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0521403456 - Structure and Form in the Babylonian Talmud

Louis Jacobs

Excerpt

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## The Babylonian Talmud: an introductory note

Although this book is a technical study of a complex literary work, it is hoped that it will be of interest to non-specialists in the field as well as to Talmudic scholars. This note provides a brief sketch of the background and the technical terms used for the benefit of readers who come to the subject without any prior knowledge.

In the scheme developed in Rabbinic Judaism, the doctrine of the Oral Torah (*Torah she-be-'al peh*) looms very large. According to this doctrine, Moses received at Sinai a detailed elaboration of the laws and doctrines contained in the Pentateuch, the Written Torah (*Torah she-bikhetav*). The Oral Torah embraces, too, the later teachings of the Sages and teachers of Israel as a continuing process. Especially during the first two centuries of the present era, the teachings of the Oral Torah were discussed and debated (an essential feature in the whole process at this period is argument on the correctness or incorrectness of this or that opinion) by the Tannaim (sing. Tanna, from the Aramaic root *teni*, 'to teach'), although this name was only given to them later. In their own day the Tannaim were usually referred to as the Sages (*ḥakhamim*). Among the more important of the Tannaim were: the rival Houses of Hillel and Shammai; Rabban Johanan ben Zakkai; Rabbi Eliezer; Rabbi Joshua; Rabbi Akiba and his disciples, Rabbi Meir, Rabbi Judah, Rabbi Simeon; and, another Judah, Rabbi Judah the Prince. As his title Prince (*Nasi*) implies, this Rabbi Judah was the political as well as spiritual leader of his people with a degree of autonomy granted to him by the Roman government. Possessing the requisite authority, Rabbi Judah the Prince was able to collect the teachings and debates of the Tannaim to form a digest of the Oral Torah. This work is known as the Mishnah (from the root *shanah*, 'to teach') and was compiled by Rabbi Judah the Prince at the end of the second, beginning of the third century CE. The Mishnah was composed in Hebrew, the scholarly language of the period, and is divided into the six Orders:

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- 1 *Zera'im*, 'Seeds' (agricultural laws)
- 2 *Mo'ed*, 'Appointed Time' (Sabbath and Festival laws)
- 3 *Nashim*, 'Women' (laws of marriage and divorce)
- 4 *Nezikin*, 'Damages' (torts, buying and selling, jurisprudence in general)
- 5 *Kodashim*, 'Sanctities' (laws of the sacrificial system in the Temple)
- 6 *Tohorot*, 'Purities' (the laws of ritual contamination and the means of purification)

The Orders of the Mishnah are divided into tractates (*masekhtot*) and these subdivided into chapters. Each chapter (*perek*) is made up of smaller units, *mishnayot* (plural of *mishnah*). Thus the term *mishnah* is used of the work as a whole and of its smallest unit; each of these being a 'teaching', and the work as a whole the teaching of Rabbi Judah the Prince.

The Hebrew of the Mishnah is consequently known as Mishnaic Hebrew. A good deal of the material (the last two Orders, for example) was of no practical significance for Jewish religious life since it deals with conditions in Temple times. Rabbi Judah the Prince compiled the Mishnah around the year 220 CE and the Temple was destroyed in the year 70 CE. Evidently, the aim of Rabbi Judah the Prince and his associates was to provide a complete digest of the whole of the Oral Torah irrespective of its practical relevance. To study the Torah was a supreme religious aim in itself quite apart from its practical consequences.

The Mishnah is not the only source of Tannaitic teachings. There are, in addition, the Tosefta, 'Supplement' to the Mishnah; the Mekhilta, 'Measure', on the Biblical book of Exodus, the Sifra, 'the Book', on Leviticus, also called *Torat Kohanim*, 'The Law of the Priests', and Sifré, 'the Books', on Numbers and Deuteronomy. These last three are known as the Halakhic Midrashim or the Tannaitic Midrashim. Other Tannaitic teachings are found in sources quoted in the Talmud known as *baraitot* (sing. *baraita*; the word means 'outside', i.e. teachings not included in the Mishnah).

Once the Mishnah had won acceptance as a canonical text, the teachers in both Palestine and Babylon devoted most of their efforts to its elucidation; hence the name by which these teachers came to be known — Amoraim, 'Expounders' of the Tannaitic teachings. The scholarly activity the Amoraim engaged in was largely in Aramaic, though, naturally, many of the legal maxims and quotes from earlier sources were in Hebrew. The Palestinian Amoraim used the western Aramaic dialect, the Babylonians the eastern dialect.

