse schools among the *Stammaim* in the redaction of the Bavli. Schremer demonstrates that the talmudic text of these fragments differ widely from the extant readings of the same *sugya* in Bavli Mo'ed Qatan, not only in wording, terminology and Aramaic dialect but also in dialectical argumentation. The *Geniza* fragments quote several amoraic dicta which are absent from our readings in the talmudic text.[360] If we take Halivni's theory of the redaction of the Bavli as our point of departure, it could be that these *Geniza* fragments represent a different stammaitic school than the extant text; this would indicate that the *Stammaim* reconstructed the Talmud on the basis of fragmentary sources without either a coordinated effort nor an official interpretative tradition. The alternative school's reconstruction would have been lost had it not been for the *Geniza* fragment.[361] The same phenomena is also evident in b. Temurah where, as noted earlier,[362] there are many alternate *sugyot* dealing with the same topic and include the same amoraic statements; the second version is introduced as *lishna ahrina*, an

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[359]Oxford-Bodley (Heb. e. 45) 2674/17, fol. 56r-61v and Cambridge TS NS 329.705. These are remnants of a single ancient manuscript probably from the tenth century. See Adiel Schremer, "Between Text Transmission and Text Redaction: A Different Recension of Mo'ed Qatan from the Genizah (Hebrew)," *Tarbiz* 61, no. 3–4 (1992): 375–400.

[360]See Schremer, "Between Text Transmission and Text Redaction: A Different Recension of Mo'ed Qatan from the Genizah (Hebrew)," 375–400. See also Yoav Rosenthal, "On the Early Form of Bavli, Mo'ed Qatan 7b-8a," *Tarbiz* 77, no. 1 (2007): 45–69. The amoraic dicta, however, may represent the rephrasing of views already mentioned in our extant *sugya*. See Schremer, "Between Text Transmission and Text Redaction: A Different Recension of Mo'ed Qatan from the Genizah (Hebrew)," 396–7 and note 70.

[361]See pp. 264 for a further discussion on the many variant formulations of talmudic *sugyot* that are evident in geonic writings.

[362]See pp. 106 above.

alternate version. In some cases the second version only rephrases the earlier *sugya* while applying different terminology and wording.[363] In other cases the second version is significantly different with a totally different structure which poses different questions.[364] It is clear that these two traditions indicate two different versions emanating from different sources. It is also worthy of note that the differences in the two versions are found almost exclusively in the dialectic argumentation and not within the amoraic statements.

One of the major questions that plagues Halivni's model of redaction is why the reconstruction of the dialectical argumentation was done in such a fragmented way. Halivni's answer is that the disparate reconstructed materials were first combined and integrated into one organic *sugya*. This activity was performed by the Combiners (*metsarfim*)[365] of the stammaitic period. They functioned in a similar way to the early combiners of amoraic dicta.[366] They were the ones who constructed the *sugyot* into a single source and they were active participants in the closing of the Talmud. They most likely began their work from the beginning of the stammaitic period. These integrated *sugyot* however were only later gathered together and fashioned into a single combined Talmud by the Compilers (*me'asfim*). Prior to their activity there were many "Talmuds," consisting of *sugyot* of the various academies which the Compilers integrated and from them created our Talmud. The *Stammaim* were dispersed among the various academies

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[363]This was already pointed out by Halevy in his work. See b. Temurah 6b and Rashi s.v. *hakhi*, 10b among others. See also Isaac Halevy, *Dorot Harishonim*, III:49–50.

[364]See for example in b. Temurah 8b and Rashi *ad loco* s.v. *lo*, 9b Rashi s.v. *shney* and s.v. *amar*.

[365]Although Halivni has previously called them the early Compilers (*me'asfim*), see Halivni, *The Formation of the Babylonian Talmud*, 155, currently he has termed them Combiners instead. Their activities are very similar to the combiners of amoraic dicta, and unlike the Compilers they have created the *sugya* and did not work with already constructed *sugyot*.

[366]See pp. 216 above.

and most of the time did not debate the subjects with the sages of the other academies.[367] The lack of a joint or coordinated activity, coupled with a non-uniform knowledge of the early sources, produced contradicting *sugyot*, called by Halivni *sugyot muhlafot* or contradictory *sugyot*.[368] According to Halivni the Compilers lived after the conclusion of the reconstruction project of the *Stammaim* when it was no longer possible to harmonize the sources and remove forced explanations caused by the lack of knowledge of some of the early sources by one of the academies. The Compilers gathered these *sugyot*, at times joining them together,[369] without commenting on the contradiction between the disparate sections and the possibility of alternate answers available without the need to resort to forced explanations, given the new material available. Although the Combiners had already worked from the beginning of the stammaitic period, their *sugyot* only represented the reconstructed work of individual academies. The Compilers, on the other hand, gathered the disparate *sugyot* from the various academies, at times joining them, but their activity only took place after the reconstruction work of the *Stammaim* had already finished. Therefore, they left them intact and trusted that future students would understand the inherent problem.[370] At times they combined a newly found fragmentary source to an existing *sugya*, attaching it at the end of the passage.[371] At times they juxtaposed versions of talmudic passages with terms "there are some who say" or

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[367]Halivni concedes that in many places we do find a connection between the different houses of study. See Halivni, *The Formation of the Babylonian Talmud*, 156–7.

[368]See pp. 103 above.

[369]Halivni surmises that when the similarity between *sugyot* was substantive they were combined, otherwise they were distributed throughout the Talmud. See Halivni, *The Formation of the Babylonian Talmud*, 162.

[370]Halivni, *The Formation of the Babylonian Talmud*, 155–7. In Halivni's opinion it is implausible that they were not aware of the blatant contradictions and forced explanations.

[371]These attachments were noted above. See pp. 120 above.

"another version," because the passages were similar in content despite having different rulings.[372]

Therefore, Halivni sees two different types of "compilers," the Combiners and the Compilers, at work in the dialectical argumentation in the Bavli. The first type are the early compilers who flourished at the beginning of the stammaitic period. They participated in the end of the reconstruction work of the *Stammaim*, and thus were able to resolve discrepancies between disparate and even contradictory sources.[373] The second type were the later compilers who did their work for a limited time between the Stammaitc and saboraic periods (c. 730–770).[374] This division into two types of compilers creates a complicated model and introduces an additional group of previously unknown sages with a new set of rules. Furthermore, Halivni's account leaves very little room for the saboraic activities, which are mentioned and categorized by the early sources like the Epistle and STVA. How is it possible that the Compilers, whose activity in essence formed the Talmud, were ignored by these early historical accounts while the *Saboraim* with a far more limited scope of activity were accorded a prominent status of their own? Halivni's position on the activities of the *Saboraim* has evolved throughout his career. In the early years he thought that the *Saboraim* followed the *Stammaim* and thus their activity only started in the seventh century and lasted for approximately 150 years.[375] They already had the Talmud in its entirety and only were responsible for

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[372]Halivni, *The Formation of the Babylonian Talmud*, 162.

[373]Halivni, *The Formation of the Babylonian Talmud*, 155. Halivni notes that there are exceptions when these passages were combined by the *Stammaim* themselves. In his opinion, these are the instances in which the alternative versions are followed by dialectical argumentation pertaining to either one of the versions alternatively. See Halivni, *The Formation of the Babylonian Talmud*, 163.

[374]Halivni, *The Formation of the Babylonian Talmud*, 156.

[375]Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 7; Halivni, *The Formation of the Babylonian Talmud*, 9.

glossing the text and for minor additions.[376] Later on Halivni modified his position,

arguing that the saboraic period was in fact the last part of the stammaitic period,

spanning from the second third of the eighth century until the time when the *Geonim*

began to compose independent works.[377] This extension of the stammaitic period caused

Halivni to limit the span of the saboraic period to approximately 40 years (less than a

third of his original assumption)—from ca. 730 to ca. 770—when sages ceased to add

their comments to the Talmud and began to compose independent works. According to

Halivni, the *Saboraim* were the same sages who composed the earliest works that

followed the Bavli and considered it a closed corpus. This includes the *She'iltot* of R.

Ahai of Sabha, and *Halakhot Gedolot* of R. Simeon Kayyara. They had earlier added their

comments within the Talmud but when they wanted to circulate their own interpretations

in conjunction with their rulings they decided to compose their own *halakhic* works since

they were too large to incorporate into the Talmud.

Currently Halivni understands the *Saboraim* to be the last *Stammaim* who lived in

the end of the stammaitic period when the bulk of the reconstructive work had been

completed.[378] As such, the name *Sabora* does not define a new chronological period but

is descriptive of their function and title.[379] An alternative approach is more plausible. In

my opinion, instead of creating two separate categories, the *me'asfim* and the *Saboraim*,

and seeing the *Saboraim* as the last of the *Stammaim*, it is more logical that both were

activities of the *Saboraim* and that they were the compilers of the Talmud. Since the

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[376]Halivni, *Meqorot Umesorot: Tractate Bava Metzia*, 13–4.

[377]Halivni, *Mevo'ot Lemeqorot Umesorot: Iyunim Behithavut Hatalmud*, 7–8.

[378]See Halivni, *The Formation of the Babylonian Talmud*, 7.

[379]Halivni translates the term it as the *afel*—to explain. In his words, their type activity was "explanations = *hesberim*." See pp. 207 above.

sugyot had already been put in final form by the *Stammaim*, they could not alter or modify

them; at most they added explanatory glosses, *sevarot*, to existing *sugyot*.[380] Their activity

continued until the official closing of the Talmud in the latter part of the eighth

century.[381] This is the exact activity that had been attributed to the *Saboraim* by the

medieval commentators like R. Zerahia Halevy (1125–86), the author of *Sefer Hamaor*.

R. Zerahia comments upon an odd passage in b. Pesahim 102a where a *baraita* is quoted

at the end of a *sugya* as support to a previously refuted view (*tanya kevateih* following a

refutation, *tyuvta*). He says the following: " This was an extraneous tradition that the

Saboraim discovered after the closing of the Talmud, and they included it in the

Talmud."[382] This view of the saboraic work might have already been alluded to by STVA.

In his opinion: "And after them, *Rabanan Savora'ei* who through them 'the heavens were

stretched and the Earth was woven' . . . they did not add nor innovated on their own, but

they established the chapters of all tractates in order."[383] The intention of this passage is

quite unclear;[384] however, this conception of the *Saboraim* as the final compilers of the

Bavli can shed light on this passage. The *Saboraim* turned the Talmud into a unified work

by combining *sugyot* and setting them in chapters following the Mishnah; what STVA

describes as the weaving of heaven and earth.

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[380]Halivni, *The Formation of the Babylonian Talmud*, 163–4.

[381]Halivni explains that this type of activity explains the additions which are found in the *She'iltot* and are not found in the Talmud. See Halivni, *The Formation of the Babylonian Talmud*, 163n12 and the literature quoted. In his view it was due to the fact that the process of integration had not been entirely completed at that time. See Halivni, *The Formation of the Babylonian Talmud*, 163.

[382]Commentary to Rif (Alfasi) *b. Pesahim* 23 (101a) s.v. *devarim*. Halivni quotes *Sefer Hamaor* on Halivni, *The Formation of the Babylonian Talmud*, 40.

[383]Kahana, "Seder Tannaim Weamoraim auf Grund Mehrerer," 9.

[384]See pp. 290 for a further discussion on this passage.

An additional class of sages in Halivni's model he calls "Transposers." Their work in some respects overlapped with the Compilers, however, it was fundamentally different. The Transposers, unlike the Compilers, either transferred entire *sugyot* or completed existing *sugyot* by transferring parallel material, which were similar or identical, which in their view originated from the same house of study.[385] As Halivni explains, "They assumed that if the *sugyot* derived from the same source, than they had to be completely compatible, and so they transferred sections from one *sugya* to the other. However, they were not completely consistent and did not always transfer material from one passage to the other."[386] The Compilers however were the true creators of our version of the Bavli since they were the ones who integrated it into one book while the Transposers had already access to a completed Talmud. Their activity thus differed substantially. The Compilers, therefore, in numerous cases combined contradictory *sugyot*. The Transposers on the other hand had already access to a "completed" Talmud and were thus able to focus only on *sugyot* which were in their view compatible. They completed *sugyot* they perceived to be lacking or missing information on the basis of parallel completed material. While the Compilers' activities were limited to a defined number of years at the end of the stammaitic period, transposing activity—albeit not by the Transposers per se—[387] was operative throughout all generations, since sages always

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[385]These transpositions relate to instances where they are not introduced explicitly as foreign ("outside") material. Transposed amoraic dicta are explicitly introduced as such by the term "as R. So-and-So said . . . here too . . .," and are commonly found in the Talmud. See Halivni, *The Formation of the Babylonian Talmud*, 184–5.

[386]Halivni, *The Formation of the Babylonian Talmud*, 162.

[387]The Transposers as a group were operative when the Talmud was already formed as an integrated work by the Compilers.

attempted to complete *sugyot* on the basis of parallel completed material.[388] In Halivni's opinion, there are five types of transpositions:[389]

(a) When two passages are identical in content, phrasing and order—they are essentially one source transposed to a second context. This type of transposition occurred throughout the process of the development of the Bavli, and even in the post-talmudic period, since it was not seen as an "addition" to the Bavli. The original *sugya* can be determined on the basis of context and structural fit.

(b) When the content is identical but the phrasing in one passage does not fit in a parallel passage. In many cases one of the contexts requires the introduction "since"(*she*). This type of transposition took place throughout the stammaitic and saboraic eras. The original *sugya* belongs where the context fits more naturally.

(c) When the content in two places is similar, and at times almost identical, if one of the contexts includes attributed statements of *Amoraim* while the other does not, the *Amora* originally stated his dictum in the context where content is attributed.

(d) When the contexts of the *sugyot* are different and the content is anonymous, with no attributed material, and the *sugya* fits well in both contexts it is difficult to determine when the transpositions took place.[390]

(e) When two anonymous *sugyot* appear in two different contexts but the anonymous material only fits one of the contexts it is likely that the context that does not fit postdates the stammaitic period and the transposition can be placed in the saboraic period or later. Some of these transpositions can be a product of the activity of R.

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[388]Halivni, *The Formation of the Babylonian Talmud*, 162–3,168.

[389]Halivni, *The Formation of the Babylonian Talmud*, 168–75.

[390]In Halivni's opinion these instances are not the product of the Compilers since the content is so similar that it precludes the possibility of independent sources. It is however possible that the later *Stammaim* transferred dialectical argumentation to a new context. See Halivni, *The Formation of the Babylonian Talmud*, 171.

Yehudai Gaon who added[391] several of his rulings to the talmudic text.[392] These are examples of additions which postdate the *Stammaim*.[393]

According to Halivni these transpositions were not the work of editors, since he believes that the Bavli as a whole was never edited. Halivni has a strict definition of "editing." Notably he adopts Halevy's notion of editing which entails insuring the accuracy of content. Halivni quotes A. Hyman's description of Rav Ashi's editing activity, based on Halevy's theory: "They completed, improved, and clarified, clarification upon clarification. . . to clarify and elucidate each and every tradition and to be exacting about the accuracy of the attribution."[394] He thinks that the *Stammaim* reconstructed dialectical argumentation but their work was never edited nor considered editing; this is because they collected material but did not attempt to harmonize it. Halivni explains his position thus: "Editing generally takes place during the time of the composer of the text, and it helps him improve and perfect his composition, whereas reconstruction takes place many years after the analysis of original, when only a fragment remains, the greater part having been forgotten."[395] Transpositions are not considered editing since the transposer does not add anything new and simply mechanically

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[391]It is unclear in Halivni's view if these additions and transpositions were done by R. Yehudai Gaon himself or by others who appended his glosses.

[392]See pp. 142 above.

[393]There are however exceptions, where cogent reasons point to earlier dates. See Halivni, *The Formation of the Babylonian Talmud*, 175. These post-talmudic transpositions were limited to the transfer of antecedent traditions in a mechanical way. See Halivni, *The Formation of the Babylonian Talmud*, 190.

[394]Halivni, *The Formation of the Babylonian Talmud*, 63; Hyman, *Toldot Tannaim Veamoraim*, I:252–3; Isaac Halevy, *Dorot Harishonim*, II:562–71. Halivni concedes that adopting a looser definition would provide a different perspective to the editing of the Talmud. As he noted, "Now, clearly according to the modern conception of editing, when an editor 'selects the items, chooses the style, determines the order and form and such like' but does not control the content, in this sense the Talmud too was edited." See Halivni, *The Formation of the Babylonian Talmud*, 64.

[395]Halivni, *The Formation of the Babylonian Talmud*, 100–2.

transferred similar *sugyot*.[396] Nonetheless, it is difficult to understand how such a revolutionary enterprise was never coordinated or edited but nonetheless accepted by the community.

One of the weak points of Halivni's model of redaction relates to the transition of the Talmud from an oral setting to its being committed to writing. As we will discuss below,[397] the Talmud was in an oral form from the beginning of the amoraic period until the geonic period. It was committed to writing beginning in the mid eighth century, which coincides with the final redaction of the Bavli. According to Halivni's model this was the end of the saboraic era. Thus, according to his model, it was pure coincidence that the writing of the Talmud and the final redaction happened at the same time. Halivni explains: "When transmitters could not handle the vast amount of tradition, they resorted to writing."[398] Halivni considers this further proof that the Talmud was not completed in the sixth century CE. Otherwise it would have been written then. He argues that it was the vast amount of material that brought about the need to render it in writing, because it is so much more difficult to remember dialectical argumentation than apodictic statements.[399] Therefore, this transition was the result of the conclusion of the activity of the *Stammaim* and not the medium of writing having an influence on bringing the Talmud to a close. In my opinion, as discussed in chapter three, it is the change in the attitude towards writing which prompted the Bavli's closure. Moreover the complexities and dynamics of oral transmission versus literary production are also missing from Halivni's account.

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[396]Halivni, *The Formation of the Babylonian Talmud*, 185.

[397]See pp. 258 below.

[398]Halivni, *The Formation of the Babylonian Talmud*, 123.

[399]See Halivni, *The Formation of the Babylonian Talmud*, 123n15. Halivni concurs with *Sefer Ha'ittim*'s view that R. Natrūnai b. Hakhinai Gaon, student of R. Yehudai Gaon, was the first to commit it to writing. See pp. 261 for further details.

Rubenstein argues "His emphasis on the critical role of the Reciters in the transmission of tradition and the impact on dialectical argumentation derives in part from this awareness. Yet there has been a great deal of interest lately on the complexities of oral cultures, interfaces of orality and literacy, and mechanisms of textual production and editing in conditions of orality. Some of this work can potentially sharpen our understanding of the formation of the Bavli and the similar dynamics within rabbinic culture."[400]

One further issue addressed by Halivni in his scholarship are what he terms the *Masekhtot Meshunot*—"the divergent tractates." As noted above,[401] these tractates include Bavli Nedarim, Nazir, Temurah, Kerithot and Me'ilah. They are distinguished from other tractates by their distinct language and style. They also include terminology not used in the other tractates as was noticed by early rabbinic sources. Halivni argues that their special terminology does not indicate geonic dialect anymore than any other tractates in the Bavli; all anonymous material is of geonic era provenance,[402] since "the linguistic evidence of these tractates in relation to the other tractates and to the dialect of the Geonim has not been clarified sufficiently and cannot be used to determine priority and posteriority."[403] The tractate that most interests Halivni in this context is Bavli Nedarim because it resembles the Yerushalmi. As noted above,[404] Bavli Nedarim's anonymous dialectical stratum is very different from other tractates of the Bavli. The

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[400]Halivni, *The Formation of the Babylonian Talmud*, xxix.

[401]See pp. 103 above.

[402]Halivni's contention is quite radical since geonic Aramaic on occasion clearly differs from the Aramaic of the Bavli in a number of basic features. See Yochanan Breuer, "Aramaic in Late Antiquity," in *The Cambridge History of Judaism*, ed. Steven T. Katz (Cambridge, London et. al.: Cambridge University Press, 2006), 476–8.

[403]Halivni, *The Formation of the Babylonian Talmud*, 195.

[404]See pp. 105 above.

anonymous material is simple and brief, mainly explaining the rationale for amoraic

explanations of tannaitic sources. It does not contain multiple layers of discussion but

only a simple give-and-take. In Halivni's opinion this was the result of the fact that this

tractate was reconstructed earlier than the rest of the Bavli[405] and thus predated the other

tractates. It was not studied much before the time of R. Yehudai Gaon because it predated

the other tractates. Its style represents a stage of development which began with the thin

editorial style similar to the *sugyot* of Yerushalmi *Neziqin* in the mid fourth century, and

develops into a more elaborate stratum in the other Yerushalmi tractates (towards the end

of the fourth century). This then evolved further into a more elaborate form in b. Nedarim

in the seventh century. The other Bavli tractates reflect a far more developed and

expansive dialectical argumentation and which dates from the mid eighth century.[406]

However, once again, Halivni's theory is problematic. Why was b. Nedarim reconstructed

so much earlier than other tractates? Why isn't a gradual evolution witnessed among the

other tractates? Halivni's reasoning for the neglect of the study of b. Nedarim by the

geonic academies in the century before R. Yehudai Gaon is quite simplistic and ignores

the contextual developments of that era as will be explained ahead.[407]

One further issue with Halivni's model that has been noted by scholars[408] is the

lack of any mention of Islam in the anonymous stratum of the Bavli. If the process of

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[405]Probably in the seventh century, almost two centuries before R. Yehudai Gaon. See Halivni, *The Formation of the Babylonian Talmud*, 194.

[406]Halivni, *The Formation of the Babylonian Talmud*, 194.

[407]See chapter three note 162 .

[408]Per discussion with Y. Elman. See related comment in Yaakov Elman, "The World of the 'Sabboraim': Cultural Aspects of Post-Redactional Additions to the Bavli," in *Creation and Composition: The Contribution of the Bavli Redactors (Stammaim) to the Aggada*, ed. Jeffrey L. Rubenstein (Tubingen: Mohr Siebeck, 2005), 386–7.

reconstruction continued into the late 8th century why is there no allusion of Islamic influence? Iraq-Babylon was conquered by the Arabs in the mid seventh century,[409] and therefore we would have expected to find some influence. As Rubenstein asks: "Did the Arab conquest of the Sasanian Empire in c. 630–650 and the gradual penetration of Islam, which occurred during the heyday of the stammaitic era, influence these processes?"[410] As Gideon Libson has noted, a plausible explanation might be that until the end of the eighth century or early ninth century it was generally Judaism that influenced Islam and not the opposite. Only from the ninth century do we witness a gradual Muslim influence on Judaism in certain areas, although, even then in a limited way.[411] Such lack of direct influence can be seen by the lack of any direct reference either by the works composed at the same time, like *Halakhot Pesukot* and the *She'iltot*. As noted by Libson: "The first reference in the literature to 'Cuthean' courts—if one can rely on the testimony of R. Yehudai—dates from the mid-eighth century, around the time the Muslims consolidated their rule over Iraq. Rashi quotes R. Yehudai, describing what is apparently the institution of *fatwā* (a legal opinion handed down to one of the litigants) as a practice of non-Jewish courts."[412] It is remarkable that R. Yehudai does not even call them "Muslims" or

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[409]For details see Pourshariati, *Decline and Fall of the Sasanian Empire: The Sasanian-Parthian Confederacy and the Arab Conquest of Iran*, 161–285. For a short chronology of events see Pourshariati, *Decline and Fall of the Sasanian Empire: The Sasanian-Parthian Confederacy and the Arab Conquest of Iran*, 468–9.

[410]Pourshariati, *Decline and Fall of the Sasanian Empire: The Sasanian-Parthian Confederacy and the Arab Conquest of Iran*, xxix.

[411]See Gideon Libson, *Jewish and Islamic Law: A Comparative Study of Custom During the Geonic Period*, Harvard Series in Islamic Law (Cambridge, Mass.: Islamic Legal Studies Program, Harvard Law School, 2003), 7–8.

[412]Libson, *Jewish and Islamic Law: A Comparative Study of Custom During the Geonic Period*, 84.

"Ishmaelites" as they are referred to in later sources,[413] but rather by the generic term "Cutheans." This attitude can be explained by the fact that the initial period of the Islamic conquest of Babylonia was viewed by the early *Geonim*, until Rav Yehudai Gaon, as an extension of the Sasanian era and not as an independent period.[414] Their attitude is evident in R. Hayya b. Sherira Gaon's responsum about Rav Yehudai's approach towards the Muslims in his time. In his view, "the early Muslims (*Yishma'elim*) did not have their heart cleansed from Zoroastrianism yet."[415]

The impact of the larger Muslim environment upon the final stages of the formation of the Talmud is a topic that requires further study. The theory of redaction presented in chapter three will address some possible indirect influences upon the process that can be discerned.

Conclusion

Halivni's description of the formation of the Babylonian Talmud is the only comprehensive account of the processes that produced the Babylonian Talmud that matches Halevy's work in both scope and degree of comprehensiveness. It is the product of a lifetime of study and scholarship of unparalleled erudition.

His revolutionary understanding of the process of formation of the Talmud articulated a paradigm shift which has profoundly impacted modern talmudic scholarship. Halivni's understanding of the anonymous stratum, the *stam*, as a completely different nature than the amoraic stratum and his observations about the diverse form of its

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[413]See Libson, *Jewish and Islamic Law: A Comparative Study of Custom During the Geonic Period*, 84.

[414]See Sussman, "Oral Torah Understood Literally (Hebrew)," 329n31.

[415]Simha Asaf, *Teshuvot Hageonim* (Jerusalem: Hamadfis, 1927), 73 (Responsa 61).

transmission in contrast with the amoraic apodictic data broke new ground in the understanding of the talmudic text and challenged the accepted traditional view that the Talmud was redacted by Rav Ashi. His keen literary analysis provides an abundance of evidence for his claim. His findings, unlike source criticism, are not completely dependent upon the acceptance of Halivni's scholarship position of *ki'peshuto*, the search for the plain meaning of the text and the original intent of its authors. As we explained in detail, Halivni's notion that the sages had a predilection for *peshat* is not universal. It could be that the sages preferred *derash*, which we described as applied meaning, and that it was *derash* that was their primary method, not *peshat*.

However, when analyzing Halivni's theory one must distinguish between his literary conclusions and his historical construct. There is no doubt that Halivni's conclusions on the uniqueness of the *stam* have been firmly established and demonstrated, even with the challenges of scholars like Brody. On the other hand, Halivni's historical construct is a constantly evolving theory, and it has presented numerous problems as it has developed. A functional distinction between the amoraic and stammaitic strata can address all of Halivni's evidence without the need for a radical historical construct in opposition to all early rabbinic sources.

Halivni's predilection for scholarship *ki'peshuto* and his problem with forced explanations, coupled with his assumption that the rabbis were interested in searching for the plain meaning of the text above all else, prompted him to develop a novel historical construct. He argues that the amoraic and stammaitic strata were separated by centuries and represent vastly different approaches. This caused Halivni to argue for the existence of an entire class of sages hitherto unknown and undocumented by any early sources—the *Stammaim*. His historical construct and the chronology of the various stages of the formation of the Talmud is summarized in the chart below:

The Redaction of the Bavli

Amoraim	Apodictic statements and legal rulings	200–ca. 550
Combiners	Combined amoraic dicta and created *sugyot*	200–ca. 750
Reciters	Transmitters of amoraic rulings	200–ca. 550
Stammaim	Reconstruction of dialectical argumentation	ca. 550–750
	Transmission of amoraic rulings and dialectical argumentation	
Compilers	*Sugyot* gathered together into a single Talmud	ca. 730–770
Saboraim	Glossing of the Talmud and minor additions	ca. 730–770
Transposers	Transferred entire *sugyot* / completed existing *sugyot*	———

We demonstrated that Halivni's theories regarding the historical construct are worthy of review. The following are weaknesses and problems we noted in Halivni's historical theory:

(a) The role of Rav Ashi and the meaning of the talmudic statement "Rav Ashi and Ravina—End of *hora'ah*";[416] Halivni argues that Rav Ashi's role was no different than other *Amoraim*. However, as we demonstrated, both Halevy and Segal have argued an examination of traditions about Rav Ashi do show that he had a different role than other *Amoraim*. Moreover, Halivni has not been able to completely free himself from what Rubenstein termed "the tyranny" of this statement as he continues to struggle with finding a suitable interpretation. He continues to show some ambivalence regarding its historicity, and his theories about other possible meanings do not fully address the statement and continue to evolve.

