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The Optional Evening Prayer: A Babylonian Invention?

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Abstract: *This article argues that the well-known debate about the obligatory nature of the evening prayer, attributed to tannaitic authorities in both the Palestinian and Babylonian Talmuds, is in fact a Babylonian invention. The article documents the significant evidence that the evening prayer was assumed to be obligatory in tannaitic and early amoraic texts and then argues that the literary context of the debate in both Talmuds strongly suggests Babylonian origins for the debate. Dating the debate is more complex, but it seems relatively unlikely that this represents a pre-amoraic Babylonian tradition. Finally, the article considers the motivation for such a development in amoraic Babylonia and suggests that antiquarian interest in the temple may be the likeliest avenue to pursue.*

One of the best-known stories in rabbinic literature, the deposition of Rabban Gamliel, in which the *nasi'* is removed following his shaming of Rabbi Yehoshua, opens with a legal debate about the evening recitation of the Amidah: Rabban Gamliel says that it is required (חובה), while Rabbi Yehoshua says that it is optional (רשות) (B. Berakhot 27b). Perhaps because of the wonderful drama and literary creativity of the story, the debate that initiates it has unfortunately received less scholarly treatment than it deserves. In fact, like the story that follows it, though this legal debate features Palestinian sages of the tannaitic period, it seems to be a decidedly Babylonian creation.[1] Attention to its details may therefore shed light on early Babylonian rabbinic traditions, as well as provide insight into the different cultural attitudes towards daily prayer in rabbinic Babylonia and Palestine.

1. The story and its development in the Bavli has been the subject of numerous studies. See, for example: Robert Goldenberg, "The Deposition of Rabban Gamliel II: An Examination of the Sources," *Journal of Jewish Studies* 23, no. 2 (1972): 167–90; David Goodblatt, *The Monarchic Principle: Studies in Jewish Self-Government in Antiquity* (Tübingen: Mohr Siebeck, 1994), 251–53; Devora Steinmetz, "Must the Patriarch Know *'Uqtzin*? The *Nasi* as Scholar in Babylonian *Aggada*," *AJS Review* 23, no. 2 (1998): 163–89; Haim Shapira, "Hadaḥat Rabban Gamliel: Ben historiyah la-'aggadah," *Zion* 64, no. 1 (1999): 5–38; Daniel Boyarin, *Border Lines* (Philadelphia: University of Pennsylvania Press, 2004), 185–89; Boyarin, "The Yavneh-Cycle of the Stammaim and the Invention of the Rabbis," in *Creation and Composition: The Contribution of the Bavli Redactors (Stammaim) to the Aggada*, ed. Jeffrey L. Rubenstein (Tübingen: Mohr Siebeck, 2005), 258–61; Devora Steinmetz, "Agada Unbound: Inter-Agadic Characterization of Sages in the Bavli and Implications for Reading Agada," in Rubenstein, *Creation and Composition*, 293–338; Jeffrey L. Rubenstein, *Stories of the Babylonian Talmud* (Baltimore, MD: Johns Hopkins University Press, 2010), 77–90; Geoffrey Herman, "Hafikhah be-vet ha-midrash: Ben ha-bavli li-khtovet Paikuli," *Zion* 79, no. 3 (2014): 377–408.

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The Legal Idiosyncrasy of Rabbi Yehoshua's View

The debate between Rabban Gamliel and Rabbi Yehoshua regarding the obligation to recite the Amidah in the evening, which serves as the tinder that sparked the revolt against the former, does not bear any of the normal markers of tannaitic sources in the Bavli (other than the names of the disputants). That is, the debate is not preceded with an introductory term such as תנו רבנן (our rabbis taught) or תניא (it is taught). Instead, the debate appears in a memra of the first-generation Babylonian sage Shmuel. According to Shmuel, Rabban Gamliel ruled that one is required to recite this evening prayer, while Rabbi Yehoshua claimed that it was optional. Indeed, tannaitic and early amoraic teachings render the tannaitic origins of the debate—or to be more precise, the lenient view of Rabbi Yehoshua—suspicious.

To begin with, nothing in tannaitic corpora suggests such a view. M. Berakhot 4:1, presenting the end times for the various daily prayers, states that "the prayer of the evening—it has no fixed time" (אין לה קבע).[2] Although the Bavli will interpret this admittedly unusual phrase to mean that the author of the statement maintains the position that Maʿariv is optional, in its context the phrase more likely refers to its relatively loose time requirements.[3] The Tosefta gives the same impression, using the identical language of "it has no fixed time," alongside competing views arguing for a more specific time for the evening Amidah (עם נעילת שערים). To my knowledge, tannaitic midrash also contains no suggestion that this evening prayer is optional.

To the contrary, a number of tannaitic and early amoraic sources imply the precise opposite, namely, the obligatory nature of the evening prayer. For example, T. Berakhot 3:6, in explaining the origins of thrice-daily prayer, relates that Psalms 55:18 ("Evening, morning, and noon, I complain and moan, and [God] hears my voice") teaches that one may not simply recite the Amidah three times in a row at some point during the day; rather, these prayers must be spaced throughout the day. No hint is offered here that the evening recitation is in some way less significant than the other two: "*Evening*—this is the Amidah of the evening; *morning*—this is the Amidah of the morning; *noontime*—this is the Amidah of the afternoon."

A similar sense arises from T. Berakhot 3:7, which discusses the "brief prayer" (תפילה קצרה) to be recited in times of danger. In this context, Rabbi Elazar b. Ẓadok relates that his father would make use of a modified shortened version of the Amidah on Friday nights. Louis Ginzberg claimed that this

2. Throughout the article, but with one important exception that will be noted below, I cite rabbinic passages from the standard printed editions, including, in the case of the Bavli, the Vilna printing, and note variants only where I deem them potentially significant.

3. See for example, the commentary of Chanoch Albeck, *Shishah sidre mishnah* (Jerusalem: Mosad Bialik, 1957), 1:20. Note also that the parallel passage in the Tosefta introduces the debates regarding the end times of the daily prayers with the statement that "Just as the Torah gave fixed times [קבע] to the recitation of the Shema, so too the sages gave to prayer" (T. Berakhot 3:1). See the comments of Avraham Walfish, "Approaching the Text and Approaching God: The Redaction of Mishnah and Tosefta Berakhot," *Jewish Studies* 43 (2005): 39 n. 45.

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demonstrated an early tradition that did not include the evening prayer, reading Ẓadok's action as a pious stringency: although nothing was required to be said at night, this sage voluntarily took on a prayer practice specifically for Friday evenings.[4] A more straightforward reading of this testimony, however, is that though normally Rabbi Elazar b. Ẓadok's father recited the evening prayer in its entirety, on Friday nights specifically he would use an abbreviated version. Context suggests such a reading: Rabbi Elazar b. Ẓadok's statement appears in a discussion of shortened prayers to be recited in times of danger and what the precise content of such shortened prayers ought to be.

Most striking, as already noted in several cases by medieval commentators, are the many places where a failure to recite the evening Amidah properly means that one must repeat it, which indicates its obligatory status. We find such a case already in the Tosefta: "If one did not mention 'the powers of the rains' in [the blessing] 'revivification of the dead,' or if one did not request the rains in the blessing of the years, this person is returned [i.e., must repeat the Amidah]; if one did not say the Separation in [the blessing] 'who graciously gives knowledge,' one says it over the cup. If one did not say it over the cup, this person is returned" (T. Berakhot 3:9). The "Separation" referred to here is the insertion for the Amidah at the end of Shabbat, that is, an evening Amidah; yet the reason that one need not repeat in this case has nothing to do with the optional status of Ma'ariv, but rather the additional opportunity that one will have because of the ritual of reciting such a blessing over a glass of wine. Where one did not engage in the latter, one must indeed repeat the evening Amidah.

Even more examples of this phenomenon appear in the Talmuds, both in otherwise unattested baraitot and in early amoraic statements. Most generally, at B. Berakhot 26a, the early Palestinian Amora Rabbi Yoḥanan[5] states that "if one erred and did not pray in the evening, such a person should pray twice in the morning," clearly assuming that the failure to recite the evening Amidah is an omission of an obligation that must be remedied.[6] Later on the same page,

4. Louis Ginzberg, *Perushim ve-ḥiddushim bi-yerushalmi: Meyusadim 'al meḥkarim be-hishtalshelut ha-halakhah ve-ha-'aggadah be-'Ereẓ Yisra'el u-ve-Vavel* (New York: Jewish Theological Seminary Press, 1941–61), 3:170. Ginzberg makes his claim in part based on the apparent lack of a eulogy in the blessing as recorded in the Tosefta. However, it is by no means clear that this omission reflects an intentional claim on the part of the toseftan author(s) about the content of the prayer, rather than simply taking the closing for granted. Saul Lieberman similarly reads the passage in light of the debate between Rabbi Yehoshua and Rabban Gamliel, but like Ginzberg simply assumes that as the background. *Tosefta ki-fshutah* (New York: Jewish Theological Seminary Press, 1955–88), 1:34.

