A Talmud in Exile

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The Historical Context of B. Avodah Zarah’s Appropriation of Y. Avodah Zarah

This book illustrates that the study of a Bavli tractate’s relationship to its Yerushalmi parallel must be methodologically eclectic. A macro approach is necessary but not sufficient, and the same goes for a micro approach. By combining the textual breadth characteristic of Neusner and Jaffee, detailed sugya analysis like that of Friedman, and comparative studies of the two rabbinic communities and their literatures like those of Kalmin and Friedman, we are able to see much more clearly than most earlier scholars how y. Avodah Zarah influenced b. Avodah Zarah. Our understanding of b. Avodah Zarah’s deep roots in y. Avodah Zarah also has an important implication for the study of the Bavli overall. The Bavli should not be studied without reference to the Yerushalmi. A scholar wishing to study the formation of Bavli sugyot, Bavli hermeneutics, or the redaction-history of a Bavli tractate must seek out any Yerushalmi parallels—be they parallel sugyot, sugya-clusters, or a whole tractate—and exhaustively compare them to the Bavli text(s) under consideration. Unless our hypothetical scholar does so, she will have only a partial understanding of whatever it is she is trying to study.

Our conclusion that y. Avodah Zarah influenced the formation and structure of b. Avodah Zarah has an important implication as well for any historical conclusions we might be inclined to draw from specific Bavli passages. Even without a complete study of all Bavli tractates and their Yerushalmi parallels, the fact that in this case y. Avodah Zarah was a critical factor in the formation of b. Avodah Zarah should give us methodological pause: In deciding what is truly “Babylonian” in the Bavli for
purposes of reconstructing Babylonian Jewish social or intellectual history, we must not assume that the mere presence of a passage in the Bavli guarantees that it represents the views and/or culture of the Bavli’s redactors. Rather, we must first seek out any extant parallel(s) to that passage in the Yerushalmi. Only what is new and different in the Bavli passage represents the Babylonian contribution; we must recognize, even more than previously, the extent to which the Bavli is beholden to the Palestinian amoraic heritage.1

What remains for us to do in this chapter is to examine how the conclusion we have developed on the basis of a purely textual analysis of the tractates—that y. Avodah Zarah influenced b. Avodah Zarah—makes sense in terms of the historical context outside of the Talmuds. This examination will require us to look at the historical circumstances of Palestinian Jewry in the fifth, sixth, and early seventh centuries, the issue of which Babylonian rabbinic generation was likely to have received and utilized y. Avodah Zarah, and issues pertaining to orality and literacy, specifically what the redacted y. Avodah Zarah would have looked like and how it would have been transmitted to Babylonia. In brief, our analysis will support the conclusion that the fifth-century y. Avodah Zarah was likely transmitted to Babylonia by Palestinian scholars—most likely a very small group—in the sixth or possibly early seventh century. Babylonian scholars of the sixth century or later were aware of y. Avodah Zarah and utilized it in the formation of what became b. Avodah Zarah.

It may be objected that the historical examination we are about to undertake is not necessary because, given the history of contacts between the rabbinic communities, the time it would have taken in the fifth century for y. Avodah Zarah to have “jelled” as a redacted text, and the inevitable time lag attendant upon the difficulties of travel between the two centers, one could reasonably hypothesize that y. Avodah Zarah would have reached Babylonia in the sixth or seventh centuries even without the other

1. See also Shamma Friedman, “La-aggadah ha-historit,” 119–122; Rubenstein, Talmudic Stories. Comparative study of the Talmuds may also show that, at times, the Bavli preserves more authentic versions of Palestinian sugyot than are currently found in printed editions of the Yerushalmi. For example, at b. AZ 53a, the Bavli presents a dispute about whether delivery of an idol to a Jewish or to a Gentile smelter (רומא) constitutes nullification (קועה) of the idol. At y. AZ 4:5, 44a, both the Venice and Kratoschin editions read “for need” (לוער), rather than “to a smelter” (רומא), which is how the Bavli and the Leiden manuscript of the Yerushalmi read. The reading of the Bavli and Leiden make more sense, since it is difficult to make sense of a sale “for need.” The Bavli thus preserves a version of the Palestinian sugya that is more authentic than that of the printed editions, and also provides added support to the reading in Leiden.
factors we will adduce. This objection is not without merit, especially given the impossibility of proving that this or that historical event caused a Palestinian scholar or scholars to go to Babylonia. But without such an external historical analysis, we are left to draw a major historical conclusion—that y. Avodah Zarah influenced the formation of b. Avodah Zarah—on the basis of a purely textual analysis. The strength of the conclusion that y. Avodah Zarah influenced b. Avodah Zarah is enhanced by external historical evidence which buttresses the conclusion we may sensibly draw from the texts.

## I

### Palestine in the Sixth and Seventh Centuries

The period stretching from the fourth through the seventh centuries was pivotal for Palestinian Jewry. Archaeological and literary remains from this period show the emergence of a distinctive Late Antique Jewish culture and the rabbinization of non-rabbinic Palestinian Jewry.² Yet, beginning in the late fifth century and continuing into the early seventh, there is also evidence of increasing imperial hostility toward the Jews and a growing Christian population in Palestine and religio-cultural Christianization of the area. Further, there is internal Jewish literary evidence of the misery these trends caused the Jews. The unrest of the sixth-century Samaritan revolt (ca. 550) was succeeded by the violent upheavals of the early seventh-century Byzantine/Persian and Byzantine/Arab wars and the end of Byzantine sovereignty over Palestine. Unsurprisingly, these trends caused a decline in the Jewish population of Palestine, with many Jews seeking refuge in the Diaspora. We will examine each of these four trends separately—growing Imperial hostility, Christianization of Palestine, Jewish literary evidence of growing misery, and political/military upheaval. Finally, we will explain how these trends support the notion of the exportation of y. Avodah Zarah from Palestine to Babylonia. But first, we will review the evidence showing the spread of rabbinic Judaism in Palestine and the strengthening of Judaism there generally in the fifth and sixth centuries. This evidence does not contradict evidence of increasing Jewish misery in the fifth through the seventh centuries. To begin with, human phenomena are quite complex, and it is not impossible that positive and negative trends can coexist—as we will clearly see that they do. Second, it is logical to assume that only a strong rabbinic Judaism, deeply-rooted

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among the people by the sixth century, could have been preserved amid the tumult of the late sixth and early seventh centuries.

I.a. The Rabbinization of Palestinian Jewry in the Fifth and Sixth Centuries

Seth Schwartz has persuasively traced the crystallization (by the second century BCE), collapse (in 70 CE) and reemergence (between the fourth and sixth centuries) in altered form of what he calls the “ideological complex” of God-Temple-Torah. For our purposes, we will focus on the fourth- to sixth-century period, in which Palestinian Jewry underwent a process which Schwartz labels “judaization.” The seventh-century decoration of the Rehov synagogue with a mosaic inscription dealing with tithes and the Sabbatical year is one interesting example of judaization.3 Schwartz points out that the Rehov synagogue had been decorated with friezes of lions in the fifth century.4 The replacement of these pictorial friezes with a geometric mosaic—not to mention the halakhic one—indicates that something has changed in Palestinian Jewry. Whereas pre-sixth-century synagogues display iconography, those of the sixth and early seventh centuries show evidence of an aniconic tendency, typified by the growing evidence of geometric mosaics or the disfigurement of human or divine figures. With respect to the Rehov inscription (which is arguably derived from the Yerushalmi), Schwartz comments that “iconophobia complemented rabbinization.”5

In the fourth to sixth centuries, the institution of the synagogue itself was “reaching its maximal diffusion”6 in Palestine, with pride of place accorded to the niche in which the Torah scroll would be kept, and a greater sense of the numinous nature of the Torah.7 The shift away from iconography and toward an architectural emphasis on the Torah’s place in the synagogue shows the growing influence of a rabbinic conception of what makes a synagogue holy, as opposed to the older non-rabbinic sense that the synagogue’s very structure conveys its sanctity.8 This period also witnesses the emergence of the piyyut genre and the performance of these complex, rabbinically inspired poetic compositions in synagogues.9 What

3. This example will be discussed more fully below (see pp. 221–224).
7. Ibid., 242.
8. Ibid., 261.
9. Ibid., 263–274.
then has changed in Palestinian Jewry? Schwartz is undoubtedly correct to point to rabbinic influence, or to “the same complex of factors that favored the growth of rabbinic influence.”10 As he puts it:

... by about 500 almost all Jewish villages, though they regarded themselves as religiously discrete, participated in a common ideology; all utilized surplus capital to build and maintain synagogues, all had placed the Torah at the physical and perhaps symbolic centers of their world, and all regarded themselves as constituting “Israel,” or rather an agglomeration of discrete Israels.11

If in the fourth to sixth centuries the synagogue was spreading, rabbinization was well underway, and rabbinic literary production was at its height—as exemplified by the redactions of the Yerushalmi and the major midrash-collections—then external pressures on the Jews, although always unwelcome and unpleasant, cannot have been so harsh as to have prevented these developments from occurring. As we move deeper into the sixth and then into the seventh centuries, however, the picture begins to change drastically.

