

The Making of the Mishnah and the Talmud

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THE TALMUD that is studied today is the climax of a long process, close to a millennium, of transmission and study of Jewish traditions pertaining to virtually every aspect of life. This document, as presently constituted, consists of materials formulated and collected over that entire period and later copied and printed. At the core of the Talmud is the Mishnah, an earlier Jewish code of law, or better, curriculum for the study of the law, redacted in about 200 C.E. by Rabbi Judah the Prince. Two Talmuds, that is, compendia of analysis, expansion, and interpretation, grew up around the Mishnah. An Aramaic term for Talmud, which has become more common today, is Gemara, literally “teaching.” This term was for the most part introduced into the talmudic text by Christian censors who for some reason abhorred the term Talmud.¹ Today, many speak of the Talmud as containing two parts, the earlier Mishnah and the later Gemara. While not technically accurate, this usage is now normative among most students of the Talmud. The Jerusalem Talmud was closed in Tiberias in the fifth century C.E. but the Babylonian Talmud continued to develop until virtually the eve of the Moslem Conquest of Babylonia in 634 C.E. For a variety of reasons, the Babylonian Talmud attained normative status and became the basis of the future of Jewish life, law, and philosophy in medieval and modern times. In what follows we will trace the development of the Mishnah and Talmuds in Late Antiquity and follow the rise of the Babylonian Talmud to its preeminent position.²

After the destruction of the Jerusalem Temple in 70 C.E., certain adjustments had to be made regarding Jewish law and especially modes of worship. The period beginning with the restoration of approximately 80 C.E. saw one of the most fundamental changes wrought in Jewish study and learning that set the stage for the future. This is the period in which the Mishnah was compiled and in which many other tannaitic traditions took shape. The fundamental change involved here was that the oral Torah gradually evolved into a fixed corpus of its own. This corpus eventually rivaled the written Torah as the object of Jewish study, at least for rabbinic Jews. This process may be seen as the culmination of the attempts of the *tannaim* (the teachers of the Mishnah) to make their traditions the way of the future. The redaction, or collection and editing, of the Mishnah, and the subsequent rabbinic compositions, ultimately made possible the expansion of talmudic Judaism to virtually the entire Jewish population in the early Middle Ages.

From Pharisees to Rabbis. Inherent in the later traditions, and indeed, in most modern scholarly treatments, is the belief that the pharisees bequeathed their traditions to the *tannaim*.³ The terms “pharisees” and “*tannaim*” overlap in their

1. See W. Popper, *The Censorship of Hebrew Books* (New York: Ktav, 1969), pp. 1–130.

2. The subject of this paper, and its historical background, has been dealt with in greater detail in L.H. Schiffman, *From Text to Tradition: A History of Second Temple and Rabbinic Judaism* (Hoboken, NJ: Ktav, 1991), pp. 98–269. Many of the sources have been assembled in *Texts and Traditions: A Source Reader for the Study of Second Temple and Rabbinic Judaism* (Hoboken, NJ: Ktav, 1998), pp. 130–761.

3. J. Neusner, *From Politics to Piety: The Emergence of Pharisaic Judaism* (2nd ed.; New York: Ktav, 1979), pp. 1–154.

chronological dimensions. We speak of pharisaic Judaism as emerging already in the early Hasmonean period, c. 135 B.C.E., and continuing up to the destruction of the Temple in 70 C.E. when it was succeeded by tannaitic Judaism. Yet this transition was not an immediate, sudden break. In order to understand this development we must ask: Is there a difference between the pharisees and the *tannaim*?

The pharisees were lay sages of the Torah who were only informally organized. Even before the days of Hillel and Shammai, the pharisees had made their own transition from a political force within the Hasmonean coalition, basing itself on a particular interpretation of Judaism, to a group of religious leaders seeking to teach their approach to the people at large. They did not see their function as the collection, arrangement, or passing on of traditions, or as that of an organized bureaucracy. The *tannaim*, on the other hand, involved themselves in the systematic collection and transmission of traditions, eventually culminating in the redaction of the Mishnah. The very name, “*tanna*,” is Aramaic for a memorizer and reciter of traditions. They belonged to more formalized schools (sometimes academies) than those of the earlier pharisees, and they sought to expand and to organize these schools.

The evolution from the era of the pharisees to that of the *tannaim* required time to allow for necessary innovation as well as internal organic development. The desire to gather traditions and standardize Judaism was brought about by the First Jewish Revolt against Rome (66–73 C.E.), and by the notion that the failure of the revolt was partly the result of the sectarian strife that plagued the Jewish people in the years leading up to the revolt and even during the war itself. Various external causes were also at work fostering this change. The tendency towards more organized schools replacing the informal circles of pharisaic times was encouraged to some extent by the new status the tannaitic academy gained at the hands of the Roman overlords.⁴ Likewise, the rise of a bureaucracy, and the role of *tannaim* as judges throughout the land resulted from this new situation. Finally, the desire to collect and preserve traditions is always strengthened in periods after wars and catastrophes, a pattern that can be observed repeatedly in the ancient Near East.

Written and Oral Torah. One of the basic premises on which the tradition of the *tannaim* is based is the concept of the two Torahs, oral and written, which, the rabbis taught, were given by God to Moses on Mount Sinai. According to the rabbinic view, these two Torahs were complementary. The oral Torah was understood to provide the interpretations and explanations that made possible the application of the written Torah as a way of life. Therefore, the two Torahs are of equal status and authority. Further, the accuracy of the transmission of the teaching of either of these two kinds of Torah is seen to depend not only on the correctness of the contents, but also upon the mode of transmission. The *tannaim* make clear that to be considered authentic, a tradition needs to be transmitted in the way it was believed to have been given at Sinai. Therefore, it was required that

4. H.L. Strack and G. Stemberger, *Introduction to the Talmud and Midrash* (Edinburgh: T. & T. Clark, 1991), pp. 9–16.

the written Torah be taught from a scroll while the oral law had to be recited orally by the *tanna*.