5. In MS Florence II-I-7, the statement is attributed to 'ר. The context and the tradents make clear that Rabbi Yehudah ha-Nasi is not the intended tradent. Most likely, this is the result of scribal error. Alternatively, and in light of a similar memra later in the same passage that in most manuscripts is attributed to the first-generation Amora Rav and in MS Florence also appears as 'ר, the variant might refer to that slightly earlier figure.

6. Rabbi Yoḥanan's statement continues to make the exact same point for someone who failed to pray in the morning, namely, that such a person should pray twice in the afternoon, a parallelism that highlights the basic formal equality of the evening and morning prayers. Tosafot ad loc., s.v. *ta'ah*,

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we find a baraita interpreting Ecclesiastes 1:15: "'That which is crooked cannot be made straight.' This refers to one who missed the evening recitation of the Shema, or the morning recitation of the Shema, or the Amidah of the evening or the Amidah of the morning."[7] And in the following sugya (B. Berakhot 26b), a baraita states that one who fails to recite the afternoon Amidah on Friday or Saturday afternoon should say it twice that evening.[8] While these sources disagree regarding the ability to make up in part for missed prayer (the baraita on 26a seemingly rejecting the possibility, and both the baraita on 26b and Rabbi Yoḥanan on the previous page allowing for it), they are unanimous in their treatment of Ma'ariv as no different from the other two daily prayers.

Similarly, two traditions about the addition to the Amidah for Rosh Ḥodesh clearly imply the obligatory nature of the evening prayer. At B. Berakhot 30b, a baraita states that one who forgets this insertion need not repeat the Amidah, because this person will be able to say it in the morning prayer.[9] A statement attributed to Rav shortly thereafter comes to the same conclusion, but with different reasoning: because the rabbinic court would sanctify the new moon only during the day, an omitted Rosh Ḥodesh insertion in the evening does not demand a repeated

already point out the contradiction between the ruling of Rabbi Yoḥanan and the position, which in their version of the Bavli was endorsed by Rav (see below in my discussion of the core Bavli sugya), that Ma'ariv is optional. See also Rif, 19a in the pagination of the Rif; Me'iri, *Bet ha-beḥirah* to 26b, s.v. *tefillat 'arvit*; Rashba ad loc., s.v. *tefillat 'arvit*.

7. The baraita appears as well at B. Ḥagigah 9b, as well as later compilations such as Bamidbar Rabbah, *Naso'*, *par.* 9:6. Of course, the fact that this midrash is not attested in tannaitic corpora suggests that we should be extremely careful in treating it as evidence of tannaitic opinion. However, in this case, the assumption of the baraita that the evening prayer is obligatory coheres with what we know from other tannaitic and early amoraic statements.

8. This too is a suspicious baraita because of its lack of parallels, and in particular because it could have been deployed to answer a question on a nearly identical topic in the immediately preceding sugya. See *Pene Yehoshua*, Berakhot 16a, s.v. *ta' shema'*, who raises this problem, as well as his answers, one of which is convincing, namely, that it was preferable to answer a question about Rabbi Yoḥanan's views based on a memra attributed to him rather than to do so from another source, even a tannaitic one. In any event, as I wrote in the previous note, the bulk of tannaitic and early amoraic sources assuming an obligation in the evening prayer makes it exceedingly unlikely that a lenient view on this matter existed in early rabbinic times, even if one or two of these sources may turn out to be later creations.

9. The relevant passage is in fact missing in two of the manuscripts (MSS Oxford Opp. Add. fol. 23 and Paris 671), and this was the reading before several medieval commentators; see, for example, Rif, 21a and Rosh, 4:23. However, it seems likely that this reading developed from the tension between this baraita, which states that the reason one need not repeat Ma'ariv when one forgot the insertion for Rosh Ḥodesh is that one can make it up the following morning, and the statement of Rav (to be discussed presently) that this leniency results from the historical practice of courts announcing the new moon only during the daytime. Note that in addition to MS Munich 95, MS Florence also agrees with the printed editions, but a scribe has crossed this material out so as to fit it with the reading found in Rif and Rosh. In any event, at a minimum the statement attributed to the early Amora Rav assumes an obligation in the evening prayer; the baraita likely, but not necessarily, reflects a similar assumption.

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performance of the prayer. As with the baraita, however, the obligation in Ma'ariv is taken for granted.[10]

Rav in particular seems to bear no doubts about the status of the evening Amidah. Both Talmuds report a view, attributed to Rav, that reciting the Ne'ilah prayer exempts one from needing to recite Ma'ariv (Y. Berakhot 4:1 [7c]; B. Yoma 87b). A number of authorities in the Yerushalmi disagree with this view in ways that highlight the seriousness with which they took the obligation in the evening prayer. For example, Rabbi Yonah challenges Rabbi Abba, one of the tradents for Rav's view here, asking how a prayer composed of a mere seven blessings (i.e., Ne'ilah) can fulfill the obligation of the eighteen blessings of Ma'ariv. Several figures (Rabbi Abba b. Memel, Rabbi Yehoshua b. Levi, Rabbi Yose b. Bun) relate a view that Ne'ilah in fact does not fulfill one's obligation to recite the evening prayer. But even the lenient view of Rav shares the assumption that the evening prayer is an obligation that must be dispensed, whether or not the infrequently recited Ne'ilah counts to fulfill that obligation.

Tannaitic texts, as well as positions attributed to both tannaitic and early amoraic authorities in both Talmuds, thus speak unequivocally of an obligation to recite the evening prayer. One leniency regarding Ma'ariv, found in the Yerushalmi, is striking, however. Those from the "house" of Rabbi Yannai state that once a person gets into bed (עלה אדם על מיטתו) having not yet recited the evening Amidah, he need not be harassed into reciting it (אין מטריחין אותו לירד) (Y. Berakhot 4:1 [7c]).[11] In one sense, this ruling distinguishes the evening prayer from the other two recitations of the Amidah; we do not find any leniency for those prayers that where it is inconvenient for someone to get out of bed such a person is exempt. At the same time, this leniency regarding Ma'ariv—the one daily prayer when one might reasonably already be in bed—is functionally equivalent to the statement, found in M. Shabbat 1:2, that one who has already sat down before a barber "close to Minḥah" need not interrupt the grooming in order to recite the afternoon prayer. Yet no one would suggest that this leniency implies that the afternoon prayer is optional![12] The specific exemption for one who is already in bed highlights the challenges peculiar to mandatory evening prayer; such attention to its particularities does not suggest that this prayer is not optional. Indeed, were it merely a personal practice, even one that were encouraged, there would be no need to release someone already in bed from needing to get up to pray!

Rulings attributed to tannaitic and early amoraic times thus reveal no general tendency to treat Ma'ariv as fundamentally different from the other two daily prayers. Some leniencies vis-à-vis Ma'ariv may exist (e.g., it may be fulfilled

10. Rif, Berakhot 19a; Tosafot, Berakhot 26a, s.v. *ta'ah*.

11. The commentary of the *Pene Moshe*, clearly bothered by the unusual leniency here and connecting this statement to those that preceded it, claims that this is discussing a case where one prayed the evening Amidah, but earlier than ideal (i.e., before sunset). However, such an interpretation finds no basis in the words of Rabbi Yannai's statement.

12. Indeed, the Bavli will reference the optional nature of Ma'ariv in a discussion of this very mishnah; see my discussion of B. Shabbat 9b–10a below.