I.b. Deterioration of the Status of the Jews in Roman Imperial Legislation in the Fourth to Sixth Centuries

Examination of the Roman imperial legislation concerning the Jews 12 shows evidence of deterioration in the perception of the Jews of the Empire. Before describing this evidence, a word is in order about what it does and does not show. It is too much to claim that the prohibitions or privileges provided by a given piece of legislation were immediately put into practice as enacted. Given the vastness of the Empire, its later division into Eastern and Western suzerainties, and difficulties in oversight and communications, such an immediate translation from enactment to reality is highly unlikely. Rather, what is significant for our purposes is the changing attitude toward the Jews reflected in the imperial legislation. While not a direct indicator of what was happening to the Jews “on the ground” at any given time, the legislation reflects the existence and deepening of hostile attitudes toward the Jews in an increasingly Christian Roman world.

10. Ibid.
11. Ibid., 240.
12. This material has been collected, translated, and annotated by Amnon Linder in The Jews in Roman Imperial Legislation (Detroit: Wayne State University Press/Israel Academy of Arts and Sciences, 1987). All references to and quotations from this legislation will be drawn from Linder’s compilation.
The first of these trends is that, as a general matter, the emperors begin to classify the Jews along with pagans and heretics beginning in 383 CE. This trend becomes particularly pronounced in the fifth century. In 408, Honorius, along with Theodosius II, condemned “[t]he audacity of the Donatists, the heretics and the Jews” who “want to throw the sacraments of the Catholic faith into disorder,” and called for “a just and retributive chastisement” to be imposed on those “who shall attempt to do anything that is contrary and adverse to the Catholic sect.” More legislation against harassment of the Catholic Church by Donatists, heretics, Jews, and pagans was enacted in 409, in the wake of attacks on Catholic clergy in Africa. In 423, Honorius, with Theodosius II, enacted legislation in which they indicated their desire that “the Jews . . . know . . . that we take with pleasure the occasion of the repetition of the law” [by which they had previously, in their own terms, “suppressed the arrogance and the audacity of the abominable pagans, as well as of the Jews and the heretics”], although Christians were to abstain from inflicting damage on Jews and from destroying and despoiling synagogues. This protection of synagogues is important because Jews, unlike pagans and heretics, retained the right to have holy places and practice their rituals. Jews, however, would be subject to confiscation of property and exile for circumcising a Christian. Later in 423, these two emperors issued a confirmation of the policy against destroying synagogues, in which the Jews were classified together with pagans and heretics. In 425, Theodosius II and Valentinian III barred Jews and pagans from the practice of law and the service of the State. More elaborate clarification of imperial policy toward Jews, Samaritans, pagans, and heretics was provided in 438 by another decree of the same emperors.

The significance of this fifth-century trend of classifying the Jews along with pagans and heretics is that the practice of Judaism is now

17. CTh 16:8:27 and 16:10:24, as well as at Cj 1:11:6 (Linder, The Jews, 295–300).
20. Although, as Seth Schwartz points out, there is a key distinction between Jews on the one hand, and pagans and heretics on the other: Jews always retained the right to maintain their holy places and observe their rituals, unlike pagans and heretics.
considered to be a religious deviation from Christianity, rather than the perpetuation of ancient national customs as the pagan Empire had conceived it. Jewish religion is, at bottom, simply not a welcome part of a Christian society.

The Jews were pushed out of the imperial service entirely in the fifth and sixth centuries. In 418, Honorius, together with Theodosius II, declared participation in “the State service” off-limits to men “living in the Jewish superstition,” while allowing that those already serving should be allowed to complete their terms of service. “Jews educated in the liberal studies” were specifically permitted to continue “practicing as advocates” as well as “to enjoy the honour of the curial liturgies.”21 However, in 425, Theodosius II and Valentinian III declared that the practice of law and participation in the State service were closed to Jews and pagans, basing this decision on the ground that “we do not wish people of the Christian Law to serve them, lest they substitute, because of this mastery, the venerable religion by a sect.”22 A similar point was made with greater rhetorical ferocity by Justin and Justinian in 527, who declared that “we order that those who are heretics, and above all the pagans, Jews, Samaritans, and those similar to them, if they take part in any of all those [municipal honors] we have already recalled . . . they shall be thrown out on the spot from participating in these.”23 The ultimate purpose of these harsh measures was stated earlier in the same piece of legislation:

As for the other heretics . . . as well as . . . the Jews and the Samaritans, we intend not only that what was already laid down in the laws shall be recalled and made firmer through this present law, but also that more shall be declared; through which greater security, also honour and esteem shall envelope [sic] those sharing in our pure faith. It shall then be possible for all to perceive, as we said, that even what pertains to the human advantages is withheld from those who do not worship God rightly. (emphasis added)

In this edict, Justin and Justinian also declared Jews (among others) to have an inferior status to Orthodox Christians in litigation, while in 531, Justinian declared that Jews and heretics could no longer serve as witnesses against Orthodox Christians.24

In the fifth century, we see the beginning of an imperial tendency to interfere with the practice of Judaism. In 408, Theodosius II and Honorius prohibited the Jews from engaging in Purim festivities which appeared to

mock Christianity, a provision carried over into the Justinian Code. The most glaring evidence of imperial willingness to interfere in Jewish religious practice is Justinian’s enigmatic Novella No. 146 of 553, in which, inter alia, he declares that

what they call deuterosis . . . we prohibit entirely, for it is not included among the Holy Books, nor was it handed down from above by the prophets, but it is an invention of men in their chatter, exclusively of earthly origin and having in it nothing of the divine.

Schwartz suggests that the deuterosis might refer to sermons or qerovot (types of piyyutim), which are literary compositions influenced by the rabbinic liturgical guidance in tractates Berakhot and Megillah. If Schwartz is correct, then Justinian’s Novella No. 146 evidences both the increasing sixth-century rabbinization of the Palestinian Jewish community as well as the imperial desire to remove any impediments to the successful conversion of the Jews.

Of all the legislation we have reviewed, the sixth-century legislation of Justinian seems the most driven by the theologically-based desire to isolate the Jews and make their continued existence as Jews ever more unpleasant, although it is the culmination of trends that had been developing in the fifth century as well. “What pertains to the human advantages is withheld from those who do not worship God rightly”—with such an imperial watchword, Palestinian Jewry was certainly on notice that it had no friends in the imperial government of the Empire in the sixth century.

I.c. The Growing Christianization of Palestine in the Fifth and Sixth Centuries and Its Effect on the Jews

Much archaeological evidence suggests that the Christian population of Palestine grew, and that Christianity became a pervasive feature of the Palestinian landscape in the fifth to sixth centuries. Based upon the study of over three hundred remains of churches, Ze‘ev Safrai concluded that church construction spread from classical sacred sites and urban and village settings in the first half of the fifth century to even rural areas in the later fifth and sixth centuries. Safrai dates most of the Palestinian
churches, as well as Christian archaeological remains overall, to this late fifth- to sixth-century period. From the sixth century until the Arab conquest, “the churches became a central feature in the urban and rural landscape in most regions of Palestine.” Churches were also built over destroyed or abandoned pagan temples beginning in the mid-fourth century. Churches were built over temples in Bethlehem and Mamre, while there was an attempt to build one over the abandoned temple of Hadrian in Tiberias. At the beginning of the fifth century, the temple in Gaza was turned into a church, and even the Samaritan shrine on Mt. Gerizim was “converted” in the late fifth century. This upsurge in church construction, and especially the spread of church construction into rural areas, indicates an increased Christian population meant to be served by those churches. Safrai concludes—on a rather ideologically charged note—that “the movement of conversion to Christianity apparently began to assume significant dimensions only in the sixth century, mainly among the pagan population.”

Studies of Christian appropriation of Jewish burial places also point to a growing Christian presence in Palestine in the fifth to sixth centuries, as well as to the fact that, contra Safrai, conversion to Christianity in this period was a trend not only among pagans. Based on their study of a cemetery at Beth Guvrin containing both Jewish and Christian iconography, Jodi Magness and Gideon Avni concluded that the evidence from the Menorah Cave and the distribution of clearly Jewish and Christian symbols on lamps from the other caves is suggestive of a change over time in the religious orientation of the cemetery’s occupants. It seems that the initial (late second to fourth century) burials in these caves were Jewish. The first evidence for Christian presence dates to the fourth or fifth century, and is most common during the late sixth to early eighth centuries.