The history of the oral law concept is complex. Its earliest attestation is found in Josephus’ accounts of the pharisees. He asserts that

the pharisees possessed ancient traditions, which they had inherited from past generations. These traditions, combined with ancient customary law as well as with the emerging midrashic exegesis that was developing in the Second Temple period, provided the basic content of what the rabbis later called the oral law. At some point between the later first century B.C.E. and the first century C.E., the notion began to be expressed that the oral law, along with the written, had been given at Sinai. This development has been explained by some scholars as the result of a desire on the part of the rabbinic authorities who assembled at Yavneh after the destruction of Jerusalem by the Romans in 70 C.E. to solidify their authority by claiming divine origin for their own traditions. Actually, such ideas were developing naturally as the various approaches to Judaism in the Second Temple period strove to provide the written law with an appropriate supplement to make it possible for the Torah to serve as a genuine way of life in the Greco-Roman period. In pharisaic-rabbinic Judaism, this was accomplished by the oral law.⁵

This idea allowed pharisaic Judaism, and, later, the rabbinic tradition, to develop organically. It provided the basis for the assertion of continuity in talmudic Judaism, an assertion maintained even in the face of numerous adaptations and adjustments. For in the view of the rabbis, it was as if there were no changes. All later developments had already been commanded as part of the Sinaitic revelation.

Talmudic tradition has always assumed that the notion of two Torahs having originated on Sinai went all the way back in time. Modern scholars have come to question this assumption.⁶ In any case, firm evidence shows that this concept was fully developed by the aftermath of the revolt. By that time, appeals to the Sinaitic origin of laws were heard, although the notion of a dual Torah and dual revelation was not nearly as prominent as one might expect. It is clear, then, that this was an idea that was developing in pharisaic times, and the “unwritten laws of the fathers” were an earlier stage in the development of this concept. In the period leading up to the destruction, this idea was becoming more prominent so that when rabbis wanted to guarantee the authority of their teachings in the difficult years after the revolt, when the support of the *am ha-aretz* (people at large) was so important, they appealed to the divine origin and nature of the oral law on a few occasions. Only in amoraic times was the full midrashic basis for these ideas worked out by the rabbis who asserted that the oral Torah and its authority were mentioned in the written law. In this case, though, the transition cannot be understood as the result of external political affairs. It resulted from an organic trend in Judaism that developed in a manner consistent with the needs of the times. Indeed, this is the manner of most development and change in Judaism, the unique contribution of the pharisaic heritage.

The Tannaitic Academies. In order to understand how this transition took place, and how the tannaitic corpus developed, some explanation of the history and function of the tannaitic academies is necessary. Yet we must caution that the term academies may be anachronistic. This word conjures up an image of institutions in which there is an academic bureaucracy, a system of funding, and some kind of physical premises. It is not clear that *tannaim* always worked under such ideal condi-

5. Ibid., pp. 35–49; S. Safrai, “Oral Tora,” in *The Literature of the Sages: First Part: Oral Tora, Halakha, Mishna, Tosefta, Talmud, External Tractates*, ed. S. Safrai (Assen/Maastricht and Philadelphia: Van Gorcum and Fortress Press, 1987), pp. 35–119.

6. J. Neusner, “Rabbinic Traditions about the Pharisees before A.D. 70: The Problem of Oral Transmission,” *Journal of Jewish Studies* 22 (1971), pp. 1–18.

tions. Although the patriarchate (the Jewish self-governing entity that functioned under Roman rule) sponsored the high court (Sanhedrin), it is not totally certain how academies were organized and who actually funded them. It is also not clear that they had specific premises. They may have met in synagogues or other available facilities. At the same time, it should be noted that in tannaitic sources we already encounter houses of study along with the synagogues. Such evidence tends to support the claim that specific buildings (a physical plant in modern parlance) and more organized institutions already existed in the mishnaic period. Among the duties of the *nasi* (patriarch) was the maintenance of the academies, which were led by a designated *av beit din* (head of the court). The power of the two officials was not constant, however, and there is evidence for occasional disagreement and even strife between them.

Traditionally, a scheme of generations has been used since the Middle Ages to classify the *tannaim* and to trace their history. The actual *tannaim* were preceded by a series of pharisaic sages known as *zugot* (pairs), those who are reported to have served as *nasi* and *av bet din* during the Hasmonean and Herodian periods. These culminated in Hillel and Shammai, said to be the last pair, who were followed by the first generation of *tannaim*, consisting of the Houses of Hillel and Shammai, the two major schools. These figures were prominent immediately before and after the First Revolt and included most notably Rabban Gamaliel I, mentioned in the New Testament, Simeon ben Gamaliel I, who probably died in the revolt, and Rabban Yohanan ben Zakkai, credited with reorganizing the academy at Yavneh after the destruction of Jerusalem.

The second generation functioned after the revolt, from about 90–130 C.E. at Yavneh. Among these sages were Rabban Gamaliel II, who led the academy at Yavneh after Yohanan ben Zakkai, Rabbi Eliezer ben Hyrcanus, and the slightly younger Rabbi Akiva and Rabbi Ishmael. The second generation took the lead in reconstituting Jewish life in the Land of Israel and in gathering together the traditions of their pre-70 C.E. pharisaic and tannaitic forebears.

The third generation spanned the Bar Kokhba period and its aftermath, functioning from about 130–160 C.E. These were primarily the students of Rabbis Akiva and Ishmael of the previous generation. Prominent before the Bar Kokhba Revolt were Rabbi Meir, Rabbi Simeon ben Yohai, and Rabbi Judah ben Ilai. It is probable that Rabbi Meir made strides toward the editing of the Mishnah based on subject divisions he had learned from his teacher Rabbi Akiva. The leading rabbinic figure in the restoration of Jewish life after the Bar Kokhba Revolt was Rabban Simeon ben Gamliel II, the patriarch. These scholars functioned primarily at Usha, in the Galilee, to which the patriarchal court had moved after the Bar Kokhba Revolt of 132–135 C.E.

The fourth generation covered the period of about 160–200 C.E. This is the generation of Rabbi Judah the Prince, the majestic patriarch who edited the Mishnah and whose court was at Beit Shearim in the Galilee. His contemporaries included Rabbi Eleazar ben Rabbi Simeon (ben Yohai), Rabbi Simeon ben Eleazar, and Rabbi Nathan. The fifth generation, about 200–225 C.E., are said to be semi-*tannaim*, as they were primarily younger contemporaries of Rabbi Judah the Prince, who continued their work after the Mishnah was redacted. They included Rabban Gamaliel III, himself patriarch and the son of Rabbi Judah the Prince, Rabbi Hiyya the Elder, and Bar Kappara. By this time, the center of the patriarchate and the court had shifted to Sepphoris, also in the Galilee.