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Around the year 400 CE, the teachings, debates and discussions that took place among the Palestinian Amoraim were drawn on to form the Palestinian Talmud, also known as the *Yerushalmi* ('of Jerusalem'), although no Jews actually lived in Jerusalem in this period. There has been much discussion on the question of who the editors of the *Yerushalmi* were. There is evidence, stylistic and historical, that some sections of the *Yerushalmi* were edited earlier, and in a different centre, than others. The style of the *Yerushalmi* is, in any event, terse and, it might be said, 'choppy', so that some scholars have suggested that the work never received any final redaction and is incomplete.

A similar process of redaction took place in Babylon around the year 500 CE (the date is very approximate) to form the Babylonian Talmud, the *Bavli*. The style of the *Bavli* is much more elaborate than that of the *Yerushalmi* and, apart from a few tractates, is uniform, suggesting that the same editors were responsible for the whole work with the exception of these tractates. But even these tractates only differ slightly in style and vocabulary from the rest so that the impression is given of a co-ordinated editorial activity, though one carried out in at least two different places in Babylon. Although Palestinian Amoraim are frequently mentioned in the *Bavli* and Babylonian Amoraim in the *Yerushalmi* (naturally so since some of the Sages of each country visited the others from time to time, carrying the teachings with them), the weight of scholarly opinion is that the editors of the *Bavli* did not have before them the actual text of the *Yerushalmi*, nor did the Palestinian editors have anything like a proto-*Bavli*. If the editors of either had had reference to an actual text of the other, it is inconceivable that they would not have mentioned this. Here the argument from silence is very convincing.

The word Talmud also means 'Teaching' or 'Study' (from the root *limmed*, 'to learn') as does the Aramaic word *Gemara*, used, from the Middle Ages, as a synonym for Talmud. The material in the Talmud is of two kinds: *Halakhah* ('Law'), the legal material, embracing all the detailed rules and regulations of Jewish religious life in all its ramifications; and *Aggadah* (from the root *nagad*, 'to tell'), embracing all the non-legal topics, the theology, the history, the legends, the folk-tales and a host of other topics, anything, in fact, that is not *halakhic*. It has been estimated that the *halakhic* material comprises two-thirds of the whole work. This should not be taken to mean that there are clearly delineated sections, one of *Halakhah*,

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the other of Aggadah. The editors, usually by association or similarity of theme, often introduce a piece of *aggadah* into an *halakhic* discussion and vice versa.

When speaking of the editors of the Talmud it is necessary to appreciate that the term is not used in the Talmud itself. Indeed, the Babylonian Talmud, in all its thirty and more folio volumes (in most editions), appears as if it dropped down from Heaven intact with not the slightest indication of how and by whom this gigantic compilation was put together. Yet it is clear beyond doubt that the words of the Tannaim and Amoraim mentioned in the *Bavli* appear in an editorial framework. The anonymous teachers – the Stam-maim ('Anonymous Ones'), in David Halivni's phrase – are present everywhere, and it is the contention of this book that these unknown men are the real authors of the Talmud in the form we now have it, not, as it was and still is often thought, that they simply provided some additions to the work of the Amoraim.

The Babylonian Talmud in all current editions consists of the Mishnah, and the Gemara on each section of the Mishnah, that is, on each *mishnah* (the smallest section, as above) of the Mishnah as a whole. But properly speaking, the Talmud *Bavli* or the Gemara of the *Bavli* is the name given to the post-mishnaic material. (The Mishnah itself is, of course, a separate work compiled centuries before the *Bavli*.) There is a *Bavli* Talmud or Gemara to the Orders of *Mo'ed*, *Nashim*, *Nezikin* and *Kodashim* of the Mishnah, but none to *Zera'im* (except for tractate *Berakhot*) or to *Tohorot* (except for tractate *Niddah*). In the following table the names are given of the tractates on which there is a *Bavli*:

#### ZERA'IM

*Berakhot*

#### MO'ED

*Shabbat*, 'Eruvin, *Pesaḥim*, *Yoma*, *Sukkah*, *Betzah*, *Rosh ha-Shanah*, *Ta'anit*, *Megillah*, *Mo'ed Katan*, *Ḥagigah*

