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The Transmission of the Mishnah and the Spread of Rabbinic Judaism, 200 CE - 1200 CE

Landes, Isaac

Princeton, NJ : Princeton University

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THE TRANSMISSION OF THE MISHNAH

AND THE SPREAD OF RABBINIC JUDAISM, 200 CE—1200 CE

Isaac M. Landes

A DISSERTATION

PRESENTED TO THE FACULTY

OF PRINCETON UNIVERSITY

IN CANDIDACY FOR THE DEGREE

OF DOCTOR OF PHILOSOPHY

RECOMMENDED FOR ACCEPTANCE BY

THE DEPARTMENT OF RELIGION

Adviser: Moulie Vidas

March 2023

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Abstract

This dissertation traces the history of the transmission, reception, and study of the Mishnah, the central text of the Rabbinic corpus, from its inception in third-century Galilee until the publication of Maimonides' commentary to the Mishnah in 12th c. Egypt. The first chapter looks at the evidence for the Mishnah's creation and initial dissemination in Roman Palestine, arguing that there is sufficient evidence to conclude that the Jewish Patriarchate was responsible for the creation and early dissemination of the Mishnah and of several related texts. The second chapter continues by analyzing evidence for Mishnah study in third- and fourth-century Palestine, and the third chapter discusses the reception of the Mishnah in late ancient Babylonia; both chapters deal with the "Scholastic Scripturalization" of the Mishnah by late ancient rabbis. The fourth chapter addresses the evidence for the study and perception of the Mishnah in Byzantine and Early Islamic Palestine, showing that in response to the rise of Christianity, the Mishnah achieved a place of increased importance for Jewish identity—a non-scholastic aspect of the Mishnah's "Scripturalization." Relying heavily on manuscript evidence, Chapter Five addresses Mishnah study in medieval Islamicate lands, and Chapter Six does the same for Christian Europe, focusing on Southern Italy. In both chapters, special attention is given to the continued intermedial nature of Mishnah study. The seventh chapter turns to the place of the Mishnah in various rites of the Jewish prayerbook. In the final chapter, I analyze attitudes towards the Mishnah and its creation in the works of Medieval Jewish writers, looking at how these authors used the history of the Mishnah to articulate rabbinic identity. The conclusion of the dissertation

frames several directions for further study and outlines a program for the "Critical Philology" of the classical rabbinic corpus.

By centering on the dissemination of the Mishnah across the Near East and Europe in Late Antiquity and the Early Middle Ages, this dissertation demonstrates that avenues of textual production and transmission can shed light on the very spread of rabbinic knowledge and on the ways in which rabbinic Judaism itself became the hegemonic form of Judaism.

For my Dad, *z"l*,

Dr. David J. Landes

1956-2019

מה אהבתי תורתך

Acknowledgments

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In the Religions of Mediterranean Antiquity subfield in the Department of Religion, I have had the true privilege to learn from Martha Himmelfarb, AnneMarie Luijendijk, and Elaine Pagels. All three have commented extensively on versions of this dissertation, primarily in the context of our subfield workshop, and have spent significant time guiding me through my studies and research at Princeton. The other graduate students in our subfield, past and present, have similarly offered their wisdom and support: A. J. Berkovitz, Madeleine Brown, Alyssa Cady, Djair Dias Filho, Adina Goldman, Eliav Grossman, Rebekah Haigh, Jonathan Henry, John Ladouceur, Ari Lamm, Mark Letteney, and Andrea Antenan Peecher, as have honorary RMAers Asaf Gayer and Meron Piotrkowski. I am especially grateful to Elena Dugan for our many conversations on Ancient Judaism, Book History, and Philology—if not for our friendship, this dissertation would look entirely different, and my time at Princeton would have been far less enjoyable. Our department is fortunate to have an amazing supporting cast, and I would like to thank Mary Kay Bodnar, Patricia Bogdziewicz, Florian Fues, and Kerry Smith. In Firestone Library, Wayne Bivens Tatum, the Religion Librarian, and David Hollander, the Librarian for Judaic Studies and Hebrew, have both been extremely helpful to me while writing this dissertation, especially during the

shutdowns brought on by the COVID-19 pandemic. Dean Geoffrey Hill of the Graduate School showed extreme compassion during some particularly trying moments in my studies, and I am grateful for his support.

Outside of the Religion department, I have benefited tremendously from the guidance of several scholars. Ra'anan Boustan has been a close mentor (and editor) of mine, whose imprint on my thinking and on my research is immeasurable. Eve Krakowski has similarly devoted a significant amount of her time and expertise to my training, and her work has been one of the main inspirations for my own. I have similarly been inspired by the work of Marina Rustow and Jack Tannous, and I feel incredibly fortunate to learn from them and to have them respond to my work.

At Princeton, my research has been supported by the Center for Culture, Society, and Religion, the Committee for the Study of Late Antiquity, the Program in the Ancient World, the Program in Judaic Studies, and the Program in Medieval Studies. Funding from these programs and committees enabled me to take several research trips to libraries and archives in England and Italy, for which I am especially grateful. I am thankful also for the opportunity to participate in CCSR's workshop in Religion and Culture, led by Jenny Legath. Much of the thinking behind this dissertation began in the context of seminars at Princeton taught by Ra'anan Boustan, Denis Feeney, John Haldon, Martha Himmelfarb, Joel Lande, AnneMarie Luijendijk, Nino Luraghi, Elaine Pagels, Helmut Reimitz, Alberto Rigolio, Brent Shaw, and Jack Tannous. In addition, I am forever grateful for the friendships that I have formed at Princeton with Eden Consenstein, Merle Eisenberg, Teddy Fassberg, Joe Glynias, Dan Kosasa, Judah Isseroff, Disha Karnad Jani, Daniel May, Yaarah Perlman, Rachel Richman, Marco Santini, Yoav Schafer, Aaron Stamper, and many others—there are simply far too many to

list. While living on campus, my family and I benefited greatly from the friendship and hospitality of Bina Brody and Ariel Fisher, and Bentzi and Chaya Brook.

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I would not have been able to write this dissertation without the training in rabbinic and adjacent texts that I received at the Hebrew University of Jerusalem, primarily in courses with Robert Brody, Shulamit Elizur, Simcha Emanuel, Oded Irshai, Menahem Kahana, Menahem Kister, Shlomo Naeh, and Yoav Rosenthal, several of whom remain close mentors of mine. Although I never studied with him directly, Yaakov Sussman—my teachers' teacher—has had a significant influence on my work; I simply could not write this dissertation without his fundamental publications on the transmission of rabbinic literature.

Alongside my teachers, I am grateful for the mentorship of several scholars who have taken an interest in my work over the years: Elisheva Baumgarten, Yaakov Deutsch, Michael

Fishbane, Judah Galinsky, Derek Krueger, Hayim Lapin, Ophir Münz-Manor, and Hillel Newman. I would especially like to thank Ishay Rosen-Zvi and David Stern, both of whom have spent significant amounts of time reading and responding to my work. My cousin, Shaul Stampfer, has long been a close mentor, while also an occasional research assistant.

I had the opportunity to present sections of this dissertation on several occasions over the past years. I presented a version of Chapter One at the Ancient Judaism Regional Seminar in March 2021 and at the 53rd annual meeting of the Association for Jewish Studies in December 2021. I presented sections of Chapter Four at the conference "Judaism in the 7th and 8th Centuries" in Princeton in November 2017; at a graduate student conference of Oxford and Princeton universities, held in Princeton in January 2018; in a workshop of the Tel-Aviv University Department of Jewish Philosophy and the Princeton University Department of Religion, held in Princeton in February 2019; and at the Annual Meeting of the Society of Biblical Literature in November 2019. I presented versions of Chapter Six at the Ancient Judaism Regional Seminar in February 2022 and at the 18th World Congress of Jewish Studies in August 2022. I presented Chapter Seven at the 52nd Annual Conference of the Association for Jewish Studies in December 2020. I presented Chapter Eight at The University of Haifa Center for Interdisciplinary Research of the Cairo Genizah in 2018. At the virtual conference "Rabbinization and Diversity: Methods, Models, and Manifestations between 400 and 1000 CE," held in March 2022, I presented a paper that summarized many sections of this dissertation. Lastly, a version of Chapter Four will appear shortly in *Jewish Studies Quarterly*. In presenting sections of this dissertation over the past years, I have benefited from the responses of Gidi Bohak, Natalie Dohrmann, Shimon Fogel, Ruth Langer, Moshe Lavee, Vered Noam, Tzvi Novick, Vered Raziel-Kretzmer, Seth Schwartz, Daniel Stökl

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Ezrachi and Na'amah Kelman, Chana and Rusik Mundhe, Matt and Mollie Landes, Adir Landes, Leora and Amit Ezrachi-Vered, Mikey Ezrachi, and Rafa Weiman-Kelman. While researching and writing this dissertation, I lost two of my biggest fans—my grandpa Saul Isserow and my aunt Miriam Isserow—both of whom, I am certain, would have been extremely proud to see me reach this milestone.

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I chose to dedicate this dissertation to my father, David Landes, *z"l*. A lifelong learner, a model of integrity, curiosity, and intellectual honesty, my father was also my first teacher—indeed, my first teacher of Mishnah—studying with me from a young age. As I got older, my father and I became *havruta* in more ways than one, and even deep into the years of his difficult illness that coincided with my graduate studies we were in constant dialogue about my work and about so many other things. I miss him dearly. He would have loved to read this dissertation, and his comments would have certainly improved it immensely.

Yitz Landes

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Abbreviations and Conventions

Assaf-Glick, *Education*	=	Simcha Assaf, *Mekorot le-toldhot ha-Hinukh be-Yisrael: A Source-Book for the History of Jewish Education from the Beginning of the Middle Ages to the Period of the Haskalah*. Hebrew. Edited by Shmuel Glick. 3 vols. New York and Jerusalem: The Jewish Theological Seminary of America, 2001.
b.	=	Babylonian Talmud, cited by folio in the Vilna printing
CHJ	=	*The Cambridge History of Judaism*
CRL	=	Menahem Kahana, Vered Noam, Menahem Kister, and David Rosenthal, eds., *The Classic Rabbinic Literature of Eretz Israel: Introductions and Studies*. Hebrew. 2 vols. Between Bible and Mishnah, The Ancient Literature of Eretz Israel and Its World. Jerusalem: Yad Ben-Zvi Press, 2018.
EI^{2}	=	*Encyclopaedia of Islam*, Second Edition
Epstein, *Introduction*	=	J. N. Epstein, *Introduction to the Mishnaic Text*. Hebrew. 3rd ed. 2 vols. Jerusalem: Magnes Press, 2000.
Gil, *Ishmael*	=	Moshe Gil, *In the Kingdom of Ishmael.* Hebrew. 4 vols., Publications of the Diaspora Research Institute 117–120. Jerusalem: Tel-Aviv University, The Bialik Institute, The Ministry of Defense Publishing House, 1997.
Goitein, *Med. Soc.*	=	S. D. Goitein, *A Mediterranean Society: The Jewish Communities of the Arab World as Portrayed in the Documents of the Cairo Geniza*. 6 vols. Berkeley: University of California Press, 1967-1993.
m.	=	Mishnah, cited by the divisions in Hanoch Albeck ed., *The Mishnah*. Hebrew. 6 vols. Jerusalem: The Bialik Institute and Dvir Co., 1952-1958.
Lieberman, *TKP*	=	Saul Lieberman, *Tosefta Ki-Fshutah: A Comprehensive Commentary on the Tosefta*. Hebrew. 12 vols. New York and Jerusalem: The Jewish Theological Seminary of America, 1955-1988.
Linder, *JIRIL*	=	Amnon Linder ed., *The Jews in Roman Imperial Legislation*. Detroit and Jerusalem: Wayne State University Press and The Israel Academy of Sciences and Humanities, 1987.

Sokoloff, *DJBA*[2]	=	Michael Sokoloff, *A Dictionary of Jewish Babylonian Aramaic of the Talmudic and Geonic Periods*. Second Revised and Expanded Edition. Ramat-Gan: Bar-Ilan University Press, 2020.
Sokoloff, *DJPA*[3]	=	Michael Sokoloff, *A Dictionary of Jewish Palestinian Aramaic of the Byzantine Period*. Third Revised and Expanded Edition. Ramat-Gan: Bar-Ilan University Press, 2017.
Stern, *GLAJJ*	=	Menahem Stern, *Greek and Latin Authors on Jews and Judaism, Edited with Introductions, Translations and Commentary*. 3 vols. Jerusalem: The Israel Academy of Sciences, 1976.
Sussman, *Thesaurus*	=	Yaakov Sussman, in collaboration with Yoav Rosenthal and Roni Shweka, *Thesaurus of Talmudic Manuscripts*. Hebrew. 3 vols. Jerusalem: Yad Izhak Ben-Zvi and the Friedberg Genizah Project, 2012.
t.	=	Tosefta, cited by divisions and page numbers in the editions of Lieberman and Zuckermandel
y.	=	Palestinian Talmud, cited by folio number in the Venice 1523 *editio princeps*, and according to the chapter, *halakha*, and column number in the edition of the Academy for the Study of the Hebrew Language (3rd ed., Jerusalem, 2016).

A list of critical editions appears in the Bibliography. When available, manuscript catalogue numbers are cited in addition to library shelf marks; for information on the relevant catalogues, see Benjamin Richler, *Guide to Hebrew Manuscript Collections*, 2nd ed. (Jerusalem: The Israel Academy of Sciences and Humanities, 2014). I cite the catalogue numbers of Sussman, *Thesaurus* upon the first appearance of relevant manuscripts and manuscript fragments. Translations from the Hebrew Bible are based on the JPS 1985 translation. Unless otherwise noted, all other translations are my own. The following marks are used in citations from primary sources:

<>	Addition in a manuscript copy	()	Erasure in a manuscript copy
<<>>	Addition made by a modern editor to a manuscript copy	[…]	My own abbreviation of a primary source

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Introduction

Towards a History of the Mishnah

1. *Come and Learn*

In the final decades of the 11th century, an itinerant teacher hailing from eastern France passed through a number of Jewish communities in Spain.[1] For some in these communities, such a visit was an extraordinary occurrence: so enthralled were "five of the important members" of one community ("*hamisha me-hashuve ha-edah*") that they pleaded with the teacher that he should move to their city and serve as their private tutor. Convinced, the teacher signed a contract according to which he would be paid, for a period of three years, "so that they would read before him from the *halakha*, from the Mishnah, from the Scriptures, and from the commentaries on the weekly readings, and from whatever else it is that they would like." But while the teacher managed to pull off the international move with his family in tow, he immediately ran into a pedagogical—and thus, a financial—conundrum:

> Some of them said, "let us begin with the Mishnah," and others of them said, "let us begin with Talmud," until they all agreed, in one agreement, and began with tractate Berakhot, and read from it four days a week. And on Thursday they read from Scripture, and on Friday from the commentary to the weekly reading. And afterwards, one of them, "Issachar," was upset with his companions and said, "I cannot understand the depth of the halakha and I do not want this, rather, you should tell them three lines of Talmud, and go back and say three lines of Mishnah."

[1] The following anecdote is recorded in a responsum of Isaac ben Jacob, for which see Wolf Leiter, ed., *Responsa of R. Isaac ben Jacob Alfasi* (Hebrew; Pittsburgh: Maimonides Institute, 1954), 125-26 (no. 223) (Assaf-Glick, *Education*, 2:43-4). For what this responsum says about the state of rabbinic learning and knowledge amongst Jewish elites in eleventh-century Spain, see Israel Ta-Shma, "Jewish Judiciary and Law in the Eleventh and Twelfth Centuries in Spain (as Reflected in the Responsa of Alfasi)" (Hebrew), *Shenaton Ha-Mishpat Ha-Ivri: Annual of the Institute for Research in Jewish Law* 1 (1974): 353–72 (369-70), repr. idem *Ritual, Custom and Reality in Franco-Germany, 1000-1350*, 2nd ed. (Hebrew; Jerusalem: The Hebrew University Magnes Press, 2000), 36-57, and idem, *Studies in Medieval Rabbinic Literature*, vol. 2: Spain (Hebrew; Jerusalem: The Bialik Institute, 2004), 257-58. See also Ezra Chwat, "Mishna Study among the Rishonim as Found in the Alfasi Gloss-Supplements" (Hebrew), *Alei Sefer: Studies in Bibliography and in the History of the Printed and the Digital Hebrew Book*, no. 19 (2001): 49–67 (56 fn. 17).

> His companions said, "we do not want that." So "Issachar" got up and said, "If so, I do not want to read, nor to pay."

"Issachar"—a common pseudonym in medieval Jewish texts—could not keep up. He then broke the agreement, and a question is posed to R. Isaac Alfasi, the foremost rabbinic sage of the period, then living in Lucena, to see whether "Issachar" was nevertheless obligated to continue paying.

This responsum deals with a group of five men who possess an elevated status in their community, five men without any real knowledge of rabbinic texts or, for that matter, of any Jewish text at all. And yet they appreciate expertise. They recognize the opportunity that fell into their laps with the appearance of the itinerant sage, and they are willing to use their resources to learn more. While their elite status in their community does not seem to come from their knowledge of rabbinic texts, they revere the authority imbued by such knowledge, and they are thus willing to turn to Alfasi for guidance when the contractual issue arose.

How did this happen? How did it come to be that a late antique corpus of arcane and idiosyncratic texts, ones composed thousands of miles away on the far side of the Mediterranean world, ended up exerting this kind of pull on medieval European Jews, a pull that would convince them to devote time and energy to study with a teacher from a different country and culture, supporting him and his family for a period of three years, and turning to the leading expert in this corpus in order to settle their financial matters? How did these texts even *survive* until the time of "Issachar" and his friends? Who cared for them? Who ensured their continued existence and relevance across time, securing also their transregional dissemination, and why did they do so?

It is the objective of this dissertation to attempt to answer these questions. To do so, I will describe in detail the first millennium of the reception and transmission history of the Mishnah, the central work of the rabbinic corpus, by analyzing the various ways in which Jews taught, studied, and cared for this work. I will start with the initial promulgation of the Mishnah in third-century Galilee and end in the twelfth century, when the Mishnah was studied and copied by Jews throughout the Mediterranean world, and when the publication of Maimonides' *Commentary on the Mishnah* forever transformed its study and its text. My analysis will be based on an examination of the earliest material remains we have of the Mishnah as well as on the various literary and documentary sources that inform us of the Mishnah's reception.

The description of the ways in which Jews transmitted and engaged with the Mishnah over the course of almost a millennium is intended not only to explain the vicissitudes of this specific work, but also to further our understanding of the history of rabbinic Judaism itself. In recent decades, scholars have struggled to explain two related phenomena in the history of rabbinic Judaism, namely, the spread of rabbinic Judaism outside of its late ancient centers in Palestine and Babylonia, and also, the rise of rabbinic hegemony—the latter of which is referred to by many scholars as "rabbinization."[2] While not always looked at in tandem, the geographic spread of rabbinic Judaism and the rise in rabbinic hegemony are both viewed relative to the localized nature of the rabbinic movement during the first centuries of its existence. Scholars ask, why is it that by the end of the millennium understandings of

[2] See the overview of these issues in Ra'anan Boustan, "Afterword: Rabbinization and the Persistence of Diversity in Jewish Culture in Late Antiquity," in *Diversity and Rabbinization: Jewish Texts and Societies Between 400 and 1,000 CE*, ed. Gavin McDowell, Ron Naiweld, and Daniel Stökl Ben Ezra, Cambridge Semitic Languages and Cultures 8 (Cambridge: Open Book Publishers, 2021), 427–49.

"Judaism" invariably existed in relation to rabbinic Judaism? And how did it come to be that communities of Jews adhering or responding to rabbinic Judaism were located not just in Palestine and Babylonia, but throughout the Muslim and Christian worlds?

The argument of this dissertation is that the study of rabbinization and the spread of rabbinic Judaism will benefit from *the study of the reception and transmission of rabbinic texts and knowledge*. "Rabbinic Judaism," as I will detail below, can be described as a practice of Judaism that bears fealty to the canon of rabbinic texts. This dissertation thus sheds light on the shifts in rabbinic Judaism and its geography by focusing more specifically on the *works* of rabbinic Judaism, starting with the Mishnah, the central work of this corpus. The history of the Mishnah is traceable to an extent that the history of "rabbinic Judaism" more broadly simply is not, both as it is more definable and delimited, and as we simply have an abundance of data that can be used to reconstruct the history of its transmission, even in periods in which it is difficult to reconstruct political or social aspects of Jewish History.

Below, I will further situate this dissertation in the context of existing scholarship on the Mishnah and the history of premodern Judaism, as well as in the context of additional scholarly pursuits and methods pertaining to the transmission of knowledge. But first, in the following pages, I provide a general description of rabbinic Judaism and rabbinic literature.[3]

2. *A Brief Overview and Description of Rabbinic Judaism and Literature*

"Rabbinic literature" can be defined as *every text that centers around the ideas and sayings of rabbis who flourished in Roman Palestine and Parthian and Sassanian Babylonia from circa*

[3] The following sections are primarily geared towards the non-expert. And yet, it may nevertheless be helpful for experts to read them in order to better understand the framing of this dissertation.

the beginning of the first millennium through the end of the fourth century in Palestine, and the fifth century in Babylonia. As is immediately clear, the definition is symbiotically linked to a certain group of people, rabbis who operated in the first centuries of the Common Era.[4] These rabbis were arbitrators of a specific form or practice of Judaism, what scholars unsurprisingly term "rabbinic Judaism." Besides for what we can gather from these texts, we do not know much of Jewish practice and belief during that period.[5] It is thus difficult to know the extent to which Jews in antiquity adhered to modes of piety enshrined in rabbinic texts, or, how Judaism was practiced and how Jewish society more generally functioned in the early centuries of the common era.[6]

A somewhat simplistic, but heuristically valuable summary of the core rabbinic belief can be summarized as follows: two forms of Torahs were given to Moses at Sinai. One, the Written Torah (more literally, "the Torah that is in Writing"), corresponds with the Hebrew

[4] And note, not all the "rabbis" who may have operated in these regions during this time, a methodological issue raised by the existence of the so-called "epigraphic rabbis" known from epitaphs and the like, but not necessarily from rabbinic texts. For a recent assessment of this issue, see Stuart Miller, "'This Is the Beit Midrash of Rabbi Eliezer Ha-Qappar' (Dabbura Inscription) – Were Epigraphical Rabbis Real Sages or Nothing More Than Donors and Honored Deceased?," in *Talmuda De-Eretz Israel: Archaeology and the Rabbis in Late Antique Palestine*, ed. Steven Fine and Aaron Koller, Studia Judaica 73 (Berlin: Walter de Gruyter, 2014), 239–73.

[5] On the rabbis of Palestine, see Lee I. Levine, *The Rabbinic Class of Roman Palestine in Late Antiquity* (New York: The Jewish Theological Seminary of America, 1989); Catherine Hezser, *The Social Structure of the Rabbinic Movement in Roman Palestine*, Texte Und Studien Zum Antiken Judentum 66 (Tübingen: Mohr Siebeck, 1997); Hayim Lapin, *Rabbis as Romans: The Rabbinic Movement in Palestine, 100-400 CE* (Oxford: Oxford University Press, 2012). Fewer monograph-length studies exist on the topic of the Babylonian rabbis. See Isaiah M. Gafni, *The Jews of Babylonia in the Talmudic Era: A Social and Cultural History*, Monographs in Jewish History (Hebrew; Jerusalem: The Zalman Shazar Center for Jewish History, 1990), and David M. Goodblatt, "The History of the Babylonian Academies," in *CHJ* IV, 821–39.

[6] For discussions of the "normativity" and/or hegemony of the rabbis in antiquity, in addition to the literature cited in the previous note, see also the chapters by Hillel Newman, Ze'ev and Chana Safrai, and David Levine in Lee I. Levine and Daniel R. Schwartz, eds., *Jewish Identities in Antiquity: Studies in Memory of Menahem Stern*, Texts and Studies in Ancient Judaism 130 (Tübingen: Mohr Siebeck, 2009); as well as Seth Schwartz, *The Ancient Jews from Alexander to Muhammad* (Cambridge: Cambridge University Press, 2014), 98-123; and Stuart S. Miller, "The Study of Talmudic Israel and/or Roman Palestine: Where Matters Stand," in *The Faces of Torah: Studies in the Texts and Contexts of Ancient Judaism in Honor of Steven Fraade*, ed. Michal Bar-Asher Siegal, Tzvi Novick, and Christine Hayes, Journal of Ancient Judaism Supplements 22 (Göttingen: Vandenhoeck & Ruprecht, 2017), 433–54. Comparative studies of the Babylonian reality remain a desideratum.

Bible, while the other one, the Oral Torah (or, "the Torah that Is in the Mouth"), is primarily an interpretation and development of the ritual guidelines and other ideas found in the Hebrew Bible, and its main containers are the rabbis whose opinions are recorded in rabbinic literature.[7] The concept of Oral Torah is somewhat of a paradox: According to some rabbinic passages, the Oral Torah was given in full to Moses at Sinai,[8] yet, as is recognized in other passages in rabbinic texts, the Oral Torah is very much in history as it continues to develop and expand over time. Indeed, some classical rabbinic texts are aware of this tension: An oft discussed story tells of how, during his forty days on Sinai, Moses was transported in time to the study house of the 1st-2nd century C.E. sage Rabbi Akiva. Moses is unable to follow the discussion of ritual law taking place in the study hall—and yet he overhears Rabbi Akiva attribute some of what he is saying to Moses himself![9]

Rabbinic literature is essentially coterminous with the Oral Torah in that it is conceived as a supplement to the Written Torah. Although we encounter written texts of rabbinic literature in print and digital editions which can be traced back to pre-print manuscript versions, it is now clear to scholars that many of these texts were created and transmitted orally—as is implied by the term "Oral Torah"[10]; this precise issue of intermediation will be of significant interest to us in this dissertation.

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[7] E.g., *Sifre Deuteronomy* (351 [Finkelstein ed., 408]), a relatively early rabbinic work, distinguishes between "Oral" and "Written" Torah. For an extensive overview of the topic, see Shmuel Safrai, "Oral Tora," in *The Literature of the Sages - First Part: Oral Torah, Halakha, Mishna, Tosefta, Talmud, External Tractates*, ed. Shmuel Safrai, Compendia Rerum Iudaicarum Ad Novum Testamentum, Section Two: The Literature of the Jewish People in the Period of the Second Temple and the Talmud 3a (Assen and Philadelphia: Van Gorcum and Fortress Press, 2006), 35–119.

[8] Without using the term "Oral Torah," m. Avot 1.1 implies that this is the case. See David Kraemer, "The Formation of Rabbinic Canon: Authority and Boundaries," *Journal of Biblical Literature* 110, no. 4 (1991): 613–30.

[9] b. Menachot 29b. See the analysis of this passage in Yakir Paz, "'Binding Crowns to the Letters' – A Divine Scribal Practice in Its Historical Context" (Hebrew), *Tarbiz* 86, no. 2/3 (2019): 233–68.

[10] On this topic, see Yaakov Sussman, *Oral Law-Taken Literally: The Power of the Tip of a Yod* (Jerusalem: The Hebrew University Magnes Press, 2019) (note: as this book photographically reprints an earlier article, I

While the prosopography of the rabbis found in classical rabbinic literature ends in the fifth century, there have been Jews ever since who viewed or view themselves as continuing to practice the same form of Judaism which is prescribed by the Oral Torah and inscribed in rabbinic literature. These Jews continued (and continue) to create texts that center around the early rabbis and their ideas. Rabbinic Judaism, and by extension, rabbinic literature, can thus each refer to two things: 1) the form of Judaism practiced by the 1st-5th century rabbis and the literature in which they are the main characters; 2) the forms of medieval and modern Judaism which are articulated as being subservient to the 1st-5th rabbis and the literature that records their views. In this dissertation, I refer to the former as "classical rabbinic Judaism" and "classical rabbinic literature" (though as we will see, some later texts are clearly pseudonymously placed in this period) and to the period in which these rabbis thrived as the "classical period."[11]

The rabbis of the classical period are divided into two chronological groups. The first group is known as the *Tannaim* (sg. *tanna*), and the second as *Amoraim* (sg. *amora*). To a certain extent, this periodization is already recognized in classical rabbinic texts themselves, although as used by traditional and critical scholars, the division is largely inherited from medieval chronologies, some of which I will discuss in the eighth chapter of this dissertation. Traditional rabbinic historiography places an enigmatic group of rabbis named the *Savoraim*

will cite from it according to the original pagination as printed in *Mehqerei Talmud III: Talmudic Studies Dedicated to the Memory of Professor Ephraim E. Urbach*, ed. Yaakov Sussman and David Rosenthal, 2 vols. [Jerusalem: The Magnes Press, 2005], 1:209–384); Martin S. Jaffee, *Torah in the Mouth: Writing and Oral Tradition in Palestinian Judaism, 200 BCE-400 CE* (New York: Oxford University Press, 2001); and Elizabeth Shanks Alexander, "The Orality of Rabbinic Writing," in *The Cambridge Companion to the Talmud and Rabbinic Literature*, ed. Charlotte Elisheva Fonrobert and Martin S. Jaffee (New York: Cambridge University Press, 2007), 38–57.

[11] Certain aspects of "postclassicism" are addressed in Chapter Four.

after the *amoraim*.[12] These rabbis flourished for a short period of time before the rise of the *Geonim* (sg. *Gaon*), who played a significant role in the promulgation of rabbinic Judaism outside of Palestine and Babylonia.[13] The last of the Babylonian Geonim, Rav Hayya Gaon, is said to have died in the mid-eleventh century,[14] by which point, as we will see in Chapter Five, communities ascribing to rabbinic Judaism and centers of rabbinic study are already found throughout the Mediterranean world.

The corpus of classical rabbinic literature itself is divided along multiple axes. A chronological division roughly maps onto that of the tannaitic/amoraic one, in that some texts only transmit the opinions of the *Tannaim*, while others transmit the opinions of both, implying that they were redacted at a later stage. The former group of texts is written solely in Hebrew, while the latter appears in a mix of Hebrew and Aramaic. An additional divide is geographic: Texts from both periods are deemed "Palestinian" in that that their prosopography is primarily of Palestinian rabbis, their geography maps onto that of Roman Palestine, and their language (as preserved in some manuscripts) is in line with elements of Hebrew and Aramaic represented by the epigraphic material found in Palestine. There is one classical rabbinic text from the Babylonian community, the Babylonian Talmud, and its Babylonian-ness is deduced on similar grounds.

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[12] The most extensive study of the *savoraim* and their literary output is still Jacob Ephrathi, *The Sevoraic Period and Its Literature in Babylonia and in Eretz Israel (500-689)* (Hebrew; Petach-Tikva: Agudath Bnai Asher, 1973).

[13] For the *Geonim*, see Robert Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture* (New Haven: Yale University Press, 1998). An updated Hebrew translation of this book has also appeared, Robert Brody, *Zion Between the Tigris and the Euphrates: The World of the Babylonian Geonim* (Jerusalem: Yad ha-Rav Nisim, 2016); I cite the English version except when referencing material only present in the Hebrew edition.

[14] Abraham Ibn Daud, *Sefer Ha-Qabbalah (The Book of Tradition)*, ed. Gerson D. Cohen, Judaica: Texts & Translations, First Series 3 (Philadelphia: Philadelphia: Jewish Publication Society of America, 1967), 59.

Two divisions along genre are also in place. One is between texts organized thematically and between texts organized as biblical commentary, which are known as "*midrashim*," as the term "*midrash*" is most often used in rabbinic texts to refer to biblical exegesis.[15] Of the former category, the primary text is the Mishnah, the focus of this dissertation, the latest rabbis mentioned in which flourished in the early-third century. The other three classical rabbinic texts that are not biblical commentaries—the Tosefta and the Palestinian and Babylonian Talmuds—are all organized around the Mishnah, with the Talmuds explicitly structured as commentaries on portions of the Mishnah.[16] The relationship between the Tosefta and the Mishnah is far less clear; while much of the material in the Tosefta is attributed to rabbis who post-date the editing of the Mishnah, other material in the Tosefta appears to be "early" and may have been polished and incorporated into the Mishnah.[17]

One final distinction is between *halakha*—from the root "*h-l-kh*," "to walk," and thus literally meaning something like "the way to walk/live," and essentially meaning rules regarding proper practice—and *aggadah,* literally "that which is told," a term used to denote whatever is not easily defined as halakha, which often times means commentaries on narrative portions of the Bible, stories about rabbis and biblical characters, parables, astrology, and more.[18] Both modes of discourse appear in the Mishnah, Tosefta and Talmuds,

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[15] For a history of this term, arguing that it original did not refer to exegesis, see Paul D. Mandel, *The Origins of Midrash: From Teaching to Text*, Supplements to the Journal for the Study of Judaism 180 (Leiden and Boston: Brill, 2017).

[16] See below, Chapters Two and Three.

[17] See Judith Hauptman, "Mishnah As a Response to 'Tosefta,'" in *The Synoptic Problem in Rabbinic Literature*, ed. Shaye J.D. Cohen, Brown Judaic Studies 326 (Providence: Brown University Press, 2000), 13–34; Shamma Friedman, Tosefta Atiqta - Pesaḥ Rishon*: Synoptic Parallels of Mishna and Tosefta Analyzed with a Methodological Introduction* (Hebrew; Ramat-Gan: Bar-Ilan University Press, 2002).

[18] On the problems with clearly dividing *halakha* and *aggadah*, see Barry S. Wimpfheimer, *Narrating the Law: A Poetics of Talmudic Legal Stories* (Philadelphia: University of Pennsylvania Press, 2011), 31-62.

although halakhic discourse takes up the majority of all of them. The biblical commentaries that include the opinions of amoraim rarely discuss issues of halakha and are thus frequently termed either as the "aggadic midrashim" or the "amoraic midrashim." The earlier biblical commentaries that only include *Tannaim* are called here the "tannaitic midrashim." These midrashim do contain, to differing extents, both halakhic and aggadic discussions, but they are nevertheless often referred to as the "halakhic midrashim."

	Rabbi Ishmael	Rabbi Akiva	
		"Mainstream"	"Zuta"
Exodus	Mekhilta de-Rabbi Ishmael	Mekhilta de-Rabbi Shimon bar-Yokhai	-
Leviticus	[mostly lost]	Sifra	-
Numbers	Sifrei to Numbers	-	Sifre Zuta to Numbers [mostly lost]
Deuteronomy	Mekhilta to Deuteronomy [mostly lost]	Sifrei to Deuteronomy	Sifre Zuta to Deuteronomy [mostly lost]

Figure 0.1: The division of the Tannaitic Midrashim by exegetical "school" and Biblical book.

3. *The Mishnah*

What is the Mishnah? Despite the fact the Mishnah has been the center of rabbinic curricula for almost two millennium, this seemingly basic question is quite difficult to answer. Here, I will not attempt to describe what the goals of the creators of the Mishnah may have been,

but rather, I will limit myself to describing the Mishnah's main characteristics to the extent necessary for the discussion in the following chapters.[19]

The word "*mishnah*" literally means "that which is recited," and is thus a contrast to the rabbinic word for Scripture, *Miqra*, "that which is read."[20] The root *sh-n-y* also conveys the similar notion of "to repeat" or "to second," and "mishnah" thus appears as a calque in Greek texts as *deuterosis*.[21] Both *mishnah* and *miqra*, as nominalized verbs denoting recited knowledge and Scripture, appear for the first time in tannaitic literature.[22] The Mishnah itself uses the term mishnah several times, but never to refer to itself—indeed, the Mishnah never refers to itself, at least not explicitly; in the Mishnah, the word "mishnah" may at times refer to orally transmitted knowledge or to earlier organized collections of rabbinic knowledge that pre-date the Mishnah.[23] Later rabbinic texts use the word mishnah both to refer to the work known as the Mishnah as well as to refer to the "Oral Torah" more generally; these later works also refer to the work known as the Mishnah as "*Halakhot*" (pl. of *halakha*), and to

[19] For accessible English introduction to the work and several of these issues, including the question of the possible goals of the Mishnah, see Hermann Leberecht Strack and Günter Stemberger, *Introduction to the Talmud and Midrash*, trans. Markus Bockmuehl (Minneapolis: Fortress Press, 1996), 108-48; Dov Zlotnick, *The Iron Pillar - Mishnah: Redaction, Form, and Intent* (Jerusalem: The Bialik Institute, 1988); and David Kraemer, "The Mishnah," in *CHJ* 4, 299–315. For a more up-to-date Hebrew introduction, see Ishay Rosen-Zvi, "Introduction to the Mishnah" (Hebrew), in *CRL*, 1:1–64.

[20] For the term Mishnah, see Epstein, *Introduction*, 2:803-7; Avraham Rosenthal, "Torah she-be'al peh - halakha u-ma'aseh," in *Mehqerei Talmud II: Talmudic Studies Dedicated to the Memory of Professor Eliezer Shimshon Rosenthal*, ed. Moshe Bar-Asher and David Rosenthal (Jerusalem: The Hebrew University Magnes Press, 1993), 448–89 (455 with fn. 24).

[21] See Hillel I. Newman, "A Patristic Perspective on Rabbinic Literature" (Hebrew), in *CRL*, 2:681–704 (685-86).

[22] See Steven D. Fraade, "The Innovation of Nominalized Verbs in Mishnaic Hebrew as Marking an Innovation of Concept," in *Studies in Mishnaic Hebrew and Related Fields: Proceedings of the Yale Symposium on Mishnaic Hebrew, May 2014*, ed. Elitzur A. Bar-Asher Siegal and Aaron J. Koller (New Haven and Jerusalem: The Program in Judaic Studies of Yale University and The Center for Jewish Languages and Literatures of The Hebrew University, 2017), 129–48 (135-38).

[23] On the term "mishnah" in the tannaitic layer of rabbinic literature, see especially Menahem Kahana, "Notes to the 'Mekhilta,'" (Hebrew), *Tarbiz* 59, no. 1–2 (1989): 235–41 (237-240).

individual sections as a *halakha*, or a *mishnah* (pl. *mishnayot*).[24] It is often difficult to know when the word "mishnah" is meant to refer to the work of the Mishnah or to orally transmitted Jewish knowledge more generally, and the word "deuterosis" presents the same difficulty. In this dissertation, I maintain the convention of using "Mishnah"—with a capital 'M'—to refer to the work, and "mishnah"—with a lower-case 'm'—when the Hebrew term is meant to refer to the Oral Torah or to an individual subunit of the Mishnah.

As mentioned, the Mishnah is in Hebrew. It is made up of around 190,000 words and is divided into six thematic "orders" (Hebrew *sedarim*; sg. *seder*) and further into 60 thematic tractates (*masekhtot*, sg. *masekhet*); e.g., *Shabbat* is the first tractate in *Moed*, "Time," the order devoted to laws pertaining to holiday observance. Each tractate is further divided into chapters (*peraqim*, sg. *pereq*) and then into individual *mishnayot*. For the most part, the order of the tractates within each order is by descending order by number of chapters, though over time, certain lengthy tractates were divided further into separate tractates, and the order fluctuates somewhat across the various manuscripts and printed editions (Figure 0.2).[25]

[24] On halakhot as referring to the Mishnah and halakha as a term for individual units of Mishnah, see Epstein, *Introduction*, 2:999-1000.

[25] On the internal organization of the Mishnah's orders and tractates, see Menahem Kahana, "The Arrangement of the Orders of the Mishnah" (Hebrew), *Tarbiz* 76, no. 1–2 (2006): 29–40.

Order	Tractate	Order	Tractate
Zeraim ("Seeds")	1.Berakhot 2. Pe'ah 3. Demai 4. Kelaim 5. Shevi'it 6. Terumot 7. Ma'asarot 8. Ma'aser Sheni 9. Hallah 10. Orlah 11. Bikkurim	Neziqin ("Damages")	31. Neziqin (eventually divided into Bava Qama, Bava Metsi'ah, and Bava Batra) 32. Sanhedrin (eventually divided into Sanhedrin and Makot) 33. Shvuot 34. Eduyot 35. Avodah Zarah 36. Avot 37. Horayot
Moed ("Time")	12. Shabbat 13. Eiruvin 14. Pesahim 15. Sheqalim 16. Yoma 17. Sukkah 18. Beitsah 19. Rosh haShana 20. Ta'anit 21. Megillah 22. Moed Qatan 23. Hagigah	Qodshim ("Holy Things")	38. Zevahim 39. Menahot 40. Hullin 41. Bekhorot 42. Erkhin 43. Temurah 44. Kareitot 45. Me'ilah 46. Tamid 47. Middot 48. Kinnim
Nashim ("Women")	24. Yevamot 25. Ketubot 26. Nedarim 27. Nazir 28. Sotah 29. Gittin 30. Qidushin	Taharot ("Purities")	49. Kelim 50. Ohilot 51. Nega'im 52. Parah 53. Taharot 54. Miqva'ot 55. Niddah 56. Makhshirin 57. Zavim 58. Tevul Yom 59. Yadayim 60. Uqtzin

Figure 0.2: The Orders and Tractates of the Mishnah (note that the internal organization of each Order fluctuates somewhat).

In addition to the lack of any explicit self-referential statements, another defining characteristic of the Mishnah is the difficulty in ascertaining the logic behind the flow of the text. This does not mean that there is no logic behind the order; it is simply the case that it is quite foreign to a modern aesthetic and the logic is therefore not always immediately

apparent. For example, the Mishnah seems to make a point of beginning tractates *in medias res*, in the middle of intricate discussions pertaining to religious regulations, without spelling out any of its assumptions. Indeed, the Mishnah assumes a significant familiarity with a range of concepts and ideas and does not even appear to signal a specific beginning to the work as a whole.[26] Two additional characteristics that I will have significantly more to say about in the following chapter relate to the relationship between the Mishnah and individual rabbis: First is that the Mishnah contains thousands of opinions on halakhic matters, often times ones that disagree with one another, and while many of the opinions are attributed to named sages, it is often unclear which opinion is to be adopted as practice. Second is that the Mishnah, lacking any explicit self-referential elements, contains no explicit evidence regarding who created it and why. With that, there is a strong tradition in later rabbinic texts—one I will probe in the next chapter—that connects the Mishnah with Rabbi Judah *ha-Nasi*, the most preeminent sage of the early third century. The question of "why the Mishnah was created?" is first addressed only in the Middle Ages, and we will look at this issue in the following chapter as well as in the final chapter of this dissertation.

4. *Evidence and Methodology*

In Late Antiquity, the Mishnah was primarily studied and transmitted orally. While Jews continued to study the Mishnah orally in the Middle Ages and in later periods, from the Middle Ages and on we have a significant amount of manuscript evidence for the Mishnah.

[26] It must be emphasized that this is not to say that there is *no* order to the text; indeed, there is even a way to argue that the opening of tractate Berakhot is meant to raise introductory concepts and is therefore positioned at the start of the Mishnah; see Avraham Walfish, *Mishnaic Tapestries - Tractate Berakhot: A Literary-Conceptual Study of Mishnah Tractate Berakhot* (Hebrew; Alon Shvut: Tevunot, 2018), 15-21. But it is significant that this must be *argued*.

In the second half of this dissertation, I will analyze the manuscript evidence of the Mishnah as sources for the study of the Mishnah's reception amongst medieval Jews. However, as this evidence will also be used already in earlier chapters of the dissertation, there is a need here to briefly introduce the medieval manuscripts of the Mishnah.

Medieval Hebrew manuscripts primarily exist in two forms: "complete" and "fragments."[27] In the case of the former, the manuscripts existed since their creation and until the present day in the possession of individuals or other library settings. In the corpus of "complete manuscripts," the Mishnah can be found either on its own; in the context of copies of the Talmuds—and primarily ones of the Babylonian Talmud; or alongside Medieval commentaries—primarily that of Maimonides, either in its original Judeo-Arabic or in Hebrew translation. An additional, smaller category is made up of liturgical manuscripts that include selections from the Mishnah.[28] Only three manuscripts exist that contain the Mishnah in its entirety without Talmud or commentary, manuscripts of what contemporary

[27] For an overview of Hebrew manuscripts and manuscript collections, see Binyamin Richler, *Hebrew Manuscripts: A Treasured Legacy* (Cleveland & Jerusalem: Ofeq, 1990), and Colette Sirat, *Hebrew Manuscripts of the Middle Ages*, trans. Nicholas de Lange (Cambridge: Cambridge University Press, 2002). On Hebrew codicology, see Malachi Beit-Arié, *Hebrew Codicology: Historical and Comparative Typology of Medieval Hebrew Codices based on the Documentation of the Extant Dated Manuscripts until 1540 Using a Quantitative Approach*, ed. Nurit Pasternak, trans. Ilana Goldberg (Jerusalem and Hamburg: The Israel Academy of Sciences and Humanities, 2021). While the field of Hebrew Paleography is still in its early stages, significant strides have been made in recent years, particularly thanks to the work of Judith Olszowy-Schlanger, whose articles on the topic and method will be cited in later chapters.

[28] On the division of manuscripts of the Mishnah, see especially Yaakov Sussman, "Manuscripts and Text Traditions of the Mishnah" (Hebrew), *Proceedings of the Seventh World Congress of Jewish Studies: Studies in Talmud, Halacha and Midrash*, 1980, 215–50 (Sussman published a slightly updated version of this article in idem, *Thesaurus*; as the later version omits a number of footnotes, references here will be to the original printing); Avraham Rosenthal, "Le-Mesoret girsat ha-mishnah," in *Saul Lieberman Memorial Volume*, ed. Shamma Friedman (New York and Jerusalem: The Jewish Theological Seminary of America, 1993), 29–47; David Rosenthal, "Mishna Aboda Zara - A Critical Edition with Introduction" (Hebrew; Ph.D. dissertation, The Hebrew University of Jerusalem, 1980), 57-95, 96-152; Robert Brody, *Mishnah and Tosefta Studies* (Jerusalem: The Hebrew University Magnes Press, 2014), 5-14; Shamma Friedman, *Talmud Arukh: BT Bava Mezi'a VI: Critical Edition with Comprehensive Commentary*, vol. Text (Hebrew; New York and Jerusalem: The Jewish Theological Seminary of America, 1996), 85-8; and David Rosenthal, "The History of the Mishnaic Text" (Hebrew), in *CRL*, 1:65–107.

scholars—based on medieval precedent—term *Seder ha-Mishnah*. These manuscripts are Parma, The Palatine Library, MS 3173 (De Rossi 137; Richler 710), from late 11th century southern Italy; Budapest, the Hungarian Academy of Sciences, MS A50, from 12th century central Italy; and Cambridge, The Cambridge University Library, MS Add.470.1, from 15th century Byzantium.[29]

Medieval Hebrew manuscripts may have been fragmented in many ways, but in general terms, two main forms of fragments are relevant in this study. The first is fragments found in what is referred to as the "Cairo Genizah," a cache (or, more exactly, several caches) of manuscript scraps that Jews deposited, in keeping with strict halakhic prescriptions, in the attic of a synagogue in Cairo and in nearby locations after the manuscripts fell out of use; scholars began to use these fragments in their research in the final decades of the 19th century.[30] An additional, much smaller corpus is made up of fragments of manuscripts found in the bindings of notarial documents or other books in European libraries and archives, much of which are still *in situ* and uncatalogued.[31] This corpus is often referred to as the "European Genizah" (or by specific region as "the Italian Genizah," etc.), a term that washes over the often-tragic causes of fragmentation, which mostly resulted from the confiscation of Hebrew manuscripts by Christians for reuse in the bindings of their own books. As such,

[29] The Cambridge manuscript appeared in a diplomatic edition as W.H. Lowe, ed., *The Mishnah on Which the Palestinian Talmud Rests* (Cambridge: Cambridge University Press, 1883), and is thus often referred to in the literature simply as "Lowe." As the manuscript was created long after the period at the focus of this dissertation, I will only mention it sparingly. For more on the manuscript, see Yehudit Henshke, "The Vocalisation of MS Cambridge of the Mishnah: An Encounter Between Traditions," in *Studies in Rabbinic Hebrew*, ed. Shai Heijmans, Cambridge Semitic Languages and Cultures 2 (Cambridge: University of Cambridge & Open Book Publishers, 2020), 25–56, with references to prior literature.

[30] For a description of this corpus and the history of its re-discovery, see Rebecca J. W. Jefferson, *The Cairo Genizah and the Age of Discovery in Egypt: The History and Provenance of a Jewish Archive* (London: I.B. Tauris, 2022).

[31] For an overview of this corpus, see Simcha Emanuel, "The European Genizah: Its Character and the History of Its Study," *Materia Giudaica* 24 (2019): 587–624.

in this dissertation, I refer to materials from this corpus as "binding fragments," and not as "European Genizah fragments." The same division of Mishnah manuscripts into "Mishnah Only," "Mishnah with Talmud," "Mishnah with Commentary," and "Liturgical Mishnah" applies also with regards to the manuscript fragments.

A full appreciation of the Mishnah and other Talmudic fragments in these corpora has only been made possible in recent years, thanks to the publication of Yaakov Sussman's monumental *Thesaurus of Talmudic Manuscripts*. The *Thesaurus* seeks to catalogue all known manuscripts and manuscript fragments of the Mishnah, Tosefta, and Talmuds, as well as those of Alfasi's 11th century *Sefer ha-Halakhot*—an epitome of the Babylonian Talmud geared towards practical use and application—as a preliminary step towards the creation of critical editions of these works.[32] As Sussman's goals in the *Thesaurus* reveal, the material evidence of the Mishnah has primarily been utilized by philologists invested in preparing a critical edition of the text of the Mishnah—an incomplete project now well over a century in the making, one that has long been enmeshed in religious polemics and nationalist ideologies.[33] An additional group of philologists have utilized these manuscripts for the

[32] See Sussman, *Thesaurus*.

[33] Most apparent in the work of the "father of the exact Talmudic science," J.N. Epstein, who, in his 1925 lecture inaugurating the Talmud Department of the Hebrew University, articulated a research project in which "in our Land…the most pressing need is the book, the exact book" of the Mishnah; see J. N. Epstein, "Ha-madah ha-talmudi vi-tserakhav," in *Studies in Talmudic Literature and Semitic Languages*, ed. E. Z. Melamed, 3 vols., Publications of The Perry Foundation (Jerusalem: The Magnes Press, 1988), 2:1–18. Epstein had earlier worked on a critical edition while living in Berlin as part of the operations of the Gesellschaft zur Förderung der Wissenschaft des Judentums and its Corpus Tannaiticum, an organization and project established in order to combat Christian scholars' "prejudice against Judaism"; see Henry C. Soussan, *The Gesellschaft Zur Förderung Der Wissenschaft Des Judentums in Its Historical Context*, Schriftenreihe Wissenschaftlicher Abhandlungen Des Leo Baeck Instituts 75 (Tübingen: Mohr Siebeck, 2013) (the quote here is from the Gesellschaft's original call to scholars, translated on page 157).

similarly romantic project of reconstructing early dialects of Hebrew spoken in the Land of Israel in Antiquity.[34]

In utilizing the manuscript evidence in this dissertation, my focus will not be on the Mishnah's text nor on the Mishnah's dialect, but on *the Mishnah*. I will show that these manuscripts can be used to trace the ways in which Jews over the long-first millennium studied and cared for the Mishnah. While my goals are different than those of the text critics and linguists, I maintain that philology, particularly when coupled also with codicology and paleography, is a critically important toolset for the study of social, religious, and intellectual history. As such, the conclusions of text critics and linguists inform the present study as they can be used to shed light on the history of the Mishnah as a work. Alongside the work of philologists past, I introduce additional manuscript evidence that has often been overlooked, such as manuscript paratexts, codicological aspects of manuscripts, and "bad" manuscripts that are often ignored or underappreciated by scholars as they are deemed to be overly inaccurate textual witnesses. Lastly, I attempt a bibliometric analysis of these manuscripts, as this form of analysis may shed light on the popularity of certain sections of the Mishnah and thus help us better understand study patterns.[35]

But the evidence base used here is not limited only to medieval manuscripts. For the ancient period, I will also use a variety of rabbinic sources, epigraphy, liturgical poetry, and texts written by non-Jewish authors. In the sections of the dissertation on the medieval

[34] For an overview of this field and its methods see Moshe Bar-Asher, *Studies in Classical Hebrew*, ed. Aaron Koller, Studia Judaica 71 (Berlin and Boston: Walter de Gruyter GmbH, 2014), 263-91.

[35] The bibliometric analysis here is by nature only preliminary, for as we will see, such analysis is limited by the state of our catalogues of Hebrew manuscripts and manuscript fragments. Furthermore, such analysis can anyway only ever be partial due to the Christian destruction of Hebrew books. For more on these considerations, see Yitz Landes, "Defending the Talmud in the Digital Age: Four Reflections," *The Talmud Blog*, December 23, 2018, https://thetalmud.blog/2018/12/23/defending-the-talmud-in-the-digital-age-four-reflections/.

period, in addition to the manuscript evidence, I also make use of literary and documentary sources that discuss the Mishnah and its study. These corpora have only rarely been used in concert, but as we will see, together they provide us with a rich picture of the reception of the Mishnah in Late Antiquity and the Middle Ages. Besides for expanding the evidence base and methodological angle, another defining characteristic of this study is the *longue durée* approach. As I will argue, this is necessary in order to map the contours of rabbinic history: it is only by analyzing the medieval evidence in its context that we can fully appreciate its value for the study of antiquity, and vice versa, only by documenting the ancient phenomena in their contexts can we appreciate the changes that occurred in the Middle Age.[36]

The use of an array of sources and methodologies in order to reconstruct the reception history of a given work should be recognizable to scholars familiar with recent trends in Book History,[37] Critical Bibliography,[38] and Material (or formerly, "New") Philology.[39] Such approaches have only been used in a rather limited way in the study of

[36] This periodization will allow us to respond, in part, to the suggestion that the "question" of rabbinziation would "best be treated by medievalists"; see Seth Schwartz, "Rabbinization in the Sixth Century," in *The Talmud Yerushalmi and Graeco-Roman Culture*, ed. Peter Schäfer, vol. III, Texts and Studies in Ancient Judaism 93 (Tübingen: Mohr Siebeck, 2002), 55–69 (56). For similar considerations with regards to periodization, see Yitz Landes, *Studies in the Development of Birkat Ha-Avodah* (Hebrew; Jerusalem: The Mandel Institute of Jewish Studies, 2018), 5-6, and on the need to approach the first millennium as an historical period, see also Garth Fowden, *Before and after Muhammad: The First Millennium Refocused* (Princeton: Princeton University Press, 2014).

[37] For helpful overviews, see Leslie Howsam, *Old Books and New Histories: An Orientation to Studies in Book and Print Culture*, Studies in Book and Print Culture (Toronto and Buffalo: University of Toronto Press, 2006), and Michelle Levy and Tom Mole, *The Broadview Introduction to Book History* (Peterborough: Broadview Press, 2017). For the specific pre-print context, see also Jessica Brantley, "The Prehistory of the Book," *Publications of the Modern Language Association* 124, no. 2 (2009): 632–39.

[38] A term first used by W.W. Greg in his lecture "What Is Bibliography?" (*The Library* 12, no. 1 [1913]: 39–54) to refer to what is now often termed "Analytic Bibliography," but more recently resurrected by Michael Suarez, Donna Sy, and Barbara Heritage of the Rare Books School to refer to "a synthesis of bibliography, book history, and critical hermeneutics"; see Barbara Heritage, "Reading the Writing Desk: Charlotte Brontë's Instruments and Authorial Craft," *Studies in Romanticism* 60, no. 4 (2021): 503–22 (507 fn. 26).

[39] In particular, the work of medievalists such as Stephen Nichols and his colleagues, going back to *Speculum* 65 (1990); of many overviews and methodological reflections, see especially Stephen G. Nichols, "New Challenges for the New Medievalism," in *Rethinking the New Medievalism*, ed. R. Howard Bloch et al. (Baltimore: Johns Hopkins University Press, 2014), 12–38. See also the work of David Greetham, e.g., David C.

classical rabbinic texts.[40] This dissertation thus proposes a shift in the manner in which these works have been studied until now, primarily by two (and a half) different groups of scholars: philologists (including text critics and linguists) and historians of Ancient Judaism. To the philologists, I argue that the evidence of manuscripts and other textual witnesses should be used not only for recovering ancient versions and dialects, but also as evidence for the reception of these works, and thus by extension, for the study of Jewish religious, social, and intellectual history. And to the historians of ancient Judaism, I argue that a turn to studying the reception of rabbinic works—while incorporating and expanding on the work of philologists—significantly extends the types of evidence and questions that we can use when approaching some of the most vexing issues in the study of Jewish History. I will argue that the reception of the rabbinic canon, and specifically, its central work, the Mishnah, played a significant role in the diffusion of rabbinic Judaism and practice throughout the

Greetham, *The Pleasures of Contamination: Evidence, Text, and Voice in Textual Studies*, Textual Cultures: Theory and Praxis (Bloomington: Indiana University Press, 2010). A helpful comparison can be made with N. G. Wilson and L. D. Reynolds, *Scribes and Scholars: A Guide to the Transmission of Greek and Latin Literature*, 4th ed. (Oxford and New York: Oxford University Press, 2013): While this dissertation is structurally similar to *Scribes and Scholars*, Wilson and Reynolds' primary goal is to acquaint readers with "the historical facts which make" the "apparatus criticus" necessary in editions of Greek and Latin works; the payoff for "the cultural history of the Middle Ages and Renaissance" is incidental (v).

[40] With regards to classical rabbinic texts in premodern times, several studies of Yaakov Sussman will be particularly helpful. Sussman's focus is primarily the understanding of manuscript evidence for projects of textual curatorship, but his interests in study patterns and their impact on textual production and reformulation are relatively unique and have greatly informed my work in this dissertation. On this aspect of Sussman's work, see Uziel Fuchs, "Review of Yaakov Sussman, Oral Law Taken Literally: *The Power of the Tip of a Yod*, Jerusalem: Magnes, 2019" (Hebrew), *Jewish Social Studies* 55 (2020): 209–29 (211). Recently, work has been done also on the reception of classical rabbinic texts in the Early Modern era. See Yakov Z. Mayer, *Editio Princeps: The 1523 Venice Edition of the Palestinian Talmud and the Beginning of Hebrew Printing* (Hebrew; Jerusalem: Magnes Press, 2022); and Piet van Boxel, Kirsten MacFarlane, and Joanna Weinberg, eds., *The Mishnaic Moment: Jewish Law Among Jews and Christians in Early Modern Europe*, Oxford-Warburg Studies (Oxford: Oxford University Press, 2022). Two additional works are of note as they have served as significant sources of inspiration for this dissertation: Talya Fishman, *Becoming the People of the Talmud: Oral Torah as Written Tradition in Medieval Jewish Cultures*, Jewish Culture and Contexts (Philadelphia: University of Pennsylvania Press, 2011), raises questions that are quite similar to those that I pose here, yet besides for focusing on the Mishnah—and not the Talmud—I will also give significantly more attention to material evidence for reception, a method adapted in part from David Stern, *The Jewish Bible: A Material History*, Samuel and Althea Stroum Lectures in Jewish Studies (Seattle: University of Washington Press, 2017).

Mediterranean world. And in order to map this reception, I argue that we must focus on the documentable aspects of rabbinic education and literacy over the course of the long first millennium, as well as on the way that rabbinic Judaism was articulated in this period vis-à-vis the interpretation and representation of rabbinic works.[41]

5. *Outline of this Dissertation*

In the first chapter of this dissertation, I look at the evidence for the Mishnah's creation and initial dissemination in Roman Palestine. Rearticulating the traditional association of the Mishnah with Judah *ha-Nasi*, I argue that there is in fact sufficient evidence to conclude that his *circle*—i.e., the incipient institution of the Jewish Patriarchate—was responsible for the creation and early dissemination of the Mishnah and of several related texts, and that the Mishnah was intended to serve as the base text of the rabbinic curriculum at various levels of study. In the second chapter, I turn to the evidence for the circulation of the Mishnah in third- and fourth-century Palestine, utilizing rabbinic and Christian sources, and the Third Chapter discusses the arrival of the Mishnah in Babylonia and unpacks what this means for the history of the Rabbinic movement. Both chapters address also what I term "Scholastic Scripturalization," by which I refer to the increased incorporation in the study of the Mishnah of hermeneutic principles previously used in the study of Scripture. The fourth chapter addresses the evidence for the study and perception of the Mishnah in Byzantine and Early Islamic Palestine. After analyzing the evidence for rabbinic and related educational

[41] In this way, the argument here is particularly indebted to certain trends in the study of religion in Late Antiquity. Of particular note are Peter Brown, *Power and Persuasion in Late Antiquity: Towards a Christian Empire* (Madison: The University of Wisconsin Press, 1992), and Jack Boulos Victor Tannous, *The Making of the Medieval Middle East: Religion, Society, and Simple Believers* (Princeton: Princeton University Press, 2018).

institutions in this period, I show that in response to the rise of Christianity, the Mishnah achieved a place of increased importance for Jewish identity, as the Mishnah and its study served to symbolize Israel's unique relationship with God—a non-scholastic aspect of the Mishnah's "Scripturalization."

The second half of the dissertation turns to reception of the Mishnah in the Middle Ages. Chapter Five addresses the evidence for the study of the Mishnah in medieval Islamic lands, focusing on the spread of Mishnah study beyond the circles of rabbis and their students, and on the introduction of new media—namely, manuscripts—into the study and transmission of the Mishnah. Significant attention is given to the intermedial nature of Mishnah study, as practices of oral and artifactual study intertwined. Turning to Christian Europe, Chapter Six focuses on the early European manuscripts of the Mishnah, and especially to Parma 3173. By looking closely at the manuscript's text type and at its many paratexts, I uncover important information for the Mishnah's reception and study and to the process of "Babyloniazation"—that is, the increased hegemony of a specifically Babylonian form of rabbinic Judaism. In the seventh chapter, I address the place of the Mishnah in the Siddur, the Jewish prayerbook, utilizing liturgical manuscripts and related texts to detail a significant aspect of the Siddur's development and to unpack one of the key avenues of the Mishnah's reception. In the final chapter, I analyze the approaches to the Mishnah and its creation in the works of Medieval Jewish writers, looking at how these authors used the idea of the Mishnah to construct a notion of rabbinic identity and authority.

In the Conclusion to the dissertation, after summarizing the results of the findings of the various chapters, I discuss avenues for further research and attempt to outline a program for what I call the "Critical Philology" of rabbinic literature.

Chapter One

The Origins of the Mishnah and Its Initial Dissemination in Roman Palestine

1. *Introduction*

Where did the Mishnah come from, and how did it become the focus of rabbinic study? This chapter will attempt to answer these questions by assessing the evidence for the initial dissemination of the Mishnah. I will argue that while—contra the traditional view—it may not be entirely possible to pin the Mishnah's composition specifically on Rabbi Judah *ha-Nasi*, there is in fact sufficient evidence to associate the Mishnah with Judah's circle and with the institution of the Patriarchate, which he led in its early years.[1] I will additionally argue that the Mishnah's association with the Patriarchate should be looked at in the context of this

[1] On the Patriarchate, see especially Martin Jacobs, *Die Institution des jüdischen Patriarchen: Eine quellen- und traditionskritische Studie zur Geschichte der Juden in der Spätantike*, Texte und Studien zum Antiken Judentum 52 (Tübingen: J.C.B. Mohr, 1995); Hezser, *The Social Structure*, 405-449; Seth Schwartz, *Imperialism and Jewish Society: 200 B.C.E. to 640 C.E.* (Princeton: Princeton University Press, 2001), 103-28; Hayim Lapin, *Rabbis as Romans: The Rabbinic Movement in Palestine, 100-400 CE* (Oxford: Oxford University Press, 2012), 20-25; Lee I. Levine, "The Emergence of the Patriarchate in the Third Century," in *Envisioning Judaism: Studies in Honor of Peter Schäfer on the Occasion of His Seventieth Birthday*, ed. Ra'anan S. Boustan et al., vol. 1, 2 vols. (Tübingen: Mohr Siebeck, 2013), 235–64. To be sure, scholars have occasionally mentioned, almost in passing, that the Mishnah was edited and disseminated by the *house* of Rabbi; explicit mention of the role of the Patriarchate is even less frequent. See, for example, Tirzah Zechurah Meacham, "Mishnah Tractate Niddah with Introduction - A Critical Edition with Notes on Variants, Commentary, Redaction and Chapters in Legal History and Realia" (Hebrew; Ph.D. dissertation, The Hebrew University of Jerusalem, 1989), 7 ("חתימתה על ידי בית [בית רבי] הנשיא"); Hayim Lapin, *Early Rabbinic Civil Law and the Social History of Roman Galilee: A Study of Mishnah Tractate Baba' Mesi'a'*, Brown Judaic Studies 307 (Atlanta: Scholars Press, 1995), 2 ("Traditionally the final redaction of the Mishnah is ascribed to the circle of R. Judah the Patriarch"); Menahem Kahana, *Sifre on Numbers: An Annotated Edition* (Hebrew; Jerusalem: The Hebrew University Magnes Press, 2011-2015), 265 fn. 23 ("מעורבתו של רבי ובית רבי בנוסח המשנה"); see also David Flatto apud Appelbaum, *The Jewish Patriarchs*, 35 ("the classical, but largely uncorroborated, assumption that R. Judah's Patriarchate… supervised the redaction of the Mishnah"); Mira Balberg, *Purity, Body, and Self in Early Rabbinic Literature* (Berkeley: University of California Press, 2014), 3 ("The final compilation of the Mishnah…is commonly associated with the name of Rabbi Yehudah the Patriarch… and his circle"). With regards to the relationship between the promulgation of the Mishnah and what may be termed the institutional history of the Patriarchate see below and note already Lapin, *Rabbis as Romans*, 36-59 (59: "…if we accept that Judah the Patriarch was the editor of the Mishnah and a Gamlielide, the very fact of political contests embedded in the Mishnah suggests that we can understand the Mishnah as an attempt to assert a kind of institutional authority within rabbinic circles and through the consolidation of tradition"—summarizing the conclusions in his *Early Rabbinic Civil Law*; see also below, fn. 74).

circle's involvement in the editing of other early rabbinic works, and that this circle even functioned, effectively, as something like a sieve in the transmission of early rabbinic literature. To the best of my knowledge, the connection between this circle's role in editing and disseminating the Mishnah and the similar role that they played in the editing and dissemination of other early rabbinic texts has not been made in the scholarship.[2] Further, I will show that the editing of the early rabbinic texts was coeval with a certain level of formalization, and even institutionalization, of rabbinic instruction in Palestine, in which the incipient Patriarchate also had a role.[3] The following chapter expands on these changes in rabbinic instruction by looking more closely at the evidence for the study of the Mishnah in 3rd- and 4th- century Palestine and the various settings in which it may have occurred.

2. *The Mishnah—A Product of the Incipient Patriarchate*

The two Talmuds contain countless discussions in which it is assumed that Rabbi Judah ha-Nasi—or "Rabbi," as is common in rabbinic literature—was responsible for the creation of the Mishnah. But this assumption is nowhere accompanied by an explicit history of the

[2] For some partial exceptions, see below, note 55.

[3] One additional context, that I will only address here in brief, is that of advancements in our understanding of ancient book production and circulation as it may shed light on the Mishnah. For an earlier attempt at such an analysis, see Saul Lieberman, "The Publication of the Mishnah," in *Hellenism in Jewish Palestine: Studies in the Literary Transmission, Beliefs and Manners of Palestine in the I Century B.C.E.-IV Century C.E.*, by Saul Lieberman, Texts and Studies of the Jewish Theological Seminary of America 18 (New York: Jewish Theological Seminary of America, 1950), 83–99. Catherine Hezser has addressed this issue in a number of studies, see Catherine Hezser, *Jewish Literacy in Roman Palestine*, Texts and Studies in Ancient Judaism 81 (Tübingen: Mohr Siebeck, 2001), 427-33, eadem, "The Mishnah and Ancient Book Production," in *The Mishnah in Contemporary Perspective*, ed. Avery-Peck, Alan J. and Jacob Neusner, Handbook of Oriental Studies Section One, The Near and Middle East 65 (Leiden: Brill, 2002), 167–92, and eadem, "Roman Law and Rabbinic Legal Composition," in *The Cambridge Companion to the Talmud and Rabbinic Literature*, ed. Charlotte Elisheva Fonrobert and Martin S. Jaffee (New York: Cambridge University Press, 2007), 144–63; yet see the reservations of Ishay Rosen-Zvi, "Orality, Narrative, Rhetoric: New Directions in Mishnah Research," *AJS Review* 32, no. 2 (2008): 235–49 (241-242), to the effect that the well-documented practices of Greek and Latin book production and trade in the Roman Near East, and the lack of similar evidence for the oral composition and transmission of Greek and Latin texts at the time, need not require that the Mishnah must have been redacted and transmitted in writing, as Hezser has argued in these studies (I will return to the issue of orality below).

Mishnah's creation and diffusion, rather, the rabbis in the Talmuds simply associate the Mishnah with Judah when interrogating aspects of the Mishnah's phrasing and structure,[4] and do not openly remark on the avenues through which the Mishnah may have been disseminated. Moreover, the Mishnah itself—like all other works of classical rabbinic literature—says nothing explicit about its origins, so that, the argument goes, it is impossible for us to verify the associations with Judah first found in the Talmuds.[5] At most, scholars have argued that it is extremely *likely* that the Mishnah was indeed compiled by Judah, as this association is so commonplace and so early that there is no reason to doubt it; it is suggested also that its association with the most well-known and well-connected of the early third-century rabbis would help explain how the Mishnah achieved widespread currency.[6] In what follows, I will look more closely at the evidence for the Mishnah's association with Judah and his circle.

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[4] See, conveniently, the examples brought in Dov Zlotnick, *The Iron Pillar - Mishnah: Redaction, Form, and Intent* (Jerusalem: The Bialik Institute, 1988), 19-23; Günter Stemberger, *Einleitung in Talmud und Midrasch*, 9th ed. (München: C.H. Beck, 2011), 144; and in Ishay Rosen-Zvi, "Introduction to the Mishnah" (Hebrew), in *CRL*, 1:1–64 (44-55). Classic treatments of this question include Epstein, *Introduction*, 1:270-283; idem, *Prolegomena Ad Litteras Tannaiticas: Mishna, Tosephta et Interpretationes Halachicas*, ed. E.Z. Melamed (Hebrew; Jerusalem: The Magnes Press, 1957), 180-230; Hanoch Albeck, *Introduction to the Mishnah* (Hebrew; Jerusalem and Tel-Aviv: The Bialik Institute and Dvir Co., 1959), 99-111. The statement in b. BM 86a, "Rabbi and R. Natan are the end of *mishnah*; Ravina and Rav Ashi are the end of instruction," has also been used as evidence for Rabbi's editing of the Mishnah, although this passage appears to concern periodization, and not the association of any text with a specific rabbi; cf. *Kohelet Rabbah* 5:8-9 (ed. Hirshman, 294).

[5] It is thus common to find statements in the literature akin to what one prominent scholar has stated in an overview of the period, that "[w]e cannot evaluate the claim that he (Rabbi—Y.L) compiled the Mishnah; the text itself provides no evidence one way or another" (Seth Schwartz, *The Ancient Jews from Alexander to Muhammad* [Cambridge: Cambridge University Press, 2014], 119). For similar sentiments, see Hezser, *The Social Structure*, 414 (though for her later view, assigning more likelihood to editing by Rabbi, see in the next note); Elizabeth Shanks Alexander, *Transmitting Mishnah: The Shaping Influence of Oral Tradition* (Cambridge and New York: Cambridge University Press, 2006), 2 fn. 3; Alan Appelbaum, *The Dynasty of the Jewish Patriarchs*, Texts and Studies in Ancient Judaism 156 (Tübingen: Mohr Siebeck, 2013), 34.

[6] For a combination of all of these reason, see Rosen-Zvi, "Introduction to the Mishnah," 46. For the theory that only Rabbi would have had the resources necessary to create the Mishnah and promulgate it (though with some hesitancy about the Mishnah's actual success at gaining currency), see Hezser, "The Mishnah," 188. For the argument that the Mishnah did not receive immediate currency, see David Weiss Halivni, "The Reception Accorded to Rabbi Judah's Mishnah," in *Jewish and Christian Self Definition II: Aspects of Judaism in the Graeco-Roman Period*, ed. E.P. Sanders, Albert I. Baumgarten, and Alan Mendelson (London: SCM, 1981), 204–12.

2.1. *The Mishnah Bears an Affinity with Judah, his Family, and Students*

While the Mishnah is often perceived as an exemplary summation of the state of rabbinic knowledge in the early third century, it is the case that it represents the thinking of a *specific group* of rabbis.[7] Already medieval historians of the Mishnah's origins described, with some degree of accuracy, that the Mishnah builds upon earlier collections associated with the early-second century Rabbi Akiva and his students, and modern scholars have noted that it even sidelines another group of rabbis, that of Rabbi Ishmael and his students.[8] This can be shown rather simply through prosopography: the Mishnah includes far more opinions of Rabbi Akiva and his students than it does the opinions of sages from the opposing school of Rabbi Ishmael.[9] Importantly, rabbinic texts, starting already with the Tosefta, the early compendium to the Mishnah, note that Judah himself was part of the lineage of Akiva's intellectual heirs, having studied with several of Akiva's students.[10]

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[7] See Lapin, *Rabbis as Romans*, 59.

[8] See Stemberger, *Einleitung*, 125-26 (with reference also to possible Christian evidence), 136-137; Rosen-Zvi, "Introduction to the Mishnah," 44-45; Hayim Lapin, "The Origins and Development of the Rabbinic Movement in the Land of Israel," in *CHJ* 4, 206–29 (215). For an extensive analysis of the Mishnah that seeks to uncover these earlier Akivan collections, see Epstein, *Prolegomena*, 71-179. For proof of the past the existence of an Ishmaelian Mishnah, see Menahem Kahana, "The Relations between Exegeses in the Mishnah and Halakhot in the Midrash" (Hebrew), *Tarbiz* 84, no. 1/2 (2015): 17–76 (Kahana points out, also, that in his later work, Epstein speaks of "the school of Rabbi Akiva-Rabbi"); Kahana refutes earlier attempts to argue that there was no use of Mishnah amongst the Ishmaelian sages, for which see especially David Weiss Halivni, *Midrash, Mishnah, and Gemara: The Jewish Predilection for Justified Law* (Cambridge: Harvard University Press, 1986), 59-63.

[9] For the prosopography, see Menahem Kahana, "Halakhic Midrashim," in *The Literature of the Sages—Second Part: Midrash and Targum, Liturgy, Poetry, Mysticism, Contracts, Inscriptions, Ancient Science and the Languages of Rabbinic Literature*, ed. Shmuel Safrai et al., Compendia Rerum Iudaicarum Ad Novum Testamentum, Section Two: The Literature of the Jewish People in the Period of the Second Temple and the Talmud 3b (Assen and Philadelphia: Van Gorcum and Fortress Press, 2006), 3–105 (32); more generally on the primary place given to the Rabbi Akiva group in contrast to that of Rabbi Ishmael, see Rosen-Zvi, "Introduction to the Mishnah," 45.

[10] See Epstein, *Prolegomena*, 180; Albert I. Baumgarten, "The Politics of Reconciliation: The Education of R. Judah the Prince," in *Jewish and Christian Self Definition II: Aspects of Judaism in the Graeco-Roman Period*, ed. E.P. Sanders, Albert I. Baumgarten, and Alan Mendelson (London: SCM, 1981), 213–25; Ofra Meir, *Rabbi Judah the Patriarch: Palestinian and Babylonian Portrait of a Leader* (Hebrew; Tel-Aviv: Hakibbutz HaMeuchad,

Further evidence for the Mishnah's relationship with a specific group of sages can be seen by the fact that a number of early sages are entirely absent from the Mishnah.[11] There is reason to believe that these sages, known from the so-called "Zuta" collections of *midrash*,[12] opposed the authority of Judah and his circle.[13] This opposition is deduced in part from places in which Judah appears to have been excised in the Zuta *midrashim* from received traditions,[14] and further, from the presence of oblique criticisms of the Patriarchate.[15] The absence of many of the sages who appear in the Zuta *midrashim* may then be understood as a sign of an ideological distance that existed between them and between the rabbis associated with Judah, who in turn were responsible for the creation of the Mishnah.[16]

1999), 42-4. On Judah's fidelity to the hermeneutic methods of the school of Akiva, see Benjamin de Vries, *Meḥḳarim be-sifrut ha-Talmud* (Jerusalem: Mossad Harav Kook, 1968), 130-41.

[11] Saul Lieberman, *Siphre Zutta* (Hebrew; New York: The Jewish Theological Seminary of America, 1968), 81; Kahana, "Halakhic Midrashim," 34; idem, *Sifre Zuta on Deuteronomy: Citations from a New Tannaitic Midrash* (Hebrew; Jerusalem: The Hebrew University Magnes Press, 2002), 62.

[12] Kahana, "Halakhic Midrashim," 91-95, 103-104; on the "Zuta" school, see now Alexander A. Dubrau, *Der Midrasch Sifre Zuta: Textgeschichte und Exegese eines spätantiken Kommentars zum Buch Numeri*, Tübinger Judaistische Studien 2 (Münster: LIT Verlag, 2017), and Hallel Beitner, "Studies in the Mishnah of *Sifre Zuta* and Its Integration into the *Midrash*" (Hebrew; Ph.D. dissertation, The Hebrew University, 2017).

[13] Lieberman, *Siphre Zutta*, 83-91; Kahana, *Sifre Zuta*, 65-66, 96, 105; Kahana, "Halakhic Midrashim," 57; Lapin, "Origins," 215.

[14] In addition to the examples discussed in the literature cited in the prior note, see also Kahana, *Sifre on Numbers*, 10, 327, 457; Yair Furstenberg, *Purity and Community in Antiquity: Traditions of the Law from Second Temple Judaism to the Mishnah* (Hebrew; Jerusalem: Magnes Press, 2016), 373; Dubrau, *Der Midrasch Sifre Zuta*, 212-19; Beitner, "*Sifre Zuta*," 98, 105.

[15] See Lieberman, *Siphre Zutta*, 83-88; Menahem Kahana, "Gufim zarim mi-'di-vei rebbi' bi-midrashei ha-halakha" (Hebrew), in *Studies in Bible and Talmud*, ed. Sara Japhet (Jerusalem: The Hebrew University Institute for Jewish Studies, 1987), 59–85 (83). On the unique linguistic aspects of the *Sifre Zuta* to Numbers, possibly a sign of its origins south of Galilee, see Uri Mor, "Preliminary Thoughts on the Language of Sifre Zuta on Numbers," *Zeitschrift Der Deutschen Morgenländischen Gesellschaft* 165, no. 2 (2015): 303–20; idem, "Distinctive Morphological Features in Sifre Zuta on Numbers" (Hebrew), *Lešonenu: A Journal for the Study of the Hebrew Language and Cognate Subjects*, no. 84 (2022): 253–68.

[16] More generally on opposition to Rabbi and to the Patriarchate, see Albert I. Baumgarten, "The Akiban Opposition," *Hebrew Union College Annual* 50 (1979): 179–97, idem, "Rabbi Judah I and His Opponents," *Journal for the Study of Judaism* 12, no. 2 (1981): 135–72, and Aharon Oppenheimer, *Rabbi Judah Ha-Nasi: Statesman, Reformer, and the Redactor of the Mishnah*, trans. Susan Weingarten (Tübingen: Mohr Siebeck, 2017), 157-65. On the complicated relationship between southern sages and those in the north, see Joshua Schwartz, *Jewish Settlement in Judaea after the Bar-Kochba War until the Arab Conquest, 135 C.E. - 640 C.E.* (Hebrew; Jerusalem: The Magnes Press, 1986), 233-39.

In addition, it can be shown that the Mishnah has a predilection for mentioning members of Judah's circle and family. Of the references in the Mishnah to sages of the fifth-generation (having flourished in the early-third century), almost all are to Judah or to sages known from other sources to have been members of his circle,[17] and the *only* sixth-generation sages mentioned are Judah's own sons, Rabban Gamaliel and R. Simeon.[18] The importance of Judah's own family in the Mishnah is perhaps best known from the early addition to tractate Avot of a rather large collection of sayings attributed to him, his ancestors, and his descendants (m. Avot 1:16-2:7).[19] This section was not present in the earlier version of tractate Avot on which *Avot de-Rabbi Natan*, an early commentary to the tractate, was based.[20] In effect, this insertion served to privilege the role of this particular family in the history of rabbinic knowledge and leadership.

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[17] For these sages, see Albeck, *Introduction to the Mishnah*, 231-33.

[18] Kahana, "Halakhic Midrashim," 35; Epstein, *Prolegomena*, 227-29.

[19] Sacha Stern ("Rabbi and the Origins of the Patriarchate," *Journal of Jewish Studies* 54, no. 2 [2003]: 193–215) has argued that Rabbi was *not* the son of Rabban Shimon ben Gamliel, and thus that the introduction of Rabbi at the start of the second chapter actually "suggests a break from his predecessors, which may well be interpreted as the beginning of a new lineage" (205). Stern makes much of what he sees as the utter lack of evidence in Palestinian sources for Rabbi having been the son of Rabban Shimon ben Gamliel. Yet, as noted by Menahem Kahana (*Tiqqun Olam [Reparing the World]: Babylonian Talmud Tractate Gittin Chapter 4* [Hebrew; Jerusalem: Magnes Press, 2020], 91), such a relationship is in fact assumed in at least one Palestinian source, namely, y. Ketubot 11:5 (34c [1007]). Further, Amram D. Tropper (*Wisdom, Politics, and Historiography: Tractate Avot in the Context of the Graeco-Roman Near East*, Oxford Oriental Monographs [Oxford and New York: Oxford University Press, 2004], 104) has suggested that the introduction of Rabbi at the start of the second chapter of Avot be read not as the introduction of a new lineage, but as an attempt to draw a parallel between Rabbi and Moses, who appears at the start of the first chapter. An additional literary connection between Rabbi and Moses appears in *Devarim Rabbah* 7:8, where such a comparison is put in the mouth of Rabbi himself; see Ofra Meir, "Psuqei miqra bi-fi Rabbi" (Hebrew), in *Higayon L'Yona: New Aspects in the Study of Midrash, Aggadah and Piyut in Honor of Professor Yona Fraenkel*, ed. Joshua Levinson, Jacob Elbaum, and Galit Hasan-Rokem (Jerusalem: The Hebrew University Magnes Press, 2006), 35–48 (37-38). This sentiment is made explicit in the phrase "from the days of Moses until Rabbi we have not found Torah and greatness in the same place" (b. Gittin 59a).

[20] See Menahem Kister, *Studies in Avot De-Rabbi Nathan: Text, Redaction and Interpretation*, Dissertation Series (Hebrew; Jerusalem: The Hebrew University Department of Talmud and Yad Izhak Ben-Zvi, 1998), 117-121; Shimon Sharvit, *Tractate Avoth Through The Ages: A Critical Edition, Prolegomena and Appendices* (Hebrew; Jerusalem: The Bialik Institute and The Ben-Yehuda Research Center for the History of Hebrew, The Hebrew University of Jerusalem, 2004), 267; Appelbaum, *The Jewish Patriarchs*, 34-35. On the family of Rabbi in Avot, see Tropper, *Wisdom, Politics, and Historiography,* 88-135. See also Adiel Schremer, "Avot Reconsidered: Rethinking Rabbinic Judaism," *Jewish Quarterly Review* 105, no. 3 (2015): 287–311, for a

I will have reason below to return to the question of the connection between Akivan sages and Judah, to the separate question of the appearance of Judah's descendants in the Mishnah, as well as to the issue of the Zuta sages' opposition to Judah. But for now, what is important is that we clearly see, even just on the level of prosopography alone, that the Mishnah has an affinity with a particular group of rabbis who were affiliated with Judah.

2.2. *The Mishnah Sides with Judah*

Over the past century and a half, scholars of the Mishnah have concluded, quite definitively, that the Mishnah is the result of a protracted process of redaction. This process can only partially be reconstructed, and any attempt to describe the process of study and entextualization of rabbinic knowledge that occurred in the decades—or even centuries—leading up to the Mishnah's final redaction in the early-third century must inevitably remain somewhat conjectural.[21]

In light of this, how might the Mishnah at all be associated with a certain sage or group of sages, beyond its basic prosopographic tendencies? The Mishnah presents many attributed positions that often conflict with one another, and they are frequently ascribed to

discussion of the various political claims made in the opening chapters of Avot as well as in a few other historiographic sections of early rabbinic literature, though see also Ishay Rosen-Zvi, "The Wisdom Tradition in Rabbinic Literature and Mishnah *Avot*," in *Tracing Sapiential Traditions in Ancient Judaism*, Supplements to the Journal for the Study of Judaism 174 (Leiden, 2016), 172–90. On the suggestion that Avot was added to the Mishnah only later, see below, note 36. Similarly, Daniel Boyarin (*Border Lines: The Partition of Judaeo-Christianity*, Divinations [Philadelphia: University of Pennsylvania Press, 2004], 81-2) has argued that m. Hagigah 2:2, in which the offices of the *Nasi* and the *Av Beit Din* are described as having deep roots in the period of the Second Temple, "is an addition at the redactional stage of the Mishna."

[21] It is partially for this reason that Balberg (*Purity, Body, and Self*, 13-4) is "not concerned with investigating the formation or redaction of the mishnaic text." See also eadem, *Blood for Thought: The Reinvention of Sacrifice in Early Rabbinic Literature* (Oakland: University of California Press, 2017), 8-10. Recent studies by Yair Furstenberg exemplify the more conjectural method of trying to parse possible historical layers in the text of the Mishnah and other early rabbinic works, see especially Furstenberg, *Purity and Community in Antiquity*.

named sages or to a general group of anonymous scholars simply called "the Sages." Alongside these attributed opinions, the Mishnah also includes many anonymous statements. By comparing the Mishnah with other early works of rabbinic literature, these anonymous statements can often -be identified as opinions of specific sages.[22] Why then, does the Mishnah present these opinions as anonymous? While we cannot know for sure, the general picture seems to be that those responsible for the editing of the Mishnah elided the names of sages in order to present their opinions *as a given*.[23] It is also possible that the presentation of a single sage's opinion as attributed, yet without any disagreement appearing alongside it, may serve to highlight that this is the opinion that should be adopted by all as the correct practice.[24] In short, the employment of certain framing devices in the Mishnah served to *privilege* the opinion of a specific sage.

Scholars note that the Mishnah presents in this fashion multiple opinions that are in opposition to Judah's position as stated elsewhere in early rabbinic literature. Thus, for example, the Mishnah in the beginning of the seventh chapter of Sotah states—anonymously and without presenting any dissenting opinion—that the *Qriyat Shema*, one of the fundamental Jewish prayers, can be said in any language. Meanwhile, the parallel Tosefta passage (t. Sotah 7:7, ed. Lieberman, 193) records the following: "Rabbi (i.e., Judah) says: "I say[25] that the *Shema* must be recited in the Holy Tongue (i.e., Hebrew), as it says, 'And it shall

[22] This is, it so happens, one of the primary goals of the rabbis of the Talmud in their discussions of the Mishnah.

[23] See the discussion in Rosen-Zvi, "Introduction to the Mishnah," 49-50, with references to prior literature. On the way that early readers of the Mishnah, at least starting with R. Yohanan, understood its anonymous statements to be decided practice, see Yehuda Brandes, "The Beginnings of the Rules of Halachic Adjudication" (Hebrew; Ph.D. dissertation, The Hebrew University, 2002), 286-332.

[24] Epstein, *Prolegomena*, 204 212; Rosen-Zvi, "Introduction to the Mishnah," 52.

[25] On the term "I say" ("אומר אני") which is, in the words of E.S. Rosenthal, "of Rabbi's unique style," see Eliezer Shimshon Rosenthal, "Li-feirusha shel mishnat ta'aniyot 1:1-2," in *Yad Rie"m: Eliezer Meir Lifschitz Memorial Volume* (Jerusalem, 1975), 261–70 (266 fn. 21), repr. idem, *Studies in Talmudic Literature*, 2 vols.

be that these things [that I command to you today will be in your heart]' (Dt. 6:6)"[26]—in stark contrast to the view presented as a given in the Mishnah.

Yet, we need not take such cases as evidence against Judah's association with the Mishnah, as we need not assume that the Mishnah, even if it was edited by Judah and his circle, would have been construed to only convey his opinion of how matters should be. It is possible that Judah or his circle would have codified the position generally accepted amongst the rabbis, even if it was not that of Judah himself[27]; it is also possible that Judah's position could have changed, without this impacting the text of the Mishnah, or that the Mishnah's editors simply did not smooth over the text in every case so as to accord with Judah.[28] To be sure, there are also multiple places in which the Mishnah's anonymous statements abide with Judah's opinion as it is recorded in other rabbinic sources. Thus, the reasoning for a court of twenty-three judges, stated anonymously as a given in m. Sanhedrin 1:6, is attributed to Judah in the Tosefta (t. Sanhedrin 3:7, ed. Zuckermandel, 419). Similarly, m. Horayot states that a rabbinic court is only responsible for its error so long as the chief judge is present, an opinion attributed to Judah in the Tosefta (t. Horayot 1:2, ed. Zuckermandel, 474). Scholars have isolated many other example like this.[29] There are yet additional instances in which Judah himself opines explicitly on halakhic disputes in the Mishnah.[30]

(Hebrew; Jerusalem: The Jack, Joseph and Morton Mandel Institute for Jewish Studies, 2021), 1:34, with references to prior literature. See also below note 32 for other terms primarily used by Rabbi.

[26] On this and other examples, see Epstein, *Prolegomena*, 200-1; Rosen-Zvi, "Introduction to the Mishnah," 47-48. Early readers of the Mishnah as depicted in the Talmuds already noted that the Mishnah does not always accord with Judah' opinion; see Stemberger, *Einleitung*, 145.

[27] For evidence supporting this view, see Epstein, *Prolegomena*, 188-99, 201.

[28] See Epstein, *Prolegomena*, 201, 212; Stemberger, *Einleitung*, 146-49.

[29] For a variety of examples, many of which, to be sure, are deduced by comparison with amoraic sources—though with a preference for tannaitic sources cited in amoraic texts (*beraitot*)—see Epstein, *Prolegomena*, 201-24; recent discussions include Kahana, *Sifre on Numbers*, 1052 fn.112 (m. Negaim 13:10), 1054 (m. Kelim 10:1).

[30] See Epstein, *Prolegomena*, 193-99. On the appearance of Rabbi in the Mishnah, see also Jacobs, *Die Institution*, 116.

Thus, in m. Kelayim 2:11, Judah points out that he actually agrees with the opinion of the Sages, which is more lenient than the one he espoused (and that he seemingly received from his teachers[31]), using the language of "and I see their view over mine" ("ורואה אני את דבריהם מדברי").[32]

Even more important is that scholars have persuasively argued that the significant reworking of received material brought sections of the Mishnah into accordance with Judah's view. This can be shown by comparing the Mishnah with parallel passages in other works of early rabbinic literature. One such case, which is perhaps even surprising given that it seems to contradict rabbinic norms around halakhic decision making, is found in m. Bava Qamma 9:12. This Mishnah presents as a given a view that is attributed elsewhere in tannaitic literature to Rabbi Yehudah bar Ilai (see *Sifre Numbers* 4, ed. Kahana, 16). Although this view is presented as a minority position in opposition to the majority view of the Sages, Judah appears in the Tosefta (t. Bava Qamma 10:18, ed. Lieberman, 54) to have preferred it; the Mishnah here thus reworks received traditions and even adopts a minority opinion in order to accord with the decision of Judah.[33] Notably, we do not see (or at least, have not yet found) this kind of reworking of received traditions in order to make the Mishnah accord with the

[31] Following Albeck's commentary, ad loc. For the reading of Rabbi, as opposed to Rabbi Meir, which appears in some manuscripts and in print versions, see Epstein, *Introduction*, 2:1203.

[32] The language of "I see" ("אני רואה") or "it seems" ("נראין"), in the context of deciding *Halakha*, primarily appears in rabbinic literature in the mouth of Judah; see Epstein, *Prolegomena*, 193-94, 199, 201, 205-11; Neria Shapira, "Seeing Verbs as Expressions of Knowledge in the Rabbinic Terminology" (Hebrew; Master's thesis, Tel-Aviv University, 2020), 10-17. On Judah' style in deciding halakhic disputes, as depicted in early rabbinic literature, see Epstein, *Prolegomena*, 205-11; Epstein argues that Judah sought, in many of his decisions, to find a way to compromise between conflicting opinions.

[33] I follow here the discussion in Kahana, *Sifre on Numbers*, 59-1. For additional examples of this kind of reworking of received traditions, see for instance m. Sotah 3:4-5, as discussed in Kahana, ibid., 120-22, and Ishay Rosen-Zvi, *The Mishnaic Sotah Ritual: Temple, Gender and Midrash*, trans. Orr Scharf (Leiden and Boston: Brill, 2012), 101-14; m. Nazir 7:2, as discussed in Kahana, *Sifre on Numbers*, 264-65; m. Ta'anit 1:1-2, as discussed in E. S. Rosenthal, "Li-feirusha shel mishnat ta'aniyot 1:1-2." Further examples are discussed in Epstein, *Prolegomena*, 212-24.

opinion of another sage other than Judah. While this cannot prove that Judah *himself* edited the Mishnah, these examples are important for they show us that at the very least, those responsible for the Mishnah's formulation *reworked received traditions so as to conform with Judah's view*.

We have thus seen that the Mishnah predominantly contains the opinions of sages who were either in Judah's circle or who were members of the group of sages in which he studied and that the Mishnah accords in significant ways with Judah's opinion. Again, none of this information necessitates that we conclude that the Mishnah was indeed edited by Judah, but it is certainly telling that considerable effort would have gone into having the Mishnah conform with his opinions—as documented elsewhere in early rabbinic literature—and present the opinions of those in his circle. In addition, it can be shown that following its initial publication, the Mishnah was reworked in order to further accord with Judah's views and with the views of others in the circle of the Patriarchate. This can be seen by looking at how the text of the Mishnah changed over the course of the third century.

2.3. *Changes to the Mishnah Over the Course of the Third Century*

The existence of divergent versions of the Mishnah is a significant topic of discussion in the Talmuds. Modern scholars of rabbinic literature have also devoted much energy to understanding these differences. All scholarly work on this topic must contend first with the fact that the Mishnah's text—while relatively stable when compared with the text of some

other ancient rabbinic works—is fluid, changing over the course of almost two millennia of oral and written transmission.[34]

By utilizing the evidence of the Mishnah manuscripts and that of testimonia in other ancient rabbinic texts, scholars have documented changes to the text of the Mishnah that occurred early in the work's history, in particular over the course of the third century. Many of these differences have little bearing on the meaning of the Mishnah, though their existence may still be of historical significance.[35] There are also several early changes to the text of the Mishnah that *do* result in significant differences in meaning, or even promote different practices or ideologies—a prime example being the addition of a collection of sayings of the family of Rabbi to tractate Avot, mentioned above.

To be sure, while this section of Avot was absent from the version of the tractate upon which *Avot de-Rabbi Natan* was based, it nonetheless appears in all manuscripts of the Mishnah, meaning that it was likely added to the Mishnah at a relatively early stage.[36] Yet at times, the manuscript tradition and the testimonia of other rabbinic texts can be used in tandem to document changes to the text of the Mishnah that occurred specifically over the course of the third century in Palestine. As we will see, the changes to the text are primarily

[34] For the distinctions between the types of Mishnah manuscripts and the nature of the testimonial evidence, see above, pp. 15-18. On the oral transmission of the Mishnah, see especially Yaakov Sussman, *Oral Law-Taken Literally: The Power of the Tip of a Yod* (Hebrew; Jerusalem: The Hebrew University Magnes Press, 2019). While there exist many studies of the textual transmission and fluidity of individual classical rabbinic works (or, sections of such works), there is no wider study of the phenomenon as it plays out across the entire corpus.

[35] I will return to this issue in Chapter Three.

[36] There have been attempts to argue that the entirety of tractate Avot is a later addition to the Mishnah; on these attempts and for a well-argued rebuttal, see Tropper, *Tractate Avot*, 89-97. In addition, it should be said that sections were added to tractate Avot long after the Mishnah's initial promulgation, and it is possible that sayings of the later members of Rabbi's family were added at a time after the Mishnah's initial promulgation, and that they entered all manuscripts of the Mishnah as his family's authority and stature ensured that their sayings would be universally adopted into the text. With that, as we will see presently, not all of the changes that they made to the text entered all versions of the Mishnah.

due to decisions made by Judah and his descendants—that is, by members of the dynasty of the Patriarchate.[37]

One oft-discussed example is that of m. Avodah Zarah 2:6, in which the decision of Judah's grandson Rabbi Judah II to permit the use of oil produced by gentiles was added to some versions of the Mishnah, specifically versions current in Palestine, likely at some point in the third century.[38] Similarly, the opening Mishnah of Bava Metsi'ah IV has two conflicting versions in early witnesses, either "Gold acquires silver, but silver does not acquire gold" or "Silver acquires gold, but gold does not acquire silver." Both opinions are attributed in the Talmuds to Judah (p. BM 4:1 [9c (1223)]; b. BM 44a-b), where it is explained that R. Simeon,

[37] There is perhaps one occasion of an early change to the text of the Mishnah due to the decision of R. Yohanan, "the most outstanding Palestinian *amora*" (thus Lee I. Levine, *The Ancient Synagogue: The First Thousand Years*, 2nd ed. [New Haven: Yale University Press, 2005], 497), who, while not a member of Rabbi's family, may have been his student and seems to have operated in close coordination with Rabbi's grandson, the Patriarch R. Judah II: David Rosenthal ("History of the Mishnaic Text," 95) has pointed to R. Yohanan's emendation of m. Bava Batra 5:8, recorded in p. Terumot 11:4 (48a [260]). This emendation is followed in all of the "Mishnah only" manuscripts; but unlike in the other cases discussed here that relate to members of Rabbi's family—in which the testimonia of other rabbinic texts allow us to date not only the emendation, but also the currency of the emendation in versions of the Mishnah—it is unclear when exactly the change made its way into actual versions of the Mishnah. Indeed, what we see in the manuscripts could in fact be the result of *later* emendation *in light* of what appears in the Talmud in the name of Yohanan, and not over the course of the third century. On R. Yohanan and the Patriarchate, see Lee I. Levine, *The Rabbinic Class of Roman Palestine in Late Antiquity* (New York: The Jewish Theological Seminary of America, 1989), 151-159. On the possibility of him having studied with Rabbi, see Epstein, *Introduction*, 1:234-35; Meir, *Rabbi Judah the Patriarch,* 199-200. Note also that much has been made of R. Yohanan's apparent willingness, as depicted in the Talmuds, to modify the text of the Mishnah; some scholars have connected this to his relationship with Rabbi—see Itamar Brenner, "A Hermeneutic Study of the Interpretive Aspect in the Babylonian Talmud" (Hebrew; Ph.D. dissertation, Bar-Ilan University, 2010), 135-37; on the relatively unique nature of his modifications to the text of the Mishnah, see further Epstein, *Introduction*, 1:234-285; and on the way in which he reads the Mishnah, see Brandes, "The Beginnings of the Rules of Halachic Adjudication," 285-292.

[38] See the discussions in David Rosenthal, "Mishna Aboda Zara - A Critical Edition with Introduction" (Hebrew; Ph.D. dissertation, The Hebrew University of Jerusalem, 1980), 166-174; Christine Hayes, *Between the Babylonian and Palestinian Talmuds: Accounting for Halakhic Difference in Selected Sugyot from Tractate Avodah Zarah* (Oxford and New York: Oxford University Press, 1997), 143; the date of the addition can be learned both from the fact that it is based on the decision of Rabbi Judah II and that the rabbis in the Palestinian Talmud assume it is part of the Mishnah, whereas early Babylonian rabbis in the Babylonian Talmud do not. On the issue of gentile oil for ancient Jews, see Jordan D. Rosenblum, "Kosher Olive Oil in Antiquity Reconsidered," *Journal for the Study of Judaism*, no. 40 (2009): 356–65.

Judah's son (Judah II's uncle), preferred the reading of "Silver acquires gold," which he claims Judah held in his youth.[39]

These are just two examples of what is still a growing collection of examples amassed by scholars of ways in which the text of the Mishnah was changed over the course of the third century.[40] While it is obvious that scholars and others continued to change the text of the Mishnah throughout the course of the Mishnah's transmission, these examples teach us that, early in its transmission history, the text of the Mishnah was at times modified specifically so that it would accord with the shifting position of a very specific group of scholars—Judah and his descendants. This may then teach us that early in its transmission history, one central way in which the Mishnah was preserved and promulgated was by the circle of Judah and his descendants—that is, by the members of the Patriarchate.

3. *Judah's Circle and the Tannaitic Midrashim*

We have seen that while there is no *direct* internal evidence for the association of the Mishnah with Judah, there is not a small amount of *indirect* evidence for its association with Judah and his circle. This evidence relates to the prosopography and content of the Mishnah, and to the way in which the text of the Mishnah was controlled and promulgated over the course of the third century. In what follows, I will broaden this picture by looking at the role of Judah's circle in the editing and dissemination of other early rabbinic texts, specifically,

[39] On this variant and its possible historical contexts, see Lapin, *Early Rabbinic Civil Law*, 131-32.

[40] David Rosenthal ("History of the Mishnaic Text," 94-95) discusses all of the examples mentioned here and several others. See also the discussion in idem, "Mishna Aboda Zara," 153-187. Other examples of later changes to the text of the Mishnah made following changes in Rabbi's opinion include m. Kareitot 1:6, discussed in Yoav Rosenthal, "Mishnah Tractate Kareitot - An Introduction to a Critical Edition" (Hebrew; Master's thesis, The Hebrew University of Jerusalem, 1996), 66-70; m. Ketubot 2:4, discussed in Brody, *Mishnah and Tosefta Studies*, 16-17 (with references to prior discussions); m. Ketubot 3:6, discussed in Brody, ibid.; m. Ketubot 11:5, discussed in Kahana, *Tiqqun Olam*, 88-93.

the tannaitic *midrashim*—the early rabbinic biblical commentaries, written on the latter four books of the Pentateuch.

Menahem Kahana has shown, based mainly on prosopography, that the Ishmaelian *midrashim* are earlier than the Akivan *midrashim* and that the editors of the Ishmaelian texts went to some lengths to incorporate material of the followers of R. Akiva.[41] The opposite, however, is not the case: the editors of the Akivan *midrashim* mostly did not make significant attempts to incorporate Ishmaelian material.[42] Kahana suggests that this pattern is an indication of the elevated stature of the followers of Akiva towards the end of the tannaitic period: for political reasons, only the followers of Ishmael felt a need to incorporate the opinions of the competing school. Kahana has also marshalled the evidence of the Mishnah essentially being a product of Akivan rabbis (see above) to demonstrate the prominence of this group. He has further noted that the exegetical methods of the Akivans were adopted by the sages of the later rabbinic period and that Akivan followers were diverse enough—and thus, probably, robust enough of a group—to create two complete sets of tannaitic *midrashim*, the so-called "mainstream" Akivan *midrashim* and the "Zuta" ones, which he and other scholars attribute to a splinter-group within the Akivan branch of rabbis.[43] To this I

[41] The Ishmaelian *midrashim* are earlier: Kahana, "Halakhic Midrashim," 34-5; idem, "Gufim zarim," 84-5; idem, *Two Mekhiltot on the Amalek Portion: The Originality of the Version of the Mekhilta d'Rabbi Ishma'el with Respect to the Mekhilta of Rabbi Shim'on Ben Yohay* (Hebrew; Jerusalem: The Magnes Press, 1999), 385-86. The incorporation of Akivan material in the Ishmaelian *midrashim*: Menahem Kahana, "The Tannaitic Midrashim" (Hebrew), in *CRL*, 1:137–77 (160); according to Kahana (137), this chapter is an "abbreviated Hebrew version, with some updates, of the sections of the first half" of Kahana, "Halakhic Midrashim"; this comment on the incorporation of Akivan material in the Ishmaelian works is absent from that earlier English chapter.