Economic and social conditions in this city made it an ideal home for the sages of the Sanhedrin.

While this system of generations provides a useful framework for the chronology of the development of tannaitic Judaism, it does not adequately portray the great variety of the many tannaitic teachers, the complex interlocking student-master relationships, or the geographic diversity. Yet these are the very factors that made for the richness of the tannaitic legacy.

Midrash and Mishnah. There were two forms of study in the tannaitic period, Mishnah and *midrash*. There is a longstanding and important debate about which method of study came first. Mishnah is the study of abstract, apodictic principles of law (unconditional legal prescriptions unaccompanied by reasons or biblical sources), which only later were organized into collections according to either literary form, attribution (the name of the sage reported to have formulated it), or subject. Ultimately, the method of organization by subject became most prominent and led to the organization of the Mishnah. Some remnants of earlier systems of organization are still visible in the Mishnah, however. In the mishnaic method, scholars are assumed to have stated their legal principles and the decisions of their predecessors without making reference to the Scriptural or traditional basis for such laws or explaining, in most cases, the reasons behind the laws.

The midrashic method is that of the exposition of Scripture, the Hebrew Bible. This technique concentrated primarily on the Torah, which was the supreme authority for the midrashic method and was studied as the basic text. Scholars and students explained how specific laws derived from biblical verses or words and how these laws were to be applied. Originally, the study of the Bible was the primary method, and then secondarily there developed the method of mishnaic, apodictic formulation.⁷

As the midrashic approach developed in pharisaic circles, the amount of material supplementary to the Bible itself became greater and greater until, at some point, it was suggested that the laws themselves be formulated independently and concisely. These Mishnah-like, apodictic laws began to be studied as a separate subject, side by side with *midrashim*, as the tradition developed. By the time Pharisaism gave way to tannaitic Judaism, the two were coexistent, and *tannaim* practiced both methods.

These methods of study were both utilized in the tannaitic academies, and, hence, the materials that emerged from these academies all bear a common mark, that of accretion over a long period of time. Each generation of scholars began with the work of its predecessors and augmented it by adding and modifying. This new amalgamation of the old tradition with the new was passed down together so that a constant development was taking place. Further, as the generations continued this chain, midrashic and mishnaic materials intermixed so that one influenced, and sometimes even quoted, the other. Later mishnaic formulations emerged from continued study of the Bible, and, even in the Mishnah, one finds midrashic expansion.

Halakhah and Aggadah. Beginning in tannaitic times, two terms began to develop signifying two aspects of the emerging tradition, *halakhah* and *aggadah*. The word *halakhah* began to be used to denote Jewish law as it was understood and

7. See D. Weiss Halivni, *Midrash, Mishnah, and Gemara: The Jewish Predilection for Justified Law* (Cambridge, MA: Harvard University Press, 1986), pp. 38–65.

determined by the *tannaim* and later by the *amoraim*, the rabbis of the Gemara who succeeded the *tannaim*. This term has been explained in two ways. Many have seen it as emerging from the root הלך (“to go”). This derivation suggests the meaning “way of life,” referring to the notion that in rabbinic Judaism all aspects of life are governed by the laws of the Torah and the oral traditions passed down by the rabbis. Another view derives the word *halakhah* from an ancient Mesopotamian tax on land called *ilku* in Akkadian. This second approach would indicate that the written and oral laws together form a complex, the regulations of which are obligatory on every Jew.

In contrast, the second category, *aggadah*, known also as *haggadah* (a term later used to denote the Passover Seder text), is the part of rabbinic teaching that is not considered obligatory. *Aggadah*, derived from a verb meaning “to tell” (הגיד), consists of interpretations, stories and legends, all of which are designed to attract followers to rabbinic Judaism and to explicate its teachings and principles. Since in many matters, the *aggadah* provides differing positions on the same issues, no one position can be obligatory. Originally, this was also the case with *halakhah*, but a long process of decision-making ultimately resulted in a normative set of laws by the Middle Ages. The practical aspects of the need to determine the authoritative ruling led more and more toward standardization. Such a process never occurred in regard to the non-legal aspects of rabbinic tradition, the *aggadah*. Hence, *aggadah* continued to demonstrate greater variety than did *halakhah*.

These two aspects of talmudic tradition demonstrate the creative tension in rabbinic Judaism between the fixed and the flexible. The fixed body of law and practice is offset by the more open and non-obligatory teachings regarding which the Jew is free to disagree. This characteristic is an important principle in the later development of traditional Judaism, since it allowed the eventual standardization of most of the halakhic norms while leaving open to debate the theological underpinnings, all within certain limits that emerged from the rabbinic consensus at the end of the talmudic period.

8. See Strack and Stemberger, pp. 119–166; A. Goldberg, in Safrai, “The Mishna—A Study Book of Halakha,” pp. 211–251; J. Neusner, *Introduction to Rabbinic Literature* (Anchor Bible Research Library; New York: Doubleday, 1994), pp. 97–128. For a survey of the scholarly study of the Mishnah, see J. Neusner, *The Modern Study of the Mishnah* (Leiden: Brill, 1973). For a thorough bibliography, see B.M. Bokser, et al., “Bibliography on the Mishnah,” in *The Study of Ancient Judaism*, ed. J. Neusner (New York: Ktav, 1981), 1:37–51.

The Redaction of the Mishnah. Scholars have long debated the exact nature and history of the process that led to the redaction, arrangement, and selection of the Mishnah, the first major document to emerge from and to represent the rabbinic tradition.⁸ The Mishnah was the only major text to be redacted in the tannaitic period itself, although other texts edited afterwards in the amoraic period (200–500 C.E.) depended heavily on tannaitic materials. The Mishnah became the formative document that shaped talmudic Judaism, which in turn became the basis for the Talmuds and, subsequently, for the development of the Jewish tradition in medieval and modern times. The redaction of the Mishnah by Rabbi Judah the Prince represented the end of a process, although the extent of his contribution should not be minimized.