(b) The conception that the era of the *Stammaim* could only begin once amoraic activity no longer took place. This formula is rigid and artificial and does not reflect a complicated and nuanced historical reality. Why would there be such a clear cutoff point?

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[416]b. Bava Metzi'a 86a.

(c) Halivni's hypothesis that the reconstruction project of the *Stammaim* did not begin during the amoraic period because the academies during that time were dispersed seems contrived. The institutionalization of academic learning is an evolutionary process and not a discrete moment. Furthermore, why was this academic setting correlated at all to the death of the last named *Amora*? Why and how did the death of Rav Revai of Rov prompt an abrupt change in the academic setting?

(d) It is puzzling why immediately after the end of the amoraic era the sages would become worried about the "decline of generations" causing the dialectical argumentation to be lost, while the *Amoraim* were never concerned with this issue. Even the post Rav Ashi *Amoraim* were not worried about preserving the dialectical argumentation, despite the fact that tannaitic legal reasoning had already been lost by their time due to the lack of official transmission. What prompted the *Stammaim* to worry about the loss of legal reasoning that came to explain rulings?

(e) The significant anonymous dialectical argumentation of the Palestinian Talmud which was redacted not any later than the eighth decade of the fourth century. As Palestinian anonymous dialectical argumentation was preserved by this time it makes sense that a similar system was operative in Babylonia at the same time. It is difficult to understand why dialectical argumentation was preserved in Palestine so much earlier than in Babylonia and why the *Amoraim* still refused to preserve it until their period was over and the *Stammaim* started their work of reconstruction.

(f) The role of the *Stammaim* was too limited. Halivni does not attribute to them any original and creative activities which involve active reinterpretation of the material. His conception is rigid and in many ways similar to Halevy's model in which creativity is suppressed in the name of tradition. Namely, the same criticism of the weakness and rigidity of Halevy's model applies to Halivni.

(g) The massive work of reconstruction was performed in an entirely fragmented way. If the *Stammaim*'s agenda was to return dialectical argumentation of the *Amoraim*

which was lost and to preserve it for future generations, how is it that it was done in such an uncoordinated way?

(h) Halivni's account leaves very little room for the saboraic activities which are documented and categorized by early sources like the Epistle and STVA. How is it possible that the Compilers, whose activity in essence formed the Talmud, were ignored by these early historical accounts while the *Saboraim* with a far more limited scope of activity were accorded a prominent category of their own?

(i) Halivni's deviation from the Epistle's account by delaying the saboraic era by over 200 years from the traditional chronology is problematic. His current historical account is even more perplexing because it delays the completion of the Talmud to the end of the eighth century, within two hundred years of the Epistle. Halivni's account differs not only regarding the *Stammaim* and their activities but also regarding the end of the amoraic era, which according to Rav Sherira ended in 499/500.[417] Halivni argues that the period of the *Amoraim* includes all of the later sages whom Rav Sherira and the traditional sources understand to be the early *Saboraim*. Moreover, those *Saboraim* noted by R, Sherira to predate Rav Revai of Rov, like Rav Eina head of Sura and Rav Simona head of Pumbedita, but who are not quoted by name in the Talmud, are not deemed to be either *Amoraim* or *Saboraim* by Halivni.

(j) The transition from an oral system of transmission to a written model is problematic in Halivni's scholarship because he ignores the vast changes which took place at that time regarding written culture. They clearly indicate that the transition of the Talmud from an oral setting to a written work prompted its closure rather than the opposite as claimed by Halivni. The complexities and dynamics of oral transmission versus a written model of transmission are missing from his account.

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[417]475 according to Halevy.

(k) Halivni's theory of the redaction of b. Nedarim is also problematic and rather artificial. Why was b. Nedarim reconstructed so much earlier than any other tractate? Why was there no gradual evolution process in the other tractates and only found in b. Nedarim? The reasoning for the neglect of the study of b. Nedarim by the geonic academies in the century before R. Yehudai Gaon posited by Halivni is quite simplistic and ignores the contextual developments of that era.

(l) Halivni's model fails to indicate any Muslim or Arabic influence, whether direct or indirect in the talmudic material despite the lateness of its redaction. The writing of the Talmud[418] as well as the neglect of the study of b. Nedarim by the geonic academies[419] could represent the elusive indirect influences of the larger Muslim environment which are not accounted for by his model.

In conclusion, it is necessary to evaluate his evidence carefully in order to appreciate the strength of his historical postulations. When analyzing his theory one must ask if there can be a more subtle approach to solve the literary issue raised without the need to resort to his daring historical construct. Combining several of Halevy's postulations with Halivni's literary conception of the *stam* as well as its diverse mode of transmission can provide a very compelling alternative account of the process and help resolve these issues. In the next chapter I will attempt to demonstrate just such a model.

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[418]See Fishman, *Becoming the People of the Talmud: Oral Torah as Written Tradition in Medieval Jewish Cultures*, 20n5, 34.

[419]See Libson, *Jewish and Islamic Law: A Comparative Study of Custom During the Geonic Period*, 63.

CHAPTER 3

ORALITY AND THE TWO VOICES OF THE TALMUD
AN INTERMEDIATE MODEL

The Oral Matrix of the Talmud

In the eyes of the sages the dichotomy between Scripture—preserved in written form, and rabbinic commentary—transmitted orally, was a given. Any interpretation of rabbinic culture that fails to understand this dichotomy is lacking. As Rav Yehudah bar Nahmani states in Bavli Gittin 60b:

> דברים שבכתב אי אתה רשאי לאומרן על פה דברים שבעל פה אי אתה רשאי לאומרן בכתב

> Words transmitted in writing may not be transmitted orally and words transmitted orally may not be transmitted in writing.[1]

This statement represents the consensus and the ideal during the amoraic period. As Y. Elman argues "Though the Rabbinic class was certainly literate, the place of written texts in Rabbinic society was sharply limited."[2] This ideology of oral teaching was already subscribed during the early amoraic era, by the third and fourth century editors of the tannaitic collections, although this claim was only directly related to discrete *halakhic* teachings[3] or to some isolated *halakhic* themes.[4] As M. Jaffee writes, "We find no assertion, for example, that various compilations of Tannaitic teachings— such as the Mishnah—were themselves unwritten or constituted some part of the

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[1]b. Gittin 60b.

[2]Elman, "Orality and the Redaction of the Babylonian Talmud," 55.

[3]See m. Pe'ah 2:6.

[4]See m. Hagigah 1:8.

primordial oral revelation."[5] Whether tannaitic compilations were transmitted in writing or in oral form is a matter of debate.[6] A similar argument dating from medieval times relates to the question whether the Mishnah was transmitted in written or oral form.[7]

In Palestine during the third and fourth centuries the concept of orality evolved to a new level, becoming the pedagogical norm of disciple training. The rabbis in Palestine[8] insisted upon the oral nature of their traditions. The exclusive use of the reciters, *tannaim*, as the transmitters of tannaitic material both in Babylonia and Palestine,[9] is also indicative of the oral nature of transmission.[10] This type of transmission could have weakened the relationship between teacher and disciple; however, even with the use of reciters, the master-disciple relationship developed and deepened in an exclusive oral setting. While the *tannaim* were responsible for preserving the teachings in oral form, the

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[5]Martin S. Jaffee, *Torah in the Mouth: Writing and Oral Tradition in Palestinian Judaism, 200 BCE-400 CE*, 100.

[6]S. Lieberman argued that the publication of the Mishnah was completed exclusively in an oral format, as a fixed text recited by the *tannaim* of the college. See Lieberman, *Hellenism in Jewish Palestine*, 86–8, 207–8. Jaffee, however, notes that Lieberman was unclear on the question of composition. He further notes that cogent arguments have been offered for early recensions of the Tosefta and Sifra on Leviticus. See Martin S. Jaffee, *Torah in the Mouth: Writing and Oral Tradition in Palestinian Judaism, 200 BCE-400 CE*, 100n1 and the literature cited. Elman notes that the Tosefta existed in two versions, one redacted before the middle of the fourth century and one in hundreds of independently transmitted parallels in both Talmuds. In his view, a Tosefta written *ur*-exemplar existed before the fourth century at least as an archival copy. See Yaakov Elman and I. Gershoni, eds., *Transmitting Jewish Traditions: Orality, Textuality, and Cultural Diffusion*, in *Studies in Jewish Culture and Society* (New Haven: Yale University Press, 2000), 8–9.

[7]See pp. 12 for the view of the Epistle according to both recensions and the view of medieval scholars. For the view of modern scholars, see Martin S. Jaffee, *Torah in the Mouth: Writing and Oral Tradition in Palestinian Judaism, 200 BCE-400 CE*, 100 and notes 1 and 4 and the literature cited. See also Lieberman, *Hellenism in Jewish Palestine*, 86–8; Halivni, *The Formation of the Babylonian Talmud*, 25n71; J. N. Epstein, *Introduction to Amoraitic Literature: Babylonian Talmud and Yerushalmi (Hebrew)*, 610.

[8]See for example y. Pe'ah 13a, y. Megillah 28a, and b. Gittin 60b.

[9]See Sussman, "Oral Torah Understood Literally (Hebrew)," 241n52.

[10]See Sussman, "Oral Torah Understood Literally (Hebrew)," 238–45.

Master was responsible for the substance and exact wording of traditions.[11] As Jaffee explains, oral teachings passed directly by the master to his disciple placed both in a direct chain of transmission.[12] In his words, "The words of *torah*, in the mouth of the disciple, are not merely transmissions of information. They are, rather, bonds that link master and disciple—in this world during the master's life, and even after the master departs for the world to come."[13] According to Palestinian *Amoraim*, disciples could be exposed to written materials and refer to them in cases of need,[14] but only in ancillary form, in preparation of an oral performance—the oral transmission of traditions.[15] These same *Amoraim* worked to suppress written versions of oral Torah in the transmission of traditions in order to preserve the experience of the living Master transformative teaching-presence.[16] The suppression of written texts of oral traditions is clearly evident. As Y. Sussman argues, "whenever in search for an unknown *halakhah* or for the exact text of a source, these were asked from the experts in oral traditions—but they never referenced to a written text and we have never hear of someone suggesting to bring a book to check it, as commonly done with Scripture."[17]

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[11]See Sussman, "Oral Torah Understood Literally (Hebrew)," 245–58.

[12]See Martin S. Jaffee, *Torah in the Mouth: Writing and Oral Tradition in Palestinian Judaism, 200 BCE-400 CE*, 126–52.

[13]Martin S. Jaffee, *Torah in the Mouth: Writing and Oral Tradition in Palestinian Judaism, 200 BCE-400 CE*, 150.

[14]See for example in Martin S. Jaffee, *Torah in the Mouth: Writing and Oral Tradition in Palestinian Judaism, 200 BCE-400 CE*, 135–40.

[15]See Martin S. Jaffee, "The Oral-Culture Context of the Talmud Yerushalmi: Greco-Roman Rhetorical Paideia, Discipleship, and the Concept of Oral Torah," in *Transmitting Jewish Traditions: Orality, Textuality, and Cultural Diffusion*, ed. Yaakov Elman and I. Gershoni (New Haven Conn.: Yale University Press, 2000), 27–73. See also Martin S. Jaffee, *Torah in the Mouth: Writing and Oral Tradition in Palestinian Judaism, 200 BCE-400 CE*, 127.

[16]See Sussman, "Oral Torah Understood Literally (Hebrew)," 260–5.

[17]See Sussman, "Oral Torah Understood Literally (Hebrew)," 279–80.

The Babylonian *Amoraim* during the fourth and fifth centuries were even more careful than their colleagues in Palestine regarding oral transmission.[18] As Y. Elman argues, the prohibition of recording rabbinic legal tradition in writing was observed far more carefully in Babylonia than in Palestine. Moreover, it has been noted that the Yerushalmi's citation of antecedents, as *baraitot*, is much looser than the Bavli's.[19] In the Bavli the description of the transmission of tannaitic and amoraic traditions is exclusively depicted as being in oral form. As Elman writes: "whenever we have a report of the actual transmission of a *baraita*, it often comes in the form of a "reciter recited before R. X" or the like."[20] Elman adds several more indications of the Bavli's oral matrix: (a) the employment of *Simanim*; lists of key words in the beginning of a *sugya* indicate the order of the discussion which follows and thus suggests a mnemonic device and oral model;[21] (b) the inclusion of variant traditions in the Bavli with the terms *ve'i-teima* ("and if you [will] say" or "you may *say*"), *ve-amry lah* ("and some say it"), *ika de-amry* ("there are [those] who say") are clear indications of oral transmission;[22] (c) even Scripture was quoted from memory, despite strictures to the contrary—evidenced by the existence of conflated and spurious verses in the Talmud;[23] (d) *Amoraim* hardly ever had recourse to

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[18]See Elman, "Orality and the Redaction of the Babylonian Talmud," 52–99.

[19]Elman and Gershoni, *Transmitting Jewish Traditions: Orality, Textuality, and Cultural Diffusion*, 11. As noted by H. Albeck, the Yerushalmi's (unlike the Bavli) citations of *baraitot* are done without introducing them as such and at times are mere paraphrases of the original. See Hanokh Albeck, *Mehqarim Biberaita Vetosefta* (Jerusalem: Mosad Harav Kook, 1969), 3–4, 95n3.

[20]Elman, "Orality and the Redaction of the Babylonian Talmud," 58.

[21]Elman, "Orality and the Redaction of the Babylonian Talmud," 61. It is possible that these *simanim* are from a later era and thus not an indication of orality by *Amoraim*. However, Elman believes that such a scenario, in which orality would follow a written literary era, is not likely.

[22]See Elman, "Orality and the Redaction of the Babylonian Talmud," 62. In Elman's opinion there is evidence that some of these variants were already collated during the amoraic era, ca. fourth century. See also Sussman, "Oral Torah Understood Literally (Hebrew)," 270–5.

[23]Yaakov Elman and Daphna Ephrat, "Orality and Institutionalization of Tradition: The Growth of the Geonic Yeshiva and the Islamic Madrasa," in *Transmitting Jewish Traditions: Orality, Textuality, and*

written texts with which they were not already familiar;[24] (e) semi-graphic "signatures" of prominent rabbinical figures correspond to a society where literacy is not a given.[25] The different approaches towards orality between the Bavli and Yerushalmi can be understood well in light of their different cultural settings. As Elman explains,[26] the Bavli was composed and transmitted in Babylonia during an era of pervasive orality,[27] while the Yerushalmi developed under the Greco-Roman cultural sphere where there was a greater prevalence of written transmission. In Babylonia the rabbis operated in a climate in which written texts played an insignificant role, with the exception of legal documents and to a small extent the written compilation of *aggadic* texts.[28]

Further evidence for the primacy of oral transmission in Babylonia can be seen in the Bavli's use of military imagery and metaphors of war in their description of the academy and academic debate. J. Rubenstein has shown how the belligerent depiction of academic debate in the Babylonian academy comes in sharp contrast with the peaceful

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Cultural Diffusion, ed. Yaakov Elman and I. Gershoni (New Haven: Yale University Press, 2000), 113. As noted by them, this issue had been already raised by the tosafists. See Elman and Ephrat, "Orality and Institutionalization of Tradition: The Growth of the Geonic Yeshiva and the Islamic Madrasa," 113n18.

[24]Elman and Ephrat, "Orality and Institutionalization of Tradition: The Growth of the Geonic Yeshiva and the Islamic Madrasa," 133 and 113n19.

[25]Elman and Ephrat, "Orality and Institutionalization of Tradition: The Growth of the Geonic Yeshiva and the Islamic Madrasa," 113. These semi-graphic signatures are used in societies where the reading literacy of regular written signatures is not a given. See example in b. Bava Batra 161a.

[26]See Elman, "Orality and the Redaction of the Babylonian Talmud," 52.

[27]Avestan-Pahlavi texts were only committed to writing some time after 600 CE and possibly as late as the ninth century—when the first actually datable Pahlavi texts were written. As P. O. Skjaervo writes: "This does not mean that they (the Pahlavi translations of the *Videvdad* and *Hērbedestān*) were newly composed at that time, only that parts of what must have been an immense oral tradition (the *dēn* of the Mazdayasnians) were then chosen by some redactor to set down in writing." See Prods Oktor Skjaervo, "On the Terminology and Style of the Pahlavi Scholastic Literature," in *The Talmud in Its Iranian Context*, eds Carol Bakhos and Shayegan Rahim M. (Tubingen: Mohr Siebeck, 2010), 179. See also *The Spirit of Zoroastrianism*, Introduced, translated, and edited by Prods Oktor Skjaervo (New Haven and London: Yale University Press, 2011), 3–7.

[28]Elman, "Orality and the Redaction of the Babylonian Talmud," 81.

descriptions of the interactions of their Palestinian counterparts.[29] Rubenstein explains these images as a direct corollary of the pervasive oral culture in Babylonia: "Disputes in written form—even the most vicious polemics—are mediated by texts. Oral settings lack such mediation and focus arguments directly at the opposing side in an *ad hominem* (literally!) way."[30]

As Y. Elman has argued, the style and terminology of the *stam* also indicate a model of oral transmission. The formulaic nature of the *stam* and its use of technical terms, and the common[31] use of fixed phrases, all point towards a model of oral transmission which made *sugyot* easy to memorize. Moreover, the *stam*'s decided preference for arranging key elements of the talmudic *sugya* in sets of threes, sixes and other round numbers are further indication of its oral transmission and redaction.[32] The structure of redacted *sugyot* which include ring structures, large scale chiastic structures, and ordering of arguments in set numeric patterns, are all characteristic of an oral redaction, indicating that the Talmud originated in an oral matrix.[33]

The centrality of the orality of the rabbinical society in Babylonia continued into the post-amoraic period. Even Halevy, who postulated that the editing of the entire Talmud took place in Rav Ashi's court, remarked that it is clear that the Talmud was not

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[29]See Rubenstein, *Talmudic Stories: Narrative, Art, Composition and Culture*, 277–9.

[30]See Rubenstein, *Talmudic Stories: Narrative, Art, Composition and Culture*, 279. Rubenstein also quotes Walter Ong's description of the oral culture "agonistic" ethos.

[31]For the numbers of times such formulaic structures are used see Elman, "Orality and the Redaction of the Babylonian Talmud," 83–4.

[32]See Elman, "Orality and the Redaction of the Babylonian Talmud," 81–93. See also Shamma Friedman, "Some Structural Patterns of Talmudic Sugyot (Hebrew)," in *Proceedings of the Sixth World Congress of Jewish Studies III*, ed. Avigdor Shin'an (Jerusalem: World Union of Jewish Studies, 1977), 384–402.

[33]See specific examples in Elman, "Orality and the Redaction of the Babylonian Talmud," 86n80, n81, n82 and n83.

redacted in a written literary form by Rav Ashi and his *Metivta Kolelet*.[34] The oral model of redaction had been advocated by rabbinic scholars throughout the ages.[35]

The first evidence we have of written versions of the Bavli can be found from the mid eighth century. Direct mention of the committing of the Talmud to writing are found in several sources. R. Judah b. Barzilai (late 11th-early 12th century) in his *Sefer Ha'ittim*[36] credits the writing of the Talmud to the *Gaon* R. Natrūnai b. Hakhinai, the disciple of R. Yehudai Gaon who lived in the second half of the eighth century (ca. 780).[37] According to *Sefer Ha'ittim*: "the elders who received [their tradition] from Natrūnai Gaon b. Hakhinai, and he is the one who wrote for the people of *Sefarad*[38] the Talmud from his mouth (from his oral tradition) and not [copying] from any written text,

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[34]Isaac Halevy, *Dorot Harishonim*, III:25–6.

[35]Rashi in b. Bava Metzi'a 33a s.v. *ve'einah middah* remarks that "the later generations started to write it (the Talmud)." It is however unclear what he means when he says "later generations." This version was validated by R. Hayyim Yosef David Azulai (1724–1806), the *Hida*, in his commentary *Petah Einayim* to b. Bava Metzi'a 33a s.v. *middah*. Other versions, however, have "in our generations" instead of "later generations," apparently alluding to the idea that the Talmud had not been written much before Rashi's own generation (11th century). See *Dikdukei Sofrim* b. Bava Metzi'a 33a. R. Eisig Stein (d. 1496) noted in his commentary to *Sefer Mitzvot Gadol* that, "When I was in Nurburg (Germany), I heard from a few scholars that Rabbi [Judah the Prince] wrote the six orders of the Mishnah and that Rav Ashi wrote the *gemara*. And I told them that this is not so, they compiled them (*sidru otam*) but did not write them." See Moses ben Jacob of Coucy, *Sefer Mitzvot Gadol Hashalem* (Jerusalem: Machon Yerushalayim, 2003), 7–11. R. Menachem Meiri (1249–c. 1310) in his *Seder Haqabbalah* holds a similar position. He notes that, "[at the end of the saboraic era] the honor of the talmudic academies ceased and their glory faded, since during the entire saboraic era the heads of the academy were accorded great honor, almost kingship. And they taught the Talmud orally since the Talmud had not been spread yet." See Meiri, *Seder Haqabbalah: History of the Oral Law and of Early Rabbinic Scholarship*, 114. Unlike the explanation offered by S. Z. Havlin, Meiri seems to agree with the *Geonim's* view that the writing of the Talmud was the result of the need to spread it among the distant communities. See Meiri, *Seder Haqabbalah: History of the Oral Law and of Early Rabbinic Scholarship*, 114n505.

[36]Hanasih Rabenu Yehuda bar Barzilai Al-Barzeloni, *Sefer Ha'ittim*, ed. Yaakov Schor and Jacob Schorr (Cracow: Mekitze Nirdamim, 1903), 267.

[37]See Danzig, "From Oral Talmud to Written Talmud: On the Methods of Transmission of the Babylonian Talmud and Its Study in the Middle Ages (Hebrew)," 63 and 63n53; Danzig, *Introduction to Halakhot Pesukot with a Supplement to Halakhot Pesukot*, 26–8.

[38]Spain.

as to avoid any controversy."[39] Another tradition found in a letter written by one of the descendants of the *Geonim*[40] which was sent to Spain, says that "in the days of our Master and Teacher Paltoy of blessed memory, head of the academy, [the community of Andalusia] sent [a request] to write for them the Talmud and *Pitrono*,[41] and he [agreed and he] ordered it to be written."[42] As Danzig explains, this letter refers to the *Gaon* of Pumbedita, R. Paltoy b. Abaye (ca. 842),[43] who ordered the scribes of the academy to transcribe the Talmud on behalf of the Spanish community. However, Danzig notes that from what we now know about geonic methods of transmission, it is improbable that such an event actually took place. The account is most likely a legend that circulated within Al-Andalus relating to the foundational myths of the Spanish Jewish community.[44]

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[39]Al-Barzeloni, *Sefer Ha'ittim*, 267. Danzig notes that it is possible that this testimony of R. Judah b. Barzilai, that R. Natrūnai b. Hakhinai transmitted the *entire* Talmud is indeed exaggerated. Furthermore, R. Natrūnai might be also the sage mistakenly identified in R. Hayya Gaon's responsa in Lewin, *Otsar Hageonim: Teshuvot Geoney Bavel Uperushehem al-Pi Seder Hatalmud*, IV:16–27 (Responsa 21). See Danzig, "From Oral Talmud to Written Talmud: On the Methods of Transmission of the Babylonian Talmud and Its Study in the Middle Ages (Hebrew)," 63 and 63n55. See also Sussman, "Oral Torah Understood Literally (Hebrew)," 327, n27.

[40]M. Gil notes that although the author's exact name is not known, we can surmise that his name was Nahshon. He was the grandson of Tov Av Beit Din, a descendant of R. Paltoy Gaon. This letter was sent by the author to a respected member of the Spanish Jewish community, possibly Hisday Ibn Shaprut. See Moshe Gil, *In the Kingdom of Ishmael (Hebrew)* (Tel Aviv & Jerusalem: Tel Aviv University, The Bialik Institute and the Ministry of Defense Publishing House, 1997), II:47.

[41]Explanation or Exegesis. See Danzig, "From Oral Talmud to Written Talmud: On the Methods of Transmission of the Babylonian Talmud and Its Study in the Middle Ages (Hebrew)," 63–4. See pp. 281 for a further discussion.

[42]Hanina, *Iggeret Rav Sherira Gaon*, Appendix xxiii. See also Gil, *In the Kingdom of Ishmael (Hebrew)*, II:49.

[43]See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 344.

[44]See Danzig, "From Oral Talmud to Written Talmud: On the Methods of Transmission of the Babylonian Talmud and Its Study in the Middle Ages (Hebrew)," 62–3 and 62n51. See also Fishman, *Becoming the People of the Talmud: Oral Torah as Written Tradition in Medieval Jewish Cultures*, 72 and 72n64.

A third narrative, recorded by R. Judah b. Barzilai in his commentary to *Sefer Yetzirah*, relates the following tradition:

> And the Talmud was transmitted orally by the prophets, from the days of Jehoiachin's exile[45]. . . until Rav Ashi and Ravina. And in their days, the Talmud was closed (*nistam*) to further additions. And each yeshivah transmitted it upon its closure, orally, to the next yeshivah—part of it in writing and part of it orally (*miketzato katuv u-miketzato al-peh*)—from those early days up until Isaac, the son of the Exhilarch's sister, and in whose hands it was arranged and transmitted (*shehaya arukh u-masur be-yado*). And he wrote the Talmud for the diaspora [Jews] of Spain.[46]

Although the identity of the Isaac mentioned has been a matter of debate among scholars, this is a clear reference to a Spanish tradition which sees the Talmud as being partially oral and partially preserved in writing.[47]

Danzig argues that in addition to the late nature of the descriptions in these geonic references "it is also apparent from other evidence, like the dating noted on [the earliest] manuscripts of the Talmud, that the Talmud was committed to writing at the earliest during the eighth century."[48] R. Hayya Gaon discusses in several places the written text of

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[45]See 2 Kings 24:1–17.

[46]Hanasih Rabenu Yehuda bar Barzilai Al-Barzeloni, *Perush Sefer Yetsirah*, ed. Shlomo Zalman Haim Halberstam and David Kaufman (Berlin: Mekitse Nirdamim, 1885), 187.

[47]On the identity of this Isaac, see Danzig, "From Oral Talmud to Written Talmud: On the Methods of Transmission of the Babylonian Talmud and Its Study in the Middle Ages (Hebrew)," 64. A figure by the same name is mentioned in b. Yevamot 115b. See also Fishman, *Becoming the People of the Talmud: Oral Torah as Written Tradition in Medieval Jewish Cultures*, 72–3. For a further discussion about the meaning of "partially written and partially oral," see pp. 296.