[42] Ibid. With that, Kahana has recently shown that the Akivan *Mekhilta de-Rashb"y*, only partially extant, seems to make relatively more use of Ishmaelian sources than other Akivan *midrashim* do; see Menahem Kahana, "On the Question of the Uniqueness of the *Mekhilta de-Rashb"y* in Its Halakhic Passages" (Hebrew), in *Ta Shma: Studies in Judaica in Memory of Israel M. Ta-Shma*, ed. Rami Reiner et al. (Alon Shvut: Tevunot, 2011), 501–23.

[43] Kahana, *Sifre Zuta on Deuteronomy*, 107-8.

would add that the fact that Akivan rabbis continued to produce their *midrashim* deeper into the third century may also be evidence of their continued vitality and prominence.

In addition, it would seem that the Ishmaelian *midrashim* underwent processes in which materials relating specifically to the opinion of Judah were grafted on to their base texts, as what scholars have called "foreign bodies" (גופים זרים), even if this process was not uniform across these compilations.[44] This incorporation of opinions associated with Judah is most apparent in the *Sifre on Numbers*[45]—likely the earliest of all of the surviving *midrashim*[46]—though it is also true of the slightly later *Mekhilta de-Rabbi Ishmael* (on Exodus),[47] in which Judah is occasionally referred to as "Rabbeinu" ("our Rabbi") or "Rabbi Yehuda ha-Nasi" ("Rabbi Judah the Prince"),[48] and of the Ishmaelian sections appended to the Akivan *Sifra* (on Leviticus).[49] I offer here one example of this phenomenon:

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[44] See already the discussion in Epstein, *Introduction*, 2:749-51. The central study of the phenomena is Kahana, "Gufim zarim"; see also idem, "Prolegomena to a New Edition of the Sifre on Numbers" (Hebrew; Ph.D. dissertation, The Hebrew University of Jerusalem, 1982), 217-27, idem, "The Relations," as well as idem, "Halakhic Midrashim," 91.

[45] Kahana, "The Relations," 24; idem, "The Tosafot ('Marginal Annotations') in Sifre on Deuteronomy" (Hebrew), *Tarbiẓ* 87, no. 2 (2020): 149–218 (149).

[46] Kahana, "Halakhic Midrashim," 35, 61, 91.

[47] Assaf Rosen-Zvi, "Text, Redaction and Hermeneutic in *Mekhilta de-Rabbi Ishmael*, Tractate *Kaspa*" (Hebrew; Ph.D. dissertation, The Hebrew University of Jerusalem, 2016), 142-45; Kahana, "Gufim zarim," 85; Louis Finkelstein, "Studies in the Tannaitic Midrashim," *Proceedings of the American Academy for Jewish Research* 6 (1934): 189–228, (190-99) (=idem, *Sifra on Leviticus*, vol. V Part II: Selected Studies in Midrash Halakha [Jerusalem: The Jewish Theological Seminary of America, 1991], 152*-161*) and Steven D. Fraade, "Moses and the Commandments: Can Hermeneutics, History, and Rhetoric Be Disentangled?," in *The Idea of Biblical Interpretation: Essays in Honor of James Kugel*, ed. Hindy Najman and Judith H. Newman, Supplements to the Journal for the Study of Judaism 83 (Leiden: Brill, 2004), 399–422 (403-4 fn. 11) (=idem, *Legal Fictions: Studies of Law and Narrative in the Discursive Worlds of Ancient Jewish Sectarians and Sages*, Supplements to the Journal for the Study of Judaism 147 [Leiden: Brill, 2011], 481-82 fn. 11), with Kahana, "Marginal Annotations," 149 fn. 2. See also idem, "The Relations," 24, where Kahana again states that the evidence is indeed most stark in the *Sifre on Numbers*.

[48] Kahana, "Foreign Bodies," 85; as Kahana alludes, these may be signs of a later redaction, as the use of this nickname and title are mostly absent from the Mishnah and *Sifre on Numbers*.

[49] Abraham Shammah, "The *Mekhiltot* that Are Appended to the *Sifra*: *Mekhilta De-Miluim* and *Mekhilta Da-Arayot*" (Hebrew; Ph.D. dissertation, The Hebrew University, 2008), 129-30, 265-68; Kahana, "Gufim zarim," 84. On the appended sections, see also ibid., "Marginal Annotations," 150, 180.

"וכי תשגו ולא תעשו <<את כל המצות האלה>>" [...] בעבודה זרה הכת' מדבר [...] אתה או' זו עבודה זרה או אינו אלא באחת מכל מצוות שבתו'. ת"ל "וכי תשגו ולא תעשו", באו כל המצוות ללמד על מצווה אחת. מה העובר על כל המצות פורק עול ומפר ברית ומגלה פנים בתורה <<אף העובר על מצוה אחת פורק עול ומפר ברית ומגלה פנים בתורה>>, שנ' "לעבר בריתו" (דב' יז 2). ואין ברית אלא תורה, שנ' "אלה דברי הברית" (דב' כח 69) **ר' או' נא' כאן "כל" ונא' להלן "כל" (הש' שמ' כ 4), מה כל האמור להלן בעבודה זרה אף כל האמור כאן בעבודה זרה.** "אשר צוה ייי את משה" (דב' כח 69).

> "If you unwittingly fail to observe any (*kol*) of the commandments…" (Num. 15:22) The Scripture refers to *Avodah Zarah* [...] You say it is *Avodah Zarah* […] or is it any single commandment in the Torah? It teaches "If you unwittingly fail to observe…" (Num. 15:22), all of the commandments come to teach of one commandment: just as one who violates all of the commandments, removes the yoke, breaks the covenant, and misrepresents the Torah—one who violates a single commandment [i.e., *Avodah Zarah*], removes the yoke, breaks the covenant, and misrepresents the Torah, as it says "and transgressed his covenant" (Dt. 17:2), and there is no covenant but Torah, as it says "these are the words of the covenant" (Deut. 28:69). **Rabbi says: it says here "all" (*kol*) and it says there "all" (*kol*) (cf. Ex. 20 4) just as "all" there refers to *Avodah Zarah*, so too, "all" here refers to *Avodah Zarah***. "That the Lord commanded to Moses" (Dt. 28:69).[50]

Judah's opinion (in bold) appears in the text such that it splits in half the verse that is cited at the end of the prior exegetical comment (Deuteronomy 28:69; underlined).[51] To be sure, not all of the examples of "foreign bodies" or the later inclusion of Judah's opinion are this stark, but when looked at cumulatively, the evidence is quite striking: in the *Sifre* alone there are some twenty or so examples, which vary in terms of how well they are worked into the surrounding text[52]; there is not yet a full appraisal of the relevant material in the *Mekhilta de-Rabbi Ishmael*, but some foreign bodies have been noted by scholars, as has the phenomenon in that work in which Judah's opinion is often brought at the conclusion of discussions, seemingly as it was appended to an earlier text.[53]

[50] *Sifre on Numbers* 111; ed. Kahana, 296-97.
[51] See the discussion in Kahana, *Sifre on Numbers*, 783.
[52] I tabulated this number based on the indices in Kahana, *Sifre on Numbers*.
[53] Kahana, "Gufim zarim," 85; see also Rosen-Zvi, *The Mishnaic Sotah Ritual*, 105.

I would argue that the increased incorporation of material relating specifically to Judah—especially at a later, even secondary stage in the editing of these *midrashim*—is evidence either that the editors of these midrashim belatedly felt that they must account for Judah's views due to his increasingly important stature or, perhaps, that their later editors may even have been members of Judah's circle.[54] Either way, this pattern of insertions strongly suggests that Judah or the Patriarchate had an important influence on the production and dissemination of the surviving corpus of tannaitic *midrashim*—likely as a continuation of the Akivan group.[55]

I mentioned above the Zuta *midrashim*, created by a sub-faction of the Akivan school that opposed the authority of Rabbi and his circle.[56] Tellingly, the two known *midrashim* of this school—commentaries on Numbers and Deuteronomy—are little used in the Talmuds,[57] and *are almost entirely absent from the medieval manuscript record*.[58] To be sure, other works of early *midrash* have also been lost over time, in the sense that they do not exist in complete manuscript copies, but only in citations and in scattered manuscript fragments from the

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[54] On the disparate ways in which the Mishnah itself was incorporated into the tannaitic *midrashim*, see Menahem Kahana, "'וכולה מתניתין': Who Were the Abbreviators of Mishnayot in the Tannaitic Midrashim?" (Hebrew), *Tarbiz* 88, no. 1 (2020): 5–40.

[55] Indeed, Epstein (*Introduction to the Mishnaic Text*, 1:750) even spoke of "the school of Rabbi Akiva-Rabbi" ("בית מדרשם של רבי עקיבא-רבי"), in the later tannaitic period, although for reasons slightly different than those expressed here; see also Halivni, *Midrash, Mishnah, and Gemara*, 61 ("the editors of the extant Midreshei Halakha of both schools were most likely close to the circle of Rabbi, for of all the sages he alone is quoted profusely in both Midreshei Halakhah"). Kahana ("The Relations," 7) has noted that in first documenting the phenomenon of these foreign bodies, Epstein was able to reach conclusions that had ramifications with regards to the editing of the entirety of the tannaitic corpus ("מסקנותיו הכוללניות, החובקות את נדבכי עריכתה של הספרות התנאית כולה"). I believe that these are the only ways in which scholars have discussed the role of Rabbi and his circle in the editing of the Mishnah and the editing of the tannaitic *midrashim*. On Rabbi and Rabbi Akiva, see above, in and near note 10.

[56] See above, in and near notes 11-13.

[57] Kahana, *Sifre Zuta on Deuteronomy*, 108.

[58] Neither has survived in any complete form; in fact, the commentary on Deuteronomy is only known from citations in the work of a medieval Karaite author, and perhaps also from two medieval rabbinic *midrashim*; see Kahana, "Halakhic Midrashim," 103. For a reconstruction and study of the Zuta commentary to Deuteronomy, see idem, *Sifre Zuta on Deuteronomy*, with some additions in idem, "New Citations of Sifre Zuta on Deuteronomy" (Hebrew), *Ginzei Qedem* 15 (2019): 125–31.

Cairo Genizah.[59] Yet, it is the case that the Zuta *midrashim* are still far less documented than these other *midrashim*,[60] and further, while *midrashim* of other schools were in a sense "lost," the Ishmaelian group as well as the so-called "mainstream" Akivan group are each represented by at least two *midrashim* that were not lost at all. Might it be the case that the Zuta *midrashim* were not preserved precisely as they stemmed from a group of rabbis that was not proximate to Judah and his circle? If so, this would shed further light on the way in which this circle functioned as a 'sieve' through which early rabbinic texts passed through: all of the existing early rabbinic texts bear signs of the acceptance of the authority of Judah and his circle; perhaps it is due to this circle that we owe their survival, in that the dissemination of texts under their sponsorship in the early third century was instrumental in ensuring that these texts would be copied and preserved by enough people in order to then survive into the Middle Ages.

4. *The Patriarchate and Shifts in Palestinian Rabbinic Education in the Third Century*

The evidence of the early rabbinic *midrashim*, like the formation and transmission of the Mishnah itself, substantiates the position that, in all likelihood, the Mishnah was edited by

[59] On the loss of early rabbinic works, see Sussman, *Oral Law*, 354-55 fn, 110.

[60] Thus, there are no Genizah fragments of the Zuta commentary to Deuteronomy, and only two, each originally from a different manuscript, of the Zuta commentary to Numbers. Meanwhile, the *Mekhilta de-Rashb"y*, an Akivan *midrash* to Exodus does not exist in any complete manuscript but is attested in no less than 41 Genizah fragments, stemming from twelve different manuscripts; the *Mekhilta on Deuteronomy*, an Ishmaelian *midrash*, is also attested in various Genizah manuscripts, see Menahem Kahana, *Manuscripts of the Halakhic Midrashim: An Annotated Catalogue* (Hebrew; Jerusalem: The Israel Academy of Sciences and Humanities and Yad Izhak Ben-Zvi, 1995); on the reception and availability of these works in the Middle Ages, see also idem, "Gufim zarim," 180. On the Ishmaelian *midrash* to Leviticus, which did not survive as its own work in the medieval manuscript tradition and was likely unknown to rabbinic authors in the middle ages, see Kahana, "Halakhic Midrashim," 84-87, idem, "Gufim zarim," 150, 180, and, more extensively, Shammah, "The *Mekhiltot* That Are Appended to the *Sifra*"; and yet, it is significant that selections of this last work were nonetheless appended to the *Sifra*—primarily an Akivan *midrash*—and that other works of the Ishmaelian school *did* survive in the manuscript tradition.

actors who were part of the Patriarchate and thus either followers of Judah or even members of his family. Yet the evidence adduced from the *midrashim* is perhaps more important for how it forces us to reframe this issue not as a question of whether Judah edited the Mishnah, but instead as a question of the role and function of Judah and his followers in the editing, preservation, and dissemination of early rabbinic texts more generally—a reformulation of the question that will also help us better understand the possible goals of the Mishnah. To better appreciate the significance of this framework, we must look at other changes that seem to have occurred in the Palestinian rabbinic movement in the third century. In other words—how might the Patriarchate's role in the dissemination of early rabbinic texts have looked on the ground in Roman Palestine?

Particularly important for our purposes is the growing institutionalization of rabbinic *study* that seems to have occurred at this time.[61] As scholars have shown, rabbinic texts betray a significant shift that occurred in rabbinic study in the late second century and the early third century: whereas in earlier times (going back perhaps to the latter decades of the first century) rabbinic study is described mainly as apprenticeship—"*shimush khakhamim*" (literally, "serving the wise")—coupled with occasional public-facing events of instruction referred to as a "*beit midrash*" (pl. "*batei midrash*"; lit., "place/occasion of study"), in the late second century there is a discernable shift whereby specific *places* are described as the locations of specific *levels of instruction*.[62] Thus, as will be discussed in greater detail in the following chapter, it is clear from rabbinic sources that starting in the third century there

[61] See Chaim Shapira, "'*Beit HaMidrash*' — Concept and Institution in the Period of the Mishna and Talmud" (Hebrew), *Proceedings of the World Congress of Jewish Studies* 12 (1997): 45–60; Lapin, *Rabbis as Romans*, 77-83; and Paul Mandel *The Origins of Midrash: From Teaching to Text*, Supplements to the Journal for the Study of Judaism 180 (Leiden and Boston: Brill, 2017), 182-211.

[62] See Mandel, 198-205

existed (at least ideally) an array of places of study that serve different functions, namely, the *beit sefer,* for the primary study of Scripture; the *beit talmud li-mishnah*, seemingly for some intermediate level of study; and then, for more advanced study, the *beit midrash*, a term that no longer refers only to a public event but also to an actual physical edifice in which the more advanced sages would meet to study.[63]

Although rabbinic sources only rarely discuss these matters, it is clear that such places of study would require financial backing; a few sources do suggest that some *batei midrash* were financed by specific people or were the general property of a community.[64] In light of stories told of the third-century Patriarchs' attempts to promote rabbinic education, it is not hard to imagine that the growing institutionalization of rabbinic education—including the financing of such institutions—may have been supported, at least in part, by the Patriarchs.[65] One such story, frequently discussed by scholars,[66] is recorded in the Palestinian Talmud:

> תני ר' שמעון בן יוחי: אם ראית עיירות שנתלשו ממקומן בארץ יש' דע שלא החזיקו בשכר סופרים ומשנים. מה טע'? "על מה אבדה הארץ נצתה כמדבר מבלי יושב, ויאמר י"י על עזבם את תורתי" (יר' ט 12-13).
> ר' יודן נשייא שלח לר' חייה ולר' אסי ולר' אמי למיעבור בקרייתא דארעא דישראל למתקנא לון ספרין ומתניינין. עלון לחד אתר ולא אשכחון לא ספר ולא מתניין. אמרין לון: אייתון לן נטורי קרתא. אייתון לון סנטורי קרתא. אמרון לון: אילין אינון נטורי קרתא? לית אילין אלא חרובי קרתא! אמרין לון: ומאן אינון נטורי קרתא? אמ' לון: ספרייא ומתנייניא. הדא היא דכת', "אם י"י לא יבנה בית" וגו' (תה' קכז 1).

[63] See Ibid., 206-8.

[64] Mandel, *The Origins of Midrash*, 207.

[65] I first suggested this connection in my review of Mandel, *The Origins of Midrash*; see Yitz Landes, "Book Note: The Origins of Midrash," *Ancient Jew Review*, February 11, 2019, http://www.ancientjewreview.com/articles/2019/2/11/book-note-the-origins-of-midrash.

[66] See, for example, Jacobs, *Die Institution*, 185-87; Schwartz, *Imperialism*, 123; Appelbaum, *The Jewish Patriarchs*, 106-7; Stuart S. Miller, *Sages and Commoners in Late Antique 'Erez Israel: A Philological Inquiry into Local Traditions in Talmud Yerushalmi*, Texte Und Studien Zum Antiken Judentum 111 (Tübingen: Mohr Siebeck, 2006), 205-6; Hayim Lapin, *Economy, Geography, and Provincial History in Later Roman Palestine*, Texts and Studies in Ancient Judaism 85 (Tübingen: Mohr Siebeck, 2011), 186-87.

> R. Shimon ben Yohai taught (in a *baraita*): If you see towns in the Land of Israel that are uprooted from their place, know that it is because they have not maintained the salaries of Bible teachers (*soferim*) and Mishnah teachers (*mashnim*). What is the reason? "Why is the land in ruins, laid waste like a wilderness, with none passing through? The LORD replied: Because they forsook my Teaching" (Jer. 9:12-13).[67] R. Yudan Nesiya sent R. Hiyya, R. Assi, and R. Ami to pass through the towns in the Land of Israel to establish for them Bible teachers (*safrin*) and Mishnah teachers (*matnayanin*). They went up to one place[68] and did not find neither a Bible teacher nor a Mishnah teacher. They said to them: "Bring us the guardians of your city" (*neturei qarta*). They brought before them the town watchmen (*santorei qarta*). They said to them: "These are the guardians of the city? These are nothing but *destroyers* of the city!" They said to them: "And who are the guardians of the city?" They said to them: "Bible teachers and Mishnah teachers." And this is the meaning of the verse, "Unless the LORD builds the house, those who build it labor in vain," etc. (Ps. 127:1).[69]

In this story, emissaries of a Patriarch (either R. Judah II or R. Judah III) are sent to the villages of the Land of Israel to inspect the teachers in villages and seemingly to attempt to install teachers if necessary. In yet another story, the residents of a town in Galilee ask Judah himself to provide them with someone who can fill the roles of *darshan*, *dayan*, *hazan*, *sofer*, and *matneyn* (preacher, judge, cantor, scribe/bible teacher, and Mishnah teacher).[70] As Seth Schwartz has noted, these stories most certainly do *not* teach us that the Patriarchate oversaw all rural Jewish education in Roman Palestine, despite the attempts of earlier scholars to interpret it in such a way.[71] But the stories can teach us, nonetheless, that the third-century Patriarchs had an interest in promoting their specific form of rabbinic

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[67] Note that following this point, the passage switches from Hebrew to Aramaic.

[68] On the possibility that this is a synagogue, see below, pg. 56, end of note 14.

[69] y. Hagigah 1:7 (76c [779-80]).

[70] y. Yeb 12:6 (13a [889]), paralleled with some differences in *Genesis Rabbah* 81:1 (ed. Theodor-Albeck, pp. 969-71). On this story and its protagonist, Judah's student Levi. b. Sissi, see Jacobs, *Die Institution*, 182-83; Miller, *Sages and Commoners*, 202-5; Lapin, *Economy*, 186; Hanoch Albeck, *Introduction to the Talmud Babli and Yerushalmi* (Hebrew; Tel-Aviv: Dvir Publishing House, 1987), 153-55; Meir, *Rabbi Judah the Patriarch*, 176-83.

[71] Schwartz, *Imperialism*, 123, and more fully, in idem, "Big-Men or Chiefs: Against an Institutional History of the Palestinian Patriarchate," in *Jewish Religious Leadership: Image and Reality*, ed. Jack Wertheimer, vol. 1, 2 vols. [New York: The Jewish Theological Seminary of America, 2004], 155–73 (166-67).

knowledge via rural teachers and that they may in fact have attempted to do so,[72] just as we see shifts towards the increased formalization and institutionalization of rabbinic study. This, I suggest, complements what we saw above regarding the editing of rabbinic texts on the part of the Patriarchs and their circle: not only did they create and promulgate rabbinic *texts* with their imprimatur, but they also created *frameworks* and *institutions* for the study of rabbinic knowledge (or at least, they may have attempted to do so).[73]

5. *The Rise of the Patriarchate and the Dissemination of Rabbinic Knowledge in Third Century Palestine*

Hayim Lapin has written that "the redaction of the Mishnah was, at least in part, an effort to increase the centralization and institutionalization of the Rabbinic movement."[74] We have seen here that almost all of the early rabbinic texts, especially those that were transmitted

[72] As Schwartz (ibid., fn. 22) notes, this not unlike other "urban grandees" known from Hellenistic and High Imperial Asia minor who established "foundations to finance the elementary education of the local children," relying on Raffaella Cribiore (*Gymnastics of the Mind: Greek Education in Hellenistic and Roman Egypt* (Princeton and Oxford: Princeton University Press, 2001], 83-5). Cribiore, to be sure, notes that while there is quite a bit of evidence for such endowment for primary education in the Hellenistic period, evidence for the Roman period is slim (although perhaps not as slim as scholars once thought). There is, though, significant evidence for public (imperial or municipal) endowment of grammarians and rhetors (see ibid., 54; Robert A. Kaster, *Guardians of Language: The Grammarian and Society in Late Antiquity*, Transformation of the Classical Heritage 11 [Berkeley: University of California Press, 1988], 106-7; and A. H. M. Jones., *The Later Roman Empire, 284-602: A Social, Economic, and Administrative Survey*, 2 vols. [Oxford: Basil Blackwell, 1964], 998-99). Rabbinic education is, to be sure, quite different—but the endowment of local education model is nevertheless one that the third-century Patriarchate could have sought to emulate.

[73] This can be true even though other rabbis are also portrayed as appointing communal functionaries, as in the depiction of Reish Laqish appointing a teacher in Bostra, y. Shv. 6:1 (36d [198]); on this story, see Lapin, *Economy*, 186.

[74] Lapin, *Early Rabbinic Civil Law*, 116; see also his later summary of this stance, quoted above, fn. 1; Hezser ("The Mishnah," 192) has attempted to refute Lapin's argument, on the grounds that "the Mishnah did not lead to a unification and institutionalization of the Rabbinic movement in Amoraic times." Yet even if that is the case (and this can be debated), this does not mean that the Mishnah was not in its time an attempt at unification. See also Seth Schwartz, "The Political Geography of Rabbinic Texts," in *The Cambridge Companion to the Talmud and Rabbinic Literature*, ed. Charlotte Elisheva Fonrobert and Martin S. Jaffee (New York: Cambridge University Press, 2007), 75–96 (75) ("by the very fact of its existence, the Mishnah provides the earliest clear evidence for the emergence of a discrete and self-conscious rabbinic organization").

in the medieval manuscript tradition, passed through a 'sieve' that relates to the figure of Judah and the circle of the Patriarchate.[75] Thus, what may be true of the Mishnah may in fact also be true, to a considerable degree, of much of the surviving corpus of early rabbinic texts. Even if these other works may not have been, like the Mishnah, an *overt attempt* to solidify such centralization and institutionalization, they still bear witness to these processes, in that they show signs of and may only exist *because* of the centralizing efforts of the Patriarchate. We have seen also that these editorial processes occurred in parallel to significant changes in the places and practices of rabbinic study in Roman Palestine and the Patriarchate's attempts to promote rabbinic education in the region.

In addition to the changes in the formalization of rabbinic study that occurred in the late second century and the early third century, scholars have pointed also to changes in the geography of the rabbinic movement—from more rural settings into urban centers—and to greater engagement with Jews who were not themselves rabbis, both in the Land of Israel and in the Diaspora.[76] Rabbinic literature itself presents the period of the late second century and the early third century—that is, the period of the Severan dynasty of Roman emperors (193-235)—as one in which the Jews enjoyed a good rapport with the Roman government, as epitomized in fantastical stories told of Judah's interactions with a Roman emperor,

[75] For our purposes here, it is enough to mention that the Tosefta also bears a strong affinity with the Akivan group and Judah and his followers.

[76] See Lee I. Levine, *Caesarea Under Roman Rule*, Studies in Judaism in Late Antiquity 7 (Leiden: E.J. Brill, 1975), 65-8; Shaye J. D. Cohen, "The Rabbi in Second Century Jewish Society," in *CHJ* III, 922–90; Lapin, *Rabbis as Romans*, 76-83; Schwartz, *The Ancient Jews*, 118; idem, "The Patriarchs and the Diaspora," *Journal of Jewish Studies* 50, no. 2 (1999): 208–22; idem, "The Political Geography of Rabbinic Texts," 75–96 (78); David Levine, "Rabbi Judah the Patriarch and the Boundaries of Palestinian Cities: A Literary-Historical Study" (Hebrew), *Cathedra: For the History of Eretz Israel and Its Yishuv*, no. 138 (2010): 7–42.

referred to in the texts simply as Antoninus (=Caracalla?).[77] While we need not go so far as to refer to the period of the Severan emperors as a 'golden age' for Jews in the Roman Empire, there, is nevertheless, *some* evidence for a positive shift in imperial attitudes towards Jews and Judaism at this time that may have positively impacted Jewish institutions,[78] as would the general increase in construction of imperially backed infrastructure in Palestine by the Severan emperors.[79] Given that imperial interests in the Eastern provinces would inherently require coordination with native elites, the family of the Patriarchs—a wealthy, land-owning family with an illustrious lineage supposedly stretching back to the Judean elites of the late Second Temple period—may have been well poised to capitalize on the Severan emperors' approach.

[77] On these stories, see Meir, *Rabbi Judah the Patriarch,* 263-99, and Shaye J. D. Cohen, "The Conversion of Antoninus," in *The Significance of Yavneh and Other Essays in Jewish Hellenism*, Texts and Studies in Ancient Judaism (Tübingen: Mohr Siebeck, 2010), 329–60.

[78] On the Jewish side, in addition to the literary evidence of the above-mentioned stories regarding Judah and "Antoninus," scholars have pointed out also that Judah is said to have been somewhat less inclined to observe the fasts of the Seventeenth of Tammuz and the Ninth of Av, which would have been understood as fasts commemorating Roman triumphs against Jews (p. Ta'aniyot 4:7 [69c (737)] and b. Megillah 5a-b, with discussion and references to secondary literature in D. Levine, "Rabbi Judah the Patriarch and the Boundaries of Palestinian Cities," 10-11 with fn. 6), and also two pieces of ambiguous but nevertheless telling archeological evidence: a dedicatory inscription from a cultic site, possibly a synagogue but more 'pagan' than others, located in Qazion in Northern Galilee (Figure 1.1) and a medallion issued in Sepphoris (Figure 1.2). On the non-Jewish side, scholars have pointed to a law of Severus and Caracalla, recorded by Ulpian, that permitted "those who profess the Jewish superstition to hold office" and in such a way that the liturgies would not lead them to "damage their superstition," (*Digesta*, 50:2:3:3, trans. Watson; Linder, *JIRIL*, no. 2) as well as to the albeit later and at least somewhat satirical depictions of interactions between the Severi and Jews in the 4th-century *Historia Augusta*. For this evidence, along with some pieces of evidence I find less convincing, see Lee I. Levine, *Visual Judaism in Late Antiquity: Historical Contexts of Jewish Art* (New Haven: Yale University Press, 2012), 83-6, with references to earlier discussions. For the relevant sections of the *Historia Augusta*, see Stern, *GLAJJ*, nos. 513-524, particularly those regarding Alexander Severus. On the utility of the *Historia Augusta* for the study of Severan history, see Clifford Ando, *Imperial Rome AD 193 to 284: The Critical Century*, The Edinburgh History of Ancient Rome (Edinburgh: Edinburgh University Press, 2012), 12-3.

[79] On which see the classic study of A. H. M. Jones, "The Urbanization of Palestine," *The Journal of Roman Studies* 21 (1931): 78–85, along with Benjamin Isaac, *The Limits of Empire: The Roman Army in the East*, Revised Edition (Oxford: Clarendon Press, 1992), 108-13; Lapin, "Rabbis and Cities," 206; idem, *Rabbis as Romans*, 26-33; D. Levine, "Rabbi Judah the Patriarch and the Boundaries of Palestinian Cities," 28-29; and Schwartz, *The Ancient Jews*, 100, who is suspicious of the framing of "a Jewish 'golden age' under the Severans."

Fig. 1.1: A dedicatory inscription from a cultic site in Qazion, in northern Galilee. In Harvey's translation: "For the health and well-being of our lord emperors, the Caesars, Lucius Septimius Severus Pius Pertinax Augustus, and Marcus Aurelius Antoninus and Publius Septimius Geta, his sons, in accord with the vow of the Jews," and inside the wreath, "and of Julia Domna Augusta."[80]
(Photo by S. Krapiwko. © The Qazion Archaeological Project.)

Fig. 1.2: A medallion minted in the Galilean city of Sepphoris (Diocaesarea)—the seat of the Patriarchate—in the time of the Severan emperor Caracalla (r. 198-217), marking the city's relationship with Rome.[81] *(Photo © The Israel Museum, Jerusalem.)*

[80] Paul B. Harvey Jr., "Appendix A: The Greek Inscription from Qazion," *Journal of Eastern Mediterranean Archaeology and Heritage Studies* 1, no. 2 (2013): 161–68. On Qazion, See the report in Rachel Hachlili, *Ancient Synagogues - Archaeology and Art: New Discoveries and Current Research*, Handbook of Oriental Studies Section 1, Ancient Near East, Volume 105 (Leiden: Brill, 2013), 617-682, as well as Ann E. Killebrew, "Qazion: A Late Second–Early Third-Century CE Rural Cultic Complex in the Upper Galilee Dedicated to Septimius Severus and His Family," *Journal of Eastern Mediterranean Archaeology and Heritage Studies* 1, no. 2 (2013): 113–60.

[81] On this medallion, see Donald T. Ariel and Gabriela Bijovsky, "The Numismatic Evidence and the History of Sepphoris," in *Sepphoris III: The Architecture, Stratigraphy, and Artifacts of the Western Summit of Sepphoris*, ed. Eric M. Meyers, Carol L. Meyers, and Benjamin D. Gordon (Winona Lake: Eisenbrauns, 2018),

In the fourth century, the dynasty achieved official status in Roman law as representatives of the Jews.[82] The picture I have reconstructed here allows us to better understand the efforts of the Patriarchate in its early years: While not officially recognized in any way by the Severans, they may yet have maintained a privileged relationship with the Roman rulers. At the same time, the Patriarchate took an active role in the editing of the early rabbinic texts and involved itself in complementary ways in rabbinic education, thus attempting to take control of rabbinic knowledge and working to promulgate it in their own way. The implication of the analysis here is that the Patriarchate would have maintained a variegated framework for the creation, editing, and dissemination of rabbinic texts. Such a framework—and agenda—would have undoubtedly required not just inner-rabbinic political acumen, but also, and perhaps relatedly, the existence of the financial resources necessary for the editing, promulgation, and preservation of these texts and for the establishment of settings for the study of these texts.[83]

Thus, in addition to helping us understand the Mishnah's origins and its initial spread, the process uncovered here serves to help us better understand the early history of the Patriarchate, whose rise over the course of the third century has proven extremely difficult to document, let alone explain. The commandeering of religious knowledge via the Mishnah

485–587 (511-512), and, for the difficulties in translating its legend, see Eric M. Meyers, David Hendin, and Carol L. Meyers, "Further Reflections on Sepphoris and Rome: Numismatics and Archaeology," *Eretz-Israel: Archaeological, Historical and Geographical Studies* 31 (2015): 132*-140*.

[82] For the Roman laws that mention the Patriarchate, see Linder, *JIRIL*, nos. 20, 24, 27, 28, 30, 32, 34, 41 (and possibly also no. 5). See further below, pg. 101 fn. 14.

[83] This framework must also account for the Patriarchate's continued attempts, over the course of the third century, to update and modify the text of the Mishnah. But, as the different versions of the Mishnah show do not uniformly relay the later opinions of Rabbi and his descendants, this specific aspect of their project was not entirely successful.

and other texts by Judah and his circle would have been an important way for the incipient Patriarchate to gain influence over Galilean Jews and the rabbinic movement.

Before looking more closely in the coming chapters at the settings in which the Mishnah may have been studied, two additional matters must be addressed here, however briefly. First is the matter of the oral transmission of the Mishnah. Interestingly, while there is now a strong consensus that the Mishnah was created and promulgated orally,[84] the evidence of the foreign bodies and some other aspects of the early midrashic works discussed above strongly suggest that these *midrashim* were edited and/or preserved and promulgated in writing (even if they may have also been transmitted orally).[85] The question is then why the Mishnah *specifically* would have been created and primarily promulgated orally. I believe that the answer may relate to its place in the rabbinic curriculum as imagined

[84] See especially Sussman, *Oral Law*, who argues (successfully) for the un-writtenness of the Mishnah in antiquity, and (less convincingly) for the initial oral creation and preservation of all other classical rabbinic texts. See also note 3, above, and for the view that the original composition of the Mishnah may have involved writing, see David Stern, "The Publication and Early Transmission of the Mishnah," in *What Is the Mishnah? The State of the Question*, ed. Shaye J. D. Cohen, Jewish Law and Culture (Cambridge: Harvard University Press, forthcoming); I would like to thank Prof. Stern for sharing a draft of this important chapter with me prior to its publication.

[85] Indeed, Kahana has referred in English to the foreign bodies as "marginal notes," and has noted ("Who Were the Abbreviators?" 28 fn. 120) that "this phenomenon is most easily explained if it is assumed that the *midrash* was written"; see also Robert Brody, "Sifrut ha-geonim vi-ha-teqst ha-talmudi," in *Mehqerei Talmud I: Talmudic Studies*, ed. Yaakov Sussman, and David Rosenthal (Jerusalem: The Magnes Press, 1990), 237–303 (297). With regard to the *Sifra* (and by extension, the other tannaitic midrashim), see Shlomo Naeh, "The Structure and Division of 'Torat Kohanim' (A): Scrolls" (Hebrew), *Tarbiz* 66, no. 4 (1997): 483–515 (494-512), along with the rebuttal of Sussman, *Oral Law*, 373-75, and the more balanced reservations of Kahana, "Halakhic Midrashim," 79 fn. 368 (Kahana argues that Naeh's evidence teaches only of the *Sifra*'s early transmission in writing in Babylonia, but not of its editing in writing in Palestine). Several scholars (e.g., Brody, "Sifrut ha-geonim vi-ha-teqst ha-talmudi," 297; Kahana, "Who Were the Abbreviators," 28) have suggested that the immediate relationship with Scripture may be what led the tannaitic *midrashim* to be composed and transmitted in writing. To be sure, it does seem that certain of these works—and in particular the Sifra—may have also been memorized by some—even if they were originally composed in writing and feature fewer mnemonical elements than the Mishnah; see Naeh, "Scrolls," 507-9. On the memorization of tannaitic *midrashim*, see also Shlomo Naeh, "The Structure and the Division of Torat Kohanin (B): Parashot, Perakim, Halakhot" (Hebrew), *Tarbiz* 69, no. 1 (1999): 59–104 (61-6), idem, "Omanut ha-zikaron, mivnim shel zikaron vi-tavniot shel teqst bi-sifrut hazal," in *Mehqerei Talmud III: Talmudic Studies Dedicated to the Memory of Professor Ephraim E. Urbach*, ed. Yaakov Sussman and David Rosenthal, 2 vols. (Jerusalem: The Magnes Press, 2005), 2:543–89 (548-49, 586 fn. 200); and on the memorization of these works in the Geonic era, see below, pg. 183 fn. 103.

by the Patriarchate. The Mishnah, as has been noted, is a text that is formulated in a manner that lends itself to memorization, almost certainly intentionally so.[86] In addition, given its length, teaching the Mishnah from a written source would have certainly been quite cumbersome and prohibitively expensive, and thus would limit its success as a standardized text upon which to base rabbinic education.[87] The tannaitic *midrashim*, on the other hand, may have been intended as texts for a more select group of students, for whom access to written copies would be possible. Regardless, the role of the *midrashim* in such a curriculum was not to function as texts ideally memorized by as many people as possible. In other words, while the *midrashim* do show *signs* of the consolidation of the rabbis that took place in the early third century, their role was not to *create* such consolidation in the way that this was likely a goal of the Mishnah.

Lastly, one must ask, given that we have seen here that several rabbinic texts passed through the 'sieve' of the Patriarchate, why it is that only the Mishnah is attributed to Rabbi Judah *ha-Nasi* in later rabbinic texts (and not the tannaitic *midrashim*)? It is possible that the

[86] See for example Jacob Neusner, *The Memorized Torah: The Mnemonic System of the Mishnah*, Brown Judaic Studies 96 (Chico: Scholars Press, 1985); Avraham Walfish, "The Literary Method of Redaction in Mishnah Based on Tractate Rosh Hashanah" (Hebrew; Ph.D. dissertation, The Hebrew University of Jerusalem, 2001), 367-84.

[87] Hezser, while generally skeptical of the Mishnah's oral composition and transmission, has nevertheless connected the primarily oral transmission of the Mishnah to practical reasons (*Literacy*, 430), but has not connected this to the nature of the Mishnah itself as "memorizable" text, nor compared its transmission with that of other rabbinic texts. On the costs related to the work of scribes and book production, see eadem, *Literacy*, 110-68. Approximate costs of books should be compared also with the evidence for books in late ancient Egypt as discussed in Roger S. Bagnall, *Early Christian Books in Egypt* (Princeton and Oxford: Princeton University Press, 2009), 50-69. On other possible reasons for the privileging of oral transmission by the rabbis, see Natalie B. Dohrmann, "Can 'Law' Be Private? The Mixed Message of Rabbinic Oral Law," in *Public and Private in Ancient Mediterranean Law and Religion*, ed. Clifford Ando and Jörg Rüpke, Religionsgeschichtliche Versuche Und Vorarbeiten 65 (Berlin: De Gruyter, 2015), 187–216; Stern, "Publication and Early Transmission." On the Mishnah as a "study book," see Abraham Goldberg, "The Mishna—A Study Book of Halakha," in *The Literature of the Sages—First Part: Oral Torah, Halakha, Mishna, Tosefta, Talmud, External Tractates*, ed. Shmuel Safrai, Compendia Rerum Iudaicarum Ad Novum Testamentum, Section Two: The Literature of the Jewish People in the Period of the Second Temple and the Talmud 3a (Assen and Philadelphia: Van Gorcum and Fortress Press, 2006), 211–62; Shanks-Alexander, *Transmitting Mishnah*, 167-73.

association of the Mishnah with Judah is again a function of the envisioned curriculum and its intended ramifications: It is the Mishnah that is the standardized text upon which rabbinic education is to be based, and the association with Judah both buttresses the standing of the Mishnah, and also, that of Judah and the Patriarchate.

6. *Conclusion*

We have seen here that while there may not be evidence to associate the Mishnah with Judah, as appears in traditional accounts, there is indeed evidence for the association of the Mishnah with Judah's *circle*, i.e., the incipient Patriarchate,[88] and that signs of such an association can be found also with regards to the tannaitic midrashim. By situating the editing and initial dissemination of these works in the context of contemporary shifts that occurred in the rabbinic movement in Palestine and alongside stories told of the efforts made by third-century Patriarchs to promote rabbinic education, I argued that the Mishnah was part of a wider project to consolidate the rabbinic movement and to promote a rabbinic curriculum.

In the following chapter, we will attempt to gauge the extent to which this curriculum was indeed followed; that is, we will try to see if—and if so, how and in which contexts—Jews studied the Mishnah in Roman Palestine.

[88] Given the circumstantial evidence we have seen here for the Mishnah's association with the Patriarchate, the statements of various rabbis in both Talmuds assuming Rabbi's editing of the Mishnah (see above, note 4) may perhaps once again be taken more seriously. See also Kahana, *Sifre on Numbers*, 328, on *Sifre on Numbers* 42 (ed. Kahana, 115): "ר' או' זה שלום תורה – (במ' ו 26) וישם לך שלום'"; according to Kahana, this line possibly refers to "Rabbi's main project, the editing of the Mishnah."

Chapter Two

Mishnah Study in Third-Fourth Century Palestine

1. *Introduction*

In the prior chapter, we saw evidence for a shift in the settings of rabbinic study in Palestine in the early third century, whereby an increased institutionalization of rabbinic study occurred at the turn of the third century. I noted that this shift was coeval with the editing of the tannaitic corpus, and I argued that both phenomena are related to the rise of the Patriarchate. In this chapter, we will look more closely at these changes in rabbinic study by focusing on the settings in which rabbis and others may have studied the Mishnah in third-fourth century Palestine. I will argue that while there is only little evidence for elementary Mishnah study in this period, we do see a gradual rise in the acceptance of the Mishnah and its study to the point that by end of the fourth century, the Mishnah was a ubiquitous aspect of rabbinic culture in the Land of Israel, a work studied intensively by the rabbis and presented as important also for Jewish study more generally. I will begin with the various settings and levels of Mishnah study before turning to the presentation of Mishnah study, primarily in homiletic settings, and to ways in which levels of literacy in the Mishnah may perhaps be gauged.

One final note is in order with regards to the geography covered by this chapter: As depicted in classical rabbinic texts, it is clear that the bulk of the activity of the Palestinian *amoraim*—the rabbis who flourished in the third and fourth centuries 3rd-4th century—occurred in Galilee, and more specifically in the Jewish heartland of the Southeastern Galilee,

between the predominantly Jewish cities of Sepphoris and Tiberias.[1] Sepphoris, having become a central location for rabbinic activity at the start of the 3rd century, wanes in importance towards the end of that century in favor of Tiberias.[2] Other centers certainly existed as well: in terms of cities, Caesarea is frequently mentioned,[3] as is Lydda in the South[4]; in addition, many rabbis or rabbinic adherents are depicted as living and operating in Galilean villages.[5] Despite this geographic spread, it is difficult to know the extent to which rabbis would have been a visible or prominent element in any of these locales, or exactly how readily available rabbinic (or even, Jewish) education would have been for Jews living in these areas.

2. *Preliminary Mishnah Study*

Rabbinic sources rarely discuss Jewish elementary education in any sustained manner.[6] With that, several sources relating to the third and fourth centuries simple take for granted that

[1] See Ben-Zion Rosenfeld, *Torah Centers and Rabbinic Activity in Palestine, 70-400 CE: History and Geographic Distribution*, Supplements to the Journal for the Study of Judaism 138 (Leiden: Brill, 2010), 115-202; Hayim Lapin, *Rabbis as Romans: The Rabbinic Movement in Palestine, 100-400 CE* (Oxford: Oxford University Press, 2012), 87-97; Stuart S. Miller, *Sages and Commoners in Late Antique 'Erez Israel: A Philological Inquiry into Local Traditions in Talmud Yerushalmi*, Texte und Studien zum Antiken Judentum 111 (Tübingen: Mohr Siebeck, 2006); Uzi Leibner, *Settlement and History in Hellenistic, Roman, and Byzantine Galilee: An Archaeological Survey of the Eastern Galilee*, Texts and Studies in Ancient Judaism 127 (Tübingen: Mohr Siebeck, 2009), 345-51. On the locating of Torah with specific locations in the Palestinian Talmud, see Moulie Vidas, "A Place of Torah," in *Talmudic Transgressions: Engaging the Work of Daniel Boyarin*, ed. Charlotte Elisheva Fonrobert et al., Supplements to the Journal for the Study of Judaism 181 (Leiden: Brill, 2017), 23–73.

[2] Rosenfeld, *Torah Centers*, 118; Yeḥezkhel Cohen, "The Time and Cause of the Transferal of the Patriarchate to Tiberias" (Hebrew), *Zion* 39, no. 1–2 (1974): 114–22.

[3] See Levine, *Caesarea Under Roman Rule*, 86-106; Rosenfeld, *Torah Centers*, 203-17.

[4] Miller, *Sages and Commoners*, 118-45; Rosenfeld, *Torah Centers*, 41-57; idem, *Lod and Its Sages in the Period of the Mishnah and the Talmud* (Hebrew; Jerusalem: Yad Ben-Zvi Press, 1997), 110-73; Joshua J. Schwartz, *Lod (Lydda), Israel: From Its Origins through the Byzantine Period*, BAR International Series 571 (Oxford: Tempus Reparatum, 1991), 101-20.

[5] See Miller, *Sages and Commoners*, 178-210; Rosenfeld, *Torah Centers*, 150-70.

[6] For an overview of the relevant sources, see especially Catherine Hezser, *Jewish Literacy in Roman Palestine*, Texts and Studies in Ancient Judaism 81 (Tübingen: Mohr Siebeck, 2001).

children spend some of the day studying Scripture in synagogues.[7] This may be a continuation of earlier functions of the synagogue in Jewish communal life, as many Greek Jewish sources of the Second Temple period—both literary and epigraphic—describe the synagogue as a place of study, if not necessarily at the elementary level.[8] In terms of Palestinian rabbinic sources, there is a marked increase in general in discussions of synagogues starting in the third century, a shift that is likely related to the increased involvement and importance of Palestinian rabbis in synagogue life at this time,[9] and while elementary education certainly continued to exist in private or domestic settings,[10] it is possible to see hints of a move towards more elementary study taking place in synagogues in the third and fourth centuries.[11] Inasmuch as the evidence we have for synagogues in

[7] See e.g., y. M.Q. 3:1 (81d [811]); y. Hallah 1:1 (57b [311]), along with additional sources cited below. See discussions in Lee I. Levine, *The Ancient Synagogue: The First Thousand Years*, 2nd ed. (New Haven: Yale University Press, 2005), 398-405; Hezser, *Jewish Literacy*, 50-9; and Hagith Sivan, *Jewish Childhood in the Roman World* (Cambridge: Cambridge University Press, 2018), 228-38, who discusses how synagogue art may have played a role in the education of youth. Certain rabbinic sources project this reality on to Second Temple times or in the more recent mythic past (e.g., y. Ket. 8:11 [32c (996)]; y. Meg 3:1 [73d (762)]/y. Ket., 13:1 [35c (1012)]; y. Taan. 4:9 [69a (734)]); since these texts are retrojections of late antique models on to the storied past, they may yet contain information not just about late antique ideals but perhaps also late antique realities; see Hezser, *Literacy*, 50.

[8] Levine, *The Ancient Synagogue*, 146-62; see also Jutta Leonhardt-Balzer, "What Were They Doing in Second Temple Synagogues? Philo and the Προσευχή," in *Synagogues in the Hellenistic and Roman Periods: Archaeological Finds, New Methods, New Theories*, ed. Lutz Doering and Andrew R. Krause (Göttingen: Vandenhoeck & Ruprecht, 2020), 215–37; and Clemens Leonhard, "The Origins of Torah Reading as a Ritual and Its Social Context," in *Synagogues in the Hellenistic and Roman Periods*, 277–92.

[9] Levine, *The Ancient Synagogue*, 486-90; Jeffrey L. Rubenstein, "Social and Institutional Settings of Rabbinic Literature," in *The Cambridge Companion to the Talmud and Rabbinic Literature*, ed. Charlotte Elisheva Fonrobert and Martin S. Jaffee (New York: Cambridge University Press, 2007), 58–74 (64).

[10] On the home as the primary site of primary education according to rabbinic texts prior to the turn of the third century, see Hezser, *Literacy*, 59, 69, 95; Sivan, *Jewish Childhood*, 105-11. See also below, fn. 44.

[11] In addition to the increase in references to synagogue study, a shift in the reality can at times be seen in the way in which the Palestinian Talmud interprets the Mishnah. For example, the Mishnah (m. Bava Batra 2:3) proclaims that teachers can teach children in shared residential courtyards, despite the noise that would inevitably bother their neighbors, yet the Tosefta (t. Bava Batra 1:4, ed. Lieberman, 130), and even more explicitly, the Palestinian Talmud (y. Bava Batra 2:3 [13b (1241)]) overrule this, allowing neighbors to object to the teaching of children in a shared residential courtyard due to the noise. It seems that the shift towards teaching in synagogues may have made the use of such courtyards unnecessary. Cf. Hezser, *Literacy*, 54, who thinks this is due to an increase in teachers, and Lieberman, *TKP*, 12:9-10.332 ll. 19-20 19, who suggests this has to do with a specific kind of study, namely, teaching writing. Note also that Jerome mentions Jewish children studying in Synagogues: *Commentary on Isaiah* 50:4-7 (ed. Adriaen, 553); see Newman, "Jerome and the Jews," 46-7.

Roman Palestine leads us to believe that these structures were collectively owned and maintained by local communities,[12] the use of a synagogue for the purpose of elementary education may imply some kind of communal agreement with regards to the allocation of time, space, and money.[13] Indeed, as we already saw in the prior chapter, some rabbinic sources depict residents of specific locales as collectively employing or appointing a person who teaches children, perhaps while fulfilling additional communal roles.[14]

The elementary teacher is often referred to as a *sofer*—a scribe,[15] and the school attached to a synagogue referred to as a "*beit sefer*,"[16] "the house of the book," a term connected to the primary object of study which was, as mentioned, Scripture.[17] The studies

[12] Levine, *The Ancient Synagogue*, 287, 455-56.

[13] Hezser (*Literacy*, 66) suggest as much, with some hesitancy.

[14] See above, pg. 43. See also y. Demai 7:4 (26b [141]) (the scribe of a certain place is mentioned); y. Meg. 4:4 (75b [772]) ("R. Simon, the scribe of Tarbanat," is described as teaching children Scripture); *Pesiqta de-Rab Kahana* 11:16 (ed. Mandelbaum, 193) (the scribe of Magdala teaching in a synagogue—see discussion and references in Leibner, *Settlement and History*, 229-30). Note that in some cases, e.g., y. Yeb 12:6 (13a [889]), one person is said to fulfill multiple roles, including teaching children at various levels. See Hezser, *Literacy*, 55. Further, while the story discussed above from y. Hagigah 1:7 (76c [779-80]) does not explicitly mention a synagogue as the place of the teachers of Scripture and Mishnah, it is possible that this setting is implied: the rabbis are depicted as reaching "one place"—in Aramaic, "חד אתר," which in epigraphy and in various rabbinic texts is used to refer specifically to synagogues; see Sokoloff, *DJPA*[3], 61. Note also that Rabbinic sources describe such teachers as consulting with rabbis, see y. Meg. 3:6 (74b [766]).

[15] In addition to the sources cited in the previous and following notes, see t. Sukkah 2:6 (ed. Lieberman, 263); t. Megillah 3:38 (ed. Lieberman, 363); y. Moed Qatan 3:1 (81d [811]); *Mekhilta on Deuteronomy* 11:21 (ed. Kahana, 341). On scribes in rabbinic literature, see Hezser, *Literacy*; eadem, *Social Structure*, 467-75; Meir Ayali, *A Nomenclature of Workers and Artisans in the Talmudic and Midrashic Literature*, 2nd ed. (Hebrew; Tel Aviv: Hakibbutz Hameuchad, 2001), 74-5, 81-2. Rarely, studies are depicted as being led by a *hazzan*—cantor, as in m. Shabbat 1:3. As noted by Hezser (*Literacy*, 48), scribes and cantors would likely have been familiar with the text of the Torah, and thus "may have occasionally taught Torah to children as well, perhaps in order to increase their wages."

[16] Occasionally also "*beit sofer*"—the house of the scribe, e.g., y. Taanit 4:9 (69a [734]), "בתי סופרים" (though such spelling can be a later scribal error).

[17] On children studying Scripture in synagogue, see also e.g., y. Sanhedrin 10:2 (29a [1323]); y. Hor. 2:4 (46d [1419]); y. Yevamot 1:4 (3a [835]); y. Shab. 6:9 (8c [400]) (although a synagogue is not mentioned here explicitly, such a setting is implied); *Genesis Rabbah* 52.4 (ed. Theodor-Albeck, pp. 543-44), see on this source Binyamin Elizur, "*Pesiqta Rabbati*: Introductory Chapters" (Hebrew; Ph.D. dissertation, The Hebrew University of Jerusalem, 2000), 95 fn. 133; *Pesiqta de-Rav Kahana* 11:16 (ed. Mandelbaum, 193), 15:5 (254-5), 25.1 (ed. Mandelbaum, pp. 380-1). Many of these vignettes describe children reading out loud, such that the lesson is audible to those in the vicinity; see Sivan, *Jewish Childhood*, 68, 80-3. Hezser (*Literacy*, 82) notes that the lessons of children in non-Jewish settings at the time would be similarly audible. In addition to Scripture, there is some evidence for the teaching of prayers in elementary settings: t. Yadayim 2:11 (ed. Zuckermandel, 683): the writing down of two central prayers for students to learn, the *Shema* and the *Hallel* (to be sure, both prayers

themselves seem to have focused on memorization and reading,[18] with less attention given to understanding and almost none to writing[19]; it does not seem that Jewish children at the time would fully understand Hebrew, even if they were able to recite or even read Scripture.[20]

While there is, collectively, ample evidence in rabbinic texts of the third-fourth centuries for elementary Jewish study, there is almost no evidence for elementary study in rabbinic texts. Evidence for Mishnah study appears in what may be considered secondary levels of education. As we will see in more detail below, rabbinic texts reference a base-level of Mishnah study as prerequisite for further study. This basic level of literacy may be associated with teachers referred to in rabbinic texts by different terms. Most immediately relevant are teachers referred to as "*Mashnim*" in Hebrew ("*Mashneh*" in the singular; sg.

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are made up of passages from Scripture); t. Sotah 6:2 (ed. Lieberman, 183): children learning the *Hallel* in *beit ha-sofer*.

[18] In addition to the sources cited in prior notes, see also m., Shabbat 1:3; t. Shabbat 1:12 (ed. Lieberman, 3); t. Avodah Zarah 3:1 (ed. Zuckermandel, 463); y. Megillah 4:4 (75b [772]); see also Hezser, *Literacy*, 70-6. One vignette has students "play school" on a day in which studies were rained out; their playful discussion ends up revolving around the medial and pausal forms of Hebrew letters, implying that Hebrew letters were taught; see y. Megillah 1:11, 71d/Genesis Rabbah 1:11 (ed. Theodor-Albeck, 10).

[19] A distinction is drawn in t. Megillah 3:38 (ed. Lieberman, 363) in which particularly scandalous portions of the Bible are neither read nor translated into Aramaic in public but can be taught by the scribe/elementary teacher "according to his way"; I believe this implies a teaching of these texts for the purpose of memorization, without much by way of explanation.

[20] This can be true even though t. Hagigah 1:2 (ed. Lieberman, 375) and parallel passages require a father to teach a child "*Shema*, Scripture, and the Holy Tongue" once they are able to speak, for it is possible that an ability to use Hebrew language in liturgical settings or in certain educational ones is implied, and not speech; see Hezser, *Literacy*, 72, with references to prior literature. Various Christian authors were themselves interested in the question of Jews understanding of Hebrew: Origen mentions Jews learning Scripture and other traditions from childhood (see below, fn. 23). Eusebius describes Jewish children learning Scripture and other related topics "from infancy" (*Praeparatio evangelica* 11.5.3, ed. Mras, 11). Jerome even mentions the use of *AT-BASh* in teaching the Hebrew Alphabet, *Commentary on Jeremiah* 25:26 (ed. Reiter, 245-46); see Newman, "Jerome and the Jews," 47, and Michael Graves, *Jerome's Hebrew Philology: A Study Based on His Commentary on Jeremiah*, Supplements to Vigiliae Christianae 90 (Leiden: Brill, 2007), 178-81 (see also below, pg. 161 fn. 50). Theodoret of Cyrus writes concerning the Jewish youth of Syria that they initially use "the language of the people among whom they have been born. Then, in their teens they are taught the alphabet of the written language, and, through the written word, gain knowledge of the holy Scripture, which is written in Hebrew" (*Questions on Genesis* 61, ed. and trans. Petruccione and Hill, pp. 123-24).

"*Matneyn*" in Aramaic), who appear in several Rabbinic sources alongside *Soferim*.[21] Considering this pairing with the *Soferim*, it is likely that the *Mashnim* would have also been engaged in basic levels of teaching.[22] Evidence for the *Mashneh* can be found also in the works of Christian authors: whereas Origen had already mentioned that Scripture and the *deuteroseis* (in the plural) were taught to children,[23] Eusebius more specifically describes *deuterotai*—a calque of *"Mashnim*" that he explains is a term Jews use for "the interpreters (*exēgētás*) of their Scriptures"—as engaged in "primary instruction" (*proton mathēmáton*).[24] Similarly, Jerome mentions a wise man and *deuterotēs* whom he encountered in Lydda.[25] It is possible from these accounts to learn that *Mashnim*/*deuterotai* were visible members of the Jewish community, and that their exact role and area of expertise was not overly specific

[21] E.g., y. Pe'ah 8:7 (21a [111]); *Pesiqta de-Rab Kahana* 27:2 (ed. Mandelbaum, 406); *Leviticus Rabbah* 30:1 (687); see also above, pp. 43-44.

[22] It is difficult to know if this title refers specifically to the Mishnah or to "mishnah" in the more general sense of the Oral Torah (on this issue, see the Introduction), but as we will see, even if the title stems from the more general sense, it is possible, even likely, that such figures would have also taught the Mishnah.

[23] *Commentarium in Canticum canticorum*, prologus (ed. Baehrens, 62). This is likely the earliest use of *deuterosis*; see N. R. M. De Lange, *Origen and the Jews: Studies in Jewish-Christian Relations in Third-Century Palestine*, University of Cambridge Oriental Publications 25 (New York and Cambridge: Cambridge University Press, 1976), 34-5. The translation of Lawson (*Origen: The Song of Songs-Commentary and Homilies*, Ancient Christian Wruters 26 [New York and Ramsey: Newman Press, 1956], 23), in which *deuteroseis* is understood to refer to the four sections of Scripture not taught to Jewish boys, is inaccurate, and may have misled Lapin, *Rabbis as Romans*, 258 fn. 39; cf. Hillel I. Newman, "A Patristic Perspective on Rabbinic Literature" (Hebrew), in *CRL*, 2:681–704 (686).

[24] *Praeparatio evangelica* 11.5.3 (ed. Mras, 11). See also ibid., 12.1 (ed. Mras, 88). See also the discussion in Newman, "A Patristic Perspective on Rabbinic Literature," 688; Moulie Vidas, "What Is a *tannay*?," *Oqimta* 7 (2021): 21–96 (52). Epiphanius mentions *deuterotai* as having lived in the late Second Temple period, as teachibng the Law "as a sort of grammar," and is introducing to Jewish customs "a kind of extra, quibbling teaching" (*Panarion* 15.1.1, ed. Holl, 1.208-9; trans. Frank Williams, *The Panarion of Epiphanius of Salamis: Book I (Sects 1-46)*, 2nd ed., Nag Hammadi and Manichaean Studies 63 [Leiden and Boston: Brill, 2009], 41); see Vidas, "What is a *tannay*?," 53.

[25] *Commentary to Habakuk* 2:15-16 (ed. Adriaen, 610); see Newman, "Jerome and the Jews," 49-50; Rosenfeld, *Lod and Its Sages*, 117; J. Schwartz, *Lod*, 121; Seth Schwartz, "Rabbinization in the Sixth Century," in *The Talmud Yerushalmi and Graeco-Roman Culture*, ed. Peter Schäfer, vol. III, Texts and Studies in Ancient Judaism 93 (Tübingen: Mohr Siebeck, 2002), 55–69 (61-65); Vidas, "What is a *tannay*?," 53; Ben-Zion Rosenfeld, *Torah Centers and Rabbinic Activity in Palestine, 70-400 CE: History and Geographic Distribution*, Supplements to the Journal for the Study of Judaism 138 (Leiden: Brill, 2010), 56. Vidas is certainly correct that, contra Newman and others, the position that Jerome is likely referring to is closer to that of the *Mashneh*/*Matneyn* than to the *Tanna*/*Tannay.*

nor limited to elementary teaching: Eusebius clearly sees the *deuterotai*'s work as relating to teaching Scripture at elementary levels, and for Jerome, it is simply the case that the *deuterotēs* is a smart man who tells a story.

Returning to rabbinic sources, it is noteworthy that in some passages *Mashnim* are said to teach in the "*beit talmud*," which is juxtaposed with the *sofer*'s "*beit sefer*."[26] Given the distinction between *Soferim*, teachers of Scripture, and *Mashnim*, teachers of Rabbinic knowledge, it is enticing to reconstruct a two-tiered structure of primary education, akin to study first with a *grammatistes*/*litterator* and then with a *grammaticus*/*litteratus* in contemporary Greek and Latin contexts.[27] While such an ideal program of study does seem to be the case in theory[28] (and may even be the product of an awareness of Greek and Latin models[29]), it is unlikely that many Jewish youths would have in fact studied along these lines, first with a *sofer*, for however many years, and then for an additional sustained period of time with a *Mashneh*, and it is further likely that teachers taught at various levels and in different settings,[30] as scholars now recognize was the case also in parallel Greek and Latin

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[26] E.g., y. Ma'asrot 3:7 (50d [275]); y. Megillah 3:1 (73d [762])/y. Ketubot, 13:1 (35c [1012])/*Pesiqta de-Rab Kahana* 15:7 (ed. Mandelbaum, 257). A somewhat earlier occurrence of the term "*beit talmud*", in which is it not clear what exactly it denotes beyond it being juxtaposed with a synagogue, appears in t. Ma'as. 2:20 (ed. Lieberman, 236). See Mandel, *The Origins of Midrash*, 208, and above, pg. 43.

[27] For this comparison, see Hezser, *Literacy*, 82.

[28] E.g., m. Avot 5.21—a passage, to be sure, that appears only in some manuscripts (see Shimon Sharvit, *Tractate Avoth Through The Ages: A Critical Edition, Prolegomena and Appendices* [Hebrew; Jerusalem: The Bialik Institute and The Ben-Yehuda Research Center for the History of Hebrew, The Hebrew University of Jerusalem, 2004], 217-19, 274-76, and below, pg. 158)—has an obscure rabbi of the tannaitic period, Yehuda b. Teima, say that at five, boys should study scripture; from ten, Mishnah; from thirteen, they must observe mitzvot; and at thirteen, study Talmud.

[29] Cf. Hezser, *Literacy*, 70.

[30] Cf. Hezser, *Literacy*, 81, who suggests that "teachers the *mishnah* teachers were probably imagined by rabbis to have been 'better' scribes, i.e. scribes who also knew some rabbinic traditions which they had memorized and repeated, but who were not themselves recognized as rabbis, i.e. as scholars who actually created the tradition by producing new halakhic and aggadic insights. They were probably mentioned together with Torah teachers because they did not differ from them very much, except for their broader knowledge." As mentioned above (fn. 14), some passages describe a functionary as ideally fulfilling various communal needs, including teaching children at various levels; other rabbinic texts quite clearly blur the lines between *soferim* and *mashnim*—e.g., y. Qidushin 4:13 (66b [1185]).

settings.[31] And while, as mentioned above, some locales seem to have had communally agreed upon and appointed teachers, perhaps even financed, in part, by the wider community and by local grandees,[32] it is altogether unlikely that many youth would have been afforded the opportunity to advance in their studies beyond an elementary level, as such an education would require financial and ideological investments on the parts of parents that were certainly not universal in Roman Palestine and whose spread is hard to estimate.[33] Lastly, even if some communities did appoint and support teachers, it is impossible to know how prevalent this practice would have been in Roman Palestine.[34]

Palestinian rabbinic texts themselves recognize that few would make significant progress in rabbinic studies,[35] specifically even vis-à-vis knowledge of the Mishnah.[36] As mentioned, these sources consider sound knowledge of the Mishnah a prerequisite for later study. In this vein, a distinction is drawn in a discussion, attributed to sages of the later third

[31] Kaster, *Guardians of Language*, 443-51; Cribiore, *Gymnastics of the Mind*, 17-8.

[32] In various homiletic passages, rabbis try and encourage the involvement of the wider community in financing elementary teachers (e.g. y. Hag. 1:7 [76c (779)]—the introduction to a passage discussed above, fn. 14; *Leviticus Rabbah* 27:2 [ed. Margulies, 624]/*Pesiqta de-Rab Kahana* 9:2 [ed. Mandelbaum, 150]; Hezser, *Literacy*, 56), even depicting paradigmatic rabbis as emulating this practice by donating their own money to such teachers (*Leviticus Rabbah* 34:16 [ed. Margulies, 812]; Hezser, *Literacy*, 57); in other passages, rabbis even attempt to require citizens of a city to contribute to funds for elementary teachers (y. Pe'ah 8:7 [21a (111)]; Hezser, *Literacy*, 56-7).

[33] As noted by Hezser, *Literacy*, 56, 67, 81; see also Sivan, *Jewish Childhood*, 111.

[34] As noted by Hezser, *Literacy*, 55-6, 59. Further, Hezser (ibid., 81) notes, based on aggadic anecdotes, that rabbis also imagined some unique individuals (Jacob the patriarch, Rabbi Akiva) as progressing directly from the *beit sefer* to advanced study. For what it is worth, the archeological record is no help in this regard; this may only imply that such structures are indistinguishable, not that they did not exist; see Cribiore, *Gymnastics*, 17.

[35] See e.g., *Leviticus Rabbah* 2:1 (ed. Margulies, 36-6)/*Kohelet Rabbah* 7:28 (ed. Kiperwasser, 128-29).

[36] Thus, *Leviticus Rabbah* 34:4 (ed. Margulies, 779) considers the difference between people who attain a literacy in certain "beginner's" tractates, namely, Berakhot and Mo'ed Qatan, and those who know the Mishnah well. The specific line referring to these tractates is missing in London, The British Library, MS Add. 27,169, but is present in most witnesses; see Margulies' apparatus, ad loc. The passage also appears, with this line, in T-S C1.61 2v, a fragment of a Tanhumic work first published in Louis Ginzberg, *Genizah Studies in Memory of Doctor Solomon Schechter*, vol. I: Midrash and Haggadah, Texts and Studies of the Jewish Theological Seminary of America 7 (Hebrew; New York: The Jewish Theological Seminary of America, 1928), 88; on this fragment, see Marc Bregman, *The Tanhuma-Yelammedenu Literature: Studies in the Evolution of the Versions* (Hebrew; Piscataway: Gorgias Press, 2003), 81.

century, that differentiates between the kind of knowledge of the Mishnah that one attains from different teachers.[37] The immediately relevant section of the passage begins with a statement of R. Yohanan, according to which "anonymous *mishnayot* are according to the [opinion of the] Rabbis unless one's teacher taught him otherwise," and an alternative statement of R. Shimon b. Laqish that "anonymous *mishnayot* are according to [the opinion of] R. Meir unless one's teacher taught him otherwise." R. Zeira then notes that these statements are not contradictory; rather, R. Shimon agrees with R. Yohanan, but he has simply seen that most of these anonymous passages in the Mishnah accord with the opinion of R. Meir. R. Zeira then asks R. Mana "what kind of teacher" is one to learn this from, "a teacher of *matnita* or a teacher of *ulpana*?" R. Mana responds by returning to a story discussed earlier in the passage, in which R. Eleazar learns that an anonymous section of the Mishnah is according to the opinion of R. Meir, and it is clear from the context that he specifically learned this information from a teacher of *matnita*.

This discussion opens a unique window onto the study practices of Palestinian rabbis and their students in the later 3rd century.[38] We see, quite clearly, that the Mishnah is depicted as being studied by rabbis, seemingly over the course of their lifetime, from different teachers and at different levels of understanding, first at an elementary level and then at an advanced, scholastic level. The more elementary knowledge is taught by the *rabah di-matnita*—"teacher of Tannaitic sources," and the more advanced study, which is also

[37] y. Yevamot 4:10 (6b [851]).

[38] On this passage, see Wilhelm Bacher, *Die Exegetische Terminologie Der Jüdischen Traditionsliteratur*, 2 vols. (Leipzig: Hinrichs'sche Buchhandlung, 1899-1905), 2.8; Epstein, *Introduction*, 1:243 fn. 1; idem, *Prolegomena Ad Litteras Tannaiticas: Mishna, Tosephta et Interpretationes Halachicas*, ed. E.Z. Melamed (Hebrw; Jerusalem: The Magnes Press, 1957), 98; Yaakov Sussman, *Oral Law-Taken Literally: The Power of the Tip of a Yod* (Hebrew; Jerusalem: The Hebrew University Magnes Press, 2019), 221 fn. 45.

focused on the Mishnah, is taught by the *rabah di-ulpana*—"teacher of learning."[39] The term *ulpana* appears in various places in the Palestinian Talmud, and is often used to refer to the kind of intellectual engagement that the protagonists of the Talmud are engaged in—namely, in-depth interpretation the Mishnah.[40]

A similar distinction is found also in a saying attributed to one of the later Palestinian rabbis, R. Yosse beRabbi Bun, who flourished in the mid-to-late 4th century—several generations after the rabbis featured in the passage just discussed:

> לעולם הוי רץ אחר המשנה יותר מן התלמוד. אמ' ר' יוסי ביר' בון: הדא דאת אמר עד שלא שיקע בו <<רובו>> משניות, אבל משישקע בו <<רובו>> משניות, לעולם הוי רץ אחר התלמוד יותר מן המשנה.

> One should always run to the Mishnah more than to the Talmud. R. Yosse beRabbi Bun said: That which you said is until <<his teacher>> instilled in him *mishnayot*, but once <<his teacher>> instilled in him *mishnayot*, one should always run to the Talmud more than to the Mishnah.[41]

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[39] Following the translation of Sokoloff, *DJPA*[3], 11.

[40] Further on the juxtaposition of *matnita* and *ulpana* in the Palestinian Talmud, see Bacher, *Die Exegetische Terminologie*, 2.8; Sussman, *Oral Law*, 221 fn. 45; Vidas, "What is a *tannay*?," 57. For examples of this distinction, see, e.g, y. Suk. 1:1 (51d [636]) (*ulpana* is juxtaposed with "our Mishnah"); y. Berakhot 10c (*ulpana* is juxtaposed with teachings of *Tannaim*). Related also is the phrase "בר אולפן" to denote someone an expert in the rabbinic tradition, e.g., *Leviticus Rabbah* 3:1 (ed. Margulies, 55) (a continuation of the passage cited above, 74); *Genesis Rabbah* 81:2 (ed. Theodor-Albeck, 970). Notably, one passage (y. Qidushin1:7 [61b (1156)]) uses the word "אולפנייא" to refer to knowledge from the tannaitic period, yet the knowledge is of exemplary stories of tannaitic rabbis, and thus not "*matnita*" (this is in keeping with Vidas's definition of "*matnita*" as "recited text," and not necessarily tannaitic texts/knowledge).

[41] y. Shabbat 16:1 (15c [437]), with parallel in y. Horayot 3:8 (48c [1430]), following the emendation and interpretation proposed by Shlomo Naeh, "Three Comments on the Text of the Yerushalmi" (Hebrew), *Lěšonénu: A Journal for the Study of the Hebrew Language and Cognate Subjects* 74 (2012): 195–215 (209-12), and Moshe Assis, *A Concordance of Amoraic Terms: Expressions and Phrases in the Yerushalmi*, 3 vols. (Hebrew; New York and Jerusalem: The Jewish Theological Seminary of America, 2010), 1094-5 fn. 1742 (and earlier idem, apud Yisrael Hazani, "'U-Talmud torah kineged kulam': leqet meqorot mi ha-sifrut ha-talmudit," (Hebrew), *Mishlav* 30 (2000): 51–87 (74 fn. 112); for earlier interpretations of this source, see the survey in Naeh, ibid., 204-9, and Menahem Kahana, "The Relations between Exegeses in the Mishnah and Halakhot in the Midrash" (Hebrew), *Tarbiz* 84, no. 1/2 (2015): 17–76 (20-4). On the assimilation of the vowel a > u prior to labial consonants in the Hebrew of the Palestinian Talmud (in this case, *rabo > rubo*), see Emmanuel Mastéy, "The Hebrew of Talmud Yerushalmi According to the Manuscripts of the Cairo Genizah" (Hebrew; Ph.D. dissertation, Ben-Gurion University of the Negev, 2018), 202-6; and see also Shai Heijmans, "Morphology of the Aramaic Dialect in the Palestinian Talmud According to Geniza Manuscripts" (Hebrew; Master's thesis, Tel Aviv University, 2005), 43.

According to R. Yosse, elementary study of Mishnah is something that is internalized—the rabbi instills, or even imprints it *in* the student.[42] Once this prerequisite is met, a student is ready for "*talmud*." The physical language used by R. Yosse—the teacher *instills* the Mishnah in the student—implies study as *memorization*.[43] From yet an additional passage in the Palestinian Talmud, it appears that for some youth, this literacy in the Mishnah would have been gained in domestic settings.[44]

Several scholars have connected these two passages to the "*Tannaim*" (sg. "*Tannay*" or "*Tanna*"), a group of rabbinic or rabbinic adjacent figures who supposedly operated in Palestinian and Babylonian study settings in Late Antiquity and the Middle Ages.[45] As functionaries in rabbinic settings, these men were supposedly professional reciters "entrusted with the memorization and transmission of Tannaitic teachings,"[46] "a type of living audiobook."[47] It seems, though, that such figures only had a minimal role in the transmission of the Mishnah and other works or teachings in Palestinian rabbinic settings in the third-fourth centuries, particularly when compared with contemporary Babylonian

[42] See also the similar language used in *Leviticus Rabbah* 21:5 (ed. Margulies, 481), cited below in note 76.

[43] Marcus Jastrow (*A Dictionary of the Targumim, the Talmud Babli, and Yerushalmi, and the Midrashic Literature* [London: Luzac & Co., 1903], 1624) translates "שיקע" in this passage as "embodied." On the physical aspect of Mishnah memorization, see Naeh, "Three Comments," 211 fn. 87, and see also idem, "Omanut ha-zikaron, mivnim shel zikaron vi-tavniot shel teqst bi-sifrut hazal," in *Mehqerei Talmud III: Talmudic Studies Dedicated to the Memory of Professor Ephraim E. Urbach*, ed. Yaakov Sussman and David Rosenthal, 2 vols. (Jerusalem: The Magnes Press, 2005), 2:543–89 (588-89).

[44] y. Eruvin 1:1 (18d [454]) describes on "Hananiah b. Shelemia" teaching Mishnah to Rav's son, Hiyya, seemingly in a domestic setting, as Rav overhears the lesson; note that this anecdote would have supposedly taken place relatively early in the third century. See also above, fn. 10. Hezser (*Literacy*, 57) notes that there is overall little evidence for study with private tutors.

[45] E.g., Epstein, *Introduction*, 1:243 fn. 1. For the supposed role of *Tannaim* in Palestinian study settings, see also ibid., 2:673-81; Lieberman, "The Publication of the Mishnah," 88-99; Levine, *The Rabbinic Class*, 74; Sussman, *Oral Law*, 339-42. See also Sokoloff, *DJPA*[3], 678. Note that the term in this sense is separate from "*Tannaim*" in the sense of rabbis of the tannaitic period.

[46] Vidas, "What is a '*tannay*'?" 22.

[47] Ibid., 24; cf. Lieberman, "The Publication of the Mishnah," 90 ("the *Tanna* was a living book").

settings (see the following chapter).[48] Instead, it is the case that Palestinian rabbis of the third-fourth centuries themselves strove to know the Mishnah (and perhaps also other tannaitic texts and traditions) to such an extent that they would not need to rely on professional memorizers.[49] And in any event, *Tannaim* are not mentioned in the sources just analyzed, which describe basic levels of Mishnah study; notably, neither are *Mashnim*.

To summarize what we have seen in this section: While there is not a small amount of evidence in rabbinic texts for elementary Jewish study, often in synagogues, these sources do not record Mishnah study as an element of this level of education. There is, though, an assumption in rabbinic texts that the Mishnah would be studied as a prerequisite for advanced study, a benchmark that few would reach. While rabbinic texts as well as some Christian texts refer to specific teachers who may have been responsible for this level of Mishnah study, rabbinic texts do not consistently associate the base level of Mishnah instruction with a specific class of teachers referred to by a uniform title; it seems, therefore, that this level of Mishnah instruction was provided by different members of Palestinian rabbinic circles.

3. *Elite Study*

We saw in the prior section explicit discussions in the Palestinian Talmud of Mishnah study at an advanced level, as in the study with the *rabah di-ulpana*. The settings of this study were

[48] See Vidas, "What is a '*tannay*'?" There is, though, sufficient evidence in my opinion to conclude that such functionaries existed, albeit to a far lesser extent than they did in Babylonian settings; see especially y. Beitsah 1:3 (60c [684]); y. Horayot 2:4 (46d [1419])/y. Bik 3:3 (65c [360]). Cf. Vidas, "What is a '*tannay*'?," 41-50.

[49] See especially Vidas, "What is a '*tannay*'?," 27-8. The relatively less-significant role of professional reciters amongst Palestinian rabbis, when compared to those of Babylonia, is no doubt related to the significant emphasis placed by Palestinian rabbis on memory, a characteristic that is a point of difference between the two communities; see Naeh, "Omanut ha-zikaron," 549, 587; Vidas, "What is a '*tannay*'?," 28 with fn. 23.

likely quite varied—Palestinian rabbinic sources record rabbis studying outside in public spaces[50]; inside synagogues or on their premises[51]; and as mentioned, over the course of the third and fourth centuries, this study increasingly took place in structures like the '*beit midrash*.'[52]

The centrality of high-level Mishnah study for the rabbis of this period is readily apparent in that the Palestinian Talmud is structured as a commentary on the Mishnah and includes countless discussions of the Mishnah. And while the Palestinian Talmud as it has existed at least since the earliest stages of its reception history can be traced does not include

[50] E.g., y. Orlah 3:1 (63a [345]); *Leviticus Rabbah* 22:4 (ed. Margulies 505). See A. Büchler, "Learning and Teaching in the Open Air in Palestine," *The Jewish Quarterly Review* 4, no. 3 (1914): 485–91, repr. Haim Z. Dimitrovsky, ed., *Exploring the Talmud*, vol. I: Education (New York: Ktav Publishing House, Inc., 1976), 336-42; and Samuel Krauss, "Outdoor Teaching in Talmudic Times," *Journal of Jewish Studies* 1, no. 2 (1948): 82–84, repr. *Exploring the Talmud*, 333-35.

[51] E.g., *Genesis Rabbah* 33:3 (ed. Theodor-Albeck, 305); y. Ber. 5:1 (9a [44]). Certain statements also encourage study in synagogues, e.g., y. Ber. 5:1 (9a [43]): "אמר רבי יוחנן ברית כרותה היא היגע תלמודו בבית הכנסת לא במהרה הוא משכח". See Levine, *The Ancient Synagogue*, 486

[52] In addition to the evidence cited until now, yet other sources point to physical structures beginning to bear the name "*beit midrash*" in the third and fourth centuries, the funding of which may have even come from grandees and communities: e.g., y. Berakhot (4b [14])/y. Moed Qattan 3:7 (83c [825]) (rabbis are walking and pass by a *beit midrash*); y. Peah 7:4 (20b [107]) (the *beit midrash* of Sepphoris); y. Horayot 3:6 (48a [1428]) (the *beit midrash* of Tiberias); y. Berakhot 7:5 (11c [59]) (the middle door of a *beit midrash*); y. Megillah 3:3 (74a [765]) (the open air of the *beit midrash*); y. Megillah 4:10 (75c [774]) (the doorpost of R. Hanania's *beit midrash*). See also Mandel, *The Origins of Midrash*, 207. A similar shift occurs in the meaning of the term *"beit va'ad*," in which it no longer refers to an ad hoc meeting of rabbis (e.g., m. Avot 1:4; t. Megillah 3:5 [ed. Lieberman, 354]); see Mandel, *The Origins of Midrash*, 209), but to a physical edifice housing advanced study: e.g., y. Makot 2:5 (31d [1138]); *Genesis Rabbah* 95 (ed. Theodor-Albeck, 1232); y. Terumot 8:11 (46b [252]); y. Megillah 1:8 (71d [751])/*Genesis Rabbah* 1:11 (ed. Theodor-Albeck, 10); see Mandel, *The Origins of Midrash*, 209-10. Yet additional sources describe a "*sdar*," including "the great *sidra* of Tiberias" (e.g., y. Shabbat 3:6 [6c (388)]), and one source mentions a "*metivta*" as a place of study for rabbis, specifically, the "great *metivta* of Lod" (see *Pesiqta de-Rab Kahana* 18:5 [ed. Mandelbaum, 297]; Sokoloff, *DJPA*[3], 372). On the epigraphic evidence—a single lintel found in the Golan, which may, however, postdate the period under discussion here—see Stuart Miller, "'This Is the Beit Midrash of Rabbi Eliezer Ha-Qappar' (Dabbura Inscription) – Were Epigraphical Rabbis Real Sages or Nothing More Than Donors and Honored Deceased?," in *Talmuda De-Eretz Israel: Archaeology and the Rabbis in Late Antique Palestine*, ed. Steven Fine and Aaron Koller, Studia Judaica 73 (Berlin: Walter de Gruyter, 2014), 239–73 (255-57).

the final two orders of the Mishnah,[53] Yaakov Sussman has shown that the Palestinian *amoraim* studied the entirety of the Mishnah, including these two orders.[54]

Scholars have noted important diachronic aspects to the study of the Mishnah by *amoraim*: The earliest generation of Palestinian *amoraim* are not presented as engaging with the Mishnah to any significant extent; amoraic engagement with the Mishnah picks up significantly in the 2nd-3rd generations, particularly thanks to the work of R. Yohanan.[55] From that point on, Palestinian rabbis are represented in the Palestinian Talmud as primarily engaging in the study of the Mishnah either directly or indirectly, via earlier amoraic discussions that usually address the Mishnah and accompanying tannaitic sources,[56] and often as using rules in order to decide the Mishnah's actual intention with regards to proper practice.[57] As noted by Lapin, the Palestinian Talmud projects "a picture of a rabbinic movement with a fair degree of coherence,"[58] much of which comes from the shared

[53] Yaakov Sussman, "Babylonian *Sugiyot* to the Orders *Zera'im* and *Tohorot*" (Hebrew; Ph.D. dissertation, Jerusalem, The Hebrew University, 1969), 5 with fn. 8. See also idem, "Pirqei yerushalmi," in *Mehqerei Talmud II: Talmudic Studies Dedicated to the Memory of Professor Eliezer Shimshon Rosenthal*, ed. Moshe Bar-Asher and David Rosenthal (Jerusalem: Magnes Press, 1993), 220–77 (226-27 with fn. 285).

[54] Sussman, "Babylonian *Sugiyot*," 3-12; see also Yehoshafat Harel, "Palestinian *Sugyot* to *Seder Kodshim*" (Hebrew; Ph.D. dissertation, Jerusalem, The Hebrew University of Jerusalem, 2013), 122.

[55] See in particular Hayim Lapin, "Institutionalization, Amoraim, and Yerushalmi Šebi'it," in *The Talmud Yerushalmi and Graeco-Roman Culture*, ed. Peter Schäfer, vol. III (Tübingen: Mohr Siebeck, 2002), 161–82; idem, *Rabbis as Romans*, 60-2; Dov Zlotnick, *The Iron Pillar - Mishnah: Redaction, Form, and Intent* (Jerusalem: The Bialik Institute, 1988), 202-17; Nurit Be'eri, *Exploring Ta'aniot: Yerushalmi, Tractate Ta'aniot- Forming and Redacting the Traditions* (Ramat-Gan: Bar-Ilan University Press, 2009). 58-61; Yehuda Brandes, "From Rulings to Rules: The Formation of (Some) Halakhic Rules," *AJS Review* 42, no. 1 (April 2018): 65–87; idem, "The Canonization of the Mishnah," *Journal of Ancient Judaism* 10, no. 2 (2019): 145–80. For cases studies of exegesis of the Mishnah in the Palestinian Talmud, see also Alan J. Avery-Peck, "Yerushalmi's Commentary to Mishnah Terumot: From Theology to Legal Code," in *Approaches to Ancient Judaism*, ed. William Scott Green, vol. IV: Studies in Liturgy, Exegesis, and Talmudic Narrative (Chico: Scholars Press, 1984), 113–36; Martin S. Jaffee, "The Mishnah in Talmudic Exegesis: Observations on Tractate Maaserot of the Talmud Yerushalmi," in *Approaches to Ancient Judaism*, IV, 137–57. Here and throughout the dissertation generations of *amoraim* are according to the chronology in Hanoch Albeck, *Introduction to the Talmud Babli and Yerushalmi* (Hebrew; Tel-Aviv: Dvir Publishing House, 1987).

[56] See., e.g, Lapin, "Institutionalization," 174-75.

[57] See especially the studies of Zlotnick and Brandes cited in note 55, as well as Richard Hidary, *Dispute for the Sake of Heaven: Legal Pluralism in the Talmud*, Brown Judaic Studies 353 (Brown Judaic Studies, 2010).

[58] Lapin, "Institutionalization," 175.

engagement in the Mishnah. One further element of the diachronic rise in the Mishnah's importance is what has been called "Scripturalization" and which I will call here "Scholastic Scripturalization." As a result of this process, the language of the Mishnah is eventually parsed as if it lacks any superficial elements—each jot and tittle becomes ripe with meaning, and the Mishnah is thus read using hermeneutic principles perhaps borrowed by the rabbis from their readings of the Hebrew Bible, a phenomenon that will become especially prominent in the Babylonian Talmud.[59] As we will see in greater detail in later chapters of this dissertation, such an attitude towards the Mishnah reflects the centrality of the Mishnah in the eyes of the rabbis and other Jews, and must be looked at in relation to yet additional ways in which the Mishnah was "Scripturalized," particularly in non-scholastic settings. And as we will see already in the following section, this hermeneutical stance relates directly to the way that Palestinian rabbis of the third and fourth centuries promoted the Mishnah and its study.

4. *Promoting Mishnah Study*

Until now, we have primarily looked at passages in Palestinian rabbinic works that describe rabbinic study of the Mishnah. In addition, many passages in these works *promote* Mishnah study, while recognizing that complete knowledge of the Mishnah is difficult to attain. In what follows, we will address these sources in order to see what they can teach us of the Mishnah's reception in third-fourth century Palestine.

[59] See especially Shanks Alexander, *Transmitting Mishnah*, 77-116; for the initial suggestion that this phenomenon can be found already in the Palestinian Talmud, and not just in the Babylonian Talmud, see Christine Hayes, *Between the Babylonian and Palestinian Talmuds: Accounting for Halakhic Difference in Selected Sugyot from Tractate Avodah Zarah* (Oxford and New York: Oxford University Press, 1997), 224-25 fnn. 5-6.

Various rabbinic sources list the subdisciplines of Jewish knowledge.[60] It is difficult to know if "Mishnah"—that is, the Patriarchate's Mishnah—is ever implied in these passages, or if the intended meaning of "mishnah" is rather more general; while it is opposed in these passages to other subdisciplines of Torah, "mishnah" may refer not to the Mishnah but to earlier packagings of rabbinic knowledge, as opposed to scriptural exegesis or dialectic discourses.[61] And yet, when referring to "mishnah" study, these passages may nevertheless include the Mishnah within the wider framework of "mishnah," and thus may still be useful for what they can teach us of the study of the Mishnah. In addition, it may even be possible to isolate certain passages that do refer to the Mishnah. Menahem Kahana has shown that in the corpus of tannaitic *midrashim*, the word "Mishnah" is found only in the *midrashim* of the Akivan school.[62] This, he explains, is because it is only in the Akivan school that Rabbi's Mishnah was recognized as fully authoritative.[63] In light of these findings, it seems that we can conclude that several appearances of the term "Mishnah" in the editorial layer of Akivan midrashim[64]—a product of the early decades of the 3rd century, following the initial dissemination of the Mishnah—do indeed refer to the Patriarchate's Mishnah.[65] These

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[60] See Louis Finkelstein, "*Midrash*, *halakhot*, *vi-hagadot*," in Yitzhak F. Baer Jubilee Volume, ed. S.W. Baron et al. (Hebrew; Jerusalem: The Historical Society of Israel, 1960), 28–47; Kister, *Studies in Avot De-Rabbi Nathan*, 42-4; Hazani, "Talmud torah"; Avraham Rosenthal, "Torah She-Be'al Peh - Halakha u-Ma'aseh," in *Mehqerei Talmud II: Talmudic Studies Dedicated to the Memory of Professor Eliezer Shimshon Rosenthal*, ed. Moshe Bar-Asher and David Rosenthal (Jerusalem: The Hebrew University Magnes Press, 1993), 448–89; Martin S. Jaffee, *Torah in the Mouth: Writing and Oral Tradition in Palestinian Judaism, 200 BCE-400 CE* (New York: Oxford University Press, 2001), 87-92—Jaffee coins the term "curriculum pericopes" to refer to such passages; and Elizabeth Shanks Alexander, *Transmitting Mishnah: The Shaping Influence of Oral Tradition* (Cambridge and New York: Cambridge University Press, 2006), 174.

[61] See, above pg. 11.

[62] Menahem Kahana, "Notes to the 'Mekhilta,'" (Hebrew), *Tarbiz* 59, no. 1–2 (1989): 235–41 (237-240).

[63] Ibid., 240; see also idem, "'וכולה מתניתין': Who Were the Abbreviators of Mishnayot in the Tannaitic Midrashim?" (Hebrew), *Tarbiz* 88, no. 1 (2020): 5–40 (27).

[64] This is possible as many of these passages have parallels in the Ishmaelian midrashim in which the word "Mishnah" is absent; in the Akivan contexts, the appearance of the term often seems forced.

[65] For a list of these appearances, see Kahana, "Notes," 237-38. See also Kister, *Studies in Avot De-Rabbi Nathan*, 42.

midrashim mention the study of the Mishnah in educational settings[66] and present sages as ideally knowing the Mishnah well.[67] In yet other passages, knowledge of the Mishnah is presented as a prerequisite for further study.[68] It is of note that these midrashim, in several passages, specifically attach knowledge of Mishnah to the biblical commandment "*u-shmartem*"—"and you shall keep"[69]; this, I suggest, relates to the ideal in which the Mishnah would be known by heart.[70]

Still, these texts present an ideal, and it is difficult to know from them how well known the Mishnah would have been. That the Mishnah was known by heart by scholars emerges from a surprising source: the practice of some scribes, when copying tannaitic *midrashim*, to abbreviate quotations from the Mishnah in a manner akin to the abbreviation of quotations from Scripture as they assume that the audience of the work would know the Mishnah by heart and would therefore be able to complete the abbreviated quotation from memory.

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[66] *Sifre Deuteornomy* 344 (ed. Finkelstein, 401) To be sure, this text mentions the Mishnah in a story that supposedly took place prior to Rabbi's editing of the Mishnah. Yet as shown by Kahana ("Notes to the Mekhilta," 237), the word "Mishnah" is absent from parallel version in the *Mekhilta on Deuteronomy* (see also the side-by-side edition of the parallel versions in idem, "Pages of the Deuteronomy Mekhilta on *Ha'azinu* and *Wezot Ha-Berakha*" [Hebrew], *Tarbiz* 57, no. 2 [1988]: 165–201 [198-99]). It thus seems that the editors of the *Sifre Deuteronomy* added the term "Mishnah" to this story, and simply did not give attention to any possible anachronism.

[67] *Sifre Deuteronomy* 306 (ed. Finkelstein, 339), "כך תלמידי חכמים אין אתה יודע מהו עד שישנה משנה הלכות והגדות" (according to London, British Library, MS Add. 16406 [Margoliouth 341]). *Sifre on Deuteronomy* 348 (ed. Finkelstein, 418) refers to experts who are "בעלי משנה" ("משה ליכנס בראש כל העם וחבורה וחבורה <<שעתיד>> [...] בעלי תלמוד [...] בעלי משנה [...] בראש כל חבורה של בעלי מקרא"; according to the London manuscript).

[68] *Sifre Deuteronomy* 161 (ed. Finkelstein, 212), with Kahana, "Notes," 238 fn. 20.

[69] *Sifre Deuteronomy* 58 (ed. Finkelstein, 124): "'ושמרתם'—זו משנה; 'ועשיתם'—זו מעשה; 'את כל החוקים'—אלה החוקים—אלו המדרשות; 'ואת המשפטים'—אלו הדינין" (here and in the following cases according to Vatican, Biblioteca Apostolica, ebr. 32); ibid., 59 (ed. Finkelstein, 125): "'אשר'; 'והמשפטים'—אלו הדינין; 'אשר תלמדון'—אלו המדרשות; 'לעשות'—זו מעשה. 'שמור ושמ<<עת>>'—כל שאינו בכלל משנה <<שמרון>>ת"; ibid., 79 (ed. Finkelstein, 145): "'ושמרתם' – זו משנה; 'לכל עובדת אהל מועד' – זה תלמוד"—as this reading is quite distant from the plain meaning of the verse. See also Steven D. Fraade, *From Tradition to Commentary: Torah and Its Interpretation in the Midrash Sifre to Deuteronomy* (Albany: State University of New York Press, 1991), 97, 244 n. 111.

[70] On interpreting such commands as though refer to memorization, see Naeh, "Omanut ha-zikaron," 544.

Here, too, there is a divide between the tannaitic midrashim, as such abbreviations are far more prevalent in Midrashim of the Akivan school than they are in Ishmaelian ones. Kahana has concluded from this difference that these abbreviations are not a later scribal practice, but a feature of the *editorial* layer of the Akivan midrashim (Figure 2.1).[71]

[71] Kahana, "Who Were the Abbreviators?," 26. See also earlier, Epstein, *Introduction*, 2:731-32.

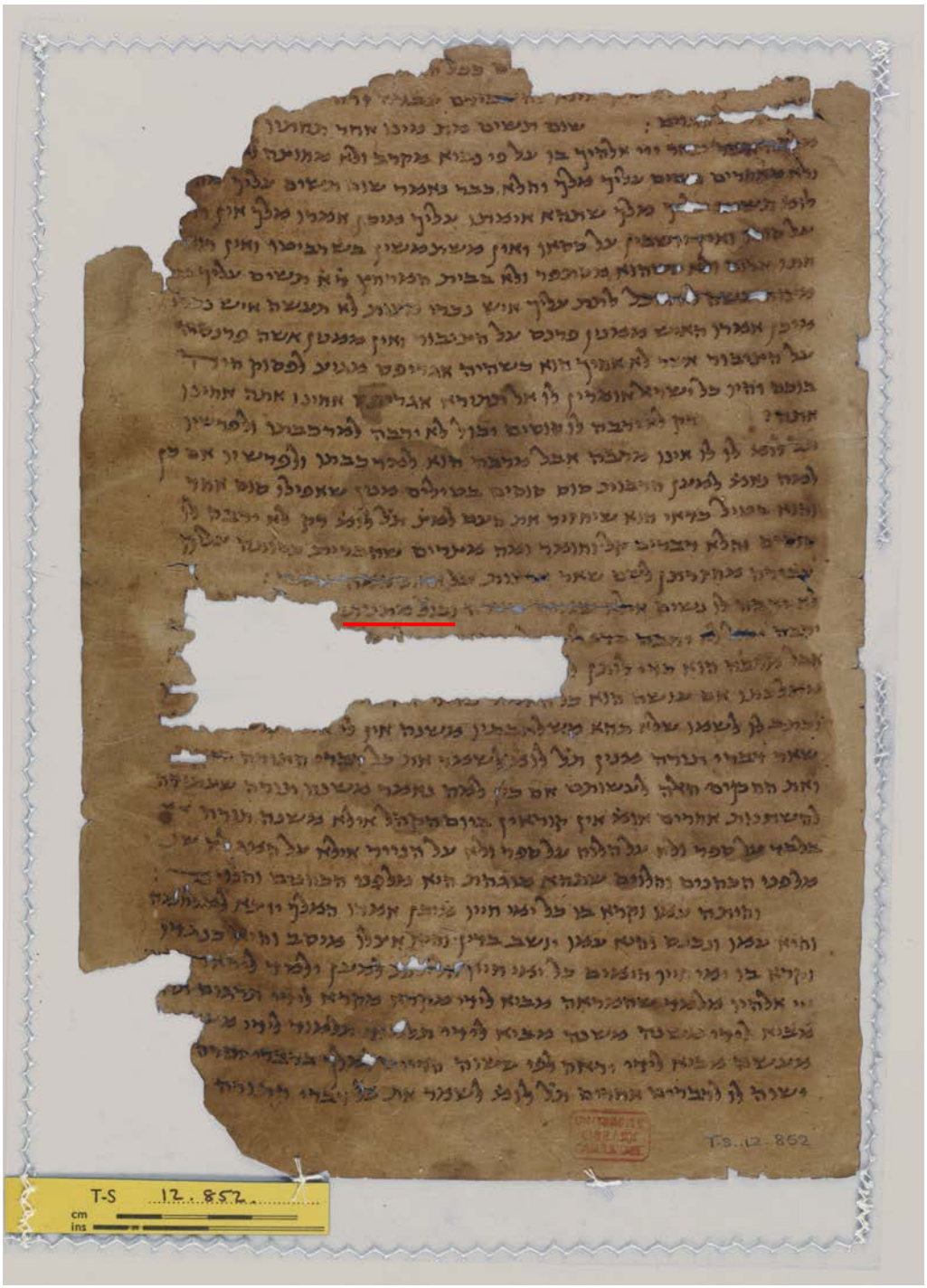

Figure 2.1: A Genizah fragment of Sifre Deuteronomy 159 (ed. Finkelstein, 210) in which a Mishnah quotation is abbreviated (T-S 12.852v).[72]

[72] See Menahem Kahana, *The Genizah Fragments of the Halakhic Midrashim* (Hebrew; Jerusalem: The Hebrew University Magnes Press, 2005), 275, and the discussion in idem, "Who Were the Abbreviators?," 31.

When combined with what we see in terms of the use of the word "Mishnah," we can say that in the early decades of the third century, the editors of the Akivan midrashim not only included passages that promoted the study of the Mishnah and its memorization, but in fact assumed that their ideal audience knew the Mishnah by heart.[73]

Deeper in the period under discussion, Mishnah study and memorization are promoted as an ideal in several homiletic statements attributed to Palestinian sages in the classical aggadic midrashim. One such passage claims that a central aspect of the redemption itself will come thanks to Mishnah study:

> ר' חונא א': אין כל הגליות הללו מתקבצות אלא בזכות משניות, ומה טעמ'? 'גם כי יתנו בגוים עתה אקבצם (הו' ח 10)'.
>
> R. Huna says: These exiles will only gather due to the merit of *mishnayot* [study], and what is the reason? "And while they are spread among the nations (*yitnu ba-goyim*) then I will gather them" (Ho. 8:10).[74]

R. Huna reads the word *yitnu*—translated here as "spread"—according to the Aramaic meaning, "recite,"[75] such that Mishnah study is what will lead to the redemption of the People of Israel. More personal repercussions of Mishnah study are promised in the following passage:

> 'כי בתחבולות תעשה לך מלחמה' (מש' כד 6) [...] ר' בנייה פתר קרייה במשניות, דאמ' ר' בנייה, לעולם ישקיע אדם עצמו במשניות, שאם ירתם יפתחו לו, אם לתלמוד תלמוד ואם להגדה הגדה. ר' לעזר בש' ר' יהוש' בן לוי אמ', עמוד ברזל—משנה.

[73] To be sure, this can be the case despite the involvement of Rabbi's circle in the later editing of Ishmaelian *midrashim*, noted above, as the additions of the foreign bodies by the circle of Rabbi are the product of a later redactional stage in the history of the Ishmaelian *midrashim*. Note also that this implies an early redaction of the *midrashim* in writing; on the early writtenness of the tannaitic *midrashim*, see above pg. 50 with fn. 85.

[74] Cited according to *Pesiqta de-Rab Kahana* 6:3 (ed. Mandelbaum, 118), see also parallel at *Leviticus Rabbah* 7:3 (ed. Margulies, pp. 155-56).

[75] See the parallel in b. Baba Batra 8a, where this is stated explicitly.

> "For by stratagems you wage war" (Ho. 24:6) […] R. Benaya explained this verse as referring to *mishnayot*, as R. Benaya stated, one should always invest (*yashqia*) oneself in *mishnayot*, for if he garners strength, they (the *mishnayot*) will provide him a way, if to Talmud, then to *Talmud*; to *Aggadah*, then to *Aggadah*. R. Eleazar in the name of R. Yehoshua b. Levi says: The Mishnah is an iron pillar.[76]

R. Benaya, a sage who flourished in the first half of the third century, suggests that the study of Mishnah—reading "stratagems" as sources of wisdom, and thus relating it to *mishnayot*—is a sure way for an individual to emerge victorious in their war against the Evil Inclination, as embodying the Mishnah will lead one to then study *talmud* or *aggadah*.[77] The *midrash* then appends a statement of R. Yeshoshua b. Levi, R. Benaya's younger contemporary, emphasizing the Mishnah's centrality. The importance of the Mishnah for homilists is shown also in an anonymous section of the *Pesiqta de-Rab Kahana* that compares the six wagons of the chieftains of Israel (Num. 7:3) to the "Six Orders of the Mishnah" (*shesh archei ha-mishnah*),[78] as if to read the Mishnah typologically into a defining moment in Israel's history.

Several passages recognize the difficulty in truly knowing the entire Mishnah. R. Yitzchak, a sage of the later 3rd century, thus says that "one who recites two orders and is well-versed (*ragil*, lit., familiar)[79] is better than one who studies the entire Mishnah[80] and is

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[76] *Leviticus Rabbah* 21:5 (ed. Margulies, 481).

[77] Following the interpretation of Margulies, ad loc. On the Evil Inclination in rabbinic literature, see Ishay Rosen-Zvi, *Demonic Desires:* Yetzer Hara *and the Problem of Evil in Late Antiquity*, Divinations (Philadelphia: University of Pennsylvania Press, 2011) (this passage is not discussed by Rosen-Zvi). A sense of embodied knowledge is perhaps implied by the language "ישקיע," on which see also above; embodied knowledge is particularly intriguing in this context, given the implied use of the Mishnah to combat sexual desires.

[78] *Pesiqta de-Rab Kahana* 1:7 (ed. Mandelbaum, 11).

[79] "*Ragil*" is used more specifically as a description of sages along the lines of "wise," see Saul Lieberman, "Emendations on the Jerushalmi (F.)" (Hebrew), *Tarbiz* 4, no. 4 (1933): 377–79 (378-79), repr. idem, *Studies in Palestinian Talmudic Literature*, ed. David Rosenthal [Hebrew; Jerusalem: The Magnes Press, 1991), 198-99; however, Lieberman's conclusion that the term refers to specific academy functionaries with the title "*ragil*" is unconvincing.