Most modern scholars agree that the Mishnah originated in discrete statements, some attached to specifically named authorities. Only a small part of the mishnaic material is attributed to the period before the Roman conquest of the Land of Israel in 63 B.C.E. Between then and the period leading up to the First Jewish Revolt of 66–73 C.E. are attributed materials relating to Hillel and Shammai and to the

Houses of Hillel and Shammai, the schools of *tannaim* ascribed to the students of these two preeminent sages.

With the destruction of the Temple and the shifting of the activity of the *tannaim* to centers at Yavneh, Usha, Beit Shearim, and Sepphoris, profound changes occurred in the manner by which tannaitic material was transmitted. A process began of bringing together differing views on issues into disputes, and shaping the statements to reflect the divergence of opinion. Further, mnemonic formulations become more common, as students and teachers were expected to be familiar with an increasingly large body of oral tradition. It is difficult to determine at what point in the history of the mishnaic material the process of redaction began. By redaction, we mean the gathering of diverse materials into blocks of material, assembled from disparate sources by a compiler. Among the earliest principles for the assembly of such materials, usually no larger than a chapter of the present Mishnah, were either the recurrence of a general formulary, such as “there is no difference between X and Y except Z,” or attribution to a particular sage. There is evidence in the existing Mishnah text of such earlier arrangements of small corpora of material that were ordered in this manner, rather than according to the dominant system of subject classification.

Some time after the destruction, the approach of organizing the materials by subject became prominent. This opened the way to the development of large scale “essays” on topics of law. Later tradition and many modern scholars ascribe the basic subject classification into *sedarim* (orders) and *massekhtot* (tractates) to Rabbi Akiva who flourished at the Yavneh academy c. 80–132 C.E. Whether he himself is responsible for this concept is impossible to determine with precision. Yet the large number of highly developed treatises that remain embedded in, or which even constitute, mishnaic tractates from the period between the First Revolt and the Bar Kokhba Rebellion proves that this approach, at least on the level of individual tractates, was evolving in his day. It was left for those who came after Rabbi Akiva at the academy at Usha to bring many tractates to a well-developed state.

After the Bar Kokhba Revolt, the process continued with renewed vigor. Attempts were made to gather together traditions, as often happens after a tragedy of great proportion. Thus, many more tractates began to move toward completion, while halakhic concepts developed over the years served as the basis for new organizational and redactional approaches. By the time Rabbi Judah the Prince began his work of final redaction, he had most probably inherited many almost completed tractates and a basic system of classification by orders. He completed the compilation of the individual tractates and placed them into the appropriate orders. Scholars from medieval and modern times have debated as to whether he set the Mishnah into writing at that time or if it remained an oral text until written down with the Gemara at the close of the talmudic period.

Rabbi Judah the Prince, known often as “Rabbi” in the Mishnah, the *rabbi par excellence*, did not seek to create an authoritative code of law. He provided variant rulings on many subjects, explaining that his purpose was to keep options open for later courts of greater authority and wisdom. He intended to create a curriculum for the study of Jewish law. Yet he sought to point out which rulings he favored by providing information on majority and minority status of rulings, and by indicating the greater or lesser authority of individual tradents (transmitters of tradition) and decisors whose

statements he included. He even placed materials in his text anonymously, the tradents for which he was well aware of, in order to indicate the ruling he thought was to be followed. By and large, he reproduced these views anonymously, or with the label “the opinion of the sages,” where there was an individual who dissented.

The material was organized into six orders: *Zeraim* (agricultural laws), *Moed* (holy occasions, festivals), *Nashim* (women, marriage law), *Nezikin* (damage and civil law), *Kodashim* (sacrifices), and *Tohorot* (purification rituals). Each order was comprised of a number of tractates. Today, these tractates are arranged roughly in size order within each order, at least in the Mishnah texts. The same order was later used for the *Tosefta*, and for the Babylonian and Jerusalem Talmuds. Within the six orders there are a total of sixty-three tractates.

Zeraim begins with the discussion of prayers and benedictions and then deals with produce given as charity to the poor, tithing, priestly dues, Sabbatical years, and first fruits. *Moed* deals with the Sabbath and festivals, as well as fast days and other special occasions. In most tractates emphasis is clearly on the aspects of Temple ritual associated with the holiday. *Nashim* discusses marriage, divorce, adultery, and vows. *Nezikin* prescribes the composition of the court and then deals with criminal sanctions, damage law, the requirement of keeping away from idolatry, and the problem of incorrect rulings by the courts. The tractate *Avot* (known as *Pirkei Avot*, or Ethics of the Fathers) comes near the close of this order. It includes ethical teachings aimed at the rabbinic class. *Kodashim* deals with animal sacrifices, meal offerings, ritual slaughter, violations of sancta, daily sacrifice, and the structure of the Temple precincts. *Tohorot* discusses laws of purification pertaining to vessels for food, the impurity of the dead, the skin diseases described in Leviticus, menstrual and other impurities, and the construction of ritual baths for purification.

If there is anything to be learned from this survey it is that the Mishnah reflects the full variety of the Torah’s laws, and that it is firmly anchored in a Temple-centered reality in which priests, sacrifices, and purity remain as important as Sabbath and festivals, civil law, marriage, and family. This does not mean that the Mishnah was created in the days of the Temple. Rather, it was edited in an atmosphere in which the restoration of that Temple-centered reality was still a living hope, and in which the conception of sanctity still flowed from that reality, even in its absence.

We have already noted that the oral law was believed by the *tannaim* to have been revealed by God at Sinai to Moses, alongside the written law. Therefore, oral law had to be transmitted orally, and, indeed, it was so in the tannaitic period. At the same time, evidence exists that individual *tannaim* did keep notebooks in which they listed certain oral traditions. Formal study in amoraic circles continued to be based on oral tradition. Some texts, however, were found in the hands of individual

9. S. Lieberman, “The Publication of the Mishnah,” in S. Lieberman, *Hellenism in Jewish Palestine* (Texts and Studies of the Jewish Theological Seminary of America 18; New York: Jewish Theological Seminary of America, 1962), pp. 83–99.

amoraim. The formal transition to the use of a written Mishnah as an object of teaching, study, and exegesis took place only at the end of the amoraic period or later. Rabbi Judah the Prince, however, promulgated his Mishnah in oral form, what would later constitute the basis of the Talmuds.⁹

Other Tannaitic Texts. The corpus of materials assembled in the Mishnah did not exhaust the oral traditions of the tannaitic period. Other traditions were

intentionally excluded by Rabbi Judah the Prince, and some were simply not known to him. At the same time, the “tannaitic” tradition continued to develop in early amoraic times, so that materials continued to be collected. Thus, we have the *Tosefta* (literally “the addition”), a collection of *baraitot* (external statements) that are not found in the Mishnah but are attributed to *tannaim*. Often, *Tosefta* passages contain traditions that provide material germane to the subject matter under discussion in the Mishnah.¹⁰

Dating to the same period as the *Tosefta* are the so-called “tannaitic” *midrashim*.¹¹ Their main agenda is to demonstrate the nexus of the oral and written laws and to show that the two were in reality one.¹² Therefore, these *midrashim*, arranged in the order of the Torah, present much of the same halakhic material that is found in the Mishnah and *Tosefta*. Whenever possible, the *midrashim* seek to tie each particular *halakha* directly to its Scriptural basis.