[48]Danzig, "From Oral Talmud to Written Talmud: On the Methods of Transmission of the Babylonian Talmud and Its Study in the Middle Ages (Hebrew)," 60. Danzig notes that even material found in the Cairo *genizah* is approximately from the ninth century. He believes that the dating of fragments is extremely inaccurate and thus the attempt to identify earlier manuscripts is not convincing. Elman, on the other hand, argues that the fragment of b. Hullin identified by Marc Bregman "indicates that some copying of parts of the Oral Torah took place before the middle of eighth century, perhaps before the eighth century itself." Sussman, in contrast to Elman, agrees with Danzig that this fragment does not indicate any earlier dating. See Danzig, "From Oral Talmud to Written Talmud: On the Methods of Transmission of the Babylonian Talmud and Its Study in the Middle Ages (Hebrew)," 60n43; Sussman, "Oral Torah Understood Literally (Hebrew)," 330n32. See also Brody, "Geonic Literature and the Talmudic Text (Hebrew)," 280n178 . See also Shamma Friedman, "An Ancient Scroll Fragment (B. Hullin 101a-105a) and the Rediscovery of the Babylonian Branch of Tannaitic Hebrew," *The Jewish Quarterly Review* 86, no. 1/2 (1995): 20–4.

"the Talmud of the school of R. Ashi (or Yishay)."[49] Most scholars believe this refers to R. Ashi the father of R. Ṣadoq b. Jesse (Ashi/Yishay), the *Gaon* of Sura during 816–8 CE,[50] and thus, it would imply that the Talmud was written at the end of the eighth century. R. Sherira and R. Hayya also mention an early manuscript of the Talmud that was in their possession: "a *gemara* that has been written more than 200 years ago."[51] This would mean that it dated from the mid eighth century.[52]

Like Danzig, Brody also argues for an oral model of transmission. This would well explain the variant forms of *sugyot* that are evident in many of the geonic writings, like the *Sheiltot*[53] and in the responsa of other *Geonim* like R. Moshe Gaon[54] and R. Natrūnai Gaon.[55] Brody writes:

> The many textual differences—both between parallel versions of a single talmudic text in distinct Geonic sources and between Geonic versions and those found in later witnesses—are best understood as reflecting different oral "versions" and "performances" of a single oral recension, which is defined by what might be called its dialogical skeleton—the selection of

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[49]His comments relate to a passage in b. Bava Qamma. See full text in Danzig, "From Oral Talmud to Written Talmud: On the Methods of Transmission of the Babylonian Talmud and Its Study in the Middle Ages (Hebrew)," 69–72.

[50]See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 344; Danzig, "From Oral Talmud to Written Talmud: On the Methods of Transmission of the Babylonian Talmud and Its Study in the Middle Ages (Hebrew)," 69–70.

[51]Nahmanides in *Milkhamot Hashem* at the end of the fourth chapter of b. Sanhedrin.

[52]See Sussman, "Oral Torah Understood Literally (Hebrew)," 298, n61, 328n30.

[53]For example see *She'ilta* 44 in J. N. Epstein, *Studies in Talmudic Literature and Semitic Languages (Hebrew)*, Vol. II, ed. E. Z. Melamed (Jerusalem: The Hebrew University Magnes Press, 1988), I:387–9 and its parallels, sugyot in b. Shabbat 46b, b. Betza 26a-27a. See Brody, "Geonic Literature and the Talmudic Text (Hebrew)," 245–56 . Another example can be found in *She'ilta* 184 in Aha of Shabha, *Sheiltot*, edited and annotated by Shmuel K. Mirsky (Jerusalem: Mosad Harav Kook, 1961), V:69–70 (184) and its parallel *sugya* in b. Sanhedrin 59b.

[54]See Lewin, *Otsar Hageonim: Teshuvot Geoney Bavel Uperushehem al-Pi Seder Hatalmud*, Megillah V:2–3 (2).

[55]See Lewin, *Otsar Hageonim: Teshuvot Geoney Bavel Uperushehem al-Pi Seder Hatalmud*, Ketubot VIII:251–2 (611).

sources, the order in which they are presented, and the connections drawn between them.[56]

It is important to notice that these differences are not limited to variants in attributions,[57] or to terminology and phraseology,[58] as one would expect in oral performances. The differences are far more significant. They include *sugyot* with an addition or omission of several steps in the dialogic argumentation[59] and they present variants even in the structure of the *sugya*, including the explanation and introduction of different proof material.[60] These significant variants are limited to the anonymous stratum, and are not found in the apodictic dicta of the *Amoraim*.[61]

There is no doubt that the transition from an oral matrix to a written culture of preservation happened gradually and extended over a long period of time. The oral transmission of texts coexisted with written documents. If the transition would have been immediate, it would make sense that such a momentous shift would have been noted and recorded.[62] Danzig originally proposed that the process progressed gradually by individual tractates or even by chapters. However, this seems unlikely. The gradual

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[56]Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 160.

[57]See Brody, "Geonic Literature and the Talmudic Text (Hebrew)," 257–9.

[58]See Brody, "Geonic Literature and the Talmudic Text (Hebrew)," 259–63.

[59]See Brody, "Geonic Literature and the Talmudic Text (Hebrew)," 264–9.

[60]See Brody, "Geonic Literature and the Talmudic Text (Hebrew)," 269–77.

[61]Apparently one exception relates to a statement by R. Aha mi-bei Hoza'ah in b. Gittin 7a which is missing in the manuscript of the *Sheiltot* published by Epstein. Notably R. Aha mi-bei Hoza'ah is not an *Amora* but one of the *Saboraim* mentioned in the Epistle! See Brody, "Geonic Literature and the Talmudic Text (Hebrew)," 267–9. A similar phenomenon is also evident regarding Rav Revai of Rov who, according to the Epistle, is one of the *Saboraim* and is also missing from the extant versions of the Talmud but mentioned in b. Sanhedrin 43a according to other early versions. See R. Ḥananel ben Ḥushiel (990–1053), in his commentary to b. Sanhedrin 43a. See also Hanina, *Iggeret Rav Sherira Gaon*, 70–1.

[62]See Sussman, "Oral Torah Understood Literally (Hebrew)," 328n18.

transition appears to represent a slow shift in the method of transmission, in which both written and oral modes were operative for over 200 years.[63] As Elman writes:

> Thus, the Talmud continued to be transmitted orally as late as the tenth century. . . . In all probability, this situation continued to the close of Geonic yeshivot in the next century—despite the overwhelming influence of Islamic "book culture" and the writing of Geonic halakhic (legal) responsa and compendia as well as many other genres. In this period, then, unlike the preceding one, the specialization of oral transmission for, and its limitation to, the talmudic text was anything but unconscious. The choice of abandoning orality was always present—and yet consistently rejected for centuries.[64]

The centrality of oral preservation is mentioned in a number of geonic texts. For example, R. Aaron Hakohen Sargado, the *Gaon* of Pumbedita in the middle of the tenth century, argued in defense of his academy's reading of b. Yevamot 39b that: "our whole yeshiva, of which it is known that its version [of the Talmud] comes from the mouths (traditions) of the great ones, and most of them [i.e. the members of the academy] do not know anything of a book."[65] As Brody argues, the *Gaon* emphasizes that the oral tradition is superior to any written version of the text.[66] The claim that most of the members of the academy did not know "anything of a book" appears to be a rhetoric exaggeration; more likely, the members of the academy were not accustomed to make use of books.[67] Additional evidence for the preference of oral texts can be found in the Epistle; R. Sherira when asked concerning the writing of the Mishnah and the Talmud writes: "And as for

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[63]See Danzig, "From Oral Talmud to Written Talmud: On the Methods of Transmission of the Babylonian Talmud and Its Study in the Middle Ages (Hebrew)," 60–1.

[64]Elman, "Orality and the Redaction of the Babylonian Talmud," 57.

[65]Lewin, *Otsar Hageonim: Teshuvot Geoney Bavel Uperushehem al-Pi Seder Hatalmud*, Yevamot VII:71 (170).

[66]See Brody, "Geonic Literature and the Talmudic Text (Hebrew)," 243; Elman and Ephrat, "Orality and Institutionalization of Tradition: The Growth of the Geonic Yeshiva and the Islamic Madrasa," 104–5.

[67]See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 157.

what you wrote: How were the Mishnah and the Talmud written? The Talmud and the Mishnah were not written, but redacted, and the rabbis are careful to recite them orally and not from (written)[68] copies, since it says: 'The words given orally you are not permitted to read from a written text.' "[69] Moreover, whenever the *Geonim* were asked to validate a particular version or tradition over another, they were careful to stress the oral nature of the tradition. Common in this context are the words: "We only *heard* one version [of the text]."[70] Oral transmission remained the preferred method of transmission even when written copies of the Talmud were widely available. This hybrid reality, where oral transmission was favored in a culture that also had wide access to written texts, lasted as late as the tenth century and in all probability into the next century.[71]

The preference for oral transmission can be well understood in light of the academic structure in Babylonia at the time. According to this structure, the talmudic texts of the yeshivot were more precise and pristine because they were transmitted orally and *directly*, as noted by R. Aaron Sargado. Oral transmission allowed for the immediacy and exclusivity of the carriers of tradition.[72] In contrast, the production of written literary texts allowed for a competing tradition to be passed on everywhere, threatening the exclusivity of the Babylonian academies. A clear indication of this phenomenon is the incident of Anan during the incumbency of R. Yehudai Gaon at the end of the eighth century. This is precisely the time when we begin to hear about written copies of the

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[68]Only the Spanish recension specifies "written."

[69]Hanina, *Iggeret Rav Sherira Gaon*, 71.

[70]See Lewin, *Otsar Hageonim: Teshuvot Geoney Bavel Uperushehem al-Pi Seder Hatalmud*, Yoma VI:11 (19).

[71]See Elman and Ephrat, "Orality and Institutionalization of Tradition: The Growth of the Geonic Yeshiva and the Islamic Madrasa," 114.

[72]See Elman and Ephrat, "Orality and Institutionalization of Tradition: The Growth of the Geonic Yeshiva and the Islamic Madrasa," 127–8.

Talmud in Babylonia and beyond. R. Sherirah writes in the Epistle: "And in those days [the days of the reigning of R. Yehudai Gaon in Pumbedita] Anan seceded (*nefaq Anan*) in his land."[73] The "Anan" mentioned here is Anan ben David, considered the founder of Karaism by the sources who purport to trace the origins of the movement.[74] Anan challenged the geonate by publishing his own version of the Talmud—his *Sefer Hamitzvot*. R. Natrūnai Gaon, R. Yehudai's disciple writes that Anan: "set down a Talmud of evil and iniquity for himself."[75] If Anan's written version was such a threat, it follows that the *Geonim* would have preferred an orally transmitted Talmud which would remain in the exclusive domain of the academies. However, when literary exemplars were distributed, the academies' exclusivity was naturally challenged and a competing Talmud came into existence. Unlike Y. Sussman, who argues that what prompted the Talmud to be written is precisely the challenge of Anan—the competing Talmud required the *Geonim* to publish an official written literary copy,[76] I believe that the opposite is the case. While the Talmud was transmitted in an oral matrix by the academies, no competition was possible. The possibility of competition only came about once the academies lost their exclusivity in the transmission of the Talmud. Thus, clinging to an oral matrix, and claiming a direct amoraic tradition, even in a written literary culture, makes sense. The question that presents itself is why the *Geonim* would allow any kind of written production in such an environment. Why wouldn't they insist on an exclusive oral mode of transmission to insure their control?

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[73]This translation follows the French recension according to the Berlin manuscripts. The other manuscripts have the text as "Anan seceded after him (Rav Yehudai)" (*be'atrey* versus *batrey*). The Spanish recension omits both of the words (both *be'atrey* and *batrey*). Hanina, *Iggeret Rav Sherira Gaon*, 107.

[74]See Gil, "The Origins of the Karaites," 74–5.

[75]Brody, *The Responsa of Rav Netronai Bar Hilai Gaon*, 258 (OH 138).

[76]See Sussman, "Oral Torah Understood Literally (Hebrew)," 328n31.

A number of factors contributed to the inability to stop the written transmission of the Talmud. One important factor was the founding of the Abbasid dynasty and the transfer of the seat of the caliphate from Damascus to Baghdad in the mid-eighth century.[77] With the caliphate in Baghdad, and the center of the Islamic empire in Babylonia, the Babylonian *Geonim* were lifted to a new status as well. The *Geonim* were now not only local luminaries but considered global leaders of the Jewish community.[78] They became responsible for the dissemination of their teachings throughout the Jewish world. However, this was only possible with the production of written copies of the Bavli which could be taken to communities everywhere.

There are several other factors that appear to have contributed to the committing of the Talmud to writing in the mid eighth century. T. Fishman notes that a comparison to the broader culture of Baghdad reveals that it was highly "textualized" from the ninth century onwards. In that culture, written texts were preferred to orally transmitted traditions.[79] Furthermore, the manufacture of paper in the Middle East began in the middle of the eighth century and had a broad impact on the wider culture.[80] A paper mill is attested to in Baghdad by 794.[81] Therefore, the broad availability of paper from the end of the eighth century can explain why the earliest reference to the codex form in Jewish literature dates no earlier than the end of the eighth century or the beginning of the ninth

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[77]For details see Fred M. Donner, "Muhammad and the Caliphate," in *The Oxford History of Islam*, ed. John L. Esposito (Oxford and New York: Oxford University Press, 1999), 24–5.

[78]See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 185–201; Sussman, "Oral Torah Understood Literally (Hebrew)," 328n31.

[79]See Fishman, *Becoming the People of the Talmud: Oral Torah as Written Tradition in Medieval Jewish Cultures*, 20.

[80]See Fishman, *Becoming the People of the Talmud: Oral Torah as Written Tradition in Medieval Jewish Cultures*, 34.

[81]Shawkat M. Toorawa, *Ibn Abi Tahir Tayfur and Arabic Writerly Culture: A Ninth-Century Bookman in Baghdad* (London ; New York: RoutledgeCurzon, 2005), 56.

century.[82] A further dimension in the transfer to a written culture can be found in a similar development in Islam of selected compilations of *ahadith*, oral traditions about Muhammad's behavior and teachings, which were recorded in writing in the eighth century and beginning of the ninth century.[83] Thus, there were numerous factors at the end of the eighth century which all contributed to creating an environment propitious for the blossoming of a literary culture in the rabbinic society in Babylonia.

The transition from a purely oral matrix towards a hybrid of orality and writing represents a watershed event in the formation of the Talmud. Although oral transmission continued to be operative, written versions began to be used as controls and oral versions were checked against them. This curtailed the fluidity of the text and brought about the final closure of the Talmud.

The Dynamics of Oral Transmission

Recent scholarship on oral traditions in diverse cultures has demonstrated that oral transmission does not necessarily start with a fixed text, nor do oral performances all aim for exact reproduction. Albert Lord, continuing the work of his mentor Milman Parry, demonstrated the fluidity of textuality in oral transmitted texts.[84] Parry, a classicist by training, attempted to prove the oral character of Homer's two epic poems, the *Illiad* and the *Odyssey*. He submitted the works to a detailed textual analysis and found the prevalence of repeated phrases, which he calls "formulas," and proof of oral transmission; he defined these repeated phrases as "a group of words which is regularly employed under

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[82]See Elman, "Orality and the Redaction of the Babylonian Talmud," 72.

[83]Fishman notes that the influence of the compilation and writing of *hadith* literature in relation to the writing of the Talmud is yet to be firmly established and is only now beginning to be investigated. Sussman, on the other hand, believes that it might have been a contributing factor. See Fishman, *Becoming the People of the Talmud: Oral Torah as Written Tradition in Medieval Jewish Cultures*, 35, n92; Sussman, "Oral Torah Understood Literally (Hebrew)," 322, 328n31.

[84]See Lord, *The Singer of Tales*.

the same metrical conditions to express a given essential idea."[85] He noted that these different formulas had the same metrical values, which allowed them to be used interchangeably. These formulas were not fixed and were capable of change and were highly conducive to the production of other new phrases and formulas. This literary observations led him to an innovative theory about the compositional process of the poems. Parry argued that every performance was in essence a new song and therefore unique. An oral poet created a performance of a work by shuffling traditional formulas into the appropriate positions. They composed poems by means of established formulas which they worked into thematic units to construct a poem which was a replica of the traditional narrative. Parry himself did not live to prove and fully develop his theory. His model was in large part creative conjecture, although he found some of his ideas in folklorists' accounts of living poetic traditions. He found it necessary to analyze such oral performances by himself, which he did between 1933 and 1935.

Parry's research was cut short when he died in a tragic accident in 1935. His student, Albert Lord, took upon the project of proving and fully developing the theory of his mentor. His approach however differed markedly from Parry's. While Parry's starting point was his literary analysis of the poems, and afterwards the examination of contemporary oral performers, Lord's approach was the opposite. He focused on the extensive recordings of oral performances that he had obtained with Parry to draw his conclusions, which confirmed Parry's theories.

Lord further developed Parry's theory, describing his findings as follows:

> In a very real sense every performance is a separate song; for every performance is unique, and every performance bears the signature of its poet singer. He may have learned his song and the technique of its construction from others, but good or bad, the song performance is his own.[86]

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[85]Lord, *The Singer of Tales*, 4.

[86]Lord, *The Singer of Tales*, 4.

The performer's creativity however differed from a traditional writer, since the performer/poet did not consciously attempt to create a new song and break away from the traditional phrases. He was forced to be creative during the performance, rapidly forming a new composition based on the framework of the old. The performer/poet's skill is not found in his ability to memorize the formulas but in his ability to quickly *compose* the phrases for the idea of the moment based on the pattern of the established formulas. In Lord's view, oral poetry combined oral learning, oral composition and oral transmission all at once.[87] Traditionally scholars had believed that an oral text remained fixed from generation to generation, and was altered only by inconsequential lapses of memory. This was based on their belief that an oral tradition is in essence as fixed as a written one. Parry's theory of the composition of the Homeric poems came to dispel this notion. Lord developed further Parry's theory, arguing that verbatim transmission of a fixed text is only possible when literary copies are available as control units. Lord demonstrates that some singers claimed their performance represented "the same song, word for word, and line for line. I didn't add a single line, and I didn't make a single mistake. . . ."[88] However, in fact, they were not at all verbatim:

> Zogić (the poet's name) did not learn it word for word and line for line, and yet the two songs are recognizable versions of the same story. They are not close enough, however, to be considered exactly alike. Was Zogić lying to us? No, because he was singing the story as he conceived it as being "like" Makić's story, and to him "word for word and line for line" are simply an emphatic way of saying "like." As I have said, singers do not know what words and lines are. What is of importance here is not fact of exactness or lack of exactness, but the constant emphasis by the singer on his role in the tradition.[89]

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[87]See Lord, *The Singer of Tales*, 3–12.

[88]Lord, *The Singer of Tales*, 27.

[89]Lord, *The Singer of Tales*, 28.

The picture that emerges is the preservation of tradition by recreating it. As Lord explains: "To the singer the song, which can not be changed . . . is the essence of the story itself. His idea of stability, to which he is deeply devoted, does not include the wording, which to him has never been fixed, nor the unessential parts of the story."[90]

This approach to the oral transmission of tradition as presented by Lord is not universally accepted. Ruth Finnegan argues that in some traditions of oral poetry, the oral performers *do* strive to preserve a fixed text repeated verbatim:[91]

> There are some relatively long quasi-narrative forms where memorisation and exact recollections are sometimes more important than creativity in performance. . . . The long panegyric poems of Ruanda and South Africa are often cited as outstanding examples of oral poetry. They commonly run to hundreds of lines and have an element of narrative, though the main emphasis is on praise. Yet in Ruanda there was often memorisation of received versions of the praise poems, with minimal variation in performance and the original composers were remembered by name. . . . It is therefore clear that a single model of the relation of composition to performance will not cover all cases—perhaps not even all cases of narrative poetry.[92]

Similarly, in the Indian tradition it has traditionally been accepted that in the transmission of Vedic texts the students had to repeat the texts verbatim to their teachers and impress them with their memory. As noted by S. Katre, "in this manner the hymns of the *Ryveda*, as we read them today in our printed editions, have remained *almost* unaltered word for word, syllable for syllable, accent for accent during the last three millenniums."[93]

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[90]Lord, *The Singer of Tales*, 99.

[91]See Finnegan, *Oral Poetry: Its Nature, Significance and Social Context*, 69–87.

[92]Finnegan, *Oral Poetry: Its Nature, Significance and Social Context*, 79.

[93]S. M. Katre, *Introduction to Indian Textual Criticism* (Bombay: Karnatak Publishing House, 1941), 14. However, recently, scholars have been skeptical about this assumption. See Brody, "Geonic Literature and the Talmudic Text (Hebrew)," 241n20 and the literature cited there.

The question of the dynamic of oral transmission of rabbinic texts poses a similar problem for contemporary scholarship. Were rabbinic texts transmitted verbatim or were they recreated during performance following a model similar to the theory advocated by Lord? The prevailing theories among scholars on the transmission of tannaitic texts had been that the oral transmission of the texts resembled the written literary texts that were produced later. According to these theories the transmission of the Mishnah attempted to preserve exact accuracy much like written literary texts. This meant that the eventual transcription of these oral texts into manuscript form represented a shift in medium and not in the content of transmission. S. Lieberman suggested that the Mishnah underwent a publication process similar to the publishing of a written book, albeit in oral form: "When the Mishnah was committed to memory and the *Tannaim* recited it in the college it was thereby published and possessed all the traits and features of a written *ekdosis*. . . . The authority of the college-*Tanna* was that of a published book."[94] Lieberman argued that texts were transmitted orally with one purpose: to provide a means of reliably retrieving the original and pristine tradition. J. Neusner provided further evidence for Lieberman's theory by demonstrating this process from the rabbinical texts themselves.[95] He saw the character of the formalization of the Mishnah mainly as mnemonic. Neusner explains: "The arrangement of words in set grammatical relationships, not their substance, indicates mnemonic pattern."[96] In his view, the patterns of the Mishnah are established by syntactical recurrences precisely in order to facilitate memorization.

Contemporary scholars offer a different view. In her work on Mishnah Shevuot, E. S. Alexander, based upon S. Fraade's analysis of the early midrashic commentary to

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[94]Lieberman, *Hellenism in Jewish Palestine*, 88–9.

[95]See Jacob Neusner, *The Oral Torah: The Sacred Books of Judaism* (San Francisco: Harper & Row, 1986), 41–4.

[96]Neusner, *The Oral Torah: The Sacred Books of Judaism*, 42.

Deuteronomy,[97] posits a model for interpreting the oral mnemonics embedded in the Mishnah as a provisional *script* for an oral performative event rather than as an aid to rote memorization.[98] According to Alexander, rote memorization only accounted for part of the oral transmission of the Mishnah. Before the text of the Mishnah was redacted in final form, the transmitters were engaged in actively shaping their conception of the text. Therefore, Lieberman's model of oral recitation as rote memorization is only applicable to the later phases of oral transmission, when the text of the Mishnah was considered complete.[99] During the time when the text was being composed the text is better understood as "an orality that is grounded in a textuality that remains orally fluid."[100]

Thus, while there is argument about the exact mode of transmission during the Mishnah's formative phase, scholars agree that in its final stage the Mishnah was transmitted in a fixed form, much like a written text. However, the transmission of edited *sugyot* in the post-amoraic period, prior to committing them to writing, appears to follow a model similar to the one proposed by Lord.

The multiple formulations of talmudic *sugyot* which are evident in geonic works, like the *Sheiltot* and the responsa of other *Geonim* noted by Brody, can be explained well using Lord's model. Brody writes:

> [It is] [n]ot the case that orality was the cause for the lack of precision in the language and style, but rather it was that their attitude towards the text was one of a fixed content without fixity in relation to the precise wording—as characteristic in oral texts. Despite the different context,

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[97]See Steven D. Fraade, "Literary Composition and Oral Performance in Early Midrashim," *Oral Tradition* 14, no. 1 (1999): 33–51.

[98]See Alexander, *Transmitting Mishnah: The Shaping Influence of Oral Tradition*.

[99]See Alexander, *Transmitting Mishnah: The Shaping Influence of Oral Tradition*, 22–9.

[100]Fraade, "Literary Composition and Oral Performance in Early Midrashim," 36. See Alexander, *Transmitting Mishnah: The Shaping Influence of Oral Tradition*, 24–30.

Lord's approach (page 99) appears to be very relevant: "To the singer the song, which can not be changed (since to change it would, in his mind, be to tell an untrue story or to falsify history), is the essence of the story itself. His idea of stability, to which he is deeply devoted, does not include the wording, which to him has never been fixed, nor the unessential parts of the story. He builds his performance . . . on the stable skeleton of narrative. . . ."[101]

Lord's approach can explain variant readings in attributions,[102] terminology and phraseology[103] as well as the difference in the ordering of the stages of the *sugya*,[104] as one would expect in oral performances.[105] The differences in the Bavli's text quoted in geonic literature are however far more significant. They include *sugyot* with the addition or omission of several steps in the argumentation[106] and they present variants even in the structure of the *sugya* as well as in the explanation and introduction of proof material.[107] Adiel Schremer's research on the two Cairo *Geniza* fragments of b. Mo'ed Qatan, mentioned above,[108] demonstrates this phenomenon. Schremer compares these fragments with the main manuscript tradition of Bavli Mo'ed Qatan, and shows that they differ materially, not only in wording, terminology and Aramaic dialect but also in the steps of its dialectical argumentation. The *Geniza* MS also quotes several amoraic dicta which are absent from our extant manuscript tradition.

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[101]Brody, "Geonic Literature and the Talmudic Text (Hebrew)," 244n38.

[102]See Brody, "Geonic Literature and the Talmudic Text (Hebrew)," 257–9.

[103]See Brody, "Geonic Literature and the Talmudic Text (Hebrew)," 259–63.

[104]See Brody, "Geonic Literature and the Talmudic Text (Hebrew)," 276n159. Brody notes that this can be specially true in situations where the ordering of steps does not change the essence of the debate.

[105]See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 159–61.

[106]See Brody, "Geonic Literature and the Talmudic Text (Hebrew)," 264–9.

[107]See Brody, "Geonic Literature and the Talmudic Text (Hebrew)," 269–77.

[108]See pp. 236 above.

Lord's model does not fully explain these variants, because these changes affect the logical steps of the text and at times drastically change the nature of the *sugya*.[109] Brody acknowledges that the context and role of the reciters restricted their freedom even more than the oral performers analyzed by Lord; they were transmitters and not performers.[110] Although minor changes were to be expected, these larger and drastic variants were not. Moreover, the nature and expertise of the reciters did not allow them such latitude. They were selected for their position based on their excellent memory, not their intellect. Lieberman emphasizes this point arguing that: "indeed the stupider the *Tanna*, the more reliable his text; he was not suspected of 'doctoring' it."[111] They were not experts on the logic behind the argumentation of the text as noted in b. Sotah 22a: "the *Tanna* recites and he does not understand what he says." It is thus quite puzzling how these large variants entered the text. It is important to notice that these major changes are limited to the anonymous stratum, and are generally not found in the apodictic dicta of the *Amoraim*.[112] The introduction of a dual model of oral transmission of text proposed by C. F. Feldman[113] can shed additional light on our understanding of the dynamics of the oral transmission and performance of the talmudic text.

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[109]R. Hayya Gaon's variant texts of the *sugya* in b. Berakhot 43a is a good example of such a phenomenon. See Brody, "Geonic Literature and the Talmudic Text (Hebrew)," 264, n119, n120 . The case of b. Mo'ed Qatan is also a good example of such changes. Furthermore, at times these changes even affect *halakhic* rulings as evident in R. Natrūnai Gaon's responsa on b. Berakhot 47b. See Lewin, *Otsar Hageonim: Teshuvot Geoney Bavel Uperushehem al-Pi Seder Hatalmud*, Berakhot I:112 (314); Brody, "Geonic Literature and the Talmudic Text (Hebrew)," 266–9 .

