

Cambridge University Press

0521857503 - Transmitting Mishnah: The Shaping Influence of Oral Tradition

Elizabeth Shanks Alexander

Excerpt

[More information](#)

Introduction

The Mishnah is an ancient book of case law¹ (c. 200 C.E.) that provides a set of norms that have defined Jewish communal life in the ritual, civil, and criminal domains for centuries.² Though many of its

¹ The issue of whether the Mishnah was intended to function as a law code or academic handbook for young rabbinic scholars has long been contested among academic scholars of rabbinics. Arguing on behalf of the Mishnah as law code are: Zacharias Frankel, *Methods of the Mishnah* (Hebrew) (Tel Aviv: Sinai, 1959 [repr.]), 224–27; J. N. Epstein, *Introduction to Tannaitic Literature: Mishnah, Tosephta, and Halakhic Midrashim* (Hebrew), ed. E. Z. Melamed (Jerusalem: Magnes Press, 1957), 225–26; Alexander Guttman, *Rabbinic Judaism in the Making* (Detroit: Wayne State University Press, 1970), 240–44; and Menachem Elon, *Jewish Law: History, Sources, Principles* (Ha-Mishpat Ha-Ivri), vol. 3, trans. Bernard Auerbach and Melvin J. Sykes (Philadelphia: Jewish Publication Society, 1994), 1057–78. Arguing in favor of Mishnah as pedagogical handbook are Abraham Goldberg, “The Mishnah – A Study Book of Halakha,” in *The Literature of the Sages*, ed. Shmuel Safrai (Philadelphia: Fortress Press, 1987), 211–51; and Robert Goldenberg, “The Talmud,” in *Back to the Sources: Reading the Classic Jewish Texts*, ed. Barry Holtz (New York: Simon and Schuster, 1984), 133–34. An intermediate view of the Mishnah as a compiled collection of opinions can be found in Chanoch Albeck, *Introduction to the Mishnah* (Hebrew) (Jerusalem, Tel Aviv: Dvir, 1959), 105–7.

² As discussed in n. 1, different views exist as to whether the Mishnah was compiled for the purposes of serving as a law code. What cannot be disputed is that the Mishnah did eventually come to be used as a law code. See an interesting discussion of the amoraic seeds of the activity of using the Mishnah as a code by crafting rules for

Cambridge University Press

0521857503 - Transmitting Mishnah: The Shaping Influence of Oral Tradition

Elizabeth Shanks Alexander

Excerpt

[More information](#)

Introduction

prescriptions build on and presume biblical law, it goes far beyond the Bible in its scope, depth, and detail. Its appearance marked a new achievement in the history of systematizing Jewish law, creating a paradigm and model for the other important codes of Jewish law that would follow in the Middle Ages. In the years following its compilation (traditionally attributed to R. Judah the Patriarch),³ the Mishnah became the central text in the rabbinic curriculum of sacred study, occupying a place of honor alongside the Hebrew Bible. Sages in both Palestine and Babylonia engaged in extensive conversations about the Mishnah's meanings and intentions that often ended with tangents in related and not-so-related directions. These discussions centered on the Mishnah eventually produced a literary manifestation. The two Talmuds (Palestinian, c. 370–425 C.E., and Babylonian, c. 600 C.E.), which record the accumulated wisdom of the rabbinic

negotiating among the diverse rulings in Dov Zlotnick, *The Iron Pillar – Mishnah: Redaction, Form, and Intent* (Jerusalem: KTAV Publishing House, 1988), 194–217. The prescriptions, norms and legal categories outlined in the Mishnah are the basis for all later codes.