#### NASHIM

*Yevamot*, *Ketubot*, *Nedarim*, *Nazir*, *Sotah*, *Gittin*, *Kiddushin*

#### NEZIKIN

*Bava Kama*, *Bava Metzia'*, *Bava Batra*, *Sanhedrin*, *Makkot*, *Shevu'ot*, 'Avodah *Zarah*, *Horayot*

#### KODASHIM

*Zevaḥim*, *Menaḥot*, *Ḥullin*, *Bekhorot*, 'Arakḥin, *Temurah*, *Keritot*, *Tamid*

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## TOHOROT


*Niddah*

It is understandable why there is no *Bavli* to *Zera'im* since the agricultural laws only applied to the Holy Land. (There is, in fact, a *Yerushalmi* to *Zera'im*.) *Berakhot* is an exception because this tractate deals with prayer and benedictions, obviously applicable in Babylon as well. For a similar reason there is no *Bavli* (and no *Yerushalmi*) to *Tohorot*, with the exception of *Niddah* which deals with the separation of a wife from her husband during her menses and was hence of practical application even after the destruction of the Temple. It is something of a puzzle why, in that case, there is a *Bavli* (but no *Yerushalmi*) to *Kodashim*, the bulk of which was also inapplicable after the destruction of the Temple. The reason is probably because of the Rabbinic belief that to study the sacrificial system is accounted as if one had offered the sacrifices in the Temple. It has been argued that in the Middle Ages there did exist a *Yerushalmi* to *Kodashim*, which was later lost, but the evidence for this is totally inconclusive. (Parts of the 'lost' *Yerushalmi* to *Kodashim* appeared in print at the beginning of this century but this, it has now been established, is nothing more than a clever forgery.)

For further details the articles on the Talmud in the Jewish Encyclopaedia and the Encyclopaedia Judaica should be consulted, and the standard introductions by Albeck, Strack and Meilziner as given in the bibliography of this book.

The word *sugya* (pl. *sugyot*), used repeatedly in this book is the technical term for a Talmudic unit complete in itself, though it might also form part of a larger unit; that is to say, a Talmudic passage in which a particular topic is treated in full. Although based on Talmudic usage, the term in this sense is post-Talmudic. The Talmud nowhere gives any label to its units but, by early convention and throughout the history of Talmudic studies, the term *sugya* is used to denote such units.

## 1



## How much of the Babylonian Talmud is pseudepigraphic?

Students of the Babylonian Talmud are aware that many of the statements attributed in the work to various teachers are not necessarily authentic. We are not here concerned with the question of the reliability of the transmission as much as with the phenomenon that some of the statements, at least, were never intended to be understood as the actual remarks of the teachers to whom they are attributed. In other words, some of them are pseudepigraphic. Pseudepigraphic Rabbinic statements are not limited, of course, to the Babylonian Talmud, but it will be argued that in this work the pseudepigraphic element is prevalent to a remarkable degree.

In the case of an acknowledged pseudepigraphic work like the Zohar, the problem can be seen clearly. No one nowadays would dream of quoting the numerous Zoharic statements put into the mouth of R. Simeon b. Yohai, R. Eleazar, R. Hamnuna Sava and the other heroes of the Zohar as those actually uttered by the second- to fourth-century teachers themselves. It is generally recognised that these sayings were never intended to be accurate reportage, and that while they tell us a great deal about late thirteenth-century Spanish Jewish thought, they tell us nothing at all about Jewish thought in the second- to fourth-century Palestine. R. Simeon b. Yohai in the Zohar serves in exactly the same role as Bunyan's Pilgrim in *Pilgrim's Progress*.

Now it would be the height of absurdity to see the whole of the Babylonian Talmud as pseudepigraphic in this sense. The strongest circumstantial evidence tells against such a preposterous theory. Statements are attributed to teachers in such a way as to demonstrate beyond doubt that these teachers held consistent views which can be seen to have been occasioned by the particular conditions obtaining in a particular time. Moreover, sayings attributed to teachers in the Babylonian Talmud are frequently attributed to the same in the Jerusalem Talmud.