[110]See Brody, "Geonic Literature and the Talmudic Text (Hebrew)," 277, n161 . Brody argues that such variants are only rarely found. As he explains, "These may be viewed as phenomena which occur at the periphery of the standard recension of the text, where variant traditions have escaped the editorial bottleneck." See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 160. The examples noted in the body of the text appear to clearly indicate that these instances are neither rare nor peripheral as Brody claims.

[111]Lieberman, *Hellenism in Jewish Palestine*, 88.

[112]See note 61 above.

[113]Feldman, "Oral Metalanguage," 47–65.

The Two Voices of the Talmud

Feldman examined the Wana *kiory*—a form of oral poetry—which consists of a dual oral system, one of text and one of interpretation. Her work is based on the research of Jane Atkinson who observed the Wana, a group of about five thousand people who live in a mountainous interior region of Indonesia. Their *kiory* is a poem, usually about politics, consisting of a two line stanza poem formally delivered in a special posture and tone of voice. Its language is metaphoric and ambiguous, allowing for multiple meanings and thus elicits a need for interpretation. The ambiguity of the text is represented in the name *kiory* which literally means "wrapped words." These fixed verses are designed in a terse style in order to fix their locution in memory.[114]

The verses elicit a reply by the receiver which may be formulated in *kiory* or in a conversational style. These replies are often interpretations of the *kiory*. Atkinson describes them as follows:

> If the receiver is a skilled versifier, an exchange of *kiory* will follow. Often succeeding *kiory* pick up a phrase or a theme from the *kiory* that came before. Sometimes, exchangers of *kiory* confirm the opinions expressed by their partners. Other times they disagree or change the emphasis. . . .[115]

After the delivery and the reply, further discussions and conversations may follow with additional interpretations. Feldman explains that while the Wana *kiory* is a genre that fixes a text for subsequent explanations and interpretations, its interpretation is routinely discussed and interpreted in ordinary conversation and not in a fixed style. Although the fixed *kiory* has all the essential properties of written language providing a mechanism for subsequent interpretation, its text needs to be more concise in order to

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[114]See Feldman, "Oral Metalanguage," 53–7.

[115]Jane Atkinson, "'Wrapped Words': Poetry and Politics Among the Wana of Central Sulawesi, Indonesia," in *Dangerous Words: Language and Politics in the Pacific*, ed. D. Brenneis and Myers F. (New York: New York University Press, 1984), 40 quoted in Feldman, "Oral Metalanguage," 54.

facilitate memorization. The interpretation, conversely, is fluid—as the nature of interpretation demands.

A careful reading of geonic material indicates that a similar dual system of oral transmission of the Talmud was in existence. This included a terse and concise fixed text which demanded interpretation, accompanied by a fluid interpretative text in conversational form. In the account of the Babylonian academies and the exilarchate entitled *Akhbār Baghdād* (A Chronicle of Baghdad),[116] attributed to the otherwise unknown R. Nathan ben Isaac ha-Kohen ha-Bavli, a similar system is described:

> He sits (the *Gaon*—head of the academy) and the first row repeats [the text] in front of him while the other rows listen quietly. When it reaches their turn they talk among themselves while the head of the academy listens to them and corrects them. Afterwards [the head of the academy] reads (*kore*)[117] [the text] while they listen quietly . . ., when he finishes reading it he explains and repeats the tractate which they have prepared at home during the winter. . . .[118]

As Danzig explains, the fixed text was first performed for and repeated by the students in order to insure memorization and subsequently the *Gaon* repeated the fixed text while adding his explanations and interpretations.[119] He adds that these two steps are

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[116]This brief work (approximately 1000 words) was originally written in Judeo-Arabic about the middle of the tenth century. There is an anonymous and undated Hebrew translation transmitted in a single manuscript written in the early sixteenth century. It was subsequently published in A. Neubauer, ed., *Mediaeval Jewish Chronicles and Chronological Notes: Edited from Printed Books and Manuscripts* (Oxford: Clarendon Press, 1887–95), II:78–88. See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 26–30.

[117]Danzig notes that although the word *kore* traditionally applies to the reading of a written text, nonetheless, in this case it refers to oral repetition. As the Hebrew text is a translation from the Arabic original, it was probably influenced by the Arabic term *qara'a* used in Islamic literature to mean "to read aloud, to recite." See George Makdisi, *The Rise of Colleges: Institutions of Learning in Islam and the West* (Edinburgh: Edinburgh University Press, 1981), 141; Danzig, "From Oral Talmud to Written Talmud: On the Methods of Transmission of the Babylonian Talmud and Its Study in the Middle Ages (Hebrew)," 77n99. M. Gil interprets the term as "to teach," thus meaning that the *Gaon* synthesized the text. See Gil, *In the Kingdom of Ishmael (Hebrew)*, I:135.

[118]Neubauer, *Mediaeval Jewish Chronicles and Chronological Notes: Edited from Printed Books and Manuscripts*, 87–8.

[119]See Danzig, "From Oral Talmud to Written Talmud: On the Methods of Transmission of the Babylonian Talmud and Its Study in the Middle Ages (Hebrew)," 77–8.

alluded to in the Talmud by the names *gemara*—the fixed text—and *sebara*—the dialectical explanation and interpretation.[120]

T. Fishman notes a similar dual oral process in the transmission of the Talmud. In the first stage students memorized a fixed text transmitted to them orally, while in the second stage students practiced opening up and exposing the memorized tradition to questions and analysis while the *Gaon* presented them with his interpretations.[121] Fishman explains: "Geonic-era writings distinguish the 'recitation' of the talmudic tractate, an activity denoted by the verb *g-r-s* [chew or ruminate], and the 'exposure' of the tractate, denoted by the verb *g-l-y* [expose or uncover]."[122] These two dynamics are noted in a letter written by R. Sherira shortly after his ascension to the geonate, in which he describes the efforts that he and his son make to ensure the functioning of the academy despite its dire financial situation:

> [Despite being] [i]n a situation of [financial] pressure and deprivation, we
> gather the leaders and the sages at each and every *kallah*,[123] and we recite
> the tractate of the *kallah* (*ve-**gors**im*) and expose (*u-me**gal**im*) another
> tractate and we establish *peraqim*[124] and we grasp the fence so that it not

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[120]See b. Shabbat 63a: "A man should first study (*ligmar*) and subsequently understand (*lisbar*)."

[121]See Fishman, *Becoming the People of the Talmud: Oral Torah as Written Tradition in Medieval Jewish Cultures*, 32–4 and 33n77, n78.

[122]Fishman, *Becoming the People of the Talmud: Oral Torah as Written Tradition in Medieval Jewish Cultures*, 33.

[123]Brody explains that both from the wording and from the context, it seems clear that R. Sherira is referring to shorter intervals when the academy assembled rather than the semiannual *kallah* gatherings. See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 55n4.

[124]*Pirqa*, literally means chapter, but as already noted by Brody it was a most important instrument of academic activity and it was probably a type of public lecture. As he explained, "This seems to have been considered one of the regular features of a functioning Geonic (or Savoraic) academy and a prerogative of the *Gaon* or another scholar designated by him, but the nature of these lectures is barely hinted at in Geonic sources." See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 56. Precisely lectures like these are described by STVA as one the main activities of the *Saboraim* and it came to be a part of the process of their expansion of the Talmud, as will be described below. As STVA describes: "And after them, Rabanan Savora'ei who through them 'the heavens were stretched and the Earth was woven'. . . they did not add nor innovated on their own, but they established the *peraqim* of all tractates in order." See Kahana, "Seder Tannaim Weamoraim auf Grund Mehrerer," 9. See also Isaiah Gafni, *Babylonian Jewry and Its Institutions in the Period of the Talmud (Hebrew)* (Jerusalem: The Zalman Shazar Center for Jewish

be splintered. . . . Also our young man Hayya[125] is diligent in teaching them and putting [the texts] in their mouths; and whoever does not know to ask, he teaches him the method of objection (*qushya*) and endears this method to him.[126]

An additional hint of these dual tracts in talmudic material can be found in the letter written by one of the descendants of the *Geonim* noted above in which it says: "[I]n the days of our Master and Teacher Paltoy of blessed memory, head of the academy, [the community of Andalusia] sent [a request] to write for them the Talmud and *pitrono*."[127] The word *pitrono*, literally means "explanation" or "exegesis" and alludes to some form of interpretation sent by R. Paltoy along with the talmudic text. In light of the dual nature of the teaching and the oral transmission of the Talmud, the intention of the text is clear: the Talmud is the fixed oral text and the *pitaron* is the fluid explanation to that base text.[128] A similar dual system of instruction is found in the oral transmission of the *hadith*. As G. Makdisi explains:

The terms relating to hadith began to show a distinction between mere memory, and comprehension: riwaya and diraya, a movement from mere ability to store hadiths in the memory, to the higher ability of understanding their contents and using them as materials for the elaboration of the religious law. . . . The truly learned man was able to not

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History, 1986), 86. Fishman's translation as "chapters" is thus not totally accurate. See Fishman, *Becoming the People of the Talmud: Oral Torah as Written Tradition in Medieval Jewish Cultures*, 33.

[125]R. Hayya Gaon (939–1038), R. Sherira's son. His name is more commonly written and pronounced Hai, but as noted by Brody, this is either abbreviated or corrupt. See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 11n35.

[126]Hanina, *Iggeret Rav Sherira Gaon*, xxvii-viii. See also Fishman, *Becoming the People of the Talmud: Oral Torah as Written Tradition in Medieval Jewish Cultures*, 33; Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 55–6.

[127]Hanina, *Iggeret Rav Sherira Gaon*, xxiii.

[128]S. Asaf's conjecture that R. Paltoy's commentary was perhaps limited to the explanation of difficult words lacks any evidence and given the dual structure noted it is far from expressing its nature. See Simha Asaf, *The Era of the Geonim and Their Literature (Hebrew)* (Jerusalem: Mosad Harav Kook, 1955), 138–9. His comment that this commentary as well as the other geonic commentaries were lost is also not accurate and is far from the truth as will be discussed below.

only *carry*, *transmit* (riwaya, from rawā) the hadith, but also to understand it and make intelligent use of it (diraya, from darā). . . . [129]

These geonic passages allow us to understand the *Sitz im Leben* of talmudic transmission and the method of teaching during geonic times. By applying form criticism we can obtain a better understanding of these two strata of the Talmud. As E. V. McKnight notes: "It [form criticism] can tell us that the manner of phrasing is conventional, and it can explain the conventions. It can tell us why a certain wording was used, why certain details were added or omitted. And it can tell us—within limits—something of the use to which the material was put."[130] These two dynamics of oral teaching and transmission can thus effectively account for the two distinctive genres of the Talmud. The attributed statements of the *Amoraim* represents the basic *girsa* which is explained in the anonymous dialectical discussion surrounding these amoraic dicta. As Halivni argues, the attributed amoraic dicta are both terse and definitive; Halivni calls this style: "Apodictic." The anonymous interpretative stratum, the *stam*, is verbose, tentative and explanatory and contains the vast majority of talmudic dialectical argumentation. This dual construct had already been proposed by H. Klein. He called the two stratum *gemara* and *sebara*; *gemara* represents the central core of the *sugya* and *sebara* represents the interpretative discussion which amplified the original *gemara* into its present form.[131] The term *sebara,* from *sbr*, as explained by Sokoloff,[132] may indicate an interpretive activity. Sokoloff translates *Sevara* as logical deduction,[133] and that is how

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[129]Makdisi, *The Rise of Colleges: Institutions of Learning in Islam and the West*, 144.

[130]Burton Scott Easton, *The Gospel Before the Gospels* (New York: Scribner's, 1928), 80 as quoted in Edgar V. McKnight, *What is Form Criticism* (Eugene: Wipf & Stock, 1997), 46.

[131]See Klein, "Gemara and Sebara," 67–91.

[132]See pp. 207 above.

[133]Sokoloff, *A Dictionary of Jewish Babylonian Aramaic of the Talmudic and Geonic Periods*, s.v. Sevara.

the term is commonly used in the Talmud.[134] Therefore, the term *sebara* is related to the anonymous stratum which primarily includes the dialectical argumentation. In STVA this activity of *sebara* is attributed to the *Saboraim*[135]

However, the model explained above is unlike Klein in one critical dimension. Klein posits that the activity of *sebara* is later than *gemara*.[136] Although he acknowledges that the distinctive factor of the *stam* is its unique method and not its dating, nonetheless, in his opinion it came into existence after the amoraic period—in what became known as the saboraic period. In light of the model I proposed above, it is conceivable that both the apodictic amoraic statements and the anonymous interpretative layer were transmitted simultaneously, in different formats and through diverse channels. While the apodictic statements were transmitted in a fixed format like the Mishnah, the interpretations and deliberations—the *shakla ve taryi'a* (talmudic give and take) was transmitted in a fluid and open format. While the apodictic statements might have been transmitted by reciters or the like, the dialectical argumentation was transmitted by the head of the academy in his lectures and deliberations with the students. It is thus logical that it was not transmitted in a fixed format but in a fluid format as a developmental and evolutionary sequence. As Brody notes:

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[134]For examples see b. Hullin 44b, b. Gittin 6b, and b. Sotah 20a. For more instances see Sokoloff, *A Dictionary of Jewish Babylonian Aramaic of the Talmudic and Geonic Periods*, s.v. Sevara.

[135]See pp. 290 below and note 124 above.

[136]Klein appears at times to be ambivalent on the question of the chronology of *sebara*. While in his early papers he did acknowledge that there was some overlap between *hora'ah* and *sebara*, see Klein, "Gemara and Sebara," 70n10, nonetheless, in his opinion *hora'ah* predates *sebara*. See Klein, "Gemara and Sebara," 69n7, 90. See also Shamma Friedman, "A Critical Study of Yevamot X with a Methodological Introduction (Hebrew)," 293–5; Brody, "The Anonymous Talmud and the Words of the Amoraim (Hebrew)," 215, 220–1 . In his work published in later years, however, Klein appears to have changed his mind and argues that *sebara* was limited to the saboraic era—which he viewed to be during the sixth and seventh century. See Shamma Friedman, "A Critical Study of Yevamot X with a Methodological Introduction (Hebrew)," 294n42; Brody, "The Anonymous Talmud and the Words of the Amoraim (Hebrew)," 215–6.

> When one copies a written text, he is able to insert his comments on the margins or between the lines. Thus the distinction between the transmitted text and his own contributions are evident. However, [on the other hand] when a sage transmits a text orally and includes his own interpretations and observations, the distinction [between the original and the new] is much blurred.[137]

Although both the apodictic portion of the tradition and the *stam* were transmitted at the same time, their nature evolved. The apodictic statements remained in a stable and basically original form, being modified only in minor ways. However, the *stam* developed and grew organically throughout the generations. It is natural that this interpretive layer would be anonymous since it represented the voice of analysis over numerous generations.

Talmudic interpretation has always been present in Jewish learning, even in our own time.[138] However, its nature has evolved. When the Talmud was written down and written copies began to circulate the distinction between the incremental creativity of later generations and the contributions of earlier ones could be easily discerned. This was not the case when the Talmud was transmitted orally—then the distinction was not clear. When a written copy is produced later additions can be clearly distinguished; however, when the tradition is passed down orally it is impossible to detect a later addition since there is no control copy.[139] As Jan Assmann explains, the most important distinction between an oral and a literary culture is manifested in the elements of creativity and innovation.[140] He writes:

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[137]Brody, "Geonic Literature and the Talmudic Text (Hebrew)," 277.

[138]See Martin S. Jaffee, "Rabbinic Authorship as a Collective Enterprise," 35. Jaffee notes that the gaps and fissures of the rabbinic anthological style, "seems designed to deflect attention from the written text outward toward a world of speech in which there are no documents, but much discourse."

[139]Theoretically, if an oral performance was recorded it would be possible to use the recording as a control, similar to a written version.

[140]See Assmann, *Religion and Cultural Memory*, 114–7.

> In reality, all the versions of a text handed down orally differ from one another. But these variations only become manifest once they have been recorded—taped, for example. They remain undetectable in the inner experience of listeners to an oral performance. . . . Conscious variation in the sense of a controlled deviation can only be found in a written culture, where a text can be compared to an original version "[141]

This dual mode of oral transmission employed in the transmission of the Talmud addressed this issue. The amoraic rulings were transmitted in an attributed fixed format in order to avoid any deliberate changes; these rulings were transmitted through the official reciters. The interpretations and deliberations, which included the dialectical argumentation, were transmitted by the head of the academy in a verbose and fluid format, anonymously, in order to allow for the interpretation to develop and remain open. Thus, the *stam* developed in a similar way to the hierarchical structure proposed by Ken Wilber: "A hierarchy is simply a ranking of orders of events according to their *holistic capacity*. In any developmental sequence, what is whole at one stage becomes part of a larger whole at the next stage."[142] This idea is clearly expressed in Brody's questioning: "How would the Talmud look like in our times, had it been transmitted orally during the era of the tosafists?"[143]

A similar dual model has been alluded to by Paul Mandel in his study of two versions of a rabbinic *midrash* on the book of Lamentations. One of the versions of this *midrash* re-entered the sphere of oral transmission in Babylonia.[144] His examples illustrate the relation between the amount of variation to the genre of the text—both in

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[141]Assmann, *Religion and Cultural Memory*, 114.

[142]Wilber, *The Essential*, 55.

[143]Brody, "Geonic Literature and the Talmudic Text (Hebrew)," 277n162.

[144]Paul Mandel, "Between Byzantium and Islam: The Transmission of a Jewish Book in the Byzantine and Early Islamic Periods," in *Transmitting Jewish Traditions: Orality, Textuality, and Cultural Diffusion*, ed. Yaakov Elman and I. Gershoni (New Haven Conn.: Yale University Press, 2000), 74–106.

parallels and in the manuscript traditions. As explained by Elman, in his introduction to

Mandel's research:

> Tradents seem to have recognized three *genres* of rabbinic material in regard to textual inviolability: (1) strictly legal materials, where the range of permitted variation is relatively narrow, (2) talmudic dialectic, where greater freedom is permitted and (3) anecdotal and narrative materials, which is handled with much greater freedom.[145]

The freedom granted to the oral transmission of interpretations enabled the re-reading of earlier traditions and it allowed for the later commentators' and transmitters' applied meaning to re-define the text. It allowed for the text to be reinterpreted in a form which was consistent with the evolving views of later authorities. This understanding can also explain the prevalence of forced interpretations in the *stama d'gemara*, as proposed by Halivni. It is obvious why the anonymous discursive stratum contains so many *dehuqim*. Because the interpretative strata developed and evolved over a long period of time it is natural that earlier texts needed to be re-read and adjusted to fit new interpretive realities.

This approach to understanding the nature of the *stam* is similar to the approach of S. Friedman. He argues that the *stam* represents a creative tradition in the transmission of the Bavli:

> During the second half of the 20th century, attention was directed to the literary and redactional nature of the anonymous voice in the *sugyot* of the Bavli: not as the voice of a participant but as that of a commentator, with its own set of terminology and abstract *halakhic* and theological conceptualization. These commentators perfected a specialized form of redaction of the *sugya*, original and creative rather than simply preserving or transmitting.[146]

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[145]Elman and Gershoni, *Transmitting Jewish Traditions: Orality, Textuality, and Cultural Diffusion*, 12.

[146]Shamma Friedman, "A Good Story Deserves Retelling: The Unfolding of the Akiva Legend," 56.

Friedman's view comes in sharp contrast to Halivni's approach. Halivni, in his devotion to scholarship *ki'peshuto* places great emphasis upon the commentators of the *stam* as *preservers* of a specific dialectic which he believes existed alongside the rulings and statements of the *Amoraim*, but was not recorded by them.[147] Therefore, it was recreated by the *Stammaim*.

The creative role of the *stam* has also been demonstrated by J. Rubenstein in his work on the role of the *Stammaim* in the construction of lengthy and highly developed stories in the Bavli. Rubenstein demonstrates that these stories were composed by extensively reworking the original sources and adapting them to their needs.[148] Rubenstein argues that the final product sheds light on the values of the redactors and their culture. These values can be found in the reworking of images of the academy portrayed in these stories, which correspond to the academies in the post-amoraic era;[149] in the thematic changes of Palestinian sources;[150] and in the heightened criticism of sages in the Bavli's stories in order to teach the values of their scholastic culture.[151] Rubenstein writes: "The Stammaim revised these sources through processes of embellishment, expansion and supplementation."[152] These changes seem to reflect a far more creative role by the *Stammaim* than the model proposed by Halivni.

This understanding of the *stam* can also address the question of the variants noted by Brody; the many variant formulations of talmudic *sugyot* which are evident in geonic

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[147]See Shamma Friedman, "A Good Story Deserves Retelling: The Unfolding of the Akiva Legend," 56n9.

[148]See Rubenstein, *Talmudic Stories: Narrative, Art, Composition and Culture.*

[149]See Rubenstein, *Talmudic Stories: Narrative, Art, Composition and Culture*, 244–5.

[150]See Rubenstein, *Talmudic Stories: Narrative, Art, Composition and Culture*, 64–104, 259–60.

[151]See Rubenstein, *Talmudic Stories: Narrative, Art, Composition and Culture*, 139–75, 279–82.

[152]Rubenstein, *Talmudic Stories: Narrative, Art, Composition and Culture*, 244.

writings, like the *Sheiltot* and the responsa of other *Geonim* as R. Moshe Gaon and R. Natrūnai Gaon. As we mentioned above, they include *sugyot* with the addition or omission of several steps in the dialogical argumentation and they present variants even in the structure of the *sugya* as well as in the explanation and introduction of proof material and they are limited to the *stam* and not the apodictic dicta of the *Amoraim*. Given the fluid and the creative nature of interpretation variations among academies and individual *Geonim* would thus be quite expected.

It is conceivable that the dual model of transmission was not a creation of the geonic academies, even if it was greatly expanded by them. It is possible that this dual transmission method was already in use during the amoraic period. The following passage[153] from the Spanish recension of the Epistle appears to indicate precisely such a dual mode of transmission during amoraic times:

> Along came the next generation and the heart became diminished, and matters which had been clear to the earlier sages and had been simply explained to the students, with no need to recite them and establish them in the *gemara*; now, in this generation these matters became subject to doubt and they had to establish them in the *gemara* and in the *girsa*.[154] They [therefore] presented them before the *metivta* and established them in the *gemara*, and the Rabbis studied them. As said [in the discussion]

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[153]The text above is from the Spanish version of the Epistle. The French version however is less explicit on the subject and it reads as follows: "Along came the next generation and the heart became diminished, and the matters which had been clear to the earlier sages and had been simply explained to the students, with no need to recite them and establish them in the *gemara*; now, they saw that these matters became subject to doubt and they had to establish them in the *girsa*. They [therefore] presented them before the *metivta* and established them in the *gemara*, and the Rabbis recited them. As said [in the discussion] concerning an *eruv* that was deposited on a tree. . . . 'Did you fix it [the explanation to that Mishnah] in the *gemara*?" The French version thus appears to conflate both terms. See Hanina, *Iggeret Rav Sherira Gaon*, 62–3.

[154]The meaning of the word *girsa* is quite ambiguous. N. D. Rabinowitz translates it as "with an exact wording." See Hanina, *The Iggeres of Rav Sherira Gaon*, 73. His translation however is problematic since the root *grs* has nothing to do with exact wording but instead relates to oral recitation and learning, as noted in the Epistle (and notably also translated by Rabinowich as such). See Hanina, *Iggeret Rav Sherira Gaon*, 18; Hanina, *The Iggeres of Rav Sherira Gaon*, 14.

concerning an *eruv*[155] that was deposited on a tree. . . . "Did you fix it [the explanation to that Mishnah] in the *gemara*?"[156]

Thus, in R. Sherira's opinion there were two separate channels of transmission during the amoraic era: *gemara* and *girsa*. Therefore, it is plausible that he believes *gemara* relates to the channel of transmission of legal rulings as a fixed text[157] while *girsa* relates to the fluid channel of transmission of dialectical argumentation.[158] This approach can explain the existence of significant anonymous dialectical argumentation in the Yerushalmi which was redacted no later than the eighth decade of the fourth century. This shows that anonymous dialectical argumentation was already preserved by this time and it would follow that a similar system would have been employed in Babylonia at the same time. Similarly to hierarchical structures, however, the nature of the *stam* would be expected to grow in complexity over time. It is quite plausible thus that a large portion of the anonymous dialectical material is indeed late and coincides with Halivni's later dating of the *stam*. The diachroneity of the complexity of the *stam* effectively accounts for the prevalence of forced explanations, *dehuqim*, in the anonymous stratum as noted by Halivni.[159]

This distinction between an earlier style of the *stam* and a later, more developed style, can be supported by the different nature of the anonymous dialectical argumentation of b. Nedarim. The style of the dialectics and the anonymous discursive stratum of b. Nedarim is far less developed than in other tractates. This manifests itself in the absence

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[155]See chapter one note 199.

[156]Hanina, *Iggeret Rav Sherira Gaon*, 62–3.

[157]As evident in b. Eruvin 32b.

[158]See pp. 198 above.

[159]See pp. 192 above.

of the questions commonly posed by the *stam* in other tractates.[160] As Halivni noted, the anonymous material in b. Nedarim is simple and brief, mainly explaining the rationale for amoraic explanations of tannaitic sources. Because b. Nedarim had not been studied in Babylonia for over one hundred years before R. Yehudai Gaon as noted by several *Geonim*,[161] it can be expected that its complexity would be far less developed and it would closely resemble the earlier structure of the anonymous layer of the Yerushalmi.[162]

In light of our discussion of the dual transmission process, the term *Sabora* and its role can be understood quite differently than the theories put forward by Halevy and Halivni.[163] According to our explanation, the term *Sabora* relates to the head of the academy in his role as interpreter and transmitter of the dialectical argumentation. It is a functional title rather than a generational description. This definition of the role is already clearly noted by STVA: "And after them, *Rabanan Savora'ei* who through them 'the heavens were stretched and the Earth was woven' . . . they did not add nor innovated on their own, but they established the *peraqim* of all tractates in order."[164] The word *peraqim* in its usual form can be understood to literally mean "chapters,"[165] and so the passage

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[160]Many questions that are typical of the discourse of the *stam* are lacking in b. Nedarim and were added by medieval commentators, like the *Ran*, R. Nissim ben Reuven (1320–1376). See for example b. Nedarim 15b *Ran* s.v. *muteret*, 32b *Ran* s.v. *lo*.

[161]Brody, *The Responsa of Rav Netronai Bar Hilai Gaon*, I:311 (185); Lewin, *Otsar Hageonim: Teshuvot Geoney Bavel Uperushehem al-Pi Seder Hatalmud*, Nedarim XI:11 (31–2), 16 (48–9), 17–9 (53), 19 (54), 20, (56), 22–3 (63).

[162]The neglect of the study of b. Nedarim by the geonic yeshivot might be one of the early indirect influences of the larger Muslim environment. See Libson, *Jewish and Islamic Law: A Comparative Study of Custom During the Geonic Period*, 63.

[163]See pp. 119 and 240 above. Notably however this postulation—the *Saboraim* as authors of the *stam*—had been also postulated initially by Halivni although he has since evolved in his thinking. See pp. 209 above.

[164]Kahana, "Seder Tannaim Weamoraim auf Grund Mehrerer," 9.