[80] Referred to here as, "הלכות"; on this term for the Mishnah, see above, pg. 11.

not well-versed (*ragil*)"[81]; i.e., Mishnah study is important, but it is important also to know the Mishnah, or at least some of it, *well*.[82] Another piece of advice, attributed to R. Hanina of Sepphoris, of the second half of the 4th century, is to not be afraid by the sheer size of Mishnah, and instead to focus on studying two *mishnayot* a day until one knows "all of Torah."[83]

Given that these are all homiletic passages, it is difficult to ascertain from them how prevalent Mishnah study would have been. It is important however that by this point, there is no remnant of a division within the rabbinic movement regarding the acceptance of the Mishnah. Rabbis without any apparent association with a specific subgroup of the rabbinic movement convey the importance of Mishnah study, and supposedly do it in somewhat outwardly facing, homiletic contexts. Thus, the homiletic passages discussed here cohere with the picture that emerges from the Palestinian Talmud, that by the mid-third century and on, Mishnah study is the shared focus of all the Palestinian rabbis recorded in Rabbinic Literature, adding also that it is a practice ideally pursued by all Jewish men.

Furthermore, just as editors of Akivan midrashim abbreviated citations of the Mishnah as they expected their audiences to know the Mishnah by heart, so too do we see the same practice in the better manuscripts and manuscript fragments of Genesis Rabbah, an aggadic midrash thought to have been compiled in the late fourth or early fifth centuries

[81] *Leviticus Rabbah* 3:1 (ed. Margulies, 54), commenting on Ecclesiastes 4:6, "Better is a handful of gratification than two fistfuls of labor which is pursuit of wind."

[82] Perhaps also relevant in this context is a passage in the Palestinian Talmud (y. Moed Qattan 3:7 [83b (820)]) in which the ideal sage is defined by how devoted to and well versed they are in "their Mishnah"; see Mandel, *The Origins of Midrash*, 205. See also the passage from *Leviticus Rabbah* discussed above in fn. 36

[83] *Leviticus Rabbah* 19:2 (ed. Margulies, 417). See Naeh, "Omanut ha-zikaron," 586 fn. 200; Bregman, *The Tanhuma-Yelammedenu Literature*, 177-78.

(Figure 2.2).[84] The immediate intended audience of *Genesis Rabbah* would still be an intellectual elite, but it is significant that this is an aggadic context, which may have had a wider intended audience than the tannaitic *midrashim*. And it is again of significance is that by this point in rabbinic history the division into "Ishmaelian" and "Akivan" is no longer relevant—there is no sign that the editors of Genesis Rabbah adhered to any specific group of rabbis. In addition, many scholars have shown that the Palestinian Talmud itself often heavily abbreviates citations from the Mishnah, as the assumption is that those encountering the text would know the Mishnah by heart.[85] This can also be seen in the way that the Mishnah is abbreviated in several Genizah fragments of the Palestinian Talmud (Figure 2.3).[86] We may therefore conclude that by the end of the amoraic period, editors of Palestinian rabbinic texts assumed that the consumers of such texts would have known the Mishnah by heart.

5. *Conclusion: The Mishnah's Dissemination and The Study of the Mishnah in Roman Palestine*

We saw here that over the course of the third and fourth centuries, the Mishnah became a central element of rabbinic study in Roman Palestine. While the Mishnah, according to

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[84] Michael Sokoloff, *The Geniza Fragments of Bereshit Rabba, Edited on the Basis of Twelve Manuscripts and Palimpsests, with an Introduction and Notes* (Hebrew; Jerusalem: The Israel Academy of Sciences, 1982), 44-5, in the Genizah manuscript of Genesis Rabbah referred to as "Manuscript 2," as well as in its descendent, Vatican, The Apostolic Library, MS ebr. 30 (ibid., 52). Importantly, Sokoloff notes that the scribes did not abbreviate quotations from the Tosefta, seemingly as it could not have been assumed that consumers of the manuscript would have known the work by heart. The evidence of this work is unmentioned by Kahana, "Who Were the Abbreviators?"

[85] See David Rosenthal, "Al ha-qitsur vi-hashlamato: pereq bi-arikhat ha-talmud ha-bavli," in *Mehqerei Talmud III: Talmudic Studies Dedicated to the Memory of Professor Ephraim E. Urbach*, ed. Yaakov Sussman and David Rosenthal, 2 vols. (Jerusalem: The Magnes Press, 2005), 1:791-863 (796-98, with references to previous discussions; 816 fn. 103).

[86] Ibid., 816 fn. 103, with Epstein, *Introduction*, 2:1006. This may imply a rather early inscription of the Palestinian Talmud, akin to what I have suggested with regards to the tannaitic *midrashim*; on the early written state of the Palestinian Talmud, see Elyashiv Cherlow, "*Milta Belo* [*sic*] *Taʿama*: A Chapter in the Textual History of the Talmud Yerushalmi" (Hebrew), *Tarbiz* 88, no. 2 (2022): 183–220.

rabbinic texts, was not studied at elementary levels of education, it was studied at different levels and at different points in rabbinic education. Thus, over the third century, the Mishnah becomes the text that is studied by rabbis and rabbi-adjacent males at a basic level, with a select few continuing on to study the text at a higher level. In addition, Palestinian rabbis emphasized the importance of memorizing the Mishnah, and it does seem that many rabbis and people in their circle may have memorized sections of the Mishnah or the Mishnah in its entirety. While some figures may have been recognized for their enhanced abilities at memorizing the work, memorization of the Mishnah was at least an ideal that all Palestinian rabbis supposedly pursued, without relying on functionaries whose role it was to memorize and recite the Mishnah and related texts. Notably, the Mishnah's adoption was gradual: We saw from various pieces of evidence that the Mishnah was not immediately accepted by all, or at least, did not immediately become the central aspect of rabbinic curricula.[87]

Returning to what we saw in the prior chapter, the Patriarchate's active dissemination of the Mishnah as an element of the group's attempt to standardize and promote a curriculum can be viewed as a success, at least as far as it is presented by the Palestinian rabbinic literature of the third-fourth centuries. The success of this curriculum is of particular note in that it remained current even into the fourth century, by which time the rabbis most commonly featured in classical rabbinic texts seem to have grown distant from the Patriarchate.[88] For reasons that are not entirely clear, the prosopography of Palestinian rabbinic texts ends in the 380s,[89] thus marking the end of the "classical" rabbinic period in

[87] See also David Weiss Halivni, "The Reception Accorded to Rabbi Judah's Mishnah," in *Jewish and Christian Self Definition II: Aspects of Judaism in the Graeco-Roman Period*, ed. E.P. Sanders, Albert I. Baumgarten, and Alan Mendelson (London: SCM, 1981), 204–12; Ishay Rosen-Zvi, "Introduction to the Mishnah" (Hebrew), in *CRL*, 1:1–64 (2 fn. 5).

[88] See Chapter Four.

[89] See Chapter Four.

the Land of Israel, and it is thus a logical place to end this chapter. In the next chapter, I will turn to the evidence for the transmission and study of the Mishnah in late antique Babylonia, before returning to post-Talmudic Palestine in Chapter Four.

Figure 2.2: A Genizah Fragment of Genesis Rabbah with an Abbreviation of the Mishnah (T-S 16.324).
See Sokoloff, *The Geniza Fragments of Bereshit Rabba*, 142.

Figure 2.3: A Genizah Fragment of the Palestinian Talmud with and Abbreviated Mishnah Citation (T-S F 17.24 f. 5v [#2685]).

See Yaakov Sussman, in collaboration with Binyamin Elizur, *Ginze Yerushalmi* (Hebrew; Jerusalem: Yad Izhak Ben-Zvi, The Academy of the Hebrew Language, The Rabbi David Moshe and Amalia Rosen Foundation, 2020), 281.

Chapter Three

The Mishnah in Late Antique Babylonia

1. *Introduction*

Whereas Palestinian rabbis studied the entirety of the Mishnah, sought to memorize the work, and promoted its study for the wider public, the general image of Babylonian rabbis that can be ascertained from the Babylonian Talmud is rather different: although it is certainly the case that these rabbis are depicted as knowing the Mishnah and even as engaging with it an intensive manner, memorization of the Mishnah is not presented as particularly important or widespread, and for much of the classical period, many Babylonian rabbis do not appear to have studied the entirety of the Mishnah. And yet, it is in the Babylonian Talmud's representation of the intellectual activity of Babylonian rabbis that the study of the Mishnah reaches an especially high level of complexity and sophistication, beyond what we see in the classical Palestinian texts.

The reception of the Mishnah by Babylonian rabbis is therefore a crucial stage in the history of the rabbinic movement in Late Antiquity. Furthermore, as we will we see in later chapters, the different ways in which the Mishnah was received in these communities had lasting consequences that continued to reverberate deep into the Middle Ages. In what follows, we will look at the evidence for the Mishnah's reception in Babylonia with an eye towards how it compares with what we saw in the prior chapters, in our treatment of the reception of the Mishnah in Roman Palestine. Most of our evidence in this chapter will come from the Babylonian Talmud, a wide-ranging work that is notoriously difficult to parse for

historical information.[1] A full appraisal of all the relevant material in the Babylonian Talmud is far beyond the scope of this chapter. Nevertheless, the survey that follows, which is based primarily on existing secondary literature on the topic, is a crucial step in the overall history of the Mishnah's reception that I trace in this dissertation. In addition, towards the end of the chapter, I will address epigraphic evidence, as the earliest examples of written citations from the Mishnah come from incantation bowls from late antique Babylonia. The evidence from the Babylonian Talmud and from the incantation bowls combines to provide a rich picture of the dissemination and eventual "Scripturalization" of the Mishnah, two processes first mentioned in the prior chapters that will continue to occupy us in later chapters of this dissertation as well.

2. *Rabbinic Study in Babylonia*

While a Jewish community existed in Babylonia for many centuries prior to the creation of the Mishnah, the exact origins of the rabbinic movement in Babylonia are uncertain; some Babylonians appear in tannaitic texts, and the Babylonian Talmud itself records opinions of sages who supposedly flourished in the late second century.[2] For our purposes here, it is sufficient to note that there was a rabbinic presence, likely quite small, in certain parts of Babylonia in Parthian times. Traditional narratives of rabbinic history, as well as some

[1] For an overview of the Babylonian Talmud's character and history, see Richard Kalmin, "The Formation and Character of the Babylonian Talmud," in *CHJ* 4, 840–76.

[2] For these sources, see Isaiah M. Gafni, *The Jews of Babylonia in the Talmudic Era: A Social and Cultural History*, Monographs in Jewish History (Hebrew; Jerusalem: The Zalman Shazar Center for Jewish History, 1990), 52-91; and David M. Goodblatt, "The Jews in Babylonia, 66-c. 235 CE," in *CHJ* 4, 82–90. While in many ways outdated, Jacob Neusner, *A History of the Jews in Babylonia*, 5 vols. (Leiden: E.J. Brill, 1965-1970), is still useful; for this period, see 1:122-77, 184-87. See also Barak S. Cohen, *For Out of Babylonia Shall Come Torah and the Word of the Lord from Nehar Peqod: The Quest for Babylonian Tannaitic Traditions*, Brill Reference Library of Judaism 55 (Leiden: Brill, 2017).

histories by modern scholars, assumed an extensive continuity in Babylonian rabbinic institutions, to the point that late antique rabbinic study is depicted as taking place in *yeshivot/metivata*—bureaucratically intricate and sizeable academies—and particularly in two academies that continued to exist into the later geonic period.[3] In recent decades, scholars have argued that such an approach is decidedly anachronistic, and that a close study of the Babylonian Talmud reveals something more akin to "disciple circles" led by specific rabbis.[4] In this model, Babylonian rabbis originally organized in semi-formal groups of study or discipleship, and gradually, over the course of the fourth, fifth centuries, and sixth centuries organized in settings that were increasingly structured, bureaucratic, and long-lasting; these institutions eventually congealed into antecedents of the medieval Geonic academies.[5]

Outside of settings of study that included Rabbis and their immediate disciples, the Babylonian Talmud discusses other situations of rabbinic study that are more public facing. Most notable is the *Pirqa*, a form of public sermon that the Babylonian Talmud mainly records in reference to sages from the late third century and on, occasionally specifying that it was delivered in a synagogue.[6] Indeed, from the Babylonian Talmud, an image emerges in

[3] See especially *The Epistle of Rav Sherira Gaon*, to be discussed in Chapter Eight.

[4] On the history of scholarship and on the more current methodology and its conclusions, see David M. Goodblatt, "The History of the Babylonian Academies," in *CHJ* 4, 821–39; see also idem, *Rabbinic Instruction in Sasanian Babylonia*, Studies in Judaism in Late Antiquity 9 (Leiden: Brill, 1975); and Jeffrey L. Rubenstein, "Social and Institutional Settings of Rabbinic Literature," in *The Cambridge Companion to the Talmud and Rabbinic Literature*, ed. Charlotte Elisheva Fonrobert and Martin S. Jaffee (New York: Cambridge University Press, 2007), 58–74 (66-73).

[5] Goodblatt, "Babylonian Academies," 833; Sacha Stern, "Rabbinic Academies in Late Antiquity: State of Current Research," in *L'enseignement supérieur dans les mondes antiques et médiévaux. Aspects institutionnels, juridiques et pédagogiques*, ed. Henri Hugonnard-Roche, Textes et traditions 16 (Paris: Librairie philosophique J. Vrin, 2008), 221–38; Rubenstein, "Social and Institutional Settings," 70-3; idem, Jeffrey L. Rubenstein, "The Rise of the Babylonian Rabbinic Academy: A Reexamination of the Talmudic Evidence," *JSIJ* 1 (2002): 55–68.

[6] See Isaiah M. Gafni, "Public Lectures in Talmudic Babylonia: The *Pirqa*," in *Jews and Judaism in the Rabbinic Era: Image and Reality—History and Historiography*, by Isaiah M. Gafni, Texts and Studies in Ancient Judaism 173 (Tübingen: Mohr Siebeck, 2019), 281–93; Jonathan Pomeranz, "Ordinary Jews in the Babylonian

which the presence of Babylonian rabbis in synagogues increased starting in the middle of the period.[7] Similar to what we see in the prior chapter, while there is some evidence in the Babylonian Talmud for children studying in synagogues,[8] there is no evidence of Mishnah study in these settings. Any evidence for elementary Mishnah study depicts this study as taking place in domestic settings.[9]

3. *The Arrival of the Mishnah in Babylonia*

Scholars often refer to the "arrival" of the Mishnah in Babylonia, even attributing its arrival to Rav, a Babylonian rabbi who spent a significant amount of time in Palestine, much of it supposedly in study with Rabbi Judah *ha-Nasi*.[10] Yet there is no reason to assume that the Mishnah's arrival would have been a one-time event, and both Talmuds present the Mishnah as being studied by Jews in Babylonia prior to Rav's return to the region.[11] On the most basic level, the very reception and spread of the Mishnah in Babylonia is within itself significant for what it teaches of the intense ties between these communities in the early third century.

Talmud: Rabbinic Representations and Historical Interpretation" (Ph.D. dissertation, Yale University, 2016), 126-33; Rubenstein, "Social and Institutional Settings," 67-69.

[7] On the increased presence of Babylonian rabbis in synagogues, see Pomeranz, "Ordinary Jews," 202-53. For rabbinic sponsorship or ownership of Babylonian synagogues, see also Gafni, "Political, Social, and Economic History," 817, and Lee I. Levine, *The Ancient Synagogue: The First Thousand Years*, 2nd ed. (New Haven: Yale University Press, 2005), 491.

[8] E.g., b. Yevamot 21b; b. Gittin 61a. Cf. Gafni, *The Jews of Babylonia*, 107-8.

[9] E.g., b. Shabbat 121a-b.

[10] E.g., David Rosenthal, "The History of the Mishnaic Text" (Hebrew), in *CRL*, 1:65–107 (95), a scholarly trope that can be traced back to S.Y. Rappaport. On Rav's studying with Judah, see Ofra Meir, *Rabbi Judah the Patriarch: Palestinian and Babylonian Portrait of a Leader* (Hebrew; Tel-Aviv: Hakibbutz Hameuchad, 1999), 168-76. On the way in which medieval chronologies already made Rav's return to Babylonian into a "founding event" of Babylonian rabbinic activity, see Amram Tropper, "From Tatlafush to Sura: On the Foundation of the Academy of Sura According to Rav Sherira Gaon" (Hebrew), *Oqimta* 2 (2014): 89–104.

[11] Thus, several sources describe Rav Shila as already engaging in Mishnah study based on a familiarity gained prior to Rav's return; e.g., b. Yoma 20b, y. Sukkah 5:4 (55c [655]), b. Yevamot 24a; see Epstein, *Introduction*, 1:171; Neusner, *A History of the Jews in Babylonia*, 2:109; see also ibid., 116, for the possibility, apropos a story told in b. Yevamot 121a, that Shila was less inclined than Rav and Shmuel to adjudicate according to the Mishnah.

In earlier chapters, I proposed that the Patriarchate's prestige and financial backing would have played a significant role in the spread and adoption of the Mishnah in Palestine. It may initially seem unclear what such prestige and financing would have accomplished in Babylonia.[12] It seems, though, that it could have gotten quite far: the Talmuds do not actually refer to that many Babylonian rabbis as operating in the early third century, and most of these rabbis are depicted as having had close ties to Palestinian rabbis or even as having spent time studying in Palestine.[13] It is thus entirely possible that the prestige of the Patriarchate and even actual ties with the Patriarchate could have led to the Mishnah's acceptance by the nascent rabbinic movement in Babylonia.

Further information on the spread of the Mishnah to Babylonia can be discerned from the ways in which the Mishnah's textual witnesses diverge from one another. Although the Mishnah may have been transmitted from Palestine to Babylonia in multiple ways, and although the Babylonian rabbis frequently discuss the existence of conflicting versions of the Mishnah, there is, on a general level, a split between the versions of the Mishnah current in Palestine and those current in Babylonia along the lines of both content and language. In addition to shedding important light on the transmission of the Mishnah in the early third century, this division will continue to be significant in later chapters of this dissertation, when we look at the medieval evidence for the Mishnah's reception and study.

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[12] Neusner (*A History of the Jews in Babylonia*, 1:176-77) has suggested that the initial, rather immediate acceptance of the Babylonia in Babylonia is due to the encouragement of the Exilarchate; see also Baruch M. Bokser, *Post Mishnaic Judaism in Transition: Samuel on Berakhot and the Beginnings of Gemara*, Brown Judaic Studies 17 (Chico: Scholars Press, 1980), 461-62. Needless to say, there is no evidence for such a process, and given what we now know of the Exilarchate, it is entirely fantastical. On the Exilarchate, see Geoffrey Herman, *A Prince Without a Kingdom: The Exilarch in the Sasanian Era*, Texts and Studies in Ancient Judaism 150 (Tübingen: Mohr Siebeck, 2012); and Simcha Gross, "Reassessing Exilarchal Authority between Sasanian and Early Islamic Rule," *Journal of Jewish Studies* 73, no. 2 (2022): 263–87.

[13] See Hanoch Albeck, *Introduction to the Talmud Babli and Yerushalmi* (Hebrew; Tel-Aviv: Dvir Publishing House, 1987), 170-78.

Let us turn first to the linguistic evidence. In several publications, Moshe Bar-Asher has described the existence of three types of Mishnaic Hebrew.[14] According to this typology, the manuscripts and reading traditions of the Mishnah are divided as follows: the first division is between "Palestinian" and "Babylonian" branches of Mishnaic Hebrew—the "Babylonian" branch is preserved in the *text of the Mishnah* as it appears in manuscripts of the Babylonian Talmud, whereas the "Palestinian" branch is preserved in other manuscripts and reading traditions.[15] Bar-Asher made a further distinction within the Palestinian version, into "eastern" and "western" subtypes, which I will return to in the following chapter.[16] According to Bar-Asher these three linguistic types are all "originally" Palestinian, and the tripartite division stems from dialectic differences between the *forms of Hebrew spoken in Palestine in antiquity*. Thus, even the Babylonian branch stems originally from a form of Hebrew spoken in Palestine, and the two types of the Palestinian branch each stem from different systems of pronunciation that were once current in Palestine.

Bar-Asher has shown that many of the characteristic forms of the "Babylonian" branch are found in second-century epigraphic material from the Judaean desert, as well as in yet earlier evidence from the Land of Israel.[17] In a study of this phenomenon, Yochanan

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[14] See especially Moshe Bar-Asher, "The Different Traditions of Mishnaic Hebrew," in Studies in Classical Hebrew, ed. Aaron Koller, Studia Judaica 71 (Berlin and Boston: De Gruyter, 2014), 293–327, originally published in Hebrew in *Tarbiz* 53, no. 2 (1984): 187–220.

[15] To be sure, Bar-Asher is not the first scholar to make this distinction, but it can be said that thanks to his work scholars have succeeded in significantly refining the lines of differentiation between the two branches and have been able to further theorize as to the origins of this division. See already Zacharias Frankel, *Introductio in Mischnam* (Hebrew; Leipzig: Henrici Hunger, 1859), 219-23, and J.N. Epstein, "Review of Moshe Kosovsky, 'Thesaurus Mishnae,' Vol. 1," *Ha-Tekufa* 13 (1921): 503–16 (505-6) repr. idem, *Studies in Talmudic Literature and Semitic Languages*, ed. E. Z. Melamed, 3 vols., Publications of The Perry Foundation (Jerusalem: The Magnes Press, 1983), 2:907-20). Shlomo Naeh ("The Tannaic Hebrew in the Sifra According to Codex Vatican 66" [Hebrew; Ph.D. dissertation, The Hebrew University of Jerusalem, 1989], 22-3, 401) has suggested that this be augmented somewhat, such that the representatives of the Palestinian branch are all manuscripts of tannaitic texts *qua* tannaitic texts—and not only the Mishnah.

[16] See below, pg. 143.

[17] Bar-Asher, "The Different Traditions of Mishnaic Hebrew," 318-325 §48-60.

Breuer has shown that these forms are best understood as reflective of an early stage of Palestinian Tannaitic Hebrew, whereas the alternative forms found in manuscripts that present the "Palestinian" branch reflect a later stage of Tannaitic Hebrew.[18] Whereas Breuer has stopped short of explaining *why* the Babylonian branch shares these forms with the second-century epigraphy,[19] David Rosenthal has taken this further, emphasizing the *Judean* nature of these forms: the later forms are the result of the northward shift in the geography of the rabbinic movement in Palestine (and perhaps even to the peregrinations of Rabbi Judah *ha-Nasi* himself) and the eventual recasting of the Mishnah in the Galilean dialect.[20]

It thus emerges that, on linguistic grounds, the main versions of the Mishnah originally studied in Babylonia, as evinced in the Babylonian Talmud, at times reflect *earlier* stages in the development of the Mishnah. Such an image emerges also from differences in content between the Palestinian and Babylonian branches, in that the Mishnah as preserved in most manuscripts of the Babylonian Talmud and in the discussions of this Talmud also

[18] Yochanan Breuer, "The Babylonian Branch of Mishnaic Hebrew and Its Relationship with the Epigraphic Material from Palestine" (Hebrew), *Karmillim: For the Study of Hebrew and Related Languages* 10 (2014): 132–40. Many such examples are discussed also in Uri Mor, *Judean Hebrew: The Language of the Hebrew Documents from Judea between the First and the Second Revolts*, Sources and Studies - New Series 14 (Hebrew; Jerusalem: The Academy of the Hebrew Language, 2015), though, as noted by Elitzur A. Bar-Asher Siegal ("Linguistics and Philology in the Study of the Epigraphic Finds from the Judean Desert: The State of the Art and Reflections on Future Studies" [Hebrew], *Lĕšonénu: A Journal for the Study of the Hebrew Language and Cognate Subjects* 78, no. 3 [2016]: 247–68 [252]), Mor does not deal with the examples in a dedicated discussion, as the topic deserves. See also Yochanan Breuer, "The Preposition *Hemennu* and the Babylonian Branch of Mishnaic Hebrew" (Hebrew), *Lĕšonénu: A Journal for the Study of the Hebrew Language and Cognate Subjects* 74 (2012): 217–28.

[19] Indeed, Breuer writes that ("The Babylonian Branch," 135) "I have not found a reason for the origin of the difference between the Babylonian branch and the Palestinian branch."

[20] See his recent formulation of this theory in Rosenthal, "The History of the Mishnaic Text," 88-95; Rosenthal first presented this theory in "Mishna Aboda Zara - A Critical Edition with Introduction" (Hebrew; Ph.D. dissertation, The Hebrew University of Jerusalem, 1980). On the move of the center of the rabbinic movement to Galilee, see E. E. Urbach, "Me-Yehudah la-Galil," in *Sefer zikaron le-Ya'aḳov Fridman: ḳovets meḥḳarim*, ed. Shlomo Pines (Jerusalem: The Institute for Jewish Studies, The Hebrew University, 1974), 59–75, repr. idem *The World of the Sages: Collected Studies* (Hebrew; Jerusalem: The Magnes Press, 1988), 330-346.

lacks certain additions or changes of content that were made by Judah in his later years or by his descendants after him.[21]

According to this reconstruction, the original split between the Palestinian and Babylonian branches of the Mishnah is the result of the Mishnah having been "published" at different points in time in its early history. Such a reality is entirely plausible. Ancient works—like medieval and modern ones—were often released to a public at different points in time,[22] and there is never a fine line between a given work's unfinished and finished states.[23] In the case of the Mishnah, it is quite feasible that certain people would have taken a version of the work with them from Palestine to Babylonia[24] and then that the work would have continued to develop, even for several decades, at the hands of those in Palestine deemed by members of the rabbinic movement to be it authoritative promulgators.[25]

4. *Babylonian Mishnah Study—Breadth and Depth*

The arrival of the Mishnah in Babylonia and its continued growth in Palestine in the early decades of the third century relate directly to the issue of the study of the Mishnah by the

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[21] Rosenthal, "The History of the Mishnaic Text," 95, and Robert Brody, *Mishnah and Tosefta Studies* (Jerusalem: The Hebrew University Magnes Press, 2014), 9-14, 22-4. On this phenomenon, see also above, pp. 33-36. The examples of differences in content also militates against the possibility that the linguistic features of the Babylonian branch are simply signs of "classicizing." To be sure, there are some cases in which the version of the Mishnah in "Mishnah with Talmud" manuscripts and that is testified in the discussion in the Babylonian Talmud is later than that of the "Mishnah Only" manuscripts and/or in the Palestinian Talmud. See Brody, *Mishnah and Tosefta Studies*, 11-2, with Rosenthal, "Mishna Aboda Zarah," 153-57, and Christine Hayes, *Between the Babylonian and Palestinian Talmuds: Accounting for Halakhic Difference in Selected Sugyot from Tractate Avodah Zarah* (Oxford and New York: Oxford University Press, 1997), 42-7.

[22] For examples contemporary with the Mishnah, see Raffaella Cribiore, "The Dissemination of Texts in the High Empire," *American Journal of Philology* 140, no. 2 (2019): 255–90.

[23] On unfinishedness in the dissemination of ancient works, see Matthew Larsen, *Gospels Before the Book* (Oxford and New York: Oxford University Press, 2018).

[24] And again, there is no need to pinpoint Rav as *the* specific or single promulgator. Cf. Yaakov Sussman, *Oral Law-Taken Literally: The Power of the Tip of a Yod* (Hebrew; Jerusalem: The Hebrew University Magnes Press, 2019), 341.

[25] See above, pp. 33-36.

amoraim. Already the earliest of the third-century Babylonian rabbis—as mentioned, few in number; primarily only Rav and Shmuel—are presented in both Talmuds as studying the Mishnah and applying it to their lived realities.[26] This is in contrast to the representation of Mishnah study by Palestinian rabbis: we saw in the prior chapter that only at a slightly later point is Mishnah study presented as the main intellectual pursuit of these rabbis.[27] From the early decades of the third century, the primary textual output we have from Palestinian rabbis are the Tosefta and the tannaitic *midrashim*, and to a certain extent, the Mishnah itself, whose text continued to change and grow during this time. It thus seems that the "amoraic" period, as defined in terms of the literary presentation of the rabbis as primarily engaging in study of the Mishnah, began slightly earlier in Babylonia than it did in Palestine, where "tannaitic" modes of study and textual production continued deeper into the third century.[28]

While Babylonian rabbis all seem to have had a basic knowledge of the entire Mishnah,[29] various passages in the Babylonian Talmud attest that most Babylonian rabbis did not necessarily know the entire Mishnah well nor did they engage in in-depth study of

[26] See, amongst other studies, Baruch Bokser's extensive treatments of Shmuel's comments on the Mishnah: Baruch M. Bokser, *Samuel's Commentary on the Mishnah: Its Nature, Forms, and Content*, Studies in Judaism in Late Antiquity 15 (Leiden: Brill, 1975); idem, *Post Mishnaic Judaism in Transition*. While Bokser does collect convincing evidence for Shmuel engagement with the Mishnah, we need not accept his conclusion that Shmuel authored a "commentary" to the Mishnah. See also David Kraemer, *The Mind of the Talmud: An Intellectual History of the Bavli* (Oxford: Oxford University Press, 1990), 30-4, 42-4; Epstein, *Introduction*, 1:166-234.

[27] See above, pg. 66.

[28] One wonders also if the Babylonian intellectual activity may have impacted Palestinian rabbis, a possibility given the not insignificant amount of Babylonian material of the early generations of the amoraim that is found in the Palestinian Talmud. See Shlomi Tsemach, "Mesorot bavliyot bi-yerushalmi shabbat: netunim u-migamot arikha" (Master's thesis, The Hebrew University of Jerusalem, 2018); and Epstein, *Introduction*, 2:677-88.

[29] Yaakov Sussman, "Babylonian *Sugiyot* to the Orders *Zera'im* and *Tohorot*" (Hebrew; Ph.D. dissertation, The Hebrew University of Jerusalem, 1969), 44-6. Some rabbis are even depicted as having not just knowledge, but expertise: e.g., see the depiction of Rav Nahman and Rav Sheshet in b. Shev. 41b as knowledgeable in Mishnah ("הילכתא"), Sifra, Sifre, Tosefta, and all of the Talmud"; see Epstein, *Introduction*, 1:360.

the entire Mishnah.[30] Instead, Babylonian rabbis are depicted as having expertise in "four orders"—that is, the Mishnah excluding Zeraim and Taharot.[31] Yaakov Sussman has shown that this can be seen not just in the lack of Babylonian Talmud to these orders, but also in the nature of the discussions of *mishnayot* from Zeraim and Taharot that appear in both Talmuds: except for in the case of Rav and Shmuel, amoraic discussions of *mishnayot* from Zeraim and Taharot are never "native" to these orders, but rather only come up incidentally due to their relevance to the study of material in the "four orders."[32]

The lack of a widespread attempt on the part of the Babylonian rabbis to know the entire Mishnah well relates to a specific difference between the two rabbinic centers vis-à-vis the concept of the ideal scholar: Whereas Palestinian rabbis idealize feats of memory, the Babylonian rabbis idealize analytic abilities, even at the expense of memorization.[33] It is thus unsurprising to find anecdotes concerning Babylonian Rabbis not knowing the entirety of the Mishnah, and this ideology can help explain the supposed reliance of Babylonian rabbis, particularly in later generations,[34] on experts referred to as *Tannaim*, mentioned already in the prior chapter.[35] As we saw, the role of such figures was quite limited in the Palestinian

[30] E.g., b. Bava Metzi'a 114a-b has the second generation sage Rava b. Abuah admit that he only attempted to cover four orders, see Sussman, "Babylonian *Sugiyot*," 50-2; b. Berakhot 20a (and parallels) has a sage (there are differences between the parallel passages) say to Abaye that the earlier generation of Babylonian rabbis, that of Rav Yehudah, only studied *Neziqin*, whereas they studied "all six orders." Yet the proper version, which appears in Geonic evidence and elsewhere, has "four orders," as noted by Sussman, "Babylonian *Sugiyot*," 58-9 (note also Neusner's conclusion [*A History of the Jews in Babylonia*, 2:110] that "the chief areas of law mastered by Karna and Shila were those relating to rules of testimony and to torts"), and see Sussman, *Oral Law*, 245-56 fn. 2, 255 fn. 39.

[31] On the idea of "four orders," see also b. Megillah 28b, with Sussman, "Babylonian *Sugiyot*," 53-4.

[32] Sussman, "Babylonian *Sugiyot*."

[33] See especially David Rosenthal, "The Transformation of Eretz Israel Traditions in Babylonia" (Hebrew), *Cathedra: For the History of Eretz Israel and Its Yishuv* 92 (1999): 7–48 (30-6), and Shlomo Naeh, "Omanut ha-zikaron, mivnim shel zikaron vi-tavniot shel teqst bi-sifrut hazal," in *Meḥqerei Talmud III: Talmudic Studies Dedicated to the Memory of Professor Ephraim E. Urbach*, ed. Yaakov Sussman and David Rosenthal (Jerusalem: Magnes, 2005), 2:543–89 (549 with 29, 587 with fn. 202)

[34] Moulie Vidas, What Is a *tannay*?," *Oqimta* 7 (2021): 21–96 (89).

[35] See above, pp. 63-64.

Talmud, seemingly as the Palestinian Rabbis sought to ensure that all would have a firm grounding in the Mishnah and thus not need to rely on reciter specialists. In the Babylonian Talmud, particularly in its later strands, there is far more evidence for a reliance on *Tannaim* for the recitation of tannaitic texts.[36]

What Babylonian Rabbis may have lacked in breadth was made up for by the depth of their analysis of the Mishnah. The Babylonian Talmud presents these rabbis as engaging in forms of analysis of the Mishnah that are ever more complex and intricate, with particularly important inflection points occurring in the fourth century, especially with the sages Abaye and Rava,[37] and then again in the post-amoraic, anonymous element of the Talmud.[38] This process has been discussed by many scholars,[39] many of whom have dubbed it one of "Scripturalization," as

[36] On the representation of the *Tannaim* in the Babylonian Talmud, see especially Moulie Vidas, "Hekhalot Literature, the Babylonian Academies, and the Tanna'im," in *Hekhalot Literature in Context*, ed. Ra'anan Boustan, Martha Himmelfarb, and Peter Schäfer, Texts and Studies in Ancient Judaism 153 (Tübingen: Mohr Siebeck, 2013), 141–76 (142-45), and ibid., *Tradition and the Formation of the Talmud* (Princeton: Princeton University Press, 2014). See also Epstein, *Introduction*, 2:677-688; and Sussman, *Oral Law*, 240-45. On the disparaging statements against *Tannaim* in the Babylonian Talmud, see also Shai Secunda, *The Iranian Talmud: Reading the Bavli in Its Sasanian Context* (Philadelphia: University of Pennsylvania Press, 2013), 70-5.

[37] See David Henschke, "Abbaye and Rava — Two Approaches to the Mishna of the Tannaim," *Tarbiz* 49, no. 1–2 (1979): 187–93; Kraemer, *The Mind of the Talmud*, 37-9.

[38] See Avinoam Cohen, "Biqoret hilkhatit liumat biqoret sifrutit bi-sugyot ha-talmud (pereq bi-hithavut ha-shikhvatit shel ha-bavli)," *Asufot: Annual for Jewish Studies* 3 (1988-1989): 331–46; Hayes, *Between the Babylonian and Palestinian Talmud*.

[39] In addition to the literature cited in the prior notes, see also Epstein, *Introduction*; Abraham Goldberg, "The Babylonian Talmud," in *The Literature of the Sages—First Part: Oral Torah, Halakha, Mishna, Tosefta, Talmud, External Tractates*, ed. Shmuel Safrai, Compendia Rerum Iudaicarum Ad Novum Testamentum, Section Two: The Literature of the Jewish People in the Period of the Second Temple and the Talmud 3a (Assen and Philadelphia: Van Gorcum and Fortress Press, 1987), 323–45 (327-32); Dov Zlotnick, *The Iron Pillar - Mishnah: Redaction, Form, and Intent* (Jerusalem: The Bialik Institute, 1988), 194-217; Leib Moscovitz, *Talmudic Reasoning: From Casuistics to Conceptualization*, Texte Und Studien Zum Antiken Judentum 89 (Tübingen: Mohr Siebeck, 2002); David Stern, "On Canonization in Rabbinic Judaism," in *Homer, the Bible, and Beyond: Literary and Religious Canons in the Ancient World*, ed. Margalit Finkelberg and Guy G. Stroumsa (Leiden: Brill, 2003), 227–52; Elizabeth Shanks Alexander, *Transmitting Mishnah: The Shaping Influence of Oral Tradition* (Cambridge and New York: Cambridge University Press, 2006), 77-116; Itamar Brenner, *Okimta: Hermeneutic Discourse, Interpretive Discourse and Theological Meaning in the Babylonian Talmud* (Hebrew; Jerusalem: Carmel, 2022).

> the amoraim began to approach the language of the Mishnah as if it were Scripture. Just as the rabbis' biblical exegesis presupposed a certain precision in the language of the text, and an absence of superfluity and redundancy, so their exegesis of Mishnah often proceeded from the same assumptions of verbal economy.[40]

While we have already mentioned that this process occurs in the Palestinian Talmud,[41] it occurs to a significantly more developed extent in the Babylonian Talmud.

Perhaps related to Scripturalization, it may be significant that the questions with regards to the Mishnah that appear in later layers of the Babylonian Talmud include questions regarding the Mishnah's *order*. The Mishnah, as mentioned in the Introduction, includes sixty tractates in six orders, and generally speaking, in the manuscript tradition, the order of the tractates within each order is by the number of chapters in each tractate, from the tractate with the most chapters to the one with the fewest.[42] Evidence for the organization of the tractates within each order first appears in the later layers of the Babylonian Talmud,[43] and according to Shlomo Naeh, this is a sign that the Mishnah was transmitted at that time (the 6th century?) *in writing*, as "an order to the tractates can only exist, only needs to exist, in a *written tradition, that brings the tractates one after the other as continuous text*."[44] This evidence is only suggestive—it assumes that such issues of order are never a factor in orally transmitted works—but as we will see presently and then further in

[40] Hayes, *Between the Babylonian and Palestinian Talmud*, 105.

[41] See above, pg. 67.

[42] See Epstein, *Introduction*, 2:982-88.

[43] E.g., b. Ta'anit 2a, b. Nazir 2a, b. Sotah 2a, b. Makot 2a, and b. Shevuot 2a; see Epstein, *Introduction*, 2:983; and Eliezer Shimshon Rosenthal, "Li-shmu'at ha-petiha shel bavli ta'anit," in *Sefer zikaron le-Ya'aḳov Fridman: ḳovets meḥḳarim*, ed. Shlomo Pines (Jerusalem: The Institute for Jewish Studies, The Hebrew University, 1974), 59–75, repr. idem, *Studies in Talmudic Literature*, 2 vols. (Hebrew; Jerusalem: The Jack, Joseph and Morton Mandel Institute for Jewish Studies, 2021), 1:153-64.

[44] Shlomo Naeh, "The Structure and Division of 'Torat Kohanim' (A): Scrolls" (Hebrew), *Tarbiz* 66, no. 4 (1997): 483–515 (507 fn. 112; emphasis in the original); see also Menahem Kahana, "The Arrangement of the Orders of the Mishnah" (Hebrew), *Tarbiz* 76, no. 1–2 (2006): 29–40 (39 fn. 54).

the following chapter, in the 6th and 7th centuries, there is an increase in incidental evidence for the transmission of the Mishnah in writing.[45]

In the prior chapter, I suggested that the process by which the rabbis of the Talmud engage in ever more intricate questions of the Mishnah be termed more specifically as "*Scholastic* Scripturalization," since it can be contrasted with other forms of the Scripturalization of the Mishnah. In the Babylonian Talmud itself there is some evidence that the Mishnah's Scripturalization extended to Scholastic-adjacent contexts, in that there are a few cases in which rabbis are presented as deducing moral messages from halakhic sections of the Mishnah.[46] More significant is the appearance of the Mishnah in settings outside of rabbinic works; as we will see, this directly relates also to the issue of the inscription of the Mishnah in late antique Babylonia.

5. *The Evidence of the Magic Bowls*

Three Jewish Babylonian Aramaic Incantation bowls, all likely dating to somewhat after the period of the final Babylonian *amoraim*, contain citations from the Mishnah—the three earliest known written appearances of the Mishnah.[47] One of these bowls, Moussaieff MS

[45] The Babylonian Talmud also contains, in layers that may also be deemed relatively later, the most pronounced "ban" on writing Oral Torah, at b. Gittin 60b and b, Temurah 14b; see Yair Furstenberg, "The Invention of the Ban against Writing Oral Torah in the Babylonian Talmud," *AJS Review: The Journal of the Association for Jewish Studies* 46, no. 1 (2022): 131–50. These statements should surely be read as a reaction to the writing down of works of Oral Torah, in which case their appearance in later layers of the Babylonian Talmud may strengthen Naeh's argument.

[46] See Yosef Marcus, "Aggadic Interpretation of Halachic Mishnayot in Literature of the Sages" (Hebrew), *Netuim* 22 (2020): 11–22.

[47] On the corpus of the bowls and their *Sitz im Leben*, see Avigail Manekin-Bamberger, "Who Were the Jewish 'Magicians' behind the Aramaic Incantation Bowls?," *Journal of Jewish Studies* 71, no. 2 (2020): 235–54, with references to prior literature. On the relationship between different sub-corpora of bowls and the Babylonian rabbinic movement, see Simcha Gross and Avigail Manekin-Bamberger, "Babylonian Jewish Society: The Evidence of the Incantation Bowls," *Jewish Quarterly Review* 112, no. 2 (2022): 1–30.

164, contains a cluster of themes found also in rabbinic and rabbinic adjacent texts.[48] This bowl quotes from m. Shevuot 4:3, though the quote betrays the scribe/magician's reliance on the content of the Mishnah more than it relates to any specific notion of the Mishnah's potency as a text that can be ritually efficacious in magical contexts.[49] Two bowls, Schøyen MS 1929/6 and Schøyen MS 2053/170, inscribed by the same scribe, cite the fifth Chapter of Mishnah *Zevahim* as an invocation, as follows (MS 1929/6):

אסירין וחתימין שידי ודיוי ולילית ומבכלתה 2 וחרשי וסכרתה ולוטתא ונידרא ואישתקופתה
דתיזיחון מן הדין 3 ביתיה דאדיב בר בתשבתה ומן דירתה דפרדוך בת ממא איתתיה בשום חטאות 4
הציבור והיחיד ואילו הן חטאות הציבור שעירי ראשי חודשים ושלמועדות שחיטתן 5 בצפון וקיבול
דמן בכלי שרת צפון ודמן טעון ארבע מת[נו]ת על ארבע קרנות כאיזה צד עלה בכבש ופניו 6 לסובב
בא לו לקרן דרומית מזרחית צפונ[ית] מערבית דרומית [שיר]י הדם היה 7
שופיך אל יסוד דרומי נאכלין לפני מן הקלעין זיכרי הכ[הונה בכל מא]כל יום יום [ול]ילה עד חצות

> Bound and sealed are the demons and *dēvs* and liliths and destructive spirits 2 and sorcerers and shutting-up spirits and curses and vows and misfortunes. May you be removed from this 3 house of Adib son of Bat-Šabbeta and from the dwelling of Fra<da>dukh daughter of Mamai, his wife. By the name of: "The sin-offerings 4 of the congregation and of individuals. These are the sin-offerings of the congregation: the he-goats offered at the new moons and at the set feasts are to be slaughtered 5 on the north side, and their blood is received in a vessel of ministry <on> the north side. Their blood is required to be sprinkled by four acts of sprinkling on the four horns (of the altar). In what manner? The priest goes up the ramp and goes around 6 the circuit. He comes to the south-eastern horn, then to the north-eastern, then to the north-western, and then to the south-western. The residue of the blood he would 7 pour over the southern base. The offerings were consumed within the curtains, by males of the priestly stock, and cooked for food in any fashion during that day and night until midnight."[50]

How would the text of the Mishnah have been perceived as ritually potent enough to enter the incantation in such a manner? This section of the Mishnah appears in many Jewish prayer

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[48] First published, translated and discussed in Dan Levene, "'If You Appear as a Pig': Another Incantation Bowl (Moussaieff 164)," *Journal of Semitic Studies* 52, no. 1 (March 1, 2007): 59–70. See further the discussion in Gross and Manekin-Bamberger, "Babylonian Jewish Society," 7-11.

[49] Ibid., 11.

[50] Text and translation from Shaul Shaked, "Form and Purpose in Aramaic Spells: Some Jewish Themes (The Poetics of Magic Texts)," in *Officina Magica; Essays on the Practice of Magic in Antiquity*, ed. Shaul Shaked (Leiden: Brill, 2005), 4, 23-4. See also Shaul Shaked, James Nathan Ford and Siam Bhayro, *Aramaic Bowl Spells: Jewish Babylonian Aramaic Bowls* (Boston: Brill, 2013) 22-23. MS 2053/170 is much more fragmentary; see Shaked, "Form and Function," 5, 24.

rites as part of the early morning service[51]; the earliest documentation of its recitation in that fashion appears in the ninth century.[52] Scholars therefore assume that the quote made its way into this magical context from the daily liturgy, and that this section of the Mishnah was recited during the morning prayers well before the 9th century, at least in some Babylonian communities.[53] It is therefore difficult to know if this text was signaled as potent due to its appearance in the Mishnah, due to its appearance in prayers, or due to both of these factors. Regardless, the very embedding of the Mishnah in prayers likely relates to a form of Scripturalization that is parallel to the "Scholastic" form discussed above: the Mishnah is a text whose significance lies also in its appearance in ritualized, liturgical settings; as it is important enough to be used in such a manner, this use also imbues it with evermore significance, to the point that its inscription can be invoked in magical contexts.

6. *Conclusion*

We have seen in this chapter several important aspects of the Mishnah's reception. The Babylonian evidence has allowed us to see that the Mishnah of the Patriarchate was likely published or released to the public at multiple times. We have also seen that despite the geographic distance, the backing of the Patriarchate may have nevertheless buttressed the Mishnah's initial acceptance in Babylonia. With that, deeper cultural differences resulted in

[51] See Yaakov Gartner, *Studies in Prayer: Custom and Development* (Hebrew; Alon Shvut: Tevunot, 2015) 55-66.

[52] Robert Brody, *The Responsa of Natronai bar Hilai*, 2nd ed. (Hebrew; Cleveland: Ofeq, 2011), 109-111. On the rather different situation reflected in medieval prayerbooks of the Palestinian rite, see Vered Raziel-Kretzmer, "The Palestinian Morning Service According to Prayerbook Fragments from the Cairo Genizah" (Hebrew; PhD diss., Ben-Gurion University, 2018) 239-41, and Chapter Seven below.

[53] See Shaked, "Form and Purpose," 5-6, with fn. 22; Avigail Manekin-Bamberger, "Intersections between Law and Magic in Ancient Jewish Texts" (Hebrew; PhD diss., Tel Aviv University, 2018), 7, 16; Gross and Manekin-Bamberger, "Babylonian Jewish Society," 14.

a different form of study, in that Babylonian rabbis emphasized the analytic analysis of the Mishnah over the memorization of the Mishnah, overtime even relying on specialists—the *Tannaim*, professional reciters—to manage the issue of memorization. This form of study increased what we have termed the "Scholastic Scripturalization" of the Mishnah, and we also began to see signs of other, non-scholastic forms of Scripturalization. Lastly, we saw the earliest known evidence for the inscription of the Mishnah, in Jewish Babylonian Aramaic incantation bowls, and addressed the possibility that later layers of the Babylonian Talmud may also point to the existence of the Mishnah in writing.

The latest evidence addressed in this chapter—the later, anonymous layers of the Babylonian Talmud, and the incantation bowls—likely stem from the sixth century. After this time, there is almost no evidence for Jewish Babylonian intellectual activity until the mid-eighth century. Yet in parallel to this "dark age" in the history of Babylonian Jewry, we have quite a bit of evidence for Jewish intellectual life in Byzantine and Early Islamic Palestine, the topic of the following chapter.

Chapter Four

The Mishnah in Byzantine and Early Islamic Palestine, 400-750

1. *Introduction*

As I noted at the end of the second chapter, the latest of the named rabbis to appear in classical Palestinian rabbinic literature flourished in the 380s.[1] Following this time, the history of rabbinic Judaism in the Land of Israel becomes notoriously difficult to trace until the curtain is raised by documents from the Cairo Genizah. With that, as I will argue in this chapter, scholars have often overstated the opacity of this period.[2] I will show here that the evidence of *piyyut*—Hebrew liturgical poetry—as well as that of halakhic and aggadic texts can be used to shed a significant amount of light on Palestinian institutions of rabbinic study and leadership in the Byzantine and Early Islamic periods. Furthermore, I will demonstrate that a focus on the reception of the Mishnah can serve to uncover central features of rabbinic study and ideology during this time, as we will see that the study of the Mishnah and the idea of the Mishnah as a central Jewish text were both crucial elements in the promulgation of rabbinic ideals, due in part to the nature of Jewish responses to the Christianization of the Roman Empire.

In what follows, I will begin with an overview of the evidence for Rabbinic institutions in Byzantine and Early Islamic Palestine, attempting, to the extent that it is at all possible, to document both the continuity and change with the "classical" rabbinic period that ended in

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[1] See above, pg. 76.

[2] See, for example, Seth Schwartz, "The Political Geography of Rabbinic Texts," in *The Cambridge Companion to the Talmud and Rabbinic Literature*, ed. Charlotte Elisheva Fonrobert and Martin S. Jaffee (New York: Cambridge University Press, 2007), 75–96 (80); Yaakov Sussman, "Pirqei Yerushalmi," in *Mehqerei Talmud II: Talmudic Studies Dedicated to the Memory of Professor Eliezer Shimshon Rosenthal*, ed. Moshe Bar-Asher and David Rosenthal (Jerusalem: Magnes Press, 1993), 220–77 (276 fn. 31).

the final decades of the fourth century. The remainder of the chapter is devoted to the place of the Mishnah in rabbinic settings and thought, starting with the evidence of piyyut, moving then to midrash, and then finally to halakhic texts. Lastly, before concluding the chapter, I will address two additional and interrelated topics: the initial transmission of the Mishnah in writing and its early spread to Europe and North Africa.

As mentioned, and as I will discuss in greater detail presently, the end of the fourth century clearly marks a shift in the history of rabbinic Judaism in Palestine, and thus serves as a natural point in time from which to begin the discussion in this chapter. As per this chapter's other bookend, it appears from Palestinian Jewish texts as well as from archeological evidence that the rise of the Abbasids and longer demographic trends, likely exacerbated by the earthquake of 749, resulted in marked shifts in Palestinian rabbinic Judaism and in the makeup of Palestinian Jewish communities, such that the mid 8th is a logical place to end our discussion of Late Antiquity before moving on to the medieval evidence in the following chapter.[3]

[3] For the impact of the rise of the Abbasids on Jewish life in the Near East, see Phillip I. Ackerman-Lieberman, *The Fate of the Jews in the Early Islamic Near East: Tracing the Demographic Shift from East to West* (Cambridge: Cambridge University Press, 2022). On the date of the earthquake of 749, see Yoram Tsafrir and Gideon Foerster, "The Dating of the 'Earthquake of the Sabbatical Year' of 749 C. E. in Palestine," *Bulletin of the School of Oriental and African Studies, University of London* 55, no. 2 (1992): 231–35; for its impact on Galilean Jewish communities, see Rick Bonnie, "A Sustained Presence: Synagogue Buildings in Galilee during the Early Islamic Period and Later," *Journal of Eastern Mediterranean Archaeology and Heritage Studies* 9, no. 3 (2021): 278–98; Oded Irshai, "'The Earthquake in the Valley of Arbel': A Galilean Apocalyptic Tradition and its Historical-Liturgical Context" (Hebrew), in *Textures: Culture, Literature, Folklore, for Galit Hasan-Rokem*, 2 vols. (Jerusalem: Mandel Institute for Jewish Studies, 2013), 1.107–32 (125-26); and Shulamit Elizur, *Wherefore Have We Fasted? "Megilat Ta'anit Batra" and Similar Lists of Fasts*, Sources for the Study of Jewish Culture 11 (Hebrew; Jerusalem: World Union of Jewish Studies, 2007), 219-20, and elsewhere in the volume. See also, on the mid-8th century as a turning point in rabbinic culture, Yaakov Sussman, *Oral Law-Taken Literally: The Power of the Tip of a Yod* (Hebrew; Jerusalem: The Hebrew University Magnes Press, 2019), 328-29 (fn. 31). For similar considerations, see Averil Cameron, "The Jews in Seventh-Century Palestine," *Scripta Classica Israelica* 13 (1994): 75-93; and for the second half of the 8th century as a time of significant change for Christians in Palestine, see Sidney H. Griffith, "Byzantium and the Christians in the World of Islam: Constantinople and the Church in the Holy Land in the Ninth Century," *Medieval Encounters* 3, no. 3 (1997): 231–65. See also below, in and near fnn. 39 and 141.

2. *Rabbinic Institutions in Byzantine and Early Islamic Palestine*

It is by all accounts unclear why the prosopography of Palestinian rabbinic texts ends in the final decades of the 4th century. Uzi Leibner has suggested that a central factor may have been that Galilee and the surrounding areas experienced extensive settlement abandonment and sharp demographic decline over the second half of the 4th century, intensified by the earthquake of May 363.[4] To be sure, Leibner's thesis is not without its critics, many of whom do not agree that such a settlement crisis in fact occurred.[5] What is nevertheless clear is that

[4] See Uzi Leibner, "Settlement Patterns in the Eastern Galilee: Implications Regarding the Transformation of Rabbinic Culture in Late Antiquity," in *Jewish Identities in Antiquity: Studies in Memory of Menahem Stern*, ed. Lee I. Levine and Daniel R. Schwartz, Texts and Studies in Ancient Judaism 130 (Tübingen: Mohr Siebeck, 2009), 269–95; idem, *Settlement and History in Hellenistic, Roman, and Byzantine Galilee: An Archaeological Survey of the Eastern Galilee*, Texts and Studies in Ancient Judaism 127 (Tübingen: Mohr Siebeck, 2009), 351-86; idem, "The End of the Amoraic Period in the Land of Israel: Periodization, History and Archaeology," *Tarbiz* 84, no. 4 (2019): 575–610. For a similar conclusion with regards to the Jewish community on the Golan, see Chaim Ben-David, "Late Antique Gaulanitis Settlement Patterns of Christians and Jews in Rural Landscape," in *Settlements and Demography in the Near East in Late Antiquity*, ed. A.S. Lewin and P. Pellegrini (Roma: Istituti Editoriali e Poligrafici Internazionali, 2006), 35–58, and idem, *The Jewish Settlement on the Golan in the Roman and Byzantine Period* (Hebrew; Qazrin: Golan Research Institute, 2005), 194. As students of David Adan-Bayewitz, both Leibner and Ben-David rely heavily on the method and typology proposed in David Adan-Bayewitz, *Common Pottery in Roman Galilee: A Study of Local Trade*, Bar-Ilan Studies in Near Eastern Languages and Culture (Ramat-Gan: Bar-Ilan University Press, 1993). On literary and archeological evidence for the earthquake of May 363, see also Kenneth W. Russell, "The Earthquake of May 19, A. D. 363," *Bulletin of the American Schools of Oriental Research*, no. 238 (1980): 47–64 (though note that a significant amount of archeological evidence has since been interpreted as relating to this earthquake), and Irshai, "'The Earthquake in the Valley of Arbel.' For the precise date of the night of May 18, see Ibid., 1.118 fn. 30, and Yiannis E. Meimaris and K. Kritikakou, *Inscriptions from Palaestina Tertia*, vol. Ia: The Greek Inscriptions from Ghor Es-Safi (Byzantine Zoora), Meletemata 41 (Athens: National Hellenic Research Foundation, 2005), 116-21 (nos. 22-24) (and not 127-29 no. 30, as stated by Irshai).

[5] See already Jodi Magness, "Did Galilee Experience a Settlement Crisis in the Mid-Fourth Century?," in *Jewish Identities in Antiquity: Studies in Memory of Menahem Stern*, ed. Lee I. Levine and Daniel R. Schwartz, Texts and Studies in Ancient Judaism 130 (Tübingen: Mohr Siebeck, 2009), 296–313, and the response of Leibner, "The Settlement Crisis in the Eastern Galilee during the Late Roman and Early Byzantine Periods: Response to Jodi Magness," in *Jewish Identities in Antiquity*, 314–19. See also Hayim Lapin, "Population Contraction in Late Roman Galilee: Reconsidering the Evidence," *BASOR* 378 (2017): 127–43, and Zeev Weiss, "Defining Limits in Time of Shifting Borders Jewish Life in Fifth Century Palestine," in *The Fifth Century: Age of Transformation, Proceedings of the 12th Biennial Shifting Frontiers in Late Antiquity Conference*, ed. Jan Willem Drijvers and Noel Lenski (Bari: Edipuglia, 2019), 105–19. To the extent that the interpretation of the evidence relates directly to the typology of Kefar Henanya ware, and particularly to debates surrounding the dating of one of its latest types, type 1E, see also Jodi Magness and Daniel Schindler, "Pottery and Jewish Settlement in Late Roman Galilee," *Bulletin of the American Schools of Oriental Research* 374 (2015): 191–207, Tzvi Ma'oz, *'En Nashut: The Art and Architecture of a Synagogue in the Golan*, Archaostyle Scientific Research Series 9 (Qazrin:

even if we do not necessarily see a decrease in the overall area of inhabitation nor a decline in the construction of monumental synagogues around the turn of the fifth century, we do see evidence for the sidelining of Jews in the cities of Northern Palestine and the contraction in the *number* of Jewish villages in this region.[6] These processes are likely related to myriad factors, not least of which is the gradual Christianization of the Roman Empire and the region of Northern Palestine[7]: inasmuch as Christian elites may have sought to minimize the

Archaostyle, 2010), 130-31, idem, "The Galilean Bowl: A Revised Chronology," *Tel Aviv* 37 (2010): 254–58, and, inter alia, Eric M. Meyers and Carol L. Meyers, *Excavations at Ancient Nabratein: Synagogue and Environs*, Meiron Excavation Project, VI (Winona Lake: Eisenbrauns, 2009), 210-11. See also the responses to the later dating of type 1E in David Adan-Bayewitz, "On the Chronology of the Common Pottery of Northern Roman Judaea/Palestine," in *One Land—Many Cultures: Archaeological Studies in Honour of Stanislao Loffreda*, ed. G.C. Bottini, L. Di Segni, and L.D. Chrupcala, Studium Biblicum Franciscanum, Collectio Maior 41 (Jerusalem: Franciscan Printing Press, 2003), 5–32 (28-9 n. 89); Chaim Ben-David, "Distribution of Kefar Hananya Type Kitchenware in Roman Period Golan: The Data from the Surveys," *Tel Aviv* 41, no. 2 (2014): 238–54 (244 fn. 5); and Uzi Leibner, *Khirbet Wadi Ḥamam: A Roman-Period Village and Synagogue in the Lower Galilee*, Qedem Reports 13 (The Institute of Archaeology, The Hebrew University of Jerusalem, Israel, 2018), 314.

[6] On the Christianization of Sepphoris and the ensuing sideling of its Jewish populations, see Zeev Weiss, *Sepphoris: A Mosaic of Cultures*, Treasures of the Past: The David and Jemima Jeselsohn Library (Hebrew; Jerusalem: Yad Ben-Zvi Press, 2021), 45-6, 116-51; Leibner, *Settlement and History*, 366; and idem, "The End of the Amoraic Period," 602-3. On Tiberias, see ibid., 603-4. On Sussita on the western Golan, see Michael Eisenberg, "Hippos-Sussita" (Hebrew), *Qadmoniot: A Journal for the Antiquities of Eretz-Israel and Bible Lands* 49, no. 151 (2016): 2–17. For the possibility that continued construction of monumental synagogues need not imply growth in population or even stasis, see Leibner, "The End of the Amoraic Period," 606; and see also Seth Schwartz, *Imperialism and Jewish Society: 200 B.C.E. to 640 C.E.* (Princeton: Princeton University Press, 2001), 215-39. Comparanda can be found in various late ancient Christian contexts, in which an increase in the construction of churches is not necessarily a sign of population growth. As summarized by William Bowden ("A New Urban Elite? Church Builders and Church Buildings in Late-Antique Epirus," in *Recent Research in Late-Antique Urbanism*, ed. Luke Lavan, Journal of Roman Archaeology Supplementary Series 42 [Portsmouth: Journal of Roman Archaeology, 2001], 57–68 [61]), "[t]he prerequisite therefore for the appearance of monumental architecture is the marshalling and control of surplus resources by one section of the population. It does not necessarily follow that monumental architecture is in itself an indication of greater production of surplus, but rather that it is a sign of increasing control over existing resources by an emerging elite." Bowden bases his discussion on Bruce Trigger's influential theory of monumental architecture, for which see Bruce G. Trigger, "Monumental Architecture: A Thermodynamic Explanation of Symbolic Behaviour," *World Archaeology* 22, no. 2 (1990): 119–32.

[7] On Christianization of the landscape of Byzantine Palestine, see Rina Talgam, "Between Christians and Jews: The Penetration of Christianity into Eastern Galilee in Late Antiquity" (Hebrew), in *Between Sea and Desert: On Kings, Nomads, Cities and Monks - Essays in Honor of Joseph Patrich*, ed. Orit Peleg-Barkat et al., Land of Galilee 5 (Tzemach: Ostracon, 2019), 45–55; Joseph Patrich, "The Early Christianization of the Holy Land - The Archaeological Evidence," in *Acta Xvi Congressus Internationalis Archaeologiae Christianae, Romae (22-28.8.2013): Costantino e i Costandinidi, l'innovazione Costantiniana, Le Sue Radici e i Suoi Sviluppi*, ed. Olof Brandt and Vincenzo Fiocchi Nicolai, Studi Di Antichità Cristiana 66 (Roma: Pontificio Istituto di Archeologia Cristiana, 2016), 265–81; and Doron Bar, *"Fill the Earth": Settlement in Palestine during the Late Roman and Byzantine Periods, 135-640 C.E.* (Hebrew; Jerusalem: Yad Izhak Ben-Zvi and the Schechter Institute for Jewish Studies, 2008), 121-63.

influence of Jewish elites (or of Jews in general) in Palestine,[8] rural decline and moments of rebuilding following natural disasters were likely opportunities for Christian elites to intensify the Christianization of urban life.[9]

Also unknown are the exact reasons for the end of the Patriarchate. Whereas a Byzantine law of 415 refers to the Patriarchate as still existing,[10] the next law mentioning the Patriarchate, enacted in 429, relates to a reality in which the institution no longer exists,[11] meaning that it ceased to exist at some point between 415 and 429.[12] Notably, the law of 415 specifically demotes the then patriarch Gamliel VI from the rank of "Illustrious Honorary Praefectus Praeterio" and further strips him of certain privileges.[13] Slightly earlier, both Libanius and Jerome depicted this same Patriarch or perhaps his immediate predecessor, Judah IV, as wielding significant power in Palestinian politics.[14] From the confluence of

[8] See also Hillel I. Newman, "Jerome and the Jews" (Hebrew; Ph.D. dissertation, The Hebrew University of Jerusalem, 1997), 23-4; idem, *The Ma'asim of the People of the Land of Israel* (Hebrew; Jerusalem: Yad Ben-Zvi, 2011), 5-6; idem, "The Bishops of Sepphoris: Christianity and Synagogue Iconography in the Late Fourth and Early Fifth Centuries," in *"Follow the Wise": Studies in Jewish History and Culture in Honor of Lee I. Levine*, ed. Zeev Weiss et al. (Winona Lake: Eisenbrauns, 2010), 85–99.

[9] More generally on natural disasters as escalating societal processes already current in premodern complex societies, see John Haldon et al., "Lessons from the Past, Policies for the Future: Resilience and Sustainability in Past Crises," *Environment Systems and Decisions* 40, no. 2 (2020): 287–97.

[10] *Codex Theodosianus*, 16:8:22 (October 20th, 415); Linder, *JIRIL*, no. 41.

[11] *Codex Theodosianus*, 16:8:29 (May 30th, 429); Linder, *JIRIL*, np. 53.

[12] And not, as is often stated, in the year 429 itself; the law itself does not explicitly abolish the institution, as noted correctly by Ephrat Habas-Rubin, "The Patriarch in the Roman-Byzantine Era: The Making of a Dynasty" (Hebrew; Ph.D. dissertation, Tel-Aviv University, 1991), 203-5, and Martin Jacobs, *Die Institution des jüdischen Patriarchen: Eine quellen- und traditionskritische Studie zur Geschichte der Juden in der Spätantike*, Texte und Studien zum Antiken Judentum 52 (Tübingen: J.C.B. Mohr, 1995), 301-9. There is reason to think however that this did occur closer to 429 than 415, as the law of 429 deals explicitly with the issue of its non-existence; would the institution ceased to exist much earlier, the Roman court may have had to deal with the matter at an earlier time.

[13] See the discussion and analysis in Linder, *JIRIL*, 267-72; and Alan Appelbaum, *The Dynasty of the Jewish Patriarchs*, Texts and Studies in Ancient Judaism 156 (Tübingen: Mohr Siebeck, 2013), 179-81.

[14] Libanius, *Epistulae*, 914, 1-3; 973, 1-3; 974, 1-2; 1084, 1-3; 1097, 1-4; 1105 (Stern, *Greek and Latin Authors*, nos. 496, 498, 499, 500, 501, 503) and Jerome, *Epistulae*, 57.3; see the discussion in Schwartz, *The Ancient Jews*, 122-23, and in Hillel I. Newman, "Jerome and the Jews" (Hebrew; Ph.D. dissertation, The Hebrew University of Jerusalem, 1997), 9-13. It is possible that the increased attention given to the figure of Gamliel I by Christians in Palestine in 415 may also be related to the troublesome politics of his supposed descendent Gamliel VI as they were perceived by the latter's Christian contemporaries: The Christianization of the figure of Gamliel I, the supposed teacher of Paul the Apostle (Acts 22:23), member of the Sanhedrin who was lenient

evidence it seem as though Gamliel VI overplayed his hand, precisely as bishops with anti-Jewish agenda were gaining increased power in the Theodosian court.[15] Thus, while we have no explicit sources or statements to this effect, it is not difficult to reconstruct that the Theodosians repressed the institution, perhaps using Gamliel's death and the potential rise of a successor as an excuse to abolish the institution outright.[16] While the relationship between the rabbis responsible for the bulk of the fourth-century material in rabbinic texts and their contemporary Patriarchs seems to have been somewhat fraught, the demise of the Patriarchate still may have negatively impacted the rabbis responsible for the surviving rabbinic corpus and their immediate successors.[17] And yet, as the prosopography of

with Jesus' disciples (Acts 5:34), and ancestor of the of the Theodosian era Gamliel, could have been used as a polemical wedge in delegitimizing the Patriarchate. On the "discovery" of Gamliel I's relics, alongside those of Stephen the proto-martyr, see Günter Stemberger, *Jews and Christians in the Holy Land: Palestine in the Fourth Century* (Edinburgh: T & T Clark, 1999), 108-10; and Andrew S. Jacobs, *Remains of the Jews: The Holy Land and Christian Empire in Late Antiquity*, Divinations (Stanford: Stanford University Press, 2004), 182-86; and on the context of the Council of Diospolis-Lod during which the discovery was made, see Jacob Ashkenazi, *The "Mother of All Churches": The Church of Palestine from Its Foundation to the Araba Conquest* (Hebrew Jerusalem: Yad Ben-Zvi, 2009), 65-9. The possible connection between this discovery and the Roman laws referring to Gamliel VI was first suggested by E. D. Hunt, *Holy Land Pilgrimage in the Later Roman Empire, AD 312-460* (Oxford: Clarendon Press, 1982), 216; see also Ross Shepard Kraemer, *The Mediterranean Diaspora in Late Antiquity: What Christianity Cost the Jews* (New York and Oxford: Oxford University Press, 2020), 231. On Gamliel I in later Christian thought, see Ch. Merchavia, *The Church Versus Talmudic and Midrashic Literature (500-1248)* (Hebrew; Jerusalem: The Bialik Institute, 1970), 208-12.

[15] On the anti-Jewish influence of bishops in the Theodosian court, see Shepard Kraemer, *The Mediterranean Diaspora in Late Antiquity: What Christianity Cost the Jews* (New York and Oxford: Oxford University Press, 2020), 132-37.

[16] Linder (*JIRIL*, 320), Jacobs (*Die Institution des jüdischen Patriarchen*, 304-6), Stemberger (Stemberger, *Jews and Christians in the Holy Land*, 265), and others have suggested based on the language of the law of 429 ("*post excessum patriarcharum*") that the dynastic line may have simply died out, though it is possible that this specific phrase may be somewhat euphemistic. Yaron Dan ("The Leadership of the Jews of Palestine in the Fifth and Sixth Centuries," in idem, *Studies in the History of Palestine in the Roman-Byzantine Period*, ed. Daniel R. Schwartz, [Hebrew; Jerusalem: Yad Izhak Ben-Zvi, 2006], 3–10) suggested that the demise of the Patriarchate was connected to a local revolt between the years 415-418, documented in one 6th-century source. On this possibility, see Oded Irshai, "The Priesthood in Jewish Society of Late Antiquity," in *Continuity and Renewal: Jews and Judaism in Byzantine-Christian Palestine*, ed. Lee I. Levine (Jerusalem: Dinur Center for the Study of Jewish History, Yad Ben-Zvi Press, The Jewish Theological Seminary of America, 2004), 67–106 (68-9 fn. 2), yet cf. idem, apud Dan, *Studies*, יג ("Dan's suggestion… is still only speculation").

[17] Cf. Leibner, "The End of the Amoraic Period," 582; Hillel Newman, "Early Halakhic Literature," in *Jews in Byzantium: Dialectics of Minority and Majority Cultures*, ed. Robert Bonfil et al., Jerusalem Studies in Religion and Culture 14 (Leiden: Brill, 2012), 629–41 (630); Ben-Zion Rosenfeld, "The Crisis of the Patriarchate in Eretz Israel in the Fourth Century" (Hebrew), *Zion* 53, no. 3 (1988): 239–57; and Appelbaum, *Dynasty*, 186.

Palestinian amoraic literature ends in in the 380s,[18] several generations prior to the end of the Patriarchate, there is no reason to connect the Patriarchate's demise with the end of the amoraic period.[19] It does, however, give us a sense of the ways in which Christianization and Theodosian policies may have negatively impacted Jewish elites in the years before and after the turn of the fifth century.

In brief, the Christianization of the Roman Empire—a protracted process, to be sure, but one that began in earnest in the later decades of the 4th century—certainly impacted the lives of Jews in Palestine and seems to have negatively impacted certain Jewish institutions.[20] And while the production of Jewish texts, even explicitly rabbinic ones, did not end following the close of the 4th century, and neither did the construction of monumental Jewish structures (i.e., synagogues), something had changed: the Jews responsible for the creation of rabbinic and related texts chose to hide "behind a veil of anonymity," perhaps as they may have had a "sense of post-classical identity and subordination to the named luminaries of earlier generations."[21] For rabbinic Jews, the final decades of the 4th century—coeval, whether by chance or not, with the rise of the Theodosians and the intensification of Christianization—is an internal marker in which a classical period ended.

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[18] See Hillel Newman, "The Ma'asim li-Vnei Eretz-Yisrael and Their Historical Background" (Hebrew; Master's thesis, Jerusalem, The Hebrew University of Jerusalem, 1987), 88; idem, "Jerome and the Jews" (Hebrew; Ph.D. dissertation, The Hebrew University of Jerusalem, 1997), 23-4. Cf. Leib Moscovitz, "The Formation and Character of the Jerusalem Talmud," in *CHJ* IV, 663–77 (666).

[19] As has been proposed as recently as Moshe Assis, "The Jerusalem Talmud" (Hebrew), in *CRL*, 1:225–59 (230).

[20] See to this effect, with a focus on the Western diaspora, Shepard Kraemer, *The Mediterranean Diaspora*.

[21] In the words of Newman, "Early Halakhic Literature," 632; see also idem, *The Ma'asim*, 10; Leibner, "Settlement Patterns in the Eastern Galilee," 290; and, with regards to the post-classical aesthetic of classical piyyut, Tzvi Novick, *Piyyut and Midrash: Form, Genre, and History*, Journal of Ancient Judaism - Supplements 30 (Göttingen: Vandenhoeck & Ruprecht, 2018), 77.

2.1. *Palestinian Rabbis and Rabbinic Institutions following the 380s*

The continued editing and transmission of rabbinic texts in the fifth century and beyond certainly implies that Palestinian rabbinic institutions of some sort continued to exist.[22] Indeed, Palestinian rabbis who flourished following the 380s are mentioned in *Babylonian* rabbinic texts, including the Babylonian Talmud and medieval chronologies.[23]

Post-classical midrashic texts, as they largely rehash received traditions from the classical period, are only of some help in reconstructing what contemporary rabbinic institutions may have looked like.[24] Explicit evidence of a rabbinic court, or even of rabbinic

[22] On the dates of the editing of the midrashim, see Tamar Kadari, "Amoraic Aggadic Midrashim" (Hebrew), in *CRL*, 1:297–349.

[23] Late Palestinian Rabbis mentioned in the Babylonian Talmud: (1) b. Bekhorot 33b records an opinion of Ravina that was "taught in the West," i.e., in the Land of Israel. (2) Similarly, b. Zevahim 55b records an opinion of Rav Ashi's that was taught in the West by "R. Yaakov b. Aha." (3) Another passage in the Babylonian Talmud mentions R. Abbahu, his son Shmuel, and "Rabenu" R. Ahai (b. Hullin 59b); if Shmuel is to be identified the son of R. Abbahu mentioned in Sherira's *Epistle* (ed. Lewin, 98) then these sages can be said to have flourished in the middle to late 5th century; cf. Hanoch Albeck, *Introduction to the Talmud Babli and Yerushalmi* (Hebrew; Tel-Aviv: Dvir Publishing House, 1987), 451. (4) Rabbis Rakhish b. Pappa and R. Avera, whose opinions are brought by R. Nehunia (Rehumi) in a nearby passage in the Babylonian Talmud (b. Hullin 55b); cf. Albeck, 345-46, 416. (5) R. Aba, who informs Rav Ashi of Palestinian sayings and traditions; see Albeck, 424, and Avinoam Cohen, *Ravina and Contemporary Sages: Studies in the Chronology of Late Babylonian Amoraim* (Hebrew; Ramat-Gan: Bar-Ilan University Press, 2001), 194. On the historical significance of the depiction of these rabbis in the Babylonian Talmud, see the discussion in Zeʿev Safrai and Aren M. Maeir, "Ata Igarta Me-Ma'arava ('An Epistle Came from the West'): Historical and Archaeological Evidence for the Ties between the Jewish Communities in the Land of Israel and Babylonia during the Talmudic Period," *The Jewish Quarterly Review* 93, no. 3/4 (2003): 497–531, (507-9); Jacob Ephrathi, *The Sevoraic Period and Its Literature in Babylonia and in Eretz Israel (500-689)* (Petach-Tikva: Agudath Bnai Asher, 1973), 123-24. Later chronologies: In addition to the passage from Sherira already referenced, a brief statement at the end of *Seder Tannaim vi-Amoraim* expanding on the Talmudic saying that "Rabbi and R. Nathan are the end of the Mishnah, Rav Ashi and Ravina are the end of the Teaching" (b. BM 86a) says that an otherwise unknown "R. Yonatan" is the end of "*ma'aseh*" (ed. Kahana, 32-3); this is likely related to a corpus of halakhic texts from Byzantine Palestine that are referred to as *Ma'asim*, see Newman, *Ma'asim*, 62-8. The Tanhuma literature, a genre of midrash the bulk of which may be dated to the 5th-8th centuries, contains the names of Palestinian rabbis unmentioned in early rabbinic texts; see Marc Bregman, *The Tanhuma-Yelammedenu Literature: Studies in the Evolution of the Versions* (Hebrew; Piscataway: Gorgias Press, 2003), 183. But there is no reason, neither from the context in the Tanhumic works nor from the supposed date of the editing of these works, to conclude that these names, if they are not fictitious, in fact refer to sages who lived after the 380s.

[24] It may be notable, for example, that Byzantine-era Palestinian midrashim no longer distinguish exactly between institutions of study as do the classical texts; see Paul D. Mandel, *The Origins of Midrash: From Teaching to Text*, Supplements to the Journal for the Study of Judaism 180 (Leiden and Boston: Brill, 2017), 208 fn. 97. For the "*beit va'ad*," see below.

courts, comes from a corpus known as the *ma'asim*, "Rulings."[25] These anonymous texts, found embedded in medieval halakhic works from both the Near East and Europe, were written in Hebrew (with ample loanwords from Greek) and respond to various halakhic issues. The story-like quality and the mostly disjointed order of the *ma'asim* in the manuscript evidence makes it seem like these were actual halakhic issues posed to rabbis in Palestine,[26] in different courts, and possibly even in a central court, in the later Byzantine era.[27]

Despite the problems presented to the historian by piyyut,[28] the corpus provides a significant amount of information for rabbinic institutions in Byzantine and Early Islamic Palestine. Before I point to specific evidence for rabbinic institutions, it bears mentioning

[25] Newman, "Halakhic Literature," 632-38, and, far more extensively and with editions, idem, *The Ma'asim*. On the word "*ma'aseh*" in this context see ibid., 39-40. Additional *ma'asim* have since been published from fragments of an 11th century manuscript from Southern Italy in Simcha Emanuel, *Hidden Treasures from Europe*, 2 vols. (Hebrew; Jerusalem: Mekize Nirdamim, 2015-2019), 2:145-48 (introduction at 2:52-4). On the religious milieu represented by several of the *ma'asim*, specifically vis-à-vis boundaries between Jews and Christians, conversion, and related issues, see, Daniel Stökl Ben Ezra, "Who Is the Target of Toledot Yeshu?," in *Diversity and Rabbinization: Jewish Texts and Societies Between 400 and 1,000 CE*, ed. Gavin McDowell, Ron Naiweld, and Daniel Stökl Ben Ezra, Cambridge Semitic Languages and Cultures 8 (Cambridge: Open Book Publishers, 2021), 359–80.

[26] Newman, *The Ma'asim*, 44. M. A. Friedman, "Marriage Laws Based on 'Ma'asim Livne Ereẓ Yisra'el'" (Hebrew), *Tarbiz* 50 (1980): 209–42 (211, 231-33); idem, "'An Important Ma'ase' — A New Fragment of 'Ma'asim Livnei Eretz Israel'" (Hebrew), *Tarbiz* 51, no. 2 (1982): 193–205 (193).

[27] Newman (ibid., 43-4, 86-7) is skeptical of any association between the *Ma'asim* and a central court or yeshiva, largely as he is skeptical of the evidence for the existence of such an institution. I believe that the evidence I will present below conclusively demonstrates that such an institution did exist.

[28] It is notoriously difficult to use the evidence of piyyut to learn about historical events or about aspects of Jewish society in late antique Palestine. As liturgical poetry that riffs heavily off of biblical and midrashic themes, piyyut is dense in imagery that its authors—the payetanim—received from earlier literary works, such that depictions that one may want to interpret as allusions to contemporary events should in fact be read only as literary motifs; while the deployment of such themes is indeed of note, it often precludes any ability to then pin down specific historical events or institutions that took place or existed in the time of the payetan. Many of these methodological difficulties were first articulated by Samuel Klein, "Remarks on the Study of the Early ″Paytanim″ for Information on the History of Palestine" (Hebrew), *Bulletin of the Jewish Palestine Exploration Society* 7, no. 1 (1939): 9–16; see also Joseph Yahalom, "On the Validity of Literary Works as Historical Sources" (Hebrew), *Cathedra: For the History of Eretz Israel and Its Yishuv* 11 (1979): 125–33; Shulamit Elizur, "Exile on Native Soil" (Hebrew), *Jerusalem Studies in Hebrew Literature* 27 (2014): 21–36 (including a discussion of prior scholarship), yet note the further reservations of Novick, *Piyyut and Midrash*, 243-44. See also Hillel I. Newman, "Apocalyptic Poems in Christian and Jewish Liturgy in Late Antiquity," in *Prayer and Worship in Eastern Christianities, 5th to 11th Centuries*, ed. Derek Krueger and Bruria Bitton-Ashkelony (Routledge, 2017), 239–53.

that the very existence of classical piyyut implies also the existence of Jewish education, even advanced rabbinic education, in late ancient Palestine: Afterall, *payetanim* were educated enough to compose these works,[29] and they assumed that synagogue-goers would have understood them at different levels of appreciation,[30] including some audience members who were expected to understand highly intricate texts with dense allusions to rabbinic motifs.[31] At the same time, the performance of piyyutim is in itself an act of pedagogy—the

[29] It seems that different payetanim had different levels of command in rabbinic literature: While most of them rework the compositions of their predecessors, some introduce new themes, from their own exegetical acts or from the rabbinic corpus. See Shulamit Elizur, "Midrash u-psuqo bi-rei ha-paytanut," *Sinai* 99 (1986): 99–109.

[30] Indeed, the attempt to be understandable to synagogue-goers of different levels of education within itself points to a reality in which many did understand piyyutim, perhaps surprising to some scholars given the difficulty of these texts. See especially Shulamit Elizur, "The Congregation in the Synagogue and the Ancient Qedushta" (Hebrew), in *Knesset Ezra: Literature and Life in the Synagogue - Studies Presented to Ezra Fleischer*, ed. Shulamit Elizur et al. (Jerusalem: Yad Izhak Ben-Zvi Press, 1994), 171–90, and eadem, Sod Meshalshei Qodesh*: The Qedushta from its Origins until the Time of Rabbi El'azar beRabbi Qillir*, Sources for the Study of Jewish Culture 22 (Hebrew; Jerusalem: World Union of Jewish Studies, 2019), 745-63. For an overview of scholarly opinions on the question of audience understanding of classical piyyut in late ancient Palestine, see Wout van Bekkum, "Hearing and Understanding Piyyut in the Liturgy of the Synagogue," *Zutot* 1, no. 1 (January 1, 2001): 58–63. The issue of audience participation in the performance of piyyut is also relevant here, as such participation certain implies some level of understanding; see Ophir Münz-Manor and Thomas Arentzen, "Soundscapes of Salvation: Resounding Refrains in Jewish and Christian Liturgical Poems," *Studies in Late Antiquity* 3, no. 1 (2019): 36–55, and Loren R. Spielman, *Jews and Entertainment in the Ancient World*, Texts and Studies in Ancient Judaism 181 (Tübingen: Mohr Siebeck, 2020), 242-45. See also the thorough and copiously footnoted discussion of audience understanding in contemporary Christian settings in Jack Boulos Victor Tannous, *The Making of the Medieval Middle East: Religion, Society, and Simple Believers* (Princeton: Princeton University Press, 2018), 35–43.

[31] Further, for historians of Judaism in Late Antiquity, the reliance of classical piyyutim on exegetical motifs now found in rabbinic literature suggests, in the words of Hayim Lapin, "an extension of the relevance of rabbinic learning into the domain of liturgy and the commissioning of liturgical works." Hayim Lapin, *Rabbis as Romans: The Rabbinic Movement in Palestine, 100-400 CE* (Oxford: Oxford University Press, 2012), 157. Schwartz earlier wrote that "[t]he *piyyut* offers unambiguous evidence for the rabbinization of liturgical practice in sixth century Palestine…However, we have no idea how widespread the piyyut was in sixth-century Palestine, so its value as evidence for rabbinization is limited" (*Imperialism and Jewish Society: 200 B.C.E. to 640 C.E.* [Princeton: Princeton University Press, 2001], 263-64). On the intertextual relationships between *piyyut* and rabbinic literature, see Novick, *Piyyut and Midrash*, and Michael A. Fishbane, "Piyut and Midrash: Between Poetic Invention and Rabbinic Convention," in *Midrash Unbound: Transformations and Innovations*, ed. Michael A. Fishbane and Joanna Weinberg (Oxford and Portland: The Littman Library of Jewish Civilization, 2013), 99–135, and, for an overview of these issues, see my entry on "The Reception of *Midrash* in *Piyyut*," in *The Encyclopedia of Biblical Reception*, vol. 19. The most significant early treatments of this subject are Saul Lieberman, "*Hazanut* Yannai" (Hebrew), *Sinai* 4 (1939): 221–50 (=idem, *Studies in Palestinian Talmudic Literature*, ed. David Rosenthal [Jerusalem: The Magnes Press, 1991], 123-152); and Zvi Meir Rabinowitz, *Halakha and Aggada in the Liturgical Poetry of Yannai: The Sources, Language and Period of the Payyetan* (Hebrew; New York: Keren Aleksander Kohut, 1965). On the influence of *piyyut* on works of post-classical

payetanim use these works not only to fulfill liturgical demands, but also, to evoke certain religious experiences and to educate their audiences in religious lore and modes of piety.[32]

Scholars have understood several lines in the piyyutim of the sixth-century payetan Yannai as referring to an actual rabbinic court in Galilee,[33] yet none of these need to be read as referring to an institution that existed in Yannai's time, and may be better understood as referring to historical or mythic rabbinic institutions of the past.[34] Some unambiguous information, however, can be gleaned from the work of the Elazar beRabbi Qillir ("the Qilliri"), written in the early seventh century.[35] For example, it is clear that the Qilliri composed piyyutim for Rosh haShana to be recited in a central rabbinic court, undoubtedly located in Galilee, that he refers to as the "*beit va'ad*."[36] Other appearances of the *beit va'ad*,

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midrash, see Joseph Yahalom, *Sources of the Sacred Song: Crossroads in Jewish Liturgical Poetry* (Hebrew; Jerusalem: Magnes Press, 2019), 243-64.

[32] On the idea of synagogue ritual as education, focusing on the evidence of a slightly earlier period, see Catherine Hezser, "Toward the Study of Jewish Popular Culture in Roman Palestine," in *"The Words of a Wise Man's Mouth Are Gracious" (Qoh. 10,12): Festschrift for Guenter Stemberger on the Occasion of His 65th Birthday*, ed. Mauro Perani, Studia Judaica 32 (Berlin: Walter de Gruyter, 2005), 267–97.

[33] See Zvi Meir Rabinowitz, ed., *The Liturgical Poems of Rabbi Yannai*, 2 vols. (Hebrew; Jerusalem and Tel Aviv: Mosad Bialik Tel-Aviv University, 1985), 1.69-71.

[34] Newman, *The Ma'asim*, 44 fn. 18. For the period of Yannai's career, see Laura S. Lieber, *Yannai on Genesis: An Invitation to Piyyut*, Monographs of the Hebrew Union College 36 (Cincinatti: Hebrew Union College Press, 2010), 132-225; and eadem, "'You Have Skirted This Hill Long Enough': The Tension between Rhetoric and History in a Byzantine Piyyut," *Hebrew Union College Annual* 80 (2009): 63–114.

[35] For the dates of the Qillir's career, see Elizur, *The Qedushta*, 697-729.

[36] This can be learned in the following way: Rabbinic practice is to refrain from blowing the *Shofar* when the holiday falls on the Sabbath, and the Qilliri reflects on this practice in his compositions for Rosh haShana that falls on the Sabbath. See the examples listed in Shulamit Elizur and Michael Rand, eds., *Rabbi El'azar beRabbi Qillir: Liturgical Poems for Rosh ha-Shana*, Sources for the Study of Jewish Culture 18 (Jerusalem: World Union of Jewish Studies, 2014), 169. Yet Elizur has noted (ibid., 169-70) that the Qilliri wrote at least one composition for Rosh haShana that falls on the Sabbath in which he emphasizes at several points the exception to the rule, namely, that the *Shofar* can nevertheless be blown in the central rabbinic court. According to Elizur (170), it is thus likely that this composition was created to be recited in this institution. The *qedushta* in question, *Adir bi-Oz Shiva*, is published on pages 433-451, see specially 439 l. 68 ("משכילים יריעו בבית ועד"); 447 l. 176 ("לתוקעי [בב]ית הועד"); 449 ll. 205-6 ("רחמיו יזכור ליודעי ס[ו]דו / קול תקע בהשמע בוועדו"). This exception is emphasized also in the qedushta "…*la'ad ki-fetsah mizmor*," which was possibly also written by the Qilliri. See Elizur and Rand, 510 and 512, with 523 ll. 79-80 ("ניצב בוועד וסוד מגלה / בתרועה עולה") and 526 l. 127 ("אבל בעינם לבד תקיעה מסיימים." On this *qedushta*, see already Moshe David Herr, "Matters of Palestinian Halakha during the Sixth and Seventh Centuries C.E." [Hebrew], *Tarbiz* 49, no. 1–2 [1979]: 62–80 [78 fn. 82]). On "עינם/עין טב" as the site of the Sanhedrin and specifically as the site of intercalation and a place where the Shofar is blown on the Sabbath, see the notes and references of Elizur and Avraham Levine ad loc., esp. *Pesiqta Rabbati*

the *va'ad*, the *ziqnei va'ad*, and related terms in the Qillirian corpus may also refer to this institution.[37] Many of these piyyutim discuss calendrical issues, as it seems that the institution the Qilliri refers to dealt with sanctifying the month and intercalation, a role that ancient and medieval sources depict central groups of Palestinian rabbis as maintaining for themselves.[38] From the Qillirian corpus, however, there is still very little that may shed light on what went on in this institution beyond calendar decisions.

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41 (ed. Friedman, 172b); see also the following note. On the blowing of the Shofar on Rosh haShana and Shabbat in the Palestinian yeshiva according to a slightly later piyyut, see Ezra Fleischer, "A Piyyut Describing the Blowing of the Shofar on Rosh Ha-Shana and Shabbat" (Hebrew), *Tarbiz* 54, no. 1 (1984): 61–66

[37] E.g., several lines in his *qedushta* "*Upad me'az*" for Rosh haShana describe calendrical decision-making of a central *beit din*, likely one that existed in his own time: "וזאת תורת האדם / הנדרשת בבני אדם / ונחקרת בסוד חמשת זקני אשכונה / ואיתם אסכים בכל וועדם בוויעודים" (Elizur and Rand, *Rosh ha-Shana*, 341 ll. 466-69); "יען כי הוא ראש למקראי זמנים / איתם לקדש קידוש ראש השנה" in the (ibid., 342 ll. 481-82, with the suggestion of Avraham Levine in the notes ad loc.). Similarly, his shivata "*U-bnei tsiyon atem*" for the Sabbath of *ha-Hodesh* has "כלילו ניתן בראש נבונים / כי הם בו נבחנים / לעבר אותו שנים שנים / זקני בית ועד משכילים ומבינים" (Shulamit Elizur, *Bi-todah vi-shir: shiva'atot li-arba ha-parshiyot li-rebbe elazar be-rebbe qalir* [Jerusalem: Reuven Mass, 1991], 112 ll. 31-6). Several lines in the qedushta "*Ahad bi-ahad gashu*" for Shabbat Rosh Hodesh, "שלושה ישישי ישיבת במטה אוועד / חקור תכונת חודש לשבת ומועד / כמו עם שלושה במעלה מתוועד / שמש וכוכב שמש ומזל מוועד / ועד אשר ימעט אחור יצעד / יראה כנכון בשחק כשהד ועד / ועוד יצרף עד מחזו להעד / כדרך החול לרוץ עידותו לעד / בעיבורו בזמנו על פיהם מתוועד / ואיתם יוועד לקידוש הסעד לאחת עשרה מוועד" (Shalom Spiegel, *The Fathers of* Piyyut*: Texts and Studies Toward a History of the* Piyyut *in Eretz Yisrael*, ed. Menahem H. Schmelzer [Hebrew; New York and Jerusalem: The Jewish Theological Seminary of America, 1996], 104-5 ll. 66-76; on this qedushta, see Elitzur, *Qedushta*, 837-38). See also: an additional shivata for Shabbat *ha-Hodesh*, "*ha-Hodesh asher heichin*," "יודע בשמי ערץ / יאמרו הח<דש> מקודש יסודי ארץ" (Elizur, *Bi-todah*, 102 ll. 31-2); several other lines in the qedushta "*Ahad bi-ahad gashu*" for Shabbat Rosh Hodesh, "כי כן בושרתי באגן ישיבת" (Spiegel, 100 l. 30), "בקץ סיח שער / מחולת מחניים [הו]רגש קהל מחז" (ibid., 108 ll. 122-24; on "עיניים" for the Sanhedrin see the prior note); several lines in the qedushta "*Or hama*" for the Sabbath around the turn of the season or the equinox (*Shabbat Tequfot*), "בריכות עיניים / לברך יום יום אחד בשנים" (ibid., 127 ll. 13-4), "בינה והשכל גלתה / לאגן הסהר העגלתה" (ibid., 128 ll. 29-31), "למצפיני חדשים וישנים / יקרא לזכור ברית ראשונים / קציני סגולה / נועדו לעגולה / ונאור בם נגלה / וסוד למו גילה / רחש חמשה ישישים / שישי לחוץ יבחר / ולאילת השחר ישחר / ואילימו ימהר / ויעברו אדר תאב מרכב תרשישים / נערץ בסוד קדושים / לעיבור מקדשים / בעיבור שנים /" (ibid., 129 ll. 33-44), and on this qedushta, see Elizur, *Qedushta*, 835. Similarly, in the *zulat* "*Eder arba tequfot*" for this same Sabbath, "ישיבת עגולת ישישים / יוסיפו על אלה עשרה חדשים אחר" et al. (Ezra Fleischer, *The Yozer: Its Emergence and Development* [Hebrew; Jerusalem: The Magnes Press, The Hebrew University, 1984], 108 ll. 13-4). See also the Qilliri's qedushta for *Shabbat ha-Hodesh*, *Atiyat et dodim*, printed in the Ashkenazi mahzor, in particular the sections V and VI, "*Avi kol hozeh*" and "*Adon mi-kedem*"; on this qedushta, see Elizur, *Qedushta*, 843. See also the instructions and liturgy for the Sanctification of the Moon recorded in Tractate Soferim 19:7-8 (ed. Higger, 329-334). See also the Aramaic poem "*Etbaher Zahra*" in Michael Sokoloff and Joseph Yahalom, eds., *Jewish Palestinian Aramaic Poetry from Late Antiquity* (Jerusalem: The Israel Academy of Sciences, 1999), 224-25 ll. 21-2 ("כד הוא לקי / בפלגיה דניסן // אנש רב נפל / [מ]ן סינהידרן"), mentioned in Newman, *The Ma'asim*, 43-4 fn. 18

[38] See Sacha Stern, *Calendar and Community: A History of the Jewish Calendar, Second Century BCE—Tenth Century CE* (Oxford: Oxford University Press, 2001), 188-91, and idem, *The Jewish Calendar Controversy of 921/2 CE*, Time, Astronomy, and Calendars: Texts and Studies 7 (Leiden & Boston: Brill, 2019). Another group of piyyutim may attest to the existence in the 7th and 8th centuries of institutions that we know existed in later periods. From the 10th century and onwards we have direct evidence in Genizah material for a yearly pilgrimage

Much more explicit evidence for a central Galilean rabbinic institution clusters around the figure of Pinhas the son of Yakov, in the first half of the 8th century.[39] In his own acrostics, Pinhas identified himself as a Priest and as having come from Kafra, a village in the outskirts of Tiberias. Many of Pinhas' extant compositions deal with issues pertaining to the administration of the central Palestinian academy or court, again, most importantly, calendrical issues, which appear in his work to an unparalleled extent.[40] Also significant are his halakhic piyyutim, essentially a new genre that possibly relates to an academic setting.[41]

Pinhas is quite likely the subject of a eulogy discovered in the Cairo Genizah that allows us to learn additional things about his life and work, and by extension, about the Palestinian yeshiva in the early Islamic era.[42] Based on the eulogy we can conclude that Pinhas died in Tammuz of 749.[43] The eulogy describes him explicitly as a *rosh yeshiva* in

to the Mt. of Olives in Jerusalem over the holiday of Sukkot, during which time the rabbinic leadership would share important announcements with the community, including calendrical information; see especially Sacha Stern, *The Jewish Calendar Controversy of 921/2 CE*, Time, Astronomy, and Calendars: Texts and Studies 7 (Leiden & Boston: Brill, 2019). Pilgrimages to Mt. Olives on this date are mentioned much earlier in piyyutim by Yannai ("*…hishbati etkhem bnei tsedek*," *Rabinovitz*, 2.129 l. 72; I thank Hillel Newman for calling my attention to this line), the Qilliri ("*Aftsiah renen*" and "*Ulezu laz la-laz*," see Michael Rand, "Liturgical Compositions for Shemini 'Atzeret by Eleazar Be-Rabbi Qillir," *Ginzei Qedem* 3 [2007]: *9-*99 [26*-28*; 33 ll. 37-38], and idem, "'Ulezu laz la-laz' - Qedushta qillirit le-Shemini Atzeret," *Pirkei Shira: From the Hidden Treasures of Jewish Poetry* 4 [2008]: 27–66 [49 ll. 108-9]) and Pinhas (Shulamit Elizur, ed., *Liturgical Poems of Rabbi Pinḥas ha-Kohen*, Sources for the Study of Jewish Culture 8 [Hebrew; Jerusalem: The World Union of Jewish Studies, 2004], 223-4); "*Vi-eretz asher me-aratzot*," 442 ll. 39-40; "*Azarta simcha la-nidgalim*," 492 l. 52-3). Considering this evidence, Stern's assertion that "[i]t may have been, in fact, a relatively recent institution, because there is no record of it in any earlier source" (*The Calendar Controversy*, 9) must be corrected.

[39] It is significant that while Pinhas operated in the Early Islamic era, his poetic conventions are in keeping with those of the Byzantine payetanim, and that he is remembered in later medieval works as being, with these Byzantine-era payetanim, part of a "classical" period of piyyut; see my review of Novick, *Piyyut and Midrash*, in *Studies in Late Antiquity* 3, no. 4 (9): 635–39.

[40] Elizur*, Pinḥas*, 130-1, 232-39.

[41] Ibid., 197.

[42] See Shulamit Elizur, "A Contribution to the History of the Gaonate in the Eighth Century: An Elegy for the Head of the Academy in Palestine" (Hebrew), *Zion* 64, no. 3 (1999): 311–48; additional lines from a separate Genizah fragment were published in Sarah Cohen, "New Fragments From the Dirge on the Head of the Yeshiva in Ereẓ Israel" (Hebrew), *Tarbiz* 69, no. 3 (2000): 449–60.

[43] Elizur, "The History of the Gaonate," 314, 318.

Tiberias,[44] teaching Talmud,[45] Mishnah,[46] aggada,[47] and Scripture with its *te'amim*,[48] and also as authoring and performing piyyut.[49] The rosh yeshiva knows the "*sod ha-ibbur*," the secret of the intercalation of the year.[50] He is a priest and comes from a family of Torah scholars,[51] and is supposedly a leader of the Jewish community writ-large.[52] The Masoretic tradition also remembers an early Masorite named "Rabbi Pinhas Rosh haYeshiva" as having flourished in the mid 8th century.[53] The corpus of piyyutim attribute to Pinhas, the eulogy for the Rosh Yeshiva, and the Masoretic tradition almost certainly all relate to the same person,[54] and from these various pieces of evidence we can surmise the existence of a central Palestinian academy in mid-8th-century Tiberias and get a sense of the issues and topics addressed therein: intercalation; the study of rabbinic literature; the creation of piyyut; the study of Scripture, in a style that would become associated with the Masoretic movement; and perhaps also communal leadership.[55]

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[44] Ibid., 314, 316, 333.

[45] Ibid., 313; 316; 317; 332 l. 2; 339 l. 15; 347 l. 53. Cohen, 455 l. 11; 456 l. 12

[46] Ibid., 313; 316; 332 ll. 2, 11; 339 l. 15. Cohen, "New Fragments," 455 ll. 3, 7, 11

[47] Elizur, "The History of the Gaonate," 313; 316; 317; 339 l. 15; 347 l. 53.

[48] Ibid., 313; 316; 324; 332 l. 2, 11; 339 l. 15. Cohen, 455 l. 2; 456 l. 12

[49] Ibid., 326 fn. 49; Cohen, "New Fragments," 456 ll. 22-3.

[50] Elizur, "The History of the Gaonate," 316; 317; 339 l. 14; 340 l. 28; 347 l. 59. Cohen, "New Fragments," 457 l. 34. On *sod ha-ibbur* see Stern, *Calendar and Community*, 189-90.

[51] Elizur, "The History of the Gaonate," 333, 335; Cohen, "New Fragments," 451, 456.

[52] Elizur, "The History of the Gaonate," 330; Cohen, "New Fragments," 450.

[53] Elizur, "The History of the Gaonate," 312; see also Israel Yeivin, *Introduction to the Tiberian Masorah*, trans. E. J. Revell, Masoretic Studies 5 (Atlanta: Scholars Press, 1980), 137-38.

[54] Elizur, "The History of the Gaonate," 323-27; eadem, *Pinḥas*, 4-12; Cohen, "New Fragments."

[55] The evidence for Pinhas further problematizes the story of Mar Zutra III and his descendants told in *Seder Olam Zuta* (ed. Lazarus, 170). According to this story, Mar Zutra III, the scion of a family of exilarchs, moved to Palestine in the year 520, immediately becoming the head of the *pirqa*—or alternatively, the head of the Sanhedrin (the text is corrupted at this point)—and his offspring led the Sanhedrin there for many generations. Interestingly, brothers named "Pinhas" and "Yaakov" are listed as some of Mar Zutra's last descendants, and it is likely that the author of the list placed them in the 8th century. Yet as was made clear, we can be certain that the *rosh yeshiva* who was probably named Pinhas the son of Yaakov was of priestly descent, not Davidic. And yet, perhaps there may nevertheless be some truth to the list, as we need not conclude that the fantastical nature of Mar Zutra requires that we also do away with the list of later leaders, as it is possible that the Davidic line married into a priestly one, and as the list of names may come from a source different than that of the Mar Zutra story and may in fact be based on the names of people who actually did lead the yeshiva; see Geoffrey Herman, *A Prince Without a Kingdom: The Exilarch in the Sasanian Era*, Texts and Studies in Ancient

Lastly, evidence for functionaries in this institution or related ones may be gleaned from opening lines of piyyutim that have the prayer leader request permission from those in attendance.[56] The most famous of these is by Pinhas, in which he has the prayer leader request permission of several different groups of people, including a variety of religious experts.[57] For our purposes, it is notable that he mentions "the wise," explaining that they "hear words from the truthful, Who understand words of law"; the priests, "who explore the law and understand"; cantors (*hazanim*), who "teach scripture and Mishnah diligently"; scribes (*soferim*), "who are skilled in the subtleties of books"; and "the reciters of the orders [of the Mishnah]" (*mishaninei sedarim*). An earlier example by the Qilliri has only survived in fragmentary form. The beginning of the piyyut is missing, but in what remains the Qilliri has the prayer leader ask permission from the "learned ones" (*talmidei chachamim*), as well as from "scribes" (*soferim*) and "reciters" (*mishaninim*).[58] We should be weary of immediately concluding that such functionaries would have been present in synagogues, as the performative element in Jewish liturgy allows for mention of figures even when it is quite clear that their roles are no longer communally significant.[59] And yet, it is certainly possible

Judaism 150 (Tübingen: Mohr Siebeck, 2012), 287-99; Elizur, "The History of the Gaonate"; and Newman, *Ma'asim*, 64-5.