Magness and Avni point out that there is support (albeit indirect) from historical sources for the demographic conclusions drawn from the cemetery, noting that “by the sixth century, [Beth Guvrin] was clearly Christian in character.” Nor was this phenomenon of Christian reuse of Jewish

31. Ibid., 72–73.
32. Ibid., 130.
burial places limited to Beth Guvrin; Christians also reused other Jewish tombs, dating to the Second Temple, between the fifth and seventh centuries.35

While the Jewish population of Palestine was still relatively large at the end of the fourth century through the early fifth, the rise of Christianity and its growing hold on the country exerted a negative effect on the Jewish population, and set it on a course of decline in the fifth century.36 The Jewish population continued to decline in the fifth and sixth centuries,37 although the discovery of synagogue remains dating from this period38 and ongoing literary production should make one cautious about too-pessimistic assessments of the size of the Jewish population. Yet Yaron Dan is correct that “the self-preservation of Palestinian Jewry in the new circumstances was made more and more difficult.”39

I.d. The Witness of the Piyyutim to Jewish Attitudes About Life Under Rome and Byzantium

As noted previously, Jewish literary production and innovation continued in the late fifth century and on into the sixth, despite the worsening conditions of life under Christian Rome. The earliest extant piyyutim are creations of the fifth-century liturgical poet Yose b. Yose,40 and this new genre gained practitioners in the succeeding centuries. In this period, Palestinian Jewry also produced a post-Yerushalmi halakhic literature consisting of responsa and books of halakhot—presaging literary developments in the Middle Ages.41

37. Dan, “Erets Yisra’el,” 267; Simha Assaf, Tequfat ha-Geonim ve-sifrutah (Jerusalem: Mossad HaRav Kook, 1967), 92 (“there was also an exodus [from the Land] that was caused by the difficult conditions, the pressure and the want, the endless revolts and upheavals. The number of emigrants exceeded the number of immigrants”).
38. For example, the famous Bet Alpha synagogue. See Dan, “Erets Yisra’el,” 293–294.
40. See Aharon Mirsky, Yosse Ben Yosse: Poems (Jerusalem: Mossad Bialik, 1977) (Heb.).
41. For more on these developments, see Mordecai Margaliot, Hilkhot Erets Yisra’el min ha-Gentzah (Jerusalem: Mossad HaRav Kook, 1973).
Examination of these literary works (especially the piyyutim) discloses evidence of bitter unhappiness at the conditions of Jewish life under Christian Rome at this time. However, given the ubiquity of Israel’s enemies in the Hebrew Bible and the pervasiveness of “exile” as a Jewish theme, care must be taken to distinguish clear poetic references to Rome from more general references to persecution, troubles, and exile. We will therefore utilize only specific references to persecutions and/or hardships brought about by Rome (under any of its rabbinic names) as evidence relevant to the evaluation of the condition of Palestinian Jewry under Byzantium.

After describing the tenth plague to befall the Egyptians in biblical times, the great sixth-century poet Yannai wishes the same on Christian Rome (poetically equated with “Edom”) as he prays: “May it be heard about Edom as it was heard about Egypt / [May the] ‘burden of Dumah’ be like the ‘burden of Egypt.’” Moving on, Yannai wishes that “the first-born of the kingdom of their nation . . . exterminate them with anger.” Yannai expresses similar sentiments in a poem wherein he compares the four kingdoms that have ruled the people Israel to four types of skin-ailments. Although most of the line pertaining directly to the “hand of Edom” is missing, Yannai follows his reference to Rome (by means of which “our honor has fallen”) with the following poignant plea: “We are dead in life / Resurrect us / For You are our life.” Yannai’s point seems to be that the four kingdoms are dangerous skin ailments that cause the afflicted person (the people Israel) to be considered leprous, further causing him, in turn, to be effectively viewed as “dead.”

Writing poetically about the destruction of Sodom and Gomorrah, the poet Shimon bar Megas asks, “Let us see You attired in red / God, make Edom / Like the overturning of Sodom / May it be time for [Edom] to be

43. The “burden of Dumah” is a prophecy of Isaiah recorded at Isa 21:11–12, understood early as a reference to Rome.
44. See Menahem Zulay, Piyyute Yannai (Berlin: Schocken, 1938), 90.
45. Ibid.
46. Ibid., 135–136.
47. See b. AZ 5a, where the leper is one of four considered to be dead while living. Interestingly, this aggadah appears in b. AZ toward the end of the long aggadic composition pertaining to the fate of Israel and the other nations at the end of history. Whether or not Yannai intended to introduce all these intertextual hints is an interesting question, but one that goes beyond the scope of this work.
destroyed and made desolate.” 48 Like Yannai, Shimon bar Megas calls down on Rome the tenth plague of Egypt, asking, “May the Edomites be uprooted [by means of] the plague of ‘the strengths’ [firstborn; called ‘strengths’ by reference to Gen 49:3, where Jacob calls Reuben the ‘beginning of my strength (יִתְנָה)’].” 49

The poet Yehudah is extremely interesting because in his poems, he points to a specific impact that persecution had on Jewish worship, and also locates himself geographically as a probable Palestinian living outside Palestine. 50 First, in a typical plaint of the time, he asks, “Until when will the End be lengthened over Israel?” 51 meaning, How long will it be until divine deliverance? In a poem based on Deut 29:9, Yehudah again asks, “Until when will Your people all be scattered / To the four corners of the earth, on them was the earth / And they [Rome] prevented me from seeking You and from unifying You, King of the World / In my integrity uphold me and set me in Your presence forever (Ps 41:13).” 52

Yehudah’s allusion to a possible liturgical change brought about because of Rome is consistent with the Roman imperial attitude we identified earlier as being that of the sixth-century emperor Justinian. My claim is not that Yehudah is pointing to a piece of now-lost legislation promulgated by Justinian; rather, it is that given what we do know of the sixth-century imperial willingness to interfere in the synagogue (Justinian’s Novella No. 146 of 553), it seems more likely than not that the earliest time at which the “prevention” mentioned by Yehudah may have occurred was in the sixth century.

49. Ibid., 190.
51. Ibid., 25.
52. Ibid., 89. The interesting reference to the inability to engage in “unifying You” may well be a reference to the recitation of the Shema, by which God’s unity is proclaimed. Yehudah may be referring to the same change in Palestinian liturgy referred to by the late eighth-century opponent of Palestinian learning Pirquoi b. Baboi, who noted, “And so did Mar R. Yehudai (Gaon Baghdad, ca. 750) say, that they [Rome] had decreed a persecution on the people of the Land of Israel; that they should not recite the Shema nor pray,” as a result of which the Palestinians, among other changes, recited the Shema in the additional “musaf” prayer on the Sabbath—an innovation disliked by the Babylonians. The epistle of Pirquoi b. Baboi has been published in pieces in a number of places. The most complete version is that published by Jacob Mann in REJ 70 (1920): 129–148. My translation is of a portion found on p. 133. See also Jacob Mann, “Changes in the Divine Service of the Synagogue Due to Religious Persecutions,” HUCA 4 (1927): 241–310.
Finally, Yehudah asks: “Until when will we live outside of the Land / And the Prince of the Kingdom of Edom be exalted up to the heavens / Bring him low, and bring him down to the depths of the earth / And let the heavens rejoice and the earth be glad.” As Van Bekkum notes, “The geographical hint ‘outside the Land’ is of great interest, and may be a direct indication that the community to which Yehudah belonged lay somewhere outside the Land of Israel.”

I.e. Palestinian Jewry and the Byzantine Conflicts with Sassanian Persia in the Sixth and Seventh Centuries

Another fascinating, albeit disturbing, set of references is found in a late (probably early seventh century) fragment of a dirge initially published by Simcha Assaf and subsequently studied by Mordecai A. Friedman. The partially preserved poem mentions the slaughter of Jews—including sages (who may or may not have been rabbinic sages)—that occurred in Kefar Hebronah, Ono, Jaffa, Lod, Huseifah, and Haifa. “Great ones and scribes” were murdered in Kefar Hebronah, while “they trampled and slaughtered the scholars (scholarly fellowship) of Ono.” Mention is made of “Your honored elders” in Jaffa, while in Haifa, “they slaughtered elders” and “the elders of the circle (circle) have ceased” (probably a reference to m. Sanh 4:3). The poet also mentions the destruction of synagogues in these places. The sad events described in this dirge are testimony to the dangerous position of Palestinian Jewry in the Late Byzantine period, and to what may have led some, especially scholars, to leave the country.

53. Van Bekkum, Hebrew Poetry, 104.
54. Ibid., xvi.
55. Simcha Assaf, “Qinah qedumah ’al hurban ha-qehillot be-Erets Yisra’el,” in Texts and Studies in Jewish History (Jerusalem: Mossad HaRav Kook, 1946), 9–16 (Heb.); Mordecai Akiva Friedman, “Ono—yedi’ot hadashot mi-kitvei ha-Genizah ha-Qahirit,” in Between Yarkon and Ayalon: Studies on the Tel Aviv Metropolitan Area and the Lod Valley (ed. David Grossman; Ramat-Gan: Bar Ilan University, 1983), 73–85 (Heb.). The dating of this dirge has been a matter of dispute. Assaf maintained that the dirge was written during the First Crusade, while acknowledging the force of arguments supporting a Late Byzantine (late sixth-/early seventh-century) date. Friedman consulted Ezra Fleischer and S. D. Goitein about dating the dirge, and the former proposed an early seventh-century date. Based on the absence of references to Islam, Friedman proposes that the poem was written during the years 600–634, probably around 629, when the Emperor Heraclius exacted vengeance on Palestinian Jewry after his reconquest of Palestine from the Persians.
57. Ibid.
I.f. Conclusion

Conclusions drawn from archaeological finds and the internal evidence of Jewish literary sources all point to the conclusion that the situation of the Jews in Palestine seriously deteriorated in the sixth and early seventh centuries. The growing religious-based imperial hostility discernible in imperial legislation concerning the Jews is also a factor to be considered, although it is difficult to draw direct connections between specific imperial laws and the concrete situations in which Jews may have found themselves. The Christianization of the population and the face of Palestine itself led to a decline in the Jewish population of Palestine. While Palestine was not at all emptied of Jews—in fact, synagogues continued to be built and decorated, and literature continued to be produced—Simhah Assaf and Yaron Dan have both noted that the sixth century was a time of noticeable decrease in the Jewish population of Palestine. Gedaliah Alon agreed, although he hastened to add that “in spite of the diminution of the Jewish population in the country . . . I do not think that they dropped below the level of a rather considerable proportion of the total.” This conclusion is buttressed by the interesting implication of the poet Yehudah that he and others are living outside the Land and praying for the fall of Edom so that they may return.