[165]See T. Fishman's translation of R. Sherira's letter on Fishman, *Becoming the People of the Talmud: Oral Torah as Written Tradition in Medieval Jewish Cultures*, 33. See also note 124 above.

appeared to indicate that the *Saboraim* established the chapters of the tractates; however, this does not make sense because the division into chapters was done by R. Judah the Prince in the Mishnah.[166] Because of this, Halevy was forced to posit that the intention of this passage was to say that the *Saboraim*'s literary activity included the final structuring of the written Talmud and dividing the material according to various parts of the Mishnah. In his view, they were the ones who placed the relevant part of the Mishnah as a heading of the upcoming material as it is evident in our literary written text.[167] Halevy's theory is thus predicated upon his theory of the later *Saboraim* working with a written Talmud. Since the Talmud was written much later than the saboraic era, as discussed above, Halevy's proposal is impossible.

In fact, the word *peraqim* in this context relates to the *pirqa*—an important instrument of academic activity, akin to a type of public lecture. As Brody explains: "This (the *pirqa*) seems to have been considered one of the regular features of a functioning Geonic (or Savoraic) academy and a prerogative of the Gaon or another scholar designated by him, but the nature of these lectures is barely hinted at in Geonic sources."[168] Thus, according to STVA, the *Saboraim* delivered the talmudic lectures and presented their dialectical argumentation.

Although it is plausible that the *stam* existed from amoraic times as discussed above, the title *Sabora* came into existence only when *hora'ah* came to an end and the function of the head of the academy was curtailed. The *Amoraim* were responsible for both the legal rulings and apodictic statements as well as for providing their explanations and dialectical argumentation. After *hora'ah* concluded the role of the head of the

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[166]See Hanina, *Iggeret Rav Sherira Gaon*, 32.

[167]See Isaac Halevy, *Dorot Harishonim*, III:36–7.

[168]See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 56.

academy shifted into the sole function and mission of an interpreter—*Sabora*. Thus their focus shifted to one of interpreter of traditions rather than legal ruler and a new title was developed to describe their new exclusive role. As *hora'ah* came to be finalized, its expansion and interpretation became the rule of the day. *Hora'ah* relates to the amoraic rulings, statements and their traditions and it was transmitted in a fixed and terse format by the reciters. It represented the first channel of transmission, described above as *gemara* or *g-r-s*, and it did come to an end by the sixth century as it will be discussed later. The second channel, described above as *sebara* or *g-l-y*—in other words the *stam*—on the other hand was never closed but, quite the opposite, it took then a central role in the transmission and study of the talmudic tradition and it was expanded exponentially. The title *Sabora* came to be to precisely describe such a shift.

This shift is demonstrated in the idealization of the *shakla ve taryi'a* (talmudic give and take, dialectical debate) in the stories in the Bavli. As J. Rubenstein has shown, this theme appears exclusively in the Bavli and almost always in stories about the academy.[169] The centrality of dialectical argumentation is so important that the absence of a study-partner capable of objecting can be fatal[170] and the depiction of the heavenly academy is both a projection of the institutionalized post-amoraic academy and an expression of the hope for heavenly bliss of an eternity of dialectical debate in the next world.[171] Rubenstein explains this idealization of the dialectical debate by the redactors of the Bavli as a direct corollary of the end of *hora'ah* and the subsequent focus on dialectical argumentation and interpretation by the *Stammaim*:

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[169]See Rubenstein, *Talmudic Stories: Narrative, Art, Composition and Culture*, 272–4.

[170]See b. Bava Metzi'a 84a. See also Rubenstein, *Talmudic Stories: Narrative, Art, Composition and Culture*, 273.

[171]See Rubenstein, *Talmudic Stories: Narrative, Art, Composition and Culture*, 34–63, 212–42, 273–4.

The Stammaim treated the legacy of the Amoraim as a more-or-less closed corpus of authoritative traditions and did not allow themselves to "instruct" in the same manner. They dedicated themselves to interpretation of early sources, to discursive explanations of Amoraic rulings, and to the relentless scrutiny of unresolved disagreements. . . Dialectical give-and-take was the dominant method, the primary task, and the leading mode of expression of the Stammaim, and therefore became the highest value of their culture.[172]

Rubenstein's explanation of the attitude of the redactors and their culture precisely describes the shift of focus of the *Saboraim* and their new expanded role. His description of the *Stammaim*'s approach is a good representation of the activities of the *Saboraim* described above.

The Epistle alludes to similar activities by the *Saboraim*: "In this manner *hora'ah* expanded generation after generation until Ravina, and after Ravina it ceased[173] as Shmuel, the astronomer, had seen in the Book of Adam: '[Rav] Ashi and Ravina—End of *hora'ah*.' And afterwards, although certainly there was no longer *hora'ah*, there were *Savora'ei*, who provided explanations which were close to *hora'ah*.[174] These sages are called *Saboraim* and anything which remained unclear was explained by them. . . . And many *Sevarot* are included in the Talmud which are from the later Rabbis."[175] R. Sherira does not explain the nature of these explanations or their scope and only notes that they were *Sevarot*. The dual process of transmission can explain R. Sherira's model. In the

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[172]Rubenstein, *Talmudic Stories: Narrative, Art, Composition and Culture*, 274–5.

[173]The French version reads: "until Ravina when it ceased." See Hanina, *Iggeret Rav Sherira Gaon*, 69.

[174]The French version reads as follows: "And afterwards, although certainly there was no longer *hora'ah*, there are explanations and *sevarot* close to *hora'ah*. These sages are called *Saboraim* and anything which remained unclear was explained by these Rabbis." Hanina, *Iggeret Rav Sherira Gaon*, 69–70.

[175]Spanish version of the Epistle on Hanina, *Iggeret Rav Sherira Gaon*, 69–71. The French version reads as follows: "And many *Sevarot* were included in the Talmud by them and also by later Rabbis." See Hanina, *Iggeret Rav Sherira Gaon*, 71.

initial transition phase,[176] the interpretations of the *Saboraim* were closely associated with *hora'ah* and evolved over time. These interpretations continued to evolve as a hierarchical structure—in which what was whole in a previous generation becomes only a part in the next—and gradually grew in complexity. These explanations were transmitted forward in a fluid manner. Moreover even completely new interpretative *sugyot* were composed by them, including by the later rabbis. This activity extended well beyond the sixth century even according to R. Sherira, and his description of the composition of the *sugya* in the beginning of b. Qiddushin[177] by the *Saboraim* supports this. This opening *sugya* is classically considered a composition of the *Saboraim*, even though it is not qualitatively different from the rest of the anonymous dialectical argumentation of the Talmud.[178] The author's identity is revealed by early sources[179] as Rav Huna Gaon, the head of Sura and contemporary of Mar Rava in Pumbedita who was active around 650. During his tenure the enactments concerning the rebellious wife were implemented. As noted above this enactment took place in mid seventh century, in 650/1 after the Arab conquest of Babylonia.[180] The term *Sabora* appears to have extended well into the geonic era and described the head of the academy in his role of interpreter of talmudic traditions. This is explained in *Sefer ha-Miktso'ot*, a *halakhic* compendium from the geonic era:[181]

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[176]In the periodization phase as described earlier. See pp. 123 above.

[177]See pp. 141 above.

[178]Noted by Halivni on several occasions.

[179]See chapter one note 505.

[180]See pp. 141 above.

[181]See Danzig, "From Oral Talmud to Written Talmud: On the Methods of Transmission of the Babylonian Talmud and Its Study in the Middle Ages (Hebrew)," 87.

It is the custom in the two *yeshivot* of the *Nasi* and in the *yeshivot* of the Exhilarch,[182] that although no penalties are issued in Babylonia, nonetheless [whoever injures his fellow man and does not want to make the victim whole and apologize], they excommunicate him until he makes his victim whole in accordance to the rulings of the rabbis reciters (*tana'ei*) and *savora'ei*."[183]

According to the Epistle the geonic period had begun by the year 588/9 at the latest and therefore the saboraic era had ended some time earlier.[184] Nonetheless, saboraic activities continued. The end of the saboraic period mentioned in the Epistle only referred to the demarkation of the period based on the type of activity which came to be the *predominant* identification and defining function of the sages of the period. Most likely, their function came to define their era because of the establishment of the formal *pirqei* on the various tractates in the post-amoraic era. According to R. Sherira the sixth century was a time of persecutions, which led to the closing of the academies and the interruption of *pirqei*.[185] Thus, the scholars who reopened the academy of Pumbedita apparently saw themselves as belonging to a different era.[186] As Brody explains: "As probably was the case throughout the course of rabbinic history, we may assume that the *Savora'im* did not refer to themselves in this fashion; rather, it was their successors who coined the term in

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[182]Other versions have the text as "other yeshivot," meaning that the term "yeshivot of the Nasi" relates to the academies of the Exhilarch. See Lewin, *Otsar Hageonim: Teshuvot Geoney Bavel Uperushehem al-Pi Seder Hatalmud*, Baba Qama, XII:57n6.

[183]Quoted in Lewin, *Otsar Hageonim: Teshuvot Geoney Bavel Uperushehem al-Pi Seder Hatalmud*, Baba Qama, XII:57 (186).

[184]See Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 9; Hanina, *Iggeret Rav Sherira Gaon*, 99–100.

[185]See Hanina, *Iggeret Rav Sherira Gaon*, 99. For details about the persecutions of Christians at that time and the closure of a leading Christian academy about the year 540 see Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 9n25 and the literature cited there. For evidence of a plague in the year 542 that may have contributed to the troubles alluded to by R. Sherira see Procopius, *History of the Wars Books I-II*, 451. See chapter one note 388.

[186]See pp. 123 above.

order to express their sense of belonging to a later period.”[187] Their era came to a close when the geonate came into existence, and the role of *Gaon* came to be the predominant activity of the head of the academy.[188] However, interpretations by the heads of the academy continued to be transmitted fluidly in a hierarchical structure that continued to grow and evolve. The interpretative stratum only came to be fixed when written copies of the Talmud started to circulate and at this point additions became clearly discernible. Nonetheless, innovation continued, not as an internal textual development as before but as a separate entity from the text. Eventually these additions and interpretations became independent works. As J. Assmann explains, “Only through writing does the representative obtain the freedom to present his own contribution as something novel, strange and unprecedented, in contrast to the old and familiar.”[189] Thus, it is natural that it was precisely at this time that independent works started to be composed by the heads of the academies. The earliest post-talmudic works are the *Sheiltot* (by the *Gaon* R. Ahai of Sabha), *Halakhot Gedolot* (by the *Gaon* R. Simeon Kayyara), and the *Halakhot Pesuqot* (by R. Yehudai Gaon).

This dual transmission process may also be what R. Judah b. Barzilai meant when he writes that “each yeshivah transmitted it (the Talmud) upon its closure, orally, to the next yeshivah—part of it in writing and part of it orally (*miketzato katuv u-miketzato al-peh*).”[190] His words appear to be contradictory. How can a text be transmitted orally if it

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[187]Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 9n25.

[188]For the expanded roles of the *Gaon* see Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture*, 54–66.

[189]Assmann, *Religion and Cultural Memory*, 117.

[190]See pp. 263 above. The plain interpretation of this passage, that the Talmud was partially written, is very difficult as already noted by S. Abramson. See Shraga Abramson, “Shlosha Perakim Min Hasefer Mevo Hatalmud Lerav Shmuel Ben Hofni,” in *Saul Lieberman Memorial Volume*, ed. Shamma

was already partially written? The dual model of transmission can provide a very reasonable explanation of his words. Although the Talmud continued to be orally transmitted, the fixed oral transmission—due to its static and fixed nature—was deemed to be "written" as explained by Lieberman,[191] while the fluid transmission of interpretation and dialectic argumentation was deemed as still being oral.

This phenomenon can also be supported by the numerous additions to the Talmud text which were identified as belonging to R. Yehudai Gaon by medieval commentators.[192] Unlike Halevy[193] and Halivni[194] who argued that these additions were unique to R. Yehudai Gaon, I would argue that the opposite is true. The heads of the academies were always innovative in their interpretations. However, as long as the Talmud was transmitted in an exclusive oral matrix their innovations could become part of the text of the Talmud. R. Yehudai Gaon's additions were the first to be *discerned* and *detected* precisely because written copies of the Talmud started circulating during his time, and thus his creative contribution became discernible. The existence of a written text meant that his additions could be identified and therefore this brought about the conclusion of the *stam*.

This can also explain a question posed by S. Asaf regarding what he calls the loss of the geonic commentaries to the Talmud. Asaf laments that commentaries like those of R. Paltoy were lost and adds that we also have no commentaries from the early

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Friedman (New York and Jerusalem: The Jewish Theological Seminary of America, 1993), 245. Abramson believed that the text was incomprehensible and it therefore was surely corrupt.

[191]See pp. 274 above.

[192]See chapter one note 509.

[193]See pp. 142 above.

[194]See Halivni, *The Formation of the Babylonian Talmud*, 8. See also pp. 243 above.

Geonim.[195] However, this is very far from the truth. We know much of their commentaries, since they are preserved in our *stam ha'talmud*. They are just not discernible as an independent work. Similarly, T. Fishman's comment about the *Geonim* that, "geonic engagement in talmudic exegesis was limited,"[196] is also quite off the mark, at least in reference to the early *Geonim*. They were as creative as all other generations in Jewish history and their contributions served to create the Talmud as we know it.

Halevy versus Halivni

Contemporary scholars have argued that the anonymous discursive stratum, *stama d'gemara*, differs from attributed amoraic statements not only because of its lack of attribution but primarily because of its unique terminology and style. While attributed amoraic dicta are terse and definitive, and mostly in Hebrew, the anonymous interpretive stratum, is verbose, tentative and explanatory and contains the vast majority of talmudic dialectical argumentation. In most instances one can identify the interpretative stratum by identifying its unique characteristics. The interpretative stratum in most instances demonstrates the following characteristics: (a) it is anonymous; (b) it is tentative and explanatory; (c) it is in Aramaic;[197] (d) it employs characteristic technical terms[198] and known formulas[199] and (e) it has its unique approach.[200] While it is useful to notice these

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[195]See Asaf, *Margaliot, M.*, 137–9.

[196]Fishman, *Becoming the People of the Talmud: Oral Torah as Written Tradition in Medieval Jewish Cultures*, 42–3.

[197]H. Klein argued that the anonymous dialectical material is exclusively in Aramaic with the exception of technical Hebrew expressions. See Klein, "Gemara and Sebara," 75–6 and 91. At times, however, statements are given in a mixture of both Hebrew and Aramaic and in order to determine the original amoraic statement it is imperative to first examine whether the omission will leave a connected Hebrew text. See Klein, "Gemara and Sebara," 77–8.

[198]See Klein, "Gemara and Sebara," 85–91.

[199]See Elman, "Orality and the Redaction of the Babylonian Talmud," 81–93.

[200]See pp. 192 above.

characteristics, they are not absolute, as noted by Friedman.[201] Even the medieval

commentators have already pointed to instances where the *stam* deviates from its usual

style.[202] It is imperative to carefully analyze the *sugya* in order to identify both strata.[203]

The nature as well as the history behind these two varied strata is a key element in the

understanding of the structure of the Talmud. Both of the constructs of Halevy and

Halivni can effectively help us in understanding them.

In my opinion the legal rulings and statements of the *Amoraim* were transmitted in

a structured and fixed format and were part of a compendium that can be identified with a

proto-Talmud. This can be shown in several passages where two instances of a court

ruling[204] were stated by an *Amora* in diverse settings and are recorded consecutively.

Although it is obvious that the *Amoraim* would have had to repeat their rulings as often as

they were called upon to adjudicate a case to which the ruling was applicable, the Talmud

nonetheless sees them as redundant. It therefore asks "Why must I have the latter case? Is

it not the same as the former?"[205] The same phenomenon can be observed in instances

where the same ruling by two different *Amoraim* are quoted consecutively in the Talmud.

Again, although it is normal that two *Amoraim* could come independently to the same

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[201]See Shamma Friedman, "A Critical Study of Yevamot X with a Methodological Introduction (Hebrew)," 301–2 and 301n60. His position, however, has evolved and now he sees this distinction as not being absolute. See Shamma Friedman, "'Wonder Not at a Gloss in Which the Name of an Amora is Mentioned': The Amoraic Statements and the Anonymous Material in the Sugyot of the Bavli Revisited (Hebrew)," 101–44.

[202]For instance see Rashi b. Pesahim 9b s.v. *tesha* and Rashi b. Sukkah 4a s.v. *savar Abaye* and Halivni, *The Formation of the Babylonian Talmud*, 25n73.

[203]See Shamma Friedman, "A Critical Study of Yevamot X with a Methodological Introduction (Hebrew)," 301–2 and 301n60. Friedman's position has evolved over the years. See most recently Shamma Friedman, "'Wonder Not at a Gloss in Which the Name of an Amora is Mentioned': The Amoraic Statements and the Anonymous Material in the Sugyot of the Bavli Revisited (Hebrew)," 101–44. See a similar comment by Halivni in chapter two note 146.

[204]See b. Bava Batra 6b and 7a.

[205]See b. Bava Batra 7a. See Klein, "Some Methods of Sebara," 128–30.

ruling, the Talmud asks "This is identical with the first [ruling, so why state it again]?"[206] It is obvious that in these cases it was not the ruling in the second case that the Talmud regards as redundant, but the need to record the second ruling. These questions ask why there was a need to place a second case on record when we already have the first case. If both cases are not in the name of the same *Amora* the question becomes why they could not be combined into one statement in the name of both *Amoraim*. Thus the question is directed against the compilers for including the second statement and it is predicated upon the existence of an oral compendium which combined the statements of the various *Amoraim*.

Some of Halevy's theories are valuable for shedding light on the formation of the proto-Talmud. His theory that during the mid fourth century the proto-Talmud[207] was collected and redacted by Abaye and Rava is quite compelling. A remarkable indication of this phenomenon is the abrupt change in the transmission of traditions by disciples at that time as described above. This shift can be well understood in light of Halevy's theory. Although Halevy argued that the proto-Talmud also included the reasoning and debates of the *Amoraim* together with their final opinion and conclusions,[208] his theory fits well even if it the proto-Talmud was similar in structure to R. Judah's Mishnah. It is thus conceivable that the collective body of traditions was compiled in the fourth century by Abaye and Rava and subsequently transmitted in a fixed format.

Furthermore, the unique role attributed by Halevy to Rav Ashi can be understood in the context of the redaction and expansion of the proto-Talmud. Although there is no

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[206]See b. Shabbat 37b. See also *Tosafot ha-Rosh ad loco* s.v. *i hakhi.*

[207]See chapter one note 241.

[208]Isaac Halevy, *Dorot Harishonim*, II:481.

evidence of a global editing on the part of Rav Ashi, nonetheless, there is evidence that Rav Ashi had a special role in the redaction and expansion of the Talmud as noted above.

With this in mind, it is quite possible that the problematic talmudic passage in b. Bava Metzi'a 86a, "Rav Ashi and Ravina—End of *hora'ah*," refers to the end of the proto-Talmud, as the term *hora'ah* already implies. It is conceivable that once Sura, the main hub of amoraic activity and Rav Ashi's yeshiva, ceased operations in 499, Pumbedita alone did not have the same status and power. Thus, the remaining sages gradually ceased to add rulings to the proto-Talmud and instead focused their efforts on expanding the interpretative stratum of transmission. According to the Epistle this was a gradual process of transition and not an abrupt change. The early *Saboraim* represented the transitional era in the process of the closure of the Talmud. This reading is clear in the French version of the Epistle, where it is written: "and afterwards, although there was no longer *hora'ah*, there were explanations and clarifications which were close to *hora'ah*, and these sages were called *Saboraim*."[209] This is unlike the Spanish version which qualifies the activity of these sages as "*Saboraim* who *provided elucidations* close to *hora'ah*."[210] The French version is categorical in claiming that those sages "were called" *Saboraim*. Given their new focus on expanding interpretation they came to be known as *Saboraim*.

Halivni's model of redaction offers great insight in understanding the second voice of the Talmud—the fluid interpretive *stam ha'talmud*. As Halivni explains, this stratum continued to evolve until the end of the eighth century. It possesses the characteristics that he elucidated and described over the years. As Halivni insightfully

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[209]Hanina, *Iggeret Rav Sherira Gaon*, 69 (French version).

[210]Hanina, *Iggeret Rav Sherira Gaon*, 69 (Spanish version).

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argued, the *stam* is not monolithic and it varies not only from tractate to tractate but even within the tractates themselves, from chapter to chapter and even from folio to folio. These differences are not limited to stylistic distinctions but to basic structural issues as well.[211] Halivni's insight about the varied channels of transmission between the two strata is fundamental to our understanding of the diverse nature of the *stam*. However, unlike Halivni, who believes that the anonymous interpretive stratum was not transmitted but only later reconstructed, our model assumes that it was transmitted via a different channel of oral transmission in a fluid and evolving format. After the conclusion of *hora'ah* by the sixth century this type of oral interpretation took center stage in the transmission of texts. From this time on, the sages' unique contribution could only be added to the interpretative stratum and naturally interpretation became the primary focus of learning and grew exponentially.

According to Halivni's model, the role of the *Stammaim* is understood as one of preserver of tradition and their work was a reconstruction of the dialectical argumentation of the *Amoraim* which had not officially been preserved and transmitted by the reciters, and only remained in fragmentary form in the memory of the students. In contrast, our model assigns the *stam* a creative role; they wanted to create an interpretative approach which allowed for the reinterpretation and the evolution of fixed texts by rereading them. Although originally Halivni believed that the *Stammaim* were the *Saboraim* mentioned by R. Sherira in his Epistle, he later retracted his view and assigned them the name *Stammaim*, since the name *Sabora* did not fit the role he believed they fulfilled. In our model, the title *Sabora* fits well, since it clearly expresses their contribution. Our model thus is able to provide a tenable historical construct, consistent with the early historical accounts, for the historical existence of the authors of Halivni's *stam*.

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[211]See pp. 235 above.

Halivni's assumption about the end of the activity of the *stam*, occurring in the end of the eighth century is also consistent with our model. I have argued that this happened together with a transition to a written literary matrix. Halivni assigns a peripheral role in his construct to this transition, while I see it as the pivotal event in the completion of the Talmud. As noted above,[212] one of the weak points of Halivni's account relates to the transition of the Talmud from an oral setting to its being committed to writing. Halivni argues that it was coincidental that with the conclusion of the *stam* the Talmud was recorded in writing: "When transmitters could not handle the vast amount of tradition, they resorted to writing."[213] As Danzig has argued, it is obvious that this fundamental shift was not merely the result of a functional shift or practical need but was the result of major contextual forces.[214] Our model takes into account Danzig's arguments.

Conclusion

Orality was central in the transmission of texts in Babylonia during the amoraic era and extended well into the geonic era as well. Evidence of the first written texts points to the mid eighth century as the beginning of the Talmud's written tradition. The transition from an oral matrix into a written literary one was a gradual process in which both models existed simultaneously. Oral transmission remained the official channel of preservation even at a time when written copies of the Talmud were widely available. In all probability oral recitation lasted until the close of the geonic yeshivot in the eleventh century. However, the transition from a purely oral matrix into a hybrid of both written

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[212]See pp. 245 above.

[213]Halivni, *The Formation of the Babylonian Talmud*, 123.

[214]See Danzig, "From Oral Talmud to Written Talmud: On the Methods of Transmission of the Babylonian Talmud and Its Study in the Middle Ages (Hebrew)," 53. Danzig however does not detail those contextual forces. See Danzig, "From Oral Talmud to Written Talmud: On the Methods of Transmission of the Babylonian Talmud and Its Study in the Middle Ages (Hebrew)," 53n12.

and oral Talmuds represented a watershed point in the development of the Talmud. When the Talmud was transmitted in writing these copies could be used as controls for the oral versions as well.

A careful reading of geonic material indicates that the Talmud was orally transmitted in a dual system made up of two diverse oral texts, a terse and concise fixed text which demanded interpretation and a fluid interpretative text discussed in a conversational dialectical form. While the apodictic statements were transmitted in a fixed format by the reciters, much like the Mishnah, their interpretations and deliberations—the *shakla ve taryi'a* (talmudic give and take) was transmitted by the head of the academy in his lectures and deliberations with the students in a fluid organic format. These two dynamics of oral teaching and transmission can effectively explain the distinctive genre of the two strata of the Talmud, the apodictic rulings and the *stam*.

This dual mode of transmission can be understood well with elements of both of the constructs of Halevy and Halivni. Some of Halevy's theories are useful for understanding the formation of the proto-Talmud, including his theory of its composition by Abaye and Rava during the mid fourth century, and Rav Ashi's unique role in the redaction and expansion of the proto-Talmud later.

Halivni's model offers great insight into understanding the second voice of the *stam ha'talmud*. As Halivni explains, this stratum continued to evolve until the end of the eighth century. Halivni's insight about the diverse channels of transmission between the two strata is fundamental to our understanding of the nature of the *stam*.

One of the principal advantages of the dual transmission model is that it is consistent with both STVA and the Epistle. Halivni's conclusions on the other hand are quite radical and directly contradict the role given to many sages by the Epistle. Furthermore, his revolutionary theory is predicated upon the existence of a hitherto completely unknown category of rabbis, the *Stammaim*, while our model effectively

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assigns the role to the *Saboraim*. Moreover, Halivni's model is quite traditional and rigid in the role that he assigns to the *stam*. In his view, the *Stammaim's* role was one of preservers of tradition and their work was a reconstruction project while in our model the function of the authors of the *stam* was creative and their work represented an interpretative approach which allowed for the evolution of fixed texts.

The Talmud represents the collective voice of generations of the most diverse rabbis and sages and it came to create a collective authority which encompasses the sum total of the many diverse views. As Ephraim E. Urbach noted: "The process which fused the decisions, *halakhot* and *sevarot* of Sages and scholars from generation to generation created a collective authority which can be seen as the sum total of the recognition enjoyed by those sages and scholars."[215] The Talmud in its dual structure allows for the vastly different and competing constructs of Halevy and Halivni to peacefully co-exist in its two voices.

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[215]Urbach, *The Halakhah: Its Sources and Development*, 347.