Many of the traditions included in the *Tosefta* and the tannaitic *midrashim* found their way in parallel versions into the Jerusalem and Babylonian Talmuds. Such traditions are termed *baraitot*. Not available to the rabbis of the Talmuds in their present, fully edited form, the Talmuds drew their versions of these traditions from the same unedited and unredacted sources as did the tannaitic *midrashim* and the *Tosefta*.

The development of the tannaitic corpus of learning and its eventual redaction in the Mishnah, the *Tosefta*, and the tannaitic *midrashim* placed rabbinic Judaism on a firm literary grounding. These texts, at first orally formulated and orally transmitted, argued for the integrity of the Torah, written and oral, and served as the basis of the later development of Judaism. The Mishnah, the main classic formulation of Jewish law, set the agenda for all future study of Jewish law. With the close of the tannaitic period, the later *amoraim* took this body of literature further in order to enable Judaism to survive in the new historical circumstances of the Byzantine period in the Land of Israel and the Sasanian period in Babylonia.

Amoraic Schools. During the fluctuations of Jewish fortunes in the Land of Israel and Babylonia, a loosely organized group of scholars, known collectively as the *amoraim* (“explainers” of the Mishnah) continued to expound and develop the rabbinic tradition. Between the years c. 200–425 in the Land of Israel and c. 200–500 in Babylonia, they were busy discussing and analyzing the Mishnah, *baraitot*, and midrashic traditions in a process that ultimately led to a series of redacted documents, the Babylonian Talmud (also known as the Bavli), the Jerusalem Talmud (the Yerushalmi, sometimes called the Palestinian Talmud), and the amoraic, exegetical *midrashim*.

The two Talmuds, the Jerusalem and the Babylonian, emerged after centuries of debate, study, and clarification regarding the Mishnah and the other tannaitic traditions. Within each country, groups of *amoraim* labored to understand and to develop the traditions they had received from their tannaitic forebears. Even the most cursory examination of the Talmuds will show that individual scholars did not work alone. Senior scholars taught more junior colleagues who eventually emerged as full colleagues. These senior colleagues usually had permission to adjudicate legal cases, which was

10. Strack and Stemberger, pp. 167–181; Neusner, *Introduction*, pp. 129–152; A. Goldberg, in Safrai, “The Tosefta—Companion to the Mishna,” pp. 283–302.

11. Strack and Stemberger, pp. 254–299; Neusner, *Introduction*, pp. 247–351.

12. See J. Neusner, *Uniting the Dual Torah: Sifra and the Problem of the Mishnah* (Cambridge: Cambridge University Press, 1990).

the Babylonian equivalent of the Jerusalem *semikhab* (rabbinic ordination). Scholars often were connected by shared discipleship. Yet many scholars can be shown to have studied with one master and then, often at the death of the teacher, to have become the student of another master.

At a minimum, then, it is certain that circles of teachers and students, which we, for convenience, will call schools, existed among the *amoraim*. These schools met often, perhaps daily, and had an inner hierarchy. At the death of the master they often dissolved, with students going to other masters unless a senior student had attained the status and learning necessary to carry on as the master. In such cases, some disciples would have remained. Many of the interpretations, both halakhic and aggadic, found in the Talmuds stem from such circles or schools and became prominent sometimes in both Babylonia and the Land of Israel because they were carried from circle to circle as students moved and as masters interacted. This interaction and communication is one of the causes for the many parallel passages found in the Talmuds as well as in other rabbinic texts, although redactional activity is responsible for the greatest number of such examples.

What is more difficult to confirm is the existence of actual institutions, academies, in amoraic times. Most likely in Babylonia formal structures did not exist. Since the political authority of the exilarch was separate from the religious authority of the rabbis, central institutions of learning did not develop. On the other hand, in the Land of Israel, the patriarchal academy, located for most of the amoraic period at Sepphoris or Tiberias, served as the center of much of the amoraic activity that took place. In Babylonia, there occasionally arose prominent individuals whose authority was such that their schools functioned as de facto central academies. Yet these circles appear to have made no attempt to constitute themselves so as to automatically continue into the next generation. This fact is what distinguishes these schools from full-fledged academies.

In the Land of Israel much of the activity can be safely assigned to the central academies at Tiberias, Sepphoris, and Caesarea and to other formalized institutions. It was only later in the geonic period, after the redaction of the Talmuds, that such central institutions developed in Babylonia, to some extent under the influence of the Islamic academies that were located there.

From Amoraic Interpretation to Talmudic Texts. The Talmuds are complicated texts, originally constructed orally as part of the study sessions of the *amoraim*. These study sessions were organized around the formal curriculum provided by the mishnaic tractates. In the Land of Israel and Babylonia different mishnaic tractates were selected for detailed study, with different emphases existing even within the various schools of both scholarly communities. For the most part, the Mishnah endows the Talmuds with their organizational framework.

The Mishnah was studied orally in amoraic times. A memorizer (known as a *tanna*, a teacher of the Mishnah and *baraitot*) was instructed to recite aloud the text to be studied. The discussion and analysis of that section of the Mishnah then ensued. There followed comparison and contrast with other tannaitic traditions, including Mishnah and *baraita* material, and often various digressions. Frequently, amoraic discussion of a Mishnah began with the citation of a contradiction from another Mishnah or a *baraita* and then proceeded to resolve that contradiction. Indeed, at its origin, the main activity of “Talmud” was the resolution of contradictions in tannaitic materials.