There is no evidence of a mass migration of scholars to Babylonia in the sixth to seventh centuries. But two factors suggest that there likely was a migration of a small number of scholars. First, given the history of scholarly movement between the two rabbinic centers, the increasing pressures in Palestine that we have described may well have caused at least a few scholars to emigrate. Among these may have been some who brought

60. Nevertheless, there is evidence of at least one notable immigrant to Palestine in the sixth century. Seder Olam Zuta contains a tradition that after the execution in Persia of the rebellious exilarch Mar Zutra in the sixth century, his young son (also named Mar Zutra) went to Palestine and was appointed “resh pirqei.” See Seder Olam Zuta (ed. Manasseh Grossberg; London: n.p., 1910), 53–54. See also H. Z. Hirschberg, “Joseph, King of Himyar, and the Coming of Mar Zutra to Tiberias,” in All the Land of Naphtali (ed. H. Z. Hirschberg and Y. Abiram; Jerusalem: ha-Hevrah le-Haqqirat Erets-Yisra’el ve-Atiqoteha, 1967), 139–146 (Heb.), and idem, “Mar Zutra, the Head of the Sanhedrin at Tiberias,” in All the Land of Naphtali, 147–153 (Heb.). Most recently, see Ze’ev Safrai and Aren M. Maeir, “‘An Epistle Came From the West’: Historical and Archaeological Evidence for the Ties Between the Jewish Communities in the Land of Israel and Babylonia During
y. Avodah Zarah to Babylonia. Second, we must view rabbinic peregrinations in light of the larger Roman cultural context, in which geographical mobility was a notable characteristic of the elite. Christian ascetics and pagan philosophers, crossed the frontier between the often-warring Sassanian Persia and Byzantium without much impediment; a Christian bishop named Milles is alleged to have traveled from Susiana in Persia to Jerusalem and Alexandria to tour famous monasteries. In light of these larger cultural factors, it is hardly unreasonable to assume that a small movement of scholars from Palestine to Babylonia occurred, and that these scholars were the conduit by which y. Avodah Zarah reached Babylonia.

II

What Babylonian Generation Is Aware of Y. Avodah Zarah?

Palestinian scholars brought y. Avodah Zarah to Babylonia, and I have hypothesized that this transmission occurred in the sixth or early seventh centuries. But in order to put that dating on a firmer footing, we need to consider who the likely Babylonian recipients were. Clarifying the issue of which Babylonian scholars likely received y. Avodah Zarah and when will help lay to rest two alternative suggestions for how y. Avodah Zarah came to Babylonia: that it came (1) as early talmud during the amoraic period; or (2) immediately following the Yerushalmi’s redaction in the early fifth century.

II.a. Amoraim Are Unaware of Y. Avodah Zarah

Our analyses in chapters 2 through 5 showed that Babylonian amoraim were not aware of the structural similarities between the redactional

the Talmudic Period,” JQR 93:3–4 (Jan–Apr 2003): 497–531. It is unlikely that Mar Zutra played much of a role in the transmission of the Yerushalmi to Babylonia since there is no tradition that he ever returned there.


contexts of their traditions in b. and y. Avodah Zarah. The Babylonian amoraim do not know y. Avodah Zarah; nor, for that matter, do they know that they are part of a “Talmud.”

Two examples will remind us of this point. At y. AZ 2:3, 41a, both R. Yitshaq b. Nahman and R. Shimon are represented as quoting R. Yehoshua b. Levi’s tradition that there is no concern about “exposure” in relation to “sweet,” “bitter,” or “sharp” wine. This is followed by a story about the exposure of R. Yehoshua b. Zeidel’s “boiled” wine, and the resolution of the status of that wine by reference to a Resh Laqish tradition about “sweet” wine similar to that of R. Yehoshua b. Levi. A story then follows about a group discussion of exposure that took place in the presence of the ill R. Yannai son of R. Yishmael, more cases of exposure involving R. Ami and Bar Yudanah, a question to R. Abbahu about exposed boiled wine that he answers by reference to R. Yohanan’s ruling about qarenum, a case of exposed water, and consideration of the psychology of snakes. A close reading of this cluster of sugyot reveals that the Palestinian amoraim are aware only of their own traditions, not of the fact that these traditions were arranged in this particular order. No amora is aware of the traditions that precede or follow his own. A key proof of this is the story about the group discussion in the presence of R. Yannai son of R. Yishmael; nothing in the story indicates that the amoraim involved were aware of the larger redactional context in which the story is now found.

Turning now to the structurally similar parallel at b. AZ 30a, we see that the cluster of sugyot opens with Rabbah and R. Yosef’s shared tradition that there is no concern about exposure in relation to “boiled” wine, followed by b. Avodah Zarah’s version of the group discussion about exposure in the presence of the sick R. Yannai b. Yishmael. There then follows a story about Shmuel and Ablat (a Gentile) that proves that there is no concern about libation-wine in connection with boiled wine, and then stories about exposed boiled wine involving the maidservant of R. Hiyya and the attendant of R. Ada b. Ahavah. Stories about the psychology of snakes then follow, to be succeeded by stories and traditions about exposed water. Finally, near the end of this cluster of materials, we see R. Yehoshua b. Levi’s tradition about “sweet,” “bitter,” and “sharp” wine, and traditions about qarenum in the names of Resh Laqish and R. Abbahu.

Examining the constituent sugyot in this cluster, we see once again that not one of the amoraim mentioned and/or quoted demonstrates any awareness of a context for his tradition larger than the tradition itself.

63. For a similar conclusion based on a comparative study of b. and y. Hor, see Jaffee, “The Babylonian Appropriation of the Talmud Yerushalmi.”
Looking at b. Avodah Zarah’s version of the story about R. Yannai b. Yishmael, nothing at all in the story reveals any awareness that the story is integrated into a larger context about exposed wine and water, and the psychology of snakes.

If the amoraim quoted in these parallel sugya-clusters in the Talmuds were not aware of the selection and sequence of their traditions, then they cannot be responsible for the particular arrangement that now exists. Rather, a post-amoraic editorial hand must have collected these constituent sugyot and created the sequences of materials we now find.

The shared sugya found at y. AZ 5:14, 45b and b. AZ 75a also nicely illustrates this point about amoraic unawareness of the redactional context of their traditions. Both sugyot open with concrete questions: about a “papyrus vessel plastered by a Gentile” in y. Avodah Zarah, and “grape-cluster wraps of Arameans” in b. Avodah Zarah. The path taken by both sugyot after their quotations of t. AZ 9:3 was probably not known to either R. Yose b. R. Bun or R. Abbahu, the amoraim who were allegedly asked the initial questions. After quoting from t. AZ 9:3, both sugyot present the anonymous question “What is ‘vbug’?” and present similar traditions with similar attributions to answer that question. Although these traditions are apparently in conflict, both Talmuds give the identical resolution to the conflict: anonymously in y. Avodah Zarah, and in the name of R. Shmuel b. Yitshaq in b. Avodah Zarah.

It is clear that beginning with the anonymous question “What is ‘vbug’?” both sugyot move off in a new direction that could not have been contemplated by the amoraim who originally cited t. AZ 9:3 in response to the questions posed to them. This “new direction” is editorially constructed as a continuation of the sugya. The amoraim are not aware of the switch in the sugya’s direction. That switch was most likely the work of post-amoraic redactors.

Now that we have reminded ourselves that the amoraim mentioned in b. Avodah Zarah are not aware that their traditions are integrated within a selection and sequence of sugyot like that of y. Avodah Zarah, and that this awareness is more likely a characteristic of post-amoraic redactors, we must investigate whether it is possible to date (relatively) this new awareness. When does amoraic activity in Babylonia cease and editorial activity—characterized in b. Avodah Zarah by reception of y. Avodah Zarah—begin?

II.b. The Latest Amoraic Activity Recorded in B. Avodah Zarah

In his Redaction of the Babylonian Talmud, Richard Kalmin presented his conclusions as to the identities of “the Amoraim who were active during the seventy-four to ninety-three years between the death of Rav Ashi in
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427 CE and the beginning of the Saboraic period in 501 or 520 CE. The occurrence of any of these names in b. Avodah Zarah will give us a clue as to the relative date of the latest amoraic activity recorded there.

At b. AZ 26b (and the parallel at b. Hor 11a), Rav Aha is juxtaposed in a dispute format with Ravina, whom Kalmin, following Meshulam Behr, Chanoch Albeck, and David Halivni, identifies as the “later” Ravina, who died ca. 501. The later Ravina also appears at 69a, where his statement is placed after that of R. Ashi, and is the basis of an objection by Rav Tahlifa bar Giza. R. Sama b. de-R. Ashi is found at 50b, and at 63b, R. Yemar raises an objection to R. Ashi. Finally, Mar bar R. Ashi appears at b. AZ 75b. Of all these “post-Rav Ashi amoraim,” the latest is the “later” Ravina, thus indicating that the terminus ad quem for the amoraic activity recorded in b. Avodah Zarah is ca. 500. Kalmin is thus undoubtedly correct when he writes: “It should be noted . . . that the Yerushalmi, completed shortly before the death of Rav Ashi, appears to have exerted virtually no influence on the final generations of Amoraim.” Moreover, “There seems to have been only minimal contact between Palestine and Bavel at this time.” The Babylonians, then, could have become aware of the early fifth-century y. Avodah Zarah in the sixth century at the earliest, after the amoraic period in Babylonia had come to an end.