[56] This subgenre of piyyut is referred to as *reshuyot*, from the Hebrew word for permission—"*reshut*." For an overview of these *piyyutim*, see Yehoshua Granat, "The 'Emissary of the Congregation' as an Individual in the Early Reshut" (Hebrew), in *Jewish Prayer: New Perspectives*, ed. Uri Ehrlich, The Goldstein-Goren Library of Jewish Thought 20 (Beersheva: Ben-Gurion University of the Negev Press, 2016), 79–99.

[57] For the original text, see Elizur, *Pinhas*, 406-7 ll. 5-44. For an English translation and further discussion, see Michael D. Swartz and Joseph Yahalom, *Avodah: An Anthology of Ancient Poetry for Yom Kippur* (University Park: Pennsylvania State University Press, 2005), 8-9; see also Joseph Yahalom, *Poetry and Society in Jewish Galilee of Late Antiquity* (Hebrew; Tel-Aviv: Hakibbutz Hameuchad, 1999), 40-2.

[58] Rand, "Shemini 'Atzeret," *84 ll. 5, 13.

[59] Further, even if we could conclude that these groups of people were indeed present in late ancient synagogues, it would nevertheless remain unclear what that their mention would mean beyond the immediate, liturgical setting evinced here—that is, it is unclear how such figures would have been respected outside of the context of ritually being asked for permission by the prayer leader. Additionally, there may certainly be differences between the different groups mentioned: while often privileged in liturgical and ritual settings, it is difficult if not impossible to know if Priests and Levites had specific roles in the community on account of the fact that they were Priests and Levites. At the very least, this may mean something for the period of the Qilliri,

that some of these functionaries were indeed present, and if so, it is if note not just that the community held its "*talmidei chachamim*" in high regard, but also that we see evidence of functionaries like scribes, *hazzanim*, and *mishaninim*—all of whom are charged with teaching and maintaining rabbinic knowledge, and even the teaching of Mishnah and reciting the Mishnah, perhaps in scholastic settings.

2.2. *Priestly Leadership?*

We have seen in the prior section that there is indeed evidence for the existence of rabbinic institutions in Byzantine and Early Islamic Palestine, including even a central yeshiva-like institution in which various fields of Jewish knowledge were studied, aided by different functionaries. Most of this evidence stems from the later decades of Byzantine rule and from the early Islamic era, and it is difficult to know if this merely a chance result of the surviving evidence or of it is indeed related to a specific rise in rabbinic institutions at this time.

One final aspect of rabbinic institutions that must be discussed in this context is a theory, proposed by various scholars in recent years, that following the demise of the Patriarchate, Galilean Jewry saw a rise in the leadership of priests.[60] For proponents of this view, it is particularly significant that several payetanim identify as priests, that many

from which we have the earliest example; whereas by Pinhas' time, this may simply have been an inherited genre and thus a frozen literary phenomenon not entirely related to the actual makeup of the synagogue audience.

[60] See especially Irshai, "The Priesthood in Jewish Society of Late Antiquity"; idem, "Confronting a Christian Empire: Jewish Culture in the World of Byzantium," in *Cultures of the Jews: A New History*, ed. David Biale (New York: Pantheon Books, 2002), 181–221; Joseph Yahalom, "The Sepphoris Synagogue Mosaic and Its Story," in *From Dura to Sepphoris: Studies in Jewish Art and Society in Late Antiquity*, ed. Lee I. Levine and Zeev Weiss, Supplement Series 40 (Portsmouth: Journal of Roman Archaeology, 2000), 83–91; José Costa, "Some Remarks about Non-Rabbinic Judaism, Rabbinization, and Synagogal Judaism," in *Diversity and Rabbinization*, 67–118; Jodi Magness, "Heaven on Earth: Helios and the Zodiac Cycle in Ancient Palestinian Synagogues," *Dumbarton Oaks Papers* 59 (2005): 1–52.

piyyutim deal with priestly themes, that some Christian authors identify Jewish leaders at the time as "priests,"[61] and that certain Byzantine-era halakhic texts display the extension of priestly purity concerns from Temple-related rituals into seemingly mundane contexts.[62] The evidence deduced here does not necessarily preclude the possibility of a rise in priestly leadership.[63] But as we will see presently in our discussion of the reception of the Mishnah in this period, there is ample evidence, even in allegedly "priestly" texts, for the promotion of rabbinic works and ideals. The analysis here is thus part of a growing body of scholarship that not only recognizes the pluriform nature of post-talmudic Judaism, but also emphasizes that what may seem like competing notions of piety and religiosity may have in fact inhabited overlapping social spheres.[64]

3. *The Mishnah in Piyyut*

While we have seen, so far, evidence for the existence of rabbinic institutions in Byzantine and early Islamic Palestine, we have only minimally discussed what the study or use of

[61] For which see especially the articles of Irshai cited in the prior note.

[62] See Newman, *The Ma'asim*, 56-7.

[63] For a general critique of the hypothesis of priestly leadership, see Steven Fine, *Art, History, and the Historiography of Judaism in Roman Antiquity* (Leiden: Brill, 2014) 181-193.

[64] As Michael Swartz notes with regards to the payetanim ("Sage, Priest, and Poet: Typologies of Religious Leadership in the Ancient Synagogue," in *Jews, Christians and Polytheists in the Ancient Synagogue: Cultural Interaction During the Greco-Roman Period*, ed. Steven Fine [New York: Routledge, 1999], 101-17 [97]), "there can be no doubt that these authors lived in a rabbinic milieu, revered the rabbis' Torah and were learned in rabbinic lore." See also Stuart Millar, "The Rabbis and Non-Existent Monolithic Synagogue," in the same volume, 50–61. For other examples, see Michael D. Swartz, "Hekhalot and Piyyut," in *The Mechanics of Providence: The Workings of Ancient Jewish Magic and Mysticism*, ed. Michael D. Swartz (Tübingen: Mohr Siebeck, 2018), 257–278; Menahem Kister, "Metatron, God, and the 'Two Powers': The Dynamics of Tradition, Exegesis, and Polemic" (Hebrew), *Tarbiz* 82 (2014): 43–88 (esp. 69-70 n. 156), and "Jewish Aramaic Poems from Byzantine Palestine and Their Setting" (Hebrew), *Tarbiz* 76 (2006): 105–184 (esp. 153-154 n. 266); Moulie Vidas, "Hekhalot Literature, the Babylonian Academies, and the Tanna'im," in *Hekhalot Literature in Context*, ed. Ra'anan Boustan, Martha Himmelfarb and Peter Schäfer (Tübingen: Mohr Siebeck, 2013), 141–176; Ra'anan Boustan, "Rabbinization and the Making of Early Jewish Mysticism," *The Jewish Quarterly Review* 101, no. 4 (2011): 482–501; idem, "Afterword: Rabbinization and the Persistence of Diversity in Jewish Culture in Late Antiquity," in *Diversity and Rabbinization*, 427–49; and Lieber, *Yannai on Genesis*.

rabbinic texts in these institutions may have looked like. Furthermore, our evidence for non-elite rabbinic study was quite slim, restricted to the mention of elementary teachers teaching "Scripture and Mishnah" and to the appreciation of piyyut on the part of synagogue audiences. In what follows, we will look more closely at the evidence for the study of the Mishnah and for the representation of the Mishnah in Jewish texts from the period. As we will see, focusing on the Mishnah in this way will allow us to gain significant insights onto the nature of non-elite and elite rabbinic study in Byzantine and Early Islamic Palestine and onto the articulation of rabbinic identity in this period.

3.1. *The Representation of the Mishnah by Classical Payetanim*

While it is clear that Yannai, the Qilliri and other classical payetanim share many traditions with the works of classical rabbinic literature, the nature of this relationship is not always apparent: it is far from certain that these payetanim relied directly on classical rabbinic works, and there is frequently a possibility that they drew inspiration from traditions that emerged independently of, but were also incorporated in, the classical rabbinic works now in our possession.[65] However, it is more transparent that the payetanim reworked passages from the Mishnah,[66] and there are a number of cases in which they clearly refer to the Mishnah as a literary work. For example, the payetanim mention the Mishnah's six orders

[65] Lieberman was thus of the opinion that we cannot know if Yannai borrowed his exegetical material "from the Yerushalmi and *Midrashim* when they were [already] edited and organized books" (*Studies in Palestinian Talmudic Literature,* 145). See also Yaakov Sussman, *Oral Law-Taken Literally: The Power of the Tip of a Yod* (Hebrew; Jerusalem: Magnes, 2019), 346 fn. 70.

[66] See Tzvi Novick, "Mishnah as Story: Aspects of the Reception of the Mishnah in Midrash and Piyyuṭ," in *Studies in Rabbinic Narrative*, vol.1, ed. Jeffrey L. Rubenstein (Providence: Brown Judaic Studies, 2021), 93–114.

and 60 tractates;[67] they mention specific chapters of the Mishnah by name;[68] and they quote or paraphrase what must have been well-known lines from the Mishnah.[69] This cluster of evidence is especially important as the payetanim of the classical period rarely if ever mention other works of rabbinic literature.[70] From this alone it is clear that the Mishnah held significant importance for the classical payetanim and apparently for their audiences as well.[71]

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[67] In *Song of Songs Rabbah* 6.8.1, the Palestinian Amora Rabbi Yitzhak understands the phrase "60 are the queens" in Song 6:8 as speaking of the 60 tractates of the Mishnah (which he refers to as *halakhot*). Different payetanim then incorporated this idea in their piyyutim, as in an anonymous classical qedushta for Passover: "*Sixty are the queens* / crowned (by) blessings / and 60 are the tractates of halakhot," cited by Jonah Fraenkel, ed., *Mahzor Laregalim: Pesach* (Hebrew; Jerusalem: Koren, 1993), 150 l. 11; Ezra Fleischer, "Towards a Solution of Some Fundamental Problems in the Structure of the Classical Qedushta" (Hebrew), in *Henoch Yalon Memorial Volume*, ed. E. Y. Kutscher, Saul Lieberman and M. Z. Kaddari (Jerusalem: Kiryat Sepher, 1974), 444-470 (465 lines 31-33), and trans. Laura Lieber, *A Vocabulary of Desire: The Song of Songs in the Early Synagogue* (Boston: Brill, 2014), 148. For another example, see Rabinowitz, *Yannai*, 2:283 line 116-117, and Lieber, *Vocabulary*, 235. See also the discussion of Rabbi Yitzhak's comment in Shlomo Naeh, "The Structure and Division of 'Torat Kohanim' (A) Scrolls" (Hebrew), *Tarbiz* 66 (1997), 483-515 (485-486), with references to additional examples.

[68] Yannai references "Klal Gadol," "Bameh Madliqin" and "Arbah Avot" (Rabinowitz, *Yannai*, 1:313 line 29; 1.344 line 35; 2:293 line 11). The Qilliri incorporates chapter titles of tractate Shabbat as an ornamentation in a piyyut he wrote for the Sabbath of Passover; see Michael Rand, "Qillirian Compositions for Double Liturgical Occasions: Linguistic and Iconic Aspects (Including an Appendix with Editions of Two New *Shivatot* for *Shabbat and Pesah*)" in *The Experience of Jewish Liturgy Studies Dedicated to Menahem Schmelzer*, ed. Debra Reed Blank (Leiden: Brill, 2011), 197-228 (228); he also refers to "Arba'ah Rashei Shanim," in his *shiva'ata* for Sabbat Hahodesh; see Shulamit Elizur, *In Thanks and Song: Shiva'atot for the Four Portions by Rabbi Elazar Berabbi Qillir* (Hebrew; Jerusalem: Reuven Mass, 1991), 94-95.

[69] For example, a statement of ben Azzai in Mishnah Avot 4.2 says that "mitzvahs bring along other mitzvahs," and Yannai inserts this exact phrase in one of his compositions (Rabinowitz, 1.459 line 62); Rabban Shimon ben Gamliel's statement at the end of Mishnah Sotah (9.12) that "from the day the Temple was destroyed there is not a day without a curse" appears in Yannai's composition for the Sabbath on which Lev 14:33 is read (Rabinowitz, 1.417 line 97): "Since the day the house was destroyed there is no blessing / there is not a day without a curse" (see Rabinowitz, *Yannai*, 1:23; Elizur, *Pinhas*, 178-79, 219-20).

[70] The only possible mention of rabbinic works other than the Mishnah in the classical piyyutim that I am aware of appears in the recently discovered piyyut "*Ishesh Hamisha Harim*" ("He Strengthened Five Mountains") of the Qilliri. In describing the transmission of the Torah, the Qilliri has the Torah say: "Six orders (= the Mishnah) and five books (= the Pentateuch) / and all of their explanations in order / on the day of the first fruits // additions (*tosafot*) minor and major, spoke the designer of my medicine / my rock, and remedy – designated for my head / in the third month // inquiry (*talmud*) and details and all of the travels / I spoke, in all of the strides / on the holiday of Shavuot"" (text from Joseph Yahalom, "*Shi'ur Qomah* in a Misidentified Qalirian Poem for Pentecost" [Hebrew], *Kabbalah: Journal for the Study of Jewish Mystical Texts* 32 [2014], 93-133 [114]). Yet, even here, I do not believe that it is clear that the payetan uses the words *tosafot* and *talmud* to describe specific works. Cf. Elizur, *Qedushta*, 684 n. 38.

[71] Similar to what we see in Hekhalot literature, the actual rabbinic figures mentioned in classical piyyutim (in itself an uncommon phenomenon) are all of the tannaitic period. See, for example, the list of martyred rabbis in "*Az bi-Ma'asi Dibrot Asarah*" ("The When I Destroyed the Ten Tablets") (Menahem Zulay, *Piyyutei Yannai* [Hebrew; Berlin: Schocken, 1938], 374–375) and the lists modelled after tractate Avot in "*Aluf*

The importance of the Mishnah for the classical payetanim is even more apparent from the manner in which they invoke this text. A passage at the end of the first chapter of the Mishnah tractate of Ohalot lists the 248 members of the human body. Utilizing this very list, Yannai catalogues how each of these serves man in his worship of God. For example, the 10 members of the ankles remind man not to violate the Ten Commandments,[72] and the two parts of the throat signify the double language of "we shall perform *and* we shall listen" (Ex. 19:8) expressed by the Israelites at Sinai.[73] This same Mishnaic list is also the basis for three extant piyyutim of the Qilliri.[74] In allegorizing the "six [members] of the chest," Yannai writes that each is for one of the six Orders of the Mishnah: "You opened in the chest, six / to open in the Orders, six."[75] Similarly, the Qilliri writes "[He] gave six Orders of the World / like the six in their hearts."[76]

On one level, Yannai and the Qilliri's lines connecting the six parts of the breast to the six orders of the Mishnah are governed by the poetic guidelines they adopted: working with the list found in the Mishnah, they were required to invoke something related to the number six, and they turned to the Mishnah's six orders.[77] Yet other body parts in the list from Ohalot

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Mesubal" ("The Laden Leader") and "*Eile ha-Huqim*" ("These are the Laws") (Menahem Zulay, "Were Hillel and Shammai Real Brothers?" [Hebrew], *Melilah* 5 [1955], 63–81, repr. *Eretz Israel and Its Poetry: Studies in Piyyutim from the Cairo Geniza*, ed. Ephraim Hazan [Hebrew; Jerusalem: Magnes, 1995], 539–557).

[72] Rabinowitz, *Yannai*, 1:386 line 20.

[73] Rabinowitz, *Yannai*, 1:386 line 27.

[74] The Qilliri used this list in a composition he wrote for the New Year holiday, in another for Hanukkah and in a third that describes Ezekiel's vision of the bones. For an edition of the New Year piyyut, see Shulamit Elizur and Michael Rand, eds., *Rabbi El'azar Berabbi Qillir: Liturgical Poems for Rosh Hashana* (Hebrew; Jerusalem: World Union of Jewish Studies, 2014), 355-358. For the Hanukkah piyyut, see Ophir Münz-Manor, *El'azar berabbi Qillir: Piyyutim for Hanukkah*, Pe'amim Supplement IV (Hebrew; Jerusalem: Ben-Zvi Institute for the Study of Jewish Communities in the East, 2022), 97-8. For the third piyyut, see Yahalom, *Poetry and Society*, 18-19 (Yahalom is of the opinion that the piyyut is for a period of mourning).

[75] Rabinowitz, *Yannai*, 1:387 line 34. See discussion in Yahalom, *Sources*, 242.

[76] Elizur and Rand, *Rosh Hashana*, 357 line 602.

[77] These are thus examples of "analogic exegesis"; see Shulamit Elizur, "On the Formulation of Analogic Exegesis in the Piyyutim" (Hebrew) in *Higayon L'Yona: New Aspects in the Study of Midrash, Aggadah and Piyut in Honor of Professor Yona Fraenkel*, ed. Joshua Levinson, Jacob Elbaum and Galit Hasan-Rokem (Jerusalem: Magnes, 2006), 165–178 (and Elizur's comments on this specific piyyut at 522-523); also Novick, *Piyyut and*

come in sixes, and it is the six members of the breast that Yannai and the Qilliri connect to the orders of the Mishnah. In creating meaning by performing this act of exegesis, they connect the heart—the place of memory and understanding[78]—with the Mishnah itself. The payetanim thereby elevate the Mishnah as the central Jewish text, the heart, as it were, of the Jewish tradition.

In a similar fashion, Yannai connects the 60 tractates of the Mishnah to the 60 letters that make up the Priestly Blessing found in Num 6:23-27.[79] Here, too, we must bear in mind not only the poetic guidelines that led to such a connection—60 letters and 60 tractates—but also the theological effect on those hearing this line in a setting that is both liturgical and didactic. The payetanim directly connect the Mishnah to the Priestly Blessing, in which the priests bless the people of Israel. The connection between this blessing and the Mishnah signals that the Mishnah, too, bestows God's favors on Israel.

The examples discussed until now demonstrate that the payetanim chose to present the Mishnah to their audience as a uniquely important rabbinic text central to the proper worship of God. Thus, the piyyutim served to spread veneration of this text and its authority. In an even more extreme fashion, a number of piyyutim connect the Mishnah to the revelation of the Torah on Sinai, signaling that it is coeval and equal to the written Torah.

Midrash, 53-59; and Yahalom, *Sacred Song*, 239-243. A typological connection between the six orders of the Mishnah and another item that came in six (the six wagons of the chieftains of the Israelites, mentioned in Num 7:3) is already found in *Pesiqta deRav Kahana*; see above, pg. 78.

[78] For the belief that the heart is the place of memory and understanding, see Julius Preuss, *Biblical and Talmudic Medicine*, ed. and trans. Fred Rosner (Northvale: Jason Aronson, 1993), 104-105, and, inter alia, Shlomo Naeh, "Omanut ha-zikaron, mivnim shel zikaron vi-tavniot shel teqst bi-sifrut hazal," in *Mehqerei Talmud III: Talmudic Studies Dedicated to the Memory of Professor Ephraim E. Urbach*, ed. Yaakov Sussman and David Rosenthal, 2 vols. (Jerusalem: The Magnes Press, 2005), 2:543–89, and Michael D. Swartz, *Scholastic Magic: Ritual and Revelation in Early Jewish Mysticism* (Princeton: Princeton University Press, 1996), 33-50.

[79] Rabinowitz, *Yannai*, 2:32 ll. 40-2; see also the slightly improved reading of the manuscript fragment (Cambridge University Library, T-S 13 H2.4) in Ma'agarim. On other early attempts to allegorize the 60 letters of the Priestly Blessing, see Menahem Kahana, *Sifre on Numbers: An Annotated Edition* (Hebrew; Jerusalem: Magnes, 2011), 349.

The classical payetanim mainly incorporated this motif in compositions for the holiday of Shavuot, when the revelation of the Torah at Sinai is celebrated. In one unpublished composition most likely by the Qilliri,[80] the payetan ends each of the six main strophes with the name of an order of the Mishnah.[81] As he is describing the giving of the Torah, the ornamentation serves to connect the Mishnah to the moment of Sinaitic revelation.

The Sinaitic origin of the Mishnah is made more explicitly in another Shavuot composition that is also almost certainly by the Qilliri, a *siluq* that begins with the words "*Eile ha-Huqim*" ("These are the laws").[82] Here the payetan describes the bodies of knowledge that God (speaking in the first person) imparted to Moses at Sinai, including "Six in writing, to contemplate my sections, and six in the repeating of my Laws."[83] A few lines later, the payetan lists the six orders of the Mishnah.[84] In yet another Shavuot composition, surely by

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[80] This composition is known from multiple Genizah fragments, but the only complete copy is Cambridge University Library, T-S H15.75 (f. 2v-r), which has a heading that it is for Shavuot. A rather similar, anonymous composition is found in the Genizah fragments Cambridge University Library, T-S NS 160.14, Cambridge University Library, T-S H3.24 and Oxford, Bodleian Library, heb. e. 96.8 (f. 12a); Menahem Zulay considered this to be another recension of the Qillirian composition (see his "Studies in Jannai" [Hebrew], *Studies of the Research Institute of Hebrew Poetry* 2 [1936], 213-391 [324 n. 4]).

[81] The order of the orders here and in the following example aligns with that in medieval manuscripts and in a statement of Resh Laqish in BT Shabbat 31a; see more generally Menahem Kahana, "The Arrangement of the Orders of the Mishnah" (Hebrew), *Tarbiz* 76 (2006), 29–40. For this and other examples of such ornamentation, see Yehoshua Granat and Avi Shmidman, "'Who Made One': The Six Days of Creation and the Six Orders of the Mishnah in a Poetic Grace after Meals by Joseph ibn Abitur'" (Hebrew), *Ginzei Qedem* 1 (2005), 79-114 (98 nn. 100-101), and Sa'adia's "*Va-Yered Oman*," discussed in Shlomit Gordon, "Sa'adia Gaon's 'Sidrei Dibrin'" (Hebrew; MA thesis, Hebrew University, 2019); for these piyyutim, see also below, pg. 298.

[82] On this siluq, see Elizur, *Qedushta*, 845, and Shulamit Elizur, ed., *Rabbi El'azar Birabbi Kiliri: Hymni Pentecostales* (Hebrew; Jerusalem: Mekize Nerdamim, 2000) 41-42, and above, note 71. Elizur (*Qedushta*, 684-685 n. 38) suggests that this siluq may come from the qedushta "…*Elef Dor ha-Hoq*" (the first lines are missing), in which appears the *qiqlar* "*Ishesh Hamisha Harim*," discussed above in note 70.

[83] Elizur, *Hymni Pentecostales*, 241 line 12; English trans. Tzvi Novick, "Liturgy and Law: Approaches to Halakhic Material in Yannai's *Kedushta'ot*," *Jewish Quarterly Review* 103 (2013) 479. As noted by Elizur, the "six in writing" refers the Five Books of Moses along with the Book of Job, which was believed to have been written by Moses.

[84] Elizur, *Hymni Pentecostales*, 241 lines 17-19. In a qedushta for Exod 34.27 ("And the LORD said to Moses: Write down these commandments, for in accordance with these commandments I make a covenant with you and with Israel") Yannai similarly writes, "To the writings that you have written / and the written that you dictated // To write that which is in the Torah of Moses // And what is not written is a halakha of Moses // Nothing in it will be innovated / and what is innovated, is not new // All of the read Scripture he read / and all of the recited Mishnah he recited // And all of the spoken he spoke / the written he wrote / the oral he imparted

the Qilliri,[85] the payetan portrays God telling the Torah that he will "give [Israel] six orders so that they can study you."[86]

The creative presentation of the Mishnah by the payetanim can be best appreciated by comparing their depiction of the Mishnah with those in classical rabbinic literature. As we saw in Chapter One, the Mishnah itself (like all texts of the classical rabbinic corpus) does not discuss its origins, but rather quickly, opinions in later rabbinic texts attributed the Mishnah—at least in form—to the late 2nd- and early 3rd-century Rabbi Judah *ha-Nasi*.[87] The classical payetanim, and the Qilliri in particular, are therefore distinct in depicting the Mishnah as a composition given to Israel by God.[88] Though classical rabbinic texts contain numerous traditions and stories according to which the Oral Torah goes back to Sinai,[89] the

// He opened his mouth in wisdom / and finished accordingly / when he sanctified his mouth" (Rabinowitz, *Yannai*, 1:360-361; cf. y. Pe'ah 2:6 17a [89-90], with parallels at Megillah 4:1 74d [768] and Hagigah 1:8 76d [781]). In contrast to the Qilliri's composition, here it is unclear whether "Mishnah" refers to Mishnah the composition or to the Oral Torah more generally. See Novick, "Liturgy and Law," 478-479, and Sussman, *Oral Law*, 253 fn. 33, 332 fn. 5. Cf. the Qilliri's phrase "*galoto bi-dat shinunim*," "You revealed it in your recited law," in his *shiva'ata* for Hahodesh, mentioned above in fn. 68; if this refers to the Mishnah (and indeed, the incipit of tractate Rosh Hashana is cited in the following line), it would serve as yet another example of the Qilliri referring to the Mishnah as a text revealed by God.

[85] "*Agmei Qarim*" ("Cold Lakes") from the qedushta "*Afsei Hag*" ("The Limits of the Land"); on the attribution to the Qilliri, see Elizur, *Qedushta*, 841 and *Hymni Pentecostales*, 27.

[86] Elizur, *Hymni Pentecostales*, 189 l. 273.

[87] See above, pg. 25.

[88] See also the evidence of later authors on this topic in Chapter 8.

[89] Perhaps most famously in the opening of Mishnah Avot, although without any specific reference to Oral Torah per se; for a more explicit example, see b. Eruvin 54b. This theme is also present in multiple piyyutim; in addition to what has been quoted above, it is already found in the pre-classical qedushta for Shavuot, "*Evrot Ayuma*" ("The Wings of the Awesome"): "And he (Moshe) brought down pure sayings / the explanation of scripture and *halakhot*"; according to Ezra Fleischer, "On the Antiquity of the Qedushta: A Publication of a Pre-Yanayic Poetic Cycle" (Hebrew), *Hasifrut* 2 (1970), 402 ll. 1-2. Traces of this theme may also be found in early Christian authors who wrote on the Oral Torah; see Hillel I. Newman, "A Patristic Perspective on Rabbinic Literature" (Hebrew) in *CRL*, 2:681–704. The *Pesiqta de Rav Kahana* (ed. Mandelbaum, 73) records a story in which Moshe, while on Sinai, hears God reciting the opening Mishnah of tractate Parah, which begins with "R. Eliezer says" and a halakha that is attributed to him; in the classical midrash, however, this is not treated as a stand-in for the tractate, let alone the entire Mishnah, but merely as a halakhic comment brought in the context of study of the parasha, and as Mandelbaum (ad loc.) and Novick ("Mishnah as Story," 97-98) point out, classical rabbinic texts seem to have a tendency to narrativize the beginnings of Mishnah tractates that open with the names of specific sages (i.e., the opening of m. Parah, narrativized in the *Pesiqta*, and the opening of m. Eduyot, paralleled in m. Nidah 1:1, which is narrativized in the opening of Tosefta Eduyot). On the literary aspects of this story, see also Itay Marienberg-Milikowsky, *"We Know Not What Has Become of Him": Literature and Meaning in Talmudic Aggada* (Hebrew; Ramat-Gan: Bar-Ilan University Press,

payetanim were particularly insistent in their claim that the Mishnah itself—the text, not just the amorphous body of Oral Torah—is Sinaitic.[90]

3.2. *The Representation of Mishnah Study by Classical Payetanim*

The payetanim not only expressed the Mishnah's importance as an idea; they also emphasized to their audiences the importance of studying it.[91] This is already expressed in an early anonymous qedushta for Passover,[92] where the payetan says of Israel "Always in her love shall she be great / her Mishnah she shall learn,"[93] and that "*Like a rose among the thorns* (Song 2:2) – [in] brambles, [in] thickets entangled / so, too, is My mate among the nations, studying tractates"[94]—note also the contrast drawn here between Jews and non-Jews vis-à-vis the study of Mishnah. In one of his compositions for the holiday of Shavuot, the Qilliri says, "My elders and young ones regularly recite it [the Mishnah]."[95] He elsewhere

2016), 15-36, who mentions (24-25) that the Qilliri seems to reference this story in one of his compositions for the Sabbath on which the Parah portion is read (*Atzulat Omen*, "The Artisan's Product"), even explicitly referring to the "beginning of its (i.e., the red heifer's) Mishnah"; for the possibility that this story was intended as a polemic against Rabbi Akiva, the subject of a similar story told in b. Menahot 29b, see Adiel Schremer, "Avot Reconsidered: Rethinking Rabbinic Judaism," *Jewish Quarterly Review* 105 (2015) 287–311.

[90] This distinction might be drawn out via the following line from the Palestinian Talmud: "many *halakhot* were said to Moses at Sinai, and they are all embedded (משוקעות) in the Mishnah" (y. Peah 2:6 [17a (89)] / y. Hag. 1:8 [76d (781)]). Not that while the Mishnah is depicted as *containing* Sinaitic knowledge, it is the knowledge that is as Sinaitic, *not* the Mishnah itself.

[91] See already Yaakov Sussman, "Manuscripts and Text Traditions of the Mishnah" (Hebrew), *Proceedings of the Seventh World Congress of Jewish Studies: Studies in Talmud, Halacha and Midrash* (Jerusalem: Perry Foundation, 1980), 215-250 (240-241 n. 95). While Sussman briefly pointed to the payetanic evidence for the prevalence of Mishnah study, we now have far more data at our disposal.

[92] The *qedushta* begins "*Shir ha-shirim imreha tsfe*" ("*The Song of Songs*—Heed Her Words"). On its date, see Elizur, *Qedushta*, 17 n. 78. Elizur notes that the use of rhyme and the existence of the composition in European sources suggest it was written in the classical period.

[93] Fraenkel, *Pesach*, 141, line 18; Fleischer, "Towards," 456, lines 17-18 (trans. modified from Lieber, *Vocabulary*, 123).

[94] Fraenkel, *Pesach*, 141, line 21; Fleischer, "Towards," 457, line 5 (trans. modified from Lieber, *Vocabulary*, 124).

[95] Elizur, *Hymni Pentecostales*, 241, l. 21; Elizur sees this as specifically referencing the practice of reciting tractate Avot. For the history of the practice of reciting and studying this tractate, see Shimon Sharvit, *Tractate Avoth Through The Ages: A Critical Edition, Prolegomena and Appendices* (Hebrew; Jerusalem: Bialik Institute, 2004) 255-266.

attests to the practice of reciting Mishnah tractates on the Sabbath and New Year: "they are fearful to recite it today / According to the Law, Scripture and Mishnah / [Tractates] Shabbat and Rosh Hashana."[96] The use of names of chapters of tractate Shabbat by the Qilliri in one piyyut hints at the practice of reciting the tractate on the Sabbath.[97] Pinhas uses Mishnah study as a metonym for the People of Israel when he asks that God "redeem those who recite Scripture and Mishnah."[98] Indeed, Pinhas relied heavily on Mishnaic texts in his halakhic piyyutim,[99] and given the likelihood that he was involved in the administration of a Galilean rabbinic academy (see above), his reliance on the Mishnah may bear further witness to its prominence in Palestinian curricula.[100]

Spanning the entirety of the period of classical piyyut, these piyyutim attest to the prevalence of Mishnah study in general and also specifically to its liturgical study on the Sabbath and holidays. As we saw already in the prior chapter, there is reason to believe that sections of the Mishnah entered the Babylonian rite by the 5th or 6th centuries.[101] Of note also is the strong possibility that central elements of the Avodah piyyutim for the Day of Atonement as having have sprung from the ritual recitation of the Mishnah tractate Yoma on

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[96] Elizur and Rand, *Rosh Hashana*, 368, ll. 95-97; see discussion at 163, with n. 12.

[97] See above, note 68.

[98] Elizur, *Pinhas*, 623, line 17 (see Sussman, "Manuscripts," 240 n. 95). Pinhas may mention Mishnah study elsewhere as well: "As they learn Mishnah, as they read books" (626); "The study of Scripture, and the Mishnah, they recite" (407). See also the line "טובעו טף ונשים מטיפי מקרא ומשנה" from the qerova "*Shamati eikh yoqesh ha-ir*," for the 18th of Shevat, marking the earthquake of 749 (Menahem Zulay, "Liturgical Poems on Various Historical Events" [Hebrew] *Studies of the Research Institute of Hebrew Poetry* 3 [1936]: 153–83 [159] =*Eretz Israel and Its Poetry*, 591, cited in Sussman, "Manuscripts," 240 fn. 95).

[99] See Elizur, *Pinhas*, 178-79, 199, 219-220.

[100] Another possible reference to Mishnah study by a payetan who may have been writing towards the end of the classical period is found in Moshe's qedushta, "*Pitahti Ani li-Dodi*" ("I Opened for My Beloved") (Efrat Viler, "'And He Spoke the Known Secret of Pesach / An Expression of Prayer Was Remembered': *Kedushtaot* 18 for the Days of *Chol Hamoed Pesach* by Moshe" [Hebrew; Master's thesis, Hebrew University of Jerusalem, 2017], 77): "Sixty orders he put together / as one, commandments and laws he relayed // keep the commandments of Passover as it is studied." On Moshe, see also Elizur, *Pinhas*, 117, who emphasizes that it is unclear when exactly he flourished.

[101] See above, pg. 95.

that day, and thus that a central subgenre of piyyut is within itself related to the liturgical use of the Mishnah.[102] In Chapter Seven, when we look more directly at the evidence for the Mishnah in liturgy, I will present evidence that shows its prominence in Palestinian liturgies. The evidence of piyyut thus allows us to reconstruct the use of Mishnah in liturgical settings in Palestine already in Late Antiquity.

The nature of other, non-liturgical forms of study, though, are not so clear. But in any event, in these references, the payetanim did not only attest to the existence of the practice of Mishnah study; they were simultaneously promoting it, as they emphasized both the importance of the Mishnah as a symbol of Jewish identity and the act of Mishnah study as a core feature of Jewish practice.[103]

4. *Tanhuma*

A picture similar to that presented in the piyyutim, in which Mishnah study and the Mishnah itself are both presented as having particular importance, emerges from the Tanhuma literature, the majority of which emanates from Byzantine and Early Islamic Palestine.[104] In

[102] The earliest evidence for this practice comes from b. Yoma 36b, 54b. In addition, the stylistically earliest of the extent Avodah poems are little more than light adaptations of the Mishnah tractate Yoma; see Michael D. Swartz, "Yoma from Babylonia to Egypt: Ritual Function, Textual Transmission, and Sacrifice," *AJS Review* 43 (2019) 339–353. On the pre-rabbinic origins of other elements of the Avodah genre, see Vered Noam, "Ben Sira: A Rabbinic Perspective," in *Discovering, Deciphering, and Dissenting: Ben Sira Manuscripts after 120 Years*, ed. James K. Aitken, Renate Egger-Wenzel and Stefan C. Reif (Boston: Walter de Gruyter, 2019) 201–217.

[103] Given the prominence of the Mishnah in the piyyutim of the Qilliri, we can perhaps connect this to other "nationalizing" tendencies in his oeuvre – for example, his positive attitude towards the Hasmoneans, his apocalypticism and, of course, his fascination with Hebrew. On his attitude towards the Hasmoneans, see Ophir Münz-Manor, "The Memory of the Hasmoneans in Piyyutim from Byzantine Palestine," *Oqimta* 5 (2019): 1–24, idem, *El'azar Berabbi Qillir: Piyyutim for Hanukkah*, Pe'amim Supplement, IV (Hebrew; Jerusalem: Ben-Zvi Institute for the Study of Jewish Communities in the East, 2022), 32-9, and on his apocalypticism, see Newman, "Apocalyptic Poems." Future publication of more of the Qilliri's works will surely help us better understand his religious and nationalist thinking. On Jewish nationalism in antiquity, see Goodblatt, *Ancient Jewish Nationalism*, and Seth Schwartz, "Were the Ancient Jews a Nation?," in *Early Judaism: New Insights and Scholarship*, ed. Frederick E. Greenspahn (New York: New York University Press, 2018) 71–96.

[104] See especially Bregman, *The Tanhuma-Yelammedenu Literature*; Dov Weiss, *Pious Irreverence: Confronting God in Rabbinic Judaism*, Divinations (Philadelphia: University of Pennsylvania Press, 2017); Ronit

what follows, I will address two central ways in which the Mishnah is employed and presented in this literature: in halakhic *petihta'ot*, and in a story often repeated in this literature that discusses the origins of the Mishnah.

4.1. *Halakhic* Petihta'ot

One of the defining characteristics of most exemplars of tanhumic literature is the use of "Halakhic *Petihta'ot*" (sg. *petihta*) as introductions to larger units organized around lections or holiday themes.[105] In one representative case from an early tanhumic context, the petihta opens with the question, "Let our master teach (*yelamdenu rabeinu*): A person from Israel who was standing to pray [the Amidah] and a snake came and coiled on his heel, is he allowed to pause?" The petihta then answers this question based on a more or less direct quotation from m. Berakhot 4:1: "Even if a king greets them they shall not reply; even if a snake is coiled on their heel, they shall not pause," citing also a story in a parallel passage in t. Berakhot 3:20 (ed. Lieberman, 17). The petihta continues by riffing off of the literary connection drawn in the Mishnah between foreign rule, even specifically Roman rule, and snakes, eventually tying this parallel to Egyptian rule and to Pharoah and thus to the opening verses of the lection: "The LORD said to Moses and Aaron, 'When Pharaoh speaks to you and says, 'Produce your marvel,' you shall say to Aaron, "Take your rod and cast it down before Pharaoh." It shall turn into a serpent.'" (Ex. 7:8-9).[106] In this way, drama is created as the audience waits to see how

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Nikolsky and Arnon Atzmon, eds., *Studies in the Tanhuma-Yelammedenu Literature*, Brill Reference Library of Judaism 70 (Leiden: Brill, 2022); and the literature cited below in note 150. On the Byzantine context of the Tanhuma, see also Alexei Sivertsev, *Judaism and Imperial Ideology in Late Antiquity* (Cambridge: Cambridge University Press, 2011), 65-74. On structural parallels between piyyut and Tanhuma, specifically vis-à-vis the place of the Mishnah, see Novick, "Liturgy and Law."

[105] On this form of *petihta*, see Novick, "Liturgy and Law."

[106] Tanhuma Va'era 4, according to T-S C1.46; I slightly modify the translation of Bregman, *The Yanhuma-Yelamdenu Literature*, 7*; see Bregman's discussion at pp. 97-9, and see also the discussion in Chana

the brief halakhic discourse can connect to the lection, and a rather simple, if stringent, halakha from the Mishnah is used to extol the virtues of pious prayer. Indeed, most of the halakhic petihta'ot relate to issues of prayer, perhaps as synagogues are the imagined setting in which the petihta'aot would be delivered.[107]

To the extent that halakhic petihta'ot open with questions referring to rabbinic texts, almost all the immediate answers stem from the Mishnah,[108] though, as in this case, an elaboration may then come from tannaitic texts like the Tosefta (and rarely, from Amoriac texts[109]). It is possible that the Mishnah is so heavily relied on in these contexts because those who authored the petihta'ot were most familiar with the Mishnah and with certain tannaitic traditions transmitted alongside it. It is also possible that the authors of the petihta'ot relied upon the Mishnah in this way and to this extent as they assumed their audiences would be familiar with the Mishnah. In addition, the reliance on the Mishnah may also be intended to encourage its study. Lastly, the manner in which the Mishnah is interpreted in these contexts is significant. As we saw, halakhic guidance is only one way in which the Mishnah is employed in the halakhic petihta'ot. By then reading the Mishnah with an eye towards its literary qualities, the authors of these petihta'ot uncover theological or political messages that they wish to share with their audiences. In this way, the Mishnah becomes far more than an

Friedman, "The *Petihta Bisheilah*: Towards the World of the Public Homily" (Hebrew; MA thesis, Hebrew University, 1998), 70-1.

[107] Ch. Friedman, "The *Petihta Bisheilah*."

[108] See the tables in Ch. Friedman, "The *Petihta Bisheilah*," 107-22; Zahava Neuberger, "The Printed Edition of Midrash Devarim Rabba: Its Character and Place in the Tanhuma-Yelamdenu Literature" (Hebrew; PhD dissertation, The Hebrew University of Jerusalem, 1999), 115, 305 n. 1; Novick, "Liturgy and Law," 479.

[109] This is especially the case in the tanhumic sections of the *Pesiqta Rabbati*; see Binyamin Elizur, "Pesiqta Rabbati: Introductory Chapters" (Hebrew; Ph.D. dissertation, The Hebrew University of Jerusalem, 2000), 99-229.

halakhic guide: it is now a guide for a rabbinic worldview that encompasses every aspect of a Jew's experience.

The importance of the Mishnah for the authors and imagined audiences of tanhumic literature can be highlighted by comparing the halakhic petihta with its Babylonian parallel, the *she'ilta* (pl., *she'iltot*), a form of sermon documented already in the Babylonian Talmud (b. Shabbat 30a-b), and then, most prominently, in a collection associated with Rav Aha, an 8th century Babylonian rabbi who emigrated to Palestine.[110] Like the halakhic petihta, each individual she'ilta begins with an halakhic question, generally a quite simple one, which is then connected to an aggadic discourse, eventually relating back to the lection or holiday theme. The differences, though, are more telling than the similarities[111]: the she'iltot focus on halakha to a far more significant extent than do the halakhic petihta'ot, and as such they also stray much farther from the Mishnah than do the petihta'ot, relying, almost entirely, on the Babylonian Talmud[112]; indeed, the use of the Mishnah in the she'iltot is mostly limited to the Mishnah as it is embedded in the Babylonian Talmud.[113] While we must be careful not to read too much into these differences, it does seem that they can be used to tell us something of a more general divide between Palestinian and Babylonian rabbinic cultures vis-à-vis the

[110] On the genre of she'iltot and on the complatation attributed to Aha, see Robert Brody, *Zion Between the Tigris and the Euphrates: The World of the Babylonian Geonim* (Hebrew; Jerusalem: Yad ha-Rav Nisim, 2016), 203-15; idem, Robert Brody, *The Textual History of the She'iltot*, Texts and Studies, VII (Hebrew; New York and Jerusalem: The American Academy for Jewish Research, 1991); Jason Rogoff, "The Compositional Art of the She'iltot of R. Aḥa: Creating a Babylonian Homiletic Midrash" (PhD diss., The Jewish Theological Seminary of America, 2010); and Roni Shweka, "She'iltot d'Rav Achai and the Early Babylonian Homily," *Sidra: A Journal for the Study of Rabbinic Literature*, no. 32 (2017): 145–202. Brody (*Zion*, 206; *Textual History*, X) notes that the parallel with the halakhic *petihta* is particularly pronounced with the "earlier form of the *she'ilta*," i.e., that documented in the Babylonian Talmud.

[111] As noted by Rogoff, "The Compositional Art," 67-70.

[112] In the words of Brody (*Textual History*, xii), "[t]he originality of the *she'ilta* is to to be sought not in its legal content but in its literary form." Cf. the similar descriptions of post-Talmudic literature from Palestine, referenced above in fn. 21.

[113] See Brody, *Zion*, 211; ibid., *Textual History*, xii.

popularizing of rabbinic practice and ideals in the post-Talmudic period. Whereas in Babylonia, such attempts of popularization focused on halakhic guidance and on the reception of the Talmud, in Palestine, this more often looked like a reliance on the Mishnah, with a limited focus on Halakha and more extensive attempts to relay, again via the Mishnah, non-halakhic religious ideals.[114]

4.2. *The Origins of the Mishnah*

A story transmitted in a number of tanhuma collections sheds further light on the importance of the Mishnah for Jews in Byzantine Palestine. This is how it appears in a tanhumic section of the *Pesiqta Rabbati*[115]:

א"ר יהודה בר' (סלו) שלום: בקש משה שתהא המשנה בכתב, וצפה הק' שהאומות עומדים[116] לתרגם את התורה ולהיות קוראים בה יוונית ואומ' <<אין הם ישראל. אמר לו הקב"ה: הא משה, עתידין האומות להיות אומר>> אני הם ישר', אני הם בניו של מקום, וישר' אומ', אנו הם בניו של מקום, ועד עכשיו המאזניים מעויינין. אמ' הק' לאומות, מה אתם אומ', שאתם בניי? איני יודע אלא מי שמיסטרין של<<י>> בידו והוא בני. אמרו לו, מהו מיסטרין שלך? <<אמר>> להם זו המשנה.

> R. Judah, son of R. Shalom said: Moses requested that the Mishnah be in writing, but the Holy One foresaw that the nations would translate the Torah and would be reading it in Greek and saying, "We are Israel!" The Holy One, blessed is He, said to him, "Oh, Moses! In the future, the nations will be saying, 'We are Israel; we are the sons of God.' And Israel will be saying, '*We* are the sons of God.' And until now the scales are balanced. The Holy One, blessed is He, said to the nations, 'What is it that you are saying? That you are my sons? I do not know, but he who possesses my Mystery (*mistirin*) – he is my son.' They said to him, 'And what is your Mystery?' He replied to them, 'It is the Mishnah.' "[117]

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[114] An additional aspect of the reception of the Mishnah in tanhumic literature that I cannot address here is the question of textual version. Such a study should look both at the manner in which the Mishnah is quoted, or often, paraphrased in the halakhic *petihta'ot*, as well as how the Mishnah is cited in other sorts of tanhumic passages.

[115] On the inclusion of tanhumic material in this collection, see especially Binyamin Elizur, "*Pesiqta Rabbati*: Introductory Chapters" (Hebrew; PhD diss., Hebrew University, 2000), 46-48.

[116] עומדים] *editio princeps*: "עתידין."

[117] *Pesiqta Rabbati* 5 (ed. Friedman, 14b), according to Parma, Bilioteca Palatina MS 3122 (de Rossi 1240; Richler 701), with emendations according to the *editio princeps* (Prague, 1656); transcriptions follow those of B. Elizur, "*Pesiqta Rabbati*," 128-29; translation is based on that of Marc Bregman, "Mishnah and LXX as Mystery: An Example of Jewish-Christian Polemic in the Byzantine Period," in *Continuity and Renewal: Jews and Judaism in Byzantine-Christian Palestine*, ed. Lee I. Levine (Jerusalem: Jewish Theological Seminary, 2004),

In this story God insists that the Mishnah be transmitted orally so that it could not be translated into Greek and thus be available to be co-opted by Christians, who are here referred to as those who claim that *they* are in fact the true Israel and the sons of God.[118] It is in this context that the idea of the Mishnah as a composition (albeit an unwritten one) is compared to the written books of the Torah and is said to have already existed during Moses' ascent to Mount Sinai.[119] While attributed to a 4th-century Palestinian sage, this story is found in a larger literary context that reworks a passage from the Palestinian Talmud,[120] itself a late 4th-century work. For this and other reasons we can conclude that the attribution here is likely pseudepigraphic,[121] as is common in tanhumic *midrashim*,[122] and that the

333–334; see also Rivka Ulmer, *A Bilingual Edition of Pesiqta Rabbati*, Studia Judaica 86 (Berlin: De Gruyter, 2017), 133, 135. In addition to the literature on this story cited by Bregman, see also Peter Schäfer, *Studien zur Geschichte und Theologie des Rabbinischen Judentums* (Leiden: Brill, 1978), 153-197.

[118] For parallels between the claims made here and those actually found in early Christian texts, see Menahem Kister, "Son(s) of God: Israel and Christ: A Study of Transformation, Adaptation, and Rivalry," in *Son of God: Divine Sonship in Jewish and Christian Antiquity*, ed. Garrick V. Allen et al. (University Park: Pennsylvania State University Press, 2019), 206-209.

[119] Bregman, "Mishnah and LXX," 333 n. 4 notes that Epstein (*Introduction*, 804) understands "mishnah" here as relating to the entirety of the Oral Torah and not to the specific work we refer to now as the Mishnah. While the word "mishnah" often bears this more general meaning, I believe the specificity of the bookish context of the story mitigates against this reading. Given my disagreement with Bregman in this regard and with regards to the dating of the tanhumic story, I cannot accept the conclusion of Israel Yuval, based largely on this passage, that the practice of Oral Torah is an anti-Christian polemic; Israel Yuval, "The Orality of Jewish Oral Law: From Pedagogy to Ideology," in *Judaism, Christianity, and Islam in the Course of History: Exchange and Conflicts*, ed. Lothar Gall and Dietmar Willoweit, Schriften Des Historischen Kollegs 82 (Berlin: de Gruyter Oldenbourg, 2011), 237–60. What we are witnessing in this story is, if anything, a retroactive explanation of the practice written in a Christian context; for this interpretation, see Martin S. Jaffee, *Torah in the Mouth: Writing and Oral Tradition in Palestinian Judaism, 200 BCE-400 CE* (New York: Oxford University Press, 2001), 146.

[120] y. Pe'ah 2.6 (17a [89]) with a partial parallel at Megillah 4.1 (74d [768]) and Hagigah 1:8 (76d [781]). For treatments of these and additional parallel sources that highlight the reliance of the tanhumic passages on those from the PT, see esp. Schäfer, *Studien,* 153-197; Jaffee, *Torah in the Mouth*, 144-147; B. Elizur, "*Pesiqta Rabbati*," 129-32; and, inter alia, Moshe Pinchuk, "Palestinian Talmud Tractate *Megillah* 4.1: Edition and Comprehensive Commentary" (Hebrew; MA thesis, Bar Ilan University, 2007), 44-45. On the halakhic aspects of this passage, see also Friedman, "The *Petihta Bisheila*," 97.

[121] Also of note is the wider context of this passage in which there are repeated appearances of Rabbis by the name of Yehudah, in a seemingly artificial manner.

[122] On pseudepigraphy in tanhumic texts, see Jacob Elbaum, "On the Character of the Late Midrashic Literature" (Hebrew), *Proceedings of the World Congress of Jewish Studies* 9.3 (1985): 57–62; and Weiss, *Pious Irreverence*, 13.

creation of the story may well postdate the classical rabbinic period. Whereas earlier rabbinic texts speak of the Mishnah as a manmade compilation that collects traditions of divine origin, this later story—like the piyyutim mentioned above—has Moses himself receiving an actual oral book of Mishnah from God.

A text by Hilary, Bishop of Poitiers in the 4th century, comes close to providing a Christian foil for this story.[123] In his *Tractatus Super Psalmos* (2.2-3), Hilary privileges the Septuagint over other Greek versions of the Old Testament by saying that it alone preserves the true meaning of Scripture. According to Hilary, the Hebrew original of Scripture is full of ambiguities. The Septuagint clarifies these issues, as it contains "certain more secret mysteries (*mysteria*) of the law" passed down from Moses via oral tradition through the generations until they reached the 70 elders responsible for the Septuagint.[124] Hilary argues against using the non-Septuagint versions of the Hebrew Bible, because "those who translated later, who (also) translated according to diverse methods, have given many a misleading translation to the Gentiles."[125] This, he says, is because they were "ignorant of that secret tradition which originated from Moses" and then "rendered with uncertainty, relying only on their own notions, that which had been expressed in a polysemous fashion in

[123] See in particular Adam Kamesar, "Hilary of Poitiers, Judeo-Christianity, and the Origins of the LXX: A Translation of Tractatus Super Psalmos 2.2-3 with Introduction and Commentary," *Vigiliae Christianae* 59 (2005): 264–285, along with Kamesar's earlier treatment of this text as part of his analysis of Christian attitudes towards the Septuagint in the 3rd and 4th centuries, in A. Kamesar, *Jerome, Greek Scholarship, and the Hebrew Bible: A Study of the Quaestiones Hebraicae in Genesim* (New York: Oxford University Press, 1993), 28-40. Based on the parallel from Hilary's *Tractatus*, Bregman argued that the tanhumic story, attributed to a near contemporary of Hilary's, must be authentic to the 4th century (Bregman, "Mishnah and LXX," 341–42). Yet, as Bregman himself admits elsewhere in his article (in particular 340 n. 31), there is a certain incongruity between Hilary's statement regarding the Septuagint and the story attributed to R. Yehudah bar Shalom, and it is impossible to conclude that their statements are in direct dialogue or contemporaneous with one another.

[124] Kamesar, "Hilary," 271. Kamesar (265–269) points to parallels to this idea of oral tradition in the Pseudo-Clementine writings. For this theme in Pseudo-Clementine literature, see Donald H. Carlson, *Jewish-Christian Interpretation of the Pentateuch in the Pseudo-Clementine Homilies* (Minneapolis: Fortress, 2013), 111–136.

[125] Kamesar, "Hilary," 271.

Hebrew."[126] Thus, according to Hilary, because the Hebrew of the Bible is ambiguous, Moses transmitted alongside it a "mystery" that explained it, which was eventually incorporated into the Septuagint and is either lacking from or misconstrued in the other Greek versions of the Hebrew Bible.

Given that Hilary's targets are the later Greek translations of the Hebrew Bible, not the Mishnah, it is likely that the rabbinic story is not responding directly to Hilary's argument, but to a similar argument offered by other Christians. What is particularly important is that Hilary's passage attests that some Christians referred to aspects of the Septuagint as "mysteries" of Mosaic origins. In light of its overtly polemical content and its use of the term "mystery,"[127] the rabbinic story likely represents a pointed response to actual Christian claims of the sort articulated by Hilary. In effect, the rabbinic passage "forfeits" the Bible to Christians in favor of the Mishnah, relinquishing one "mystery" for another. Instead of having Moses argue for the superiority of the *hebraica veritas*, the rabbinic storytellers concede that the Bible is no longer the sole property of the Jews. They insist instead that Jews have another divinely revealed text that belongs to them alone—the Mishnah. The Jews are now, as it were, the people of the Mishnah, while the Torah has become the property of a wider humanity.

This midrash should be read in light of the attitude towards the Septuagint found elsewhere in rabbinic literature.[128] The evidence speaks to a diachronic shift in attitude

[126] Kamesar, "Hilary," 271.

[127] This term is rather uncommon in rabbinic texts. For references to it in tanhumic sources, see Bregman, "Mishnah and LXX," 337-338; for an alternative reading of it in the tanhumic passage cited here, see Marc Hirshman, *A Rivalry of Genius: Jewish and Christian Biblical Interpretation in Late Antiquity*, trans. Batya Stein (Albany: SUNY Press, 1996), 18.

[128] See in particular Moshe Simon-Shoshan, "The Tasks of the Translators: The Rabbis, the Septuagint, and the Cultural Politics of Translation," *Prooftexts* 27 (2007): 26-28.

towards the Septuagint in the eyes of rabbinic Jews: Whereas Tannaitic and Amoraic texts are at most ambivalent towards the Septuagint, the post-talmudic Byzantine-era *Masekhet Sofrim* and *Masekhet Sefer Torah* display outright animosity.[129] Yael Fisch points out that this animosity stems from the failure of the Septuagint to capture the true meaning of the Torah: "the Torah could not be translated adequately (*kol tsorkha*)," states *Masekhet Sefer Torah*.[130] The evidence of a fast day marking the translation of the Torah into Greek—almost certainly an innovation of the Byzantine era in Palestine, dating to either the 5th or 6th century[131]—clearly shows that the Septuagint was a catastrophe in the eyes of Jews in Byzantine Palestine and not just a regrettably inaccurate translation.[132] Justinian's Novella 146 of 553 CE, which sought for the first time to legislate Jewish liturgical and lectionary practice, strongly advocated for the use of the Septuagint among Jews (although it did allow Jews to continue to use Aquila's translation).[133] This law reflects the degree to which, by the mid-6th century, the Septuagint had become heavily associated with Christian usage, a factor that may have led to its decline in status among Byzantine Jews and its elevation in imperial law.

Polemics with Christians in Byzantine Palestine may have therefore led some Jews to hold the Septuagint in disdain. Eventually, such Jews recognized that, thanks to the Torah's

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[129] See Yael Fisch, "The Septuagint" (Hebrew), in *Josephus and the Rabbis*, ed. Tal Ilan and Vered Noam (Jerusalem: Yad Ben-Zvi Press, 2017), 145–167.

[130] *Masekhet Sefer Torah* 1.8-9. Note that this is almost the opposite of Hilary's claim. Cf. esp. the positive sentiment found in y. Megillah 1.11 (71c [749]) with Simon-Shoshan, "Tasks," 24-25.

[131] Shulamit Elizur, *Wherefore Have We Fasted?*, 197-199, 255-258.

[132] See Fisch, "Septuagint," 161.

[133] *Novellae*, no. 146; Linder, *JIRIL*, no. 66, on which see Willem F. Smelik, "Justinian's Novella 146 and Contemporary Judaism," in *Greek Scripture and the Rabbis*, ed. Timothy Michael Law and Alison Salvesen (Leuven: Peeters, 2012), 141–163; Hillel I. Newman, "A Patristic Perspective on Rabbinic Literature" (Hebrew), in *CRL*, 2:681–704 (703-4); the discussion of Linder, ad loc.; and Merchavia, *The Church Versus Talmudic and Midrashic Literature*, 7-11; for a recent translation, see David Miller and Peter Sarris, *The Novels of Justinian: A Complete Annotated English Translation* (2 vols.; New York: Cambridge University Press, 2018), 2:949-52. On the continued use of Greek Bible translations by Jews in the Byzantine Empire, and the apparent preference for that of Aquila, see Nicholas de Lange, "The Greek Bible in the Medieval Synagogue," in *Jews in Byzantium: Dialectics of Minority and Majority Cultures*, ed. Robert Bonfil et al. (Leiden: Brill, 2012), 371–384.

translation into Greek—enabled by its written form—it was no longer the unique Scripture of the Jews and could no longer symbolize their privileged connection with God. Certain Jews then argued that the Mishnah fulfilled that role.[134] Returning to the piyyutim we saw above, the presentation of the Mishnah as Sinaitic in origin may have in part arisen within the wider polemical context of Jewish and Christian competition for legitimacy. In presenting the Mishnah as uniquely important—even divinely revealed—the payetanim are in effect telling their audiences that the Mishnah is not only authoritative, but is also a central component of Jewish identity, one that serves to differentiate Judaism from Christianity in the Christianizing Roman empire.

5. *Elite Mishnah Study*

Until now, we have mostly seen evidence for the study of the Mishnah at what may be called a "sub-elite" level. Evidence for elite levels of study may perhaps be found in the piyyutim of Pinhas, the Rosh Yeshiva, who authored piyyutim that rely heavily and even directly on the Mishnah. But as liturgical poetry, his halakhic piyyutim are outwards facing, and he may have assumed an audience that also included people who are not rabbinic elites. Similarly, with the halakhic petihta'ot of the Tanhumic literature, we noted that while the authors of such petihta'ot were certainly elites, and while they certainly relied heavily on the Mishnah when composing these petihta'ot, the employment of the Mishnah may also have to do with the intended synagogue audience, made up also of non-rabbinic elites.

[134] This may be read also as a pushback against the writing of the Mishnah; see below.

5.1. *Post-Talmudic Halakha*

There are several halakhic texts that can give us a sense of what elite rabbinic Mishnah study would have looked like in Byzantine and Early Islamic Palestine. Most notable in this regard are the texts collectively referred to as *The Ma'asim of the People of the Land of Israel*, mentioned above. While scholars have long argued that the *ma'asim* rely directly on the Palestinian Talmud,[135] many of the reasonings provided in the individual *ma'asim* are deduced not from the Talmud but from tannaitic sources, and chiefly, the Mishnah.[136] The *ma'asim* are thus an example of how the Mishnah could be used, without even turning to Talmudic texts, to answer halakhic questions that arose in the relatively elite settings of a rabbinic court or even in the central rabbinic court and academy like the one we learn of from the piyyutim of the Qilliri and Pinhas.

Other halakhic texts considered to be "Palestinian" are also of note, although it is difficult to date them with any certainty. Mordecai Margulies published several such texts from Cairo Genizah fragments.[137] One of them, datable to the Byzantine or Early Islamic period, is careful to ground a ruling both "from what our Rabbis recited in the Mishnah and from what they explained in the Talmud."[138] As Yaakov Sussman has noted, this distinction is significant, in that it speaks to an understanding of the Mishnah and Talmud as two separate works, a hierarchy in which the Mishnah is the ultimate source of guidance and the

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[135] Newman, *The Ma'asim*, 45-7.

[136] As argued in Shlomi Tsemach, "The Palestinian Talmud in the '*Ma'asim* of the People of the Land of Israel'" (Hebrew; Unpublished Seminar Paper, The Hebrew University of Jerusalem, 2016) (I would like to thank Mr. Tsemach for sharing this paper with me; importantly, the lack of direct use of the Palestinian Talmud in no way means that the halakha as ultimately decided in any of the given *Ma'asim* is not "Palestinian"). A direct quote from the Palestinian Talmud appears in a *ma'aseh* published more recently in Emanuel, *Hidden Treasures*, 2:147-48.

[137] Margulies, *Palestinian Halakhot*.

[138] Ibid., 46-7. On the dating of this work, see ibid., 26; Newman, *The Ma'asim*, 50-1.

Talmud is but an "explanation."[139] Also relevant is a text published recently by Simcha Emanuel from the fragments of an 11th century Southern Italian manuscript.[140] This text is modelled after the she'iltot, and Emanuel thus dubs it "Quasi *She'iltot*." Yet unlike the she'iltot, this work relies heavily on the Palestinian Talmud and recasts passages of the Babylonian Talmud in Hebrew and Galilean Aramaic. Given the reliance on Babylonian sources, the text most certainly postdates the period under discussion in this chapter.[141] And yet it is nevertheless important to mention the centrality of the Mishnah in this work: the Mishnah is the only source mentioned explicitly; it serves an important role in the rhetorical arch of the individual subunits; and its version is in keeping with what we find only in certain Palestinian sources and witnesses.[142]

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[139] Sussman, "Manuscripts," 240 fn. 95. Further, as noted by Margulies in his note ad loc., the relationship between this passage and the Palestinian Talmud is unclear, as it seems to rely primarily on the Mishnah and Tosefta.

[140] Emanuel, *Hidden Treasures*, 2:15-148. Alongside the work or as part of it the scribe also copied a dozen or so *ma'asim*; see above, fnn. 25, 136.

[141] Emanuel (*Hidden Treasures*, 2:73) suggests a *terminus post quem* of "around the year 800" as the work is both modelled after and even relies on the *She'iltot*, attributed to Rav Aha, who operated in the mid 8th century. It is entirely possible, however, that the genre of *She'iltot* could have been known separate from the work we now know as the *She'iltot* of Rav Aha, and even that individual *She'iltot* now found in this work would have circulated separately. In addition, it is unclear how much weight we should give to the traditions connecting Rav Aha with this work, which first appears only several hundred years later (see Brody, *Zion*, 208). With that, a date following the rise of the Abbasids does seem likely, and Emanuel's *terminus ante quem* of "around the year 1000" seems safe. The issue of the reception of the Babylonian Talmud in Palestine cannot be dealt with here. See, for now, Margulies, *Palestinian Halakhot*, 14-5; M. A. Friedman, "Marriage Laws," 233 fn. 111; Fleischer, "A Blowing of the Shofar on Rosh Ha-Shana and Shabbat"; Shamma Friedman, *Talmudic Studies: Investigating the Sugya, Variant Readings and Aggada* (Hebrew; New York and Jerusalem: The Jewish Theological Seminary of America, 2010), 329; Bregman, *The Tanhuma-Yelammedenu Literature*, 280 fn. 138; Newman, *Ma'asim*, 45-47; Eliezer Treitl, *Pirke De-Rabbi Eliezer: Text, Redaction and Sample Synopsis* (Hebrew; Jerusalem: Yad Izhak Ben-Zvi Press and The Hebrew University Department of Talmud and Halakha, 2012), 19-20, 202-5; Gilah Vachman in the introduction to her edition of *Midrash Hadash*, pp. 34-5, 49; Ayelet Lazarovsky, "Shir HaShirim Zuta: Text, Content and History" (Hebrew; PhD diss., The Hebrew University of Jerusalem, 2016), 249-50; Emanuel, *Hidden Treasures*, 2:74-5; Reuven Kiperwasser in the introduction to his edition of *Kohelet Rabbah* and *Kohelet Zutah*, pp. 136-144 (though cf. Marc Hirshman in his edition of *Kohelet Rabbah* and *Kohelet Zutah*, pp. 36-48); see also below, pp. 185 fn. 112, 187 fn. 118, 242 fn. 107. I hope to return to this issue in a future study.

[142] Emanuel, *Hidden Treasures*, 2:32-4.

While the evidence is not as robust as we may have liked, we can still conclude that the Mishnah played an important role in elite rabbinic settings in Byzantine and Early Islamic Palestine. In the following chapter, we will analyze further evidence that may speak to the Mishnah's importance in the Palestinian rabbinic center.

5.2. *What was Studied?*

In Chapter Two, we saw that even if the Palestinian Talmud has only survived for the first four orders of the Mishnah, it is still the case that the rabbis of the 3rd-4th centuries studied the Mishnah in its entirety.[143] What of rabbis (and other Jews) in Palestine in later centuries? Did they also regularly study the whole Mishnah, or only parts of it? Orthographic evidence from the earliest Italian manuscripts of the Mishnah may be instructive in this regard. Scholars have shown that these manuscripts do not have a unified orthography, in that several words are spelled differently in the manuscript in different orders of the Mishnah.[144]

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[143] See above, pg. 66.

[144] See Michael Ryzhik, "Differences in the Orthographic Practices between Different Sections of the Kaufman Manuscript of the Mishnah" (Hebrew), *Language Studies* 17–18 (2017): 517–35; and Michael Ryzhik, "Mishnah Kaufman: Further Evidence for the Existence of Different Manuscript Traditions," *Revue Des Études Juives* 177, no. 3–4 (2018): 269–79, picking up on the suggestion Moshe Bar-Asher, *Studies in Mishnaic Hebrew*, 3 vols., Asupot 4–5, 16 (Hebrew; Jerusalem: Mosad Bialik, 2009-2018), 1:213-221, 227-229, 249, 296; idem, Moshe Bar-Asher, *A Morphology of Mishnaic Hebrew*, 4 vols. (Hebrew; Jerusalem: The Bialik Institute and The Academy of the Hebrew Language, 2015-2022), 1:231 fn. 50 (see Ryzhik, "Further Evidence," 271 with fnn. 10 and 12). To be sure, Ryzhik's exact conclusions, based on a different data set, were in fact preceded also by scholars of Talmudic philology, see especially Harry Fox, "A Critical Edition of Mishnah Tractate Succah with an Introduction and Notes" (Ph.D. dissertation, The Hebrew University of Jerusalem, 1979), צז with fn. 4, and 235 with fn. 2. Fox based his study of the phenomena on the statistical study of the phrase "Beit Shammai… Beit Hillel…" which is common in Zeraim, Qodshim, and Taharot, and the phrase "Beit Shammai… **and** Beit Hillel…" found in the other orders, in Kaufmann A50. For the originality of this phrase without the *vav*, see Epstein, *Introduction*, 2:1065-67. The fact that these two scholars reached the same conclusion independently strengthens the possibility that the orthographic habits of Kaufmann A50 indeed speak to early study habits, and perhaps also codicological practices, as will be discussed presently. In addition, it bears mentioning that that the difference in orthography across orders of the Mishnah has been noted in modern scholarship at least since Zacharias Frankel, *Introductio in Mischnam* (Hebrew; Leipzig: Henrici Hunger, 1859), 219-23; see also Epstein, *Introduction*, 2:1266; and Sussman, "Manuscripts," 234 with fn. 83. Medieval sages were also aware of this general phenomenon: e.g., Jacob ben Meir ("Rabbenu Tam," France, 1100—1171) refers to the *mishnayot* of Zeraim and Taharot as being written in a slightly different idiom than those of the other orders, namely, one

Thus, certain spellings are more common in the group of orders Moed, Nashim, and Neziqin, whereas alternate spellings are more common in Zeraim, Qodshim, and Taharot.[145] According to Michael Ryzhik, the orders Zeraim, Qodshim, and Taharot (especially Taharot) maintain "older" forms than the other group does; as Moed, Nashim, and Neziqin were studied more often, transmitters were more prone to altering their text by exchanging archaic forms with their current counterparts.[146]

Ryzhik is careful not to say anything overt to the effect of when this may have occurred, given how little we know of the transmission of the Mishnah between its initial publication and the creation of the manuscripts.[147] But perhaps the nature of the later forms can help in this regard: Ryzhik has shown that the "later" forms found in these manuscripts are closer to the Hebrew of Palestinian Amoraic texts.[148] As they are not "Biblicizing" nor "Babyloniazing" forms, but rather, forms that are common in the Hebrew of Palestinian

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that is "denser" or "abbreviated"; see the discussion in Avraham (Rami) Reiner, *Rabbenu Tam: Interpretation, Halakhah, Controversy*, Studies in Talmud and Halakhah (Hebrew; Ramat-Gan: Bar-Ilan University Press, 2021), 118-19. Reiner found this statement of Rabbenu Tam to be "extremely odd"; the findings of Ryzhik and the other scholars cited here, however, show that the phenomenon is well attested. For additional comments of medieval to this effect, see Epstein, *Introduction*, 2:782-83; Sussman, "Manuscripts," 227, 234; Yisrael Hazani, "'U-Talmud torah kineged kulam': leqet meqorot mi ha-sifrut ha-talmudit" (Hebrew), *Mishlav* 30 (1997): 51-87 (59 fn. 35).

[145] And while this is particularly the case in Kaufmann A50, it is also noticeable, albeit to a lesser extent, in Parma 3173. Ryzhik, "Further Evidence." As suggested by Ryzhik (ibid., 278), the fact that Kaufmann A50 better preserves these differences, and that the spelling is not homogenized, may be understood as a further sign that the manuscript's version is "earlier" than that of the more homogenizing manuscripts—i.e., the "parent" of Parma 3173 likely had less orthographic uniformity.

[146] Ryzhik, "Orthographic Practices," 533-34; "Further Evidence," 272, with the caveat that Zeraim, located at the start of manuscripts, underwent more "normalization" in later periods, see Ryzhik, "Orthographic Practices," 532, based on the use of the form "שאני" in Zeraim instead of the more common assimilated form "שני" found in most of the manuscript. For the same conclusion, see Emmanuel Mastéy, "The Hebrew of Talmud Yerushalmi According to the Manuscripts of the Cairo Genizah" (Hebrew; Ph.D. dissertation, Ben-Gurion University of the Negev, 2018), 86 fn. 121.

[147] Ryzhik, "Orthographic Practices," 534; "Further Evidence," 279.

[148] Ryzhik, "Orthographic Practices," 533-34; "Further Evidence," 272. Both Ryzhik and Fox have further concluded from this that the orders were originally copied in different manuscripts, seemingly as lack of uniformity is hard to imagine within one manuscript (though of course, this does happen in Kaufmann A50 and Parma 3173), and thus that the very phenomenon of complete manuscripts of the entire Mishnah is a "late" one; Ryzhik, "Orthographic Practices," 533; "Further Evidence," 279. Indeed, as we will see in later chapters of the dissertation, there is not much evidence for the existence of manuscripts of the entire Mishnah.

Amoraic literature,[149] it is thus likely that the adoption of these forms took place when and where these forms were used—that is, in Late Antique Palestine.[150] And given that we see that the rabbis of the 3rd-4th centuries studied the entirety of the Mishnah, we can thus conclude that the introduction of these forms, and the study practices that this introduction reflects, occurred in the post-Talmudic period, prior to the rise in "Biblicizing" or "Babylonianizing" modes of orthographic normalization. In other words, in Byzantine and Early Islamic Palestine, Mishnah study focused only, or primarily, on the orders Moed, Nashim, and Neziqin.[151]

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[149] Ryzhik, "Orthographic Practices," 526, particularly as compared with the orthography of the Hebrew as written by the first and third scribes of Vatican 30 of Genesis Rabbah. On their Hebrew, see Michael Sokoloff, "The Hebrew of 'Bĕrĕšit Rabba' According to Ms. Vat. Ebr. 30," *Lěšonénu: A Journal for the Study of the Hebrew Language and Cognate Subjects* 33, no. 1 (1968): 25–42. This information can now be compared also to the data collected and analyzed in Mastéy, "The Hebrew of Talmud Yerushalmi": e.g., Ryzhik ("Orthographic Practices," 523, 526-27; "Further Evidence," 273-74, 276-77) notes that the form "כילו," prevalent in Kaufmann A50 and to an extent in Parma 3173 in the orders Moed, Nashim, and Neziqin over the form "כאילו," that is prevalent in the less-studied orders, is also used in Vatican 30[1] and Vatican 30[3], whereas "כאילו" is the form used in Vatican 30[2]. According to Mastéy (86-7), "כילו" is the form most common in Genizah fragments of the Palestinian Talmud and appears roughly as frequently as "כאילו" in MS Leiden (fn. 122; note however that Mastéy's findings with regards to "כילו" in Vatican 30 ["הצורה ללא אל"ף היא לבדה מצויה בבראשית רבה וט30"] contradict those presented by Ryzhik and are incorrect). Similarly, on the form "לעזר" vs. "אלעזר" (Ryzhik, 521-23), see Mastéy, 84-6, with a discussion of prior scholarship; on "שני" vs. "שאני" see above fn. 146.

[150] Besides comparisons with the Hebrew of Palestinian amoraic texts (see the prior note), the Hebrew can also be compared with that of Tanhumic texts; see especially Yehonatan Wormser, "On Some Features of the Language of 'Tanḥuma-Yelammedenu'" (Hebrew), *Lěšonénu: A Journal for the Study of the Hebrew Language and Cognate Subjects* 75, no. 2–3 (2013): 191–219; idem, "The Distinction Between Branches of Rabbinic Hebrew in Light of the Hebrew of the Late Midrash," in *Studies in Rabbinic Hebrew*, ed. Shai Heijmans, Cambridge Semitic Languages and Cultures 2 (Cambridge: University of Cambridge & Open Book Publishers, 2020), 155–67; Moshe Lavee and Yehonatan Wormser, "The Palestinian Language Type of Early Tanhuma Recension from the Cairo Genizah" (Hebrew), *Oqimta* 9 (2023): 101–31; and Tova Sacher, "'A String of Jewels': Content and Composition in an Unknown Recension of the Tanhuma from the Cairo Genizah," 2 vols., (PhD dissertation, Haifa University, 2020). 1.75-83. Several of the forms discussed by Wormser, Lavee, and Sacher as characteristic of the earlier manuscripts of the Tanhuma (i.e., Cairo Genizah fragments that retain the Palestinian nature of the Hebrew in this period) are found also in Kaufman A50 in Moed, Nashim, and Neziqin as documented by Ryzhik. On the possibility that Hebrew was spoken in Palestine even following the tannaitic period, see Ivri J. Bunis, "Palestinian Amoraic Hebrew As A Living Vernacular: An Indication From Morphosyntax," *Journal of Semitic Studies* 65, no. 2 (2020): 391–418, and, inter alia, Mastey, "The Hebrew of Talmud Yerushalmi," 71, 119, 340.

[151] The alternative is that they were adapted later, under the remaining influence of these forms. That seems less likely, though, as we quite quickly begin to see that the intense study of certain parts of the Mishnah leads to the adoption of Biblical and Babylonian forms. It seems likely, in my opinion, that this process of "normalizing" occurred in oral transmission, even prior to the transmission of the Mishnah (also) in writing, but I do not believe that we can pinpoint the medium with any certainty at this time.

6. *The Writing of the Mishnah and Its Westward Spread*

We saw in the prior chapter evidence for the writing of the Mishnah on magic bowls, and further, we entertained the possibility that certain aspects of the questions posed in later layers of the Babylonian Talmud may imply the existence of written versions of the Mishnah.[152] In what follows, we will look more closely at the evidence for the writing of the Mishnah in this period and at the related issue of the spread of the Mishnah to Jewish communities in the Western diaspora. As these are both extremely difficult processes to track, I will only be able to address them in a suggestive manner. We must remember, also, that the existence of written copies of the Mishnah in no way precludes its oral transmission, either via its memorization or vis-à-vis the existence of orally transmitted modes of interpretation and pronunciation meant to accompany written versions.[153]

6.1. *Evidence for the Writing of the Mishnah (or other Rabbinic Works) in the 6th-8th Centuries*

In the tanhumic story relayed above, there is clearly an awareness that the Mishnah's exclusively oral transmission needs explanation. This within itself may already imply that attempts were being made at the time of the creation of the story to transmit the Mishnah in

[152] See above, pg. 92.

[153] For the dismantling of the "Great Divide" between orality and literacy in other contexts, see, e.g., Ruth Finnegan, *Oral Poetry: Its Nature, Significance and Social Context* (Cambridge: Cambridge University Press, 1977). Early Modernists have similarly the continued vitality of handwritten technologies following the rise of print, e.g., Roger Chartier, "The Order of Books Revisited," *Modern Intellectual History* 4, no. 3 (2007): 509–19 ("Over the last decade sufficient evidence has emerged to argue that "this"—the printing press—did not kill "that"—the manuscript"; 511).

writing.[154] Interestingly, a later version of this story adds that the Mishnah was first written down following the Arab conquest.[155] This later version may simply stem from a recognition that the Mishnah is now written and that the apologetic and polemical reason given for exclusively oral transmission was no longer relevant following the rise of Islam.

And yet, perhaps there is something to the memory of this general timeframe time—namely, the 7th century—as being the period in which the transmission of the Mishnah became more common. By the 7th century, Christian authors refer to written copies of *deuterosis* (see below), and by the 7th or 8th century, Islamic authors writing in Arabic discuss the existence of written copies of works of Oral Torah, which they refer to as *Matnah*.[156] Writing around the turn of the 9th century, the Babylonian polemicist Pirqoi b. Baboi claims that some rabbinic Jews in Israel rely on physical copies of the Mishnah that they found "hidden" (in caves?).[157] While none of these points of data are certain on their own, the

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[154] I thus disagree with Sussman (*Oral Law*, 322 fn. 8) that "there is no remnant of a polemic or equivocating with regards to this topic" (the writing of the Oral Torah). For further reactions to the transmission of the Mishnah in writing, see Chapter Eight. For early evidence of rabbinic manuscripts, see David Rosenthal, "Mishna Aboda Zara - A Critical Edition with Introduction" (Hebrew; Ph.D. dissertation, The Hebrew University of Jerusalem, 1980), 96-106; the earliest known colophon on a manuscript of the Mishnah is found in T-S AS 78.90 (#4545), dated to 1064; see ibid., "The History of the Mishnaic Text" (Hebrew), in *CRL*, 1:65–107 (66 fn. 5).

[155] This version appears in the introduction to Moses of Coucy's *Sefer Mitzvot Gadol*, where the 13th century French rabbis says that it is thus found in the earlier midrashic work *Pirqei de-Rabbi Eliezer*, yet no such passage is found in the direct textual witnesses of *Pirqei de-Rabbi Eliezer*; see Nahman Danzig, "Mi-talmud al peh le-talmud be-khtav" (Hebrew), *Bar-Ilan Annual Volume* 30–31 (2006): 49-112 (62).

[156] See Michael Cook, "The Opponents of the Writing of Tradition in Early Islam," *Arabica* 44 (1997), 437-530 (502-2) (while this article is cited in Sussman, *Oral Law*, 322 fn. 8, Sussman does not mention the evidence brought by Cook for the Mishnah's transmission in writing).

[157] T-S NS 275.27 1r, published in Shalom Spiegel, "Le-Farashat ha-pulmus shel Pirqoi ben Bavoi," in *Harry Austryn Wolfson Jubilee Volume on the Occasion of His Seventy-Fifth Birthday*, ed. Saul Lieberman, 3 vols. (Jerusalem: American Academy for Jewish Research, 1965), 243–73 (245); preserved also, in a more fragmentary form in Lewis-Gibson, Talmudica I.20 1r, published in B. M. Lewin, "Geniza Fragments," *Tarbiz* 2, no. 4 (1931): 383–515. On the importance of this piece of evidence for the history of the transmission of the Mishnah in writing, see Sussman, "Manuscripts," 241 fn. 95, and idem, *Oral Law*, 325-27. While not the Mishnah, and not even exactly a rabbinic text, material evidence (mosaic and an earlier fresco) from the synagogue of Rehov in Galilee famously records a rabbinic text, likely as early as the 5th century. See Yaakov Sussman, "A Halakhic Inscription from the Beth-Shean Valley" (Hebrew), *Tarbiz* 43, no. 1 (1973): 88–158; idem, *Oral Law*, 327 fn. 25; and for an English translation of the mosaic, see Lee I. Levine, ed., *Ancient Synagogues Revealed* (Jerusalem: The Israel Exploration Society, 1981), 152-53. For a fifth century date of the fresco version of the

confluence of them all does seem to point in the direction of the availability of written copies of rabbinic texts, possibly even of the Mishnah, in the seventh century.

6.2. *The Mishnah in the Western Diaspora*

As mentioned, the question of the availability in writing is immediately related to the question of availability in various regions. This is because some of the earliest evidence for written copies of rabbinic texts come from outside the Land of Israel and as the issue of medium directly relates to the transregional movement of knowledge.[158] Before looking at this evidence, however, it is important to state that it is entirely feasible that the Mishnah would have been available to Jews in the Western Diaspora even prior to the rise of Islam. Indeed, classical rabbinic literature depicts rabbis and rabbinic-adjacent Jews as visiting or even living in areas west of the Land of Israel.[159] Furthermore, outside of the rabbinic corpus, there is ample late antique evidence for the presence of Jews in the Western Diaspora with connections to something like the Palestinian rabbinic community; this evidence includes

halakhic text in the synagogue, see Haggai Misgav, "The List of Fast Days from the Synagogue of Rehov," *Israel Museum Studies in Archaeology* 7 (2015): 14–23.

[158] E.g., Shlomo Naeh ("The Structure and Division of 'Torat Kohanim' (A): Scrolls" [Hebrew], *Tarbiz* 66, no. 4 (1997): 483–515 [511]) has argued that the inscription of the Sifra may have occurred or been furthered due to the difficulty in cross-regional transmission of orally preserved works.

[159] See a discussion of many of these sources in Catherine Hezser, *Jewish Travel in Antiquity*, Texts and Studies in Ancient Judaism 144 (Mohr Siebeck, 2011), and Jared Louis Kurtzer, "'What Shall the Alexandrians Do?' Rabbinic Judaism and the Mediterranean Diaspora" (PhD diss., Harvard University, 2009).

epigraphy,[160] documents (contracts and letters),[161] liturgical manuscripts,[162] and Christian literary texts.[163] While most of this evidence is quite difficult to date with any certainty, it

[160] An oft-studied Latin and Hebrew tombstone in Venosa of one Faustina, the daughter Faustus, says that upon her death at the young age of fourteen years and five months "two apostles and two rabbis (*duo apostuli et duo rebbites*) spoke the dirges for her"; see edition, translation, and discussion in David Noy, *Jewish Inscriptions of Western Europe*, vol. 1: Italy (excluding the City of Rome), Spain and Gaul (Cambridge: Cambridge University Press, 1993), 114-19 (no. 86), and further discussion, with references to prior literature, in Shepard Kraemer, *The Mediterranean Diaspora*, 388-89. The epithet "rabbi" appears in two other early Italian epitaphs: a Greek tombstone found in Brusciano of "rabbi Abba Maris, the honored one" (Noy, *Italy, Spain and Gaul*, 39-40 [no. 22]; note also the appearance of the Semitic "Abba" and "Mari" [on which see Ilan, Tal, *Lexicon of Jewish Names in Late Antiquity Part III: The Western Diaspora 330 BCE - 650 CE*, Texts and Studies in Ancient Judaism 126 [Tübingen: Mohr Siebeck, 2008], 663 and 676), and a Latin one from Naples of "Venus, daughter of Rabbi Abundantius" (Noy, *Italy, Spain and Gaul*, 55-6 [no. 36]). The Greek tombstone is estimated to be of the fourth to fifth centuries and the Latin one of the fifth to sixth. See the discussion in Giancarlo Lacerenza, "Rabbis in Southern Italian Jewish Inscriptions from Late Antiquity to the Early Middle Ages," in *Diversity and Rabbinization*, 291–321.

[161] On papyri epistles, see Colette Sirat, *Les papyrus en caractères hébraïques trouvés en égypte* (Éditions du CNRS, 1985), 55-68. Of particular note for our purposes is Oxford, Bodleian Library, Ms. Heb. C 57 (P.) (see also Sirat, 120), for which see the edition of Mordechay Mishor, "Papyrus Fragments of Hebrew Letters" (Hebrew), *Lěšonénu: A Journal for the Study of the Hebrew Language and Cognate Subjects* 55, no. 3 (1991): 281–88. See also Amit Gvaryahu, "A Hebrew Letter on Papyrus and Its Contexts: Oxford MS Heb.d.69(P)," *Journal of the Economic and Social History of the Orient* 65 (2022): 675–706. The "Antinoopolis *ketuba*" may also "suggest that some Jews in upper Egypt in the early fifth century were acquainted with Palestinian practices, some of which were in accord with those of Palestinian rabbis" (Shepard Kraemer, *The Mediterranean Diaspora*, 396).

[162] Hebrew and Aramaic liturgical poems have been found in papyrus fragments from Egypt: London, British Library, Or. 9180A (Sirat, *Les papyrus*, 115); Berlin, Staatlich Museen, P8498 (Sirat, 111); Oxford, Bodleian Library, Ms. Heb. C 57 (P.) (Sirat, 120). See Swartz, "Yoma from Babylonia to Egypt," 347-52. Another Yom Kippur piyyut, likely copied in Italy in the 7th century, is found as the bottom text of a palimpsest copy of Orosius' *Adversus paganos libri*, a manuscript later reused once again in a book binding (Munich, The Bavarian State Library, clm 6315 and clm 29416), known simply as ("the Munich Palimpsest"); see Malachi Beit-Arié, "The Munich Palimpsest: A Hebrew Scroll Written Before the Eighth Century," *Kiryat Sefer* 43, no. 3 (1968): 411–28; and for a more recent edition, Elizur, *Qedushta*, 117-20. On the dating of the Munich Palimpsest, see Judith Olszowy-Schlanger, "The Anatomy of Non-Biblical Scrolls from the Cairo Geniza," in *Jewish Manuscript Cultures: New Perspectives*, ed. Irina Wandrey, Studies in Manuscripts Cultures 13 (Berlin and Boston: Walter de Gruyter GmbH, 2017), 49–88 (53, 55, 61).

[163] For example, the *Actus Silvestri* includes a hagiographic telling of Pope Silvester's religious discussion with a Jewish group that included rabbis in front of Constantine and Helena. As pointed out by Vera von Falkenhausen ("The Jews in Byzantine Southern Italy," in *Jews in Byzantium: Dialectics of Minority and Majority Cultures*, ed. Robert Bonfil et al., Jerusalem Studies in Religion and Culture 14 [Leiden: Brill, 2012], 271–96 [272]), "[e]ven though the text of this *altercatio* is directed to Christian readers and the various topics of discussion are ultimately inspired by arguments raised within the various Christian communities… it is significant that the Roman author decided to present it in the form of a dispute with a large gathering of learned rabbis." The 7th century *Doctrina Jacobi Nuper Baptizati* assumes that Palestinian Jews (possibly ones with a connection to rabbinic Judaism, as scholars have argued) maintained cross-regional ties with co-religionists throughout the Mediterranean world; see Pieter van der Horst, "A Short Note on the Doctrina Jacobi Nuper Baptizati," *Zutot* 6, no. 1 (2009): 1–6 (=idem, *Studies in Ancient Judaism and Early Christianity*, Ancient Judaism and Early Christianity 87 [Leiden: Brill, 2014], 203-208); Cameron, "The Jews in Seventh-Century Palestine"; Yaron Dan, "Two Jewish Merchants in the Seventh Century" (Hebrew), *Zion* 36, no. 1–2 (1971): 1–26, repr. idem, *Studies in the History of Palestine*, 88-118.

nevertheless does teach us of a connection between rabbinic centers, even specifically Palestinian ones, with Jewish communities in the western diaspora prior to the rise of Islam, and perhaps even as early as the 6th or 5th centuries.[164]

Also important in this regard are references to *deuterosis* in the works of Christian authors living outside the Land of Israel. Augustine, writing already in the beginning of the 5th century, was aware of the *deuterosis*,[165] though his discussion may rely on information received from earlier Christian authors. Most famously, Justinian's Novella 146 of 553 CE, mentioned above, not only advocates for the use of Greek versions of the Bible, but also forbids "[w]hat they call *deuterosis*… for it is not included among the Holy Books, nor was it handed down from above by the prophets, but it is an invention of men in their chatter, exclusively of earthly origin and having in it nothing of the divine."[166] Yet to be sure, Justinian may also be relying here on the testimonies of earlier Christian authors. Moving on to the seventh century and farther west to Visigothic Spain, more certain evidence comes from a

[164] In addition to the evidence cited in the prior notes, Elizur (*The Qedushta*, 697-729) has been able to show that a sizeable amount of the Qilliri's *oeuvre* reached Europe prior to the rise of Islam. This can be deduced in the following manner: the Qillirian corpus can be relatively dated internally on stylometric grounds; in most of the piyyutim, Christian rule is assumed, yet in the stylistically later piyyutim, Arab rule is assumed (there is, as of now, no known reference in the corpus to Persian rule); lastly, *stylistically later Qillirian piyyutim, in which Arab rule is assumed, are found in fragments from the Cairo Genizah, but not in European manuscripts*. This may imply that there was a break in the flow of texts—and of course, people—between Palestine and Europe due to the Arab conquest, and further, more important for our purposes, that there was indeed a transregional flow of people and texts between these centers prior to the rise of Islam. Additional evidence to this effect comes from the *List of Fasts*, mentioned above (see fn. 131): the Qilliri also relays a version of this list in his poems, and it is very similar to the list known from Italian sources; indeed, the Italian list does not list the dates added in Palestine after Elazar's death, such as the fast day marking the earthquake that hit Palestine in 749 (Elizur, *Wherefore Have we Fasted?*, 219-20; for the earthquake of 749, see above, fnn. 3 and 98), again implying that a version of the list was transmitted from Palestine to Europe before the Arab conquest. For Christian literary evidence that speaks to a break in trans-Mediterranean connections at this time, see Milka Levy-Rubin, "Changes in the Settlement Pattern of Palestine Following the Arab Conquest," in *Shaping the Middle East: Jews, Christians, and Muslims in an Age of Transition, 400-800 C.E.*, ed. Kenneth G. Holum and Hayim Lapin (Bethesda: University Press of Maryland, 2011), 155–72, and for archeological evidence, see Gideon Avni, *The Byzantine-Islamic Transition in Palestine: An Archaeological Approach* (Oxford Studies in Byzantium, 2014), 245-6, 290-4.

[165] See Newman, "A Patristic Perspective," 697.

[166] Linder, *JIRIL*, 409.

placitum that king Chintila forced Jews to sign in 637, compelling them to turn over for inspection "all the Scriptures that are customarily held by our nation in the synagogues for the sake of the doctrine, those which are authoritative as well as those they call *Deuteras*; and those they name Apocrypha."[167] This document seems to use the terms *deuterosis* (in a somewhat corrupted form) to refer to actual rabbinic books, and it is particularly important as it is the first unambiguous piece of Christian evidence for the existence of written copies of rabbinic works.[168]

We have already had reason to discuss the ambiguity of the term *deuterosis*,[169] and, here too, there is no reason to conclude that these texts refer specifically to the book of the Mishnah. But again, the confluence of evidence that hints at rabbinic presence in the Western Mediterranean—encompassing epigraphy, liturgy, literary works, and legal texts—makes it entirely possible and even extremely likely that the Mishnah was available to some Jews in the Western diaspora prior to the rise of Islam,[170] especially as several of the liturgical texts

[167] Amnon Linder, ed., *The Jews the Legal Sources of the Early Middle Ages* (Detroit and Jerusalem: Wayne State University Press and The Israel Academy of Sciences and Humanities, 1997), 499. On this text see Merchavia, *The Church Versus Talmudic and Midrashic Literature*, 21; Eliyahu Ashtor, *The Jews of Moslem Spain*, trans. Aaron Klein and Jenny Machlowitz Klein, vol. 1 (Philadelphia: The Jewish Publication Society of America, 1973), 119; Raúl González Salinero, "The Legal Eradication of the Jewish Literary Legacy in Visigothic Spain," in *Jews in Early Christian Law: Byzantium and the Latin West, 6th-11th Centuries*, ed. John Tolan et al., Religion and Law in Medieval Christian and Muslim Societies 2 (Turnhout: Brepols, 2013), 195–209; Newman, "A Patristic Perspective," 699; and for more general discussions of rabbinic Judaism in Visigothic Spain, see Wolfram Drews, *The Unknown Neighbour: The Jew in the Thought of Isidore of Seville*, The Medieval Mediterranean 59 (Boston: Brill, 2006), 119-24.

[168] Newman ("A Patristic Perspective," 698-99) has argued that an earlier text by Olympiodorus, written in early 6th-century Alexandria, already attests to written copies of *deuterosis*. And yet, as Olympiodorus' remark concerning books of *deuterosis* comes as a comment on Ecclesiastes 12:12, a verse that relates to an explicitly bookish context ("of making books there is no end"), I do not believe that it is a reliable witness for the existence of written rabbinic books in 6th century Alexandria. On this source, see also Merchavia, *The Church Versus Talmudic and Midrashic Literature*, 13.

[169] See above, pp. 30, 58.

[170] Cf. Newman, *The Ma'asim*, 117, who attributes the movement of Palestinian traditions to Italy to "the Early Islamic period," via comparison with the evidence for the vitality of Christian hubs of learning in Palestine at that time. See Cyril Mango, "Greek Culture in Palestine after the Arab Conquest," in *Scrittue, Libri e Testi nelle Aree Provinciali di Bizanzio*, ed. Guglielmo Cavallo, Giuseppe De Gregorio, and Marilena Maniaci, 2 vols. (Spoleto: Centro italiano di studi sull'alto Medioevo, 1991), 1.149–60. There is no doubt that connections

assume familiarity with rabbinic texts or are even based on the Mishnah itself.[171] Furthermore, returning for a moment to the issue of rabbinic identity, even if the use of the term *deuterosis* by Christian authors does not precisely refer to *the* Mishnah, the polemic itself still could have informed—and encouraged—Jewish perceptions of the Mishnah's importance as an identity marker separating them from Christians.

Additional aspects of the Mishnah's dissemination in the Western Diaspora can be learned from the linguistic analysis of the Mishnaic Hebrew. In the prior chapter, we saw that the Hebrew of manuscripts of the Mishnah can be divided into two main branches, referred to by scholars as "Palestinian" and "Babylonian."[172] According to Moshe Bar-Asher, a further distinction can be made within the Palestinian branch, into "eastern" and "western" subtypes.[173] Kaufmann A50, Parma 3173, and several fragments from the Cairo Genizah are the chief exemplars of the "western" subtype of the Palestinian branch of Mishnaic Hebrew, whereas the "eastern" subtype is represented in other fragments from the Cairo Genizah, in a North African manuscript of the order of *Taharot* (now Parma, Biblioteca Palatina, MS 2596 [De Rossi 497; Richler 711]),[174] and in various reading traditions of the Mishnah preserved

between Palestine and Italy returned not long after the Arab conquest, as attested by both literary and archeological evidence. And yet, the evidence for a *disruption* in these connections does seem to teach us that there were connections that preceded the conquest.

[171] See to this effect, with regards to the evidence from Egypt, Swartz, "Yoma from Babylonia to Egypt," 350-52.

[172] See above, pg. 86.

[173] See especially Moshe Bar-Asher, "The Different Traditions of Mishnaic Hebrew," in *Studies in Classical Hebrew*, ed. Aaron Koller, Studia Judaica 71 (Berlin and Boston: De Gruyter, 2014), 293–327, originally published in Hebrew in *Tarbiz* 53, no. 2 (1984): 187–220. In the words of Ilan Eldar ("Israeli Scholar's Studies on Classical Hebrew," *Revue de Qumrân* 26, no. 3 [103] [2014]: 467–81 [478]), "Bar-Asher's typology "serves nowadays as a firm foundation for all academic study and research in the area of Mishnaic Hebrew." On its reception, see also Shai Heijmans, "Vocalization of Rabbinic Texts," in *Encyclopedia of Hebrew Language and Linguistics*, ed. Geoffrey Khan, 2013. As far as I can tell, Bar-Asher's reconstruction has yet to be assessed by historians of rabbinic Judaism; at best, such data have been used as evidence for the continued currency of spoken Hebrew during the time of the rabbis; see Steven E. Fassberg, "Which Semitic Language Did Jesus and Other Contemporary Jews Speak?," *The Catholic Biblical Quarterly* 74, no. 2 (2012): 263–80 (274-75).

[174] This manuscript is often referred to by scholars as the "Parma B" Mishnah manuscript.

by Middle Eastern Jewish communities.[175] Bar-Asher has reconstructed the following historical setting for this division:

> On the whole, the Eastern and Western traditions are two faces of mishnaic Hebrew in Palestine. They are two different reading traditions of one text, both of which became crystallized in Palestine, even if, here and there, slight changes occurred in them in the process of their transmission in the Diaspora. It may also be said that these are two dialects within Palestine itself, although it is not clear exactly where either of them originated. In the course of the dispersion of the Jews, one tradition spread westwards, perhaps through a particular academy, while the other tradition moved eastwards, perhaps through a different academy.[176]

However, as of yet, we know of no historical context in which to immediately situate Bar-Asher's reconstruction—that is, we do not know of two academies that may have existed in Palestine alongside one another at any point in the early Middle Ages, let alone ones that would have born slight dialectical differences.[177] Furthermore, there is increasing reason to

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[175] Bar-Asher, "The Different Traditions of Mishnaic Hebrew," 296-98 §8-9. On orally preserved reading traditions, see Shelomo Morag, "The Study of Mishnaic Hebrew - The Oral Evidence: Nature and Appraisal," ed. Moshe Bar-Asher and Steven E. Fassberg, *Scripta Hierosolymitana* 38: Studies in Mishnaic Hebrew (1998): 43–57. Naeh ("The Tannaic Hebrew in the Sifra According to Codex Vatican 66" [Hebrew; Ph.D. dissertation, The Hebrew University of Jerusalem, 1989], 402) adds the tradition of the vocalizer of Vatican 66 of the Sifra. On the language of the Mishnah in fragments from the Cairo Genizah, see Gabriel Birnbaum, *The Language of the Mishna in the Cairo Geniza: Phonology and Morphology*, Sources and Studies - New Series 10 (Hebrew; Jerusalem: The Academy of the Hebrew Language, 2008).

[176] Bar-Asher, "The Different Traditions of Mishnaic Hebrew," 316-17 §46.

[177] One possibility is that these settings are the different Palestinian "Schools" of Masorites, which did disagree over matters of Hebrew pronunciation. Is it possible that these groups differed also over the pronunciation of the Mishnah, and were responsible for the Mishnah's dissemination outside of the Land of Israel? For what it is worth, various Karaite authors describe the spread of Palestinian pronunciation abroad via teachers from the Holy Land. See, for example, the following passage from *Hidāyat al-Qāri'* ('Guide for the Reader') of ʾAbū al-Faraj Hārūn (Jerusalem, first half of the eleventh century): "It is the general consensus of those just mentioned that the way of reading of the Land of Israel is the original one and this is what is called the Tiberian reading. This is demonstrated by the fact that the people in the communities of the exile would press any teacher who travelled (from Tiberias) to these distant lands to teach their children the reading of the Land of Israel and eagerly imbibed that from him, making him sit down so that they could assiduously learn it from him. Whoever came from the exile to the Land of Israel had a desire for the teaching of the reading of the Land of Israel that was equally ardent as that of those absent and (a desire) for abstaining from his own (tradition of reading)," translated in Geoffrey Khan, *The Tiberian Pronunciation Tradition of Biblical Hebrew*, 2 vols., Cambridge Semitic Languages and Cultures 1 (Cambridge: University of Cambridge & Open Book Publishers, 2020), 2.31-2. For other examples, see Ilan Eldar, *The Art of Correct Reading of the Bible*, Sources and Studies II - A New Series (Hebrew; Jerusalem: The Academy of the Hebrew Language, 1994), 37-8. With that, any possible relationship between the Masoretic schools and the pronunciation of the subtypes of the Palestinian branch of Mishnaic Hebrew is still only conjecture.

call the east/west divide within the Palestinian branch into question.[178] But what is nevertheless striking is the remarkable uniformity in the orthographic text as it is found in witnesses of the Palestinian branch, cross regionally and across its two (or more) subtypes of vocalization.[179] Given this uniformity, it seems that the division into subtypes occurred only after the Mishnah began to be transmitted in writing, and by extension, that the Mishnah's initial spread from Palestine to communities in the Western Diaspora also

[178] Based on a study of a corpus of Genizah fragments of the Mishnah, Birnbaum (*The Language of the Mishna*, 335-37) has concluded that there is a need for a reevaluation of the eastern/western division, as certain representatives of the eastern subtype, Antonin B 262 and the Babylonian vocalization tradition, do not have the geminated *resh*, and as the vocalization of the relative particle *še-* with *shewa*—a supposed "eastern" characteristic, that is in fact absent from Antonin B 262 (336)—can be found in several Genizah fragments that contain many "western" elements, and at times is found even in Parma 3173 (322-24). To be sure, this aspect of the vocalization in Parma 3173 was noted already by Bar-Asher, *Studies in Mishnaic Hebrew*, 3 vols., Asupot 4–5, 16 (Hebrew, Jerusalem: Mosad Bialik, 2009-2018), 1.89 fn. 78. Michael Ryzhik ("The Livorno Printed Edition of the Mishna and Italian Jewish Language Traditions" [Hebrew], *Lěšonénu: A Journal for the Study of the Hebrew Language and Cognate Subjects* 70 [2008]: 205–33 [211–15]) concluded that the practice of vocalizing the relative particle *še-* with *shewa* entered Southern Italy under eastern influence (215), yet, in his review of Birnbaum's monograph (*Lěšonénu: A Journal for the Study of the Hebrew Language and Cognate Subjects* 72, no. 1–2 [2010]: 203–16 [206]), Doron Yakov argued that "the combination of all of the evidence leads one to think that this is not an early eastern element that entered the west, but rather an early element shared by both types (that existed alongside other ways of vocalizing the relative *shin*)" (for a similar conclusion, based on a somewhat different body of evidence, see Mastéy, "The Hebrew of Talmud Yerushalmi," 217-19). At this stage of the scholarship, it seems more likely, in my opinion, that the subtypes of the Palestinian branch of Mishnaic Hebrew formed outside of the Land of Israel under the influence of host languages. Ryzhik's studies of the five-vowel system used in Italian Hebrew, which he argues is a result of the use of only five vowels in the Salentine dialect of Italian, are especially convincing in this regard. Michael Ryzhik, "The Five-Vowel System in Italian-Hebrew Traditions" (Hebrew), *Lěšonénu: A Journal for the Study of the Hebrew Language and Cognate Subjects* 72, no. 1–2 (2010): 161–77, repr. idem, *In a Foreign Land: The History of Hebrew in Italy*, Studies in Language 31 (Hebrew; Jerusalem: The Academy of the Hebrew Language, 2022), 3-18. See also Nimrod Shatil, "The Diffusion of Hebrew Traditions of Vocalization in the Middle Ages" (Hebrew), *Lěšonénu: A Journal for the Study of the Hebrew Language and Cognate Subjects* 70 (2008): 375–97.