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through the recitation of Ne'ilah, one need not get out of bed to recite it), but that it is obligatory goes unquestioned in these sources. But before moving on to the Babylonian sugya in which Rabbi Yehoshua's leniency with regard to the evening service appears, it is worth considering one baraita in the Bavli that some commentators have argued suggests a less rigid approach to Ma'ariv. At B. Berakhot 26b, in the midst of the well-known sugya asking whether thrice-daily prayer has its roots in the daily offerings in the temple or rather the practices of the patriarchs, a baraita cited in support of the former view connects the timing of each prayer to its parallel in the temple. Thus, the morning Amidah is timed to be in accord with the rules regulating the morning daily offering, while the afternoon Amidah takes as the source of its rules those determining the time of the afternoon offering. Regarding the evening Amidah, the baraita states: "And why did they say that the evening Amidah has no fixed time [אין לה קבע]? Because the limbs and fats that were not consumed by evening were offered throughout the night." The comparison of the evening prayer to the remainders of the day's offering, combined with the Bavli's interpretation of the phrase אין לה קבע to mean "optional" rather than "it has no fixed time," led some traditional commentators to understand this as explaining the optional nature of Ma'ariv. That is, since there might sometimes be such leftovers, while on other days in the temple there may not have been, the evening prayer took on a less obligatory status.[13]

The baraita, however, implies no such thing. First of all, the baraita finds a parallel at T. Berakhot 3:1. The Tosefta, however, includes only the sections dealing with the morning and the afternoon prayers; the toseftan authors/editors do not connect Ma'ariv to cultic practice, thus suggesting that this part of the Bavli's baraita may be a later emendation to an earlier version of the baraita.[14]

Indeed, a parallel to the baraita appears as well in the Yerushalmi (4:1 [7b]), where the text states that the sages "did not find something to hang [Ma'ariv] on, and they taught it plain [*setam*]," connecting this explicitly to the language of אין לה קבע in the Mishnah. The connection to the leftover limbs and fats is then made by the Amora Rabbi Tanḥuma. The Palestinian version of this tradition thus makes it likely that the connection of the evening prayer to an aspect of the cult was a post-tannaitic development. But in its Palestinian context, the initially assumed lack of connection to an aspect of the sacrificial system ("they did not find something to hang it on") actually explains the meaning of the troubling phrase אין לה קבע—Ma'ariv has nothing on which to be hung, that is, nothing to which it can be attached/fixed. This interpretation has nothing to do with the obligatory or optional nature of the prayer.

Even the formulation that we find in the Bavli does not make any connection to questions of obligation. Rather, the point of the comparison to leftover parts

13. See, for example: Ritba, 26b, s.v. *u-mipene*; Betzalel Ashkenazi, *Shitah mekubeẓet*, Berakhot 26b, s.v. *u-mipene*.

14. It does appear in the first printing of the Tosefta, likely resulting from the influence of the Bavli, but neither MS Vienna (Wien - Oesterreichische Nationalbibliothek Cod hebr. 20) nor Erfurt (Berlin - Staatsbibliothek [Preussischer Kulturbesitz] Or. fol. 1220) has it.

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from the sacrificial animals is that they "were offered throughout the night," which would answer well the question implied by the contextual meaning of the phrase אין לה קבע: Why may one recite the evening prayer all night long? Because those parts burned "throughout the night." No mention is made of the inconsistent nature of these leftover parts, offered some nights but not on others, such that this would be responding to a question about one's fundamental obligation. Rather, the editors of this baraita as it appears in the Bavli—whoever they were—still understood the phrase אין לה קבע in accordance with its tannaitic meaning, namely, "it has no fixed time," and did not view it as implying anything about the evening prayer's being optional.[15]

A survey of sources relating to the evening Amidah in Mishnah, Tosefta, and both the Palestinian and Babylonian Talmuds reveals the idiosyncrasy of the view attributed to Rabbi Yehoshua, namely, that Ma'ariv is optional. When early sources address the evening prayer, they take for granted its mandatory nature and, for the most part, treat it as thoroughly equivalent to Shaḥarit and Minḥah. To be sure, inconsistencies in the way the evening prayer is treated by comparison to the morning and afternoon prayers appear in amoraic statements in both the Bavli and the Yerushalmi, but in none of them do we find an implication that Ma'ariv is therefore optional. Importantly, all of these rulings are attributed to tannaitic sources, Rabbi Yoḥanan, or Rav. Although Rav is of course an important Babylonian Amora, rabbinic sources portray him as having roots in rabbinic Palestine, a student of Rabbi. It is striking, for example, that Shmuel, a more unambiguously Babylonian personality, does not figure in any of these sources. But it is to his tradition that we now turn.

The Debate of Rabban Gamliel and Rabbi Yehoshua

As noted above, in the Bavli, the debate regarding Ma'ariv, though ascribed to tannaitic sages, bears none of the normal markers of tannaitic texts.[16] Rather, the debate appears in the mouth of Shmuel:

15. Indeed, this interpretation already appears in Piske Rid (26b, s.v. *'amar*), and it seems that Rashi understood the Bavli's baraita thus as well; Rashi (26b, s.v. *u-padarim*). Of course, it is possible that the move made both by Rabbi Tanḥuma and by the Babylonian editors—to find a way to connect Ma'ariv to the sacrificial service—reflects some amount of anxiety about its status, i.e., they may have been concerned lest someone *mistakenly* take Ma'ariv less seriously than other prayers because it lacked a biblical precedent. Reading Rabbi Tanḥuma in this way—as a response to such an implied position—would suggest that a weakening in the status of the evening prayer already existed in amoraic Palestine. Such a reading is not in itself so surprising, and does not argue against the picture I am describing here, given that the Babylonian tradition about Rabbi Yehoshua is known and cited as such in the Yerushalmi, as well as the fact that leniencies with regard to—though not out-and-out exemption from—the evening prayer clearly exist in amoraic Palestine. I am thankful to the anonymous reviewer for the journal for pointing out this possible implication of Rabbi Tanḥuma's statement.

16. *Shitah mekubeẓet*, indeed cites this passage with precisely such a marker—דתניא תפילת ערבית רבן גמליאל וכו'—but this does not appear in manuscripts or other commentators.

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> What is the meaning of "it has no fixed time" [אין לה קבע]?… It is not fixed [אינה קבע],[17] like the one who says, "The evening prayer is optional." Rav[18] Yehudah said that Shmuel said: The evening prayer[19]—Rabban Gamliel says: obligatory [חובה], Rabbi Yehoshua says: optional [רשות]. And the law[20] follows the one who says obligatory. Rav said: The law[21] follows the one who says optional. (B. Berakhot 27b)[22]

The Bavli posits the first-generation Babylonian Amora Shmuel as the source for the tannaitic debate. However, the sugya is then followed by the famous story of the deposition of Rabban Gamliel, which includes the debate of Rabbi Yehoshua and Rabban Gamliel and is indeed introduced by a tannaitic marker:

> Our rabbis taught [תנו רבנן]: It once happened that a certain student came before Rabbi Yehoshua, asking him: the evening prayer, is it optional, or obligatory? He said to him: Optional. He came before Rabban Gamliel.… He said to him: Obligatory …

It thus seems that though the only legal context in which the debate appears is a memra, we indeed have a claimed tannaitic attestation in the Bavli, that is, the story based on the debate. What is more, the baraita telling this story finds a close parallel in the Yerushalmi (Y. Berakhot 4:1 [7c–d] = Y. Ta'anit 4:1 [67d]), including the debate with the same tannaitic figures. In the Yerushalmi, the story does not bear a specific marker of tannaitic origins, but that may be simply because it appears there as a continuation of what came before, namely, a presentation of the debate independent of the story.[23] There, the debate is

17. The words אינה קבע are missing in MS Oxford as well as both the Soncino and Vilna printings.

18. All other manuscripts read here "For Rav Yehudah …" ('דאמר רב וכו).

19. MS Paris has the word רשות prior to the presentation of the tannaitic debate, which I assume is a mistake.

20. Although the entirety of Shmuel's memra is in Hebrew, in MS Oxford, the word "and the law" is rendered in Aramaic ('והלכת).

21. MS Oxford again uses the Aramaic word 'הלכת; in this case, the Soncino printing follows suit (והלכתא).

22. Following MS Florence as the base text. In the Vilna printing, from the words "and the law follows" until the end here is missing, with a debate of Abbaye and Rava in its stead. See below.

23. Indeed, if we assume that the lack of any introductory statement to the story in the Yerushalmi indicates that the story is being presented as continuous with the debate introduced by R. Yaakov b. Aḥa with the term "It was taught there," as I think reasonable, then this suggests that the story as well as the legal statement was perceived in amoraic Palestine as having Babylonian origins. This may have implications for treatments of the redactional development of the story in the two Talmuds (e.g., Goldenberg, "Deposition of Rabban Gamliel II"; Shapira, "Hadaḥat Rabban Gamliel;" Rubenstein, *Stories of the Babylonian Talmud*, 77–90, esp. 80), suggesting that though the Bavli's version reveals distinctive Babylonian editing, it nonetheless built on a Babylonian core rather than a Palestinian one (i.e., the Palestinian version preserves facets of an earlier Babylonian version that our received Bavli text was building on). This may also be buttressed by the fact that the story as it appears in B. Berakhot clearly builds on and references the simpler, but quite similar story at B. Bekhorot 36a. (I am thankful

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indeed marked as tannaitic: "Rabbi Yaakov b. Aḥa said: It was taught there [תניי תמן]: The evening prayer, what is its status? Rabban Gamliel says 'obligatory,' but Rabbi Yehoshua says 'optional.'"