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64. Kalmin, Redaction of the Babylonian Talmud, 12. The identities of the so-called saboraim and the nature of their activities has been, and in some circles continues to be, a source of scholarly controversy. For our purposes, it is unimportant whether the post-amoraic editors are called saboraim or something else; what is of most importance is that these post-amoraic scholars differ from their predecessors in their awareness and use of the Yerushalmi.

65. Ibíd., 23.


67. See also Avinoam Cohen, Ravina and Contemporary Sages: Studies in the Chronology of Late Babylonian Amoraim (Ramat-Gan: Bar-Ilan University Press, 2001), 214n153 (Heb.), in which he cites b. AZ 69a as one of a list of sugyot in which “Ravina” is claimed to be the “later Ravina” rather than the Ravina who had been a student of Rava.

68. Kalmin, Redaction of the Babylonian Talmud, 168n102. In that note, Kalmin sets out a few examples of later amoraim transmitting Palestinian traditions. The key common denominator of these examples is that the amoraim transmit only isolated traditions and interpretations, and show no awareness of the larger redactional contexts of those traditions.

69. In this we agree with David Halivni’s contention that “as long as the amoraim functioned, even just a few of them, this is still the amoraic period.” See Halivni, Sources and Traditions: Baba Mezia, 12 (Heb.). As long as amoraim exist
We will now turn to the question of the form in which the Babylonian scholars may have received y. Avodah Zarah, and what it may have looked like.

III
In What Form(s) Did the Redacted Yerushalmi Exist?

The question of whether rabbinic literature was formulated and transmitted orally or in writing is not a new one. Saul Lieberman posited the theory of the oral publication of the Mishnah in “The Publication of the Mishnah.” Twenty-five years later, Jacob Neusner carefully studied the composition of the Mishnah and also concluded that it was oral, although his account of the process of composition differs from that offered by earlier scholarship. The recent emergence of orality and literacy studies as a body of scholarship to be reckoned with by scholars of rabbinics has led to further reconsideration of this interesting (and ultimately insoluble) question. Our discussion of this scholarship in this section is not intended to settle the question of oral or written composition for all the rabbinic compilations once and for all, but to see what light this scholarship sheds on the movement of y. Avodah Zarah to Babylonia in the sixth or seventh centuries. Was that Yerushalmi tractate likely written, or was it transmitted orally? If written, what materials were employed? Did it take the form of a scroll or codex? If written, was each tractate written separately, or was the entire Talmud written all together in one scroll or codex? What evidence exists to suggest that one or another possibility is more likely? We will begin in III.a with a discussion of the recent scholarship about whether the Mishnah and Tosefta were composed in writing or orally. In III.b we will move on to consider the question of the Yerushalmi directly, and in III.c we will consider the likely cultural impact on the receptive group—the post-amoraic Babylonian scholars—of a written Yerushalmi tractate.

and continue to function as amoraim, tractate-wide redactional activity cannot have begun.

72. Although this book deals only with y. AZ and its influence on b. AZ, this section will at times refer to “the Yerushalmi.” The reason for this is that, with the exception of the Yerushalmi Bavot tractates (the “Talmud of Caesarea”), the remainder of the Tiberian Yerushalmi was probably redacted in more or less the same time and place. Since there is no reason to think that y. AZ was redacted in a
III.a. Literacy, Orality, and Literary Composition Prior to the Redaction of the Yerushalmi

Rabbinic traditions such as the famous “words transmitted by mouth you may not write” (b. Git 60a) have traditionally been cited as evidence of the exclusively oral composition and transmission of rabbinic traditions during the tannaitic and amoraic periods. But the Palestinian rabbinic community does not seem to have been quite so allergic to writing down its legal traditions. At y. Kil 1:1, 27a, we are told that “R. Yose in the name of R. Hyya b. Va found written in the notebook of R. Hillel b. R. Valens”73 and that “R. Yonah in the name of R. Hyya b. Va found written on the wall of R. Hillel b. R. Valens.” In this case, what was “found written” was a list of vegetables; this, along with the tradition of R. Yonah that this list was written on a wall, is interestingly reminiscent of the Sabbatical year inscription found in the synagogue at Rehov (to be discussed below). Another reference to writing, at y. Maas 2:4, 49d, is perhaps of greater interest because of the light it sheds on the use of a written rabbinic source (a Toseftan parallel) to raise a question about an oral one. In this case, R. Yonah mentioned a tradition “found written in the notebook of Hilfai (a proper name).”74 In a similar case at y. AZ 4:8, 44a–b, Shimon b. Hyya is said to have been reciting to Hyya b. Rav: “A Gentile—from when does he make libation wine?” (That is, from what age does his touch render wine libation wine?) Hyya b. Rav’s answer was “When [the Gentile] knows the meaning of idolatry.” At this point, R. Yoshiah is said to have “taken out a mekhilta (collection)”75 from which he corrected Hyya b. Rav’s response. As in y. Maaserot, then, we see an amora consulting a written text for a version of a tannaitic tradition that he uses to challenge a tannaitic tradition presented orally. And at y. Shab 16:1, 15c, R. Yehoshua b. Levi mentions consulting (just once!) a “book of aggadah.”

These examples show only that certain amoraim consulted written sources on certain occasions, not that the accumulated legal and aggadic different time or place than the rest of the Yerushalmi, conclusions with respect to the oral or literary nature of the redacted Yerushalmi are valid for y. AZ as well, and certainly vice versa.

73. This rendering of the name as “Valens” follows Catherine Hezser, Jewish Literacy in Roman Palestine (Tübingen: Mohr Siebeck, 2001), 96n284.
74. Ibid., 97. For a fuller discussion of this text, see Martin Jaffe, Torah in the Mouth: Writing and Oral Tradition in Palestinian Judaism, 200 BCE–400 CE (New York: Oxford University Press, 2001), 141.
75. Most likely this refers neither to the Mekhilta of R. Yishmael nor to that of R. Shimon b. Yohai, but, by analogy to the case in y. Maas, to a scroll containing some rabbinic traditions. There is no basis for assuming that this is “the” Mekhilta.
heritage of the Palestinian amoraim was received by them in writing. Moreover, the small number of examples suggests that consultation of written materials was likely the notable exception rather than the rule—otherwise why draw attention to the fact that in y. Maaserot and y. Avodah Zarah the tradition quoted as a challenge was drawn from a written source? Nevertheless, these examples do show two things: (1) some amoraim did have access to some tannaitic traditions in written form; and (2) at least some Palestinian amoraim were not averse to putting legal traditions into written form.

Despite these traditions, the consensus of scholars who have most recently studied this issue—Jacob Neusner, Yaakov Elman, and Catherine Hezser—is that the Mishnah and Tosefta as whole compilations most likely circulated orally during the tannaitic and amoraic periods.76 Martin Jaffee, however, has recently argued that the composition of the tannaitic compilations was done in writing, and that the Mishnah and Tosefta even show evidence of reworking that was most likely done on the basis of written texts.77 Jaffee’s claim is quite clear:

It is important to realize . . . that within the Tannaitic corpus itself these claims about the oral origins and primordial transmission of the tradition refer only to discrete halakhic teachings . . . or to isolated halakhic themes. . . . 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 primordial oral revelation.

We are under no compulsion, therefore, from either logic or the testimony of the sources, to imagine that compilations such as the Mishnah were composed and edited solely through the mnemonically managed organization and manipulation of unwritten materials.78

Rather than accept the model of exclusive literacy or orality, we shall follow Jaffee in exploring “the model of interpenetration or interdependence of oral and written textual formations.”79 Hezser has rejected Jaffee’s view of the largely written nature of rabbinic tradition, opting for the cautious conclusion that “we do not know for sure whether the entire Mishnah existed in written form in amoraic times.”80 Elman does not deny the pos-

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77. See Jaffee, *Torah in the Mouth*, especially 100–125, where he defends this claim through a detailed analysis of mishnayot from various tractates.
78. Ibid., 100.
79. Ibid., 101.
80. Hezser, *Jewish Literacy*, 203, 430. The quotation is on 430.
sibility that these tannaitic compilations existed in writing, although he insists on the exclusively oral transmission of these materials during the tannaitic and amoraic periods.81

None of these scholars entirely rules out the possibility of written versions of tannaitic materials, although Neusner and Hezser are skeptical that written transmission played much of a role at all. At the very least, Hezser, Jaffee, and Elman share the recognition that the Palestinian rabbis were not entirely averse to putting legal traditions into written form.

Shlomo Naeh’s recent work on the Sifra to Leviticus advances the bold thesis that the nine “megillot” of which the Sifra was traditionally thought to be composed were nine actual megillot (scrolls).82 He reached this conclusion by reconstructing, on the basis of manuscript evidence, what the nine megillot likely included. Naeh’s finding that the megillot covered disparate subjects and were roughly equivalent in size led him to conclude that the traditional references to the “megillot” of which the Sifra is composed were no mere figure of speech. In fact, asserts Naeh, the Sifra was composed of nine megillot, which, for ease of use, were roughly equivalent in length (and, to ensure that equivalence, each megillah had to include material relevant to different topics; what was important was the size of the scroll). Naeh’s insight that these nine megillot had to be scrolls, and not, say, a codex, was due to the observation that the concern about size is only relevant if one is producing a scroll—the page-flipping of a codex is unaffected by its size.83 Naeh further noted that his own finding that the topics covered by the megillot fall into three groups of three supports the Talmudic references to the Sifra as falling into three groups of three. He concluded,

It therefore makes sense that the division hinted at in the Talmud is the very division that underlies the manuscripts—and the one who would disagree bears the burden of proof. If so, one must also accept the conclusion that flows from that: the Sifra before the amoraim was already written and reduced to scrolls.84

Naeh also pointed out that the Talmudic name “Sifra” (book) itself indicates the likelihood that the work existed in writing.85

Like Jaffee, Naeh sees an interpenetration of oral and written modes of transmission, with the oral being preferred. But “this [oral] tradition of

81. Elman, Authority and Tradition, 74, 278–281.
83. We will defer until later a longer discussion about the issue of scroll versus codex.
85. Ibid.
study and preservation, and also the oral nature imprinted in the style and techniques of the literature of the Oral Law, do not constitute an obstacle in principle to certain compositions of this literature being presented in a written form.” 86

III.b. The Redaction of the Yerushalmi—Written or Oral?