[179] This is not to say that there are no textual differences within this branch; indeed, it is clear that the Italian manuscripts at times present a version that is different (even relatively less original) than that found in Genizah fragments, e.g., the case of m. Sheqalim 2:5, in which an addition from t. Sheqalim 1:12 (ed. Lieberman, 204) is found only in the Italian manuscripts; see Eliezer Pinczower, "Mishna Masekhet Shekalim: Textual Problems and a Critical Edition" (Hebrew; Ph.D. dissertation, The Hebrew University of Jerusalem, 1998), 12-25, and Robert Brody, *Mishnah and Tosefta Studies* (Jerusalem: The Hebrew University Magnes Press, 2014), 10-1. And yet the overall evidence for *orthographic* uniformity, particularly when compared with text of the Mishnah in manuscripts of the Babylonian Talmud, is striking.

occurred in writing, with oral components guiding pronunciations.[180] And yet, at the moment, it is impossible to know when this may have happened.

7. *Conclusion*

We began this chapter by assessing the evidence for the existence of rabbinic institutions in Palestine following the Christianization of the Roman Empire and into the early Islamic period. While relatively direct evidence for such institutions does exist, the more precise focus on the reception of the Mishnah allowed us to open an even larger window onto the history of rabbinic Judaism in Palestine in the Byzantine and Early Islamic period. We saw that the Mishnah was used by elites to directly inform halakhic decision making and that its non-elite study was actively encouraged in a variety of settings. Further, there is ample evidence for non-elite study in this period, even in forms that may be categorized as "liturgical," in that relevant sections of Mishnah were to be read on holidays.

The abundant evidence for Mishnah study is not by chance. As we have seen here, it relates directly to the fact that the idea of the Mishnah began to play a central role in Jewish identity as Jewish elites framed the Mishnah as a symbol for the Jews' unique relationship with God, as opposed to the Christians with whom they shared the Bible. Moreover, and seemingly for the first time, the Mishnah's centrality informed reading strategies that turned to the Mishnah for religious inspiration and guidance that went beyond the four cubits of

[180] As Robert Brody has put it ("Sifrut ha-geonim vi-ha-teqst ha-talmudi," in *Mehqerei Talmud I: Talmudic Studies*, ed. Yaakov Sussman, and David Rosenthal [Jerusalem: The Magnes Press, 1990], 237–303 [296 with fn. 7]), the existence of these differences in pronunciation across orthographic uniformity "reflects a split that occurred in the period in which this work was transmitted in writing, when alongside the written text there is a living tradition of reading it out loud," as "we are speaking of a single and stable consonantal text—something that is unlikely to exist when the text is truly transmitted orally." On the continued use of oral components alongside written transmission, see in the next chapter.

halakhic practice. In brief, then, what we see in the evidence from Byzantine and Early Islamic Palestine both extends and differs from the evidence for the "Scholastic Scripturalization" of the Mishnah in the Talmuds, and in particular, in the Babylonian Talmud. It is difficult to know the extent to which these processes would have been related to one another, but it does appear that they in fact shed light on different aspects of the same larger phenomenon of "Scripturalization."

In the last section of this chapter, we began to probe the evidence for the dissemination of the Mishnah westwards, to Jewish communities elsewhere in the Mediterranean world. In turning to the evidence from these communities in the following chapters, on the medieval period, we will gain far more insight onto a number of these central issues in the reception of the Mishnah.

Chapter Five

Reciting and Studying Mishnah in the Medieval Islamic World

1. *The Wisdom of Every Vowel*

Writing in the 10th century, an unknown Jewish grammarian active in Palestine relayed the following anecdote:

> The Mishnah in [the chapter] '*Egla Arufa*' says: "When Eliezer b. Dinai came, and they called him Tehina b. Prisha, they went back to calling him '*ben harotzhan*'" (the murderer) (m. Sotah 9:9): I received from my teacher that it is pronounced with a *ma'arakha*—i.e., he would extend the vowel longer than its usual amount. I asked him, may God have mercy on him, about this, and he said: "Thus my teacher would command me, that I should lengthen '*ben*,' and he would hold the hands of the students while pronouncing it."[1]

Our grammarian then records the logic for this vocalization as explained to his teacher by their own teacher, namely, that without the extended vowel—that is, if one was to vocalize *ben* with a *segol* instead of a *tsere*—the meaning would be that Eliezer's *father* was a murder, whereas the meaning is that *he himself* was a murderer.[2] From this reasoning, the grammarian's teacher concluded "that every vowel, from the smallest of them to the greatest, is full of wisdom and meaning."[3]

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[1] T-S Ar. 36.6v a (Baker-Polliack 3213), published in Nehemya Allony, "*Kitāb Al-Musawwitāt* (The Book of Vowels) by Mose Ben Ašér (Tiberias, ca. 840-ca. 900)" (Hebrew), *Lěšonénu: A Journal for the Study of the Hebrew Language and Cognate Subjects* 47, no. 2 (1983): 85–124 (110, with Hebrew translation on 111 and discussion on pages 92-4). For the critique of Allony's association of this work with Moshe ben Asher, see Ilan Eldar, "On the Identity of Some Genizah Fragments" (Hebrew), *Alei Sefer* 12 (1986): 51-61 (52-55), and for a recent discussion of this work (though not of this specific section), see Nick Posegay, *Points of Contact: The Shared Intellectual History of Vocalisation in Syriac, Arabic, and Hebrew*, Cambridge Semitic Languages and Cultures 10 (Cambridge: Open Book Publishers, 2021), 39-41, and elsewhere in this book. Posegay and others maintain that the work was authored in Palestine in the 10th century; see also Geoffrey Khan, *The Tiberian Pronunciation Tradition of Biblical Hebrew*, 2 vols., Cambridge Semitic Languages and Cultures 1 (Cambridge: University of Cambridge & Open Book Publishers, 2020), 117.

[2] On the alleged actions of Eliezer b. Dinai (Deineus) in the time of the Great Revolt, see Josephus, *War*, 2.235, 253; *Antiquities*, 20.121, 161.

[3] Allony, "*Kitāb Al-Musawwitāt*," 111.

As we can see in this anecdote, the Mishnah is a text to be recited, and one that must be recited *properly*. The teacher recites the Mishnah, seemingly for the students to then repeat, and a primary goal is the memorization of the correct pronunciation in keeping with grammatical principles that are not immediately clear upon reading the text from a manuscript nor upon initially hearing the text as it is recited out loud. The oral recitation is therefore supplanted with brief explanations and with ritualized motions, in that the teacher "would hold the hands of the students" to call attention to a surprising pronunciation.[4]

This is but one anecdote within a constellation of evidence for Mishnah study in medieval Islamic lands, the focus of the present chapter. This evidence—which can be garnered from manuscript fragments,[5] booklists,[6] halakhic texts, and letters[7]—raises two significant and related issues in the history of the reception of the Mishnah: The first is the intermediality of Mishnah study and transmission—that is, the encounter with the Mishnah both in written copies and also orally and aurally—and the second is the study of the Mishnah by people outside of the immediate circles of rabbis and their students. While we have seen, in prior chapters, ample evidence for Mishnah study, and may even have seen

[4] Several medieval Jewish authors note the use of hand motions to signal cantillation marks in the Hebrew Bible, see, e.g., Rashi, Berakhot 62a, s.v. "*ta'amei torah*": "…I saw the [Torah] readers who came from the Land of Israel that they move their hand according to the musical note." See the discussion and further references in Nehemya Allony, *Ha-Egron: Kitāb 'usūl al-Shi'r al-'Ibrānī by Rav Se'adya Ga'on*, Texts and Studies 8 (Hebrew; Jerusalem: The Academy of the Hebrew Language, 1969), 396-97. On the intense attention given to correct pronunciation of the Quran in contemporary Islamic school settings, see Konrad Hirschler, *The Written Word in the Medieval Arabic Lands: A Social and Cultural History of Reading Practices* (Edinburgh: Edinburgh University Press, 2012), 92.

[5] Primarily as catalogued in Sussman, *Thesaurus*.

[6] Collected and edited in Nehemya Allony, *The Jewish Library in the Middle Ages: Book Lists from the Cairo Genizah*, ed. Miriam Frenkel and Haggai Ben-Shammai, Oriens Judaicus, I (Hebrew; Jerusalem: Ben Zvi Institute for the Study of Jewish Communities in the East, Yad Izhak Ben-Zvi and the Hebrew University of Jerusalem, 2006). In the following discussion, when citing information from booklists, I use the number they are attributed in Allony's volume, followed by a subscript to denote the line on which the specific item is mentioned. When discussing certain lists in more detail I record the booklist's complete shelf mark.

[7] Separate from the discussion in this chapter are the issues of the Mishnah in liturgy, which I will discuss in Chapter Seven, and the place of the Mishnah in medieval polemics and thought, which I will discuss in Chapter Eight.

some signs of the existence of copies of the Mishnah, it is in evidence from the medieval Islamic world that we first see the use of physical copies of the Mishnah in the context of its study. And while it is the use of physical copies that seems to have enabled the spread of the Mishnah outside of the immediate circles of rabbis and their students, which we also now see for the first time, physical copies cannot entirely substitute the oral and aural aspects of transmitting Mishnah.

We will look closely at these intertwined phenomena over the course of this chapter. The continued reliance on supposedly superseded media is to be expected; in the words of Walter Ong, "[w]riting can never dispense with orality."[8] And yet, the introduction of new media and the continued vitality of oral transmission is still a significant aspect of the Mishnah's reception in need of documentation, particularly as it helps us better understand the diffusion of rabbinic ideals and texts to yet further circles of learners outside of the rabbinic class. Similarly, at first glance, certain aspects of the access to rabbinic literacy may be unsurprising: as we will see, such literacy was primarily available to members of elite social classes. And yet, the way in which elites sought out and maintained this literacy is significant, as it again shows how rabbinic notions of piety may have spread to evermore members of Jewish society.

In what follows, I will begin by providing a brief overview of the historical background for the rise of Islamicate Jewish communities and institutions. I will then turn to discuss the study of the Mishnah in these communities, beginning with the Mishnah in elementary education, continuing to elite rabbinic study of the Mishnah, and finishing with

[8] Walter J. Ong, *Orality and Literacy: The Technologizing of the Word*, 30th Anniversary Edition, New Accents (New York: Routledge, 2012), 8.

'lay' Mishnah study. As the bulk of the evidence will come from the Cairo Genizah, the conclusions that I will draw relate primarily to the regions and communities represented by Cairo Genizah material, chief among them medieval Jewish communities located in Egypt, the Maghreb, Palestine, and Iraq between the late 10th and the early 13th centuries.[9] This evidence provides us with a particularly rich image of the modes of Mishnah study in certain medieval Islamicate communities, unlike anything we can garner for other ancient or medieval communities. We will thus ask, particularly in later chapters, to what extent the evidence adduced in this chapter can teach us also of the nature of Mishnah study in other regions and periods.[10]

2. *Islamicate Jews: Geography, Institutions, and Literacy*

On the eve of the rise of Islam, Jewish communities existed throughout the Mediterranean world and the Near East. Evidence for these Pre-Islamic Jewish communities can be found as far as the Iranian peninsula in the East, Toledo in the West, the Arabian Peninsula in the South, and Cologne in the North.[11] Geographic spread continued to be the case following the

[9] See Rebecca J. W. Jefferson, *The Cairo Genizah and the Age of Discovery in Egypt: The History and Provenance of a Jewish Archive* (London: I.B. Tauris, 2022).

[10] I should note at the outset that while this is primarily important for the study of the Mishnah's circulation, it is also of some relevance for the general study of the "Cairo Genizah." A diverse array of texts emanating from a far more diverse array of find-spots than is usually acknowledged, one can question whether the bibliometric analysis of surviving Cairo Genizah Fragments from the Genizah's classical period, encompassing the 11th-13th centuries, would be representative of the reading practices of Egyptian Jews (or even those of Near Eastern Jews more generally, let alone those of the entire medieval Islam world) during that period. Analyzing the availability of the Mishnah from a variety of angles—i.e., pairing bibliometrics based on catalogue alongside documentary evidence like booklists, and so on—can help us reflect on the nature of these bodies of evidence. On the ways in which the provenance of items attributed to "the Cairo Genizah" is in fact far more diverse than it is usually considered, see Jefferson, *The Cairo Genizah and the Age of Discovery in Egypt*.

[11] On the geographic spread of Jewish communities on Late Antiquity and the early Middle Ages, see Michael Toch, "Demography and Migrations," in *CHJ* VI, 335–56, and Marina Rustow, "Jews and the Islamic World: Transitions from Rabbinic to Medieval Contexts," in *The Bloomsbury Companion to Jewish Studies*, ed. Dean Phillip Bell, Bloomsbury Companions (London: Bloomsbury, 2013), 90–120 (90-1).

Arab conquests, yet now Jews across much of the world were governed by the same political entities and living in the context of a similar hegemonic culture. This resulted in enormous shifts in Jewish life,[12] and what is of particular note for our purposes is the seemingly resultant shift in the ubiquitous presence of adherents of rabbinic Judaism: if beforehand our evidence for such religious fealty was mostly limited to groups of Jews living in the Land of Israel and Babylonia, we now find, particularly from the Abbasid period and on, adherents to rabbinic norms living throughout the Mediterranean world and the Near East. As the era was characterized by significant migration, it is possible that the appearance of rabbinic communities throughout the Jewish world was in no small part due to the movement of Jews from the East—that is, from areas in or near the rabbinic heartlands of Palestine and Iraq—westward around the Mediterranean littoral.[13]

Concurrent with the spread of rabbinic Judaism was the rise of rabbinic institutions, foremost among them institutions of advanced rabbinic study (*yeshivot*).[14] As we saw in the prior chapters, the rise of such institutions was not sudden. Rather, centers of advanced rabbinic study existed in Palestine and Babylonia in Late Antiquity, and likely developed into more bureaucratic and institutionalized settings over the course of the 5th-8th centuries. By the Abbasid era, and particularly in the 9th and 10th centuries, the academies of Baghdad seem to have become highly structured institutions of transregional importance, headed by a leader with the title "Gaon." A geonic academy similarly existed in Palestine and was likely

[12] See ibid., and the chapters in *CHJ* V.

[13] See Rustow, "Jews and the Islamic World," and Phillip I. Ackerman-Lieberman, *The Fate of the Jews in the Early Islamic Near East: Tracing the Demographic Shift from East to West* (Cambridge: Cambridge University Press, 2022). It is, at the moment, unclear if any of the Islamic-era "rabbinic" communities are continuous with pre-Islamic ones that we know existed in many of the same places.

[14] See Robert Brody, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture* (New Haven: Yale University Press, 1998), and Arnold E. Franklin, "Jewish Religious and Communal Organization," in *CHJ* V, 371–411.

the continuation of the Palestinian academy discussed in the prior chapter. But its character was somewhat different than the Babylonian academies and much regarding its history is still unknown.[15] By the turn of the millennium centers of learning existed elsewhere in the Mediterranean world, primarily in Spain, Southern Italy, Egypt, and the Maghreb.[16] While these centers likely never reached the same centrality or even the same bureaucratic intricacy as the Geonic academies, they nevertheless competed, if only rarely explicitly, with the academies in Baghdad and Palestine for resources and religious authority.[17] In the aggregate—though to be sure, not in any way as a formal consortium—these Mediterranean centers of rabbinic study and authority did eventually replace the Geonic academies as central loci of religious education and authority: by the end of the 11th century, the Palestinian academy relocated outside of Palestine proper,[18] and while the Baghdadi academies continued to exist for several more centuries, by the mid 11th century their importance was significantly diminished—once advanced rabbinic study and halakhic guidance could be found elsewhere, the flow of students, funds, and halakhic queries to the Babylonian academies waned significantly.[19]

A related shift, one that also has significant relevance for this chapter, is what appears to be an exponential rise in Jewish literacy, primarily visible due to a massive increase in evidence for the existence of Jewish books. According to Judith Olszowy-Schlanger,

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[15] See Brody, *The Geonim of Babylonia*, 100-13; Franklin, "Jewish Religious and Communal Organization," 465-70.

[16] Ibid.

[17] I deal in Chapter Eight with the way in which competition between rabbinic centers relates to the history of the Mishnah's reception.

[18] See Franklin, "Religious and Communal Organization," 467.

[19] On the end of the Babylonian Academies, see Brody, *The Geonim of Babylonia*, 11-18.

> [i]n the Middle Ages, the Jewish book gained new intellectual and economic dimensions with the spread of literacy beyond the sphere of liturgy. The growth of a literate audience entailed an unprecedented production of books in a variety of fields. Books became the prime means for transmission of scientific knowledge, the main tool for professional undertakings of justice, medicine, and trade; reading books, including belles lettres, came to be seen as a source of sophisticated enjoyment.[20]

Furthermore, according to Olszowy-Schlanger, "[t]hese changes in medieval Jewish readership occurred in a close contact with Arabic book culture and massive book production"[21]—that is, the rise of Islamic book culture, including both the cultural status associated with reading and the spread of book technologies such as codices and paper,[22] resulted in a parallel shift in Jewish book culture. As we lack significant material evidence for Jewish writing prior to the 10th century, it is hard to know the extent to which this shift may be the result of evidence bias. With that, while we have already utilized manuscript evidence in earlier chapters, the material evidence we do have from the Middle Ages—both from the Near East, as I will discuss here, and from Christian Europe, as I will discuss in the next chapter—provides us with information relating to medieval study practices that we simply did not have when discussing earlier periods, and as already mentioned, the intermedial nature of Mishnah study is quite apparent in this period. In short, a shift towards material transmission certainly occurred, though it is difficult to pinpoint exactly when.[23]

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[20] Judith Olszowy-Schlanger, "Book Production," in *CHJ* 5, 666–700 (667).

[21] Ibid.

[22] See now Marina Rustow, *The Lost Archive: Traces of a Caliphate in a Cairo Synagogue*, Jews, Christians, and Muslims from the Ancient to the Modern World (Princeton and Oxford: Princeton University Press, 2020), 113-37; and Beatrice Gruendler, *The Rise of the Arabic Book*, (Cambridge: Harvard University Press, 2020).

[23] See also above, pg. 137.

3. *Elementary Education*

3.1. *Background*

I have used, until now, intentionally vague language, for we are still unable to discuss many of the processes pertaining to the post-Islamic rise in rabbinic hegemony and literacy with certainty. On the other hand, we can paint a refreshingly clear picture of the transmission of rabbinic knowledge in elementary settings during this period,[24] one that can be compared also to parallels in contemporary Islamic educational settings.

From the evidence of Genizah documents, as well as from the writings of rabbinic scholars, an image emerges in which many Islamicate Jews would ensure that their children—both male and female—received an elementary education in scripture and prayer, and, in the case of male children, basic rabbinic knowledge. To do so, they would send their children to study for much of the day in a *kuttāb*, elementary school, with a teacher—

[24] See especially S. D. Goitein, *Jewish Education in Muslim Countries, Based on Records from the Cairo Geniza*, Studies and Texts (Hebrew; Jerusalem: The Ben-Zvi Institute, 1962), adapted, translated, and updated in idem, *Med. Soc.*, 2.171-272, and appearing in yet another form as idem, "The Gaonic Period" (Hebrew), in *Educational Encyclopedia: Thesaurus of Jewish and General Education* (Jerusalem: The Ministry of Education and Culture and The Bialik Institute, 1964); see also S. D. Goitein, "Side Lights on Jewish Education from the Cairo Geniza," in *Gratz College Anniversary Volume: On the Occasion of the 75th Anniversary of the Founding of the College*, ed. Isadore David Passow and Samuel Tobias Lachs (Philadelphia: Gratz College, 1971), 83–110. Goitein himself worked for a decade as a senior education officer in the British Mandatory Government of Palestine, a position that included the "care of the schools of Oriental Jews" an experience that by Goitein's own admission provided "much profit for the understanding of the communal texts discussed" in his treatment of medieval Jewish education in Islamic lands (*Med. Soc.*, 2:viii). On Goitein's work in this role, see Suzanne Schneider, *Mandatory Separation: Religion, Education, and Mass Politics in Palestine* (Stanford: Stanford University Press, 2018), esp. pp. 114-15, and on his work as an ethnographer of Yemenite Jews, which also very much influenced his work on medieval education (again by his own admission—*Med. Soc.*, 2:viii), see Tom Fogel, "S. D. Goitein's Yemenite Research" (Hebrew; Ph.D. dissertation, The Hebrew University of Jerusalem, 2019). More generally on Goitein's important role in transplanting Oriental modes of scholarship from Germany to Jerusalem, see Amit Levy, "A New Orient: German-Jewish Oriental Studies in Palestine/Israel, 1926-1963" (Hebrew; The Hebrew University of Jerusalem, 2021). Despite the appearance of these studies, more work is yet needed to unravel the ways in which Goitein's experience as an ethnographer and bureaucrat impacted his studies of medieval Jewish society. With regards to Genizah evidence for elementary education, of particular relevance also is Judith Olszowy-Schlanger, "Learning to Read and Write in Medieval Egypt: Children's Exercise Books from the Cairo Geniza," *Journal of Semitic Studies* 48, no. 1 (2003): 47–69. For a more recent general overview, based primarily on the work of Goitein, see Moshe Sokolow, "Schools and Education," in *CHJ* V, 484–513.

melammed or, *melammed tinoqot*, in Hebrew sources, and *muʿallim* in Arabic ones. Teachers were either paid directly by parents,[25] or, especially from the late 12th century and on, teachers taught in publicly-endowed schools—i.e., ones funded by the *Heqdesh*, public moneys[26]—that were primarily geared to economically disadvantaged children.[27] Certain teachers would receive the right to teach in a local synagogue.[28] Other teachers would teach in their own homes,[29] in a purposely rented space,[30] or, in the case of particularly wealthy families, in the home of the child's family.[31] To be sure, even the "private" teachers were often authorized to teach by local or area judges.[32] In addition, children would learn Jewish texts, topics, and rituals, to differing extents, via religious practice conducted in their own homes and via participation in synagogue services.[33]

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[25] Goitein, *Med. Soc.* 2:174. See also Hayya Gaon as cited below, note 43.

[26] On the *Heqdesh*, see Goitein, *Med. Soc.*, 2:112-123; Moshe Gil, *Documents of the Jewish Pious Foundations from the Cairo Geniza*, vol. 12, Publications of the Diaspora Research Institute (Leiden: E.J. Brill, 1976); Ora Vaza, "The Jewish Pious Foundations According to the Cairo Geniza Documents - Appendix to Prof. Moshe Gil's Study" (Hebrew; Tel Aviv University, 1991); Mark R. Cohen, *Poverty and Charity in the Jewish Community of Medieval Egypt*, Jews, Christians, and Muslims from the Ancient to the Modern World (Princeton: Princeton University Press, 2005), 200-4.

[27] On these schools, see Goitein, *Med. Soc.*, 2:186; idem, "Side Lights," 85, 94-97 (nos. 11-13); Gil, *Pious Foundations*, 105-6 (§137); Vaza, "Pious Foundations," 77; Cohen, *Poverty and Charity*, 201, 238; and idem, *The Voice of the Poor in the Middle Ages: An Anthology of Documents from the Cairo Geniza* (Princeton: Princeton University Press, 2005), 97-8. It is notable that endowed primary schools in Islamic settings also begin to appear in the late 12th c. See Hirschler, *Written Word*, 99-113. For an example of a publicly financed *melammed* in mid-11th century Fustat, see Mosseri VII 46, printed and discussed in Elinoar Bareket and Tova Beeri, *Eli ben Amram - Leader and Poet: Circles of Interaction Among Jewish Leaders in the Eleventh-Century Mediterranean Basin* (Hebrew; Jerusalem: Ben-Zvi Institute, 2020), 305-6.

[28] Indeed, many texts of the period refer to children as spending their time in the synagogue, and these learners are referred to in a variety of sources as "the children of the synagogue." See Goitein, *Jewish Education*, 34-5; idem, *Med. Soc.*, 2:185.

[29] Goitein, *Med. Soc.*, 2:185-6.

[30] Goitein, *Med. Soc.*, 2:185—noting the teacher may intentionally rent a home that is adequate for teaching purposes.

[31] Goitein, *Med. Soc.*, 2:186, 187.

[32] Goitein, *Med. Soc.*, 2:187. See for example the responsum of Maimonides, discussed below in and near note 68.

[33] Goitein, *Med. Soc.*, 2:183.

At least in theory, elementary education was to begin at the age of six or seven,[34] and in practice it may have continued at least until puberty.[35] In his code of Jewish law, the *Mishneh Torah*—written in 12th-century Fustat—Maimonides says that children are to study with the *melammed* until they "can read the entire written Torah."[36] Notably, Maimonides writes also that children should learn Oral Torah, but does not specify how much or to what extent the child needs to study with the teacher in the way that he proscribes study of Scripture. m. Avot 5:21 has children begin studying Scripture at five, "Mishnah" at ten, and "Talmud" at fifteen. This passage, though, is absent from many versions of the Mishnah, including that of Maimonides,[37] who does not seem to take it into consideration in his account of the stages of elementary education. But the passage does inform the programs of study mandated by some of Maimonides' contemporaries; thus Joseph b. Judah ibn 'Aqnīn, in his *Ṭibb al-Nufūs* (III.27), writes that children should begin with Scripture and move to Mishnah, citing m. Avot 5:21.[38]

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[34] See Maimonides, *Mishneh Torah – Mada*: *Talmud Torah*, 1:6, 2.2, likely based on b. Bava Batra 21a.; see Gerald J. Blidstein, *"Upon Them Shall We Meditate": Studies on Maimonides' "Laws of the Study of Torah,"* The Goldstein-Goren Library of Jewish Thought 22 (Hebrew; Beer-Sheva: Ben-Gurion University of the Negev Press, 2017), 70-2.

[35] See Goitein, *Education*, 45 (no. 4), a source in which it is notable that a child is still in school at 13. Cf. Essam Ayyad, "How Were Young Muslim Minds Shaped? A Critical Study of the *Kuttab̄* in Medieval Islam," *Journal of the Royal Asiatic Society* Series 3, 32, no. 1 (2022): 141–85 (146-47 with fn. 31); Hirschler, *Written Word*, 83.

[36] *Talmud Torah*, 1:7.

[37] See Shimon Sharvit, *Tractate Avoth Through The Ages: A Critical Edition, Prolegomena and Appendices* (Hebrew; Jerusalem: The Bialik Institute and The Ben-Yehuda Research Center for the History of Hebrew, The Hebrew University of Jerusalem, 2004), 217-19, 274-76.

[38] First published, with German translation, in Moritz Güdemann, *Das jüdische Unterrichtswesen während der spanisch-arabischen Periode* (Vienna: C. Gerold's sohn, 1873), 54-5; for an abbreviated English translation of this passage, see Jacob Rader Marcus, *The Jew in the Medieval World: A Source Book: 315–1791*, ed. Marc Saperstein, 2nd ed. (Cincinnati: Hebrew Union College Press, 1999), 428-29; Hebrew translation in Shimon Eppenstein, "The 27th Chapter of 'Hygiene for the Soul' by Joseph Ibn 'Aqnīn" (Hebrew), in *Jubilee Volume for Nahum Sokolow* (Warsaw: Szuldberg, 1904), 371–88 (376) (abbreviated later in Assaf-Glick, *Education*, 2:56). See also Josef Stern, "Maimonides on Education," in *Philosophers on Education: Six Essays on the Foundations of Western Thought*, ed. Robert S. Brumbaugh and Nathaniel M. Lawrence (London: Houghton Mifflin Company, 1998), 109–23 (114-15). To be sure, it is possible that he knows this tradition not from m. Avot 5.21, but from another text, like *Shimusha Rabbah*.

According to Goitein, as well as to scholars who have later written on this topic, much of the elementary education revolved around memorization and preparation for participation in synagogue life, viz., the study of chanting the Bible and its accompanying Aramaic translation.[39] Given this focus, Arabic or other non-Jewish subjects were only occasionally taught in elementary schools,[40] and it seems that "in most cases the teaching of Hebrew and Arabic was carried out in different schools and by different teachers."[41] Memorization was the focus of much pre-modern education, and the specific emphasis on memorization in medieval Jewish elementary education parallels the emphasis placed on memorizing the Quran or sections of the Quran in contemporary Muslim elementary education as well as the memorizing of the liturgy in Christian ones.[42]

Elementary teachers would also teach skills in reading and writing. Given the prohibitive costs, owning books for primary education was of course limited to upper

[39] Goitein, *Education*, 36-40; idem, *Med. Soc.*, 2:174-76; idem, "Side Lights," 90 (no. 6); see also Olszowy-Schlanger, "Learning to Read and Write," 52, 56, 68; Sokolow, "Schools and Education," 494, 497.

[40] This can be learned, inter alia, from the presence of non-Jewish students in Jewish schools; see Goitein, *Med. Soc.*, 2.177, citing a responsum of Hayya Gaon. See also Goitein, "Side Lights," 85, 97-9 no. 14

[41] Olszowy-Schlanger, "Learning to Read and Write," 51.

[42] Goitien, *Med Soc.*, 2:176. See also, amongst many studies of memorizing the Quran in educational settings, Ayyad, "The *Kuttab̄* in Medieval Islam"; more generally on memorizing Quran, see William A. Graham and Navid Kermani, "Recitation and Aesthetic Reception," in *The Cambridge Companion to the Qur'ān*, ed. Jane Dammen McAuliffe (Cambridge: Cambridge University Press, 2006), 115–42 (121-22); on a slightly later period but referring to the same geographic area and noting certain Jewish parallels, Jonathan Berkey, *The Transmission of Knowledge in Medieval Cairo: A Social History of Islamic Education*, Princeton Studies on the Near East (Princeton: Princeton University Press, 1992), 29. Furthermore, we must take into account the shared elements of Islamic and Jewish education in this period. Gérard Lecomte has argued that the Muslim *kuttāb* shares certain elements with Byzantine primary schools, and that these shared aspects are signs of the antiquity of the institution and its pedagogical practices; see Gérard Lecomte, "Sur La Vie Scolaire à Byzance et Dans l'Islam: I, l'enseignement Primaire à Byzance et Le Kuttāb," *Arabica* 1, no. 3 (1954): 324–31. According to Lecomte (330-31), the *kuttāb* is thus not intrinsically Islamic, but rather, the institution should only be considered Islamic in *content*, for the pedagogical techniques they utilized were borrowed from the Byzantines. See also Ayyad, "The *Kuttāb* in Medieval Times," 144. We must consider the possibility that the same can be said of the Jewish *kuttāb*. It may then be more appropriate to articulate the matter as follows: the elementary schools and pedagogical practices of medieval Jews, Christians, and Muslims all stem from shared pan-Mediterranean and pan-confessional pedagogical practices, many of which may indeed be of great antiquity. The question is how adherents of each faith utilized these models towards the study of their own religious texts.

classes.[43] Some teachers owned books with which they would teach[44]; in light of the small supply of books, students would be taught to read from multiple angles[45]; people donated books to synagogues so that they could be used there for teaching purposes[46]; and some teachers or families would try to borrow books for educational purposes.[47] Yet writing, to be sure, was taught only to a limited extent in the elementary curriculum, and primarily in the service of reading Hebrew, and not as an end in itself.[48] This, too, is paralleled with what we know of many Islamic pedagogical settings at this time.[49]

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[43] Goitein, *Med. Soc.*, 2:181. See also Antonin B 521, a single page of a manuscript of the Hagiographa that includes a colophon, written in the first half of the 11th c., explaining that the manuscript was ordered by a father for use by his two sons. The scribe writes in the colophon that "האלהים יזכם להגות בתורה ובמשנה." For an edition of this colophon, see Jacob Mann, *Texts and Studies in Jewish History and Literature*, 2nd ed. (New York: Ktav, 1972), 1:455, and for an English Translation, see Goitein, *Med. Soc.*, 2:181. This, though, may be something of a frozen phrase, adopted from Talmudic texts and used as a metonym for Torah study more generally. But according to Yaakob Sussman's approach to such phrases in "Manuscripts and Text Traditions of the Mishnah," *Proceedings of the Seventh World Congress of Jewish Studies: Studies in Talmud, Halacha and Midrash*, 1980, 215–50 (on which see below), the use of this phrase here is still relevant in that it does not add "Talmud." Furthermore, for Sussman this source would work quite well, as Mann has noted several "Palestinian" elements in this manuscript: (1) according to Mann, the appearance of Chronicles at the beginning, like in this manuscript, *was the way Hagiographa was ordered in Palestinian communities*; (2) the scribe, Sadok HaLevi beRabbi Levi, was part of the Palestinian academy in the first half of the 11th c; (3) the manuscript itself was later owned by the Palestinian Gaon Shlomo haKohen b. Elijah. Note also that Hayya Gaon writes in his *Musar Haskel*, "ואם תוליד לך בנים ובנות /... קנה להם בכל כוחך ספרים / ושים להם מלמד מנעורים" (Yitzhak Rafael [Werfel], "Shirav u-piyutav shel rav Hayya gaon" (Hebrew; *Sinai* 2 [1938]: 592–676 [598]), cited in Simcha Assaf, *The Geonic Period and Its Literature*, ed. Mordecai Margulies (Hebrew; Jerusalem: Mossad HaRav Kook, 1955), 113.

[44] Goitein, *Med. Soc.*, 2.181, citing Joshua Blau, *R. Moses b. Maimon - Responsa*, 2nd ed., 4 vols. (Jerusalem: Rubin Mass, 1989), 2:424; we also know this from booklists, especially as many copyists were also teachers.

[45] Goitein, *Med. Soc.*, 2.181; Olszowy-Schlanger, "Learning to Read and Write," 56.

[46] Goitein, *Med. Soc.*, 2.181; Olszowy-Schlanger, "Book Production," in *CHJ* 5, 671-73.

[47] Olszowy-Schlanger, "Learning to Read and Write," 64-5. Olszowy-Schlanger cites examples of brief biblical codices that "had been copied specially for children," in the sense that they were used in specifically elementary settings—this is seen based on the size and style of the characters, vowel signs, and cantillation marks.

[48] Goitein, *Med. Soc.*, 2:178-79; idem, "Side Lights," 92 (T-S Ar. 53.65; no. 8). Olszowy-Schlanger, "Learning to Read and Write," 51, 54-5. As these scholars note, from the evidence of every day writing found in the Genizah, it seems that many did not possess anything beyond elementary writing skills, and that similarly, most could only read simple scripts.

[49] Hirschler, *Written Word*, 94 ("pupils acquired the capacity to read and write generally in close interplay with Koran recitation"); Ayyad, "The *Kuttāb* in Medieval Islam," 172—citing texts that go even farther, in describing pedagogical practices in which writing is in the service of reading which is in the service of memorization. Additional writing skills would be taught to Jews and Muslims at later stages of education, for those who were able to continue their studies; Goitein, *Med. Soc.*, 2:179-80. In the words of Olszowy-Schlanger ("Learning to Read and Write," 56), "The in-depth study and practice of Hebrew writing was thus the privilege of a few selected individuals."

It is important that we note continuities that exist when comparing primary education in the Genizah documents and in earlier periods, particularly as this may allow us, with appropriate caution, to abstract that certain practices attested in the Genizah yet unattested elsewhere may have nevertheless been current also in other regions. Diachronic continuities are immediately apparent on the level of educational theory: Maimonides' dicta and those of other medieval Jewish authors rely heavily on passages on pedagogy found in late antique rabbinic texts. Longstanding continuities exists also on the level of practice. Based primarily on the educational ephemera located in box T-S K5 in the Cambridge University Library, Olszowy-Schlanger has argued that the commonality and spread of the methods used for teaching reading and writing—some of these methods are even known to have been used in Jewish communities in medieval Northern Europe—speaks to the great antiquity of these methods amongst Jews.[50] We can also point to the use of the synagogue as

[50] Olszowy-Schlanger, "Learning to Read and Write," 62-3. For discussions of some of this material, see Bezalel Narkiss, "Illuminated Hebrew Children's Books from Mediaeval Egypt," *Scripta Hierosolymitana* 24 (1972): 58–71. Olszowy-Schlanger (57) notes that box T-S NS 70 in the Cambridge University Library contains material of a similar nature, and that other educational materials are dispersed throughout the collections at Cambridge and elsewhere. One example is the use of *AT-BASh* combination to teach letters ("Learning to Read and Write," ibid., 62); also of note is the prominence of Leviticus in these writing practices and reading practices: by Olszowy-Schlanger's count, of the thirty-three model passages from the Bible in box T-S K 5, eighteen are from Leviticus (ibid., 65); As Olszowy-Schlanger mentions, this harkens back to ancient rabbinic proscriptions, according to which children's education should begin with the book of Leviticus. E.g., Leviticus Rabbah 7:3 (ed. Margulies, pg. 156). For Olszowy-Schlanger (citing Assaf, *Geonic Period*, 113), this is especially true in Palestinian communities, whereas in Babylonian ones, they started with Genesis. Further, according to Olszowy-Schlanger (ibid., 68), "[i]t seems that initially Hebrew texts were studied by rote, without any comprehension. It is likely that there was a time-span in the learning process during which the child was able to read with some fluency, without understanding a word of what he was reading." This, too, Olszowy-Schlanger understands as a sign of the antiquity of the pedagogical practices, as Hebrew would have only been easily understood by young Jewish learners many centuries beforehand. But such an argument assumes that when the methods were first instituted, centuries before their documentation in the Genizah materials, young learners would have fully grasped the meaning of these Biblical passages. There is, in my view, no reason to make that assumption, and further, it is difficult to even know what "comprehension" means and what kind of benchmarks existed.

a site of primary education, a practice that we have seen is well-documented in classical rabbinic texts.[51]

3.2. *The Mishnah in Elementary Education—Pedagogical Anecdotes*

As I mentioned above, Goitein and scholars who have followed him emphasized that for many Islamicate Jews, the main goals of elementary education were that children attain proficiency in the Hebrew Bible and Jewish prayers.[52] Yet, as I will argue here, the Mishnah also played a significant role in elementary education.

The importance of Mishnah study at an elementary stage is apparent already in the text with which I opened this chapter, an anecdote embedded in a 10th-century grammatical work written in Palestine. This anecdote does not explicitly speak to elementary stages of education, but it is of note that the level of understanding in the Mishnah that is acquired is not very high: the emphasis, as mentioned, is on proper recitation, with an understanding of the basic grammatical principles that inform pronunciation and the correct understanding of the text. The setting—a teacher reciting the text of the Mishnah before a group of

[51] See above, pp. 54-56, and 84.

[52] Indeed, the great emphasis placed by Goitein on elementary education as chiefly setting the stage for participation in synagogue life may have prevented him, as well as others, from noticing the ample evidence for the place of rabbinic texts in these stages of education. This emphasis has had a long afterlife, impacting also recent evaluations of this material—see above, fn. 39. This is somewhat true also in the medieval theoretical texts that proscribe Jewish education: recall that Maimonides says that students should remain with the melammed until they "can read the entire Written Torah," but does not go into specifics with regards to study of the Oral Torah (*Talmud Torah*, 1:7). But we also saw that texts of Maimonides' contemporaries do discuss the importance of teaching Mishnah. Schneider (*Mandatory Separation*, 115) describes the emphasis placed by Goitein in his own home on ensuring his children's literacy in prayer and that they had an ability to participate in synagogue life. Goitein's specific interest in the teaching of prayer can be seen also in his transcription of a class he witnessed in a Jewish school in mandatory Palestine (referenced by Schneider), published as "Limud tefilah bi-kitah dalet ha-amamit: tefilat ha-hag," *Hed Ha-Hinukh* 18, no. 5 (1944): 18–22; note especially his remark lamenting the overall lack of literacy in prayer amongst students: "the teacher in the Land (of Israel) must know that whatever they do not impart to their students of the treasury of our tradition, will not be imparted to them in another place."

learners—certainly seems very much like an elementary pedagogical setting. That said, the passage does not explicitly mention the presence of manuscript copies of the Mishnah and says nothing of the age of the learners, and we cannot learn from it how prevalent such study would have been, neither in Palestine nor in other regions.

Further details regarding the elementary study of the Mishnah can be found in a variety of anecdotes in documentary sources from the Genizah and elsewhere. One such anecdote is found in a Judeo-Arabic letter sent by the Alexandrian notable Natan b. Yehuda to a Cairene *dayyan* (judge) in the early 11th century. Natan reports the following: when Mevorakh b. Se'adyah was exiled in Alexandria in between the two periods in which he served as *ra'īs al-yahūd* in Fustat (that is, during the years 1082-1094),[53] Mevorakh, at the end of his workday,[54] would call on Natan's teacher and ask that he provide him "from his youth, one that reads Mishnah" ("מן פי צביאנך קרא אלמשנה") to come before him to read. The teacher would send Natan and another student, forming a bond that Mevorakh would later call upon, after he again filled the position of *ra'īs* and returned to Fustat, when utilizing Natan as an agent of his in Alexandria.[55]

The verb used by Natan, *qara'a*, need not be translated as "reading," as if from a physical copy, but is likely better translated as "*recitation*," perhaps even from memory.[56]

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[53] On the origins of this position and on Mevorakh's role in its establishment, see Franklin, "Jewish Religious and Communal Organization," 476-77, and, more extensively, with detailed discussions of each of Mevorakh's administrations, Mark R. Cohen, *Jewish Self-Government in Medieval Egypt: The Origins of the Office of Head of the Jews, ca. 1065-1126*, Princeton Studies on the Near East (Princeton: Princeton University Press, 1980). On Natan, known as an agent of Mevorakh's in Alexandria, see also Miriam Frenkel, *"The Compassionate and Benevolent": The Leading Elite in the Jewish Community of Alexandria in the Middle Ages* (Hebrew; Jerusalem: Yad Izhak Ben-Zvi, 2006), 87-9, 160.

[54] According to Cohen (*Jewish Self-Government*, 215-16), Mevorakh likely worked as a medical doctor during this time.

[55] T-S 10J6.5r ll. 8-9, Frenkel, *Alexandria*, doc. 48. The formation of such a bond is the focus of Frenkel's discussion in ibid., 211; see also Cohen, *Jewish Self-Government*, 215-16, 241-42.

[56] *EI*[2], s.v. "*Ḳirā'a*"; see also Reinhart Dozy, *Supplément Aux Dictionnaires Arabes*, 3rd ed., 2 vols. (Leiden: E.J. Brill, 1967), 2:320; Graham and Kermani, "Recitation and Aesthetic Reception," 115-16. See also M. A.

Such a session of Mishnah recitation recalls the *maqra'* of the Quran by one well-versed in *tajwīd*, the proper rendering of the Quran, learnt via oral tradition.[57]

Of immediate note in this anecdote is that the ability to recite Mishnah properly is an important benchmark in elementary study. This, though, may not have been universal: we can assume that Mevorakh would have chosen to reach out specifically to the teacher of youth from well-off families, both to create relationships with their parents, and, as is evidenced clearly in this anecdote, to foster dyadic bonds with promising youth of the elite class that he could later use to his benefit once the youth reached adulthood.[58] We can therefore surmise that elite Alexandrian youth may have achieved literacy in the Mishnah or sections of it, in the sense of proper recitation—what we can call, with only little exaggeration, "*tajwīd al-Mishnah*"—and that this form and level of literacy could then open doors for them as they continued to move up in society.[59] Also of note in this anecdote is that for Mevorakh, as an elite member of the community, partaking in Mishnah study is an entirely appropriate, even ideal way to spend his free time, fulfilling the religious command to engage in Torah Study and signaling his pietistic qualities to others. And further, what enables the bond to be formed and the signaling to occur is precisely the oral/aural nature

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Friedman, *A Dictionary of Medieval Judeo-Arabic in the India Book Letters from the Geniza and in Other Texts* (Hebrew; Jerusalem: Ben-Zvi Institute; The Rabbi David Moshe and Amalia Rosen Foundation, 2016), 826-27; Friedman cites several examples for this meaning, citing also idem, "Ten Idle Men in the Synagogue in Maimonides' and Abraham Maimuni's Writings" (Hebrew), in *MiBirkat Moshe: Maimonidean Studies in Honor of Rabbi Nachum Eliezer Rabinovitch*, ed. Zvi Heber and Carmiel Cohen (Ma'aleh-Adumim: Maaliyot, 2011), 796–835 (822 with fn. 173). See also Moss. VII. 200 (L 268); Frenkel, *Alexandria* doc. 20 ll. 10-11.

[57] See Graham and Kermani, "Recitation and Aesthetic Reception," 116. To be sure, recitation sessions amongst medieval Muslims were often done for other works; see the discussions in Berkey, *Transmission of Knowledge*; Hirschler, *Written Word*.

[58] On the prevalence of such forms of social bonds in the world represented by Genizah documents, see, e.g., Jessica Goldberg, *Trade and Institutions in the Medieval Mediterranean: The Geniza Merchants and Their Business World*, Cambridge Studies in Economic History (Cambridge and New York: Cambridge University Press, 2012), 86-7, 144-47, and elsewhere; see also Eve Krakowski, *Coming of Age in Medieval Egypt: Female Adolescence, Jewish Law, and Ordinary Culture* (Princeton: Princeton University Press, 2017), 13-4, 59-60.

[59] See the discussion of this text, with a rather different emphasis, in Frenkel, *Alexandria*, 211.

of the study: even if a manuscript copy may have been present, it is *recitation* that makes the study into an event that forms bonds and signals Mevorakh's piety.

The elite nature of elementary Mishnah study is apparent also in a Hebrew letter of Sherira Gaon to the Jewish community in Qayrawan, which he sent several decades prior to the anecdote relayed by Natan supposedly occurred.[60] With a significant amount of rhetorical embellishment, the Gaon describes the sorry state of rabbinic learning in Baghdad at the time due to the cessation of funding on the part of the Qayrawanese Jews. Sherira writes that "the School of the Tannaim ("מדרש התנאים")[61] is barren, for [in the past,] every bright youth ("נער מאור עיניים")[62] had been brought to the Mishnah School ("מדרש המשנה"), but now no one brings their son, and we work hard ("ותחבולות נעשה") in order to bring them one by one, so that the Mishnah not be forgotten."[63] We may surmise that in Baghdad during

[60] T-S 12.370 + T-S 13 J 25.5, Gil, *Ishmael*, docs. 22 and 25; Assaf-Glick, *Education*, 2:35; published also, with some lacuna, in Menahem Ben-Sasson, "Fragmentary Letters from the Genizah: Concerning the Ties of the Babylonian Academies with the West" (Hebrew), *Tarbiz* 56, no. 2 (1987): 171–209 (200-2), where it is argued that these two fragments are of one letter; see also idem, *Emergence of the Local Jewish Community in the Muslim World: Qayrawan, 800-1057*, 2nd ed. (Hebrew; Jerusalem: Magnes Press, 1997), 284; cf. Assaf, *Geonic Period*, 55, where it is suggested that this letter was sent to a community in Spain. In addition to the literature cited in the following notes, see also Goiten, *Education*, 170.

[61] On "*midrash*" as "school"—even when the word "*beit*" is absent"—see Paul D. Mandel, *The Origins of Midrash: From Teaching to Text*, Supplements to the Journal for the Study of Judaism 180 (Leiden and Boston: Brill, 2017), 184 fn. 38; Ben-Sasson, *Qayrawan*, 189; Assaf-Glick, *Education*, 2:35 fn. 80.

[62] Sussman ("Manuscripts," 239 fn. 92) and others have suggested that this text refers specifically to blind youth, who were thus earmarked to serve as *Tannaim*; "נער מאור עיניים" is thus to be understood antiphrastically. On blind *Tannaim*, see Epstein, *Introduction*, 2:676 fn. 1; Goitein, *Education*, 170; Neil Danzig, *Introduction to Halakhot Pesuqot*, 2nd ed. (Hebrew; New York and Jerusalem: The Jewish Theological Seminary of America, 1999), 19 with fn. 12; Menahem Kister, "Od pirur li-leqsiqon ha-talmudi," in *Mehqerei Talmud II: Talmudic Studies Dedicated to the Memory of Professor Eliezer Shimshon Rosenthal*, ed. Moshe Bar-Asher and David Rosenthal (Jerusalem: The Hebrew University Magnes Press, 1993), 431–47 (445-46, a version of b. Hagigah 5b, relayed in T-S F 3.130, in which a blind person, referred to by the antiphrastic phrase "מאור עיניים," is called a "תאני הלכאתא"). I follow here the interpretation of "נער מאור עיניים" suggested by Epstein (*Introduction*, 2:689 with fn. 2), following the reasoning of Danzig (*Introduction*, 19 fn. 12): simply put, the continuation of the text states "and now no one brings their son" ("ועתה אין איש מביא בנו"), without specifying anything regarding blindness. See also Uziel Fuchs, *The Geonic Talmud: The Attitude of Babylonian Geonim to the Text of the Babylonian Talmud*, Eshkolot: Jewish Studies Series (Hebrew; Jerusalem: Herzog Academic College and The World Union of Jewish Studies, 2017), 41, and Simcha Emanuel, "New Responsa of R. Hai Ga'on" (Hebrew), *Tarbiz* 69, no. 1 (1999): 105–26 (113 fn. 34).

[63] T-S 13 J 25.5, Gil, *Ishmael*, doc. 25 ll. 21-3.

Sherira's time, exceptional youth would ideally be sent to study Mishnah at a certain stage in their education with "*Tannaim*"—professional reciters of Mishnah (on whom more below).[64] From Natan's anecdote, we can surmise a certain elevated socio-economic status of the Egyptian youths' chosen for Mishnah study, whereas here it is allegedly the intellectual skills of the youth that enables them to reach this stage of study. It is likely though that socio-economic factors and intellectual ones were in truth factors in both cases, as it is simply unlikely that any system for assessing youth, particularly at this stage, would be purely meritocratic. Of note also is Sherira's use of hyperbole—even the sons of other functionaries in the academy, namely the *Amoraim*,[65] no longer join the ranks of the academy[66]; students not coming to study the Mishnah would mean that the Mishnah would be forgotten. It thus seems that for Sherira, at least rhetorically, the elementary transmission and study of the Mishnah is still primarily, or at least ideally, a process of memorization.[67]

While these sources imply that only children of the elite would be afforded the opportunity to study Mishnah, there is some evidence that children of lower classes would also have such opportunities. Further evidence will be adduced for this below in our discussion of material evidence, but for now, a responsum of Maimonides, from the end of

[64] A possible alternate interpretation of this passage would read it as referring to two separate institutions—the School of the *Tannaim*—a professional setting or even guild, and the School of the Mishnah—a place of elementary or secondary study, and that youth would be brought to the latter before joining the guild. Note though that another text from roughly the same period seems to describe an elementary stage of Mishnah study as taking place under the *Tannaim*: "…and at eight years, he enters the house of his teacher and studies (וילמד) Torah, Prophets, and Writings; and at seventeen years, he leaves the House of Scripture and enters [that of] the *Tannaim*, and repeats (ושונה) Mishnah and Halakhot"; T-S K.21.88, first published in Ithamar Gruenwald, "Further Jewish Physiognomic and Chiromantic Fragments" (Hebrew), *Tarbiz* 40, no. 3 (1971): 301–19 (307), and mentioned in this context by Sussman, "Manuscripts," 239 fn. 92 and Emanuel, "New Responsa," 113 fn. 34. This text does not specify any heightened intellectual capacity, but as mentioned, the ability to even spend time studying, at the advanced age of seventeen, would surely imply an elite economic status.

[65] On whom see Fuchs, *Geonic Talmud*, 40-1.

[66] Gil, *Ishmael*, doc. 25 ll. 23.

[67] I will analyze this trope in Sherira's writings in greater detail in Chapter Eight.

the period under discussion here, will suffice. Maimonides fielded a query with regards to a *melammed tinoqot* who came to a town, likely in rural Egypt, set up shop in the local synagogue, and began—without permission from the local judge—"to teach them [i.e., local children] Scripture and Mishnah, and to explain the Mishnah to them to the best of his knowledge" (ללמדם מקרא ומשנה ולפרש להם משנה כפי ידיעתו).[68] The synagogue setting and the rural context imply that the teacher in question was *not* teaching children of particularly well-off families. Tellingly, a difference is drawn here in the query sent to Maimonides, between "*to teach*" (ללמדם) Mishnah and "*to explain*" (לפרש) Mishnah. Maimonides maintains this distinction in his response, saying that if the *melammed* is not particularly knowledgeable, he can "teach the *language* of the Mishnah (לשון המשנה) as he teaches the language of Scripture" (ילמד לשון המשנה כמו שילמד לשון המקרא) with the local judge's permission, but he is in no way permitted "*to explain the Mishnah*" (לפרש משנה).[69]

The distinction between different levels of teaching the Mishnah, and the idea that some teachers are supposedly only equipped—or even, *permitted*—to teach the more basic level is significant for what it tells us of how Mishnah study was understood in 12th century Egypt. Notably, by contrast, Scripture is taught only on a more basic level—the question and the response refer to Scripture being "taught" ("ללמדם מקרא" and "כמו שילמד לשון המקרא") whereas with regards to the Mishnah, its "language" can be "taught" "like the language of Scripture" is taught, but the Mishnah can also be "*explained*." What might have been the nature of the difference between these two levels of teaching? The phrase "to teach the language (*lashon*) of the Mishnah" likely refers to teaching the *text* of the Mishnah, with a

[68] Responsum 323, ed. Blau 2:591-92 (=Assaf-Glick, *Education*, 2:507).
[69] Nor is he allowed to teach *Halakhot*—likely Alfasi.

basic understanding that hinges upon an understanding of grammatical rules, and likely also, to its memorization according to the rules of proper recitation.[70] As we saw in the anecdote that opened this chapter, elementary education in the Mishnah in this period could look like an intense focus on the proper recitation of Mishnah based on grammatical principles that teachers would occasionally explain in order to elucidate the proper plain meaning of the text, and it seems that this is what Maimonides is referring to when he describes a more basic level of Mishna study as the study of "the *language* of the Mishnah."[71] Thus, while there is no explicit mention of using any physical copies of the Mishnah, proper recitation and/or memorization of the Mishnah is the basis for future Mishnah study. This practice coheres with an educational theory that is well documented in medieval and ancient rabbinic sources, according to which familiarity with the text, even its memorization, should precede attempts to understand the text.[72]

These pedagogical anecdotes are not many, but it is important that there is nothing extraordinary about them. The reason that elementary Mishnah study is mentioned is not

[70] See similarly Goitein's summary of this responsum (*Med. Soc.* 2.213): "…the *text* of the Mishnah, but was prevented from expounding it…".

[71] One may think that the teaching of "the language of the Mishnah" refers to the *grammar* of Mishnaic Hebrew or grammatical elements of the Mishnah, but in the context of this responsum, this usage of "לשון" seems unlikely. For "לשון" as something approximating "text," see p. Sukkah 3:15 (54a [649]), " יודע לדבר - אביו מלמדו לשון תורה" ("Once he knows to speak, his father teaches him *lashon Torah*")—while parallel sources clearly state that the father is obligated to teach him Hebrew language (see Lieberman, *TKP*, 2:1269), Maimonides' choice of words in *Talmud Torah* 1.6 show that he understood the phrase "*lashon Torah*" as referring to *verses of the* Bible; see N.L. Rabinovitch, *Mishneh Torah...with Yad Pshuta*, 3rd ed., vol. 1a (Hebrew; Jerusalem: Maaliyot, 2007), 358; Menachem Krakowski, *Avodat ha-Melekh* (Hebrew; Facsimile Reprint: Jerusalem: Mosad HaRav Kook, 2002), 68; Blidstein, *"Upon Them Shall We Meditate,"* 41 fn. 42. This is close also to the meaning of "לישנא" in Aramaic as "version, textual reading"; see Sokoloff, *DJBA*[2], 585-86.

[72] This theory is distilled in a phrase found in the Babylonian Talmud, according to which "one must first learn (ליגמר) and then understand (ליסבר) (b. Shabbat 63b). See also b. Berakhot 63b, "Rava said: one must first study Torah, and then delve into it" (ילמד אדם תורה ואחר כך יהגה). Israel b. Shmuel b. Hofni Gaon, who headed the Sura academy in the first half of 11th c., included this phrase in a letter of his on education in which he wrote that "even though one who learns begins with the Torah, they must repeat (לשנות) the Mishnah and the Talmud and then לסבור ולחקור"; Gil, *Ishmael*, doc. 65 9 ll.1-4, cited in Goitein, *Education*, 160; see also idem, *Med. Soc.*, 2:564.

because such study is out of the ordinary, but because something else came up that was of note and in need of an explanation or resolution—an odd pronunciation, the history of an important social bond, a decrease in funds, the competition between teachers. These anecdotes can thus be reliably used to ascertain that elementary Mishnah study was in fact quite prevalent in communities represented by the Genizah material; it is likely not discussed all too often precisely *because* it is the norm.[73]

It is of note also that the anecdotes do not explicitly mention the use of physical copies of the Mishnah, and the letter of Sherira seems to even imply that such copies are unimportant. What is emphasized for the actors in these anecdotes is the memorization and proper recitation of the Mishnah, an embodied form of knowledge that is impossible to attain without instruction from a teacher. With that, as we will see in the following section, material copies were nevertheless used in primary Mishnah education, and after reviewing this evidence, we must ask how physical and oral media may have interacted in these contexts.

3.3. *The Mishnah in Elementary Education—Material Evidence*

There is a diverse array of material evidence that can be used to shed light on primary education in the Mishnah. Booklists preserved in the Cairo Genizah are particularly instructive in this regard. While most of these lists are of the libraries of elite members of

[73] Interestingly, R. Yosef Rosh ha-Seder, writing in the introduction to his commentary to Se'adyah's *Siddur* (T-S K3.1) around the turn of the 13th century, seems to imply that only advanced learners would study Mishnah, whereas at earlier stages, students would study the Oral Torah via more recent works, likely referring to Alfasi's epitome. It is possible that there was some geographic and that there was certainly diachronic variation in this regard, with an increase towards more reliance on epitomes and other halakhic manuals replacing the Mishnah in elementary education. It is also possible, however, that R. Yosef has different levels of literacy in mind, and that elementary study of the Mishnah may have been prevalent but may not have led to the kind of deep or intimate knowledge of halakha that R. Yosef was describing. See Goitein, *Med. Soc.*, 2:205-6, 564 n. 1, Lipa Ginat, *Rabbi Joseph Rosh Hasseder and His Manuscripts of the TOSHBA and Halacha (from the Geniza)* (Hebrew; Israel: [no-publisher], 2018), 72-3.

society or those involved in the production of books,[74] some contain the inventories of synagogues and their libraries. Notably, one such inventory, written in 1080—just as Natan was studying Mishnah in his youth in Alexandria—lists the books of the Babylonian synagogue in Fustat.[75] The list includes two complete copies of the Mishnah (T-S 20.47; Allony, no. $80_{33\text{-}4}$). As has been suggested, the presence of these manuscript books in a synagogue library may relate to the function of the synagogue as a site of elementary education,[76] meaning that these copies of the Mishnah were used in elementary instruction,[77] and as we know from other sources, the synagogue was often primarily the place of study for youth who came from more disadvantaged families, implying again that some form of Mishnah education may have been available to the children of non-elites.

Extent fragments of Mishnah copies themselves may also shed light on elementary study practices. In the corpus of catalogued Genizah fragments, the three most represented tractates are Avot, Shabbat, and Berakhot (in that order).[78] Although copies of Mishnah tractates are not often listed in booklists, in Nehemya Allony's corpus, the three tractates of

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[74] Cf. Sokolow ("Schools and Education," 485) says the exact opposite: "Booklists were kept primarily by booksellers and by creditors who received books as pledges. As such, they cut across socioeconomic lines and afford us a reasonably representative glimpse of the educational practices and enterprises that produced the works they enumerate." But by nature, booklists were maintained by people with the excess capital that allowed them to amass a sizeable personal library.

[75] For a partial publication and discussion of this list (not including the section listing books), see S. D. Goitein, "The Synagogue Building and Its Furnishings According to the Records of the Cairo Genizah" (Hebrew), *Eretz-Israel: Archaeological, Historical and Geographical Studies* 7 (1964): 81–97; see also Olszowy-Schlanger, "Book Production," 672 fn. 16. On the importance of Genizah book lists more generally, see Miriam Frenkel, "Book Lists from the Cairo Genizah: A Window on the Production of Texts in the Middle Ages," *Bulletin of the School of Oriental and African Studies* 80, no. 2 (2017): 1–20.

[76] On the synagogue as a site of elementary education, see above, in and near note 28.

[77] As suggested already by Moshe Lavee, "Haggadic Midrash in the Genizah, as Reflected in the Book Lists of Rav Yosef Rosh Haseder" (Hebrew), in *Uncovering the Canon: Studies in Canonicity and Genizah*, ed. Menahem Ben-Sasson et al. (Jerusalem: Magnes Press, 2010), 38–87 (43 fn. 12). On the donation of books to synagogues for the purpose of elementary education, see above, fn. 46. We will see below further evidence of manuscripts of the Mishnah being deposited or donated to a Synagogue.

[78] Based on the catalogued fragments in Sussman, *Thesaurus*. To be sure, this corpus extends chronologically beyond the 12th century, yet the bulk of the material may indeed be from the 11th-12th, with a certain amount even predating the 11th century.

Shabbat, Hullin, and Berakhot are those that are mentioned most often.[79] Moreover, we can tell that several Genizah manuscripts almost certainly contained Berakhot alone. While the examples are not many, there are still more such examples for Berakhot than there are for most other tractates.[80] From other fragments we learn that Berakhot was at times copied alongside Shabbat,[81] and two Genizah fragments contain Berakhot directly before Hullin.[82]

These data certainly speak to the popularity of these tractates, but it is not initially clear at which level (or, levels) of study they may have been consumed, and there may be different answers for each tractate. Shabbat's immense popularity may relate to its study in various modes and at various stages of education: as we will see in Chapter Seven, the tractate was often studied or recited on the Sabbath, and along with Hullin, it is one of the more practical tractates in day-to-day observance in the home; this relevance may have led to study by youth but also to continued study by adults. While the same can be said of Berakhot, it is likely that its significant representation in bibliometric analysis relates also to the frequent use of copies of the tractate in elementary stages of study.

Evidence for Berakhot's popularity in elementary settings can be adduced from a surprising source: the appearance of incipits of the tractate in pen trials in Genizah fragments. From the fact that the opening lines of Berakhot appear in countless Genizah manuscripts as pen-trials, we can conclude that these lines were clearly drilled into the

[79] Shabbat: 17_{13} (two copies),[79] 22_{7}, $31_{48\text{-}49}$, 44_{4}, 44_{9}, 45_{28}, 69_{23} (= 9 copies); Hullin: 22_{7}, 44_{9}, 44_{11a}, 44_{11b}, 44_{15}, 44_{19} (=5 copies); Berakhot 1_{9}, 22_{6}, $31_{20\text{-}22}$, $31_{124\text{-}125}$ (=4 copies).

[80] It is difficult to know the beginnings or ends of manuscripts, as these were particularly prone to destruction over time, but we do have a few fragments of the end of Berakhot that have blank pages or even colophons at the end, showing that the manuscript only contained this tractate, e.g., T-S NS 111.61 (#2995), T-S NS 329.382 (#3594), Moss. VI 192.[א] (#8362).

[81] E.g., T-S AS 96.83 (#5718).

[82] John Rylands A 1511 (#1402) and Geneva 63 (#8773); see discussion in Menahem Kahana, "The Arrangement of the Orders of the Mishnah" (Hebrew), *Tarbiz* 76, no. 1–2 (2006): 29–40 (35 fn. 33).

minds of Jewish males at some, likely early, point in their education. One such example can be found in T-S AR. 49.60 (Baker/Polliack 7138; #2820), a fragment of a medical text in Arabic re-used for pen-trials, in which the text used for the trials comes from the opening of Berakhot (Figure 5.1).[83]

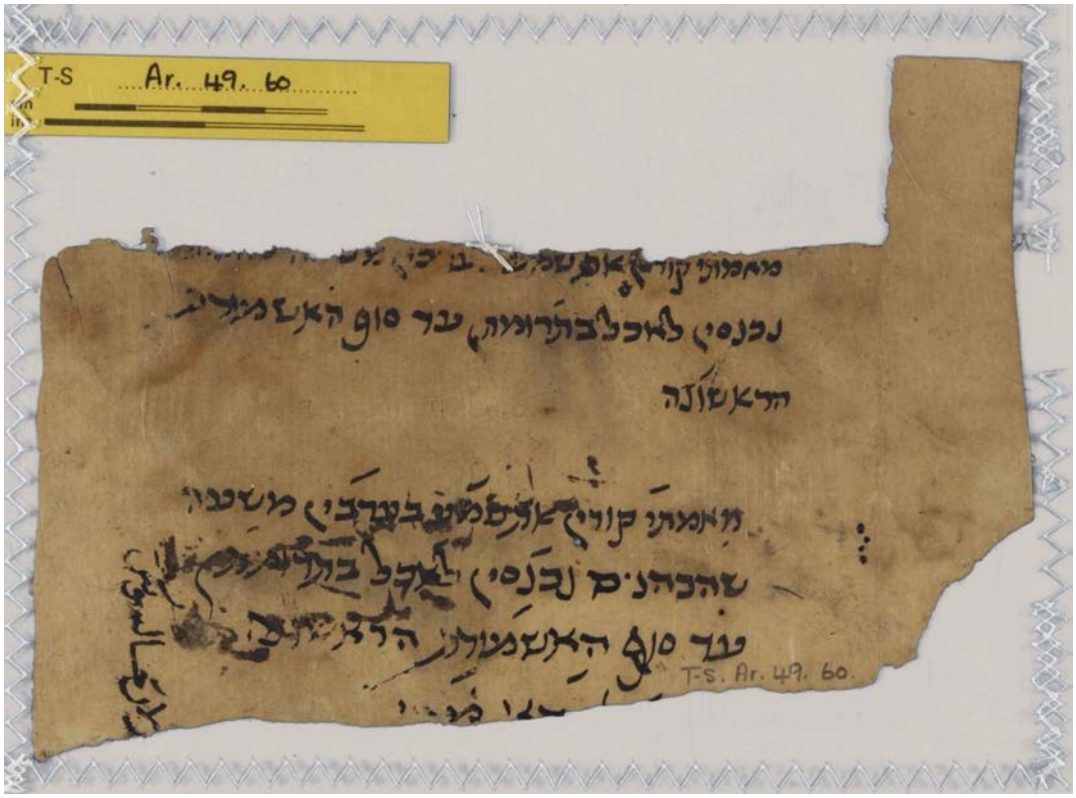

Figure 5.1: Pen-trials of the opening lines of m. Berakhot (T-S Ar. 49.60v [#2820]).

The opening line also appears on blank pages within in manuscript copies, as in T-S NS 329.118 (#3407), a fragment from a manuscript of m. Shabbat (Figure 5.2).[84]

[83] See also T-S NS 288.179 (Shivtiel/Niessen 5683; Brody 3290), an edition and translation of which has been published online by Marina Rustow, https://docs.google.com/document/d/1CbBQp-SA_RnXUmd8qGtshZ0Vbhozkekm98xhAv-CjkU/edit?usp=sharing (accessed 12.20.2022).

[84] Not also that neither Sussman nor Brody in their catalogues note the text that appears in the pen-trial.

Figure 5.2: A fragment from a manuscript of Mishnah Shabbat in which the opening lines of tractate Berakhot are used as a pen trial on the blank outer side (T-S NS 329.118r [(#3407])

In yet another fragment, T-S NS 70.60 (Shivtiel/Niessen 607), which contains writing practice in both Hebrew and Arabic, the bulk of the Hebrew texts used for practice come from the opening lines of m. Berakhot I and m. Shabbat II from the Mishnah (Figure 5.3).[85]

[85] This is not, in my opinion, a child's practice, but rather that of an older scribe, as we can likely ascertain by the appearance of Arabic writing.

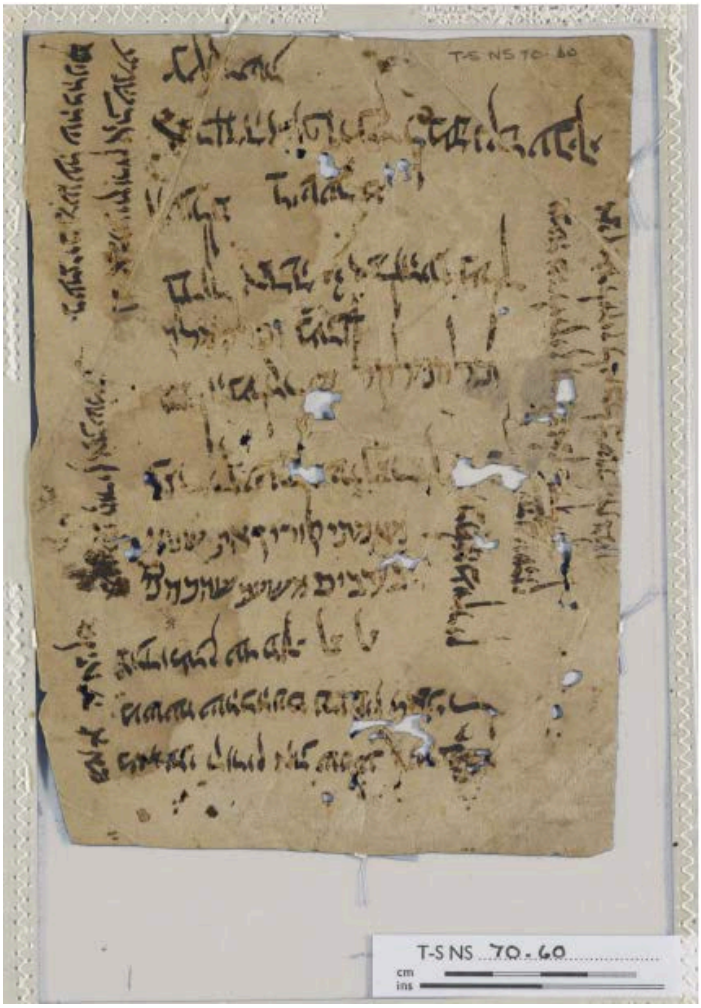

Figure 5.3: Pen-trials of the opening lines of m. Berakhot I and m. Shabbat II (T-S NS 70.60r)

From this we can learn that Shabbat II—or at least, its beginning—was also known by heart by some scribes, unsurprising given its importance in the Shabbat liturgy (see Chapter Seven).

Berakhot's popularity is important for how it tempers our understanding of the extent of Mishnah study at this stage. As the anecdotes analyzed above only speak of the Mishnah in general, without specifying sections that may have been taught at elementary stages, we may now be able to conclude that some parts of the Mishnah would have been

privileged over others in elementary education, and that Berakhot, perhaps unsurprisingly, was used as the basic text taught at such stages and was therefore better known by heart.[86]

Returning to the use of physical copies of the Mishnah in elementary education, the use of such copies is surprising only since the anecdotes describing such education do not mention their use. It appears, therefore, that the physical copies themselves were not *understood* to be a significant aspect of the study of the Mishnah in this stage of education. This may be because the primary goal was not to achieve an ability to read from a physical exemplar, per se, but to memorize the text, or because in any event, the physical exemplar was clearly insufficient and in need of an additional orally transmitted component.[87]

It is in this context—i.e., the relationship between oral and written media in the elementary education of the Mishnah—that two additional aspects of the Mishnah's transmission and medieval reception must be mentioned. One is that in many Genizah fragments of the Mishnah, as well in manuscripts of the Mishnah found elsewhere, the text of the Mishnah appears with cantillation marks.[88] The use of such marks, and the evidence for "chanting" of the Mishnah, speaks to educational practices that hinge on the proper

[86] Further study of texts used in pen-trials may help shed further light on this subject. Unfortunately, they have mostly been uncatalogued until now.

[87] As Graham and Kermani write in the context of Quran education ("Recitation and Aesthetic Reception," 116), "[t]he consonantal text could serve as an aide-memoire but not a stand-alone document. To read the bare, unpointed text, one had to know it already by heart, or very nearly so."

[88] See Israel Yeivin, "Hatamat torah she-bi'al peh bi-te'amim," *Lěšonénu: A Journal for the Study of the Hebrew Language and Cognate Subjects* 24, no. 1–2 (1959): 47–69, 167-78, 207-31; David Rosenthal, "Mishna Aboda Zara - A Critical Edition with Introduction" (Hebrew; Ph.D. dissertation, The Hebrew University of Jerusalem, 1980), 113-20; Goitein, *Med. Soc.*, 2:199-200; Mira Spiegel, "Punctuation Signs (*Te'amim*) and Their Function in Old Manuscripts of the Mishnah" (Hebrew), *Proceedings of the World Congress of Jewish Studies* 11 (1993): 39–45; Yosef Fagin, "The Function of Talmudic Chant and Cantillation," *Journal of Jewish Music and Liturgy* 30 (2009-2008): 15–32. See also the index of *te'amim* in Sussman, *Thesaurus*, 354-55; as can be seen in the index, while other rabbinic works are also at times copied with cantillation marks, this happens far more frequently in manuscripts of the Mishnah.

recitation of the Mishnah and to the attempts to encode further oral components of the Mishnah's transmission in writing (Figure 5.4).

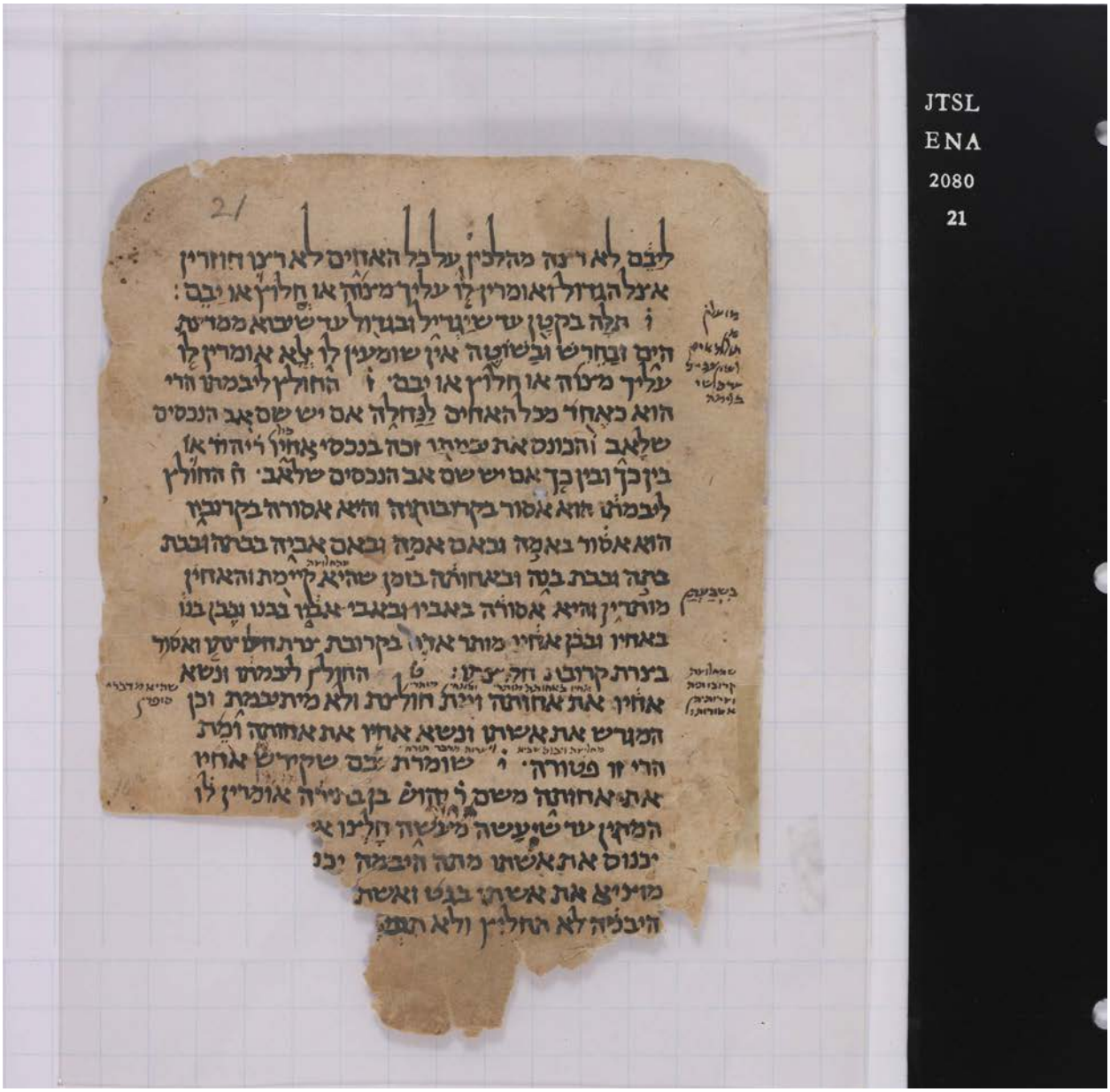

Figure 5.4: An example of a Genizah Fragment of the Mishnah with cantillation marks (ENA 2080.21r [#6405]).

One other related aspect of the Mishnah's transmission is the continued existence of reading traditions of the Mishnah into the 20th century, documented primarily for Oriental Jewish communities by Israeli linguists in the middle of that century.[89] The existence of these traditions speaks to the vitality—over many centuries—of oral study practices that emphasize the proper recitation of the Mishnah. As many scholars have shown, these traditions can in fact relay medieval and even late antique understandings and reading practices, a phenomenon that again speaks to the significant effort placed on imparting the proper recitation of the Mishnah in these periods and to the limitations on what can be conveyed via physical exemplars.

4. *Study of the Mishnah by Rabbinic Elites*

In contrast to the importance of Mishnah in elementary or secondary study, by all accounts, the Mishnah does not appear to have been a primary focus of study in the Geonic *yeshivot* of Babylonia, nor in the *yeshivot* located elsewhere in medieval Islamic lands. Neither the Geonim, nor any other Islamicate rabbis of their period, ever mention the organized study of the Mishnah within an academic setting apart from when mentioning the work of the *Tannaim* or when discussing liturgical study of the Mishnah. That said, the Geonim and other rabbis clearly displayed proficiency in the Mishnah, even in the portions without Babylonian Talmud, and several even composed commentaries on the Mishnah. In these discussions and works, these rabbis display a level of understanding that goes far beyond a mere ability to recite the Mishnah correctly. We must ask, then, when these rabbinic elites did engage with

[89] See, for example, Shelomo Morag, "The Study of Mishnaic Hebrew - The Oral Evidence: Nature and Appraisal," ed. Moshe Bar-Asher and Steven E. Fassberg, *Scripta Hierosolymitana* 38: Studies in Mishnaic Hebrew (1998): 43–57.

the Mishnah—what led them to do so? And what knowledge bases could they call upon to explicate the Mishnah's more difficult passages?

4.1. *Babylonian Geonim and the Mishnah*

On the one hand, the Geonim's knowledge of the Mishnah can be attributed to their study of the Mishnah as youth. But their familiarity with the work certainly goes beyond this, as they are turned to by other Jews to field difficult questions in the Mishnah's interpretation.[90] Further, in several sources, and again primarily in response to questions from abroad, Geonim from Se'adyah and on dealt with the divergent versions of the Mishnah, differentiating between Babylonian and Palestinian text types of the Mishnah.[91]

In his discussions of Mishnah versions that diverge by region, Se'adyah does not refer to written copies, but introduces these version by saying that "the people of the Land Israel *say*…"[92] Similarly, an anonymous geonic responsum refers to differences between Palestinian and Babylonian "recitations" of the Mishnah: "there are those in the Land of Israel who recite (*gorsin*)…but the sages of Babylonia all recite (*gorsin*)…".[93] Hayya writes that "in the Land of Israel they recite (*shonim*)," but notes also that "there are *written copies* here in which it is written that way."[94] Significantly, in this case, Hayya argued based on content that

[90] E.g., T-S Ar. 18(1).2 (Baker-Polliack 739), a responsum of Sherira translating into Judeo-Arabic difficult words in the orders of Taharot and Zeraim, first published in Simcha Assaf, ed., *Responsa Geonica* (Hebrew; Jerusalem: Mekize Nirdamim, 1942), 172-79, translated into Hebrew by David Baneth; the translation was reprinted, with further notes, in Dovid Rabinowich, ed., *The Responsa and Talmudic Novellae of Rav Sherira ben Rav Chanina Gaon*, 2 vols. (Hebrew; Jerusalem: Mosad HaRav Kook, 2012), תשטו-תשכא; see the discussions of select passages in Fuchs, *Geonic Talmud*, 261, 491-92, 494, 495-96.

[91] Fuchs, *Geonic Talmud*, 133-36.

[92] See the examples cited in Fuchs, *Geonic Talmud*, 134.

[93] Fuchs, *Geonic Talmud*, 136; Eruvin 26b. Using the verb גורסין—see Brody, Fuchs.

[94] Fuchs, *Geonic Talmud*, 135; Sukkah 34b

the Palestinian version should be adopted,[95] and we see also the first signs of correspondence between Palestinian versions and written copies of the Mishnah. This is seen even more explicitly in a responsum of Shmuel b. Hofni Gaon, in which he explicitly writes of the version found in physical copies of "*Mishnayot* of the Land of Israel," but to be sure, this is in response to a question in which such copies and their version are already mentioned explicitly.[96]

Beyond showing a deep familiarity with the text of the Mishnah, these cases show also that the later Geonim were specifically attuned to some of the unique textual issues presented by the Mishnah and its diverse manuscript evidence and recitation traditions. We can further say that the Babylonian Geonim of the early 11th century not only distinguished between Palestinian and Babylonian versions of the Mishnah, but also corresponded Palestinian versions with those found in certain written copies, some of which were considered by learned Jews as uniquely "Palestinian." While the Talmuds themselves spend a significant amount of time and effort discussing divergent versions of the Mishnah, these are the first examples in which we see correspondences drawn between text-type, region, and *medium*.

Certain manuscripts of the Mishnah can be identified, primarily on codicological grounds, as having been copied in Babylonia, and yet it is of note that despite this origin they convey a text-type that is "Palestinian" at the very least in that it diverges from the text-type of the Mishnah in manuscripts of the Babylonian Talmud.[97] Such manuscripts are the kinds

[95] T-S 10K10, 5r-6r, discussed in Fuchs, *Geonic Talmud*, 135, 148-49, and printed at 324-25. In addition to the literature cited there, see also Sussman, "Manuscripts," 241 fn. 95. His attempt to adopt the Palestinian version in the Babylonian yeshiva ultimately failed.

[96] T-S 28.15, discussed in Fuchs, *Geonic Talmud*, 136, and printed and further discussed at 298-300.

[97] See Epstein, *Introduction*, 2:1269. Some of these manuscripts are identified as Babylonian as they utilize supralinear Babylonian vocalization; to be sure, this need not necessitate a Babylonian origin; for these

of manuscripts that the Babylonian Geonim would have encountered, and when coupled with the Geonim's testimony, they show that there were multiple ways in which the Mishnah would have been disseminated and thus known in Babylonia by the end of the millennium (see Figure 5.5).

manuscripts, see Israel Yeivin, *The Hebrew Language Tradition as Reflected in the Babylonian Vocalization*, 2 vols., Texts and Studies 12 (Hebrew; Jerusalem: The Academy of the Hebrew Language, 1985), I.194-202. More certain is the appearance of certain codicological features, as in the use of leather scrolls (for which see Judith Olszowy-Schlanger, "The Anatomy of Non-Biblical Scrolls from the Cairo Geniza," in *Jewish Manuscript Cultures: New Perspectives*, ed. Irina Wandrey, Studies in Manuscripts Cultures 13 [Berlin and Boston: Walter de Gruyter, 2017], 49–88), or the lack of adherence to "Gregory's Rule," as in Antonin 262 (#8656), a manuscript, likely from the Genizah, containing most of the order of Taharot; as Mordechai Glatzer has shown, early Babylonian Hebrew manuscripts on vellum—like Syriac ones—do not have skin sides of the parchment facing one another and hide sides facing hide sides, but rather, each opening of the codex has a skin side facing a hide side. See Mordechai Glatzer, "Early Babylonian Hebrew Manuscripts," *Books & People: Bulletin of the Jewish National and University Library, Jerusalem* 11 (1997): 8–13. As has been shown, the text-type of Antonin 262 is quite close to that of the Italian manuscripts of the Mishnah, Parma 3173 and Kaufman A50; for this and for other reasons, the manuscript is deemed to represent the so-called "Palestinian text-type" of the Mishnah, despite having been created in Babylonia; see Tirzah Zechurah Meacham, "Mishnah Tractate Niddah with Introduction - A Critical Edition with Notes on Variants, Commentary, Redaction and Chapters in Legal History and Realia" (Hebrew; Ph.D. dissertation, The Hebrew University of Jerusalem, 1989), 124-27, and elsewhere in the dissertation.

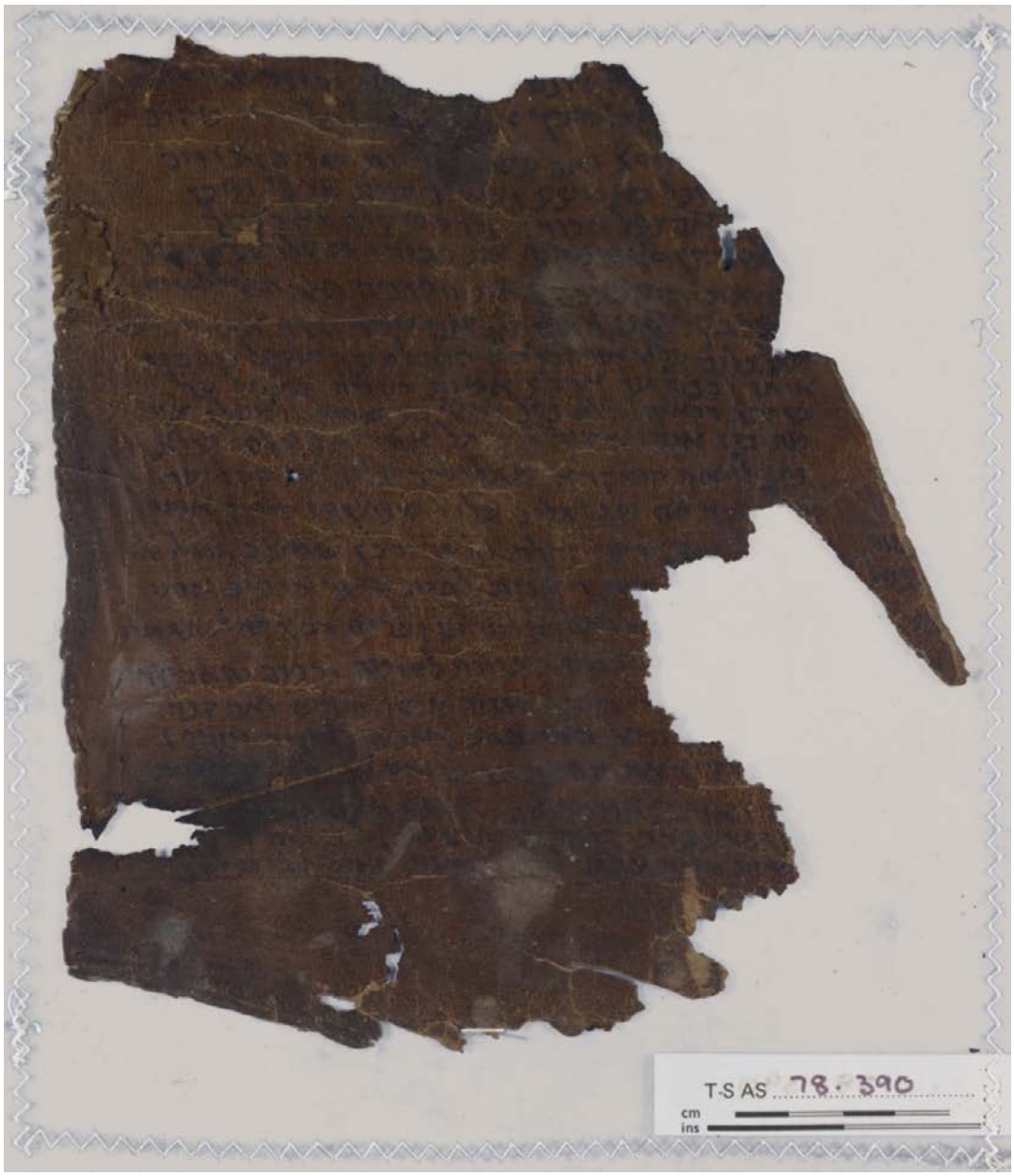

Figure 5.5: A fragment of Mishnah Bava Batra I on leather, and therefore likely of Babylonian origin (T-S AS 78.390r [#4688]). Olszowy-Schlanger has dated these fragments to the 9th-10th centuries.[98]

[98] See Olszowy-Schlanger, 57. Note that Sussman regards the blank side as a "עמוד שער"; but as Olszowy-Schlanger has shown (62), "the corpus of the non-biblical scrolls from the Cairo Geniza does not contain opistographs."

While the existing material evidence of manuscripts of the Mishnah created in Babylonia may belong to the "early" level of Genizah material,[99] it is still not possible to know precisely when these kinds of written copies would have first become available. The increased discussion of such copies specifically in the work of the late Geonim does seem to imply that they became current only at the close of the millennium, and/or that the issue of such divergent versions was only made significant for the Babylonian Geonim when they began to field questions on such issues by Jews in other communities. The existence of these manuscripts makes Sherira's insistence on oral study of the Mishnah all the more notable: while there was certainly access to Mishnah manuscripts, it is only the study and memorization of the Mishnah by capable youth that will ensure the continued existence of the work—a role primarily filled by the *Tannaim*.

[99] On Antonin 262's early date, see Meacham, "Mishnah Tractate Niddah," 124-27; see also Gabriel Birnbaum, "Phonological and Morphological Studies in MS Antonin 262 (Mishnah Seder Teharoth)" (Hebrew), in *Studies in Mishnaic Hebrew and Related Fields: Proceedings of the Yale Symposium on Mishnaic Hebrew, May 2014*, ed. Elitzur A. Bar-Asher Siegal and Aaron J. Koller (New Haven and Jerusalem: The Program in Judaic Studies of Yale University and The Center for Jewish Languages and Literatures of The Hebrew University, 2017), 93–111. Similarly, fragments of an extensive manuscript—in fact, one of the only known manuscripts of the entire Mishnah fragments of which were found in the Cairo Genizah—are vocalized with Babylonian vocalization; despite the occasional differences between the textual version of this manuscript and that of the European manuscripts of the Mishnah, its text-type can also be deemed "Palestinian" in the sense outlined above; see also Sussman, "Manuscripts," 245 fn. 115. Fragments of this manuscript have been identified from all orders of the Mishnah other than Zeraim; yet even more importantly, remains of a colophon can be found at the end of the order of Taharot in the fragment Toronto, Friedberg 9-001 (#8458). Unfortunately, the fragment is damaged precisely where the year was listed; see Simcha Emanuel, *Hidden Treasures from Europe*, 2 vols. (Hebrew; Jerusalem: Mekize Nirdamim, 2015-2019), 2:33 fn. 60 (it is important to mention, however, that carbon dating to "a mid-11th cent. cate" cannot be used as the Toronto catalogue cited by Emanuel suggests, for in radiocarbon analysis, the probability of any date within the range of possible dates is equal; see Brent Nongbri, *God's Library: The Archaeology of the Earliest Christian Manuscripts* [New Haven: Yale University Press, 2018], 72-80). From what I have been able to ascertain, this manuscript does adhere to Gregory's Rule. Notably, Genizah evidence for complete manuscripts of the Mishnah is extremely rare—there is only one other colophon stemming from the end of a complete copy of the Mishnah amongst the Genizah fragments, Geneva 21 (S8764). We must keep in mind, though, that ends and beginnings of manuscripts are particularly prone to damage, meaning that our ability to rely on colophons—most of which appear at the ends of manuscripts—is limited; indeed, even the two surviving colophons of Genizah copies of the entire Mishnah are damaged; the colophon page of Geneva 21 is in fact missing, but the ink of the colophon impressed on the opposite page and is viewable in mirror-image; see David Rosenthal, "Talmudic Literature," (Hebrew), in *The Cairo Geniza Collection in Geneva: Catalogue and Studies*, ed. idem (Jerusalem: Magnes Press, 2010), 58–75 (64).

4.2. *Tannaim*

Whereas the Mishnah does not seem to have featured prominently in the curricula of the Babylonian *yeshivot*, there were members of these institutions who were entrusted with memorizing the Mishnah, and perhaps also teaching it and maintaining a tradition of its interpretation—the *Tannaim*. Similar to what we saw already in earlier chapters, the actual role of the *Tannaim* in the Babylonian Geonic academies is unclear, and it is likely that the term may have been applied with different meanings at different times.[100] Yet, if the meaning of this term was ambiguous, at best, in earlier sources, in Geonic texts a partial image of their roles in rabbinic study comes into focus. A number of Babylonian Geonic sources account for *Tannaim* as having a unique role in the oral preservation of tannaitic texts, primarily the Mishnah, and also, tannaitic *midrashim*, the Tosefta, and other collections of tannaitic material, and only occasionally also the Talmud.[101] This is to be compared with the Amoraim—to be sure a group not mentioned anywhere near as frequently as the *Tannaim*—who were charged with memorizing the Talmud.[102]

We saw above that *Tannaim* may have been charged with the elementary teaching of the Mishnah. On the elite level, we know of only two instances in which the Geonim themselves turned to the *Tannaim* with questions regarding the correct textual version of the Mishnah,[103] and in one if these instances Sherira and Hayya turned to the *Tannaim* also for their interpretation of the passage.[104] The presence of the *Tannaim* in the academies is

[100] Fuchs, *Geonic Talmud*, 40.

[101] Fuchs, *Geonic Talmud*, 39-40, 112-13. See also Emanuel, "New Responsa of R. Hai Ga'on."

[102] See Fuchs, *Geonic Talmud*, 40-1.

[103] Fuchs, *Geonic Talmud*, 112-13, 267-69, 480-81; we know also of one case in which they turned to *Tannaim* regarding the text of the *Mekhiltat de-Rashb"y* (ibid., 410-13), and another for a reading of the Talmud (ibid., 391-2).

[104] Ibid., 480-81, with fnn. 367-68. As Epstein (*Introduction*, 2:690) noted, the interpretation offered by the *Tannaim* is incorrect; Fuchs (481) attributes this to a certain lack of understanding in rabbinic Hebrew.

clear in that when Geonic authors mention various figures in the yeshiva in the openings of letters and collections of responsa, the *Tannaim* are practically ubiquitous, and are almost always mentioned among the last of the functionaries to be highlighted.[105] Their appearance at the end of such lists, often times directly next to "students," may imply that their importance in the academies was understood to be somewhat lower than other functionaries and teachers.[106] As has been noted, the continued reliance on *Tannaim*, in an age in which manuscript copies would have been readily available, is of note, and speaks directly to the preference for oral transmission in Babylonian Geonic culture.

4.3. *Palestinian Geonim*

The robust literary output of the later Babylonian Geonim—encompassing responsa, commentaries, and monographs—stands in marked contrast to the sparse output of the Palestinian geonic academy. This does not just seem to be a problem of source bias—rather, it does seem that the Palestinian yeshiva did not partake in the same level or form of rabbinic study and transregional halakhic leadership that the Babylonian ones did.

There is, though, evidence for engagement with the Mishnah on the part of the Palestinian Geonim, or more specifically, for other rabbis in their immediate orbit. Sussman has argued that in sources relating to Palestinian rabbis and their affiliates, a concerted effort

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Emmanuel ("New Responsa," 114) suggests that the *Tannaim* may have been turned to especially regarding *mishnayot* on which there is no Talmud but admits that the evidence may be too minimal to reach such conclusions.

[105] Fuchs, *Geonic Talmud*, 39; Emanuel, "New Responsa," 111-12, noting though that they rarely appear in opening sections of collections of Geonic responsa.

[106] Fuchs, *Geonic Talmud*, 39; Goitein, *Med. Soc.*, 2.199; idem, *Education*, 170-71. On this point, Berkey, (*The Transmission of Knowledge*, 40 fn. 80) is misled here by the meaning of "repetition" in rabbinic Hebrew—"repeating the professor's lesson" does not appear to have been one of the roles of the *Tannaim*, as it was for the *mu'id* in Islamic settings.

is made to emphasize expertise in Mishnah, an effort that is largely lacking from contemporary texts from the orbit of the Babylonian rabbis.[107] In the previous chapter, we saw an emphasis of this sort in a variety of Palestinian texts, including in *piyyutim* written by R. Pinhas b. ha-Kohen, who I maintained was a central figure in the central Palestinian *yeshiva* towards the end of the Umayyad period in the middle of the 8th century.[108]

Jumping to the Fatimid period, two such pieces of evidence mentioned by Sussman relate to Shmuel b. Hoshana "the Third"—that is, the third in the hierarchy of the Palestinian *yeshiva*—who flourished around the turn of the eleventh century, and was thus a contemporary of the Babylonian Geonim Sherira and Hayya.[109] In a letter to Shemaria b. Elhanan, the leader of the Palestinian Rabbinate community in Fustat,[110] Shmuel the Third refers to the addressee as a "reciter of six, studier of four, extoller of nine (" ,[לומד] הוגה שש ארבע מסלסל בתשע)"[111]—meaning that Shemaria is knowledgeable in the six orders of Mishnah, the four orders of Babylonian Talmud, and the nine sections of the Sifra.[112] In his eulogy for Shmuel the Third, Sahlan Rosh Kalah described him as an expert (בקי) in various fields of literature: expert in Torah (Scripture?),[113] expert in Mishnah, expert in Talmud,

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[107] Sussman, "Manuscripts," 240-42 with fnn. 95 and 102.

[108] See above, pp. 109-110.

[109] On Shmuel, see Joseph Yahalom, Naoya Katsumata, and Gabriel Wasserman, *Political Power and Prayerful Poetry: The Life and Works of Samuel Ben Hosha'ana (Jerusalem, Turn of the Eleventh Century). Introduction to the Poet, Hebrew Texts, and English Translation* (Jerusalem: Carmel, 2020). "The Third" refers to his status as the third-most senior member of the Palestinian yeshiva.

[110] On whom see especially Elinoar Bareket, *Fustat on the Nile: The Jewish Elite in Medieval Egypt*, The Medieval Mediterranean 24 (Boston: Brill, 1999), 192-204; for this letter of Shmuel, see pp. 202-3.

[111] T-S 16.68r ll. 11-12, most recently published in Joseph Yahalom and Naoya Katsumata, eds., *The Yotserot of R. Samuel the Third: A Leading Figure in Jerusalem of the 10th Century*, 2 vols. (Hebrew; Jerusalem: Yad Izhak Ben-Zvi, 2014), 2.1004 ll. 5-6.

[112] See Shlomo Naeh, "The Structure and Division of 'Torat Kohanim' (A): Scrolls" (Hebrew), *Tarbiz* 66, no. 4 (1997): 483–515 (488), and the notes of Yahalom and Katsumata *ad loc*. Note also that this text betrays that people in the orbit of the Palestinian yeshiva at the turn of the 11th century could be expected to have proficiency in the Babylonian Talmud.

[113] This is a reconstruction, meant to rhyme with the lines ending with the words "...שפרה...לעוררה"; the word "מקרא" may also fit in this reconstruction, but is less likely.

expert in *Tosafa*, expert in Mekhiltot,[114] Hagadot, and poetry (חרוזים).[115] Additionally, a poetic work written a few years later, also in Jerusalem, describes the members of the yeshiva there as studying both Talmud *and* Mishnah ("שוקדים על דלתות תלמוד ומשנה").[116] These texts give a sense of the continued importance of Mishnah study for Rabbinic elites in the orbit of the Palestinian yeshiva, at a time when Mishnah study qua Mishnah study was not equally important for their contemporaries in the orbit of the Babylonian academies. We will continue to see this trend also in the next chapter, when looking at evidence from European Jewish communities that were intellectually indebted to the Palestinian center.

The importance of the Mishnah for rabbis in the Palestinian orbit can be learnt also from the relative prevalence of copies of the Mishnah in the corpus of early Genizah fragments that likely originated in Palestine and can be dated to the final century or so of the first millennium and shortly thereafter. This corpus, to be sure, is quite small, and it is mostly defined based on paleographic criteria, in light of the undertext of palimpsest manuscripts (Figure 5.6), or considering the use of what is termed "Palestinian" (as opposed to "Tiberian") vocalization (Figure 5.7).[117] Nevertheless, the works in this corpus are

[114] Reconstructed to fit with the rhyme scheme

[115] ENA 4007.1-2; Yahalom and Katsumata, *R. Samuel the Third*, 36-7. See also Yahalom et al., *Political Power and Prayerful Poetry*, 40-4. See also Shulamit Elizur, *Poet at a Turning Point: Rabbi Yehoshua bar Khalfa and His Poetry* (Hebrew; Jerusalem: Yad Izhak Ben-Zvi and The Hebrew University of Jerusalem, 1994), 191.

[116] T-S 10K17. Fleischer ("On the Identity of the Scribe of the '*She'elot Ha-Atiqot*" [Hebrew], *Kiryat Sefer* 55, no. 1 [1980]: 183–90) has suggested that not only the copyist of this fragment, but the actual author of the work itself was the Karaite scribe Tuviyah b. Moshe, on whom see Rustow, *Heresy and the Politics of Community*, 262-64.

[117] See Judith Olszowy-Schlanger, "On the Hebrew Script of the Greek–Hebrew Palimpsests from the Cairo Genizah," in *The Jewish-Greek Tradition in Antiquity and the Byzantine Empire*, ed. James. K Aitken and James Carleton Paget (Cambridge: Cambridge University Press, 2014), 279–99; Nehemya Allony, ed., *Geniza Fragments of Rabbinic Literature: Mishnah, Talmud and Midrash with Palestinian Vocalization* (Hebrew; Jerusalem: Makor, 1973); see also Gabriel Birnbaum, *The Language of the Mishna in the Cairo Geniza: Phonology and Morphology*, Sources and Studies - New Series 10 (Jerusalem: The Academy of the Hebrew Language, 2008). Note also that the earliest mention of Mishnah manuscripts, in the polemical letter of Pirqoi b. Baboi, is in reference to a reality in Palestine; see T-S NS 275.27r, printed in Shalom Spiegel, "Le-Farashat ha-pulmus shel Pirqoi ben Bavoi," in *Harry Austryn Wolfson Jubilee Volume on the Occasion of His Seventy-Fifth Birthday*, ed. Saul

predominantly "Palestinian,"[118] and fragments of the Mishnah make up a significant portion of the overall corpus.

Figure 5.6: A palimpsest fragment of m. Bava Qama with a Greek undertext (T-S AS 78.411r [#4694])[119]

Lieberman, 3 vols. (Jerusalem: American Academy for Jewish Research, 1965), 243–73 (272); and the discussion in Sussman, "Manuscripts," 241 fn. 95.

[118] For the few fragments of the Babylonian Talmud with "Palestinian" vocalization," see Allony, *Geniza Fragments*, מד-נ.

[119] See Olszowy-Schlanger, "Greek Hebrew Palimpsests," 283.