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APPENDIX

SYNOPTIC *SUGYOT*

שנין	סרי	תמני	הוינא בר	כד	כהנא	רב		אמ'	(1489 or later)Soncino Print Family	1
שנין	סרי	תמני	הוינא בר	כי	כהנא	רב		אמ'	Oxford Opp. Add. fol. 23	
שנין	סרי	תמני[(תריסר)	הוינא בר	כד	כהנא	רב	ליה	אמ'	Vatican 108	
>נ?ין?<..>	סרי	<...>	הוינא ב<..	כי	כהנא	ר?ב		א?מ'	Cambridge - T-S NS 329.879	
	שנין	תמניסרי	הוינא בר	כי	כהנא	רב		אמ'	Bologna - Archivio di Stato Fr. ebr. 5	
שנין	סרי	תמני	הוינא בר	אנא	כהנא	רב		אמ'	Munich 95	
מקרא	דאין	ידענא	ולא הוה	תלמודא	לכוליה	ליה	גמירנא	והוה	(1489 or later)Soncino Print Family	2
מקרא	דאין	ידענא	ולא הוה	תלמודא	לכוליה		גמירנא	הוה	Oxford Opp. Add. fol. 23	
מקרא	דאין	ידענא	ולא הוה	תלמידא	לכולא		גמירנא	והוה	Vatican 108	
<...>	יכ<..ע?נ?א	ולא הוה	תלמודא	<ל?ל?>..	ליה	מ?ירנא?<	>..<?מ?ירנא	הוה	Cambridge - T-S NS 329.879	
מקרא	דאין	ידענא	ולא הוה	תלמודאי	לכוליה	(לרב)	גמירנא	הוה	Bologna - Archivio di Stato Fr. ebr. 5	
מקרא	דאין	ידענא	ולא הוה	תלמודא	לכולי		גמירנא	והוה	Munich 95	
				השתא	עד	פשוטו	מידי	יוצא	(1489 or later)Soncino Print Family	3
				השתא	עד	פשוטו	מידי	יוצא	Oxford Opp. Add. fol. 23	
				השתא	עד	פשוטו	מידי	יוצא	Vatican 108	
				<...>	>..<?ד	>ו?טו?<	מידי	..<צא	Cambridge - T-S NS 329.879	
				השתא	עד	פשוטו	מידי	יוצא	Bologna - Archivio di Stato Fr. ebr. 5	
				השתא	עד	פשוטו	מידי	יוצא	Munich 95	

										Witness	#
על	לו	ונודע	אחד	בהעלם	חלב	זיתי	שני	אכל	איתמר	Munich 95	1
על	לו	ונודע	אחד	בהעלם	חלב	[זית]	שני	אכל	איתמר	Oxford Opp. Add. fol. 23	
על	לו	ונודע	אחת	בה(י)עלם	חלב	זת(ם)	שני	אכל	איתמר	Vatican 108	
על	לו	ונודע	אחד	בהעלם	חלב	זיתי	שני	אכל	איתמר	Soncino Print Family(1489 or later)	
אמ'	יוחנן	ר'	השני	על		ונודע		וחזר	הראשון	Munich 95	2
אמ'	יוחנן	ר'	השני	על	לו	נודע	כך	ואחר	הראשון	Oxford Opp. Add. fol. 23	
א'	יוחנן	ר'	השיני	על	לו	ונודע		וחזר	הראשון	Vatican 108	
אמ'	יוחנן	ר'	השני	על	לו	נודע		ואח"כ	הראשו'	Soncino Print Family(1489 or later)	
ר'			פטור	אמ'	לקיש	וריש			חייב	Munich 95	3
ר'	אחת	אלא	חייב	אינו	אמ'	לקיש	וריש	שתים	חייב	Oxford Opp. Add. fol. 23	
ר'	אחת	אלא	חייב	אינו		לקי'	וריש		חייב	Vatican 108	
ר'	אחת	אלא	חייב	אינו	אמ'	לקיש	וריש	שתים	חייב	Soncino Print Family(1489 or later)	
אמ'	לקיש	וריש	והביא	חטאתו	על		חייב	אמ'	יוחנן	Munich 95	4
אמ'	לקיש	וריש	והביא	חטאתו	על	שתים	חייב	אמ'	יוחנן	Oxford Opp. Add. fol. 23	
אמ'	לקיש	וריש	[והביא]	חטאתו	על		חייב	א'	יוחנן	Vatican 108	
א'	לקיש	וריש	והביא	חטאתו	על		חייב	אמ'	יוחנן	Soncino Print Family(1489 or later)	
נמי	לקיש	[ולריש	לו	ונסלח	מחטאתו				פטור	Munich 95	5
נמי	לקיש	וריש	לו	ונסלח	מחטאתו	אחת	אלא	חייב	אינו	Oxford Opp. Add. fol. 23	
נמי	לקיש	ולריש	לו	ונסלח	מחטאתו				פטור	Vatican 108	
	לקיש	וריש	לו'	ונסל'	מחטאת				פטור	Soncino Print Family(1489 or later)	
כפרה	לאחר	ליה	דאתיידע	והביא	ההוא	חטאתו	על	כתי'	הא	Munich 95	6
כפרה	לאחר	ליה	דאיתידע	והביא	ההוא	חטאתו	על	הכתי'		Oxford Opp. Add. fol. 23	
כפרה	לאחר	ליה	דאיתי?ר/ד?ע	והב[?]א	ההוא	חטאתו	על	כת'	הא	Vatican 108	
כפרה	לאחר		דאיתידע	והביא	ההו'	חטאתו	על	הכתי'		Soncino Print Family(1489 or later)	
במאי	הכא			[מחטאתו]	כתי'	הא	נמי	יוחנן	ולר'	Munich 95	7
הב'ע		לו	ונסלח	מחטאתו	הכתי'		נמי	יוחנן	ולר'	Oxford Opp. Add. fol. 23	
במאי	הכא	לו	ונסלח	מחטאתו	כת'	הא	נמי	יוחנן	ולר'	Vatican 108	
במאי	הכא	לו	ונסלח	מחטאתו	הכתי'		נמי	יוחנן	ולר'	Soncino Print Family(1489 or later)	
וחזר	כזית	על	לו	ונודע	ומחצה	כזית	שאכל	כגון	עסקינן	Munich 95	8
וחזר	כזית		לו	ונודע	ומחצה	כזית	שאכל	כגון	עסקינן	Oxford Opp. Add. fol. 23	
וחזר	כזית	על	לו	ונודע	ומחצה	כזית	שאכל	כגון	עסיק'	Vatican 108	
וחזר	כזית	על	לו	ונודע	ומחצה	כזית	שאכל	כגון	עסקינן	Soncino Print Family(1489 or later)	
מצטרפין	דתימא	מהו	ראשון	של	בהעלמו	[אחר]	כזית	חצי	ואכל	Munich 95	9
ליצטרפו	דתימא	מהו	שני	של	בהעלמו	אחר	זית	כחצי	ואכל	Oxford Opp. Add. fol. 23	
ליצטרפי	דתימ'	מהו	שיני	של	בהעלמו		זית	חצי	ואכל	Vatican 108	
ליצטרפי	דתימ'	מהו	שני	של	בהעלמו	אחר	זית	כחצי	ואכל	Soncino Print Family(1489 or later)	
דאתיידע	אשי	לרב	רבינא	בר	(רבי)	רבא	א"ל	קמ"ל		Munich 95	10
דאיתידע	ליה	אשי	לרב	רבינא			ליה	אמ'	קמ"ל	Oxford Opp. Add. fol. 23	
דאיתיידע	ליה	אשי	לרב	רבינא			ליה	אמ'	קמ"ל	Vatican 108	
דאיתיד'	לה	אשי	לרב	רבינ'				א"ל	קמ"ל	Soncino Print Family(1489 or later)	
[ומר	מחלקו'	ידיעות	סבר	דמר	פליגי	ובהא	הפרשה	פליגי	קודם	Munich 95	11
ומר	מחלקות	ידיעות	סבר	דמר	פליגי	ובהא	הפרשה	פליגי	קודם	Oxford Opp. Add. fol. 23	
ומר	מחלקות	ידיעות	סבר	דמר	פליגי	ובהא	הפרשה	פליגי	קודם	Vatican 108	
ומר	מחלקות	ידיעו'	סבר	דמר	פליגי	וכהא	הפרשה	פליגי	קודם	Soncino Print Family(1489 or later)	
לקיש	ריש		מודה	הפרשה	לאחר	אבל	[מחלקות	הפרשות	סבר	Munich 95	12
לקיש	ריש	ליה	מודה	הפרשה	לאחר	אבל	מחלקות	הפרשות	סבר	Oxford Opp. Add. fol. 23	
לקיש	ריש	ליה	מודי	הפרשה	לאחר	אבל	מחלקות	הפרשות	סבר	Vatican 108	
לקיש	ריש	ליה	מודי	הפרשות	לאחר	אבל	מחלקות	הפרשות	סבר	Soncino Print Family(1489 or later)	
הפרשה	לאחר	ליה	אתיידע	[דילמ']	או	שתים	דחייב	יוחנן	לר'	Munich 95	13
הפרשה	לאחר		דאיתידע	דילמא	או	שתים	דחייב	יוחנן	לר'	Oxford Opp. Add. fol. 23	
הפרשה	לאחר	ליה	דאיתידע	דילמ'	או	שתים	דחייב	יוחנן	לר'	Vatican 108	
הפרשה	לאחר	ליה	דאיתיידע	דילמ'	או	שתים	דחייב	יוחנן	לר'	Soncino Print Family(1489 or later)	
כפרו'	[סבר]	ומר	[הפרשות	מחלקות	סבר	דמר	פליגי	ובהא	פליגי	Munich 95	14
כפרות	סבר	ומר	הפרשות	מחלקות	סבר	דמר	פליגי	ובהא	פליגי	Oxford Opp. Add. fol. 23	
כפרות	סבר	ומר	הפרשות	מחלקות	סבר'	דמר	פליגי	ובהא	פליגי	Vatican 108	
כפרות	סבר	ומר	מחלקות	הפרשות	סבר	דמר	פליגי	ובהא	פליגי	Soncino Print Family(1489 or later)	
לקיש	לריש	יוחנן	ר'		מודה	הפרשה	קודם	אבל	מ(תח)[ח]לק'	Munich 95	15
לקיש	לריש	יוחנן	ר'	ליה	מודה	הפרשה	קודם	אבל	מחלקו'	Oxford Opp. Add. fol. 23	
לקיש	לריש	יוחנן	ר'	ליה	מודי	הפרשה	קודם	אבל	מחלקות	Vatican 108	
לקי'	לרי'	יוחנן	ר'	לי'	מודו	הפרשה	קודם	אבל	מחלקות	Soncino Print Family(1489 or later)	
בזו	ובין	בזו	בין	דילמ'	או	אחת	אלא	חייב	דאינו	Munich 95	16
בזו	ובין	בזו	בין	דילמא	או	אחת	אלא	חייב	דאינו	Oxford Opp. Add. fol. 23	
בזו	ובין	בזו	בין	דילמא	או	אחת	אלא	חייב	דאינו	Vatican 108	
בזו	ובין	בזו	בין	דילמ'	או	אחת	אלא	חייב	דאינו	Soncino Print Family(1489 or later)	
אי	מחלקות	בזו	ובין	בזה	דבין	מסתברא		א"ל	מחלוקת	Munich 95	17
דאי	מחלוק'	זו	ובין	זו	בין	מסתברא		[א'ל	מחלוקת	Oxford Opp. Add. fol. 23	
דאי	מחלקות	בזו	ובין	בזו	בין	מסתברא	[ליה]	אמ'	מחלוקת	Vatican 108	
דאי	מחלקות	בזו	בין	בזו	בין	מסתברא		א"ל	מחלוקת	Soncino Print Family(1489 or later)	
ריש		מודה	הפרשה	לאחר	אבל	מחלקת	הפרשה	דקודם	ס"ד	Munich 95	18
ריש	ליה	מודה	הפרשה	לאחר	אבל	פליגי	הפרשה	קודם	ס"ד	Oxford Opp. Add. fol. 23	
ריש	ליה	מודי	הפרשה	לאחר	אבל	פליגי	הפרשה	קודם	ס"ד	Vatican 108	
ריש	ליה	מודי	הפרש'	לאחר	אבל	פליגי	הפרשה	קודם	ס"ד	Soncino Print Family(1489 or later)	

לאחר	לקרא	ליה		אדמוקים		יוחנן	לר'	לקיש	Munich 95	19		
לאחר	לקרא	ליה	אדמוקי'	שתים	דחייב	יוחנן	לר'	לקיש	Oxford Opp. Add. fol. 23			
לאחר		ליה	[ק]מי)	אדמו()	שתים	דחייב	יוחנן	לר'	לקיש	Vatican 108		
לאחר	קרא	ליה		אדמוקים	שתים	דחייב	יוחנן	לר'	לקי'	Soncino Print Family(1489 or later)		
פליגי	הפרשה		לאחר	ס"ד	ואי	הפרשה	לאחר	לוקמה	כפר'	Munich 95	20	
פליגי	הפרש'		לאחר	ס"ד	ואי	הפרשה	לאחר	לוקמיה	כפרה	Oxford Opp. Add. fol. 23		
פליגי	הפרשה	לאחר	לאחר	ס"ד	ואי	הפרשה	לאחר	כפרה	Vatican 108		
פליגי	הפרשה	אחר	אחר	דאי	הפרש'	לאחר	לוקמה	כפרה	Soncino Print Family(1489 or later)		
דאינו	לקיש	לריש	יוחנן	ר'	ליה	מודה	הפרשה	קודם	אבל	Munich 95	21	
	לרי		יוחנן	ר'	ליה	מודה	הפרשה	קודם	אבל	Oxford Opp. Add. fol. 23		
דאינו	לקיש	לריש	יוחנן	ר'	ליה	מודי	הפרשה	קודם	אבל	Vatican 108		
דאינו	לקיש	לריש	יוחנן	ר'	ליה	מודה	הפרשה	קודם	אבל	Soncino Print Family(1489 or later)		
קודם	ומחצה לוקמה		בכזית		ליה	אדמוקי	אחת	אלא	חייב	Munich 95	22	
										Oxford Opp. Add. fol. 23		
קודם	ומחצה לוקמי		בכזית		ליה	אדמוקמי'	אחת	אלא	חייב	Vatican 108		
קודם	ומחצה לוקמיה		בכזית	קרא	ליה	אדמוקי	אחת	אלא	חייב	Soncino Print Family(1489 or later)		
									הפרשה	Munich 95	23	
										Oxford Opp. Add. fol. 23		
									הפרשה	Vatican 108		
									הפרשה	Soncino Print Family(1489 or later)		

1

	Manuscript								
1	Munich 6	בכל	התורה	כלה	רב	אחא	לחומרא ורבינא	לקולא	והילכתא
	New York - JTS Rab. 1623/2 (EMC 271)	בכל	התורה	כולה	רב	אחא	לחומרא ורבינא	לקולא	והילכתא
	New York - Columbia X 893 T 14a	בכל	התורה	כולה	רב	אחא	לחומרא ורבינא אמ'	לקולא	והילכתא
	Munich 95	כל	התורה		רב	אחא	לחומרא ורבינא	לקולא	והילכתא
	Oxford Opp. Add. fol. 23	בכל	התור'	כולה	רב	אחא	לחומרא ורבינ'	לקולא	והילכתא
	Oxford - Bodl. heb. e. 75 (2828) 47-54	בכל	התורה	כולה	רב	>...	..<רא ורבינא		לקולא	<...>
	Cambridge - T-S F2 (1) 92	בכל	התורה	כולה	רב	אחא	<...>		לקולא	
	Venice Print (1520?)	בכל	התורה	כולה	רב	אחא	לחומרא ורבינא	לקולא	והילכתא
	Vatican 109	בכל	התורה	כולה	רב	אחא	לחומרא ורבינא	לקולא	לבר
	Vatican 134	בכל	התורה		רב	אחא	לחומרא ורבי'	לקולא	והילכת'
	Vatican 125	ובכל	התורה	כולה	רב	אחא	לחומרא ורבינא	לקולא	והילכתא

2

	Manuscript									
2	Munich 6	כרבינא	לקולא	לבר	מהני	תלת דרב	אחא	לקולא ורבינא	לחומרא
	New York - JTS Rab. 1623/2 (EMC 271)	כרבינא	לקולא	לבר	מהני	תלת רב	אחא	לקולא ורבינא	לחומרא
	New York - Columbia X 893 T 14a	כראבינא לקולא		לבר	מהני	תלת רב	אחא	לקולא וראבינא	לחומרא
	Munich 95	כרבינא	לקול"	לבר	מהני	תלת דרב	אחא	לקולא ורבינא	לחומרא
	Oxford Opp. Add. fol. 23	כרבינא		בר	מהני	תלת דרב	אחא	לקולא ורבינא	לחומרא
	Oxford - Bodl. heb. e. 75 (2828) 47-54	כרבינא	לקולא	בר	מהני		אחא	לקולא ורבינא	לחומרא
	Cambridge - T-S F2 (1) 92			לבר	מהני		אחא	לקולא ורבינא	<...>
	Venice Print (1520?)	כרבינא	לקולא	לבר	מהני	תלת דרב	אחא	לקולא ורבינא	לחומרא
	Vatican 109				מהני	תלת דרב	אחא	לקולא ורבינא	לחומרא
	Vatican 134	כרבי'	לקולא	בר	מהני	תלת רב	אחא	לקולא ורבי'	לחומר'
	Vatican 125	כרבינא	לקולא	בר	מהני	תלת דרב	אחא	לקולא ורבינא	לחומרא

3

	Manuscript			
3	Munich 6	והילכתא	כרב	אחא לקולא
	New York - JTS Rab. 1623/2 (EMC 271)	והילכתא	כרב	אחא לקולא
	New York - Columbia X 893 T 14a	והילכתא	כרב	אחא לקולא
	Munich 95	והילכתא	כרב	אחא לקולא
	Oxford Opp. Add. fol. 23	והילכתא	כרב	אחא לקולא
	Oxford - Bodl. heb. e. 75 (2828) 47-54			
	Cambridge - T-S F2 (1) 92			
	Venice Print (1520?)	והילכתא	כרב	אחא לקולא
	Vatican 109	והילכתא	כרב	אחא לקולא
	Vatican 134	והילכת'	כרב	אחא (לחומר')[לקולא]
	Vatican 125	והילכתא	כרב	אחא (לחומרא)[לקולא]

1

Manuscript										
(1521)Venice Print	רבי	ברוקא	חוזאה	הוה	שכיחא	בשוקא	דבי'	לפט	הוה	שכיח
Jerusalem - Yad Harav Herzog 1	רב	ברוקא	חוזא	הוה	קאיי	בשוקא	דבי	לפט		אתא
(400)London - BL Harl. 5508	ר'	ברוקה	חוזאה	הוה	קאי	בשוקא	דבי	ולפט		אתא
Munich 140	רב	ברוקא	חוזאה	הוה	קאי	בשוקא	דבי	לפט		אתא
Munich 95	רב	ברוקא	חוזאה	הוה	קאי	בשוקא	דבי	לפט		אתא
Oxford Opp. Add. fol. 23	רב	ברוקא	חוזאה	הוה	קאי		דבי	לפאט		אתא
Vatican 134	רב	ברוקא	חוזאה	הוה	קאי	בשוקא	דבי	לאפט		אתא
(ca. 1480)Spanish Print	רב	ברוקא	חוזאה	הוה	קאי	בשוקא	דבי	לשפט		אתא
(1514)Pesaro Print	ר'		חוזאה	הוה	שכיחא	בשוקא	דבי	לפט	הוה	שכיח
Cambridge - T-S F1 (1) 7	ר'	ברוקא	חוזאה	הוה	קאי	בשוקא	דבי	לאפט		אתא

2

Manuscript									
(1521)Venice Print	אליהו		גביה		אמר	ליה		איכא	בהאי
Jerusalem - Yad Harav Herzog 1	אליהו		איתחזי	ליה	אמ'	ליה	מאן	איכא	בהא
(400)London - BL Harl. 5508	אליהו		איתחוי	ליה	אמ'	ליה		איכא	בהא
Munich 140	אליהו		איתחזי	ליה	אמ'	ליה	מאן	איכא	בהאי
Munich 95	אליהו		איתחזי	ליה	א"ל		מי	איכא	בהאי
Oxford Opp. Add. fol. 23	אליהו	זכרו טוב	איתחזי	ליה	א"ל		מי	איכא	בהאי
Vatican 134	אליהו		איתחזי	ליה	א"ל		מאן	איכא	בהאי
(ca. 1480)Spanish Print	אליהו	זל	איתחזי	ליה	אמ'	ליה	מי	איכא	בהאי
(1514)Pesaro Print	אליהו		גביה		אמר	ליה		איכא	הכא
Cambridge - T-S F1 (1) 7	אליהו		איתחזי	לי	אמ'	ליה	מאי	איכא	בהא

3

Manuscript									
(1521)Venice Print	שוקא	בר	עלמא	דאתי	אמ'	ליה		לא	אדהכי
Jerusalem - Yad Harav Herzog 1	שוקא	דאתי	לעלמא	דאתי	אמ'	ליה	ליכא	ולא	אינש אדהכי
(400)London - BL Harl. 5508	שוקא	דאתי	לעלמא		אמ'	ליה	לימא	ולא	אינש אדהכי
Munich 140	שוקא	דאתי	לעלמא	דאתי	אמ'	ליה		לא	אינש אדהכי
Munich 95	שוקא	דאתי	לעלמא	דאתי	א"ל		ליכא		אינש אדהכי
Oxford Opp. Add. fol. 23	שוקא	בר	עלמ'	דאתי	א"ל	לא	איכא	ולא	אינש אדהכי
Vatican 134	שוקא	דאתי	לעלמ'		א"ל	לא	איכא		אינש אדהכי
(ca. 1480)Spanish Print	שוקא	בר	עלמא	דאתי	אמ'	ליה	ליכא	ולא	אינש אדהכי
(1514)Pesaro Print		בר	עלמא	דאתי	אמר	ליה		לא	אדהכי
Cambridge - T-S F1 (1) 7	שוקא	דאתי	לעלמא	דאתי	אמ'	ליה	ליכא	ולא	אינש אדהכי

4

Manuscript									
(1521)Venice Print	והכי	חזא	להוא	גברא			דהוה	סיים	מסאני אוכמי
Jerusalem - Yad Harav Herzog 1		חליף	ההוא	גוברא				דסים	מסאמי אוכאמי
(400)London - BL Harl. 5508		אתא	ההוא	גברא				דסוים	מסאני אוכמי
Munich 140		אתא		גברא				דסיים	מסאני אוכמי
Munich 95	והכי	אתא	ההוא	גברא	איתחזי	ליה		דסיים	מסאני אוכמי
Oxford Opp. Add. fol. 23		אתא	ההוא	גברא				דסיים	מסאני אוכמי
Vatican 134	והכי	אתא	חד	גברא			דהוה	סאים	מסאניה אוכמי
(ca. 1480)Spanish Print		אתא	ההוא	גברא			דהוה	סאים	מסני אוכמי
(1514)Pesaro Print	והכי	חזא	להההוא	גברא			דהוה	סיים	מסאני אוכמי
Cambridge - T-S F1 (1) 7		אתא	ההוא	גברא			דסים	מסניה אוכמי

5

Manuscript									
(1521)Venice Print	ולא		רמי	חוטי	דתכליתא בגלימיה	אמר	ליה	האי
Jerusalem - Yad Harav Herzog 1	ולא		חוטי	[ראמ(י)[ן		אמ'	ליה	האיי
(400)London - BL Harl. 5508	ולא	הוה	קא	רמי	חוטי		אמ	ליה	האי
Munich 140	ולא	הוה		רמי	חוטי	[אסדינה]	אמ'	ליה	האי
Munich 95	ולא		קא	רמי	חוטי		א"ל		האי
Oxford Opp. Add. fol. 23	ולא	הוה		ראמי	חוטי		א"ל		האי
Vatican 134	ולא			רמי	חוטי		א"ל		האי
(ca. 1480)Spanish Print	ולא			רמי	חוטי		אמ'	ליה	האי
(1514)Pesaro Print	ולא		רמי	חוטי	דתכילתא בגלימיה	אמר	ליה	האי
Cambridge - T-S F1 (1) 7	ולא		רמי	חוטי		אמ'	ליה	האי

6

Manuscript										
(1521)Venice Print	בר	עלמא	דאתי	הוא		קרא		ולא	אתא	רהט
Jerusalem - Yad Harav Herzog 1	בר	עלמא	דאתי		קרא	ליה	ולא	אתא	לגביה	אזל
(400)London - BL Harl. 5508	בר	עלמא	דאתי		קרא	ליה	ולא	אתא	<..לגב>	אזל
Munich 140	בר	עלמא	דאתי	[הוא]	קרא	ליה	ולא	אתא	לגביה	אזל
Munich 95	בר	עלמא	דאתי	הוא	קרא	ליה	ולא	אתא	לגביה	אזל
Oxford Opp. Add. fol. 23	בר	עלמ'	דאתי	הוא	קרא	ליה	ולא	אתא	לגבי	אזל
Vatican 134	בר	לעלמ'	דאתי	הוא	קרא		ולא	אתא		אזל
(ca. 1480)Spanish Print	בר	עלמא	דאתי	הוא	קרא	ליה	ולא	אתי	לגביה	אזל
(1514)Pesaro Print	בר	עלמא	דאתי	הוא						רהט
Cambridge - T-S F1 (1) 7	בר	מעלמא	דאתי	הוה	קרא	עליה	ולא	אתא	לגביה	אזל

7

Manuscript									
(1521)Venice Print	בתריה	אמר	ליה	מאי	עובדך	אמר	ליה	זיל	האידנא
Jerusalem - Yad Harav Herzog 1	בתריה	אמ'	ליה					
(400)London - BL Harl. 5508	בתריה	אמ'	ליה				זיל	האידנא
Munich 140	הוא	בתריה	אמ'	ליה				זיל	האידנא
Munich 95	איהו	בתריה	א"ל	ליה				
Oxford Opp. Add. fol. 23		בתריה	א"ל				
Vatican 134	איהו	לגביה	א"ל	מאי	עובדך		זיל	האידנא
(ca. 1480)Spanish Print	איה?ו?	בתריה	אמ'	ליה				זיל	האידנא
(1514)Pesaro Print	בתריה	אמר	ליה	מאי	עובדך	אמר	ליה	זיל	האידנא
Cambridge - T-S F1 (1) 7	בתריה	אמ'	ליה				

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									Witness
עובדך	מאי	ליה	א'	למחר			למחר	ותא	(1521)Venice Print
עובדך	מאי			למחר	אתא	כי	למחר	ותא	Jerusalem - Yad Harav Herzog 1
עובדך	מאי	ליה	אמ'	למחר	אתא	כי	למחר	ותא	(400)London - BL Harl. 5508 ·
עובדך	מאי				אתא	כי	למחר	ותא	Munich 140
עובדיך	מאי	לי	אימ'	א"ל	אתא	כי	למחר	ותא	Munich 95
עובדך	מאי								Oxford Opp. Add. fol. 23 ·
שכרך	מאי		[א"ל]	למחר	אתא	כי	למחר	ותא	Vatican 134
עובדך	מאי						למחר		(ca. 1480)Spanish Print
עובדך	מאי	ליה	אמר	למחר			למחר	ותא	(1514)Pesaro Print
עובדך	מאי	ליה	אמר	למחר			למחר		Cambridge - T-S F1 (1) 7

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									Witness
לחוד	ונשי	לחוד	גברי	ואסרנ'	אנא	זנדוקנא	ליה	אמר	(1521)Venice Print
ובליליא	ונשיא	לחודיהו	גבריא	ואסרנא	אנא	זנדיקאי	ליה	אמ'	Jerusalem - Yad Harav Herzog 1
ובליליא	ונשי	לחודיהו	גברי	ואסרנא	אנא וקא	זנ?ר?	ליה	אמ'	(400)London - BL Harl. 5508 ·
ובליליא	ונשי	לחודיהו	גברי	ואסרנא	אנא	זנדקנא	ליה	אמ'	Munich 140
ולילא	ונשי	לחו'	גברי	ואסרנא	אנא	בדיקנאה		א"ל	Munich 95
ובליליא	ונשי	לחודיהו	גברי	ואסרנא	?אנא?	זנדקאה		א"ל	Oxford Opp. Add. fol. 23 ·
וכלילי	ונשי	לחודיהו	גברי	ואסרנא	אנא	זנודקא		א"ל	Vatican 134
ובליליא	ונשי	לחוד	גברא	ואסרנא	אנא	זרקונאי	ליה	אמ'	(ca. 1480)Spanish Print
לחוד	ונשי	לחוד	גברי	ואסרנא	אנא	זנדוקנא	ליה	אמר	(1514)Pesaro Print
לחודייהו ובלילה	ונשי	לחודיהו	גברא	ואסרנא	אנא	זוריקא	ליה	אמ'	Cambridge - T-S F1 (1) 7