³ The traditional attribution is based on the honorific title “Rabbi” (taken to refer to R. Judah the Patriarch) used within the Mishnah itself and a cryptic statement in the Babylonian Talmud that links R. Judah (along with R. Natan) with the end of mishnaic teaching: “Rabbi and R. Natan represent the end of mishnaic teaching; Rav Ashi and Ravina represent the end of amoraic teaching” (b. BM 86a). The statement has been interpreted as linking R. Judah with the redaction of the Mishnah and R. Ashi and Ravina with the redaction of the *gemara* (the portion of the Talmuds that comments on the mishnaic text). The second half of this statement (the attribution of talmudic redaction) was refuted already in the 1930s. See Julius Kaplan, *The Redaction of the Babylonian Talmud* (New York: Bloch Publishing Company, 1933). It has always seemed somewhat remarkable to me that the traditional attribution of the mishnaic composition has been maintained by the majority of scholars, while they have rejected the historical value of the other half of this obviously parallel statement. I generally agree with the skepticism expressed by Stemberger: “Nevertheless, M in its present shape cannot possibly come from Rabbi himself” (H. L. Strack and G. Stemberger, *Introduction to the Talmud and Midrash*, trans. Markus Bockmuehl [Minneapolis: Fortress Press, 1992], 149). Stemberger bases his skepticism on many of the same criteria that were central to Kaplan’s dismantling of the traditional attribution of the Bavli to Rav Ashi and Ravina. Jacob Neusner laments the strong impact of the traditional perspective on modern scholarship on the Mishnah. See Jacob Neusner, *The Modern Study of the Mishnah* (Leiden: E. J. Brill, 1973), xii–xx.

Cambridge University Press

0521857503 - Transmitting Mishnah: The Shaping Influence of Oral Tradition

Elizabeth Shanks Alexander

Excerpt

[More information](#)

Introduction

movement (c. 80–600 C.E.), were organized as commentaries around the skeletal structure of the Mishnah. Judaism as we know it today is essentially a product of the talmudic world, from which its fundamental beliefs and rituals derive. The influence of the Mishnah, then, has been profound. One might well ask what it was about this document, which on the face of it appears to be a dry collection of arcane legal materials, that warranted its place of privilege as the foundational document of rabbinic Judaism. While the answer to that question depends in part on the document's content, this book seeks an understanding of how the circumstances of being transmitted and studied orally helped establish the centrality and importance of the Mishnah. Central to the investigation is the view that the ancient handlers, students, and transmitters of mishnaic tradition were not passive agents conveying an established or already authoritative tradition; rather, they were active shapers of what the Mishnah was in the process of becoming.

My interest in mishnaic transmission derives from the Mishnah's traditional association with orality. Within a hundred years or so of the Mishnah's appearance, the ever-growing corpus of rabbinic teachings (of which the Mishnah was but one, albeit significant, part) came to be known as "Oral Torah." The appellation "Torah" indicated that this body of teachings was taken to be divine instruction, and the specification "Oral" distinguished it from the other main body of divine instruction, namely, "Written Torah." Whereas the Written Torah was etched in stone and fixed for eternity in the text of the Hebrew Bible, the Oral Torah of the rabbis was unfolded in an ongoing manner through debate, dialogue, and argumentation.⁴ In another way of thinking about the relationship between the two, the Oral Torah provided a much-needed and valuable interpretation of the cryptic but weighty words of the Written Torah. The designation of the two Torahs

⁴ A valuable elaboration of the distinctive qualities evoked by the appellation "Oral Torah" can be found in Shmuel Safrai, "Oral Tora," in *The Literature of the Sages*, ed. Shmuel Safrai (Philadelphia: Fortress Press, 1987), 35–120.

Cambridge University Press

0521857503 - Transmitting Mishnah: The Shaping Influence of Oral Tradition

Elizabeth Shanks Alexander

Excerpt

[More information](#)

Introduction

as “oral” and “written” was also meant to indicate something about the medium of their initial revelation. Whereas the words of the Written Torah were inscribed on the tablets, the words of the Oral Torah were conveyed from God to Moses by word of mouth. Furthermore, the respective designations “oral” and “written” were taken to be directives as to how the two bodies of material should be transmitted.⁵ In the words of R. Yehudah b. Nahmani: “Words that have been received in writing, one is not permitted to recite by word of mouth; words that have been received by word of mouth, one is not permitted to recite from a written exemplar” (b. Git. 60b, b. Tem. 14b; see also p. Meg. 4:1, 76d). In other words, Oral Torah should be transmitted orally, Written Torah from a written exemplar.