Figure 5.7: A fragment of m. Bava Batra and Sanhedrin with Palestinian vocalization, dated on paleographic grounds to the ninth century (T-S E1.107v [#1723]).[120]

Also of relevance are the existence of Genizah fragments of works of Palestinian Halakaha that are part of the same codicological unit as copies of the Mishnah.[121] Such manuscripts again speak to the continued consumption of the Mishnah on the part of rabbinic elites in the orbit of the Palestinian yeshiva.

Two sources mention figures like *Tannaim* in the Fatimid-era Palestinian academy. Around 921, the head of the Palestinian academy, Aharon b. Meir, mentioned the members of his yeshiva, including "the sages and the reciters," using the Hebrew form for the latter,

[120] See Birnbaum, *The Language of the Mishna*, 219.

[121] E.g., T-S E 1.69-70 (#1692), from a manuscript including Mishnah Seder Moed and the Palestinian work "*Trefot of the Land of Israel*."

"*Mashnim*."[122] We saw in Chapter Two that "*Mashnim*" may not exactly parallel the *"Tannaim."*[123] It is possible that the continued centrality of Mishnah study in Palestinian rabbinic circles meant that in this case, *Mashnim* again refers to teachers of Mishnah, and not precisely to a group of people charged with memorizing the Mishnah: its instruction is important, but the rabbis themselves may have also been expected to know the Mishnah well, and therefore to not have to rely on professional reciters like their Babylonian brethren. The other mention comes from a century or so later, and while it discusses the Palestinian academy, the text itself was written in Southern Italy. The author, Ahima'atz ben Paltiel, describes a major financial donation made by his ancestor in Jerusalem, supposedly in the 9th century; the list of beneficiaries includes "…the Academy—the scholars, and the *Tannaim*."[124]

4.4. *Early Commentaries to the Mishnah*

While the Mishnah did not feature prominently in the curricula of the Babylonian *Yeshivot*, the existence of commentaries to the Mishnah attest to the Mishnah's study and implies that rabbinic elites engaged in Mishnah study, as they were the ones who likely authored these commentaries. The earliest known commentaries are nothing more than dictionary-like annotations or glosses to the Mishnah, referred to in paratexts and in booklists as *Alfat al-*

[122] T-S 8K7r, printed in Sacha Stern, *The Jewish Calendar Controversy of 921/2 CE*, Time, Astronomy, and Calendars: Texts and Studies 7 (Leiden & Boston: Brill, 2019), 226-27; see Epstein, *Introduction*, 2:689, Emanuel, "New Responsa," 111 fn. 25.

[123] See above, pp. 57-64.

[124] Benhamin Klar, ed., *Megillat Ahimaaz*, 2nd ed. (Hebrew; Jerusalem: Tarshish, 1973), 37; Robert Bonfil, *History and Folklore in a Medieval Jewish Chronicle: The Family Chronicle of Aḥima'az Ben Paltiel*, Studies in Jewish History and Culture 22 (Leiden: Brill, 2009), 334-37. Bonfil (336 fn. 535) seems to take this as referring to *Tannaim* in the Babylonian academies, yet see Epstein, *Introduction*, 2:689, and Emanuel, "New Responsa," 111 fn. 25.

Mishna—"words of the Mishnah"—i.e., translations of difficult words. The Genizah has preserved many copies of such commentaries, either appearing on their own or in the margins of manuscripts of the Mishnah. While most of these are entirely anonymous, Epstein has argued that their interpretive tradition stems from knowledge maintained by the *Tannaim*,[125] and Se'adyah himself authored (or perhaps, collated) a commentary in this style on the entirety of the Mishnah.[126] A more extensive commentary on the order of Taharot is attributed to Hayya,[127] but this attribution is not correct and it is likely that the commentary did not originate in the Near East, at least not in its final form. A figure associated with the Palestinian yeshiva, Natan b. Avraham, who flourished in the first half of the 11th century, authored a commentary on the entire Mishnah that extends somewhat beyond the dictionary-like exposition of difficult words.[128] In addition, commentaries on the Mishnah cropped up on the *mishnayot* embedded in Alfasi's epitome of the Babylonian Talmud.[129]

While there is a Babylonian commentary—that of Se'adyah—it is notable that one of *the only* halakhic texts produced by members of the Palestinian Academy that we have is a Mishnah commentary, again highlighting the importance of the Mishnah for rabbis in the Palestinian cultural orbit. Furthermore, these commentaries are clearly catered to something like a sub-rabbinic elite or a lay audience, foreshadowing Maimonides' goals in

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[125] J.N. Epstein, *The Gaonic Commentary on the Order Toharoht Attributed to Rav Hay Gaon*, ed. E.Z. Melamed, trans. Tzipora Epstein (Hebrew; Jerusalem and Tel-Aviv: Magnes Press and Devir, 1982), מו; see also idem, *Introduction*, 2:684-85.

[126] See Uziel Fuchs, "'*Millot HaMishnah*' by R. Saadia Gaon—the First Commentary to the Mishnah" (Hebrew), *Sidra: A Journal for the Study of Rabbinic Literature* 29 (2014): 61–77.

[127] See Epstein, *Gaonic Commentary*.

[128] See Israel M. Ta-Shma, *Talmudic Commentary in Europe and North Africa - Literary History*, 2nd ed., vol. Part One: 1000-1200 (Hebrew; Jerusalem: The Hebrew University Magnes Press, 2000), 185-86.

[129] See Ezra Chwat, "Mishna Study among the Rishonim as Found in the Alfasi Gloss-Supplements" (Hebrew), *Alei Sefer: Studies in Bibliography and in the History of the Printed and the Digital Hebrew Book*, no. 19 (2001): 49–67.

the creation of his own commentary on the entirety of the Mishnah.[130] This brings us, therefore, to the question of "lay" study of the Mishnah in the medieval Near East.[131]

5. *"Lay" Study*

In the Cairo Genizah, the Mishnah alone, without the commentary of Maimonides, is found in roughly 1,830 shelf marks (including tractate Avot, accounting some 480 shelf marks); when fragments containing Maimonides' commentary are added, the number is around 2,130.[132] Meanwhile, shelf marks of the Babylonian Talmud amount to something like 1,986, and of Alfasi's epitome, to 1,889.[133] Given that manuscripts of each of these three works would likely have generally broken down, over time, at the same pace and in the same fashion, and given also that the Mishnah is far shorter in length than each of these other works, we can safely conclude that the Mishnah was an extremely popular work in the period and region represented by the majority of the Genizah material—in fact, even more popular than either the Babylonian Talmud or the *Halakhot* of Alfasi.[134]

And yet, as I argued above, the Mishnah was not a particularly popular work at the elite level of study in the medieval Near East, outside perhaps of the immediate circle of the Palestinian yeshiva. While the use of the Mishnah in primary education can account for much

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[130] For more on these commentaries, see in the appendix to this chapter. For Maimonides' goals in creating a curriculum for lay people, see Moshe Halbertal, *Maimonides: Life and Thought*, trans. Joel A. Linsider (Princeton: Princeton University Press, 2014), 134-63.

[131] On lay study (or, "Adult Education"), see the general remarks of Goitein, *Med. Soc.*, 2.192-95. As Goitein notes (193), since lay study was so common and expected, "the Geniza records refer to it only in exceptional circumstances."

[132] These numbers, and those that follow in this paragraph, come from Sussman, *Thesaurus*, 3.288.

[133] Fragments of the other classical rabbinic works listed by Sussman are miniscule in comparison: 63 of the Tosefta, 156 of the Palestinian Talmud. Menahem Kahana lists over 900 shelf marks of Genizah fragments of tannaitic *midrashim* in his *Manuscripts of the Halakhic Midrashim: An Annotated Catalogue* (Hebrew; Jerusalem: The Israel Academy of Sciences and Humanities and Yad Izhak Ben-Zvi, 1995).

[134] See, for similar conclusions though on a smaller body of evidence, Goitein, *Education*, 153, 166 fn. 222, and then with a larger corpus, Chwat, "Mishna Study," 54.

of these material remains, I believe that many of these copies of the Mishnah may have in fact been used in the context of "lay study" of the Mishnah, a practice for which there is a wide range of evidence. Indeed, several letters of the 11th c. merchants whose documents made it into the Cairo Genizah mention copies of entire or partial copies of the Mishnah.[135] In a letter to Nahray b. Nissim, a well-known merchant of the second half of the 11th c.,[136] his unknown correspondent mentions "the two orders of the Mishnah" that Nahray had copied but that were since lost.[137] Another 11th c. letter records a dispute amongst siblings-in-law concerning a copy of the Mishnah—seemingly in its entirety—that the letter-writer, the trader and scribe Israel b. Natan,[138] a first-cousin of Nahray b. Nissim, had inherited from his father.[139] In a different letter, Israel mentions to Nahray b. Nissim that he is in the process of copying the orders of Nashim and Neziqin of the Mishnah for a friend,[140] and in yet another letter, he informs Nahray that he is available to copy "[Bible] commentary, or Mishnah, or *Halakhot*, or Talmud—whatever one would like."[141] Lastly, a letter of Moshe b. Shmuel (first

[135] For this group of merchants, see Goldberg, *Trade and Institutions in the Medieval Mediterranean*. Individual copies of the Mishnah are mentioned also in T-S Ar.18(1).48 and Moss. II,179 (information based on the Princeton Genizah Project).

[136] On whom see Goldberg, *Trade and Institutions*, 33-6, as well as elsewhere in her study. Books and book preparation appear in several of Nahray's letters; for the information that can be culled from regarding the book trade, see S. D. Goitein, "Books: Migrant and Stationary – A Geniza Study," in *Occident and Orient: A Tribute to the Memory of Alexander Scheiber*, ed. Róbert Dán (Leiden: Brill, 1988), 179–98 (179-185); and Noah Reichman, "Codicology and Genizah: Practical Aspects of Book Culture in the Cairo Genizas—Nahray b. Nissim as a Test Case" (Hebrew; Hebrew University of Jerusalem, 2011).

[137] T-S 12.780r ll. 38-40, document 85 in Gil, *Ishmael*, doc. 85. In another letter, the same author lists several books of his that were lost, including "copies the twenty-four books of the Bible, and the Mishnah, and commentaries"; ENA NS 9.15r l. 4, Gil, *Ishmael*, doc. 86.

[138] On whom see Goldberg, *Trade and Institutions*, 211-2, and elsewhere; for Israel's work as a scribe, see Moshe Gil, *A History of Palestine, 634-1099*, trans. Ethel Broido (Cambridge: Cambridge University Press, 1992), 232-33 (section 342) and 264-67 (section 376); Goitein, "Books," 180-85.

[139] "As if it is not enough that I lent him 1,000 *dirham*—he also took the Mishnah!," T-S 13 J 29.7r, upper margin ll. 9-14, Gil, *Ishmael*, doc. 407; see also Goitein, *Med. Soc.*, 3.469 n. 194.

[140] T-S 13J14.18v ll. 10-1, Moshe Gil, *Palestine During the First Muslim Period (634-1099)*, 3 vols., Publications of the Diaspora Research Institute 56–58 (Hebrew; Tel-Aviv University Press and the Ministry of Defense, 1983), doc. 469; see also the discussion in idem, *Palestine*, 233 (section 342), and in Reichman, "Codicology and Genizah," 46.

[141] ULC Or. 1080 J 15r upper margin ll. 13- b. l.1, Gil, *Palestine*, doc. 470.

half of the 11th c.) records that he tried to purchase a copy of the order of Nashim, likely Mishnah, in Fustat, and when they could not find a good copy, he wrote to Hayya Gaon to send them a copy, as they usually are able to do so quickly.[142] The letter of another trader, written in 1103, provides further information on the ways in which Genizah traders consumed copies of the Mishnah. The writer, a novice at the India trade, feared for his life as he traveled down the Red Sea, and thus penned a letter to his brother back home in Tripoli as a form of last-will-and-testament, making sure to provide instructions for the proper care of his manuscript of the Mishnah:

> I forgot to take my Seder Moʿed from the synagogue! If you need it, take care of it, and if you think that it's better for it to stay in the house, and that it's better … that it be there, do that, may God reward you.[143]

We see, again, the existence of a manuscript of an *order* of the Mishnah—a popular one, at that, Moed. Interestingly, its owner had deposited it in his local synagogue, seemingly as the synagogue was the place where he would use, perhaps on Shabbat.[144] We see also the avenue by which manuscripts would come into the possession of a synagogue—by the last will of their owners. And further, it would be perfectly acceptable for a copy of Mishnah to be in the synagogue library.

In addition to showing the popularity of the Mishnah amongst the economic elite, these letters show that the Mishnah was perhaps most often copied and sold by order,[145] and that, while copies were not impossible to find, good copies were certainly considered to be difficult to come by and were treated as prized possessions. Further, these physical copies

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[142] T-S 10J25.1v ll. 3-6, document 141 in Gil, *Ishmael*, doc. 141 b. 2:399-403.

[143] T-S 12.392 1v ll. 12-14, ed. and trans. by Marina Rustow and Alan Elbaum, available through the Princeton Geniza Project. For a discussion of this section of the letter, see Goitein, *Med. Soc.*, 5.601 n. 59.

[144] On synagogues as a site of lay study, see Chapter Seven.

[145] See also above, fn. 99.

enabled well-educated merchants—elites in their communities, but not necessarily for spiritual or religious reasons, and certainly not full-time rabbis—to study Mishnah outside of academies and without the in-person guidance of a teacher. Lastly, access to such books—mostly a costly commodity[146]—would have certainly been limited to members of more elite socioeconomic classes.

From what we have seen here, lay-study of the Mishnah was a central element of pietistic practice in medieval Islamic lands, enabled by the study of Mishnah at elementary stages of education, the prevalence of written copies of the Mishnah, and by the existence of commentaries for popular consumption. To be sure, we should not think that such literacy in rabbinic texts was universally the case amongst Jewish elites in the medieval Islamic world: as we saw in the anecdote with which we opened this dissertation, there were economic and communal elites in 11th century Muslim Spain with limited familiarity with

[146] Some booklists in Allony's corpus include information on the prices of copies of the Mishnah and related texts:

Codicological Unit	Booklist	Price	Date
Whole Mishnah ("סדר משנה") and additional quires	67_{71}	Dinar, 8.5	1223
Mishnah in five volumes	47_{4}	Dinar, 5	-
Entire Mishnah	47_{12}	Dinar, 2	-
Alfat of first four orders	$58_{11\text{-}12}$	Dinar, 1.5	1153-55
Seder Neziqin	$52_{4\text{-}5}$	Dirham, 6	13th c.
Gaonic Commentary to Taharot	48_{3}	Dirham, 5	First half of 12th c.
Seder Zeraim	$52_{9\text{-}10}$	Dirham, 3.5	-
Single order of Mishnah	48_{7}	Dirham, 3	First half of 12th c.
Unspecified quires of Mishnah for 2.5 Dirham	$52_{13\text{-}14}$	Dirham, 2.5	-

In addition, other documents not included in Allony's corpus also mention prices for copies of the Mishnah. T-S Misc. 24.39, a ledger of the Nahray b. Nissim lists two books and the prices for two books: one, a bible codex for 5.5 dinars, and the other, a codex of the Mishnah, worth 1.5 dinars (recto, ll. 3 and 6); Gil, *Ishmael*, doc. 297; English translation in S. D. Goitein, *Letters of Medieval Jewish Traders* (Princeton: Princeton University Press, 1974), 295-99. As Goitein (289 fn. 16) notes, "[m]uch cheaper than the Bible because the text contained mere letters without signs for vowels and cantillation. No doubt both the Bible and the Mishna codices were only parts of the entire books." I do not know of any prices on actual manuscripts of the Mishnah. See also Eliyahu Ashtor, "Prices of Books from the Geniza" (Hebrew), *Tarbiz* 33, no. 2 (1963): 214–23.

rabbinic texts, ones for whom the elementary study of the Mishnah would have posed significant difficulty but who nevertheless shared the ideal of Torah Study. The reception of the *idea* of rabbinic Judaism and literature could have preceded the spread of rabbinic literacy.

6. *Knowledge of the Mishnah by Women?*

As mentioned already above, the Genizah provides evidence that girls would also attend schools, both alongside boys and also in single-gender classrooms.[147] It does seem though that goals for girls were significantly lower than they were for boys.[148] Girls who did reach higher levels of literacy, including literacy in rabbinic texts, were normally taught by their fathers (perhaps especially in cases of there being no male children) or from other male relatives,[149] a situation not unsimilar to what we know of Muslim women in this region and period.[150] And while the Genizah and other sources preserve evidence for the existence of female teachers,[151] it seems that these teachers are never involved in teaching rabbinic texts, but only reading and Scripture.

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[147] See Goitein, *Med. Soc.*, 2.183.

[148] See Goitein, "Side Lights," 85-9; Renée Levine Melammed, "The View from Here: S. D. Goitein's 'World of Women' Revisited," *Nashim: A Journal of Jewish Women's Studies & Gender Issues*, no. 32 (2018): 102–10; and Krakowski, *Coming of Age in Medieval Egypt*, 162.

[149] See Goitein, *Med. Soc.*, 2.184; idem, "Side Lights," 87; Olszowy-Schlanger, "Learning to Read and Write," 54.

[150] See Berkey, *The Transmission of Knowledge*, 161-181.

[151] Goitein, *Med. Soc.*, 2.185; idem, "Side Lights," 90-1; Reneé Levine Melammed, "He Said, She Said: A Woman Teacher in Twelfth-Century Cairo," *AJS Review* 22, no. 1 (1997): 19–35. The opposition of Maimonides to the employment of female teachers (*Mishneh Torah*, *Talmud Torah* 2:4; *Issurei Biah* 22:13) implies that such a practice was not unheard of, as is clear from his own responsa on the subject.

7. *Conclusion*

We have seen in this Chapter the earliest evidence for the reception of the Mishnah outside of the circles of the rabbis and their immediate students. In medieval Islamic lands, the Mishnah was studied by Jewish at elementary levels of education and by non-rabbis as a form of lay study. To be sure, Mishnah study was not available to all: women seem to have been excluded from it apart for in rare cases, and Jewish males of lower socioeconomic standing would have had far fewer opportunities to partake in Mishnah study; indeed, literacy in Mishnah would have even been a sign of one's elite status and promise, allowing, in turn, for the creation of bonds that would allow Jewish males to further excel in society.

While these patterns of study may continue institutions or practices—like, for example, study in synagogue—that existed already in antiquity, we saw here that a central factor for the spread of Mishnah study in this period was the availability of physical manuscripts of the Mishnah. With that, we noted that there is a continued vitality of oral study, both on its own and as a supplement to written copies. It is telling that the evidence for primarily oral study exists at the elementary and the elite levels, whereas the evidence for study from written copies exists almost entirely at the level of lay study and in "new" centers of rabbinic study outside the traditional centers of Palestine and Babylonia. At the elite level, this largely seems to be an ideologically charged conservative preference, one that may indeed continue late ancient study patterns (and this can be true even if it is polemically argued to be the case by these elites, as we will see in greater detail in Chapter Eight). The focus on oral study at the elementary level may also be "conservative," in that it may continue late ancient pedagogical models, into which the Mishnah is now embedded. What is most

new, then, is the increased engagement with rabbinic texts by non-rabbis or by new-rabbis, facilitated by the availability of written copies.

Much of the material discussed here will be of relevance in the following chapter, despite the geographic and cultural move that we will make to Christian Southern Italy. In the final two Chapters of the dissertation, we will return to medieval Islamic lands, to look at further evidence for non-elite engagement with the Mishnah—this time in liturgical settings—and to elite representations of the Mishnah, primarily found in the writings of the Babylonian Geonim.

Appendix

A Sketch of Early Commentaries to the Mishnah

In what follows, I briefly sketch the most common forms of pre-Maimonidean Mishnah commentary, all of which are primarily intended for a sub-elite audience.[152]

1. *Se'adyah Gaon's Commentary and the Genre of Alfat al-Mishnah*

The first identifiable commentary to the Mishnah can be attributed to Se'adyah, the Egyptian-born Gaon of the Sura academy, who emigrated to Babylonia after spending time travelling and studying in both Egypt and Palestine.[153] Se'adyah pioneered many Judeo-Arabic literary genres, spanning commentaries on various Jewish works, halakhic monographs, polemical treatises, poetry, and philosophy.[154] His commentary on the Mishnah has long been known to scholars, as various medieval and even early modern authors attest to its existence and use, and some even quote from it.[155] But it was not until the discovery of Genizah fragments of the work in the latter half of the 20th century that it has been possible to study the nature of this commentary—the first commentary on any work of rabbinic literature. Nehemya Alloni had first identified several fragments of the work,[156] and then T-S F5.109, a very large fragment, making up 74 pages, was identified in the 1980s by Aryeh Shtolberg. This fragment

[152] I do not discuss here the commentary of R. Yosef *Rosh ha-Seder*, as it does not seem to have had any circulation. On this commentary, see Ginat, *Rabbi Joseph Rosh Hasseder*, 74, 110, 113-14, 146-229.

[153] The following summarizes Fuchs, "'*Millot HaMishnah*'," Fuchs has promised an edition of Se'adyah's Judeo-Arabic commentary, with a translation by Uri Melammed.

[154] See Robert Brody, *Se'adyah Gaon*, trans. Betsy Rosenberg (Oxford: The Littman Library of Jewish Civilization, 2016).

[155] See Fuchs, "'*Millot haMishnah*'," 61-2.

[156] See Nehemya Allony, *Studies in Medieval Philology and Literature*, 6 vols. (Hebrew; Jerusalem: Ben-Zvi Institute and Reuven Mass, 1986-1991), 1:137-150.

covers from the middle of Shabbat I to Avodah Zarah VIII. It thus contains roughly half of the Mishnah, and the entire commentary likely consisted of eight quires. Fuchs has noted parallels between this fragment and quotations from Se'adyah's commentary in the works of other authors, as well as parallels with Se'adyah's halakhic opinions or translation and interpretive practices as evidenced in other works of his. The commentary usually consists of very simple translations of words, with some interpretations according to passages in the Babylonian Talmud. As can be seen by comparing the text with quotations of Se'adyah's commentary elsewhere, the work was clearly added to over time, via the addition of alternative translations.[157] Fuchs has suggested the following purpose of the commentary: Se'adyah's intended audience was a learner outside the academies and their close circle, for whom Rabbinic Hebrew would pose a challenge, and so he created a dictionary-like commentary as a learning aide. While only a minimal commentary, Fuchs emphasizes that this is, nevertheless, significant, as it is the first such commentary there is to any rabbinic text. Further, he highlights that this even more significant given that Mishnah study was not central in the Babylonian *Yeshivot* and its circles.[158] As Brody has suggested, this may have something to do with Se'adyah's having spent time in Palestine, where Mishnah study was more common.[159] The fact that questions on difficult words in the Mishnah continued to be sent to Geonim shows that the commentary was not universally available in the later 10th and early 11th centuries, though on occasion the Geonim were asked specifically about Se'adyah's explanation of words in the Mishnah.[160]

[157] Fuchs, "'*Millot haMishnah*'."
[158] Ibid.
[159] Brody, *Zion*, 270.
[160] See Fuchs, "'*Millot haMishnah*'," 64.

Se'adyah's commentary is mentioned explicitly in several Genizah booklists (100_4; 84_9). But far more common in these lists is the simple reference to *Alfat al-Mishnah*—difficult words of the Mishnah—without an association with a specific author. Fragments of many such lists have been found in the Genizah, and several have been published by Allony.[161] It is, at present, hard to know the relationship between all of these fragments and Se'adyah's commentary; it is unclear if any should be attributed to him; it is unclear if the genre existed prior to his writing of a commentary, or if it is rather the case that the creators of these lists were inspired by Se'adyah's model. Allony has summarized his findings as follows: (1) every commentator explained according to his own way; (2) a quarter or third of the material were shared; (3) only linguistic, not halakhic explanations, were offered.[162]

The so-called "Geonic Commentary to Taharot"—attributed in some manuscripts to Hayya Gaon, and which I will return to below—is attested quite well in the booklist corpus, appearing at least six times,[163] and it is possible that some copies of Alfat are also meant to refer to this commentary.[164] Alfat commentaries come up quite a bit in the lists: they are listed twenty five times in the corpus, at times generally in an unspecified manner, and at times as relating to specific sections of Mishnah, as follow:

[161] See also Aharon Maman, *Otzrot Lashon: The Hebrew Philology Manuscripts and Genizah Fragments in the Library of the Jewish Theological Seminary of America* (Hebrew; New York and Jerusalem: The Jewish Theological Seminary of America, 2006), כו-ל.

[162] Allony, *Studies in Medieval Philology and Literature*, 71-6.

[163] 1_3, 11_{25}, $31_{27\text{-}28}$, 37_{32} (with an explicit attribution to Hayya), 38_{48}, $48_{3\text{-}4}$. For this commentary, see Epstein, *The Gaonic Commentary*.

[164] See especially in booklist 37; note also $31_{6\text{-}7}$, but the commentary appears to be in Arabic, not Hebrew.

Order/Tractate	Booklists in Allony's Corpus	Total
Zeraim	4_{72}, 4_{98},[1] 37_{41}, 46_{39}	4
Taharot	$4_{93\text{-}94}$, 46_{39}	2
Shabbat (and Eruvin)[1]	4_{99},[1] 30_{30} (with Eruvin), 38_{47}, $46_{38\text{-}39}$ (with Eruvin), 61_{17}	4
"First four orders"	$58_{11\text{-}12}$	1
Moed	62_{9}	1
Nashim	38_{47}	1
Unspecified	4_{97}, 11_{30}, 18_{25}, 31_{137}, 31_{138}, 34_{16}, 37_{43}, 45_{31}, $59_{29\text{-}30}$, $59_{30\text{-}31}$, 62_{17}, 69_{29}, 73_{8}	13

Of note also is the existence of one sizeable codicological unit mentioned in booklist 46 (Bodleian, Heb. d. 66, ff. 131-132), a list composed in the 11th century. This unit supposedly contained Alfat to Shabbat, Eiruvin, Zeraim, and Taharot. Booklist 4 (T-S 10K 20.9 + T-S Misc. 36.147) lists a copy of Alfat to Zeraim and Shabbat. Combined with the evidence for the Gaonic Commentary to Taharot, these references may in fact relate to the simple necessity of Alfat in understanding these orders given the number of difficult words, whereas the frequent references to Alfat for Shabbat (and perhaps, Eruvin) may relate to the popularity of this tractate.

2. *The Commentary of Natan b. Avraham "*Av ha-Yeshiva*"*

Natan b. Avraham, who flourished in the first half of the 11th century, descended from an esteemed family of Palestinian rabbis. Natan studied for many years in Qayrawan under the Italian immigrant, Hushiel b. Elhanan. Famously, Natan later challenged the reigning Gaon of the Palestinian academy, the Moroccan-born Shelomo b. Yehudah, such that for a period of exactly four years, from Hoshanah Rabbah of 1038 to Hoshanah Rabbah of 1042, they both claimed the title of Palestinian Gaon—Shelomo in Jerusalem, and Natan in Ramle.[165]

[165] On this schism and on Natan, see Rustow, *Heresy and the Politics of Community*, 302-22, with citations to prior literature.

Important for our purposes is that there is a Judeo-Arabic commentary to the Mishnah that is attributed to Natan.[166] The most complete copy of this commentary is found in a group of Yemenite manuscripts, of which New York, JTS, MS Rab. 1492/2, a 16th-17th c. manuscript, is the direct ancestor of the other two remaining manuscripts.[167]

As it exists in the complete manuscripts, the commentary has more than one editorial layer: While the commentary is attributed to Natan, a later compiler clearly states in an introduction to the work that they added many other comments to the Mishnah from the works of other authors.[168] As the latest of these authors operated in the 12th c., it is surmised that the compiler operated in the latter decades of that century.[169] We thus have here two commentaries in one: that of Natan, the Palestinian trained in Qayrawan by an Italian rabbi, which was written in the first half of the 11th century and can partially be reconstructed from the Yemenite manuscripts and from a Genizah fragment of the beginning of the work,[170] and

[166] Simcha Assaf (*The Geonic Period and Its Literature*, ed. Mordecai Margulies [Hebrew; Jerusalem: Mossad HaRav Kook, 1955], 296) had earlier identified the author of this commentary with a different Natan b. Avraham; for the rejection of this view, see Cohen, *Jewish Self-Government in Medieval Egypt*, 120-23 fn. 75, and M. A. Friedman, "Responsa of R. Abraham Maimonides from the Cairo Geniza a Preliminary Review," *Proceedings of the American Academy for Jewish Research* 56 (1990): 29–49 (41-5).

[167] The most recent summary of the textual witnesses for this commentary can be found in Nahem Ilan, "Studies in the Commentary on Avot which was attributed to Rav Nathan Av Ha-Yeshiva" (Hebrew), in *'Ateret Itzhaq: Judeo-Yemenite Studies Dedicated to Isaac Kerner*, ed. Yosef Tobi (Netanya: Association for Society and Culture, 2003), 11–58 (13-15). London, British Library, MS Or. 11117, also from Yemen, contains a portion of the commentary and is not directly related to the other Yemenite manuscripts. A complete Hebrew translation of the commentary was published as Mordechai Yehuda Leib Sacks, ed., *Commentary to the Six Orders of the Mishnah by Rabeinu Natan Av ha-Yeshiva*, trans. Yosef Qafih (Jerusalem: El ha-Meqorot, 1955).

[168] See the detailed discussion of this later compilation and its sources in Assaf, *The Geonic Period*, 294-322.

[169] Ibid. See also the various other discussions cited here in adjacent notes.

[170] ENA 3509.2, on which see Neil Danzig, *A Catalogue of Fragments of Halakhah and Midrash From the Cairo Geniza in the Elkan Nathan Adler Collection of the Library of the Jewish Theological Seminary of America* (Hebrew; New York and Jerusalem: The Jewish Theological Seminary of America, 1997), מז and 170. This fragment was published by Harry Fox, "The Mishnah in Yemen: A Manuscript of the Commentary of Rav Natan Av ha-Yeshiva" (Hebrew), *Asufot: Annual for Jewish Studies* 8 (1994): 161–67.

then the pastiche commentary produced by an anonymous 12th c. complier whose place of origin is unknown.[171]

Natan's commentary, when isolated from the later additions, reads like many of the Alfat commentaries found in the Genizah, either unattributed or Sa'adya's.[172] How Palestinian is this? While Natan was Palestinian and extremely active in the Palestinian Yeshiva, he had, as mentioned, spent many years studying in the Maghreb (albeit studying under an originally Italian rabbi, who I will have reason to discuss again in the following chapter), and it is unclear if by this point there was still much of a Palestinian/Babylonian divide in rabbinic study. As M. A. Friedman has shown, Natan himself held opinions in keeping with Babylonian halakha, and his opponent, the Fez-born Shlomo b. Yehuda who headed the academy in Jerusalem, sent his son to study with Hayya in Baghdad.[173]

Ta-Shma describes the expanded version of the 12th century as bearing "(except for Berakhot) a dictionary-like character, according to the best of the Mishnah-dictionary tradition," yet also, on occasion, bringing alternate definitions for words, extended explanations based on the Talmud, halakhic decisions, and even introductions, whether to

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[171] Assaf (*The Geonic Period*, 297) suggested Egypt; Qafih (*Commentary to the Six Orders of the Mishnah by Rabeinu Natan Av ha-Yeshiva*, 7), Yemen; Ta-Shma (*Talmudic Commentary in Europe and North Africa*, 185), Spain. See also Yosef Qafih, "Yemenite Jewry's Connections with Major Jewish Centers," in *Ascending the Palm Tree: An Anthology of the Yemenite Heritage*, ed. Rachel Yedid and Danny Bar-Maoz (Rehovot: E'ele BeTamar, 2018), 21–45 (28-9). Further, Zohar Amar and Elad Qafih ("The Yemenite Commentary of Rabbi Nathan, President of the Academy, on the Identification of Flora in the Mishnah" [Hebrew] in *Mittuv Yosef: Yosef Tobi Jubilee Volume*, ed. Ayelet Oettinger and Danny Bar-Maoz, vol. 2, 3 vols. [Haifa: The Center for the Study of Jewish Culture in Spain and Islamic Countries, University of Haifa, 2011], 11–22) have argued that in identifying plants mentioned in the Mishnah, the 12th c. editor uses words that are specific to the Judeo-Arabic dialect of Yemen; as they note (13), the use of Yemenite words was already pointed out by Richard C. Steiner, "Boles and Šiqmim (Amos 7:14): Words Borrowed from Old South Arabian and Trees Imported from Yemen" (Hebrew), *Tema* 9 (2006): 17–44 (22). Eliezer Schlossberg ("Rav Se'adyah Gaon's Explanations in the Commentary to the Mishnah of Rav Natan Av ha-Yeshiva" [Hebrew], *Asufot: Annual for Jewish Studies* 8 [1994]: 149–60) has argued that the reliance on Se'adyah's comments in the 12th c. version of the commentary points to Yemen as a place of origin, given the popularity there of his works.

[172] See Fox, "The Mishnah in Yemen," 167. As noted by Steiner ("Boles and Šiqmim," 20 fn. 31), the first word of the title of the work as it is preserved in the Genizah fragment is "[י]מיל"—"words."

[173] M. A. Friedman, "Responsa of R. Abraham Maimonides," 44-5.

the work itself or to specific tractates.[174] Indeed, Ilan's description of the compiled commentary as something of a bridge between the Alfat genre and Maimonides' full-blown commentary from only a few decades later seems apt.[175] Further, the introduction to the later work does betray something like elite study, as in it, the 12th century compiler describes his attempts to gather explanations to the Mishnah and asks that future uses add to it even further.

3. *The Geonic Commentary to Taharot*

An eclectic commentary to the order of Taharot, mentioned already above, is attributed to Hayya Gaon.[176] At various points, the work references a parallel commentary on the order of Zeraim.[177] As such, it is clear that this work, and the commentarial tradition of which it was a part, relates to the problems inherent in the study of the two orders that lack Babylonian Talmud, and not to the wider study of the Mishnah in its entirety.[178]

The association with Hayya is almost certainly false: the work, while written in Hebrew, makes ample use of additional languages, including Greek, which Hayya himself professes not to have known; it also contradicts at times Hayya's opinions in other texts.[179] Several medieval authors attributed it merely to an anonymous "Gaon" or to anonymous "Gaonim," and while it is likely that it was compiled towards the end of the Geonic era, and while it certainly includes an ample amount of Geonic material, it is unclear by whom and

[174] Ta-Shma, *Talmudic Commentary in Europe and North Africa*, 185-86.

[175] Ilan, "The Commentary on Avot," 26. Perhaps this structural similarity is the reason why Ta-Shma (ibid. 185) is of the opinion that Maimonides saw this commentary.

[176] For a critical edition and introduction to the work, see Epstein, *The Gaonic Commentary* (which includes an updated edition and Hebrew Translation of his 1912 Bern dissertation).

[177] Epstein, *The Gaonic Commentary*, קח, with additional citations of this commentary from the Arukh.

[178] See Ta-Shma, *Talmudic Commentary in Europe and North Africa*, 186.

[179] Brody, *Zion*, 271.

where it was compiled.[180] Margulies suggested that it was compiled in Southern Italy.[181] Without a doubt, this work contains a significant amount of Babylonian material; but in its final form, the use of Greek, familiarity with various dialects of Italian, and other factors do indeed lead to the conclusion that its final compilation took place in Southern Italy, likely in the 11th century.[182]

4. *Commentary on the Mishnah within Commentaries on Alfasi*

Ezra Chwat has shown that the Mishnah was studied both alongside and as part of Alfasi's *Halakhot* by a sub-elite of Torah professionals.[183] Alfasi included almost all of the *mishnayot* in the sections of the Talmud that he epitomized, even *mishnayot* for which he did not include the *Gemara*.[184] This led commentators on Alfasi, most notably R. Yonatan of Lunel, although in no way limited to him, to provide a complete commentary on the *mishnayot* that appear in the work.

[180] Suggested authors include, besides Hayya, Se'adyah (Assaf, *The Geonic Period*, 146) and Shimon Qayyara, the alleged author of Halakhot Gedolot (Epstein, *The Gaonic* Commentary, קלו). Brody (*Zion*, 271-72) rejects the view that its author is Se'adyah but leaves open the option that the work incorporates much of Se'adyah's Mishnah commentary.

[181] Mordecai Margulies, *Halachot Kezuboth Attributed to R. Yehudai Gaon* (Hebrew; Jerusalem: Hebrew University Press Association, 1942), 7-9.

[182] Ibid.; see also Israel M. Ta-Shma, *Studies in Medieval Rabbinic Literature*, vol. 3. Italy & Byzantium (Jerusalem: The Bialik Institute, 2005), 239; Hillel Newman, "Early Halakhic Literature," in *Jews in Byzantium: Dialectics of Minority and Majority Cultures*, ed. Robert Bonfil et al., Jerusalem Studies in Religion and Culture 14 (Leiden: Brill, 2012), 629–41 (641). On the 11th c. Italian origin of the complete manuscript of this work, Berlin, Staatsbibliothek zu Berlin, MS Or. Qu. 685 (Steinschneider 160), see ibid., 64-7, and Edna Engel, "MS Berlin 160: Its Date and Origin" (Hebrew), *Italia* 11 (1994): 53–55. See also Neil Danzig, *Introduction to Halakhot Pesuqot*, 2nd ed. (New York and Jerusalem: The Jewish Theological Seminary of America, 1999), 179 fn. 21.

[183] Chwat, "Mishnah Study."

[184] Ibid.

Chapter Six

From Tiberias to Bari:

The Study of the Mishnah in Medieval Southern Italy

1. *Moshe and Friends Make a Mishnah Manuscript*

During the final decades of the 11th century, a Jewish scribe in Southern Italy by the name of Moshe aided several other scribes in copying out the entire text of the Mishnah on parchment. While this may seem like a rather mundane fact—after all, Jewish scribes produced hundreds of thousands of Hebrew manuscripts in Europe over the course of the Middle Ages[1]—this manuscript, now Parma, Biblioteca Palatina MS 3173 (De Rossi 138; Richler 710), is perhaps the earliest complete manuscript of the entire Mishnah that we still have today,[2] and it is part of a small group of surviving medieval manuscripts—three, altogether—that contain the entire text of the Mishnah without Maimonides' commentary, manuscripts of what scholars call "*Seder ha-Mishnah*."[3] The creation of Parma 3173 is thus a significant event in the history of the Mishnah's transmission and reception, signifying the

[1] Benjamin Richler has estimated that some two to three hundred thousand Hebrew manuscripts existed in Europe at the beginning of the fourteenth century, the vast majority of which would have been written in Europe. Of these manuscripts, Richler estimated that four to five thousand are still extant; see Binyamin (=Benjamin) Richler, *Hebrew Manuscripts: A Treasured Legacy* (Cleveland & Jerusalem: Ofeq, 1990), 58-9.

[2] See in brief idem, ed., *Hebrew Manuscripts in the Biblioteca Palatina in Parma* (Jerusalem: Jewish National and University Library, 2001), 153. For cases in which the text type of MS Kaufman A50, a manuscript dated by codicologists and paleographers as later than Parma 3173, may be earlier than that of the Parma manuscript, see, for example, David Rosenthal, "Mishna Aboda Zara - A Critical Edition with Introduction" (Hebrew; Ph.D. dissertation, The Hebrew University of Jerusalem, 1980), 107-12; Yoav Rosenthal, "Mishnah Tractate Kareitot - An Introduction to a Critical Edition" (Hebrew; Master's thesis, The Hebrew University of Jerusalem, 1996), 65-70. On the dating of Kaufman A50, see Malachi Beit-Arié, "Ms. Kaufmann of the Mishna: Its Date and Locality" (Hebrew), in *Collection of Papers on Tanaitic Language*, ed. Moshe Bar-Asher, vol. 2 (Jerusalem: The Hebrew University, 1980), 84–99.

[3] For this general grouping of Mishnah manuscripts, see in the Introduction, above pg. 15.

vast changes in the location, production, and transmission of rabbinic knowledge that occurred over the course of the first millennium.

I will devote much of this chapter to the work of Moshe and his fellow scribes, probing what their product can teach us about the reception of the Mishnah in 11th century Italy.[4] But the importance of Parma 3173 lies not merely in the fact that it is but one of the three complete manuscripts of the Mishnah (and the earliest of the group): despite the high praise bestowed upon the rabbis of early medieval Southern Italy by more famous French rabbis of the 12th century,[5] we know frightfully little about this rabbinic center at all,[6] especially when compared to the evidence from the medieval Near East analyzed in the prior chapter. As such, we must primarily rely on the manuscript evidence to see what it can tell us about the reception of the Mishnah in medieval Southern Italy and more generally about the nature of rabbinic Judaism at this important juncture in its history. Thus, after summarizing the few explicit discussions of Mishnah study and circulation in Christian Europe prior to the spread of the Maimonides' commentary in Hebrew translation in the 14th century,[7] I will return to

[4] On the Jewish community of Southern Italy, see David Abulafia, "Italy: The South," in *CHJ* VI, 98–117.

[5] Most famously in the report of Jacob b. Meir ("Rabeinu Tam"), that "the sons of Bari, about whom they would say, 'for from Bari will come forth Torah, the word of God from Otranto',"; see *Sefer ha-Yashar: Respona*, ed. Shraga Rosenthal (Berlin: Itzkowisky, 1897), 90 (§46). See also Simcha Emanuel, *Fragments of the Tablets: Lost Books of the Tosaphists* (Jerusalem: The Hebrew University Magnes Press, 2006), 75.

[6] For a overviews of what can be known, in addition to the literature cited in the prior note, see Isadore Twersky, "The Contribution of Italian Sages to Rabbinic Literature," *Italica Judaica* 1 (1983): 383–400; Israel M. Ta-Shma, "La cultura religiosa—The Chain of the Tradition: South-Italian Rabbinic Literature in the 12th and 13th Centuries," in *L'Ebraismo dell'Italia Meridionale Peninsulare dalle origini al 1541*, ed. Cosimo Damiano Fonseca et al. (Potenza: Congedo editore, 1996), 169–76; and Joanna Weinberg, "Midrash in a Lexical Key: Nathan Ben Yehiel's *Arukh*," in *Midrash Unbound: Transformations and Innovations*, ed. Michael A. Fishbane and Joanna Weinberg (Oxford: The Littman Library of Jewish Civilization, 2013), 213–31. Importantly, both Ta-Shma and Weinberg temper Twersky's rather severe approach (e.g., 398: "When all is said and done, there is no individuality, no Italian innovation, no indigenous development; there are contributions"). See also the similarly negative account of Italo-Greek culture of the time in N. G. Wilson, *Scholars of Byzantium* (Baltimore: The Johns Hopkins University Press, 1983), 210.

[7] On the initial spread of Maimonides' commentary in Christian Europe, see below note 26.

Parma 3173, focusing on one group of the manuscript's marginalia and unpacking what the Manuscript as a whole can teach us of the reception of the Mishnah.[8]

2. *Mishnah Study in Christian Europe*

Most of the direct evidence for the use of the Mishnah in curricula and halakhic decision making in Christian Europe come from one-off comments in halakhic and literary works. As scholars have noted, it may be significant that the so-called *Chronicle of Ahima'atz*, a family chronicle written in Capua in Southern Italy towards the end of the 11th century, depicts rabbis from Bari as relying directly on the Mishnah in formulating a halakhic decision.[9] In general, as we will see in greater detail below, it appears that the Italian rabbis of the 11th and 12th centuries engaged heavily in the study of the Mishnah and in other tannaitic texts, composing commentaries on sections of the Mishnah as well as on tannaitic *midrashim*.[10] Yaakov Sussman has also noted that while Benjamin of Tudela, the famed traveler of the early 12th century, refers to local Torah scholars he came across in various Jewish communities the world over, he only specifies expertise in "Mishnah" when describing rabbis in Thebes

[8] Cf. Twersky, "Italian Sages," 388 fn. 13, "It is clear from this [i.e., the existence of Kaufman A50 and Parma 3173—Y.L.] that Mishnah study was prominent in southern Italy, but there is not much that we are able to say about it on the basis of impersonal paleographic evidence."

[9] Benjamin Klar, ed., *Megillat Ahimaaz*, 2nd ed. (Hebrew; Jerusalem: Tarshish, 1973), 33; Robert Bonfil, *History and Folklore in a Medieval Jewish Chronicle: The Family Chronicle of Aḥima'az ben Paltiel*, Studies in Jewish History and Culture 22 (Leiden: Brill, 2009), 322-23. On the significance of this passage, see Yaakov Sussman, "Manuscripts and Text Traditions of the Mishnah," *Proceedings of the Seventh World Congress of Jewish Studies: Studies in Talmud, Halacha and Midrash*, 1980, 215–50 (234); and Emanuel, *Fragments of the Tablets*, 75 fn. 113

[10] Sussman, "Manuscripts," 234, 235 fn. 88; Emanuel, *Fragments of the Tablets*, 70-1. In addition, similar to what we saw in the works of *payetanim* from Byzantine Palestine, the early (9th century?) Italian payetan Hedvata may approach the Mishnah as a revealed document when he says "And he [i.e., God] taught us in the Halakhot of six [orders]." See Menahem Zulay, "New Poems of R. Hadutha" (Hebrew), *Tarbiz* 22 (1950), 28-42 (34 line 45), repr. idem, *Eretz Israel and Its Poetry: Studies in Piyyutim from the Cairo Geniza*, ed. Ephraim Hazan (Hebrew; Jerusalem: The Magnes Press, 1995), 268. On Hedvata and his poetry, see Peter Sh. Lehnardt, "Studies in the Emergence of the Tradition of Hebrew Liturgical Poetry in Italy" (Hebrew; PhD diss., Ben-Gurion University, 2006), 32-36.

("חכמים גדולים במשנה ובתלמוד").[11] Sussman has then explained the supposed prominence of the Mishnah in Southern Italy and Greece as a result of the lingering influence of Palestinian study practices in these regions.[12] Lastly, a passage in the *targum* of Song of Songs may be relevant in this context:

> Then the congregation of Israel began to recount the praiseworthy activity of the Lord of the world, and she said, "It is my pleasure to serve that God. By day, he is enwrapped in a stole as white as snow and is occupied with the twenty-four books of the Torah, the words of prophecy, and the Writings. By night, he is occupied with the six orders of the Mishnah. The splendorous glory of his face shines like fire from an abundance of wisdom and logic, for he daily promulgates new legal traditions, and he is going to reveal them to his people on the great day. And his banner is over a myriad upon myriads of angels who minister before him.[13]

While the passage describes God's activities, it certainly relates to the actual study of the Mishnah at night, an idea found also in the *targum* to Lamentations (2:19)[14] and related to a common rabbinic trope that night is an appropriate time for the study of the Oral Torah.[15] If recent assertions that the *targum* to Song of Songs was edited in tenth- or eleventh-century Southern Italy or Byzantium are correct,[16] then this text fits in well with the other evidence for Mishnah study in these regions.

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[11] Sussman, "Manuscripts," 235; see also Mordechai Breuer, *Oholei Torah (The Tents of Torah): The Yeshiva - Its Structure and History* (Hebrew; Jerusalem: The Zalman Shazar Center for Jewish History, 2003), 130.

[12] Sussman, "Manuscripts," 235-39.

[13] *Targum Song of Songs* 5:10, translation from Andrew W. Litke, *Targum Song of Songs and Late Jewish Literary Aramaic: Language, Lexicon, Text, and Translation*, Supplement to Aramaic Studies 15 (Leiden: Brill, 2019), 261.

[14] "Arise*, O Congregation of Israel dwelling in exile.* Busy yourself *with Mishnah* in the night*, for the Shekinah of the* Lord *is dwelling before you, and with the words of Torah* at the beginning *of the morning* watch"; translation from Christian M. M. Brady, *The Rabbinic Targum of Lamentations: Vindicating God*, Studies in the Aramaic Interpretation of Scripture 3 (Leiden: Brill, 2003), 160. On a possible 7th or 8th century date for the final redaction of this targum, and for its location in Northern Mesopotamia, see ibid., "The Date, Provenance, and *Sitz im Leben* of Targum Lamentations," *Journal for the Aramaic Bible* 1 (1999): 5–29, and, inter alia, *The Rabbinic Targum*, 127-30.

[15] On this trope, see Yaakov Sussman, *Oral Law-Taken Literally: The Power of the Tip of a Yod* (Hebrew; Jerusalem: The Hebrew University Magnes Press, 2019), 247 fn. 7. Cf. Brady, *The Rabbinic Targum*, 113.

[16] See Andrew W. Litke, "Following the Frankincense: Reassessing the *Sitz im Leben* of Targum Song of Songs," *Journal for the Study of the Pseudepigrapha* 27, no. 4 (2018): 289–313.

An emphasis on Mishnah study and even reliance on the Mishnah in halakhic decision making can occasionally be seen also in the writings of the early rabbis of France and Germany. Avraham Grossman has shown that some of the central early Ashkenazi rabbis, who flourished in the latter years of the 10th century and the early decades of the 11th, particularly in Mainz, relied heavily "on tannaitic literature and especially on the Mishnah" in their halakhic works and decisions,[17] and that they possessed or even created for themselves "exact" copies of the Mishnah.[18] This he attributes to their intellectual indebtedness to the rabbinic cultures of Italy, and thus, indirectly, to that of Palestine.[19] But not long after this time, already by the mid 11th century, most French and German Jews eschewed the Mishnah as a direct source for halakhic guidance and as its own area of study.[20] The same can be said, albeit at a somewhat later date, with the rabbis of Italy, who were eventually swayed by foreign study cultures.[21] With some exceptions,[22] and apart also from

[17] Avraham Grossman, *The Early Sages of Ashkenaz: Their Lives, Leadership and Works (900-1096)*, 3rd ed. (Hebrew; Jerusalem: The Magnes Press, 2001), 73-4, 154-57, 204, 388-89; Sussman, "Manuscripts," 235-36 fn. 88; Emanuel, *Fragments of the Tablets*, 289 with fn. 307; Israel M. Ta-Shma, *Talmudic Commentary in Europe and North Africa - Literary History*, 2nd ed., vol. Part One: 1000-1200 (Hebrew; Jerusalem: The Hebrew University Magnes Press, 2000), 34,

[18] Grossman, *Ashkenaz*, 111, 159-60, 422. On these copies of the Mishnah, see also idem., *The Early Sages of France: Their Lives, Leadership and Works*, 3rd ed. (Hebrew; Jerusalem: The Magnes Press, 2001), 415, ts km 1.4.

[19] Grossman, *Ashkenaz*, 392, 429-30. Grossman (ibid.) tempers this claim somewhat as there is "little use of the Palestinian Talmud" on the part of these sages. And yet, as we saw in prior chapters, not all modes of Palestinian halakhic decision making or instruction utilized the Talmud; see also idem, "Ties Between Ashkenazi Jewry and the Jewry of Eretz Israel in the Eleventh Century" (Hebrew), *Shalem* 3 (1981): 57–92 (69-70); and idem, "When did the Hegemony of Eretz Israel Cease in Italy?" (Hebrew), in *Mas'at Moshe: Studies in Jewish and Islamic Culture Presented to Moshe Gil*, ed. Ezra Fleischer, M. A. Friedman, and Joel A. Kraemer (Jerusalem and Tel-Aviv: The Bialik Institute and The Chaim Rosenberg School of Jewish Studies, Tel-Aviv University, 1998), 143–57.

[20] Grossman, *Ashkenaz*, 429; Sussman, "Manuscripts," 222-26; Israel M. Ta-Shma, *Ritual, Custom and Reality in Franco-Germany, 1000-1350*, 2nd ed. (Hebrew; Jerusalem: The Hebrew University Magnes Press, 2000), 135-36 (based on the evidence of *Sefer Hasidim*, §820); Ephraim Kanarfogel, *Jewish Education and Society in the High Middle Ages* (Detroit: Wayne State University Press, 1992), 79; Breuer, *Oholei Torah*, 130-31.

[21] Sussman, "Manuscripts," 235 fn. 88.

[22] On the attempts of German Pietists to "revive" Mishnah study in the early decades of the 13th century, see Kanarfogel, *Jewish Education*, 90-1, 192 nn. 28-9; idem, "Schools and Education," in *CHJ* VI, 393–415 (407, 408 fn. 51, 411); Sussman, "Manuscripts," 225 fn. 45, 234-35 fn. 86, 236 fn. 88; and idem, "Mesoret-limud u-mesort-nusah shel ha-talmud ha-yerushalmi: li-virur nusha'oteha shel yerushalmi masekhet sheqalim," in

certain tractates or orders not included in the Babylonian Talmud,[23] sub-elite and elite Mishnah study in Christian Europe seems to have mostly subsided by the end of the 12th century.[24] While Mishnah study may have continued in elementary stages of education, such level of study are largely undocumented in these regions in the period covered by this dissertation.[25] Only with the spread of Maimonides' commentary to the Mishnah in Hebrew translation, in the 14th century,[26] would Mishnah study once again feature prominently in rabbinic curricula in Christian Europe.

Given the altogether sporadic nature of the references to Mishnah study and use in texts from Christian Europe prior to the close of the 12th century, we are fortunate to have several early manuscripts or manuscript fragments of the Mishnah that may teach us of the Mishnah's reception in Christian Europe, all of them it so happens, from Italy. The remainder of this chapter will focus primarily on this evidence.

3. *The Italian Manuscripts of the Mishnah*

We have already had reason to discuss the two "complete" Italian manuscripts of the Mishnah, Parma 3173 and Budapest, the Hungarian Academy of Sciences, Kaufman MS A50,

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Researches in Talmudic Literature: A Study Conference in Honour of the Eightieth Birthday of Shaul Lieberman, Held 13-14 June 1978, Publications of the Israel Academy of Sciences and Humanities, Section of Humanities (Jerusalem: The Israel Academy of Sciences, 1983), 12–78 (36).

[23] Sussman, "Manuscripts," 222-27, esp. 227 fn. 56; Kanarfogel, *Jewish Education*, 192 n. 28.

[24] A partial exception can perhaps be found in the commentary of Yehonathan b. David of Lunel (second half of the 12th c.) to Alfasi's *Halakhot*, as it includes also a commentary to the sections of Mishnah not included by Alfasi. As Ezra Chwat ("Mishna Study among the Rishonim as Found in the Alfasi Gloss-Supplements," *Alei Sefer: Studies in Bibliography and in the History of the Printed and the Digital Hebrew Book*, no. 19 [2001]: 49–67) has argued, this relates to the imagined audience of the commentary, a sub-elite that may not have direct access to the Talmud; see also Ta-Shma, *Talmud Commentary*, 208-14.

[25] See Kanarfogel, *Jewish Education*, 30-1, 91. The use of the Mishnah in liturgical contexts in Christian Europe will be discussed in the following chapter.

[26] On the translation of Maimonides' commentary in Hebrew (an Italian initiative!), see Ta-Shma, *Talmud Commentary*, 186, 190; Sussman, "Manuscripts," 236 fn. 89.

the former having originated in 11th century Southern Italy and the latter likely originating in the 12th century in the vicinity of Rome. In addition to these manuscripts, scholars have catalogued fragments of several manuscripts of the Mishnah later confiscated and reused in the bindings of notarial documents in archives in Northern Italy.[27] While these binding fragments stemmed from various manuscripts, several of them came from one complete manuscript of the Mishnah that was likely also created in Southern Italy around the turn of the 11th century.[28] As noted by Sussman, it is significant that binding fragments of the Mishnah have, until now, only been found in Italy; this almost certainly relates to the importance of the Mishnah and Mishnah study in Italian communities when compared with ones elsewhere in Europe.[29]

Given their importance as witnesses to the text of the Mishnah, scholars have utilized Parma 3173 and Kaufman A50 in countless text-critical studies of the Mishnah, highlighting many of their unique readings.[30] In yet in what follows, we will turn to these manuscripts, and in particular to Parma 3173, not as a textual witnesses to the Mishnah but rather as artifacts than can teach us of the study of the Mishnah in medieval Italy.

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[27] See Mauro Perani and Enrica Sagradini, *Talmudic and Midrashic Fragments from the "Italian Genizah": Reunification of the Manuscripts and Catalogue*, Quaderni Di Materia Giudaica 1 (Firenze: Giuntina, 2004), manuscripts T.V., T.X., T.XXVIII., T.LVII., T.LXXV., and T.XCVII.

[28] Manuscript T.V. in ibid., 24-28; see also Gad Ben-Ammi Sarfatti, "An Important Manuscript of the Mishnah in the 'Italian Genizah,'" in *Medieval Hebrew Manuscripts Reused as Book-Bindings in Italy*, ed. Mauro Perani, European Genizah Texts and Studies, 6; Studies in Jewish History and Culture, 69 (Leiden and Boston: Brill, 2022), 196–200. Additional fragments of this manuscript have since been discovered in archives in the vicinity of Modena; their images can be viewed on the website of "Books Within Books" (http://www.hebrewmanuscript.com).

[29] Yaakov Sussman, "M. Perani & E. Sagradini, Talmudic and Midrashic Fragments from the 'Italian Genizah'," *Materia Giudaica* 10, no. 1 (2005): 176–80 (178). With that, several of the fragments come from a manuscript written in a Spanish hand; see Mauro Perani, "Un frammento della Mišnâ (Ketubbôt) nell'Archivio di Stato di Modena," *Sefarad: Revista de Estudios Hebraicos, Sefardíes y de Oriente Próximo* 54, no. 2 (1994): 363–76.

[30] See references to such studies in Sussman, *Thesaurus*, pg. 62 no. 483 and pg. 683 no. 7326. A diplomatic edition of Kaufman A50 has since appeared: The Historical Dictionary Project, ed., *The Mishnah: Kaufmann Manuscript A50*, 3 vols. (Hebrew; Jerusalem: The Academy of the Hebrew Language, 2017-2022).

4. *The Evidence of Parma 3173*

While the very existence of the manuscript ipso facto attests to the care given by a community towards preserving the Mishnah and to the study of the Mishnah in that community,[31] here I will go further, by looking at two aspects of the manuscript: (1) the nature of some of the "mistakes" that the main scribe made while copying the text of the Mishnah; and (2) the manuscript's marginal notes. As I will show, both sets of evidence have much to teach us about the reception and the study of the Mishnah and have been underappreciated in the scholarship. Thus, I will show that the manuscript allows us to not only look back, at what the text of the Mishnah was at some earlier point, but also to look "forward," so to speak, and to see how the Mishnah was received and cared for by communities of readers, learners, scholars, and teachers over time. But before we turn to these two aspects of the manuscript, a general description of the manuscript is in order.

[31] E.g., the mere cost of producing such a manuscript, the parchment for which would have come from approximately one-hundred and twenty-five animals, would certainly have been quite high, and the manuscript is therefore a sign of the importance of this work in the community (for the calculation of parchment pages and number of animals, see Nigel G. Wilson, "Books and Readers in Byzantium," in *Byzantine Books and Bookmen*, ed. Cyril Mango and Ihor Ševčenko [Washington, D. C: Dumbarton Oaks Center for Byzantine Studies, 1975], 1–15 [2]). It is important also to mention that in the context of Hebrew manuscripts, it is clear that codices were prepared for use; see Malachi Beit-Arié, "The Individual Nature of Hebrew Book Production and Consumption," in *Manuscrits hébreux et arabes: Mélanges en l'honneur de Colette Sirat*, ed. Nicholas de Lange and Judith Olszowy-Schlanger, Bibliologia 38 (Turnhout: Brepols, 2014), 17–28. See also above, fn. 8.

4.1. *Parma 3173: A Bibliographic Description*

Currently located in the Biblioteca Palatina in Parma,[32] Parma 3173 measures 328 x 270 mm.,[33] contains 196 folios,[34] and is mostly composed of senion quires.[35] The first half or so of the manuscript is vocalized[36] according to the five-vowel Hebrew pronunciation of Southern Italy.[37] Notably, this is in contrast to Kaufman A50, whose vocalizer was also most-familiar with the five-vowel system, but who nevertheless attempted to use the by-then outdated seven-vowel system understood to be more historically accurate.[38] As we have already noted,[39] and as we will continue to see below, those responsible for the creation of Kaufman A50 may have been more invested in preserving what they perceived to be the original text of the Mishnah than were the creators of Parma 3173.

On the first page of Parma 3173 there is an ownership statement of Moshe Finzi stating that "this Mishnah in six orders and Torat Kohanim are all mine." It is thus inferred that the manuscript once included also Torat Kohanim, or, the Sifra, the tannaitic midrash to

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[32] It is not entirely clear how the manuscript entered De Rossi's collection. See for now Yitz Landes, "The 'Finzi Mishnah' (JTS, Ms. R934) and the Early Generations of the Finzi Family," *Materia giudaica* (forthcoming), fnn. 53 and 58. It is hoped that further study of letters sent to De Rossi will eventually shed light on this issue. On the use of these letters in reconstructing the history of the De Rossi collection, see Giuliano Tamani, "The History of the Collection," in Richler, *Parma*, xix–xxvii.

[33] Richler, *Parma*, 153.

[34] Ibid.

[35] Ibid.; see also Beit-Arié, *Hebrew Codicology*, 312 fn. 55.

[36] Gideon Haneman, *A Morphology of Mishnaic Hebrew According to the Tradition of the Parma Manuscript* (De-Rossi 138) (Hebrew; Tel-Aviv: Tel-Aviv University Press, 1980), 9.

[37] See already Umberto Cassuto, "The Destruction of the Yeshivas in Southern Italy in the 13th Century" (Hebrew), in *Studies in Memory of Asher Gulak and Samuel Klein* (Jerusalem: The Hebrew University Press Association, 1942), 139–52 (151), and now in far greater detail, Michael Ryzhik, "The Five-Vowel System in Italian-Hebrew Traditions," *Lĕšonénu: A Journal for the Study of the Hebrew Language and Cognate Subjects* 72, no. 1–2 (2010): 161–77, repr. idem, *In a Foreign Land: The History of Hebrew in Italy*, Studies in Language 31 (Hebrew; Jerusalem: The Academy of the Hebrew Language, 2022), 3-18.

[38] Ibid. On the five-vowel system, see also idem, "Italy, Pronunciation Traditions," in *Encyclopedia of Hebrew Language and Linguistics*, ed. Geoffrey Khan, 2013.

[39] See, for example, above, pp. 134-136, in my discussion of the lack of orthographic uniformity in these manuscripts, which is more pronounced in Kaufman A50.

Leviticus.[40] The section of Sifra is now Parma MS 3259 (De Rossi 139; Richler 694), as can be seen quite clearly by comparing the script and other material aspects of these two manuscripts to one another and by their consecutive numbering in Giovanni Bernardo De Rossi's catalogue, where they are listed respectively as numbers 138 and 139.[41]

Parma 3173 was copied by at least three scribes, with one responsible for most of the manuscript.[42] As I mentioned, we know that one of the scribes, responsible for a relatively small portion of the manuscript, was named "Moshe."[43] We know this because this scribe

[40] For the popularity of the Sifra in Southern Italy, in addition to the existence of two complete manuscripts (Vatican 31 and Parma 3259) and several binding fragments (see Perani and Sagradini, *Talmudic and Midrashic Fragments*, 150-1), note also the existence or past existence of early commentaries by Italian sages, for which see Menahem Kahana, "Halakhic Midrashim," in *The Literature of the Sages - Second Part: Midrash and Targum, Liturgy, Poetry, Mysticism, Contracts, Inscriptions, Ancient Science and the Languages of Rabbinic Literature*, ed. Shmuel Safrai et al., Compendia Rerum Iudaicarum Ad Novum Testamentum, Section Two: The Literature of the Jewish People in the Period of the Second Temple and the Talmud 3b (Assen and Philadelphia: Van Gorcum and Fortress Press, 2006), 3–105 (82-3 with fnn. 392-93). According to Sussman (*Thesaurus*, 59 no. 454), a binding fragment from Fossombrone (4) contains sections from both the Mishnah and the Sifra, but I did not discern this in the photostats of the fragment in the Institute for Microfilmed Hebrew Manuscripts, nor is this listed in the description of the fragment in Perani and Sagradini, *Talmudic and Midrashic Fragments*, 30 (no. T.X), though they acknowledge that they were not able to examines the fragment directly. On the Sifra's popularity in the communities represented by material from the Cairo Genizah, see Moshe Lavee, "Haggadic Midrash in the Genizah, as Reflected in the Book Lists of Rav Yosef Rosh Haseder" (Hebrew), in *Uncovering the Canon: Studies in Canonicity and Genizah*, ed. Menahem Ben-Sasson et al. (Jerusalem: Magnes Press, 2010), 38–87 (79-80).

[41] This was first noted, in part, by Richler *apud* Menahem Kahana, *Manuscripts of the Halakhic Midrashim: An Annotated Catalogue* (Hebrew; Jerusalem: The Israel Academy of Sciences and Humanities and Yad Izhak Ben-Zvi, 1995), 64 fn. 25. In addition to Richler's reasons, it is of note that while the first folio of Parma 3173 and the last folio of Parma 3259 are in a poor state, clearly as they were each on the external ends of the codex, the last folio of Parma 3173 and the first folio of Parma 3259 were both pristinely preserved; this is surely because the two manuscripts had been bound together, and, for much of the manuscripts' lives, these two pages were not exposed. In addition, the two manuscripts have similar dimensions and are mostly composed of senion quires (see Beit-Arié, *Hebrew Codicology*, 312 fn. 55). The connection between Parma 3173 and 3259 bears repeating, as it is often mentioned by scholars, erroneously, that Parma 3173 had once been attached to Vatican MS ebr. 31, a manuscript that is in fact of a different size (320 x 268-269 mm.; see Benjamin Richler, ed., *Hebrew Manuscripts in the Vatican Library*, Studi e Testi 438 [Città del Vaticano: Biblioteca Apostolica Vaticano, 2008], 20), has different quire composition (quinions; see ibid.), and that, for the most part (see below), was copied by a different scribe. Further, as noted by Richler (*apud* Kahana), the contents of Vatican 31 do not match that of the ownership statement of Moshe Finzi on f. 1r of Parma 3173. A codicological relationship between Parma 3173 and Vatican 31 was first suggested by Michael Krupp, "The Relationship between MS Parma De Rossi 138 of the Mishna and MS Vatican 31 of the Sifra, Seder Eliyahu Rabba, and Zutta" (Hebrew), *Tarbiz* 49, no. 1/2 (1979): 194–96.

[42] Richler, *Parma*, 153.

[43] Though, to be clear, not Moshe *Finzi*, as has occasionally been stated in the scholarship (e.g., Moshe Bar-Asher, "Parma A Manuscript of the Mishna," in *Encyclopedia of Hebrew Language and Linguistics*, ed. Geoffrey Khan, 2013: "the manuscript belonged to Moshe Pinzi [sic – Y.L.], the 11th century copyist of torat

copied most of Vatican MS ebr. 31,[44] and as in various points in Vatican 31 this scribe used acrostics paratextual dots to disclose that his name is Moshe.[45] Even more importantly, Vatican 31, a manuscript of the Sifra and of Seder Eliyahu Rabbah and Zuta—the earliest dated Italian Hebrew manuscript that we know of[46]—is dated to 1072/3,[47] which allows us to then date Parma 3173 (and 3259) to roughly the same time.

4.2. *Textual Corruptions and the Study of the Mishnah*

Over forty years ago, Israel Zvi Feintuch showed that the main scribe of Parma 3173 at times wrote down the text of the Mishnah that he knew by heart instead of the text of the Mishnah that appeared in the physical exemplar from which he copied.[48] It was the practice of many ancient and medieval scribes of Hebrew manuscripts to create a justified column by filling in the end of the line with the first letters of the first word that they would then write on the following line.[49] Feintuch showed that the main scribe of Parma 3173 occasionally filled in

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kohanim, Vatican MS 31"); Moshe Finzi owned Parma 3173 at some point in the 14th century, several centuries after it was created; see my article, "The Finzi Mishnah."

[44] As can be seen by comparing the writing. The connection between these two manuscripts was first pointed out by Gideon Haneman in his 1972 dissertation, published posthumously in his *A Morphology of Mishnaic Hebrew*, 6. In his own dissertation, Israel Zvi Feintuch ("Prefatory Notes Concerning a Critical Edition of the Mishna" [Hebrew; Ph.D. dissertation, The Hebrew University of Jerusalem, 1975], 183-84), writes that he reached this same conclusion without knowledge of Haneman's work.

[45] As first shown by Umberto Cassuto, *Codices vaticani hebraici: codices 1-115*, vol. 1 (Vatican City: In Bybliotheca vaticana, 1956), 40; see also Benjamin Richler, ed., *Hebrew Manuscripts in the Vatican Library*, Studi e Testi 438 (Città del Vaticano: Biblioteca Apostolica Vaticano, 2008), 20-1. On the use of acrostics in this manner and on other ways in which medieval scribes embedded their names in Hebrew manuscripts, see Malachi Beit-Arié, "How Scribes Disclosed Their Names in Hebrew Manuscripts," *Studia Rosenthaliana* 38/39 (2005): 144–57, and Colette Sirat, *Hebrew Manuscripts of the Middle Ages*, trans. Nicholas de Lange (Cambridge: Cambridge University Press, 2002), 212-14.

[46] Beit-Arié, *Hebrew Codicology*, 312 fn. 55. For a detailed description of this manuscript, see Malachi Beit-Arié, Colette Sirat, and Mordechai Glatzer, *Codices Hebraicis Litteris Exarati Quo Tempore Scripti Fuerint Exhibentes*, vol. II (Turnhout: Brepols, 1999), 114-5 no. 38.

[47] f. 111r; see ibid. and Richler, *Vatican*, 20.

[48] Israel Zvi Feintuch, "Concerning Ms. Parma (De-Rossi 138)" (Hebrew), *Bar-Ilan Annual* XVIII-IX (1981): 196-217, repr. idem, *Versions and Traditions in the Talmud: Studies*, ed. Daniel Sperber (Ramat-Gan: Bar-Ilan University Press, 1985), 87–108.

[49] See Beit-Arié, *Hebrew Codicology*, 455.

the end of the line with the beginnings of words that do not exactly match what appears on the following line. Further, when such discrepancies appear, Feintuch was able to show that the line filler is generally in keeping with the text of the Mishnah as it is found in Babylonian sources. This can be seen in the following image:

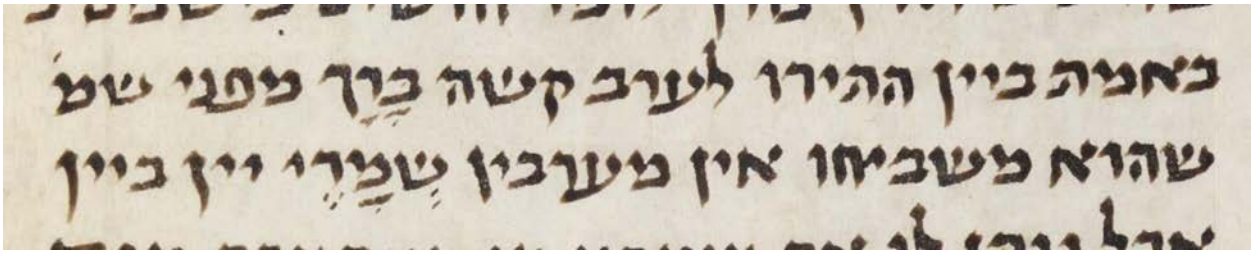

Figure 6.1: MS Parma 3173 f. 90r

In this case, from m. Bava Metsi'a 4:11, the scribe began writing "*she-mashbikho*," as in "Babylonian" versions of the Mishnah, before writing "*she-hu mashbikho*" on the following line, as appears in the "Palestinian" versions.[50]

What seems to have occurred is that the scribe, by the end of some lines, had begun to write down the text of the Mishnah according to the text that he had memorized; but when he picked up his reed to move to the next line, he then looked back at his exemplar and copied its version.[51] For Feintuch, as part of his work towards a critical edition of the Mishnah, such discrepancies were mistakes, yet ones that an editor must nonetheless document in a critical apparatus as they may yet provide important information for the reconstruction of the text

[50] See Feintuch, *Versions and Traditions*, 95. On the use of pronouns in relative clauses in the Palestinian branch of Mishnaic Hebrew and on their absence from relative clauses in the Babylonian branch, see Moshe Bar-Asher, *Studies in Classical Hebrew*, ed. Aaron Koller, Studia Judaica 71 (Berlin and Boston: Walter de Gruyter GmbH, 2014), 318.

[51] Feintuch, *Versions and Traditions*, 88.

of the Mishnah. But for our purposes here, we can see that two different text types of the Mishnah were current, side by side, in Southern Italy in the late-eleventh century, and that the educated main scribe of Parma 3173 knew one—and the more "Babylonian" one at that—by heart. When approached from this perspective, the "contamination" of the text of the Mishnah as transcribed in the Parma Mishnah manuscript allows us to further reconstruct the pull of the two rabbinic centers, or alternatively, to see the ways in which the traditions and texts of each intermingled in the tip of the Italian peninsula. As D. F. McKenzie has written in another context, the "misreading has become an historical document in its own right."[52] Below, after gathering additional evidence from the manuscript's marginalia, I will return to these "mistakes" and further unpack what they teach us of Mishnah study in medieval Southern Italy.

4.3. *Dictionary Glosses*

It is the case that the Parma manuscript has significantly more marginalia than does Kaufman A50.[53] In addition, while the roughly 1,000 marginal notes in Kaufman A50 (not including the corrections made to erased to text) are almost all corrections to the main text of the manuscript, the majority in the hand of the vocalizer of the manuscript,[54] those of Parma 3173 largely relate to the Mishnah's interpretation and application.

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[52] D. F. McKenzie, *Bibliography and the Sociology of Texts* (Cambridge: Cambridge University Press, 1999), 22.

[53] The abundance of marginalia in Parma 3173 was noted already by De Rossi in his catalogue, see Giovanni Bernardo De Rossi, *Mss. Codices Hebraici Biblioth. I. B. De-Rossi*, 3 vols. (Parmae: ex Publico Typographeo, 1803), 1:90.

[54] See Simcha Gershon Bohrer, "Censorship and 'Tailed Circle' Glosses in MS Kaufmann of the Mishnah" (Hebrew), *Lešonenu: A Journal for the Study of the Hebrew Language and Cognate Subjects* 82, no. 3 (2020): 251–60 (251 fn. 4). On marginalia and corrections in Kaufman A50 see also idem, "Erroneous Corrections in the Glosses of MS Kaufmann of the Mishnah" (Hebrew), 80, no. 4 (2018): 385–92; idem "The Scribe's Corrections in MS Kaufmann of the Mishnah: A Study of Four Corrected Haplographic Errors" (Hebrew), *Lešonenu: A Journal*

The marginal notes of Parma 3173 can be grouped by hand, content, and location in the manuscript and on the page.[55] The most famous of these notes, written in the hand of the main scribe, primarily appear in the order of Zeraim and in tractates Shabbat and Eiruvin, and consist of translations of difficult words into Judeo-Italian, specifically into what Luisa Cuomo has shown was a medieval Salentine dialect, and even more specifically, one that was current in the vicinity of Otranto in the 11th-12th centuries.[56] This evidence has been used by scholars to situate the creation of this manuscript in this region,[57] though, to be sure, the glosses could have been copied from an earlier dictionary-like commentary.[58] As we saw in the prior chapter, such glosses are perhaps the most prevalent form of early Mishnah commentary in the medieval world, found primarily as glosses into Judeo-Arabic (*alfat*), and evidenced also as dictionary-like glosses into Hebrew[59] and Greek.[60] In this case, it is of course of note that the glosses are in a local dialect, a clear sign of the vitality of Mishnah

for the Study of the Hebrew Language and Cognate Subjects 84 (2022): 216–26; and Emmanuel Mastéy, "Reconstructing Linguistic Forms in MS Kaufmann of the Mishnah: Deleted Text, Its Significance, and Methods of Restoration" (Hebrew), *Lěšonénu: A Journal for the Study of the Hebrew Language and Cognate Subjects* 76, no. 1–2 (2014): 79–105.

[55] For a brief description of the marginalia, see Nissan Sacks, ed., *Mishnah Zera'im*, Yad ha-Rav Herzog and the Institute for the Complete Israeli Talmud, 2 vols. (Hebrew; Jerusalem, 1971), 67. See also J.N. Epstein, *The Gaonic Commentary on the Order Toharoht Attributed to Rav Hay Gaon*, ed. E.Z. Melamed, trans. Tzipora Epstein (Hebrew; Jerusalem and Tel-Aviv: Magnes Press and Devir, 1982), קמו, 10.

[56] Luisa Cuomo, "Antichissime glosse salentine nel codice ebraico di Parma, De Rossi, 138," *Medioevo Romanzo* 4 (1977): 185–271, and the summary in Gad B. Sarfatti, "The Glosses of the Mishna Codex de Rossi 138" (Hebrew), *Lěšonenu: A Journal for the Study of the Hebrew Language and Cognate Subjects* 45, no. 2 (1981): 93–94; see also Sussman, "Manuscripts," 235 fn. 87. Umberto Cassuto ("The Destruction of the Yeshivas in Southern Italy," 151) was the first to suggest that these glosses are of a Southern-Italian dialect, though for many years scholars repeated the claim, attributed to De Rossi (see Cuomo, 185), that the glosses are in Latin. For an example of a contemporary Southern Italian Jewish author distinguishing between Latin and an Italian dialect see, Epstein, *The Gaonic Commentary*, 47 l. 7 with note 20.

[57] See especially Mauro Perani and Alessandro Grazi, "La 'scuola' dei copisti ebrei pugliesi (Otranto?) del sec. XI. nuove scoperte," *Materia Giudaica* 11, no. 1–2 (2006): 13–41.

[58] As noted by Rosenthal ("Aboda Zara," 131), who had asked Cuomo to check the glosses for him, and by Sarfatti, "The Glosses," 93.

[59] Epstein, *The Gaonic Commentary*.

[60] See especially Nicholas De Lange, *Greek Jewish Texts from the Cairo Genizah*, Texte Und Studien Zum Antiken Judentum 51 (Tübingen: Mohr Siebeck, 1996), 295-305. See also Ta-Shma, *Talmud Commentary*, 1.27.

study in the region.[61] Further, Linda Safran has shown that some of these Judeo-Italian glosses reflect lived aspects of contemporary Jewish society in the Salento,[62] implying that the manuscript was intended for use, at least in part, as a guide for contemporary practice.

In several tractates in the order of Moed, a later reader jotted down many comments that are Halakhic in nature.[63] These notes also speak the vitality of Mishnah study and to the application of the Mishnah to lived realities. Yet as these notes postdate the period covered in this dissertation, I will not be able to address them here.[64]

4.4. *Palestinian Talmud Glosses*

A third set of marginalia, written in the hand of the manuscript's main scribe,[65] appears in tractates Gittin and Sotah,[66] and primarily consists of material taken from the Palestinian Talmud.[67] Indeed, the first of these glosses (f. 70r) begins with the words "Talmud

[61] It is possible that the dictionary traditions incorporated in the glosses were created via translation from a third language, likely even Judeo-Arabic. Such a linguistic reality is certainly possible in Southern Italy, particular in slightly earlier periods, in which certain localities in the region fell under Muslim control. On the intermittent Muslim control of certain regions in Southern Italy, see Barbara M. Kreutz, *Before the Normans: Southern Italy in the Ninth and Tenth Centuries*, Middle Ages Series (Philadelphia: University of Pennsylvania Press, 1991). Note that the Bari-born "Rabenu" Hananel b. Hushiel knew Arabic, though it is possible that he learnt the language after moving to Qayrawan; see Yosaif Mordechai Dubovick, "Rabbenu Hananel and the Geonim of Babylonia: Rabbenu Hananel's Commentarial and Legal Methodology" (Hebrew; Ph.D. dissertation, Bar-Ilan University, 2015), 9-10 fn. 47.

[62] Linda Safran, *The Medieval Salento: Art and Identity in Southern Italy*, Middle Ages Series (Philadelphia: University of Pennsylvania Press, 2014), 62, 106-7.

[63] See Sacks, *Zeraim*, 67.

[64] Roberta Tonnarelli has suggested to me that these were written in the 14th century, based on paleographic considerations (private conversation, August 2022). Almost no work has been done on this group of comments, and I hope to return to them in a future study. For now, note that Harry Fox ("A Critical Edition of Mishnah Tractate Succah with an Introduction and Notes" [Hebrew; Ph.D. dissertation, The Hebrew University of Jerusalem, 1979], כ) highlighted a gloss on m. Sukkah that includes a halakhic decision in keeping with the practice recorded in the work of Italian *halakha*, *Halakhot Ketzuvot* (see Mordecai Margulies, *Halachot Kezuboth Attributed to R. Yehudai Gaon* [Hebrew; Jerusalem: Hebrew University Press Association, 1942], 104).

[65] On the hand, see Sacks, 26.

[66] In Parma 3173, the order of tractates is Gittin, Nazir, Sotah; see discussion in Epstein, *Introduction*, 2.984-84.

[67] Sacks, *Zeraim*, 67.

Yerushalmi." In Gittin, they appear on side margins and in the bottom margin, and in Sotah, they appear exclusively in the bottom margin. A small circle is used to indicate to which lemma of the Mishnah they relate.

Although scholars have produced an extensive body of research on the Palestinian Talmud in recent decades, these marginal notes have received almost no attention from scholars.[68] What is most immediately apparent about them is that they use material from the Palestinian Talmud in order to explain the Mishnah.[69] As we saw, the Palestinian Talmud is constructed as a commentary on the Mishnah, and it does engage in an atomistic, at times line-by-line discussion of the Mishnah.[70] But in no way can the Palestinian Talmud be used as a practical source for understanding the Mishnah. These glosses, on the other hand, select and paraphrase the Talmudic material such that it functions as straightforward commentary on certain passages of the Mishnah. One representative example will suffice to see how this works.[71]

[68] Beyond the description in Sacks, ibid., all that I have seen in the scholarship is that Fox ("Succah," כא) notes that "the quotations do not always align with what appears in the Leiden manuscript." These notes do not appear in the list of additional citations from the Palestinian Talmud that appears in Yaakov Sussman, in collaboration with Binyamin Elizur, *Ginze Yerushalmi* (Hebrew; Jerusalem: Yad Izhak Ben-Zvi, The Academy of the Hebrew Language, and The Rabbi David Moshe and Amalia Rosen Foundation, 2020), 745-46.

[69] They are, therefore, quite different than the phenomenon outlined in Menachem Katz, "Yerushalmi Citations in Manuscripts of the Bavli" (Hebrew), *Sidra: A Journal for the Study of Rabbinic Literature* 7 (1991): 21–44.

[70] See above, pp. 65-67.

[71] In the following table, and throughout this chapter, I compare the text of the Palestinian Talmud in the marginal notes with the version found in Leiden, Universiteitsbibliotheek, MS Or. 4720 (Scal. 3), as printed in the edition of the Academy for the Study of the Hebrew Language. MS Leiden, the only known complete manuscript of the Palestinian Talmud, served also as the basis for the first printing of this Talmud, and which was completed in Rome in 1289. On this manuscript, see now Yakov Z. Mayer, *Editio Princeps: The 1523 Venice Edition of the Palestinian Talmud and the Beginning of Hebrew Printing* (Hebrew; Jerusalem: Magnes Press, 2022), 89-95.

y. Gittin 3:2 (48d [1063 ll. 20-23) according to MS Leiden	Marginal comment in MS Parma (f. 70r)	m. Gittin 3:2 according to MS Parma
מהו מפני התקנה ר׳ שבתי בשם חזקיה מפני תקנת בנות יש׳ שלא יהו מצויות להתגרש ר׳ שמואל בר רב יצחק שאל לר׳ חייה בר בא כשר ואת אמר אכן אין תימר פסול ויאות מאי כדון אמ׳ ר׳ אבון מפני תקנת הליבלר כדי שיהו חייו מצויין לו.	מהו מפני התקנה מפני תקנת בנות יש שלא יהו(ו) מצויות להתגרש **ויש אומ׳** מפני תקנת הלבלר כדי שיהו חייו מצויין לו.	הכותב טופסי גיטין צריך שיניח מקום האיש ומקום השאה ומקום הזמן שטרי מלווה צריך שיניח מקום המלוה ומקום הלוה ומקום המעות ומקום הזמן שטרי מקח וממכר צריך שיניח מקום הלוקח המוכר ומקום המעות מקום השדה ומקום הזמן מפני התקנה ר׳ יהודה פוסל בכולם ר׳ לעזר מכשיר בכולם חוץ מגיטי נשים שנ׳ וכתב לה לשמה
		One who writes formulaic bills of divorce must leave space for the man, the place, the woman, and the date. For bond contracts, one must leave space for the lender, the borrower, the amount, and the date. For sale contracts, one must leave space for the buyer, the

		seller, the amount, the field, and the date. On account of the decree. R. Yehuda prohibits all of these. R. Elazar allows all of these except for women's bills of divorce, as it says "He shall write for her" (Dt. 24.1)—for her name.
What is "on account of the decree"? R. Shabtai in the name of Hizkyah: On account of the decree of the Daughters of Israel, lest they be divorced easily. R. Shmuel bar Rav Yitzhak asked R. Hiya bar Ba: It is permissible, and this is what you say? If you say it was prohibited, then this [i.e., the answer] would be appropriate[72]. R. Abun said: On account of the decree of the scribe, that his livelihood should be easy.	What is "on account of the decree"? On account of the decree of the Daughters of Israel, lest they be divorced easily. **And some say:** On account of the decree of the scribe, that his livelihood should be easy.	

The Mishnah here discusses the matter of a scribe who copies out blank contracts for future sale or use and not for a specific case of divorce, lease, or sale that has already been initiated. According to the anonymous view in the Mishnah, the scribe must leave blank information

[72] That is, if this is indeed the reasoning, then one should not be allowed to prepare the blank bills of divorce at all.

such as names, location, and date, "because of the decree (*taqana*)." The Palestinian Talmud asks what the reasoning for this decree is, bringing first the opinion of Hizkiyah that prepared documents would make divorce too easy, and thus unfairly disadvantage women, as husbands may deliver pre-prepared writs of divorce in a fit of rage (the thinking being that the time needed to prepare the bill from scratch may allow a husband to cool their nerves). The Talmud then challenges this opinion and offers a different interpretation—that the decree is not that these elements must be left unwritten, but rather, that a scribe is even allowed at all to copy out the form of a contract in the first place; this decree was thus instituted for the benefit of the scribes, so that they could prepare contracts for sale in their down time.

The comment in the margin paraphrases all of this by eliding the names of the Talmudic sages and doing away with the Talmudic dialectic. All that remains are two explanations to the question "what is 'on account of the decree'?" joined to one another by the term "and there are those who say" (*vi-yesh omrim*). Graphically, this is shown by the placement of a circle over the word "the decree," highlighting that this is the lemma under discussion:

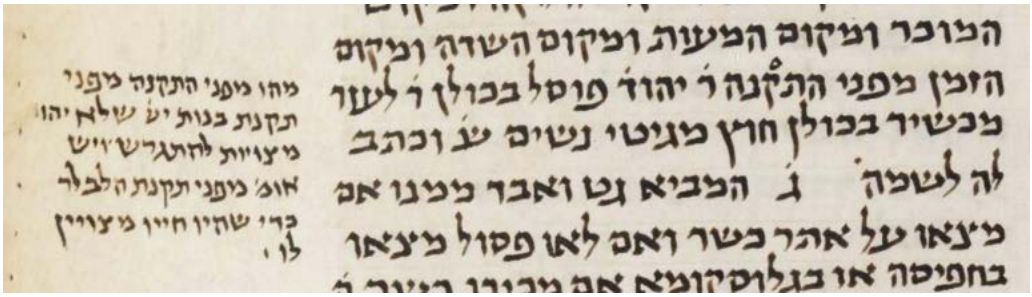

Figure 6.2: MS Parma 3173 f. 70r

There are twenty-five or so comments across Gittin and Sotah, and the vast majority of them use the Palestinian Talmud in this fashion, all with differing levels of paraphrase. For the most part, the positioning on the page is similar to what we see in this example and is relatively clear. There are some cases, though, in which the scribe exhibits more creativity vis-à-vis the mise-en-page. In Mishnah Gittin 3:1, four cases are brought as examples in a proceeding order, the latter three preceded by the phrase "more than that" (*yoter mikan*). The Palestinian Talmud (3:1; [44c (1067 ll. 2-6)]) explains how each case adds to what had already been taught by the prior ones. Without going into detail, I will point only to the ingenuity in which a summary of these Talmudic discussions is positioned on the page:

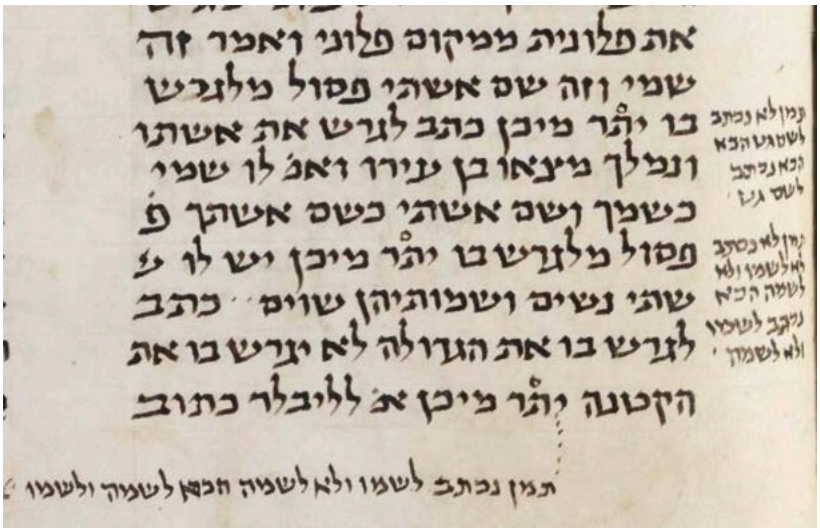

Figure 6.3: MS Parma 3173 f. 70r

As can be seen, the Talmudic discussion is summarized and even physically pulled apart into three segments that are then attached to each lemma, signaled by circles and dotted lines.

At times, the version of the Palestinian Talmud in the gloss is not just a reformulation but includes content that is entirely absent from all other versions of the Palestinian Talmud. The first gloss in the manuscript contains an extreme example of this kind:

y. Gittin 2:2 (44b [1059 ll. 34-5])	Marginal Comment in MS Parma (f. 69v)	Mishnah according to MS Parma
אמ׳ ר׳ יוחנן פסול מפני אכילת פירות.	תלמ׳ ירושלמי ר׳ יוחנן פוסל מפני העין ומפני אכילת פירות.	נכתב ביום ונתחתם ביום, בלילה ונתחתם בלילה, בלילה ונתחתם ביום – כשר. ביום ונתחתם בלילה – פסול.
R. Yohanan says it is unfit because of usufruct.	*Talmud* Yerushalmi – R. Yohanan makes it unfit **because of the (evil?) eye** and because of usufruct.	Written during the day and signed during the day, at night and signed at night, at night and signed during the day—it is fit. During the day and signed at night—it is unfit.

The version of the Palestinian Talmud in the marginal comment adds an additional reason—"because of the eye" ("*mipnei ha-ayin*"). The meaning of this reason is not entirely clear. While it does not appear in any of the other direct or indirect witnesses to this passage, we need not assume that it is not a genuine late-ancient version.

While most of the glosses read as simple commentaries to the Mishnah, there are several that stand alone and do not relate to specific words or lines. These are also for the

most part based on the Palestinian Talmud. For example, the following text appears in the bottom margin of the very same folio:

y. Gittin 4:3 (45c [1067 ll. 34-37]) according to MS Leiden	Marginal comment in MS Parma (f. 70r)
רב הונא אמ׳ מפני <מה>[73] התקינו זמן בגט מפני מעשה שאירע מעשה באחד שהיה נשוי את בת אחותו וזינת עד שהיא אשת איש הלך והקדים זמנו בגט אמ׳ מוטב שתידון כפנויה ואל תדון כאשת איש	 מפני מה תיקנו זמן בגיטים מפני מעשה שאירע שנשא את בת אחותו וזינת כשהיא אשת איש וכתב גט ונתן לה **ואמ׳ כשזינתה מגורשת היתה ממיני** אמ׳ מוטב תידון כפנויה ואל תידון כאשת איש **תיקנו זמן כדי שיהא הזמן מוכיח**
Rav Huna said: Why did they require time on the bill of divorce? Because of a case that happened, that one who was married to his sister's daughter, and she committed adultery while still married. He went and made the date in the bill of divorce earlier. He said [to himself], "better that she be judged as single than as married."	 Why did they require time on bills of divorce? Because of a case that happened, that someone was married to his sister's daughter, and she committed adultery while married, and he wrote a bill of divorce and gave it to her, **and he said "when she committed adultery, she was divorced from."** He said [to himself], "better that she be judged as single than as married." **They decreed [that the] date [must be written] so that the date will be proof.**

[73] Filled in between the lines in the Leiden manuscript.

The issue at hand is why the date must be provided in the bill of divorce, and a story is told that explains the supposed reason for which this requirement was instituted.[74] This text appears in the Palestinian Talmud in the context of a discussion of m. Gittin 4:3, yet not regarding a specific lemma in the Mishnah. Similarly, as can be seen in the following image, the comment—which is anonymized and differs somewhat from the text in the Leiden manuscript—is not connected via a paratext to any lemma.

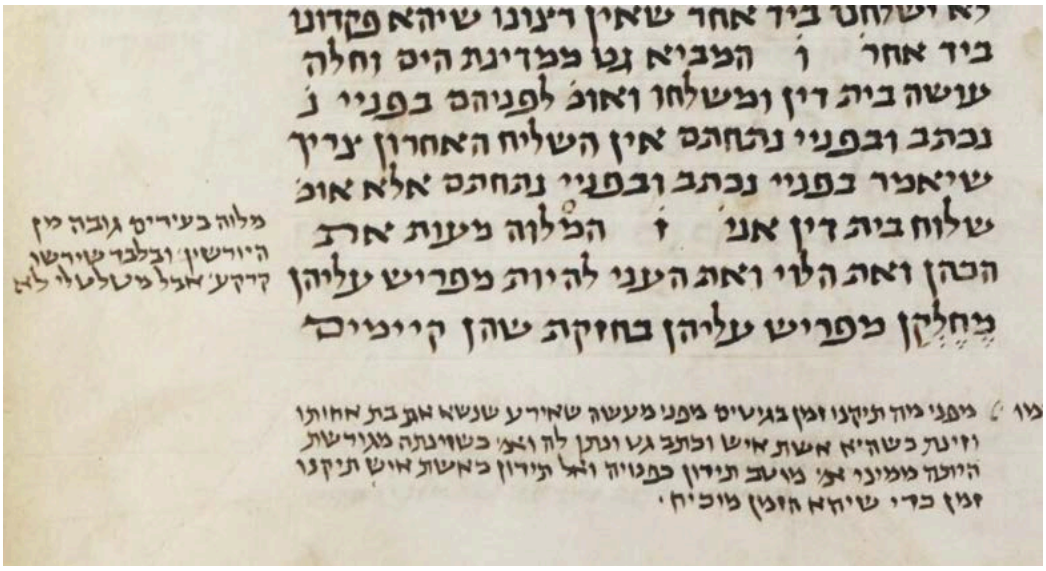

Figure 6.4: MS Parma 3173 f. 70r

With that, this passage is still eminently understandable to anyone studying the tractate of the Mishnah, as it relates to the general content of the tractate and is easily read outside of its context in the Talmud.

There are several cases like this in the manuscript. But more surprising is that there are a few cases in which comments in the margins cannot at all be understood outside of their Talmudic context. These are more prevalent in tractate Sotah, and appear at times amidst what look like a paragraph made up of several quotations from the Talmud:

[74] The story told here is hinted at in b. Gittin 17a.

b. Sotah 4b	y. Sotah	Marginal Note in MS Parma (f. 76v)	
	<u>רבי ירמיה רבי בא בר ממל בשם רב</u> שכבת זרע עד שיפלוט.[75]	 ושכב איש אותה שכבת זרע עד שייפלוט.	1
	<u>כת</u>' והעמיד הכהן את האשה לפני י"י זה שער ניקנור כל מקום שנ' לפני י"י זה שער ניקנור.[76]	והעמיד הכהן את האשה לפני י"י זה שער נקנור וכל מקום שנאמר לפני י"י זה שער ניקנור.	2
	ולמה חבל מצרי <u>אמ' ר' יצחק</u> לפי שעשת כמעשה מצרים.[77]	למה חבל מצרי לפי (ש) שעשת מעשה מצרים.	3
והאיכה בן עזאי דלא נסיב **איבעית אימא** נסיב ופירש הוה **ואיבעית אימא** מרביה שמיע ליה **ואיבעית אימא** סוד ה' ליראיו	ובן עזאי נשא אשה מימיו אית דבעי מימר נתחמם ואית דבעי מימר בעל ופירש אית דבעי מימר סוד י"י ליריאיו ובריתו להודיעם.[78] <u>אמ' ר' יוסי</u> כל אילין שיעוריא לאחר התרת הסינר.[79]	**והא איכא בן עזאי דלא נסיב** **איבעית אימא** נתחמם **ואי בעית אימא** בעל ופירש **אי בעית אימא** סוד י"י ליראיו **וכל שיעורים ששיערו חכמ'** לאחר התרת סינר.	4 5
	<u>R. Yirmiyah, R. Ba bar Mamal, in the name of Rav:</u> "Flow of semen" (Nm. 5:13)— until he ejaculates. <u>It says</u> "And the priest shall make	 "A man has had carnal relations with her" (Nm. 5:13)— until he ejaculates. "And the priest shall make her stand before the Lord" (Nm.	1 2

[75] y. Sotah 1:2 (16c [907 l. 7]).
[76] y. Sotah 1:5 (17a [909 ll. 24-5]).
[77] y. Sotah 1:6 (17a [909 ll. 46-7]).
[78] y. Sotah 1:2 (16c [907 ll. 22-24]).
[79] y. Sotah 1:2 (16c [907 ll. 20-1]).

	her stand before the Lord" (Nm. 5:18)—this is Nicanor Gate, wherever it says "before the Lord"—this is Nicanor Gate.	5:18)—this is Nicanor Gate, and wherever it says "before the Lord"—this is Nicanor Gate.	
	And why an Egyptian rope?	And why an Egyptian rope?	3
	<u>R. Yitzhak said:</u>		
	Because she did an Egyptian deed.	Because she did an Egyptian deed.	
But there is Ben Azzai, who never married?!	And did Ben Azzai ever marry a woman?!	**But there is** Ben Azzai, who never married?!	4
If you want, say, he was married and then separated;	Some say, he was aroused;	**If you want, say,** he was aroused;	
If you want, say, he learnt from his teacher;	And some say, he engaged in *coitus interruptus*;	**And if you want, say,** he engaged in *coitus interruptus*;	
If you want, say, "The secret of the Lord is for those who fear Him" (Ps. 25:14).	And some say, "The secret of the Lord is for those who fear Him, and he makes known to them His covenant" (Ps. 25:14).	**And if you want, say,** "The secret of the Lord is for those who fear Him" (Ps. 25:14).	
	<u>R. Yose said:</u>		5
	All of these measurements are after she removes her undergarments.	**All of these measurements that the sages measured** are after she removes her undergarments.	

These five notes appear in the manuscript next to each other in one paragraph, as follows:

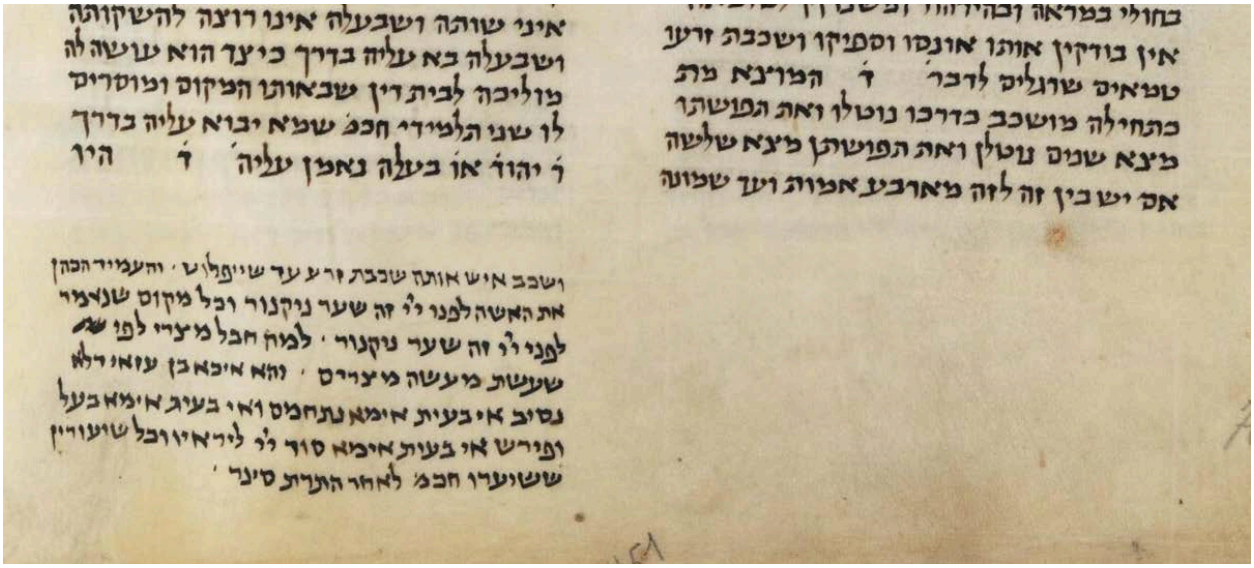

Figure 6.5: MS Parma 3173 f. 76v

Several things are important to highlight here. First is that we see here again the elision of names in the quotations in the marginal note. Second, is that of the five parts of this paragraph, the first section is not a comment on a lemma of the Mishnah but would be understandable to one learning the tractate; the second section is an explanation of m. 1:5; the third is a clear explanation of m. 1:6; and the fourth and fifth sections are impossible to understand outside of their Talmudic contexts. In addition, the last clause includes a translation from Aramaic into Hebrew.

