



Early Jewish Literature: Codification of the Oral Torah

HPRS50I5/60I5

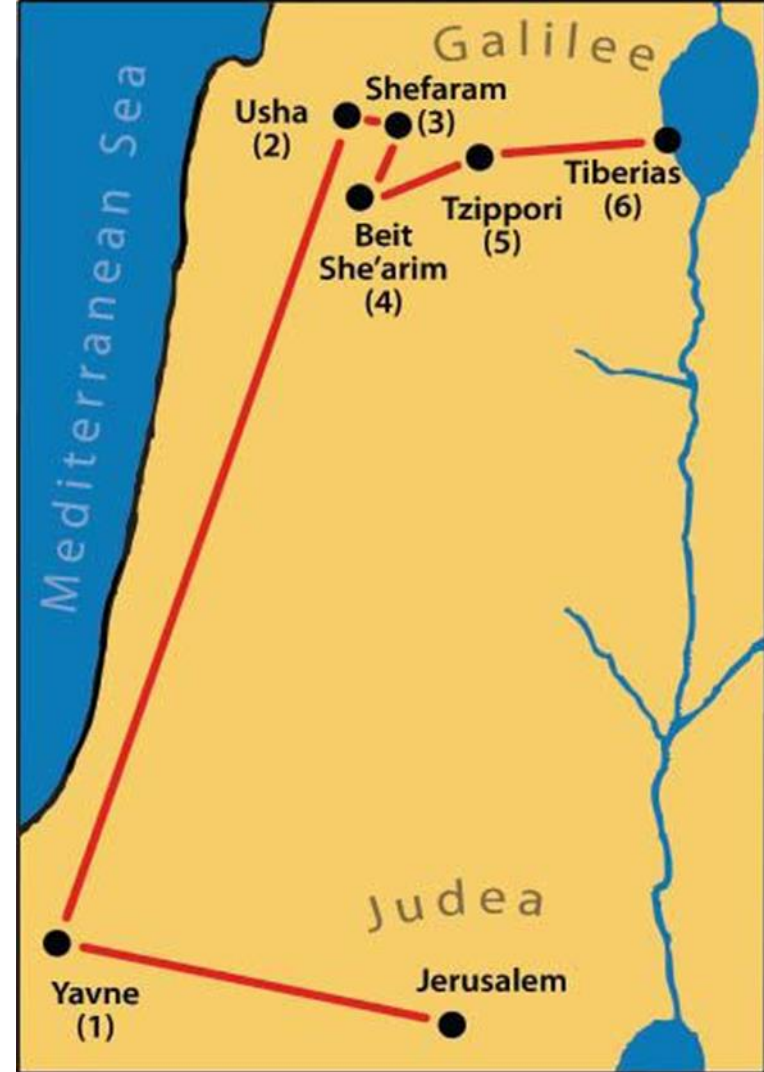
Session Outline



- The Mishnah: the historical context
- What is in the Mishnah and how does it work?
 - The Gemara
 - The two Talmuds

The Mishnah: The Historical Context

- Judaism outlawed by Hadrian following the Bar Kokhba revolt (132-135 CE). Prohibitions against the religion repealed after Hadrian's death in 138.
- Rabbinic learning and teaching begins to flourish. Galilee now the centre of Jewish life.
- Under the leadership of scholars like Rabbi Simeon ben Gamaliel II and Rabbi Meir, the rabbis emerge as a decisive force in Jewish life.



The Mishnah: The Historical Context

- Decision taken to produce a physical record of the discussions and rulings that had been transmitted only orally.
- This task undertaken by **Judah Ha-Nasi**/the Prince (135-217 CE), aka ‘our holy rabbi’.
- The body of Oral Torah compiled by Judah Ha-Nasi and his fellow rabbis between 200-220 CE is called **the Mishnah** (from *shanah*, ‘to repeat’).
- The most important book of Law after the Hebrew Bible.

Halakhah/ Aggadah (Law and Lore)

Halakhah

- ‘The way in which one walks’
- Refers to legal traditions, i.e. those traditions concerning the *mitzvot* and how to apply them to everyday life.

Aggadah

- ‘That which one tells’
- Encompasses everything outside of *halakhah* (i.e. non-legal traditions): folklore, moralistic proverbs, parables, prayers and even medical advice.
- The purpose of *aggadic* material is to explain the message of scripture in a more informal manner.