Another important aspect of amoraic analysis is inquiry into the Scriptural source (proof text)

for a particular rule. The Mishnah, virtually devoid of biblical proof texts, had separated the law from its biblical origins. The *amoraim* and the later redactors of the tannaitic *midrashim* sought to reintegrate law and Scripture to demonstrate that the written and oral laws constituted one unified revelation of God.¹³

This process continued over generations, even centuries, developing *sugyot* (talmudic discussions or essays), on specific topics. As generation after generation passed down their discussions to circles of later scholars, the discussions were augmented with the later scholars' comments and glosses. This process continued in both Babylonia and the Land of Israel into the fifth century. At this point, the development of the Jerusalem Talmud was virtually arrested by the onset of anti-Semitism, economic difficulties, and the effects of the abolition of the patriarchate in the Byzantine Empire. Subsequently, Jewish scholarship in the Land of Israel would play a secondary role until modern times. The Jerusalem Talmud and the exegetical *midrashim* were the major products of those centers.

In Babylonia, however, the developing text of the Talmud was subjected to an additional process. It was at this time that the anonymous discussion of the Talmud, the *Stam*, which weaves together and correlates all the earlier material, was intertwined in the text.¹⁴ In this way a more prolix and more easily understandable Talmud was achieved. This, indeed, was one of the several factors leading to the greater popularity and authority of the Babylonian Talmud. The redactors of the Babylonian Talmud who inserted these anonymous links and glosses also added some of the more extensive digressions, and provided the formulary introductions that allow us to identify Mishnah, *baraita*, and the statements of individual *amoraim*. In essence, it can be said that up through the end of the fifth century, the vast majority of statements preserved in the Talmuds are accompanied by attributions, which indicate the rabbis in whose names the statements are cited. Thereafter, the bulk of the material is anonymous and serves to fill in gaps and make the whole a unified, sensible creation. For this reason, there is only limited anonymous material in the Jerusalem Talmud, since its *amoraim* ceased to be active in the fifth century. In Babylonia, activity continued in the hands of the anonymous redactors. Then the final touches, including the occasional halakhic rulings ("the law is according to ...") and some philological explanations, were added by the *savoraim* (interpreters) whose work continued up to the seventh century and even later.

While we know that some individuals kept written notes, the formal activity of the *amoraim*, like that of their tannaitic predecessors, was conducted orally. There is little information about the writing down of the texts of the two Talmuds. It can only be said that written manuscripts of the Babylonian and Jerusalem Talmuds are first mentioned after the Islamic conquest in 634, and that the dissemination of these manuscripts continued throughout the Middle Ages until the rise of printing.

The Jerusalem Talmud. Although popularly known as the Jerusalem Talmud (Talmud Yerushalmi), a more accurate name for this text might be "Talmud of the Land of Israel."¹⁵ Indeed, for most of the amoraic age, Jews, under Rome and

13. Weiss Halivni, pp. 66–104.

14. Ibid., pp. 105–115.

15. Strack and Stemberger, pp. 182–207; Neusner, *Introduction*, pp. 153–181; A. Goldberg, in Safrai, "The Palestinian Talmud," pp. 303–319. Still classic is L. Ginzberg, "Introductory Essay: The Palestinian Talmud," in L. Ginzberg, *A Commentary on the Palestinian Talmud: A Study of the Development of the Halakah and Haggadah in Palestine and Babylonia*, vol. 1 (New York: Jewish Theological Seminary of America, 1941), pp. xiii–lxxii. For bibliography, see B.M. Bokser, "An Annotated Bibliographical Guide to the Study of the Palestinian Talmud," in *The Study of Ancient Judaism*, ed. J. Neusner (New York: Ktav, 1981), pp. 1–119.

Byzantium, were prohibited from living in the holy city itself, and the centers of Jewish population had shifted northwards, in the aftermath of the two revolts, to the Galilee and Golan regions. The Jerusalem Talmud emerged primarily from the activity of sages of Tiberias and Sepphoris, with some input, perhaps entire tractates, coming from sages of the “south” (Lydda, modern Lod) and the coastal plain (most notably Caesarea). In these centers the activity of studying and transmitting the traditions of their tannaitic forebears occupied rabbis and their students from c. 200 C.E. until the early fifth century.

In form, the Jerusalem Talmud is essentially arranged as a commentary on the Mishnah. The Mishnah text that serves as the basis of the Jerusalem Talmud diverges in some ways from that used in the Babylonian. It is difficult to determine exactly why this is the case, and different theories have been advanced. It is most likely that the divergences resulted from the process of oral transmission rather than separate recensions of the Mishnah. The orders of *Zeraim*, *Moed*, *Nashim*, and *Nezikin*, plus the first part of tractate *Niddah* of the order *Tohorot*, are covered in the Jerusalem Talmud, which, thereby, includes only thirty-nine of the sixty-three tractates of the Mishnah. In view of the difficult circumstances under which it was compiled, it is unlikely that the Jerusalem Talmud ever existed for additional tractates of the Mishnah.

The distribution of material in the Jerusalem Talmud is often explained as according well with its provenance. The agricultural laws were still observed in the Land of Israel, hence, the extensive Gemara for those tractates in the Jerusalem Talmud as opposed to its absence in the Babylonian. That the no longer relevant purity laws of most of *Tohorot* should be absent in both Talmuds is understandable. Tractate *Niddah* is an exception since it deals with menstrual impurity and its relevance to married life, an area of Jewish law that remained operative even after the destruction of the Second Temple. Yet, it is difficult to explain the presence of the sacrificial law of the *Seder Kodashim* in the Babylonian Talmud and its absence in the Jerusalem.

The Jerusalem Talmud is for the most part the product of the academy at Tiberias, which was under the patronage of the patriarchs. With time, however, the patriarch became more and more of a political figure, less active in the academies and in the study of the oral Torah. For this reason, the head of the Tiberias academy, beginning with Rabbi Yoḥanan, became extremely powerful and influential in the development of the tradition of the Land of Israel. The Jerusalem Talmud bears his mark, and that of his student and colleague Resh Lakish, on virtually every page.