It is worth summarizing the somewhat confusing presentation of the tannaitic debate about Ma'ariv in the two Talmuds. In each Talmud we find two appearances, close to each other, of the debate. The first appearance is a legal tradition, presented as an independent statement, attesting to tannaitic debate about the status of Ma'ariv. The second appears as a recapitulation of this tradition, but now found as a narrative component of a larger story. In the Bavli, the independent statement of the debate is attributed to the Amora Shmuel, but a baraita tells the story of the debate and its consequences. The Yerushalmi, by contrast, provides no indications as to the origins of the story, but does mark the debate when presented independently as a tannaitic teaching; it is likely that the lack of attribution for the story results simply from presenting it as a continuation of the debate. Thus, despite the lack of attestation of a lenient view regarding the evening Amidah in tannaitic corpora, as well as the many tannaitic and early amoraic views that contradict the existence of such a view, we do find a claim, in both Talmuds, that this tradition is indeed tannaitic.

Leaving the question of the dating of this tradition for the moment, it is important first to note the somewhat unusual attribution that the Yerushalmi uses for ascribing tannaitic authority to the debate, namely, "it was taught there" (תניי תמן). In his dictionary of technical terms in the Yerushalmi, Leib Moscovitz describes this phrase thus: "It seems [נראה] that 'it was taught there' presents Babylonian baraitot that were transmitted by Amoraim."[24] If correct, then the Yerushalmi, despite preserving the debate as a tannaitic tradition, affirms the sense we get from the Bavli's placement of the debate in the mouth of Shmuel, namely, that the notion of a disagreement regarding the obligation to recite the evening prayer has its origins in rabbinic Babylonia.

Moscovitz is careful to express some doubt about his description of this technical term. He notes: "I say 'it seems' because there are no clear proofs

to anonymous reviewer 2 for the journal for suggesting this point.) In other words, the debate between Rabban Gamliel and Rabbi Yehoshua regarding the evening prayer could have been constructed out of the material at B. Bekhorot 36a in order to serve Babylonian interests regarding the regularity of daily prayer. But see Goldenberg, "Deposition of Rabban Gamliel II," 180, where he points to linguistic and cultural traits that suggest a Palestinian provenance for the story. If indeed the source of this tannaitic debate about the evening prayer was Babylonia, then those traits likely reflect editing of earlier sources in *both* Talmuds, as well as what Goldenberg rightly calls the "composite" nature of both the Palestinian and Babylonian versions (ibid., 188).

24. Leib Moscovitz, *Ha-terminlogiyah shel ha-yerushalmi: Ha-munaḥim ha-'ikariyim* (Jerusalem: Magnes, 2009), 601. So too Chanoch Albeck, *Meḥkarim bi-vraita ve-tosefta ve-yaḥasan la-talmud* (Jerusalem: Mosad Harav Kook, 1934), 86–87; Louis Ginzberg, *Perushim*, 3:169; Y. N. Epstein, *Mavo' le-nusaḥ ha-mishnah* (Jerusalem: Magnes, 2000), 2:891–97; and Yaakov Elman, "Babylonian Baraitot in the Tosefta and the 'Dialectology' of Middle Hebrew," *AJS Review* 16 (1991): 4–5. Moscovitz goes on to dismiss compellingly the possibility that "there" in this term refers to a literary, rather than a geographical, context (*Ha-terminologiyah*, 601 n. 229).

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from the sugyot that one should explain the term in this way."[25] This particular example, however, supports Moscovitz's tentative conclusion; as I argued above, sources found in Palestinian corpora, as well as those found in the Bavli attributed to Palestinian sources, all lend the impression that an evening recitation of the Amidah is required in the same way as the morning and afternoon performances. Only this passage, which in the Yerushalmi is attributed to a tannaitic teaching taught "there," that is, in Babylonia, suggests that Ma'ariv is optional. Furthermore, Rabbi Yaakov b. Aḥa, the third-generation Palestinian sage who transmits the teaching in the Yerushalmi, describes himself elsewhere in the Yerushalmi as having arrived from Babylonia.[26] A full consideration of all the appearances of the term "it was taught there" in the Yerushalmi is a desideratum and may well weigh in on the question of early Babylonian traditions.[27] In this case, it nonetheless seems likely that the attribution to Rabbi Yehoshua of a view that the evening prayer is optional was recognized in amoraic times as a uniquely Babylonian tradition.[28]

A Babylonian Tannaitic Tradition?

The notion that Rabbi Yehoshua believes the evening prayer to be optional is distinctively tied up with Babylonian tradition. But at what point did this Babylonian tradition develop? Is this an example of an early, perhaps even tannaitic Babylonian teaching? In a number of recent studies, Barak Cohen has argued that many traditions that appear to be examples of this phenomenon are in fact simply reworkings of earlier Palestinian teachings.[29] Although the work of the previous sections provides a counterexample of a tradition, claimed to be tannaitic and attributed to Shmuel, that is indeed most likely Babylonian in its origins, no compelling evidence exists to suggest that this Babylonian tradition predates Shmuel. Rather, the idea that the evening prayer is optional, contradicted by so much early material in both Talmuds, achieves some sort of wider significance only in later strata of the Bavli. This uneven distribution of the idea makes it unlikely to be truly tannaitic, and thus supports Cohen's more general argument against seeing in passages such as this one examples of early Babylonian traditions.

25. Moscovitz, *Ha-terminologiyah*, 601 n. 227.

26. For example, Y. Niddah 1:1 (48d). See Epstein, *Mavo'*, 891, who argues that this is typical, i.e., that the phrase generally appears in the mouths of Palestinian Amoraim with Babylonian origins or connections, though see also Ginzberg, *Perushim*, 3:168–69, who claims that though R. Yaakov b. Aḥa must have spent some time in Babylonia, he is fundamentally Palestinian in his origins and training.

27. A good start already appears in the work of Albeck, *Meḥkarim*, 86–87, and Moscovitz, *Ha-terminologiyah*, 602 n. 233, both of whom point to examples of baraitot introduced by the phrase with parallels in Tosefta and tannaitic midrash, a finding that supports Cohen's general argument.

28. See also Y. N. Epstein, *Mavo'*.

29. Barak Cohen, "In Quest of Babylonian Tannaitic Traditions: The Case of Tanna D'Bei Shmuel," *AJS Review* 33, no. 2 (2009): 271–303; Cohen, *The Legal Methodology of Late Nehardean Sages in Sasanian Babylonia* (Leiden: Brill, 2010), 33–35, 99–104; Cohen, "In Quest of Babylonian Tannaitic Traditions II: The Case of Avuha de-Shmuel," *Journal of Jewish Studies* 66, no. 1 (2015): 59–78; Cohen, "'Amoraic Baraitot' Reconsidered: The Case of Tannei Tanna Kameh," *AJS Review* 39, no. 1 (2015): 93–120.

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Before considering the other contexts in which the view appears I must first return to the locus classicus itself, the Bavli passage treated above. Recall that following Shmuel's presentation of the tannaitic debate between Rabbi Yehoshua and Rabban Gamliel, he himself rules in accordance with the stringent view ("And the law follows the one who says obligatory"),[30] while Rav supports the lenient view. Such is the reading of all of the manuscripts as well as the Soncino printing. However, the Vilna printing reads as follows: "For Rav Yehudah said that Shmuel said: The evening prayer—Rabban Gamliel says: obligatory, Rabbi Yehoshua says: optional. Abbaye said: The law follows the one who says obligatory. And Rava said: The law follows the one who says optional." Shmuel's memra is identical but for its ending, at which point his ruling in accordance with Rabban Gamliel (found in the manuscripts) is absent in the Vilna printing, as is the competing view attributed to Rav. In their stead, we find the fourth-generation Amoraim Abbaye and Rava, the former ruling stringently (like Shmuel in the manuscripts) and the latter (like Rav) ruling leniently.

One tempting interpretation of this phenomenon would be to view the reading of the Vilna printing as a mistake. Given the unanimity of the manuscripts, one would already be predisposed towards skepticism regarding the inclusion of Abbaye and Rava in the Vilna printing. Furthermore, though the difference between the two appears large, one can see how an overthinking scribe might have misread or miswritten "Rav" as "Rava," at which point Abbaye would become the obvious disputant.[31] However, the reading of the Vilna printing may find some support in medieval commentators. Although most commentators clearly have a version of the passage in line with that found in the manuscripts, the Rif (Isaac ben Jacob Alfasi ha-Cohen, ca. 1013–1103) reads here a debate between Rava and Abbaye.[32] There may thus be an early version of the passage that indeed attributes the debate to these later amoraic sages. I will return to this point below.

30. I see no serious reason to consider the possibility that the words והכלה כדברי האומר רשות are an anonymous interpolation, both because of the consistent use of Hebrew here, as well as the juxtaposition with a lenient ruling attributed to Rav, also in Hebrew.

31. Indeed, *Seder Rav Amram Gaon* (*seder shabbatot*) has "Rava" in place of "Rav" in its first occurrence of that name.