Halakhah/ Aggadah (Law and Lore)

‘Halakhah wears an angry frown; Aggadah a broad smile. The one is the embodiment of the Attribute of Justice, iron-handed, rigorous and severe; the other is the embodiment of the Quality of Mercy, essentially lenient and indulgent, mild as a dove. The one promulgates coercive decrees and knows no compromise; the other, presumes only to suggest and is sympathetically cognizant of man’s shortcomings...Halakhah represents the body, the actual deed; Aggadah represents the soul, the content, the fervent motive...Halakhah is the crystallization, the necessary and ultimate consummation of the Aggadah; whereas, Aggadah is the real content, as well as the soul, of Halakhah...A living Halakhah is the embodiment of an Aggadah of the past and the seed of the future, and so it is also conversely; for the beginning and end of these two are indissolubly joined and linked with each other’

– Hayim Nahman Bialik, ‘Law and Legend’ (*Halakhah ve-Aggadah*), *Knesset* (1917)

What is in the Mishnah?

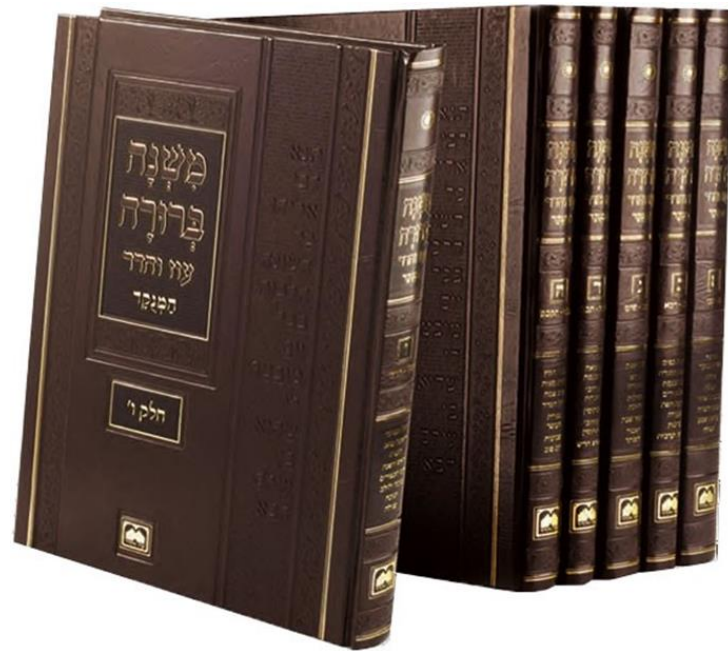
- Predominantly *halakhic* traditions that can largely be attributed to the school of Rabbi Akiva (the ‘Usha generation’).
- Written in a dialect of Hebrew distinct from biblical Hebrew.
- The whole body of Oral Law divided into 6 general sections, each known as a *seder* (‘order’).

Six Orders of the Mishnah

HEBREW NAME	ENGLISH NAME	MAIN SUBJECTS REGULATED
<i>Zera'im</i>	Seeds	Life, plants, benedictions, mixing seeds, sabbatical year, tithes, first-fruits
<i>Mo'ed</i>	Season	Sabbath laws, temple tax, Passover, Day of Atonement, Feast of Tabernacles, sacrifices
<i>Nashim</i>	Women	Levirate marriage, marriage documents, vows, adultery, divorce
<i>Nezikin</i>	Torts	Wrongs, injuries, damages, law courts, punishments, testimonies, oaths, idolatry, inadvertent sin
<i>Kodashim</i>	Sanctities	Temple sacrifices, offerings, first-borns, consecration, excommunication, temple architecture
<i>Tohoroth</i>	Purities	Vessel and tent purity, corpses, defilements, leprosy, menstruation, issues of blood, purification baths

The *Masekhot* (‘Tractates’)

- The six orders of the Mishnah are further divided into individual treatises on specific topics, each of which is known as a *masekhet* (‘tractate’).
- Each order contains between 7-12 individual tractates, and there are 63 tractates in total.