*How much of the Babylonian Talmud is pseudepigraphic?*

The question to be asked, therefore, is not whether the Babylonian Talmud as a whole is a pseudepigraphic work – it patently is not – but how much of the work is pseudepigraphic, and it is here contended that the answer to the question is, far more than is generally recognised. The evidence marshalled here is sufficient to show that there is so much pseudepigraphic material in the Babylonian Talmud that the greatest caution must be exercised by historians who use the Babylonian Talmud for the reconstruction of the lives of the Amoraim and the period in which they lived. It is to the credit of Professor J. Neusner and his school that our attention has been drawn to the need for caution in so much of this kind of reconstruction.<sup>1</sup> Our concern, however, is with the Amoraic period,<sup>2</sup> and with particular reference to the Babylonian Talmud. Scholars have noted some of the material to be presented but, so far as I am aware, this is the first attempt to summarise the material as a whole for the purpose of uncovering this important aspect of the Talmudic methodology.

We begin with a number of instances in which the Talmud itself explicitly acknowledges the pseudepigraphic nature of statements found therein.

***Berakhot 27b***

R. Zera said, R. Assi said, R. Eleazar said, R. Hanina said, Rav said: 'At the side of this pillar R. Ishmael son of R. Jose recited the *tefillah* of the Sabbath on the eve of the Sabbath.' When Ulla came, he said: 'It was at the side of a palm tree and not at the side of a pillar; and it was not R. Ishmael son of R. Jose but R. Eleazar son of R. Jose; and it was not the *tefillah* of the Sabbath on the eve of the Sabbath but the *tefillah* of the termination of the Sabbath on the Sabbath.'<sup>3</sup>

This passage is quite different from the more usual Talmudic passages containing two versions of a saying or episode. No less than five Amoraim are reported as making the original statement (or rather, one quoting the saying of the other until Rav's saying is reproduced) and yet Ulla is then cited as contradicting the original report in such a way as to make it appear wrong in every particular. The literary style of the passage should especially be noted. The editors have not been content with reporting two different versions of what is alleged to have taken place. Instead they first give it as 'R. Zera said, R. Assi said, etc.,' and only afterwards, in the name of

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Ulla, do they turn the whole thing on its head. It is obvious that when the editors came to record this passage, they knew that it was at least doubtful whether, in fact, R. Zera really *said* it or R. Assi and others really *said* it, and yet they still see fit to use the word 'said' even though they go on immediately to contradict the 'saying' in the name of Ulla. Thus 'R. Zera (etc.) *said*' does not mean that there is a reliable tradition that he actually did say it, only that the saying is attributed to him. It is not beyond the bounds of possibility that this whole passage may be a kind of skit on the dangers of inaccurate reporting, as if to say, here are five teachers in whose name something is reported in the most circumstantial detail, and yet the report is wrong in every respect: a 'pillar' being substituted for a 'palm tree'; R. Ishmael son of R. Jose for R. Eleazar son of R. Jose; and one type of Sabbath prayer for another. In any event, we have an instance of the editors recording 'R. Zera (etc.) *said*' when they take no pains to hide that they are far from certain that he really did say it.

**'Avodah Zara 22a'**

There were saffron-growers: the Gentile looking after the field on the Sabbath and the Israelite on the first day of the week. When they came before Rava, he permitted the arrangement. Ravina raised an objection to Rava's ruling: 'If an Israelite and a Gentile leased a field in partnership, the Israelite must not say to the Gentile: "Take your portion for the Sabbath work and I shall take mine from the work done on the week-day." But if this condition were made at the beginning it is permitted. And it is forbidden if they made a calculation.'<sup>5</sup> Rava suffered embarrassment. It then became known that they had, in fact, made their condition at the beginning. R. Gaviha of Be-Katil said: 'That was a case of *'orlah* plants (Leviticus 19:23), where the Gentile ate during the *'orlah* years and the Israelite during the permitted years. They came before Rava and he permitted it. But did not Ravina raise an objection to Rava's ruling? It was, in fact, to support Rava's ruling.<sup>6</sup> But Rava was embarrassed? That never happened at all.

An astonishing passage! First it is stated that the case that came before Rava was a Sabbath case. Rava's ruling was in flat contradiction to the *baraita* quoted by Ravina, and Rava was embarrassed at having given a wrong ruling. Later on, it is said, it was discovered that Rava's ruling was correct because the two had made a stipulation to the effect from the beginning. R. Gaviha then is reported as saying that the case was not a Sabbath case at all but a case concerning *'orlah*.