32. Rif, Berakhot 19a. This reading of the Rif is found already in R. Yosef Karo's *Kesef mishneh* commentary (*hilkhot tefillah* 1:6) and R. Avraham Ḥiyya de Boton's *Leḥem mishneh* (*hilkhot tefillah* 3:7). It also seems to be assumed in the comments of the *Sefer ha-me'orot* (Berakhot 27b, s.v. *tefillat*), who argues against a position of the Rif by suggesting that Rav held the position that the evening prayer was obligatory—a suggestion that would be impossible if he had the version found in the manuscripts. See also the careful reading of these sources in R. Ovadia Yosef's *Responsa yabbia 'omer*, *'Oraḥ ḥayim* 6.18, where he points out that though the anonymous Babylonian editors are bothered by the perceived contradiction between two positions of Rav regarding Ma'ariv at B. Yoma 87b, they ignore a similar contradiction at B. Berakhot 30b (the memra of Rav discussed above regarding the insertion for Rosh Ḥodesh; as noted there, the medieval commentators, unlike the Babylonian editors there, point out the contradiction). I would suggest that the different treatments in B. Yoma and B. Berkahot might reflect different traditions regarding whether the amoraic debate features Rav and Shmuel or Rava and Abbaye. For another medieval commentary that may agree with the Rif and the Vilna printing, see *Hilkhot ha-Rosh* 4:7, though note that the text cited in *Tosafot ha-Rosh* agrees with the manuscripts, and the logic used there ("the law follows Rav in ritual law," which the Rosh attributes in this

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In any event, the view appears in other contexts only in anonymous portions of the Bavli. But before turning to those, the Yerushalmi's presentation of the debate must be examined more carefully. Recall that the Babylonian baraita appears, in the Yerushalmi, in the mouth of Rabbi Yaakov b. Aḥa, a third-generation sage. The only other Amora in the Yerushalmi who relates to this debate is Rabbi Ḥanina,[33] whose statement immediately follows Rabbi Yaakov b. Aḥa's Babylonian teaching. Rabbi Ḥanina connects the debate about Ma'ariv's obligatory status to the debate, referenced above, about the relationship between the evening prayer and the recitation of Ne'ilah. Rabbi Ḥanina asserts that those who exempt a person from reciting the evening prayer on a day when they have recited Ne'ilah (i.e., Rav, though Rabbi Ḥanina does not identify this view explicitly with his name) do so because they fundamentally view Ma'ariv as optional, and those who do not exempt such a person from Ma'ariv are in accord with the position that it is obligatory.[34] Taken at face value, Rabbi Ḥanina's conflation of these two debates renders the view that the evening prayer is optional absurd, since one need not wonder whether some other prayer will fulfill an obligation when this activity is not even obligatory. Perhaps Rabbi Ḥanina understands the view of "optional" in a less extreme way, that is, "optional" in this context simply means "less obligatory," a significant reining in of the lenient view.[35] If so, given that this is the only engagement with the position in the Yerushalmi, it may even suggest a broader Palestinian resistance to the straightforward meaning of the lenient position, though the dearth of Palestinian materials engaging the debate makes such speculation impossible to prove or disprove.

More important here is the identity of this Rabbi Ḥanina. Louis Ginzberg points out that this figure cannot be the "usual" Rabbi Ḥanina b. Ḥama, since that figure was roughly contemporaneous with Rav, on whose opinion he is commenting.[36] Rather, he must be a later figure, though precisely how late cannot be determined.

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case to Rabbenu Ḥananel) makes clear that this is not subject to manuscript variants in the text of the Rosh itself. For commentators who have a reading in line with the manuscripts, see Halakhot gedolot, *hilkhot tefillah*, chap. 4; *Responsa Rav Natronai*, *'Oraḥ ḥayim*, 72; *Seder Rav Amram Gaon*, *seder shabbatot*; Rashbam, Berakhot 27b; and *Piske ha-Rid* 27b.

33. At Y. Ta'anit 4:1 (67d) the name appears as חיננא.

34. אמ' רבי חנינא אתיין אילין פלגוותא כאינון פלגוותא מאן דמר חובה אין נעילה פוטרת של ערב ומאן דמר רשות נעילה פוטרי' של ערב.

35. See Tosafot, Yoma 86b, s.v. *ve-ha-'amar*, who, based on this contradiction in the Bavli, must explain "optional" to mean "less mandatory." Though this does not appear to be the straightforward sense of the anonymous voice of the Bavli, it may well explain R. Ḥanina here.

36. I would note that Rabbi Ḥanina does not in fact identify the view with Rav by name, and perhaps he is referring to a tradition that predates Rav and only later came to be associated with his name. Nonetheless, I agree that a later Rabbi Ḥanina is more likely here than not, since the earlier Rabbi Ḥanina would not be commenting on a tradition transmitted by the third-generation figure Rabbi Yaakov b. Aḥa.

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The ambiguous dating of Rabbi Ḥanina's engagement with the claimed tannaitic debate is doubly significant. First, it is distinctly possible that the attribution of leniency to Rav in the Bavli is itself a reformulation of Rabbi Ḥanina's point. That is, Babylonian editors, aware of a tradition that linked the lenient view regarding Ma'ariv's obligatory status to the view that claimed Ne'ilah fulfilled one's obligation in Ma'ariv could have gone the next step, formulating a memra that attributes ruling like Rabbi Yehoshua to Rav.[37] A legal narrative of this sort goes a long way towards explaining the contradiction between Rav's ruling like Rabbi Yehoshua at B. Berakhot 27b and his statement that Ne'ilah fulfills one's obligation in Ma'ariv at B. Yoma 87b (see further on this below), since the very attribution to him of such leniency was itself the result of Babylonian reworking of Rabbi Ḥanina's more modest claim.

The difficulty in dating Rabbi Ḥanina's use of the Babylonian "baraita" is important as well because it is the only example in either Talmud of an Amora making use of this allegedly tannaitic debate.[38] The debate appears in three locations in the Bavli, and two of them are clearly produced by the anonymous voice of the text. I begin with the most difficult example, since it is the only one in which it appears that an Amora references the debate; I will argue that this is likely a later interpolation, however:

> When is eating [considered] to have begun? Rav said: From when one washes one's hands, but Rabbi Ḥanina[39] said: From when one unties one's belt.
>
> But they do not disagree—this is for us, and that is for them.
>
> Abbaye[40] said: These Babylonian colleagues [הני חברין בבלאי], according to the view that says the evening prayer is optional, as soon as one loosens one's belt, we do not trouble this person.
>
> And according to the view that says that the evening prayer is obligatory, do we trouble this person? But the afternoon prayer, which all agree is obligatory,[41] it was taught in a Mishnah: "If they began, they need not stop," and R. Ḥanina said "[It refers to] from when one unties one's belt" …[42]

37. This explanation of course works only according to a version of the sugya as found in the manuscripts and most of the Rishonim.

38. By "making use of" I mean referring to the debate as something already known in order to explain or challenge some other set of ideas. This is distinct from what R. Yaakov b. Aḥa and Shmuel do in their respective Talmuds, i.e., presenting the debate as "new" information.

39. The Rashba cites this view as belonging to Rav. Either way, this is almost certainly the more common Rabbi Ḥanina b. Ḥama, since here it seems to be referring to the contemporary of Rav. Still, the similarity of names is intriguing; I have tried, to no avail, to derive some significance from it.

40. MSS Oxford 23, Vatican 127, Munich 95, Oxford - Bodl. heb. c. 17 (2661) 46–53, Oxford - Bodl. heb. d. 45 (2674) 24–31, Toronto 9-002: זעירי. The same attribution appears in the commentary of Rav Nissim Gaon, the Rif, the Rosh, and the Rid. See here Halivni, *Mekorot u-mesorot: Be'urim ba-talmud* (Jerusalem: Jewish Theological Seminary Press, 1982), 4:22 n. 3.

41. MS Oxford Bodl. d. 45: the phrase ולמאן דאמר חובה מטרחינן ליה is entirely absent.

42. I am omitting here the two possible resolutions that the anonymous voice offers in response to this attack.

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> Rav Sheshet attacked: Is it a burden[43] to bind one's belt? [44]And furthermore, one should simply stand thus and pray!
>
> Because of that which is written, "Prepare to meet your God, O Israel!" (B. Shabbat 9b–10a)[45]

Ze'iri (not Abbaye, following the vast majority of the textual witnesses) here refers to the debate, stating that according to the view that Ma'ariv is optional, once one has removed one's belt, this person no longer need be bothered to recite the evening prayer. An anonymous voice responds, picking up on the implication that the other view (that is, Rabban Gamliel's) would indeed hold that someone who had loosened a belt would have to return to a more dignified state and pray before eating dinner. Thus, we appear to have here a case of a later Amora making use of and building on the debate, attributed to R. Yehoshua and Rabban Gamliel, that appeared in the mouth of Shmuel.