Example: *Mo'ed* Tractates

- 1) *Shabbat* – concerned mostly with defining activities forbidden as ‘work’.
- 2) *Eruvin* – deals with prohibitions against travelling outside one’s home on the Sabbath.
- 3) *Pesahim* – the laws of the Passover festival (*Pesach*).
- 4) *Shekalim* – laws relating to the collection of funds for communal offerings and the upkeep of the temple.
- 5) *Yoma* (or *Kippurim*) – laws of the Day of Atonement (*Yom Kippur*).
- 6) *Sukkah* – laws of the Feast of Tabernacles (*Sukkot*).

Example: *Mo'ed* Tractates

- 7) *Yom Tov* (or *Bezah*) – regulations governing activities that are forbidden/permitted on a festival.
- 8) *Rosh Ha-Shanah* – laws concerning the Jewish New Year and New Moon.
- 9) *Ta'anit* – laws for fasting days.
- 10) *Megillah* – laws relating to *Purim* (Feast of Esther).
- 11) *Mo'ed Katan* – laws governing the days between Passover and the Feast of Tabernacles.
- 12) *Hagigah* – laws relating to the pilgrimage festivals (*Pesach*, *Shavuot*, and *Sukkot*).

Observations on the Contents of the Mishnah

- The structure of the Mishnah can be quite haphazard.
- Inclusion of traditions relating to the temple suggests that the rabbis were committed to preserving Jewish continuity.
- In its focus on laws governing agriculture, criminal law and civil law etc. the Mishnah emphasizes that everything, no matter how mundane, contains an element of the holy.

How Does the Mishnah Work?

- The language is terse and compact, orderly and repetitive – designed for easy memory.
- ‘[The Mishnah is] small-minded, picayune, obvious, dull, routine - everything its age was not’ – Jacob Neusner, *Rabbinic Judaism’s Generative Logic*, p. 68
- Within each tractate, a single subject provides the main focus of the discussion (for the most part!).

How Does the Mishnah Work?

- Some tractates do little more than paraphrase scripture. Others develop scriptural laws in new and different directions.
- There are also tractates that deal with issues mentioned only in passing in the Written Torah (e.g. the prohibition of work on the Sabbath).
- Nearly 150 sages noted by name, from Hillel and Shammai to Judah Ha-Nasi himself.
- Where there is disagreement on a ruling, the minority view is usually given first, followed by the authoritative majority position. This is often expressed with the formula, 'Rabbi X says...' or 'but the sages declare...'

Example from the Mishnah

‘From what time do we recite the evening *shema* [one of the most important prayers in Judaism]? From the hour that the priests enter to eat their *terumah* [the regular offering given to them in the days of the temple] until the end of the first watch. These are the words of Rabbi Eliezer. And the sages say: until midnight. Rabban Gamaliel says: until the beginning of sunrise. It happened once that his sons returned from a celebration and said to him: We have not yet recited the *shema*. He said to them: If sunrise has not yet begun, you are obligated to recite it. And not in respect to this alone did they so decide, but wherever the sages said “until midnight” the obligation to perform the mitzvot applies until the sun comes up. If this is so, why did the sages say “until midnight”? To keep a man from transgression’ (*Berakhot* I:I)



The Gemara

- The **Gemara** (‘completion’) – the discussions, debates, opinions and arguments of the *Amoraim*, i.e. the generations of scholars after the completion of the Mishnah up until the 6th century.
- Records the ‘back-and-forth’ between Torah scholars in the academies of the age. A mix of *halakhah* and *aggadah*.
- The detailed analytical debates in the Gemara considered to complete the Mishnah.
- The **Talmud** (‘to learn’) – the written record of the Mishnah and the Gemara combined.

The Talmud

- MISHNAH + GEMARA = TALMUD
- However, since there were two major centres of study in the Jewish world of the time (Palestine and Babylonia), the Gemara developed along two different trajectories.
- TWO DIFFERENT GEMARAS!