Other prominent *amoraim* of the Land of Israel included Ḥanina bar Ḥama at Sepphoris, Oshaya Rabbah at Caesarea, and Joshua ben Levi at Lydda (c. 220–260). An important contemporary of Yoḥanan and Resh Lakish (both of whom flourished c. 250–290) was Eliezer bar Pedat of Tiberias. Ammi bar Nathan and Assi at Tiberias, Abbahu at Caesarea (or according to some Katsrin in the Golan) followed them (c. 290–320). Rabbi Yonah and Rabbi Yose then led the Tiberias academy (c. 320–350). The amoraic chain of tradition in the Land of Israel came to an end not long afterwards, following the careers of Mana and Yose bar Avin (c. 350–375). Scholars in Caesarea, in the middle of the fourth century, brought to completion the initial tractates of *Nezikin*, *Bava Kamma*, *Bava Metzia*, and *Bava Batra*. These tractates have a different literary and linguistic form from those of the rest of the Jerusalem Talmud, and feature a somewhat different group of scholars, and their

separate redaction has been maintained by most modern scholars. The rest of the Jerusalem Talmud was somewhat hastily redacted out of developing *sugyot* in the fifth century, completed soon after the dismantling of the patriarchate in 425–429. This final redaction took place at Tiberias.

The character of the Jerusalem Talmud has often been misunderstood. It appears at first glance to be simply a collection of *baraitot*, amoraic dicta, and *aggadot* arranged with no internal logic. However, the Jerusalem Talmud does indeed develop logical arguments in its discussion and is organized to indicate this logic. It lacks the connecting terminology and anonymous argumentation found in the Babylonian Talmud, because this material was entered in the last stages in its history, a stage that never took place in the Land of Israel.

Closely related to the Jerusalem Talmud are a series of midrashic compilations, particularly on Genesis and Leviticus, that stem from the same circles that produced the material in the Jerusalem Talmud. More closely related to the synagogues of the Galilee and Golan were other homiletical midrashic compilations as well as the literature of *Targum* (Aramaic translation and expansion of the Bible) and *piyyut*, the rich liturgical poetry of Byzantine times. All of these constituted the rich heritage of the Jews of the Land of Israel, which remained central to Jewish history even when the center of gravity later shifted to Babylonia and its Talmud.

The Babylonian Talmud. The Babylonian Talmud was produced by circles of Babylonian *amoraim* who were led in each generation by masters whose schools constituted the center of amoraic activity. Although tannaitic activity previously took place in Babylonia, the rise of Babylonia as a center of talmudic study is first known from the time of Rav and Samuel, in the first half of the third century.¹⁶

The most important centers of amoraic activity were Nehardea, Sura, Pumbedita, Maḥoza, Naresh, and Mata Meḥasya. The *amora* Samuel functioned at Nehardea while his colleague Rav is said to have founded the center at Sura. After Samuel's death in 259, Nehardea was destroyed by Palmyrene marauders. After Rav's death, the dominant figure at Sura was Rav Ḥuna (d. 297). [The title "Rav" was the Babylonian Jewish equivalent of "Rabbi" and indicated that the holder had been empowered to render legal decisions.] Rav Ḥuna was associated there with the younger scholars, Rav Judah, Rav Ḥisda, Rav Sheshet, and Rav Naḥman bar Jacob (d. 320). Rav Judah was said to have founded a circle of scholars at Pumbedita. Rabba bar Naḥmani (d. 320) and Rav Joseph (d. 323) both were located in Pumbedita, and Abaye carried on his school there from 323 to 338. Rava served there from 338–352, and afterwards relocated to Maḥoza. Historians see the Maḥoza school as a continuation of that of Pumbedita. In any case, the importance of the Maḥoza circle was greatly diminished with Rava's death in 352. Papa founded a circle at Naresh, which he headed until 371, and Rav Naḥman bar Isaac then took over at Pumbedita. The next generation of scholars included Rav Ashi who was the preeminent figure of his age in Mata Meḥasya, near Sura. At the same time Amemar in Nehardea, and Rav Zevid, Rav Dimi, and Mar Zutra were the leading sages at Pumbedita. Amoraic activity contin-

16. Strack and Stemberger, pp. 208–244; Neusner, *Introduction*, pp. 182–220; A. Goldberg, in Safrai, "The Babylonian Talmud," pp. 323–345. For a survey of modern scholarly views, see J. Neusner, *The Formation of the Babylonian Talmud: Studies in the Achievements of Late Nineteenth and Twentieth Century Historical and Literary-Critical Research* (Studia Post-Biblica 17; Leiden: Brill, 1970). For a bibliography see D. Goodblatt, "The Babylonian Talmud," in *The Study of Ancient Judaism*, ed. J. Neusner (New York: Ktav, 1981), pp. 120–199.

ued thereafter for only one more generation, with Maremar, Rav Idi bar Avin, and Mar bar Rav Ashi in Sura. These scholars, as already mentioned, most probably did not head formal academies, but rather schools or circles of disciples organized along informal lines. Yet from a variety of talmudic sources it is clear that the leading *amoraim* and their disciples also played a role in the public life of Babylonian Jewry, as homilists, judges, and teachers, seeking to spread the Judaism of the rabbinic tradition to the Babylonian Jewish masses, a goal they ultimately accomplished.¹⁷

The Babylonian Talmud, like its Jerusalem counterpart, is not complete for the entire Mishnah. *Berakhot* is the only tractate for the order *Zeraim*. Virtually all of the orders *Moed*, *Nashim*, *Nezikin*, and *Kodashim* are covered, but *Niddah* is the only tractate found for *Tohorot*. A variety of explanations are possible. Most likely, this distribution reflects the curriculum of study in Babylonia in which agricultural laws did not apply and most purification rituals were no longer practiced. Sacrifice was studied to some degree since study of its laws served as a substitute for its performance. Another possibility is that all aspects of Jewish law were studied, but the redactor of the Babylonian Talmud chose to include only those that were still applicable. Finally, it is possible that more material existed and that the vicissitudes of initially oral and then later written preservation have taken their toll.

Various attempts have been made to sketch the basic characteristics of the two Talmuds and to compare them. Many of these comparisons have turned out to be exaggerated and overdrawn. At the same time, it is true that the Babylonian Talmud, because of the later amoraic activity, abounds in detailed logical debates that are less prevalent in the Jerusalem Talmud. The claim that the Babylonian Talmud makes less use of tannaitic tradition cannot be substantiated. The Babylonian Talmud contains a great deal of amoraic material originating in the Land of Israel (and *vice versa*) so that attempts to look for Babylonian social and economic conditions in the amoraic traditions cannot be based on the collections. Such studies must be grounded rather on the provenance and dating of individual statements and traditions.