I think it likely, however, that the reference to the evening prayer being optional is a later addition to Ze'iri's statement. First of all, note that the statement is not necessary for Ze'iri to make a meaningful claim. To begin with, the phrase is unnecessary; were we to remove the words "according to the view that says the evening prayer is optional," Ze'iri would still be saying something noteworthy, namely, that Babylonians, because of their clothing customs involving belts, do not need to worry about the evening prayer once they have removed their distinctive belt. Of course, the fact that we *can* remove this phrase does not mean that we *should*, but such extraneous phrases are often indicators of later editorial work, and in this case, it means that such editorial intrusion is at least plausible, if not yet probable.

More important here is the relative incoherence that the phrase produces. As the anonymous voice here objects, to suggest that the leniency raised by Ze'iri applies only if one follows the view that Ma'ariv is optional makes little sense, since the Mishnah has stated that one need not interrupt a meal in order to recite the afternoon prayer, and Rabbi Ḥanina has commented that the undoing of one's belt indicates the beginning of a meal. If undoing one's belt essentially exempts a person from reciting the afternoon prayer, then why should the situation be any different with regard to the evening prayer, irrespective of its status as obligatory or not? The sugya tries to resolve this in customary Bavli fashion, but a simpler explanation exists: Ze'iri was indeed making a general statement about the evening prayer and the sartorial loosening that one might engage in at the end of the day at home.

Such an explanation makes Ze'iri's original statement and the memra attributed to his teacher Rabbi Ḥanina legally identical (the releasing of one's belt

43. MS Oxford Bodl. c. 17 has here כריהותא in place of טריחותא.

44. MSS Oxford Bodl. d. 45 and Cambridge T-S NS 329.887 have אטו חגרו גרים (with slight morphological differences in Cambridge) in place of the entire phrase טריחותא למיסר המייניה.

45. For a source-critical analysis of the passage, see Geoffrey Herman, "Like a Slave before His Master," *Aram: Zoroastrianism in the Levant and the Amorites* 26, nos. 1–2 (2014): 95–96.

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exempts a person from needing to recite a prayer),[46] though a number of important differences remain: Ze'iri makes what appears to be an independent statement, whereas Rabbi Ḥanina comments on the mishnah; Ze'iri is discussing the evening prayer, whereas the mishnah on which Rabbi Ḥanina comments relates to the afternoon prayer. Perhaps Ze'iri's statement is simply an example of a student expanding on and extending his teacher's idea; what Rabbi Ḥanina said regarding Minḥah, his student Ze'iri applies to Ma'ariv. Alternatively (and I think more likely), the very attribution of such an interpretation of the mishnah to Rabbi Ḥanina could have resulted from Ze'iri's statement. The latter is an Aramaic statement that references a distinctively Babylonian phenomenon (the wearing of a belt). We can see how a later editor might have sought to make the statement more general and authoritative by transforming it into a pithy, Hebrew memra that functions to explain a mishnah. The teacher-student relationship and the greater prominence of Rabbi Ḥanina would explain the attribution of the newly formed memra to the teacher rather than the student. Either way, reading Ze'iri as making a general claim about Ma'ariv, rather than one dependent on Rabbi Yehoshua's view that the evening prayer is optional, removes the problems that the anonymous sugya raises. The anonymous Babylonian editors, in the interest of creating such a sugya, could have interpolated into Ze'iri's statement the phrase connecting it to the debate about the evening prayer's status, thus creating the opening for their discussion.[47]

That the phrase referencing the debate about the status of Ma'ariv is a later addition is further buttressed by the two other sugyot that make use of that debate. In both, the phrase occurs only in the anonymous stratum of the Talmud. At

46. These statements are also similar to the ruling in the Yerushalmi, discussed above, that one need not get out of bed to recite the evening prayer, the difference being that these passages in the Bavli reference the distinctively Babylonian(/Zoroastrian) practice of wearing a belt. On the significance of belts for the Zoroastrian culture in which the Bavli was produced, as well as the concomitant importance in the Bavli, see Shaul Shaked, "'No Talking during a Meal': Zoroastrian Themes in the Babylonian Talmud," in *The Talmud in Its Iranian Context*, ed. Carol Bakhos and M. Rahim Shayegan (Tübingen: Mohr Siebeck, 2010), 165–71, and Jason Mokhtarian, *Rabbis, Sorcerers, Kings, and Priests: The Culture of the Talmud in Ancient Iran* (Berkeley: University of California Press, 2015), 55–57.

47. See Halivni, *Mekorot u-mesorot*, 4:24, who suggested effectively the opposite, i.e., that the words "these Babylonian colleagues" were a later addition to Ze'iri's preexisting statement. Halivni argued thus, however, because at that point in his project, he assumed that Ze'iri's claim was *based on* the preceding anonymous resolution attributing Rabbi Ḥanina's limitation about belts to Babylonians. (In the same passage Halivni then backs off of this suggestion, because at that point he thought that an anonymous passage of the "they do not disagree" sort could indeed be quite early.) It seems far more likely to me, however, that the anonymous resolution of Rav and Rabbi Ḥanina's interpretations of the mishnah in fact derives from Ze'iri's statement itself, with its distinctly Babylonian flavor and its explicit limitation to "Babylonian colleagues." See the commentary *Sefat 'emet* here, which asks the good question (to which it offers an unsurprisingly convoluted answer) why no one makes the parallel derivation from Rav's statement that once someone has washed prior to eating, such a person is exempt from Ma'ariv according to R. Yehoshua! My answer is simple—the development went in the other direction, i.e., Rabbi Ḥanina was derived from Ze'iri, rather than the other way around.

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B. Berakhot 4b, the debate appears in the anonymous layer of a sugya commenting on a baraita:

> As was taught in a baraita: The sages made a fence for their words … and anyone who transgresses the words of the sages is culpable to death.
>
> [Aramaic]: What is different in every [other] place, where it does not teach "culpable to death," and what is different here that it teaches "culpable to death?"[48]
>
> If you want, say it is because of the compulsion of sleep,[49] or if you want say it is to rule out the one who says that the evening prayer is optional [*tefillat 'arvit reshut*]—it teaches us that it is obligatory.

Here, the anonymous voice makes use of the debate about the obligatory status of the evening prayer to explain an unusual locution in the baraita. The extreme formulation that someone who transgresses any rabbinic detail merits the death penalty, the anonymous voice here argues, serves to emphasize that Ma'ariv is indeed mandatory, despite the existence of a lenient view. Without making broad assumptions about the dating of the anonymous layer of the Bavli, we cannot say with any confidence when the anonymous editor made use of the debate between Rabbi Yehoshua and Rabban Gamliel. Nonetheless, the usage quite clearly is not ascribed to any Amora.

The debate appears as well at B. Yoma 87b. Here we return again to the debate about the relationship between Ma'ariv and Ne'ilah:

> Rav said: Ne'ilah exempts Ma'ariv.
>
> [Aramaic]: Rav is in accordance with his [other] opinion, for he said that [Ne'ilah] is an additional prayer,[50] and since one has prayed it, no more is needed.
>
> But did Rav say thus?[51] Did not Rav[52] say that the law follows the one who says that the evening prayer is optional?
>
> He was articulating a position according to those who say obligatory.

Once again, the anonymous voice invokes the debate about the status of Ma'ariv—this time, specifically Rav's having ruled in accordance with the lenient view—to engage with an earlier source, in this case Rav's statement that recitation of the Ne'ilah prayer fulfills one's obligation in the evening prayer. Once again, no later Amora cites the debate—either in its tannaitic guise (i.e., the debate

48. In MS Paris 671, the latter phrase appears with a slight modification ("what is different here that it teaches 'anyone who transgresses the words of the sages'"), but perhaps more important, these words have been marked in the manuscript for deletion.

49. The phrase is missing in MS Paris 671 and has been added in the margin.

50. MS New York - JTS Rab. 218 (EMC 270) has here: "[Rav is] in accordance with the view of the one who says it is an additional prayer.…"

51. MS Munich 6 has here: "What is its purpose?" (למה לי), which in context is simply a different formulation of the same idea. No such phrase appears in MSS JTS 218, Oxford 23, and Munich 95.

52. MS Oxford 23 has "Rav Papa" in lieu of "Rav."

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between R. Yehoshua and Rabban Gamliel) or its early amoraic form (Rav and Shmuel). Also important, this anonymous Babylonian voice makes clear that "optional" in this debate truly means optional—unlike the Yerushalmi's Rabbi Ḥanina, who equated the view of Rav regarding Ne'ilah with the lenient view regarding Ma'ariv generally, the anonymous voice here views these positions as being in tension with each other precisely because it assumes a powerfully lenient position regarding the evening prayer.

