Since the era of the Geonim, through the many authors of Introductions and methodological manuals for Talmudic study, a large portion of Talmudic research has been concentrated on questions of terminology. By means of a careful examination of the use of the more and less common technical terms, scholars try to enter into the minds of the redactors of the Talmud, to establish the structure of the sugyah according to its various strata, and even to distinguish between its different constituent sources. In the present study I will discuss one particular type of Talmudic source; namely, the cases that are cited in the Babylonian Talmud. The conclusions of this paper will be based on an examination of all the relevant material found in TB Tractate Neziqin (B.Q., B.M. and B.B.). All examples will be drawn from this tractate.

The question of terminology can be viewed in the light of some central methodological problems: It is clear that not all the cases found in TB reached the last redactors through the same channels. A large part was apparently preserved in court archives, but not all the material comes from courts, and it is reasonable to suppose that

1) Most of the material in this article is derived from my M.A. thesis on Case Citation in the Babylonian Talmud, written under the direction of Prof. E. S. Rothenthal of the Talmud Dept., Hebrew University, Jerusalem.

The abbreviations employed here are mostly conventional ones; the following however should be noted:

DS to Kath.—The Babylonian Talmud with Variant Readings etc., Tractate Kethuboth, ed. M. HERSHLER (2 vols.) Jerusalem 1972-77.

References to the Sheiloth are to standard editions unless otherwise indicated.
there were in the Academies other sorts of collections that included various kinds of cases. It is not always easy to distinguish between native Babylonian sources and sources involving Babylonian scholars that in fact reached the TB via the Palestinian Talmud. With respect to questions such as these, there is an obvious importance to the study of the terminology and literary forms of the cases. Perhaps we will succeed in isolating some external signs, by means of which we shall be able to distinguish between the different sources of the cases in TB and to determine which belong to court records, which to collections of exempla of scholars, which sources were composed in Babylonia and which in Palestine, etc.

At first glance, it appears possible to describe a prototypical formula of a case whose origin is the Babylonian Jewish court. The pattern goes: "hhw’ gbr’ [hby’ytt’] ... ’r’ [’r’y’tw] lqnyh drb X ...”—"A certain man [woman etc.] ... He [She etc.] came before Rab X etc.”

It would seem that the consistent use of this pattern would point to a common literary source 2). Cases of this type are almost always self-contained literary units, and can be understood even when removed from their present contexts in the Talmudic sugyoth. (This is not so, for example, in the cases which use the expressions “hwj wbd” or “R. X ‘bd wbd”—where the formulation of the cases is such that they have no meaning outside the broader literary context). It would seem that cases using the above pattern emanate from a common source.

Unfortunately, it is easy to see that many cases that conform to this typical pattern do not in fact come from Babylonian courtrooms. Among them are some aggadic tales, and also some Palestinian cases. For example, B.M. 60b: “A certain old slave ... came before Raba ... came before R. Pappa etc.”; B.B. 9a: “A certain poor man ... who came before R. Pappa etc.”—In both instances we are dealing with aggadic stories unconnected to the courts or to judicial questions. The same phenomenon occurs in Palestinian cases, as in B.Q. 90b: “A certain man boxed ... came before R. Judah Nesi’a”; B.B. 33b ff.; and many others. In none of these cases do we find formal differences to distinguish the Palestinian from the Babylonian

2) It is interesting to compare the earliest Hebrew translations of these Aramaic formulas. In the Geonic Hilkboth Re’nu the translator uses the customary Tannaitic formula “m’sh b’hd ... b’[pny r. X,]” instead of his usual literal renderings. Sefer Wehizhir employs a number of different equivalents: “hwj isr mnhb” (II, p. 27a); “bwj sw” (II p. 9a); “wmrm hkmym bkh lm’sbh” (II p. 107a); “wbr bkh lm’sbh” (I p. 55b); “m’sh b’dm ’bd” (II p. 107a); “m’sh bshb ’bd” (II p. 76b), etc.