One certain difference between the Talmuds, however, is the use of different dialects of Aramaic. From antiquity, there had always been a division into two dialects, western and eastern. The Jews of the Land of Israel used the Galilean form of the western dialect, closer in many ways to the Imperial Aramaic of biblical times, while those of Babylonia used the eastern, with its similarities to Syriac and Mandaic. Accordingly, the two Talmuds, although sharing much in their Aramaic usage, often differ in the technical terminology they employ.

Medieval opinion held that the Babylonian Talmud was redacted by Ravina (i.e. Ravina I, d. c. 420) and Rav Ashi (d. 427) who were among the last of the *amoraim*. While it is reasonable to ascribe to their generation the collecting and editing of tannaitic and amoraic materials that had come down to them, often already in the form of *sugyot*, the final redaction must post-date these sages. It is probable that the redactional process proceeded well into the sixth century. The final redactors wove together the traditions they received with the anonymous discussion, the *shakla ve-*

17. Cf. J.L. Rubenstein, *The Culture of the Babylonian Talmud* (Baltimore: Johns Hopkins University Press, 2003), pp. 16–53.

tarya (give and take), as well as the many formulary expressions that designate types of material. These redactors left their mark in the anonymous (*Stam*) layer of the Babylonian Talmud.

The amoraic period bequeathed a rich literary heritage, most prominent of which is

the Babylonian Talmud. It is in the amoraic materials that much of the application of tannaitic tradition was explained and amplified. Yet, *amoraim* made their own unique contribution to Judaism by beginning the exegesis of the oral law, in recovering ancient traditions on mysticism and messianism, and continuing to formulate Jewish liturgy. It was the product of their scholarship that provided the greatest literary models for Jewish intellectual striving and opened up a new world to the Jewish people, that of the Talmud. The Babylonian Talmud would serve as the basis for Jewish life, thought, and scholarship for the next millennium and a half. Countless generations of Jews would dedicate their lives to learning to navigate the sea of the Talmud.

The Hegemony of the Babylonian Talmud. Central to the subsequent history of Judaism is the process by which the Babylonian Talmud gained hegemony and authority as the preponderant source of Jewish legal rulings and the main object of study for Jewish scholars. There are two aspects to this process. First, the displacement of biblical tradition as the central legal authority in Judaism, and second, the ascendancy of Babylonian, Diaspora tradition over that of the Land of Israel.

The displacement of the Bible was a process long in the making. It was fear of such a development that led the *tannaim* to practice a system of oral teaching designed to highlight the greater authority of the written word. The rabbis went so far as to prohibit the writing down of the oral law. Yet, as the oral tradition became so extensive and complex, and as individuals kept private written texts, this distinction no longer held. More important, the ever-expanding, developing nature of the oral law attracted the best minds, leaving the written Torah to serve as an object of elementary instruction, midrashic exegesis, and technical grammatical study by a select few. By the amoraic period, the rabbis openly asserted the superiority of the oral law, and so it was natural that the Mishnah would become the central teaching to be studied. When the amoraic commentary in the form of the Talmuds became available, it was this material that became the new Scripture of Judaism, and the authority of the Bible was now defined in terms of how it was interpreted in the rabbinic tradition. Scripture had been displaced by Talmud.

The second process by which the Babylonian tradition attained ascendancy is somewhat more complicated. The earlier Hellenistic Diaspora had also provided an approach to Judaism that competed with that of the *tannaim* based in the Land of Israel. Yet Hellenistic Judaism lacked the necessary vitality and failed to survive the rise of Christianity and the Christianization of the Greco-Roman world. The new Babylonian Judaism attained this vitality precisely because it was so strongly linked to that of the Land of Israel and almost identical with it. Differences between the two concerned mostly detailed halakhic rulings or certain ideas prominent in Babylonian society that entered the Jewish tradition there.

Nonetheless, the primacy of the Land of Israel should have been expected to have guaranteed its Talmud first place. However, two factors militated against this development: the nature of the Jerusalem Talmud itself and the political history of Jewry under the Islamic caliphate in the seventh and eighth centuries.

The political conditions and resulting anti-Semitism in the Land of Israel under Byzantine rule led to an early end to the amoraic process at work creating the Jerusalem Talmud. Not only did the

amoraim not complete their task, but also the Talmud of the Land of Israel was hastily compiled. The work of the anonymous scholars who wove together the traditions in the Babylonian Talmud has no parallel in the Land of Israel, either because of the difficult historical conditions or because the final redactors saw their role otherwise. In any case, the Jerusalem Talmud remained a more difficult text than the Babylonian.

From the point of view of later Jewish tradition, there was another factor that caused the Babylonian Talmud to attain dominance. There is a general medieval Jewish rule that the law follows the later authority. The Babylonian Talmud was redacted after the Talmud of Jerusalem. Many Jews believed, incorrectly we think, that the redactors of the Babylonian Talmud must have had at their disposal the work of the *amoraim* of the Land of Israel, and that they had consciously selected or rejected its views. Accordingly, many concluded, based on this principle, that the Babylonian Talmud had greater authority than the Jerusalem Talmud.

This halakhic argument must be supplemented with a factor that the forces of history had created on their own, namely the ascendancy of the rabbinical authorities of Babylonia. The Jews of the Near East came under total control of the Moslems after the Arab conquest by 638. The rabbis of Babylonia found themselves living in the shadow of the rulers of the caliphate of Baghdad, which initially ruled virtually the entire Islamic world, including most of world Jewry, and which thereafter held considerable sway even after the territorial fragmentization of the Islamic world. The Babylonian rabbis quickly became, in the form of the *geonim* (eminences) de facto chief rabbis of world Jewry. They wielded the authority of the state to help enforce rabbinic law and to spread the teachings of the Babylonian Talmud. In this effort they were greatly helped by the opportunity to piggyback onto the Islamic postal system and administrative apparatus that made possible the wide-ranging influence of the Babylonian *geonim*. The result, along with the factors we have already addressed, was the unquestionable hegemony of the Babylonian Talmud. Henceforth this would be the “Talmud” par excellence and the basis of all later development of talmudic law and thought.