Perhaps significant as well is the fact that in one manuscript of the passage from Yoma, the anonymous voice refers not to Rav as the amoraic sponsor of the view that the evening prayer is optional, but rather to Rav Papa. I noted above that a very small minority of textual witnesses to B. Berakhot 27b present the middle-generation amoraic sages Rava and Abbaye, rather than Rav and Shmuel, as disagreeing about which tannaitic view to follow. Given Rav Papa's close relationship to Rava, perhaps this reading of B. Yoma 87b represents another example of a later dating of the debate, not to Rav and Shmuel, but rather to middle-generation Amoraim (Rava, Abbaye, Rav Papa). Taking this version of the debate more seriously leads to the following summary:

1. A debate about Ma'ariv attributed to the tannaitic sages R. Yehoshua and Rabban Gamliel appears in no tannaitic corpora, but in both Talmuds.
2. In the Yerushalmi, this tradition is referred to as a Babylonian tannaitic teaching. In the Bavli, it appears in a memra of the first-generation Babylonian sage Shmuel with no markers of tannaitic origins. (Though the story based on it and which follows it in the Bavli is indeed marked by the term תנו רבנן.)
3. Babylonian Amoraim also debate the issue, though there is some ambiguity as to whether these are early or middle-generation figures.
4. The debate is referred to in three other locations in the Bavli (nowhere else in the Yerushalmi). In two of those cases, it appears clearly in the anonymous layer of the sugya, while in the third, though it is couched as part of an Amora's statement, it is likely a later, anonymous interpolation.

If one were to take the attributions of the debate at B. Berakhot 27b seriously as locating the debate in tannaitic times and then being rearticulated by first-generation Amoraim Rav and Shmuel, it is striking that nowhere in the Bavli do we find later Amoraim referencing it. The case of Ma'ariv as an optional prayer thus may offer partial support for Cohen's finding that traditions asserted in rabbinic texts to be early (i.e., tannaitic) and Babylonian are in fact not evidence for an independent Babylonian tannaitic tradition. Assuming that the attributions to Shmuel and Rav in most of the witnesses of the Bavli are correct, the assignation of a lenient view to Rabbi Yehoshua dates back to the earliest stratum of amoraic Babylonian authorities, but there is no reliable evidence that it stretches back earlier than that. What is more, the lack of later amoraic sages commenting on this tradition, as well as the possible ambiguity about whether early-generation Amoraim (Rav and Shmuel) or middle-generation figures (Rava, Abbaye, and Rav Papa) articulated it, hints that the origins of this tradition were even later.

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However, unlike the examples that Cohen has considered, which he argued all had their origins in Palestinian teachings, this tradition does appear to be decidedly Babylonian, both in its origins and in its association in the eyes of early Amoraim in both Babylonia and Palestine.[53] Perhaps further consideration of תנויי תמן passages in the Yerushalmi will shed light on whether this finding is generalizable.

Why Babylonia?

Until now I have argued that the idea that the evening prayer is optional has its roots in amoraic Babylonia and was influential primarily, if not uniquely, there. Though Rabbi Yehoshua's opinion that Ma'ariv is not obligatory appears once in the Palestinian Talmud, it appears to have been fairly inconsequential in amoraic Palestine. Indeed, the lone Palestinian sage to relate to the debate in the Yerushalmi, Rabbi Ḥanina, apparently interpreted it to mean that "optional" does not truly mean obligation-free, since he aligned this position with the view that recitation of Ne'ilah exempts one from reciting Ma'ariv. By contrast, Rabbi Yehoshua's position appears three additional times in the Bavli. Significantly as well, when the Bavli presents the locus classicus for the debate at B. Berakhot 27b, it connects Rabbi Yehoshua's view to the mishnaic phrase אין לה קבע, thus implying that the Mishnah's editing has preferred his position. In effect, then, Palestinian rabbinic culture assumed a thrice-daily prayer practice, reporting but marginalizing as foreign a position that would exempt a Jewish adult from reciting the evening prayer; in amoraic Babylonia, the lenient view was at minimum a viable option, and seems even to have been preferred.[54] Are there reasons why a notion of twice-daily prayer should develop and hold greater sway specifically in rabbinic Babylonia?

Though our data are too sparse to be particularly definitive, external factors are relatively unlikely to be at work in this case. Zoroastrians participate in neither twice- nor thrice-daily prayer, but rather have five daily prayer services.[55] What is more, the evidence from early Christian communities is decidedly ambiguous in its bearing on this question. The Didache mandates recitation of the Lord's Prayer three times a day (8:3).[56] Even leaving aside the complicated questions

53. By contrast, see Cohen's rejection of the possibility that the "halakhic traditions found in baraitot ascribed to Shmuel in the two Talmuds (Tanna D'Bei Shmuel, Tannei Shmuel, or Matnita DeShmuel) … reflect a Babylonian tradition that originated in the pretalmudic period, *or even a Babyonian tradition from a later period*." Cohen, "In Quest of Babylonian Tannaitic Traditions," 139–41, emphasis added.

54. Though note that the anonymous voice at B. Berakhot 4b, by invoking the debate to explain the hyperbolic language of a baraita, implies that the author of that allegedly tannaitic text wrote as he did precisely to reject Rabbi Yehoshua's leniency. Still, the Babylonian trend is clear.

55. Mary Boyce, *The Zoroastrians: Their Religious Beliefs and Practices* (London: Routledge, 2001), 32–33. Boyce does note that the pre-Zoroastrian pagan Iranian prayer practice seems to have been thrice-daily prayer. Perhaps Zoroastrian distaste for this earlier practice would have encouraged Babylonian rabbis to jettison their own thrice-daily prayer system, but this is wildly speculative.

56. Indeed, some have seen this as a Christian replacement for earlier Jewish forms of prayer; see Wayne A. Meeks, "Social and Ecclesial Life of the Earliest Christians," in *The Cambridge History*

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of how to treat this possibly first-century work of ambiguous geographical origins and its significance for different Christian communities in antiquity, the Didache's call to thrice-daily prayer could easily lead one to competing narratives. Would Babylonian rabbis have abandoned their own tradition of statutory prayer three times a day so as to differentiate themselves from local Christians? Or would they be more likely to embrace this practice, feeling emboldened by similar practices among their neighbors? Either is conceivable, and thus the possible influence of local Christians, while plausible, remains a thoroughly ambiguous datum. What is more, a number of early Christian works, including the Didascalia apostolorum, another work with connections to ethnically Jewish Christians, mandate prayer seven times a day!

A more promising route for thinking about the Babylonian move towards a twice-daily model of prayer is considering it in the internal context of Israelite and Jewish models of statutory prayer. The Hebrew Bible presents at least two different paradigms for daily worship.[57] The cultic service requires twice-a-day offerings, morning and afternoon (Numbers 28:4, 8). Similarly, Deuteronomy 6:4–9 implores the reader to "speak" some set of words when lying down at night and rising up in the morning, a set of verses that, though understood variously in Second Temple times, by the earliest rabbinic texts already refers to a liturgical recitation twice daily.[58] Both of these produce a twice-a-day model of prayer.

At the same time, at least two biblical texts seem to allude to thrice-daily prayer. I discussed above T. Berakhot 3:6, which cites Psalms 55:18 ("Evening, morning, and noon, I complain and moan, and [God] hears my voice") as grounding thrice-daily prayer. Though the verse likely is not discussing regular prayer—"complaining" and "moaning" sounds more like spontaneous communication with the divine, and "evening, morning, and noon" may well be a turn of phrase intended to mean "all day long"[59]—a reader with a thrice-daily prayer life could easily retroject their own practice back onto the verse. And indeed, Daniel 6:11 features Daniel going to pray three times a day in accordance with his custom, an unambiguous reference to daily prayer, and one that fits well with a more literal reading of Psalms 55:18.[60]

These passages led Michael Weitzman to speculate about the concurrent development of a thrice-daily prayer cult developed by "Levites in the provinces"

of Christianity, vol. 1, *Origins to Constantine*, ed. Margaret M. Mitchell and Frances M. Young (Cambridge: Cambridge University Press, 2006), 168.

57. "At least," because Ps 119:164 refers to praise seven times a day, leading to the Christian tradition mentioned in the previous paragraph. See Sarit Kattan Gribetz, "The Shema in the Second Temple Period: A Reconsideration," *Journal for Ancient Judaism* 6, no. 1 (2015): 77 n. 64.

58. For a recent consideration of the antiquity (or not) of this practice, see Kattan Gribetz, "Shema in the Second Temple Period."

59. Though one could also say the same about the contextual meaning of Deuteronomy 6:7. On this point, see Kattan Gribetz, "Shema in the Second Temple Period," 76.

60. Note that many commentaries posit a connection between the verse in Daniel and that in Psalms; see, for example, the commentary of Louis F. Hartman, *The Book of Daniel*, AB 23 (Garden City, NY: Doubleday, 1978), 199.