The scholars discussed in III.a have uncovered evidence and made arguments on the basis of tannaitic literature that strongly suggest that the Yerushalmi could have been redacted in writing, or at the very least could have circulated in some written form as well as orally. None of these scholars—with the possible exception of Hezser—extends these arguments to the Yerushalmi. But if the Mishnah was (Jaffee) or could have been (Hezser) in writing, if the Tosefta was written although its constituent baraitot circulated orally (Elman), if the Sifra was written on nine scrolls (Naeh), and if the Palestinian rabbis were not averse to writing down some legal traditions and occasionally referring to them, then there seems to be no obstacle to suggesting that the Yerushalmi could have existed (at least partially) in writing. 87 But it is obviously insufficient to base an opinion as important as one about the redacted form of the Yerushalmi on a “why not?” question. Nor, for that matter, should an opinion be formed solely on the basis of a simplistic reading of the rabbis’ alleged preference for exclusive orality. We will therefore begin below with a discussion of the mosaic inscription unearthed in the Rehov synagogue, which is arguably derived from the Yerushalmi. We will then go on to discuss the redacted y. Avodah Zarah in light of recent research on the intellectual impact of literacy and orality. Finally, we will consider the question of whether y. Avodah Zarah would have appeared in Babylonia through oral presentation, on scrolls, or in a codex (or codices).

(1) The Inscription in the Synagogue at Rehov

Among the remains of the ancient synagogue at Rehov, near Bet-Shean, 88 is a large mosaic inscription found in the north narthex. One surprise of

86. Ibid., 508.
87. Catherine Hezser strongly maintains that the Yerushalmi was in fact written, although she is skeptical that written sources preserved throughout the amoraic period were important elements in its redaction. See Hezser, Jewish Literacy, 435.
the inscription is its content—which is entirely halakhah, but without any connection to halakhah that would be considered of importance in a synagogue, such as prayers, blessings, etc. Rather, the halakhah of the inscription deals with produce forbidden in the Sabbatical year, tithes, and the fixing of precise boundaries relevant to those halakhot. Another surprise of the inscription is its exceedingly close relationship to material in our extant Yerushalmi.89

Yaacov Sussman, and to a lesser extent Ze’ev Safrai, has studied the relationship of this halakhic inscription to the Yerushalmi. Sussman has pointed out that all of the material in the inscription has parallels in Palestinian rabbinic literature, some in tannaitic and amoraic literature, and some only in amoraic literature.90 These parallels are found at t. Shevi 4:8–11, Sifre Deut 51, y. Dem 2:1, 22c–d, and y. Shevi 6:1, 36c.91 There is also a not inconsiderable number of variants—substantive and not—between the text of the inscription and the Yerushalmi, but in Sussman’s words there is no doubt that the inscription as a whole is exceedingly close to the Yerushalmi. We have seen that everything found in the inscription is found in the Yerushalmi, and the one new paragraph...is apparently explicitly cited as an addition. And the opposite—everything that appears in the Yerushalmi on these subjects appears in the inscription.92

A bit later, Sussman is even more emphatic: “The complete text...flows from the Yerushalmi precisely.”93

But if the text of the inscription is Yerushalmi, we must account for the variants in spelling, order of topics, and expression. Sussman notes a pattern of changes that indicates that the composer shifted materials around in order to adapt them better to their new context as a publicly available text of practical law. The composer put the list of forbidden produce and other matters pertaining to Bet-Shean first, and dwelled on Bet-Shean at some length. Materials of less pressing local relevance appear later in the inscription.94 Conscious of the requirements of a practical legal guide, the

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89. As noted earlier, this inscription is reminiscent of y. Kil 1:1, 27a’s reference to the halakhic information that “they found written on the wall of R. Hillel b. R. Valens.”
90. Sussman, “A Halakhic Inscription.”
91. Ibid., 103, 107.
92. Ibid., 139.
93. Ibid., 141.
composer eliminated the names of sages and their legal disputations, producing instead an anonymous, smoothly-flowing text. But Sussman acknowledged other differences that could not be explained as conscious adaptations of a Talmudic text to the form of a code, such as differences in the texts of baraitot and omissions, additions, and changes to the list of produce. These probably unconscious variants between the inscription and the Yerushalmi led him to claim that the composer of the inscription was probably working with a Yerushalmi not identical to our own. But Sussman also offered the explanation that since the seventh-century inscription is later than the Yerushalmi, it might reflect the accumulated changes to the Yerushalmi resulting from another two hundred or so years of transmission.95 Ze’ev Safrai later also suggested that the composer of the inscription used a different text of the Yerushalmi,96 although he acknowledged that “the inscription shows that the version of the Palestinian Talmud which we have, is reliable enough, and the sum total of changes is much less than expected.”97

Both scholars seem to be assuming the existence of an “original” Yerushalmi, which subsequently underwent conscious and unconscious changes. But there was no such thing as an “original” in Late Antique book production. As Catherine Hezser has most recently pointed out,98 “publication” meant that an author allowed the book to be released for reading and further copying. Copying a text during an oral reading would result in various versions, as each copyist introduced his own errors and even interpretations (correct or otherwise) into the text. Oral performances (“recitations”) based on earlier oral performances would certainly result in various versions, as would even copying from a written copy. The result is that we cannot assume the existence of an “original” Late Antique work. “Our” Yerushalmi is not the original any more than the Rehov inscription is. But the exceedingly close literary relationship between the Rehov inscription and our Yerushalmi gives us a justified confidence that our Yerushalmi is a good base text to which the inscription may be compared. The key is to assess the nature of the differences between versions. Substantive differences and differences in the order of materials should be examined to see if they may be accounted for by such factors as differences in the functions of the different versions. Differences in spelling, expression, etc. are more likely the result of different oral recitations of the text.

95. Ibid., 143.
97. Ibid.
98. Hezser, Jewish Literacy, 424.
When all is said and done, the lesson of the Rehov inscription is that in the seventh century—either shortly before or shortly after the Arab conquest—some Yerushalmi texts existed in writing. The seventh-century Rehov inscription indicates that post-Talmudic Palestinians did not object to reducing their Talmud to writing,99 and its close literary relationship to the Yerushalmi as we now have it suggests that “our” y. Avodah Zarah is a reliable indicator of y. Avodah Zarah as it was around the time it made its way to Babylonia.

(2) Y. Avodah Zarah’s Transmission to Babylonia: Did Writing Play a Role?

The evidence we have so far examined indicates that it is possible (or even likely) that the Yerushalmi (or portions of it) was reduced to writing either at the time of its redaction or at points thereafter. It must be emphasized again that “reduction to writing” must not be taken to imply that the Yerushalmi existed in a fixed, unchanging text, given the realities of oral performance and Late Antique book production. We will now probe the issue of literacy and orality more deeply, in relation to the Yerushalmi itself. Do the structure and rhetoric of y. Avodah Zarah suggest that it was more likely redacted orally or in writing? Moreover, would it have been more likely for a written or an oral y. Avodah Zarah to make its way to Babylonia? We will approach these questions by considering the Yerushalmi in light of scholarship on the cognitive, cultural, and intellectual consequences of literacy.

Beginning in the early 1960’s, a number of publications in a number of disciplines heralded the appearance of what became known as the “literacy hypothesis.”100 The key early publications were Eric Havelock’s Preface to Plato, Jack Goody and Ian Watt’s “The Consequences of Literacy,” and Walter J. Ong’s influential Orality and Literacy: The Technologizing of the Word.101 “Literacy,” as defined by these scholars, meant the emergence of alphabetic writing and its various cognitive and larger cultural effects,

99. See Hezser, Jewish Literacy, 422, 435, for a strong statement that the Yerushalmi was created in writing.

100. Jens Brockmeier et al., eds., Literacy, Narrative and Culture (Richmond, UK: Curzon, 2002), 6.

and the early claims made for the cognitive effects of literacy were indeed far-reaching. To Eric Havelock, Greek philosophy—the ultimate analytic enterprise—was made possible by writing: “Nonliterate speech had favored discourse describing action; the postliterate altered the balance in favor of reflection.”

To Walter J. Ong, writing creates a distance between the knower and the known. Writing thus ‘sets up conditions for ‘objectivity,’ in the sense of personal disengagement or distancing.” Ong listed and discussed nine salient characteristics of oral as opposed to literate cultures. Among these is the tendency of oral cultures to be aggregative rather than analytic because “without a writing system, breaking up thought—that is analysis—is a high-risk procedure.” Oral cultures are also “close to the human lifeworld” and “agonistically toned,” as well as “minimally abstract.” We may interpret Ong to mean that literate cultures display the opposite characteristics: they do break up thought and engage in abstract, analytic work, and they are much less “agonistically toned.” Ong even opined that “writing makes possible the great introspective religious traditions such as Buddhism, Judaism, Christianity, and Islam.”