The prescription that texts of Oral Torah be transmitted using exclusively oral techniques has generated much scholarly interest among those who study the Mishnah, which stands out within the rabbinic corpus as a document particularly well suited to oral transmission. Talmudic texts describe a functionary of the rabbinic academy known as the “tanna,” whose job it was to recite mishnaic traditions from memory.⁶ In addition, the ubiquitous presence of parallelism and

⁵ Scholars have long debated the question of whether the traditional materials that eventually came to be known as Oral Torah were in fact transmitted using exclusively oral techniques or if scribal techniques were also involved. See my article “The Orality of Rabbinic Writing,” in *Cambridge Companion to Rabbinic Literature*, ed. Martin S. Jaffee and Charlotte E. Fonrobert (New York: Cambridge University Press, forthcoming). In my own work I follow the conclusions of Martin S. Jaffee, who suggests that although the rabbis used scribal techniques to record their teachings, they placed a high premium upon the social setting in which the texts were brought to life in an oral exchange between sage and disciple. 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).

⁶ J. N. Epstein provides a thoroughgoing review of the ancient evidence (both Jewish and non-Jewish) for how the tanna performed his job. See J. N. Epstein, *Introduction to the Text of the Mishnah* (Hebrew), 3d ed. (Jerusalem and Tel Aviv: Magnes Press and Dvir, 2000), 673–91 (hereafter referred to as *ITM*). See also the discussion in Saul Lieberman, “The Publication of the *Mishnah*,” in *Hellenism in Jewish Palestine* (New York: Jewish Theological Seminary of America, 1994), 88–90 (hereafter referred to as *HJP*).

Cambridge University Press

0521857503 - Transmitting Mishnah: The Shaping Influence of Oral Tradition

Elizabeth Shanks Alexander

Excerpt

[More information](#)

Introduction

repeating phrases that facilitate oral recitation provide further evidence for the fact that the Mishnah was, at some point, transmitted orally. It is ironic that although rabbinic tradition ascribes great importance to *orality* as the Mishnah's mode, scholars have most often used *literary* paradigms to understand the transmission of Mishnah in antiquity. Most significantly, scholars have assumed that transmission of Mishnah involved verbatim reproduction of a fixed text. When reconstructing ancient practices of oral mishnaic transmission, scholars commonly emphasize how the short, pithy style of the Mishnah facilitates rote memorization.⁷ Implicit in the conventional view of oral performance of mishnaic materials is the notion that they were formulated with great precision, that they consisted of fixed verbal content, and that they were reproduced in a verbatim fashion from one performance to another. Recent scholarship on oral tradition in diverse cultures, however, calls into question the reflexive acceptance of these assumptions. Scholars have shown that oral transmission does not necessarily start with a fixed text, nor does oral performance necessarily aim for verbatim reproduction. Notably, the work of Albert Lord has shown that the view of oral transmission as verbatim reproduction of a fixed text is only possible in the world of print, where literary copies make such a result possible.⁸ Lord argues that in orally based societies, there exist different ways of viewing textuality and transmission that do not depend on the notion of "text as fixed exemplar."

Inspired by Lord's perspectival shift toward a so-called oral view of textuality, this book seeks to expose visions of mishnaic textuality and transmission that have long been ignored by the dominant literary

⁷ See, e.g., David Weiss Halivni, *Midrash, Mishnah and Gemara: The Jewish Predilection for Justified Law* (Cambridge, MA: Harvard University Press, 1986), 38–65, esp. 52–54; Jacob Neusner, *Oral Tradition in Judaism: The Case of the Mishnah* (New York: Garland Publishing, Inc., 1987); Birger Gerhardsson, *Memory and Manuscript: Oral Tradition and Written Transmission in Rabbinic Judaism and Early Christianity* (Grand Rapids, MI: William B. Eerdmans Publishing Co., 1961, repr. 1998), 136–47; and Elon, *Jewish Law*, 1078.