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										Witness
לידי	ליתו	דלא	היכי	כי	להני	הני	בין	פורייא	ורמינא	(1521)Venice Print
ליתביד		דלא	היכי	כי	לינשי	גוברי	בין	פיראי	רמינא	Jerusalem - Yad Harav Herzog 1
עבדי		דלא	היכי	כי	לנשי	גברי	בין	פורייי	רמינא	(400)London - BL Harl. 5508 ·
ליתעבד		דלא	היכי	כי	לנשי	גברי	בין	פורייי	רמינא	Munich 140
ליעברו		דלא	היכי	כי	לנשי	גברי	בין	פורייאי	רמינא	Munich 95
להעביד		דלא	היכי	כי	לנשי	גברי	?בין?	פורייאי	רמינא	Oxford Opp. Add. fol. 23 ·
ליתעביד		דלא	היכי	כי	לנשי	גברא	בין	פורייי	רמינא	Vatican 134
ליעבדו		דלא	היכי	כי	לנשי	גברי	בין	פורייא	רמינא	(ca. 1480)Spanish Print
לידי	ליתו	דלא	היכי	כי	להני	הני	בין	פורייא	ורמינא	(1514)Pesaro Print
לתעביד		דלא	היכי	כי	לנשי	גברי	בין	פורא	רמינא	Cambridge - T-S F1 (1) 7

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										Witness
מסרנא	עיניהו	עליהו	גוים	דיהבי	ישראל	בת	חזינא	כי	איסורא	(1521)Venice Print
מסרנא	עלה	עיניהו	גוים	דיהבי	ישראל	בת	חזינא	כי	א(?י?)סורא	Jerusalem - Yad Harav Herzog 1
מסרנא	עליו	עיניהו	גוים	דיהבי	ישר'	בת	חזינא	כי	איסורא	(400)London - BL Harl. 5508 ·
מסרנא	עלה	עיניהו	גוים	דיהבי	ישראל	בת	חזינא	כי	איסורא	Munich 140
מסרנא		בה	גום	דיהבי	ישר'	בת	חזינא	כי	איסורא	Munich 95
מסרנא	עלה	עיניהו	גום	?דיהבי?	ישר'	בת	חזינא	כי	איסורא	Oxford Opp. Add. fol. 23 ·
מסרנא	עיניהו	עלה	גום	דייהבי	ישר'	בת	הוינא	כי	איסורא	Vatican 134
מסרנא	עלה	עיניהו	גוים	דיהבו	ישראל	בת	חזינא	וכי	איסורא	(ca. 1480)Spanish Print
מסרנא	עיניהו	עלייהו	גוים	דיהבי	ישראל	בת	חזינא	כי	איסור'	(1514)Pesaro Print
מסרנא	עלה	עיינינהו	גוים	דיהבו	ישראל	בת		כדחזינא	איסורא	Cambridge - T-S F1 (1) 7

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										Witness
דיהבו	גבן	מאורסה	נערה	הוו'	חד	יומא	לה	ומצילנא	נפשי	(1521)Venice Print
מארי	דיהב	מאורשה	נערה	איתרמאי	חדא	זימנא	לה	ומצלנא	נפשאי	Jerusalem - Yad Harav Herzog 1
לאונסה	בעו	המאורסה	נערה	איתרמי	חדא	זימנא	לה	ומצילנא	נפשאי	(400)London - BL Harl. 5508 ·
למינסבה	בעו	המאורסה	נערה	איתרמאי	חדא	זימנא	לה	ומצילנא	נפשי	Munich 140
למינסבה	בעו	המאורסה	נערה	איתרמי	חדא	זימנא	להי	ומצילנא	נפשאי	Munich 95
למנסה	בעו	מאורשא	נערה	אתרמאי	חדא	זימנא	לה	ומצילנא	נפשאי	Oxford Opp. Add. fol. 23 ·
למינסבא	ובעו	המאורסה	נערה	איתרמי	חדא	זימנא	לה	ומצילנא	נפשאי	Vatican 134
למינסה	בעו	המאורסה	נערה	איתרמי	חדא	זימנא	לה	ומצילנא	נפשאי	(ca. 1480)Spanish Print
דיהבו	גבן	מאורסה	נערה	הוות	חד	יומא	לה	ומצילנא	נפשאי	(1514)Pesaro Print
למינסבה	בעו	המאורסה	נערה	איתרמי	חדא	זימנא	לה	ומצילנא	נפשאי	Cambridge - T-S F1 (1) 7

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										Witness
בשיפוליה	ליה	ושדאי			דורדיי'	שקלי	עיניהו	גוים	בו	(1521)Venice Print
?א?מאנה	לה	שדאי		דחמרא	דורדיא	איתאי	בגוה	עיניה	דיוראי	Jerusalem - Yad Harav Herzog 1
בשיפוליהא	לה	ושדיי		דחמרא	דורדיא	אתאי				(400)London - BL Harl. 5508 ·
אמנה	לה	שדי		דחמרא	דורדיא	איתאי				Munich 140
בשיפולה	לה	שדינא		דחמרא	דורדיא	לי	הוה			Munich 95
אמנא	להו	שדיי		דחמרא	דורדא	אתאי				Oxford Opp. Add. fol. 23 ·
בשיפולה	לה	שרי	סומקא	דחמרא	דורדיאי	אתאי				Vatican 134
בשיפולא	לה	ושדאי		דחמרא	דורדיא					(ca. 1480)Spanish Print
בשיפוליה	ליה	ושדאי			דורדייא	שקלי	עיניהו	גוים	בה	(1514)Pesaro Print
בשיפולה	לה	שדי		דחמרא	דורדיא	אתאי				Cambridge - T-S F1 (1) 7

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									Witness
טעמ'	מאי	ליה	אמ'	היא	דיסתנא			ואמרי	(1521)Venice Print
מ'ט		לה	[א"ל]	נשים	דרך	ליה		ואמרי	Jerusalem - Yad Harav Herzog 1
שנא	מאי			היא	דשתנא		להו	ואמינא	(400)London - BL Harl. 5508 ·
שנא	מאי			היא	דשתנא		להו	אמינא	Munich 140
שנא	מאי			היא	דישתאנא	חזו	להו	אמינא	Munich 95
שנא	מאי			היא	דישתנא			ואמינא	Oxford Opp. Add. fol. 23 ·
שנא	מאי		א"ל	היא	דשתנא		להו	ואמינ'	Vatican 134
	מ'ט			היא	דסתנא		להו	ואמינא (דמנה)	(ca. 1480)Spanish Print
	מ'ט	ליה	אמ'	היא	דיסתנא			ואמרי	(1514)Pesaro Print
שנא	ומאי	ליה		היא	דשתנא		להו	אמנא	Cambridge - T-S F1 (1) 7

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									Witness	·
ליה	אמר			אוכמי	מסאני	ורמית	חוטי	לך	לית	(1521)Venice Print	
על	אנא	מתאבל	א'ל	אוכמי	מסאני	סיימת				Jerusalem - Yad Harav Herzog 1	
		<...>		אוכמי	מסני	דסיימת				(400)London - BL Harl. 5508	·
				אוכמי	מסאני	דסיימת				Munich 140	
				אוכמי	מסאני	דסיימת				Munich 95	
על		מתאבלנא	דקא	אוכמי	מסאני	דסיימת				Oxford Opp. Add. fol. 23	·
				אוכמי	מסאני	דסיימת				Vatican 134	
על		מתאבלנא	אמ'	אוכמי	מסאני	סיימת				(ca. 1480)Spanish Print	
										(1514)Pesaro Print	
				אוכמי	מסאני	דסיימת				Cambridge - T-S F1 (1) 7	

16

									Witness	·
עיילנא									(1521)Venice Print	
עיילנא		קא	חוטי	מחתת	לא	טעמא	מאי	מ'?ט?]	Jerusalem - Yad Harav Herzog 1	
									(400)London - BL Harl. 5508	·
		א"ל	חוטי	רמית	ולא				Munich 140	
			חוטי	רמות	לא	ום"ט		ירושלם	Munich 95	
דעיילנא		א"ל	חוטי	רמאית	ולא			משום	Oxford Opp. Add. fol. 23	·
			חוטי	רמית	לא	מ"ט		ירושלם	Vatican 134	
עיילנא	ליה	אמ'	חוטי	לך	ליה	טעמ'	מאי		(ca. 1480)Spanish Print	
									(1514)Pesaro Print	
									Cambridge - T-S F1 (1) 7	

17

									Witness	·
דיהודאה הוא		לידעו	דלא	היכי	כי	גוים	ביני	ונפיקנא	(1521)Venice Print	
דיהודאה אנא	בי	לידעו	דלא			בגוים		ונפיקנא	Jerusalem - Yad Harav Herzog 1	
דיהודאה אנא		לידעו	דלא	היכי	כי				(400)London - BL Harl. 5508	·
דיהודאה אנא		לידעו	דלא	היכי	כי				Munich 140	
דיהודאי אנא		לידעו	דלא	היכי	כי				Munich 95	
דיהודאה אנא		לידעו	דלא	היכי	כי				Oxford Opp. Add. fol. 23	·
דיהודאי אנא		לידעו	דלא	היכי	כי	גוים	ביני	ונפיקנא	Vatican 134	
דיהודאה אנא		לידעו	דלא	היכי	כי				(ca. 1480)Spanish Print	
דיהודאה הוא		לידעו	דלא	היכי	כי	גוים	ביני	ונפיקנא	(1514)Pesaro Print	
דיהודי אנא		לידעו	דלא	היכי	כי				Cambridge - T-S F1 (1) 7	

18

										Witness	·
מודעתא	גזרי							הוו		כי	(1521)Venice Print	
מודעי	גזרי							הוו		דכי	Jerusalem - Yad Harav Herzog 1	
מגלו	גזירה	למיגזר	ובעו	דציבעא	מילתא		להו	הוה	דכי	(400)London - BL Harl. 5508	·
מגלו	גזירת'	למיגזר	ובעו	דצינעא	מילתא			הוה	דכי	Munich 140	
מגלו	גזירר	למיגזר	ובעו	דצינעא	מלתא	רבנן	להו	הוה	דכי	Munich 95	
מגלו	גזיר?ת	למיגזר	ובעו	דצינעא	מילתא			הויא	דכי	Oxford Opp. Add. fol. 23	·
מגלו	גזירר	למיגזר	ובעו	דצינעא	מילתא			הוו	דכי	Vatican 134	
מגלו	גזירתא	למגזר	ובעו	דצינעא	מילתא		להו	הוה	דכי	(ca. 1480)Spanish Print	
	גזירי							הוו		כי	(1514)Pesaro Print	
מיגלו	גזירתא	מיגזר	ובעו	דצינעה	מילתא		להו	הוה	דכי	Cambridge - T-S F1 (1) 7	

19

										Witness	·
טעמא	ומאי	לגזירתיהו	ומבטלי	רחמי	ובעו	לרבנן	להו		לי	(1521)Venice Print	
טעמ'	ומאי	לה	ומבטלי	רחמי	ובעו	לישראל	להו	ומודענא	לי	Jerusalem - Yad Harav Herzog 1	
טע'	מאי	לה	ומבטלין	רחמי	ובעו	לרבנן	להו	ואמינא	לי	(400)London - BL Harl. 5508	·
טעמ'	מאי	לה	ומבטלין	רחמי	ובעו	לרבנן	להו	ואמינא	לי	Munich 140	
טעמ'	מאי	לה	ומבטלו	רחמי	ובעו	לרבנן	להו	ואמינא	לי	Munich 95	
	מ"ט	לה	ומבטלין	רחמי	ובעו	לרבנן	להו	ואמינא	לי	Oxford Opp. Add. fol. 23	·
טעמ'	ומאי	לה	ומבטלין	רחמו	דבעו	לרבנן	לה	דאמינא	לי	Vatican 134	
	מ"ט	לה	ומבטלי	רחמי	ובעו	לרבנן	להו	מודענא	לי	(ca. 1480)Spanish Print	
טעמא	ומאי	לגזירתיהו	ומבטלי	רחמי	ובעו	לרבנן	להו		לי	(1514)Pesaro Print	
טע'	ומאי	לה	ומבטלין	רחמי	ובעו	לרבנן	להו	ואמינא	לי	Cambridge - T-S F1 (1) 7	

20

									Witness	·
זיל	לי	ואמרת	עובדך	מאי	אנא	לך	אמינא	כי	(1521)Venice Print	
				אתית	לא		קריתך	דכי	Jerusalem - Yad Harav Herzog 1	
				אתית	לא		קרתיך	כי	(400)London - BL Harl. 5508	·
				אתית	לא		קריתיך	כי	Munich 140	
				אתית	לא		קריתך	כי	Munich 95	
			לגבאי	אתיתי	לא		קריתך	כי	Oxford Opp. Add. fol. 23	·
זיל	דתלי	ואמ'		אתית	ולא		קריתך	כי	Vatican 134	
				אתית	לא		קריתך	כי	(ca. 1480)Spanish Print	
זיל	לי	ואמרת	עובדך	מאי	אנא	לך	אמינא	כי	(1514)Pesaro Print	
				אתית	לא	לך	קרי	כי	Cambridge - T-S F1 (1) 7	

21

										Witness	·
גזרי			שעתא	בההיא	ליה	אמר	למחר	ותא	האידנא	(1521)Venice Print	
גזרי	קא	הוו	שעתא	בההיא						Jerusalem - Yad Harav Herzog 1	
גזרי	קא	הוו	שעתא	בההיא						(400)London - BL Harl. 5508	·
גזרי		הוה	שעתא	בההיא						Munich 140	
גזרי		הוו	שעתא	ההיא	אמ'					Munich 95	
גזרי	קא	הוה	שעתא	בההיא						Oxford Opp. Add. fol. 23	·
		הוו	שעתא	בההיא	א"ל		למחר	ותא	האידנא	Vatican 134	
גזרי		הוו	שעתא	בההיא						(ca. 1480)Spanish Print	
		הואי	דמצוה	מילתא	ליה	אמר	למחר	ותא	האידנא	(1514)Pesaro Print	
גזרי	קא	הוה	שעתא	בההיא						Cambridge - T-S F1 (1) 7	

											22
עלה	רחמי	דלבעי	לרבנן	להו	ואשמע	איזיל	ברישא	ואמינ'	גזירת'	(1521)Venice Print	
עלה	רחמי	למיבעי	לרבנן	להו	ואשלח	אשמעה	ברישא	אמינא	גזירתא	Jerusalem - Yad Harav Herzog 1	
עלה	רחמי	ובעו	לרבנן	להו	ואש<..>	אשמע	ברישא	ואמינא	גזירת'	(400)London - BL Harl. 5508	·
עלה	רחמי	דליבעי	לרבנן	להו	ואשלח	אשמעה	ברישא	אמינא	גזירתא	Munich 140	
על	רחמי	דבעי	לרבנן	להו	ואשלח	אשמע	ברישא	ואמינא	גזירתא	Munich 95	
עלה	רחמי	דליבעו	לרבנן	להו	ואשלח	אשמעה	ברישא	אמינא?	?אמינא	גזירתא	Oxford Opp. Add. fol. 23	·
עלה	רחמי	דליבעו	לרבנן	להו	ואשלח	אשמעא	ברישא	אמינא	גזירתא	Vatican 134	
עלה		דליבעי	לרבנן	להו	ואשלח	אשמעה		ואמינא	גזירתא	(ca. 1480)Spanish Print	
		לי	דאפשר	כמה	ואשתתיף	איזיל		אמינא	גזירה	(1514)Pesaro Print	
עלה	רחמי	דבעו	לרבנן	להו	ואשלח	אשמע	ברישא	אמינא	גזירה	Cambridge - T-S F1 (1) 7	

	23
דמילתא	(1521)Venice Print
דמילתא	Jerusalem - Yad Harav Herzog 1
דמילתא	(400)London - BL Harl. 5508
דמילתא	Munich 140
מילתא	Munich 95
?דמי?לתא	Oxford Opp. Add. fol. 23
דמילתא	Vatican 134
דמילתא	(ca. 1480)Spanish Print
	(1514)Pesaro Print
דמילתא	Cambridge - T-S F1 (1) 7

1

MS									
Pesaro Print (1508)	קא	קפסק	ותני	לא	שנא		מן	הנשואין	
Moscow - Guenzburg 1017	קא	פסיק	ותני	>...<	שנא		מן	האירוסין	
Moscow - Guenzburg 594	קא	פסיק	ותני		ל"ש	אלמנה	מן	הנישואין	
Oxford - Bodl. heb. d. 20 (2675)	קא	קפסיק	[ותאני]	לא	שנא		מן	הניש[ו]א[ו](י)[ן]	
Oxford Opp. 248 (367)		קפסיק	ותני	לא	שנ'		מן	האירוסין	
Vatican 111	קא	פסיק	ותני	לא	שנא		מן	האירוסי	[דבתולה היא]
Munich 95	קא	פסיק	ותני	לא	שנא		מן	האירוסין	

2

MS									
Pesaro Print (1508)	ולא	שנא		מן	האירו'		בשלמא	מן	הנשואין
Moscow - Guenzburg 1017	ולא	שנא		מן	הנישוא<..>		בשלמ'	מן	הנישואין
Moscow - Guenzburg 594	ול"ש		אלמנה	מן	האירוסין		בשלמ'	מן	הנישואין
Oxford - Bodl. heb. d. 20 (2675)	ולא	שנא		מן	האירוסין		בשלמא	מן	הנישואין
Oxford Opp. 248 (367)	ולא	שנא		מן	הנשואין		בשלמא	מן	הנישואי'
Vatican 111	ולא	שנא		מן	הנישואין	[דבעולה היא] בשל"		מן	הנישואין
Munich 95	ולא	שנא		מן	הנשואין		בשלמ'	מן	הנשואין

3

MS								
Pesaro Print (1508)	עשה ולא	תעשה	ואין	עשה	דוחה		לא	תעשה	ועשה
Moscow - Guenzburg 1017			אין	עשה	דוחה	את	לא	תעשה	ועשה
Moscow - Guenzburg 594			אין	עשה	דוחה	את	לא	תעשה	ועשה
Oxford - Bodl. heb. d. 20 (2675)			אין	עשה	דחי	את	לא	תעשה	ועשה
Oxford Opp. 248 (367)			אין	עשה	דוחה		לא	תעש'	ועשה
Vatican 111			אין	עשה	[דוחה]		ולא	תעשה	ועשה
Munich 95			אי'	עשה	דוחה	את	לא	תעשה	ועשה

4

MS								
Pesaro Print (1508)	אלא	מן	האירוסין ולא	תעש'	גרידא	הוא		יבא	עשה
Moscow - Guenzburg 1017	אלא	מן	האירוסין					יבא	עשה
Moscow - Guenzburg 594	אלא	מן	האירוסי'					יבא	עשה
Oxford - Bodl. heb. d. 20 (2675)	אלא	מן	האירוסין			אמאי		ניתי	עשה
Oxford Opp. 248 (367)	אלא	מן	האירוסין					יבא	עשה
Vatican 111	אלא	מן	האירוסין					יבא	עשה
Munich 95	אלא	מן	האירוסין					יבא	עשה

תעשה	ולא	עשה	נמי	האירוסין	מן	אלמנה	רבא	אמר	אלא	(1508)Pesaro Print	1
תעשה	ולא	עש<.>	נמי	האירוסין	מן	אלמנה	רבא	אמ'	<...>	Moscow - Guenzburg 1017	
תעשה	ולא	עשה	נמי	האירוסין	מן	אלמנה	רבא	אמ'	א?()[ל?]א	Moscow - Guenzburg 594	
תעשה	ולא	עשה	נמי	האירוס'	מן	אלמנה	רבא	אמ'	אלא	(2675)Oxford - Bodl. heb. d. 20	
תעשה	ולא	עשה	נמי	האירוסין	מן	אלמנה	רבא	אמ'	אלא	(367)Oxford Opp. 248	
תעשה	ולא	עשה	נמי	האירוסין	מן	אלמנה	[רבא]	אמ'	אל"	Vatican 111	
תעשה	ולא	עשה	נמי	הארוסין	מן	אלמנה	רבא	אמ'	אלא	Munich 95	
למימר	איכא	מאי	ונתינה	ממזרת	לאלהיה'	יהיו	קדושי'	דכ'	הוא	(1508)Pesaro Print	2
					<...><...>	יהיו	קדושים	דכת'	הוא	Moscow - Guenzburg 1017	
למימ'	איכא	מאי	ונתינה	ממזרת		תהיו	קדושי'	דכתי'	הוא	Moscow - Guenzburg 594	
למימר	איכא	מאי	ונתינה	ממזרת	וג'	יהיו	קדושים	דכ'	הוא	(2675)Oxford - Bodl. heb. d. 20	
למימ'	איכא	מאי	ונתינ'	ממזרת		יהיו	קדושים	דכת'	הוא	(367)Oxford Opp. 248	
למימ'	איכא	מאי	ונתינה	ממזרת	לא[ל]היהם	יהיו	קדושים	דכת'	הוא	Vatican 111	
למימר	איכא	מאי	ונתינה	ממזרת	לאלהיהם	יהיו	קדושי'	דכתי'	הוא	Munich 95	
						והתקדשתם		כתב		(1508)Pesaro Print	3
						והתקדשתם		דכתי'		Moscow - Guenzburg 1017	
						והתקדשתם	וג'	דכת'		Moscow - Guenzburg 594	
						..והתקדש..		(הא כתיב)[דאמ')	(איכא)	(2675)Oxford - Bodl. heb. d. 20	
										(367)Oxford Opp. 248	
				קדושים	והיתם	והתקדשתם		דכת'		Vatican 111	
ולממזר	לנתין	ישראל	בת	קדושים	והיתם	והתקדשתם		דכתי'		Munich 95	
כולו	התורה	כל	הכי	אי						(1508)Pesaro Print	4
										Moscow - Guenzburg 1017	
נמי	התורה	כל		א"ה						Moscow - Guenzburg 594	
נמי	התורה	כל	הכי	או						(2675)Oxford - Bodl. heb. d. 20	
נמי	התור?ה?	כל	הכי	אי						(367)Oxford Opp. 248	
כולה	התורה	כל	הכי	אי						Vatican 111	
נמי	התורה	כל	הכי	אי	והתקדשתם	דכתי'	למימר	איכ'	מאי	Munich 95	
רבא	א'	אלא	והתקדשתם	דכ'	הוא	תעשה	ולא	עשה	נמי	(1508)Pesaro Print	5
רבא		<...>	והתקד'	דכת'		תעשה	ולא	עשה		Moscow - Guenzburg 1017	
רבא	אמ'	אלא	והתקדשתם	דכת'	הוא	תעשה	ולא	עשה		Moscow - Guenzburg 594	
רבא	אמ'	אלא	וה[ת]קדשתם	דכ'	הוא	תעשה	ולא	עשה		(2675)Oxford - Bodl. heb. d. 20	
[רבא	(א)	אלא	והתק..	דכתי'		תעשה	ולא	עשה		(367)Oxford Opp. 248	
רבא	אמ'	אל"	והתקדשתם	דכת'	הוא	תעשה	ולא	עשה	נמי	Vatican 111	
רבא	אמ'	אלא	והתקדשת'	דכת'	הוא	תעשה	ולא	עשה		Munich 95	
הנשואין	מן	אלמנה	אטו	האירוסין	מן	אלמנה	גזירה			(1508)Pesaro Print	6
..>שואין	<...		אטו	האירוסין	מן	אלמנה	גזיר'			Moscow - Guenzburg 1017	
הנישואי'	מן	אלמנה	אטו	האירוס'	מן	אלמנה	גזיר'			Moscow - Guenzburg 594	
הנישואין	מן	אלמנה	אטו	האירוסין	מן	אלמנה	גזירה	רבא	א'	(2675)Oxford - Bodl. heb. d. 20	
הנישואין	מן	אלמנה	אטו	האירוס'	מן	אלמנה	גזירה			(367)Oxford Opp. 248	
הנישואין	מן	אלמנה	אטו	האירוסין	מן	אלמנה	גזירה			Vatican 111	
הנישואין	מן	אלמנה	אטו	האירוס'	מן	אלמנה	גזיר'			Munich 95	
אטו	מצוה	במקום	גזירה	למימ'	איכא	מאי		ונתינה	ממזרת	(1508)Pesaro Print	7
אטו	מצוה	במקום	גזירה	<...	איכא	מאי		ונתינה	ממזרת	Moscow - Guenzburg 1017	
אטו	מצוה	במק'	גזיר'	למימ'	איכ'	מאי	לישר'	ונתינה	ממזרת	Moscow - Guenzburg 594	
אטו	מצ'	במק'	גזירה	למימר	איכא	מאי		ונתינה	ממזרת	(2675)Oxford - Bodl. heb. d. 20	
אטו	מקום	מצוה	גזירה	למימר	איכא	מאי		ונתינה	ממזרת	(367)Oxford Opp. 248	
אטו	מצוה	במקום	גזירה	למימר	איכא	מאי		ונתינה	ממזרת	Vatican 111	
אטו	מצוה	במק'	גזיר'	למימר	איכ'	מאי		ונתינה	ממזרת	Munich 95	
לא	מאביו	אחיו		אשת	מעת'	אלא	מצוה	במקום	שלא	(1508)Pesaro Print	8
(ו)לא	מאביו	אחיו		אשת	מעתה	אלא	>..צוה	במקום	שלא	Moscow - Guenzburg 1017	
לא	מאביו	אחיו		אשת	מעתה	אלא	מצוה	במקום	שלא	Moscow - Guenzburg 594	
לא	מאביו	אחיו		אשת	מעתה	אלא	מצוה	במק'	שלא	(2675)Oxford - Bodl. heb. d. 20	
לא	מאביו	אחיו		אשת	מעתה	אלא	מצוה	במקום	שלא	(367)Oxford Opp. 248	
				אשת	מעתה	אלא	מצוה	במקום	שלא	Vatican 111	
לא		אחיו	(אביו)	אשת	מעתה	אלא	מצוה	במקו'	שלא	Munich 95	
תלא	בנחלה	ייבום	מאמו	אחיו	אשת	משום	גזירה		תתייבם	(1508)Pesaro Print	9
תלא	בנחלה	ייבום	מאמו	אחיו	אשת	משום	גזירה		>..תייבם	Moscow - Guenzburg 1017	
תלא	בנחלה		מאמו	אחיו	אשת	משו'	גזיר'		תתיבם	Moscow - Guenzburg 594	
תלה	בנחלה		מאמו	אחיו	אשת	מש'	גזיר'		תתיי[ב]ם	(2675)Oxford - Bodl. heb. d. 20	
תלא	בנחלה	יבום	מאמו	אחיו	אשת	משום	גזירה	(ל')	תתייבם	(367)Oxford Opp. 248	
										Vatican 111	
תלא	בנחלה		מאמו	אחיו	אשת	משום	גזיר'		תתייבם	Munich 95	
לא	בנים	לה	שאין		אשה	ידיע	מידע	רחמנא		(1508)Pesaro Print	10
לא	בנים	לה	שאין		אשה	ידיע	מידע	רחמ'		Moscow - Guenzburg 1017	
לא	בני'	לו	שאין	אח	אשת	ידיע	מידע	רחמנא		Moscow - Guenzburg 594	
לא	בנים	לה	שא?ין?		אשה	ידיעי	מידע	רח'	ונחלה	(2675)Oxford - Bodl. heb. d. 20	
לא	בנים	לה	שאין		[אשה	ידיע	ומידע	רחמנא		(367)Oxford Opp. 248	
לא	בנים	לה	שאין		אשה	ידיע		רחמנא		Vatican 111	
לא	בנים	לה	ש(יש)[אין]		אשה	ידיע	מידע	רחמנא		Munich 95	
רחמנא	תלא	בבנים	בנים	לה	שיש	אשה	משום	גזירה	תתייבם	(1508)Pesaro Print	11
רחמ'	תליא	בבנים	בנים	לה	שיש	אשה	משום	גזירה	תתיבם	Moscow - Guenzburg 1017	
							משו'			Moscow - Guenzburg 594	
רח'	תלה	בבנים	בנים	לה	שיש	אשה	מש'	גזירה	תתיבם	(2675)Oxford - Bodl. heb. d. 20	
רחמנא	תלא	בבנים	בנים	לה	שיש	אשה	משום	גזירה	תתיבם	(367)Oxford Opp. 248	
רחמנ'	תלא	בבנים	בנים	לה	שיש	אשה	אטו	גזירה	תיתיבם	Vatican 111	
רחמנא	תלא	בבנים	בנים	לה	שיש	)א[שה	משום	גזירה	תתיבם	Munich 95	