Lastly, it is important to point out that section four utilizes terminology and phrasing taken from the Babylonian Talmud ("*vi-ha ika*," "*i ba'it meimar*"), though it relays the content of the source from the Palestinian Talmud. This phenomenon is particularly important for understanding the nature of these comments in general, and it is even more evident in the following example:

y. Gittin 5:3 (46d [1073 ll. 38-45])	Marginal Note in MS Parma (f. 71r)
הל׳. אין נפרעין (מנסי) מנכסים משועבדין כול׳.[80] אמ׳ ר׳ חנינא מפני שאין להן קיצבה גזל שדה משעמון ומכרה ללוי ובא שמעון וטרפה מלוי לוי גובה ממשועבדין <של ראובן>[81] ושמעון גובה אכילת פירות מבני חורין שללוי. עמד לוי והשביח, לוי גובה את הקרן ממשועבדין שלראובן וגובה את השבח ((ממשוע))[82] מבני חורין שלשמעון. ר׳ חייה ב()[ש]ם ר׳ יוחנן <אמר והוא שקדם מקחו של זה לשבחו של זה אבל אם קדם שבחו של זה למקחו של זה לוי גובה את הקרן אפי׳ ממשועבדין של שמעון>[83]	אין מוציאין לאוכלת פירות **מאי׳ טעמ׳** מפני שאין להן קיצבה **היך עבידה** ראובן גזל שדה משמעון ומכרה ללוי ובא שמעון וטרפה מלוי. לוי גובה את הקרן ממשועבדין שלראובן ושמעון גובה אוכלת פירות מבני חורים שללוי. עמד לוי והשביח, לוי גובה את הקרן ממשועבדין שלראובן וגובה את השבח מבני חורין שלשמעון. **והני מילי** שקדם מקחו שלזה לשבחו שלזה. אבל אם קדם שבחו שלזה למקחו שלזה לוי גובה (גוב) את הקרן אפילו ממשועבדין שלשמעון.
Halakha: “One cannot from encumbered property, etc.” (m. Gittin 5:2) R. Hanina says: Because they do not have a fixed amount. One [Reuben] stole a field from Simeon and sold it to Levi and Simeon came and foreclosed it from Levi— Levi collects from <Reuben’s> encumbered property and Simon collects usufruct from Levi’s unencumbered property. If Levi increased the value [of the property], Levi collects the capital from Reuben’s encumbered	“One cannot collect for usufruct” (m. Gittin 5:3) **What is the reason?** Because they do not have a fixed amount. **How does this work?** Reuben stole a field from Simeon and sold it to Levi and Simeon came and foreclosed it from Levi— Levi collects from Reuben’s encumbered property and Simon collects usufruct from Levi’s unencumbered property. If Levi increased the value [of the property], Levi collects the capital from Reuben’s encumbered

[80] This quote, from m. Gittin 5:2, is out of place.
[81] Added by a later hand.
[82] Deleted in MS Leiden by both the initial scribe and by a later editor.
[83] Initially missing due to homeoteleuton, added in the margin by a later editor.

property and the improvement from Simeon's unencumbered property. R. Hiyya in the name of R. Yohanan <said: Only if his sale preceded this improvement; but if this improvement preceded this sale, Levi collects the capital even from Simeon's encumbered property>.	property and the improvement from Simeon's unencumbered property. **And these words** are only if his sale preceded this improvement; but if this improvement preceded this sale, Levi collects the capital even from Simeon's encumbered property.

This explicitly relates to a lemma in m. Gittin 5:3, which is marked with a circle and quoted at the start of the gloss. This comment appears in the bottom margin of the relevant folio, as can be seen below:

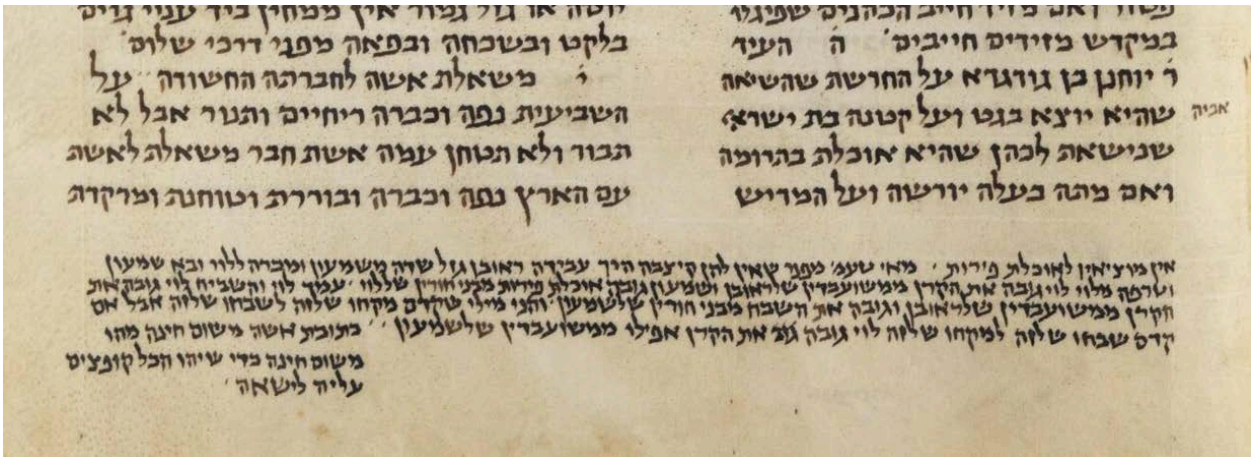

Figure 6.6: MS Parma 3173 f. 71r

This is a rather complicated passage, and I will only deal here with some of its external elements that, while external, are nevertheless important. As in the prior examples, we again see the elision of names in the version of the Talmud quoted in the comment. Notably, the version in the margin is still somewhat better than that in MS Leiden—for example, it has

the correct quotation from the Mishnah at the beginning of the passage,[84] and it contains certain words that are simply accidently missing from MS Leiden (at least in its initial copying).[85] More important is that the version in the margin of the Parma manuscript introduces three terms: (1) "What is the reason?" (*may ta'ama*); (2) "How does this work?" (*heikh avida*); and (3) "These words" (*hani milei*), all of which are absent from the version in the Leiden manuscript. The second of these terms is one that is unique to the Palestinian Talmud.[86] The first is a term taken from the Babylonian Talmud, although it is linguistically and graphically similar to a term found in the Palestinian Talmud (Babylonian: *may ta'ama*; Palestinian: *ma ta'ama*).[87] The last term, however, is entirely unique to the Babylonian Talmud. We thus see that version of the Palestinian Talmud in the marginal note introduces terminology that is native to both Talmuds.

While we have only looked closely at a few of the marginal comments to tractates Gittin and Sotah in Parma 3173, I believe that these are representative enough for us to now reflect on the entire corpus. To summarize what we have seen until now:

1. In tractates Gittin and Sotah, Parma 3173 contains marginal comments that utilize material from the Palestinian Talmud in order to explicate the Mishnah;
2. The quotations engage in various levels of paraphrase, and almost uniformly elide the names of amoraic sages and the talmudic dialectic;

[84] See above, note 80.

[85] See above, note 83.

[86] See Moshe Assis, *A Concordance of Amoraic Terms: Expressions and Phrases in the Yerushalmi*, 3 vols. (Hebrew; New York and Jerusalem: The Jewish Theological Seminary of America, 2010), 1.404-5; Leib Moscovitz, *The Terminology of the Yerushalmi: The Principal Terms* (Hebrew; Jerusalem: The Hebrew University Magnes Press, 2009), 199-202.

[87] Indeed, Assis (*Concordance*, 2.952-53) lists many cases in which the term is mistakenly spelled with "*may*" in manuscripts of the Palestinian Talmud.

3. At times, certain lines or Palestinian terms appear that are absent from the Palestinian Talmud—this could be an element of paraphrase, or based on versions that are different than that presented in the Leiden manuscript[88];
4. The version on which the marginal comment is based is at times better than that of the Leiden manuscript[89];
5. Some Aramaic is translated into Hebrew[90];
6. Terms and language are introduced from the idiom of the Babylonian Talmud[91];
7. Some of these comments, however, do not clearly explicate the Mishnah, and can only be understood in their original Talmudic context[92];
8. There are some traditions in these comments the sources of which are unclear.[93]

While we cannot know the exact setting in which these marginal notes were created, we can offer a few words by way of conjecture. It is clear that the creator of the notes utilized a copy of the Palestinian Talmud, though we cannot know for certain why only these two tractates, Gittin and Sotah, received such comments: perhaps the creator of the comments happened to have obtained a manuscript of the Palestinian Talmud that contained only these two tractates; it is possible that the manuscript simply had these two tractates one after the other,[94] and that the scribe had studied them in that order for that reason; or that, for whatever other reason, the scribe studied these two tractates from the Palestinian Talmud and sought to summarize certain aspects of them in this fashion.

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[88] See for example the case of f. 70r above.
[89] See for example the case of f. 71r above.
[90] E.g., the final clause in the comment on f. 76v discussed above.
[91] See the examples discussed above from ff. 71r and 76v.
[92] See for example the case of 76v discussed above.
[93] See for example the first comment in Gittin, on f. 69v.
[94] On the appearance of these two tractates alongside one another in some manuscripts of rabbinic works, see Epstein, *Introduction*, 2:984.

It is also not entirely clear what the object of study was in the process of creating these comments and how they were intended to be used in the future: as most glosses are written as comments on the Mishnah, it does seem that the scribe had created them while studying Mishnah and intended that they be used by future readers in order to elucidate the Mishnah. But there are some glosses, as we have seen, that can only be understood by one who had studied the tractate in the Palestinian Talmud. It thus seems that the glosses were created not *only* to create a commentary on the Mishnah, but also, as an aide-mémoire—perhaps the owner or user of the manuscript did not always have access to copies of the Palestinian Talmud, and thus jotted down, for himself, sections of the text he found particularly notable. In this way, the manuscript of the Mishnah, and the study of the Mishnah, could be used to keep in mind other texts and ideas that are not in the Mishnah itself; in other words, even if the marginalia are not all comments on the Mishnah, per se, the manuscript of the Mishnah is still used as a container of ever more rabbinic knowledge.

4.5. *Marginalia, Study Patterns, Commentary*

What can the marginalia in MS Parma 3173 and the types of textual corruption outlined above teach us of the reception of the Mishnah in 11th-century Southern Italy? Most apparent is of course the very use of the Palestinian Talmud in the study of the Mishnah. What we saw in the prior section allows us to both buttress and nuance certain of Yaakov Sussman's claims with regards to the study of the Mishnah. Sussman has argued that in Late Antiquity, the study of the Mishnah qua Mishnah was mostly unique to Palestinian rabbinic Judaism, whereas in Babylonia and its environs, rabbinic Jews studied the Mishnah as part

of the Talmud.[95] One crucial sign of this, according to Sussman, is that complete medieval manuscripts of the Mishnah alone—of what is referred to as *Seder ha-Mishnah*—exist only in versions that relay Palestinian text-types, and the complete surviving medieval manuscripts of this type were composed in Southern Italy and Byzantium—regions that, it is proposed, had formerly been under the religious influence of Palestinian rabbis.[96]

We now know that the picture of Mishnah study that Sussman painted is in fact more complicated: As we saw in the prior chapter, manuscripts of the Mishnah existed in medieval Islamicate lands as well; Mishnah study was clearly prevalent outside of Christian Europe, if perhaps only on a sub-elite level.[97] But we have also seen (and will continue to see) that long term distinctions can indeed be drawn between Palestinian and Babylonian cultures, and it is noteworthy that we see, via the marginal notes of Parma 3173, that there was indeed a "Palestinian" nature to Mishnah study in Southern Italy, in that the Mishnah was understood with the aid of the Palestinian Talmud.[98] Important too is that the Palestinian Talmud here is used in explicating sections of the Mishnah that *do* have tractates in the Babylonian Talmud; until now, scholars have only isolated evidence for the use of the Palestinian Talmud in the context of explicating the Mishnah for sections on which there is no Babylonian Talmud.

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[95] See Sussman, "Manuscripts."

[96] Ibid.

[97] See Ezra Chwat, "Mishna Study among the Rishonim as Found in the Alfasi Gloss-Supplements" (Hebrew), *Alei Sefer: Studies in Bibliography and in the History of the Printed and the Digital Hebrew Book* 19 (2001): 49–67.

[98] Cf. Shraga Abramson, *Peirush rabeinu Hananel* (Jerusalem: Vagshel, 1995), 69, who questioned whether there was evidence for study of the Palestinian Talmud in Southern Italy; see also for a summary and rejection of this view, Ta-Shma, *Talmud Commentary*, 127. On fragments of the Palestinian Talmud from 11th century Southern Italy, see now Günter Stemberger, "The Talmud Yerushalmi from Bologna, Probable *Vorlage* of Ms. Leiden: The New Fragments from *Megillah* and *Ḥagigah*," in *Medieval Hebrew Manuscripts Reused as Book-Bindings in Italy*, ed. Mauro Perani, European Genizah Texts and Studies, 6; Studies in Jewish History and Culture, 69 (Leiden and Boston: Brill, 2022), 235–69.

These marginalia shed light also on another phenomenon on which Sussman has written, namely, the so-called "*Sefer Yerushalmi*." This refers to a form of the Palestinian Talmud that was current in medieval Ashkenaz and that reworks the text, to differing extents, such that it at times incorporates Babylonian features and in particular, terms taken from the Babylonian Talmud.[99] Sussman had suggested that the *Sefer Yerushalmi*, while found in Ashkenazi manuscript fragments and quoted by Ashkenazi sages, in fact originated outside of Ashkenaz.[100] The possibility of an Italian origin for this work was hinted at by Vered Noam,[101] and then further argued for by Simcha Emanuel, who suggested that it was brought to Ashkenaz from Southern Italy by Shmuel b. Natronai in the first half of the 12th century.[102] Given the similarity of the marginal comments on the Parma manuscript and the *Sefer Yerushalmi*, the evidence discussed here gives further weight to the claim that the *Sefer Yerushalmi* originated in Southern Italy.[103] As I will discuss in more depth below, when combined with yet additional evidence, the marginalia of Parma 3173 can give us an even richer image of the meshing of rabbinic cultures in Southern Italy.

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[99] See Yaakov Sussman, "*Yerushalmi* Fragments – An Ashkenazi Manuscript: Notes toward a Solution to the Riddle of *Sefer Yerushalmi*" (Hebrew), *Kobez Al Yad* 12 (1994): 1–120, and idem, "The Ashkenazi *Yerushalmi* MS — '*Sefer Yerushalmi'* " (Hebrew), *Tarbiz* 65, no. 1 (1995): 37–63. On the specific incorporation of Babylonian *terms* in the "Quasi She'iltot," see Emanuel, *Fragments of the Tablets*, 39-40.

[100] Sussman, "The Ashkenazi *Yerushalmi* MS," 60.

[101] Vered Noam, *Megillat Ta'anit: Versions, Interpretation, History - With a Critical Edition*, Between Bible and Mishnah (Hebrew; Jerusalem: Yad Ben-Zvi Press, 2003), 386-91, and eadem, "Two Testimonies to the Route of Transmission of 'Megillat Taʿanit' and the Source of the Hybrid Version of the Scholion" (Hebrew), *Tarbiz* 65, no. 3 (1996): 389–416; see also the following note.

[102] Emanuel, *Fragments of the Tablets*, 75-81.

[103] To be sure, the significant reworkings of *Sefer Yerushalmi* are primarily found in the order of Moed, whereas the reworkings in Nashim are not that significant. Therefore, I am not arguing that the marginal notes in Parma 3173 were copied directly from *Sefer Yerushalmi*, but rather, that the notes on *Sefer Yerushalmi* were created by scholars working in a similar fashion and perhaps in the same region and period, akin also to what we see in the version of tractate Sheqalim of the Palestinian Talmud first documented in Southern Italy in the 11th century; see Sussman, "Sheqalim," 34-37. On the possibility that halakhic additions found in *Sefer Yerushalmi* may nevertheless have originated in Palestinian practice, see Shulamit Elizur, ed., *Liturgical Poems of Rabbi Pinḥas ha-Kohen*, Sources for the Study of Jewish Culture 8 (Hebrew; Jerusalem: The World Union of Jewish Studies, 2004), 200-1.

These glosses are important also for what they tell us of the beginning of Mishnah commentary in the Middle Ages. As we have seen, the earliest commentaries to the Mishnah are dictionary-like explanations of difficult words. We see here in these marginal comments the beginnings of a more robust form of Mishnah commentary, one that seeks to explain other, non-lexical difficulties in the text of the Mishnah by way of the Talmuds, incorporating also relevant background information that is not attached to specific lemmata.[104] Indeed, certain characteristics foreshadow the nature of 12th century Italian Mishnah commentary, most famously the influential commentary of R. Yitzchak b. Melchizedek ("Rivma"tz") on the orders of Zeraim and Taharot.[105] While it seems that R. Yitzchak only authored a commentary on the sections of the Mishnah for which there was no Babylonian Talmud, his use of paraphrase and synthesis in quotations from the two Talmuds is quite similar to what we see in the marginalia of Parma 3173.[106] An example of this (and there are many) can be seen in Rivma"tz's comment to m. Hallah 2:4:

b. Pesahim 48b	y. Hallah 2:4 (58c [320 ll. 32-3])	Rivma"tz Hallah 2:4 (Sacks ed. 359)
'רבי אליעזר אומר הרודה ונותן לסל הסל מצרפן לחלה'	ר' יונה ר' חייה בשם ר' יוחנן ר' יוסי אימי בשם ר' יוחנן	'ר אליעזר אומר אף הרודה' חלות מן התנור 'ונותן לסל הסל מצרפן'. ומחייבין בחלה, אע"פ שבשעת (sic) שלש לא לש כשיעור חיוב חלה. א"ר יונה א"ר חייא א"ר יוחנן

[104] With that, it should be stated that it is difficult to make any far-reaching claims about Mishnah study from these comments given that they appear only in two tractates.

[105] On this commentary, its influence, and its quick spread throughout the Jewish world, see Ta-Shma, *Talmud Commentary*, 221-23, and, inter alia, Emanuel, *Fragments of the Tablets*, 45-7, 70.

[106] On Rivma"tz's predilection for paraphrasing Talmudic sources see, Moscovitz, *Terminology*, 201 fn. 356. On the "paraphrastic" nature of early Talmud commentaries more generally, see Ta-Shma, *Talmud Commentary*, 39.

והן שנשכו. אמ' רב יהודה אמ' שמואל הל' כדברי ר' אליעזר.	והן שנשכו.	ואמר רב יהודה אמר שמואל הלכה כרבי אליעזר.
'R. Eliezer says even one who removes' loaves from the oven 'and places them in a basket, the basket combines them.' And they are obligated in *hallah*. R. Yonah said R. Hiyya said R. Yohanan said: 'so long as they clung to one another.' Rav Yehudah said that Shmuel said, 'the Halakha is according to the words of R. Eliezer.'	R. Yonah, R. Hiyya in the name of R. Yohanan, R. Yossi, Immi, in the name of R. Yohanan: 'so long as they clung to one another.'	"R. Eliezer says one who removes [loaves] from the oven and places them in a basket, the basket combines them for the purposes of *Hallah*." And Rav Yehudah said that Shmuel said, 'the Halakha is like R. Eliezer.'

We can see here that in explaining the Mishnah, Rivma"tz paraphrases and combines passages from both the Palestinian and Babylonian Talmuds, in a fashion that is reminiscent of what we saw in the marginalia in Parma 3173. In light of these parallels, we can surmise that the marginalia represent study practices that were current in Southern Italy on a wider scale, and that they foreshadow the eventual creation of more robust commentaries to the Mishnah that would be consumed cross regionally.

4.6. *Southern Italy, Between Palestine and Babylonia*

The evidence of Parma 3173 must be situated in the context of what we know of the religious character of the Southern Italian Jewish community at the turn of the millennium. Robert

Bonfil and others have described this community as a crossroads of Palestinian and Babylonian rabbinic cultures and as a conduit for the spread of rabbinic knowledge from Palestine to Europe in the pivotal turn from Late Antiquity to the Middle Ages. [107]

Let us recall that in Chapter 4 we saw evidence for the existence of connections between Southern Italian and Palestinian Jewish communities already on the eve of the rise of Islam.[108] In addition, scholars have long noted that various aspects of medieval Italian Jewish texts, rituals, and more seem be reliant or derivative of earlier Palestinian ones.[109] While exact dating is difficult, there is certainly reason to believe that these parallels exist

[107] See Robert Bonfil, "Between Eretz Israel and Babylonia: Towards a Cultural History of the Jews in Southern Italy and Christian Europe in the Early Middle Ages" (Hebrew), *Shalem* 5 (1987): 1–30; idem, *The Family Chronicle of Aḥima'az ben Paltiel*; Grossman, "The Yeshiva of Eretz Israel," 244-47; idem, "the Hegemony of Eretz Israel"; Ta-Shma, "La cultura religiosa." It has recently been suggested by Simcha Emmanuel that such phenomena were current in Palestine itself, as can be seen in a text he termed "Quasi *Sheiltot*" that he discovered in binding fragments in the Franciscan monastery in Graz, for which see Simcha Emanuel, *Hidden Treasures from Europe*, 2 vols. (Hebrew; Jerusalem: Mekize Nirdamim, 2015-2019), 2:15-148. Importantly, while this work may have been authored in medieval Palestine, and while the fragments of the manuscript were found in Graz, the manuscript itself is believed to have been copied in Southern Italy in the later 11th century (see the paleographic assessment of Edna Engel, apud Emanuel, ibid., 78-81; Roberta Tonnarelli has confirmed this assessment for me in an email dated 8.2.19). On the reception of the Babylonian Talmud in Palestine, see above, pg. 133 fn. 141. See also Sussman, "Sheqalim," 36 with fn. 119

[108] See above, pp. 139-146.

[109] In addition to the literature cited above in fn. 107, see also, on Italian Hebrew: Ryzhik, *In a Foreign Land*. Paleography: see for example the recent discussion in Roberta Tonnarelli, "Antica scrittura ebraica di tipo italiano: Ipotesi sull'origine e analisi paleografica dei frammenti di Sefer Torah riutilizzati nel MS. Plut. 74,17 (Biblioteca Medicea Laurenziana, Firenze)," *Henoch* 43, no. 1 (2021): 64–81; on liturgical poetry: Ezra Fleischer, "Hedveta, the Son of Abraham: The First Hebrew Poet in Italy" (Hebrew), *Italia* 2, no. 1–2 (1981): 7–29 (22-16); on statutory liturgy, Grossman, "The Hegemony of Eretz Israel," 147; on Halakha: e.g., several Italian *Ketuba* traditions that rely on Palestinian norms, for which see M. A. Friedman, *Jewish Marriage in Palestine: A Cairo Geniza Study*, 2 vols. (Jerusalem: Tel-Aviv University Press and The Jewish Theological Seminary of America, 1980-1981), 1:39-43; a 13th century Italian halakhic work that closely parallels an earlier Palestinian one, specifically in the section on the redemption of the first-born; see Israel M. Ta-Shma, "Sefer halakhot italqi li-rav Yehiel ben rav Yeqtuiel," *Kobez Al Yad* XV (XXV) (2000): 145–206 (199-200), repr. idem, *Studies in Medieval Rabbinic Literature*, vol. 3. Italy & Byzantium (Hebrew; Jerusalem: The Bialik Institute, 2005), 140-42; idem, Israel M. Ta-Shma, *Early Franco-German Ritual and Custom*, 3rd ed. (Hebrew; Jerusalem: The Magnes Press, 1999), 336-342; Mordecai Margulies, *Palestinian Halakhot from the Genizah*, ed. Israel M. Ta-Shma (Hebrew; Jerusalem: Mossad HaRav Kook, 1973), 29-31. And for Italian midrashic works, see Amos Geulah, "Lost Aggadic Works Known Only from Ashkenaz: Midrash Abkir, Midrash Esfa and Devarim Zuta" (Hebrew; The Hebrew University of Jerusalem, 2006), 305; and Avigdor Kahlani, in the introduction to his edition of *Aggadat Bereishit*, 42, 66-7, 122-24.

due to connection of center and periphery that existed between the communities in Late Antiquity.

The image seems to have changed beginning in the ninth century.[110] Bonfil largely based his study of the convergence of Palestinian and Babylonian cultures in Southern Italy on the *Chronicle of Ahima'atz*, mentioned already above. Written in Capua in the mid-11th century, this family chronicle depicts several stories in which rabbinic figures travel between Palestine and Southern Italy, as far back as during the during the ninth century.[111] The chronicle also refers interchangeably to one Aharon, Abu Aharon, and ibn Aharon, who, after being expelled from Baghdad, eventually travelled to Jewish communities on the eastern side of the Italian peninsula, supposedly also in the 9th century.[112] For Bonfil, the depictions of these travels and itinerant sages are a sign that "there can be no doubt that the major cultural change worthy of being recorded by Jewish collective memory… was the gradual substitutions of the existing body of authoritative knowledge rooted in Palestinian traditions by the one emerging from the Babylonian academies."[113] More precise evidence for the

[110] Cf. the reservations of Grossman, "The Hegemony of Eretz Israel," 149-52.

[111] See the overview and discussion Bonfil, *The Family Chronicle of Aḥima'az ben Paltiel*, 81-3. Amos Geulah has argued that evidence for the existence of Babylonian rabbinic traditions in Italian Jewish literature can already be found in the late eighth century; Amos Geulah, "On the Study of Midrash Yelammedenu: A Reexamination of an Attribution in 'Yalkut Shimʿoni' and Its Source" (Hebrew), *Tarbiz* 74, no. 2 (2005): 221–60.

[112] For an overview of Aharon's career is told in the *Chronicle of Ahima'atz* and other sources, see Bonfil, *The Family Chronicle of Ahima'atz*, 53-66.

[113] Ibid., 59. Mordecai Margulies (*Halachot Kezuboth*, 16) has suggested a ninth century date for the Italian work *Halakhot Qezuboth*, which incorporated Babylonian texts and traditions; yet see S. Stern, "Tari," *Studi medievali*, 3, 11, no. 1 (1970): 177–207 (186-87 fn. 30), who shows that Margulies numismatic evidence points instead to a tenth century date; see also Hillel Newman, "Early Halakhic Literature," in *Jews in Byzantium: Dialectics of Minority and Majority Cultures*, ed. Robert Bonfil et al., Jerusalem Studies in Religion and Culture 14 (Leiden: Brill, 2012), 629–41 (640); and idem, *The Ma'asim of the People of the Land of Israel* (Hebrew; Jerusalem: Yad Ben-Zvi, 2011), 50 fn. 35. For the possibility that a 9th century Hebrew epitaph from Lavello in Southern Italy incorporates themes from the Babylonian Talmud, see Cesare Colafemmina, "Hebrew Inscriptions of the Early Medieval Period in Southern Italy," in *The Jews of Italy: Memory and Identity*, ed. Bernard D. Cooperman and Barbara Garvin (Bethesda: University of Maryland Press, 2000), 65–81 (71-77); and Giancarlo Lacerenza, "Rabbis in Southern Italian Jewish Inscriptions from Late Antiquity to the Early Middle Ages," in *Diversity and Rabbinization: Jewish Texts and Societies Between 400 and 1,000 CE*, ed. Gavin

introduction of Babylonian norms and practices into Southern Italy can be found in liturgical poetry. Even though the early Italian *payetanim* adhered to the poetic norms of earlier Palestinian liturgical poets, in the ninth century, they began to compose in genres that emanated in Babylonia.[114] While connections with the Palestinian center continued after this time,[115] by the end of the millennium, Italian scholars were in direct contact with Baghdadi rabbis, with some even going to study in their *yeshivot*,[116] and 11th century manuscripts from Southern Italy contain explicitly Babylonian works.[117]

A particularly telling example is that of Rav Hushiel and his son, referred to affectionately as *Rabeinu*—"our rabbi"—Hananel. Originally from Bari, these two rabbis emigrated to Qayrawan towards the end of the tenth century.[118] Following his arrival in

McDowell, Ron Naiweld, and Daniel Stökl Ben Ezra, Cambridge Semitic Languages and Cultures 8 (Cambridge: Open Book Publishers, 2021), 291–321 (312-13).

[114] See especially Shulamit Elizur, "The Character and Influence of the Babylonian Center of Poetic Production: Considerations in the Wake of Tova Be'eri's Books" (Hebrew), *Tarbiz* 79, no. 2 (2010): 229–48 (238-48); eadem, "The Origins of the Seliḥot Piyyutim" (Hebrew), *Tarbiẓ* 84, no. 4 (2016): 503–42.

[115] Thus a rather mysterious text first published by Israel Ta-Shma ("Avraham Grossman. The Early Sages of Ashkenaz" [Hebrew], *Qiryat Sepher* 56, no. 2 [1981]: 344–52 [351-2]) from Paris, BnF, Ms. 634, f. 109 r-v, tells how information on the intercalation of the year was passed on from the Palestinian R. Eliyahu the Priest to Italian sages only in the eleventh century. As noted by Grossman ("The Hegemony of Eretz Israel," 155-57) this passage is found also in New York, The Jewish Theological Seminary of America, Ms. R632 (Brumer 1675), f. 2r.

[116] A collection of halakhot by an unknown Oxford, Bodl. Ms. 1101 includes a description of a large group of rabbis from Siponto going to Baghdad to study with Rav Hayya Gaon in the early decades of the 11th century (f. 184r); see Grossman, "The Yeshiva of Eretz Israel," 246-47; idem, "The Hegemony of Eretz Israel," 152-53. In the North, R. Meshulam b. Qalonymos of Lucca eceived responsa from Sherira towards the end of the tenth century; see Grossman, "The Yeshiva of Eretz Israel," 247. In addition, the title *Aluf* was bestowed by the Babylonian *geonim* on Avraham beRabbi Yitzhak of Bari in either the late tenth or early eleventh centuries; see Jefim Schirmann, "An Aramaic Piyyut of An Early Italian Paytan," *Lěšonénu: A Journal for the Study of the Hebrew Language and Cognate Subjects* 21, no. 3–4 (1957): 212–19, and Emanuel, *Fragments of the Tablets*, 70.

[117] For one extraordinary example from 11th century Southern Italy, Berlin, Staatsbibliothek zu Berlin, MS Or. Qu. 685 (Steinschneider 160) contains *The Epistle of Rav Sherira Gaon*, Geonic Responsa, and other Geonic works in Hebrew translation (amongst yet other works); see Edna Engel, "MS Berlin 160: Its Date and Origin" (Hebrew) *Italia* 11 (1994): 53–55; Ta-Shma, "La cultura religiosa," 71-2 (though Ta-Shma, possibly due to earlier estimations of Engel, describes the manuscript as Ashkenzai); and below, pg. 285 fn. 1. Note also the possibility that certain halakhic works combining Babylonian and Palestinian texts and traditions originated in medieval Southern Italy; see Margulies, *Halachot Kezuboth*; Neil Danzig, "The First Discovered Leaves of Sefer Ḥefeṣ," *The Jewish Quarterly Review* 82, no. 1/2 (1991): 51–136; Newman, "Early Halakhic Literature," 640-41; idem, *The Ma'asim*, 52.

[118] On their biographies, see Ta-Shma, *Talmudic Commentary*, 122-24; Menahem Ben-Sasson, *Emergence of the Local Jewish Community in the Muslim World: Qayrawan, 800-1057*, 2nd ed. (Hebrew;

Qayrawan, the local Jewish community appointed Hushiel as head of the local yeshiva, a position Hananel later filled. Both had an intimate familiarity with the Babylonian Talmud—indeed, Hananel authored what is probably the first full length commentary on this work—and with material written by Babylonian *geonim*, as well is with the Palestinian Talmud.[119] It is thus interesting to note a letter sent by Hayya to Rabbi Yaakov the son of Rabbi Nissim of Qayrawan, asking that he be introduced to Hushiel.[120] This letter shows that by the end of the first millennium an Italian rabbi could acquire an extremely high level of knowledge in *Babylonian* rabbinic sources seemingly without ever stepping foot in a Babylonian academy and without even have had any contact with the leading Babylonian rabbis of the time. By this point, Babylonian expertise was no longer the sole propriety of Babylonian rabbis, and even rabbis from Christian lands—ones educated well outside the Geonic orbit—could best the Geonim's disciples in the Maghreb.

Returning to Parma 3173, we can now appreciate just how striking it is that this manuscript betrays the continued Italian reliance on Palestinian texts, traditions, and practices during a time in which Babylonian hegemony is practically complete. We see this in the continued vitality of Mishnah study at an elite level, in a form of study that is reliant on Palestinian sources. And yet, as we also noted, even here there is still evidence of

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Jerusalem: Magnes Press, 1997), 218-29; Dubovick, "Rabbenu Hananel," 1-5; Abramson, *Peirush rabeinu Hananel*. On ties between Italy and North Africa during this time, see Menahem Ben-Sasson, "Italy and 'Ifriqia from the 9th to the 11th century," in *Les relations intercommunautaires juives en Méditerranée occidentale, XIIIe-XXe siècles. Sous la direction de J.L. Miège* (Paris: Editions du Centre National de la Recherche Scientifique, 1984), 34–50; Roni Shweka, "The Bologna Fragments of Halakhot Gedolot and Their Relation to the Italian Textual Tradition of the Book," in *Medieval Hebrew Manuscripts Reused as Book-Bindings in Italy*, 306–20 (309).

[119] See, at length, Dubovick, "Rabbenu Hananel"; note though the possibility that the Palestinian Talmud was known in Qayrawan prior to the arrival of Hushiel and Hananel; see ibid., pg. 12 fn. 54. On Hananel's Palestinian *Mishnah* text as a unique phenomenon amongst medieval sages, see Epstein, *Introduction*, 2:1275.

[120] See Dubovick, "Rabbenu Hananel," 4, with references to prior literature in fn. 15.

"Babyloniazation," given the contamination of the text-type and the use of Babylonian terms in the marginalia that paraphrase the Palestinian Talmud.

Might these "Babyloniazing" elements tell us more about how "Babyloniazation" may have occurred? We see here evidence of a learned Jewish male who is intimately familiar with a memorized text of the Mishnah and with the Hebrew and Aramaic rabbinic idiom common in Babylonian texts. We can perhaps get a sense of the context in which such familiarity or knowledge would have been instilled in this scribe by looking back at the evidence for elementary education from Islamicate lands discussed in the prior chapter. Having seen there the emphasis placed on rote memorization of rabbinic texts, and particularly the Mishnah, it is quite likely that he had memorized the Mishnah, and perhaps other works as well, while still in his youth. And given the "Babylonianess" of the memorized text-type and of the Talmudic terminology slipped into the marginalia, it is possible to reconstruct that his *elementary teachers* came from the intellectual and religious orbit of the Babylonian center.[121] Thus, Babyloniazation could occur not just at elite levels, but perhaps more importantly, at elementary ones as well—a phenomenon that has not been discussed, to the best of my knowledge, in prior scholarship.

While an elementary teacher may have instilled Babylonian versions of rabbinic texts in Southern Italian youth, at an elite level, earlier modes of Italian study, quite clearly indebted to Palestinian practices, remained current, and Parma 3173 bears evidence of both dynamics. [122]

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[121] Evidence for nomadic teachers in this period is plentiful; see, for examples, the anecdote at the beginning of this dissertation, and also above, pg. 144 fn. 177. See also Goitein, *Med. Soc.*, 2:188.

[122] Yet it is unclear the extent to which the scribe of Parma 3173 would have encoded practices such as Mishnah study as "Palestinian." While we can be quite certain that study of the Palestinian Talmud would have been encoded as such, further study is needed to assess the Italian perception of received Palestinian texts and practices.

5. *Conclusion*

By analyzing some of the earliest evidence for rabbinic study in Christian Europe, we have seen the continued vitality of Palestinian curricula at an elite level at a time when the hegemony of Babylonian rabbinic culture was on the rise. The study of the Mishnah is a particularly rich ground for the "competition" between these centers: the elite study of the Mishnah can be viewed as a Palestinian practice, both in the very fact that such study of the Mishnah is in line with earlier evidence from Palestine, and in the fact that we see here that this form of study is reliant on the Palestinian Talmud. At the same time, by probing the "mistakes" of the main scribe of Parma 3173, we have seen that at a certain level of education, likely elementary, Babylonian norms had already made significant inroads. Further, the analysis of marginalia has allowed us to shed light on the beginnings of more-robust Mishnah commentary in the Middle Ages.

In the following chapter, we will look at one last aspect of the material evidence for Mishnah study in the Middle Ages: the manner in which sections of the Mishnah were employed in liturgical contexts.

Chapter Seven

The Liturgical Mishnah

1. *Introduction*

Sections of Mishnah appear in a variety of liturgical contexts.[1] The best known of these are surely those that are still found in contemporary prayerbooks of different Jewish rites, namely, the fifth chapter of Zevahim and the various individual *mishnayot* that are embedded in the morning prayers, and the second chapter of tractate Shabbat, recited in many rites on Friday evenings. Scholars have also drawn attention to other ways in which sections of the Mishnah are used in liturgical or synagogal settings or are to be recited according to something like a lectionary cycle. And yet, this evidence has never been fully assessed in an accurate fashion.

As liturgical settings are some of the primary avenues for the spread of Jewish literacy and an important index for the spread of rabbinic ideals,[2] the employment of the Mishnah in these contexts is a crucial aspect of the Mishnah's reception, one that sheds significant light on the way in which non-elites may have encountered the Mishnah in premodern times. The primary goal of this chapter, therefore, is to describe the evidence for the recitation of the Mishnah in liturgical contexts.[3] I will pay particular attention here to the diachronic and

[1] On the need to study this aspect of the Mishnah's reception in more depth, see already Sussman, "Manuscripts," 227 fn. 55. See also E. E. Urbach, "*Mishmarot* and *Ma'amadot*" (Hebrew), *Tarbiz* 42, no. 3–4 (1973): 304–27 (309-13), repr. Ephraim E. Urbach, *The World of the Sages: Collected Studies* (Hebrew; Jerusalem: The Magnes Press, 1988), 269-293, one of the first discussions of this phenomenon.

[2] See Stefan C. Reif, "Liturgy as an Educational Process in Talmudic and Medieval Judaism," in *Jewish Education from Antiquity to the Middle Ages: Studies in Honour of Philip S. Alexander*, ed. George J. Brooke and Renate Smithuis, Ancient Judaism and Early Christianity 100 (Leiden: Brill, 2017), 252–68; on the synagogue as an important index of rabbinization, see above, Chapter Four.

[3] Given the nature of the evidence of liturgical manuscripts from outside of the Genizah, there is a need to expand the periodization in this chapter beyond the beginning of the 13th century. Although many of the

geographic diversity in the practice of Mishnah recitation, arguing also that some of the medieval evidence in fact relates to practices that can be dated back to Late Antiquity. I organize the discussion by occasion, and I will give special attention to the recitation of chapters of Mishnah on holidays, which has only been dealt with until now in a rather limited fashion.[4] While this practice would eventually become quite ubiquitous, I will argue that in earlier periods, the recitation of chapters of Mishnah on holidays was specifically a feature of certain permutations of the Palestinian rite. In an appendix to this chapter, I list and briefly describe the fragments from the Genizah that are immediately relevant to this argument.

One final word is in order with regards to method. A full appreciation of the liturgical Mishnah material has only been made possible by the 2012 publication of Yaakov Sussman's *Thesaurus of Talmudic Manuscripts*, which seeks to catalogue all known manuscripts and manuscript fragments of the Mishnah, Tosefta, Talmuds, and Alfasi's epitome. Importantly, the *Thesaurus* lists when these textual witnesses are believed to come from liturgical manuscripts, a phenomenon that particularly occurs with the Mishnah and rarely ever with other rabbinic texts.[5] As Sussman himself points out, the *Thesaurus*—focused as it is on *Talmudic* manuscripts—does not include data on all of the liturgical manuscripts that may include Mishnah, as the cataloguers did not sift through all of the known liturgical

relevant manuscripts postdate this time, I believe that the evidence can nevertheless speak to realities that fall within the periodization used elsewhere in this dissertation.

[4] For one central, if brief, treatment, see Neil Danzig, *A Catalogue of Fragments of Halakhah and Midrash From the Cairo Geniza in the Elkan Nathan Adler Collection of the Library of the Jewish Theological Seminary of America* (Hebrew; New York and Jerusalem: The Jewish Theological Seminary of America, 1997), מה.

[5] The *Thesaurus* (164-177) thus includes the important index of "משנה מתוך ליקוטים, סידורים וכדומה." Indeed, Menachem Katz and his colleagues have made available a preliminary study of the Mishnah in liturgical manuscripts based on the data provided in the *Thesaurus*. See Menachem Katz, in collaboration with Asael Shmeltzer and Hillel Gershuni, "Mishna and Talmud Fragments in Siddurim and Mahzorim" (Hebrew), 2017 https://fjms.genizah.org/; while an English version is also available on this site, only the Hebrew version contains complete footnotes and references.

manuscripts and manuscript fragments found in libraries the world over.[6] In preparing this chapter, there was therefore a need to couple the data found in the *Thesaurus* alongside that available in the catalogue of Uri Ehrlich's "Institute for the Study of Liturgy," which catalogues liturgical material from the Cairo Genizah (excluding *piyyut*).[7] Thus, as is already apparent, the study of the place of the Mishnah in liturgical contexts has methodological ramifications with regards to the creation and use of catalogues—a central element of bibliography—and also with regards to the disciplinarity of Jewish Studies. I will discuss these ramifications in greater detail in the Conclusion to this dissertation.

2. *Morning Prayers*

Generally speaking, Jewish liturgy is based around two central prayers, the *Qriyat Shemah*, made up of three biblical sections from Deuteronomy and Numbers, and the *Amidah*, a series of blessings, first attested in rabbinic texts, but with possible pre-rabbinic antecedents and non-rabbinic parallels.[8] Jews are to recite the Shemah in the morning and the evening, and the Amidah in the morning, afternoon, and evening (and once or twice more on Sabbaths and Holidays). Overtime, ever more texts were added to be recited before and after the recitation of the Shemah and Amidah in the morning, partially, it seems, to fulfill the rabbinic obligation

[6] Sussman, *Thesaurus*, 45 fn. 4. An additional limit is the issue of miscataloguing, although this is infrequent, from what I have so far surmised. See for example T-S H 5a.6 (#2719), catalogued as m. Yoma I, about which Sussman includes the caveat "שינויים רבם בנוסח לעומת הדפוס; מתוך מחזור." This fragment, however, is well known to scholars of Jewish liturgy as a copy of the early *Seder Avodah* "*Shivat Yamim*"; see Zvi Malachi, "The 'Avodah' for Yom Kippur: Its Characteristics, History and Development in Hebrew Poetry" (Hebrew; Ph.D. dissertation, The Hebrew University, 1974), 2:127-31.

[7] I would like to thank Prof. Uri Ehrlich and Dr. Vered Raziel-Kretzmer for providing me with this invaluable information.

[8] On antecedents and non-rabbinic parallels to the Amidah, see Yitz Landes, *Studies in the Development of Birkat Ha-Avodah* (Hebrew; Jerusalem: The Mandel Institute of Jewish Studies, 2018), 8-50, and for pre-rabbinic texts possibly referring to the recitation of the Shemah, see ibid., 15 n. 30.

of studying Torah every day. Indeed, it seems that it is largely for this reason that the Mishnah has been incorporated (though it is unclear by whom) at these junctures in the morning prayers in different rites.

We have already had reason to discuss the recitation of the fifth chapter of Mishnah Zevahim in the morning prayers; this chapter now appears in many rites at the start of morning prayers, and given that sections of the chapter appear in two magical bowls written in Jewish Babylonian Aramaic, we may be able to surmise that the chapter had already been recited in this manner, in some Babylonian communities, as early as the fifth or sixth centuries.[9] In medieval and later Siddurim, it is preceded by blessings over Torah Study and by sections of Scripture, and it is then followed by the opening of the tannaitic *midrash* to Leviticus, the Sifra/Torat Kohanim, a section that outlines hermeneutic principles. The tripartite assortment of texts is in keeping with dicta in the Talmud that require of people to study Scripture, Mishnah, and Talmud (understood at times as Midrash). The incorporation specifically of Zevahim V in the "prayers before the prayers" is thus related to the requirement to partake in Torah study, and also, to the belief that the recitation of the laws of sacrifice can serve as a replacement for sacrifice in the absence of the Jerusalem Temple.[10]

There is also Geonic evidence for the recitation of individual *mishnayot* at the start of morning prayers immediately after the blessings for Torah Study, a phenomenon that is well

[9] See above, pp. 93-95.

[10] See also Yaakov Gartner, *Studies in Prayer: Custom and Development* (Hebrew; Alon Shvut: Tevunot, 2015), 58-9, 64-71. On the incorporation of sacrificial themes in Jewish prayer, see Ruth Langer, *To Worship God Properly: Tensions Between Liturgical Custom and Halakhah in Judaism*, Monographs of the Hebrew Union College 22 (Cincinnati: Hebrew Union College Press, 1998), 5-14; see also Michael A. Fishbane, "Aspects of the Transformation of Sacrifice in Judaism," in *Sacrifice, Scripture, and Substitution*, ed. Ann Astell and Sandor Goodhart (Notre Dame: University of Notre Dame Press, 2011), 114–39.

documented in later *siddurim*.[11] Se'adyah includes the first Mishnah of tractate *Pe'ah* as part of the daily prayers in his *Siddur*,[12] and Hayya mentions its recitation in a responsum.[13] Notably, these Geonim do not mention the recitation of Zevahim V, and Natronai Gaon's yet earlier outline of the morning prayers does not include the section from Pe'ah but does include Zevahim V (alongside the opening of Torat Kohanim), and specifies this moment as an opportunity for additional study.[14] We can therefor conclude that there once existed two different Babylonian practices of reciting the blessing over Torah Study and then reciting sections of rabbinic texts, both largely reliant on the Mishnah, intended to ensure that people would engage in some Torah study during the day.[15] Overtime, in a process quite common in the evolution of Jewish liturgy, the two practices were combined.[16] As noted by Israel Ta-

[11] This section is absent, though, from the early Provincial rite (see Avraham [Rami] Reiner and Pinchas Roth, eds., *Responsa of Rabbi Isaac Ben Samuel of Dampierre: A Critical Edition*, Sources for the Study of Jewish Culture 26 [Hebrew; Jerusalem: Mekize Nirdamim, 2019, 1) as well as from most versions of the Palestinian one as it is known from Genizah fragments, where the blessings over Torah Study usually appear at the end of the service; see Vered Raziel-Kretzmer, "The Palestinian Morning Service According to Prayerbook Fragments from the Cairo Genizah" (Hebrw; Ph.D. dissertation, Ben-Gurion University of the Negev, 2018), 239. One impetus for the inclusion of this section is also the desire to begin the day with the Blessings over the Torah.

[12] See I. Davidson, S. Assaf, and B.I. Joel, eds. and trans., *Siddur R. Saadja Gaon*, 2nd ed. (Hebrew; Jerusalem: Mekize Nerdamim, 1963), 348

[13] See Simcha Assaf, *Responsa of the Geonim and Selections from the Sefer ha-Din of R. Judah aben Barzillai* (Jerusalem: Ha-Madpis, 1927), 107 (§114; responsum 550 in Tsvi Groner, "A List of Rav Hai Gaon's Responsa" [Hebrew], *Alei Sefer: Studies in Bibliography and in the History of the Printed and the Digital Hebrew Book*, no. 13 [1986)]: 1–123 [44]); see also the discussion in Adiel Kadari, "Liturgical Recitation as Ritual of Study" (Hebrew), in *Study and Knowledge in Jewish Thought*, ed. Haim Kreisel (Beersheva: Ben-Gurion University of the Negev Press, 2006), 21–35.

[14] See Robert Brody, *The Responsa of Natronai bar Hilai*, 2nd ed. (Hebrew; Cleveland: Ofeq, 2011), 106-11, and the English translation and discussion in Stefan C. Reif, *Jewish Prayer Texts from the Cairo Genizah: A Selection of Manuscripts at Cambridge University Library, Introduced, Transcribed, Translated, and Annotated, with Images*, Cambridge Genizah Studies Series 7, Études sur le judaïsme médiéval 66 (Leiden: Brill, 2016), 12-27. See also Brody, *Natronai Gaon*, 130, and Kadari, Adiel Kadari, "Between Scholars and the General Public in the Synagogue during the Geonic Period: On the Historical Development of Torah Reading and Scholarly Study Customs Associated with Public Prayer," *Sidra: A Journal for the Study of Rabbinic Literature* 19 (2004): 137–60 (150-52).

[15] On the idea that the blessings over Torah Study and the recitation of these rabbinic texts were instituted for this reason, see Israel M. Ta-Shma, "Birkot ha-torah u-miqoman bi-sidur ha-tefilah," *Studies in Bible and Exegesis* VIII: Presented to Elazar Touitou (2008): 701–11 (709).

[16] See Gartner, *Studies in Prayer*, 59. On this aspect of the growth of Jewish liturgy, see Landes, *Studies*, 72, 93. Needless to say, the specific selections vary quite significantly across different rites (and there is no reason to assume that all the selections that appear in a given manuscript would have been in fact recited); however, the selections from Pe'ah and Zevahim are ubiquitous. For an example of the diversity of the selection

Shma,[17] it seems from a responsum of Yehudai Gaon that the mid-eighth-century rabbi was unaware of these practices[18]; if so, we may cautiously conclude that they only gained more widespread currency following his time.

Geonic-era evidence for Mishnah study alongside morning prayers is found also with regards to the section after the completion of the prayers. In the history of Jewish worship, this space has often been used to create ways for laypeople to engage in minimal acts of Torah study.[19] In a responsum, Natronai Gaon describes a reality in which communal and private Torah study occurs in the synagogue at the end of the morning prayers, with some people choosing to study Mishnah on their own.[20] Lastly, m. Makkot 3:16-17 and m. Uqtsin 3:12a appear at this point in several Genizah fragments of liturgical manuscripts, including ones that can be assessed, based on other criteria, as being of the Palestinian rite.[21]

We thus see that by the turn of the millennium, the Mishnah was embedded in in the Siddur in the context of the morning prayers. The specific sections may have been chosen for different reasons, and while the Mishnah was not the only rabbinic text to be incorporated,[22]

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of rabbinic texts, see the discussion in Tsur Shafir, "Towards History of the French Rite of the 'Prayer That Precedes the Prayer'" (Hebrew; Ph.D. dissertation, Bar-Ilan University, 2006), 145.

[17] "Birkot ha-torah," 709 fn. 22.

[18] Yaakov Musafiya ed., *Teshuvot Ha-Geonim* (Hebrew; Lyck: Mekize Nirdamim, 1864), יז, no. 45.

[19] See Israel M. Ta-Shma, *The Early Ashkenazic Prayer: Literary and Historical Aspects*, 2nd ed. (Hebrew; Jerusalem: The Hebrew University Magnes Press, 2004), 11-2, 152-53; Ophir Münz-Manor, "From Seder HaMaʿaracha to Seder HaMaʿamadot — The Emergence and Transformation of a Liturgical Rite in the Middle Ages" (Hebrew), *Tarbiz* 73, no. 2 (2004): 293–310; and Uri Ehrlich, "'Maʿaseh Bereshit' and 'Shir Shel Yom' in the Early Siddur: New Finds from the Cairo Geniza" (Hebrew), *Tarbiẓ* 78, no. 2 (2009): 189–202. See also the discussion in Kadari, "Between Scholars and the General Public," and Joseph Offer, "The Masoretic Divisions (Sedarim) in the Books of the Prophets and Hagiographa" (Hebrew), *Tarbiz* 58, no. 2 (1989): 155–89 (166-67).

[20] Brody, *Natronai Gaon*, 146-47. Note also the letter of the Red Sea merchant in which he mentions that he left his personal copy of the Mishnah in the synagogue, discussed above pg. 143.

[21] See, for example, Cambridge, Add. 3160.5; T-S AS 109.32; ENA 2437.9-10; ENA 600.

[22] On additional texts added in this section in the different rites, see Gartner, *Studies in Prayer*, 58-64.

it is certainly featured more prominently than other ones, and one clear reason for its incorporation was to ensure opportunities for lay study.[23]

3. *Shabbat*

As mentioned above, one of the most well-known sections of the Mishnah to be incorporated in a liturgical setting is the second chapter of tractate Shabbat, on the laws of Candle Lighting, recited on Friday evening, either at the conclusion of the services or at some point earlier in the services.[24] This practice is first attested in *Seder Rav Amram Gaon*,[25] and it can also be found in liturgical manuscripts that are in accordance with the Palestinian rite.[26] Scholars have long argued that the recitation of Shabbat II on Friday evening was originally instituted in the Geonic era as a polemic against Qaraites.[27] Yet, even if the recitation of this chapter may have had polemical overtones at some points and in some places over the course of the Middle Ages—as evinced in an extremely rare blessing first published by Naphtali Wieder

[23] On the social aspects of study before and after prayers, see Goitein, *Med. Soc.*, 2:194.

[24] On the various placement of the recitation of Shabbat II, see Kenneth E. Berger, *Tradition, Interpretation, and Change: Developments in the Liturgy of Medieval and Early Modern Ashkenaz* (Cincinatti: Hebrew Union College Press, 2019), 132-34.

[25] Ed. Goldschmidt, pg. 65.

[26] On the recitation of Shabbat II in the Palestinian rite, and in some communities also on Yom Kippur eve, see Ezra Fleischer, *Eretz-Israel Prayer and Prayer Rituals as Portrayed in the Geniza Documents*, Publications of The Perry Foundation in the Hebrew University of Jerusalem (Hebrew; Jerusalem: The Magnes Press, 1988), 144 fn. 209, 207 fn. 233; M. A. Friedman, "The Shabbat Evening Prayer in the Palestinian Congregation of Fustat in Abraham Maimonides' Times" (Hebrew), *Tarbiẓ* 85, no. 1 (2017): 145–99 (189 with fn. 222); idem, "Palestinian-Style Prayer Books Written by the Scribe of the Leningrad Codex" (Hebrew), *Ginzei Qedem* 14 (2018): 89–165 (129); idem, "Repetition of the Evening Amida on Festivals and Special Sabbaths in the Custom of Eretz Israel" (Hebrew), *Tarbiz* 85, no. 3 (2018): 477–93 (487).

[27] See especially Reif, *Jewish Prayer Texts from the Cairo Genizah*, 110-14, and Naphtali Wieder, "An Unknown Benediction from the Geniza on the Reading of the Chapter '*Ba-me Madlikin*' " (Hebrew), Sinai 82, no. 5–7 (1978): 197–221, repr. idem, *The Formation of Jewish Liturgy in the East and the West*, 2 vols. (Hebrew; Jerusalem: Ben-Zvi Institute, 1998), 1: 323-347; Berger, *Tradition, Interpretation, and Change,* 130; and Ariella Lehmann, "Between Domestic and Urban Spaces: Preparing for Shabbat in Ashkenazic Communities, 13th-15th Centuries," *Jewish Studies Quarterly (JSQ)* 28, no. 3 (2021): 259–77 (269-70). Some scholars have even argued that the lighting of Sabbath Candles was itself instituted in antiquity for similar reasons of intra-religious polemics, see Yitzhak D. Gilat, *Studies in the Development of the Halakha* (Hebrew; Ramat-Gan: Bar-Ilan University Press, 1992), 334-49. For Qaraite polemics with the Mishnah, see the following chapter.

from a single Cairo Genizah fragment (T-S NS 299.150v; see figure 7.1)[28]—this need not mean that it was originally instituted for polemical reasons, and it certainly does not mean that it would have been interpreted thusly by most Jews throughout this period, cross-regionally.[29]

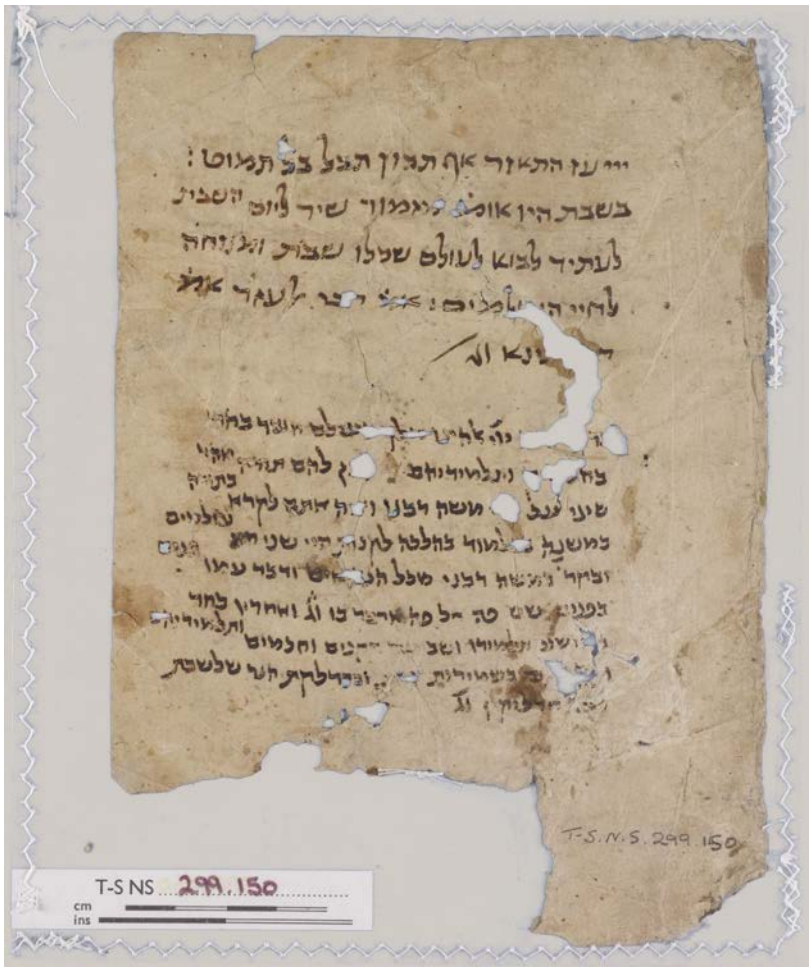

Figure 7.1: A Genizah fragment of the end of the Shabbat evening services, including a blessing that precedes the recitation of Shabbat II (T-S NS 299.150v).

[28] See Wieder, *The Formation of Jewish Liturgy*, 1.323-347; and Tsvi Groner, *Blessings That Were Lost* (Hebrew; Jerusalem: Mossad HaRav Kook, 2003), 190-91.

[29] For the various interpretations offered in the Middle Ages and in the Early Modern period, see Berger, *Tradition, Interpretation, and Change*, 130-38; and Alick Isaacs, "An Anthropological and Historical Study of the Role of the Synagogue in Ashkenazi Jewish Life in the Middle Ages" (Hebrew; The Hebrew University of Jerusalem, 2002), 146-51.

Indeed, as we have already seen, and as we will continue to see, many of the examples of the recitation Mishnah chapters are specifically cases in which sections are chosen as the content relates to the specific liturgical moment. Such is the case also with regards to Shabbat II, as it is recited either during the time of the lighting of the candles or while the candles are still lit.[30] It is thus possible to offer non-polemical reasons for the introduction of this practice connected to the role of "liturgical study" and recitation: in *Seder Rav Amram Gaon*, the recitation of Shabbat II appears directly after the recitation of the *Qiddush* (blessings over the wine) in the synagogue, supposedly instituted for the benefit of those who are unable to eat in their own home. Both acts thus bring domestic rituals into the synagogue, and it is thus possible that the recitation of the Shabbat II may have been meant to supplant or replace the physical lighting in the home, perhaps for those who would not be able to light candles on their own.

Evidence for the study of tractate Shabbat on the Sabbath more generally can be found in various medieval halakhic works as well as in manuscript evidence from the Cairo Genizah. As we saw in Chapter Five, tractate Shabbat is represented in the Genizah by far more fragments than is any other tractate (other than perhaps tractate Avot); this attests to the tractate's popularity and given evidence in medieval halakhic works for the practice of studying the tractate on the Sabbath,[31] it likely relates directly to the study of the tractate on the Sabbath.

[30] As noted by Isaacs (ibid., 150), its recitation may have been moved from the end of the prayers to an earlier point in order to better coincide with the lighting of the candles. See also Pinchas Roth, "Doing Things with Mishna: A Chapter in the Cultural History of Rabbinic Literature" (Hebrew; Seminar Paper, The Hebrew University of Jerusalem, 2004), 10.

[31] See Urbach, *The World of the Sages*, 275.

In addition, paratexts in some Genizah fragments may also teach us of the study of the tractate on the Sabbath. Several Genizah fragments of tractate Shabbat contain, as headers before each chapter, the name of a specific "Priestly Course," that is, one of the twenty-four different families of priests that supposedly took turns operating the Jerusalem Temple (see Figure 7.2).[32]

Figure 7.2: A fragment of Mishnah Shabbat VII-VIII with a header of the Priestly Course "Aviyah" before Chapter VIII (T-S E2.35v; #1797).

[32] On this phenomenon, see ibid., 274, and Abraham Goldberg, *Mishnah Treatise Shabbat* (Hebrew; New York: The Jewish Theological Seminary of America, 1976), יד, as well as elsewhere in the introduction to his edition of tractate Shabbat.

As the tractate itself has twenty-four chapters, each course is assigned one of the chapters. It is difficult to know what exactly these headers signify. At the very least, they are an aspect of the continued memory of the Priestly Courses into the Middle Ages[33]; E.E. Urbach has argued that the headers relate to the recitation of the Mishnah on the Sabbath.[34] Indeed, these two things may be related: traditions concerning the Priestly Courses record that the families would switch each Sabbath, and there is evidence from as late as 1034 that Jews in some Palestinian synagogues would still mark the Priestly Course that was supposedly to begin service that week.[35] It is possible, therefore, that each chapter of tractate Shabbat may have once been connected not just to a specific Priestly Course, but may have once even been intended for recitation on Sabbaths connected with specific Priestly Courses.[36]

One Genizah manuscript contains sections of tractates Berakhot and Shabbat with the titles of *Parshiyot*, sections of Scripture according to the weekly, year-long Babylonian lection, appended before each chapter. For example, the title "*Vayetse Yaaqov*," the incipit of the seventh lection (Gen. 28:10), appears before Berakhot VII. We can thus surmise that this manuscript contained a series of tractates with the intention that one chapter be recited or

[33] There is ample evidence for the continued memory of the priestly courses in Late Antiquity, specifically in synagogue settings, including epigraphic evidence (from Palestine and Yemen) and *piyyut*; see Urbach, *The World of the Sages*, 269-73; for the epigraphic evidence from late antique Palestine and Yemen and for relevant piyyutim, see Lee I. Levine, *The Ancient Synagogue: The First Thousand Years*, 2nd ed. (New Haven: Yale University Press, 2005), 239; on the piyyutim, see also Shulamit Elizur, ed., *Liturgical Poems of Rabbi Pinḥas ha-Kohen*, Sources for the Study of Jewish Culture 8 (Hebrew; Jerusalem: The World Union of Jewish Studies, 2004), 61-2; and Ya'aqov Etsion, "The Piyyutim of Hadutahu about 24 Priesly Divisions, and Their Language" (Hebrew; Ph.D. dissertation, Ben-Gurion University of the Negev, 2017). Indeed, the copying of these *piyyutim* implies the continued remembrance of the Priestly Courses into the Middle Ages.

[34] Urbach, *The World of the Sages*, 274-75.

[35] See Samuel Klein, *Sefer ha-Yishuv*, 2nd ed., vol. 1 (Hebrew; Jerusalem: Yad Izhak Ben-Zvi, 1977),162.

[36] Evidence for an additional Sabbath reading can be found in ENA 2069.11 (#6337), a fragment of m. Shabbat in which it states "פרק יום השבת" prior to Chapter IV.

studied in accordance with a specific Sabbath, consecutively. With that, the title "*Vi-Atah Titsaveh*" appears before Shabbat XI (see Figure 7.3).[37]

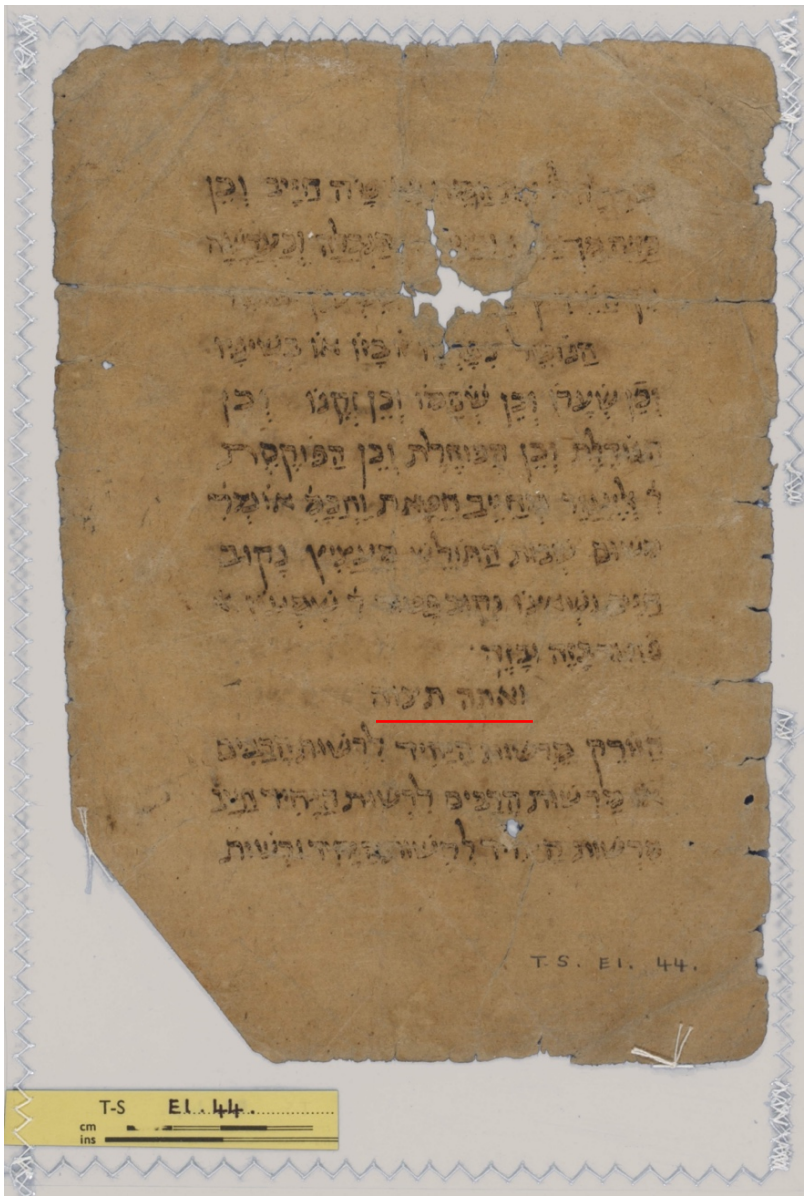

Figure 7.3: T-S E1.44 (#1667); note the title of the lection before the start of Shabbat XI.

[37] Noted by Goldberg, *Shabbat*, יד fn. 6; Goldberg notes also that in a fragment from another manuscript (T-S E2.37; #1299; mistakenly listed by Goldberg as T-S E 2.32), this chapter is associated with *Hayei Sarah* (Gen. 23). It is unclear which order is assumed in this paratext.

As *Titsaveh* (Ex. 27:20) is the twentieth lection of the year, and Shabbat XI is only the twentieth chapter if Shabbat comes immediately after Berakhot, we must conclude that the tractates in between Berakhot and Shabbat were skipped. Other fragments of this manuscripts contain sections of Berakhot and Shabbat, covering portions of Genesis and Exodus.[38] These two tractates cannot account for the entire year-long lectionary cycle, and so it is possible that other tractates (Eiruvin?) were also included in the cycle. It is important to note that given this order, no specific connection is intended in terms of content. There is, though, evidence from the Genizah for cycles of Mishnah recitation that connect sections of the Mishnah to weekly Scriptural lections based on connections of content. Arye Olman has thus highlighted Genizah fragments of three lists of Mishnah sections that more directly relate to the scriptural lections.[39] While several of these can be dated to the Early Modern period and even closely parallel printed versions of such lists, one fragment, T-S NS 218.24 (Figure 7.4), appears to be medieval, possibly of the 13th century.[40]

[38] The known shelfmarks of fragments of this manuscript are as follows: Lewis-Gibson, Talm. 1.71 (#5858), Berakhot 6:8-7:3 (ויצא יעקב before Berakhot VII); ENA 1487.68 (#6246), Shabbat 1:8-2:2 (ויגש אליו before Shabbat II); T-S E 2.29 (#1791), Shabbat 2:5-3:3 (ויחי יעקב before Shabbat III); Lewis Gibson, Talm. 1.82 (#5863), Shabbat 9:5-10:1; T-S AS 81.60 (#4930), Shabbat 10:1-5; T-S E 1.44 (#1667), Shabbat 10:5-11:3 (ואתה תצוה before Shabbat XI); John Rylands B 4028/B 8393 (#1452/#1499), Shabbat 16:2-7.

[39] Arye Olman, "Weekly Mishnah Study - Evidence from the Genizah" (Hebrew), *Netuim* 19 (2014): 171–96.

[40] Ibid., 179.

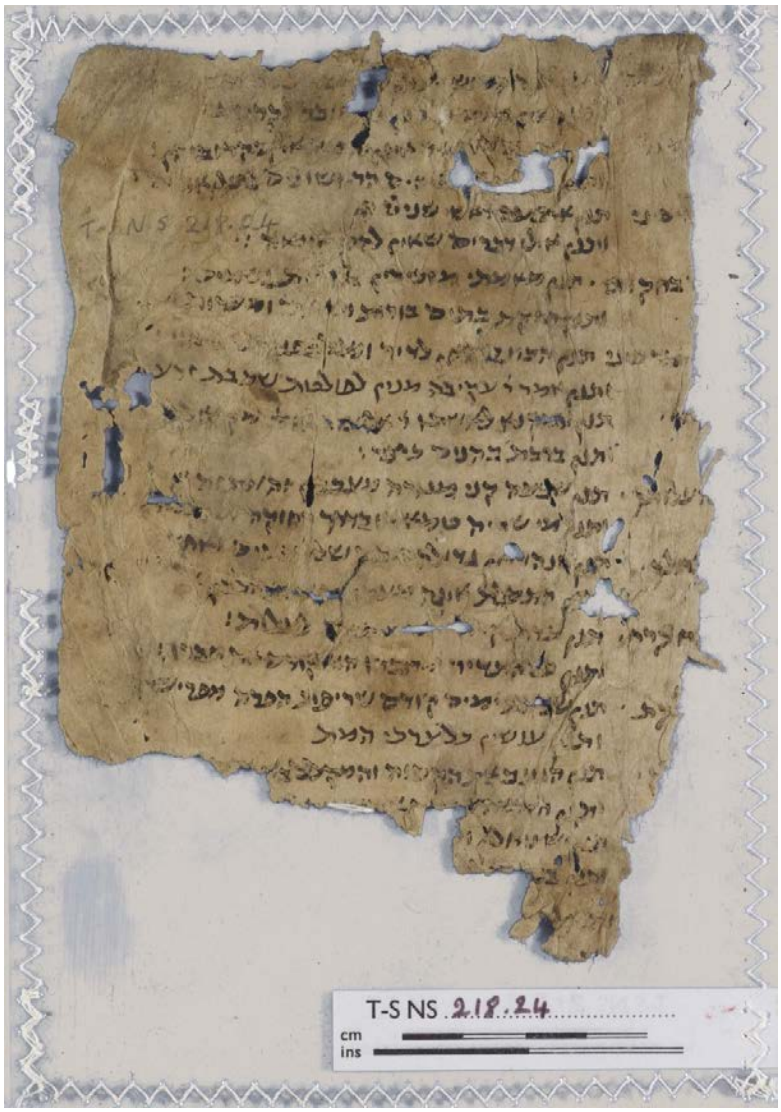

Figure 7.4: A "study chart for Mishnah, according to weekly portions of the Torah"

(T-S NS 218.24r)

This list links two chapters of Mishnah to each weekly lection via relations of content (at times quite tangential, to be sure).[41] As noted by Olman, this means that the list does not

[41] Robert Brody (*A Hand-List of Rabbinic Manuscripts in the Cambridge Genizah Collections*, vol. 1: Taylor-Schechter New Series, Cambridge University Library Genizah Series 5 [Cambridge: Cambridge University Press, 1998], 112) has described it as a "study chart for Mishnah, according to weekly portions of the Torah."

intend to cover the entire Mishnah each year.[42] The context of for the recitation of these sections is unclear; Olman suggests, given their similarity to Halakhic *Petihta'ot*,[43] that the intention may have been that these sections would be taught publicly on the appropriate Sabbaths.[44]

There is some evidence, also, for specific recitations for special Sabbaths. Fragments T-S E1.59 (#1682) + T-S E1.135 (#1746), two bifolia from the same manuscript, contain Sheqalim 1:5-7 and Parah 3:1-3, 7-11. This manuscript seems to have contained (at the least) readings for the Four *Parshiyot*, special lections read in the month of Adar. Parah appears following Sheqalim, but not directly so, such that it is unclear if there was another text between them in the original manuscript. In terms of the codicology of these two bifolia, it is entirely possible that an additional text—perhaps a selection from Megillah, for *Shabbat Zakhor*—appeared between these two selections.[45]

Lastly, Geonic and other medieval rabbis, as well many liturgical manuscripts, attest to the study of tractate Avot on Sabbath afternoon.[46] This is first found a in a responsum of Natronai Gaon.[47] The incorporation of tractate Avot, which emphasizes, in its initial chapters, the transmission history of rabbinic knowledge, has also been considered by scholars to have been intended as a polemic with Qaraites.[48] Again, it is possible to avoid such an explanation;

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[42] Olman, "Weekly Mishnah Study," 183.

[43] On which see above, pp. 123-126.

[44] Olman, "Weekly Mishnah Study," 196; see also Burton L. Visotzky, "The Literature of the Rabbis," in *From Mesopotamia to Modernity: 10 Introductions to Jewish History and Literature*, ed. Burton L. Visotzky and David E. Fishman (Boulder: Westview Press, 1999), 71–102 (91-2).

[45] Note that "סליק פרק א" appears following Parah.

[46] On the study of *Avot* on the Sabbath, see Shimon Sharvit, *Tractate Avoth Through The Ages: A Critical Edition, Prolegomena and Appendices* (Hebrew; Jerusalem: The Bialik Institute and The Ben-Yehuda Research Center for the History of Hebrew, The Hebrew University of Jerusalem, 2004), 255-66.

[47] Brody, *Natronai Gaon*, 201. See also Kadari, "Between Scholars and the General Public," 139-40 fn. 11.

[48] See Sharvit, *Tractate Avot*, 255-66.

the study of Avot, a unique tractate in that it engages in wisdom rather than practice, may have been incorporated simply due to its applicability for lay-study. Regardless, it is clear that the nature of the engagement with tractate Avot was often quite different from what can be said of tractate Shabbat and other Mishnah passages: many manuscripts that include tractate Avot also include commentaries,[49] and it thus seems that engagement with the tractate went beyond mere recitation.

4. *Holiday Readings*

The remainder of this chapter is devoted to the evidence for the recitation of the Mishnah on holidays, focusing primarily on material from the Cairo genizah. As I mentioned in the introduction to this chapter, I will argue that at first, the recitation of the Mishnah on holidays was more common amongst Jews who prayed according to the Palestinian rite. Only at a later point, it seems, did this become common also in other communities. The relevant materials from the Cairo Genizah can be divided into two main groups: (1) Mishnah chapters copied in manuscripts alongside liturgical texts, usually ones for a holiday, or, manuscripts of liturgical texts or liturgical guidebooks that include *instructions* for the recitation of such chapters; and, (2) stand-alone copies of Mishnah chapters that seem to have been created for recitation on Holidays—what I will refer to here as "Liturgical Mishnah Miscellanies."

4.1. *Mishnah in Liturgical Manuscripts from the Cairo Genizah*

The first category includes two fragments that come from a manuscript of liturgical texts for the entire year according to the Palestinian rite. T-S H 2.95 (#2717), written by a scribe who

[49] See the partial list in ibid., 37-52.

is known to have copied many Palestinian prayer texts, contains prayers for the last day of the holiday of Passover and for the holiday of Shavuot. The third chapter of Bikkurim appears amongst the Shavuot prayers—fittingly enough, as it describes pilgrimage offerings that were to be brought to Jerusalem on that holiday when the Jerusalem Temple was in existence—though it is unclear when over the holiday the chapter was to be read.[50] T-S NS 155.59 (#3015) is likely of the same manuscript as T-S H2.95.[51] It contains most of Beitsah I, on general ritual laws of holidays, followed by the beginning of the evening prayers for Shavuot (Psalm 29[52]); from this order, we learn that Beitsah I was to be recited on the last day of Passover.

Somewhat different is the fragment T-S 10 H8.8, which comes from a manuscript of instructions for prayer throughout the year, and may not have included that many complete transcriptions of prayer texts (figure 7.5).[53] Indeed, this fragment includes an *instruction* to recite *Sukkah* V on the eve of Shemini Atzeret—again, a chapter that describes rituals that were to have taken place at that time when the Jerusalem Temple was in existence—but does

[50] This fragment was discussed already by Ezra Fleischer, "Passages from Palestinian Prayer Compilations from the Genizah" (Hebrew), *Kobez Al Yad* 13 (XXXIII) (1996): 91–189 (129, 162). This manuscript is referred to as "Copy 13" in Raziel-Kretzmer, "The Palestinian Morning Service." Fleischer would later write (see the reference in fn. 53 below) that this is in the context of the evening prayers; but this is not immediately apparent from the manuscript evidence, and may have been inferred by comparison with other evidence, to be discussed presently.

[51] As suggested to me by Dr. Raziel-Kretzmer (private communication, 5.9.2021); this manuscript fragment is unmentioned by Fleischer.

[52] On the recitation of Psalm 29 in the Palestinian rite on Shavuot, see *Masekhet Soferim* 18:3 (Higger ed., pg. 314), with Ezra Fleischer, *Eretz-Israel Prayer and Prayer Rituals as Portrayed in the Geniza Documents*, Publications of The Perry Foundation in the Hebrew University of Jerusalem (Hebrew; Jerusalem: The Magnes Press, 1988), 168, 203, 206, 209, and 212; and Vered Raziel-Kretzmer, "Proto-Prayerbooks: Liturgical Scrolls from the Cairo Genizah as an Early Type of Siddur," *Henoch* 43, no. 1 (2021): 48–63 (53).

[53] Ezra Fleischer, "Additional Fragments of Land of Israel Prayer Collections from the Genizah" (Hebrew), *Kobez Al Yad* 15 (XXV) (2000): 1–37 (17, 20). Fleischer (20) wrote that this fragment was written by the same scribe as T-S H 2.95 ("The Scribe of Copy 13"), although I do not agree with that assessment.

not include a copy of the text itself. It may be that the scribe assumed that the prayer leader or another user of this guidebook would have known the chapter by heart.

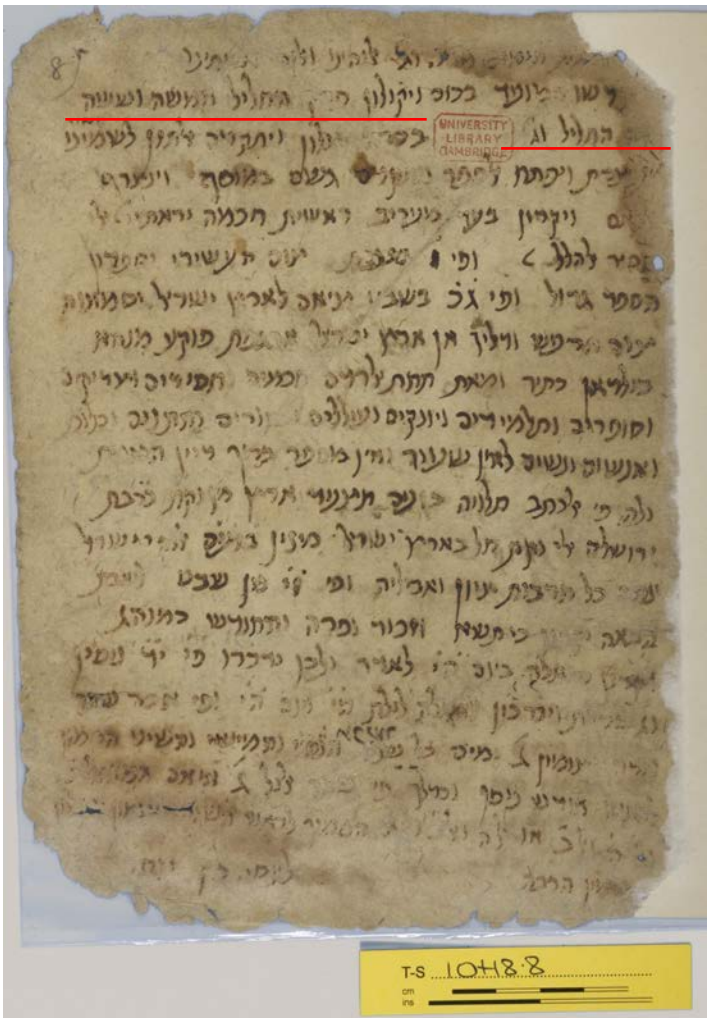

Figure 7.5: A liturgical guidebook of the Palestinian rite including an instruction to recite Sukkah V on the eve of Shemini Atzeret (T-S 10H8.8r, ll. 2-3)

Another such fragment is T-S NS 272.39, in which the beginning of *Pesahim* X, on the order of the Passover *Seder*, appears immediately following *Hallel* (1v). In the Palestinian rite, *Hallel* was recited on the first day of Passover (and only on the first day) both in the

evening and in the morning,[54] and given what we have seen in other fragments, it is likely that this fragment contains the evening *Hallel*.[55] Yet additional manuscript fragments confirm the practice of reciting Bikkurim III on Shavuot (ENA 214.1-6 [#6157])[56]; attest the recitation of Yoma VIII on Yom Kippur (ENA 1487.52-53 [#6236][57]; T-S NS 329.533 [#3712]); and also, the recitation of Beitsah I, although it is not immediately clear on what occasion (ENA 3664.7-8 [#6755]).[58]

From these fragments we see that various chapters of *Mishnah* were to be recited on holidays in connection with their content. Given the absence of such chapters from Babylonian sources and their appearance in several liturgical manuscripts that can otherwise be associated with the Palestinian rite, we can say with some certainty that the recitation of these chapters of the Mishnah on holidays is a unique feature of the Palestinian rite. With that, such chapters do not appear in all manuscripts of the Palestinian rite that scholars have been able to reconstruct, meaning that even if this practice was common in some communities praying according to the Palestinian rite, it was not prevalent in all of them.[59]

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[54] For the recitation of *Hallel* on the evening and morning of the first day of Passover in the Palestinian rite, see Ezra Fleischer, "The Order of the Prayer Service in the Synagogue of the Palestinians at Fustat at the Beginning of the Thirteenth Century" (Hebrew), *Asufot* 7 (1993): 217–60 (237-38); and idem, "Passages from Palestinian Prayer Compilations," 121.

[55] See also St. Petersburg Yevr. II A 1002 (#8606), a collection of liturgical poems for the first days of Passover that includes the tenth chapter of *Pesahim* amongst the evening prayers, first discussed in Fleischer, "Passages from Palestinian Prayer Compilations from the Genizah," 129 fn. 148.

[56] Danzig, *Catalogue*, 3; these fragments come from a manuscript of prayers for Shavuot and include *Bikkurim* III under the header "פרק אלשירה" alongside *piyyutim* for the holiday.

[57] Ibid., 25.

[58] Ibid., 215; the adjacent surviving page includes prayers for Yom Kippur.

[59] Thus, references to Mishnah recitation cannot be found in the versions of the Palestinian liturgy recently published by Friedman (see the references above, fn. 25). With that, note that the early 13th *siddur* for Friday Night published by Friedman refers to Shabbat II as "the chapter of Shabbat" ("The Shabbat Evening Prayer," 189) perhaps implying that other days had their own chapter of Mishnah. They are also absent from the possible "proto-prayerbooks" of the Palestinian rite recently discussed in Raziel-Kretzmer, "Proto-Prayerbooks." Yet, as these manuscripts only include biblical passages, the absence of Mishnah need not mean that their creators and users did not include Mishnah recitation as a part of their holiday liturgies.

Lastly, it must be said that it is unclear when and where, exactly, the recitation of Mishnah chapters was to take place, whether in the synagogue—communally, and out loud—or individually, either in the synagogue or at home, and whether at night or doing the day. Ezra Fleischer, upon first publishing T-S H 2.95, was of the opinion that it must have been a private prayerbook for an individual, as "one cannot entertain the possibility of public recitation of Mishnah chapters."[60] Yet given the nature of T-S 10 H8.8, a fragment from a liturgical guidebook for a cantor, Fleischer admitted in a later publication that recitation of the Mishnah may have taken place in some synagogues communally and out loud.[61] Indeed, several other fragments also present Mishnah chapters in contexts that may be considered to be communal prayer,[62] though the evidence is not unambiguous, as these manuscripts may include instructions and material for both communal and private prayer settings. Further, it is possible that there may have been some variety of practice in this regard, both in terms of different communities having different practices and different practices being current on different holidays. And while some of the evidence cited above may imply that the Mishnah chapters were recited in the evening, the evidence from some other liturgical texts may yet imply that people recited the Mishnah in synagogue after the morning prayers on holidays.[63]

[60] Fleischer, "Passages from Palestinian Prayer Compilations," 129 fn. 148.

[61] Fleischer, "Additional Fragments of Land of Israel Prayer Collections," 17, 20.

[62] E.g., St. Petersburg Yevr. II A 1002 (#8606); ENA 1487.52-53 (#6236); ENA 214.1-6 (#6157); T-S NS 272.39.

[63] Raziel-Kretzmer ("The Palestinian Morning Service," 241, fn. 55) has thus suggested that the appearance of blessings over Torah study at the end of the Holiday Service in several Genizah manuscripts may suggest that the liturgical recitation of Biblical passages or selections from the Mishnah occurred at the end of the service.

4.2. *Liturgical Mishnah Miscellanies*

The other sort of evidence, as mentioned, is that of stand-alone copies of Mishnah chapters. Multiple scholars have called attention to such manuscript fragments in the past, recognizing their liturgical nature by the fact that they include individual chapters from different tractates of Mishnah, usually only from Seder Mo'ed.[64]

Based on the corpus that I have amassed, there is evidence for ten or so manuscript booklets of this sort in the Cairo Genizah. One such manuscript is represented by T-S E 2.21 (#1784), T-S H 2.104 (#2718), and T-S NS 328.24. T-S E 2.21 contains the end of Bikkurim III and Rosh haShana I, under the heading "Rosh haShana Chapter" ("פרק ראש השנה"; figure 7.6). T-S H 2.104 contains Pesahim X, under the heading "Passover Chapter" ("פרק פסח"), and Beitsah I, under the heading "Final (Day of) Passover Chapter" ("פרק עקבא דפסחא"), along with supplications that continue on T-S NS 328.24. The liturgical place and time of these supplications are unclear; Vered Raziel-Kretzmer has noted though that they are of the Palestinian rite.[65] While this manuscript includes selections of Mishnah alongside prayer texts, it is quite different from the examples we saw earlier in the manuscripts discussed above: instead of having a given holiday's Mishnah chapter in the context of prayers or instructions for that holiday, this manuscript had an entire section dedicated to selections of Mishnah for recitation on holidays, organized chapter by chapter, according to their appropriate holidays. It seems, then, that this is a liturgical miscellany containing occasional prayers and readings on the periphery of the standard liturgy, perhaps for individual use.

[64] E.g., Katz et al., "Mishnah and Talmud Fragments."
[65] Raziel-Kretzmer, "The Palestinian Morning Service," 129 fn. 426.

*Figure 7.6: Fragment of a "liturgical Mishnah miscellany" containing readings for the holidays of Shavuot and Rosh haShana; note the header for Rosh haShana, "*pereq Rosh ha-Shana" *(T-S E2.1r).*

The most extensive and best known of such Genizah manuscripts is Oxford, Heb. f. 18 /37-50 (#877),[66] which contains a cycle of Mishnah selections for holidays and the Sabbath as follows:

[66] See for example Danzig, *Catalogue*, מה fn. *162.

Occasion	Contents
Shabbat Eve	Shabbat II
Shabbat Day	Peah 1:1 Makkot 3:16-17 Uqtsin 3:12a
Passover Eve	Pesahim X
The Last Night of Passover	Beitsah I
Shavuot Eve	Bikkurim III
Rosh haShana	Rosh haShana I
Yom Kippur Eve	Yoma VIII
Sukkot Eve	Sukkah I
Shemini Atzeret Eve	Sukkah V

These fragments comprise a stand-alone booklet of selections of Mishnah—for the most part complete *chapters* of Mishnah—to be recited on festival occasions and on the Sabbath, in which the content of the selections relates to the day on which they are to be recited. Note also that there is nothing for *Yom Tov Sheni*.[67] I mentioned above the practice of reciting Shabbat II on Friday night; the practice of reciting Pe'ah 1:1, Makkot 3:16-17, and Uqtsin 3:12a during the day; and we saw also evidence for the recitation of Pesahim X, Beitsah I, Bikkurim III, Yoma VIII and Sukkah V. In this manuscript, it is clear that these chapters are mostly meant to be recited at night, and each chapter is followed by a prayer known from various rites as a prayer to be recited following Torah study that is primarily known from

[67] For followers of the Palestinian rite who did not observe *Yom Tov Sheni* despite living outside the Land of Israel, see M. A. Friedman, "'Your Circumstances Are the Same as Your Ancestors': A Responsum from the Geniza on the Additional Festival Days in the Diaspora," *Tarbiẓ* 83, no. 4 (2015): 557–603 (572-73, 593-96); idem, "Palestinian-Style Prayer Books," 147-48 with fn. 266.

sources that attest to the Babylonian rite.[68] Certain aspects of the selection of Mishnah sections here are also primarily known from the Babylonian rite, and it thus seems that this booklet, likely copied in the 12th or 13th centuries, already betrays the influence of the eventually hegemonic Babylonian rite on the Palestinian one.[69]

Lastly, it should be mentioned that there is some evidence in the Genizah for an alternative holiday cycle of *mishnayot*, but the evidence I have so far come across, discussed in the appendix to this chapter, is minimal, and its exact order is still unclear.[70]

4.3. *The Evidence in Context*

The manuscripts described here and the practices they speak to must be looked it in the context of what we have already seen regarding the Mishnah's reception in the Middle Ages. In particular, we see that the prominent place given to the Mishnah in the Palestinian communities was not just scholastic, per se, but took place also in what may be termed liturgical settings. While the evidence from the Genizah fragments dates to the tenth century, at the earliest, in light of the liturgical poetry adduced in Chapter Four, we can conclude that this practice may have been current in Palestinian communities already in the seventh century: recall that in a liturgical poem written for the occasion on which the New Year holiday falls out on the Sabbath, Elazar beRabbi Qillir refers to his community as reciting

[68] On this prayer, "ברוך אלהינו שבראנו לכבודו," copied here at times with the line "אין כאלהינו," see the discussion in Raziel-Kretzmer, "The Palestinian Morning Service," 235-38.

[69] On the eventual hegemony of the Babylonian rite, see Vered Raziel-Kretzmer, "How Late Was the Palestinian Rite Practiced in Egypt? New Evidence from the Cairo Genizah" (Hebrew), *Tarbiz* 85, no. 2 (2018): 309–36.

[70] See in the catalogue below, 2.11.

both "Shabbat and Rosh haShana"—as in, the *tractates* Shabbat and Rosh haShana—when the New Year Festival falls out on the Sabbath.[71]

The recitation of the rules of a holiday on a holiday in the fashion described here is reminiscent of the ubiquitous practice of public readings of relevant sections of Scripture on holidays, a practice outlined already in Mishnah and Tosefta Megillah.[72] Various early rabbinic sources include the additional guidance to "discuss the laws" of a holiday on each holiday.[73] It is thus unsurprising to see that Jews, perhaps religious elites, may have chosen

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[71] See Shulamit Elizur and Michael Rand, eds., *Rabbi El'azar beRabbi Qillir: Liturgical Poems for Rosh ha-Shana*, Sources for the Study of Jewish Culture 18 (Hebrew; Jerusalem: World Union of Jewish Studies, 2014), 368, ll. 95-7; above, pg. 121. In addition, it should be noted that, from what I have gathered until now, the textual version of the Mishnah as found in the Genizah liturgical texts for the most part parallels that found in "Mishnah Only" or "*Seder ha-Mishnah*" manuscripts, and is occasionally paralleled *only* in the Genizah "Mishnah Only" fragments, in distinction from what is found either in the "Mishnah with Talmud" manuscripts or even in the early Italian manuscripts of the Mishnah. This *may* also point towards the Palestinian nature of this practice. For examples in which the liturgical manuscripts match the *Seder ha-Mishnah* manuscripts, see Harry Fox, "A Critical Edition of Mishnah Tractate *Succah* with an Introduction and Notes" (Hebrew; Ph.D. dissertation, The Hebrew University of Jerusalem, 1979), לו, נו; Yehoshua Rosenberg, "Mishna '*Kipurim'* (*Yoma*) - A Critical Edition with Introduction" (Hebrew; Ph.D. dissertation, The Hebrew University of Jerusalem, 1995), 47; Eliezer Pinczower, "Mishna *Masekhet Shekalim*: Textual Problems and a Critical Edition" (Hebrew; Ph.D. dissertation, The Hebrew University of Jerusalem, 1998), 97, 102-3. Notably, this is not the case with the non-Genizah liturgical manuscripts of the Mishnah (on which see below), which tend to contain an extremely corrupted text of the Mishnah; see, for example, Fox, "*Succah*," נו. See also Katz et al., "Mishna and Talmud Fragments," 12-16; Sussman, *Thesaurus*, 4 fn. 38. With that, the Genizah liturgical Mishnah manuscript fragments at times function as their own text-type: thus, in m. Pesahim 10:9 *all* of the liturgical Mishnah fragments I have catalogued have some version of "הפסח אחר חצות מטמא את הידים הפיגול והנותר אין מטמאין את הידים" (thus Oxford, Heb. f. 18/40v), a reading that it is certainly incorrect, as does only a small portion of the non-liturgical Mishnah Genizah fragments (Cambridge University Library, Or. 1080.4.46: "ונותר אינן מטמין<.> את הידים"); all other manuscripts, with one slight exception (Vatican ebr. MS 125, a manuscript of the Babylonian Talmud, has "אינן" crossed out), omit the word "אין" and its variants. On the importance of distinguishing between fragments of "Mishnah Only Manuscripts" from the Genizah and the Italian "Mishnah Only Manuscripts" on the grounds of content, see Robert Brody, *Mishnah and Tosefta Studies* (Jerusalem: The Hebrew University Magnes Press, 2014), 5-14. On a unique version of m. Bikkurim 3:1 in one of these Genizah manuscripts, see Fleischer, "Passages from Palestinian Prayer Compilations," 129-30; notably, this version is not present in the other fragments of Bikkurim III catalogued here, but it is found in the "Quasi She'iltot" text published by Simcha Emanuel; see Simcha Emanuel, *Hidden Treasures from Europe*, 2 vols. (Hebrew; Jerusalem: Mekize Nirdamim, 2015-2019), 2:32-4 (this fragment should thus be added to his discussion); see also above, pp. 133 and 239 fn. 99.

[72] And, in truth, already in earlier authors such as Philo; see the recent discussion in Jutta Leonhardt-Balzer, "What Were They Doing in Second Temple Synagogues? Philo and the Προσευχή," in *Synagogues in the Hellenistic and Roman Periods: Archaeological Finds, New Methods, New Theories*, ed. Lutz Doering and Andrew R. Krause (Göttingen: Vandenhoeck & Ruprecht, 2020), 215–37.

[73] See t. Megillah 3:5 (ed. Lieberman, 354) and parallels; see Menahem Kahana, *Sifre on Numbers: An Annotated Edition* (Hebrew; Jerusalem: The Hebrew University Magnes Press, 2011-2015), 444.

to embed sections of rabbinic texts into the prayerbook in order to ensure that people would engage in such a discussion of the holiday's laws over the course of the holiday. What is of note, then, is the fact that they chose to do so by fixing a specific set of selections *from the Mishnah*. And while the prominent place of the Mishnah in the Palestinian communities may help understand why this may have happened, it bears mentioning also that there could have been several other interrelated reasons as well. For example, there may be something of an aesthetic reason: as a modular, succinct, and even memorizable text, the Mishnah lends itself to being "repurposed" in liturgy. Similarly, the Mishnah may have simply been the best-known text and then also the text most immediately available for use in these contexts.

Indeed, many medieval manuscripts from outside of the Genizah also contain chapters of Mishnah for recitation on holidays.[74] This is particularly common in the Spanish and Catalan rites,[75] and while it is found also in medieval manuscripts of other rites (perhaps under the influence of the Iberian practice),[76] it is entirely absent from medieval manuscripts of the French, German, and Italian rites.[77] Yet, the selections in these manuscripts where the

[74] See the initial discussion in Katz et al., "Mishna and Talmud Fragments."

[75] E.g., Copenhagen, The Royal Danish Library, MS 30, a Spanish *Mahzor* of the 15th century, on which see the extensive treatment of Amos Dodi, *Studies in the Linguistic Tradition of Spanish Jews before the Expulsion* (Hebrew; Beer-Sheva: Ben-Gurion University of the Negev Press, 2002). On the Catalan rite, see now Idan Peretz, "The Catalan *Nusach*: Main Contours of the Statutory Prayers and of the System of Liturgical Poems" (Hebrew), *Mekhilta* 2 (2021): 87–127; in his description of the rite, Peretz mentions the recitation of Mishnah selections on holidays (excluding Yom Kippur). This is in line with what Avudraham describes in his commentary in the prayerbook as having been the practice in 14th Spain: "ונוהגים ברוב המקומות בספרד לומר משנת פרק אחד בכל שבת ושבת וכן בימים טובים מענין כל מועד ומועד" (ed. Kreuzer, [Jerusalem 1963], 176, cited in Urbach, *The World of the Sages*, 275.

[76] E.g., Vat. ebr. MS 314, a late 14th c. *Mahzor* of the Algerian rite (Benjamin Richler, ed., *Hebrew Manuscripts in the Vatican Library*, Studi e Testi 438 [Città del Vaticano: Biblioteca Apostolica Vaticano, 2008], 253-55); Vatican ebr. MS 320, a late 14th c. *Mahzor* of the Romaniote rite (ibid., 261-70).

[77] Thus, Jonah Fraenkel (ed., *Mahzor Shavuot* [Hebrew; Jerusalem: Koren, 2000], ט fn. 7) wrote that he has "not found a trace of this practice in German or French *Mahzorim*"; see also Avraham Fraenkel's similar report, *apud* Katz et al., "Mishna and Talmud Fragments," 9 fn. 47. With regards to the Italian *Mahzorim*, see Michael Ryzhik, *Traditions of Mishnaic Hebrew in Italy According to the Medieval Jewish Rituals* (Hebrew; Jerusalem: The Bialik Institute and The Ben-Yehuda Center for the Research of the Hebrew Language, The Hebrew University of Jerusalem, 2008), 11-12, where the only sections of Mishnah listed as appearing in Italian

Mishnah chapters do appear are quite different than those in the Genizah manuscripts (Figure 7.7).[78] It thus seems that the practice of reciting Mishnah on holidays may have arisen separately, already in the Middle Ages, in different Jewish communities, including eventually in those whose liturgical rites descended directly from the Babylonian practice.[79] Thus, while in the context of the Genizah material, the presence of this practice *specifically* in versions of the Palestinian rite may be related to the importance of the Mishnah in Palestinian communities, we see here that the liturgical recitation of the Mishnah could arise also in other contexts, and thus, we need not conclude that the Mishnah would have been incorporated in liturgy for such reasons.

Mahzorim are Berakhot 1:1, 5; Pe'ah I:1; Shabbat II; Zevahim V; and Avot (in contrast to Katz et al., "Mishna and Talmud Fragments," 9).

[78] To take two examples, in addition to having dedicated reading selections for the second days of Holidays (*Yom Tov Sheni*), they also all have tractate Ta'anit, on the topic of fast days instituted on account of droughts (either in its entirety or a selection), for the holiday of Shemini Atzeret (e.g., Vatican, Rossiani MS 360, ff. 238v-240r [a 15th c. Spanish *Mahzor*; Richler, *Vatican*, 573-74]; Vatican ebr. MS 320, ff. folios 583v-584r), whereas the Genizah fragments have Sukkah V (see for example T-S 10 H8.8 and Oxford, Heb. f. 18/48r-50r, discussed above); and while Genizah fragments have Beitsah I for the final day of Passover (see in the catalogue below), the non-Genizah manuscripts have the *Beraita de-Melekhet ha-Mishkan* XIII and/or Yadayim III-IV for the last days of this holiday (e.g., Vat. Ros. 360, ff. 131v-137r; thus, also in various Catalan *Haggadot*); on the selection of Yadayim for the end of Passover, see Katz et al., "Mishna and Talmud Fragments," 14 fn. 74.

[79] There is, to be sure, some slight evidence for these rites in the Genizah, e.g. T-S E 1.37 (#1660), a fragment of a *Mahzor* written in a late Spanish hand, which has some of the readings for the two days of *Shavuot* as found in Spanish *Mahzorim*.

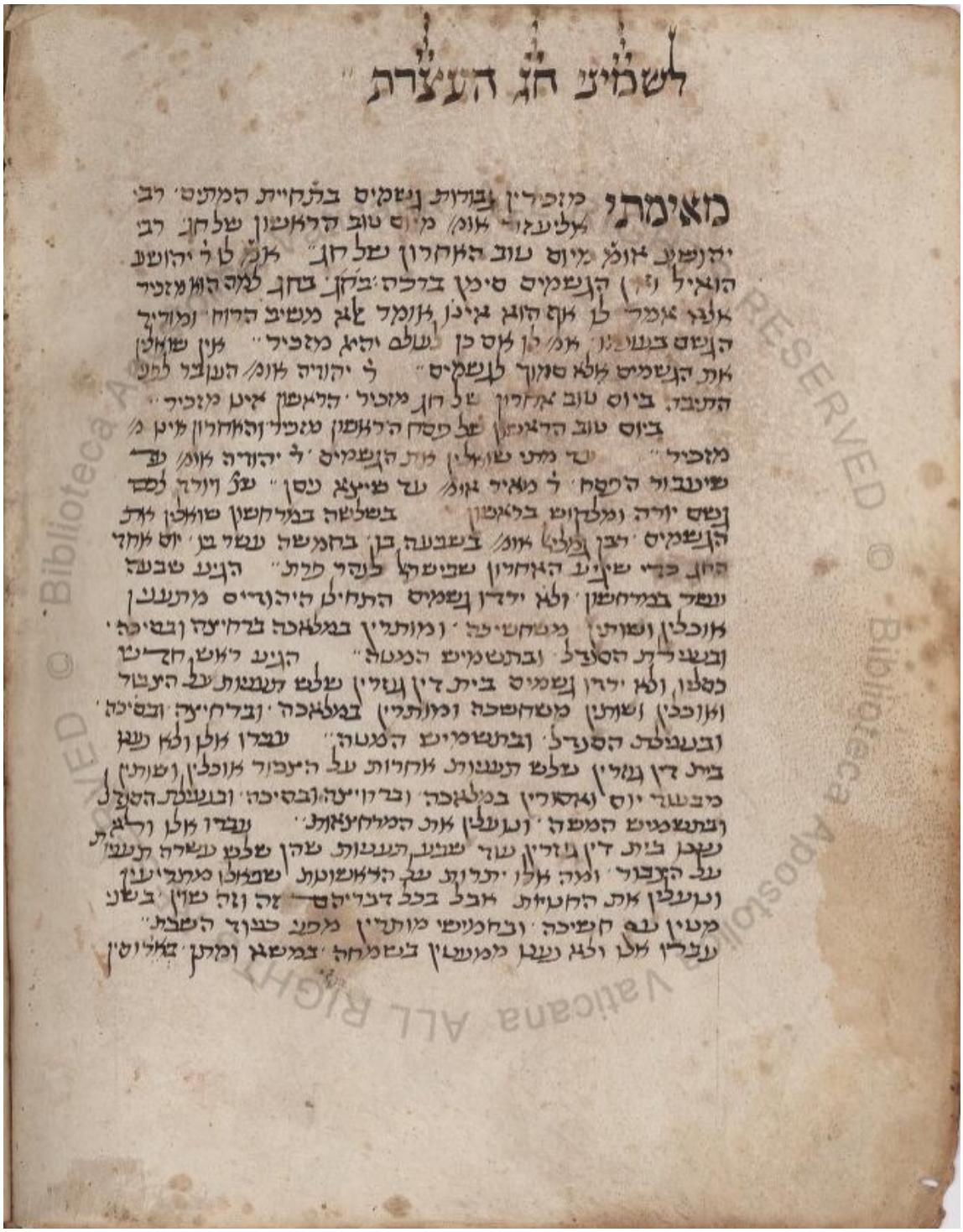

Figure 7.7: Tractate Ta'anit for the Holiday of Shemini Atzeret in a 14th c. Romaniote Mahzor

(Vatican ebr. MS 320 f. 583v)

5. *Conclusion*

We have seen here that the Genizah and other medieval sources contain ample evidence for the recitation of the Mishnah in a variety of liturgical contexts. It is difficult to ascertain just how common these practices were, but the geographic diversity of the evidence, as well as the sheer amount of evidence, does seem to convey that Mishnah recitation was a visible feature of popular Jewish piety in the Middle Ages, and, in keeping with the evidence we analyzed in Chapter Four, perhaps already in Late Antiquity. Further, in the materials from the Genizah, we have seen evidence for the recitation of appropriately themed chapters of Mishnah on holidays specifically in the Palestinian rite. While it is unclear when exactly this practice began, we saw that there is evidence for it having been in place in some Palestinian communities already in the seventh century.