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alongside the twice-a-day practice of the temple.[61] We need not accept the precise details of his suggestion to see how biblical readers could derive two different schema for daily prayer, one with three prayers a day, and the other with two. We can also see how twice-daily prayer would be more closely associated with the temple and cultic practice, while the model of praying three times a day would have fewer cultic associations.[62]

The tannaitic paradigm of prayer three times a day can be read as an expansion of that biblical model—a move already made by T. Berakhot 3:6, which cites not only the verse from Psalms, but also Daniel 6:11, and which appears as well in both the Palestinian and Babylonian Talmuds.[63] The more cultic, twice-daily model found its own inheritors in the texts of the Qumran community, which mandate prayer morning and evening.[64]

Weitzman, assuming that separation from the cult would also mean a greater interiorization of religious expression, suggested that the thrice-daily model of statutory prayer would have been stronger in the Diaspora and with groups less tied generally to cultic sacrifice.[65] Indeed, the Qumran community, for all of its critiques of the central Jerusalem temple, reflects a prayer practice and discourse that keeps an ideal temple service at the core.[66] And yet, in the context of rabbinic

61. Michael Weitzman, "From Judaism to Christianity: The Syriac Version of the Hebrew Bible," in *The Jews among the Pagans and Christians: In the Roman Empire*, ed. Judith Lieu, John North, and Tessa Rajak (London: Routledge, 1992), 166.

62. Ginzberg also suggested this connection between a twice-daily prayer regimen and temple associations, writing that "it is possible that those sages who were opposed to the establishment of an obligatory evening prayer were concerned lest this result in a forgetting of the commemoration of the cult from the heart of those praying … were they to pray three obligatory prayers, this would weaken the connection between 'the service of the temple' and the 'service of the heart'" (*Perushim*, 3:171). This association is even stronger if one accepts Kattan Gribetz's suggestion that the adoption of the Shema as a standard daily liturgical practice was in fact a rabbinic expansion of a temple-based practice ("Shema in the Second Temple Period").

63. Y. Berakhot 4:1 (7a); B. Berakhot 31a. Richard Sarason, "The 'Intersections' of Qumran and Rabbinic Judaism: The Case of Prayer Texts and Liturgies," *Dead Sea Discoveries* 8, no. 2 (2001): 180, quite reasonably suggests another possibility (alongside a suggestion similar to Weitzman's, i.e., "an earlier custom"): that the thrice-repeated prayer results from "a conflation of two twice-a-day liturgies, the diurnal cycle and sacrificial cycle." Though these two possibilities are not mutually exclusive—both factors could have contributed to the tannaitic prayer system—the rabbinic testimony that the biblical tradition of thrice-daily prayer was a factor in their own conception of their prayer practice surely should have some significant weight in this conversation.

64. 1QS IX, 26–X, 3; 4Q503; and Jubilees 6:14, a text the significance of which to the Qumran community is well known.

65. Weitzman, "From Judaism to Christianity," 166.

66. Pace Richard Sarason, who points to the timing of prayer in Qumran texts—morning and nighttime, rather than the late afternoon/dusk mandated by Numbers 28:4, 8—as indicative of Qumranic concern specifically for "the diurnal cycle of the sun, i.e., to the cosmic calendar" rather than "the times of sacrifices in the (fatally tainted) Jerusalem Temple" ("'Intersections' of Qumran and Rabbinic Judaism," 179). First, note that the difference between sunset and the biblical בין הערבים is not that great (the difference between "afternoon" in Numbers 28 and the rabbinic standards for the afternoon prayer perhaps creating some confusion here). More important, see, for example, the language in 1QS IX, 4–5, "the offering of the lips in compliance with the decree will be like the pleasant aroma of justice

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literature, it is precisely the diasporan community of Babylonia that pushes in the direction of a "return" to a cultic model of prayer. Perhaps this turn reflects a greater antiquarianism and desire to reflect temple practices more closely on the part of Babylonian Amoraim.[67]

The historical reconstruction offered here rules out another narrative for describing the origins of the debate about the status of Ma'ariv. Ginzberg suggested that "those who said that the evening prayer is optional … were seizing on an ancestral custom; just as in temple times they established for them as an obligation only two prayers, parallel to the two regular offerings, so too after its destruction they did not see a reason to add another obligatory prayer."[68] However, I have argued here that leniency regarding the evening prayer was a Babylonian innovation, rather than a doggedly persistent "ancestral custom." What is more, given my description of this debate as reflecting a Babylonian-Palestinian divide in the amoraic period, the reference in the book of Daniel to thrice-daily prayer specifically in Babylonia argues against viewing Ma'ariv-as-optional as the preexisting practice of this community. Our only evidence for some kind of pretalmudic "ancestral" practice in Babylonia describes a thrice-daily prayer model. Rather, the possibility of eliminating Ma'ariv and moving towards semidaily prayer, though nostalgic for the temple, was inventive rather than ancestral.

* * * * *

The debate of Rabbi Yehoshua and Rabban Gamliel about Ma'ariv is likely one of the best-known legal disputes in rabbinic literature. Yet, the existence in tannaitic Palestine of a view such as that attributed to Rabbi Yehoshua—that the evening prayer should be only optional—is exceedingly unlikely. The opinion

[ותרומת שפתים למשפט כניחוח צדק] and the perfectness of behaviour will be acceptable like a freewill offering" (Florentino García Martínez and Eibert J. C. Tigchelaar, eds. and trans., *The Dead Sea Scrolls: Study Edition* [Leiden: Brill, 1997], 1:91), which appears shortly before the injunction in that work to pray morning and nighttime. Clearly, the prayer-sacrifice connection was significant in this community, and their disdain for the real-life practices of the contemporary temple did not diminish this value for them.

67. I have already cited Kattan Gribetz's suggestion that the very practice of twice-daily recitation of Shema reflects tannaitic interest in the temple; on the importance of temple discourse in the very self-construction of the rabbis, see Naftali S. Cohn, *The Memory of the Temple and the Making of the Rabbis* (Philadelphia: University of Pennsylvania Press, 2012). Such an explanation also coheres well with the continued Babylonian engagement with Seder Kodashim, despite their both chronological and geographical distance from the temple. Still, a uniquely Babylonian interest in the temple cult is a difficult case to make as an explanation for the Babylonian-Palestinian divide with regard to Ma'ariv, given the clear interest of Palestinian rabbis in the temple and cultic ritual. Note also that Yaakov Sussman has argued that the absence of a Yerushalmi on Seder Kodashim does not seem to suggest that Palestinian Amoraim treated that material differently from those orders on which we do have extant tractates of Palestinian Talmud ("Sugiyot bavliyot li-sedarim zera'im ve-tohorot" [PhD diss., Hebrew University, 1969]), such that even that datum does not likely indicate a different stance towards temple antiquarianism between Babylonians and Palestinians.

68. *Perushim*, 3:170.

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finds no expression in the Mishnah, Tosefta, or tannaitic midrashim, and these tannaitic corpora in fact generally reveal an assumption of a thrice-daily prayer practice. Views attributed to Rav and Rabbi Yoḥanan in the Talmuds are consistent with what we find in those tannaitic works as well.

The origins of this tradition are reflected as well in the technical presentation of the debate in the two Talmuds. Although the Babylonian Talmud presents the story in which the debate features as a baraita, introduced with the phrase תנו רבנן, it appears in the Bavli as an independent legal statement attributed to the first-generation Babylonian Amora Shmuel. Similarly, the Yerushalmi marks this tradition as distinctively Babylonian, with the Babylonian-affiliated sage Rabbi Yaakov b. Aḥa introducing it with the formula תניי תמן and thus attributing it to the rabbinic community of Babylonia. In this case, these attributions appear to be significant, testifying meaningfully to the Babylonian origins of the debate between Rabbi Yehoshua and Rabban Gamliel.

Although most witnesses to the Bavli present the first-generation sages Rav and Shmuel as already debating which tannaitic view to follow, there is some reason to be skeptical of this particular attribution, especially in light of the contradiction between Rav's opinion in favor of Rabbi Yehoshua and his many positions, in both Talmuds, that assume an obligation in Ma'ariv. In any event, in the Bavli, the debate is engaged with and used in other contexts only by the anonymous voice. All of this makes the possibility that this debate represents a pre-amoraic Babylonian tradition relatively unlikely.

Finally, although I am unable to identify the factors that made a twice-a-day prayer regime more appealing in rabbinic Babylonia than in Palestine, external factors are likely not helpful as an explanation. Rather, the relationship between these two different models of daily prayer to the temple service is a more fruitful avenue for considering these legal developments; the Babylonian interest in twice-daily prayer likely reflects a growing interest in connecting prayer to memories of the cult. Further exploration of this particularly Babylonian interest may well provide the necessary context for understanding the creation of the view attributed to Rabbi Yehoshua.

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