⁸ Generally, see Albert B. Lord, *The Singer of Tales*, 2d ed., ed. Stephen Mitchell and Gregory Nagy (Cambridge, MA, and London: Harvard University Press, 2000).

Cambridge University Press

0521857503 - Transmitting Mishnah: The Shaping Influence of Oral Tradition

Elizabeth Shanks Alexander

Excerpt

[More information](#)

Introduction

lens. The so-called oral view of textuality, which will be discussed at length in the next section, is characterized by an appreciation of the multiplicity and fluidity of textual forms. Rather than seeing texts as fixed and stable and labeling variants as deviants from an original, the oral view recognizes the inherent fluidity of texts in oral settings. It notes the importance of the performer in bringing the text to life, and it finds coherence and continuity in structural frameworks rather than in linear sequences of words.

I have found that the so-called oral conceptual lens leads us to two important insights about mishnaic textuality and transmission. The first concerns the Mishnah's authority. Traditional accounts suggest that the authority of the mishnaic text is a function of its literary form. The elegance of its precise formulation led to the Mishnah's immediate acceptance and widespread authority.⁹ Other accounts point to particular features of the mishnaic text (like its suppression of the implicit biblical bases of the law or its straightforward, commanding voice) that bolster its authority, additionally linking the Mishnah's authority to its literary form.¹⁰ Attention to the oral conceptual lens, however, alerts us to the constructed character of the Mishnah's authority. Attending to more fluid views of textuality exposes the likelihood that the Mishnah's earliest transmitters did not understand mishnaic textuality to be fixed. The absence of fixity in the earliest stages of its transmission undermines the idea that the Mishnah achieved an immediate authoritative status based on its fixed literary form. The oral conceptual lens helps

⁹ See the traditional account of rabbinic historian R. Sherira Gaon (eleventh century): B. M. Lewin, ed., *Iggeret Rav Sherira Gaon: The Spanish Text and the French Text* (Haifa: Itzokofsky, 1921), 28–30 (hereafter referred to as *IRSG*).

¹⁰ Neusner argues that Mishnaic authority emerges in conjunction with the suppression of the implicit biblical bases of its norms. By asserting the commands in a straightforward sense, without reference to biblical scripture, the Mishnah co-opts the authority of scripture. See Jacob Neusner, *Judaism: The Evidence of the Mishnah* (Atlanta: Scholars Press, 1988), 217–23. While noting the Mishnah's reticence about its biblical origins, Halivni also stresses that the Mishnah's authority is a function of its apodictic form, which he defines as “categorical pronouncements” (7). Halivni, *Midrash, Mishnah and Gemara*, 40, 54–59, 64–65.

Cambridge University Press

0521857503 - Transmitting Mishnah: The Shaping Influence of Oral Tradition

Elizabeth Shanks Alexander

Excerpt

[More information](#)

Introduction

us appreciate the role that the receiving audience or readership played in constructing the view of mishnaic authority as rooted in its textual fixity. Rather than seeing mishnaic authority as an intrinsic feature of the Mishnah's literary form, we can see it as the result of a devoted community's reading and interpretive practices. Returning to a central curricular text over and over again, a devoted community of students and readers came to *attribute significance to a perceived fixity and precision*. The oral conceptual lens helps us appreciate that the Mishnah's authoritative status is not the de facto effect of its literary form but the constructed work of its transmitters (not necessarily even conscious), over the course of several generations.

The second major insight that follows from relaxing our notions of textual fixity in ancient mishnaic transmission concerns the analytic aspect of transmission. Traditional accounts suggest that oral performance of mishnaic materials consisted primarily of rote memorization and *excluded the possibility of intense analytic engagement* of the materials.¹¹ Lord's insight that oral texts are not fixed, however, suggests that the process of reproducing a text from one performance