But the literacy hypothesis and its grand claims began to come under fire even prior to the 1982 publication of Ong’s *Orality and Literacy*. Sylvia Scribner and Michael Cole attacked what they described as a “theory based on simple technological determinism” that made large claims about how writing promotes abstract thinking and analytic reasoning without demonstrating that people in literate societies really do process information differently from those in nonliterate societies. Scribner and Cole’s overall contribution to the debate over the literacy hypothesis is their insistence that the technology of writing alone is not a sufficient cata-
lyst for fundamental cultural change; scholars must also pay attention to the multiplicity of causes that are involved in any social change.

Alongside the critique of the literacy hypothesis as positing an “autonomous model of literacy” according to which literacy alone—independent of social circumstances—affects intellect, another critique developed: that the literacy hypothesis was ethnocentrically biased toward the cultures of the West. Brian V. Street, a key representative of this critical tendency, focused his attention closely on Ong, charging that Ong’s assumptions that literacy enables the “distinction of myth from history, the growth of science, objectivity, critical thought and abstraction” are the very assumptions on which “claims regarding ‘Western’ superiority are founded.”

Ruth Finnegan, while also a critic of both the “autonomous model of literacy” and its perceived Western bias, demonstrated a more nuanced appreciation of the literacy hypothesis. While pointing out that “the mere technical existence of writing cannot effect social change,” she also acknowledged that “without writing, extensive and accurate communication over time and space is impossible,” ultimately concluding cautiously that “it is possible that there is indeed some necessary connection between literacy and the ability to conceptualize abstractly and argue rationally” and that literacy can be seen as an “enabling factor” in bringing about certain forms of cognitive development, but is certainly not their only cause.

Jack Goody and David R. Olson, two key scholars associated with the literacy hypothesis (Goody being one of the “founders” of the hypothesis), have reconsidered it in light of the critiques in current scholarship on the literacy hypothesis. In The Interface between the Written and the Oral,

110. The phrase is Brian V. Street’s. See his edited volume Cross-Cultural Approaches to Literacy (Cambridge, UK: Cambridge University Press, 1993), 5.
113. Ibid., 41.
114. Ibid., 44.
115. Ibid., 151. Emphasis in the original.
116. David R. Olson insists that despite the critiques of the literacy hypothesis, literacy has very real implications that ought not to be ignored. He locates the weakness of the literacy hypothesis in its assumption that writing is the bearer of the cognitive effect, and now points instead to the ways of reading and the approaches to texts and language that come about as a result of encountering written texts. Olson’s new approach to the literacy hypothesis leads to some truly fascinat-
Goody acknowledged the criticisms of the literacy hypothesis, but forcefully reasserted his claim that the introduction of literacy to a culture can (but does not inevitably!) make a cognitive difference: “Try . . . expressing ideas [orally] in the form of the syllogism. Try comparing versions of the same story and perceiving the diversity and contradictions. Try formulating opposition and analogy, in which both opposition (across) and analogy (down) exist in the same time-frame. . . . try all this without writing.” (emphasis in original)117 Goody also suggested a number of characteristics of written materials, notably their “need” to present complete information and make all assumptions explicit, their noticeable reliance on “a more deliberate method” of organizing ideas, and their elimination of repetitions, digressions, and redundancies. He also pointed out that written materials display a greater use of abstract terms than oral recitations, are elaborated more, and show greater formality and more reliance on “dead” languages.118

Despite the criticisms that have been leveled at the literacy hypothesis, Goody, Olson, and Finneggan seem to agree that writing certainly facilitates the intellectual processes of abstraction and analysis, and that writing can lead to greater concern for how materials are ordered. These reconsiderations of the literacy hypothesis suggest that the Yerushalmi was most likely redacted in writing,119 but we should be cautious about leaping directly to that conclusion. First, we are dealing with Talmudic Palestine, in which there was an interpenetration of oral and written

Chapter 6 • Historical Context

ing insights into the transition from medieval to Renaissance culture and from thence to modernity—transitions marked by new approaches to reading the Bible and the “book of Nature.” Olson’s reformulation of the literacy hypothesis is suggestive. If indeed the b. AZ redactors were looking at some written recensions of y. AZ, their interpretive methods would have included reading, which would certainly have set the redactors and their methods apart from the earlier Babylonian scholars who studied unwritten Palestinian materials. And their new methods of reading may well have, in turn, inspired a new synthetic, analytic method of study and learning, part of which we see in b. AZ. See David R. Olson, The World on Paper: The Conceptual and Cognitive Implications of Writing and Reading (Cambridge, UK: Cambridge University Press, 1994).

118. Ibid., 264.
learning modalities. But, as Goody has pointed out, the example of the
Indian Rgvedas suggests that writing can play a role even with a litera-
ture that is otherwise orally recited and transmitted. Goody also points out
that writing can lead to the creation of certain literary forms that are there-
after studied and transmitted orally. Thus, even a culture which typi-
cally used and even ideologically valorized orality, such as the rabbinic
culture of Palestine in late antiquity, need not have exclusively relied on
orality in the generation and presentation of its literature—which it did
not, as we know from the Rehov inscription.

Second, it is by no means clear that societies cannot do analytic work
orally. Carol Fleisher Feldman studied the Wana people of Indonesia, who
employ an oral discursive practice called *kiyori*. A *kiyori* is a two-line
stanza, each line of which is broken into half lines with eight syllables in
each. A speaker fixes the “text” of his *kiyori* through a specific oral pat-
tern, after which the *kiyori* is “published” and open to interpretations by
others. Significantly, the creator of a *kiyori* invites such interpretation by
deliberately choosing ambiguous and multivalent terms and expressions.
The entirely oral nature of this process of creating and interpreting *kiyori*
leads Feldman to doubt that writing is an indispensable prerequisite for
analysis:

Reflection is assisted when a text is fixed in a manner that invites subse-
quent interpretation. What is involved in ‘fixing a text’ is making the lo-
cution itself salient. What is involved in inviting an interpretation is the
evocation of known procedures that are part of the tool kit of the culture
for unpacking, explaining, or discussing the locution.

Feldman explains that the oral *kiyori* are, in effect, functionally equivalent
to written texts:

Oral *kiyori* . . . and the written forms share a similar genre-like structure:
Both are marked forms, marked as different from the language of every-

120. Compare Elman, ibid.
121. Goody, *The Interface*, 82.
122. Ibid., 106.
David R. Olson and Nancy Torrance; Cambridge, UK: Cambridge University
Press, 1991), 52. Although I rely herein on Feldman’s work, I note that scholars of
rabbinics must be careful about relying on non-legal oral aspects of other cultures
in reconstructing the nature of the rabbis’ orality. Scholarship about folk-tales, epic
poems, songs, or *kiyori* must not simply be presumed to be relevant to the largely
legal world of the rabbis.
124. Ibid.
day conversation; both have distinctive linguistic (lexical and syntactic) patterns; and both are used for particular occasions.125

I suggest that Feldman and the strong proponents of the literacy hypothesis (Goody, Olson) are both correct. Feldman is correct that writing is not necessary to facilitate analysis when the unit of material is fairly small—like a kiyor. By analogy, memrōt and sugyōt could very well have circulated entirely orally during the amoraic period—and undoubtedly did. Memrōt are short; amoraic-era sugyōt, as we have seen, are also fairly short. But the proponents of the literacy hypothesis are correct that lengthy analytic undertakings are more likely tied to the use of writing. Similarly, we can say that the emergence as a text of a lengthy analytic undertaking like a Yerushalmi tractate is more likely tied to the use of writing in some capacity. As Catherine Hezser put it,

The composition of the Yerushalmi must be considered an entirely new phenomenon of late antiquity. Only when a written discursive structure existed was it possible to view individual opinions in a larger context and from a broader perspective. . . . differences of opinion and contradictions would become obvious and elicit harmonizations.126

125. Ibid., 56.
126. Hezser, _Jewish Literacy_, 435. Feldman might be inclined to agree. She does point out that

there are . . . differences between written and spoken texts. . . . written texts can be much longer. . . . the sequence of text and interpretations stops after two to four steps for kiyor—no one, perhaps interprets a kiyor with respect to a kiyor twenty steps back in its derivation. . . . greater derivational depth together with the more extended text made available by writing makes possible a variety of genres unavailable to oral culture. (Feldman, “Oral Metalanguage,” 56–57)

This consideration of orality and literacy raises an interesting possibility: Could the sixth-century diffusion of rabbinic culture in Palestine that Seth Schwartz described be due to the increasing role of writing in that culture? Martin Jaffee has persuasively demonstrated the ideological function of orality in creating and preserving a Palestinian rabbinic sense of group identity. By emphasizing the importance of oral transmission, Palestinian scholars kept their learning mostly within the group of rabbinic masters and disciples. Our hypothesis is that as writing gained more of a foothold in rabbinic culture, that culture came more to the attention of non-rabbinic Jews, eventually achieving the “diffusion” that Schwartz speaks of. The seventh-century Rehov inscription is a prime example of this: rabbinic legal material appears in writing in a venue that was frequented by non-rabbinic Jews, as well as rabbis. Now, it is unclear whether this diffusion of rabbinic culture led to the increase in written presentation of rabbinic material or vice versa, but it does seem that there is a connection between the two.
(3) Scroll or Codex? What Writing Surfaces?