Given the liturgical setting, the employment of the Mishnah likely involved a certain understanding of what the Mishnah *is*—particularly, in terms of the efficacy of its recitation, as opposed to other rabbinic texts—or at least, it may have resulted in a certain understanding of what the Mishnah can be. Indeed, over the first half of this dissertation, we mapped various processes of the "Scripturalization" of the Mishnah. Perhaps most relevant here is the process of Scripturalization outlined in Chapter Four: we saw in that Chapter that the attitude towards the Mishnah amongst some elite Jews in post-Talmudic Palestine was not only that the Mishnah was a work deserving of a central place in curricula, but that it was even a work whose status can be described as divine, with the Mishnah symbolizing Israel's privileged connection with God. The employment of the Mishnah in liturgical contexts is a part of this understanding of what the Mishnah is, and in turn, its recitation in liturgical

contexts nurtured a perception of the Mishnah as a ritually potent text that can be used in efficacious ritual.[80]

The manner in which the liturgical use of the Mishnah relates to late ancient and medieval perceptions of the Mishnah's potency and origins leads us directly to the final chapter of this dissertation, in which I will discuss the place of the Mishnah in medieval Jewish thought.

[80] For a study of the role of liturgy in the processes that led to the canonization and Scripturalization of the Hebrew Bible, see Judith H. Newman, *Before the Bible: The Liturgical Body and the Formation of Scriptures in Early Judaism* (Oxford: Oxford University Press, 2018). Scholars have argued that similar dynamics were at play in the formation and reception of the New Testament canon; see David Brakke, "Scriptural Practices in Early Christianity: Towards a New History of the New Testament Canon," in *Invention, Rewriting, Usurpation: Discursive Fights over Religious Traditions in Antiquity*, ed. Jörg Ulrich, Anders-Christian Jacobsen, and David Brakke, Early Christianity in the Context of Antiquity 11 (Frankfurt am Main: Peter Lange, 2012), 263–80.

Appendix

Genizah Fragments Relating to the Recitation of the Mishnah on Holidays

In what follows, I present a list of the Genizah fragments that include information concerning the recitation of selections of the Mishnah on holidays. As I mentioned above, this is mostly based on the information found in Sussman's *Thesaurus*, to which I added a few additional fragments based on the catalogue of Prof. Ehrlich's "Institute for the Study of Liturgy," and the resulting corpus can be divided into two categories: (1) Mishnah chapters copied in manuscripts alongside liturgical texts, or manuscripts of liturgical texts or liturgical guidebooks that include *instructions* for the recitation of such chapters; and, (2) "Liturgical Mishnah Miscellanies."

Presenting the information here in this fashion will allow scholars to better understand the scope of the phenomenon, and to then relate it other similar practices documented elsewhere. In addition, the recognition that these fragments all stem from liturgical booklets has enabled me to join a number of fragments to one another as having initially come from the same manuscript, "joins" that have previously gone unnoticed in the scholarship.[81] It is my hope also that presenting the material here will enable scholars to identify additional fragments from these manuscripts.

[81] Unless noted otherwise, joins between Genizah fragments mentioned below are noted already in Sussman, *Thesaurus*.

1. Mishnah in Liturgical Manuscripts and Liturgical Instruction Manuals

1.1. CUL T-S NS 272.39

A single page from a prayerbook for Passover, containing the final paragraphs of *Hallel*. The opening lines of Pesahim X appear directly after the *Hallel*, without any instructions.

1.2. CUL T-S H2.95 (#2717)

A bifolium from a prayerbook for the holidays; most of Bikkurim III, with a relatively unique version in the first *Mishnah* (see above, fn. 71), is copied in what appears to be the Shavuot prayers. Published in Fleischer, "Passages from Palestinian Prayer Compilations." On this fragment and the others known to be from the same manuscript, see Raziel-Kretzmer, "The Palestinian Morning Service," 399.

1.3. CUL T-S NS 155.59 (#3015)

A single page from a prayerbook for the holidays; most of Beitsah I is copied on the verso and recto (which are listed backwards), followed by the title "מזמור אלענצרה" and the text of Psalms 29. Likely from the same manuscript as T-S H2.95.[82]

1.4. St. Petersburg Yevr. II A 1002/5-7 (#8606)

A miscellany for the first days of Passover, containing many *piyyutim*, some of which have been published, and a detailed list of which can be found in the catalogue of the National Library of Israel. The tenth chapter of Pesahim appears following the *piyyutim* for the evening.

[82] See above, fn. 51.

1.5. ENA 1487/52-53 (#6236)

Two pages of a prayerbook containing sections of two compositions of the *payetan* Yohanan for Yom Kippur and m. Yoma 8:5-10.

1.6. ENA 214.1-6 (#6157)

Six pages from a prayerbook for Shavuot, containing *piyyutim* for the holiday, some of which have been published,[83] along with Bikkurim III, under the header "פרק אלשירה."

1.7. CUL T-S 10 H 8.8

A single page from a larger list of instructions for prayer throughout the year according to the Palestinian rite. Sukkot/Shemini Atzeret that includes instructions to recite Sukkah V on Shemini Atzeret eve. Published in Fleischer, "Additional Fragments."[84]

1.8. T-S NS 329.533 (#3712)

A fragment of a rotulus, containing on side m. Yoma 8:1-6, and on the other (in a different hand?) the beginning of a weekday liturgical poem for the day before Yom Kippur ("כל נדרים אשר נדרנו").[85]

1.9. ENA 3664/7-8 (#6755)

Two damaged pages containing m. Beitsah 1:1-6 and prayers for Yom Kippur.

[83] See, for example, Avi Shmidman, "The Poems for the Grace after Meals from the Cairo Genizah: A Critical Edition" (Hebrew; Bar-Ilan University, 2009), 422.

[84] More recently, other aspects of this fragment have been discussed in Shulamit Elizur, *Wherefore Have We Fasted? "Megilat Ta'anit Batra" and Similar Lists of Fasts*, Sources for the Study of Jewish Culture 11 (Jerusalem: World Union of Jewish Studies, 2007).

[85] This *Qedushta* appears in "Ma'agarim" of the Academy of the Hebrew Language, though this witness is not utilized.

2. Liturgical Mishnah Miscellanies

2.1. Oxford, Heb. f. 18/37-50 (2791.3) (#877)

An extensive booklet, well preserved, with readings for the Sabbath and holidays. Discussed in detail above, near note 66.

2.2. T-S E 2.21 (#1784) + T-S H 2.104 (#2718) + T-S NS 328.24

Several pages containing the end of Bikkurim III, m. Rosh haShana 1:1-7 (with the header "פרק ראש השנה"), Pesahim X, m. Beitsah 1:1-2, and assorted supplications; discussed above. The joins between these three fragments are not noted in Sussman, *Thesaurus*; the join between T-S H 2.104 and T-S NS 328.24 is noted in Raziel-Kretzmer, "The Palestinian Morning Service," 129 fn. 426.

2.3. CUL T-S Misc. 11.190 (#2856)

A single page contacting m. Rosh haShana 1:7-9 followed by m. Yoma 8:1-2 with the header "כפורים."

2.4. CUL T-S Misc. 28.39 (#2924) + CUL T-S NS 178.41-42 (#3072) + CUL T-S NS 329.255 (#3502)

Several pages and bifolia from a single quire containing portions of Pesahim X, Beitsah I, Bikkurim III (with the header "פרק עצרת"), and *Qinyan Torah* (in a different hand?), in that order. The placement of Beitsah I implies that it is the reading for the last day of Passover. These joins have not been noted before.

2.5. CUL T-S NS 329.340 (#3557)

A single page containing Beitsah 1:6-10 and m. Bikkurim 3:1-4.

2.6. CUL T-S NS 329.54 (#3367)

A single page containing m. Beitsah 2:7-10 and m. Rosh haShana 1:1.

2.7. CUL T-S NS 329.495 (#3678)

A single page containing m. Sukkah 1:10-11 followed by m. Sukkah 5:1-4 (with the header "פרק שמיני עצרת").

2.8. CUL T-S AS 78.71 (#4535)

A fragment of a single page containing the end of Sukkah V and the beginning of Pesahim X (with the header "פרק פסח").

2.9. CUL T-S NS 329.573 (#3744)

Damaged bifolium containing portions of Yoma VIII, and Pesahim X followed immediately by Beitsah V (with the header "פרק ויושע").

2.10. CUL T-S NS 120.61 (#2997)

Damaged bifolium containing m. Bikkurim 3:6-10 and m. Avot 5:16-18.

2.11. BL Or. 5558 I/26-37 (#1173) + Heb. e. 44/25-28 (#811) + T-S NS 329.54 (#3367) + T-S NS 329.87 (#3387) + ENA 3853/4 (#6824)

This rather extensive manuscript clearly contains Mishnah selections for holidays and special Sabbathes, though its selections are somewhat different than what is found in other fragments discussed here, and there seems to not be a selection for Shavuot, as Pesahim IV appears directly before Sukkah I. Other than T-S NS 329.54, the joins are listed already in Sussman, *Thesaurus*. The surviving pages include the following selections:

Missing, at least the beginning of Sheqalim	
BL Or. 5558 I/35r-36v	Sheqalim 1:6-7; Megillah 1:1-3
Missing a few pages from Megillah	

ENA 3853/4r-v; BL Or. 5558 I/37r-v; BL Or. 5558 I/26r-30v	Megillah 2:5-6; Parah 1:1-2; Pesahim 1:1-2:7
Missing a few pages of Pesahim	
BL Or. 5558 I/31r-34v	Pesahim 3:8-4:9; Sukkah 1:1
Missing, at least a few pages of Sukkah; unclear what else	
T-S NS 329.87r-v; Heb. e. 44/25r-28v; T-S NS 329.54r-v	Beitsah 1:2-2:10; Rosh haShana 1:1
Missing, at least a few pages of Rosh haShana	

There are several things here worth pointing out: first is the absence of a reading for the Sabbath of *haHodesh*, and seemingly also for *Shavuot*, as Parah immediately precedes Pesahim, and Pesahim precedes Sukkah. That said, the order is odd, as there is a reading for *Rosh haShana*, which should appear before Sukkah, and it is unclear when Beitsah is to be read (see also above, T-S NS 329.54). In addition, it is noticeable that the precise selections here are different, to differing degrees, from what we have seen above in the fragments from other manuscripts.

Chapter Eight

Sherira's *Epistle* and the History of the Mishnah's History

1. *How Was the Mishnah Written?*

In either 986 or 987, Rav Sherira Gaon, the head of the rabbinic academy of Pumbeditha in Baghdad, penned what is one of the most influential histories of rabbinic literature and rabbinic Judaism ever written. Sherira wrote his history, now referred to simply as *The Epistle of Rav Sherira Gaon*, as a response to several questions sent to him by Rabbi Yaakov the son of Rabbi Nissim—the leader of the Rabbanite community in Qayrawan with whom Sherira maintained a robust correspondence—and first and foremost to Yaakov's seemingly simple question of, "How was the Mishnah written?"[1]

Practically from its inception, the modern scholarly study of *The Epistle* has turned much of its attention to Sherira's political, religious, and cultural contexts in order to explain certain elements of *The Epistle*. Some scholars have read the discussions of the history of rabbinic literature found in the first half of *The Epistle* in light of Sherira's own historical context; for example, B.M. Lewin, the editor of what is still the standard critical edition of *The*

[1] For an overview of *The Epistle*, see Robert Brody, "The Epistle of Sherira Gaon," in *Rabbinic Texts and the History of Late-Roman Palestine*, ed. Martin Goodman and Philip Alexander, Proceedings of the British Academy 165 (Oxford: Oxford University Press, 2010), 253–64; idem., *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture* (New Haven: Yale University Press, 1998), 20-5. On Yaakov and the Jewish community in Qayrawan, see Menahem Ben-Sasson, *Emergence of the Local Jewish Community in the Muslim World: Qayrawan, 800-1057*, 2nd ed. (Hebrew; Jerusalem: Magnes Press, 1997). Citations from *The Epistle* are taken from Berlin, Staatsbibliothek zu Berlin, MS Or. Qu. 685 (Steinschneider 160) and references are provided, parenthetically, to the page numbers in B.M. Lewin, ed., *Iggeret Rav Sherira Gaon* (Haifa: ha-hevra li-sifrut ha-yahadut, 1921). On the Berlin manuscript, see above, pp. 244 fn. 117, and on other manuscripts of *The Epistle*, see below.

Epistle,[2] read these discussions as polemics with Qaraite Jews,[3] and Talya Fishman has more recently read them in the light of 10th century trends in Islamic legal thought.[4] Over the past years, a number of scholars have looked to Sherira's contexts in order to better explain the second half of *The Epistle*, in which Sherira outlines the history of rabbinic leadership in a way that elevates his own family and academy as the chief arbiters of rabbinic Judaism.[5]

This chapter builds off these recent attempts at contextualization by arguing that the political concerns found in the second half of *The Epistle* also inform the depiction of classical rabbinic literature and late antique rabbinic history found in the first half of Sherira's *Epistle*. As I will show, an appreciation of the factors informing this work is crucial for reconstructing the Reception History of the Mishnah. I claim that Sherira's depiction of the creation of the Mishnah by Rabbi Judah *ha-Nasi* is modeled after the way in which Sherira viewed himself and the Babylonian Geonim as the leaders of the Jewish people. The identification with Judah thus serves to buttress Sherira's larger political motives as manifested in *The Epistle* and in other of his writings. Thus, while most scholars have reduced Sherira's aims and rhetoric in the first half of *The Epistle* to anti-Qaraite polemic or to imitations of Islamic polemical ideas,

[2] See also the edition and translation of Margarete Schlüter, *Auf Welche Weise Wurde die Mishna geschrieben?: Das Antwortschreiben des Rav Sherira Gaon*, Texts and Studies in Medieval and Early Modern Judaism 9 (Tübingen: J.C.B. Mohr, 1993).

[3] See in the Introduction to Lewin, *Iggeret Rav Sherira Gaon*.

[4] Talya Fishman, "Claims About the Mishna in the Epistle of Sherira Gaon: Islamic Theology and Jewish History," in *Beyond Religious Borders: Interaction and Intellectual Exchange in the Medieval Islamic World*, ed. David M. Freidenreich and Miriam Goldstein, Jewish Culture and Contexts (Philadelphia: University of Pennsylvania Press, 2012), 65–77.

[5] Of note are Isaiah M. Gafni, "On Talmudic Historiography in the Epistle of Rav Sherira Gaon: Between Tradition and Creativity" (Hebrew), *Zion* 73, no. 3 (2008): 271–96; Amram Tropper, "From Tatlafush to Sura: On the Foundation of the Academy of Sura According to Rav Sherira Gaon" (Hebrew), *Oqimta* 2 (2014): 89–104; Meir Ben Shahar, "Books, Commentators, and the Democratization of Knowledge in the Geonic Period," in *Religious Knowledge, Authority, and Charisma: Islamic and Jewish Perspectives*, ed. Daphna Ephrat and Meir Hatina (Salt Lake City: University of Utah Press, 2013), 131–46; Simcha Gross, "When the Jews Greeted Ali: Sherira Gaon's Epistle in Light of Arabic and Syriac Historiography," *Jewish Studies Quarterly* 24, no. 2 (2017): 122–44; and idem., "Empire and Neighbors: Babylonian Jewish Identity in Its Local and Imperial Context" (Ph.D. dissertation, Yale University, 2017), 302-74.

I will show that Sherira is also drawing on pre-Islamic rabbinic ideas in novel ways (perhaps shaped by his Islamic milieu) in order to argue for the necessity of his academy as an institutionalized center of oral learning whose centrality is crucial for the preservation of rabbinic knowledge. From this point forward, the idea of the Mishnah becomes an important way for medieval rabbis to articulate rabbinic power, continuing trends analyzed in prior chapters but also signaling a shift in the nature of rabbinic discourse and authority. Given the way in which this discussion relies on materials addressed in earlier chapters and given the decisive and long-lasting influence of Sherira's *Epistle* on conceptions of the Mishnah's origins and purpose, this chapter serves as a fitting bookend to this dissertation, summarizing the various contours of the history of the reception and perception of the Mishnah and mapping the way that the idea of the Mishnah is employed in the Middle Ages and beyond.

In what follows, I begin by first providing the basic information necessary for understanding the occasion for the writing of *The Epistle*. I will then describe the letter itself, outlining its contents and summarizing its depiction of the Mishnah. This overview is followed by a detailed analysis of the various elements of Sherira's depiction of the Mishnah, in which I attempt to isolate which of these elements are new in *The Epistle*. By comparing what is found in *The Epistle* with what we saw in prior chapters and with what we know of Se'adyah Gaon's understanding of the Mishnah's creation, I then question a prevailing trend in much of the scholarship on *The Epistle*, according to which Sherira is engaged in polemics with Qaraites. While there can be no doubt that Qaraite critiques of the Oral Torah influenced Sherira, I argue that many of the central elements of Sherira's depiction of the Mishnah are better understood as products of intra-Rabbanite power struggles, instigated, in part, by the

increased geographic dispersion of rabbinic knowledge and authority in the final centuries of the first millennium and the related issue of the intermediation of rabbinic texts.

2. *Yaakov's Difficulties*

The origins—like the eventual decline—of the Babylonian geonic academic institutions are rather murky.[6] What is certain is that by the 9th century these academies attracted students from far flung regions and that the Geonim fielded questions, mainly concerning Jewish law and ritual, from Jews throughout the Islamic and Christian worlds.[7] While structured like many of these responsa in that it starts with questions posed to a Gaon and then includes the Gaon's answer, *The Epistle of Rav Sherira Gaon* is significantly longer than other responsa, and deals with questions that are rarely discussed in other geonic writings. *The Epistle* begins with a list of questions posed by Rabbi Yaakov the son of Rabbi Nissim of Qayrawan, after which appears the lengthy response attributed to Sherira.

Yaakov famously begins by asking what seems like a rather simple and straightforward question: "How was the Mishnah written?" According to Yaakov, this question is particularly difficult if we are to believe that the writing of the Mishnah began with the "Men of the Great Assembly," a group of sages who supposedly flourished during the second half of the first millennium BCE, and that it ended with Rabbi Judah *ha-Nasi*—who he refers to simply as "Rabbi"—in the early 3rd century. If the Men of the Great Assembly began to write the Mishnah, Yaakov's logic goes, then why is most of the Mishnah comprised

[6] See Brody, *The Geonim of Babylonia*, 3-18.

[7] See above, pp. 153-154. On the geography of the Geonim, see Brody, *The Geonim of Babylonia*, and Jacob Mann, "The Responsa of the Babylonian Geonim as a Source of Jewish History," *The Jewish Quarterly Review* 7, no. 4 (1917): 457–90 (462-90).

of the sayings of sages who lived much later, in what correlates to the 2nd and 3rd centuries CE? Yaakov continues by asking how other works of classical rabbinic literature were formed and ends by requesting that Sherira outline the chain of succession of rabbinic leadership from the end of the Talmud until their time (5-6).

To the modern reader, particular a scholarly one, Yaakov's questions seem more than appropriate. Yet it is important to emphasize two things: First is that there is little evidence that these questions were scrutinized in a meaningful way by rabbinic Jews up until Yaakov's time—indeed, while we have been able to read between the lines in order to uncover attitudes towards the Mishnah's origins, we have yet to encounter a question about its creation in such a straightforward manner. In addition, it is important to note that behind Yaakov's questions there sits an even bigger discomfort that pertains to the very fabric of rabbinic Judaism. The Mishnah is one of the first attempts to encode a supposedly Sinaitic body of knowledge in an organized fashion. Yet, as pointed out by Yaakov, the Mishnah also reveals the prevalence of human innovation *within* the Oral Torah. How can such novelty fit within a model of a one-time, divine revelation?

3. *Sherira's Depiction of the Mishnah's Creation*

In his lengthy response, Sherira seems well aware of both the theological and historical significance of Yaakov's questions. He begins by firmly stating that the Mishnah was *organized*—not written!—by Judah. Sherira refers to Judah later simply as "Rabbi" and here as "our Holy Rabbi," writing that "we have thus seen that the six orders of the Mishnah were all arranged (*taritznon*[8]) by our Holy Rabbi" (7). Importantly, in the better manuscripts of

[8] Sokoloff, *DJBA*[2], 1219.

The Epistle, Sherira never uses verbs of *writing* when describing Rabbi Judah's work; rather, he uses verbs of *arranging* or *organizing*.[9]

Sherira then states that during the period of the Second Temple there were almost no disagreements among Jews. According to Sherira, each rabbi would teach his student the *te'amim*—reasonings—of the Torah in "the words that he would string together at that time," as "the wisdom was great, and they did not need to exert themselves" in order to know the Torah. But in the aftermath of the destruction of the Temple, the Land of Israel was in a state of disarray, and Jews were persecuted. This political situation did not allow for proper Torah study, leading to many disagreements (10-1).

After a few years, there was a period of rest in the Land of Israel. Sherira writes that "during that time the [rabbis] sat to recover the laws that were almost lost during the boom of the destruction" (12). He then lists the rabbis who are featured prominently in the Mishnah as those who were active at this time. According to Sherira, "during those years, the laws that were still unclear in the House of Study because of the great loss that there was on account of the destruction of the Temple were clarified, along with the doubts that arose during the outbreaks" (17). He emphasizes that these rabbis did not *add* anything to the words of the earlier sages, the Men of the Great Assembly. Rather, they sought to understand "what were the reasons for which the early ones said what they did, and what it is that they practiced, until they did away with all of the doubts that the earliest sages did not even have" (18). Sherira explains that throughout this period, the Oral Torah was passed on from rabbi

[9] The better manuscripts, in this regard, have mistakenly been grouped as being of the "French" recension, whereas the others are said to be of the "Spanish" one. For the early history of scholarship on this question, see Chanan Gafni, *Conceptions of the Oral Law in Modern Jewish Scholarship* (Hebrew; Jerusalem: The Zalman Shazar Center, 2019), 232-37. See also Shraga Abramson, "Ketivat ha-Mishnah," in *Tarbut vi-Hevra bi-Toldot Yisrael bi-Yeme ha-Benayim*, ed. Menahem Ben-Sasson, Robert Bonfil, and J Hacker (Jerusalem: Shazar, 1989), 27–52.

to student *orally* in a free-from fashion: each rabbi would pass on the same information, but in the language that best suited him and his student (18).

According to Sherira, Judah began work on the Mishnah because he foresaw that the state of the Jewish nation would soon decline yet again:

> And since Rabbi saw that there were differences in the way in which each rabbi relayed [the Oral Torah], and even though the reasonings of what they each said were identical, he feared that this would not be enough and that there would be a loss, as he saw that there was a diminishing of knowledge, and the springs of wisdom were drying up, and the Prince of the Torah was leaving (20).

With that, Sherira writes that the period of Judah itself was an ideal time for such an intellectual endeavor. This is because there was no persecution, thanks to Judah's close relationship with the Roman emperor (21). Further, Sherira emphasizes that the Mishnah was composed with divine help, as Judah "received Torah and greatness from the heavens" (21), and the words of Judah's Mishnah, "were as if they were spoken from the Great One and were like a sign and a wonder" (23). In some manuscripts, it says in this passage that the divine imparting of knowledge to Judah was like that experienced by Moses.[10]

In terms of the nature of Judah's work, Sherira says that it is incorrect to assume that Judah composed the Mishnah out of nothing. Rather, Judah based the Mishnah on the work of his predecessors, and in particular, on an earlier Mishnah compiled by Rabbi Meir, the student of Rabbi Akiva, "as he saw that it is brief and easy to study and its parts are assembled nicely—each section is near what it is similar to" (28). And even though all of the rabbis were actually teaching their students the same content, if in different words, the specific formulations of Akiva and Meir were still better, as Akiva and Meir were especially intelligent (28). "And because of this," Sherira writes, Judah "only gathered it and added what there was

[10] See the Spanish version in Lewin's edition with note ad loc, pg. 23 l. 12.

in his time, and then organized it as he saw fit and explained the disagreements of the rabbis" (28-9). In summary, according to Sherira, the bulk of Judah's work was the *organization* of the Mishnah and the occasional addition of opinions from after the time of Rabbi Meir.

Sherira concludes his discussion of Judah's Mishnah by describing its instantaneous success:

> And when the entire world saw the beauty of the organization of our Mishnah, and the truth of its reasonings and the exactness of its words, everyone left what they were teaching, and these laws [of Judah] spread throughout Israel… And all of Israel accepted them in faith, and there is no one who disagrees with them (30)

As mentioned, "how was the Mishnah written?" was only one of Yaakov's questions, and Sherira continues his *Epistle* by answering these other questions at great length. Here, however, I will focus only on his depiction of the Mishnah, mentioning his other answers inasmuch as they shed light on the image he paints of the Mishnah's creation.

4. *Sherira's Innovations in His Depiction of the Mishnah's Creation*

Sherira's *Epistle* contains the first extensive depiction of the creation of the Mishnah that we have seen, and it is apparent that it picks up on themes found in earlier texts and introduces several entirely new elements. In what follows, I will outline all that appears as new in Sherira's account before focusing on Sherira's depiction of the political climate in which the Mishnah was created along with his insistence that the Mishnah was created and transmitted orally.

As mentioned, the Mishnah itself, like all other works of classical rabbinic literature, does not include any discussions of its own origins, its authorship, or the reasons for which it was created. While the Talmuds do not discuss the manner of or the reasons for the Mishnah's creation, we have seen that they clearly assign it to Judah, as they both assume

that he is the one responsible for its textual oddities that are editorial in nature.[11] Classical rabbinic literature does include, in a few stories, the belief that the loss of knowledge must be prevented by the *organization* of knowledge, and may, in one story, even tie this into the role of the rabbinic movement following the destruction of the Jerusalem Temple.[12] But at no point in classical rabbinic literature is the importance of the preservation of knowledge via the organization of knowledge cited as a reason for the Mishnah's creation. While classical rabbinic literature takes for granted that the Mishnah was transmitted orally, it does not go out of its way, at least not in the way that Sherira does, to emphasize that the Mishnah was created and transmitted orally.

Thus, when compared with the evidence of classical rabbinic literature, the following can be said of Sherira's depiction of the Mishnah: (1) Sherira reconstructs that rabbinic teachings were not textually codified before the Mishnah; (2) that, due to the social and political chaos caused by the Temple's destruction, this flow of teaching was disrupted; (3) and that rabbinic knowledge was reconstituted only once the Jews regained political security, a process that culminated in Judah's Mishnah. Sherira further claims that (4) Judah created the Mishnah as a way of preserving rabbinic knowledge as he foresaw periods of unrest looming on the horizon; (5) that he created it with divine aid, (6) largely by organizing prior materials; (7) and that the Mishnah was initially and still, ideally, an oral composition. Lastly, Sherira claims that (8) the Mishnah was accepted by all of Israel because of its beauty. In this way, Sherira also responds to the historical and theological issues raised by Yaakov's

[11] See above, pg. 25.

[12] See the extensive discussions in Shlomo Naeh, "Omanut ha-zikaron, mivnim shel zikaron vi-tavniot shel teqst bi-sifrut hazal," in *Mehqerei Talmud III: Talmudic Studies Dedicated to the Memory of Professor Ephraim E. Urbach*, ed. Yaakov Sussman and David Rosenthal, 2 vols. (Jerusalem: The Magnes Press, 2005), 2:543–89.

questions, primarily by evading them: the Mishnah does not actually introduce *new* knowledge that was not included in the Sinaitic revelation, but rather, it repackages information and attempts to resolve issues in the transmission of Jewish knowledge raised by periods of political, and thus spiritual, unrest.

5. *I'jaz al-Mishnah*?

While these differences in content or emphasis can be found when comparing that which is found in classical rabbinic literature with the depiction of the Mishnah found in Sherira's *Epistle*, it is nevertheless possible to discern several antecedents. For example, what I termed the "Scholastic Scripturalization" of the Mishnah, evidenced in both Talmuds but particularly in the Bavli,[13] may have informed Sherira's opinion of the Mishnah's divinity.[14] Similarly, in Chapter Four we saw several post-Talmudic texts from Byzantine Palestine that depict the Mishnah as having divine qualities or Sinaitic origins.[15] I similarly argued in the previous chapter that the use of the Mishnah in liturgy may have been based on perceptions of the Mishnah that imbued the work with divine-like qualities and that liturgical uses may have similarly informed such perceptions.[16] In addition, the *Seder Tannaim vi-Amoraim*, an anonymous Babylonian text from the late 9th century that outlines the order of succession of rabbinic leadership,[17] includes the following depiction of the Mishnah: "from Moses until Hillel there were six hundred orders of Mishnah, as the Holy One, Blessed is He, gave to Moses at Sinai. From Hillel and on the world diminished, and the honor of the Torah

[13] See above, pp. 67, 91-92.

[14] As suggested already by Elizabeth Shanks Alexander, *Transmitting Mishnah: The Shaping Influence of Oral Tradition* (Cambridge and New York: Cambridge University Press, 2006), 115-16.

[15] See above, pp. 114-120, 126-131.

[16] See above, pg. 278.

[17] On this work, see Brody, *The Geonim of Babylonia*, 274-7.

weakened, and they only arranged from Hillel and Shammai six orders."[18] This text, which is based on a tradition found already in the Babylonian Talmud (b. Hagigah 14a) and which is paralleled in other geonic accounts,[19] considers the Mishnah to be a literary descendent of a work given to Moses at Sinai, the majority of which was lost during the early rabbinic period. While both Sherira and the author of *Seder Tannaim vi-Amoraim* included elements of deterioration or decline in their depictions of the Mishnah, the author of *Seder Tannaim vi-Amoraim* has actual knowledge being lost, whereas Sherira only has such decline impacting the *manner* in which knowledge is packaged and transmitted.[20]

The depictions of the Mishnah in these sources infuse the Mishnah with divine qualities by *connecting the text to Moses himself*—a connection that is not made by Sherira. Yet, we can also say that there is nonetheless a certain similarity between the attitudes towards the Mishnah evinced in these texts and in Sherira's *Epistle*, since they all betray an understanding of the Mishnah as divine. While Sherira's claims with regards to the divine nature of the Mishnah's composition has been said to be modeled after the concept of *i'jaz al-Quran*, the inimitability of the Quran,[21] considering what we see here, we can say that Sherira's perception of the Mishnah as divinely inspired may be an adaptation of preexisting traditions surrounding the Mishnah's divine nature. With that, the emphasis placed by

[18] Kalman Kahan, ed., *Seder Tannaim WeAmoraim* (Frankfurt: Hermon-Verlag, 1935), 8.

[19] See Gafni, *Conceptions of the Oral Law*, 238-41.

[20] In an even more extreme fashion, the mid-9th century Babylonian payetan Yosef Al-Baradani, who was heavily influenced by the classical payetanim, described the Mishnah as having already existed prior to the creation of the world; see Tova Be'eri, ed., *The Great Cantor of Baghdad: Piyute Yosef ben Hayim Albaradani* (Hebrew; Jerusalem: Yad Izhak Ben-Zvi, 2002), 507, and the brief discussion in Yehoshua Granat, "'Before "In the Beginning"': Preexistence in Early Piyyut" (Hebrew; PhD diss., Hebrew University, 2009), 181 fn. 220.

[21] E.g., Fishman, *Becoming the People of the Talmud*, 37; Gerald Blidstein, "Oral Torah: Ideology and History in the Epistle of Sherira Gaon," in *Religious Knowledge, Authority, and Charisma: Islamic and Jewish Perspectives*, ed. Daphna Ephrat and Meir Hatina (Salt Lake City: University of Utah Press, 2013), 73–88, 285-90 (289 n. 36). See s.v. *I'ǧjāz*, in *EI*[2]. On Jewish responses to Muslim notions of Scripture, see Meira Polliack, "The Karaite Inversion of 'Written' and 'Oral' Torah in Relation to the Islamic Arch-Models of Qur'an and Hadith," *Jewish Studies Quarterly* 22, no. 3 (2015): 243–302.

Sherira on the beauty of the Mishnah could indeed relate to the ideal of aesthetics as in the idea of *i'jaz al-Quran*, a move made even more explicit in Judah ha-Levi's depiction of the Mishnah's divinely sourced beauty in his *Book of Refutation and Proof on Behalf of the Despised Religion* (III.67).[22] And, as noted by multiple scholars, the very emphasis that Sherira places on the acceptance of the *Mishnah* by *all* of Israel may indeed relate to the concept of *ijma'* in Islamic jurisprudential thought—that is, the belief in the utmost importance of widespread acceptance and the authority that such acceptance endows upon a text or idea.[23]

6. *Se'adyah and the Qaraite Critique*

Besides for the *Epistle of Rav Sherira Gaon*, the most extensive geonic depictions of the Mishnah's creation are found in the writings of Rav Se'adyah Gaon and in Qaraite summaries of Se'adyah's opinions.[24] Given that they were written in the context of overt polemics with Qaraite authors, the elucidation of Se'adyah's depictions of the Mishnah's creation will serve as a check on readings of *The Epistle* that see Sherira as engaged in similar polemics.

Se'adyah, who headed the rival academy of Sura several decades before Sherira's period, addressed the Mishnah's in his *Sefer ha-Galui*, which he wrote first in Hebrew and

[22] Cf. David Stern, "On Canonization in Rabbinic Judaism," in *Homer, the Bible, and Beyond: Literary and Religious Canons in the Ancient World*, ed. Margalit Finkelberg and Guy G. Stroumsa (Leiden: Brill, 2003), 227–52 (250).

[23] Fishman, "Claims About the Mishna." See also eadem, *Becoming the People of the Talmud: Oral Torah as Written Tradition in Medieval Jewish Cultures*, Jewish Culture and Contexts (Philadelphia: University of Pennsylvania Press, 2011), 41-2; Blidstein, "Oral Torah," 83. See also Uzi Fuchs, *The Geonic Talmud: The Attitude of Babylonian Geonim to the Text of the Babylonian Talmud*, Eshkolot: Jewish Studies Series (Hebrew; Jerusalem: Herzog Academic College and The World Union of Jewish Studies, 2017), 107-8 for additional places in which Sherira and his son Hayya seem to be influenced by *ijma'*.

[24] On Se'adyah, see Robert Brody, *Se'adyah Gaon*, trans. Betsy Rosenberg (Oxford: The Littman Library of Jewish Civilization, 2016).

then in Judeo-Arabic. Both versions have survived only in fragmentary form.[25] In the earlier version, Se'adyah writes that the Men of the Great Assembly began to edit the Mishnah forty years after the construction of the Second Jerusalem Temple. According to Se'adyah, they began this process as they feared for the loss of the Torah.[26] It seems that in the later, Judeo-Arabic version, Se'adyah added that the editing process was completed five hundred years after prophecy ended in Israel, and that the content of the Mishnah was transmitted orally until it was finalized, at which point it was written down.[27]

Se'adyah takes somewhat of a different stance in the opening to his Judeo-Arabic commentary on Genesis:

> And throughout the time when the Children of Israel were of one mind in the Chosen Land, the King and the priests retained these traditions in their memories, especially during the time of the Prophets. And when we were exiled in the First Exile and prophecy ended, the sages feared lest the Oral Torah be forgotten, and they put their minds to it and fixed it in writing and called it Mishnah. And they left [out] the branches, in the hope that they would remember them in their memories, since they already fixed the main things in writing, and thus it was. And the keeping of the less parts in memory did not end until we were exiled in the Second Exile, and we were spread out even more than we were in the first one, and the students feared lest they would forget what their predecessors did not fix in writing, and they put their minds to it and wrote them down and called them Talmud.[28]

According to Se'adyah, the Mishnah was *written* after the destruction of the First Jerusalem Temple by the Babylonians in the early 6th century BCE, but portions of the Oral Torah—later known as the Talmud—were left un-written and remembered by heart, until they were

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[25] For *Sefer ha-Galui*, see ibid., 156-9; Avraham Rosenthal, "Gilyon nosaf me-sefer ha-galui le-rav Se'adyah gaon," in *The Cairo Geniza Collection in Geneva: Catalogue and Studies*, ed. David Rosenthal (Jerusalem: Magnes Press, 2010), 224–53 and Ze'ev Elkin, "Sefer Ha-Galui," in *Uncovering the Canon: Studies in Canonicity and Genizah*, ed. Menahem Ben-Sasson et al. (Jerusalem: Magnes Press, 2010), 259–331.

[26] Solomon Schechter, ed., *Saadyana: Geniza Fragments of Writings of R. Saadya Gaon and Others* (Cambridge: Deighton and Bell, 1903), 5.

[27] Rosenthal, "Gilyon nosaf," 246.

[28] Moshe Zucker, ed., *Sa'adya's Commentary on Genesis* (New York: The Jewish Theological Seminary of America, 1984), 15-6 (Arabic text), 186 (Hebrew translation).

put down in writing following the destruction of the Second Jerusalem Temple in 70 CE.[29] In addition, Se'adyah's views on the Mishnah can be discerned from his *piyyut* "*Va-Yered Oman*" for the holiday of Shavuot.[30] Similarly to what we saw in some of the Qilliri's compositions for Shavuot, where the Mishnah is described as having Sinaitic origins, so too does Se'adyah describe Moses as reporting all the content of the Torah and the Mishnah to the Israelites, mentioning each Pentateuchal book and Mishnaic order by name.[31]

As mentioned, Se'adyah primarily wrote on the creation of the Mishnah and on the history of the Oral Torah in the context of his polemics with the Qaraites, and multiple Qaraite authors, some contemporaries of Se'adyah and many who only wrote later, chose to respond to Se'adyah.[32] *The Book of the Wars of the Lord* by Se'adyah's contemporary Salmon ben Yeruhim's is representative of these responses. Salmon writes that the fact that the Written Torah is accepted by all of Israel attests to its authenticity (again employing the concept of *ijma'*), whereas the Oral Torah must be false as it is accepted only by some of Israel: "Now if Israel and Judah are all united / Concerning the validity of the oral Law which is, as they say, perfect, / Let them offer their testimony, and let their voices be heard; / If not, then Se'adyah the Fayyumite's words are void and his tongue has been silenced."[33] Later in the work he says that Se'adyah "has written that the six divisions of the Mishnah are as authoritative as the Law of Moses, / And that they wrote it down so that it would not be

[29] This depiction is repeated in Se'adyah's Judeo-Arabic commentary to Proverbs 25.1 (see Yosef Qafih, *Mishlei im tirgum u-feirush ha-ga'on rabeinu Se'adyah ben yosef fayumi* [Jerusalem: Ha-Va'ad li-Hotsa'at Sifrei Rasa"g, 1976], 194).

[30] Discussed and printed in Shlomit Gordon, "Sa'adia Gaon's 'Sidrei Dibrin'" (Hebrew; MA thesis, Hebrew University, 2019).

[31] See ibid., 26.

[32] See Samuel Poznański, The Karaite Literary Opponents of Saadiah Gaon (London: Luzac & Co., 1908).

[33] Salmon ben Yeruhim, *The Book of the Wars of the Lord*, ed. Israel Davidson (New York: The Jewish Theological Seminary of America, 1934), 37-8; translation adapted from Leon Nemoy, trans., *Karaite Anthology: Excerpts from the Early Literature* (New Haven: Yale University Press, 1952), 74.

forgotten."[34] Salmon challenges this point: "If it is proper for men like us, Who have none of the holy spirit in us, / To turn the oral Law into a written Law, by writing it down, / Why would it not be right for us to turn the written Law into a Law preserved only in our mouths?"[35] That is, the very fact that the Oral Torah is now written shows that it cannot even live up to its own standards, and is therefore invalid. Salmon continues and asks about the antiquity of the Mishnah—if it was first written by the last prophets in the time of Ezra, why are the sages of that period not mentioned?[36]

It is clear that Se'adyah's depictions of the Mishnah serve to counter such critiques.[37] As summarized by Avraham Rosenthal, Se'adyah held that the sages began to organize the Oral Torah into fixed works already during the periods of the First Exile and the Second Temple. In terms of his approach towards the writing of the Oral Torah, Se'adyah seems to have written in one instance that the Oral Torah was already written in that initial moment, while he elsewhere says that it was not written until the time of Rabbi Judah *ha-Nasi*.[38] In

[34] Salmon ben Yeruhim, *The Book of the Wars of the Lord*, 42; translation from Nemoy, *Karaite Anthology*, 77.

[35] Salmon ben Yeruhim, *The Book of the Wars of the Lord*, 43; translation from Nemoy, *Karaite Anthology*, 77-8.

[36] On the Qaraite critique of the Oral Torah, with an emphasis on the Qaraite incorporation of and response to Islamic ideals of religious textuality, see Polliack, "The Karaite Inversion," 245-86, and eadem, "Deconstructing the Dual Torah: A Jewish Response to the Muslim Model of Scripture," in *Interpreting Scriptures in Judaism, Christianity and Islam: Overlapping Inquiries*, ed. Mordechai Z. Cohen and Adele Berlin (Cambridge: Cambridge University Press, 2016), 113–29. See also Omer Michaelis, "Authority and Role of the Individual Author in Jewish Thought: Maimonides as a Test Case" (Hebrew), *Judaism, Sovereignty, and Human Rights* 4 (2018): 85–129.

[37] Note, however, that Se'adyah's depiction of the Mishnah and other aspects of the divine nature of the Oral Torah may also stem from wider views in Islamic jurisprudential thought with regards to nonprophetic knowledge that were current at the time; see Marc Herman, "Prophetic Authority in the Legal Thought of Saadia Gaon," *The Jewish Quarterly Review* 108, no. 3 (2018): 271–94.

[38] Rosenthal, "Gilyon nosaf," 245-9. As Lewin wrote already in the introduction to his edition of *Iggeret of Rav Sherira Gaon* (xi), it is possible that Yaakov formulated his first questions to Sherira in light of these very uncertainties in Se'adyah's works, as Yaakov asks, "did the Men of the Great Assembly begin to write, and sages in each generation wrote a little until Rabbi came and sealed it [the Mishnah]?" (5).

light of the Qaraite critique of the Oral Torah and the Mishnah, Se'adyah's insistence on the Mishnah's antiquity and the early date of its artifactualization in writing is understandable.

There is of course some similarity between Sherira's depiction of the Mishnah and that of Se'adyah: both adhere to a historical perspective by which there was a decline that precipitated a change in the way in which the Oral Torah was to be transmitted. But whereas Se'adyah writes that the original formulation of the Mishnah took place when prophecy ended, and that the Mishnah was written down either then or when Judah completed its editing, Sherira does not assign significance to the moment of the end of prophecy—admitting that the Mishnah has a relatively recent history—and Sherira also emphasizes throughout that the Mishnah was *not* written down.

According to Lewin, this should still be read as a response to Qaraite claims, in that Sherira neutralizes them but not even agreeing with the importance of writing.[39] One can similarly argue that Sherira's insistence that the Mishnah was accepted by all of Israel is in response to the Qaraite claim that it was not,[40] as is his insistence that there was not a loss of knowledge—an especially important element of Yaakov al-Qirqisani's critique of the Mishnah and Oral Torah.[41] To be sure, it is altogether unlikely that Qaraite polemics would not have had *some* impact on Sherira, even if indirectly.[42] Yet we must acknowledge that Sherira's depiction of the Mishnah and the Oral Torah is very different than the depictions

[39] Lewin, *Iggeret Rav Sherira Gaon*, xiv.

[40] See Polliack, "Tha Karaite Inversion," 269.

[41] *Kitab al-anwar wal-maraqib* 2.13.11; see Polliack, "The Karaite Inversion," 264-66.

[42] Menahem Ben-Sasson (*Qayrawan*, 41-6) argued that there is little evidence for Qaraite presence in Qayrawan during Yaakov's time, and thus it is unlikely that their pressure is what led him to ask his questions of Sherira. Scholars such as Harry Fox, Robert Brody, and Talya Fishman have suggested that Qaraite critiques may have nonetheless played at least some role in Sherira's *answers*; see Harry Fox, "Neusner's 'The Bavli and Its Sources,'" ed. Jacob Neusner, *The Jewish Quarterly Review* 80, no. 3/4 (1990): 349–61; Brody, "The Epistle of Sherira Gaon," 259; Fishman, *Becoming the People of the Talmud*, 37.

written in the explicit context of polemics with Qaraites; in particular, Sherira's admission that the Mishnah is a relatively recent text—composed only in the centuries following the destruction of the Jerusalem Temple—is quite surprising to see in this context, as is his insistence on the oral creation and transmission of the Mishnah. And we must remember that, as pointed out already over a century ago by Samuel Poznanski, the later Geonim—that is, those who followed Se'adyah—were much less invested in the Qaraite polemic in their writings.[43] Indeed, Marina Rustow has shown that the later Geonim even maintained social and financial ties with Qaraite Jews.[44]

While Sherira's description, vis-à-vis its emphasis on the orality of the Mishnah and its acceptance by all, may indeed have had the effect of neutralizing a few the Qaraite claims, and while it may even have been influenced by Rabbanite notions of Oral Torah that were originally formed in response to Qaraites, it seems much more likely that Sherira himself more or less ignored the Qaraites and their critique of the Mishnah. The emphasis he places on orality seems to be focused more as a response to Yaakov's emphasis on writing, and it is possible that his depiction of the Mishnah's acceptance by all is because he, too, understood consensus to be important, and not because he was specifically trying to respond to Qaraites.[45] As we will see in the following section, these elements of Sherira's depiction of the Mishnah's creation are best understood in the context of intra-Rabbanite power struggles.

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[43] Samuel Poznański, "The Anti-Karaite Writings of Saadiah Gaon," *The Jewish Quarterly Review* 10, no. 2 (1898): 238–76.

[44] See Marina Rustow, *Heresy and the Politics of Community: The Jews of the Fatimid Caliphate*, Conjunctions of Religion & Power in the Medieval Past (Ithaca: Cornell University Press, 2008).

[45] On the importance of *ijmāʿ*/consensus for Rabbanite writers more generally, see Marc Herman, "Systematizing God's Law: Rabbanite Jurisprudence In The Islamic World From The Tenth To The Thirteenth Centuries" (Ph.D. dissertation, The University of Pennsylvania, 2016), 44 fn. 141, 66-70

7. *Mishnah, Oral Torah, and Communal Politics*

To a certain extent, one may get the impression from geonic literature that the Geonim were on top of the world: they portray themselves as the only legitimate arbiters of authentic Judaism, and, indeed, Jews from all over the world sent them questions and travelled to study in their academies. But in recent years, scholars have convincingly argued that the reality on the ground was quite different: the Geonim were indeed learned scholars of the rabbinic tradition, and they were indeed successful in disseminating their teachings, but their academies also suffered from frequent infighting and financial instability, and they were perpetually reliant on the goodwill of the rich and powerful Jews in Baghdad and elsewhere.

This "perennially flagging Babylonian gaonic culture"[46] comes to the fore in letters sent by the Geonim to solicit financial support from foreign communities.[47] In one Hebrew letter sent to an unknown location in the Maghreb, Sherira writes that "your fathers would always have their guidance and questions from the academy, but you, you are destroying this place by desolating it and leaving it."[48] Sherira continues by describing how the academy is the "head" and the other communities are the "body," rhetorically asking, "how can the head be injured and the body remain viable? For the body follows the head."[49] In the metaphor, Sherira describes the academy and the Maghribī communities as being of one entity, but the relationship is clearly hierarchical—the academy is the head, and the peripheral

[46] Rustow, *Heresy and the Politics of Community*, 147.
[47] See also above, pp. 165-166.
[48] Cambridge University Library, T-S 10J1, printed in Gil, *Ishmael*, doc. 21.
[49] Ibid., 73.

communities, the body. Later in the letter Sherira specifies what it is that he needs of his addressees, and why:

> Give honor to your God and his Torah and its sages, and follow the custom of your fathers and the path of your parents, and return the matter to its past state, and inform us of your uncertainties, and so you shall see the answers and be wise from them, and also the spirits of the sages of the academy will be raised as they see that you are turning to them and taking care of their food and recognizing, from the responsa, the place of their toil. And know, that it is not for our honor and not for the honor of the house of our fathers that we speak to you like this in such a grave manner, but it is for the honor of God and his Torah, so that its space will not be lost. For even if there is much Torah in other places, the actual place of the Halakha is here.[50]

Sherira is aware of the existence of other academies, even in the Maghreb, and recognizes that the other communities are already relatively independent with regards to Torah study. He argues though, that his academy is the sole legitimate path through which the Torah is transmitted, and that without it, the Torah will be lost.[51]

According to Menahem Ben-Sasson, it is in the context of such letters that Sherira's *Epistle* should be read:

> Rav Sherira took full advantage of the opportunity that fell into his lap when the people of Qayrawan asked their question concerning the writing of the Mishnah in 987. Rav Sherira expounded at greater length than needed in his answer and instead of the usual answer to the question he wrote a full-length work—*The Epistle of Rav Sherira Gaon*. This work proved that the Pumbedithan academy had an advantage over the houses of study in the Maghreb, no matter how advanced they may have been.[52]

While Yaakov's questions may have come from a genuine scholastic curiosity, Sherira capitalized on the occasion to promote the yeshiva's political goals.

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[50] Ibid.

[51] For a discussion of this and other of Sherira's letters, see Menahem Ben-Sasson, "Fragmentary Letters from the Genizah: Concerning the Ties of the Babylonian Academies with the West" (Hebrew), *Tarbiz* 56, no. 2 (1987): 171–209.

[52] Ibid., 183.

But how does this project play out in *The Epistle*? Ben-Sasson, for his part, did not give any examples. Isaiah Gafni has shown that Sherira's goals vis-à-vis intra-Rabbanite communal politics are clear in a number of passages in the second, "historical" half of *The Epistle*.[53] These goals are present already at the very beginning of the second half, where Sherira describes the founding of the Talmudic academy of Nehardea, the forerunner of the Pumbedithan academy that he headed:

> And at first, when Israel was exiled in the exile of Jeconiah, the commanders and the warriors, and a couple of prophets with them, they came to Nehardea, and Jeconiah the King of Judah and his entourage built there a synagogue, and the founded it with dirt that they brought from the Temple (72).

Sherira describes the institution that would become his own as having been founded more than a millennium and a half before his time, by no less than the King of Judah, and with nothing less than the ground of the Jerusalem Temple.[54] Gafni summarizes that there are three forms of patriotism in Sherira's *Epistle*: (1) the preference for the Babylonian academies over those of the Land of Israel; (2) the preference for the academy of Neharda-Pumbeditha over that of Sura; and (3) the stature of Sherira's own family lineage.[55] Gafni further suggests that this form of patriotism lines up with the genre of local histories written by contemporary Muslim historians.[56] Considering Ben-Sasson's findings, these forms of patriotism should be read as stemming from Sherira's own political needs as head of the academy.

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[53] Gafni, "Talmudic Historiography."

[54] On this tradition, see Daniel Boyarin, *A Traveling Homeland: The Babylonian Talmud as Diaspora*, Divinations (Philadelphia: University of Pennsylvania Press, 2015), 34-5; and Jonathan Pomeranz, "Ordinary Jews in the Babylonian Talmud: Rabbinic Representations and Historical Interpretation" (Ph.D. dissertation, Yale University, 2016), 202-53.

[55] Gafni, "Talmudic Historiography," 293.

[56] Ibid., 295-6. See Chase F. Robinson, *Islamic Historiography* (Cambridge: Cambridge University Press, 2003), 138-42.

To be sure, by Sherira's time, the preference for the Babylonian academies over those of the Land of Israel already had quite a bit of history. Almost two hundred years prior to the writing of Sherira's *Epistle*, Pirqoi the son of Baboi wrote a polemical letter in which he argued that the Torah traditions of the Land of Israel are not trustworthy because the Jews there suffered from persecution, leading to erroneous "customs of persecution." In contrast, Pirqoi writes that "the Evil Kingdom (i.e., Rome) never crossed the Euphrates; and they did not forget the Oral Torah nor the practical halakha [in the] two *yeshivot* from time past until today."[57] Pirqoi argues that the Babylonian Torah tradition is better than the Palestinian one because the sages there never suffered from persecution. Political quiet, the result of good relationships with the government, is crucial for proper Torah study.

Sherira, in the second half of his *Epistle*, adopts Pirqoi's understanding of the importance of political quiet.[58] Sherira there describes the Babylonian academies as having suffered from far less persecution than did the Palestinian ones, and paints a picture in which good relationships with the non-Jewish government are crucial for proper study. Sherira does not claim that the Babylonian Jewish community was never persecuted, but here, too, Sherira is able to use the fact of persecution as a way to further strengthen the image of the Babylonian academies as being on particularly good terms with and gracious to the Muslim ruler. According to Sherira, a persecution of the Jews of Babylonia took place at the end of the Sassanian period, one that ended with the arrival of the benevolent Muslim rulers. Simcha Gross finds a similar motif in Syriac authors who were Sherira's near contemporaries

[57] St. Petersburg, Russian National Library, Antonin B195 1v, printed in Louis Ginzberg, *Genizah Studies in Memory of Doctor Solomon Schechter*, vol. II: Geonic and Early Karaitic Halakah, Texts and Studies of the Jewish Theological Seminary of America 8 (Hebrew; New York: The Jewish Theological Seminary of America, 1929), 563. See Simcha Gross, "Playing with Persecution: Parallel Jewish and Christian Memories of Late Antiquity in Early Islamic Iraq," *Journal of Near Eastern Studies* 81, no. 2 (2022): 247–60 (249).

[58] See ibid., 255-56.

and argues that such a motivation is a feature of *dhimmi* identity in the first centuries of Muslim rule.[59] Thus, to the three goals that Gafni finds in Sherira's *Epistle* can be added a fourth—the strengthening of *dhimmi* identity.

In my opinion, these same goals also left their mark on the *first* half of *The Epistle*, and they explain some of the unique elements in Sherira's depiction of the Mishnah and its creation outlined above. To review, Sherira writes that there was a time of unrest following the destruction of the Jerusalem Temple which impacted negatively on the study of Torah, and then, thanks largely to Judah's ties with the Roman government, there was a period of political rest that allowed for proper study. Meanwhile, Judah already foresaw that the clouds were brewing and that there was future unrest on the horizon. Some of this account is indeed reliant on the portrayals of Judah in classical rabbinic texts: as we saw, these texts do depict Judah, rather fancifully, as in contact with a Roman emperor,[60] and as we argued, the incipient patriarchate may have indeed benefited from Severan rule.[61] And yet, why was it important for Sherira to go to great lengths in order to describe the political situation that existed in the Land of Israel at various points in history?

Even if there may be literary antecedents or even perhaps some historical truth behind Sherira's account of Judah's political situation, the account is certainly based on Sherira's own understanding of the events and his choice to emphasize this aspect of the Mishnah's origins; indeed, by comparison, Judah plays a far less central role in Se'adyah's depictions of the creation of the Mishnah.[62] In Sherira's depiction of the creation of the

[59] See Gross, "When the Jews Greeted Ali."
[60] See above, pg. 47.
[61] See above, pg. 47.
[62] As noted by Michaelis ("Authority and Role of the Individual Author," 100), albeit in comparison to Judah's role for Maimonides.

Mishnah we see the convergence of two agendas: the desire to paint the Babylonian Jews as suffering from less persecution than the Palestinian ones, and the desire to depict the Babylonian academy as being on good terms with their Muslim rulers and thankful for this privileged relationship. Sherira is thus modelling Judah and his project after himself and his academy: Judah and his academy, like Sherira and his, flourished following a certain period of political unrest, which luckily did not lead to the loss of the Torah, and they all operated during a period of political calm occasioned by good relations with the non-Jewish government. Judah created the Mishnah as he saw decline on the horizon and strategically decided that there was a need for a *centralized program* of study, to be entextualized in the Mishnah. Like Judah in *The Epistle*, Sherira sees the storm clouds brewing. The letter of Sherira I quoted from above shows, if anything, Sherira's fear of what was to come—that the Torah would be lost due to the drying up of his academy's resources. This is of course somewhat hyperbolic. But still, Sherira, as he writes in *The Epistle* and the other letters, is firmly arguing for the importance of a *centralized institution* of Torah study and is fearful for the future of Torah. Sherira's depiction of Judah and his creation of the Mishnah is thus informed by his own self-perception. And by depicting Judah in this way, Sherira can buttress a model of rabbinic authority that privileges his own self and his academy.[63]

[63] It is also possible that Sherira's depiction of Judah relates to the increased literary interest in Judah at this time, as evinced in works of *midrash*. On these works, see Anna Busa, "Contextualizing Popular Jewish Religious Didactic Manuals from the 10th to 12th Centuries: Their Structure, Function and Audience," *Jewish Studies Quarterly* 27, no. 4 (2020): 348–61.

8. *The Impact of the Writing of the Oral Torah on Babylonian Hegemony*

To be sure, the parallel between Judah is far from complete. Whereas Sherira has Judah composing the Mishnah as a way of dealing with the decline to come, Sherira, to the best of our knowledge, does not commit to any similar act. Indeed, Sherira here is different from Maimonides, another medieval rabbi who clearly saw some of himself in Judah, but then took the Mishnah as an inspiration in writing his own code of Jewish law and ritual.[64] But this difference is also telling, as it highlights the extent to which Sherira is weary of writing as he sees writing as partially responsible for the decline of the Babylonian academies.

It is by now apparent that Sherira treats the creation of the Mishnah as an act that was not ideal, but one that was necessary given the political situation to come. The ideal situation, for Sherira, was that which existed *before* the creation of the Mishnah, when each rabbi would teach the Torah to his student in the language that was best for them. Uziel Fuchs has noted that the key word used by Sherira in describing what each explanation had in common—*ta'am*, reasoning—is also what is used by the Geonim when they describe their own pedagogical practices.[65] Indeed, at one point in *The Epistle*, Sherira goes so far as explicitly likening the pre-Mishnaic study to the form of study in his academy:

> And this is how it was in the beginning: just as now each rabbi provides the explanation to each of his students according to his needs and abilities—for some of them, the main ideas, and the rest they understand on their own; and others need to be taught in a simple, lengthy, manner, with comparisons (58).

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[64] See Isadore Twersky, *Introduction to the Code of Maimonides (Mishneh Torah)* (New Haven: Yale University Press, 1980), 238-39; Moshe Halbertal, *Maimonides: Life and Thought*, trans. Joel A. Linsider (Princeton: Princeton University Press, 2014), 99, 170-71; and Michaelis, "Authority and Role of the Individual Author."

[65] Fuchs, *The Geonic Talmud*, 127-9, 168. Fishman has recently likened this to the Islamic distinction between *riwayya b'il ma'ana* and *riwayya b'il lafz*; see Talya Fishman, "The Relative Authorities of Text and Tradition in Medieval Jewish Jurisprudence: Geonic Exceptionalism in Its Islamic Context," in *Religious Minorities in Christian, Jewish and Muslim Law (5th - 15th Centuries)*, ed. John Victor Tolan et al., Religion and Law in Medieval Christian and Muslim Societies 8 (Turnhot: Brepols, 2017), 27–46.

Sherira's privileging of in-person study again acts to buttress the importance of his academy.[66] While describing the study process of the early generations of rabbis, Sherira is also sending the message that his Maghribī interlocuters should really be studying in Baghdad, from him directly. And not just from *him* directly but from a *person*—it is only a *teacher* who can properly account for the students' needs.

This leads us to one final point. Yaakov begins by asking "How was the Mishnah *written*," and in his answer, Sherira says, time and time again, that the Mishnah was not written, but rather compiled and transmitted orally, just as the Talmud was later. Indeed, Sherira betrays a dismay for the written text in his *Epistle*, mentioning additional rabbinic texts that are outside of the canon simply because they were transmitted in writing and not orally (47). For Sherira, the written text is no-stand in for the human teacher, and it is quite foreign to the true nature of the Oral Torah. And yet, Sherira was certainly well aware that writing is also what enabled the spread of geonic culture and Babylonian rabbinic hegemony.[67] The tension between writtenness and orality in Sherira's *Epistle* and wider

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[66] On the ideal of in-person study in geonic education, see also Refael Shmuel Weinberg, ed., *Tshuvot Rav Sar Shalom Gaon* (Hebrew; Jerusalem: Mosad HaRav Kook, 1975), 100-1, with Brody, *The Geonim of Babylonia*, 55, and Fishman, *Becoming the People of the Talmud*, 37-42. On the privileging of face-to-face communication by Jews in this period more generally, see Arnold E. Franklin, "More than Words on a Page: Letters as Substitutes for an Absent Writer," in *Jews, Christians and Muslims in Medieval and Early Modern Times: A Festschrift in Honor of Mark R. Cohen*, ed. Arnold E. Franklin et al., Christians and Jews in Muslim Societies 2 (Leiden: Brill, 2014), 287–305. This point is mentioned in passing in Fishman, *Becoming the People of the Talmud*, 244 n. 88, in the name of David Sklare. In a more recent article, Fishman has returned to this point (Fishman, "The Relative Authorities of Text and Tradition"), although without addressing all of the ways in which Sherira's political preference for in-person pedagogy impacted his description of the history of the Mishnah. See also Ben Shahar, "Books, Commentators, and the Democratization of Knowledge."

[67] Thus, in addition to the vast number of respona and epistles penned by Sherira, see for example his mentioning of the halakhic monographs or commentaries authored by his son, Hayya, and sent to communities abroad (e.g., Gil, *Ishmael*, doc. 33 ll. b 1-9). For the Geonic insistence on oral transmission, see also Fuchs, *The Geonic Talmud*, 55-7; Brody, *The Geonim of Babylonia*, 156-61. Indeed, some scholars suggest that the Babylonian Talmud was only written down to allow for its promulgation outside of Babylonia. See Fuchs, *The Geonic Talmud*, 57-9; Fishman, *Becoming the People of the Talmud*, 11 and Chapter 1; Sussman, *Oral Law*, 328 fn. 29; Brody, *The Geonim of Babylonia*, 157 note 7. Daphna Ephrat and Yaakov Elman ("Orality and the Institutionalization of Tradition: The Growth of the Geonic Yeshiva and the Islamic Madrasa," in *Transmitting Jewish Traditions: Orality, Textuality, and Cultural Diffusion*, ed. Yaakov Elman and Israel Gershoni [New Haven:

oeuvre is therefore somewhat tragic: the success of the Geonim is what leads to their own undoing. The great length of *The Epistle* stems from Sherira's fear of what writing has wrought, and the rather simple, straightforward question with which we started—"how was the Mishnah written?"—is a threatening one when read by the Babylonian Gaon.

Indeed, I would suggest that the encounter with rabbinic literature as written texts may be what instigated Yaakov's questions.[68] It is, as of yet, unclear how exactly the shift in the medium of rabbinic texts from oral to written impacted not only the politics of rabbinic leadership, but also the kinds of questions which rabbis asked.[69] But it is certainly clear that this shift did cause a change,[70] one which is noted quite explicitly by Yaakov's son, Nissim, in

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Yale University Press, 2000], 107–37) view the emphasis on oral transmission as a "conscious resistance" against the written culture that prevailed in Baghdad at the time; cf. Fishman, *Becoming the People of the Talmud*, 35. On the tension between written copies of the Oral Torah and oral transmission in the Babylonian academies, see also Shlomo Naeh, "The Structure and Division of 'Torat Kohanim' (A): Scrolls," *Tarbiz* 66, no. 4 (1997): 483–515 (509), and the material discussed above in Chapter Five.

[68] For the study of rabbinic works from physical copies in Qayrawan, see for example the question posed to Hayya Gaon concerning reading Talmud by candle light on the Sabbath, T-S K27.34, printed in Shraga Abramson, *Studies in Geonic Literature*, ed. Robert Brody (Hebrew; Jerusalem: The Magnes Press, 2020), 49; Tsvi Groner, "A List of Rav Hai Gaon's Responsa," *Alei Sefer: Studies in Bibliography and in the History of the Printed and the Digital Hebrew Book*, no. 13 (1986): 1–123 (16 with note 6); see the discussions of this responsum in Fuchs, *The Geonic Talmud*, 64-5; Fishman, *Becoming the People of the Talmud*, 244 n. 86; Nahman Danzig, "Mi-talmud al peh le-talmud be-khtav," *Sefer ha-Shana Bar Ilan* 30–31 (2006): 49–112 (66 with note 62); and Ben-Sasson, *Qayrawan*, 157 and 240. For discussions of authoritative texts of the Talmud and related works that were prepared in Qayrawan, see Danzig, "Mi-talmud al peh le-talmud be-khtav," 74; Fishman, *Becoming the People of the Talmud*, 67-8; Robert Brody, "Li-hidat arikhato shel seder rav amram gaon," in *Knesset Ezra: Literature and Life in the Synagogue - Studies Presented to Ezra Fleischer*, ed. S. Elizur et al. (Jerusalem: Yad Izhak Ben-Zvi Press, 1994), 21–34 (32-3); and Roni Shweka, "The Bologna Fragments of *Halakhot Gedolot* and Their Relation to the Italian Textual Tradition of the Book," in *Medieval Hebrew Manuscripts Reused as Book-Bindings in Italy*, ed. Mauro Perani, European Genizah Texts and Studies, 6; Studies in Jewish History and Culture, 69 (Leiden and Boston: Brill, 2022), 306–20 (308-9). On the importance of Qayrawn as a center for the production of Islamic texts in this period, see Jonathan E. Brockopp, *Muhammad's Heirs: The Rise of Muslim Scholarly Communities, 622-950*, Cambridge Studies in Islamic Civilization (Cambridge: Cambridge University Press, 2017).

[69] For a crucial study of how inscription changed the questions posed of certain Jewish texts, see David Stern, "The First Jewish Books and the Early History of Jewish Reading," *The Jewish Quarterly Review* 98, no. 2 (2008): 163–202.

[70] Thus for example certain questions posed by Yaakov to Sherira engage in specifically textual matters concerning version; see Fuchs, *The Geonic Talmud*, 92 and 157, and the responsa brought by Fuchs on pages 384 and 456. Fuchs notes an increase attention given to issues of textual version in the works of the later Geonim, instigated by the type of questions that they received from foreign interlocuters who encountered the Talmud in writing (*The Geonic Talmud*, 174-77). See also Lewin, *Iggeret Rav Sherira Gaon*, xi-xii. While Hayya already composed a partial commentary on the Talmud, it is in Qayrawan that we first begin to see the creation

the opening to his *Sefer ha-Mafteach*—what is probably the first index of the *Talmud*, written "because those who studied the Talmud no longer knew the Talmud by heart";[71] that is, in the view of Nissim, the study from physical exemplars creates new issues for learners, and seemingly, new questions.[72] And perhaps it is this encounter that leads one to ask—for the first time that we know of—"how was the Mishnah written?"[73] The intermediation of the Mishnah thus results in a turn to history. And while the need for history is a threat to the hegemonic power figures (i.e., the Geonim), it also provides them with an opportunity to argue for their preeminence.

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of organized and extensive Talmud commentaries, see Fishman, *Becoming the People of the Talmud*, 67, and, extensively, Yosaif Mordechai Dubovick, "Rabbenu Hananel and the Geonim of Babylonia: Rabbenu Hananel's Commentarial and Legal Methodology" (Hebrew; Ph.D. dissertation, Bar-Ilan University, 2015). This too, I suggest, stems from an engagement with written copies.

[71] Jacob Goldenthal, ed., *Clavis Talmudica auctore Rabbi Nissim ben Jacob* (Wien: K. K. Hof und Staats-Druckerei, 1847), 3b-4a.

[72] Yehudah Brandes ("Rav nissim gaon vi-arichat ha-talmud," *Netuim* 14 [2007]: 117–30) has shown that Nissim understood the Babylonian Talmud to have been written by its authors in one fell swoop and with an overarching vision. This understanding has a crucial impact on the nature of Nissim's commentary in that, unlike the earlier geonic commentaries, but much like the later European commentaries of Rashi and his (biological and/or intellectual) descendants the Tosafists, it leads Nissim in his commentary to take every relevant Talmudic passage into account and seek to harmonize them. Brandes stops short of explaining why it is that Nissim reached this conclusion regarding the creation of the Talmud, particularly given that it is extremely likely that he was familiar with the account in Sherira's *Epistle*. I would suggest that Nissim's understanding is a result of his encounter with the Talmud's newfound artifactuality (in note 9 on page 119, Brandes explicitly states that Nissim's perception of the Talmud as having been physically written by its compilers is irrelevant). A medieval Hebrew translation of the introduction and first three tractates of the Judeo-Arabic original of Nissim's *Sefer HaMafteach* was published from Vienna, hebr. MS 33 in Jacob Goldenthal, ed., *Clavis Talmudica auctore Rabbi Nissim ben Jacob* (Wien: K. K. Hof und Staats-Druckerei, 1847); the relevant portion of the introduction can be found on pages 3b-4a. Goldenthal's text was later re-printed in the Vilna edition of the Babylonian Talmud. Numerous manuscript fragments of the original Judeo-Arabic text have since appeared, most of which were published in Shraga Abramson, *R. Nissim Gaon: Libelli Quinque* (Jerusalem: Mekize Nerdamim, 1965). No such fragments of the relevant section of the introduction have yet to appear. It should be noted that Nissim mentions written copies of the Talmud in his *Sefer haMafteach* at least twice; see Israel M. Ta-Shma, *Talmudic Commentary in Europe and North Africa - Literary History*, 2nd ed., vol. Part One: 1000-1200 (Hebrew Jerusalem: The Hebrew University Magnes Press, 2000), 141 note 45.

[73] The aritficatuality of these texts for Yaakov may also have led him to ask questions of the Mishnah's internal order, a question which did not particularly bother Sherira, see Lewin, *Iggeret Rav Sherira Gaon*, 34. See also above, pg. 92.

9. *Conclusion*

Sherira's *Epistle* of either 986 or 987 was to have a lasting impact on future histories of the Oral Torah. Mapping its reception is far beyond the scope of this Chapter, but suffice it to say that the popularity of *The Epistle* is apparent in the influence it has had on all later histories of the formation of the classical rabbinic canon and the rabbinic and geonic periods,[74] and that it is also apparent from the relative abundance of textual witnesses: the Cairo Genizah has preserved fragments from at least six copies, and eleven complete or abbreviated manuscripts of *The Epistle* are located in European and American libraries, having originally been created in a variety of medieval Jewish communities, even quite quickly after the letter was first sent.[75] Here, we saw that some of the central elements of Sherira's depiction of the Mishnah are specific products of his own religious milieu and political climate. We focused first on the belief in the Mishnah's divine nature, which has a long history before Sherira's time and may have been influenced by Muslim notions of the Quran. We then looked at the political picture that Sherira paints of Rabbi Judah *ha-Nasi*, arguing that it in fact stems from Sherira's own precarious situation and tragic view of Jewish history. Upon further analysis, it became clear that much of the rhetoric which scholars recognized in the second half of *The Epistle* is also present in the first half, where Sherira supposedly presents a neutral history

[74] See, for example, Abraham Ibn Daud, *Sefer Ha-Qabbalah (The Book of Tradition)*, ed. Gerson D. Cohen, Judaica: Texts & Translations, First Series 3 (Philadelphia: Philadelphia: Jewish Publication Society of America, 1967), L-LVI; Menahem ha-Meiri, *History of the Oral Law and of Early Rabbinic Scholarship*, ed. Shlomo Zalman Havlin (Hebrew; Euclid: Ofeq, 2006), כח. Note, however, that *The Epistle* seems not to have influenced Rashi in his commentary to the Talmud, see Barak S. Cohen, "Rashi's Historiographical Concepts About the Babylonian Amoraim," *Jewish Studies, an Internet Journal*, no. 6 (2007): 55–73.

[75] Thus, the Berlin manuscript was produced already in Southern Italy in the 11th century (see Edna Engel, "MS Berlin 160: Its Date and Origin," *Italia* 11 [1994]: 53–55)—within a century of *The Epistle* first begin sent. Indeed, Ta-Shma has argued that the corpus of geonic responsa in this manuscript came from the early years of Hayya's career, before he became Gaon in 1006; see Israel M. Ta-Shma, *Creativity and Tradition: Studies in Medieval Rabbinic Scholarship, Literature and Thought* (Cambridge: Harvard University Center for Jewish Studies, 2006), 72.

of rabbinic literature and the creation of the Mishnah but is in fact creating a history of the Mishnah that buttresses his own position of power.

In addition, by comparing Sherira's *Epistle* with the writings of Se'adyah, we have seen that in the closing decade of the first millennium, the idea of the Mishnah and the question of its history and origins became central aspects of Rabbanite and Qaraite identity. One central aspect of Qaraite identity hinged on arguing *against* the Mishnah, thus furthering its importance for Rabbanite identity, and leading to increased Rabbanite attention to the Mishnah's history and textuality—a dynamic not so different from the one we saw in Chapter Four when analyzing the place of the Mishnah in Jewish-Christian polemics (though with quite different results). In Sherira's *Epistle*, we saw that the history of the Mishnah became an avenue for intra-Rabbanite power struggles, as Sherira used the model of Judah and his Mishnah to present his own views of the ideal structure of rabbinic authority, power, and textuality. Thus, as we have seen, both dynamics—the use of the Mishnah for inter- and intra-religious polemics—continue trends in the Mishnah's reception history outlined in prior chapters. It is beyond the scope of this dissertation, however, to spell out the ways that these dynamics foreshadow the use of the Mishnah in yet later periods, for just as Sherira identifies in his *Epistle* with Rabbi Judah *ha-Nasi*, so will important rabbis in generations after him, from Maimonides in 12th century Egypt to Joseph Karo in 16th century Safed.[76]

[76] On Maimonides' identification with Judah, see above note 64. On Karo and Judah, see Moshe Idel, "Some Concepts of Mishnah among Sixteenth-Century Safedian Kabbalists," in *The Mishnaic Moment: Jewish Law Among Jews and Christians in Early Modern Europe*, ed. Piet van Boxel, Kirsten MacFarlane, and Joanna Weinberg, Oxford-Warburg Studies (Oxford: Oxford University Press, 2022), 68–86.

Conclusion

The Transmission of the Mishnah and the Spread of Rabbinic Judaism

1. *Introduction*

In what follows, I will attempt to summarize the findings of the prior chapters while also returning to the questions I posed at the outset of this dissertation, and especially, how—and why—did people care for the Mishnah, and what does this teach us about the spread of Rabbinic Judaism? After summarizing the results of this study, I will detail what I view as some of this dissertation's main methodological innovations, describe several avenues of further research, and outline a program for what I will term a "Critical Philology" of rabbinic literature.

2. *Summary*

In the first chapter, we saw that while there may not be sufficient evidence to support the traditional association of the Mishnah with Rabbi Judah *ha-Nasi*, there is quite a bit of evidence to associate the Mishnah with the incipient Patriarchate. I argued that this can be seen via the presentation of members of this circle and their views in the Mishnah and by the continued role that this circle had in modifying the text of the Mishnah over the course of the third century. We saw that this is similar to the evidence for the incipient Patriarchate's role in the editing of other early rabbinic works—namely, the tannaitic *midrashim*—particularly as they are preserved in the more accurate of the medieval manuscripts. The comparison of the different nature of this editorial work highlighted a difference in medium—the Mishnah was created and promulgated as an oral work, whereas the *midrashim* were at least edited

and *also* preserved, already at an early stage, in writing. By bringing into account other data concerning the institutionalization of the Palestinian rabbis in the third century and the role of the Patriarchate in the promulgation of rabbinic knowledge, I argued that these differences relate to what was one of the initial goals of the Patriarchate in disseminating the Mishnah: to create a work that would serve as a canonical and common base-curriculum for Jewish study. The association with Judah could therefore be somewhat historically accurate; at the very least, it would have rhetorically served to buttress the Mishnah's authority as well as that of the Patriarchate.

In the second chapter, we saw that by the end of the fourth century (if not earlier), rabbinic texts do present the Mishnah as such a binding document. Palestinian rabbis not only engaged in the intense study of the Mishnah, but also presented Mishnah study and Mishnah memorization as ideals to be fulfilled by all Jewish males. Indeed, there is not a small amount of incidental evidence from the late-tannaitic and amoraic Palestinian works, particularly in the early manuscript evidence, to say that the Mishnah was memorized by the immediate audiences of these works. We also saw that the nature of the study of the third-fourth century Palestinian rabbis underwent a process that can be termed "Scholastic Scripturalization," in that a "verbal economy" is eventually assumed with regards to the Mishnah, and the work is then studied using hermeneutical principles borrowed from the rabbinic study of the Hebrew Bible.

This "Scholastic Scripturalization" achieves an even more elevated state in the depiction of the Babylonian rabbis in the Babylonian Talmud. Relatedly, we noted also that Babylonian Rabbis did not highlight the importance of memorizing the Mishnah, preferring analytic depth. In our discussion of the Babylonian rabbis, I noted that the Patriarchate's

authority may have also allowed for the initial promulgation of the Mishnah in Babylonia, as the early sages of Babylonia were few and mostly had close ties with the Palestinian center. Further, the evidence from the Babylonian Talmud and its manuscript tradition allowed us to see that the Mishnah was promulgated at multiple points in the early third century, in that the base version in these sources is often "earlier" than that in Palestinian ones. And lastly, moving outside rabbinic texts proper, we saw evidence—in writing—for the appearance of the Mishnah in incantations. The cited text likely made its way into the incantations not directly from knowledge of the Mishnah, per se, but as this section of the Mishnah, Zevahim V, appears in the daily liturgy. Nevertheless, its use in liturgy and in incantations serves as early evidence for the reception of the Mishnah outside of the immediate circles of rabbis and their students and sheds light on "Non-Scholastic" forms of Scripturalization of the Mishnah.

In Chapter Four, we saw that the evidence for the presentation of the Mishnah and its study can complement our knowledge of rabbinic institutions in post-Talmudic Palestine. In this period, the Mishnah held significant roles in various levels of rabbinic study: both at elite levels, in that it informed halakhic decisions, and, as presented in homiletic and other works, in more widespread forms of study, at times in what can be termed liturgical contexts. The Mishnah became a source also for an ever-wider array of knowledge, informing not just practice, but also religious ideologies and political ideals. This, I argued, can partially be explained by polemics with Christians, in that the Mishnah became the sole work that Jews could maintain as exclusively their own, in contrast to the Bible. We also saw that in this period—that is, the 6th-7th centuries, if not slightly earlier and later—there are signs of the

Mishnah's transmission in writing and of its presence in geographic centers outside of Palestine and Babylonia.

The remaining chapters focused primarily on the Middle Ages, yet this evidence drew the discussions of earlier material into sharper focus. In Chapter Five, on the medieval Islamic world, we saw how many of the dynamics dividing the receptions of the Mishnah in Babylonia and Palestine continued to exist deep in the Middle Ages, yet now, given the wider geographic spread of rabbinic Judaism and the increased use of written media in transmitting rabbinic texts, the Mishnah was studied by far more people and across different levels of study. We saw that the Mishnah began to be incorporated in primary modes of education, on the basis, however, of pedagogical models inherited from Late Antiquity. Further study of the Mishnah could then be used by Jewish males to move up in Jewish society, in particular as rabbinic sub-elites—often times men who were elites in other ways, i.e., as businessman or political leaders—may have used Mishnah study as a way to create social bonds and to signal their piety. While this was facilitated by the availability of written copies of the Mishnah, we saw that in both reality and in polemics, oral study of the Mishnah remained significant. In Chapter Six, on evidence from Southern Italy and elsewhere in Christian Europe, we saw that the Palestinian practice of *elite* Mishnah study retained its vitality into the 11th century (if not later). With that, by focusing on the manuscript evidence for study of the Mishnah, we saw that the rise in Babylonian hegemony in Christian Europe may have occurred in significant ways at the level of primary education, again implying that, over time, elementary education was a central avenue for the spread of specific forms of rabbinic ideology and practice.

While we encountered evidence for the liturgical recitation of the Mishnah already in Chapters Three and Four, we turned to this evidence more deliberately in Chapter Seven, primarily basing our discussion on manuscript evidence. Recitation of the Mishnah eventually became a feature of all the various Jewish rites, although we noted that at an early stage in the history of Jewish liturgy, there is more evidence for liturgical Mishnah recitation in the Palestinian rite. This, I argued, relates to the centrality of the Mishnah in Palestinian rabbinic culture, but as we also saw, in later stages in the evolution of Jewish liturgy, the practice of Mishnah recitation increased for unrelated reasons. I further argued that the liturgical use of the Mishnah is a key element in the Mishnah's "Scripturalization," betraying a belief in the ritual efficacy and importance of the Mishnah while simultaneously buttressing this view.

Finally, in Chapter Eight, in our analysis of Sherira's *Epistle* and related sources, we saw that the creation of a history of the Mishnah served a crucial role in the creation of medieval Jewish identities. Sherira and others used the idea of the Mishnah and the imagined history and goals of the Mishnah in order to articulate a vision of *how Judaism should look*. While it is difficult to trace the extent to which these views would spread beyond elite circles, Sherira's *Epistle* was extremely popular and influential, and his models of rabbinic literary history and authority were widely adopted.

3. *The Transmission of the Mishnah and the Spread of Rabbinic Judaism*

How, then, may the Reception History of the Mishnah shed light on the history of Rabbinic Judaism and its spread? On the most basic level, by their very nature, the prior chapters allow us to trace the avenues through which rabbinic literacy and ideologies spread over the

course of the first millennium; it is thus thanks to this detailed analysis that we can have barometers for the spread rabbinic ideals. We must acknowledge, however, that *literacy in rabbinic texts* is a rather high bar for "fealty to Rabbinic Judaism": we can certainly entertain situations in which such fealty comes without much literacy, as in the story of "Issachar" and his friends that I relayed in the Introduction to this dissertation. And yet, the focus here on the Mishnah allows us to point to certain key moments and dynamics.

In light of what we have seen above, one of the central dynamics *allowing* for the spread of Rabbinic Judaism is precisely *the articulation of the idea of a rabbinic corpus*. By this I do not (only) mean that Rabbis present themselves as experts. Rather, we have seen throughout this dissertation that rabbis and related figures made the case—both in texts they wrote to themselves, and increasingly, over time, in outwardly facing texts—that *the rabbinic corpus is a defining element of what it means to be Jewish*. Further, this articulation of what Judaism is comes with points of entry that are accessible at various levels. For a central element of this articulation is that all Jewish males can have access to what was understood in most premodern settings to be the primary text of this corpus—the Mishnah. It is precisely the notion of a shared corpus, which at times is polemically emphasized as being shared *only* by Jews, that allows for the creation of a community that cuts across regions, subcultures, levels of literacy, and socioeconomic classes. We have further seen here that two central sites for the furthering of this ideology are the synagogue and the intimately related setting of primary education, as we saw that the Mishnah was inserted into both settings via sermons, liturgy, and curricula likely even prior to its eventual spread to other levels and forms of study. The final stage of the Mishnah's spread, more properly into sub-

elite study, was occasioned by the increased turn to written transmission of the Mishnah in the Middle Ages.

In brief, we have seen that the creation and articulation of a corpus, one that is shared by experts and by non-experts alike, in various settings and media, enables the spread of a specific form of religious ideology. The process by which this occurs is lengthy, but there are specific inflection points along the way, ones that relate to the history of religious institutions, to changes in media, and to the rise and fall of political structures.

4. *Methodological Innovations of this Dissertation*

I will now summarize what I believe to be some of the main methodological insights of this study. At the most basic level, as I mentioned in the Introduction, the chief methodological insight relates to the focus on the history of rabbinic works, in this case the Mishnah, to shed light not on the changes to the works' text and language, but on the ways in which they were studied and cared for over time. This, I argued, can serve to help us better understand wider changes in terms of religious practice and ideology.

In order to map the Mishnah's history, I made use of a series of sources and methods that are rarely ever approached or utilized in tandem. While the majority of our sources can be considered "rabbinic," the understanding of what a rabbinic source *is* has been looked at quite expansively, to incorporate a wide array of subgenres of rabbinic sources from different regions and from a wide range of time. In addition, these sources were looked at alongside liturgical poetry—which has only rarely been used by rabbinicists—as well as alongside Christian sources, documentary sources, and at times alongside archeological

evidence. Casting this wide net allowed us to see how the Mishnah was not only studied, but also how it was perceived and presented by different groups of Jews over time.

While increasing the size of the corpus, I also analyzed these texts from a variety of angles, by utilizing the methodological insights of textual critics, linguists, codicologists, paleographers, and historians. This interdisciplinary approach proved extremely helpful when analyzing the manuscript evidence, as it allowed us to highlight when this material can be used to understand moments of late antique reception of the Mishnah and when, alternatively, it can shed light on the Mishnah's medieval reception. As such, one central argument of this dissertation is that there is a need to reassess the disciplinarity of Jewish Studies: the current disciplinization of the field, apparent in everything from academic training to the creation of manuscript catalogues, impedes our ability to assess key aspects of Jewish History.[1]

I will return to the issue of method and disciplinarity below, when outlining a program for the "Critical Philology" of rabbinic literature. But first I would like to point to a few specific avenues of further research that immediately stem from the findings of this dissertation.

[1] For just one example, the antiquity of many aspects of the Mishnah's reception outlined here—in particular, ones relating to "Scripturalization," ritual efficacy, liturgical recitation, and Jewish identity—have been underappreciated, in my opinion, in recent studies of the Mishnah's Early Modern reception, e.g., Moshe Idel, "Some Concepts of Mishnah among Sixteenth-Century Safedian Kabbalists," in *The Mishnaic Moment: Jewish Law Among Jews and Christians in Early Modern Europe*, ed. Piet van Boxel, Kirsten MacFarlane, and Joanna Weinberg, Oxford-Warburg Studies (Oxford: Oxford University Press, 2022), 68–86; and Amnon Raz-Krakotzkin, *Mishna Consciousness, Biblical Consciousness: Safed and Zionist Culture* (Hebrew; Tel-Aviv: The Van Leer Institute and Hakibbutz Hameuchad, 2022).

5. *Avenues of Further Research*

Alongside the focus on the Reception History of the Mishnah, I had reason, at various points in this dissertation, to discuss some of the questions that this kind of work would entail with regards to the tannaitic *midrashim*,[2] the Palestinian Talmud,[3] and the Babylonian Talmud.[4] Each of these works, as well as the Tosefta and aggadic *midrashim*, warrant their own dedicated studies along the lines of the one I presented here.

An advantage of a *longue durée* study is that it allows scholars to isolate certain inflections points in a given historical arc that need further research. This dissertation has revealed several inflection points in the history of Rabbinic Judaism that merit such in-depth studies. The first is the institution of the Jewish Patriarchate. While the Patriarchate has been the topic of countless studies, even some quite recently,[5] it is clear that the many questions remain outstanding. For example, it is unclear just how unique this institution was in its Roman context: Did any other religious minorities organize under the leadership of a single dynasty with trans-regional authority? What does the institution's eventual rise teach us of the nature of Roman rule in the Near East? While earlier scholarship understood the Patriarchate as a direct continuation of centralized and Roman-recognized institutions of Jewish self-rule, over the past decades, such a model has rightfully been dismantled. And yet, explanations for the institution's eventual recognition by Roman emperors in the fourth century and the nature of its actual power have yet to appear. Further, as I noted, the Patriarchate had a complicated and dynamic relationship with the rabbis responsible for the

[2] E.g., above, pg. 40.
[3] E.g., above, pg. 132, and at length in Chapter Six.
[4] E.g., above, pg. 133 fn. 141.
[5] See the references above, pg. 21 fn. 1.

creation of classical Rabbinic Literature.[6] Unpacking this ambivalence and comparing it to the other evidence we have for the Patriarchate will help us better understand how 'Judaism' was defined—by Jews and by others—in antiquity, as religious identities crystalized in the context of the Roman Empire. Similarly, analyzing Christian attitudes towards the Patriarchate will further our understanding of the uniqueness of the Jews in Western society and their place in Christian political and legal thought. The first chapter of this dissertation, on the Patriarchate's role in the creation and dissemination of rabbinic literature, as well as the final chapter, which partially addresses the perception of the Patriarchate in the Middle Ages, began to answer some of these questions, but far more work is needed.

Similarly, while the fourth chapter did shed light on important aspects of Jewish identity and institutions in Byzantine and Early Islamic Palestine, it is clear that yet more work needs to be done on this critical period in Jewish History. Indeed, wider historiographic shifts in the study of the ancient world, the constant discovery of additional archeological remains, and the ongoing publication of long-lost texts from late antique Palestine have all led to a massive shift in the way that we understand this period in Jewish History. If a 'Dark Age' was once thought to have begun following the demise of the Patriarchate in the early 5th century and to have continued until the turn of the millennium, scholars have now recognized that this period was a crucial one for the spread of Rabbinic Judaism and the formation of Jewish institutions and cross regional networks.[7] And yet, no study addressing and synthesizing the myriad evidence has appeared, let alone one that takes into account the

[6] See above, pg. 102.

[7] See especially Lee I. Levine, "Between Rome and Byzantium in Jewish History: Documentation, Reality, and the Issue of Periodization" (Hebrew), in *Continuity and Renewal: Jews and Judaism in Byzantine-Christian Palestine*, ed. Lee I. Levine (Jerusalem: Dinur Center for the Study of Jewish History, Yad Ben-Zvi Press, The Jewish Theological Seminary of America, 2004), 7–48.

massive political shifts that occurred in the Mediterranean world at this time and their impacts on Jewish life and practice.[8]

Two additional topics relate to medieval communities located outside the Land of Israel. The community of Qayrawan is the focus of an authoritative monograph based on an incredible amount of documents from the Cairo Genizah.[9] While there is no need, therefore, for a monograph-length study of this community, I do believe that we have seen here that there is a need for a study specifically focused on the role played by members of the Qayrawanese community in the spread of Jewish knowledge, particularly vis-à-vis the production of manuscripts of rabbinic works.[10] Lastly, we have seen here, particularly in Chapter Six, that there is a need for an in-depth study of the Jewish community of Southern Italy. Located at a geographic and cultural crossroads, this Mediterranean community served as a crucial conduit for the spread of Rabbinic Judaism from the Near East into Europe over the course of Late Antiquity and the early Middle Ages. By taking advantage of the relatively robust archeological evidence from this region, the writings of contemporary Christians, as well as a diverse array of Jewish literary texts—spanning, as we have seen, the genres of piyyut, liturgy, historiography, *halakha*, and midrash—such a study will allow us to reconstruct the historical origins of Rabbinic Judaism in Europe.

[8] Indeed, this period has mostly been skipped in *CHJ* IV-VI.

[9] Menahem Ben-Sasson, *Emergence of the Local Jewish Community in the Muslim World: Qayrawan, 800-1057*, 2nd ed. (Hebrew; Jerusalem: Magnes Press, 1997).

[10] See above, pg. 310 fn. 68.

6. *Towards a Critical Philology of Classical Rabbinic Literature*

Before concluding, I would like to return one last time to the issue of method. As will become apparent below, in addressing this issue of method, I must mention my own embeddedness in specific methodological traditions, chief among them the discipline referred to as "Talmudic Philology." I mentioned above my indebtedness in this dissertation to the methodological insights of scholars from various additional fields, and in the Introduction to this dissertation, I highlighted that this interdisciplinary approach is in keeping with certain trends in Book History and related fields. None of the current articulations of these fields, however, fully capture what I believe to be some of the most pressing issues in the study of classical rabbinic literature.

The term I would like to offer in order to better articulate the methodology presented here is "*Critical Philology*." To be sure, this term is not entirely new,[11] but I believe that it is crucial to articulate the goals of such a method/field, particularly as it can relate to the study of rabbinic literature. In choosing the adjective "Critical,"[12] I am inspired in part by the term "Critical Bibliography," coined by W. W. Gregg in 1912 and reintroduced almost a century later by Michael Suarez, Donna Sy, and Barbara Heritage.[13] As such, the "Critical" in "Critical Philology" captures the following elements of the scholarly practice I present in this dissertation: (1) an acknowledgement of the importance of philology in the sense of "textual curatorship,"[14] yet while reflecting critically on the methodological limitations of this

[11] In what follows, I am particularly indebted to Islam Dayeh, "The Potential of World Philology," *Philological Encounters* 1, no. 1–4 (2016): 396–418; Dayeh himself uses the term "Critical Philology" at several points in this essay. I would also like to thank Dr. Dayeh for discussing several of these issue with me.

[12] And not, "*Material*"—as these insights do not always relate to material aspects of manuscripts; and not "*New*"—as none of this is necessarily new; what is "new," if anything, is only the specific articulation.

[13] See above, pg. 19 fn. 38.

[14] For the definition of "textual curatorship," see Hans Ulrich Gumbrecht, *The Powers of Philology: Dynamics of Textual Scholarship* (Urbana: University of Illinois Press, 2003).

practice; (2) a focus on manuscript evidence, yet in a manner that goes far beyond the questions of classical philology, using the evidence to ask questions that are of critical importance for the study of history.

Throughout this dissertation, we saw numerous examples of the ways in which the evidence provided by manuscripts and by other textual witnesses, when coupled with explicit discussions of the works in question, can be used to shed significant light on the ideals, the identities, and the human relationships of the people who cared for these works. A Critical Philology places these issues at the center and asks questions that are mostly absent from traditional philological projects. I offer here several possible lines of inquiry by way of example, focusing at times on the work that can be done with classical rabbinic literature:

a) *The Possibilities and Limits of Catalogues*: Much of the information analyzed in this dissertation was obtained thanks to the crucial, Herculean efforts of cataloguers of medieval Hebrew Manuscripts. Yet the evidence employed here is not that which the cataloguers necessarily set out to find: as noted, the chief goal of Sussman's *Thesaurus of Talmudic Manuscripts* was to serve as a preliminary step towards creating critical editions of rabbinic texts. Borrowing from the work of bibliographers, Critical Philology uses catalogues for the information that they provide for the *reception* of works, even if that is not the primary intention of a given catalogue.

b) *Bad Manuscripts*: Immediately related to the question of what merits cataloguing is the question of the utility of "bad" manuscripts.[15] While at times uncatalogued,[16] and at other times, catalogued so as to be avoided in stemmatics, "bad" manuscripts call attention to the fact that they were created by *people*—people who worked hard, but who nevertheless made mistakes, as humans do. And yet it is precisely through mistakes that a manuscript can reveal the ways in which communities of people have received a work, for mistakes are signs of use, and as they must be explained, mistakes can open windows onto why and to how a work may have been cared for by its consumers. A Critical Philology would ask what is catalogued as "bad," and why, asking also what has remained uncatalogued, and why. As we have seen here, such manuscripts can be crucial for studying wider intellectual, historical, and religious trends, and the reasons for their exclusion also merit study.[17]

c) *Good Manuscripts*: We should not kid ourselves, however, into thinking that the "good" manuscripts do not also bear signs of reception, as if they are somehow pristine, objective windows onto an ur-text. This is obvious to any textual critic (when they think about it). And yet it still bears repeating, even emphasis, particularly as we attempt to rid our language of terms like "corruption" and to see how *all* manuscripts can convey evidence

[15] See, for an important example of their utility, Marina Rustow, *The Lost Archive: Traces of a Caliphate in a Cairo Synagogue*, Jews, Christians, and Muslims from the Ancient to the Modern World (Princeton and Oxford: Princeton University Press, 2020), 392-94.

[16] As I noted, for example, in the case of pen trials, which can provide crucial information on the mindset of scribes and on the reception of various works; see above, pg. 175 fn. 86.

[17] This is true also of "less-good" manuscripts. For example, philologists, particularly linguists, will often rely almost exclusively on Kaufman A50 to know "what it says in the Mishnah" or to isolate aspects of Mishnaic Hebrew. In Chapter Six, we based our discussion of the reception of the Mishnah in Southern Italy on its older relative, Parma 3173. The text-type of this manuscript, as textual critics have shown, may even be a descendant of that of Kaufman A50, and linguists have shown that its scribe often did a "worse" job of preserving authentic forms of Mishnaic Hebrew. And yet, as we saw, in its mistakes, it opened windows onto the reception of the Mishnah, teaching us how a scribe may have learnt the Mishnah in his youth, and more.

of reception. For also when a scribe is "getting something right," significant effort may have been employed. And while "correctness" does not call attention to itself in the same way that "corruption" does, it also warrants explanation.[18]

d) *Premodern Philology*: Much of our perception of a manuscript as "good" or "reliable" has to do with received notions of philological practice: as textual critics are always already themselves embedded in a textual tradition, they have a notion of what correctness looks like. And when a premodern scribe creates a text in line with those notions, the present-day editor may fail to notice the work that has been done. It is therefore crucial that Critical Philologists examine premodern notions of philology in order to better assess the manuscript evidence, remembering also that the *manuscript itself* already bears signs of these premodern notions.[19]

e) *Interdisciplinarity*: A "Critical Philology," as is clear, seeks to use a range of methods to study ancient texts, incorporating an ever-expanding array of traditional and digital tools from various disciplines of the humanities. We must therefore continuously ask, what additional tools may be incorporated?[20] And how might the evidence of ancient works and their reception speak to larger historical issues?[21]

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[18] To return to the example of Kaufman A50 mentioned in the prior note: what allowed its creators, over several decades, to get so much right? Is it because they were not "as learned" as the scribe of Parma 3173, as is often concluded? Or is it possible that they were just that much more learned, and thus able to get things right? If so, how did they attain this knowledge? Or maybe our notions of what the text and the linguistic forms must look like are already so indebted to the philological work of the medieval scribes that we are convinced by them, even though they too—like us—were only ever making educated guesses as to what the ancient text should have looked like?

[19] For an example of such work, see Elitzur A. Bar-Asher Siegal, "Are Literary Languages Artificial? The Case of the Aramaic of the Zohar," *Aramaic Studies* 18, no. 1 (2020): 1–22.

[20] One example of this work is Hayim Lapin, "Towards a Digital Critical Edition of the Mishnah," in *Envisioning Judaism: Studies in Honor of Peter Schäfer on the Occasion of His Seventieth Birthday*, ed. Ra'anan S. Boustan et al., 2 vols. (Tübingen: Mohr Siebeck, 2013), 1:441–64.

[21] For examples of such work in the context of rabbinic and related texts, see Yakov Z. Mayer, "From Material History to Historical Context: The Vatican ebr. 133 Manuscript of the Palestinian Talmud" (Hebrew), *Zion* 83, no. 3 (2018): 277–321; Michael D. Swartz, "Three-Dimensional Philology," in *Envisioning Judaism*,

f) *Wider Reflections on Method*: A "critical" reflection on method is crucial both for improving our scholarly practice and as an object of study in its own right. While this is already quite obvious in some fields of philology,[22] it has been astoundingly difficult to introduce this level of reflectivity amongst philologists of rabbinic literature. Until now, the primary questions that have been asked in this field are ones of ecdotics,[23] and while ecdotics always relates to an idea of what the text is and should be,[24] these debates have rarely, if ever, reached the place of asking how modern ideologies—and not just modern technologies—have impacted philological practice.[25]

* * *

Alongside the two connotations of "Critical" raised above, i.e., the critical reflection on method, and the use of philology for issues of critical importance beyond textual criticism, there is one additional intention in the choice of this adjective. In reintroducing the term

1:529–50, repr. idem, *The Mechanics of Providence: The Workings of Ancient Jewish Magic and Mysticism*, Texts and Studies in Ancient Judaism 172 (Tübingen: Mohr Siebeck, 2018), 200-19; and Elitzur A. Bar-Asher Siegal, "Linguistics and Philology in the Study of the Epigraphic Finds from the Judean Desert: The State of the Art and Reflections on Future Studies" (Hebrew), *Lěšonénu: A Journal for the Study of the Hebrew Language and Cognate Subjects* 78, no. 3 (2016): 247–68.

[22] See e.g., various studies published in the journal *Philological Encounters*.

[23] See especially Peter Schäfer and Chaim Milikowsky, "Current Views on the Editing of the Rabbinic Texts of Late Antiquity: Reflections on a Debate after Twenty Years," in *Rabbinic Texts and the History of Late-Roman Palestine*, ed. Martin Goodman and Philip Alexander, Proceedings of the British Academy 165 (Oxford University Press, 2010), 79–88, with Yaakov Sussman, "Ve-shuv li-yerushalmi neziqin," in *Mehqerei Talmud I: Talmudic Studies*, ed. Yaakov Sussman and David Rosenthal (Jerusalem: The Magnes Press, 1990), 55–133 (92 fn. 160).

[24] See, e.g., Jerome J. McGann, *The Textual Condition*, Princeton Studies in Culture/Power/History (Princeton: Princeton University Press, 1991), 47. For a robust discussion of ecdotics in the study of Hebrew manuscripts, see Daniel Abrams, *Kabbalistic Manuscripts and Textual Theory: Methodologies of Textual Scholarship and Editorial Practice in the Study of Jewish Mysticism*, Second Revised Editison, Sources and Studies in the Literature of Jewish Mysticism 36 (Jerusalem and Los Angeles: The Magnes Press and Cherub Press, 2013).

[25] A case in point is the reaction to Yakov Z. Mayer, "'The Biggest Book of Our Generation': On J. N. Epstein's Academic Project" (Hebrew), *Katharsis* 28 (2018): 102–11, in which Epstein's philological project is connected to Zionist perceptions of books and of the Mishnah. See for example the response of Uziel Fuchs, "Review of Yaakov Sussman, Oral Law Taken Literally: The Power of the Tip of a Yod, Jerusalem: Magnes, 2019" (Hebrew), *Jewish Social Studies* 55 (2020): 209–29 (216 fn. 37), in which Fuchs argues—in Epstein's defense—for an ideology of no ideology.

"Critical Bibliography," the word "critical" was intended by Suarez and his colleagues also to convey the sense that there is a critical need to preserve certain forms of knowledge and methods—whether of paper making or of curatorial practice—that are at risk of being forgotten. I believe that this sense must be employed also as we work towards articulating a "Critical Philology." Here, too—and I can truly speak only in the context of the tradition of Talmudic philology, in which I was trained—there is also a risk of loss. The introduction of ever new knowledge, of more nuance, and of higher attention to reflection on method is crucial. But as I hope that I have shown here, we must not let the "new" do away with the "old" (or at least not entirely). We are always performing philology, and it is best that we do so responsibly.

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