¹¹ See, e.g., Goldberg, "The Mishnah," 212–13. See also the discussion of Saul Lieberman, *Hellenism in Jewish Palestine*, 88. Zlotnick, *The Iron Pillar*, 14–15, draws on Lieberman's characterization. The perceived mutual exclusivity between rote memorization and discursive analysis is fundamental to views that describe mishnaic form as a succinct distillation of wide-ranging analytic discussions, arguments, and debates. See, e.g., Halivni, *Midrash, Mishnah and Gemara*, 2–3, and Gerhardsson, *Memory and Manuscript*, 136–48. Scholars have presumed that a similar mutual exclusivity between rote memorization and discursive analysis is useful in distinguishing between the transmissional life of *halakhah* and *aggadah*. Whereas halakhah necessitates precise formulation, *aggadah* can be more discursive and free-form. On this idea, see Gerhardsson, *Memory and Manuscript*, 96, 146–47; Jose Faur, *Golden Doves with Silver Dots: Semiotics and Textuality in Rabbinic Tradition* (Bloomington: Indiana University Press, 1986), 87; and Jacob Z. Lauterbach, "Midrash and Mishnah," in *Rabbinic Essays* (Cincinnati, OH: Hebrew Union College Press, 1915, repr. 1951), 182 ff. The dichotomy between rote memorization and discursive analysis also proves useful in characterizing tradition in the amoraic period. See Kaplan, *Redaction of the Babylonian Talmud*, 196–97, 220, 234; Hyman Klein, "Gemara and Sebara," *Jewish Quarterly Review* 38 (1947): 69, esp. n. 7, and 90; Halivni, *Midrash, Mishnah and Gemara*, 62–93; and David Kraemer, *The Mind of the Talmud: An Intellectual History of the Bavli* (New York and Oxford: Oxford University Press, 1990), 26–98.

Cambridge University Press

0521857503 - Transmitting Mishnah: The Shaping Influence of Oral Tradition

Elizabeth Shanks Alexander

Excerpt

[More information](#)**Introduction**

to another is not an entirely passive one. Without a fixed exemplar, passive rote memorization is simply not possible. Instead, active intellectual engagement is required in order to reconstruct the text in each new performative context.¹² This insight proves central to the current study of ancient processes of transmitting Mishnah, which argues that transmission of mishnaic materials *did* include an analytic component. Transmission of Mishnah involved not only the conveyance of the verbal contents of the legal traditions but also, and equally as important, the cultivation of certain analytic habits with which to regard the legal cases recorded therein. Alongside the textual materials was a set of study practices that was as much a part of the mishnaic tradition as its content of legal prescriptions. The value of adopting the so-called oral conceptual lens, then, is that it allows us to see how much more active the transmissional process was than we generally have imagined. Transmitting mishnaic materials involved not only the conveyance of textual materials but also the crafting of their authority and the cultivation of intellectual habits through which to analyze and interpret them.

The basis for this book is a series of close readings from a single mishnaic tractate (tractate Shevuot, “Oaths”). Each reading is designed to illustrate a limited point or claim, but together they form a collage of evidence that supports the general description of mishnaic transmission provided earlier. The analysis does not claim to account for mishnaic texts in general; the conclusions pertain only to the texts examined. It is, however, my hope that the insights garnered from these close readings will prove useful in the study of other mishnaic texts. For myself, I have found that the conclusions reached here can

¹² In the epic oral poetry that Lord examines, the active intellectual engagement takes the form of recomposition each time the materials are performed. Lord, *The Singer of Tales*, 4–5, 13–29. My stress on the active analytic component of oral performance also reflects deep engagement with the work of Mary Carruthers. See Mary Carruthers, *The Book of Memory: A Study of Memory in Medieval Culture* (New York: Cambridge University Press, 1990), and Mary Carruthers, *The Craft of Thought: Meditation, Rhetoric and the Making of Images, 400–1200* (New York: Cambridge University Press, 1998), esp. 8–9.