If writing played some role in the Yerushalmi’s redaction, and if it did exist (in whole or in part) in writing at times subsequent to its redaction, we must try to determine the form the written Yerushalmi most likely took. Most scholars who have considered the issue believe that Jews did not adopt the codex until around the middle of the eighth century. Since y. Avodah Zarah could not have influenced the formation of b. Avodah Zarah as late as the eighth century, it must have been brought there earlier, thus increasing the likelihood that it was in scroll-form, not in a codex. Papyrus or leather seems most likely as the writing surface.

Would the entire Yerushalmi have been written on one scroll, or would each tractate have been written on its own scroll? Shlomo Naeh’s recent work on the Sifra to Leviticus suggests that like the Sifra, the Yerushalmi’s constituent tractates would probably have been reproduced on separate scrolls, with consideration given to making the scrolls easy to manage and study from. The fact that the standard papyrus roll in the relevant period consisted of about twenty sheets also militates against the notion that the entire Yerushalmi would have been written on one scroll. To these two points a third must be added: the phenomenon of “transferred sugyot” in the Yerushalmi. There is a tendency in the Yerushalmi to reproduce sugyot (or even longer units of material) word-for-word in every context in which the material could be relevant, without any attempt


128. See, e.g., Marc Bregman, “An Early Fragment of Avot de-Rabbi Natan from a Scroll,” Tarbiz 52 (1983): 201–222 (Heb.); Shamma Friedman, “An Ancient Scroll Fragment (B. Hullin 101a–105a) and the Rediscovery of the Babylonian Branch of Tannaitic Hebrew,” JQR 86:1–2 (Jul–Oct 1995): 9–50. Although neither scholar is able to date the scroll fragments he studied with precision, each concludes that the fragments must date from a period prior to the Jewish adoption of the codex. These scroll-fragments are further support for the notion that a written Yerushalmi may have existed in scroll-form. See also Shlomo Naeh, “Structure and Division.”


130. See Hezser, Jewish Literacy, 133 and sources cited.
to link the material into its new context. The most comprehensive work on transferred sugyot is Moshe Assis’s 1976 dissertation “Parallel Sugyot in the Jerusalem Talmud,” in which he notes that this phenomenon is a “result of a systematic effort by sages, who in seeing the Yerushalmi’s brevity, wished to expand it from within by means of ‘additions,’ ‘completions,’ and ‘fillings-in’ of sugyot from place to place.” Assis saw the transfer of sugyot as an essentially mechanical process which shows the efforts of “these ‘last editors’ of the learning of the Land of Israel.”  

Recently, Moshe Benovitz has taken issue with Assis’s assumption that the transfer of sugyot was a mechanical and even arbitrary process. Benovitz studied in detail a particular case of transfer from which he learned that, although the texts of the transferred sugyot were not altered very much in the transfer, the scholars who made the transfers were “more than mechanical scribes: they transfer sugyot in order to shed light on other sugyot.” Benovitz sees the phenomenon of transferred sugyot as a way to create meaning in the Yerushalmi.

I wish to suggest a third hypothesis about the phenomenon of transferred sugyot that sheds light on the issue of whether the Yerushalmi would have been written on one or more scrolls. By moving material from one tractate to another in which it would also illuminate relevant subject matter, the redactors rendered each tractate independent of the others. When all of the Talmudic material one would need to properly study a given tractate is present in that tractate, one need not examine all the others in order to locate such relevant material oneself. The scholars responsible for the transferred sugyot thus expected that each tractate would be studied by itself. This increases the likelihood that each tractate was written on its own papyrus or leather scroll.

III.c. Conclusion

Palestinian rabbis were not averse to writing down rabbinic traditions, although as the evidence of the Yerushalmi shows, writing was not the norm. Yet the seventh-century Rehov inscription, the scroll-fragment of

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131. Moshe Assis, “Parallel Sugyot in the Jerusalem Talmud” (Ph.D. diss., Hebrew University, 1976), 8 (Heb.).
133. This hypothesis must be tested in light of Assis’ observation that there are many sugyot that could have been transferred, but were not. The failure to transfer these sugyot may be due to the redactors’ conclusion that these sugyot had nothing to add to the contexts to which they would have been transferred (à la Benovitz), but the matter requires further research.
Avot de-Rabbi Natan, and Shlomo Naeh’s impressive evidence for the likelihood that the Sifra to Leviticus existed in writing in Talmudic times all point to the likelihood that the Palestinian amoraic (legal) magnum opus, the Yerushalmi, existed in writing in whole or in part, either at its redaction or at some later point. Most scholars who encountered it would likely have encountered it in oral performance; but the work itself likely also existed in writing to some extent.

This conclusion is buttressed by scholarship in the field of orality and literacy. Eric Havelock, Jack Goody, and Walter J. Ong believed that written composition was necessary for advanced analytic thought (a view shared by Baruch Bokser and David Kraemer with regard to the Bavli), and although their “literacy hypothesis” has been subjected to much criticism over the last forty years, Goody and Ruth Finnegan maintain that there is a plausible connection between writing and analytic thought. Carol Fleisher Feldman demurred, holding that analysis requires “fixing a text,” but that fixing a text may be done orally as well as in writing. Yet Feldman makes another point crucial to the thesis of this book: “Kiyori cannot exist across great swaths of time and space, for memory is short and reconstructive, and texts uttered rather than written three hundred years ago or . . . far away are simply unavailable exactly as uttered to an oral culture.”

Ruth Finnegan also observed that “without writing, extensive and accurate communication over time and space is impossible.” Feldman’s and Finnegan’s observation about the inability of oral materials to travel well across great distances in time and space deserves closer consideration. The Yerushalmi was redacted at the beginning of the fifth century; the Bavli probably during the seventh. Even if y. Avodah Zarah did not arrive in Babylonia until some point in the sixth or early seventh centuries, is it really likely that it made its journey entirely orally, with no written aide-mémoire at all? Moreover, as Shlomo Naeh has pointed out, oral texts and traditions thrive naturally in their place of origin, in which they are part of a living community of learners and interpreters. But to spread a complete literary compilation to a distant time and place requires a sort of exodus of bearers of the tradition and the building of a complicated structure of transmission from mouth to mouth. It makes sense that in a situation such as this the possibility of written transmission . . . will receive a strong uplift, at least as an aid alongside the oral transmission.

135. Finnegan, Literacy and Orality, 44.
Feldman’s, Finnegan’s, and Naeh’s independent observations make a good deal of sense. The transmission of y. Avodah Zarah to Babylonia by a small group of scholars was likely aided by some sort of written aide-mémoire. Moreover, codicological scholarship, as well as observations about the Yerushalmi itself, enable us to reach a tentative conclusion about the shape this written y. Avodah Zarah took. It probably consisted of a scroll of leather or papyrus, since each scroll probably contained approximately one tractate, with adjustments being made to enable a scroll to be easy to manage and read.

Two additional points require emphasis. The likelihood that a written y. Avodah Zarah reached Babylonia means that the Babylonian rabbis who reworked materials from that tractate were reworking materials they may have encountered in writing, as well as orally. Thus, the differences between parallel texts in the two Talmuds may result not only from the vagaries of oral transmission, but from conscious reflection upon a written text—even if encountered normally through oral recitation. Second, the likelihood that Yerushalmi tractates were written on their own scrolls suggests that not every tractate may have had the same reception history outside the Land of Israel. Not every Yerushalmi tractate may have come to Babylonia, and not every one that came to Babylonia may have come at the same time. Therefore, if further research finds that some Bavli-Yerushalmi pairs are structurally similar and others not (as may well turn out to be the case), this may be explained by the hypothesis that Yerushalmi tractates were written on different scrolls which had different post-redaction fates in exile.

IV
Conclusion

In this chapter, we have attempted to sketch a historical context for our conclusions based on purely Talmudic analysis in chapters 2–5. Study of b. Avodah Zarah shows that no amoraic generation is aware of the structural and substantive similarities between the redactional contexts of their statements in the Bavli and Yerushalmi. Moreover, the latest amoraic activity discernible in b. Avodah Zarah is that of the later Ravina, who died ca. 500. Thus, the sixth century is the earliest time at which y. Avodah Zarah can have made the impact it did on rabbinic scholars in Babylonia.

Somehow, then, y. Avodah Zarah made its way from Palestine to Babylonia in the sixth or early seventh centuries. Our review of sources regarding Palestinian Jewry in this period reveals that, although there were still synagogues, literary production, and a not inconsiderable Jewish population, that population was experiencing decline. This was most
likely due to the growing Christianization of the population and physical appearance of Palestine itself. The increasing religiously motivated imperial hostility toward the Jews is also a factor to be borne in mind, although its concrete effects cannot be easily demonstrated. Practitioners of the new literary genre of piyyut provide moving evidence of the misery of the Jews under Christian Rome. There is even evidence that one poet, Yehudah, may have been part of a Palestinian Jewish community living outside the country and longing for the fall of “Edom” so that it could return. All these data powerfully suggest that the exportation of y. Avodah Zarah to Babylonia in the sixth or early seventh centuries—which we earlier established through internal analysis—was accomplished by (a likely small group of) Palestinian scholars who left Palestine at this time,\textsuperscript{137} carrying y. Avodah Zarah with them on a leather or papyrus scroll.

\textsuperscript{137} See p. 212n60 for sources pertaining to the Babylonian Mar Zutra’s emigration to Palestine in the sixth century.