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From the *baraita* it now emerges that this is permitted and it was in this connection that Rava gave his – correct – ruling. But then, it is asked, why did Ravina quote the *baraita* as a refutation of Rava? To this the reply is given that he did not, in fact, try to refute Rava from the *baraita* but, on the contrary, quoted the *baraita* in support of Rava. Why, then, was Rava embarrassed? To this the reply is given that Rava was not embarrassed, i.e. that the original report was in error. Thus the editors are stating here quite explicitly that the whole apparently factual report of Ravina objecting to Rava's ruling and Rava suffering embarrassment as a result of it was pure fiction.<sup>7</sup>

What we have here, again, is far more than two different versions of a saying or episode. According to the report of R. Gaviha, which the editors have in fact recorded, the original episode and the debate and discussion around it never took place. And yet the editors still record it as if it took place.

***Bava Batra 54a***

Rav said, 'If one drew a picture on [the walls of] an estate of a proselyte [who has no heirs and whose property is consequently ownerless] he acquires it', for Rav only acquired the garden of the house of Rav by drawing a picture [on the walls].

Although the passage is prefaced by 'Rav said', in fact it goes on to say that Rav did not actually say it, but it is a ruling that can be inferred from Rav's own practice and hence it is as if Rav had actually said it.<sup>8</sup>

***Bava Metzia' 70a***

R. Anan said Samuel said: 'It is permitted to lend out orphans' money on interest.' R. Nahman said to him: 'Are we to feed them that which is forbidden simply because they are orphans? Orphans who eat that which is not theirs let them go after their testator.' He [R. Nahman] said to him [R. Anan]: 'Tell me what actually transpired?' He said: 'A cauldron belonging to the [orphaned] children of Mar Ukba was in the house of Mar Samuel and he weighed it before hiring it out, and he weighed it when it was returned, and he charged for its hire and for the loss of weight.' But if there was a fee for hiring there should have been no charge for loss of weight, and if there was a charge for loss of weight there should have been no charge for hiring. [Thus it was a case of Mar Samuel lending orphans' money on interest]. He [R. Nahman] said to him [R. Anan]: 'That would be permitted

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even if they were bearded men [adults]. For they stand the loss of wear and tear. For the more a copper is burnt the greater its depreciation.'

In this passage R. Anan states that Samuel *said*: 'It is permitted to lend out orphans' money on interest.' R. Nahman objects that Samuel cannot possibly have said this. It is forbidden to lend out orphans' money on interest. R. Nahman suggests that R. Anan could not have heard such a ruling from Samuel, but must have inferred it from some episode in which Samuel was involved. R. Anan then quotes the episode and agrees that it was from this that he inferred the ruling attributed to Samuel, not as a direct ruling from Samuel himself. To this R. Nahman retorts that R. Anan's inference was wrong since in the episode no question of interest was involved. Thus, although R. Anan is reported as saying that Samuel *said* it, in fact he did not mean that Samuel had actually *said* it, but he 'said it' by virtue of his practice in the case of the orphans and their cauldron.<sup>9</sup>

***Shabbat 115a***

If the Day of Atonement falls on the Sabbath, the trimming of vegetables is permitted. Nuts may be cracked and pomegranates scraped from the time of *minḥah* onwards because of grief [i.e. it would cause grief to people if these had to be done after the long fast]. In the household of R. Judah they used to trim cabbage. In the household of Rabbah they used to scrape pumpkins. When he noticed that they were doing this too early [i.e. before the time of *minḥah*], he said to them: 'A letter has come from the west in the name of R. Johanan stating that it is forbidden.'

The meaning of this passage would seem to be that there was no actual letter of R. Johanan since Rabbah did not disclose its existence until he saw that the members of his household were taking advantage of the dispensation by scraping the pumpkins too early. Evidently, there was no objection to inventing statements and attributing them to a famous authority if the motive was to increase respect for the law.<sup>10</sup>

***'Eruvin 51a***

Rabbah and R. Joseph were on a journey [on the eve of the Sabbath]. Rabbah said to R. Joseph: 'Let our Sabbath domicile be under the palm tree that supports another tree.' 'I do not know such a tree,' said he. 'Rely on me,' he replied. For it has been taught: R. Jose says: 'If there were two, and one knew of a place and the other did not, the one who does not know