Cambridge University Press

0521857503 - Transmitting Mishnah: The Shaping Influence of Oral Tradition

Elizabeth Shanks Alexander

Excerpt

[More information](#)

The Oral Conceptual Lens

be profitably transferred to other mishnaic texts. Although I often use the general term “Mishnah” in the course of my discussions, this usage is intended to refer only to the materials discussed from tractate Shevuot. This book also includes extensive discussions of the talmudic commentaries to m. Shevuot. The two talmudim (= y. and b. Shevuot, the Palestinian and Babylonian commentaries to the mishnaic tractate of Shevuot) contain extensive interpretive comments by subsequent generations of sages (c. 200–600) that were eventually woven into a complex interpretive and argumentational superstructure around the mishnaic text. I have found that the talmudic commentaries offer some of the best evidence available for how the mishnaic text was received, handled, and studied by subsequent generations after its consolidation and formalization. Though at times I refer to the “Talmud” or the “talmudic commentaries” or “talmudic sages,” the reference should be understood as a reference to b. and y. Shevuot and the sages cited therein. My hope is that in recording the results of my close readings, others will find here an analytic tool that, while subjected to somewhat limited testing, nonetheless sheds light on other mishnaic texts and their related talmudic commentaries.

The Oral Conceptual Lens

The central insights informing this study come from the newly emerging field of orality studies.¹³ Perhaps most seminal in opening up the

¹³ For a variety of works attentive to the *medium* of textuality, see Milman Parry, *The Making of Homeric Verse: The Collected Papers of Milman Parry*, ed. Adam Parry (New York and Oxford: Oxford University Press, 1987); Lord, *The Singer of Tales*; Walter J. Ong, *Orality and Literacy: The Technologizing of the Word* (London and New York: Methuen & Co., 1982); Ruth Finnegan, *Oral Poetry: Its Nature, Significance and Social Context* (Bloomington: Indiana University Press, 1977); Ruth Finnegan, *Literacy and Orality: Studies in the Technology of Communication* (Oxford: Basil Blackwell, 1988); Brian Stock, *The Implications of Literacy: Written Language and Models of Interpretation in the Eleventh and Twelfth Centuries* (Princeton, NJ: Princeton University Press, 1983); John Miles Foley, *Immanent Art: From*

Cambridge University Press

0521857503 - Transmitting Mishnah: The Shaping Influence of Oral Tradition

Elizabeth Shanks Alexander

Excerpt

[More information](#)

Introduction

scholarly community to an awareness of nonfixed conceptions of textuality has been the work of Albert Lord and his mentor, Milman Parry. Working at the intersection of classics and folklore, Lord devoted his great intellectual energy and creativity to completing the project begun by his teacher, Parry, and to drawing out its full implications. Parry, who was a classicist by training, submitted Homer's two great epic poems, the *Iliad* and the *Odyssey*, to detailed textual analysis with the goal of resolving long-standing questions concerning the compositional process that produced the great works.¹⁴ His work confirmed the prevalence of repeated phrases, each of which he designated a "formula," concluding that they were "traditional" in nature, that is, generated and perpetuated by communally shared manipulative processes. He noted that different formulas had the same metrical values, which allowed them to be plugged interchangeably into the poems' hexametrical lines. These literary observations led him to a strikingly innovative theory about the compositional process underlying the Homeric epics: An oral poet had shuffled traditional formulas into the appropriate positions and thereby produced a classic age-old narrative in a traditional manner.¹⁵ Such a method of poetic creation did not necessarily require innovation, but rather fluency in the corpus of traditional elements. In justifying this method of poetic creation as a valid artistic process, he explained, "one oral poet is better than another *not because* he has by himself found a striking new way of expressing his own thought, but because he has been better able to make use of the tradition. . . . The good singer wins his fame by his ease and versatility in handling a tradition which he knows more thoroughly than anyone

Structure to Meaning in Traditional Oral Epic (Bloomington: Indiana University Press, 1991); John Miles Foley, *The Singer of Tales in Performance* (Bloomington: Indiana University Press, 1995); and Marshall McLuhan, *The Gutenberg Galaxy: The Making of Typographic Man* (London: Routledge and Kegan Paul, 1962). Also very formative has been the work of Mary Carruthers. See her *Book of Memory* and *Craft of Thought*.

¹⁴ See the useful summary of these issues in Lord, *The Singer of Tales*, 3–12.

¹⁵ See Parry's collected works in Parry, *The Making of Homeric Verse*, esp. 1–191, 266–364.