Jewish Babylonia

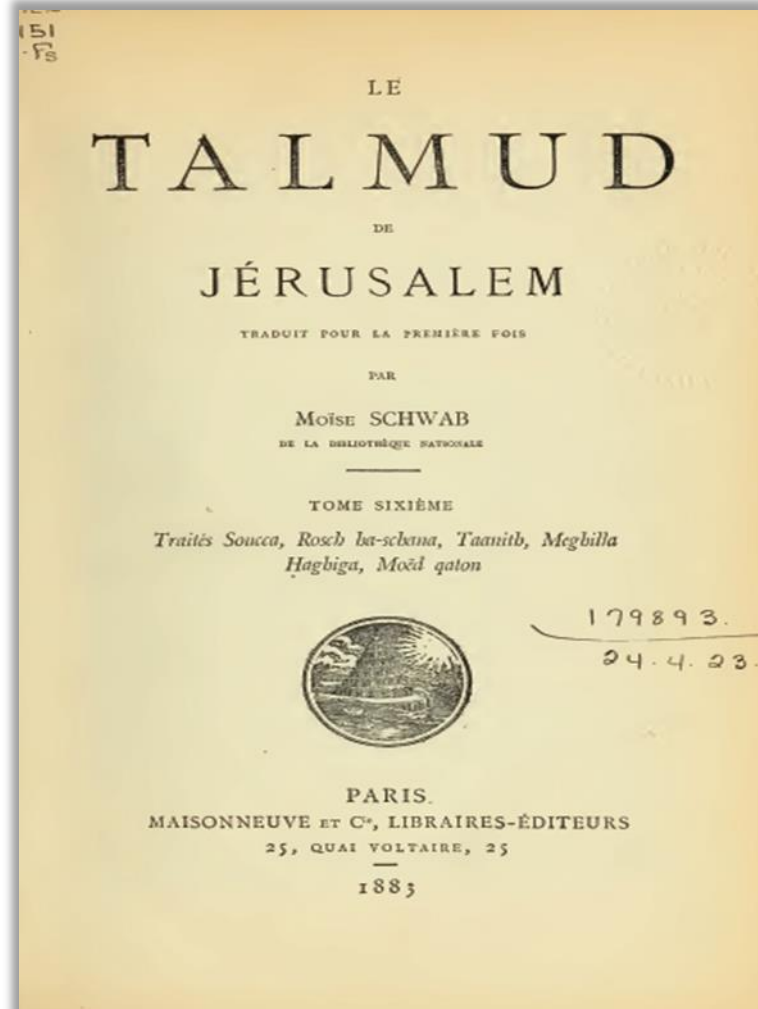


The Two Talmuds

- Two major centres of study in the Jewish world = two different Gemaras = two separate Talmuds.
- The **Palestinian Talmud**, often called the **Jerusalem Talmud** (*Talmud Yerushalmi*) – the product of discussion in the Palestinian academies.
- The **Babylonian Talmud** (*Talmud Bavli*) – the product of discussion in the Babylonian academies.

The Palestinian Talmud

- Considered the less authoritative of the two Talmuds.
- A third of the length of the Babylonian Talmud (its Gemara offers no discussion of the final two orders of the Mishnah).
- Edited in the academies of Caesarea, Sepphoris and Tiberias.
- Completed c. 400 CE, by which time Jewish life in Palestine had deteriorated considerably.



The Babylonian Talmud

- Bigger emphasis on *aggadah*. Debates and discussions recorded in painstaking detail.
- A massive work of approx. two and a half million words.
- More or less completed by 500 CE.
- Came to assume greater importance than Palestinian Talmud in matters of *halakhah*. The pre-eminence of the *Talmud Bavli* continues to this day.

Let's color-code the layout so that we can distinguish the various layers more easily.

Mishnah (Palestine, about 220 CE)

Gemara (Babylonia, about 500 CE)

Comments of Rashi (Northern France, 1040-1105 CE)

Comments of the Tosafists (France and Germany, 12th-13th centuries)

Comments of R. Nissim ben Jacob
(Tunisia, 11th century)

Notes by R. Aqiva Eger (Prussia, 1761-1837)

Anonymous comment (printers?)

Key to scriptural quotations

Cross-references to medieval codes of Jewish law

Cross-references to other passages in Talmud

A textual emendation from the Proofs of Joel Sirkes
(Poland, 1561-1640)

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The Status of the Oral Torah in the Talmud

‘The doctrine of the two Torahs, the Written Torah and the Oral Torah, is reiterated in the Talmud with increased emphasis on the importance of the Oral Torah. The Mishnah and the Talmud are ascribed sacrosanct status as part of the Oral Torah that was revealed to Moses at Mount Sinai along with the Written Torah...The Oral Torah is represented as an open-ended category that encompasses not only this circumscribed corpus of teachings but ultimately all the interpretations and innovations that would be introduced by the sages in subsequent generations as part of the oral tradition...An aggadic tradition ascribed to Rab Judah...vividly illustrates the far-reaching implications of such an all-encompassing interpretation of the Oral Torah...