12

C1	C2	C3	C4	C5	C6	C7	C8	C9	C10	כתב יד
								ידע	מידע	Pesaro Print (1508)
								ידע	מידע	Moscow - Guenzburg 1017
(ובנים	תלא	רחמ')	ובנים					ידעי	מידע	Moscow - Guenzburg 594
								ידיע]	ומדע[	Oxford - Bodl. heb. d. 20 (2675)
			בבנים					ידע	מידע	Oxford Opp. 248 (367)
מאביו	מייבם	אחיו	אשת					ידע	מידע	Vatican 111
								ידע	מידע	Munich 95

13

C1	C2	C3	C4	C5	C6	C7	C8	C9	C10	כתב יד
										Pesaro Print (1508)
										Moscow - Guenzburg 1017
										Moscow - Guenzburg 594
										Oxford - Bodl. heb. d. 20 (2675)
										Oxford Opp. 248 (367)
רחמנ'	תלא	בנחלה	מאמו	אחיו	אשת	משום	גזירה	תיתייבם	לא	Vatican 111
										Munich 95

14

C1	C2	C3	C4	C5	C6	C7	C8	C9	C10	כתב יד
משום	גזירה	תתייבם	לא	בעולמו	שהיה	אחיו	אשת			Pesaro Print (1508)
משום	גזירה	תתייבם	לא	בעולמו	שהיה	אחיו	אשת			Moscow - Guenzburg 1017
מש'	גזיר'	תתייבם	לא	בעולמו	שהיה	אחיו	אשת			Moscow - Guenzburg 594
משום	גזירה	תתייבם	לא	בעול"	שהיה	אחיו	אשת			Oxford - Bodl. heb. d. 20 (2675)
אטו	גזירה	תתייבם	לא	בעולמו	שהיה	[אחיו]	אש'	ידיע	מידע	Oxford Opp. 248 (367)
משו'	גזירה	תתייבם	לא	בעולמו	שהיה	אחיו	אשת			Vatican 111
מש'	גזירה	תתייבם	לא	בעולמו	שהיה	אחיו	אשת			Munich 95

15

C1	C2	C3	C4	C5	C6	C7	C8	C9	C10	כתב יד
רחמנא	תלא		בישיבה		בעולמו	היה	שלא	אחיו	אשת	Pesaro Print (1508)
רחמנא	תל(י)א		בשיבה		בעולמו	היה	שלא	אחיו	אשת	Moscow - Guenzburg 1017
רחמנא	תלא	עולם	בישיבת		בעולמו	היה	שלא	אחיו	אשת	Moscow - Guenzburg 594
רחמ'	תלא	עולם	בישיבת	הואיל			של<..>	אחיו	אשת	Oxford - Bodl. heb. d. 20 (2675)
רחמנא	תלא		בישיבה	[התם	בעולמו	היה	שלא	אחיו	אשת	Oxford Opp. 248 (367)
רחמ'	תלא		בישיבה		בעולמו	שלא	היה	אחיו	אשת	Vatican 111
רחמנא	תלא		בישיבה		בעולמו	היה	שלא	אחיו	אשת	Munich 95

16

C1	C2	C3	C4	C5	C6	C7	C8	C9	C10	כתב יד
גזיקה	תתייבמו	לא		הנשים	כל	ידיע	מידע		וישיבת	Pesaro Print (1508)
	[יתיבמו	לא		הנשים	כל	ידיע	מידע			Moscow - Guenzburg 1017
	יתיבמו	לא		הנשי'	כל	ידע?י?	מידע			Moscow - Guenzburg 594
	יתיבמו	לא	כולן	הנשים	כל	ידיע	מידע	עולם	וישיבת	Oxford - Bodl. heb. d. 20 (2675)
	נתיבמו	לא		הנשים	כל		ומדע[			Oxford Opp. 248 (367)
גזירה	תתיבמו	לא		הנשים	כל	ידיע	מידע			Vatican 111
גזירה	יתיבמו	לא		הנשים	כל	ידיע	ומידע			Munich 95

17

C1	C2	C3	C4	C5	C6	C7	C8	C9	C10	כתב יד
לא	נמי	ונתינה	ממזרת		שכיחא	לה	אילונית	אילונית	משום	Pesaro Print (1508)
לא	נמי	ונתינה	ממזרת		שכיחא	[לא	אילונית	איילונית	משום	Moscow - Guenzburg 1017
		ונתינה	ממזרת	אלא	שכיח	אילונית	לא	אילונית	מש'	Moscow - Guenzburg 594
		ונתינה	ממזרת		שכיחה	אילונית	לא	אילונית	מש'	Oxford - Bodl. heb. d. 20 (2675)
לא	נמי	ונתינה	[ממזרת		שכיחא	אילונית	לא	אילונית	משום	Oxford Opp. 248 (367)
לא	נמי	ונתינה	ממזרת		שכיחא	לא		איילו'	משו'	Vatican 111
לא	נמי	ונתינה	ממזרת		שכיחא	אילונית	לא	איילונית	משום	Munich 95

18

C1	C2	C3	C4	C5	C6	C7	C8	C9	C10	כתב יד
ביאה	אטו	ראשונה	ביאה	גזירה	רבא	אמר	אלא		שכיחא	Pesaro Print (1508)
ביאה	אטו	ראשונה	ביאה	גזירה	רבא	אמ'	אלא		שכיחא	Moscow - Guenzburg 1017
ביאה	אטו	ראשונה	ביאה	גזירה	רבא	אמ'	אלא	שכיחן	משכח	Moscow - Guenzburg 594
ביאה	אטו	ראשו'	ביאה	גזירה	רבא	אמ'	אלא		שכיחה	Oxford - Bodl. heb. d. 20 (2675)
ביאה	אטו	ראשנה	ביאה	גזירה	רבא	אמ'	אלא		[שכיחא	Oxford Opp. 248 (367)
ביאה	אטו	ראשונה	ביאה	גזירה	רבא	אמ'	אלא		שכיחא	Vatican 111
ביאה	אטו	ראשונה	ביאה	גזירה	רבא	אמ'	אלא		שכיחא	Munich 95

19

C1	C2	C3	C4	C5	C6	C7	C8	C9	C10	כתב יד
									שנייה	Pesaro Print (1508)
									שנייה	Moscow - Guenzburg 1017
									שנייה	Moscow - Guenzburg 594
									שנייה	Oxford - Bodl. heb. d. 20 (2675)
									שניה	Oxford Opp. 248 (367)
									שנייה	Vatican 111
									שנייה	Munich 95

1	Moscow - Guenzburg 1017	איתמר	קידש	בתוך	שלשה	וברח	פליגי	ביה	רב	אחא	ורפרם
	Moscow - Guenzburg 594	איתמר	קדשה	בתוך	ל'	וברח	פליגי	בה	רב	אחא	ורפרם
	Munich 95	איתמ'	קידש	בתוך	שלשה	וברח	פליגי	בה	רב	אחא	ורפרם
	Oxford Opp. 248 (367)	קדש'	איתמ'	בתוך	ג'	וברח	פליגי	בה	רב	אח'	ורפרם
	Vatican 111	איתמר	קידש	בתוך	שלשה	פליגי	בה	רפרם	ורב	אחא	
	Pesaro Print (1508)	איתמר	קדש'	בתוך	שלשה	וברח	פליגי	בה	רב	אחא	ורפרם
	Cambridge - Add. 3207	קידשה	איתמר	בתוך	שלשה	וברח	פליגי	בה	רב	אחא	ורפרם
2	Moscow - Guenzburg 1017	חד	אמ'	משמתינן	לה	וחד	א>..>א	עירוקיה		מיסתייה	
	Moscow - Guenzburg 594	חד	אמ'	משמתינן	ליה	וחד	אמ'	ערוקיה		מסתייה	
	Munich 95	חד	אמ'	משמתינן	ליה	וחד	אמ'	מעכרינן	עירוקיה	מסתיה	
	Oxford Opp. 248 (367)	חד	אמ'	משמתינן	ליה	וחד	אמ'	ערוקיה		מסתייה	
	Vatican 111	חד	אמ'	משמתינן	ליה	וחד	אמ'	עירוקיה		מיסתייה	
	Pesaro Print (1508)	חד	אמ'	משמתינן	ליה	וחד	אמר	עירוקיה		מסתייה	
	Cambridge - Add. 3207	[חד]	אמ'	משמתינן	ליה	וחד	אמ'	ערקו[נ]'ה		מסתיה	

גטין עז ע"א עז ע"ב

סימון

מ=	כתב-יד מינכן Munich 95.
ו=	כתב-יד וטיקן Vatican 140
א=	כתב-יד אוקספורד ספריית הבודליאנה, לפי נייבויאר, קטלוג (368) Oxford Opp. 38
ר=	כתב-יד אראס (צרפת) Arras 889
פ=	כתב-יד לנינגרד-פרקוביץ St. Petersburg - RNL Evr. I 187
ש=	דפוס שונצינו רמ"ח (1488) Soncino Print
ט=	כתב-יד וטיקן Vatican 130
ג1=	קטע גניזה, אוקספורד ספריית הבודליאנה (לפי ניבויאר) 2836,3 (5-14) Oxford - Bodl. heb. d. 68, .

1	מ					והי'	בתוך	בית'	
	ו					היא	בתוך	ביתה	
	ג1		[פיס'	מתניתן	היא	בתוך	ביתה	או
	ר								
	פ		פיס'		היא	בתוך	ביתה	
	ש					והיא	בתוך	ביתה	
	ט					והיא	בתוך	ביתה	

2	מ						א'	עול'	והו'
	ו	בתוך	חצירה				אמ'	עולא	והיא
	ג1	בתוך	חצרה	הרי	זו	מגו?..ת]	א'	עולא	
	ר								
	פ						א'	עולא	והיא
	ש						אמ'	עולא	והוא
	ט						אמ'	עולא	והיא

3	מ			שעומד'	בצד	בית'	או
	ו			שעומדת	בצד	ביתה	או
	ג1	והיא	שיושבת	[ששומרתו] בצד	ביתה	[או]
	ר						
	פ			שעומדת	בצד	ביתה	או
	ש			שעומדת	בצד	ביתה	
	ט			שעומדת	בצד	ביתה	או

4	מ	בצד	חצר'	ור'	אושעי'	א'	אפי'	הית'	בטברי'
	ו	בצד	חצירה	ור'	אושעיא	אמ'	אפי'	היא	בטבריא
	ג1	ובצד	חצרה	ור'	אושעיה	אמ'	אפילו	[היא]	בטבריה
	ר								
	פ	בתוך	חצירה	ור'	אושעיא	א"ר	אפי'	היא	בטבריה
	ש	ובצד	חצרה	ר'	אושעיא	אמ'	אפי'	היא	בטבריא
	ט	בצד	חצירה	ר'	אושעיא	אמ'	אפילו	היא	בטבריא

שורה	עד	C1	C2	C3	C4	C5	C6	C7	C8
5	מ		וחצר'	בצפרי			הרי	זו	
	ו		וחצירה	בציפורי			הרי	זו	
	ג1		והצרה	בציפורי	היא	בצפו'	וחצר'	בטבר'	
	ר								
	פ		והצרה	בציפורי	היא	בציפורי	וחצר	בטבריה	
	ש		והצרה	בציפורי	היא	בציפורי	וחצרה	בטבריא	
	ט		והצירה	בציפורי	היא	בציפורי	וחצירה	בטבריא	
6	מ	מגורש'	והא	הי'		בתוך	בית'	או	בתו'
	ו	מגורשת	והא	היא		בתוך	ביתה	או	בתוך
	ג1		[והא	היא		בתוך	ביתה	או	בתוך
	ר								
	פ		והא	היא	בתוך	בתוך	ביתה	היא	בתוך
	ש	מגורשת	והא	היא		בתוך	ביתה		ובתוך
	ט		והא	היא		בתוך	ביתה	או	בתוך
7	מ	חצר'	קתני	והי'				כמ'	שבתוך
	ו	חצירה	קתני	הכא		קאמ'	היא	כמי	שבתוך
	ג1	חצרה		...					בתוך
	ר								
	פ	חצרה	קתני	הכי		קאמ'	היא	כמה	שבתוך
	ש	חצרה	קתני	הכי	(נ)	קאמ'	והיא	כמי	שבתוך
	ט	חצירה	קתני	הכי		קא'		כמי	שבתוך
8	מ	(חצירה)	בית'		כמ'	שבתו'	חצר'	והיא	לה
	ו		ביתה		כמו	שבתוך	חצירה	והיא	לה
	ג1		ביתה	היא	...				
	ר								
	פ		ביתה	היא	כמה	שבתוך	חצרה		
	ש		ביתה	והיא	כמי	שבתוך	חצרה	דכיון	
	ט		ביתה]		כ?מי	שבתוך	חצירה	דכיון	
9	מ	חצר	המשתמ'	לדעת'		הי'	דמגורש'	לימ'	בהא
	ו	חצר	המשתמרת	לדעתה	והרי	היא	מגורשת	לימא	בהא
	ג1		משתמרת	לדעתא	[...			נימא	בהא
	ר								
	פ	דחצר	משתמרת	לדעתה		היא	ומגורש	לימא	בהא
	ש	דחצר	משתמרת	לדעתה		היא	מתגרשת	לימ'	בה'
	ט	דחצרה	משתמרת	לדעתה		היא	מתגרשת	לימא	בהא
10	מ		קמפלגי	דמר		סבר	חצר	משו'	יד'
	ו		קמפלגי	דמר		סבר	חצר	משום	ידה
	ג1	קא	מפלגי	דמר	[עולא]	סבר	חצר	משום	ידה
	ר								
	פ		קמיפלגי	דמר		סבר	חצר	משום	ידה
	ש		קמיפלגי	דמר		סבר	חצר	משום	ידה
	ט		קמיפלגי	מר		סבר	חצר	משום	ידה
11	מ	אתרבי	ומר	סבר	חצר	משו'		שליח	אתרבי
	ו	איתרבאי	ומר	סבר		משו'		שליחו'	איתרבאי
	ג1	איתרבאי	ומר	סב'	חצ'	מש'	(ידה)	[שליחות]	איתרבאי
	ר								
	פ	אתרביי	ומר	סבר	חצר	משום		שליחות	איתרביי
	ש	איתרבאי	ומר	סבר	חצר	משום		שליחות	איתרבאי
	ט	איתרבאי	ומר	סבר	חצר	משום		שלי'	איתרבאי
12	מ	לא	דכ"ע		חצר			מיד'	אתרבאי
	ו	לא	דכול'	על'				ידה	איתרבאי
	ג1	לא	<..>כו'	עלמ'	חצר	מש'		ידה	איתרבאי
	ר								
	פ	לא	דכולי	עלמ'	חצר	משום		ידה	אתרביי
	ש	לא	דכול'	עלמ'	חצר	משום		ידה	איתרבאי
	ט	לא	דכולי	עלמ'	חצר	משום	(שליחות)	[ידה]	איתרבאי

מס'	עד									
13	מ				ומר	סבר	חצר		כידה	
	ו				ומר	סבר	חצר		כידה	
	ג1				ומר	סבר	כי		ידה	
	ר									
	פ				ועולא	סבר	כי		ידה	
	ש				מר	סבר			כידה	
	ט	והכא	בהא	קמיפלגי	מר	סבר			כידה	
14	מ	מה	יד'	הסמוכ'	לה	אף	חצר'	הסמוכ'	לה	
	ו	מה	ידה	נסמוכה	לה	אף	חצר	בסמוכה	לה	
	ג1	מה	יד[ה]	בסמיכה		אף	חצ'[רה]	בסמיכ'	בסמוכ'	
	ר									
	פ	מה	ידה	בסמוכה	לה	אף	חצרה	בסמוכה	לה	
	ש	מה	יד?ה?	בסמוכה		אף	חצרה	בסמוכה		
	ט	מה	ידה	בסמוכה	לה	אף	חצר	בסמוכה	לה	
15	מ	ור'	אושעי'		א'	מה	יד'	בדבוק'	לה	
	ו	ור'	אושעי'		אי	מה	ידה	בדבוקה	לה	
	ג1	ואידך			או	מה	יד	בדביקה		
	ר									
	פ	ור'	אושעיא	סבר	או	מה	ידה	בדבוקה	לה	
	ש	ואידך			אי	מה	ידה	בדבוקה		
	ט	ואידך			אי	מה	ידה	בדבוקה		
16	מ	אף		חצר'		נמי	בדבוק'	לה	אל'	
	ו	אף		חצירה			בדבוקה	לה	אלא	
	ג1	אף		חצר[ה]		נמי	בדביקה		אילא	
	ר									
	פ	אף		חצרה			בדבוקה	לה	אלא	
	ש	אף	(נ)	חצרה			בדבוקה	לה	אלא	
	ט	אף		חצר			בדבוקה	לה	אלא	ודאי
17	מ					כיד'			המשתמר'	
	ו					כידה	מה	ידה	המשתמרת	
	ג1				[כי]	[ידה]	מה	ידה	משתמרת	
	ר									
	פ				כי	ידה	מה	ידה	המשתמרת	
	ש					כידה	מה	ידה	משתמרת	
	ט	להכי	איתקש	דדינה		כידה	מה	ידה	המשתמ'	
18	מ	לדעת'						לאפוקי	חצר'	
	ו	לדעתה		אף	חצירה	המשתמרת	[שלא]	לדעתה		
	ג1	בדעתה		אף	חצר	מש?ת?מ'	לדעת'	לאפוקי	חצר	
	ר									
	פ	לדעתה		אף	חצרה	המשתמרת	לדעתה	לאפוקי	חצר	
	ש	לדעתה		אף	חצרה	המשתמר'	לדעתה	לאפוקי	חצר	
	ט	לדעתה		אף	חצר	המשתמרת	לדעתה			
19	מ	המשתמר'	שלא	לדעת'						
	ו									
	ג1	המשתמרת	שלא	לדעתה	[ההוא...]	(ואילא)	הא	קא	תני	
	ר									
	פ	המשתמרת	שלא	לדעתה						
	ש	המשתמרת	שלא	(מ)לדעתה						
	ט									
20	מ									
	ו									
	ג1	היא	בתוך	ביתה	ובתוך	חצרה	הכי	קא	תני	
	ר									
	פ									
	ש									
	ט									

								מו1גרפשט	21
המשתמרת	[ד]חצר'	חצר'	כשמבתוך	והיא	ביתה	כמשבתוך	היא		

							מו1גרפשט	22
			(מגורשת)	>..<הי	לדעתה			

									1
סוף	ורבינא	אשי	רב	משנה		סוף	נתן	ורבי	Vilna
סוף	ורבינא	אשי		משנה		סוף	נתן	ור'	Escorial G-I-3
סוף		אשי	ורב	רבינא	משנה	סוף	יונתן	ור'	Florence II-I-8
סוף		אשי	ורב	רבינא	משנה	סוף	נתן	ור'	Hamburg 165
סוף	ורבינ'	אשי			משנה	סוף	נתן	ור'	Munich 95
סוף	ורבינא	אשי			משנה	סוף	נתן	ור'	Vatican 115
סוף	ורבינא	אשי	רב	משנה	סוף	סוף	נתן	ור'	Vatican 117

									2
								הוראה	Vilna
								הוראה	Escorial G-I-3
								הוראה	Florence II-I-8
								הוראה	Hamburg 165
								הוראה	Munich 95
								הוראה	Vatican 115
								הו(ד)[ר]אה	Vatican 117

1	Florence II-I-9	אמ' רב אחא בריה דרבא	מימות ()
	Vilna	רב אדא בר אהבה אף אני אומר	מימות
	Yad Harav Herzog 1	אמ' רב אחא בריה דרבא אף אנו לומ'	מימות
	Munich 95	רב אח' ברי' דרבא אף אני אומ'	מימו'
	(1497)Barko Print (?)	רב אדא בר אהבא אף אנו לומ'	מימות
2	Florence II-I-9	ר' ועד רב אשי	
	Vilna	רבי עד רב אשי	
	Yad Harav Herzog 1	רבי ועד רב אשי	
	Munich 95	ר' עד רב אשי	
	(1497)Barko Print (?)	ר' עד רב אשי	

מקור								
Soncino Print (1489) ·	איכ'	הכל		לכתחילה ואיכא הכל	דיעבד	אלא	הכל	דהכא
Hamburg 169	הכל	איכא		לכתחילה ואיכא	דאיעבד	אלא	הכל	דהכא
Munich 95	הכל	איכ'		לכתחלה ואיכא	דיעבד	אלא	הכל	דהכא
Vatican 121	הכל	[איכא?]		לכתחילה ואיכא	דיעבד	אלא	הכל	דהכא
Vatican 122	איכ'	הכל		לכתחילה ואיכ' הכל	דיעבד	ואלא	הכל	דהכא
Bologna - Archivio di Stato Fr. ebr. 8 ·	וכל	הכל	לאו	לכתחלה הוא		אלא	הכל	חייבין
Jerusalem - Schocken Institute for Jewish Research 3639 (2)	וכל	הכל	לאו	לכתחלה			הכל	חייבין

מקור							
Soncino Print (1489) ·	ממאי דלכתחילה הוא דתקשי	לך	דילמ'			דיעבד הוא	ולא
Hamburg 169	ממאי דלכתחלה הוא ותיקשי	לך	דילמ'	דאי		עבד	
Munich 95	ממאי דלכתחלה	ותקשי	לך	דילמ'		דיעבד הוא	
Vatican 121	ממאי דלכתחילה הוא ותיקשי	לן	דילמא			דיעבד	
Vatican 122	ממאי דלכתחילה הוא תיקשי	לך	דילמ'			דיעבד	
Bologna - Archivio di Stato Fr. ebr. 8 ·							
Jerusalem - Schocken Institute for Jewish Research 3639 (2)	<...>						

מקור						
Soncino Print (1489) ·	תקשי לך		אמ' ליה	אנא	שחיטתן כשרה		קשיא
Hamburg 169		אמ' ליה	אנא	שחיטתן כשירה	קא	קשיא
Munich 95		א"ל	אנא	שחיטתו כשרה		קקשי'
Vatican 121		א"ל	אנא	שחיטתן כשירה	קא	קשיא
Vatican 122		א'ל	אנא	שחיטתן כשירה	קא	קשיא
Bologna - Archivio di Stato Fr. ebr. 8 ·						
Jerusalem - Schocken Institute for Jewish Research 3639 (2)						

כרבינא	והילכתא	לחומרא	אחא	ורב	לקולא	רבינא	כולה	התורה	בכל	Soncino Print (1489)	1
כרבינא	והלכתא	לקולא	ורבינא	לחומר'	אחא	רב	כולה	התורה	בכל	Hamburg 169	
		לקולא	ורבינא	לחומרא	אחא	רב		התורה	בכל	Vatican 121	
כרבינא	והילכת'	לקולא	ורבינא	לחומרא	אחא	רב	כולה	התורה	בכל	Vatican 122	
כרבינא	[והילכתא	לקולא	ורבינא	לחומרא	אחא	???	כולה	התורה	בכל	Munich 95	
ורבינא			לקולא	אחא	דרב	תלת	מהני	לבר	לקולא	Soncino Print (1489)	2
ורבינא			לקולא	אחא	דרב	תלת	מהני	בר	לקולא	Hamburg 169	
(לקולא)	ורבינא	(לבר)	לקולא	אחא	דרב	תלת	מהני	לבר		Vatican 121	
	ורבינ'		לקולא	אחא	דרב	תלת	מהני	לבר	לקולא	Vatican 122	
	ורבינא		לקולא	אחא	דרב	תלת	מהני	בר	[לקולא	Munich 95	
			לקולא	אחא	כרב	והילכתא	לחומרא			Soncino Print (1489)	3
			[לקולא]	אחא	כרב	והלכתא	לחומרא			Hamburg 169	
			לקולא	אחא	דרב	כוות'	והילכת'	לחומרא		Vatican 121	
			לקול"	אחא	כרב	והיל'	לחומרא			Vatican 122	
			לקולא	אחא	כרב	והלכת'	לחומרא			Munich 95	

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תמו'	בעליה	שכיפרו	חטאת	כל	דא'	הי'	שמעון	ר'	רישא	Venice Print (1522)	1
תמות	בעלי'	שכפרו	חטאת	כל	דאמ'	היא	שמעון	ר'	רישא	Oxford 370 ·	
תמות		שכפרו	חטאת	כל	דא'	היא	שמע'	ר'	רישא	Florence II-I-7	
							שמעון	ר'	רישא	Munich 95	
תמות	בעלים	שכיפרו	חטאת	כל	דאמ'	היא	שמעו'	ר'	ריש'	Vatican 119	
תמות	בעליה	שכיפרו	חטאת	כל	דאמ'	הוא	שמע'	ר'	רישא	Vatican 120 ·	
	גביהא	רב		אמר	רבנן	וסיפא	שמעון	רבי	רישא	Venice Print (1522)	2
	גביהה	רב	ליה	אמ'	רבנן	וסיפא	שמעון	ר'	רישא	Oxford 370 ·	
	גבוהא	רב		א'	רבנ'	וסיפא	שמע'	ר'	רישא	Florence II-I-7	
	גביהה	רב	א"ל		רבנן	וסיפא				Munich 95	
הא	גבי	רב		אמ'						Vatican 119	
	גביהא	רב		אמ'	רבנן	וסיפא	שמע'	ר'	רישא	Vatican 120 ·	
שמעון	ר'	רישא	אביי	א'	הכי	אשי	לרב	כתיל	רבי	Venice Print (1522)	3
שמעון	ר'	ריש'	אביי	אמ'	הכי	אשי	לרב	כתיל	מבי	Oxford 370 ·	
שמע'	ר'	רישא	אביי	א'	הכי	אשי	לרב	כתיל	מבי	Florence II-I-7	
שמעון	ר'	רישא	אביי	א'	הכי	אשי	לרב	כתיל	מבי	Munich 95	
שמעו'	ר'	רישא	אביי	אמ'	הכי	אשי	לרב	כתיל	מבי	Vatican 119	
שמע'	ר'	רישא	אביי	אמ'	הכי	אשי	לרב	בתיל	מבי	Vatican 120 ·	
								רבנן	וסיפא	Venice Print (1522)	4
								רבנן	וסיפא	Oxford 370 ·	
								רבנ'	סיפא	Florence II-I-7	
								רבנן	סיפא	Munich 95	
								רבנן	וסיפ'	Vatican 119	
								רבנן	וסיפא	Vatican 120 ·	