The Status of the Oral Torah in the Talmud

...It relates that when Moses ascended on high to receive the Torah, the Lord showed him R. Akiba, who was destined to arise as one of the greatest sages of future generations, sitting and expounding the Torah to his disciples. Moses was at first ill at ease because he could not understand their arguments. However, when they came to a certain topic and the disciples asked the master, “Whence do you know this?” R. Akiba replied, “It is a law given to Moses at Sinai”, and Moses was comforted. The authority vested in the rabbinic sages as the custodians of the Oral Torah is further illustrated in another aggadah, which does so far as to assert that since the time when the Torah was given at Mount Sinai, the power to decide matters of halakhah no longer resides in heaven but rather in the consensus of the sages on earth, who even have the authority to counter the dictates of the heavenly voice (*bat qol*)’

– Barbara A. Holdrege, *Veda and Torah: Transcending the Textuality of Scripture*, pp. 173-174

The Status of the Oral Torah in the Talmud (*Bava Metzia 59b*)

...On that day, when they discussed this matter, Rabbi Eliezer answered all possible answers in the world to support his opinion, but the Rabbis did not accept his explanations from him. After failing to convince the Rabbis logically, Rabbi Eliezer said to them: If the *halakha* is in accordance with my opinion, this carob tree will prove it. The carob tree was uprooted from its place one hundred cubits, and some say four hundred cubits. The Rabbis said to him: One does not cite halakhic proof from the carob tree. Rabbi Eliezer then said to them: If the *halakha* is in accordance with my opinion, the stream will prove it. The water in the stream turned backward and began flowing in the opposite direction. They said to him: One does not cite halakhic proof from a stream. Rabbi Eliezer then said to them: If the *halakha* is in accordance with my opinion, the walls of the study hall will prove it. The walls of the study hall leaned inward and began to fall. Rabbi Yehoshua scolded the walls and said to them: If Torah scholars are contending with each other in matters of *halakha*, what is the nature of your involvement in this dispute? The walls did not fall because of the deference due Rabbi Yehoshua, but they did not straighten because of the deference due Rabbi Eliezer, and they still remain leaning...

The Status of the Oral Torah in the Talmud (*Bava Metzia 59b*)

...Rabbi Eliezer then said to them: If the *halakha* is in accordance with my opinion, Heaven will prove it. A Divine Voice emerged from Heaven and said: Why are you differing with Rabbi Eliezer, as the *halakha* is in accordance with his opinion in every place that he expresses an opinion? Rabbi Yehoshua stood on his feet and said: It is written: “It is not in heaven” (Deuteronomy 30:12). What is the relevance of the phrase “It is not in heaven” in this context? Rabbi Yirmeya says: Since the Torah was already given at Mount Sinai, we do not regard a Divine Voice, as You already wrote at Mount Sinai, in the Torah: “After a majority to incline” (Exodus 23:2). Years after, Rabbi Natan encountered Elijah the prophet and said to him: What did the Holy One, Blessed be He, do at that time, when Rabbi Yehoshua issued his declaration? Elijah said to him: The Holy One, Blessed be He, smiled and said: My children have triumphed over Me; My children have triumphed over Me.

The Significance of the Talmud

- Still the most significant body of literature in Judaism after the Hebrew Bible.
- Has helped to shape the culture and spirit of Judaism, and serves as a repository of history, custom, wisdom and folklore.
- Served to unite Jews and encourage uniformity in terms of belief and practice.
- Emphasizes the power of discussion to discover truth.

Summary

- The Mishnah – the authoritative collection of Oral Law compiled c. 200 CE by Judah Ha-Nasi and his fellow rabbis.
- The Gemara – the rabbinic analysis and discussion of the Mishnah.
- The Talmud – the Mishnah and the Gemara combined.
- Of the two Talmuds, it is the Babylonian Talmud that is considered to be the most authoritative.